

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

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| In the Matter of |) | |
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| ECHOSTAR BROADCASTING CORPORATION |) | |
| |) | File Nos. SES-STA-_____ - _____ |
| Application for Special Temporary Authority |) | Call Signs E020306, E070014, E070015, |
| to Operate Two Ku-band Transmit/Receive |) | E080120, E980127 |
| Earth Stations and Three Transmit/Receive |) | |
| Earth Stations with the Mexican-Licensed |) | |
| EchoStar 8 Satellite During Its Relocation to, |) | |
| and Operation at, the 76.85° W.L. Orbital |) | |
| Location |) | |

APPLICATION FOR SPECIAL TEMPORARY AUTHORITY

By this Application, and pursuant to Section 25.120(b)(3) of the Commission’s rules,¹ EchoStar Broadcasting Corporation (“EchoStar”) requests Special Temporary Authority (“STA”) for 30 days to operate: (1) three transmit/receive earth stations (Call Signs E020306, E070014, and E080120) to provide telemetry and tracking functions in the Broadcasting-Satellite Service (“BSS”) band for the relocation, and continued operation, of the Direct Broadcast Satellite (“DBS”) EchoStar 8 from 77.05° W.L. to 76.85° W.L.; and (2) two “ALSAT” Fixed-Satellite Service (“FSS”) transmit/receive earth stations (Call Signs E980127 and E070015) to transmit command instructions to the EchoStar 8 satellite during its relocation to and operations at 76.85° W.L. in the Ku-band using the 14003 MHz frequency channel.² The nominal 77° W.L. orbital location is allotted by the International Telecommunication Union (“ITU”) to Mexico and the

¹ 47 C.F.R. § 25.120(b)(3).

² EchoStar is filing this application out of an abundance of caution, and based on communications with Bureau officials, because the planned move exceeds 0.1°.

EchoStar 8 satellite operates there as a Mexican-licensed satellite.³ This minor move is designed to accommodate a new satellite, QuetzSat-1, at the nominal 77° W.L. orbital location that will allow U.S. consumers to receive enhanced satellite services.

EchoStar will soon be filing five applications to modify the authorizations of its transmit/receive earth stations to add EchoStar 8 at 76.85° W.L. as a point of communication, where it will continue to be operated by QuetzSat, S. de R.L. de C.V. (“QuetzSat”) as a Mexican-licensed satellite. EchoStar will also request a corresponding modification to its blanket receive earth station authority to reflect this minor move. As the Commission is aware, QuetzSat is an affiliate of SES Global Latin America, S.A. 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. EchoStar currently has a blanket earth station license allowing reception of service from EchoStar 8 at its current orbital location, 77.05° W.L.

This STA is necessary to allow the EchoStar 8 satellite to be relocated to 76.85° W.L., so as to accommodate the QuetzSat-1 satellite at 77.05° W.L. Once it arrives, QuetzSat-1 will provide enhanced DBS service to the United States and Mexico. EchoStar 8 will be relocated to 76.85° W.L. as soon as this grant is authorized. To ensure the safest relocation and coordination possible, EchoStar respectfully requests action on this request by Monday, November 7, 2011.

For the reasons set forth herein, grant of this application will serve the public interest, will not cause any harmful interference, and is fully consistent with the Commission’s *DISCO II* policies.⁴

³ See EchoStar Satellite L.L.C., *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).

I. BACKGROUND

The nominal 77° W.L. orbital location is allotted to Mexico under the Region 2 Broadcasting-Satellite Service (“BSS”) plan set forth in Appendices 30 and 30A to the international Radio Regulations. EchoStar 1, EchoStar 6, and EchoStar 8 are currently stationed at that nominal orbital location. EchoStar 8 is specifically stationed at 77.05° W.L. as a Mexican-licensed satellite pursuant to an exchange of letters between the Commission and the Mexican Administration.⁵ In addition, the Mexican-licensed QuetzSat-1 satellite was recently launched on September 29, 2011 and is expected to operate from the nominal 77° W.L. orbital location.

To make room for QuetzSat-1, EchoStar 8 will move within the 77° W.L. orbital cluster, from 77.05° W.L. to 76.85° W.L. The satellite will still operate with 0.05° stationkeeping, and thus will remain at all times within the Mexican orbital cluster. The satellite will still be subject to the same terms and conditions set forth in the exchange of letters, and will remain a Mexican-licensed satellite. EchoStar understands that the use of the EchoStar 8 satellite at the nominal 77° W.L. location is directly encompassed within the authority granted in QuetzSat’s existing concession.⁶

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*”).

⁵ See Radio Authorization, File No. SAT-T/C-20090217-00026 (granted Sept. 17, 2010).

