

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

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)
In the Matter of)
)
DISH OPERATING L.L.C.)
) File No. SAT-MOD-2010_____-_____
Application for Minor Modification of)
Authority To Allow Operation of EchoStar 7)
at 118.8° W.L.)
_____)

APPLICATION FOR MINOR MODIFICATION

By this application, DISH Operating L.L.C. (“DISH”)¹ respectfully requests a minor modification of its authority² to allow DISH to operate the EchoStar 7 at 118.8° W.L. instead of its currently authorized slot, 118.9° W.L., but still within the 119° W.L. Direct Broadcast Satellite (“DBS”) orbital cluster.³ This move is intended simply to better accommodate EchoStar 14, which has just been licensed to operate at the 118.9° W.L. slot.⁴ Furthermore, the proposed

¹ On August 11, 2009, EchoStar Satellite Operating L.L.C. changed its name to DISH Operating L.L.C. See Letter from Pantelis Michalopoulos, Counsel for DISH Operating L.L.C., to Marlene H. Dortch, Secretary, FCC (Sept. 9, 2009).

² DISH has applied for special temporary authority to move and operate the EchoStar 7 satellite at 118.8° W.L. See File No. SAT-STA-20100219-00031 (filed Feb. 19, 2010).

³ See *In re EchoStar Satellite Corp. Application for Minor Modification of Direct Broadcast Satellite Authorization, Launch and Operating Authority for EchoStar 7*, 17 FCC Rcd. 894, ¶1 (rel. Jan. 16, 2002) (“*EchoStar 7 Order*”).

⁴ See *DISH Operating L.L.C., Modification of Authority to Operate at the 118.9° W.L. Orbital Location and Authority to Launch and Operate the EchoStar 14 Satellite*, File Nos. SAT-LOA-20090518-00053, SAT-AMD-20090604-00064, SAT-AMD-20100212-00027, Order and Authorization, DA 10-407 (Int’l Bur. Mar. 10, 2010) (granted in part and deferred in part).

location will not increase interference. To the contrary, if anything, it will take EchoStar 7 farther away from the satellite of the only other DBS operator at 119° W.L., DIRECTV.

For the reasons set forth below, the operation of EchoStar 7 at 118.8° W.L. will not cause harmful interference to any authorized user of the spectrum, and would be in the public interest. Accordingly, the Commission should grant the requested minor modification.

I. DISCUSSION

EchoStar 7 is currently operating at the 118.9° W.L. orbital location. DISH has received launch and operating authority to launch EchoStar 14 to that orbital location,⁵ and the satellite was successfully launched on March 20, 2010. To make “room” for EchoStar 14, DISH plans to move the EchoStar 7 satellite to 118.8° W.L., and provide service that supplements the service to be provided by EchoStar 14.

II. GRANT OF THIS APPLICATION IS IN THE PUBLIC INTEREST

This application will not cause harmful interference and will serve the public interest, convenience and necessity.⁶ The operation of EchoStar 7 at 118.8° W.L. will not cause harmful interference to any other U.S.-licensed satellite operator. DISH has a long history of coordinating with DIRECTV at the nominal 119° W.L. orbital slot, and believes that, to the extent coordination is required, it will be achieved. DISH notes that the proposed slot is allotted to the United States under the International Radio Regulations; it is the eastern boundary of the 119° W.L. cluster. Moreover, the closest operational BSS satellite to EchoStar 7’s proposed location (except other DISH satellites) is DIRECTV 7S, which is operating at 119.05° W.L. Because EchoStar 7 would be farther away from this satellite, operation there will not cause any

⁵ *Id.*

⁶ *See e.g., Newcomb Communs., Inc.*, 8 FCC Rcd. 3631, 3633 (1993); *Columbia Comms. Corp.*, 11 FCC Rcd. 8639, 8640 (1996); *Am. Tel. & Tel. Co.*, 8 FCC Rcd. 8742 (1993).

additional interference to DIRECTV 7S – indeed if anything it will decrease the risk of any interference.

As for the physical proximity of the satellite to any other spacecraft, Anik F3 is located at 118.7° W.L. Anik F3 is maintained within a +/- 0.05° stationkeeping tolerance,⁷ as is EchoStar 7.⁸ Therefore, the two satellites will not physically overlap. Furthermore, DISH has engaged in coordination with Telesat Canada, which operates Anik F3, in the past (indeed DISH uses the Anik F3 Ku-band payload), and anticipates that physical coordination of the satellites can be achieved easily in the event it is necessary.

