



Federal Communications Commission
Washington, D.C. 20554

DA 06-1651

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Re: Application for Authorization to Launch and Operate DIRECTV 13 at
110° W.L., IBFS File No. SAT-RPL-20060119-00005, Call Sign: S2693.

Dear Mr. Wiltshire:

On January 19, 2006, you filed on behalf of DIRECTV Enterprises, LLC (DIRECTV) the above-captioned application to launch and operate a Direct Broadcast Satellite (DBS) Service satellite, DIRECTV 13, at the 110° W.L. nominal orbital location, operating in the 12.2-12.7 GHz service link (space-to-Earth) band and the 17.3 - 17.8 GHz feeder link (Earth-to-space) band in DBS channels 28, 30, and 32. For the reasons discussed below, we dismiss the portions of the application pertaining to the 36 MHz and 82 MHz wideband modes as premature, without prejudice to refile, because such operation violates the *DBS Freeze Public Notice*.¹

DBS Channel and Frequency Plan. Generally, DBS operates in the 12.2 - 12.7 GHz band, with associated feeder links in the 17.3 - 17.8 GHz band. The DBS feeder link and service link bands are divided into 32 overlapping channels, each nominally 24 MHz² in bandwidth, spaced 14.58 MHz apart, with 12 MHz-wide guardbands at the

¹ See Direct Broadcast Satellite (DBS) Service Auction Nullified: Commission Sets Forth Refund Procedures for Auction No. 52 Winning Bidders and Adopts a Freeze on All New DBS Service Applications, *Public Notice*, FCC 05-213 (rel. December 21, 2005) (adopting a freeze on all applications for new DBS authorizations to use the 12.2-12.7 GHz band and associated feeder links in the 17.3- 17.8 GHz band pending Commission consideration of the appropriate processing rules for applications to provide DBS in the United States) (*DBS Freeze Public Notice*).

² In August 1989, the Commission denied a request by Hughes Communications Galaxy, Inc. to use 27 MHz channels, stating that "[t]he DBS channel designation scheme already has some overlap between channels, relying on cross-polarization to neutralize the negative effect of that amount of overlap.... In the absence of a conclusion that there would be no adverse affect, a compelling justification is needed to warrant authorization of such an operation." See Applications of Continental Satellite Corporation, EchoStar Satellite Corporation, Directsat Corporation, Orbital Broadcasting Company, Tempo Satellite, Inc., and Direct Broadcast Satellite Corporation, for Construction Permits for New Direct Broadcast Satellite Systems; Advanced Communications Corporation, United States Satellite Broadcasting Company,

lower and upper ends of the bands. Odd-numbered channels (*e.g.* 1, 3, 5, ... 31) are transmitted using right-hand circular polarization, and even-numbered channels (*e.g.*, 2, 4, 6, ... 32) are transmitted using left-hand circular polarization. There is a 5.16 MHz guardband between the channels transmitted using a given polarization. This guardband falls in the center of a channel transmitted using the opposite polarization.

DIRECTV's Authorization at 110° W.L. Nominal Location. DIRECTV is authorized to operate at the nominal 110° W.L. orbital location using 24 MHz of bandwidth on each of DBS channels 28, 30, and 32. On June 3, 1999, DIRECTV applied for authority to modify its DBS system authorization to relocate its DBS-1³ satellite from the 101° W.L. orbital location to the 109.8° W.L. orbital location. In its application for this authority, DIRECTV included the International Telecommunication Union (ITU) satellite network data specified in Annex 2 of Appendix 30 of the ITU Radio Regulations as Attachment 2 of its application. In this attachment, DIRECTV listed the ITU satellite network name for DBS-1 as USABSS-1M. DIRECTV stated that it would operate USABSS-1M on DBS channels 28, 30, and 32,⁴ with emission designator 24M0G7W.⁵ On September 1, 1999, the Commission granted this application consistent with the terms, representations, and technical specifications set forth in DIRECTV's application.⁶ In July 2003, DIRECTV received special temporary authority to relocate DIRECTV 1 to the 101° W.L. orbital location and to relocate DIRECTV 6 to the 110° W.L. orbital location.⁷ DIRECTV subsequently submitted an ITU Region 2 BSS Plan modification request for DIRECTV 6, showing the ITU network name for DIRECTV 6 as USABSS-16. In its ITU filing for USABSS-16, DIRECTV stated that DIRECTV 6 would transmit on DBS channels 28, 30, and 32 with emission type 24M0G7W.⁸ In October 2005,

Inc., and Hughes Communications Galaxy, Inc., for Modification of Construction Permits for Direct Broadcast Satellite Systems; Permit of Dominion Video Satellite, Inc., Modification of Construction Permit for Direct Broadcast Satellite System, *Memorandum Opinion and Order*, FCC 89-257, 4 FCC Rcd. 6292 (1989) at 6297 (para. 59).

