

E090020 SES-STA-20121022-00950 IB2012002471
DISH Operating L.L.C.

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:

30-day Special Temporary Authority to Operate Call Sign E090020 on Channels 23 and 24 to Communicate with QuetzSat-1 at the 61.5 Orbital Location

1. Applicant

Name:	DISH Operating L.L.C.	Phone Number:	202-293-0981
DBA Name:		Fax Number:	
Street:	100 Inverness Terrace East	E-Mail:	
City:	Englewood	State:	CO
Country:	USA	Zipcode:	80112 -
Attention:	Alison Minea		



"With conditions"
File# SES-STA-20121022-00950
Call Sign E090020 Grant Date 11/01/2012
(or other identifier)
Term Dates
From 10/27/2012 To: 11/25/2012
Approved: Paul E. Bauer

Applicant: DISH Operating L.L.C.
Call Sign: E090020
File No.: SES-STA-20121022-00950
Special Temporary Authority (STA)

DISH Operating L.L.C. (DISH) is granted, from October 27, 2012, through November 25, 2012, special temporary authority to operate its blanket licensed earth stations to communicate with the foreign-licensed QuetzSat-1, a U.K. registered and licensed space object, at the 61.5 W.L. orbital location, in the 12.2-12.7 GHz (space-to-Earth), on the Direct Broadcast Satellite ("DBS") channels 23 and 24 under the following conditions.

1. All operations of the Quetzsat-1 satellite at the 61.5 W.L. orbital location must comply with the conditions of operation applicable to EchoStar 15 at the 61.5° W.L. orbital location pursuant to DA-12-993.
2. All operations shall be on an unprotected basis, DISH, E090020, shall not claim protection from, interference caused to it by any other lawfully operating station.
3. In the event that any harmful interference is caused as a result of operations of the Quetzsat-1 satellite, DISH shall cease operations immediately upon notification of such an event, and shall inform the Commission immediately, in writing, of the event.
4. Any action taken or expense incurred as a result of operations pursuant to this special temporary authority is solely at DISH's own risk.
5. This action is issued pursuant to Section 0.261 of the Commission's rules on delegated authority, 47 C.F.R. §0.261, and is effective immediately.

"with conditions"



File # SES-STA-20121022-00950
Call Sign E090020 Grant Date 11/01/2012
(or other identifier)
Term Dates
From 10/27/2012 To: 11/25/2012
Approved: Paul E. Black

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 SESSTA2012092700861 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	8. Latitude (dd mm ss.s h) 0 0 0.0

9. State	10. Longitude (dd mm ss.s h) 0 0 0.0
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 data-bbox="308 503 1835 667" style="border: 1px solid black; padding: 5px;"> DISH Operating L.L.C. seeks 30-day Special Temporary Authority to operate its blanket earth station (Call Sign E090020) with the QuetzSat-1 satellite on channels 23 and 24 at the 61.5 orbital location. 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 Alison Minea	15. Title of Person Signing Corporate Counsel
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 _____))
_____))
DISH OPERATING L.L.C. File No. SES-STA-2012 - _____)
Call Sign E090020 _____))
Request for Special Temporary Authority to _____))
Communicate with QuetzSat-1 Using Channels _____))
23 and 24 at the 61.5° W.L. Orbital Location _____))
_____))
_____)

REQUEST FOR SPECIAL TEMPORARY AUTHORITY

DISH Operating L.L.C. (“DISH”) requests special temporary authority (“STA”) to operate its earth blanket station (Call Sign E090020) with the QuetzSat-1 satellite on the Direct Broadcast Satellite (“DBS”) channels 23 and 24 at the 61.5° W.L. orbital location for 30 days. For the reasons set forth below, grant of this request will serve the public interest.

I. BACKGROUND AND PROCEDURAL HISTORY

As previously described to the Commission, DBS channels 23 and 24 at the nominal 61.5° W.L. orbital location have a unique history.¹ In stark contrast to the vast majority of DBS spectrum, these channels have remained unassigned and unlicensed. In fact, these channels “are the only two remaining unassigned DBS channels in the 12 GHz band that are assigned to the United States that can provide service to most of the contiguous United States.”²

¹ See File Nos. SAT-STA-20110909-00176 (granted Oct. 18, 2011); SAT-STA-20110525-00096 (granted May 27, 2011).

² Rainbow DBS Company, LLC and EchoStar Satellite L.L.C., *Memorandum Opinion and Order*, 20 FCC Rcd. 16868, 16880 ¶ 29 (2005) (“*Rainbow I Assignment Order*”).

The future of these unassigned channels is, however, also subject to the uncertainty surrounding the *Northpoint* decision that vacated the Commission’s DBS auction rules, and the DBS freeze implemented by the Commission in response to that decision.³ As a result, a new licensee will not be in a position to provide services from these channels for a number of years. In fact, while the Commission initiated a proceeding in 2006 to establish the mechanism by which these channels could be ultimately licensed and operated, that proceeding is still pending.⁴

In an effort to ensure that such valuable spectrum does not lie fallow, the Commission has provided STA to DBS providers to operate on these channels for thirteen years subject to different conditions. On March 21, 1998, the Commission granted the predecessor-in-interest of DISH’s sister corporation, EchoStar Corporation (along with its affiliates, “EchoStar”), STA to operate on channels 23 and 24, as well as 8 channels assigned to Dominion Video Satellite, Inc. and 11 channels assigned to Rainbow DBS Company, LLC (“Rainbow”).⁵ Rainbow subsequently operated on channels 23 and 24 pursuant to STA for a two-year period⁶ before

³ *Northpoint Technology Ltd. v. FCC*, 412 F.3d 145 (D.C. Cir. 2005); Public Notice, 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, FCC 05-213 (rel. Dec. 21, 2005) (stating that the DBS freeze does not apply to “requests for special temporary authority”).

