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December 20, 2006

**BY HAND DELIVERY**

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, DC 20554

FILED/ACCEPTED

DEC 20 2006

Federal Communications Commission  
Office of the Secretary

Re: ***DIRECTV Enterprises, LLC – Milestone Completion for  
DIRECTV 9S (Call Signs S2669/S2689)***  
*File No. SAT-RPL-20050322-00070*  
*File No. SAT-LOA-20051123-00250*  
*File No. SAT-AMD-20051114-00216*

Dear Ms. Dortch:

On July 21, 2006, the International Bureau released an order authorizing DIRECTV Enterprises, LLC (“DIRECTV”) to launch and operate DIRECTV 9S, a hybrid Direct Broadcast Satellite and Ka-band space station, at the nominal 101° W.L. orbital location.<sup>1</sup> In accordance with paragraph 29(e) of that authorization and Section 25.165 of the Commission’s rules, DIRECTV posted a \$3 million performance bond to secure its compliance with four milestone requirements. Specifically, the authorization called for execution of a satellite construction contract, Critical Design Review, commencement of physical construction, and launch and operation of the satellite, and established a July 21, 2011 deadline for achieving the final milestone.

As confirmed by the attached Declaration, the DIRECTV 9S satellite was successfully launched on October 13, 2006, and began regular operations at its authorized orbital location on December 18, 2006. Obviously, in order to achieve launch and operation, DIRECTV necessarily proceeded through the earlier requirements by contracting for and building the satellite. Accordingly, DIRECTV submits that it has

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<sup>1</sup> *DIRECTV Enterprises, LLC*, 21 FCC Rcd. 8028 (Int’l Bur. 2006).

satisfied all four milestone requirements in its authorization well in advance of the required dates, and is therefore entitled to cancel its performance bond.<sup>2</sup>

DIRECTV believes that no further showing should be necessary. However, to the extent the Commission might otherwise require a showing with respect to the first three milestones, DIRECTV submits that a waiver of such showings would be appropriate. The Commission may waive its rules where there is good cause to do so, as in cases where special circumstances warrant a deviation from the general rule and such deviation would better serve the public interest than would strict adherence to the general rule.<sup>3</sup> DIRECTV presents just such a case here. As the Commission stated when it adopted the milestone requirement, “[m]ilestones are intended to ensure that licensees provide service to the public in a timely manner, to prevent warehousing of scarce orbit and spectrum resources.”<sup>4</sup> Similarly, the Commission adopted a performance bond requirement in the expectation that, “[b]y requiring satellite licensees to make a financial commitment to construct and launch their satellites, we help deter speculative satellite applications, and help expedite provision of service to the public.”<sup>5</sup> Given that DIRECTV 9S has already been launched and commenced operations, the concerns underlying the milestone and bonding requirements are no longer applicable. Thus, a waiver would not undermine the rule but would manifestly serve the public interest in these circumstances.

If you have any questions, please do not hesitate to contact undersigned counsel.

Sincerely yours,



William M. Wiltshire  
Counsel for DIRECTV Enterprises, LLC

Enclosure

cc: Robert Nelson  
Andrea Kelly

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<sup>2</sup> See 47 C.F.R. § 25.165(d) (a GSO-like licensee is permitted to reduce the amount of the bond by 25% of the original bond amount upon successfully meeting each milestone).

<sup>3</sup> See 47 C.F.R. § 1.3; *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969); *Telesat Canada*, 17 FCC Rcd. 25287, 25292 and n.36 (Int'l Bur. 2002) (citing cases).


<sup>4</sup> See *Amendment of the Commission's Space Station Licensing Rules and Policies*, 18 FCC Rcd. 10760, 10827 (2003).

<sup>5</sup> *Id.* at 10825.

## DECLARATION

I, James R. Butterworth, Senior Vice President, Engineering and Operations, DIRECTV Enterprises LLP, hereby certify as follows:

1. The DIRECTV 9S spacecraft was successfully launched from the Arianespace facility in Kourou, French Guiana, on October 13, 2006.
2. After completion of in-orbit testing, DIRECTV 9S was placed in its assigned orbital location of 101.10° W.L. and began operations on December 18, 2006.



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James R. Butterworth  
Senior Vice President,  
Engineering and Operations  
DIRECTV Enterprises, LLP

Date: December 19, 2006