



Federal Communications Commission
Washington, D.C. 20554

DA 18-531

May 22, 2018

Mr. Carlos Nalda
LMI Advisors
2550 M Street N.W.
Suite 345
Washington, D.C. 20037

Re: Eutelsat S.A.
IBFS File No. SAT-PPL-20180129-00012
(Call Sign S3029)

Dear Mr. Nalda:

By this letter we dismiss the above referenced petition for market access filed by Eutelsat S.A. (Eutelsat). In its petition, Eutelsat seeks access to the U.S. market to provide fixed-satellite service (FSS) via the EUTELSAT 133WB satellite. Eutelsat plans to license EUTELSAT 133WB under the authority of the French Administration. Eutelsat states that it will launch EUTELSAT 133WB in 2021 and operate the satellite from the 132.85° W.L. orbital location using conventional and extended Ku-band frequencies and conventional Ka-band frequencies. For the reasons set forth below, we dismiss the application.

On May 24, 2017, Intelsat License LLC (Intelsat) filed an application with the Commission requesting authority to construct, deploy, and operate the Galaxy 15R geostationary orbit (GSO) satellite at the 133° W.L. orbital location.¹ On January 29, 2018, Eutelsat filed its market access petition for the operation of EUTELSAT 133WB at the 132.85° W.L. orbital location. Both Galaxy 15R and EUTELSAT 133WB propose to include the United States in their respective service areas, and all of the Ku- and Ka-band frequencies proposed for market access by EUTELSAT 133WB² were also proposed for use by Galaxy 15R.³ On May 10, 2018, the Satellite Division granted Intelsat's application to operate Galaxy 15R and dismissed an associated petition to deny the application by Eutelsat.⁴

¹ Application for Authority to Launch and Operate Galaxy 15R, File Nos. SAT-LOA-20170524-00078 (Intelsat Application) and SAT-AMD-20170613-00086 (Intelsat Application Amendment). Section 25.158(b) of the Commission's rules states that applications for geostationary orbit (GSO) satellites will be placed in a queue and considered in the order that they are filed. 47 CFR § 25.158(b).

² The relevant frequencies for which Eutelsat requests U.S. market access are as follows: 10.95-11.2 GHz, 11.45-11.7 GHz, 11.7-12.2 GHz (space-to-Earth); 13.75-14.0 GHz, and 14.0-14.5 GHz (Earth-to-space); 18.3-18.8 GHz, 19.7-20.2 GHz (space-to-Earth), and 28.35-28.6 GHz and 29.3-30.0 GHz (Earth-to-space). Eutelsat Petition for Declaratory Ruling at 3 (Eutelsat Petition).

³ Galaxy 15R will use the 3700-4200 MHz, 5925-6425 MHz, 10.95-11.2 GHz, 11.45-11.7 GHz, 11.7-12.2 GHz, 13.75-14.5 GHz, 17.8-19.3 GHz, 19.7-20.2 GHz, 27.5-29.1 GHz, and 29.25-30.0 GHz frequency bands. Intelsat Application at 3 and Intelsat Application Amendment at 1.

⁴ See IBFS File Nos. SAT-LOA029170524-00078 and SAT-AMD-20170613-00086 (grant stamp, May 10, 2018).

The Commission's rules establish a first-come, first-served "queue" for the licensing of GSO-like space stations.⁵ Under this framework, applications that seek authority to operate GSO-like space stations at new orbit locations or new frequency bands are placed in a processing queue in the order in which they are filed.⁶ The application will be granted only if the applicant is qualified and the proposed facilities and operations comply with all applicable rules, regulations and policies, and the grant will serve the public interest, convenience and necessity.⁷ Additionally, the satellite proposed in the application must not cause harmful interference to any previously licensed operations,⁸ and will be considered mutually exclusive to other applications if the conflicts are such that granting one application would preclude due to harmful interference or other practical reasons the grant of one or more other applications.⁹ We consider the petition for market access for EUTELSAT 133WB to be mutually exclusive with the previously filed application for Galaxy 15R because of the likelihood of harmful interference resulting from operations 0.15 degrees apart in the same frequencies bands to the same geographic area. We therefore dismiss Eutelsat's petition for U.S. market access for EUTELSAT 133WB.

Eutelsat asks that the Commission consider and grant its petition despite inconsistencies with the Commission's processing procedures for GSO-like space stations.¹⁰ Eutelsat states that EUTELSAT 133WB will operate pursuant to French filings that have an earlier International Telecommunication Union (ITU) protection date than that possessed by Galaxy 15R and, absent successful coordination, Intelsat will be barred from using its requested frequency bands at the 133° W.L. orbital location.¹¹ We observe, however, that the Commission has previously rejected similar arguments, affirming that

⁵ 47 CFR §25.158(b). *See also Amendment of the Commission's Space Station Licensing Rules and Policies*, IB Docket. No. 02-34, First Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 10760, 10773, para. 21 (2003) (*Space Station Licensing Reform Order*). "GSO-like" means operation of a GSO satellite to communicate with earth stations with directional antennas, including operation of GSO satellites to provide mobile satellite service links. *See* 47 CFR § 25.158 (a)(1).

⁶ The first-come, first-served "queue" also applies to petitions for U.S. market access filed pursuant to 47 CFR §25.137. *See* 47 CFR § 25.158(b).

⁷ 47 CFR §§25.156(a) and 25.158(b)(3)(i).

⁸ 47 CFR §25.158(b)(3)(ii).

⁹ 47 CFR §25.155(a).

¹⁰ Eutelsat Petition at 10.

¹¹ *Id.*

questions of ITU date priority are not relevant to the Commission's domestic licensing procedures.¹² Accordingly, Eutelsat's arguments provide no basis for deviation from Commission's existing processing procedures.

Accordingly, pursuant to Sections 0.261, 25.112, 25.155, and 25.158 of the Commission's rules, 47 CFR §§ 0.261, 25.112, 25.155, and 25.158, we dismiss Eutelsat's application.

Sincerely,

Jose P. Albuquerque
Chief, Satellite Division

¹² *Amendment of the Commission's Space Station Licensing Rules and Policies*, Second Order on Reconsideration, 31 FCC Rcd 9398, 9410, paras. 31-32 (2016) (*First Space Station Reform Second Order on Reconsideration*) ("Specifically, the Commission stated that it will license satellites at orbital locations at which another Administration has ITU priority. In fact, if a later-filed market access request — with or without ITU priority — is mutually exclusive with an earlier-filed, granted application, it may be dismissed absent a coordination agreement between the applicants."); *see also Telesat Canada Petitions for Reconsideration*, Second Order on Reconsideration, 25 FCC Rcd 15718, 15723-24, paras. 9-10 (2010) (*Telesat*). We note that our grant of authority for Intelsat to operate Galaxy 15R at 133.0° W.L. is conditioned on compliance with all existing or future coordination agreements for this location and, in the absence of a coordination agreement, compliance with applicable provisions of the ITU Radio Regulations, as the Commission cannot guarantee the success of the required coordination. *See supra* note 4 at para. 3. The Commission has stated that, absent such coordination, a U.S.-licensed satellite making use of an ITU filing with a later protection date would be required to cease service to the U.S. market immediately upon launch and operation of a non-U.S.-licensed satellite with an earlier protection date, or be subject to further condition. *First Space Station Reform Second Order on Reconsideration*, 31 FCC Rcd at 9410 para. 32.