


Date & Time Filed: Dec 2 2009 8:18:23:203PM
File Number: SAT-STA-20091202-00138
Callsign:


GRANTED
International Bureau
* subject to conditions

File # SAT-STA-20091202-00138
Call Sign S2739 Grant Date 02/03/16
(or other identifier)
Term Dates From 12/10/09 To 180 days
Period of
Approved: *Stephen J. Duall*
Stephen J. Duall
Chief, Satellite Policy Branch

Approved by OMB
3060-0678

FEDERAL COMMUNICATIONS COMMISSION
APPLICATION FOR SPACE STATION SPECIAL TEMPORARY AUTHORITY
FOR OFFICIAL USE ONLY

APPLICANT INFORMATION

Enter a description of this application to identify it on the main menu:
Request to Renew Special Temporary Authority to Operate EchoStar 1 at 77 W.L. for 180 days

1. Applicant

Name:	DISH 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		

ATTACHMENT

IBFS File Nos. SAT-STA-20091202-00138

Call Sign: S2739

Grant Date: February 3, 2010

DISH Operating L.L.C.'s (DISH) request for special temporary authority, File No. SAT-STA-20091202-00138 IS GRANTED. Accordingly, DISH is authorized to continue to conduct Tracking, Telemetry, and Command (TT&C) necessary to maintain the EchoStar 1 satellite at the 77.15° W.L. orbital location, and is authorized to operate the EchoStar 1 satellite at that location for 180 days commencing on December 10, 2009, subject to the following conditions:

1. All operations of the EchoStar 1 satellite at the 77.15° W.L. orbital location shall be on a non-harmful interference basis. DISH shall not cause harmful interference to, and shall not claim protection from interference caused to it, by any other lawfully operating satellite or radio communication service operating within the parameters of applicable international coordination agreements.

2. In the event of any harmful interference as a result of DISH's operation of the EchoStar 1 satellite at the 77.15° W.L. orbital location, DISH shall cease operations immediately upon notification of such interference and shall inform the FCC, in writing, immediately of such an event.



* subject to conditions

File # SAT-STA-20091202-00138

Call Sign S2739 Grant Date 02/03/10

(or other identifier)

Term Dates period of
From 12/10/09 To: 180 days

Approved: _____

Stephen J. Duall
Stephen J. Duall
Chief, Satellite Policy Branch

2. Contact	
Name:	Pantelis Michalopoulos
Phone Number:	202-429-6494
Company:	Step toe & Johnson LLP
Fax Number:	
Street:	1330 Connecticut Ave. NW
E-Mail:	pmichalopoulos@step toe.com
City:	Washington
State:	DC
Country:	USA
Zipcode:	20036
Attention:	Legal Counsel
Relationship:	
(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 SATSTIA2009013000014 or Submission ID	
4a. Is a fee submitted with this application?	
<input checked="" type="radio"/> If Yes, complete and attach FCC Form 159. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114).	
<input type="radio"/> Governmental Entity Noncommercial educational licensee	
Other(please explain):	
4b. Fee Classification	
5. Type Request	
<input type="radio"/> Change Station Location <input type="radio"/> Extend Expiration Date <input type="radio"/> Other	
6. Temporary Orbit Location	
77 W.L.	7. Requested Extended Expiration Date
	2010-06-08 00:00:00.0

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.)

DISH Operating L.L.C. seeks to renew its 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).

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT

The public reporting for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, AMD-PERM, Paperwork Reduction Project (3060-0678), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to PRA@fcc.gov. PLEASE DO NOT SEND COMPLETED FORMS TO THIS ADDRESS.

Remember – You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0678.

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:

DISH OPERATING L.L.C.

Application for Renewal of Special
Temporary Authority to Operate EchoStar 1
at 77.15° W.L. for 180 Days

)
)
)
) File Nos. SAT-STA-20090130-00014
) SAT-STA-2009_____

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*.

