

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of )

EchoStar Satellite Corporation )

Application for Special Temporary Authority to Test a Direct Broadcast Satellite at 129° W.L. )



File # SAT-STA-20010525-71147  
Call Sign \_\_\_\_\_ Grant Date 2/12/02  
(or other identifier) \_\_\_\_\_  
From 3/6/02 To 4/4/02  
ICT is on a non-interference basis  
Approved [Signature]

To: The Commission

**REQUEST OF ECHOSTAR SATELLITE CORPORATION  
FOR SPECIAL TEMPORARY AUTHORITY TO TEST  
A DIRECT BROADCAST SATELLITE AT THE  
129° W.L. ORBITAL LOCATION**

Pursuant to Section 309 of the Communications Act of 1934, as amended, 47 U.S.C. § 309, EchoStar Satellite Corporation (“EchoStar”) hereby requests Special Temporary Authority (“STA”) to test all 32 transponders of its next Direct Broadcast Satellite (“DBS”) service satellite, EchoStar 7, scheduled to be launched in the fourth quarter of 2001, for a period of eight weeks in the 12.2-12.7 GHz band, preferably at the 129° W.L. orbital location. That location is allotted to Canada under the Region 2 Broadcasting Satellite Service allotment plan, but is currently unused. Specifically, there are no DBS satellites currently operating, or expected to operate during that period, at or near that location. Accordingly, the requested temporary operation will not cause harmful interference to any authorized user of the spectrum. The

requested authority would serve the public interest as it would permit EchoStar to test its new satellite prior to moving it to its destination – 119° W.L.’ Because there are currently several operational DBS satellites using all of the DBS spectrum at 119° W.L., testing at that slot is not feasible. EchoStar is, of course, prepared to cease operations at the 129° W.L. orbital location if necessary to accommodate operations by authorized spectrum users. EchoStar has already been in contact with Telesat Canada and Industry Canada, and has been encouraged to submit this application, thereby triggering the process of consultation and agreement between the Canadian and U.S. administrations.

## **I. BACKGROUND**

The EchoStar 7 satellite is set to be launched in the last quarter of this year subject to receipt of appropriate modification and launch authority from the Commission. As there are currently numerous operational satellites at 119° W.L. spanning the entire DBS spectrum, use of a remote location is essential to allow testing of all of the satellite’s transponders across the 12.2-12.7 GHz band. Upon completion of the necessary tests, EchoStar intends to move its satellite to the 119° W.L. orbital location.

The 129° W.L. location is allotted to Canada under the Region 2 Broadcasting-Satellite Service (“BSS”) Plan.<sup>2</sup> The Canadian administration, however, has no plans to deploy a satellite at that location within the relevant time frame. EchoStar has consulted with Canadian

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<sup>1</sup> EchoStar will operate that satellite under its license for 21 DBS channels at 119° W.L., subject to receiving appropriate modification authority from the Commission. EchoStar plans to file soon a minor modification application to reflect the characteristics of EchoStar 7.

<sup>2</sup> See Radio Regulations, Appendix 30, Article 10 (1994).

regulatory officials and has been encouraged that they are generally amenable to negotiating and reaching an agreement between the two administrations regarding EchoStar's requested temporary operation at the 129" W.L. orbital location in short order.

**II. ECHOSTAR'S USE OF THE REQUESTED CHANNELS WILL NOT CAUSE HARMFUL INTERFERENCE TO ANY AUTHORIZED USER OF THE SPECTRUM**

Temporary operation at the 129" W.L. orbital location over an eight week period will not cause harmful interference to any other licensee: there are no operational DBS satellites at or near any of the locations and no such operations are expected during the requested period. The Commission has repeatedly granted Special Temporary Authority allowing licensees to test their DBS satellites at alternative locations in similar circumstances. Moreover, EchoStar will be prepared to terminate all testing operations immediately upon notification from the Commission that those operations are causing harmful interference to any authorized user of the spectrum.

