

FEDERAL COMMUNICATIONS COMMISSION

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

In the Matter of)
)
)
Rainbow DBS Company LLC) File No.
) **SAT-STA-20040319-00081**
Application for Extension of Special Rainbow DBS Company LLC
Temporary Authority to Operate a Direct Rainbow 1
Broadcast Satellite Over Channels 23 and 24
at 61.5° W.L.

**APPLICATION OF RAINBOW DBS COMPANY LLC FOR EXTENSION OF ITS
SPECIAL TEMPORARY AUTHORITY TO OPERATE A DIRECT BROADCAST
SATELLITE OVER CHANNELS 23 AND 24 AT 61.5° W.L.**

Rainbow DBS Company LLC (“Rainbow DBS”)^{1/} is currently operating its Rainbow 1 Direct Broadcast Satellite (“DBS”) over Channels 23 and 24 at the 61.5° W.L. orbital location under Special Temporary Authority (“STA”).^{2/} Pursuant to Section 309(f) of the Communications Act of 1934,^{3/} Rainbow DBS hereby requests extension of its STA to operate Rainbow 1 over Channels 23 and 24 for a period not to exceed 180 days beginning on April 5, 2004, subject to the same conditions that apply under its current STA.^{4/} Rainbow DBS’s use of

^{1/} Rainbow DBS is an indirect wholly-owned subsidiary of Cablevision Systems Corporation (“Cablevision”).

^{2/} EchoStar Satellite Corporation and Rainbow DBS Company LLC, File Nos. SAT-STA-20030617-00117 and SAT-STA-20030623-00122, *Order and Authorization*, DA 03-3024 (rel. Oct. 1, 2003) (“*Rainbow DBS STA Order*”). In addition to the STA for Channels 23 and 24, Rainbow DBS operates Rainbow 1 over Odd Channels 1 through 21 at 61.5° W.L. under its permanent license. (File No. SAT-MOD-20020408-00062).

^{3/} 47 U.S.C. § 309(f).

^{4/} *Rainbow DBS STA Order* ¶¶ 14-21.

the two channels since the award has resulted in a significant expansion of programming options to consumers and has been an important asset to the fledgling operation's attempts to enter a DBS market dominated by two incumbents with more than 20 million subscribers and more than ten fold the spectral capacity of Rainbow DBS. As with the initial grant of STA, extension will enable Rainbow DBS to compete more effectively in the DBS marketplace, thereby increasing facilities-based DBS competition, ensuring the most efficient use of scarce spectrum, and improving consumer welfare by enabling Rainbow DBS to provide all of its subscribers the widest possible array of programming.

On October 1, 2003, the Commission's International Bureau granted Rainbow DBS' request for STA to operate the Rainbow 1 DBS satellite over Channels 23 and 24 at the 61.5° W.L. orbital location. Shortly thereafter, EchoStar vacated the two channels,^{5/} and Rainbow DBS began operating over the channels in accordance with the terms of the STA. Rainbow DBS began offering its VOOM DBS service to the public on October 15, 2003. VOOM is the first television service to provide a comprehensive array of high-definition television ("HDTV") programming to customers throughout the contiguous United States. VOOM offers consumers far more HDTV programming than any other satellite or cable service, including a package of 21 original, commercial-free, 1080i channels created expressly to meet the demand of today's rapidly growing but currently underserved HDTV audience. VOOM customers currently receive a total of 33 HDTV channels and 76 standard-definition channels.

^{5/} Under a previous grant of STA, EchoStar had operated over Channels 23 and 24 for a period of more than five years. The *Rainbow DBS STA Order* required that EchoStar vacate its operations over the two channels by October 8, 2003, which EchoStar did.

