

EXHIBIT 1

DESCRIPTION OF PROPOSED MODIFICATION (Response to Questions 42a, 43 & 43a, FCC Form 312)

Pursuant to Section 25.117 of the Commission's rules,¹ DISH Broadcasting Corporation (together with its affiliates, "DISH") requests a modification of its blanket license (Call Sign E080107) ("License") to operate up to 5,000,000 receive-only earth stations in the United States to receive Direct Broadcast Satellite ("DBS") service from the nominal 72.5° W.L. orbital location. Specifically, EchoStar seeks to add the EchoStar 23 satellite at 72.6° W.L. as an authorized point of communications for DBS service downlinks (on up to 32 DBS channels in the 12.2 – 12.7 GHz band) to receive-only earth stations under the License.² Additionally, EchoStar seeks an administrative update of the License to delete the EchoStar 6 satellite, which has successfully completed end-of-life deorbit maneuvers,³ as an authorized point of communications at 72.7° W.L. As demonstrated herein, grant of this application will serve the public interest, will not cause any harmful interference, and is consistent with the Commission's *DISCO II* policies.⁴

¹ See 47 C.F.R. § 25.117.

² EchoStar Operating L.L.C. (together with its affiliates, "EchoStar") has special temporary authorizations ("STA"), as well as pending applications for license modification, to operate five earth stations in Cheyenne, WY, Blackhawk/Summerset, SD, Gilbert, AZ, and Quicksburg, VA (Call Signs E980005, E020248, E150098, E070014, and E170094) for telemetry, tracking, and control ("TT&C") and feeder link communications with EchoStar 23 during its relocation to, and operations at, 72.6° W.L. See EchoStar, Applications for STA, IBFS File Nos. SES-STA-20190308-00311 & SES-STA-20190214-00097 *et seq.* (granted Apr. 18, 2019); EchoStar, Applications for Modification, IBFS File Nos. SES-MFS-20190308-00275 & SES-MFS-20190214-00088 *et seq.* (Mar. 8 & Feb. 14, 2019).

³ See Letter from Jennifer A. Manner, EchoStar, to Marlene H. Dortch, Secretary, FCC, IBFS File No. SAT-MOD-20140623-00074, at 1 (May 31, 2018).

⁴ 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 Order*").

I. Background

The nominal 72.5° W.L. orbital location is allocated to Canada under the International Telecommunication Union's ("ITU") Region 2 Broadcasting-Satellite Service ("BSS") plan. Pursuant to Canadian authority, Telesat Canada (together with its affiliates, "Telesat") operates the Nimiq 5 satellite at 72.7° W.L. for service to BSS/DBS subscribers in Canada and the United States.

Launched in March 2017, EchoStar 23 is registered by the U.K. under the United Nations Outer Space Treaty,⁵ and authorized by Brazil to provide BSS from the 44.9° W.L. orbital location. Despite initial plans for operating EchoStar 23 to provide satellite television service to Brazil, EchoStar has determined that the satellite will be better utilized at 72.6° W.L., in conjunction with Nimiq 5, to provide ongoing DBS service for DISH subscribers in the United States. Consequently, EchoStar has entered into an agreement with Telesat to move and operate EchoStar 23 at 72.6° W.L., subject to securing any required Canadian or other regulatory approvals. This will allow use of capacity on EchoStar 23, in addition to or in lieu of capacity on Nimiq 5, to provide ongoing DBS service to DISH subscribers in the United States from the nominal 72.5° W.L. orbital location. The parties anticipate completing EchoStar 23's relocation and, subject to Commission grant of this application, commencing DBS operations at 72.6° W.L. to provide DISH service to U.S. subscribers under the License by June 30, 2019.

⁵ See *Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies*, 18 U.S.T. 2410, 610 U.N.T.S. 205 (Oct. 10, 1967) ("United Nations Outer Space Treaty").

