

APPLICATION FOR EARTH STATION SPECIAL TEMPORARY AUTHORITY

APPLICANT INFORMATION Enter a description of this application to identify it on the main menu:
Special Temporary Authority to Operate E080058 to Provide Feeder Link Services to EchoStar 1 at 77 W.L.

1. Applicant

Name:	EchoStar Corporation	Phone Number:	303-723-1000
DBA Name:		Fax Number:	
Street:	90 Inverness Circle E.	E-Mail:	
City:	Englewood	State:	CO
Country:	USA	Zipcode:	80112 -
Attention:	Linda Kinney - (202)293-0981		

With Conditions



File # SES-STA-20090130-00115
Call Sign E080058 Grant Date 7/22/09
(or other identifier)
From 7/22/09 Term Dates To: 11/17/2010
Approved: Kelly J. Meehan

Chief, Satellite Engrs Br.

Attachment

SES-STA-20090130-00115
E080058

Conditions:

EchoStar Corporation will coordinate its TT&C operations with all potentially affected operating satellite networks.

No harmful interference will be caused to any lawfully operating satellite network or radiocommunication system and EchoStar Corporation operations will cease immediately upon notification of harmful interference. Further, EchoStar Corporation shall notify the Commission immediately, in writing, of such an event.

EchoStar Corporation will accept interference from any lawfully operating satellite network or radiocommunication system.

Written Conditions



File # SES-STA-20090130-00115

Call Sign E080058 Grant Date 7/22/09
(or other identifier)

From 7/22/09 Term Dates To: 11/12/2010

Approved: *William J. Kelly*
Chief, Satellite Eng'g &

PN 3/18/09

Approved by OMB
3060-0678

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Attention:	Linda Kinney - (202)293-0981		

2. Contact	
Name: Pantelis Michalopoulos	Phone Number: 202-429-6494
Company: Steptoe & Johnson LLP	Fax Number:
Street: 1330 Connecticut Ave. NW	E-Mail: pmichalopoulos@steptoe.com
City: Washington	State: DC
Country: USA	Zipcode: 20036 -
Attention:	Relationship: Legal Counsel
(If your application is related to an application filed with the Commission, enter either the file number or the IB Submission ID of the related application. Please enter only one.)	
3. Reference File Number or Submission ID	
4a. Is a fee submitted with this application?	
<input checked="" type="radio"/> If Yes, complete and attach FCC Form 159. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114).	
<input type="radio"/> Governmental Entity <input type="radio"/> Noncommercial educational licensee	
<input type="radio"/> Other (please explain):	
4b. Fee Classification CGX – Fixed Satellite Transmit/Receive Earth Station	
5. Type Request	
<input type="radio"/> Use Prior to Grant <input type="radio"/> Change Station Location <input checked="" type="radio"/> Other	
6. Requested Use Prior Date	
7. City Gilbert	8. Latitude (dd mm ss.s h) 33 21 55.6 N

9. State AZ	10. Longitude (dd mm ss.s h) 111 48 49.1 W
11. Please supply any need attachments. Attachment 1: Narrative Attachment 2: Attachment 3:	
12. Description. (If the complete description does not appear in this box, please go to the end of the form to view it in its entirety.) <div style="border: 1px solid black; padding: 5px; margin: 10px 0;">EchoStar Corporation seeks STA to operate its transmit/receive earth station to provide DBS feeder link services to the EchoStar 1 satellite at 77 W.L. pending the re-flagging of the satellite under Mexican authority. Please see the attached narrative.</div>	
13. By checking Yes, the undersigned certifies that neither applicant nor any other party to the application is subject to a denial of Federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Act of 1988, 21 U.S.C. Section 862, because of a conviction for possession or distribution of a controlled substance. See 47 CFR 1.2002(b) for the meaning of "party to the application" for these purposes. <input checked="" type="radio"/> Yes <input type="radio"/> No	
14. Name of Person Signing Linda Kinney	15. Title of Person Signing Vice President, Law and Regulation
WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND / OR IMPRISONMENT (U.S. Code, Title 18, Section 1001), AND/OR REVOCATION OF ANY STATION AUTHORIZATION (U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).	

