



PUBLIC NOTICE

Federal Communications Commission
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DA 06-118

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NEW SKIES SATELLITES HOLDINGS LTD. AND SES GLOBAL S.A. SEEK CONSENT TO TRANSFER CONTROL OF AUTHORIZATIONS HELD BY NEW SKIES NETWORKS, INC.

IB Docket No. 06-23

Pleading Cycle Established

Comments/Petitions Due: February 21, 2006
Responses/Opposition Due: March 3, 2006
Replies Due: March 10, 2006

I. INTRODUCTION

On January 6, 2006, New Skies Satellites Holdings Ltd. (“New Skies Holdings” or the “Transferor”) and SES GLOBAL S.A. (“SES GLOBAL” or the “Transferee” and, together with the Transferor, the “Applicants”) filed an application pursuant to section 310(d) of the Communications Act of 1934, as amended (the “Act”),¹ seeking approval to transfer control of Commission authorizations held by New Skies Networks, Inc. (“NSN”) to SES GLOBAL.² Specifically, the Applicants seek approval for the transfer of control of licenses held by NSN for six non-common carrier earth stations for communication with non-U.S. licensed satellites that have been added to the Commission’s Permitted Space Station List (“Permitted List”).³ In addition, the Applicants seek approval for the transfer of control of three non-U.S. satellites operated by NSN’s parent New Skies Satellites B.V. (“New Skies”) that the Commission has authorized to provide service to the United States via the Commission’s Permitted List.⁴ Although section 25.137(g) of the Commission’s rules does not require prior approval for proposed changes of ownership of satellites on the Permitted List,⁵ the Applicants ask that the

¹ 47 U.S.C. § 310(d).

² File No. SES-T/C-20060106-00013.

³ The call signs for the six earth stations are E000102, E000152, E000696, E000726, E020071 and E980076.

⁴ File No. SAT-PPL-20060106-00003 (notification of the proposed change of ownership of NSS-7, NSS-5 and NSS-806); *see also* 47 C.F.R. § 25.137, Application Requirements for Earth Stations Operating with Non-U.S. Licensed Space Stations.

Commission concurrently consider the change in ownership of the three Permitted List satellites with the transfer of control of the six associated earth stations.⁶

II. THE PARTIES

The Transferor. New Skies Holdings is based in Bermuda and publicly trades on the New York Stock Exchange. Its indirect wholly-owned subsidiary, New Skies, a Netherlands company headquartered in The Hague, The Netherlands, operates five spacecraft. As noted, three of New Skies' satellites are on the Commission's Permitted Space Station List (NSS-7 at 22° W.L., NSS-5 at 177° W.L., and NSS-806 at 40.5° W.L.), while its other two satellites (NSS-6 at 95° E.L. and NSS-703 at 57° E.L.) do not serve the United States. In addition, NSN holds Commission licenses to operate earth stations in the United States that communicate with non-U.S. licensed satellites on the Permitted List. The New Skies global network provides data, video, Internet and voice communications services to telecommunications carriers, broadcasters, large corporations, Internet service providers and government entities around the world. NSN, a Delaware corporation, is a direct, wholly-owned subsidiary of New Skies.

The Transferee. SES GLOBAL is a Luxembourg company headquartered in Betzdorf, Luxembourg.⁷ Through its wholly-owned operating subsidiaries SES AMERICOM and SES ASTRA, SES GLOBAL provides satellite services around the world to enterprise, government and residential users. SES AMERICOM operates a fleet of Commission-licensed spacecraft optimized for service to the United States and other parts of North America, with some satellites also offering coverage of South America and having transoceanic capabilities. SES ASTRA operates a fleet of Luxembourg-licensed satellites optimized for service to Europe and Africa. SES GLOBAL also holds investments in other satellite operators: (1) a 75% interest in European provider SES Sirius; (2) a 34.1% interest in Asia-Pacific provider AsiaSat; (3) interests in Latin American providers NahuelSat (28.75%) and Star One (19.99%); and (4) an interest of approximately 7.5% in Orbcomm, a provider of Low-Earth Orbit

⁵ See 47 C.F.R. § 25.137(g), affording interested parties an opportunity to comment on whether a proposed transfer of control affects any of the considerations the Commission made when it allowed the satellite operator to enter the U.S. market.

