SheppardMullin

Sheppard, Mullin, Richter & Hampton LLP
2099 Pennsylvania Avenue, NW, Suite 100
Washington, D.C. 20006-6801
202.747.1900 main
202.747.1901 fax
www.sheppardmullin.com

Brian D. Weimer
202.747.1930 direct
bweimer@sheppardmullin.com

August 14, 2020

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: **Final Transition Plan of SES Americom, Inc.**
Expanding Flexible Use of the 3.7 to 4.2 GHz Band, GN Docket No. 18-122
Eligible Satellite Operator Transition Plans for the 3.7-4.2 GHz Band*, *GN Docket No. 20-173

Dear Ms. Dortch:

SES Americom, Inc. ("SES") hereby provides its final Transition Plan describing the necessary steps that SES, its customers, and its associated Incumbent Earth Stations need to take to implement an accelerated transition of the C-band for 5G use.[1]

On June 19, 2020, SES submitted its initial Transition Plan, which detailed how SES intends to transition its services from the 3.7-4.0 GHz band to the 4.0-4.2 GHz band within the contiguous United States ("CONUS") by the Phase I and Phase II accelerated clearing deadlines set by the Commission. Since that filing, the Wireless Telecommunications and International Bureaus published the final list of Incumbent Earth Stations[2] and initiated the process for electing the lump sum payment.[3] The publication of the final Incumbent Earth Station list on August 3, 2020 in addition to SES's continued customer and earth station outreach efforts has allowed SES to refine its plan and provide a more accurate representation of the full transition process and estimated costs. Specifically, SES revised the number of services that will be transitioned as described in Section I.C and in Appendix B and updated the list of sites incorporated in the final

[1] *See Expanding Flexible Use of the 3.7 to 4.2 GHz Band,* Report and Order and Order of Proposed Modification, 35 FCC Rcd 2343 (2020) ("*C-Band R&O*").
[2] *International Bureau Releases List of Incumbent Earth Stations in the 3.7-4.2 GHz Band in the Contiguous United States*, Public Notice, IB Docket No. 20-205, DA 20-823 (rel. Aug. 3, 2020).
[3] *Wireless Telecommunications Bureau Releases Final Cost Category Schedule for 3.7-4.2 GHz Band Relocation Expenses and Announces Process and Deadline for Lump Sum Elections*, Public Notice, GN Docket No. 18-122, IB Docket No. 20-205, DA 20-803 (rel. July 30, 2020).

Transition Plan and included in Appendix C.[4] SES has also updated Section I.E to provide more details on the process its outreach partners and installation vendors will follow to gather information on the individual requirements for each Incumbent Earth Station receiving a service from SES's satellites. As noted in the Transition Plan, SES anticipates that each Incumbent Earth Station will need to be individually evaluated and any unique circumstances will be addressed to make sure the relevant services are transitioned efficiently.[5]

SES has reviewed all of the comments filed with respect to its initial Transition Plan. SES's final Transition Plan addresses a wide variety of these submissions, some of which request more information about the choices SES has made in developing its Transition Plan. SES appreciates the feedback and has sought to provide as much information as possible to respond to questions and comments from interested stakeholders. Specifically, the final Transition Plan:

- provides more detail on the actions SES took over the last two years to obtain input from customers and a variety of earth station operators to develop the Transition Plan as well as the extensive outreach SES conducted to inform those same parties of the plan as it was developed;

- confirms that SES and Intelsat have agreed to coordinate antenna filtering activities at MVPD and other Incumbent Earth Station sites that are receiving services from both satellite operators to minimize disruptions and to filter unregistered antennas collocated with Incumbent Earth Stations receiving services from an SES or Intelsat satellite;[6]

- updates the process Incumbent Earth Station operators should follow if they wish to install the necessary equipment rather than allow SES's vendors to install the equipment. SES requests operators send an email notifying SES of their intent to self-install by October 14, 2020;

- confirms that the in-orbit spare planned for 103° W.L. will not transmit service unless another satellite located at 101°W.L., 103° W.L. or 105° W.L. suffers an outage and customer service must be restored on the in-orbit spare to satisfy SES's current contractual commitments to its customers to provide a protected service;

- confirms that the new satellites required to be launched at 135° W.L., 131° W.L. and 103° W.L. will only be used to provide C-band services and that SES does not intend to provide international-only service using those satellites;

---

[4] This revision also reflects the addition of sites operated by Altice and RCN to the extent they are receiving SES services. *See* Letter from Paul Jamieson, Vice President, Government Affairs & Policy, Altice, to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 18-122, 20-173 (filed July 13, 2020); RCN Telecom Services Comments on Transition Plans of Eutelsat S.A. and SES Americom, Inc., GN Docket No. 20-173 (filed July 13, 2020).

