

FEDERAL COMMUNICATIONS COMMISSION
Office of Engineering and Technology
Electromagnetic Compatibility Division

Antoinette Cook Bush, Esq.
Brian D. Weimer, Esq.
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, D.C. 20005-2111

Gary M. Epstein, Esq.
James H. Barker, Esq.
Kimberly S. Reindl, Esq.
Latham & Watkins
1001 Pennsylvania Avenue, N.W., Suite 1300
Washington, D.C. 20004-2505

Philip L. Malet, Esq.
Pantelis Michalopoulos, Esq.
Marc Paul, Esq.
Steptoe & Johnson, LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036

Re: EchoStar/DIRECTV Joint Request for STA
File No. 0418-EX-ST-1999

Northpoint Opposition dated December 21,

1999

Dear Counsel:

The Experimental Licensing Branch has completed its review of the referenced STA application, the Northpoint Technology, Ltd. Opposition thereto ("informal objection"), the joint reply to opposition, and the joint EchoStar/DIRECTV letter dated January 18, 2000 and addressed to the Chief, Office of Engineering and Technology.

In the application, EchoStar/DIRECTV seek an STA to conduct their own tests to determine the electrical interference characteristics of Northpoint's transmitting antenna with respect to the applicant's incumbent DBS operations. In its informal objection, Northpoint claims that, because the applicants do not have an underlying Experimental Radio license, the STA application is procedurally defective pursuant to 47 C.F.R. § 5.56(a) (1998). Northpoint further claims that the STA application is defective because EchoStar/DIRECTV have not sufficiently demonstrated a need for the STA. We deny

¹ *Revision of Experimental Radio Regulations (Part 5)*, ET Docket No. 96-256, *Report and Order*, FCC 98-283,

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Northpoint's informal opposition. First, under the revised rules,¹ an underlying Experimental Radio license is not a prerequisite for an STA and we find that the STA application complies with the procedural requirements set forth in 47 C.F.R. § 5.61 (1999). Further, we acknowledge that the parties disagree over the necessity for EchoStar/DIRECTV to conduct the tests proposed under the STA but find no need to resolve this dispute at this time. The joint applicants have sufficiently stated why they believe the tests are necessary, and we see no reason to deny them the opportunity to conduct their own tests.

In addition, we note that the joint applicants would like to use Northpoint equipment in conducting the tests but that Northpoint states that, because of intellectual property concerns, it does not intend to permit the applicants to use its proprietary equipment. The joint applicants have indicated that, to obtain Northpoint's consent to use its equipment, they would comply with the terms of a protective order issued by the Commission. In any event, they state, even without a Northpoint antenna, they are prepared to conduct their proposed tests using a replication of that antenna. We see no reason to withhold grant of the STA based on the foregoing. The applicants have asserted that are prepared to conduct tests with or without an actual Northpoint antenna, which for our purposes is sufficient. We will leave it to the parties to negotiate whether a Northpoint antenna will be used in the STA tests, and the terms of any protective order.

Finally, based on our review, we find that a grant of the STA complies with Section 303(g) of the Communications Act of 1934, as amended, 47 U.S.C. § 303(g), and Part 5 of the Commission's Rules, 47 C.F.R. Part 5 (1999), and will serve the public interest. Accordingly, the informal objection of Northpoint IS DENIED, and the joint EchoStar/DIRECTV application for STA IS GRANTED. A copy of the authorization will be sent to EchoStar/DIRECTV under separate cover.

Sincerely,

James Burtle
Chief
Experimental Licensing Branch