

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

FILED/ACCEPTED

SEP - 8 2008

Federal Communications Commission
Office of the Secretary

In the Matter of

ECHOSTAR CORPORATION

Application for Special Temporary
Authority to Operate EchoStar 8
at 77° W.L. for 180 Days

)
)
)
) File No. SAT-STA-20080616-00121
)
)
)

COMMENTS OF DIRECTV ENTERPRISES, LLC

DIRECTV Enterprises, LLC (“DIRECTV”) hereby comments on the application filed by EchoStar Corporation (“EchoStar”) seeking special temporary authority (“STA”) to relocate the EchoStar 8 Direct Broadcast Satellite (“DBS”) space station to 77° W.L. where it would operate as a U.S.-licensed satellite and join the Mexican-licensed EchoStar 2 satellite in providing service into the United States.¹ While DIRECTV has long-standing and serious concerns about any proposal to operate DBS satellites in relatively close proximity, it has begun to discuss with EchoStar strategies for coexistence in this instance, and is hopeful that the two operators will be able to resolve the potential interference issues amicably. If such a resolution is not reached, however, DIRECTV reserves all of its rights to comment further on the requested STA.

DIRECTV currently provides service to U.S. consumers in markets across the country from a DBS satellite operating under a Canadian authorization at the 72.5° W.L.

¹ EchoStar Corporation, Application for Special Temporary Authority, FCC File No. SAT-STA-20080616-00121 (filed June 16, 2008) (“Application”); Public Notice, Rep. No. SAT-00546 (rel. Aug. 8, 2008).

orbital location² – just 4.5 degrees away from the slot where EchoStar proposes to operate EchoStar 8. As DIRECTV has demonstrated in other proceedings, allowing another DBS satellite to operate on a co-coverage, co-frequency basis with such little orbital separation would cause harmful interference to DIRECTV’s current services and place unacceptable limits on innovations in the future.³

At present, neither DIRECTV’s satellite at 72.5° W.L. nor EchoStar’s satellite at 77° W.L. (EchoStar 4) is capable of operating on all 32 available DBS channels at the same time. Indeed, EchoStar 4 is capable of operating on only six transponders.⁴ Furthermore, the footprint of EchoStar 4’s beam is focused on Mexico and therefore places signals of limited power over most of the United States. As forecast by DIRECTV when the relocation of EchoStar 4 to 77 W.L. was proposed, these “unique circumstances” have allowed the parties “to reach a short-term accommodation within the coverage and frequency constraints of these two particular satellites”⁵ – *i.e.*, a sharing arrangement under which they do not operate on the same DBS channels from these short-spaced slots. However, as DIRECTV stated in that same proceeding, “[t]he use of

² See FCC File Nos. SAT-STA-20061213-00149 (granted Mar. 8, 2007); SES-MFS-20061213-02157 (granted Mar. 9, 2007).

³ DIRECTV and its affiliates have made numerous filings in two other proceedings related to short-spaced BSS orbital locations. See Feasibility of Reduced Orbital Spacing for Provision of Direct Broadcast Satellite Service in the United States, Rep. No. SPB-196; FCC File No. SAT-PDR-20020425-00071.

⁴ See EchoStar Communications Corporation, 2004 Annual Report Form 10-K, at 6 (filed Mar. 16, 2005) (noting that 38 of 44 transponders on the satellite have failed).

⁵ Comments of DIRECTV Enterprises, LLC, FCC File No. SAT-STA-20050321-00068, at 2 (filed Aug. 26, 2005).

a satellite at 77° W.L. capable of operating on more DBS frequencies with improved coverage of the United States would present an entirely different set of issues.”⁶

The proposed relocation of EchoStar 8 to 77° W.L. presents just such a different case. EchoStar states that it may “use up to all of the 32 DBS channels available at that orbital location” and will “expand the coverage available from the 77° W.L. orbital location to cover nearly all of the continental United States.”⁷ Accordingly, the proposed operation of EchoStar 8 at 77° W.L. could jeopardize the DBS service provided by DIRECTV from 72.5° W.L. to millions of American consumers in a way that the current operation of EchoStar 4 does not.

