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Federal Communications Commission
Office of Secretary

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File No. SAT-LOA-20030827-00177
SAT-MOD-20041008-00196

Application of:

EchoStar Satellite L.L.C.

To Modify Its Authorization to Change The
Orbital Location of Its Ka-band GSO
Satellite from 123° W.L. to 117° W.L.

Received
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Policy Branch
International Bureau

COMMENTS OF TELESAT CANADA

Telesat Canada ("Telesat"), by its attorneys and pursuant to Section 25.154 of the rules of the Federal Communications Commission ("FCC" or "Commission"),¹ hereby comments on EchoStar Satellite L.L.C.'s ("EchoStar") October 8, 2004 Application for Modification ("Application") in the above-captioned proceeding.²

Telesat, a Canadian satellite operator, is authorized by Industry Canada to operate Anik F3, a Ka-band Fixed Satellite Service ("FSS") satellite, from the 118.7° W.L. orbital location.³ In its Application, EchoStar seeks to relocate its proposed Ka-band FSS satellite from 123° W.L. to 117° W.L. Because such action would bring EchoStar's satellite within two-degrees of Telesat's Anik F3 satellite, EchoStar is required to coordinate its operations at 117° W.L. with

¹ 47 C.F.R. § 25.154.

² EchoStar L.L.C., *Application of EchoStar L.L.C. To Modify Its Authorization to Change The Orbital Location of Its Ka-band GSO Satellite from 123° W.L. to 117° W.L.*, File Nos. SAT-LOA-20030827-00177; SAT-MOD-20041008-00196 (filed Oct. 10, 2004).

³ In June 2001, Telesat received an "Approval in Principle" from Industry Canada authorizing Telesat to operate Anik F3 from the 118.7° W.L. orbital location. See Industry Canada, *Approvals in Principle*, <http://strategis.ic.gc.ca/epic/internet/insmt-gst.nsf/en/sf01879e.html#ApprovalsinPrinciple> (last visited Nov. 15, 2004). Pursuant to Industry Canada's licensing procedures, Telesat will receive a *pro forma* license for Anik F3 coincident with launch. Telesat plans to launch Anik F3 in mid-2006.

Telesat. Therefore, while Telesat does not take a position on EchoStar's request to relocate its Ka-band authority from 123° W.L. to 117° W.L., Telesat requests that the FCC require EchoStar to coordinate its Ka-band operations with Telesat's Anik F3 at 118.7° W.L. as a pre-condition, should the Commission approve EchoStar's request for Ka-band operation at 117° W.L.

I. ECHOSTAR MUST COORDINATE ITS KA-BAND OPERATIONS AT 117° W.L. WITH TELESAT

In 1996, Canada filed with the International Telecommunication Union ("ITU") for the CANSAT KA-5 network at the 118.7° W.L. orbital location.⁴ The CANSAT KA-5 filing has ITU priority over Ka-band filings by the United States at the 117° W.L. orbital location. Canada's ITU priority, therefore, requires EchoStar to coordinate its Ka-band operations at 117° W.L. with Telesat, the authorized operator at 118.7° W.L.

The current coordination agreements between the United States and Canada and between Telesat and EchoStar do not relieve EchoStar of its coordination obligations with Telesat. The Bilateral Ka-Band Satellite Coordination Agreement ("Bilateral Agreement") between the United States and Canada states that unless "Canadian and U.S. Ka-band GSO/FSS satellite networks [are] spaced two or more degrees apart within the orbital arc 73° W.L. to 129° W.L." such networks "are subject to case-by-case coordination to be conducted on the operator-by-operator level."⁵ Because EchoStar plans to operate at 117° W.L.—less than two degrees from 118.7° W.L.—the exception contained in the Bilateral Agreement does not apply. Moreover, the April 2002 Ka-band intersystem coordination agreement between Telesat and EchoStar does not

⁴ See International Telecommunication Union, Special Section AR/11/C/2863 (dated Oct. 7, 1997), *as modified*, International Telecommunication Union, Special Section AR/11/C/2863 Mod-1 (dated Nov. 16, 1999), *available at* <http://strategis.ic.gc.ca/epic/internet/insmt-gst.nsf/en/sf05310e.html> (updated Sept. 26, 2003).

⁵ Telefax from J. Payton, FCC to C. Beaumier, Industry Canada at 1 (dated Nov. 13, 2001).

encompass the Ka-band FSS operations at 117° W.L. proposed by EchoStar in the instant application.

Indeed, in its Application, EchoStar acknowledges its coordination obligations with Telesat. Specifically, in Section A.22 of the Technical Exhibit to EchoStar's Application, EchoStar states:

Telesat Canada is authorized to launch a Canadian-licensed Ka-band satellite to the 118.7° W.L. orbital location. EchoStar will coordinate its operations at 117° W.L. with Telesat Canada through the ITU coordination process.

Therefore, EchoStar must coordinate its Ka-band operations at 117° W.L. with Telesat.

II. CONCLUSION

Based on the foregoing, Telesat respectfully requests that any FCC order granting EchoStar's proposed relocation of its Ka-band authority to 117° W.L. condition EchoStar's authority to operate within two degrees of Telesat's Anik F3 satellite at 118.7° W.L. on the successful completion of coordination with Telesat.

Respectfully submitted,

TELESAT CANADA

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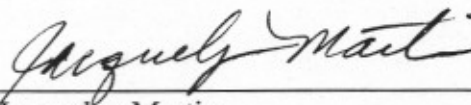
November 22, 2004

CERTIFICATE OF SERVICE

I, Jacquelyn Martin, do hereby certify that a true and correct copy of the foregoing Comments of Telesat Canada was sent by first-class mail, postage prepaid, this 22nd day of November 2004, to the following:

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