

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

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In the Matter of)		
)		
ECHOSTAR 77 CORPORATION)		File No. SES-MFS-2011_____
)		Call Sign E050196
Application to Modify Blanket Earth)		
Station License to Add EchoStar 8,)		
Operating as a Mexican-Licensed Satellite,)		
as a Point of Communication at 76.85° W.L.)		
_____)		

APPLICATION TO MODIFY BLANKET EARTH STATION AUTHORITY

EchoStar 77 Corporation (“EchoStar”) seeks to modify its authority to operate 1,000,000 receive-only earth stations in the United States so that they can receive Direct Broadcast Satellite (“DBS”) service from EchoStar 8. The purpose of the modification is to reflect the planned minor move of that satellite from 77.05° W.L. to 76.85° W.L. at the nominal 77° W.L. orbital location allotted by the International Telecommunication Union (“ITU”) to Mexico.¹ This minor move is designed to accommodate a new satellite, QuetzSat-1, at the nominal 77° W.L. orbital location. Once QuetzSat-1 arrives there, it will in turn allow U.S. consumers to receive enhanced DBS services.²

¹ See EchoStar Satellite L.L.C., *Order and Authorization*, 21 FCC Rcd. 4077 (2006) (“77° W.L. Order”), assigned and transferred to EchoStar Corporation, File Nos. SES-ASG-20071108-01575, SES-T/C-20071108-01566 (consummated Jan. 1, 2008).

² EchoStar is filing this application out of an abundance of caution, and based on communications with Bureau officials, because the planned move, while minor, exceeds 0.1°. EchoStar has also filed requests for Special Temporary Authority and modification to allow a total of five transmit/receive earth stations in the Ku and DBS bands to provide telemetry and tracking functions with the satellite during its move to, and operation at, 76.85° W.L.

Specifically, EchoStar seeks authority to add the EchoStar 8 satellite as a point of communication at 76.85° W.L., where it will continue to be operated by QuetzSat, S. de R.L. de C.V. (“QuetzSat”) as a Mexican-licensed satellite. As the Commission is aware, QuetzSat is an affiliate of SES Global Latin America, S.A. and SES S.A. (collectively, “SES”), with which EchoStar has entered into an agreement for the development of the nominal Mexican BSS location at 77° W.L. EchoStar currently has a blanket earth station license allowing reception of service from EchoStar 8 at its current orbital location, 77.05° W.L.

For the reasons set forth herein, grant of this application will serve the public interest, will not cause any harmful interference, and is fully consistent with the Commission’s *DISCO II* policies.³

I. BACKGROUND

The nominal 77° W.L. orbital location is allotted to Mexico under the Region 2 Broadcasting-Satellite Service (“BSS”) plan set forth in Appendices 30 and 30A to the international Radio Regulations. EchoStar 1, EchoStar 6, and EchoStar 8 are currently operating at that nominal orbital location. EchoStar 8 is specifically stationed at 77.05° W.L. as a Mexican-licensed satellite pursuant to an exchange of letters between the Commission and the Mexican Administration.⁴ In addition, the Mexican-licensed QuetzSat-1 satellite was recently launched on September 29, 2011 and is expected to operate from 77.0° W.L.

To make room for QuetzSat-1, EchoStar 8 will move within the 77° W.L. orbital cluster, from 77.05° W.L. to 76.85° W.L. The satellite will still operate with 0.05° stationkeeping, and

³ See Amendment of the Commission’s Policies to Allow Non-U.S. Licensed Space Stations Providing Domestic and International Service in the United States, *Report and Order*, 12 FCC Rcd. 24094 (1997) (“*DISCO II*”).

⁴ See Radio Authorization, File No. SAT-T/C-20090217-00026 (granted Sept. 17, 2010).

thus will remain at all times within the Mexican orbital cluster. The satellite will still be subject to the same terms and conditions set forth in the exchange of letters, and will remain a Mexican-licensed satellite. EchoStar understands that the use of the EchoStar 8 satellite at the nominal 77° W.L. location is directly encompassed within the authority granted in QuetzSat's existing concession.⁵

II. THIS APPLICATION IS LEGALLY AND TECHNICALLY COMPLETE

The legal qualifications of EchoStar to receive the requested authority are a matter of record with the Commission. For the EchoStar 8 satellite, EchoStar has previously submitted all of the technical information required by Sections 25.137 and 25.114 of the Commission's rules⁶ in the Schedule S and Technical Annex attached to the *EchoStar 8 Application*. They are incorporated herein by reference.

