

S2725 SAT-LOA-20070105-00003 IB2007000051  
EchoStar Satellite Operating L.L.C.  
EX-5

Approved by OMB  
3060-0678

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EchoStar @ 75° W. L. O.

APPLICATION FOR SATELLITE SPACE STATION AUTHORIZATIONS FCC 312 MAIN FORM FOR OFFICIAL USE ONLY	FCC Use Only
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APPLICANT INFORMATION

Enter a description of this application to identify it on the main menu:  
Application for Authorization for a 17/24 GHz Satellite at 77.2 W.L.

1-8. Legal Name of Applicant	Name: EchoStar Satellite Operating Corporation	Phone Number: 303-723-1000
	DBA Name:	Fax Number: 303-723-1699
	Street: 9601 South Meridian Boulevard	E-Mail:
	City: Englewood	State: CO
	Country: USA	Zipcode: 80112
	Attention: David K Moskowitz	

SAT-LOA-20070105-00003  
SAT-AMD-20080114-00022  
SAT-AMD-20080213-00045  
File # \_\_\_\_\_ with attached conditions

Call Sign S2725 Grant Date 3/18/09  
(or other identifier) Term Dates  
From SEC Conditions To:  
Approved: *[Signature]*



Robert G. Nelson Chief, Satellite Division

Attachment to Grant  
IBFS File Nos. SAT-LOA-20070105-00003, SAT-AMD-20080114-00022 and  
SAT-AMD-20080213-00045  
Call Sign: S2725  
March 18, 2009

EchoStar Corporation's (EchoStar) request for authority to construct, launch, and operate a 17/24 GHz Broadcasting-Satellite Service (BSS) space station, EchoStar EX-4, at the 75.0° W.L. orbital location, which is an Appendix F location as set forth in the *17/24 GHz BSS Report and Order*, FCC 07-76, 22 FCC Rcd 8842 (rel. May 4, 2007), IS GRANTED.<sup>1</sup> Accordingly, EchoStar is authorized to operate its BSS space station, EchoStar EX-4, at the 75.0° W.L. orbital location, using the 17.3-17.8 GHz (space-to-Earth) and the 24.75-25.25 GHz (Earth-to-space) frequency bands, with the 17.7-17.8 GHz (space-to-Earth) frequency band limited to international service only, in accordance with the terms and conditions contained in its application, the Federal Communication Commission's rules not waived herein, and the conditions of this attachment.

1. EchoStar is authorized to operate its 17/24 GHz BSS space station at the 75.0° W.L. orbital location up to the maximum power flux density limits defined in Sections 25.208(c) and (w) of the Commission's rules, 47 C.F.R. §§ 25.208(c) and (w), subject to the actual technical parameters in its application.
2. EchoStar shall maintain its 17/24 GHz BSS space station within an east-west longitudinal station-keeping tolerance of  $\pm 0.05^\circ$  of the assigned 75.0° W.L. orbital location.
3. EchoStar, when designing its system, is reminded to take into consideration the geographic service requirements of Section 25.225 of the Commission's rules. 47 C.F.R. § 25.225.
4. EchoStar's request for a waiver of Section 25.202(g) of the Commission's rules, 47 C.F.R. § 25.202(g) IS GRANTED. Section 25.202(g) requires that "telemetry, tracking and telecommand functions for U. S. domestic satellites shall be conducted at either or both edges of the allocated band(s). Frequencies, polarization, and coding shall be selected to minimize interference into other satellite networks and within their own satellite system." EchoStar seeks a waiver of this rule in two respects. First, EchoStar seeks to operate its telemetry, tracking, and telecommand (TT&C) links at the edges of the 12.2-12.7 GHz (space-to-Earth) Direct Broadcast Satellite (DBS) service band and associated

