

S2231 SAT-MOD-20080825-00158 IE2008002039
EchoStar Satellite Operating L.L.C.

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File Number: SAT-MOD-20080825-00158



File # SAT-MOD-20080825-00158

Call Sign S2231 Grant Date 02/03/09
(or other identifier)

Approved by OMB
3060-0678

Term Dates
From 02/03/09 To: see conditions

Approved: Stephen J. Duall
Stephen J. Duall
Chief, Policy Branch

FCC APPLICATION FOR SPACE AND EARTH STATION:MOD OR AMD - MAIN FORM

FCC Use Only

FCC 312 MAIN FORM FOR OFFICIAL USE ONLY

APPLICANT INFORMATION

Enter a description of this application to identify it on the main menu:
Application for Minor Modification of Authority to Operate Channels 2-32 (even) at 148 W.L.

1-8. Legal Name of Applicant

Name:	EchoStar Satellite Operating L.L.C.	Phone Number:	303-723-1000
DBA Name:		Fax Number:	303-723-1699
Street:	9601 South Meridian Boulevard	E-Mail:	
City:	Englewood	State:	CO
Country:	USA	Zipcode:	80112 -
Attention:	Linda Kinney - (202)293-0981		

EchoStar Satellite Operating L.L.C.
SAT-A/O-20081003-00215
Call Sign: S2658
and SAT-MOD-20080825-00158
Call Sign: S2231
Attachment – February 3, 2009

EchoStar Satellite Operating L.L.C.'s (EchoStar) application for authority to operate its EchoStar 5 satellite (Call Sign S2658) to provide Direct Broadcast Satellite (DBS) service from the 148° W.L. orbital location is GRANTED. In addition, EchoStar's request for a waiver of Section 25.161(c) of the Commission's rules pertaining to the DBS channels previously used by the EchoStar 2 satellite (Call Sign S2231) is GRANTED. Accordingly, EchoStar is authorized to operate the EchoStar 5 satellite using channels 1-32 in the 12.2-12.7 GHz (space-to-Earth) and 17.3-17.8 (Earth-to-space) GHz frequency bands at the 148° W.L. orbital location. This authorization is subject to the technical specifications set forth in EchoStar's application, the Commission's rules, and the following conditions:

1. EchoStar's request for a partial waiver of Section 25.148(c) of the Commission's rules, 47 C.F.R. § 25.148(c) is GRANTED as conditioned. Section 25.148(c) requires DBS providers licensed after January 19, 1996 to provide service to Alaska and Hawaii where such service is technically feasible from the orbital location. This waiver is based on the following factors: 1) EchoStar's inability to provide service to Hawaii because the downlink beam on the EchoStar 5 satellite was designed for the 110° W.L. orbital location and does not provide sufficient strength to deliver programming to Hawaii from 148° W.L.; 2) EchoStar has stated that a replacement satellite for this location will be designed to provide service to both Alaska and Hawaii; and 3) EchoStar states that it will provide service to Hawaii using other satellites in its fleet.

2. EchoStar must maintain the EchoStar 5 satellite at 148° W.L. with a ± 0.05 degree longitudinal station-keeping tolerance. EchoStar shall not operate the EchoStar 5 satellite outside of these station-keeping limits without further authorization.

3. The license term for the EchoStar 5 satellite is 10 years and will begin to run on the date EchoStar certifies to the Commission that the satellite is operating from the 148° W.L. orbital location and that its operation conforms to the terms and conditions of this authorization. Within five business days of EchoStar 5 commencing operations at 148° W.L., EchoStar shall file its certification by letter to the Chief, Satellite Division, International Bureau, Federal Communications Commission.