In addition, the proposed operation of EchoStar 8 at 76.85° W.L. to provide service to the United States is fully compliant with the Commission's technical rules. With respect to the geographic service requirements in Section 25.148(c) of the Commission's rules,⁷ the Commission has already held that DBS service to Alaska and Hawaii is not technically feasible

⁵ That concession is not limited to the operations of any particular satellite at 77° W.L. See Secretariat of Communications and Transportation Vice-Ministry of Communications, Concesion Para Ocupar La Posicion Orbital Geoestacionaria 77° Oeste Asignada al Pais y Explotar Sus Respectiveas Bandas de Frecuencias 12.2-12.7 GHz y 17.3-17.8 GHz, Asi como los Derechos de Emision y Recepcion de Señales, granted February 2, 2005 ("BSS Concession"), at 4, filed in File No. SAT-STA-20080616-00121 (granted Oct. 21, 2008) ("*EchoStar 8 Application*").

⁶ 47 C.F.R. §§ 25.137, 25.114.

⁷ *Id.* § 25.148(c) (requiring service to Alaska and Hawaii "where such service is technically feasible").

from the 86.5° W.L. orbital location.⁸ It follows that service from the 77° W.L. orbital location, which is even further east than 86.5° W.L., is also not technically feasible.

III. THIS APPLICATION IS IN THE PUBLIC INTEREST AND WILL NOT CAUSE HARMFUL INTERFERENCE

EchoStar's application is in the public interest and will not present any risk of harmful interference to other U.S. or non-U.S. satellites. It will optimize EchoStar's fleet deployment at the 77° W.L. cluster, and improve the ability of EchoStar's customer, DISH Network L.L.C., to continue to provide programming to U.S. consumers from 77° W.L. The Commission has found that even limited service from the Mexican orbital slot at 77° W.L. "could serve the public interest by providing service to areas in the Southern U.S., including additional Spanish language programming to areas with significant Spanish-speaking populations."⁹ The redeployment of EchoStar 8 at 76.85° W.L., a mere 0.2 degrees away from its current location, will further that goal by making more room for QuetzSat-1, which will provide just such services.¹⁰ QuetzSat-1 currently is being tested at 67.1° W.L., and is expected to move to 77.05° W.L. as early as November 2011.

This minor redeployment of EchoStar 8 will be achieved without any disruption in service. EchoStar 8 currently serves as an in-orbit spare, and is not currently used to provide service to consumers. During EchoStar 8's move to, and stationing at, 76.85° W.L., EchoStar 1 and EchoStar 6 will continue to provide service from the 77° W.L. nominal orbital location.

⁸ EchoStar Satellite L.L.C., *Order and Authorization*, 21 FCC Rcd. 14045 ¶ 19 (2006) ("Given the very low elevation angles to the 86.5° W.L. orbital location from Alaska and Hawaii, it is very unlikely that service to these states from EchoStar-86.5W would be technically feasible. Therefore, we will not require EchoStar-86.5W to provide service to Alaska and Hawaii from the 86.5° W.L. orbital location.").

⁹ See 77° W.L. *Order* ¶ 8.

¹⁰ See EchoStar 77 Corporation, File No. SES-MFS-20110707-00793 (filed July 7, 2011).

These public benefits will also be achieved without causing harmful interference to other satellites. There is no DBS orbital location in the vicinity of 77° W.L. that is assigned to the United States (the closest U.S. location is 61.5° W.L.). There will likewise be no harmful interference from the continued operation of the satellite within the nominal 77° W.L. into Canada's DBS allotments at 72.5° W.L. and 82° W.L. In that respect, EchoStar notes that Canada has modified the coverage of its 72.5° W.L. orbital location to include the United States, and DIRECTV is authorized to serve the United States from its DIRECTV 1R satellite operating at that slot. There is, however, an existing coordination agreement between Mexico and Canada to address interference issues between 77° W.L. and 72.5° W.L. EchoStar will comply with that agreement and any future coordination agreements. Similarly, with respect to Canadian operations at 82° W.L., EchoStar will continue to operate in full conformity with the 1996 Mexican ITU modification over all points in Canada and the United States, as well as with the existing coordination agreements between the Administrations of Canada and Mexico and/or any future coordination agreements.