III. TECHNICAL INFORMATION

The EchoStar 7 satellite's physical and operational characteristics have previously been provided to the Commission in File Nos. SAT-A/O-20010810-00073 and SAT-MOD-20010810-00071. Other than the slight change in orbital location, these parameters are not affected by the requested minor modification.⁹ Therefore, the technical information provided in the original application is incorporated herein by reference.¹⁰

⁷ See File No. SAT-PPL-20060516-00061, Narrative, Exhibit I, Response to Section 25.114(c)(5) (granted Jan. 19, 2007).

⁸ See File No. SAT-MOD-20010810-00071, Technical Annex, Appendix 1 (filed Aug. 10, 2001).

⁹ 47 C.F.R. §25.117(d) (“only those items of information listed in § 25.114 that change need to be submitted, provided the applicant certifies that the remaining information has not changed”). DISH notes that the original application was submitted in 2002 before the Commission began requiring applicants to submit a Schedule S; however, the information required in the Schedule S was provided in the original application.

¹⁰ See File Nos. SAT-A/O-20010810-00073, SAT-MOD-20010810-00071 (Call Sign S2740), *granted by In re EchoStar Satellite Corp. Application for Minor Modification of Direct Broadcast Satellite Authorization, Launch and Operating Authority for EchoStar 7*, 17 FCC Rcd. 894, ¶1 (rel. Jan. 16, 2002).

Furthermore, a full orbital debris mitigation plan is not required for this minor modification. The satellite is moving 0.1 degrees east of its current location, which will not change the operating parameters already reviewed and approved by the Commission.¹¹ Such a slight change in orbital location does not change the overall orbital debris risk environment at the 119° W.L. orbital location, and therefore, no mitigation plan needs to be submitted.

To the extent necessary, however, DISH requests a waiver of Section 25.114(d)(14) requiring a full orbital debris mitigation statement. Commission rules may be waived if there is good cause to do so.¹² Good cause can be shown by demonstrating that the waiver “would not undermine the policy objective of the rule or order in question, special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.”¹³ The requested waiver meets all three of these standards. The requirement for DBS applicants to submit orbital debris mitigation plans was established in June 2004, over two years after EchoStar 7 was launched. The purpose was to “allow the Commission and potentially affected third parties to evaluate debris mitigation plans prior to issuance of an FCC approval for communications activities in space . . . [and to] aid in the wider dissemination of information concerning debris mitigation techniques”¹⁴ EchoStar 7 was launched on February 21,

¹¹ See *EchoStar 7 Order*.

¹² See 47 C.F.R. § 1.3; *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

¹³ *Telephone Number Portability; Sprint Local Telephone Companies Petition for Waiver*, 19 FCC Rcd. 23962, ¶ 4 (rel. Dec. 13, 2004). See also *U S West Petition for Waiver of the Tariff Review Plan Rules*, 12 FCC Rcd. 8343, ¶ 10 (rel. June 24, 1997). See also *WAIT Radio*, 418 F.2d at 1159.

¹⁴ *Mitigation of Orbital Debris*, Second Order and Report, 19 FCC Rcd. 11567, ¶16 (2004).

2002, weeks before the Notice of Proposed Rulemaking preceding the order was published,¹⁵ and has been operating without incident for eight years. Requiring DISH to prepare and submit an orbital debris mitigation plan now for a 0.1 degree shift in orbital position would not serve the purpose of the original rule and would increase the time and cost associated with this application. Specifically, the minor shift in orbital location requested does not change the orbital debris risk environment at 119° W.L.; therefore, there is nothing new for the Commission to evaluate. Furthermore, DISH has considered all affected operators, DIRECTV and Telesat Canada, and determined, as described above, that the minor shift will not create additional risk to either operator. Additionally, the satellite is no longer the state of the art, and therefore the filing of a plan would not add to the general knowledge of mitigation techniques.

IV. SECTION 304 WAIVER

In accordance with Section 304 of the Communications Act of 1934, 47 U.S.C. § 304, DISH hereby waives any claim to the use of any particular frequency or of the electromagnetic spectrum because of the previous use of the same, whether by license or otherwise.

V. CONCLUSION

For the foregoing reasons, DISH respectfully requests a minor modification of its authority to operate EchoStar 7 at 118.8° W.L.

Respectfully submitted,

DISH Operating L.L.C.

/s/

¹⁵ *Mitigation of Orbital Debris*, Notice of Proposed Rulemaking, 17 FCC Rcd. 5586 (rel. Mar. 14, 2002).

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March 29, 2010