

E080107 SES-STA-20091006-01291 IB2009005127
EchoStar Corporation

Approved by OMB
3060-0678

APPLICATION FOR EARTH STATION SPECIAL TEMPORARY AUTHORITY

APPLICANT INFORMATION Enter a description of this application to identify it on the main menu:
Request to Renew Special Temporary Authority to Operate 5,000,000 Blanket Earth Stations with Nimiq 5

1. Applicant

Name:	EchoStar Corporation	Phone Number:	303-723-1000
DBA Name:		Fax Number:	
Street:	100 Inverness Terrace East	E-Mail:	
City:	Englewood	State:	CO
Country:	USA	Zipcode:	80112 -
Attention:	Linda Kinney - (202)293-0981		



File # SES-STA-20091006-01291

Call Sign E080107 Grant Date 10/15/09
(or other identifier)

Term Dates
From 10/16/09 To: 12/14/09

Approved: Kathryn Medley

Chief Satellite Engrg Br.

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?

- If Yes, complete and attach FCC Form 159. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114).
- Governmental Entity Noncommercial educational licensee
- Other (please explain):

4b. Fee Classification CGV – Fixed Satellite VSAT System

5. Type Request

- Use Prior to Grant Change Station Location Other

6. Requested Use Prior Date

7. City

8. Latitude
(dd mm ss.s h) 0 0 0.0 N

9. State	10. Longitude (dd mm ss.s h) 0 0 0.0 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 requests to renew its special temporary authority to operate its blanket earth stations with the Canadian-licensed Nimiq 5 satellite operating at 72.7 W.L. for an additional 60 days. See 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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THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.

On March 6, 2009, EchoStar submitted an application to modify its blanket earth station license operating with EchoStar 6 at 72.7° W.L. to add the soon-to-be-launched Nimiq 5 satellite.⁴ That satellite was launched on September 18, 2009. This STA is necessary to allow EchoStar, and its customer, DISH Network Corporation (“DISH Network”), to provide DBS service to U.S. consumers from Nimiq 5 while EchoStar’s modification application is pending.

As EchoStar described in the *Nimiq 5 Application*, the 72.7° W.L. orbital location has been allotted to Canada under the International Telecommunication Union’s Region 2 Plan for the Broadcasting-Satellite Service (“BSS”). Canada has authorized Telesat Canada to use the entire 12.2-12.7 GHz DBS band at the 72.7° W.L. location. Telesat has contracted to provide the use of all of the satellite’s capacity to Bell ExpressVu Limited Partnership, a limited partnership organized under the laws of the Province of Ontario in Canada, acting through its General Partner, Bell ExpressVu Inc. (“Bell ExpressVu”), a Canadian company. Pursuant to the Nimiq 5 Transponder Service Agreement between EchoStar (and certain of its affiliates) and Bell ExpressVu (the “Nimiq 5 Agreement”), EchoStar obtained the right to use up to 16 of the satellite’s DBS transponders to provide service into the U.S.⁵ EchoStar recently signed a separate agreement with Bell ExpressVu granting EchoStar the right to obtain the additional 16 channels beginning January 1, 2010. As noted in the *Nimiq 5 Application*, EchoStar has

⁴ See File No. SES-MFS-20090306-00253 (filed Mar. 6, 2009) (“*Nimiq 5 Application*”). EchoStar filed a minor amendment to provide a revised Schedule S on August 7, 2009. See File No. SES-AMD-20090807-00977 (filed Aug. 7, 2009).

⁵ See Nimiq 5 Transponder Service Agreement between Bell ExpressVu Limited Partnership, by its General Partner Bell ExpressVu Inc., and EchoStar Corporation, dated March 11, 2008, filed in *Nimiq 5 Application*, Attachment B.

requested authority to operate on up to 32 channels at 72.7° W.L. subject to its contractual authority.⁶

For the same reasons set forth in the previously granted STA application,⁷ grant of this Application would strongly serve the public interest and would not cause any harmful interference.

I. GRANT OF THIS APPLICATION IS IN THE PUBLIC INTEREST

The grant of this application is in the public interest because it will provide EchoStar's customer, DISH Network, immediate access to Nimiq 5, which provides better coverage and higher power than EchoStar 6, allowing DISH Network to offer more local-into-local, high definition, and other programming from the 72.7° W.L. orbital location. EchoStar and DISH Network face an almost exponentially increased need for bandwidth to accommodate the transmission of high-definition programming, including the retransmission of local-into-local stations. Specifically, the digital television transition and the increased demand for high-definition programming have exacerbated dramatically the bandwidth shortage with which DBS providers have perennially struggled. Moreover, by its Order released on March 27, 2008, the Commission has imposed high definition digital carriage obligations on satellite carriers.⁸

⁶ *Nimiq 5 Application*, Narrative, at 3.

⁷ Stamp Grant, File No. SES-STA-20090811-00984 (granted Aug. 17, 2009).

⁸ *Carriage of Digital Television Broadcast Signals: Amendment of Part 76 of the Commission's Rules; Implementation of the Satellite Home Viewer Improvement Act of 1999: Local Broadcast Signal Carriage Issues and Retransmission Consent Issues*, CS Docket No. 00-96, Second Report and Order, Memorandum Opinion and Order, and Second Further Notice of Proposed Rulemaking, FCC 08-86 (rel. Mar. 27, 2008).

While EchoStar and DISH Network benefit from the 16 channels currently available from EchoStar 6,⁹ they will have immediate access to 16, and future access to 32, higher power channels with better antenna coverage over Nimiq 5 through EchoStar's agreement with Bell ExpressVu, which will allow EchoStar and DISH Network to better compete with bandwidth-rich terrestrial multichannel video programming distributors ("MVPDs").

II. GRANT OF THIS APPLICATION WILL NOT CAUSE HARMFUL INTERFERENCE TO OTHER SATELLITES

The grant of this application will not present any significant risk of interference to other U.S. satellites and non-U.S. satellites. To the east, the closest DBS satellite is the Canadian-licensed DIRECTV 1R satellite at 72.5° W.L. That satellite, however, will be operating on different (opposite polarization) DBS channels than the 16 channels that EchoStar is initially expected to use on Nimiq 5, and DIRECTV 1R will continue to operate on opposite polarization channels so as long as it is operating at the 72.5° W.L. cluster. The next closest satellites to the east are EchoStar's own satellites at the 61.5° W.L. orbital cluster, which is more than ten degrees away from 72.7° W.L. To the west, the nearest DBS satellite is the Mexican-licensed EchoStar 4 satellite at 77° W.L. and EchoStar's own satellite, EchoStar 8, operating under Special Temporary Authority at 77.15° W.L. Canadian and Mexican BSS operations at 72.7° and 77° W.L., respectively, have been fully coordinated, and the operation of the Nimiq 5 satellite from the 72.7° W.L. orbital location will be fully in conformance with current or future coordination agreements and operational agreements.

⁹ Under the original Memorandum of Agreement among Telesat, EchoStar and Bell ExpressVu, effective March 11, 2008, and submitted in File No. SES-LFS-20080512-00595, EchoStar 6 was to operate on 11 DBS channels from 72.7° W.L. As a result of subsequent amendments to that agreement, the parties agreed to operate EchoStar 6 over 16 DBS channels at that location.

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 all of these reasons, EchoStar respectfully requests to renew its special temporary authority for 60 days to provide DBS service into the United States from Nimiq 5 operating at 72.7° W.L.

Respectfully submitted,
/s/ Linda Kinney

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Counsel for EchoStar Corporation

October 6, 2009

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