[5] *See* Comments of NCTA – the Internet & Television Association, GN Docket No. 20-173, at 7-13 (filed July 13, 2020) ("NCTA Comments").

[6] *See* Consolidated Comments of AT&T, GN Docket Nos. 18-122, 20-173, at 6 (filed July 13, 2020) ("AT&T Comments").

- confirms that the satellites will provide an EIRP performance over CONUS which is better than what is currently provided by SES-3 and AMC-11 with a minimum EIRP of 41 dBW over CONUS;[7]

- provides more details on the satellite program costs;[8] and

- includes minor edits to clarify SES's implementation of the Transition Plan.

At the same time, SES appreciates the need to provide additional context about why it declines to revise its Transition Plan in response to other comments. As an example, SES has not adjusted the number of satellites necessary to complete accelerated clearing, nor does it intend to implement additional compression technology where doing so would increase the overall cost and complexity of the transition—potentially jeopardizing the accelerated transition schedule and timely deployment of crucial 5G spectrum.

SES's final Transition Plan addresses AT&T's[9] request regarding the number of new satellites proposed by the satellite operators, including SES, and the need for two ground spares to "ensure that these satellites are, in fact, necessary for the transition and that 100% of the cost of the new satellite is justified."[10] SES also addresses Eutelsat's request, which does not appear to reflect SES's customer requirements, that SES does not need to launch a replacement satellite to 135° W.L., an in-orbit spare, or build its two planned ground spares.[11] As SES explained to the Commission, SES spent two years considering all viable transition options, taking into account the substantial amount of spectrum to be cleared, the time needed to complete the clearing and the impact on customers, and determined that the satellite deployment plan proposed in this final Transition Plan is by far the best option for meeting all of

[7] Some commenters have requested coverage maps and link budgets to demonstrate that the technical capabilities of the new satellites are the same or better than the satellites they will replace. *See* Comments of ACA Connects, GN Docket No. 20-173, at 22 (filed July 13, 2020) ("ACA Comments"); NCTA Comments at 13-15. SES is not providing link budgets because they rely on specific antenna design, location, and operations. Individual stakeholders with knowledge of their antenna operations will be able to develop link budgets with the use of the EIRP information.

[8] NCTA Comments at 3-7; Comments of Verizon, GN Docket Nos. 18-122, 20-173, at 3-4 (filed July 13, 2020).

[9] SES notes that several of the issues AT&T identified in its comments have now been resolved. The International Bureau released its final list of Incumbent Earth Stations, and the satellite operators have selected RSM US LLP as the Relocation Coordinator. The Wireless Bureau has already initiated the selection confirmation process, and all comments and reply comments are due by August 28, 2020. *Wireless Telecommunications Bureau Seeks Comment on Whether Proposed 3.7-4.2 GHz Relocation Coordination Satisfies Selection Criteria*, Public Notice, GN Docket No. 18-122, DA 20-827 (rel. Aug. 3, 2020).

[10] AT&T Comments at 8.

[11] Comments of Eutelsat S.A. on the Transition Plans Filed by SES Americom, Inc. and Intelsat License LLC, GN Docket Nos. 18-122, 20-173, at 4-7 (filed July 13, 2020).

those requirements.[12] As explained in the attached Transition Plan, the replacement satellite destined for 135° W.L. is necessitated by the decision to clear 300 MHz of spectrum, leaving only 200 MHz available for service to the 50 United States across the five orbital locations which are suitable for the delivery of video services and available to SES. Similarly, the in-orbit spare is required because, after the transition, there will not be enough empty capacity on the operating satellites to accommodate the restoration services SES's customers have paid for.[13] The ground spares, on the other hand, are required to protect the aggressive clearing schedule adopted by the Commission and expected by the future overlay licensees. Without such protection, one launch failure could delay the final clearing deadline by two years or more.[14]

