

E070014 SES-STA-20091006-01293 IB200900512
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 E070014 with Nimiq 5 at 72.7 W.L.

1. Applicant

Name:	EchoStar Corporation	Phone Number:	303-723-1000
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Attention:	Linda Kinney - (202)293-0981		



File # SES-STA-20091006-01293

Call Sign E070014 Grant Date 10/15/09
(or other identifier)

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

Approved: Kathryn Melley

Chief, Satellite Engrg Br.

2. Contact

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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 CGX – Fixed Satellite Transmit/Receive Earth Station

5. Type Request

- Use Prior to Grant Change Station Location Other

6. Requested Use Prior Date

7. City Gilbert

8. Latitude
(dd mm ss.s h) 33 22 0.3 N

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to provide DBS service to U.S. consumers from Nimiq 5 while EchoStar's modification application is pending.

As EchoStar described in its *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., a Canadian company ("Bell ExpressVu"). 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.⁴ 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 requested authority to operate on up to 32 channels at 72.7° W.L. subject to its contractual authority.⁵

As with the previously granted STA request, 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

⁴ See Nimiq 5 Transponder Service Agreement between Bell ExpressVu Limited Partnership and EchoStar Corporation, dated March 11, 2008, filed in *Nimiq 5 Application* Attachment B.

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

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.⁶

While EchoStar and DISH Network benefit from the 16 channels currently available from EchoStar 6,⁷ 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").

The public interest will benefit from the redeployment of the Nimiq 5 satellite to 72.7° W.L. because EchoStar's customer, DISH Network, will have access to higher power channels and improved channel coverage from that orbital location, which translates into a more competitive MVPD service. By the same token, authorizing EchoStar's earth stations (Call Sign

⁶ *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).

⁷ 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.

E070014 and E080007) to communicate with the Nimiq 5 satellite at 72.7° W.L. for DBS feeder link operations is also in the public interest.

For all of these reasons, EchoStar respectfully requests the expeditious grant of this application to renew its special temporary authority. 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.

Respectfully submitted,

EchoStar Corporation

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October 6, 2009

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