



File# SAT-STA-20050614-00124

Call Sign S2621 Grant Date June 17, 2005
(or other identifier) Approved by OMB
3060-0678

Term Dates
From June 17, 2005 To July 17, 2005

Approved: [Signature]
w/conditions Palfrey Branch

Date & Time Filed: Jun 14 2005 8:38:12:993PM
File Number: SAT-STA-20050614-00124
Callsign:

FEDERAL COMMUNICATIONS COMMISSION
APPLICATION FOR SPACE STATION SPECIAL TEMPORARY AUTHORITY
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APPLICANT INFORMATION

Enter a description of this application to identify it on the main menu:
STA to Relocate EchoStar 4 from 157 W.L. to 61.5 W.L.

I. Applicant

Name:	EchoStar Satellite L.L.C.	Phone Number:	303-723-1000
DBA Name:		Fax Number:	303-723-1699
Street:	9601 South Meridian Blvd.	E-Mail:	
City:	Englewood	State:	CO
Country:	USA	Zipcode:	80112 -
Attention:	David K Moskowitz		

ATTACHMENT
Conditions of Authorization: SAT-STA-20050614-00124
Call Sign: 2621
Grant Date: June 17, 2005

EchoStar Satellite L.L.C.'s ("EchoStar") request for Special Temporary Authority (STA), File No. SAT-STA-20050321-00068, to relocate the EchoStar 4 satellite from the 157° W.L. orbital location to the 61.35° W.L. orbital location IS GRANTED. Accordingly, EchoStar is authorized to operate the EchoStar 4 satellite's Tracking, Telemetry, Command, and Monitoring (TTC&M) during the drift to the 61.35° W.L. orbital location for a period of 30 days from June 17, 2005, until July 17, 2005, in accordance with the terms, conditions, and technical specifications set forth in its application and this Attachment; and

- (1) During the drift of the EchoStar 4 satellite to the 61.35° W.L. orbital location, EchoStar shall not operate the main communications payload on EchoStar 4.
- (2) EchoStar shall coordinate its TTC&M operations with existing geostationary satellites to ensure that no unacceptable interference results from its TTC&M operations during the drift.
- (3) During the drift of the satellite to the 61.35° W.L. orbital location, no harmful interference shall be caused by the EchoStar 4 satellite to any other lawfully operating satellites or radiocommunication systems. Operations of the EchoStar 4 satellite shall cease immediately upon notification of such interference and EchoStar shall inform the Commission in writing immediately of such an event.
- (4) During the drift of the satellite to the 61.35° W.L. orbital location, EchoStar 4 is required to accept interference from other lawfully operating in-orbit satellites.
- (5) Any action taken or expense incurred as a result of operations pursuant to this action is solely at EchoStar's own risk.
- (6) EchoStar shall notify the Commission in writing 24 hours prior to the EchoStar 4 arrival at the 61.35° W.L. orbital location.
- (7) Grant of this application is without prejudice to action on Echostar's June 8, 2005 Petition for Reconsideration of the EchoStar 4 Order. See Echostar Satellite, LLC, *Memorandum Opinion and Order*, DA 05-1581 (rel. June 3, 2005) ("EchoStar 4 Order"). Further, grant of this application does not constitute an authorization pursuant to Section 25.161(c) of the Commission's Rules concerning automatic termination of license.



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From June 17, 2005 To July 17, 2005
Approved: Patricia [Signature]
w/conditions. Patricia
Branch Chief.

2. Contact

Name:	Pantelis Michalopoulos	Phone Number:	202-429-6496
Company:	Step toe & Johnson LLP	Fax Number:	202-429-3902
Street:	1330 Connecticut Ave., N.W.	E-Mail:	pmichalo@steptoe.com
City:	Washington	State:	DC
Country:	USA	Zipcode:	20036 -1795
Attention:		Relationship:	Legal Counsel

(If your application is related to an application filed with the Commission, enter the file number below.)

