

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
EchoStar Satellite L.L.C.)	
)	
Application for Special Temporary Authority Concerning Operations of EchoStar 4 at the 77° W.L. Orbital Location)	File No. SAT-STA-20050321-00068
)	
Application for Modification of Direct Broadcast Satellite Authorization To Permit Long-Term Cessation of Operations at the 157° W.L. Orbital Location)	File No. SAT-MOD-20050513-00103 Call Sign S2621
)	
Application for Modification of Earth Station Authorization to add the EchoStar 4 Satellite at 77° W.L. as a Point of Communication)	File No. SES-MFS-20050527-00662 Call Sign E020306
)	

ORDER ON RECONSIDERATION

Adopted: July 20, 2005

Released: July 25, 2005

By the Chief, International Bureau:

I. INTRODUCTION

1. In this Order, we grant in part EchoStar Satellite L.L.C.'s (EchoStar) petition seeking reconsideration of the denial of a request for special temporary authority (STA), and of the dismissal of two related applications.¹ Specifically, we reinstate EchoStar's STA request insofar as it seeks authority to transfer control of its EchoStar 4 satellite from EchoStar to QuetzSat, S. de R.L. de C.V. (QuetzSat), in connection with operation of the satellite at the 77° W.L. orbital location.² QuetzSat holds a concession from Mexico to operate a satellite at the 77° W.L. orbital location, and would control the satellite pursuant to that concession.³ We also reinstate EchoStar's application for modification of the EchoStar 4 space station license. The modification application seeks authority for EchoStar 4 to cease operations at the 157° W.L. orbital location on a long-term basis. In addition, we reinstate EchoStar's application for modification of an earth station authorization to permit that earth station to communicate with the

¹ EchoStar Satellite LLC, *Memorandum Opinion and Order*, DA 05-1581 (rel. June 3, 2005) (*Denial Order*).

² File No. SAT-STA-20050321-00068 (EchoStar 4 STA Request).

³ QuetzSat, a Mexican entity, obtained the concession from the Mexican Secretariat of Communications and Transportation (SCT) on February 2, 2005.

EchoStar 4 satellite at the 77° W.L. orbital location. We find that additional information that EchoStar has provided in its petition for reconsideration and in supplemental materials warrants further consideration of these three applications. The International Bureau will separately issue public notices concerning these applications, in order to establish deadlines for public comment on the reinstated applications.

II. BACKGROUND

2. EchoStar filed its STA Request on March 21, 2005. On May 13, 2005, EchoStar also filed a request to modify its authorization for the 157° W.L. orbital location, so that, despite the removal of the EchoStar 4 satellite from that location, the license would not automatically lapse.⁴ On May 25, 2005, EchoStar filed an application for modification of its authorization for its earth station (Call Sign E020306) to allow it to communicate with EchoStar 4 at the 77° W.L. orbital location.⁵ On May 23, 2005, the comment period closed on the EchoStar STA Request. In response to this public notice, DIRECTV, Inc., submitted a letter on May 4, 2000, requesting additional information concerning the proposed operations of EchoStar 4. EchoStar replied to DIRECTV's letter on May 10, 2004, and provided additional information concerning the operations of EchoStar 4. On May 26, EchoStar submitted a letter requesting expedited consideration of its request. On June 3, 2005, the International Bureau denied the EchoStar STA Request, noting that the request appeared to be premised on a need to meet an ITU bringing into use date, and that this was not an adequate public interest reason to justify a grant.⁶

3. On June 8, 2005, EchoStar filed its petition for reconsideration of the International Bureau's *Denial Order*.⁷ The petition for reconsideration, among other things, proposed modified technical parameters for the operations of EchoStar 4 at the 77° W.L. orbital location, and indicated that EchoStar would seek to provide service to the United States using the EchoStar 4 satellite at the 77° W.L. orbital location. Mexico's SCT and Comision Federal de Telecomunicaciones (COFETEL) submitted a letter supporting EchoStar's request on June 9, 2005.⁸ EchoStar filed supplemental information on June 14, 2005. DIRECTV filed comments on June 20, 2005, to which EchoStar replied on June 22, 2005. On June 24, 2005, SCT and COFETEL submitted an additional letter concerning EchoStar 4 and the 77°

⁴ See 47 C.F.R. § 25.161(c). This rule provides for the automatic termination of a station authorization upon "[t]he removal or modification of the facilities which renders the station not operational for more than 90 days, unless specific authority is requested."

⁵ SES-MFS-20050527-00662.

⁶ *Denial Order* at ¶ 6.

⁷ On June 10, 2005, we designated the proceedings concerning the applications that are the subject of this Order as "permit but disclose" for purposes of the Commission's rules governing ex parte communications. See Report No. SAT-00298, DA No 05-1646 (released June 10, 2005). On June 13, 14, 15, and 29, and on July 1 and 11, EchoStar submitted documentation concerning ex parte discussions.

⁸ See Letter from Jorge Alvarez Hoth, Subsecretario de Comunicaciones, SCT and Jorge Aredondo Martinez, Presidente, COFETEL to Kevin J. Martin, Chairman, FCC (June 9, 2005).

