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Federal Communications Commission  
Office of the Secretary

October 1, 2007

VIA HAND DELIVERY

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

**Re: EchoStar Satellite Operating Corporation, File No. SAT-LOA-20031211-00350, SAT-MOD-20050930-00195, SAT-AMD-20051118-00249; Call Sign S2607**

**EchoStar Satellite Operating Corporation, File No. SAT-LOA-20031215-00355, SAT-MOD-20041102-00206, SAT-MOD-20050617-00127; Call Sign S2609**

Dear Ms. Dortch,

EchoStar Satellite L.L.C. ("EchoStar") hereby surrenders its above-referenced extended Ku-band and hybrid extended Ku-/Ka-band authorizations at the 109° and 121° W.L. orbital locations. This surrender is not related to, and does not affect, EchoStar's separate authorization for a Ka-band payload on EchoStar 9 at the 121° W.L. orbital location.<sup>1</sup> In addition, EchoStar respectfully requests that the Commission grant an unconditional release of the performance bond submitted for each

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<sup>1</sup> See Call Sign 2179; IBFS File Nos. SAT-LOA-19950929-00119, SAT-MOD-20000222-00062, SAT-MOD-20010608-00055; SAT-AMD-20030127-00004, SAT-MOD-20060830-00092; *see also EchoStar Satellite Corp.*, 18 FCC Rcd 15862 (2003) (authorizing launch and operation of the hybrid Ku-/Ka-band EchoStar 9 satellite), *as modified by EchoStar Satellite Operating Corp.*, 21 FCC Rcd 14780 (2006) (authorizing operation of the EchoStar 9 satellite on the lower Ka-band).

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authorization<sup>2</sup> and, to the extent required, a waiver in light of the Commission's statement that such bonds "will be payable if the licensee surrenders its license voluntarily before a milestone date."<sup>3</sup>

EchoStar has decided to surrender these licenses at this time for legitimate and good reasons. While EchoStar continues to need additional spectrum to keep up with the video offerings of terrestrial rivals and to provide High Definition and local digital signals to its subscribers, the extended Ku-band spectrum remains a compromised band for direct-to-home ("DTH") services because of the lack of interference protection. EchoStar had hoped to deploy receive-only earth stations in the band on a non-protected, non-harmful interference basis, but recent regulatory developments have made that prospect both more difficult and less economic. In particular, the Commission's recent decision to allow smaller antennas in the Fixed Service that shares this band will likely worsen the interference environment into which EchoStar would have to deploy non-protected extended Ku-band service.<sup>4</sup> While EchoStar may revisit the possibility of deploying DTH service in this band in the future, it does not wish to tie up Commission-managed orbital and spectrum resources in the face of such uncertainty. The decision not to proceed at this time with the extended Ku-band payload at 121° W.L. also means that it no longer makes economic sense to deploy a separate satellite to operate on just the lower Ka-band at that location, especially when EchoStar has already been authorized to operate on 800 MHz of the Ka-band in each direction using the EchoStar 9 satellite.<sup>5</sup>

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<sup>2</sup> Letter from Pantelis Michalopoulos, Counsel to EchoStar to Marlene H. Dortch, Secretary, FCC, *filed in* SAT-LOA-20031211-00350 and SAT-LOA-20031215-00355 (Nov. 1, 2004); Letter from Pantelis Michalopoulos, Counsel to EchoStar to Marlene H. Dortch, Secretary, FCC, *filed in* SAT-LOA-20031211-00350 (Sept. 21, 2006); Letter from Pantelis Michalopoulos, Counsel to EchoStar to Marlene H. Dortch, Secretary, FCC, *filed in* SAT-LOA-20031215-00355, SAT-MOD-20041102-00206, SAT-MOD-20050617-00127 (Sept. 21, 2006); Letter from Pantelis Michalopoulos, Counsel to EchoStar to Marlene H. Dortch, Secretary, FCC, *filed in* SAT-LOA-20031215-00355, SAT-MOD-20041102-00206, SAT-MOD-20050617-00127 (Jan. 5, 2007); Letter from Pantelis Michalopoulos, Counsel to EchoStar to Marlene H. Dortch, Secretary, FCC, *filed in* SAT-LOA-20031211-00350, SAT-MOD-20050930-00195, SAT-AMD-20051118-00249 (Mar. 2, 2007).

<sup>3</sup> *Amendment of Commission's Space Station Licensing Rules and Policies*, First Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 10760, at ¶ 171 (2003).

<sup>4</sup> *See Amendment of Part 101 of the Commission's Rules to Modify Antenna Requirements for the 10.7 – 11.7 GHz Band*, FCC 07-163, Report and Order, WT 07-54 (rel. Sep. 10, 2007). Even though the smaller antennas are not permitted to cause any more interference than existing Category A antennas, the lower cost of the smaller small antennas is likely to lead to more extensive deployment and therefore a worse interference environment for ubiquitously deployed receive-only antennas in the extended Ku-band.

<sup>5</sup> *See supra* note 1.

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The purpose of the bond is to deter speculation and warehousing of valuable spectrum and orbital resources. This purpose would not be served by a forfeiture of the bond in the present case. EchoStar has diligently complied with all prior milestones for the construction of the proposed satellite under the Commission's rules and the conditions of its authorization.<sup>6</sup> Thus, there has been no speculation or warehousing in this case. For these reasons, the Commission should grant an unconditional release of the performance bonds submitted for EchoStar's extended Ku-band and hybrid extended Ku-/Ka-band satellite authorizations at 109° and 121° W.L., respectively, together with a waiver to the extent required to permit such release.

Please contact the undersigned if you have any questions regarding this letter.

Respectfully submitted,



Pantelis Michalopoulos  
*Counsel for EchoStar Satellite Operating Corp.*

cc:  
 Robert Nelson, International Bureau

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<sup>6</sup> See Public Notice DA 07-813 (rel. Feb. 23, 2007) (confirming CDR completion for S2607); Public Notice, DA 06-2520 (rel. Dec. 15, 2006) (confirming CDR completion for S2609); Public Notice, DA 06-1752 (rel. Sept. 1, 2006) (confirming contract execution for S2607 and S2609).