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July 2, 2009

Via HAND DELIVERY

Robert Nelson
Chief, Satellite Division
International Bureau
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554
E-Mail: robert.nelson@fcc.gov

Re: EchoStar Corporation 17/24 GHz Broadcast-Satellite Service Applications

Dear Mr. Nelson:

On behalf of EchoStar Corporation ("EchoStar"), we are writing to update you on EchoStar's efforts to develop the 17/24 GHz Broadcast-Satellite Service ("BSS") spectrum in order to achieve a number of goals: improve service; increase the direct-to-home television programming available to U.S. consumers; and meet consumer demand for high-bandwidth programming as well as regulatory imperatives for High Definition carriage placed on its customer, DISH Network L.L.C. ("DISH"). In the same vein, we want to reconfirm EchoStar's intent to pursue the two remaining 17/24 GHz BSS applications that are currently pending before the Bureau and urge action on those applications.

Recently, the Bureau authorized EchoStar to construct, launch and operate three 17/24 GHz BSS satellites at 62.15° W.L.,¹ 75° W.L.,² and 79° W.L.³ EchoStar filed the required three million dollar

¹ See *Stamp Grant*, File Nos. SAT-LOA-20070105-00001, SAT-AMD-20080114-00021 (Call Sign S2723) (granted Mar. 13, 2009).

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bonds for each of these authorizations and has begun consulting with satellite and equipment manufacturers to design a system that will take full advantage of the authority the Bureau has granted. These discussions have been focused on whether spot beam or CONUS satellites are more suitable for the power limits and other characteristics of the 17/24 GHz BSS band. Depending on the final outcome of this analysis, EchoStar may request appropriate modifications and amendments to its 17/24 GHz BSS authority and applications. These three licenses provide EchoStar the ability to supplement existing services from nearby BSS operations at 61.5° W.L., 72.7° W.L. and 77° W.L., and long-term flexibility on future satellite fleet and dish design for DISH's Eastern Arc services.

Importantly, EchoStar's plans for that band also include the satellites intended to operate at 107° W.L.⁴ and 110.4° W.L.,⁵ for which EchoStar has requested authority.⁶ These slots play a similarly

² See *Stamp Grant*, File Nos. SAT-LOA-20070105-00003, SAT-AMD-20080114-00022, SAT-AMD-20080213-00045 (Call Sign S2725) (granted Mar. 18, 2009).

³ See *Stamp Grant*, File Nos. SAT-LOA-20020328-00050, SAT-AMD-20050118-00247, SAT-AMD-20080114-00018, SAT-AMD-20080213-00044 (Call Sign S2440) (granted Apr. 20, 2009).

⁴ File Nos. SAT-LOA-20020328-00051, SAT-AMD-20080114-00019, SAT-AMD-20080213-00042 (Call Sign S2441).

⁵ File Nos. SAT-LOA-20020328-00052, SAT-AMD-20080114-00020, SAT-AMD-20080213-00043 (Call Sign S2442).

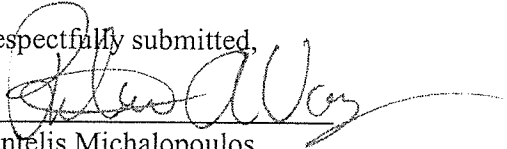
⁶ On May 27, 2009, the Bureau dismissed EchoStar's application to launch and operate a C-band satellite at 85° W.L. pursuant to Section 25.159(d) because the Bureau found that EchoStar had missed three milestones within a three-year period, thereby limiting EchoStar from filing additional satellite applications. Section 25.159(d) does not apply to EchoStar's pending 17/24 GHz BSS applications because that rule limits the filing of new applications prospectively, after the missing of three milestones. The pending 17/24 GHz BSS applications predated the relevant milestones by years. The milestones referred to in the May 27 letter occurred in December 2006 (the first) and October 2007 (the other two), whereas the pending 17/24 GHz applications were originally filed in March 2002. In any event, EchoStar has requested a lifting of that presumption. See File No. SAT-LOA-20090528-00060 (filed May 28, 2009). If EchoStar's request to lift the presumption is granted, the presumption would be lifted with respect to all EchoStar applications, even ones filed after the milestones in question. Finally, to the extent it were deemed necessary, EchoStar requests a determination that the presumption is rebutted for the pending 17/24 GHz BSS applications too or a waiver of Section 25.159(d) for good cause. In that regard, EchoStar incorporates by reference the points made in support of its request on May 28, 2009, which equally apply here. See *id.* Among other things, EchoStar has not displayed a "pattern of obtaining licenses and then surrendering them before a milestone deadline," *Amendment of the Commission's Space Station Licensing Rules and Policies*, First Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 10760, nt. 463 (2003). Rather, EchoStar's sister

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critical role in DISH's Western Arc services from 110° W.L., 119° W.L., and 129° W.L. EchoStar's planning and design efforts for the three existing licenses will carry over for the two additional Western Arc orbital locations, and EchoStar urges final action on those applications.

Respectfully submitted,


Pantelis Michalopoulos

Petra A. Vorwig

Counsel for EchoStar Corporation

company, DISH, surrendered three discrete authorizations out of dozens of authorizations and constructed satellites within the DISH fleet. It did so in a timely manner, and moreover, it demonstrated in each of its surrender letters that the surrender was due to legitimate justifications. Further, with six operational satellites and its efforts to bring new capacity to the DTH market, the Commission should conclude that EchoStar is not a speculator.