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<sup>1</sup> The application was placed on Public Notice as accepted for filing on July 2, 2008. Policy Branch Information, Satellite Space Applications Accepted for Filing, *Public Notice*, Report No. SAT-00535 (rel. July 2, 2008). Comments were filed by Pegasus Development DBS Corporation (Pegasus) and SES Americom Inc. (SES) on August 1, 2008. No petitions to deny were filed against this application. In a comment filed on all pending 17/24 GHz BSS applications, Pegasus sought a "clarification" regarding Commission policies relating to 47 C.F.R. §§ 25.158(c) (prohibition on transfer of place in application queue) and 25.165 (bond requirement). The issues raised by Pegasus are not relevant to the processing of this application but, instead, relate to a request to assign an application to Pegasus from DIRECTV Enterprises, LLC (DIRECTV). IBFS File No. SAT-AMD-20080916-00188. Accordingly, we will not address Pegasus's comment in this grant.

17.3-17.8 GHz (Earth-to-space) feeder-link frequency band for launch, in-orbit testing, transfer orbit, and emergency on-station TT&C communications (*Launch, In-Orbit Testing, Transfer Orbit, and Emergency on-Station TT&C Waiver*). Second, EchoStar seeks to operate its telemetry downlink at the edges of the 12.2-12.7 GHz (space-to-Earth) frequency band for regular on-station TT&C communications (*On-Station TT&C Waiver*). EchoStar IS AUTHORIZED for launch, in-orbit testing, transfer orbit, and emergency on-station TT&C communications to operate the telecommand links of EchoStar EX-4 using one megahertz of occupied bandwidth at each of the uplink center frequencies (17.309 GHz and 17.791 GHz) with horizontal polarization and to operate the telemetry and ranging links of EchoStar EX-4 using one megahertz of occupied bandwidth at each of the downlink center frequencies (12.2015 GHz and 12.695 GHz) with vertical polarization. EchoStar IS FURTHER AUTHORIZED for regular on-station TT&C communications to operate the telemetry and ranging links of EchoStar EX-4 using one megahertz of occupied bandwidth at each of the downlink center frequencies (12.2015 GHz and 12.695 GHz) with vertical polarization. This grant is based on the following findings:

- a. *Launch, In-Orbit Testing, Transfer Orbit, and Emergency On-Station TT&C Waiver*. The 17/24 GHz BSS is a new radiocommunication service and there are presently no global TT&C networks available in the 17.3-17.8 GHz (space-to-Earth) and the 24.75-25.25 GHz (Earth-to-space) frequency bands. In contrast, global TT&C networks exist in the 12.2-12.7 GHz (space-to-Earth) DBS frequency band and associated 17.3-17.8 GHz (Earth-to-space) frequency band. EchoStar has successfully coordinated its DBS space station operations utilizing the same frequency bands for TT&C as proposed for use on EchoStar EX-4. Nothing suggests that EchoStar will be unable to coordinate its limited term launch, in-orbit testing and emergency TT&C operations with all potentially-affected operators. Therefore, we conclude that grant of EchoStar's *Launch, In-Orbit Testing, and Emergency on-Station TT&C Waiver* will not cause interference to other licensed operations and will otherwise serve the public interest.
- b. *On-Station Downlink TT&C Waiver*. EchoStar intends to operate its 17/24 GHz BSS TT&C earth stations at the same geographic sites as the TT&C earth stations used for its DBS space stations. As a result, there is a potential for unacceptable interference between the co-located DBS uplink transmitters and the 17/24 GHz BSS telemetry downlink receivers. In particular, the interference from the high-power command and feeder-link earth station transmitters communicating with EchoStar's DBS space stations could cause overloading of sensitive telemetry earth station receivers communicating with EchoStar's 17/24 GHz BSS space stations on nearby frequencies at the same sites. This could result in an inability to receive telemetry and tracking signals from EchoStar's 17/24 GHz BSS space station. The 12 megahertz guardband set aside at both the lower and the upper edge of the 12.2-12.7 GHz DBS telemetry downlink frequency band can accommodate a number of typically one-megahertz-wide

telemetry downlink signals. Therefore, we conclude that grant of EchoStar's *On-Station Downlink TT&C Waiver* to operate in the 12.2-12.7 GHz band will not cause interference to other licensed operations and will otherwise serve the public interest.