⁶ That concession is not limited to the operations of any particular satellite at 77° W.L. See Secretariat of Communications and Transportation Vice-Ministry of Communications, Concesion Para Ocupar La Posicion Orbital Geoestacionaria 77° Oeste Asignada al Pais y Explotar Sus Respectivas 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”), at 4, filed in File No. SAT-STA-20080616-00121 (granted Oct. 21, 2008) (“*EchoStar 8 Application*”).

In January 2011, the EchoStar 8 satellite experienced a single event upset (“SEU”).⁷ The SEU resulted in the partial disabling of the satellite’s remaining 17 GHz receiver. While that receiver is capable of providing ranging functions, it is not capable of receiving command instructions, which therefore must be received over two FSS Ku-band transmit/receive earth stations (Call Signs E070015 and E980127) located in Cheyenne, Wyoming and Gilbert, Arizona. These earth stations are ALSAT stations and are operating within their licensed parameters. The Commission previously granted EchoStar STA to operate these two earth stations with EchoStar 8 following the SEU for its operation at 77.05° W.L. The authority requested here will simply permit the relocation of the satellite to, and its temporary stationing at, 76.85° W.L.⁸ The other transmit/receive earth stations subject to this application (Call Signs E020306, E070014 and E080120) will be used for tracking (uplink) and telemetry (downlink) functions within the sliver of EchoStar 8’s service band earmarked for these functions,⁹ during relocation of the EchoStar 8 satellite to 76.85° W.L. and during its operation there.

II. THIS APPLICATION IS LEGALLY AND TECHNICALLY COMPLETE

The legal qualifications of EchoStar to receive the requested authority are a matter of record with the Commission. For the EchoStar 8 satellite, EchoStar has previously submitted all of the technical information required by Sections 25.137 and 25.114 of the Commission’s rules¹⁰

⁷ See Letter from Petra A. Vorwig, Counsel for EchoStar Corporation, to Marlene H. Dortch, Secretary, FCC, File No. SAT-T/C-20090217-00026 (Feb. 1, 2011).

⁸ See Stamp Grant, File No. SES-STA-20110328-00371 (granted Apr. 18, 2011); Stamp Grant, File No. SES-STA-20110328-00320 (granted Apr. 18, 2011).

⁹ EchoStar 8’s in-band telemetry and tracking operations are at 12.206 and 12.207 GHz bands for telemetry and 17.799 GHz for tracking.

¹⁰ 47 C.F.R. §§ 25.137, 25.114.

in the Schedule S and Technical Annex attached to the *EchoStar 8 Application*. They are incorporated herein by reference.

In addition, the proposed operation of EchoStar 8 at 76.85° W.L. to provide service to the United States is fully compliant with the Commission’s technical rules. With respect to the geographic service requirements in Section 25.148(c) of the Commission’s rules,¹¹ the Commission has already held that DBS service to Alaska and Hawaii is not technically feasible from the 86.5° W.L. orbital location.¹² It follows that service from the 77° W.L. orbital location, which is even further east than 86.5° W.L., is also not technically feasible.

III. THIS APPLICATION IS IN THE PUBLIC INTEREST AND WILL NOT CAUSE HARMFUL INTERFERENCE

An STA “request must contain the full particulars of the proposed operation including all facts sufficient to justify the temporary authority sought and the public interest therein.”¹³

Granting EchoStar’s application is needed to bridge a short-term period while its soon-to-be-filed modification applications are under consideration, is in the public interest and will not present any risk of harmful interference to other U.S. or non-U.S. satellites. It will optimize EchoStar’s fleet deployment at the 77° W.L. cluster, and improve the ability of EchoStar’s customer, DISH Network, to continue to provide programming to U.S. consumers from 77° W.L. The Commission has found that even limited service from the Mexican orbital slot at 77° W.L.

¹¹ *Id.* § 25.148(c) (requiring service to Alaska and Hawaii “where such service is technically feasible”).

¹² EchoStar Satellite L.L.C., *Order and Authorization*, 21 FCC Rcd. 14045 ¶ 19 (2006) (“Given the very low elevation angles to the 86.5° W.L. orbital location from Alaska and Hawaii, it is very unlikely that service to these states from EchoStar-86.5W would be technically feasible. Therefore, we will not require EchoStar-86.5W to provide service to Alaska and Hawaii from the 86.5° W.L. orbital location.”).

¹³ 47 C.F.R. § 25.120(a)

“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.”¹⁴ The redeployment of EchoStar 8 at 76.85° W.L., to a mere 0.2 degrees away from its current location, will further that goal by making room for QuetzSat-1, which will provide just such services.