EchoStar contends that its proposed operations will not cause harmful interference to DIRECTV because EchoStar 8 will be operated within the specifications of the existing coordination agreement (and any future modifications thereto) between Canada and Mexico for use of the orbital locations allocated to them by international plan at 72.5° W.L. and 77° W.L., respectively.⁸ But that agreement is irrelevant to EchoStar’s proposed operations under a U.S.-issued STA.⁹ The United States is not a party to the Canadian-Mexican coordination agreement, nor does it have any other international claim with respect to DBS operations at the 77° W.L. position. Thus, while DIRECTV’s operations on a Canadian-licensed satellite at 72.5° W.L. fall within the ambit of that coordination agreement, EchoStar’s operations on a U.S.-licensed satellite at 77° W.L.

⁶ *Id.*

⁷ Application, Narrative at 4, 5.

⁸ *See* Application, Narrative at 6-7.

⁹ Although EchoStar has also filed an application that contemplates “reflagging” EchoStar 8 as a Mexican satellite, the Commission has not yet accepted that application for filing and therefore it is not germane to the issues in this proceeding. *See* FCC File No. SES-MFS-20080724-00977.

would not. As a result, should the Commission elect to allow EchoStar to operate a U.S.-flagged satellite at a non-U.S. DBS orbital slot – a course never allowed when DIRECTV was seeking to operate its satellites at DBS orbital slots allocated to Canada – EchoStar must operate on a strictly non-interference basis until such time as it successfully completes a separate coordination agreement with DIRECTV. It cannot simply operate at the levels coordinated for a Mexican-licensed satellite if doing so would cause interference to the Canadian-licensed DIRECTV satellite operating at the DBS location allocated to Canada at 72.5° W.L.¹⁰

DIRECTV nonetheless believes that it may be able to coordinate the use of these two DBS locations directly with EchoStar. For example, EchoStar states that “[m]ost likely, EchoStar 8 will be operated on a subset of the[] 32 [available DBS] channels,”¹¹ which could leave other channels available for use by DIRECTV. Alternatively, the parties may be able to agree to other strategies for spectrum sharing that would not involve the type of co-coverage, co-frequency scenarios that DIRECTV has shown in the past to be highly problematic.

DIRECTV and EchoStar are currently engaged in discussions to explore such arrangements, and hope to arrive at a mutually satisfactory resolution. Accordingly, for present purposes, DIRECTV simply notes the potential for interference and reserves its

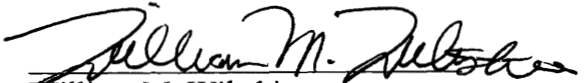
¹⁰ EchoStar also states that the Mexican government does not object to EchoStar 8 operating as a U.S.-authorized satellite at 77° W.L. so long as it does so in conformance with the technical characteristics in the BSS concession issued to the Mexican concession holder, QuetzSat S. de R.L. de C.V. *See* Application, Narrative at 3. However, it appears that EchoStar 8’s operating parameters may exceed the limitations imposed in that concession in certain ways. The alterations necessary to comply with the limitations in the concession may facilitate sharing with DIRECTV.

¹¹ Application, Narrative at 4 n.14.

rights to make additional and more detailed arguments should the parties be unable to reach an accommodation.

Respectfully submitted,

DIRECTV ENTERPRISES, LLC

By: 
William M. Wiltshire
Michael D. Nilsson

HARRIS, WILTSHIRE & GRANNIS LLP
1200 Eighteenth Street, N.W.
Washington, DC 20036
202-730-1300

Counsel for DIRECTV Enterprises, LLC

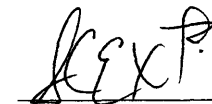
September 8, 2008

CERTIFICATE OF SERVICE

I hereby certify that, on this 8th day of September, 2008, a copy of the foregoing
Comments of DIRECTV Enterprises, LLC was delivered by hand to:

Linda Kinney
Brad Gillen
EchoStar Corporation
1233 20th Street, N.W.
Suite 302
Washington, DC 20036-2396

Pantelis Michalopoulos
Petra A. Vorwig
Steptoe & Johnson LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036



Alex Reynolds