As a condition of granting these waivers, EchoStar shall coordinate all the TT&C operations permitted pursuant to condition No. 4 with all potentially-affected operators of other radiocommunication systems. In the absence of a coordination agreement regarding such TT&C operations, EchoStar's TT&C operations permitted pursuant to condition No. 4 shall be on a non-harmful interference basis (*i.e.*, EchoStar shall not cause harmful interference to, and shall not claim protection from interference caused to it by, any other lawfully operating radiocommunication system). Additionally, EchoStar must accommodate future space station networks that are compliant with Section 25.202(g) of the Commission's rules. Further, in the event on-station emergency TT&C operations are conducted in the 17.3-17.8 GHz (Earth-to-space) frequency band, EchoStar's authority to conduct such operations is limited to five consecutive days ending at 12:00 midnight on the fifth day. If additional time is needed, EchoStar must file a request with the Commission for authorization to continue such operations. EchoStar shall notify the Commission, in writing, within two days of beginning on-station emergency TT&C operations in the 17.3-17.8 GHz (Earth-to-space) frequency band, stating the reasons for commencing such operations.

5. EchoStar IS AUTHORIZED for regular on-station TT&C communications to operate the telecommand uplinks of EchoStar EX-4 using one megahertz of occupied bandwidth at each of the uplink center frequencies (24.752 GHz and 25.248 GHz) with vertical polarization.
6. EchoStar's 17/24 GHz BSS space station at the 75.0° W.L. orbital location must be constructed, launched, and placed into operation in accordance with the technical parameters and terms and conditions of this authorization by these specified time periods following the date of authorization:
  - a. Execute a binding contract for construction within one year (March 18, 2010);
  - b. Complete the Critical Design Review within two years (March 18, 2011);
  - c. Commence construction within three years (March 18, 2012);
  - d. Launch and begin operations within five years (March 18, 2014); and
  - e. EchoStar must file a bond with the Commission in the amount of \$3 million, pursuant to the procedures set forth in Public Notice, DA 03-2602, 18 FCC Rcd 16283 (2003), within 30 days of the date of this grant (April 17, 2009).

Failure to meet any of these dates shall render this authorization null and void.

7. EchoStar shall complete coordination of the physical operations of the space station with operators of space stations with overlapping station-keeping volumes

within two years and two months of grant of this authorization. EchoStar shall notify the Chief, Satellite Division, in writing, within ten business days of completion of such coordination. Failure to meet this condition shall render this authorization null and void.

8. EchoStar shall file as a modification, no later than ten business days after completion of Critical Design Review, a revised statement detailing the post-mission disposal plans for the space station at end of life, including the quantity of fuel that will be reserved for post-mission disposal maneuvers. The statement must disclose the perigee altitude selected for a post-mission disposal orbit and demonstrate that the perigee altitude for a post-mission disposal orbit meets the requirements of Section 25.283(a) of the Commission's rules, 47 C.F.R. § 25.283(a).
9. This authorization and all conditions contained herein are subject to the final outcome of the Commission's rulemaking in IB Docket No. 06-123 and any requirements subsequently adopted therein.
10. EchoStar shall prepare the necessary information that may be required, for submission to the International Telecommunication Union (ITU) to initiate and complete the advance publication, international coordination, due diligence, and notification process of this space station, in accordance with the ITU Radio Regulations. EchoStar shall be held responsible for all cost recovery fees associated with these ITU filings. No protection from interference caused by radio stations authorized by other Administrations is guaranteed unless coordination and notification procedures are timely completed or, with respect to individual Administrations, by successfully completing coordination agreements. Any radio station authorization for which coordination has not been completed may be subject to additional terms and conditions as required to effect coordination of the frequency assignments with other Administrations. 47 C.F.R. § 25.111(b).<sup>2</sup>
11. The license term for this 17/24 GHz BSS space station (Call Sign: S2725) is fifteen years and will begin to run on the date that EchoStar certifies to the Commission that the satellite has been successfully placed into orbit and its operation fully conforms to the terms and conditions of this authorization. 47 C.F.R. § 25.121(a). EchoStar shall file this certification with the Chief, Satellite Division, International Bureau, within ten business days of the space station being put into operation.
12. On June 30 of each year, EchoStar shall file a report with the International Bureau and the Commission's Columbia Operations Center in Columbia, Maryland, containing the information current as of May 31 of that year pursuant to Section 25.210(l) of the Commission's rules. 47 C.F.R. § 25.210(l).