All of this will be achieved without any disruption in service. EchoStar 8 currently serves as an in-orbit spare, and is not currently used to provide service to consumers. During EchoStar 8’s relocation to 76.85° W.L., EchoStar 1 and EchoStar 6 will continue to provide service from the 77° W.L. nominal orbital location.

These public benefits will also 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 continued operation of the satellite within the nominal 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 at that slot. 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 any future coordination agreements. Similarly, with respect to Canadian operations at 82° W.L., EchoStar will continue to operate in full conformity with the 1996 Mexican ITU modification over all points in Canada and the United States, as well as with the

¹⁴ See 77° W.L. Order ¶ 8.

existing coordination agreements between the Administrations of Canada and Mexico and/or any future coordination agreements.

In addition, to avoid potential harmful interference with other satellite networks, EchoStar will operate the earth stations to conduct telemetry and tracking operations for the relocation of the EchoStar 8 satellite to 76.85° W.L. in accordance with the following conditions:

1. EchoStar will coordinate its telemetry and tracking operations with all potentially affected operating satellite networks.
2. No harmful interference will be caused to any lawfully operating satellite network or radio communication system and EchoStar operations will cease immediately upon notification of harmful interference. Further, EchoStar shall notify the Commission immediately, in writing, of such an event.
3. EchoStar will accept interference from any lawfully operating satellite network or radiocommunication system.

Moreover, EchoStar will operate the earth stations to conduct telemetry, tracking, and control operations while EchoStar 8 is operating at 76.85° W.L. 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 operating within the parameters of applicable international coordination agreements.
2. In the event that any harmful interference is caused while the satellite is operating at 76.85° W.L., EchoStar shall cease operations immediately upon notification of such interference and shall inform the Commission immediately, in writing, of such event.

IV. GRANT OF THIS APPLICATION IS CONSISTENT WITH THE COMMISSION'S *DISCO II* POLICIES

Under its *DISCO II* framework, the Commission evaluates whether the provision of service into the United States from a foreign-licensed satellite will serve the public interest. The *DISCO II* analysis includes consideration of a number of factors, including the effect on competition in the United States; eligibility and operating requirements; spectrum availability;

and national security, law enforcement, foreign policy, and trade concerns.¹⁵ As part of this analysis, the Commission examines the “effective competitive opportunities” afforded to U.S. market access.¹⁶

The United States and Mexico have a bilateral agreement in place related to the provision of DTH service.¹⁷ Under *DISCO II*, such a bilateral agreement “acts as a gateway to, and a guarantee of, increased competition in the two countries at both ends of the agreement.”¹⁸ Therefore, in cases such as this one, in which U.S. earth stations seek to communicate with a Mexican-flagged space station, the Commission assumes that the application would enhance competition and “no further market access analysis is required.”¹⁹

Finally, EchoStar has demonstrated compliance with the Commission’s eligibility and operating requirements,²⁰ and there are no spectrum availability, national security, law enforcement, foreign policy, or trade concerns that would warrant treating this application differently from those previously granted by the Commission.

¹⁵ See *DISCO II*, 12 FCC Rcd. at 24107-72.

¹⁶ *Id.* at 24098 (“For satellites licensed by non-WTO Members and for all satellites providing Direct-to-Home (DTH), Direct Broadcasting Satellite (DBS), and Digital Audio Radio Services (DARS), we will examine whether U.S. satellites have effective competitive opportunities in the relevant foreign markets to determine whether allowing the foreign-licensed satellite to serve the United States would satisfy the competition component of the public interest analysis.”).

¹⁷ See Agreement between the Government of the United States of America and the Government of the United Mexican States Concerning the Transmission and Reception from Satellites for the Provision of Satellite Services to Users in the United States of America and the United Mexican States (Apr. 28, 1996); Article I and Protocol Concerning the Transmission and Reception of Signals from Satellites for the Provision of Direct-to-Home Satellite Services in the United States of America and the United Mexican States (Nov. 8, 1996).

¹⁸ *DISCO II*, 12 FCC Rcd. at 24157 ¶ 143.

¹⁹ See EchoStar Satellite L.L.C., *Order and Authorization*, 21 FCC Rcd. 44077, 4080 ¶ 8 n.20 (2006).

²⁰ See *EchoStar 8 Application*, Technical Annex and Schedule S.

V. CONCLUSION

For the foregoing reasons, EchoStar respectfully requests that the Commission grant this application for STA for 30 days to operate two ALSAT FSS transmit/receive earth stations (Call Signs E070015 and E980127), and three transmit/receive earth stations (Call Signs E020306, E070014, and E080120) to operate with the Mexican-licensed EchoStar 8 satellite at 76.85° W.L. during its relocation to, and operation at, that orbital location.

Respectfully submitted,

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