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Federal Communications Commission
Office of Secretary

Via HAND DELIVERY

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, W.W.
Washington, D.C. 20554

Re: **Mobile Satellite Ventures Subsidiary LLC**

File Nos. SAT-LOA-19980702-00066, SAT-AMD-20001214-00171, File No. SAT-AMD-20010302-00019, SAT-AMD-20031118-00335, SAT-AMD-20040209-00014; SAT-AMD-20040928-00192; Call Sign S2358

EchoStar Satellite L.L.C.

File Nos. SAT-LOA-20030827-00179, SAT-AMD-20031126-00343; Call Sign S2492

Dear Ms. Dortch,

EchoStar Satellite L.L.C. ("EchoStar") hereby responds to the April 4, 2005 letter of Mobile Satellite Ventures Subsidiary LLC ("MSV") filed in connection with the above applications.¹

In light of MSV's assertion that these applications are mutually exclusive (a conclusion that EchoStar disputes), EchoStar can no longer take no position on the proposed "two-track" treatment of MSV's pending replacement application for its L-band authorization at 101° W.L., which includes a request for additional allotted, extended Ku-band frequencies. As EchoStar explained in its March 25, 2005 letter, the reason for this is simple.

¹ Letter from Jennifer Manner, MSV to Marlene H. Dortch, FCC (Apr. 4., 2005) ("*April 4, 2005 Letter*").

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If grant of MSV's feeder link proposal were deemed to preclude other users of the allotted extended Ku-band spectrum at 101° W.L., the two tracks requested by MSV would raise an intolerably high risk that this spectrum will be warehoused. Once MSV's request for additional frequencies is decoupled from its replacement satellite application, the business consequences to MSV of noncompliance with the FCC's milestone requirements for the allotted extended Ku-band frequencies would be significantly lessened. For example, in the event that MSV is unable to obtain funding for a satellite that utilizes the additional frequencies, it would be able to give up its authorization for the additional frequencies with little risk to its existing L-/Ku-band MSS operations.

Accordingly, if the Commission were to accept MSV's contention that there is mutual exclusivity, it should treat MSV's entire "replacement" application as a fresh application because it requests additional frequencies. This ensures that the risk of warehousing described above is minimized and that MSV has the proper incentives to timely utilize all of the spectrum that it has asked for.

Moreover, MSV's premise that the two applications are mutually exclusive is incorrect. As previously submitted, EchoStar believes that both its and MSV's proposed use of the allotted, extended Ku-band frequencies at 101° W.L. can be coordinated. Indeed, MSV has acknowledged at least the possibility of sharing in both an earlier filing² and in its April 4, 2005 letter,³ and its backtracking from that acknowledgment is counterproductive. MSV now attempts to discount the possibility of coordination by raising several immaterial objections. First, in its April 4, 2005 letter, MSV asserts that EchoStar's sharing proposal "is simply too speculative and undefined for the Bureau to grant EchoStar a license."⁴ However, the same letter goes on to summarize EchoStar's sharing proposal in some detail -- namely, the spatial separation of EchoStar's spot beams from MSV's feeder link earth station locations so as to avoid interference.⁵ A more specific proposal is not possible at this time because MSV's feeder link earth station locations have not yet been finalized. Second, MSV also complains that grant of EchoStar's application would limit its flexibility in the deployment of additional feeder link earth stations in the future. It is not clear how many additional feeder link earth stations there will be (especially since the establishment of additional earth stations would likely require requests for waivers of footnote NG104), but MSV's concerns can be easily addressed -- upon MSV obtaining authority for an additional feeder link earth station and with due notice to EchoStar, EchoStar would simply turn off

² Comments of Mobile Satellite Ventures Subsidiary LLC at 6 ("MSV agrees with EchoStar that sharing may be possible . . ."), filed in SAT-LOA-20040210-00015 (filed Apr. 26, 2005).

³ *April 4, 2005 Letter* at 3 ("MSV continues to be willing to discuss the potential to share frequencies with EchoStar.").

⁴ *Id.* at 2.

⁵ *Id.* at 3. This proposal is not only discussed in the Technical Annex referred to by MSV, but also in the

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the spot beam(s) that would potentially interfere with MSV's operations.⁶ The grant of a license to EchoStar subject to coordination with MSV would thus permit uninhibited use of the spectrum by MSV for its feeder link operations *and* productive use of the spectrum by EchoStar.

Thus, if the Commission were to accept EchoStar's contention that sharing is possible and that the applications are not mutually exclusive, it should proceed to grant EchoStar's application subject to coordination with MSV in the manner described above.

Please contact the undersigned if you have any questions about the above.

Yours sincerely,



Pantelis Michalopoulos
Counsel for EchoStar Satellite L.L.C.

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⁶ This would be the case for the allotted, extended Ku-band frequencies for which MSV has priority.