

IB2011004234

S2811 SAT-STA-20110909-00176
EchoStar Satellite Operating Corporation
EchoStar 15

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Callsign:

Approved by OMB
3060-0678

File # **SAT- STA - 20110909-00176**
Call Sign **S2811** Grant Date **10/18/11**
(or other identifier) Term Dates Period of
From **10/14/11** To: **180 days**
Approved: *Stephen J. Duall*



Stephen J. Duall
Stephen J. Duall
Chief, Satellite Policy Branch

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:
Renewal of Special Temporary Authority to Operate EchoStar 15 Over Channels 23 and 24 at 61.55 W.L.

I. Applicant

| | | | |
|-------------------|--|----------------------|--------------|
| Name: | EchoStar Satellite Operating Corporation | Phone Number: | 202-293-0981 |
| DBA Name: | | Fax Number: | |
| Street: | 100 Inverness Terrace East | E-Mail: | |
| City: | Englewood | State: | CO |
| Country: | USA | Zipcode: | 80112 - |
| Attention: | Ms Alison Minea | | |

Attachment to Grant
EchoStar Corporation
IBFS File No. SAT-STA-20110909-00176, Call Sign S2811
October 18, 2011

EchoStar Corporation is granted special temporary authority to continue operating the EchoStar 15 space station (Call Sign S2811) at the 61.55° W.L. orbital location for a period of 180 days commencing on October 14, 2011. Operations pursuant to this authorization shall be in accordance with conditions imposed as part of EchoStar Corporation's authorization to operate EchoStar 15 at this orbital location, granted on August 18, 2010. IBFS File No. SAT-STA-20100615-00134; *see* 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 (Int'l Bur. Sat. Div. 2010).



*with conditions

File # SAT-STA-20110909-00176

Call Sign S2811 Grant Date 10/18/11
(or other identifier)

Term Dates period of
From 10/14/11 To: 180 days

Approved: Stephen J Duall
Stephen J Duall
Chief, Satellite Policy Branch

| | |
|---|---|
| 2. Contact | |
| Name: | Pantelis Michalopoulos |
| Company: | Step toe & Johnson LLP |
| Street: | 1330 Connecticut Avenue, NW |
| City: | Washington |
| Country: | USA |
| Attention: | |
| Phone Number: | (202) 429-6494 |
| Fax Number: | |
| E-Mail: | pmichalopoulos@step toe.com |
| State: | DC |
| Zipcode: | 20036 |
| 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 SATSTA2011052500096 or Submission ID | |
| 4a. Is a fee submitted with this application? | |
| <input checked="" type="radio"/> If Yes, complete and attach FCC Form 159. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114). | |
| <input type="radio"/> Governmental Entity <input type="radio"/> Noncommercial educational licensee | |
| <input type="radio"/> Other (please explain): | |
| 4b. Fee Classification | |
| 5. Type Request | |
| <input type="radio"/> Change Station Location | <input checked="" type="radio"/> Extend Expiration Date |
| | <input type="radio"/> Other |
| 6. Temporary Orbit Location | |
| 61.55 W.L. | 7. Requested Extended Expiration Date |
| | 2012-04-10 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 Satellite Operating Corporation requests a renewal of its special temporary authority to operate the EchoStar 15 satellite over Channels 23 and 24 at 61.55 W.L. 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
Alison Minea

11. Title of Person Signing
Corporate Counsel

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

In the Matter of)

**ECHOSTAR SATELLITE OPERATING
CORPORATION**)

Request for Renewal of Special Temporary
Authority to Operate the EchoStar 15 Satellite
Over Channels 23 and 24 at the 61.55° W.L.
Orbital Location)

) File No. SAT-STA-20110525-00096

) File No. SAT-STA-2011 ____ - ____

) Call Sign S2811

REQUEST FOR RENEWAL OF SPECIAL TEMPORARY AUTHORITY

EchoStar Satellite Operating Corporation (“ESOC”) requests renewal of its special temporary authority (“STA”) to operate the 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.¹ The current STA expires on October 13, 2011.² For the reasons set forth below, grant of this request will serve the public interest.

I. BACKGROUND AND PROCEDURAL HISTORY

As ESOC has previously described to the Commission, DBS channels 23 and 24 at the nominal 61.5° W.L. orbital location have a unique history.³ In stark contrast to the vast majority

¹ See File No. SAT-STA-20110525-00096 (granted May 27, 2011). Following the *pro forma* assignment of the EchoStar 15 satellite from EchoStar Corporation (“EchoStar”) to ESOC, ESOC requested and was granted authority to operate EchoStar 15 on DBS channels 23 and 24 at the 61.55° W.L. orbital location for the remainder of EchoStar’s authorization. See *id.*; File No. SAT-STA-20110303-00048 (granted Apr. 19, 2011) (granting renewal of EchoStar’s STA to operate EchoStar 15 on DBS channels 23 and 24 at 61.55° W.L.).

² See Stamp Grant, File No. SAT-STA-20110525-00096 (granted May 27, 2011).

³ See *id.*

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 STA to DBS providers to operate on these channels for thirteen years subject to different conditions. On March 21, 1998, the Commission granted ESOC’s predecessor-in-interest STA to operate on channels 23 and 24, as well as 8 channels assigned to Dominion Video Satellite, Inc. and 11 channels assigned to Rainbow DBS Company, LLC (“Rainbow”).⁷

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) (stating that the DBS freeze does not apply to “requests for special temporary authority.”).

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).

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).

Rainbow subsequently operated on channels 23 and 24 pursuant to STA for a two-year period⁸ before ESOC's predecessor-in-interest acquired the Rainbow 1 satellite in 2005.⁹ On January 1, 2008, ESOC's predecessor-in-interest assigned the STA to EchoStar as part of a *pro forma* corporate reorganization under which 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.

II. GRANT OF THIS REQUEST WOULD 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-14,¹² effectively replaced EchoStar 3 at the

⁸ Rainbow received STA (the "Rainbow 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 an affiliate, EchoStar Satellite Operating Corporation ("old 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").

¹² *See* Letter from Pantelis Michalopoulos, Counsel for EchoStar Corporation, to Marlene H. Dortch, Secretary, FCC (Dec. 30, 2008), *filed in* File No. SAT-STA-20080923-00193.

nominal 61.5° W.L. orbital location. EchoStar 15 became fully operational on August 5, 2010.¹³ The two unassigned channels 23 and 24 have been operated on EchoStar 15 subject to STA. In the event of a technical failure on EchoStar 15, ESOC intends to apply to renew its 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 filed by EchoStar, which is hereby incorporated by reference, the “CONUS-plus” capability of EchoStar 15 increases the capacity of ESOC’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 local-into-local stations across the country.¹⁴ The requested STA will continue to ensure improved services are available to its customers. ESOC agrees to comply with the conditions set forth in the original order authorizing EchoStar to operate EchoStar 15 over Channels 23 and 24.¹⁵

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, ESOC 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.

¹³ 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.

¹⁴ See File No. SAT-STA-20100615-00134, Narrative at 2 (filed June 15, 2010).

¹⁵ See Stamp Grant, File No. SAT-STA-20110525-00096 (granted May 27, 2011); 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 ¶¶ 9-17 (2010).

IV. CONCLUSION

For the foregoing reasons, ESOC respectfully requests the grant of its application for renewal of its special temporary authority 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/

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September 9, 2011