

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

In the Matter of Application of

ECHOSTAR SATELLITE OPERATING  
CORPORATION

For Special Temporary Authority to Relocate  
the EchoStar 3 Satellite to 68.5° W.L. and to  
Operate the EchoStar 3 Satellite at 68.5° W.L.

Call Sign: S2741

*EXPEDITED ACTION REQUESTED*

**APPLICATION OF ECHOSTAR SATELLITE OPERATING CORPORATION**

**I. INTRODUCTION AND SUMMARY**

EchoStar Satellite Operating Corporation (“EchoStar”) hereby respectfully requests space station special temporary authority (“STA”) for a period of thirty days beginning on or about November 1, 2011 to relocate the EchoStar 3 Direct Broadcast Satellite (“DBS”) service spacecraft from 61.45° W.L. to 68.5° W.L. and to operate the satellite at that location upon arrival. This request is intended to facilitate implementation of an agreement that EchoStar and SES Satellites (Gibraltar) Limited (“SES Gibraltar” and together with its affiliates, “SES”) are diligently working to finalize and that will be the subject of a future transfer application.<sup>1</sup>

Specifically, to assist in this expected arrangement with SES, EchoStar seeks space station STA to relocate the EchoStar 3 satellite to 68.5° W.L. and operate EchoStar 3 at that location pending action on an application to transfer the licensing jurisdiction of the satellite from the United

---

<sup>1</sup> A commonly-owned affiliate of SES Gibraltar, New Skies Satellites B.V., will be the contracting party for SES. Promptly upon the agreement’s completion, EchoStar will submit this agreement to the Commission in conjunction with its request to transfer the licensing jurisdiction of the EchoStar 3 satellite. EchoStar intends to submit an unredacted version under a request for confidentiality, along with a redacted version for public filing.

States to Gibraltar, an overseas territory of the United Kingdom, for operations at 68.5° W.L. under authority held by SES Gibraltar.<sup>2</sup>

As the Commission is aware, SES Gibraltar is a company formed under the laws of Gibraltar.<sup>3</sup> SES and EchoStar expect to enter into a contractual arrangement pursuant to which EchoStar will make its EchoStar 3 satellite available to introduce new DBS service into South America.

## **II. GRANT OF THIS APPLICATION IS IN THE PUBLIC INTEREST**

The grant of authority to relocate EchoStar 3 to 68.5° W.L. will serve the public interest and will not cause harmful interference to any authorized user of the spectrum. Specifically, the redeployment of the EchoStar 3 satellite to 68.5° W.L. will permit SES and EchoStar to explore the demand for various DBS services in South America.<sup>4</sup> EchoStar 3 is currently an in-orbit

---

<sup>2</sup> SES Gibraltar is authorized by the Gibraltar Regulatory Authority to utilize the DBS frequencies at 68.5° W.L. under a modification to the ITU Region 2 BSS and Feeder Link Plans submitted on behalf of Gibraltar by the United Kingdom. EchoStar's affiliate is also requesting STA today to permit its earth stations in Gilbert, AZ and Meade, SD to communicate with EchoStar 3 to perform telemetry, tracking and command to drift EchoStar 3 to 68.5° W.L. and maintain the satellite at that location pending action on applications to modify the earth station licenses to permit them to communicate with EchoStar 3 after its relocation – applications which will be filed subsequently.

<sup>3</sup> SES Gibraltar is licensed to operate satellites that have been authorized to serve the U.S. *See* SES Americom, Inc. and SES Satellites (Gibraltar) Ltd., Call Sign S2676, File No. SAT-ASG-20080609-00120 (granted Aug. 6, 2008) (authorizing SES Gibraltar to serve the U.S. using the AMC-21 satellite at 124.9° W.L.); SES Satellites (Gibraltar) Ltd., Call Sign S2713, File No. SAT-PPL-20061006-00118 (granted Dec. 7, 2006) (authorizing SES Gibraltar to serve the U.S. using the AMC-18 satellite at 104.95° W.L.). In addition, SES Gibraltar has a pending petition for declaratory ruling to serve the U.S. using the NSS-703 satellite at the 47.05° W.L. orbital location. *See* SES Satellites (Gibraltar) Ltd., Call Sign S2818, File No. SAT-PPL-20101103-00230 (filed Nov. 3, 2010); SES Satellites (Gibraltar) Ltd., Call Sign S2818, File No. SAT-APL-20110120-00015 (filed Jan. 20, 2011).

