



File # SAT-STA-20090130-00014

Call Sign S2739 Grant Date 06/12/09

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Term Dates period of
From 06/12/09 To: 180 days

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described in the application

Approved: Stephen J. Dwall
Stephen J. Dwall
Chief, Policy Branch

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:
Special Temporary Authority to Operate EchoStar 1 at 77 W.L. for 180 days

1. Applicant

Name:	EchoStar Satellite Operating L.L. C.	Phone Number:	303-723-1000
DBA Name:		Fax Number:	303-723-1699
Street:	9601 South Meridian Boulevard	E-Mail:	
City:	Englewood	State:	CO
Country:	USA	Zipcode:	80112 -
Attention:	Linda Kinney - (202)293-0981		

2. Contact

Name:	Pantelis Michalopoulos	Phone Number:	202-429-6494
Company:	Steptoe & Johnson LLP	Fax Number:	
Street:	1330 Connecticut Ave. NW	E-Mail:	pmichalopoulos@steptoe.com
City:	Washington	State:	DC
Country:	USA	Zipcode:	20036 -
Attention:		Relationship:	Legal Counsel

(If your application is related to an application filed with the Commission, enter either the file number or the IB Submission ID of the related application. Please enter only one.)

3. Reference File Number or Submission ID

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

5. Type Request

- Change Station Location Extend Expiration Date Other

6. Temporary Orbit Location
77 W.L.

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.)

EchoStar Satellite Operating L.L.C. seeks STA to operate the EchoStar 1 satellite under U. S. authority at the 77 W.L. orbital location pending re-flagging of the satellite under Mexican authority. Please see attached narrative.

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
Linda Kinney

11. Title of Person Signing
Vice President, Law and Regulation

12. Please supply any need attachments.

Attachment 1: Narrative

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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THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.

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

_____))
In the Matter of))

ECHOSTAR SATELLITE OPERATING L.L.C.))

))
Application for Space Station))
Special Temporary Authority To Operate))
the EchoStar 1 Satellite at 77.15° W.L. Pending))
the Grant of Related Applications and Re-licensing))
as a Mexican-licensed Satellite))
))
))
))

File No. SAT-STA-2009 _____
Call Sign DBS8801

APPLICATION FOR SPACE STATION SPECIAL TEMPORARY AUTHORITY

EchoStar Satellite Operating L.L.C. (“DISH”) hereby requests a space station Special Temporary Authority (“STA”) to operate the EchoStar 1 satellite at 77.15° W.L. for 180 days, pending the grant of a related application for EchoStar 1 to serve the United States as a Mexican-licensed satellite.¹ To the extent necessary, DISH also requests a waiver of the Commission’s

¹ Along with this application, DISH will be requesting: (1) a blanket earth station license to operate with EchoStar 1 at 77.15° W.L. as a Mexican-licensed satellite and (2) space station STA to move the EchoStar 1 satellite to 77.15° W.L. DISH will also file an application to transfer the EchoStar 1 satellite to QuetzSat for operation under Mexican-authority. DISH’s sister company, EchoStar Corporation (“EchoStar”), also will be requesting: (1) earth station STA to support the relocation of the EchoStar 1 satellite to 77.15° W.L.; (2) earth station STA to support temporary space station operations at 77.15° W.L. pending the re-flagging of EchoStar 1 as a Mexican-licensed satellite; and (3) the modification of three existing earth station licenses (Call Signs E080058, E980118 and E020233) to perform feeder link and TT&C operations with EchoStar 1 at 77.15° W.L. EchoStar has received temporary authority to operate the EchoStar 8 satellite at 77.0° W.L. under U.S. authority, File No. SAT-STA-20080616-00121 (granted Nov. 7, 2008), and has requested a modification to its blanket earth station license to operate with the EchoStar 8 satellite after it is re-flagged under Mexican authority, File No. SES-MFS-20080724-00977 (filed Jul. 24, 2008).

rules to use two C-band frequencies for TT&C during such operations. The temporary operation of the satellite at 77.15° W.L. will be at DISH's own risk, pending the grant of blanket earth station authorization allowing DISH to serve the United States and the re-licensing of the satellite as a Mexican-licensed satellite. Once re-licensed, the satellite will be operated by QuetzSat, S. de R.L. de C.V. (“QuetzSat”), the holder of the Mexican BSS concession for the 77° W.L. orbital location. DISH seeks action on the instant request only if grant of the requested authority to operate EchoStar 1 as a foreign-licensed satellite has not been issued prior to arrival of EchoStar 1 at 77.15° W.L, which DISH seeks to complete by May 22, 2009.

