



*subject to conditions

File # SAT-STA-2010 0310-00041

Call Sign S2439 Grant Date 05/12/10

(or other identifier)

Term Dates From 04/24/10 To: 180 days

Approved by OMB 3060-0678

Approved: Stephen J. Duall

Chief, Satellite Policy Branch

Date & Time Filed: Mar 10 2010 11:07:36:136AM
File Number: SAT-STA-20100310-00041
Callsign:

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:
Request to Renew Special Temporary Authority to Operate EchoStar 8 at 77 W.L. for 180 Days

1. Applicant
Name: EchoStar Corporation Phone Number: 303-723-1000
DBA Name: Fax Number:
Street: 100 Inverness Terrace East E-Mail:
City: Englewood State: CO
Country: USA Zipcode: 80112 -
Attention: Linda Kinney - (202)293-0981

ATTACHMENT


IBFS File Nos. SAT-STA-20100310-00041

Call Sign: S2439

Grant Date: May 12, 2010

EchoStar Corporation's (EchoStar) request for special temporary authority, File No. SAT-STA-20100310-00041 IS GRANTED. Accordingly, EchoStar is authorized to continue to conduct Tracking, Telemetry, and Command (TT&C) necessary to maintain the EchoStar 8 satellite at the 77° W.L. orbital location, and is authorized to operate the EchoStar 8 satellite at that location for 180 days commencing April 24, 2010, subject to the following conditions:

1. At the 77° W.L. orbital location, EchoStar shall operate the EchoStar 8 satellite in accordance with the operator arrangement referenced in the Letter dated October 23, 2008 from William M. Wiltshire, Counsel for DIRECTV Enterprises, LLC to the Secretary of the Federal Communications Commission (FCC).
2. All operations of the EchoStar 8 satellite at the 77° W.L. orbital location shall be on a non-harmful interference basis. EchoStar 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.
3. In the event of any harmful interference as a result of EchoStar's operation of the EchoStar 8 satellite at the 77° W.L. orbital location, EchoStar shall cease operations immediately upon notification of such interference and shall inform the FCC, in writing, immediately of such an event.
4. EchoStar shall inform its customers that operations at the 77° W.L. orbital location from the EchoStar 8 satellite are on a non-harmful interference basis, and that EchoStar must cease operations upon notification of such interference.

	
Title #	<u>SAT- STA- 20100310 - 00041</u>
Call Sign	<u>S2439</u>
(or other identifier)	Grant Date <u>05/12/10</u>
From	Term Dates
<u>04/24/10</u>	Period of
To:	<u>180 days</u>
Approved:	<u><i>Stephen J. Duall</i></u>
	Stephen J. Duall
	Chief, Satellite Policy Branch

*subject to conditions

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
2010-10-20 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.)

EchoStar Corporation seeks to renew its special temporary authority to operate the EchoStar 8 satellite under U.S. authority at 77 W.L. for 180 days pending transfer of the satellite to Mexican authority. 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 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.⁴

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.⁵ The operation of EchoStar 4 at 77° W.L. is governed by an agreement between EchoStar and SES Global Latin America, S.A. (SES),⁶ and by a related

⁴ Secretariat of Communications and Transportation Vice-Ministry of Communications, Concesion Para Ocupar La Posicion Orbital Geoespacial 77° Oeste Asignada al Pais y Explotar Sus Respctivas 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.

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

⁶ 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.⁷ In addition, EchoStar has received authority to serve the United States from EchoStar 4 as a foreign-licensed satellite.⁸ The EchoStar 4 satellite, however, can only provide service to the southern United States from 77° W.L.⁹

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

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

⁷ *BSS Concession*, *supra* note 1, Attachment 2.

⁸ *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.

⁹ *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.”¹⁰ 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

¹⁰ 77° W.L. Order, *supra* note 5, at ¶ 8.

satellites.¹¹ 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 IR satellite operating at that slot.¹²

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.¹³

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.

¹¹ See File No. SAT-STA-20080616-00121, Narrative.

¹² 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).

¹³ *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,

/s/

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March 10, 2010