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June 27, 2012

BY HAND DELIVERY

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

Re: 2012 Annual Report of Hughes Network Systems, LLC

Dear Ms. Dortch:

Hughes Network Systems, LLC (“Hughes”), by its attorneys and pursuant to Sections 25.145(f)(1) and 25.210(l) of the Commission’s Rules, hereby submits this report concerning its SPACEWAY 3 Ka-band fixed-satellite service (“FSS”) satellite (Call Sign S2663) and its authorization to launch and operate the EchoStar XVII (formerly known both as JUPITER 1 and SPACEWAY 4) Ka-band FSS satellite (Call Sign S2753).

Part 1 of this report sets forth the status of space station construction and anticipated launch date(s). Part 2 of this lists non-scheduled outages for more than thirty minutes and the cause(s) of any such outages. Part 3 of this report identifies any space stations not available for service or otherwise not performing to specifications and related information. Part 4 of this report contains information on spacecraft utilization.

Hughes hereby requests that the data it provides in Parts 2, 3, and 4 of this report be exempted from public disclosure under Exemption 4 of the Freedom of Information Act (“FOIA”), which applies to information constituting “trade secrets and commercial or financial information” that “would not customarily be released to the public.” *See* 5 U.S.C. § 552(b)(4); 47 C.F.R. § 0.457(d). These data relate to transponder utilization and outages and include information that is commercially sensitive and that would not ordinarily be available to the public, and thus are redacted from the attached copy of the report. Hughes is submitting under separate cover a complete unredacted copy of the report that includes the information that Hughes requests be exempted from public disclosure.



In support of this request, Hughes provides the following information, as required under Section 0.459(b) of the Commission's Rules:

- 1. Specific Information For Which Confidential Treatment Is Sought - § 0.459(b)(1):** Hughes seeks confidential treatment for the data relating to non-scheduled outages for more than thirty minutes, the cause(s) of any such outages, the identification of any space stations not available for service or otherwise not performing to specifications and related information, and capacity sales/utilization information.
- 2. Circumstances Giving Rise To The Submission - § 0.459(b)(2):** Submission of information referred to in No. 1 above is required on an annual basis by the overlapping provisions of Sections 25.145(f)(1) and 25.210(l) of the Commission's Rules.
- 3. Degree To Which The Information Is Commercial Or Financial, Or Contains A Trade Secret Or Is Privileged - § 0.459(b)(3):** Parts 2, 3, and 4 of the report for which Hughes is requesting confidential treatment contain commercially sensitive information "which would customarily be guarded from competitors."¹ This information includes, but is not limited to, proprietary data relating to spacecraft outages, spacecraft utilization, and availability of capacity. Disclosure of this information to Hughes's competitors would be harmful to Hughes, as these competitors could use the information to attempt to improve their market position at Hughes's expense.
- 4. Degree To Which The Information Concerns A Service That Is Subject To Competition - § 0.459(b)(4):** As the Commission is aware, there is substantial competition in the satellite industry among both service providers and systems manufacturers. The commercial provision of Ka-band FSS is currently expanding, with the launch and planning of new competing systems, and Hughes believes that Ka-band FSS will continue to attract new competitive offerings.
- 5. How Disclosure Of The Information Could Result In Substantial Competitive Harm - § 0.459(b)(5):** Disclosure of the information in Parts 2, 3, and 4 of this report could cause significant competitive harm to Hughes. Hughes's competitors or customers could use the data to affect future negotiations with potential and existing customers, or to develop business and marketing strategies that negatively impact Hughes's business and marketing plans. Any advantage achieved by such competitors or customers with this data would be an unfair advantage.
- 6. Measures Taken By Hughes To Prevent Unauthorized Disclosure - § 0.459(b)(6):** Hughes limits access to this information to personnel within the company that

¹ James A. Kay, Jr., 17 FCC Rcd 1834 (2002) (withholding such information from public inspection).



require knowledge thereof to perform their duties. Hughes takes precautions to ensure that these data are not released to the general public.

7. *The Information Submitted Is Not Available To The Public and Has Not Previously Been Disclosed To Third Parties, Except For Appropriately Limited Circumstances - § 0.459(b)(7):* None of the data in Parts 2, 3, and 4 of the report have been publicly disclosed.

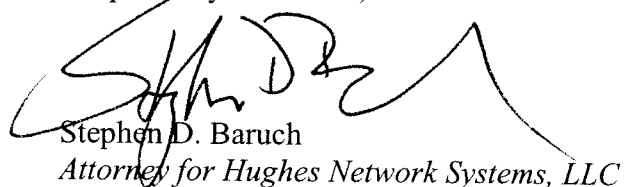
8. *Period During Which The Submitted Material Should Not Be Available For Public Disclosure - § 0.459(b)(8):* Hughes respectfully requests that the confidential information attached hereto be kept confidential for a period of fifteen years from the date of this filing or until it notifies the Commission that confidential treatment is no longer required. At the end of this period, the mission life of the SPACEWAY 3 satellite will have been completed, and the disclosure of the data would not be expected to have any then-immediate effect. Should Hughes's expectations turn out with hindsight to have been incorrect, Hughes reserves the right to request, at the appropriate time, an extension of the period during which the submitted material should be withheld from public disclosure.

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For all of the foregoing reasons, Hughes requests that the Commission withhold the data in Parts 2, 3, and 4 of this report from public inspection, according them full confidential treatment. Hughes further requests that, in the event that disclosure of the attached copies of these documents is ultimately found necessary, any party ultimately examining such documents be required to enter into an appropriate protective order.

Please let me know if you have any questions regarding this report.

Respectfully submitted,


Stephen D. Baruch
Attorney for Hughes Network Systems, LLC

cc (by FedEx): Columbia Operations Center
Federal Communications Commission
9200 Farmhouse Lane
Columbia, MD 21046

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**Part 1
Status of Satellite Construction**

SPACEWAY 3 (Call Sign S2663):

The SPACEWAY 3 satellite was launched in August 2007, on station at 94.95° W.L. by December 2007, and entered commercial service in April 2008.

EchoStar XVII (Call Sign S2753):

The EchoStar XVII spacecraft is a Ka-band FSS satellite, authorized by the Commission on June 12, 2012 under File No. SAT-LOA-20120424-00075. The EchoStar XVII satellite was scheduled to be launched on June 19, 2012, but there has been a delay. Launch is now scheduled for the first week in July 2012 on an Arianespace launch vehicle.

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**Part 2
Non-Scheduled Outages**

Redacted

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**Part 3
Spacecraft Not Available for Service or Not Performing to Specification**

Redacted

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Part 4
Capacity Utilization

Redacted