4. EchoStar's request for a waiver of Section 25.161(c) of the Commission's rules, 47 C.F.R. § 25.161(c), for the EchoStar 2 satellite is GRANTED. Section 25.161(c) provides that a space station authorization will automatically terminate if the removal or modification of the facilities renders the station not operational for over 90 days unless specific authority is requested. The rule is intended to avoid unacceptable lapses in service to customers and prevent warehousing of scarce orbital and spectrum resources. See SES Americom, Inc. *Memorandum Opinion and Order*, 21 FCC Rcd 14785, 14788 (Int'l Bur. 2006). The EchoStar 2 satellite, which was authorized to use DBS channels 2-32 (even) at the 148° W.L. orbital location, experienced an in-orbit failure on July 14, 2008 and is no longer operating. The EchoStar 5 satellite is now authorized to operate on these DBS channels at 148° W.L. We find that a waiver is appropriate

because EchoStar 5's use of these channels promptly restores service after the unexpected failure of an in-orbit satellite and eliminates concerns over warehousing of satellite spectrum.

5. EchoStar is afforded 30 days from the date of the release of this authorization to decline it, as conditioned. Failure to respond within this period will constitute formal acceptance of the authorization, as conditioned.

6. This grant is issued pursuant to the Commission's rules on delegated authority, 47 C.F.R. § 0.261, and is effective immediately. Petitions for reconsideration under Section 1.106, 1.116, 47 C.F.R. §§ 1.106, 1.116, may be filed within 30 days of the date of the public notice stating this action was taken.



*subject to conditions

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Approved: *Stephen J. Duall*
Stephen J. Duall
Chief, Policy Branch

9-16. Name of Contact Representative

Name: Pantelis Michalopoulos **Phone Number:** 202-429-6494
Company: Steptoe & Johnson LLP **Fax Number:**
Street: 1330 Connecticut Ave., NW **E-Mail:** pmichalopoulos@steptoe.com
City: Washington **State:** DC
Country: USA **Zipcode:** 20036-
Attention: **Relationship:** Legal Counsel

CLASSIFICATION OF FILING

17. Choose the button next to the classification that applies to this filing for both questions a. and b. Choose only one for 17a and only one for 17b.

- a1. Earth Station
- a2. Space Station

- (N/A) b1. Application for License of New Station
- (N/A) b2. Application for Registration of New Domestic Receive-Only Station
- b3. Amendment to a Pending Application
- b4. Modification of License or Registration
- b5. Assignment of License or Registration
- b6. Transfer of Control of License or Registration
- b7. Notification of Minor Modification
- (N/A) b8. Application for License of New Receive-Only Station Using Non-U.S. Licensed Satellite
- (N/A) b9. Letter of Intent to Use Non-U.S. Licensed Satellite to Provide Service in the United States
- (N/A) b10. Other (Please specify)
- (N/A) b11. Application for Earth Station to Access a Non-U.S. satellite Not Currently Authorized to Provide the Proposed Service in the Proposed Frequencies in the United States
- (N/A) b12. Application for Database Entry
- b13. Amendment to a Pending Database Entry Application
- b14. Modification of Database Entry

<p>17c. Is a fee submitted with this application? <input type="radio"/> If Yes, complete and attach FCC Form 159. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114). <input type="radio"/> Governmental Entity <input type="radio"/> Noncommercial educational licensee <input checked="" type="radio"/> Other (please explain): This is a minor modification therefore no fee applies.</p>	<p>17d. Fee Classification BFY – Space Station Modification (Geostationary)</p>	<p>18. If this filing is in reference to an existing station, enter: (a) Call sign of station: S2231</p> <p>19. If this filing is an amendment to a pending application enter both fields, if this filing is a modification please enter only the file number: (a) Date pending application was filed: (b) File number: SATMOD2006102000126</p>
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TYPE OF SERVICE

20. NATURE OF SERVICE: This filing is for an authorization to provide or use the following type(s) of service(s): Select all that apply:

- a. Fixed Satellite
- b. Mobile Satellite
- c. Radiodetermination Satellite
- d. Earth Exploration Satellite
- e. Direct to Home Fixed Satellite
- f. Digital Audio Radio Service
- g. Other (please specify) Direct Broadcast Satellite (DBS)

21. STATUS: Choose the button next to the applicable status. Choose only one.

- Common Carrier
- Non-Common Carrier

22. If earth station applicant, check all that apply.

- Using U.S. licensed satellites
- Using Non-U.S. licensed satellites

23. If applicant is providing INTERNATIONAL COMMON CARRIER service, see instructions regarding Sec. 214 filings. Choose one. Are these facilities:

- Connected to a Public Switched Network
- Not connected to a Public Switched Network
- N/A

24. FREQUENCY BAND(S): Place an 'X' in the box(es) next to all applicable frequency band(s).

- a. C-Band (4/6 GHz)
- b. Ku-Band (12/14 GHz)

c. Other (Please specify upper and lower frequencies in MHz.)