³ The name of the DBS-1 satellite was changed to DIRECTV 1. See <http://www.spaceandtech.com/digest/sd2000-22/sd2000-22-006.shtml> (last visited May 22, 2006).

⁴ See DIRECTV, Inc. Application for Modification of Direct Broadcast Satellite System and for Authorization to Relocate DBS-1 Satellite to the 109.8° W.L. Orbital Location, IBFS File No. SAT-MOD-19990603-00062, Attachment 2 at p. 18 (filed June 3, 1999).

⁵ *Id.*, Attachment 2 at p. 19. The emission designator 24M0G7W indicates a necessary bandwidth of 24.0 MHz (24M0), and a phase modulated signal (G) carrying two or more channels containing quantized or digital information (7) with a combination of several types of transmitted information (W). See 47 C.F.R. §§ 2.201 and 2.202.

⁶ See DIRECTV Enterprises, Inc., Application for Modification of Direct Broadcast Satellite System and for Authorization to Relocate DBS-1 Satellite to the 109.8° W.L. Orbital Location, File No. SAT-MOD-19990603-00062, *Order and Authorization*, 15 FCC Rcd. 6738 (rel. September 1, 1999).

⁷ See DIRECTV, Inc. Request for Special Temporary Authority to Move and Operate Direct Broadcast Satellites to the 110° W.L. and to the 101° W.L., *Order*, 18 FCC Rcd 13166 (rel. July 2, 2003).

⁸ See ITU Radiocommunication Bureau IFIC No. 2544, Notice ID No. 104555005 (published May 17, 2005).

DIRECTV received authorization to operate its DIRECTV 5 satellite at the 109.8° W.L. orbital location, replacing DIRECTV 6 at that location. In its application to operate DIRECTV 5 at 109.8° W.L.,⁹ DIRECTV stated that DIRECTV 5 would operate within the parameters of the same USABSS-16 ITU filing that was filed for DIRECTV 6 at the nominal 110° W.L. orbital location.¹⁰

DBS Freeze PN. On December 21, 2005, the Commission released a Public Notice freezing the filing of new DBS applications.¹¹ The *DBS Freeze Public Notice* specifically provided that the freeze on DBS applications applies to any application for authority to provide DBS service to the United States using the 12.2 - 12.7 GHz band and associated feeder links in the 17.3 -17.8 GHz band. Thus, the *DBS Freeze Public Notice* applies to both unassigned channels at orbit locations assigned to the United States under the ITU Region 2¹² Broadcasting Satellite Service (BSS)¹³ and feeder-link Plans,¹⁴ and applications for DBS service from space stations located at orbital locations not assigned to the United States in the ITU Region 2 BSS and feeder-link Plans. The *DBS Freeze Public Notice* stated that it applies to any request for “authority to operate on frequencies and/or orbital locations not previously authorized for operation” by a particular licensee regardless of whether it came in as a modification request, replacement application, or other procedural vehicle.

DIRECTV 13 Application. On page A-5 of its application for DIRECTV 13, DIRECTV states, in pertinent part, that:

At the 110° W.L. orbital location, DIRECTV 13 will have three distinct operational modes transmitting on or across the three even numbered DBS uplink and downlink channels authorized to DIRECTV (*i.e.*, channels 28, 30, 32). One mode will include three 24 MHz DBS channels, while the other two modes will

⁹ See DIRECTV Enterprises, LLC, Application for Authorization to Operate DIRECTV 5, a Direct Broadcast Satellite, File No. SAT-A/O-20050504-00093 (filed May 4, 2005).

¹⁰ *Id.* at Exhibit D, p. 3.

¹¹ *DBS Freeze Public Notice.*

¹² ITU Region 2 includes North, Central, and South America and Greenland. See Article 5, Section I of the ITU Radio Regulations.

¹³ BSS is the international term used for a radiocommunication service in which signals transmitted or retransmitted by space stations are intended for direct reception by the general public. See 47 C.F.R. § 2.1. DBS is the term used in the United States to describe the domestic implementation of the BSS international service.

