

**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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Re: Diversified Communications Engineering, Inc.
Experimental Station WA2XMY

- I (a) File No. 0094-EX-ST-1999
Amendment of August 27, 1999 (Dismissed)
Joint Letter of September 2, 1999 from DirecTV
and EchoStar (considered *in re* File No.
0292-EX-ST-1999, see (b) *infra*)
- (b) Request to Modify Experimental STA
Washington, D.C.
File No. 0292-EX-ST-1999
- II Letter of September 15, 1999 from DirecTV in re
Experimental STA
File No. 0094-EX-ST-1999

Dear Counsel:

On August 27, 1999, Diversified Communications Engineering, Inc. ("Diversified") filed a request to amend its STA (File No. 0094-EX-ST-1999) to add an additional transmit site. The staff of the Experimental Licensing Branch has informed Diversified that the amendment is procedurally defective because the underlying STA had previously been granted, and that the proper procedure is to file an application for modification of the STA. In response, on September 10, 1999, Diversified filed a modification application. Therefore, we are dismissing the amendment as moot.

Nevertheless, we note that on September 2, 1999, DirecTV and EchoStar jointly filed a letter objecting to Diversified's amendment request, and that on September 15, 1999, DirecTV filed a letter claiming that Diversified had operated in violation of the terms of its STA. On September 20, 1999, Diversified filed a letter responding to both of these letters. In the interest of speedily resolving the underlying issues, we are considering the pleadings directed to the Diversified request for amendment as having been filed against Diversified's modification application.

In their joint letter, DirecTV and EchoStar claim that the proposed additional transmit site represents an expansion of the scope of the experiment, that Diversified has not shown why the additional site is needed, and that Diversified should be required to provide certain additional technical information (*i.e.*, antenna pattern, transmit azimuth and elevation, and expected start date and test schedule) for this site. We find, however, that the information on file is sufficient to show a high likelihood that harmful interference will not be caused by the experimental operations. Also, the grant of any Experimental Radio application is, by rule, subject to the condition that harmful interference will not be caused. *See* Section 5.85(c) of the Commission's Rules, 47 C.F.R. § 5.85(c) (1999) (formerly, § 5.67(b)). Additionally, the conditions we have placed on the underlying STA ensure that harmful interference caused by the experimental operations, if it occurs, will be resolved quickly. Further, as Diversified correctly points out in its response, Commission staff discussed the need for an additional overlapping transmit site at a meeting held with representatives of all the parties on July 21, 1999. Our review of the modification application indicates that it complies with the staff request and with the requirements of Part 5 of the Commission's rules.

In its September 15 letter, DirecTV states that, on September 10, 1999, it monitored Diversified's tests and discovered that Diversified was transmitting out of band, in violation of the terms of its STA. DirecTV requests the Commission to take appropriate action against Diversified. In response, Diversified states that, on the date in question, its repeater malfunctioned and simply failed to operate in accord with its specifications, emitting a very small amount of power out of

band. Diversified explains that this violation was inadvertent and, prior to the filing of DirecTV's letter, it had already discovered the malfunction and had taken correction action -- including turning the transmitter off pending the delivery of the corrected repeater. Based on the record, we find that the violation was an isolated event that was caused by the malfunction of experimental equipment and was promptly corrected, and that no subsequent similar events have been reported. Therefore, we conclude that no further action in this matter is warranted.

After reviewing, in light of the record, Diversified's application to modify the STA for Station WA2XMY, we find that grant of the application will serve the public interest and, therefore, grant that application. The authorization will be mailed under separate cover to Diversified.

Sincerely,

A handwritten signature in black ink, appearing to read "James R. Burt", with a stylized flourish extending from the end.

James R. Burt, Chief
Experimental Licensing Branch
Electromagnetic Compatibility Division
Office of Engineering and Technology