As the Commission is aware, QuetzSat is an affiliate of SES Latin America, S.A. (“SES-LA”) and SES S.A. (collectively, “SES”), with which EchoStar has entered into an agreement for the development of the Mexican BSS location at 77° W.L.² Pursuant to that agreement, the EchoStar 4 satellite has already been deployed to 77° W.L. with the Commission's approval.³ EchoStar has also sought Commission approval to modify its blanket earth station to operate with the EchoStar 8 satellite as a Mexican-licensed satellite from 77.0° W.L.⁴

EchoStar 77 Corp., a wholly-owned subsidiary of EchoStar, recently entered into Satellite Service Agreements with SES-LA and DISH (“EchoStar 77 SSAs”). Under those agreements, QuetzSat will provide service to EchoStar 77 Corp. on its future QuetzSat-1 satellite over all 32

² See 77° W.L. Agreement, filed in File No. SAT–STA–20080616–00121, Attachment 3 (“*EchoStar 8 Application*”).

³ See *EchoStar Satellite L.L.C.*, DA 06-868, Order and Authorization, 21 FCC Rcd 4077 (2006) (“*77° W.L. Order*”), assigned and transferred to EchoStar Corporation, File Nos. SES-ASG-20071108-01575, SES-T/C-20071108-01566 (consummated Jan. 1, 2008).

⁴ File No. SES-MFS-20080724-00977 (filed Jul. 24, 2008).

available channels at 77° W.L. subject to the receipt of all required approvals.⁵ EchoStar 77 Corp., in turn, will provide service to its parent, EchoStar, and, its affiliate, DISH. The EchoStar 77 SSAs also allow either DISH or EchoStar to move an “Interim Satellite” to the 77° W.L. orbital location and use up to all 32 channels available at that location subject to the BSS Concession.⁶ DISH will move the EchoStar 1 satellite to 77.15° W.L. once it receives authority from the Commission and will provide DBS programming to consumers in the U.S. over the requested blanket earth station license. The EchoStar 4 satellite will be temporarily moved to 77.3° W.L., subject to Commission approval, which will be requested separately. The EchoStar 1 satellite is intended to replace the EchoStar 4 satellite – which is nearing the end of its life – and will provide service to the United States and Mexico in conjunction with the EchoStar 8 satellite.⁷ EchoStar 1 will operate at 77.15° W.L. until the planned launch of the QuetzSat-1 satellite to that orbital location in 2011.

⁵ Sections 2.H(5) of the Satellite Services Agreement between EchoStar 77 Corporation and SES Latin America, S.A. and the Satellite Services Agreement between DISH Network Corporation and EchoStar 77 Corp. (“EchoStar 77 SSAs”), *filed in* EchoStar Satellite Operating L.L.C., File No. SES-LFS-2009 _____ - _____, Attachment 2 (filed Jan. 30, 2009) (“*EchoStar 1 Application*”).

⁶ *Id.* DISH understands that the use of the EchoStar 1 satellite at 77° W.L. is directly encompassed within the authority granted in QuetzSat’s existing concession. That concession is not limited to the operations of any particular satellite at 77° W.L. Secretariat of Communications and Transportation Vice-Ministry of Communications, Concesion Para Ocupar La Posicion Orbital Geostacionaria 77° Oeste Asignada al Pais y Explotar Sus Respetivas Bandas de Frecuencias 12.2 – 12.7 GHz y 17.3-17.8 GHz, Asi como los Derechos de Emision y Recepcion de Señales, granted February 2, 2005 (“BSS Concession”), *filed in* EchoStar 8 Application, Attachment 2 at 4 (defining the satellite system as “one or more satellites with associated frequencies and their control centers operating in an integral manner to make satellite capacity available for the rendering of satellite services”).

⁷ Amendment #4 to Satellite Relocation and Use Agreement for the 77° W.L. Orbital Location, *filed in* EchoStar 1 Application, Attachment 4. Note that EchoStar 4 and EchoStar 1 may both operate at 77° W.L. for a short period prior to the end-of-life disposal of the EchoStar 4 satellite.