I. GRANT OF STA EXTENSION WILL NOT CAUSE ANY HARMFUL INTERFERENCE AND WILL SERVE THE PUBLIC INTEREST

The Commission has a long-standing policy of granting STA where such authorization will not cause harmful interference to other licensed operations and will serve the public interest, convenience and necessity.^{6/}

The same public interest factors underlying the *Rainbow DBS STA Order* in October 2003 remain fully applicable. As Rainbow DBS noted in its initial STA application, the public interest is served by the STA because it: (1) makes efficient use of fallow spectrum; (2) enables a new entrant to provide expanded service to its customers; and (3) fosters competition by enabling Rainbow DBS to offer more program options to consumers.^{7/} The Commission granted the initial STA because it would “allow Rainbow [DBS], a new entrant in the DBS business, the opportunity to use expanded capacity for a limited period of time, in order to help initiate its DBS service.”^{8/}

Rainbow DBS has not and will not cause harmful interference to other licensed operations since the two channels it uses under STA are unassigned.^{9/} In any event, Rainbow DBS accepts and will continue to accept as a condition of STA that it will “cause no harmful

^{6/} *Rainbow DBS STA Order* ¶ 5. See also Newcomb Communications, Inc., *Order and Authorization*, 8 FCC Rcd 3631, 3633 (1993); American Telephone & Telegraph Company, *Order*, 8 FCC Rcd 8742 (1993); Columbia Communications Corporation, *Order*, 11 FCC Rcd 8639, 8640 (1996) .

^{7/} Application of R/L DBS Company, LLC for Special Temporary Authority to Operate a Direct Broadcast Satellite Over Channels 23 and 24 at the 61.5° W.L. Orbital Location, File No. SAT-STA-20030623-00122, at 9-15 (filed June 23, 2003) (citing public interest justifications used by the Commission to issue previous grants of STA in the DBS service).

^{8/} *Rainbow DBS STA Order* ¶ 6.

^{9/} See *id.* ¶ 5 (concluding that Rainbow DBS use of Channels 23 and 24 at 61.5° W.L. “will not cause harmful interference.”).

interference to any other lawfully operating radio station” and will “cease operation on those channels immediately upon notification of such interference.”^{10/}

Rainbow DBS’s VOOM service is still in its introductory phase and the additional capacity is vital to its operations. Rainbow DBS has recently introduced additional programming and equipment packages to drive its product into the market in competition with cable and DBS providers. Rainbow DBS offers 33 HD channels and 76 SD channels, including 21 exclusive VOOM 21 channels produced by Rainbow – the largest and richest HD package of any provider. Channels 23 and 24, the channels operated under the STA, are used to transmit six HD and 14 SD channels of the VOOM product line that are discrete, standalone and separately priced, providing customers with a more robust and competitive MVPD service in a market dominated by MVPDs that are able to offer many more program channels. Thus, use of these channels for an additional STA period will, as before, help Rainbow DBS initiate its new service in a highly competitive marketplace.

Rainbow DBS accepts in connection with its STA extension the same conditions imposed by the October 1, 2003 initial STA grant, including a non-interference obligation, a consumer notification requirement, and an obligation to cease operations immediately upon the sooner of the STA expiration of the assignment of Channels 23 and 24 at 61.5° W.L.^{11/}

II. SECTION 304 WAIVER

In accordance with Section 304 of the Communications Act,^{12/} Rainbow DBS, as the party to this application, hereby waives any claim to the use of any particular frequency or of the

^{10/} *Id.* ¶ 16.

^{11/} *Id.* ¶¶ 14-21.

^{12/} 47 U.S.C. § 304.

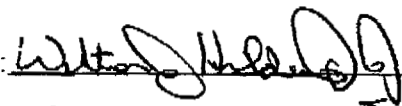
electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise.

III. CONCLUSION

For the foregoing reasons, Rainbow DBS respectfully requests that the Commission extend its special temporary authority for DBS channels 23 and 24 at 61.5° W.L. for a period of 180 days beginning April 5, 2004, subject to the conditions described herein.

Respectfully Submitted,

Rainbow DBS Company LLC

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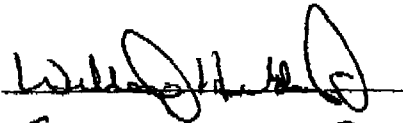
Dated: March 19, 2004

ANTI-DRUG ABUSE ACT CERTIFICATION

Pursuant to Section 1 2002 of the Commission's rules, 47 C.F.R. § 1.2002, Rainbow DBS Company LLC ("Rainbow DBS") certifies that neither Rainbow DBS, nor any of its shareholders, nor any of its 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,

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