

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

In the Matter of Application of

EHOSTAR BROADCASTING
CORPORATION

For Special Temporary Authority to Relocate
the EchoStar 3 Satellite to 68.5° W.L. and to
Operate the EchoStar 3 Satellite at 68.5° W.L.

Call Signs: E010242 and
E020248

EXPEDITED ACTION REQUESTED

APPLICATION OF EHOSTAR BROADCASTING CORPORATION

I. INTRODUCTION AND SUMMARY

EchoStar Broadcasting Corporation (“EchoStar”) hereby respectfully requests earth station special temporary authority (“STA”) for a period of thirty days beginning on or about November 1, 2011 to relocate the EchoStar 3 Direct Broadcast Satellite (“DBS”) service spacecraft from 61.45° W.L. to 68.5° W.L. and to operate the satellite at that location upon arrival. This request is intended to facilitate implementation of an agreement that EchoStar and SES Satellites (Gibraltar) Limited (“SES Gibraltar” and together with its affiliates, “SES”) are diligently working to finalize and that will be the subject of a future transfer application.¹ Specifically, to assist in this expected arrangement with SES, EchoStar seeks STA to permit its earth stations in Gilbert, AZ and Meade, SD to communicate with EchoStar 3 to perform telemetry, tracking and command (“TT&C”) to drift EchoStar 3 to 68.5° W.L. and maintain the

¹ A commonly-owned affiliate of SES Gibraltar, New Skies Satellites B.V., will be the contracting party for SES. Promptly upon the agreement’s completion, EchoStar will submit this agreement to the Commission in conjunction with its request to transfer the licensing jurisdiction of the EchoStar 3 satellite. EchoStar intends to submit an unredacted version under a request for confidentiality, along with a redacted version for public filing.

satellite at that location pending action on applications to modify the earth station licenses to permit them to communicate with EchoStar 3 after its relocation to 68.5° W.L.²

As the Commission is aware, SES Gibraltar is a company formed under the laws of Gibraltar.³ SES and EchoStar expect to enter into a contractual arrangement pursuant to which EchoStar will make its EchoStar 3 satellite available to introduce new DBS service into South America.

II. GRANT OF THIS APPLICATION IS IN THE PUBLIC INTEREST

The grant of authority to relocate EchoStar 3 to 68.5° W.L. will serve the public interest and will not cause harmful interference to any authorized user of the spectrum. Specifically, the redeployment of the EchoStar 3 satellite to 68.5° W.L. will permit SES and EchoStar to explore the demand for various DBS services in South America.⁴ EchoStar 3 is currently an in-orbit

² EchoStar is also requesting space station STA to relocate the EchoStar 3 satellite to 68.5° W.L. and operate the satellite there pending action on the future transfer application.

³ SES Gibraltar is licensed to operate satellites that have been authorized to serve the U.S. *See* SES Americom, Inc. and SES Satellites (Gibraltar) Ltd., Call Sign S2676, File No. SAT-ASG-20080609-00120 (granted Aug. 6, 2008) (authorizing SES Gibraltar to serve the U.S. using the AMC-21 satellite at 124.9° W.L.); SES Satellites (Gibraltar) Ltd., Call Sign S2713, File No. SAT-PPL-20061006-00118 (granted Dec. 7, 2006) (authorizing SES Gibraltar to serve the U.S. using the AMC-18 satellite at 104.95° W.L.). In addition, SES Gibraltar has a pending petition for declaratory ruling to serve the U.S. using the NSS-703 satellite at the 47.05° W.L. orbital location. *See* SES Satellites (Gibraltar) Ltd., Call Sign S2818, File No. SAT-PPL-20101103-00230 (filed Nov. 3, 2010); SES Satellites (Gibraltar) Ltd., Call Sign S2818, File No. SAT-APL-20110120-00015 (filed Jan. 20, 2011).