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

In the Matter of)	
))	
))	
ECHOSTAR CORPORATION)	File No. SES-STA-2009 _____
))	Call Sign E980018
Application for Earth Station)	
Special Temporary Authority To Operate)	File No. SES-STA-2009 _____
the EchoStar 1 Satellite at 77.15° W.L. Pending)	Call Sign E020233
the Grant of Related Applications and Re-licensing)	
as a Mexican-licensed Satellite)	File No. SES-STA-2009 _____
))	Call Sign E080058
))	
))	

APPLICATION FOR EARTH STATION SPECIAL TEMPORARY AUTHORITY

EchoStar Corporation (“EchoStar”) hereby requests for 180 days earth station STAs for three earth stations (Call Signs E980118, E020233, and E080058), to communicate with the satellite during such operations.¹ To the extent necessary, EchoStar also requests a waiver of the Commission’s rules to use two C-band frequencies for TT&C during such operations. Once re-

¹ Along with this application, EchoStar is or will be requesting: (1) earth station STA to support the relocation of the EchoStar 1 satellite to 77.15° W.L. and (2) the modification of three existing earth station licenses (Call Signs E080058, E980118 and E010240) to perform feeder link and TT&C operations with EchoStar 1 at 77.15° W.L. Additionally, EchoStar’s sister company, DISH Network Corporation (“DISH”), will be requesting: (1) a blanket earth station license to operate with EchoStar 1 at 77.15° W.L. as a Mexican-licensed satellite; (2) space station STA to move the EchoStar 1 satellite to 77.15° W.L.; and (2) space station STA to operate EchoStar 1 at 77.15° W.L. pending the re-flagging of EchoStar 1 as a Mexican-licensed satellite. DISH will also file an application to transfer the EchoStar 1 satellite to QuetzSat for operation under Mexican-authority. EchoStar has received temporary authority to operate the EchoStar 8 satellite at 77.0° W.L. under U.S. authority, File No. SAT-STA-20080616-00121 (granted Nov. 7, 2008), and has requested a modification to its blanket earth station license to operate with the EchoStar 8 satellite after it is re-flagged under Mexican authority, File No. SES-MFS-20080724-00977 (filed July 24, 2008).

licensed, the satellite will be operated by QuetzSat, S. de R.L. de C.V. (“QuetzSat”), the holder of the Mexican BSS concession for the 77° W.L. orbital location. EchoStar is requesting action on this request only if the exchange of letters and grant of the requested authority to operate EchoStar as a foreign-licensed satellite are not completed prior to arrival of EchoStar 1 at 77.15° W.L, which is expected to occur on or around May 22, 2009.

As the Commission is aware, QuetzSat is an affiliate of SES Latin America, S.A. (“SES-LA”) and SES S.A. (collectively, “SES”), with which EchoStar has entered into an agreement for the development of the Mexican BSS location at 77° W.L.² Pursuant to that agreement, the EchoStar 4 satellite has already been deployed to 77° W.L. with the Commission’s approval.³ EchoStar has also sought Commission approval to modify its blanket earth station to operate with the EchoStar 8 satellite as a Mexican-licensed satellite from 77.0° W.L.⁴

EchoStar 77 Corp., a wholly-owned subsidiary of EchoStar, recently entered into Satellite Service Agreements with SES-LA and DISH (“EchoStar 77 SSAs”). Under those agreements, QuetzSat will provide service to EchoStar 77 Corp. on its future QuetzSat-1 satellite over all 32 available channels at 77° W.L. subject to the receipt of all required approvals.⁵ EchoStar 77

² See 77° W.L. Agreement, filed in File No. SAT–STA–20080616–00121, Attachment 3 (“*EchoStar 8 Application*”).

³ See *EchoStar Satellite I.L.C.*, DA 06-868, 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).

⁴ File No. SES-MFS-20080724-00977 (filed July 24, 2008).

⁵ Sections 2.H(5) of the Satellite Services Agreement between EchoStar 77 Corporation and SES Latin America, S.A. and the Satellite Services Agreement between DISH Network Corporation and EchoStar 77 Corp. (“*EchoStar 77 SSAs*”), filed in EchoStar Satellite Operating L.L.C., File No. SES-LFS-2009 _____, Attachment 2 (filed Jan. 30, 2009) (“*EchoStar 1 Application*”).

Corp., in turn, will provide service to its parent, EchoStar, and, its affiliate, DISH. The EchoStar 77 SSAs also allow either DISH or EchoStar to move an “Interim Satellite” to the 77° W.L. orbital location and use up to all 32 channels available at that location subject to the BSS Concession.⁶ DISH will move the EchoStar 1 satellite to 77.15° W.L. once it receives authority from the Commission and will provide DBS programming to consumers in the U.S. over the requested blanket earth station license. The EchoStar 4 satellite will be temporarily moved to 77.3° W.L., subject to Commission approval, which will be requested separately. The EchoStar 1 satellite is intended to replace the EchoStar 4 satellite – which is nearing the end of its life – and will provide service to the United States and Mexico in conjunction with the EchoStar 8 satellite.⁷ EchoStar 1 will operate at 77.15° W.L. until the planned launch of the QuetzSat-1 satellite to that orbital location in 2011.

