

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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In the Matter of)	
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ECHOSTAR BSS CORPORATION)	
)	File No. SAT-O/A-2021 _____
Application for Authority to Operate)	
EchoStar 23 as an In-Orbit Spare and Activate)	
Its Communications Payload at 109.9° W.L.)	
as Needed)	
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APPLICATION FOR OPERATING AUTHORITY¹

By this Application, EchoStar BSS Corporation (together with its affiliates, “DISH”) requests authority (a) to operate the EchoStar 23 satellite as an in-orbit spare at the 109.9° W.L. orbital location; and (b) to activate the communications payload without additional authority as needed.² By adding EchoStar 23 at 109.9° W.L., this application serves to modify DISH’s general Direct Broadcast Satellite (“DBS”) service authority at the nominal 110° W.L. orbital location. DISH requests action on this application by July 16, 2021.³

¹ Concurrent with this application, DISH is filing (1) an STA renewal request to operate EchoStar 23 at 67.9° W.L. pending its move to 109.9° W.L.; (2) STA applications to operate five transmit/receive earth stations (Call Signs E150098, E170094, E070014, E980005, and E020248) to provide telemetry, tracking, and command (“TT&C”) operations to EchoStar 23 during its relocation to 109.9° W.L. (“Relocation STAs”); and (3) modification applications to operate five transmit/receive earth stations to provide TT&C and feeder link communications for EchoStar 23 once it is located at 109.9° W.L. (“On-Station Modifications”).

² The technical parameters of the satellite and its proposed operations are provided in the attached Technical Annex (Attachment 1) and associated Schedule S.

³ With regards to the FCC’s licensing procedures for DBS satellites, in particular, because the satellite will operate on the channels already licensed to DISH at 109.9° W.L., this application is not subject to the “freeze” on new DBS applications currently in place. *See* Public Notice, Direct Broadcast Satellite (DBS) Auction Nullified: Commission Sets Forth Refund Procedures for Auction No. 52 Winning Bidders and Adopts a Freeze on All New DBS Service Applications,

Launched in March 2017, EchoStar 23 is a Ku-band Broadcasting-Satellite Service (“BSS”) satellite initially authorized to operate at 44.9° W.L. Despite initial plans to operate EchoStar 23 to provide direct-to-home (“DTH”) television service to Brazil, DISH had determined that the satellite will be better utilized at the 72.6° W.L. orbital location, in conjunction with the Canadian-licensed Nimiq 5 satellite at 72.7° W.L., to support ongoing DTH service for its satellite television network. Accordingly, on July 2, 2019, EchoStar 23 began its move from 44.9° W.L. to 72.6° W.L.⁴ for service to DISH subscribers in the United States and Canada.⁵ DISH has now updated its plans and has determined that EchoStar 23 would serve its customers better from the nominal 110° W.L orbital location for which it holds authority to operate from in the United States. DISH is currently operating two Direct Broadcast Satellite (“DBS”) service satellites at the nominal 110 W.L. orbital location – EchoStar 10 and EchoStar 11. The proposed redeployment will help DISH provide high-quality DBS service to consumers without service interruptions or degradation.

FCC 05-213, at 2 (rel. Dec. 21, 2005). In addition, DISH notes that while the freeze remains in effect, it has been lifted by the Commission to become effective upon publication in the Federal Register. Amendment of the Commission’s Policies and Rules for Processing Applications in the Direct Broadcast Satellite Service, *Report and Order*, 34 FCC Rcd. 9014 (2019).

⁴ DISH currently holds 30-day STAs for TT&C communications to support EchoStar 23’s brief interim operations at 67.9° W.L. (Call Signs E150098, E170094, E070014, E980005, and E020248) as well as 60-day STAs to operate the same five earth stations for TT&C communications with the EchoStar 23 satellite during its drift from 44.9° W.L. to 72.6° W.L. *See Satellite Communications Services Information re: Actions Taken*, Public Notice, FCC Report No. SES-02173, at 43-44 (June 19, 2019); *see also, e.g.*, EchoStar, Application for STA, File No. SES-STA-20190812-01099. DISH has filed for renewal of those STAs that are currently pending. *See, e.g.*, File No. SES-STA-20210511-00791. DISH also has pending modification applications to operate these earth stations for TT&C and feeder link communications with EchoStar 23 during its relocation and operations at 72.6° W.L. *See* EchoStar, Applications for Modification, File Nos. SES-MFS-20190308-00275 & SES-MFS-20190214-00088 *et seq.* (Mar. 8 & Feb. 14, 2019).