QuetzSat, which pursuant to the BSS Concession was authorized by Mexico to use the BSS frequencies at the 77° W.L. slot,⁸ has advised the Mexican Administration of its plan to replace the EchoStar 4 satellite with EchoStar 1 for service to Mexico and the United States (including temporary operation under U.S. authority pending re-licensing), and DISH understands that the Mexican Administration has no objection to this plan. The U.S. and Mexican Administrations have already exchanged letters regarding the use of EchoStar 4, formerly a U.S.-licensed satellite, at 77° W.L.⁹

For the reasons set forth herein, grant of this Application will serve the public interest and will not cause harmful interference to any authorized user of the spectrum. The redeployment of the EchoStar 1 satellite, along with EchoStar 8, to 77.15° W.L. will augment the capacity that DISH and EchoStar will have available to serve the United States from that Mexican 77° W.L. slot and result in a greater variety and quality of programming services, including high definition programming and local channels. In turn, the grant of Special Temporary Authority to provide service, if “re-flagging” of the satellite is not completed prior to arrival of EchoStar 1 at 77.15° W.L., will bring these benefits to the American public sooner rather than later.

I. GRANT OF THIS APPLICATION IS IN THE PUBLIC INTEREST

Granting DISH’s Application is in the public interest. DISH and its affiliate, EchoStar, will be able to take advantage of the greater capabilities that EchoStar 1 brings to bear compared to EchoStar 4 to provide increased programming to U.S. consumers from 77° W.L. while QuetzSat constructs the QuetzSat-1 satellite. EchoStar 4 suffers from two infirmities: limited capacity and limited scope of coverage over the U.S. The Commission found that even this

⁸ *BSS Concession*.

⁹ *See 77° W.L. Order* at Appendix A.

limited service from the Mexican orbital slot at 77° W.L. “could serve the public interest by providing service to areas in the Southern U.S., including additional Spanish language programming to areas with significant Spanish-speaking populations.”¹⁰ The redeployment of EchoStar 1, alongside EchoStar 8, to 77° W.L. will achieve this and more, as it will ameliorate both of EchoStar 4’s defects. It will greatly enhance the programming available from 77° W.L. to U.S. customers, and it will also enhance the scope of U.S. coverage beyond the southern states. By operating both EchoStar 1 and EchoStar 8 at 77° W.L., EchoStar and DISH will have greater operational flexibility to maximize the amount of service available to U.S. consumers than if either satellite operated alone at 77° W.L. This greater operational flexibility will provide the companies with expanded capacity to provide high-definition services and additional high-definition local-into-local markets.

All of this can be achieved without any disruption in service. All programming carried by EchoStar 1 at 148° W.L. today can be switched to another DISH satellite or the EchoStar 5 satellite once that spacecraft has been transferred from 129° W.L. to 148° W.L., which is planned to occur this March.¹¹ Moreover, the public interest benefits from increasing the capacity and the scope of the U.S. DBS service provided from 77° W.L. can be achieved without causing harmful interference to other satellites. There is no DBS orbital location in the vicinity of 77° W.L. that is assigned to the United States (the closest U.S. location is 61.5° W.L.). There will likewise be no harmful interference from the operation of an additional satellite at 77° W.L.

¹⁰ *See id.* at ¶ 8.

¹¹ The Commission has granted DISH authority to move the EchoStar 5 satellite to 148° W.L., and DISH’s application for modification of its authority to operate EchoStar 5 at 148° W.L. is pending. *See* File Nos. SAT-STA-20081003-00201 and SAT-A/O-20081003-00215 (originally filed as File Nos. SAT-MOD-20081003-00199, SAT-MOD-20081003-00200 (filed Oct. 3, 2008)).

into Canada's DBS allotments at 72.5° W.L. and 82° W.L. In that respect, DISH notes that Canada has modified the coverage of its 72.5° W.L. orbital location to include the United States, and DIRECTV is authorized to serve the United States from its DIRECTV IR satellite operating at that slot.¹² There is, however, an existing coordination agreement between Mexico and Canada to address interference issues between 77° W.L. and 72.5° W.L. DISH will comply with that agreement and/or any future coordination agreements during its temporary operation of the satellite at 77° W.L. Similarly, with respect to Canadian operations at 82° W.L., DISH will operate in full conformity with the 1996 Mexican ITU modification over all points in Canada and the United States, as well as with the existing coordination agreements between the Administrations of Canada and Mexico and/or any future coordination agreements.

Grant of this STA request pending reflagging of the satellite is also in the public interest because it will bring the benefits of redeployment to the American people sooner rather than later.