SES also addressed questions from AT&T and Eutelsat about whether new satellites that provide service beyond CONUS should be fully reimbursed.[15] As noted in the attached final Transition Plan, the new satellites will provide substantially the same or better service to the 50 United States because SES's media customers contractually require such coverage to deliver their content to all Americans efficiently. SES does not intend to use these C-band only satellites to provide international-only services, and therefore they should be eligible for reimbursement under the standard established in the *C-Band R&O*.

On August 6, 2020, almost four weeks after the deadline for comments on the satellite operators' Transition Plans and one week before final Transition Plans were due, ViacomCBS Inc. suggested to the Commission that SES could completely revamp its Transition Plan to implement more compression for its video customers and thereby reduce the need for one of its new satellites.[16] As noted above, SES has spent almost two years gathering customer needs

[12] Letter from Brian D. Weimer, Counsel to SES Americom, Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 18-122, 20-173 (filed July 29, 2020).
[13] *See* Letter from Martin L. Stern and Robert A. Silverman, Counsel to QVC, Inc. and HSN, Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 18-122, 20-173 (filed Aug. 6, 2020); Letter from Patrick McFadden, Jared Sher *et al.*, National Association of Broadcasters and NCTA – The Internet & Television Association, to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 18-122, 20-173 (filed Aug. 5, 2020); Letter from Matthew S. DelNero, Counsel to the Content Companies, to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 18-122, 20-173 (filed July 31, 2020).
[14] Eutelsat proposes that SES rely on the Commission's waiver process to address a launch failure, which would certainly result in substantial delays to the accelerated clearing timeline. Eutelsat Comments at 7 ("SES's fears can best be addressed through the Commission's well-established waiver process, should these untoward events come to pass. A satellite or launch failure would certainly be likely to constitute 'good cause' for relief. But, only once the details are known could the parties, the Relocation Coordinator, the Clearinghouse, the Bureau, and the Commission alike determine the impact of a failure, consider whether it can be mitigated using available resources, and fashion a suitable remedy.")
[15] AT&T Comments at 9; Eutelsat Comments at 10-11. *See also* Letter from Hughes Network Systems, LLC, EchoStar Satellite Services, LLC, and Inmarsat Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket No.18-122 (filed July 24, 2020).
[16] Letter from Keith R. Murphy, Senior Vice President, Government Relations & Regulatory Counsel and Martha E. Heller, Vice President, Government Relations & Regulatory Counsel to

and analyzing potential solutions to clear the spectrum efficiently and in a cost effective way. ViacomCBS appears to extrapolate from its own transponder usage the amount of capacity that could be cleared and the cost of buying and installing the necessary technology upgrades for other hypothetical customers. ViacomCBS also suggests that SES may have excess capacity even under its current plan, despite the fact that SES has explained that an in-orbit spare is necessary for restoration service precisely because there will not be excess capacity.

While SES is not familiar with all of the steps ViacomCBS took to reach its conclusions, SES ultimately determined based on its extensive research and analysis that the amount of compression that would be required to eliminate a satellite from its Transition Plan would actually cost more than the satellite and increase the overall complexity of the transition process to the point SES could not comfortably meet the accelerated relocation deadlines.[17] Therefore, there is no achievable solution that would result in a reduction in satellites and a reduction in cost as ViacomCBS suggests.

Pursuant to Section 1.1206(b) of the Commission's Rules, this letter is being filed in ECFS in the above-referenced dockets.[18] Please do not hesitate to contact the undersigned with any questions.

Very truly yours,

/s/ Brian D. Weimer

Brian D. Weimer
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

ViacomCBS Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 18-122, 20-173 (filed Aug. 6, 2020).

[17] *See C-Band R&O* ¶ 194 ("So long as the costs for which incumbents are seeking reimbursement are *reasonably necessary to complete the transition in a timely manner* (and reasonable in cost), such expenses would be compensable.") (emphasis added).

[18] *See* 47 C.F.R. § 1.1206(b).