

**Before the  
Federal Communications Commission  
Washington, DC 20554**

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In the Matter of	)	
	)	
EchoStar Satellite Operating Corporation	)	File No. SAT-STA-20140113-00004
	)	Call Sign S2232
Application for Renewal of Special Temporary	)	
Authority to Operate EchoStar 6 at 96.2° W.L.	)	

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**RESPONSE TO “OPPOSITION”**

EchoStar Satellite Operating Company (“EchoStar”) responds to Spectrum Five LLC’s (“Spectrum Five”) “Opposition”<sup>1</sup> to the above-captioned application (“Application”) for renewal of special temporary authorization (“STA”) to operate the EchoStar 6 satellite at 96.2° W.L.<sup>2</sup> The Opposition – filed by a hypothetical market entrant that has neither launched a single satellite nor provided any service to the public despite 10 years of regulatory activity – is yet another baseless attempt to use the regulatory process to block the development of new services to underserved markets in the mid-Atlantic Ocean region. The Commission should grant the

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<sup>1</sup> See Opposition of Spectrum Five, IBFS File No. SAT-STA-20140113-00004 (Feb. 11, 2014) (“Spectrum Five Opposition”).

<sup>2</sup> See *EchoStar Satellite Operating Company*, Order and Authorization, 28 FCC Rcd 4229 (IB 2013) (“*EchoStar STA Order*”), *aff’d*, 28 FCC Rcd 10412 (2013) (“*EchoStar MO&O*”), *appeal pending sub nom. Spectrum Five LLC v. FCC*, Nos. 13-1231 & 1232 (D.C. Cir. Aug. 2, 2013). As an initial matter, the Opposition was not filed in accordance with Section 25.154(a) of the Commission’s rules. Specifically, the Opposition fails to include any affidavit or specific allegations of fact to demonstrate standing, as required under Section 25.154(a)(4) of the Commission’s rules. See 47 C.F.R. § 25.154(a)(4). Indeed, Spectrum Five lacks the requisite standing as a “party in interest” under Section 309(d) of the Communications Act of 1934, as amended, for the same reasons that it lacks standing to seek Commission review of the *EchoStar STA Order*. See 47 U.S.C. § 309(d); *EchoStar Opposition to Application for Review*, File No. SAT-STA-20130220-00023, at 6-9 (Apr. 22, 2013). Additionally, the Opposition was not filed in response to a public notice accepting the filing of the above-captioned Application. See 47 C.F.R. § 25.154(a)(2). Thus, the Opposition may be classified as an informal objection, rather than a formal petition to deny. See 47 C.F.R. § 25.154(b).

Application expeditiously, and reject the Opposition, for the same reasons set forth in the *EchoStar MO&O*, *EchoStar STA Order*, and EchoStar’s opposition to Spectrum Five’s petition to deny previously filed STA renewal applications.<sup>3</sup>

The Opposition offers no precedent for denial of an STA renewal request, but rather relies solely upon three erroneous claims.<sup>4</sup>

***EchoStar 6’s Operations and Commercial Development Activities***

EchoStar 6 is in operation at 96.2° W.L., and EchoStar has commenced commercial development activities, as it has stated previously.<sup>5</sup> As the Commission is aware, developing a business is a time-intensive activity, and having a satellite in operation does not require commercial activity.<sup>6</sup> EchoStar has begun operation of the satellite and is actively pursuing business development opportunities. For example, EchoStar is engaged in discussions with various commercial partners to bring the benefits of its mobile video service to, for instance, the maritime market, among others in the region. Conclusion of these negotiations will result in the provision of new services to underserved markets in the mid-Atlantic Ocean region.

To this end, grant of the requested STA renewal is warranted. The *EchoStar STA Order* expressly noted EchoStar’s intent to operate EchoStar 6 “to evaluate and develop commercial

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<sup>3</sup> See EchoStar Opposition to Petition to Deny, IBFS File Nos. SAT-STA-20130510-00067 *et al.* (June 3, 2013).

<sup>4</sup> See Spectrum Five Opposition at 2-7.

<sup>5</sup> See EchoStar Application for Renewal of STA, IBFS File No. SAT-STA-20140113-00004, Exh. 1 at 2 (Jan. 13, 2014) (“EchoStar Application”).

<sup>6</sup> The Commission has found that a satellite is “operational based upon the occurrence of transmissions between the satellite and an authorized earth station.” See *Improving Public Safety Communications in the 800 MHz Band*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 4393, ¶ 48 (2008) (emphasis added). Although narrower definitions of satellite “operation” may exist in other contexts, nothing in the *EchoStar STA Order* mandates use of a specific, narrow definition.

service opportunities.”<sup>7</sup> Spectrum Five has acknowledged that there is no immediate requirement for service at 96.2° W.L.<sup>8</sup> Indeed, in affirming the *EchoStar STA Order* on review, the Commission rejected Spectrum Five’s argument that EchoStar cannot show any compelling public interest benefit of the STA grant because there is no immediate requirement for service at 96.2° W.L.<sup>9</sup> Spectrum Five’s Opposition merely seeks to renew the same line of argument that the Commission already has addressed and rejected on the merits.