II. USE OF C-BAND FREQUENCIES FOR TT&C

As the Commission is aware, the EchoStar 1 satellite is equipped with telemetry, tracking and command ("TT&C") beacons in the conventional C-band frequencies (specifically, 5926-5927 MHz and 6423-6424 MHz for command, and 4198.4-4198.6 and 4199.4-4199.6 MHz for telemetry and tracking). The Commission has already authorized the use of those frequencies to perform TT&C operations with EchoStar 1 at 148° W.L. on a non-protected, non-harmful

¹² EchoStar also recently received authority to provide service from the EchoStar 6 satellite located at 72.7° W.L. File No. SES-LFS-20080512-00595 (granted July 28, 2008).

interference basis.¹³ DISH requests authority for use of the same frequencies with the same satellite at 77.15° W.L. on exactly the same basis.

Consistent with this precedent, DISH respectfully requests a waiver of Section 25.202(g) (in-band TT&C) to the extent necessary to permit such operations. Just as when the Commission authorized DISH to use these frequencies at 148° W.L., there is good cause for such a waiver.¹⁴ First, the continued use of these frequencies for the conduct of TT&C with the EchoStar 1 satellite is essential, as the satellite is not equipped to receive commands or transmit telemetry and tracking information on any other frequencies. In addition, the continued use of these command frequencies on a non-protected, non-harmful interference basis will not increase the potential for interference with any lawful users of spectrum, as it will not conflict with the operations of any adjacent C-band satellite operators. The closest C-band satellite that will operate near the 77° W.L. orbital location when EchoStar 1 is transferred to that location is Brasilsat B3 operating at 75° W.L.¹⁵ The closest C-band satellite to the west of 77° W.L. is Brasilsat B4 operating at 84° W.L. Thus, proposed operations of EchoStar 1's TT&C communications in two slivers of the conventional C-band will not cause any interference into the operations of either of these satellites.

¹³ See *EchoStar Satellite Corporation et al.*, 13 FCC Rcd 8595, at ¶ 23 (Sat. & Radiocom. Div. 1998).

¹⁴ See *WATT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *aff'd*, 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972).

¹⁵ While PanAmSat's Galaxy 4R satellite currently operates at 76.8° W.L., PanAmSat has recently submitted an application to deorbit the satellite in March 2009 and to transfer all C-band traffic to its Galaxy 2R satellite located at 93.10° W.L. See File No. SAT-STA-20090123-00008 (filed Jan. 23, 2009). As EchoStar 1 will not reach 77° W.L. until on or around May 22, 2009, its limited C-band operations will not interfere with Galaxy 4R.

To the extent necessary, DISH is also requesting from the Commission a limited waiver of the Triateral Arrangement Regarding Use of the Geostationary Orbit reached by Canada, Mexico, and the United States as EchoStar 1 will be a Mexican-licensed satellite in the portion of the C-band arc reserved to the U.S. under that agreement.¹⁶ For the reasons set forth above, there is good cause for such a waiver. In addition, DISH notes that Mexico and Canada have both consented to EchoStar 1's limited use of the C-band when the satellite was operating at 119° W.L., in these countries' portion of the C-band arc.¹⁷

DISH proposes to operate the EchoStar 1 satellite at 77° W.L. pursuant to the following conditions:



1. While EchoStar 1 is operating at 77.15° W.L., operations shall be on a non-harmful interference basis, meaning that DISH shall not cause interference to, and shall not claim protection from interference caused to it by, any other lawfully operating satellites operating within the parameters of applicable international coordination agreements.
2. In the event that any harmful interference is caused while the satellite is operating at 77.15° W.L., DISH shall cease operations immediately upon notification of such interference and shall inform the Commission immediately, in writing, of such event.

DISH requests that the Commission authorize the temporary operation of EchoStar 1, at DISH's own risk, pending the grant of blanket earth station authority and the exchange of letters between the United States and Mexico for the re-licensing of the satellite under Mexican authority. In the event that such re-licensing fails to occur, DISH will request Commission authorization to move the satellite to another orbital location.

¹⁶ See Public Notice, Triateral Arrangement Regarding Use of the Geostationary Orbit Reached by Canada, Mexico, and the United States, *available at* <http://www.fcc.gov/ib/sand/agree/files/satellite/trilat.pdf> (rel. Sept. 2, 1988).

¹⁷ *Id.*

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GRANTED *	
International Bureau	
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Approved: 	To: 180 days

*subject to the conditions described in the authorization

Stephens J. Daal
Chief, Policy Branch

