

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

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In the Matter of)

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ECHOSTAR CORPORATION) File No. SAT-STA-2010____-____

) Call Sign S2621

Application for Special Temporary Authority)

to Move EchoStar 4 to 86.5° W.L.)

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EXPEDITED CONSIDERATION REQUESTED

APPLICATION FOR SPECIAL TEMPORARY AUTHORITY

By this application, and pursuant to Section 25.120(b)(4) of the Commission’s rules, 47 C.F.R. § 25.120(b)(4), EchoStar Corporation (“EchoStar”) respectfully requests Special Temporary Authority (“STA”) to move the EchoStar 4 satellite to the 86.5° W.L. orbital slot from the 77° W.L. orbital location, where it is currently stationed as a Direct Broadcast Satellite (“DBS”) Mexican-licensed satellite. The grant of this application will not cause harmful interference to any authorized user of the spectrum, and is in the public interest. The move will specifically permit the early provision of DBS services from the 86.5° W.L. orbital location without loss of any services from 77° W.L.

In parallel with this application, EchoStar requests STA to operate on the DBS frequencies of the 86.5° W.L. orbital location by using the EchoStar 4 satellite.¹

¹ See File No. SAT-STA-2010____-____. Today, EchoStar is also filing two requests for STA to operate the satellite at 86.5° W.L. – one for 30 days and one for 180 days thereafter. EchoStar also intends to request modification of its underlying authorization. In evaluating this STA request, however, the Commission need not address any of the issues arising in that modification application. The move of EchoStar 4 will be at EchoStar’s own risk, and without

EchoStar requests that this STA be granted for 30 days commencing no later than November 1, 2010.

I. BACKGROUND AND INTRODUCTION

EchoStar 4 is currently a Mexican-licensed satellite operating at the 77° W.L. orbital location. The satellite's move to that slot was made subject to an exchange of letters between the Commission and the Mexican Administration.² EchoStar 4's stay at 77° W.L. is further governed by the license granted to EchoStar's partner, QuetzSat, S. de R.L. de C.V. ("QuetzSat"), to use the nominal 77° W.L. orbital location, and by agreements among EchoStar, SES Global Latin America, S.A. ("SES"), and QuetzSat.³

Under these documents, while at 77° W.L., EchoStar 4 is under the direct control of QuetzSat, which is allowed to use the nominal 77° W.L. orbital location pursuant to the February 2, 2005 BSS Concession.⁴ But the exchange of letters also established a clear distinction between the satellite's operations at 77° W.L. and any future operations at another orbital location: "Any operations of the EchoStar 4, other than at the 77° W.L. orbital location, will be

prejudice to the Commission's ability to judge the modification application on its merits. In addition, EchoStar intends to file STA requests and modification applications for four earth stations, Call Signs E020248, E020306, E070014, and E980005, to conduct TT&C communications during the move to, and on-station at, 86.5° W.L.

² See EchoStar Satellite LLC Application for Special Temporary Authority to Conduct Telemetry, Tracking, and Command Operations during the Relocation of EchoStar 4 to the 77° W.L. Orbital Location, *Order and Authorization*, 21 FCC Rcd. 4077 at Appendix A (2006) ("77° W.L. Order").

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

⁴ BSS Concession, *filed in* EchoStar 8 STA Application, Attachment 2.

subject to issuance of a new authorization by the FCC.”⁵ Accordingly, the relocation of EchoStar 4 to the 86.5° W.L. orbital location requires the Commission’s authorization because EchoStar 4 would no longer be “flagged” as a Mexican-licensed satellite, but a U.S.-licensed satellite. EchoStar, moreover, understands that neither the Mexican Administration nor QuetzSat objects to the satellite’s move.⁶

II. GRANT OF THIS APPLICATION IS IN THE PUBLIC INTEREST AND WILL NOT CAUSE HARMFUL INTERFERENCE

The relocation of EchoStar 4 to 86.5° W.L. will not cause harmful interference to any other satellite operator, and will serve the public interest, convenience and necessity.⁷ During the transition from 77° W.L. to 86.5° W.L., regular BSS transmissions on the EchoStar 4 satellite will remain switched off, with only telemetry, tracking and control (“TT&C”) operations being performed. EchoStar will coordinate its TT&C operations with all potentially affected operating satellite networks.