Frequency Lower: 12200 Frequency Upper: 17800 (Please specify additional frequencies in an attachment)

TYPE OF STATION

25. CLASS OF STATION: Choose the button next to the class of station that applies. Choose only one.

- a. Fixed Earth Station
- b. Temporary-Fixed Earth Station
- c. 12/14 GHz VSAT Network
- d. Mobile Earth Station
- e. Geostationary Space Station
- f. Non-Geostationary Space Station
- g. Other (please specify)

26. TYPE OF EARTH STATION FACILITY:

- Transmit/Receive
- Transmit-Only
- Receive-Only
- N/A

"For Space Station applications, select N/A."

PURPOSE OF MODIFICATION

27. The purpose of this proposed modification is to: (Place an 'X' in the box(es) next to all that apply.)

- a --- authorization to add new emission designator and related service
- b --- authorization to change emission designator and related service
- c --- authorization to increase EIRP and EIRP density
- d --- authorization to replace antenna
- e --- authorization to add antenna
- f --- authorization to relocate fixed station
- g --- authorization to change frequency(ies)
- h --- authorization to add frequency
- i --- authorization to add Points of Communication (satellites & countries)
- j --- authorization to change Points of Communication (satellites & countries)
- k --- authorization for facilities for which environmental assessment and radiation hazard reporting is required
- l --- authorization to change orbit location
- m --- authorization to perform fleet management
- n --- authorization to extend milestones
- o --- Other (Please specify)

ENVIRONMENTAL POLICY

28. Would a Commission grant of any proposal in this application or amendment have a significant environmental impact as defined by 47 CFR 1.1307? If YES, submit the statement as required by Sections 1.1308 and 1.1311 of the Commission's rules, 47 C.F.R. 1.1308 and 1.1311, as an exhibit to this application. A Radiation Hazard Study must accompany all applications for new transmitting facilities, major modifications, or major amendments.

Yes No

ALIEN OWNERSHIP Earth station applicants not proposing to provide broadcast, common carrier, aeronautical en route or aeronautical fixed radio station services are not required to respond to Items 30-34.

29. Is the applicant a foreign government or the representative of any foreign government?

Yes No

30. Is the applicant an alien or the representative of an alien?

Yes No N/A

31. Is the applicant a corporation organized under the laws of any foreign government?

Yes No N/A

32. Is the applicant a corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?

Yes No N/A

<p>33. Is the applicant a corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?</p>	<p> <input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> N/A </p>
<p>34. If any answer to questions 29, 30, 31, 32 and/or 33 is Yes, attach as an exhibit an identification of the aliens or foreign entities, their nationality, their relationship to the applicant, and the percentage of stock they own or vote.</p>	

BASIC QUALIFICATIONS

<p>35. Does the Applicant request any waivers or exemptions from any of the Commission's Rules? If Yes, attach as an exhibit, copies of the requests for waivers or exceptions with supporting documents.</p>	<p> <input type="radio"/> Yes <input checked="" type="radio"/> No </p>
<p>36. Has the applicant or any party to this application or amendment had any FCC station authorization or license revoked or had any application for an initial, modification or renewal of FCC station authorization, license, or construction permit denied by the Commission? If Yes, attach as an exhibit, an explanation of circumstances.</p>	<p> <input checked="" type="radio"/> Yes <input type="radio"/> No </p> <p style="text-align: right;">Question 36</p>

