

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

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In the Matter of:)	
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DISH OPERATING L.L.C.)	File Nos. SAT-STA-20090130-00014
)	SAT-STA-2009_____
Application for Renewal of Special)	
Temporary Authority to Operate EchoStar 1)	
at 77.15° W.L. for 180 Days)	
_____)	

APPLICATION FOR RENEWAL OF SPECIAL TEMPORARY AUTHORITY

DISH Operating L.L.C. (“DISH”)¹ requests renewal of its special temporary authority (“STA”)² to operate the EchoStar 1 satellite as a U.S.-licensed satellite serving the United States from 77.15° W.L. for an additional 180 days pending grant of authority to transfer the satellite to Mexican authority.³ The current STA is set to expire on December 9, 2009.⁴ To the extent necessary, DISH also requests a waiver of the Commission’s rules to use two C-band frequencies for telemetry, tracking and command (“TT&C”) during such operations.

Grant of this renewal request will serve the public interest and not cause harmful interference to any authorized user of the spectrum. Allowing EchoStar 1 to continue service at

¹ On August 11, 2009, EchoStar Satellite Operating L.L.C. changed its name to DISH Operating L.L.C. See Letter to Marlene H. Dortch, Secretary, FCC, from Pantelis Michalopoulos, Counsel for DISH Operating L.L.C., dated Sept. 9, 2009.

² See File No. SAT-STA-20090130-00014 (granted June 12, 2009) (“*STA Application*”). The information provided in the *STA Application* is incorporated in this application by reference.

³ See File Nos. SES-LFS-20090130-00106 (filed Jan. 30, 2009); SAT-T/C-20090217-00027 (filed Feb. 17, 2009).

⁴ Stamp Grant, *STA Application*.

the 77.15° W.L. orbital location will support DISH's continued effort to make a greater variety and quality of programming services available to U.S. consumers. EchoStar 1 is intended as a replacement for the EchoStar 4 satellite,⁵ which is nearing the end of its life, and will provide service to the United States and Mexico until the planned launch of the QuetzSat-1 satellite to that orbital location in 2011.

As described in the *STA Application*, DISH's partner, QuetzSat S. de R.L. de C.V. ("QuetzSat"), has confirmed that the Mexican Administration does not object to the interim operation of EchoStar 1 as a U.S. satellite at 77.15° W.L. as a follow on to EchoStar 4's operations at that location, provided that the satellite operates in conformance with the technical characteristics in QuetzSat's BSS Concession.⁶

I. BACKGROUND AND INTRODUCTION

As explained in the *STA Application*, on April 18, 2006, the Commission granted DISH's predecessor, EchoStar Satellite LLC, authority to provide Direct Broadcast Satellite ("DBS") service to the southern United States from EchoStar 4 as a Mexican-licensed satellite located at 77° W.L.⁷ The operation of EchoStar 4 at 77° W.L. is governed by an agreement between DISH's sister company, EchoStar Corporation ("EchoStar") and SES Global Latin America,

⁵ The EchoStar 4 satellite has been operating at 77° W.L. with the Commission's approval. See EchoStar Satellite L.L.C., DA-06-868, Order and Authorization, 21 FCC Rcd. 4077 (2006) ("77° W.L. Order").

⁶ See *77° W.L. Order*; Secretariat of Communications and Transportation Vice-Ministry of Communications, Concesion Para Ocupar La Posicion Orbital Geoestacionaria 77° Oeste Asignada al Pais y Explotar Sus Respectivas 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 File No. SAT-STA-20080616-00121 (granted Oct. 31, 2008), Attachment 2.

⁷ *77° W.L. Order*.

S.A. (“SES”),⁸ and a related agreement between SES and QuetzSat. Consistent with these agreements, the EchoStar 4 satellite is currently operating as a Mexican-licensed satellite under the direct control of QuetzSat pursuant to the BSS Concession, which allows QuetzSat to use the nominal 77° W.L. orbital location.⁹ In addition, EchoStar has received authority to serve the United States from EchoStar 4 as a foreign-licensed satellite.¹⁰ The EchoStar 4 satellite, however, is nearing its end of life.

EchoStar 1 has been providing service to the United States and Mexico¹¹ from 77.15° W.L. since August 2009 pursuant to the current STA and a series of Satellite Services Agreements (“SSAs”) among DISH’s parent, DISH Network Corporation, its affiliate, EchoStar 77 Corporation, and SES. Under the SSAs, QuetzSat will provide service to EchoStar 77 Corporation on QuetzSat-1 over all 32 available channels at 77° W.L. subject to the receipt of all

⁸ See Satellite Relocation and Use Agreement for the 77° W.L. Orbital Location (“77° W.L. Agreement”), as amended, filed in File No. SAT-STA-20080616-00121 (granted Oct. 31, 2008), Attachment 3.

⁹ See *BSS Concession*.

¹⁰ See 77° W.L. Order ¶ 1. As DISH has previously advised the Commission, on January 1, 2008, EchoStar Communications Corporation assigned several satellite space station and earth station assets previously owned by its subsidiaries to EchoStar (the “Spin-Off”). See Public Notice, DA 07-4655 (rel. Nov. 16, 2007) (consenting to the transfer of several authorizations as part of the Spin-Off). DISH’s blanket earth station license and its authority to operate U.S. feeder link and TT&C earth stations with the EchoStar 4 satellite were assigned to EchoStar as part of the Spin-Off.

