

# STEPTOE & JOHNSON <sup>LLP</sup>

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FILED/ACCEPTED

JUN 28 2007

Federal Communications Commission  
Office of the Secretary

June 28, 2007

Via HAND DELIVERY

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

Re: **Request for Refund of Application Processing Fees**

File Nos. SAT-LOA-20070105-00002, Call Sign S2724  
SAT-LOA-20070105-00004, Call Sign S2726  
SAT-LOA-20070105-00005, Call Sign S2727  
SAT-LOA-20070105-00006, Call Sign S2728  
SAT-LOA-20070105-00007, Call Sign S2729

Dear Ms. Dortch,

EchoStar Satellite Operating Corporation (“EchoStar”) respectfully requests a refund in the amount of \$160,170.00 for the application processing fees paid for the five 17/24 GHz Reverse Band Working (“RBW”) applications listed above, pursuant to Section 1.1113(a)(4) of the Commission’s Rules, 47 C.F.R. § 1.1113(a)(4).<sup>1</sup> That rule provides that: “the full amount of any fee submitted will be returned or refunded . . . [w]hen the Commission adopts new rules that nullify applications already accepted for filing, or new law or treaty would render useless a grant or other positive disposition of the application.”

EchoStar is entitled to a refund of the fees paid for the five applications listed above precisely because new rules adopted by the Commission prevent their further prosecution. On January

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<sup>1</sup> EchoStar paid fees of \$32,034.00 for each of the listed applications for a total of \$160,170.00.

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5, 2007, EchoStar filed seven RBW applications with the Commission, including the five listed above. This brought the total number of RBW applications that EchoStar had on file to ten.<sup>2</sup> At that time, there were no limitations on the number of pending RBW applications that an applicant could have on file with the Commission. On May 4, 2007, the Commission issued an *Order* establishing new service and processing rules for the RBW service.<sup>3</sup> Under that *Order*, no single applicant could proceed with more than five pending applications and/or licensed-but-unlaunched satellites in the RBW service.<sup>4</sup> The *Order* also directed all applicants with pending applications to notify the Commission, within 45 days, “whether it intends to go forward with each of its pending applications.”<sup>5</sup> Because of the new limit on the number pending RBW applications, EchoStar could only notify the Commission of its intent to proceed with five of its ten pending applications.<sup>6</sup>

It follows, therefore, that EchoStar has met all of the requirements in Section 1.1113(a)(4) for a full refund of the fees it has paid for the five abandoned applications listed above. The new rules adopted by the Commission have “nullif[ied]” or “render[ed] useless a grant or other positive disposition of” those applications. Accordingly, EchoStar respectfully requests that the fees for those applications be refunded by check to “EchoStar Communications Corporation,” or by wire to:

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<sup>2</sup> In addition to the five applications listed above, EchoStar has the following RBW applications on file with the Commission: File Nos. SAT-LOA-20020328-00050, SAT-AMD-20051118-00247; SAT-LOA-20020328-00051, SAT-AMD-20051118-00246; SAT-LOA-20020328-00052, SAT-AMD-20051118-00245; SAT-LOA-20070105-00001; SAT-LOA-20070105-00003.

<sup>3</sup> See *Establishment of Policies and Service Rules for the Broadcasting-Satellite Service at the 17.3-17.7 GHz Frequency Band and at the 17.7-17.8 GHz Frequency Band Internationally, and at the 24.75-25.25 GHz Frequency Band for Fixed Satellite Services Providing Feeder Links to the Broadcasting-Satellite Service and for the Satellite Services Operating Bi-directionally in the 17.3-17.8 GHz Frequency Band*, FCC 07-76, Report and Order and Further Notice of Proposed Rulemaking, IB Docket No. 06-123 (rel. May 4, 2007) (“*Order*”).

<sup>4</sup> *Id.* at ¶ 15.

<sup>5</sup> *Id.* at ¶ 146.

<sup>6</sup> See Letter from Bradley K. Gillen, EchoStar, to Marlene H. Dortch, FCC, filed in IB Docket No. 06-123; File Nos. SAT-LOA-20020328-00050, SAT-AMD-20051118-00247; SAT-LOA-20020328-00051, SAT-AMD-20051118-00246; SAT-LOA-20020328-00052, SAT-AMD-20051118-00245; SAT-LOA-20070105-00001; SAT-LOA-20070105-00003 (filed Jun. 18, 2007). See also *Order* at ¶ 146 (“If an applicant fails to file a notification of its intent to proceed with a particular application, we will dismiss that application.”).

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Bank of America  
ABA number 026009593  
EchoStar Communications Corporation  
Account number 3751626905 "EchoStar Corporate AR (ACH/Wires)"  
Attention: Ximena Amaya 312-828-3787

Please contact the undersigned if you have any questions about this refund request.

Yours sincerely,

Handwritten signature of Pantelis Michalopoulos in cursive script, followed by a forward slash and the initials "DCM".

Pantelis Michalopoulos  
*Counsel for EchoStar Satellite Operating  
Corporation*

cc:  
Anthony Dale, FCC Managing Director  
Robert Nelson, International Bureau