3. Reference File Number

4a. Is a fee submitted with this application?

- If Yes, complete and attach FCC Form 159. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114).
- Governmental Entity Noncommercial educational licensee
- Other (please explain):

4b. Fee Classification CRY - Space Station (Geostationary)

5. Type Request

- Change Station Location Extend Expiration Date Other

6. Temporary Orbit Location
61.5

7. Requested Extended Expiration Date

8. Description (If the complete description does not appear in this box, please go to the end of the form to view it in its entirety.)

See attached application.

9. 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. Yes No

10. Name of Person Signing
David K. Moskowitz

11. Title of Person Signing
Executive Vice President and General Counsel

12. Please supply any need attachments.

Attachment 1: Narrative App.

Attachment 2:

Attachment 3:

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

_____)
In the Matter of)

ECHOSTAR SATELLITE L.L.C.)

File No. SAT-STA-2005_____

Application for Special Temporary Authority)
To Move EchoStar 4 toward 61.5° W.L. and to)
Conduct Telemetry, Tracking and Command)
Operations During Relocation)
_____)

EXPEDITED CONSIDERATION REQUESTED

APPLICATION FOR SPECIAL TEMPORARY AUTHORITY

Pursuant to Section 309 of the Communications Act of 1934, as amended, 47 U.S.C. § 309, and Part 25 of the Commission's Rules, 47 C.F.R. Part 25, EchoStar Satellite L.L.C. ("EchoStar") hereby submits this application for special temporary authority ("STA") for a period of up to 30 days to: (a) move the EchoStar 4 satellite from its current orbital location at 157° W.L. toward 61.5° W.L.¹; and (b) perform telemetry, tracking and command ("TT&C") operations during the requested relocation.² If the Commission grants EchoStar's pending

¹ More precisely, EchoStar will relocate EchoStar 4 to 61.35° W.L., a position within plus or minus 0.2 degrees of its proposed assigned orbital location, consistent with FCC policy. Such a relocation will provide sufficient physical separation between EchoStar 4, EchoStar 3 and Rainbow 1, also authorized at the 61.5° W.L. orbital location, but positioned at 61.5° W.L. and 61.65° W.L., respectively. See Letter from Benjamin J. Griffin, counsel to Rainbow DBS, Inc., to Tom Tycz, FCC, re: *Rainbow DBS Company LLC Authorization to Launch and Operate Rainbow-1* (File No. SAT-MOD-20020408-00062), dated Jul. 15, 2003.

² To the extent required, EchoStar hereby requests a waiver of Section 25.153 of the Rules. While EchoStar does not believe that this request constitutes a "repetitious" application because of the additional public interest benefits associated with the proposed move, good cause exists for the waiver of this rule to the extent necessary. Unlike its predecessor application, this

(Continued ...)

petition for reconsideration regarding its request to place EchoStar 4 at 77° W.L. during the requested 30-day period, EchoStar will stop the spacecraft at 77° W.L. However, in submitting this STA request, EchoStar undertakes and accepts the risk that the Bureau may ultimately deny its pending request to relocate EchoStar 4 to the 77° W.L. orbital location. In the event of such denial, EchoStar 4 will continue on to 61.5° W.L. EchoStar requests expeditious grant of this STA.³

Allowing EchoStar 4 to move immediately from 157° W.L. is in the public interest because it will expedite the satellite's arrival at the Mexican 77° W.L. orbital location should the Bureau reconsider its *June 3 Denial Order*⁴ as requested by EchoStar in its Petition for

request is premised on the additional benefits associated with relocating EchoStar 4 to 77° W.L. as set forth in EchoStar's Petition for Reconsideration and Supplement thereto of the *June 3 Denial Order*, DA 05-1581 (rel. June 3, 2005), as well as possible augmentation of the service provided by EchoStar 3 at 61.5° W.L., which has recently experienced the failure of an additional traveling wave tube amplifier.