⁴ See Amendment of the Commission’s Policies and Rules for Processing Applications in the Direct Broadcast Satellite Service in the United States, *Notice of Proposed Rulemaking*, 21 FCC Rcd. 9443 (2006).

⁵ See Direct Broadcasting Satellite Corporation, Application for Special Temporary Authority to Operate a Direct Broadcast Satellite Over Channels 1-21 (odd) and 23-32 (odd and even) at 61.5° W.L., *Memorandum Opinion and Order*, 13 FCC Rcd. 6392 (1998) (“*EchoStar 1998 STA Grant*”). For a full description of the regulatory history of these channels, see File No. SAT-STA-20090821-00092, Narrative at n.4 (granted Dec. 1, 2009).

⁶ Rainbow received STA (the “Rainbow STA”) to operate on the unassigned channels in 2003. EchoStar Satellite Corporation and Rainbow DBS Company LLC, *Order and Authorization*, 18 FCC Rcd. 19825 (2003) (“*Rainbow STA Order*”).

EchoStar's predecessor-in-interest acquired the Rainbow 1 satellite in 2005.⁷ On January 1, 2008, EchoStar's predecessor-in-interest assigned the STA to EchoStar as part of a *pro forma* corporate reorganization under which EchoStar Communications Corporation spun off its wholly-owned subsidiary, EchoStar.⁸ The Commission has highlighted repeatedly “the importance of ensuring that spectrum can continue to serve the public rather than lying fallow unnecessarily, even on a temporary basis.”⁹ During the past thirteen years, the flexibility provided by this much-needed capacity has proven instrumental to DBS providers.

II. GRANT OF THIS REQUEST WOULD SERVE THE PUBLIC INTEREST

DISH understand that QuetzSat-1 is being relocated temporarily to 61.5° W.L. to relieve EchoStar 15 so that it, in turn, can relocate to 44.9° W.L.¹⁰ DISH further understands that QuetzSat-1 will remain at that location until EchoStar 16 is able to take over duties from

⁷ The Rainbow STA was assigned to EchoStar Satellite L.L.C. (“ESLLC”) in October 2005 as part of the sale of the Rainbow 1 satellite to EchoStar. See Stamp Grant, File No. SAT-STA-20050926-00183 (granted Sept. 30, 2005); see also *Rainbow 1 Assignment Order*, 20 FCC Rcd. 16868. The STA was then assigned from ESLLC to an affiliate, EchoStar Satellite Operating Corporation (“old ESOC”), in September 2006. See Application for Pro Forma Assignment of Licenses from EchoStar Satellite L.L.C. to EchoStar Satellite Operating Corporation, File No. SAT-ASG-20051129-00256 (granted Sep. 13, 2006).

⁸ See Public Notice, Policy Branch Information Actions Taken, DA 07-4655 (rel. Nov. 16, 2007) (consenting to the transfer of several authorizations as part of the spin-off).

⁹ *Rainbow STA Order*, 18 FCC Rcd. at 19828 ¶ 8; see also *EchoStar 1998 STA Grant*, 13 FCC Rcd. at 6394 ¶ 7 (“furthering the Commission’s objective to make efficient use of available spectrum”).

¹⁰ See File No. SES-STA-20120918-00839, Narrative, at 3-4 (filed Sept. 19, 2012).

QuetzSat-1 at the 61.5° W.L. orbital cluster later this year.¹¹ EchoStar 16 is currently scheduled to launch on or about November 20, 2012.¹²

The two unassigned channels 23 and 24 are currently being operated subject to STA on EchoStar 15, which QuetzSat-1 will replace at the 61.5° W.L. orbital cluster. Like EchoStar 15,¹³ QuetzSat-1 can support the capacity needs of DISH to provide High Definition programming to subscribers. The requested STA will continue to ensure that channels 23 and 24 remain available to provide services to DISH's customers. DISH agrees to comply with the same conditions set forth in the order authorizing EchoStar to operate EchoStar 15 over Channels 23 and 24.¹⁴

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, DISH 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.

¹¹ *Id.*

¹² See Letter from Stephanie A. Roy, Counsel for EchoStar Satellite Operating Corporation, to Marlene H. Dortch, FCC (Oct. 16, 2012), *filed in* File Nos. SAT-STA-20120315-00049; SES-STA-20120614-00508; ES-STA-20120316-00275; SES-STA-20120316-00274.

¹³ See File No. SAT-STA-20100615-00134, Narrative at 2 (filed June 15, 2010).

¹⁴ See Stamp Grant, File No. SAT-STA-20110525-00096 (granted May 27, 2011); EchoStar Corporation, Application for Special Temporary Authority to Operate the EchoStar 15 Satellite on Channels 23 and 24 at the 61.55° W.L. Orbital Location, *Order and Authorization*, 25 FCC Rcd. 10980, 10982-83 ¶¶ 9-17 (2010).

IV. CONCLUSION

For the foregoing reasons, DISH respectfully requests the grant of its application for special temporary authority to operate the QuetzSat-1 satellite at the 61.5° W.L. orbital location on channels 23 and 24 for 30 days.

Respectfully submitted,

/s/

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October 22, 2012