EchoStar 4 will not cause harmful interference at 86.5° W.L. to other authorized satellites during its move because EchoStar 4 will operate on an unprotected, non-harmful interference

⁵ *77° W.L. Order*, Appendix A at 8.

⁶ According to the exchange of letters, “in the event that there are any provisions in the Concession, or any provisions in the Mexican laws and regulations governing the telecommunications operations of EchoStar that would preclude or otherwise limit the exercise of EchoStar’s contractual rights within the time frames specified in the EchoStar/SES Agreement, the FCC would appreciate the opportunity to consult with SCT prior to any exercise of such licensing authority or application of such law or regulation by SCT.” *Id.*, Appendix A at 9. In response, the Mexican Administration has stated that “there are no provisions in the license, in our laws or in our regulation that may be applied to directly hinder or limit EchoStar from exercising its contractual rights with SES.” *Id.*, Appendix A at 16.

⁷ See e.g., *Newcomb Communs., Inc.*, 8 FCC Rcd. 3631, 3633 (1993); *Columbia Comms. Corp.*, 11 FCC Rcd. 8639, 8640 (1996); *Am. Tel. & Tel. Co.*, 8 FCC Rcd. 8742 (1993).

basis. In the event that the satellite causes harmful interference, EchoStar will cease operations immediately.

The move of the satellite will not result in loss of any service from 77° W.L., where another two EchoStar satellites, EchoStar 8 and EchoStar 1, are now operational.⁸

The public interest will be served by the grant of this application, as it will usher in access to additional DBS satellite capacity for U.S. consumers, years ahead of the timeline contemplated in EchoStar's authorization for 86.5° W.L., thereby increasing the video programming options available to them. Among other things, EchoStar 4 will provide high-definition ("HD") local-into-local broadcast service to the United States from the 86.5° W.L. orbital location.

III. REQUEST FOR EXPEDITED CONSIDERATION

EchoStar respectfully requests that the Commission grant the requested authority by no later than **November 1, 2010** so that EchoStar's customer, DISH Network, can marshal this additional capability to provide additional HD programming. In particular, the prompt move of EchoStar 4 will help DISH in its efforts to comply with the upcoming February 2011 deadline in the Commission's timeline for HD local station carriage.⁹

⁸ See Stamp Grant, File No. SAT-T/C-20090217-00026, Call Sign S2439 (granted Sept. 17, 2010) (EchoStar 8); Stamp Grant, File No. SAT-T/C-20090217-00027, Call Sign S2739 (granted Sept. 17, 2010) (EchoStar 1). Pursuant to an exchange of letters between the Commission and the Mexican Administration, "EchoStar 1 and EchoStar 8 spacecraft will operate at the 77° W.L. orbital location subject to Mexican authority." *Id.* at Annex A, 2.

⁹ Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules, *Second Report and Order, Memorandum Opinion and Order, and Second Further Notice of Proposed Rulemaking*, 23 FCC Rcd. 5351 ¶ 8 (2008) (requiring 30 percent of each satellite carrier's HD markets to comply with the HD carry-one, carry-all requirement no later than February 17, 2011).

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, 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.

V. CONCLUSION

For the foregoing reasons, EchoStar respectfully requests the grant of its application for special temporary authority to move EchoStar 4 to 86.5° W.L.

During the relocation, all transponders other than TT&C transponders will be switched off, and EchoStar will operate the satellite subject to the following conditions.

- a) EchoStar shall coordinate all drift operations with other potentially affected in-orbit operators.
- b) During relocation of the EchoStar 4 satellite, operations shall be on a non-harmful interference basis, meaning that EchoStar shall not cause interference to, and shall not claim protection from interference caused to it by any other lawfully operating satellites.
- c) In the event that any harmful interference is caused as a result of operations during the relocation of the EchoStar 4 satellite, EchoStar shall cease operations immediately upon notification of such interference and shall inform the Commission immediately, in writing, of such event.

Respectfully submitted,

EchoStar Corporation

_____/s/_____

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