QuetzSat, which pursuant to the BSS Concession was authorized by Mexico to use the BSS frequencies at the 77° W.L. slot,⁸ has advised the Mexican Administration of its plan to replace the EchoStar 4 satellite with EchoStar 1 for service to Mexico and the United States

⁶ *Id.* DISH understands that the use of the EchoStar 1 satellite at 77° W.L. is directly encompassed within the authority granted in QuetzSat’s existing concession. That concession is not limited to the operations of any particular satellite at 77° W.L. Secretariat of Communications and Transportation Vice-Ministry of Communications, Concesion Para Ocupar La Posicion Orbital Geostacionaria 77° Oeste Asignada al Pais y Explotar Sus Respetivas 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”), *filed in EchoStar 8 Application*, Attachment 2 at 4 (defining the satellite system as “one or more satellites with associated frequencies and their control centers operating in an integral manner to make satellite capacity available for the rendering of satellite services”).

⁷ Amendment #4 to Satellite Relocation and Use Agreement for the 77° W.L. Orbital Location, *filed in EchoStar 1 Application*, Attachment 4. Note that EchoStar 4 and EchoStar 1 may both operate at 77° W.L. for a short period prior to the end-of-life disposal of the EchoStar 4 satellite.

⁸ *BSS Concession*.

(including temporary operation under U.S. authority pending re-licensing), and EchoStar understands that the Mexican Administration has no objection to this plan. The U.S. and Mexican Administrations have already exchanged letters regarding the use of EchoStar 4, formerly a U.S.-licensed satellite, at 77° W.L.⁹

For the reasons set forth herein, grant of this Application will serve the public interest and not cause harmful interference to any authorized user of the spectrum. The redeployment of the EchoStar 1 satellite, along with EchoStar 8, to 77.15° W.L. will augment the capacity that EchoStar and DISH will have available to serve the United States from that Mexican 77° W.L. slot and result in a greater variety and quality of programming services, including high definition programming and local channels. In turn, the grant of Special Temporary Authority to provide service, if “re-flagging” of the satellite is not completed prior to arrival of EchoStar 1 at 77.15° W.L., will bring these benefits to the American public sooner rather than later.

I. GRANT OF THIS APPLICATION IS IN THE PUBLIC INTEREST

Granting EchoStar’s Application is in the public interest. EchoStar and its DBS affiliate, DISH, will be able to take advantage of the greater capabilities that EchoStar 1 brings to bear compared to EchoStar 4 to provide increased programming to U.S. consumers from 77° W.L. while QuetzSat constructs the QuetzSat-1 satellite. EchoStar 4 suffers from two infirmities: limited capacity and limited scope of coverage over the U.S. The Commission found that even this 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.”¹⁰ The redeployment of

⁹ See 77° W.L. Order at Appendix A.

¹⁰ See *id.* at ¶ 8.

EchoStar 1, alongside EchoStar 8, to 77° W.L. will achieve this and more, as it will ameliorate both of EchoStar 4's defects. It will greatly enhance the programming available from 77° W.L. to U.S. customers, and it will also enhance the scope of U.S. coverage beyond the southern states. By operating both EchoStar 1 and EchoStar 8 at 77° W.L., EchoStar and DISH will have greater operational flexibility to maximize the amount of service available to U.S. consumers than if either satellite operated alone at 77° W.L. This greater operational flexibility will provide the companies with expanded capacity to provide high-definition services and additional high-definition local-into-local markets.

All of this can be achieved without any disruption in service. All programming carried by EchoStar 1 at 148° W.L. today can be switched to another DISH satellite or the EchoStar 5 satellite once that spacecraft has been transferred from 129° W.L. to 148° W.L., which is planned to occur this March.¹¹ Moreover, the public interest benefits from increasing the capacity and the scope of the U.S. DBS service provided from 77° W.L. can 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 operation of an additional satellite at 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

¹¹ The Commission has granted DISH authority to move the EchoStar 5 satellite to 148° W.L., and DISH's application for modification of its authority to operate EchoStar 5 at 148° W.L. is pending. See File Nos. SAT-STA-20081003-00201 and SAT-A/O-20081003-00215 (originally filed as File Nos. SAT-MOD-20081003-00199, SAT-MOD-20081003-00200 (filed Oct. 3, 2008)).

at that slot.¹² 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/or any future coordination agreements. Similarly, with respect to Canadian operations at 82° W.L., EchoStar will 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.