In any event, contrary to Spectrum Five’s mischaracterizations, EchoStar has taken substantial, concrete actions since the initial STA grant to develop the orbital and spectral resources at 96.2° W.L. for future commercial service to consumers in Bermuda and other underserved markets in the mid-Atlantic Ocean region. For example, on August 14, 2013, EchoStar’s customer and development partner, SES Satellites (Bermuda) Ltd. (“SES”) obtained a license from the Bermuda Ministry of Economic Development to provide satellite service to Bermuda via EchoStar 6. Additionally, EchoStar and SES have held extensive discussions with potential customers/service providers, including active negotiations with a major maritime service provider to offer multichannel video service via satellite to the maritime market in the Atlantic Ocean region. EchoStar and SES also have initiated, and continue to implement, plans for the deployment and licensing of earth station equipment in Bermuda. Moreover, EchoStar and SES have determined that the EchoStar 6 satellite will be used for mobile applications in the maritime environment, and thus are engaged in discussions with mobile vendors to commence testing certain services. Further, EchoStar 6’s communications payload has been activated since

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<sup>7</sup> See *EchoStar STA Order* ¶ 2.

<sup>8</sup> See Spectrum Five Application for Review, IBFS File No. SAT-STA-20130220-00023, at 10-11 (Apr. 5, 2013); Letter from Todd M. Stansbury, Counsel for Spectrum Five, to Marlene H. Dortch, Secretary, IBFS File No. SAT-STA-20130220-00023, at 2-5 (June 4, 2013).

<sup>9</sup> See *EchoStar STA Order* ¶ 15.

November 2013, and is immediately available to perform testing and service transmissions at any time as business demands dictate.

### ***EchoStar 6's Station-keeping Maintenance***

EchoStar has fully responded to Spectrum Five's station-keeping claim in numerous filings.<sup>10</sup> Because EchoStar's prior filings on this issue should be incorporated into this proceeding by reference, EchoStar will not reiterate its specific responses, except to emphasize that: (1) the *EchoStar STA Order* authorizes a 60-day period, commencing on April 1, to move and operate EchoStar 6 at 96.2° W.L., but does not specify a date by which EchoStar is required to commence maintaining the satellite within the applicable station-keeping box;<sup>11</sup> and (2) the available tracking data shows substantial compliance with the FCC's station-keeping requirement.<sup>12</sup> Moreover, the Radiocommunications Bureau ("BR") of the International Telecommunication Union ("ITU") on February 18, 2014, rejected a challenge initiated by Spectrum Five through the Netherlands administration against the bringing-into-use status of the BERMUDASAT-1 network and found, among other things, that EchoStar 6 is in full compliance with the ITU's station-keeping requirement.

### ***EchoStar 6's Inclined Orbit Operation***

Contrary to Spectrum Five's claim, EchoStar 6's inclined orbit operation does not preclude it from providing the services that EchoStar has identified for potential deployment.

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<sup>10</sup> See, e.g., Letter from Jennifer A. Manner, EchoStar, to Marlene H. Dortch, Secretary, FCC, IBFS File Nos. SAT-STA-20130510-00067 *et al.* (Jan. 3, 2014) ("EchoStar January 3 Letter"); Letter from Bryan N. Tramont, Counsel for EchoStar, to Marlene H. Dortch, Secretary, FCC, File Nos. SAT-STA-20130510-00067 *et al.* (Aug. 26, 2013); Letter from Phuong N. Pham, Counsel to EchoStar, to Marlene H. Dortch, Secretary, FCC, File Nos. SAT-STA-20130510-00067 *et al.* (July 15, 2013); Letter from Paul Forness, Spacecraft Engineering Manager, to Marlene H. Dortch, Secretary, FCC, File Nos. SAT-STA-20130510-00067 *et al.* (July 10, 2013).

<sup>11</sup> See *EchoStar STA Order* ¶ 20.

<sup>12</sup> See EchoStar January 3 Letter at 2.

Spectrum Five's argument is based upon the mistaken assumption that the contemplated services require using only non-tracking earth station antennas that may be unable to communicate with satellites operating at high inclination levels.<sup>13</sup> To the contrary, EchoStar 6's inclined orbit operation is well-suited for innovative mobile services, including "new multi-channel video services to U.S. and non-U.S. ships and vessels," which EchoStar has stated that it seeks to develop.<sup>14</sup> These ships and vessels are inherently mobile and thus would require tracking earth station antennas to compensate for both the ship's movement and EchoStar 6's inclination, thus rendering the contemplated maritime services entirely feasible. Consequently, Spectrum Five's inclined orbit operation claim is untenable, relying upon uninformed assumptions and mischaracterization of the facts in the record.

### ***Conclusion***

Based upon the foregoing, the Commission should grant the Application (and associated earth station STA renewal applications) expeditiously, and reject Spectrum Five's Opposition. Grant of the requested STA renewal would confer valuable public interest benefits, including

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<sup>13</sup> See Spectrum Five Opposition at 6-7.

<sup>14</sup> See EchoStar Application, Exh. 1 at 3.

introducing new and innovative services to underserved international markets and enhancing the competitiveness of a U.S. licensee as well as its ability to create jobs and contribute to U.S. economic growth.

Respectfully submitted,

**ECHOSTAR SATELLITE OPERATING  
COMPANY**

By: /s/ Jennifer A. Manner  
Jennifer A. Manner  
Vice President of Regulatory Affairs

February 26, 2014

**CERTIFICATE OF SERVICE**

I, Theresa Rollins, hereby certify that on this 26<sup>th</sup> day of February 2014, a copy of the foregoing Response is being sent via first class, U.S. Mail, postage paid, to the following:

David Wilson  
Chief Executive Officer  
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/s/ Theresa Rollins  
Theresa Rollins