⁴ Because the satellite will not provide U.S. service at 68.5° W.L., the instant STA request is not subject to the freeze barring the filing of applications for authority to serve U.S. customers from a new DBS orbital location. *See* Direct Broadcast Satellite (DBS) Service Auction Nullified: Commission Sets Forth Refund Procedures for Auction No. 52 Winning Bidders and Adopts a Freeze on All New DBS Service Applications, Public Notice, 20 FCC Rcd. 20618, 20620 (2005) (barring the filing of “any application for authority to provide DBS service to the United States”). To the extent the Commission disagrees, EchoStar requests any necessary waiver of the freeze to allow communication with EchoStar 3 for TT&C purposes only. Such authority would not conflict with the purpose of the freeze, which is in force only “pending Commission consideration of the appropriate processing rules for applications to provide DBS in the United States.” *Id.* at 20618.

spare satellite located at 61.45° W.L. under a grant of STA⁵ first received on July 7, 2010, and periodically renewed since. Two other satellites – the recently launched EchoStar 15 and EchoStar 12 – currently operate using the DBS channels licensed to EchoStar at the nominal 61.5° W.L. orbital location.

EchoStar proposes to commence relocation of EchoStar 3 to 68.5° W.L. pursuant to the requested STA at its own risk. Specifically, EchoStar requests authority to perform telemetry, tracking, and command (“TT&C”) in order to relocate EchoStar 3 from 61.45° W.L. to 68.5° W.L. and authority to operate both the TT&C and DBS communications payloads on EchoStar 3 after it has arrived at 68.5° W.L., subject to and consistent with the appropriate authorizations from the relevant jurisdictions into which service is anticipated.

By relocating EchoStar 3, EchoStar can make use of an available satellite to accommodate the requirements of its partner, SES, for capacity to develop a new DBS service in South America.⁶ SES and EchoStar have partnered successfully in the past to develop other

⁵ See EchoStar Satellite Operating Corp., Call Sign S2741, File No. SAT-STA-20110525-00097 (granted May 27, 2011).

⁶ Among other things, SES and EchoStar plan to explore whether there is significant demand for U.S. programming content from the sizeable U.S. expatriate community in Brazil and neighboring countries. State Department figures show, for example, that approximately 60,000 U.S. citizens currently live in Brazil, another 60,000 in Colombia, and a further 52,000 collectively in neighboring Argentina and Chile. See U.S. Department of State, Background Note: Brazil, <http://www.state.gov/r/pa/ei/bgn/35640.htm> (last visited Aug. 30, 2011); U.S. Department of State, Background Note: Colombia, <http://www.state.gov/r/pa/ei/bgn/35754.htm> (last visited Aug. 30, 2011); U.S. Department of State, Background Note: Argentina, <http://www.state.gov/r/pa/ei/bgn/26516.htm> (last visited Aug. 30, 2011); U.S. Department of State, Background Note: Chile, <http://www.state.gov/r/pa/ei/bgn/1981.htm> (last visited Aug. 30, 2011).

SES and EchoStar believe that positioning EchoStar 3 at 68.5° W.L. will put them in a position to provide services to these populations while developing an additional market for U.S. programming content. This marketing plan is not new to EchoStar: it is the converse of the plan that has made EchoStar’s partner, DISH Network Corporation, the leading distributor of

DBS locations, such as at 129° W.L. and 77° W.L. In the case of 129° W.L., the initial deployment of EchoStar 5 to that location was followed by the launch of Ciel-2, a new spot-beam satellite that is used today to deliver local-into-local service to millions of U.S. households. In the case of 77° W.L, the initial deployment of a series of EchoStar satellites has enabled the establishment of the new DISH Mexico service, which serves over a million subscribers.

Relocation of EchoStar 3 to 68.5° W.L. as proposed herein will not harm adjacent satellite operators. Operations of EchoStar 3 at 68.5° W.L. will be pursuant to a modification to the ITU Region 2 BSS and Feeder Link Plans submitted on behalf of Gibraltar by the United Kingdom. SES Gibraltar has advised EchoStar that the coordination of the proposed DBS services is nearly complete.

The Gilbert and Meade earth stations are currently authorized to communicate with EchoStar 3, and their licenses cover a coordination arc that includes the 68.5° W.L. orbital location.⁷ Operation of these facilities under the requested STA will conform to the existing license terms – the only change will be to the location of the EchoStar 3 satellite.

Importantly, there will be no adverse effect on existing customers because the EchoStar 3 satellite itself is not carrying any traffic. The satellite's capacity has already been replaced by EchoStar 15, which in turn is backed up by the capacity on EchoStar 12. Both satellites are in good health. In addition, as the Commission is aware, EchoStar plans to launch the EchoStar 16 satellite to the nominal 61.5° W.L. orbital location next year.

programming to ethnic communities such as the Latin American and Hispanic communities in the United States.