<sup>4</sup> Because the satellite will not provide U.S. service at 68.5° W.L., the instant STA request is not subject to the freeze barring the filing of applications for authority to serve U.S. customers from a new DBS orbital location. *See* 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, Public Notice, 20 FCC Rcd. 20618, 20620 (2005)

spare satellite located at 61.45° W.L. under a grant of STA<sup>5</sup> first received on July 7, 2010, and periodically renewed since. Two other satellites – the recently launched EchoStar 15 and EchoStar 12 – currently operate using the DBS channels licensed to EchoStar at the nominal 61.5° W.L. orbital location.

EchoStar proposes to commence relocation of EchoStar 3 to 68.5° W.L. pursuant to the requested STA at its own risk. Specifically, EchoStar requests authority to perform telemetry, tracking, and command (“TT&C”) in order to relocate EchoStar 3 from 61.45° W.L. to 68.5° W.L. and authority to operate both the TT&C and DBS communications payloads on EchoStar 3 after it has arrived at 68.5° W.L., subject to and consistent with the appropriate authorizations from the relevant jurisdictions into which service is anticipated.

By relocating EchoStar 3, EchoStar can make use of an available satellite to accommodate the requirements of its partner, SES, for capacity to develop a new DBS service in South America.<sup>6</sup> SES and EchoStar have partnered successfully in the past to develop other

---

(barring the filing of “any application for authority to provide DBS service to the United States”). To the extent the Commission disagrees, EchoStar requests any necessary waiver of the freeze to allow communication with EchoStar 3 for TT&C purposes only. Such authority would not conflict with the purpose of the freeze, which is in force only “pending Commission consideration of the appropriate processing rules for applications to provide DBS in the United States.” *Id.* at 20618.

<sup>5</sup> See EchoStar Satellite Operating Corp., Call Sign S2741, File No. SAT-STA-20110525-00097 (granted May 27, 2011).

<sup>6</sup> Among other things, SES and EchoStar plan to explore whether there is significant demand for U.S. programming content from the sizeable U.S. expatriate community in Brazil and neighboring countries. State Department figures show, for example, that approximately 60,000 U.S. citizens currently live in Brazil, another 60,000 in Colombia, and a further 52,000 collectively in neighboring Argentina and Chile. See U.S. Department of State, Background Note: Brazil, <http://www.state.gov/r/pa/ei/bgn/35640.htm> (last visited Aug. 30, 2011); U.S. Department of State, Background Note: Colombia, <http://www.state.gov/r/pa/ei/bgn/35754.htm> (last visited Aug. 30, 2011); U.S. Department of State, Background Note: Argentina, <http://www.state.gov/r/pa/ei/bgn/26516.htm> (last visited Aug. 30, 2011); U.S. Department of State, Background Note: Chile, <http://www.state.gov/r/pa/ei/bgn/1981.htm> (last visited Aug. 30, 2011).

DBS locations, such as at 129° W.L. and 77° W.L. In the case of 129° W.L., the initial deployment of EchoStar 5 to that location was followed by the launch of Ciel-2, a new spot-beam satellite that is used today to deliver local-into-local service to millions of U.S. households. In the case of 77° W.L, the initial deployment of a series of EchoStar satellites has enabled the establishment of the new DISH Mexico service, which serves over a million subscribers.

Relocation of EchoStar 3 to 68.5° W.L. as proposed herein will not harm adjacent satellite operators. Operations of EchoStar 3 at 68.5° W.L. will be pursuant to a modification to the ITU Region 2 BSS and Feeder Link Plans submitted on behalf of Gibraltar by the United Kingdom. SES Gibraltar has advised EchoStar that the coordination of the proposed DBS services is nearly complete.

The Gilbert and Meade earth stations are currently authorized to communicate with EchoStar 3, and their licenses cover a coordination arc that includes the 68.5° W.L. orbital location.<sup>7</sup> Operation of these facilities pursuant to an associated STA request filed today will conform to the existing license terms – the only change will be to the location of the EchoStar 3 satellite.

Importantly, there will be no adverse effect on existing customers because the EchoStar 3 satellite itself is not carrying any traffic. The satellite's capacity has already been replaced by EchoStar 15, which in turn is backed up by the capacity on EchoStar 12. Both satellites are in

---

SES and EchoStar believe that positioning EchoStar 3 at 68.5° W.L. will put them in a position to provide services to these populations while developing an additional market for U.S. programming content. This marketing plan is not new to EchoStar: it is the converse of the plan that has made EchoStar's partner, DISH Network Corporation, the leading distributor of programming to ethnic communities such as the Latin American and Hispanic communities in the United States.

