

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

In the Matter of)	
)	
)	
ECHOSTAR CORPORATION)	File No. SAT-STA-20100615-00134
)	File No. SAT-STA-20100830-00184
Request for Renewal of Special Temporary)	File No. SAT-STA-2010____-____
Authority to Operate the EchoStar 15 Satellite)	Call Sign S2811
Over Channels 23 and 24 at the 61.55° W.L.)	
Orbital Location)	

REQUEST FOR RENEWAL OF SPECIAL TEMPORARY AUTHORITY

EchoStar Corporation (“EchoStar”)¹ requests renewal of its special temporary authority (“STA”) to operate its EchoStar 15 satellite on the Direct Broadcast Satellite (“DBS”) Channels 23 and 24 at the 61.55° W.L. orbital location for an additional 180 days.² The current STA expires on April 15, 2011.³ For the reasons set forth below, grant of this renewal request will continue to serve the public interest.

¹ On February 24, 2011, EchoStar filed an application, which remains pending, requesting consent to the *pro forma* assignment of its authorization to operate the EchoStar 15 satellite (Call Sign S2811) and the special temporary authority to operate the satellite over Channels 23 and 24 at 61.5° W.L. to the recently formed EchoStar Satellite Operating Corporation. See File No. SAT-ASG-20110224-00033 (filed Feb. 24, 2011). EchoStar requests that, in the event this STA request is granted prior to consummation of the *pro forma* assignment, that EchoStar be authorized to assign any authority granted in response to this request on a *pro forma* basis to EchoStar Satellite Operating Corporation.

² See Stamp Grant, File No. SAT-STA-20100830-00184 (granted Oct. 21, 2010); EchoStar Corporation, Application for Special Temporary Authority to Operate the EchoStar 15 Satellite on Channels 23 and 24 at the 61.55° W.L. Orbital Location, *Order and Authorization*, 25 FCC Rcd. 10980 (2010) (“*EchoStar 15 STA Order*”).

³ See Stamp Grant, File No. SAT-STA-20100830-00184 (granted Oct. 21, 2010).

I. BACKGROUND AND PROCEDURAL HISTORY

As EchoStar's predecessor-in-interest, EchoStar Satellite Operating Corporation ("ESOC") explained in the original STA request, DBS Channels 23 and 24 at the 61.5° W.L. orbital location have a "unique" history. In stark contrast to the vast majority of DBS spectrum, these channels have remained unassigned and unlicensed. In fact, these channels "are the only two remaining unassigned DBS channels in the 12 GHz band that are assigned to the United States that can provide service to most of the contiguous United States."⁴

The future of these unassigned channels is, however, also subject to the uncertainty surrounding the *Northpoint* decision that vacated the Commission's DBS auction rules, and the DBS freeze implemented by the Commission in response to that decision.⁵ As a result, a new licensee will not be in a position to provide services from these channels for a number of years. In fact, while the Commission initiated a proceeding in 2006 to establish the mechanism by which these channels could be ultimately licensed and operated, that proceeding is still pending.⁶

In an effort to ensure that such valuable spectrum does not lie fallow, the Commission has provided STAs to DBS providers to operate on these channels for nearly thirteen years subject to different conditions. The Commission initially granted EchoStar's predecessor an

⁴ Rainbow DBS Company, LLC and EchoStar Satellite L.L.C., *Memorandum Opinion and Order*, 20 FCC Rcd. 16868 ¶ 29 (2005) ("*Rainbow 1 Assignment Order*").

⁵ *Northpoint Technology Ltd. v. FCC*, 412 F.3d 145 (D.C. Cir. 2005); Public Notice, *Direct Broadcast Satellite (DBS) Service Auction Nullified: Commission Sets Forth Refund Procedures for Auction No. 52 Winning Bidders and Adopts a Freeze on All New DBS Service Applications*, FCC 05-213 (rel. Dec. 21, 2005). The DBS freeze does not apply to "requests for special temporary authority." *Id.* at 2.

⁶ See Amendment of the Commission's Policies and Rules for Processing Applications in the Direct Broadcast Satellite Service in the United States, *Notice of Proposed Rulemaking*, 21 FCC Rcd. 9443 (2006).

STA to operate on the unassigned channels as well as 8 channels assigned to Dominion Video Satellite, Inc. and the 11 channels assigned to Rainbow on March 21, 1998.⁷ Rainbow subsequently operated on the unassigned channels for a two-year period⁸ before ESOC acquired the Rainbow 1 satellite and regained authority in 2005.⁹ On January 1, 2008, ESOC assigned the STA to EchoStar as part of a *pro forma* corporate reorganization under which ESOC's parent, EchoStar Communications Corporation, spun off its wholly-owned subsidiary, EchoStar.¹⁰ The Commission has highlighted repeatedly "the importance of ensuring that spectrum can continue to serve the public rather than lying fallow unnecessarily, even on a temporary basis."¹¹ During the past thirteen years, the flexibility provided by this much-needed capacity has proven instrumental to DBS providers.