⁷ See Call Sign E010242, File No. SES-LIC-20010831-01649, at Section C (granted Nov. 2, 2001); Call Sign E020248, File No. SES-MFS-20071004-01376, at Section C (granted Feb. 7, 2008).

EchoStar 3 is expected to remain indefinitely at its new proposed orbital location, unless it is needed to provide capacity in the event of an anomaly affecting another satellite in the EchoStar fleet. Any final agreement for the use of EchoStar 3 at 68.5° W.L. will include an express exception permitting EchoStar to relocate the satellite in the event that it is needed to backstop U.S. service due to an anomaly on another DBS satellite operated by EchoStar.

Grant of the requested authority is consistent with Commission precedent. Under a very similar set of facts, the Commission authorized Intelsat to relocate the Galaxy 27 satellite from 129° W.L. to 45.10° E.L. and to operate the satellite at 45.10° E.L. to provide services outside the United States.⁸ Permission to utilize this otherwise idle satellite to develop new business opportunities, which could result in additional growth in EchoStar's video franchise, is certainly in the public interest given that it is a U.S. listed publically owned corporation.

III. OPERATIONAL PARAMETERS

During the relocation to 68.5° W.L., EchoStar will not operate the communications payload on EchoStar 3, and EchoStar will follow standard industry practices for coordination of TT&C transmissions during the relocation process.⁹ EchoStar will operate the earth stations subject to the following conditions during the relocation maneuvers:

1. EchoStar shall coordinate all drift operations with other potentially affected in-orbit operators.

⁸ See Intelsat North America LLC, Call Sign S2159, File Nos. SAT-STA-20100105-00004 (granted March 11, 2010) (authorizing drift of Galaxy 27 from 129° W.L. to 45.10° E.L.); SAT-STA-20100528-00116 (granted June 2, 2010) (authorizing activation of the Galaxy 27 communications payload at 45.10° E.L.); SAT-T/C-20100112-00009 (granted July 30, 2010) (transferring Galaxy 27 from U.S. licensing authority to German licensing authority for operations at 45.10° E.L.).

⁹ During the drift from 61.45° W.L. to 68.5° W.L., EchoStar will use the following frequencies for TT&C:

Uplink: 17301.5 MHz

Downlink: 12201.0, 12203.0, and 12699.0 MHz

2. Drift operations shall be on a non-harmful interference basis, meaning that EchoStar shall not cause interference to, and shall not claim protection 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 relocation operations, EchoStar shall cease operations immediately upon notification of such interference and shall inform the Commission immediately, in writing, of such event.

Upon arrival at 68.5° W.L., EchoStar 3 will operate in the DBS band (12.2-12.7 GHz downlinks and 17.3-17.8 GHz uplinks) with coverage of South America. While EchoStar 3 is stationed at 68.5° W.L., EchoStar will operate the earth stations in accordance with the following conditions:

1. Operations shall be on a non-harmful interference basis, meaning that EchoStar shall not cause interference to, and shall not claim protection from, interference caused to it by any other lawfully operating satellites within the parameters of applicable international coordination agreements.
2. In the event that any harmful interference is caused while the satellite is operating at 68.5° W.L., EchoStar shall cease operations immediately upon notification of such interference and shall inform the Commission immediately, in writing, of such event.

IV. WAIVER PURSUANT TO SECTION 304 OF THE ACT

EchoStar 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, and requests an authorization in accordance with this application.

V. CONCLUSION

For the foregoing reasons, EchoStar seeks temporary authority for a period of up to thirty days beginning on or about November 1, 2011 to perform TT&C in order to relocate EchoStar 3 satellite to 68.5° W.L., to operate the TT&C payload during the drift to that location, and to operate the TT&C and DBS communications payloads upon arrival of EchoStar 3 at 68.5° W.L.