<sup>7</sup> See Call Sign E010242, File No. SES-LIC-20010831-01649, at Section C (granted Nov. 2, 2001); Call Sign E020248, File No. SES-MFS-20071004-01376, at Section C (granted Feb. 7, 2008).

good health. In addition, as the Commission is aware, EchoStar plans to launch the EchoStar 16 satellite to the nominal 61.5° W.L. orbital location next year.

EchoStar 3 is expected to remain indefinitely at its new proposed orbital location, unless it is needed to provide capacity in the event of an anomaly affecting another satellite in the EchoStar fleet. Any final agreement for the use of EchoStar 3 at 68.5 W.L. will include an express exception permitting EchoStar to relocate the satellite in the event that it is needed to backstop U.S. service due to an anomaly on another DBS satellite operated by EchoStar.

Grant of the requested authority is consistent with Commission precedent. Under a very similar set of facts, the Commission authorized Intelsat to relocate the Galaxy 27 satellite from 129° W.L. to 45.10° E.L. and to operate the satellite at 45.10° E.L. to provide services outside the United States.<sup>8</sup> Permission to utilize this otherwise idle satellite to develop new business opportunities, which could result in additional growth in EchoStar's video franchise, is certainly in the public interest given that it is a U.S. listed publically owned corporation.

### **III. OPERATIONAL PARAMETERS**

During the relocation to 68.5° W.L., EchoStar will not operate the communications payload on EchoStar 3, and EchoStar will follow standard industry practices for coordination of TT&C transmissions during the relocation process.<sup>9</sup> EchoStar will operate the satellite subject to the following conditions during the relocation maneuvers:

---

<sup>8</sup> See Intelsat North America LLC, Call Sign S2159, File Nos. SAT-STA-20100105-00004 (granted March 11, 2010) (authorizing drift of Galaxy 27 from 129° W.L. to 45.10° E.L.); SAT-STA-20100528-00116 (granted June 2, 2010) (authorizing activation of the Galaxy 27 communications payload at 45.10° E.L.); SAT-T/C-20100112-00009 (granted July 30, 2010) (transferring Galaxy 27 from U.S. licensing authority to German licensing authority for operations at 45.10° E.L.).

<sup>9</sup> During the drift from 61.45° W.L. to 68.5° W.L., EchoStar will use the following frequencies for TT&C:

1. EchoStar shall coordinate all drift operations with other potentially affected in-orbit operators.
2. Drift 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.
3. In the event that any harmful interference is caused as a result of relocation operations, EchoStar shall cease operations immediately upon notification of such interference and shall inform the Commission immediately, in writing, of such event.

Upon arrival at 68.5° W.L., EchoStar 3 will operate in the DBS band (12.2-12.7 GHz downlinks and 17.3-17.8 GHz uplinks) with coverage of South America. While EchoStar 3 is stationed at 68.5° W.L., EchoStar will operate the satellite in accordance with the following conditions:

1. 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 within the parameters of applicable international coordination agreements.
2. In the event that any harmful interference is caused while the satellite is operating at 68.5° W.L., EchoStar shall cease operations immediately upon notification of such interference and shall inform the Commission immediately, in writing, of such event.

#### **IV. WAIVER PURSUANT TO SECTION 304 OF THE ACT**

EchoStar 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, and requests an authorization in accordance with this application.

#### **V. CONCLUSION**

For the foregoing reasons, EchoStar seeks temporary authority for a period of up to thirty days beginning on or about November 1, 2011 to perform TT&C in order to relocate EchoStar 3

---

Uplink: 17301.5 MHz  
Downlink: 12201.0, 12203.0, and 12699.0 MHz



### RESPONSE TO QUESTION 36

In a letter dated May 27, 2009, the Satellite Division of the International Bureau returned the application of EchoStar Corporation (along with its subsidiaries, “EchoStar”) to operate a geostationary C-band satellite at the nominal 85° W.L. orbital location as unacceptable for filing, without prejudice to refiling. *See* Letter from Robert G. Nelson, Chief, Satellite Division, to Pantelis Michalopoulos, Counsel for EchoStar Corporation, DA 09-1149 (May 27, 2009).