¹¹ See *Amendment to the Commission’s Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems and DBSC Petition for Declaratory Rulemaking Regarding the Use of Transponders to Provide International DBS Service*, Report and Order, 11 FCC Rcd. 2429, ¶ 70 (1996); see also Protocol Concerning the Transmission and Reception of Signals from Satellites for the Provision of Direct-to-Home Satellite Services in the United States of America and the United Mexican States, U.S.-Mx., Nov. 8, 1996, available at <http://www.fcc.gov/ib/sand/agree/files/satellite/mex-dth.pdf>.

required approvals.¹² EchoStar 77 Corporation, in turn, will provide service to DISH. The SSAs also allow DISH 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. Once DISH receives authority to transfer the satellite to Mexican authority, DISH expects that EchoStar 1 will remain in operation at 77.15° W.L. until the deployment at that location of the QuetzSat-1 satellite, planned for a 2011 launch.

II. GRANT OF THIS APPLICATION IS IN THE PUBLIC INTEREST

The same conditions that led the Bureau to grant the STA to operate EchoStar 1 at 77.15° W.L. remain applicable to the STA’s renewal. DISH is able to continue to provide service from EchoStar 1 as EchoStar 4 approaches its end of life and while QuetzSat constructs the QuetzSat-1 satellite. The satellite also helps expand the coverage available from the 77° W.L. orbital location to cover nearly all of the continental United States.

The Commission found that even with its limited capacity and coverage, EchoStar 4’s service from the Mexican orbital slot at 77° W.L. “could serve the public interest by providing service to areas in the Southern United States, including additional Spanish language programming to areas with significant Spanish-speaking populations.”¹³ The redeployment of EchoStar 1, alongside EchoStar 8, has achieved this and more, as it has ameliorated both of EchoStar 4’s defects. By providing service from both EchoStar 1 and EchoStar 8 at 77° W.L., DISH has 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

¹² Sections 2.H(5) of the SSA between EchoStar 77 Corporation and SES Latin America, S.A. and the SSA between DISH Network Corporation and EchoStar 77 Corporation, *filed in* File No. SES-LFS-20090130-00106, Attachment 2 (filed Jan. 30, 2009).

¹³ *See 77° W.L. Order ¶ 8.*

provides the company with expanded capacity to provide high-definition services and additional high-definition local-into-local markets.

Moreover, as noted in the *STA Application*, the public interest benefits that accrue from operating EchoStar 1 at 77.15° W.L. can be achieved without causing harmful interference to other satellites.¹⁴ There is no DBS orbital location in the vicinity of 77.15° W.L. that is assigned to the United States (the closest U.S. location is 61.5° W.L.), and no harmful interference from the operation of an additional satellite at 77° W.L. 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 1R satellite operating at that slot. DISH's sister company, EchoStar, is also authorized to serve the United States from 72.7° W.L. over the EchoStar 6 and Nimiq 5 satellites operating under Canadian authority.¹⁵

DISH plans to continue to operate EchoStar 1 within the specifications of the 1996 Mexican ITU modification over all points in Canada and the United States, as well as within the existing coordination agreements between the Administrations of Canada and Mexico and/or any future coordination agreements.

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

As the Commission is aware, the EchoStar 1 satellite is equipped with 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

¹⁴ See *STA Application*, Narrative.

¹⁵ File Nos. SES-LFS-20080512-00595 (granted July 28, 2008) (EchoStar 6 authority); SES-MFS-20090306-00253 (granted Oct. 30, 2009) (Nimiq 5 authority).

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 interference basis,¹⁶ and authorized the same use of such frequencies with EchoStar 1 at 77.15° W.L. for purposes of the initial STA.¹⁷

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 for the duration of the current STA request. There is good cause for such a waiver.¹⁸ 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 operating to the east of the 77° W.L. orbital location is Brasilsat B3 at 75° W.L.¹⁹ The closest C-band satellite operating to the west of 77° W.L. is Venesat-1 at 78° W.L. DISH has confirmed that operations of EchoStar 1's TT&C communications in two slivers of the conventional C-band have not caused and will not cause any interference into the operations of either of these satellites.

¹⁶ See *EchoStar Satellite Corporation et al.*, 13 FCC Rcd. 8595, ¶ 23 (Sat. & Radiocom. Div. 1998).

¹⁷ Stamp Grant, *STA Application*.

¹⁸ See *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969).

¹⁹ While the Galaxy 4R satellite formerly operated at 76.8° W.L., the satellite was deorbited earlier this year pursuant to Commission authority. See Grant of Authority, *filed in* File No. SAT-STA-20090123-00008 (granted March 25, 2009).

To the extent necessary, DISH is also requesting from the Commission a limited waiver of the Trilateral 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 United States under that agreement.²⁰ For the reasons set forth above, there is good cause for such a waiver. In addition, DISH notes that Mexico and Canada 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.²¹

DISH will operate the EchoStar 1 satellite at 77° W.L. pursuant to the conditions imposed on the original STA grant.²² 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.

IV. 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, DISH 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.

²⁰ See Public Notice, Trilateral 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).

²¹ *Id.*

²² Stamp Grant, *STA Application*.

V. CONCLUSION

For the foregoing reasons, DISH respectfully requests the renewal of its special temporary authority to operate EchoStar 1 as a U.S.-licensed satellite at 77.15° W.L. for 180 days pending grant of authority to transfer the satellite to Mexican authority.

Respectfully submitted,

Pantelis Michalopoulos
Petra A. Vorwig
Stephanie A. Roy
Steptoe & Johnson LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 429-3000
Counsel for DISH Operating L.L.C.

/s/
Linda Kinney
Vice President, Law and Regulation
DISH Operating L.L.C.
1110 Vermont Ave., N.W., Suite 750
Washington, DC 20005
(202) 293-0981

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