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July 15, 2011

*VIA IBFS AND E-MAIL*

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

**Re: EchoStar Corporation, File No. SAT-LOA-20030827-00186; Call Sign S2499**

Dear Ms. Dortch:

EchoStar Corporation (“EchoStar”) is submitting the attached redacted additional information regarding its compliance with the “commence-physical-construction” milestone for the above-referenced space station authorization, an EchoStar Ka-band Fixed-Satellite Service satellite at 97° W.L. An unredacted version is being submitted separately with a request for confidential treatment pursuant to 47 C.F.R. §§ 0.457 and 0.459.

Respectfully submitted,

*/s/*

\_\_\_\_\_  
Pantelis Michalopoulos  
Christopher Bjornson  
Counsel for EchoStar Corporation

Enclosure

cc: (via email)  
Gardner Foster  
Bob Nelson  
Cassandra Thomas

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**REDACTED FOR PUBLIC INSPECTION**

July 15, 2011

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
International Bureau  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**Re: EchoStar Corporation, File No. SAT-LOA-20030827-00186; Call Sign S2499**

Dear Ms. Dortch:

EchoStar Corporation (“EchoStar”) hereby provides additional information to demonstrate compliance with the “commence-physical-construction” milestone<sup>1</sup> for the above-captioned space station authorization, including a spreadsheet listing over 23,000 components and a summary of the project showing incorporation of bus electronics and payload assemblies for the construction of an EchoStar Ka-band Fixed-Satellite Service (“FSS”) satellite at 97° W.L. (“EchoStar 97 satellite program”).<sup>2</sup> These components were all fully paid for by EchoStar, purchased by its satellite manufacturer, Space Systems/Loral (“Loral”), manufactured, and designated specifically for the EchoStar 97 satellite program.<sup>3</sup> The procurement of these components shows conclusively that “metal had been bent” in constructing the satellite.

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<sup>1</sup> That milestone was set at March 8, 2007. *See* Stamp Grant, File No. SAT-LOA-20030827-00186; Call Sign S2499, Condition 2c (granted March 8, 2005).

<sup>2</sup> The spreadsheet is attached as Attachment 1. EchoStar is requesting confidential treatment for the information contained in this letter and for the attachments provided. EchoStar is simultaneously providing a redacted version of this letter for the public record.

<sup>3</sup> This filing supplements the information submitted by EchoStar on March 8, 2007. *See* Confidential Letter from Pantelis Michalopoulos, Counsel for EchoStar Satellite Operating

(Continued...)

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To satisfy the commence-physical-construction milestone, licensees must undertake sufficient activity “to demonstrate to a reasonable person that they have commenced physical construction of their licensed spacecraft.”<sup>4</sup> The Commission has clarified that this showing typically involves “milestone payments under the manufacturing contracts that are associated with the construction and delivery of these components.”<sup>5</sup> The Commission has also indicated that the showing can be satisfied by submitting an affidavit from the satellite manufacturer stating that the “company was manufacturing bus electronics and payload assemblies for the satellite” and that “orders had been placed with subcontractors for other components of the satellite.”<sup>6</sup>

By the milestone deadline, EchoStar and its satellite manufacturer, Loral, had undertaken substantial effort towards the construction of the satellite. Specifically, EchoStar had paid Loral \$15 million for a large number of satellite components designated specifically for the EchoStar 97 satellite program. These satellite components were ordered, designed, and manufactured based upon the Critical Design Review (“CDR”) for the 97° W.L spacecraft, copies of which EchoStar had submitted to the Commission on March 8, 2006, and which the Commission found demonstrated compliance with the second milestone.<sup>7</sup> Specifically, Loral had ordered long lead items for the various subsystems that included:

- **Bus Electronics and Assembly.** Solar array cells, propulsion hardware (including thrusters and tanks) and attitude control equipment (including wheels, earth sensors and ring laser gyros) for the satellite worth [REDACTED] were ordered, manufactured, and delivered. EchoStar paid all of the invoices for the specified hardware.

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Corporation, to Marlene Dortch, FCC, File No. SAT-LOA-20030827-00186; Call Sign S2499 (March 8, 2007).