¹⁴ The Regional Administrative Radio Conference in 1983 (RARC-83) developed and adopted the Region 2 BSS and feeder-link Plans. It was not until 1985, at the World Administrative Radio Conference (WARC Orb-85), that the Region 2 Plans were adopted internationally worldwide and became a part of the ITU's Radio Regulations. The ITU Region 2 BSS Plan is comprised of the Plan for BSS in the band 12.2-12.7 GHz in ITU Region 2, as contained in Appendix 30 of the ITU Radio Regulations, and the associated Plan for the feeder-links in the frequency band 17.3-17.8 GHz for the broadcasting-satellite service in Region 2, as contained in Appendix 30A of the ITU Radio Regulations.

consist of one or two wideband channels, as shown in Figure 5-1. ... The emission designators for the uplink and downlink will be 24M0G7W, 36M0G7W, and 82M0G7W. The allocated bandwidths for these emissions are 24 MHz, 36 MHz, and 82 MHz, respectively. DIRECTV 13 will operate in only one of the three distinct channel modes diagrammed in Figure 5-1 at any given time.

Figure 5-1 of DIRECTV's application illustrates that in the 36 MHz wideband mode, the two wideband channels, designated WB 1A and WB 1B, will overlap the guardbands between DBS channels 28 and 30 and between DBS channels 30 and 32, respectively. Figure 5-1 also illustrates that in the 82 MHz wideband mode, the wideband channel, designated WB 2A, will overlap both the guardband between DBS channels 28 and 30 and the guardband between DBS channels 30 and 32. Because DIRECTV has never been authorized to use these guardbands at the 110° W.L. orbital location, DIRECTV is requesting authority to operate on frequencies not previously authorized for operation by DIRECTV at this orbital location. Accordingly, the wideband mode aspect of the application violates the current DBS freeze. Therefore, we dismiss, as premature, the portions of the application pertaining to wideband mode operation.

Failure To Provide Section 25.114 Information for Additional Capacity. Section 25.114(c) of the Commission's rules¹⁵ requires all space station applicants to submit all applicable items of information listed in its subsections. In addition, Section 25.112(a)(1) of the Commission's rules provides that an application will be unacceptable for filing if "the application is defective with respect to completeness of answers to questions, informational showings, internal inconsistencies, execution, or other matters of a formal character."¹⁶ We note that DIRECTV mentions in its application that DIRECTV 13 will have the capability of operating on all 16 even-numbered channels.¹⁷ Although we understand that DIRECTV does not seek authority to operate on all 16 even-numbered channels at this time,¹⁸ DIRECTV obviously seeks authority to launch the satellite with this payload on board the satellite.¹⁹ We therefore consider this portion of the application defective because DIRECTV fails to provide the information required by Section 25.114

¹⁵ 47 C.F.R. § 25.114(c).

¹⁶ 47 C.F.R. § 25.112(a)(1).

¹⁷ See Application for Authorization to Launch and Operate DIRECTV 13, a Replacement Direct Broadcast Satellite, at 110° W.L., IBFS File No. SAT-RPL-20060119-00005, (filed January 19, 2006) (*DIRECTV Application*) at p. A-3.

¹⁸ See *DIRECTV Application* at p. A-5, note 2.

¹⁹ In its application, DIRECTV states that it "[i]f and when DIRECTV seeks to use additional channels on the payload, it will request further authorization and provide full particulars of its proposed operations at that time." As the time when DIRECTV seeks to operate the additional channels might not arise until after the actual launch of the satellite, it would be inadvisable to only receive the technical information on the satellite at that time.

of the Commission's rules for the additional capability mentioned.²⁰ Accordingly, this portion of the application is also dismissed as defective.

We find that the 36 MHz and 82 MHz wideband mode operation portions of DIRECTV's application are premature and the request to launch the satellite with the capacity to operate on channels 2-26 are defective. Accordingly, pursuant to the Commission's rules on delegated authority, 47 C.F.R. § 0.261(a)(4), we dismiss these portions of the application, without prejudice to refile.²¹

Sincerely,

Cassandra C Thomas
for

Robert G. Nelson
Chief, Satellite Division
International Bureau

²⁰ 47 C.F.R. § 25.114.

²¹ If DIRECTV refiles an application, it need not pay a further application fee. See 47 C.F.R. § 1.1109(d).