³ Pursuant to Section 309 of the Act and the Commission's Rules, this application for Special Temporary Authority ("STA") can be granted without being placed on public notice. Section 309(c)(2)(G) specifically excludes from any public notice requirements applications for "special temporary authorization for non-broadcast operation not to exceed thirty days where no application for regular operation is contemplated to be filed or not to exceed sixty days pending the filing of an application for such regular operation." Similarly, Section 25.120(b) of the Rules allows the Commission to grant such requests without placing them on public notice, and Section 25.151(c) states that "[a] public notice will not normally be issued for receipt of the following applications: . . . (2) For temporary authorization pursuant to §25.119 [sic]." EchoStar is hereby requesting special temporary authority only for up to 30 days in order to allow it to drift EchoStar 4 to another orbital location. Moreover, public notice in this case would be particularly inappropriate given the exigent circumstances set forth in this application and the fact that a similar request to move EchoStar 4 was recently acted upon by the Bureau after full opportunity for public comment without any formal objections. See File No. SAT-STA-20050321-00068.

⁴ See *In the Matter of EchoStar Satellite L.L.C., Application for Special Temporary Authority to Conduct Telemetry, Tracking and Command Operations during the Relocation of EchoStar 4 to the 77° W.L. Orbital Location; Application for Modification of Direct Broadcast Satellite Authorization to Permit Long-Term Cessation of Operations on Three DBS Channels at the 157° W.L. Orbital Location; Application for Modification of Earth Station Authorization to*
(Continued ...)

Reconsideration in that proceeding, and allow it to relocate the satellite to 77° W.L.⁵ EchoStar has added to the record of that proceeding significant further information about the public benefits of relocating EchoStar 4 to the 77° W.L. orbital location. As EchoStar has explained in a supplement to its Petition for Reconsideration also filed today, these benefits include immediate delivery of additional direct-to-home (“DTH”) service to Mexican and U.S. consumers. Further, these benefits can be achieved without harm to any existing EchoStar customers because the service provided by EchoStar 4 at 157° W.L. is duplicative of programming provided by EchoStar at 148° W.L. from other satellites in its fleet. But the Bureau need not evaluate these benefits for the purposes of this request, which is at EchoStar’s own risk. In the event that EchoStar’s Petition for Reconsideration is denied, grant of this Application is still in the public interest because EchoStar 4 will be able to continue on to the 61.5° W.L. orbital location where it will be used to augment and/or provide backup for services from EchoStar 3, which has recently experienced an additional traveling wave tube amplifier (“TWTA”) failure.

I. GRANT OF THIS APPLICATION WILL NOT CAUSE HARMFUL INTERFERENCE TO OTHER OPERATING OR LICENSED SATELLITES

The grant of this Application will not present any significant risk of harmful interference to other U.S. and non-U.S. authorized and operating satellites. The regular DBS uplink and downlink transmissions for EchoStar 4 will be turned off during the transition from the

add the EchoStar 4 Satellite at 77° W.L. as a Point of Communication, DA 05-1581 (rel. June 3, 2005) (“*June 3 Denial Order*”).

⁵ See Petition for Reconsideration (filed June 8, 2005) and Supplement to Petition for Reconsideration (filed June 14, 2005), File Nos. SAT-STA-20050321-00068, SAT-MOD-20050513-00103, SES-MFS-20050527-00662. The public interest benefits associated with relocating EchoStar 4 to 77° W.L. are fully set forth in EchoStar’s Petition and Supplement, and are incorporated herein by reference.

157° W.L. to 61.5° W.L. orbital location, with only TT&C operations being performed in the DBS bands during the relocation. In accordance with industry practice, EchoStar will coordinate its TT&C operations with potentially affected satellite operators during the relocation of this satellite.