IV. GRANT OF THIS APPLICATION IS CONSISTENT WITH THE COMMISSION'S *DISCO II* POLICIES

Under its *DISCO II* framework, the Commission evaluates whether the provision of service into the United States from a foreign-licensed satellite will serve the public interest. The *DISCO II* analysis includes consideration of a number of factors, including the effect on competition in the United States; eligibility and operating requirements; spectrum availability; and national security, law enforcement, foreign policy, and trade concerns.¹¹ As part of this

¹¹ See *DISCO II*, 12 FCC Rcd. at 24107-72.

analysis, the Commission examines the “effective competitive opportunities” afforded to U.S. market access.¹²

The United States and Mexico have a bilateral agreement in place related to the provision of Direct-to-Home (“DTH”) service.¹³ Under *DISCO II*, such a bilateral agreement “acts as a gateway to, and a guarantee of, increased competition in the two countries at both ends of the agreement.”¹⁴ Therefore, in cases such as this one, in which U.S. earth stations seek to communicate with a Mexican-flagged space station, the Commission assumes that the application would enhance competition and “no further market access analysis is required.”¹⁵

Finally, EchoStar has demonstrated compliance with the Commission’s eligibility and operating requirements,¹⁶ and there are no spectrum availability, national security, law enforcement, foreign policy, or trade concerns that would warrant treating this application differently from those previously granted by the Commission.

¹² *Id.* at 24098 (“For satellites licensed by non-WTO Members and for all satellites providing Direct-to-Home (DTH), Direct Broadcasting Satellite (DBS), and Digital Audio Radio Services (DARS), we will examine whether U.S. satellites have effective competitive opportunities in the relevant foreign markets to determine whether allowing the foreign-licensed satellite to serve the United States would satisfy the competition component of the public interest analysis.”).

¹³ *See* Agreement between the Government of the United States of America and the Government of the United Mexican States Concerning the Transmission and Reception from Satellites for the Provision of Satellite Services to Users in the United States of America and the United Mexican States (Apr. 28, 1996); Article I and Protocol Concerning the Transmission and Reception of Signals from Satellites for the Provision of Direct-to-Home Satellite Services in the United States of America and the United Mexican States (Nov. 8, 1996).

¹⁴ *DISCO II*, 12 FCC Rcd. at 24157 ¶ 143.

¹⁵ *See* EchoStar Satellite L.L.C., *Order and Authorization*, 21 FCC Rcd. 44077, 4080 ¶ 8 n.20 (2006).

¹⁶ *See* *EchoStar 8 Application*, Technical Annex and Schedule S.

V. APPLICATION FEES

The Commission's Rules do not designate any specific charges for the type of application being filed in the DBS service. EchoStar is submitting the application fee for a VSAT modification, which the Commission has accepted for similar networks and applications, including an almost identical request made by EchoStar in April 2011.¹⁷

VI. CONCLUSION

For the foregoing reasons, EchoStar respectfully requests that the Commission grant this application to add EchoStar 8, operating from 76.85° W.L. as a Mexican-licensed satellite, as a point of communication for EchoStar's blanket earth station authorization.

¹⁷ See Letter from Mark Stephens, Chief Financial Officer, FCC to Pantelis Michalopoulos, File No. SES-MFS-20110314-00288 (Apr. 4, 2011) (granting the fee waiver request for a modification application to add EchoStar 6, operating as a Mexican-licensed satellite, as a point of communication); see also Letter from Mark Stephens, Chief Financial Officer, FCC to Pantelis Michalopoulos, File No. SES-ASG-20110228-00560 (Apr. 18, 2011) (granting the fee waiver request for the *pro forma* assignment of a blanket earth station to operate with EchoStar 4 and EchoStar 8, Mexican-licensed satellites); Letter from Mark Stephens, Chief Financial Officer, FCC to Pantelis Michalopoulos, File No. SES-ASG-20071108-01575 (Apr. 4, 2008) (granting the fee waiver request for the *pro forma* assignment of blanket earth station license).

Respectfully submitted,

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