**III. GRANT OF SPECIAL TEMPORARY AUTHORITY TO ECHOSTAR IS IN THE PUBLIC INTEREST**

The Commission has a long-standing practice of granting special temporary authority where such authorization of temporary use will serve the public interest, convenience and necessity. *See, e.g., In the Matter of American Telephone & Telegraph Company*, 8 FCC Rcd. 8742, 8742 (1993) ("Granting the AT&T request will serve the public interest, convenience and necessity . . . [It] will allow AT&T to continue to provide service to its TELSTAR 301 customers while ensuring that TELSTAR 301 is fully operational before it is placed into service."); *see also In the Matter of Hughes Communications Galaxy, Inc.*, 10 FCC Rcd. 11024, 11024 (1995) ("Grant of this modification will provide an opportunity for the public to continue

receiving services from Galaxy III . . . grant of Hughes's application will serve the public interest, convenience and necessity."); *In the Matter of Columbia Communications Corporation*, 11 FCC Rcd. 8639, 8640 (1996) ("Granting Columbia's request, subject to a non-interference condition, will serve the public interest, convenience and necessity . . . [It] presents Columbia with an opportunity to provide immediate interim service . . . **reliev[ing]** the present shortage of U.S. domestic and transatlantic C-band capacity and also **allow[ing]** Columbia to provide expanded service options to new and existing customers.(").

Grant of EchoStar's request for special temporary authority will serve the public interest. The requested STA is essential for EchoStar to **perform** all tests required on all 32 satellite transponders. Moreover, as the Commission has repeatedly found, deployment of new DBS capacity serves the public interest, convenience and necessity.

An orbital slot at or near 129° W.L. is essential to allow full testing of that satellite. All of the U.S. full-CONUS slots (101° W.L., 110° W.L. and 119° W.L.) are fully used. Many channels at 148° W.L. are also in use, preventing full testing of all the satellite transponders. Therefore, testing at any of these locations would be either impossible or would require the interruption of consumer services – a great inconvenience and detriment to DBS subscribers. In addition, testing at 129° W.L. would allow the satellite to "slide" to 119° W.L. at a relatively minimal fuel expenditure by taking advantage of the momentum created by the Earth's drift. On the other hand, because of the location of the Earth's relevant gravity "well," EchoStar would need comparatively more fuel for the move from slots located to the east of 101° W.L., shortening the satellite's useful life.

#### **IV. SECTION 304 WAIVER**

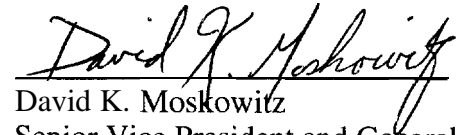
In accordance with Section 304 of the Communications Act of 1934, 47 U.S.C. § 304, EchoStar hereby waives any claim to the use of any particular frequency or of the electromagnetic spectrum because of the previous use of the same, whether by license or otherwise.

#### **V. CONCLUSION**

Accordingly, EchoStar respectfully requests Special Temporary Authority to test its new satellite for an eight week period at the 129° W.L. orbital location.

**Respectfully submitted,**

**EchoStar Satellite Corporation**

A handwritten signature in black ink, reading "David K. Moskowitz". The signature is written in a cursive style and is positioned above a horizontal line.

David K. Moskowitz  
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Dated: May 25, 2001

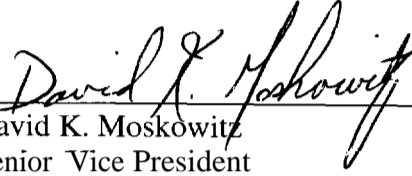
**ANTI-DRUG ABUSE ACT CERTIFICATION**

Pursuant to Section 1.2002 of the Commission's rules, 47 C.F.R. Section 1.2002 (1997), Applicants certify that neither the Applicants nor any of their shareholders, not any of their officers or directors, are subject to a denial of Federal benefits pursuant to authority granted in Section 5301 of the Anti-Drug Abuse Act of 1988.

Respectfully submitted,

EchoStar Satellite Corporation

By:

  
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Dated: May 25, 2001