⁷ See Direct Broadcasting Satellite Corporation, Application for Special Temporary Authority to Operate a Direct Broadcast Satellite Over Channels 1-21 (odd) and 23-32 (odd and even) at 61.5° W.L., *Memorandum Opinion and Order*, 13 FCC Rcd. 6392 (1998) ("*EchoStar 1998 STA Grant*"). For a full description of the regulatory history of these channels, see File No. SAT-STA-20090821-00092, Narrative at n.4 (granted Dec. 1, 2009).

⁸ Rainbow DBS Company, LLC received STA to operate on the unassigned channels in 2003. EchoStar Satellite Corporation and Rainbow DBS Company LLC, *Order and Authorization*, 18 FCC Rcd. 19825 (2003) ("*Rainbow STA Order*").

⁹ The Rainbow STA was assigned to EchoStar Satellite L.L.C. ("ESLLC") in October 2005 as part of the sale of the Rainbow 1 satellite to EchoStar. See Stamp Grant, File No. SAT-STA-20050926-00183 (granted Sept. 30, 2005); see also *Rainbow 1 Assignment Order*. The STA was then assigned from ESLLC to ESOC in September 2006. See Application for Pro Forma Assignment of Licenses from EchoStar Satellite L.L.C. to EchoStar Satellite Operating Corporation, File No. SAT-ASG-20051129-00256 (granted Sep. 13, 2006).

¹⁰ See Public Notice, Policy Branch Information Actions Taken, DA 07-4655 (rel. Nov. 16, 2007) (consenting to the transfer of several authorizations as part of the spin-off).

¹¹ *Rainbow STA Order* ¶ 8; see also *EchoStar 1998 STA Grant* ¶ 7 ("furthering the Commission's objective to make efficient use of available spectrum").

On August 18, 2010, the Bureau granted EchoStar STA for 30 days to operate on Channels 23 and 24 for its recently launched DBS satellite, EchoStar 15, which replaced the EchoStar 3 satellite at the 61.55° W.L. orbital location.¹² On October 21, 2010, the Bureau renewed EchoStar's STA authority to operate EchoStar 15 on Channels 23 and 24, which expires on April 16, 2011.¹³ With this application, EchoStar again requests renewal of its STA.

II. GRANT OF A RENEWAL STA WOULD CONTINUE TO SERVE THE PUBLIC INTEREST

On July 10, 2010, EchoStar successfully launched EchoStar 15, a 32-transponder-capable DBS satellite that, in light of the loss of AMC-14, will effectively replace EchoStar 3 at 61.5° W.L. The satellite became fully operational on August 5, 2010.¹⁴ EchoStar is currently transmitting on Channels 23 and 24 from the EchoStar 15 satellite pursuant to its STA.¹⁵ In the event of a technical failure on EchoStar 15, EchoStar intends to apply for a renewal STA for the EchoStar 12 satellite to provide continuous service to its customer on the two channels.

As explained in the original EchoStar 15 STA application, which is hereby incorporated by reference, the "CONUS-plus" capability of EchoStar 15 increases the capacity of EchoStar's customer, DISH Network L.L.C. ("DISH"), to provide High-Definition programming to subscribers, and its advanced spot-beam technology will enhance DISH's ability to provide

¹² *EchoStar 15 STA Order* ¶ 1.

¹³ *See* Stamp Grant, File No. SAT-STA-20100830-00184 (granted Oct. 21, 2010).

¹⁴ *See* Letter from Christopher R. Bjornson, Counsel for DISH Operating L.L.C. to Robert Nelson, Chief, Satellite Division, International Bureau, Federal Communications Commission (Aug. 6, 2010), *filed in* File No. SAT-LOA-20100310-00043.

¹⁵ *See* Stamp Grant, File No. SAT-STA-20100830-00184 (granted Oct. 21, 2010).

local-into-local stations across the country.¹⁶ The requested STA will continue to ensure improved services are available to its customers. EchoStar agrees to comply with the conditions set forth in the *EchoStar 15 STA Order*.¹⁷

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.

IV. CONCLUSION

For the foregoing reasons, EchoStar respectfully requests that the Commission renew its STA to operate the EchoStar 15 satellite at the 61.55° W.L. orbital location on Channels 23 and 24 for an additional 180 days.

Respectfully submitted,

/s/

Pantelis Michalopoulos
Petra A. Vorwig
L. Lisa Sandoval
Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, D.C. 20036
(202) 429-3000

Alison Minea
Corporate Counsel
EchoStar Corporation
1110 Vermont Avenue, NW, Suite 750
Washington, D.C. 20005
(202) 293-0981

Counsel for EchoStar Corporation

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¹⁶ See File No. SAT-STA-20100615-00134, Narrative at 2 (filed June 15, 2010).

¹⁷ *EchoStar 15 STA Order* ¶¶ 9-17.