<p>37. Has the applicant, or any party to this application or amendment, or any party directly or indirectly controlling the applicant ever been convicted of a felony by any state or federal court? If Yes, attach as an exhibit, an explanation of circumstances.</p>	<p style="text-align: center;"> <input type="radio"/> Yes <input checked="" type="radio"/> No </p>
<p>38. Has any court finally adjudged the applicant, or any person directly or indirectly controlling the applicant, guilty of unlawfully monopolizing or attempting unlawfully to monopolize radio communication, directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement or any other means or unfair methods of competition? If Yes, attach as an exhibit, an explanation of circumstances</p>	<p style="text-align: center;"> <input type="radio"/> Yes <input checked="" type="radio"/> No </p>
<p>39. Is the applicant, or any person directly or indirectly controlling the applicant, currently a party in any pending matter referred to in the preceding two items? If yes, attach as an exhibit, an explanation of the circumstances.</p>	<p style="text-align: center;"> <input type="radio"/> Yes <input checked="" type="radio"/> No </p>
<p>40. If the applicant is a corporation and is applying for a space station license, attach as an exhibit the names, address, and citizenship of those stockholders owning a record and/or voting 10 percent or more of the Filer's voting stock and the percentages so held. In the case of fiduciary control, indicate the beneficiary(ies) or class of beneficiaries. Also list the names and addresses of the officers and directors of the Filer.</p> <p style="text-align: right;">Question 40</p>	

<p>41. By checking Yes, the undersigned certifies, that neither applicant nor any other party to the application is subject to a denial of Federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Act of 1988, 21 U.S.C. Section 862, because of a conviction for possession or distribution of a controlled substance. See 47 CFR 1.2002(b) for the meaning of "party to the application"; for these purposes.</p>	<p style="text-align: center;"> <input checked="" type="radio"/> Yes <input type="radio"/> No </p>
<p>42a. Does the applicant intend to use a non-U.S. licensed satellite to provide service in the United States? If Yes, answer 42b and attach an exhibit providing the information specified in 47 C.F.R. 25.137, as appropriate. If No, proceed to question 43.</p>	<p style="text-align: center;"> <input type="radio"/> Yes <input checked="" type="radio"/> No </p>
<p>42b. What administration has licensed or is in the process of licensing the space station? If no license will be issued, what administration has coordinated or is in the process of coordinating the space station?</p>	
<p>43. Description. (Summarize the nature of the application and the services to be provided). (If the complete description does not appear in this box, please go to the end of the form to view it in its entirety.)</p>	<div style="border: 1px solid black; padding: 5px;"> <p>EchoStar Satellite Operating L.L.C. requests authority to suspend operations on channels 2-32 (even) at 148 W.L. for more than 90 days. See attached narrative.</p> </div> <p>Narrative</p>

43a. Geographic Service Rule Certification

By selecting A, the undersigned certifies that the applicant is not subject to the geographic service or geographic coverage requirements specified in 47 C.F.R. Part 25.

A

By selecting B, the undersigned certifies that the applicant is subject to the geographic service or geographic coverage requirements specified in 47 C.F.R. Part 25 and will comply with such requirements.

B

By selecting C, the undersigned certifies that the applicant is subject to the geographic service or geographic coverage requirements specified in 47 C.F.R. Part 25 and will not comply with such requirements because it is not feasible as a technical matter to do so, or that, while technically feasible, such services would require so many compromises in satellite design and operation as to make it economically unreasonable. A narrative description and technical analysis demonstrating this claim are attached.

C

CERTIFICATION

The Applicant waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. The applicant certifies that grant of this application would not cause the applicant to be in violation of the spectrum aggregation limit in 47 CFR Part 20. All statements made in exhibits are a material part hereof and are incorporated herein as if set out in full in this application. The undersigned, individually and for the applicant, hereby certifies that all statements made in this application and in all attached exhibits are true, complete and correct to the best of his or her knowledge and belief, and are made in good faith.

44. Applicant is a (an): (Choose the button next to applicable response.)

- Individual
- Unincorporated Association
- Partnership
- Corporation
- Governmental Entity
- Other (please specify)

45. Name of Person Signing
Linda Kinney

46. Title of Person Signing
Vice President, Law and Regulation

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND / OR IMPRISONMENT
(U.S. Code, Title 18, Section 1001), AND/OR REVOCATION OF ANY STATION AUTHORIZATION
(U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).

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