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<sup>2</sup> In its comments, SES requests that certain conditions relating to ITU procedures be included in each 17/24 GHz BSS authorization. Most of the conditions sought by SES are included in condition No. 9 of this grant, which is a standard condition on space station authorizations. SES, however, also seeks to impose a customer notification requirement. We see no reason to impose such a condition on this authorization at this time.

13. EchoStar is afforded 30 days from the date of release of this grant and authorization to decline this authorization as conditioned. Failure to respond within this period will constitute formal acceptance of the authorization as conditioned.
14. This action is issued pursuant to Section 0.261 of the Commission's rules on delegated authority, 47 C.F.R. § 0.261, and is effective immediately. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.115, may be filed within 30 days of the date of the public notice indicating that this action was taken.



SAT-LDA-20070105-00003  
 SAT-AMD-20080114-00022  
 File # SAT-AMD-20080213-00045  
 with attached conditions  
 Call Sign S2725 Grant Date 3/18/09  
 (or other identifier) Term Dates  
 From see conditions To: \_\_\_\_\_  
 Approved: [Signature]

Robert G. Nelson  
 Chief Satellite  
 Division

9-16. Name of Contact Representative

Name: Pantelis Michalopoulos Phone Number: 202-429-6494  
 Company: Steptoe & Johnson LLP Fax Number: 202-429-3902  
 Street: 1330 Connecticut Ave., N.W. E-Mail: pmichalo@steptoe.com  
 City: Washington State: DC  
 Country: USA Zipcode: 20036 -1795  
 Attention: Relationship: Legal Counsel

CLASSIFICATION OF FILING

17. Choose the buttonnext to the classification that applies to thisfiling for both questions a. and b. Choose only one for 17a and only one for 17b.

- a.
  - (N/A) a1. Earth Station
  - a2. Space Station

- b.
  - b1. Application for License of New Station (N/A)
  - b2. Application for Registration of New Domestic Receive-Only Station (N/A)
  - b3. Amendment to a Pending Application (N/A)
  - b4. Modification of License or Registration (N/A)
  - b5. Assignment of License or Registration (N/A)
  - b6. Transfer of Control of License or Registration (N/A)
  - b7. Notification of Minor Modification (N/A)
  - b8. Application for License of New Receive-Only Station Using Non-U.S. Licensed Satellite

- b9. Letter of Intent to Use Non-U.S. Licensed Satellite to Provide Service in the United States
- b10. Replacement Satellite Application - no new frequency bands
- b11. Replacement Satellite Application - new frequency bands (Not eligible for streamlined processing)
- b12. Petition for Declaratory Ruling to be Added to the Permitted List (N/A)
- b13. Other (Please specify)

<p>17c. Is a fee submitted with this application?  <input checked="" type="radio"/> If Yes, complete and attach FCC Form 159.          If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114).  <input type="radio"/> Governmental Entity    <input type="radio"/> Noncommercial educational licensee  <input type="radio"/> Other (please explain):</p>	<p>17c. Fee Classification    BNY – Space Station (Geostationary)</p>
<p>18. If this filing is in reference to an existing station, enter:          (a) Call sign of station:          Not Applicable</p>	<p>19. If this filing is an amendment to a pending application enter:          (a) Date pending application was filed:          Not Applicable          (b) File number of pending application:          Not Applicable</p>