II. Grant of This Application Will Serve the Public Interest Without Harmful Interference to Other Services

The proposed operations of EchoStar 23 at 72.6° W.L. will serve the public interest by allowing EchoStar the flexibility to manage its satellite fleet efficiently, provide for more productive use of its satellites, and further ensure full use of spectrum and uninterrupted service from the nominal 72.5° W.L. orbital location. Indeed, the Commission has a longstanding policy of leaving fleet management decisions to satellite operators because doing so serves the public interest.⁶ Specifically, the Commission has determined that a satellite licensee “is in a better position to determine how to tailor its system to meet the particular needs of its customers.”⁷ Thus, the Commission “will generally grant a [satellite] licensee’s request to modify its system, provided there are no compelling countervailing public interest considerations.”⁸

Additionally, the proposed operations will not cause harmful interference to other authorized services. As demonstrated in the attached Technical Annex, the only operational satellite that could be affected is a QuetzSat-1 satellite licensed by Mexico for service to DISH subscribers, and any potential interference to the DISH service (using QuetzSat-1) has been deemed acceptable.

III. Grant of This Application is Consistent with the Commission’s *DISCO II* Policies

In determining whether the provision of service to the United States from a foreign-licensed satellite will serve the public interest under the *DISCO II* framework, the Commission considers a number of factors, including the effect on U.S. competition, eligibility and operating

⁶ See *SES Americom, Inc.*, Order and Authorization, 21 FCC Rcd. 3430, 3433 (2006) (“*SES Americom*”); *AMSC Subsidiary Corporation*, Order and Authorization, 13 FCC Rcd 12316, 12318 (IB 1998) (“*AMSC*”).

⁷ *AMSC* ¶ 8.

⁸ *Id.*; see also *SES Americom* ¶ 8 (2006) (FCC “generally has allowed satellite operators to rearrange satellites in their fleet to reflect business and customer considerations where no public interest factors are adversely affected”).

requirements, spectrum availability, as well as national security, law enforcement, foreign policy, and trade concerns.⁹ For DBS and analogous services, the Commission further examines whether effective competitive opportunities exist for U.S.-licensed satellites to serve the home market of the non-U.S. satellite seeking U.S. market access.¹⁰

In applying its *DISCO II* framework, the Commission has found that despite *de jure* barriers to entry into the Canadian market, the provision of DBS and analogous services to the United States from Canadian-licensed satellites, including a DIRECTV satellite at 72.5° W.L., enhances U.S. competition and offers compelling public interest benefits, thus warranting grant of U.S. market access.¹¹ These pro-competition and public interest benefits remain compelling, and no spectrum availability, national security, law enforcement, foreign policy, or trade concerns have arisen to warrant disparate treatment of this application under the *DISCO II* framework.

As further demonstrated in the attached Schedule S and Technical Annex, the proposed operations of EchoStar 23 at 72.6° W.L. comply with applicable legal and technical requirements under the Commission's Part 25 rules. Moreover, as the Commission previously recognized in authorizing service from Nimiq-5 at 72.7° W.L., DBS service to Alaska and Hawaii is not technically feasible from the nominal 72.5° W.L. orbital location, and thus Section 25.148(c)'s geographic service requirements are inapplicable.¹²

⁹ See *DISCO II Order* ¶ 7.

¹⁰ See *id.* ¶¶ 98-99.

¹¹ See *DIRECTV Enterprises, LLC*, Order and Authorization, 19 FCC Rcd 15529, ¶ 10 (IB 2004); *Digital Broadband Applications Corp.*, Order, 18 FCC Rcd 9455, ¶ 16 (IB 2003).

¹² See EchoStar, Application for Modification, SES-MFS-20090306-00253, Narrative, at 7 (granted Oct. 30, 2009).

IV. Conclusion

Based upon the foregoing, the Commission should grant the proposed modification of the License to: (i) add EchoStar 23 at 72.6° W.L. as an authorized point of communications for receive-only earth stations; and (ii) delete EchoStar 6 at 72.7° W.L. as an authorized point of communications to reflect that the satellite has been deorbited.