Grant of this STA request pending reflagging of the satellite is also in the public interest because it will bring the benefits of redeployment to the American people sooner rather than later.

II. USE OF C-BAND FREQUENCIES FOR TT&C

As the Commission is aware, the EchoStar 1 satellite is equipped with telemetry, tracking and command ("TT&C") beacons in the conventional C-band frequencies (specifically, 5926-5927 MHz and 6423-6424 MHz for command, and 4198.4-4198.6 and 4199.4-4199.6 MHz for telemetry and tracking). The Commission has already authorized the use of those frequencies to perform TT&C operations with EchoStar 1 at 148° W.L. on a non-protected, non-harmful interference basis.¹³ EchoStar requests authority for use of the same frequencies with the same satellite at 77.15° W.L. on exactly the same basis.

Consistent with this precedent, EchoStar respectfully requests a waiver of Section 25.202(g) (in-band TT&C) to the extent necessary to permit such operations. Just as when the

¹² EchoStar also recently received authority to provide service from the EchoStar 6 satellite located at 72.7° W.L. File No. SES-LFS-20080512-00595 (granted July 28, 2008).

¹³ See *EchoStar Satellite Corporation et al.*, 13 FCC Rcd 8595, at ¶ 23 (Sat. & Radiocom. Div. 1998).

Commission authorized DISH to use these frequencies at 148° W.L., there is good cause for such a waiver.¹⁴ First, the continued use of these frequencies for the conduct of TT&C with the EchoStar 1 satellite is essential, as the satellite is not equipped to receive commands or transmit telemetry and tracking information on any other frequencies. In addition, the continued use of these command frequencies on a non-protected, non-harmful interference basis will not increase the potential for interference with any lawful users of spectrum, as it will not conflict with the operations of any adjacent C-band satellite operators. The closest C-band satellite that will operate near the 77° W.L. orbital location when EchoStar 1 is transferred to that location is Brasilsat B3 operating at 75° W.L.¹⁵ The closest C-band satellite to the west of 77° W.L. is Brasilsat B4 operating at 84° W.L. Thus, proposed operations of EchoStar 1's TT&C communications in two slivers of the conventional C-band will not cause any interference into the operations of either of these satellites.

To the extent necessary, EchoStar is also requesting from the Commission a limited waiver of the Trilateral Arrangement Regarding Use of the Geostationary Orbit reached by Canada, Mexico, and the United States as EchoStar 1 will be a Mexican-licensed satellite in the portion of the C-band arc reserved to the U.S. under that agreement.¹⁶ For the reasons set forth

¹⁴ See *WATT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *aff'd*, 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972).

¹⁵ While PanAmSat's Galaxy 4R satellite currently operates at 76.8° W.L., PanAmSat has recently submitted an application to deorbit the satellite in March 2009 and to transfer all C-band traffic to its Galaxy 2R satellite located at 93.10° W.L.. See File No. SAT-STA-20090123-00008 (filed Jan. 23, 2009). As EchoStar 1 will not reach 77° W.L. until on or around May 22, 2009, its limited C-band operations will not interfere with Galaxy 4R.

¹⁶ See Public Notice, Trilateral Arrangement Regarding Use of the Geostationary Orbit Reached by Canada, Mexico, and the United States, *available at* <http://www.fcc.gov/ib/sand/agree/files/satellite/trilat.pdf> (rel. Sept. 2, 1988).

above, there is good cause for such a waiver. In addition, EchoStar notes that Mexico and Canada have both consented to EchoStar 1's limited use of the C-band when the satellite was operating at 119° W.L., in these countries' portion of the C-band arc.¹⁷

III. WAIVER PURSUANT TO SECTION 304 OF THE ACT

In accordance with Section 304 of the Communications Act of 1934, as amended, 47 U.S.C. § 304, EchoStar hereby waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise.

IV. CONCLUSION

For the foregoing reasons, EchoStar respectfully requests that the Commission grant the requested Special Temporary Authority for the temporary operation of EchoStar 1 at 77.15° W.L.

Respectfully submitted,

Pantelis Michalopoulos Petra A. Vorwig Stephote & Johnson LLP 1330 Connecticut Avenue, N.W. Washington, D.C. 20036 (202) 429-3000 <i>Counsel for EchoStar Corporation</i>	/s/ _____	Linda Kinney Vice President, Law and Regulation Brad Gillen Director and Senior Counsel EchoStar Corporation 1233 20th Street, N.W. Suite 302 Washington, DC 20036-2396 (202) 293-0981
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January 30, 2009

¹⁷ *Id.*