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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554  
*Federal Communications Commission  
Office of Secretary*

In re the Applications of )  
)  
Northrop Grumman Space & Mission )  
Systems Corporation )  
)  
For Authority to Launch and Operate )  
Geostationary and Non-Geostationary )  
Satellites in the Fixed-Satellite Service )

SAT-LOA-19970904-00080/84  
SAT-LOA-19971222-00219  
SAT-AMD-20031104-00324  
SAT-AMD-20040719-0136/40

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Policy Branch  
International Bureau

Int'l Bureau  
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Front Office

**REPLY TO CONSOLIDATED OPPOSITION**

ContactMEO Communications, LLC (“@contact”) hereby files its Reply to the Consolidated Opposition to Petitions to Deny or Dismiss (“Opposition”) filed by Northrop Grumman Space & Mission Systems Corporation through its Northrop Grumman Space Technology sector (“NGST” or “Northrop”). For the reasons stated below, @contact concurs with the compelling analyses and conclusions articulated by Northrop in response to the Petition to Deny and the Consolidated Petition to Deny or Dismiss (“Petitions”) filed respectively by EchoStar Satellite LLC (“EchoStar”) and SES Americom, Inc. (“SES Americom”) (jointly, “Petitioners”) in the above-captioned proceedings.

Petitioners filed virtually identical pleadings in response to @contact’s own application for authority to launch and operate a non-geostationary orbit (“NGSO”) Fixed Satellite System (“FSS”) in the Ka-band.<sup>1</sup> In both sets of pleadings, Petitioners

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<sup>1</sup> Application for Authority to Launch and Operate Geostationary and Non-Geostationary Orbit Fixed Satellite System in the Ka-Band, File Nos. SAT-LOA-

raise many of the same issues that the International Bureau (“Bureau”) resolved in its Denial Decision in response to EchoStar’s fatally flawed Ka-band application.<sup>2</sup>

NGST completely refutes Petitioners’ argument that EchoStar’s NGSO applications are “similarly situated” to those filed by NGST. For example, NGST correctly observes (as @contact also observed in its Opposition with regard to the same argument), EchoStar mischaracterizes its own applications as “dismissed” whereas they were, in fact, denied.<sup>3</sup> Among other insufficiencies in its applications, EchoStar asserted that it would turn off its GSO spacecraft if interference to NGSO systems occurred, but it provided absolutely nothing to support its claim – even after NGST and Hughes noted this defect in their petitions to deny EchoStar’s original applications. NGST, on the

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19971222-00222, SAT-AMD-20040322-00057, SAT-AMD-20040719-00141. EchoStar included an argument regarding priority in certain orbital locations. As @contact demonstrated, however, EchoStar provided no logical or legal basis for reinstatement of its applications, and it suggested that were EchoStar to refile its applications it would need to protect all NGSO system satellites from harmful interference. @contact Opposition at 8-9.

<sup>2</sup> *Memorandum Opinion and Order, In the Matter of EchoStar Satellite LLC, Applications for Authority to Construct, Launch and Operate Geostationary Satellites In the Fixed-Satellite Service Using the Ka and/or Extended Ku-Bands at the 83° W.L., 113° W.L., and 121° W.L. Orbital Locations*, DA 04-1167 (rel. Apr. 29, 2004) (“Denial Decision”) (denying EchoStar’s applications to use NGSO FSS Ka-band frequencies for GSO FSS satellites, denying EchoStar’s failure to show good cause for waiver of the NGSO FSS spectrum designation, denying EchoStar’s application to use the extended Ku-band, denying EchoStar’s application to operate Ka-band GSO satellites at 121° W.L. and 83° W.L., denying EchoStar’s request for waiver of footnote NG 165 of 47 C.F.R. Section 2.106, and denying applications of EchoStar to operate hybrid GSO satellites at 105° W.L. and 83° W.L.), petition for reconsideration filed June 1, 2004. As @contact noted in its Opposition to petitions to Deny or Dismiss, filed September 28, 2004, “EchoStar’s arguments in large part amount to no more than a late-filed second petition for reconsideration. . . .” @contact Opposition at 1.

<sup>3</sup> @contact Opposition at 4-7, NGST Opposition at 4-8.

other hand, demonstrated (as did @contact) how their GSO satellites, operating as part of an NGSO system, will be capable of operating compatibly with other NGSO systems and how, contingently, the same spacecraft could be operated as GSO satellites on a completely secondary basis with respect to Commission-authorized NGSO FSS systems. Rather than follow EchoStar's strategy of filing applications while trying to commence a rule change, NGST designed its system (as has @contact) to comply with existing rules, with a request for waiver of the allocation rules to permit secondary, non-harmful interference GSO operation in the 18.8-19.3 GHz bands. NGST correctly states, therefore, that the Bureau's conclusion that EchoStar did not show it could operate compatibly with NGSO systems was justification for denial. But, it notes, this was decided only after complete processing, not at the acceptance for filing stage as Petitioners suggest. NGST's analysis and characterization of the differences between EchoStar's applications and its own filings are irrefutably correct. The two sets of applications are simply not "similarly situated." NGST also correctly states that EchoStar's Petition represents a "supplement to its Petition for Reconsideration of the *EchoStar Denial Order*" and that "EchoStar's arguments directed to its pending petition for Rulemaking are misplaced and should be ignored."<sup>4</sup>

Further, NGST reveals SES Americom's factually flawed argument regarding harmful interference in the Ka-band, showing that a non-GSO FSS system operating at or below the Ka-band EPFD limits will not cause unacceptable or harmful

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<sup>4</sup> NGST Opposition at 8.

interference to a co-frequency GSO FSS network.<sup>5</sup> NGST demonstrates that the Commission in fact has endorsed the Ka-band EPFD limits.<sup>6</sup> Also, contrary to SES Americom's contention, NGST adds that the Bureau's Denial Decision is not controlling with regard to NGST even if it were assumed, *arguendo*, that NGST's GSO satellites operating in the NGSO band are GSO satellites. This is because, NGST correctly concludes, "EchoStar's application was rightfully denied because EchoStar had completely failed to demonstrate how its proposed satellites could operate on a secondary basis with non-GSO FSS systems."<sup>7</sup>

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<sup>5</sup> *Id.* at 9-13.

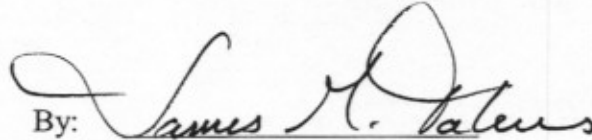
<sup>6</sup> *Id.* at 11-12.

<sup>7</sup> *Id.* at 14.

@contact supports fully the arguments and conclusions NGST presents in  
its Consolidated Opposition to Petitions to Deny or Dismiss.

Respectfully submitted,

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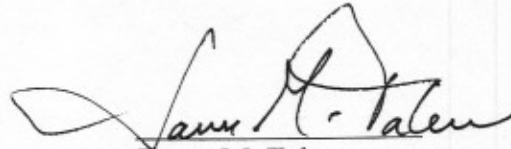
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October 8, 2004

**CERTIFICATE OF SERVICE**

I, James M. Talens, do hereby certify that on this 8<sup>th</sup> day of October, 2004, copies of the foregoing "Reply to Opposition" were served on the following parties by hand delivery, United States Postal Service (indicated by \*) or electronically (indicated by \*\*):



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