On July 29, 2010, the International Bureau (“IB”) dismissed EchoStar’s application to construct, launch, and operate a C-band satellite at the 84.9° W.L. orbital location. EchoStar Corporation, Application to Operate a C-Band Geostationary Satellite Orbit Satellite in the Fixed-Satellite Service at the 84.9° W.L. Orbital Location, *Memorandum Opinion and Order*, DA 10-1401 (July 29, 2010).

On July 26, 2011, the IB declared null and void EchoStar’s authorization to construct, launch, and operate a new Direct Broadcast Satellite at 86.5° W.L. for failure to meet the critical design review milestone, and rejected EchoStar’s request to modify its 86.5° W.L. authorization to allow the in-orbit EchoStar 8 satellite to provide service from that orbital location. *See* EchoStar Corporation, Certifications of Milestone Compliance, *Memorandum Opinion and Order*, DA 11-1251 (rel. July 26, 2011). EchoStar has filed a petition for reconsideration of the IB’s decision. *See* EchoStar Satellite Operating Corporation, Petition for Reconsideration, File Nos. SAT-LOA-2003-0609-00113, SAT-MOD-2081229-00239, SAT-MOD-20101124-00244, SAT-AMD-20110330-00065 (filed Aug. 25, 2011).

## RESPONSE TO QUESTION 40

### Ownership and Corporate Officers and Directors

#### OWNERSHIP

EchoStar Corporation (“EchoStar”) is a publicly traded Nevada corporation. EchoStar Satellite Operating Corporation is a wholly owned subsidiary of EchoStar. The stockholders owning of record and/or voting 10 percent or more of the voting stock of EchoStar included:

| <b>Ownership Interest</b>  | <b>Citizenship</b> | <b>Approx.<br/>Equity<br/>Interest<sup>1</sup></b> | <b>Approx.<br/>Voting<br/>Interest<sup>1</sup></b> |
|--|--------------------|--|--|
| Charles W. Ergen <sup>2</sup><br>Chairman<br>EchoStar Corporation<br>100 Inverness Terrace East<br>Englewood, CO 80112 | USA                | 56% <sup>3</sup>                                   | 92.7%  |

---

<sup>1</sup> As of August 8, 2011.

<sup>2</sup> Includes ownership of both Class A Common Stock and Class B Common Stock. A portion of Mr. Ergen’s interest in EchoStar is held in trusts, including Grantor Retained Annuity Trusts (“GRATs”). The trustee for the GRATs is Mr. William R. Gouger, a U.S. citizen and manager of SC Management, LLC, whose principal business is management services, including estate planning. Mr. Gouger also remains a Partner with the law firm of Gouger, Franzmann & Redman, LLC, located at 400 Inverness Parkway, Suite 250, Englewood, Colorado 80112. In his capacity as trustee, subject to certain restrictions, Mr. Gouger holds, and has the ability to exercise voting power over, shares representing 21.8% of the equity interests (assuming conversion of all shares of outstanding Class B Common Stock into Class A Common Stock) and 36.7% of the voting interests in EchoStar (assuming no conversion of Class B Common Stock).

<sup>3</sup> Assumes conversion of all shares of outstanding Class B Common Stock into Class A Common Stock.

## **CORPORATE OFFICERS AND DIRECTORS<sup>4</sup>**

### **EchoStar Corporation**

#### **Executive Officers:**

|                   |   |
|-------------------|---|
| Michael T. Dugan  | President and Chief Executive Officer                   |
| Charles W. Ergen  | Chairman  |
| R. Stanton Dodge  | Executive Vice President, General Counsel and Secretary |
| David Rayner      | Chief Financial Officer                                 |
| Anders Johnson    | President – EchoStar Satellite Services                 |
| Roger J. Lynch    | Executive Vice President, Advanced Technologies         |
| Mark W. Jackson   | President – EchoStar Technologies L.L.C.                |
| Steven B. Schaver | President – EchoStar International Corporation          |

#### **Board of Directors:**

|                      |                       |
|----------------------|-----------------------|
| Charles W. Ergen     | Chairman of the Board |
| R. Stanton Dodge     |                       |
| David K. Moskowitz   |                       |
| Michael T. Dugan     |                       |
| Anthony M. Federico  |                       |
| Tom A. Ortolf        |                       |
| C. Michael Schroeder |                       |

---

<sup>4</sup> The address for all officers and directors of EchoStar Corporation is 100 Inverness Terrace E., Englewood, CO 80112.