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**Policy Branch**  
**International Bureau**

April 4, 2003

**VIA HAND DELIVERY**

**Marlene H. Dortch**  
**Secretary**  
**Federal Communications Commission**  
**455 12th Street, S.W.**  
**Washington, DC 20554**

**RECEIVED**

**APR - 4 2003**

**FEDERAL COMMUNICATIONS COMMISSION**  
**OFFICE OF THE SECRETARY**

**Re: EchoStar Satellite Corporation, File Nos. 167-SAT-P/LA-95; 168-SAT-P/LA-95; 54-SAT-AMEND-96; SAT-MOD-20010608-00055; SAT-AMD-20030127-00003; 36-DSS-LA-94; 37-DSS-P/LA-94; 154-SAT-AMEND-95; SAT-MOD-20010608-00054; SAT-AMD-20030127-00004**

**Loral SpaceCom Corporation, File No. SAT-PDR-20020315-00025**

Dear Ms. Dortch:

EchoStar Satellite Corporation ("EchoStar") hereby respectfully requests that the Commission place on expedited public notice and grant as soon as possible EchoStar's above-captioned applications, which relate to the Ku-band and Ka-band payloads on the soon-to-be-launched EchoStar IX satellite, notwithstanding that certain issues concerning foreign licensing for the satellite's C-band payload (to be operated by Loral) may remain unresolved. EchoStar fears that any further delay of this proceeding could cause yet another postponement of the EchoStar IX launch, preventing consumers from receiving the benefits from prompt use of the spectrum and imposing great cost on EchoStar. As discussed below, the Commission may grant the Ku-band and Ka-band authorizations and permit launch and operation of EchoStar IX, even if it determines that it requires additional information that is in the custody of Loral and/or the Papua New Guinea administration regarding the licensing of the C-band payload. The foreign licensing issues can and should be resolved in the context of the Commission's evaluation of Loral's above-captioned petition, without any need to hold up the licensing of the domestic payloads and launch of the satellite.

As the Commission is aware, the EchoStar IX satellite is a hybrid Ku-band and Ka-band Fixed-Satellite Service ("FSS") satellite that will operate at the 121° W.L. orbit location, and that

is set for launch in May 2003. EchoStar will operate the Ku-band and Ka-band payloads on the satellite pursuant to the modifications to its space station authorizations that are requested in the above-captioned applications. As for the C-band payload, known to the Commission as Telstar 13, Loral has received an authorization for that payload from Papua New Guinea using that country's PACSTAR-L4 network ITU filing at the 121° W.L. orbit location. Loral has filed a petition requesting inclusion of the foreign-licensed C-band payload in the Permitted Space Station list.<sup>1</sup>

On March 14, 2003, EchoStar submitted detailed information to the Commission regarding the relationship between EchoStar and Loral concerning operation of the various communications payloads of the EchoStar IX satellite.<sup>2</sup> That submission established, among other things, that: (i) EchoStar IX will be operated under the direction and control of EchoStar; (ii) TT&C operations of the EchoStar IX satellite will be performed by Loral with EchoStar's control, pursuant to a 1996 TT&C services contract, in Ku-band frequencies licensed to EchoStar by the Commission;<sup>3</sup> and (iii) the Commission has previously authorized a spacecraft sharing arrangement similar to that contemplated here.<sup>4</sup>

In addition, correspondence to the Commission from the Papua New Guinea Telecommunication Authority ("PANGTEL"), Papua New Guinea's sole regulatory for telecommunications (including satellites and ITU filings), confirms that Loral's authority to implement the C-band PACSTAR-L4 filing at 121° W.L. has no effect on EchoStar's ability to exercise direction and control over EchoStar IX, including compliance with an FCC order to

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<sup>1</sup> See Loral SpaceCom Corporation Petition for Declaratory Ruling for Inclusion of Telstar 13 C-Band Satellite at 121° W.L. on the Permitted Space Station List, File No. SAT-PDR-20020315-00025 (filed March 15, 2002).

<sup>2</sup> See Letter from Pantelis Michalopoulos to Marlene H. Dortch, File Nos. 167-SAT-P/LA-95; 168-SAT-P/LA-95; 54-SAT-AMEND-96; SAT-MOD-20010608-00055; SAT-AMD-20030127-00003; 36-DSS-LA-94; 37-DSS-P/LA-94; 154-SAT-AMEND-95; SAT-MOD-20010608-00054; SAT-AMD-20030127-00004 (dated March 14, 2003) ("*EchoStar IX Letter*").

<sup>3</sup> Some tracking functions will occur in the C-band to facilitate communications with C-band earth stations, if the Commission authorizes the C-band payload to serve the United States.

<sup>4</sup> See generally *EchoStar IX Letter*.

relocate EchoStar IX from 121° W.L. or cease operations at that location, even if the Commission were to grant Loral's petition.<sup>5</sup>

The Commission is seeking additional information that is in the custody of Loral and Papua New Guinea concerning the licensing of the C-band payload. Grant of EchoStar's application, however, does not in the least implicate any Commission concerns regarding foreign licensing of the C-band payload, even at a purely theoretical level. This is because, unless the Commission grants Loral's pending petition, the C-band payload on the satellite will *not* be on the Permitted Space Station list, meaning that no earth station in the United States will have permission to communicate with the foreign-licensed satellite. Specifically with respect to the TT&C frequencies on the satellite, Loral would not be able to conduct TT&C communications from its Hawley, Pennsylvania unlink center under its license from PNG unless and until the Commission grants Loral's petition. Therefore, EchoStar's domestic license would be the only conceivable authority under which TT&C communications with the satellite could be conducted, and Loral's TT&C operations would be exclusively governed by the TT&C contract with EchoStar. In other words, the PNG license would simply be irrelevant beyond any doubt to the operations of the satellite, including the TT&C operations.

The record in the proceeding already establishes that, even when Loral receives the requested authority, EchoStar will control the EchoStar IX satellite and that the PNG license would not at all detract from that control. Nevertheless, if the Commission needs additional assurances in that regard, it can receive them in the context of evaluating Loral's petition, without need to hold up EchoStar's applications.

EchoStar also notes that, should the Commission timely grant its applications, the launch of the satellite can and will occur, even as the Commission continues to consider Loral's petition based on the information to be received from Loral and for PNG.

In sum, EchoStar supports grant of Loral's petition to place Telstar 13 on the Permitted Space Station List. At the same time, there is no reason to delay grant of EchoStar's Ku-band and Ka-band authorizations during the pendency of that separate proceeding. Accordingly, EchoStar respectfully requests that the Commission place the above-referenced satellite applications on expedited public notice and grant them as soon as possible to permit the timely launch and operation of the EchoStar IX satellite, and realization of the significant public interest benefits associated with that operation.

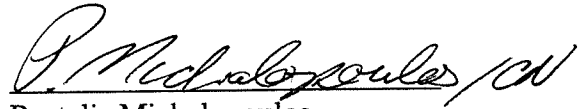
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<sup>5</sup> See Letter from Charles S. Punaha, Director General, PANGTEL, to Thomas S. Tycz, Chief, Satellite Division, FCC International Bureau (dated March 19, 2003).

Marlene H. Dortch  
April 4, 2003  
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Please do not hesitate to contact us if you have any questions concerning this submission.

Respectfully submitted,



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cc: All Counsel of Record