<sup>4</sup> Amendment of the Commission’s Space Station Licensing Rules and Policies, *First Report and Order*, 18 FCC Rcd. 10760, 10834 ¶ 193 (2003).

<sup>5</sup> See AtContact Communications LLC, *Order*, 24 FCC Rcd. 10929, 10932-33 ¶ 9 (2009).

<sup>6</sup> TerreStar Networks, Inc. *Order*, 22 FCC Rcd. 17698, 17699, 17602 ¶ 3 (2007).

EchoStar had submitted the required affidavit. See Confidential Letter from Pantelis Michalopoulos, Counsel for EchoStar Satellite Operating Corporation, to Marlene Dortch, FCC, File No. SAT-LOA-20030827-00186, Call Sign S2499 (March 8, 2007) (incorporated herein by reference).

<sup>7</sup> See Letter from Pantelis Michalopoulos, Counsel for EchoStar Satellite Operating Corporation, to Marlene Dortch, FCC, File No. SAT-LOA-20030827-00186; Call Sign S2499 (March 8, 2006).

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- **Payload Assembly.** Loral had also procured [REDACTED] travelling wave tubes worth [REDACTED] [REDACTED] for the EchoStar 97 W.L. satellite program. EchoStar fully paid for all of these components. Other payload assembly subsystems included the antenna deployment and position mechanism (“ADPM”) and parts for the satellite attitude positioning system.

These parts and subassemblies are listed in the attachments. Specifically, to document further that physical construction had commenced, EchoStar submits:

- A declaration from Jaime Londono, EchoStar’s Vice President for Advanced Programs and Spectrum Management, describing the actions EchoStar undertook to satisfy the milestone;
- A spreadsheet listing the over 23,000 components for the construction of the EchoStar 97 satellite program and representative invoices from Loral (Attachment 1).<sup>8</sup> As stated, these components were all fully paid for by EchoStar, purchased by Loral, manufactured, and designated specifically for the EchoStar 97 satellite program;
- A summary of the EchoStar 97 satellite program that includes a breakdown of parts by bus electronics and assembly and payload assembly (Attachment 2); and
- A certification (previously filed) from Loral that EchoStar had paid it \$15 million for parts ordered by Loral, manufactured for the satellite, and delivered to Loral for the satellite’s construction (Attachment 3).

The Commission has previously held that similar, and indeed lesser, showings to this supplemental submission were sufficient to demonstrate compliance with the milestone. For example, TerreStar’s commence-physical-construction milestone was deemed satisfied by paying for “parts valued at \$2.7 million, and placing orders with subcontractors for other components for \$5.7 million,”<sup>9</sup> an amount far less than EchoStar’s \$15 million. EchoStar did more than order and pay for the parts – it had them manufactured. Like TerreStar, EchoStar has submitted an affidavit from its satellite manufacturer attesting to the progress in construction.<sup>10</sup> Also, the inclusion of bus electronics and payload assemblies in the list of purchased and

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<sup>8</sup> EchoStar is requesting confidential treatment for the information contained in this letter and for the attachments provided. EchoStar is simultaneously providing a redacted version of this letter for the public record.

<sup>9</sup> See Letter from Gregory C. Staple, Counsel for TMI, to Marlene Dortch, FCC, File No. SAT-LOI-19970926-00161 (April 11, 2005); TerreStar Networks, Inc., *Order*, 22 FCC Rcd. 17698, 17699, 17602 ¶¶ 3, 10 (2007).

<sup>10</sup> See Confidential Letter from Pantelis Michalopoulos, Counsel for EchoStar Satellite Operating Corporation, to Marlene Dortch, FCC, File No. SAT-LOA-20030827-00186; Call Sign S2499, at Attachment 2 (March 8, 2007) (attached hereto as Attachment 3).

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delivered parts (as in *TerreStar*) further buttresses the conclusion that EchoStar has met the construction milestone.