⁶ The Applicants state that the terms of their agreement preclude consummation of the transaction until the Commission acts with respect to both the space and earth stations. They ask the Commission to notify the Applicants and the public that the Permitted List will be updated to reflect SES GLOBAL as the new ultimate owner and operator of the three New Skies satellites upon receipt of the Applicants' notice of consummation.

⁷ SES GLOBAL has three classes of shares (A, B, and C). Each share has one vote, but the Class B shares carry 40% of the economic rights of shares in Classes A and C. The sole holders of Class C shares are GE-CFE Luxembourg, S. à r.l. and GE Capital Equity Holdings, Inc. (together, the "GE Entities"), each of which is a wholly-owned indirect subsidiary of General Electric Company ("GE"). The GE Entities together hold an effective 25.125% economic interest and an effective 20.10% voting interest in SES GLOBAL. GE is a widely-held, publicly traded U.S. corporation. No person or entity holds an interest in GE sufficient to represent a 10%-or-greater indirect economic or voting interest in SES GLOBAL. The sole owners of Class B shares are: (1) the Etat du Grand Duché de Luxembourg (the "State of Luxembourg"); and (2) Banque et Caisse d'Epargne de l'Etat ("BCEE") and Société Nationale de Crédit et d'Investissement ("SNCI"), each of which is an institution created by act of the Luxembourg Parliament and 100% owned by the State of Luxembourg. The Class B shareholdings represent an effective economic interest of 16.67% and an effective voting interest of 33.33% in SES GLOBAL. The Class A shares are held by non-U.S. companies and by the public in the form of Fiduciary Deposit Receipts ("FDRs") that are publicly traded on the Luxembourg and Euronext exchanges. The Class A shares collectively represent an effective economic interest of 58.21% and an effective voting interest of 46.57% in SES GLOBAL. As of December 8, 2005, each Class A shareholder with an interest of greater than 0.05% in SES GLOBAL was a company organized under the laws of Luxembourg or Belgium. Although SES GLOBAL does not have current information regarding the identity or citizenship of the FDR holders, it states that it believes no person or entity holds FDRs representing a 10%-or-greater voting or economic interest in SES GLOBAL.

messaging service. SES AMERICOM is an investor in Ciel and QuetzSat, which provide broadcasting satellite services in, respectively, Canada and Mexico.

III. THE TRANSACTION

On December 14, 2005, SES GLOBAL and New Skies Holdings entered into an agreement pursuant to which, subject to regulatory approvals, SES GLOBAL will acquire 100% of New Skies by way of a merger under Bermudian law (an amalgamation). Under the terms of the agreement, New Skies Holdings will amalgamate with SES Holdings (Bermuda) Limited, a Bermuda company and wholly-owned subsidiary of SES GLOBAL. SES GLOBAL will acquire New Skies for \$22.52 per share in cash. After the merger, NSN and New Skies will be indirect wholly-owned subsidiaries of SES GLOBAL. The Applicants state that the transaction does not implicate the foreign ownership restrictions of section 310(a)-(b) of the Act because neither New Skies nor NSN holds any common carrier authorizations and no foreign government will hold any radio license following the transaction. The Applicants also state that, following consummation of the transfer of control, the NSN earth stations will continue to access non-U.S. licensed satellites on the Permitted List to provide the same services that previously have been authorized. Service to New Skies' existing customers will continue without interruption. SES GLOBAL, through its subsidiaries, will operate the three Permitted List satellites in accordance with the conditions associated with their entry on the Permitted List.

IV. EX PARTE STATUS OF THIS PROCEEDING

Pursuant to section 1.1200(a) of the Commission's rules,⁸ the Commission may adopt modified or more stringent *ex parte* procedures in particular proceedings if the public interest so requires. We announce that this proceeding will be governed by permit-but-disclose *ex parte* procedures that are applicable to non-restricted proceedings under section 1.1206 of the Commission's rules.⁹

We direct parties making oral *ex parte* presentations to the Commission's statement re-emphasizing the public's responsibility in permit-but-disclose proceedings and remind such parties that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed.¹⁰ More than a one- or two-sentence description of the views and arguments presented generally is required.¹¹ Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well.¹² We urge parties to use the Electronic Comment Filing System ("ECFS") to file *ex parte* submissions.¹³

V. GENERAL INFORMATION

The two applications have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it determines that the application is defective and not in conformance with the Commission's rules and policies. Final

⁸ 47 C.F.R. § 1.1200(a).

