

E050196 SES-STA-20121022-00951 IB2012002470
EchoStar 77 Corp.

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 E050196 on Channels 23 and 24 to Communicate with QuetzSat-1 at the 61.5 Orbital Location

1. Applicant

Name:	EchoStar 77 Corp.	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:	Ms Alison Minea		



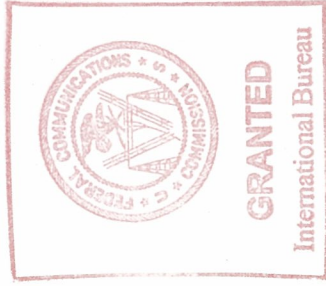
"With conditions"
File # SES-STA-20121022-00951
Call Sign E050196 Grant Date 11/01/2012
(or other identifier)
Term Dates
From 10/27/2012 To 11/25/2012
Approved: Paul E. Hayes

Applicant: EchoStar 77 Corp.
Call Sign: E050196
File No.: SES-STA-20121022-00951
Special Temporary Authority (STA)

EchoStar 77 Corp. (EchoStar 77) 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, EchoStar 77, E050196, 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, EchoStar 77 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 EchoStar 77'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-20121022-00951

Call Sign E050196 Grant Date 11/01/2012
(or other identifier)

Term Dates
From 10/27/2012 To: 11/25/2012

Approved: Muel E. Hall

2. Contact

Name:	Pantelis Michalopoulos	Phone Number:	202-429-8722;6494
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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 SESSTA2012092600852 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 multiple

8. Latitude

(dd mm ss.s h) 0 0 0.0

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

_____)
In the Matter of _____)
_____)
ECHOSTAR 77 CORPORATION) File No. SES-STA-2012 - _____)
_____) Call Sign E050196)
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

EchoStar 77 Corporation (“EchoStar 77” or, collectively with its affiliates, “EchoStar”) requests special temporary authority (“STA”) to operate its blanket earth station (Call Sign E050196) 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 EchoStar has 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

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

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

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 EchoStar’s predecessor-in-interest 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

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*”).

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).

Rainbow subsequently operated on channels 23 and 24 pursuant to STA for a two-year period⁶ before 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

As EBC previously explained, 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 QuetzSat-1 will remain at that location until EchoStar 16 is able to take over duties from QuetzSat-1 at the 61.5° W.L. orbital

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*").

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).

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 EchoStar's customer, DISH Network L.L.C. ("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. EchoStar 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, EchoStar 77 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, EchoStar 77 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