

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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JUN 17 2005

Federal Communications Commission
Office of Secretary

In the Matter of)

EchoStar Satellite L.L.C.)

Application for Special Temporary)
Authority to Operate the EchoStar 9)
Satellite in the Lower 500 MHz Portion)
of the Ka-band Frequencies at the 121°)
W.L. Orbital Location)

Callsign S2179

File No. SAT-STA-2005 _____

Received

JUN 21 2005

Policy Branch
International Bureau

**OPPOSITION TO APPLICATION
FOR SPECIAL TEMPORARY AUTHORITY**

ContactMEO Communications, LLC (“@contact”), by its counsel, hereby files its Opposition to the application filed by EchoStar Satellite L.L.C. (“EchoStar”) for a 30-day special temporary authority (“STA”) to operate its EchoStar 9 satellite in the lower 500 MHz portion of the Ka-band frequencies of 18.3-18.8 GHz, 28.35-28.6 GHz and 29.25-29.5 GHz (“lower Ka-band”), at the 121° W.L. orbital location.¹ For the reasons discussed below, EchoStar’s application should be dismissed or denied.

Nothing in EchoStar’s application justifies grant of an STA under Section 309 of the Communications Act of 1934, as amended, 47 U.S.C. §309, or Section 25.120 of the

¹ @contact has an application pending for, among other things, Ka-band spectrum at the 121° W.L. orbital location. See File No. SAT-AMD-2000040322-00057.

Commission's rules, 47 C.F.R. §25.120. In fact, Section 25.120(b)(1) clearly states that an STA may be granted:

only upon a finding that there are extraordinary circumstances requiring temporary operations in the public interest and that delay in the institution of these temporary operations would seriously prejudice the public interest. **Convenience to the applicant**, such as marketing considerations or meeting scheduled customer in-service dates, will not be deemed sufficient for this purpose. [emphasis added]

EchoStar offers just one basis for its application: "to increase the amount of spectrum at its disposal to provide various commercial Ka-band services...."² This hardly constitutes the extraordinary circumstances required for an STA by Section 25.120, and there is no other demonstration of public interest benefit offered.

The public interest will not be served by bypassing the Commission's processing rules and STA standards to allow one entity an initial, exclusive right to spectrum that is not yet available generally for application. Rather, the public interest is best served by adhering to an orderly process of fair access, *i.e.*, by relying on the Commission's current Part 25 license processing rules and granting an STA only where extraordinary circumstances are demonstrated. In short, there is nothing in EchoStar's application that warrants grant of an STA.

Moreover, EchoStar may not be the sole future applicant for the spectrum surrendered by Celsat America, Inc. ("Celsat") and it certainly should not be given a preemptive right to use it with its EchoStar 9 satellite.³ Importantly, EchoStar has not

² EchoStar Application at 1.

³ Even were EchoStar the sole applicant for the Celsat spectrum it would derive unfair commercial benefit by being permitted to operate prior to permanent licensing. There is

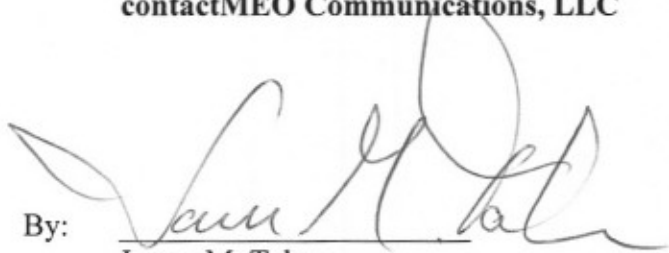
demonstrated or even claimed that its current assignments in the Ka-band at 121° W.L. are in high demand or in need of immediate augmentation. By granting EchoStar an STA to use this spectrum commercially now, the Commission would instantly award EchoStar a unique operational benefit, allowing it to secure a critical market advantage over everyone else – hardly an even playing field in access to valuable spectrum. This cannot be permitted and EchoStar’s application should be dismissed or denied.

Accordingly, EchoStar’s application for an STA to expand its use of spectrum in the Ka-band is without factual or legal justification and must be dismissed or denied.

Respectfully submitted,

contactMEO Communications, LLC

By:



James M. Talens
6017 Woodley Road
McLean, Virginia 22101
703.241.1144

*Counsel for contactMEO
Communications, LLC*

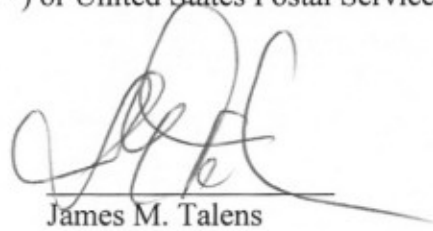
David M. Drucker, Manager
contactMEO Communications, LLC
2539 N. Highway 67
Sedalia, CO 80135
303.688.5162

June 17, 2005

also concern that EchoStar will seek sequential STA renewals, effectively bypassing normal regulatory processes and securely establishing itself in the market to the detriment of nascent competitors such as @contact.

CERTIFICATE OF SERVICE

I, James M. Talens, do hereby certify that on this 17th day June, 2005, copies of the foregoing "Opposition to Application" were served on the following parties by hand delivery, email and hand delivery (indicated by **) or United States Postal Service (indicated by *):



James M. Talens

Marlene H. Dortch, Secretary
Federal Communications Commission
236 Massachusetts Avenue, N.E.
Suite 110
Washington, DC 20002

Thomas S. Tycz**
Satellite Division, International Bureau
Federal Communications Commission
236 Massachusetts Avenue, N.E.
Suite 110
Washington, DC 20002

David K. Moskowitz*
EchoStar Satellite LLC
9601 South Meridian Boulevard
Englewood, CO 80112

Pantelis Michalopoulos*
Philip L. Malet
Chung Hsiang Mah
Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, DC 20036