II. GRANT OF THIS APPLICATION IS IN THE PUBLIC INTEREST

Grant of this STA request is in the public interest, whether or not the Bureau ultimately grants EchoStar's Petition for Reconsideration of the *June 3 Denial Order*. If the Bureau were to reconsider its denial of the relocation of EchoStar 4 and allow EchoStar to move the satellite immediately to the 77° W.L. orbital location, the instant STA will help to ensure that EchoStar 4 reaches its destination in time to achieve all of the public interest benefits associated with such a move. These benefits include the delivery of additional DTH services to Mexican and U.S. consumers. Alternatively, even if the Bureau were to deny EchoStar's Petition for Reconsideration, EchoStar 4 will continue on to the 61.5° W.L. orbital location where it will augment or provide backup for the service provided from EchoStar 3, which has recently experienced an additional TWTA failure.

A. Public Interest Benefits if EchoStar's Petition for Reconsideration is Granted
EchoStar Will Provide Service to the United States from EchoStar 4 at 77° W.L. If the Bureau grants EchoStar's Petition for Reconsideration, EchoStar can and will serve consumers located in certain southern U.S. states from the 77° W.L. orbital location. Specifically, because of the Mexican coverage requirements set forth in the QuetzSat concession, the EchoStar 4 satellite will not have full coverage of the continental United States. Importantly, however, EchoStar 4 will cover large areas in several southern States. The additional capacity into the United States from 77° W.L. will be used to provide augmented coverage to markets with significant Spanish-speaking populations in portions of CONUS where practicable. EchoStar is

a pioneer and has a proven record in providing ethnic programming packages to underserved communities in the United States and will continue to do so from EchoStar 4 at the 77° W.L. orbital location by providing primarily Spanish language programming services over that satellite that are popular to both Mexican consumers and the burgeoning Hispanic populations in the southern United States.

These benefits are consistent with the public interest benefits in the recent grant of an STA request (and related applications) by DIRECTV Enterprises, LLC ("DIRECTV").⁶ In that proceeding, DIRECTV had entered into an arrangement with Telesat Canada ("Telesat") whereby DIRECTV relocated the DIRECTV 5 satellite to Telesat's Canadian-licensed BSS slot at 72.5° W.L., from which DIRECTV would provide DBS service on an interim basis to the United States. The Bureau approved that arrangement, despite finding that Canada did not meet the "effective competitive opportunities" test for comparable DBS services, because of the public interest benefits associated with increasing the number of markets able to receive local-into-local programming from DIRECTV.⁷

EchoStar Will Provide Service to Mexico From EchoStar 4 at 77° W.L. The EchoStar 4 satellite will also be used to provide direct-to-home ("DTH") service to consumers in Mexico. Service from EchoStar 4 will begin immediately upon receipt of a DTH concession by QuetzSat Directo, an affiliate of the Mexican BSS concession holder, QuetzSat, S. de R.L. de C.V. EchoStar has been assured that such a concession will be received very soon. Moreover, as representatives of the Mexican Government have recently stated to the Chairman, the relocation

⁶ *In the Matter of DIRECTV Enterprises, LLC, Request for Special Temporary Authority for the DIRECTV 5 Satellite*, DA 04-2526, Order and Authorization, SAT-STA-20040107-00002, Call Sign S2417 (released Aug. 13, 2004).

⁷ *Id.* at ¶ 23.

of the EchoStar 4 satellite at the 77° W.L. orbital position will allow the Mexican Government to improve the availability and access to the general population of digital services throughout Mexico, including education centers, libraries, health centers (among others) as part of the e-Mexico National System, as well as other national social coverage programs.”⁸ The Mexican Government also added that the e-Mexico program and the universal availability of digital services are very important public policy goals of the Mexican Government.⁹

Thus, as in the Commission’s decision which allowed DIRECTV to move the DIRECTV 3 satellite to Canadian orbital location at 82° W.L. to provide service to Canadian customers,¹⁰ EchoStar 4 will be used almost immediately to benefit Mexican consumers upon its arrival at the 77° W.L. orbital location by providing additional DTH services. Indeed, the move of EchoStar 4 to 77° W.L. will be a key step towards the introduction of a new and competitive DTH service in Mexico. In fact, the move will allow a second DTH competitor to enter the Mexican DTH market, which currently has only one DTH provider. This immediate benefit for Mexican consumers is at least as compelling as the DBS needs of Canadian consumers, which served as the basis for the public interest finding in the *DIRECTV 3 Order*.¹¹