Respectfully submitted,

/s/

Alison Minea
Corporate Counsel
EchoStar Broadcasting Corporation
1110 Vermont Avenue, NW, Suite 750
Washington, D.C. 20005
(202) 293-0981

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

September 2, 2011

RESPONSE TO QUESTION 36

In a letter dated May 27, 2009, the Satellite Division of the International Bureau returned the application of EchoStar Corporation (along with its subsidiaries, “EchoStar”) to operate a geostationary C-band satellite at the nominal 85° W.L. orbital location as unacceptable for filing, without prejudice to refiling. *See* Letter from Robert G. Nelson, Chief, Satellite Division, to Pantelis Michalopoulos, Counsel for EchoStar Corporation, DA 09-1149 (May 27, 2009).

On July 29, 2010, the International Bureau (“IB”) dismissed EchoStar’s application to construct, launch, and operate a C-band satellite at the 84.9° W.L. orbital location. EchoStar Corporation, Application to Operate a C-Band Geostationary Satellite Orbit Satellite in the Fixed-Satellite Service at the 84.9° W.L. Orbital Location, *Memorandum Opinion and Order*, DA 10-1401 (July 29, 2010).

On July 26, 2011, the IB declared null and void EchoStar’s authorization to construct, launch, and operate a new Direct Broadcast Satellite at 86.5° W.L. for failure to meet the critical design review milestone, and rejected EchoStar’s request to modify its 86.5° W.L. authorization to allow the in-orbit EchoStar 8 satellite to provide service from that orbital location. *See* EchoStar Corporation, Certifications of Milestone Compliance, *Memorandum Opinion and Order*, DA 11-1251 (rel. July 26, 2011). EchoStar has filed a petition for reconsideration of the IB’s decision. *See* EchoStar Satellite Operating Corporation, Petition for Reconsideration, File Nos. SAT-LOA-2003-0609-00113, SAT-MOD-2081229-00239, SAT-MOD-20101124-00244, SAT-AMD-20110330-00065 (filed Aug. 25, 2011).

RESPONSE TO QUESTION 40

Ownership and Corporate Officers and Directors

OWNERSHIP

EchoStar Corporation (“EchoStar”) is a publicly traded Nevada corporation. EchoStar Broadcasting Corporation is a wholly owned subsidiary of EchoStar. The stockholders owning of record and/or voting 10 percent or more of the voting stock of EchoStar included:

Ownership Interest	Citizenship	Approx. Equity Interest¹	Approx. Voting Interest¹
Charles W. Ergen ² Chairman EchoStar Corporation 100 Inverness Terrace East Englewood, CO 80112	USA	56% ³	92.7%

¹ As of August 8, 2011.

² Includes ownership of both Class A Common Stock and Class B Common Stock. A portion of Mr. Ergen’s interest in EchoStar is held in trusts, including Grantor Retained Annuity Trusts (“GRATs”). The trustee for the GRATs is Mr. William R. Gouger, a U.S. citizen and manager of SC Management, LLC, whose principal business is management services, including estate planning. Mr. Gouger also remains a Partner with the law firm of Gouger, Franzmann & Redman, LLC, located at 400 Inverness Parkway, Suite 250, Englewood, Colorado 80112. In his capacity as trustee, subject to certain restrictions, Mr. Gouger holds, and has the ability to exercise voting power over, shares representing 21.8% of the equity interests (assuming conversion of all shares of outstanding Class B Common Stock into Class A Common Stock) and 36.7% of the voting interests in EchoStar (assuming no conversion of Class B Common Stock).

³ Assumes conversion of all shares of outstanding Class B Common Stock into Class A Common Stock.

CORPORATE OFFICERS AND DIRECTORS⁴

EchoStar Corporation

Executive Officers:

Michael T. Dugan	President and Chief Executive Officer
Charles W. Ergen	Chairman
R. Stanton Dodge	Executive Vice President, General Counsel and Secretary
David Rayner	Chief Financial Officer
Anders Johnson	President – EchoStar Satellite Services
Roger J. Lynch	Executive Vice President, Advanced Technologies
Mark W. Jackson	President – EchoStar Technologies L.L.C.
Steven B. Schaver	President – EchoStar International Corporation

Board of Directors:

Charles W. Ergen	Chairman of the Board
R. Stanton Dodge	
David K. Moskowitz	
Michael T. Dugan	
Anthony M. Federico	
Tom A. Ortolf	
C. Michael Schroeder	

⁴ The address for all officers and directors of EchoStar Corporation is 100 Inverness Terrace E., Englewood, CO 80112.