W.L. orbital location.⁹ EchoStar filed additional supplemental information on July 1, 2005, and July 5, 2005. On July 1, 2005, EchoStar also filed a request for a blanket earth station authorization, to receive signals from the EchoStar 4 satellite at the 77° W.L. orbital location for the purpose of providing a direct-to-home service to U.S. subscribers.¹⁰

4. On June 14, EchoStar filed a request for special temporary authority to drift the EchoStar 4 satellite from the 157° W.L. orbital location to the 61.35° W.L. orbital location.¹¹ This request was granted on June 17, 2005.¹² On July 1, 2005, EchoStar filed a request to alter the drift of the EchoStar 4 satellite so as to place it at the 77° W.L. orbital location, and to operate the satellite at that location under a U.S. license, pending action on the STA request that is the subject of this Order.¹³ EchoStar's July 1, 2005, request was granted on July 6, 2005.¹⁴

III. DISCUSSION

5. We have declined to premise favorable public interest determinations on the fact that issuance of an authorization might facilitate meeting an International Telecommunication Union (ITU) bringing into use deadline.¹⁵ In EchoStar's STA request, it appeared that such bringing into use was the sole purpose for EchoStar's relocation of EchoStar 4.¹⁶ Thus, in the *Denial Order*, we found insufficient grounds to demonstrate that EchoStar 4's relocation to 77° W.L. orbital location would provide any public interest benefit.

6. In its petition for reconsideration and supplemental filings, EchoStar submits new information concerning its proposal. EchoStar indicates, for the first time, that it can and will provide service to the United States using the EchoStar 4 satellite. It also indicates that QuetzSat Directo, an affiliate of QuetzSat, now has an application pending with the SCT for a further concession. This further concession is necessary if QuetzSat is to provide its planned direct-to-home service to Mexico. The anticipated grant of this application, as well as other information provided by EchoStar in its petition,

⁹ See Letter from Leonel Lopez Celaya, Director General de Politica de Telecomunicaciones, SCT and Fernando Carrillo Valderrabano, Director General de Organismos de Regulación Internacional, COFETEL to Donald Abelson, Chief, International Bureau, FCC (June 24, 2005).

¹⁰ File No. SES-LFS-20050701-00852.

¹¹ File No. SAT-STA-20050614-00124.

¹² Report No. SAT-00302, DA 05-1772 (June 24, 2005).

¹³ File No. SAT-STA-20050701-00142.

¹⁴ Report No. SAT-00306, DA 05-1978 (July 8, 2005).

¹⁵ *Denial Order* at ¶ 9, citing VisionStar Incorporated, *Memorandum Opinion and Order*, 19 FCC Rcd 14820, ¶ 11 (Int'l Bur. 2004), and SES Americom, Inc., *Memorandum Opinion and Order*, 20 FCC Rcd 436, n. 39 (Int'l Bur. 2005).

¹⁶ *Id* at ¶ 9.

provides a sufficient prima facie showing concerning the public interest to warrant further consideration of EchoStar's requests. We thus reinstate these applications.

7. EchoStar has made changes in the basic technical parameters for the operations of EchoStar 4 at the 77° W.L. orbital location. We note that certain of the applications reinstated by this order need to be placed on public notice. Furthermore, during the pendency of the petition for reconsideration, EchoStar has filed additional and related applications which need to be placed on public notice. Therefore, we will separately, through standard public comment procedures under the Commission's rules, provide an opportunity for comment on both the reinstated and newly filed applications. We also note that, because the EchoStar 4 satellite is now located at the 77° W.L. orbital location, those portions of the STA request and related earth station modification application concerning drift of the satellite to the 77° W.L. orbital location are now moot.

IV. CONCLUSION

8. As there is new information presented in the record, we will reinstate the EchoStar STA Request, EchoStar's related request to cease operations for an unspecified period longer than 90 days at the 157° W.L. orbital location, and EchoStar's application for modification of its related Earth station application, and proceed with processing of these applications and other related applications.

V. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED that EchoStar Satellite L.L.C.'s petition for reconsideration, filed June 8, 2005, IS GRANTED to the extent indicated herein, and IS OTHERWISE DENIED.

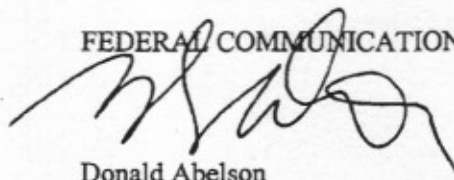
10. IT IS FURTHER ORDERED that EchoStar Satellite LLC's application, File No. SAT-SAT-20050321-00068 (Call Sign S2621), IS REINSTATED.

11. IT IS FURTHER ORDERED that EchoStar Satellite L.L.C.'s application, File No. SAT-MOD-20050513-00103 (Call Sign S2621), IS REINSTATED.

12. IT IS FURTHER ORDERED that EchoStar Satellite L.L.C.'s application, SES-MFS-20050527-00662 (Call Sign E020306), IS REINSTATED.

13. This *Order on Reconsideration* is issued pursuant to Section 0.261 of the Commission's rules on delegations of authority, 47 C.F.R. § 0.261, and is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION



Donald Abelson
Chief, International Bureau