**TYPE OF SERVICE**

20. NATURE OF SERVICE: This filing is for an authorization to provide or use the following type(s) of service(s): Select all that apply:

- a. Fixed Satellite
- b. Mobile Satellite
- c. Radiodetermination Satellite
- d. Earth Exploration Satellite
- e. Direct to Home Fixed Satellite
- f. Digital Audio Radio Service
- g. Other (please specify) 17/24 GHz Broadcast-Satellite Service

21. STATUS: Choose the button next to the applicable status. Choose only one.

- Common Carrier
- Non-Common Carrier

22. If earth station applicant, check all that apply.  
Not Applicable

23. If applicant is providing INTERNATIONAL COMMON CARRIER service, see instructions regarding Sec. 214 filings. Choose one. Are these facilities:

- Connected to a Public Switched Network
- Not connected to a Public Switched Network

N/A

24. FREQUENCY BAND(S): Place an "X" in the box(es) next to all applicable frequency band(s).

- a. C-Band (4/6 GHz)
- b. Ku-Band (12/14 GHz)
- c. Other (Please specify upper and lower frequencies in MHz.)

Frequency Lower: 17300      Frequency Upper: 25250

(Please specify additional frequencies in an attachment)

**TYPE OF STATION**

25. CLASS OF STATION: Choose the button next to the class of station that applies. Choose only one.

- (N/A) a. Fixed Earth Station
- (N/A) b. Temporary-Fixed Earth Station
- (N/A) c. 12/14 GHz VSAT Network
- (N/A) d. Mobile Earth Station
- e. Geostationary Space Station.
- f. Non-Geostationary Space Station
- g. Other (please specify)

26. TYPE OF EARTH STATION      FACILITY: Not Applicable

**PURPOSE OF MODIFICATION**

27. The purpose of this proposed modification is to: (Place an "X" in the box(es) next to all that apply.)      Not Applicable

**ENVIRONMENTAL POLICY**

28. Would a Commission grant of any proposal in this application or amendment have a significant environmental impact as defined by 47 CFR 1.1307? If YES, submit the statement as required by Sections 1.1308 and 1.1311 of the Commission's rules, 47 C.F.R. §§ 1.1308 and 1.1311, as an exhibit to this application. A Radiation Hazard Study must accompany all applications for new transmitting facilities, major modifications, or major amendments.

Yes       No

**ALIEN OWNERSHIP**

Earth station applicants not proposing to provide broadcast, common carrier, aeronautical en route or aeronautical fixed radio station services are not required to respond to Items 30-34.

<p>29. Is the applicant a foreign government or the representative of any foreign government?</p>	<p><input type="radio"/> Yes <input checked="" type="radio"/> No</p>
<p>30. Is the applicant an alien or the representative of an alien?</p>	<p><input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> N/A</p>
<p>31. Is the applicant a corporation organized under the laws of any foreign government?</p>	<p><input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> N/A</p>
<p>32. Is the applicant a corporation of which more than one-fifth of the capital stock is owned or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?</p>	<p><input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> N/A</p>
<p>33. Is the applicant a corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned or voted by aliens, their representatives, or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?</p>	<p><input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> N/A</p>
<p>34. If any answer to questions 29, 30, 31, 32 and/or 33 is Yes, attach as an exhibit an identification of the aliens or foreign entities, their nationality, their relationship to the applicant, and the percentage of stock they own or vote.</p>	
<p><b>BASIC QUALIFICATIONS</b></p>	

