

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

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In the Matter of	)	
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<b>ECHOSTAR CORPORATION</b>	)	File No. SAT-STA-20080616-00121
	)	File No. SAT-STA-20090422-00045
Application for Renewal of Special	)	File No. SAT-STA-20091006-00107
Temporary Authority to Operate EchoStar 8	)	File No. SAT-STA-2009_____
at 77° W.L. for 180 days	)	
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**APPLICATION FOR RENEWAL OF SPECIAL TEMPORARY AUTHORITY**

EchoStar Corporation (EchoStar) requests renewal of its special temporary authority (STA)<sup>1</sup> to operate the EchoStar 8 satellite as a U.S.-licensed satellite serving the U.S. from 77° W.L. for an additional 180 days pending grant of authority to transfer the satellite to Mexican authority.<sup>2</sup> The current STA is set to expire on April 23, 2010.<sup>3</sup>

Grant of this renewal request will serve the public interest and not cause harmful interference to any authorized user of the spectrum. Allowing EchoStar 8 to continue service at

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<sup>1</sup> File No. SAT-STA-20091006-00107 (granted Dec. 9, 2009). The information provided in the original application for STA is incorporated in this application by reference. File No. SAT-STA-20080616-00121 (granted Oct. 31, 2008) [hereinafter *STA Application*].

<sup>2</sup> On February 17, 2009, EchoStar filed an application to transfer the EchoStar 8 satellite to QuetzSat, S. de R.L. de C.V., which will operate the satellite at the 77° W.L. orbital location under Mexican authority. The transfer application did not request authority to assign or transfer control over any authorization granted by the Commission. See File No. SAT-T/C-20090217-00026 (filed Feb. 17, 2009). EchoStar has requested authority to provide service from the satellite once it is transferred to Mexican authority. File No. SES-MFS-20080724-00977 (filed July 24, 2008).

<sup>3</sup> File No. SAT-STA-20091006-00107 (granted Dec. 9, 2009).

the 77° W.L. orbital location will support EchoStar's continued effort to make a greater variety and quality of programming services available to U.S. consumers, including high-definition television services and local-into-local broadcast stations from that orbital location. In addition, the redeployment of EchoStar 8 from its location at 110° W.L. has enlarged and will continue to enlarge the scope of U.S. coverage from the 77° W.L. orbital location, enabling nearly full CONUS coverage.

As described in EchoStar's *STA Application*, EchoStar'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 8 as a U.S. satellite at 77° W.L. to provide service to the United States, provided that the satellite operates in conformance with the technical characteristics in QuetzSat's BSS Concession.<sup>4</sup>

## **I. BACKGROUND AND INTRODUCTION**

As explained in the *STA Application*, on April 18, 2006, the Commission granted EchoStar's sister company, 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.<sup>5</sup> The operation of EchoStar 4 at 77° W.L. is governed by an agreement between EchoStar and SES Global Latin America, S.A. (SES),<sup>6</sup> and by a related

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<sup>4</sup> 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 [hereinafter *BSS Concession*], filed in *STA Application*, Attachment 2.

<sup>5</sup> *EchoStar Satellite LLC*, Order and Authorization, DA 06-868, 21 FCC Rcd. 4077 (2006) [hereinafter *77° W.L. Order*].

<sup>6</sup> Satellite Relocation and Use Agreement for the 77° W.L. Orbital Location [hereinafter

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 February 2, 2005 BSS Concession, which allows QuetzSat to use the 77° W.L. orbital location.<sup>7</sup> In addition, EchoStar has received authority to serve the United States from EchoStar 4 as a foreign-licensed satellite.<sup>8</sup> The EchoStar 4 satellite, however, can only provide service to the southern United States from 77° W.L.<sup>9</sup>

The parties have amended the 77° W.L. Agreement to allow EchoStar to operate EchoStar 8 at 77° W.L. temporarily as a U.S.-licensed satellite, and the satellite has been providing service at that orbital location since the second half of 2008. Once EchoStar receives authority to transfer the satellite to Mexican authority, EchoStar expects that EchoStar 8 will remain in operation at 77° 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 8 at 77° W.L. remain applicable in this case. EchoStar is able to take advantage of the greater

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77° W.L. Agreement], as amended, *filed in STA Application*, Attachment 3.

<sup>7</sup> *BSS Concession*, *supra* note 1, Attachment 2.

<sup>8</sup> *See 77° W.L. Order*, *supra* note 5, at ¶ 1. As EchoStar has previously advised the Commission, on January 1, 2008, EchoStar Communications Corporation (ECC) 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). EchoStar Satellite Operating LLC'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.

<sup>9</sup> *See* EchoStar Satellite LLC, Supplement to Petition for Reconsideration, *filed in* File No. SAT-STA-20050321-00068, at 5 (June 14, 2005); *see also* Letter from Pantelis Michalopoulos, Counsel for EchoStar Satellite LLC, to Marlene H. Dortch, Secretary, FCC, *filed in* File No. SAT-STA-20050321-00068, Appendix A, dated May 10, 2005.

capabilities that EchoStar 8 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. Among other things, the satellite is used to provide HD local-into-local broadcast stations and other HD programming into the United States. The satellite also helps expand the coverage available from the 77° W.L. orbital location to cover nearly all of the continental United States.

EchoStar 4 suffers from two infirmities: limited capacity and limited scope of coverage over the United States. The Commission found that even this limited 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.”<sup>10</sup> The redeployment of EchoStar 8 at 77° W.L. has achieved this and more, as it ameliorates both of EchoStar 4’s defects. It greatly enhances the programming available from 77° W.L. to U.S. customers, and it also enhances the scope of U.S. coverage beyond the southern states.

Such improvements in scope of coverage and available capacity, allows EchoStar’s affiliated DBS provider, DISH, to compete more effectively with terrestrial MVPD distributors—both the established cable operators and telephone companies—whose infrastructure endows them with significantly more bandwidth and programming capacity than is available to DISH.

Moreover, as noted in the *STA Application*, the public interest benefits that accrue from operating EchoStar 8 at 77° W.L. can be achieved without causing harmful interference to other

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<sup>10</sup> 77° W.L. Order, *supra* note 5, at ¶ 8.

satellites.<sup>11</sup> 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.), and there is 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, EchoStar 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.<sup>12</sup>

Upon renewal of this STA, EchoStar will continue to operate the EchoStar 8 within the specifications of the 1996 Mexican ITU modification over all points in Canada and the United States, as well as in compliance with the existing coordination agreements between the Administrations of Canada and Mexico and/or any future coordination agreements.

Finally, EchoStar will continue to operate the EchoStar 8 satellite at 77° W.L. in accordance with conditions set out in the December 9, 2009 STA grant.<sup>13</sup>

### **III. 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.

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<sup>11</sup> See File No. SAT-STA-20080616-00121, Narrative.

<sup>12</sup> EchoStar is also authorized to serve the United States from 72.7° W.L. from the Nimiq 5 satellite that was launched on September 18, 2009. File No. SES-MFS-20090306-00253 (granted Oct. 30, 2009).

<sup>13</sup> *Stamp Grant*, File No. SAT-STA-20091006-00107 (granted Dec. 9, 2009).

#### IV. CONCLUSION

For the foregoing reasons, EchoStar respectfully requests the renewal of its application for special temporary authority to operate EchoStar 8 as a U.S.-licensed satellite at 77° W.L. for 180 days pending grant of authority to transfer the satellite to Mexican authority.

Respectfully submitted,

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