

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

<hr/>		
In the Matter of)	
)	
ECHOSTAR 77 CORPORATION)	File No. SES-MFS-2012_____
)	File No. SES-STA-2012_____
Application for Special Temporary Authority and)	Call Sign E050196
Modification of Station License to Add EchoStar 8,)	
Operating as a Mexican-Licensed Satellite,)	
as a Point of Communication at 76.90° W.L.)	
<hr/>)	

**APPLICATIONS FOR SPECIAL TEMPORARY AUTHORITY AND MODIFICATION
OF BLANKET EARTH STATION AUTHORITY**

EchoStar 77 Corporation (“EchoStar”) seeks (1) special temporary authority (“STA”) to operate its blanket earth station (Call Sign E050196) to communicate with the EchoStar 8 satellite at 76.90° W.L., starting on or about December 11, 2012; and (2) authority to add EchoStar 8 as a point of communication at 76.90° W.L., where it will continue to be operated by QuetzSat, S. de R.L. de C.V. (“QuetzSat”) as a Mexican-licensed satellite. This minor move is designed to accommodate a new satellite, QuetzSat-1, at the nominal 77° W.L. orbital location. Once QuetzSat-1 arrives at 77.05° W.L., it will in turn allow U.S. consumers to receive enhanced direct broadcast satellite (“DBS”) services.

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.¹

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. 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.² EchoStar 8 is operating as a Mexican-licensed satellite pursuant to an exchange of letters between the Commission and the Mexican Administration.³

To make room for QuetzSat-1 at 77.05° W.L., EchoStar 8 will move within the 77° W.L. orbital cluster from 77.05° W.L. to 76.90° W.L. The satellite will still operate with 0.05° stationkeeping, and 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

¹ 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*").

² 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).

³ See Radio Authorization, File No. SAT-T/C-20090217-00026 (granted Sept. 17, 2010).

satellite at the nominal 77° W.L. orbital location is directly encompassed within the authority granted in QuetzSat's existing concession.⁴

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 rules⁵ in the Schedule S and Technical Annex attached to the *EchoStar 8 Application*. They are incorporated herein by reference, as the technical parameters of the satellite remain materially unchanged as a result of this minor relocation.

In addition, the proposed operation of EchoStar 8 at 76.90° 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,⁶ the Commission has already held that DBS service to Alaska and Hawaii is not technically feasible from the 86.5° W.L. orbital location.⁷ 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.

⁴ 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 Respectivas 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*").

⁵ 47 C.F.R. §§ 25.137, 25.114.

⁶ *Id.* § 25.148(c) (requiring service to Alaska and Hawaii "where such service is technically feasible").

⁷ 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").
(Continued ...)

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."⁸ The redeployment of EchoStar 8 at 76.90° W.L. will further that goal by making more room for QuetzSat-1, which will provide just such services.⁹ QuetzSat-1 currently is at the nominal 61.5° W.L. orbital location, and is expected to move to 77.05° W.L. in December 2012.

This minor redeployment of EchoStar 8 will be achieved without any disruption in service.

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 EchoStar leases all transponders at 72.5° W.L. from Telesat and will self-coordinate at that

feasible. Therefore, we will not require EchoStar-86.5W to provide service to Alaska and Hawaii from the 86.5° W.L. orbital location.").

⁸ See *77° W.L. Order* ¶ 8.

⁹ See *EchoStar 77 Corporation*, File No. SES-MFS-20110707-00793 (filed July 7, 2011).

location. 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 existing coordination agreements with the Administrations of Canada and Mexico and/or any future public or private 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.¹⁰ As part of this analysis, the Commission examines the “effective competitive opportunities” afforded to U.S. market access.¹¹

The United States and Mexico have a bilateral agreement in place related to the provision of Direct-to-Home (“DTH”) service.¹² Under *DISCO II*, such a bilateral agreement “acts as a

¹⁰ See *DISCO II*, 12 FCC Rcd. at 24107-72.

¹¹ *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.”).

¹² 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
(Continued ...)

gateway to, and a guarantee of, increased competition in the two countries at both ends of the agreement.”¹³ 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.”¹⁴

Finally, EchoStar has demonstrated compliance with the Commission’s eligibility and operating requirements,¹⁵ 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.

V. OPERATIONAL PARAMETERS

During relocation maneuvers and maintenance of EchoStar 8 at the 76.90° W.L. orbital location pursuant to special temporary authority, operations with EchoStar 8 will operate subject to the following conditions:

1. All drift orbit TT&C and feeder link operations will be coordinated with other potentially affected in-orbit operators.
2. Drift operations and operations at 76.90° W.L. shall be on a non-harmful interference basis, meaning that EchoStar 8 shall not cause interference to, and shall not claim protections 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 TT&C or feeder link operations during the relocation of the EchoStar 8 satellite or while the satellite is at 76.90° W.L., EchoStar 8 shall cease the offending operations immediately upon notification of such interference and the Commission will be informed immediately, in writing, of such event.

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).

¹³ *DISCO II*, 12 FCC Rcd. at 24157 ¶ 143.

¹⁴ See *EchoStar Satellite L.L.C., Order and Authorization*, 21 FCC Rcd. 44077, 4080 ¶ 8 n.20 (2006).

¹⁵ See *EchoStar 8 Application*, Technical Annex and Schedule S.

VI. APPLICATION FEES

While the Commission's Rules designate the charge for an STA application, the Rules do not designate any specific charges for a modification application of a blanket earth station filed for DBS service. Therefore, for its modification application, 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 2011.¹⁶ For its STA application, EchoStar is submitting the requisite application fee.

VII. CONCLUSION

For the foregoing reasons, EchoStar respectfully requests that the Commission grant its application for STA to operate its blanket earth station (Call Sign E050196) to communicate with the EchoStar 8 satellite at 76.90° W.L. beginning on or about December 11, 2012. EchoStar also respectfully requests that the Commission grant its application to add EchoStar 8, operating from 76.90° W.L. as a Mexican-licensed satellite, as a point of communication for EchoStar's blanket earth station authorization (Call Sign E050196).

¹⁶ 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,

EchoStar 77 Corporation

Pantelis Michalopoulos
Stephanie A. Roy
Jessica I. Rothschild
Steptoe & Johnson LLP
1330 Connecticut Avenue N.W.
Washington, D.C. 20036
(202) 429-3000
*Counsel for EchoStar 77
Corporation*

/s/ _____
Alison Minea
Corporate Counsel
EchoStar 77 Corporation
1110 Vermont Avenue NW, Suite 750
Washington, DC 20005
(202) 293-1216

December 3, 2012