The analysis of the Commission in the *AtContact* decision, too, confirms that physical construction has commenced here. In contrast to the situation in that case, where the Commission found the milestone had not been met,<sup>11</sup> “milestone payments under the manufacturing contracts that are associated with the construction and delivery of these components” were made and critical “parts had been delivered to the manufacturer for incorporation into the satellite.”<sup>12</sup> Indeed, EchoStar’s progress in constructing the EchoStar 97 satellite program was essentially the same as it was for its Ka-band satellite at 113° W.L., for which the Commission concluded the commence-physical-construction milestone had been satisfied.<sup>13</sup>

While, several years after the payment, EchoStar ultimately received credit from Loral for the paid amount, this was only because Loral was able to find a way to reuse and/or reconfigure many of the components. EchoStar could not, and did not, know with any certainty that these components could be reused or reconfigured at the time it made the payments. Had Loral been unable to do so, no credit would have resulted.

We believe that the Commission’s precedent is clear: if metal has been bent, physical construction has commenced. This is what has happened here, and to a greater extent than in other cases where the Commission agreed that physical construction had commenced. Accordingly, EchoStar respectfully requests that the Commission find that EchoStar has met the commence-physical-construction milestone for its Ka-band authorization at 97° W.L. and permit it to reduce its bond amount by \$750,000. Please feel free to contact us with any questions regarding this submission.

Sincerely,

\_\_\_\_\_  
/s/  
Pantelis Michalopoulos  
Christopher Bjornson  
Counsel for EchoStar Corporation

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<sup>11</sup> See *AtContact Communications LLC*, File No. SAT-LOA-19971222-00222, *Order*, FCC 10-100 ¶ 26 (2010).

<sup>12</sup> *Id.*

<sup>13</sup> Public Notice, Report No. SAT-00523, Policy Branch Information Actions Taken, DA 08-1169 (rel. May 16, 2008).

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Attachments

cc: (via email)  
Gardner Foster  
Robert Nelson  
Cassandra Thomas

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**DECLARATION OF JAIME LONDONO**

I, Jaime Londono, being over 18 years of age, swear and affirm as follows:

1. I am the Vice President for Advanced Programs and Spectrum Management for EchoStar Corporation. In this role, I am familiar with the construction and development of EchoStar's satellite fleet and EchoStar's technical plans for building new satellites. I make this declaration based upon personal knowledge, information provided to me and belief.

2. I make this declaration regarding the efforts undertaken by EchoStar and its satellite manufacturer, Space Systems/Loral ("Loral") to construct a Ka-band Fixed-Satellite Service ("FSS") satellite at the 97° W.L. orbital location. Although EchoStar ultimately surrendered its authorization for the satellite, Call Sign S2499, construction had commenced before March 8, 2007, the deadline set by the Federal Communications Commission for EchoStar to meet the "commence-physical-construction" milestone.

3. EchoStar had paid Loral a total of \$15 million for a large number of satellite components designated specifically to the satellite at 97° W.L. orbital location.

4. Loral had ordered solar array cells, propulsion hardware (including thrusters and tanks) and attitude control equipment (including wheels, earth sensors and ring laser gyros) for the satellite worth [REDACTED]. EchoStar paid all of the invoices for the specified hardware.


5. Loral had also procured [REDACTED] travelling wave tubes worth [REDACTED] for the EchoStar 97 W.L. satellite program. EchoStar fully paid for all of these components. Other payload assembly subsystems included the antenna deployment and position mechanism ("ADPM").

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6. While, several years after the payment, EchoStar ultimately received credit from Loral for the paid amount, this was only because Loral was able to find a way to reuse and/or reconfigure many of the components. EchoStar could not, and did not, know with any certainty that these components could be reused or reconfigured at the time it made the payments. Had Loral been unable to do so, no credit would have resulted.



I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge and belief. Executed on July 15, 2011.

  
\_\_\_\_\_  
Jaime Londono  
Vice President for Advanced Programs and  
Spectrum Management  
EchoStar Corporation

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**ATTACHMENT 1**  
**REDACTED IN ITS ENTIRETY**

**REDACTED FOR PUBLIC INSPECTION**

**ATTACHMENT 2**  
**REDACTED IN ITS ENTIRETY**

**REDACTED FOR PUBLIC INSPECTION**

**ATTACHMENT 3**  
**REDACTED IN ITS ENTIRETY**