⁹ *Id.* § 1.1206.

¹⁰ *See Commission Emphasizes the Public's Responsibilities in Permit-But-Disclose Proceedings*, Public Notice, 15 FCC Rcd 19945 (2000).

¹¹ *See* 47 C.F.R. § 1.1206(b)(2).

¹² *Id.* § 1.1206(b).

¹³ *See* discussion *infra*.

action on the two applications will not occur earlier than thirty-one days following the date of this Public Notice.¹⁴

Interested parties must file comments or petitions to deny no later than **February 21, 2006**. Persons and entities that file comments or petitions to deny become parties to the proceeding. They may participate fully in the proceeding, including seeking access to any confidential information that may be filed under a protective order, seeking reconsideration of decisions, and filing appeals of a final decision to the courts. Responses or oppositions to comments and petitions must be filed no later than **March 3, 2006**. Replies to such pleadings must be filed no later than **March 10, 2006**. All filings concerning matters referenced in this Public Notice should refer to **DA 06-118** and **IB Docket No. 06-23**, as well as to the specific file numbers of the individual applications or other matters to which the filings pertain.

Under the Commission's procedures for the submission of filings and other documents,¹⁵ submissions in this matter may be filed electronically (*i.e.*, though ECFS) or by hand delivery to the Commission's Massachusetts Avenue location.

- **Electronic Filers:**¹⁶ Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/>. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number. Parties also may submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554.

¹⁴ See 47 U.S.C. § 309(b).

¹⁵ See *Implementation of Interim Electronic Filing Procedures for Certain Commission Filings*, Order, 16 FCC Rcd 21483 (2001); see also *FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence*, Public Notice, 16 FCC Rcd 22165 (2001); *Reminder: Filing Locations for Paper Documents and Instructions for Mailing Electronic Media*, Public Notice, 18 FCC Rcd 16705 (2003).

¹⁶ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

One copy of each pleading must be delivered electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to the Commission's duplicating contractor, Best Copy and Printing, Inc., at fcc@bcpiweb.com or (202) 488-5563 (facsimile).

Additionally, filers may deliver courtesy copies by email or facsimile to the following Commission staff:

- (1) James Ball, Chief, Policy Division, International Bureau, at james.ball@fcc.gov or (202) 418-2824 (facsimile);
- (2) Kathleen Collins, Policy Division, International Bureau, at kathleen.collins@fcc.gov or (202) 418-2824 (facsimile);
- (3) JoAnn Lucanik, Satellite Division, International Bureau, at joann.lucanik@fcc.gov or (202) 418-0748 (facsimile);
- (4) Marilyn Simon, Satellite Division, International Bureau, at marilyn.simon@fcc.gov or (202) 418-0748 (facsimile);
- (5) Jim Bird, Office of General Counsel, at jim.bird@fcc.gov or (202) 418-1234 (facsimile);
- (6) Neil Dellar, Office of General Counsel, at neil.dellar@fcc.gov or (202) 418-1234 (facsimile); and
- (7) Joel Rabinovitz, Office of General Counsel, at joel.rabinovitz@fcc.gov or (202) 418-1234 (facsimile).

Copies of the applications and any subsequently-filed documents in this matter may be obtained from Best Copy and Printing, Inc., in person at 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at fcc@bcpiweb.com. The applications and any associated documents are also available for public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. The applications also are available electronically through the Commission's ECFS, which may be accessed on the Commission's Internet website at <http://www.fcc.gov>. Additional information regarding the transaction will be available on the FCC's Office of General Counsel's website, <http://www.fcc.gov/ogc>, which will contain a fully indexed, unofficial listing and electronic copies of all materials in this docket.

People with Disabilities: To request this Public Notice in accessible formats (computer diskette, large print, audio recording, and Braille) send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

For further information, contact Kathleen Collins, Policy Division, International Bureau, at 202-418-1474.

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