B. Public Interest Benefits Even if EchoStar’s Petition for Reconsideration is Denied

Even if EchoStar’s Petition for Reconsideration regarding 77° W.L. is denied, grant of this Application is still in the public interest. The EchoStar 3 satellite, which is located at

⁸ See Mexico Letter at 2.

⁹ *Id.*

¹⁰ See *DIRECTV, Inc.*, Order and Authorization, 19 FCC Rcd 11055, at ¶ 10 (2004) (“*DIRECTV 3 Order*”)

¹¹ See *DIRECTV 3 Order* at ¶ 10.

61.5° W.L., has recently suffered the failure of an additional TWTA. Thus, relocating EchoStar 4 to 61.5° W.L. will allow EchoStar 4 to augment the service provided by EchoStar 3 from 61.5° W.L. and/or serve as backup for that satellite.

III. NO EXISTING ECHOSTAR CUSTOMERS WILL BE ADVERSELY IMPACTED BY THE PROPOSED RELOCATION OF ECHOSTAR 4

None of EchoStar's customers will lose service by the removal of EchoStar 4 from 157° W.L. The reason is simple: the programming that is being carried on EchoStar 4 at 157° W.L. is totally duplicative of programming available from the EchoStar 1 and EchoStar 2 satellites at 148° W.L.

Furthermore, no service to Alaska and Hawaii will be affected as a result of the move of the EchoStar 4 satellite. While EchoStar 4 was originally configured to provide service to Alaska and Hawaii from the 119° W.L. slot, when questions regarding satellite health and other issues led EchoStar to decide to move EchoStar 4 to 157° W.L., EchoStar requested and received a waiver of the requirement to serve Alaska and Hawaii from that satellite at that location.¹² Furthermore, any locations in these states that might nevertheless be able to receive service from 157° W.L. would have at least the same ability to receive service from EchoStar 1 or EchoStar 2 at 148° W.L.¹³ In sum, since programming on EchoStar 4 duplicates programming available from the 148° W.L. orbital location anyway, no service to Alaska and Hawaii will be lost, even

¹² See *EchoStar Satellite L.L.C.*, Memorandum Opinion and Order, 19 FCC Rcd 6075, at ¶ 8 (2004) ("EchoStar 4 Modification Order").

¹³ EchoStar 1 and EchoStar 2 at 148° W.L. also operate under a waiver of the requirement to serve Alaska and Hawaii. See *EchoStar Satellite L.L.C.*, Order and Authorization, 18 FCC Rcd 7886, 7892 ¶ 15 (2003) (granting a waiver of geographic service requirements for EchoStar 2); *EchoStar Satellite L.L.C.*, Memorandum Opinion and Order, 13 FCC Rcd 8595, 8599 ¶ 8 (1998) (same for EchoStar 1).

setting aside the technical difficulties that led EchoStar to request a waiver of the geographic service requirement for EchoStar 4.

IV. REQUEST FOR EXPEDITED CONSIDERATION

EchoStar respectfully requests that the Commission grant the requested authority immediately for reasons already explained in EchoStar's submissions in File Number SAT-STA-20050321-00068..

V. WAIVER PURSUANT TO SECTION 304 OF THE ACT

In accordance with Section 304 of the Communications Act of 1934, as amended, 47 U.S.C. § 304, EchoStar hereby 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.

VI. CONCLUSION

For the foregoing reasons, EchoStar respectfully requests the expeditious grant of this application for special temporary authority for up to 30 days to move EchoStar 4 to 61.5° W.L. and to perform TT&C operations in order to relocate the satellite to this orbital location.