<p>35. Does the Applicant request any waivers or exemptions from any of the Commission's Rules? If Yes, attach as an exhibit, copies of the requests for waivers or exceptions with supporting documents.</p>	<p style="text-align: right;"> <input checked="" type="radio"/> Yes    <input type="radio"/> No </p>
<p>36. Has the applicant or any party to this application or amendment had any FCC station authorization or license revoked or had any application for an initial, modification or renewal of FCC station authorization, license, or construction permit denied by the Commission? If Yes, attach as an exhibit, an explanation of circumstances.</p>	<p style="text-align: right;"> <input checked="" type="radio"/> Yes    <input type="radio"/> No  Response to Q36 </p>
<p>37. Has the applicant, or any party to this application or amendment, or any party directly or indirectly controlling the applicant ever been convicted of a felony by any state or federal court? If Yes, attach as an exhibit, an explanation of circumstances.</p>	<p style="text-align: right;"> <input type="radio"/> Yes    <input checked="" type="radio"/> No </p>
<p>38. Has any court finally adjudged the applicant, or any person directly or indirectly controlling the applicant, guilty of unlawfully monopolizing or attempting unlawfully to monopolize radio communication, directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement or any other means or unfair methods of competition? If Yes, attach as an exhibit, an explanation of circumstances</p>	<p style="text-align: right;"> <input type="radio"/> Yes    <input checked="" type="radio"/> No  Tech. Annex </p>
<p>39. Is the applicant, or any person directly or indirectly controlling the applicant, currently a party in any pending matter referred to in the preceding two items? If yes, attach as an exhibit, an explanation of the circumstances.</p>	<p style="text-align: right;"> <input type="radio"/> Yes    <input checked="" type="radio"/> No  ITU API </p>

<p>40. If the applicant is a corporation and is applying for a space station license, attach as an exhibit the names, address, and citizenship of those stockholders owning a record and/or voting 10 percent or more of the Filer's voting stock and the percentages so held. In the case of fiduciary control, indicate the beneficiary(ies) or class of beneficiaries. Also list the names and addresses of the officers and directors of the Filer.</p>	<p>Response to Q40</p>
<p>41. By checking Yes, the undersigned certifies, that neither applicant nor any other party to the application is subject to a denial of Federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Act of 1988, 21 U.S.C. Section 862, because of a conviction for possession or distribution of a controlled substance. See 47 CFR 1.2002(b) for the meaning of "party to the application" for these purposes.</p>	<p>Yes <input checked="" type="radio"/> No <input type="radio"/></p>
<p>42a. Does the applicant intend to use a non-U.S. licensed satellite to provide service in the United States? If Yes, answer 42b and attach an exhibit providing the information specified in 47 C.F.R. 25.137, as appropriate. If No, proceed to question 43.</p>	<p>Yes <input type="radio"/> No <input checked="" type="radio"/></p>
<p>42b. What administration has licensed or is in the process of licensing the space station? If no license will be issued, what administration has coordinated or is in the process of coordinating the space station?</p>	

43. Description. (Summarize the nature of the application and the services to be provided). (If the complete description does not appear in this box, please go to the end of the form to view it in its entirety.)

See attached narrative application, technical annex, and Schedule S.

Narrative App.

**CERTIFICATION**

The Applicant waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. The applicant certifies that grant of this application would not cause the applicant to be in violation of the spectrum aggregation limit in 47 CFR Part 20. All statements made in exhibits are a material part hereof and are incorporated herein as if set out in full in this application. The undersigned, individually and for the applicant, hereby certifies that all statements made in this application and in all attached exhibits are true, complete and correct to the best of his or her knowledge and belief, and are made in good faith.

44. Applicant is a (an): (Choose the button next to applicable response.)

- Individual
- Unincorporated Association
- Partnership
- Corporation
- Governmental Entity
- Other (please specify)

45. Name of Person Signing David K. Moskowitz	46. Title of Person Signing Executive Vice President and General Counsel
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47. Please supply any need attachments.		
1:	2:	3:
<p style="text-align: center;">WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND / OR IMPRISONMENT  (U.S. Code, Title 18, Section 1001), AND/OR REVOCATION OF ANY STATION AUTHORIZATION  (U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).</p>		

Completed Schedule S

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