⁵ A modification application for blanket licensing authority to operate receive-only U.S. earth stations for reception of service from the EchoStar 23 satellite at 72.6° W.L. is currently pending. *See* DISH, Application for Modification, File No. SES-MFS-20190507-00566 (May 7, 2019).

For the reasons set forth herein, grant of this Application will not cause harmful interference to any authorized user of the spectrum and will serve the public interest.

I. GRANT OF THIS APPLICATION IS IN THE PUBLIC INTEREST

DISH and its predecessors have been providing consumer DBS service from the nominal 110° W.L. orbital location since 1999. DISH's proposed operations for EchoStar 23 at 109.9° W.L. will serve the public interest by enabling DISH to manage its satellite fleet efficiently; provide for more productive use of its satellites; and further ensure full use of spectrum and uninterrupted service from the nominal 110° W.L. orbital location. This is in accordance with the Commission's longstanding policy of leaving fleet management decisions to satellite operators because doing so serves the public interest.⁶ Specifically, the Commission has determined that a satellite licensee "is in a better position to determine how to tailor its system to meet the particular needs of its customers."⁷

In addition, the Commission "will generally grant a [satellite] licensee's request to modify its system, provided there are no compelling countervailing public interest considerations."⁸ Here, neither the operation of EchoStar 23 as an in-orbit spare at 109.9° W.L. nor activation of its communications payload will cause harmful interference to any other authorized service. As demonstrated through the engineering analysis contained in the attached Technical Annex, no networks would be affected except potentially three unbuilt, non-operational Region 2 BSS networks where the overall equivalent protection margin ("OEPM")

⁶ See SES Americom, Inc., *Order and Authorization*, 21 FCC Rcd. 3430, 3433 (2006) ("*SES Americom Order*"); AMSC Subsidiary Corporation, *Order and Authorization*, 13 FCC Rcd. 12316, 12318 (1998) ("*AMSC Order*").

⁷ *AMSC Order* ¶ 8.

⁸ *Id.*; see also *SES Americom Order* ¶ 8 (FCC "generally has allowed satellite operators to rearrange satellites in their fleet to reflect business and customer considerations where no public interest factors are adversely affected").

limits for Appendix 30/30A are exceeded.⁹ Further, while the satellite is maintained as an in-orbit spare, all transponders other than the TT&C transponders will be switched off. In the event the communications payload is activated, DISH will notify the Commission that it has activated the payload on the satellite.

Nor will the proposed operation of the EchoStar 23 satellite at 109.9° W.L. create any risk of in-orbit collision. EchoStar 23 will be maintained within +/- 0.05° east/west station-keeping, which will ensure that its station-keeping volume will not overlap with DISH's other satellites at 109.9° W.L. DISH will coordinate all drift orbit operations with other potentially affected in-orbit operators.

II. THE PROPOSED RELOCATION IS CONSISTENT WITH ECHOSTAR 23's PREVIOUS FOREIGN AUTHORIZATIONS

EchoStar 23 was previously authorized by the Brazilian Administration to provide service to Brazil. Brazil released DISH's predecessor, an EchoStar Corporation subsidiary, from its obligations, after which DISH, contemplated a move to the nominal 72.7 ° W.L. orbital location, which has been allotted to Canada under the International Telecommunication Union's Region 2 Plan for BSS. During the contemplated move, while awaiting approval from Canada, the satellite has been deployed at 67.9° W.L. pursuant to authority of the Isle of Man. The Isle of Man authority covers only TT&C operations and is only intended to be temporary until DISH receives permanent authority from another administration. Thus, there should be no need to exchange letters between the administrations of the Isle of Man and the United States.

⁹ Technical Annex at 7.

