

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

In the Matter of	)	
	)	
<b>ECHOSTAR CORPORATION</b>	)	
	)	
Application for Special Temporary Authority	)	File No. SAT-STA-2008_____
To Move EchoStar 6 to 77° W.L.	)	
	)	

***EXPEDITED CONSIDERATION REQUESTED***

**APPLICATION FOR SPECIAL TEMPORARY AUTHORITY<sup>1</sup>**

Pursuant to Section 309 of the Communications Act of 1934, as amended, 47 U.S.C. § 309, and Part 25 of the Commission’s Rules, EchoStar Corporation (“EchoStar”) hereby files this application for special temporary authority (“STA”) for 30 days to move the EchoStar 6 satellite from its current orbital position at 110° W.L. to 77° W.L and perform telemetry, tracking and command (“TT&C”) operations in order to relocate EchoStar 6 to this new orbital location.<sup>2</sup> In order to allow for sufficient time to drift and test the satellite at the 77° W.L. orbital

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<sup>1</sup> Concurrent with this application, EchoStar is filing a request for STA to operate EchoStar 6 as a U.S.-licensed satellite at 77° W.L. for 180 days. EchoStar is also separately requesting to operate three transmit/receive earth stations to move EchoStar 6 to 77° W.L. (Call Signs E070014, E980005, E060003), and a modification of its authority for one transmit/receive earth station (Call Sign E060003) to add EchoStar 6 as a point of communication from 77° W.L.

<sup>2</sup> As EchoStar has previously advised the Commission, on January 1, 2008, EchoStar Communications Corporation (“ECC”) assigned several satellite space station and earth station assets previously owned by its subsidiaries, including the EchoStar 6 satellite, to EchoStar (the “Spin-Off”). See Public Notice, DA 07-4655 (rel. Nov. 16, 2007) (consenting to the transfer of several authorizations as part of the Spin-Off). Commission special temporary authority to operate EchoStar 6 as an in-orbit spare at 110.4° W.L. was retained by ECC’s wholly-owned subsidiary EchoStar Satellite Operating L.L.C. (“ESOLLC”) (formerly known as EchoStar  
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location before operations are to begin at that location, the authority requested herein is needed no later than April 14, 2008. EchoStar assumes the risk that its concurrent request for STA to operate EchoStar 6 as a U.S.-licensed satellite at 77° W.L. may be denied. Under such circumstances, EchoStar will move EchoStar 6 to another of EchoStar's licensed DBS orbital locations.

For the reasons set forth herein, grant of this Application will serve the public interest and not cause harmful interference to any authorized user of the spectrum. Allowing EchoStar to bring the EchoStar 6 satellite into temporary service at the 77° W.L. orbital location will enlarge the scope of U.S. coverage from that location, enabling nearly full CONUS coverage. In addition, the redeployment of EchoStar 6 from its location as an in-orbit spare at 110° W.L. will also augment EchoStar's capacity at 77° W.L. and result in a greater variety and quality of programming services available to U.S. consumers, including high definition television services.

Because the 77° W.L. orbital location is allotted to Mexico by the ITU, EchoStar's partner, QuetzSat, S. de R.L. de C.V. ("QuetzSat"), which has a Mexican concession permitting use of the 77° W.L. slot,<sup>3</sup> has discussed the proposed operation of EchoStar 6 at 77° W.L., as a U.S.-licensed satellite, with the Mexican Administration. QuetzSat has confirmed to EchoStar

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Satellite Operating Corporation). *See* File No. SAT-STA-20061020-00124 (granted Apr. 10, 2007). ESOLLC filed two subsequent requests to extend the STA, which remain pending with the Commission. File Nos. SAT-STA-20070418-00061 (filed Apr. 18, 2007); SAT-STA-20071017-00141 (filed Oct. 17, 2007). Upon grant of this Application and actual transfer of the EchoStar 6 satellite, ESOLLC will withdraw the two pending applications.

<sup>3</sup> Secretariat of Communications and Transportation Vice-Ministry of Communications, Concesion Para Ocupar La Posicion Orbital Geoestacionaria 77° Oeste Asignada al Pais y Explotar Sus Respektivas 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"), *filed in* File No. SAT-STA-20080311-00068 (English translation).

that the Mexican Administration has no objection to this plan. Specifically, the Mexican Administration does not object to the temporary operation of EchoStar 6 as a U.S. satellite at 77° W.L. to provide service to the U.S., provided that the satellite operates in conformance with the technical characteristics in QuetzSat's BSS Concession.

## **I. BACKGROUND AND INTRODUCTION**

On April 18, 2006, the Commission granted EchoStar's sister company, EchoStar Satellite LLC, authority to provide Direct Broadcast Satellite ("DBS") service to the southern United States from EchoStar 4 as a Mexican-licensed satellite located at 77° W.L.<sup>4</sup> The operation of EchoStar 4 at 77° W.L. is governed by an agreement between EchoStar and SES Latin America, S.A. ("SES"), which operates in Mexico through QuetzSat.<sup>5</sup> SES, in turn, has an agreement with QuetzSat for Mexican operations. Consistent with these agreements, the EchoStar 4 satellite is currently operating as a Mexican-licensed satellite under the direct control of QuetzSat pursuant to the February 2, 2005, BSS Concession, which allows QuetzSat to use the 77° W.L. orbital location. In addition, EchoStar has received authority to serve the United States from EchoStar 4 as a Mexico-licensed satellite.<sup>6</sup> The EchoStar 4 satellite, however, can only provide service to the southern U.S. from 77° W.L.<sup>7</sup>

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<sup>4</sup> *EchoStar Satellite LLC*, Order and Authorization, DA 06-868, 21 FCC Rcd 4077 (Sat. Div. 2006) ("77° W.L. Order").

<sup>5</sup> See Satellite Relocation and Use Agreement for the 77° W.L. Orbital Location ("77° W.L. Agreement"), *filed in* File No. SAT-STA-20080311-00068. As part of the Spin-Off, EchoStar has succeeded to the rights and obligations of EchoStar Satellite L.L.C. under the agreement. EchoStar requests that certain provisions of this agreement be treated as confidential. Concurrently, EchoStar is submitting a redacted version of the agreement to be included in the public record.

<sup>6</sup> See 77° W.L. Order at ¶ 1. ESOLLC's blanket earth station license and its authority to  
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The parties have now amended the 77° W.L. Agreement to allow EchoStar to move the EchoStar 6 satellite to 77° W.L. and operate it as a U.S.-licensed satellite.<sup>8</sup> Under the agreement, as amended, EchoStar will operate the EchoStar 6 satellite at 77° W.L. on a temporary basis. It will use up to all of the 32 DBS channels available at that orbital location to provide DBS service to the United States, subject to Commission approval.<sup>9</sup> The EchoStar satellite will not be used to serve Mexico.

## **II. GRANT OF THIS APPLICATION IS IN THE PUBLIC INTEREST**

Granting EchoStar's Application is in the public interest because temporary use of EchoStar 6 at 77° W.L. will expand the coverage available from the 77° W.L. orbital location to cover nearly all of the continental United States, and enable EchoStar to provide increased programming to U.S. consumers, including high definition programming. Because of the Mexican coverage requirements set forth in the QuetzSat concession for 77° W.L.,<sup>10</sup> combined with the limitations of the EchoStar 4 satellite, EchoStar Satellite LLC only sought authority to

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operate U.S. feeder link and TT&C earth stations with the EchoStar 4 satellite were assigned to EchoStar as part of the Spin-Off.

<sup>7</sup> See EchoStar Satellite, L.L.C., Supplement to Petition for Reconsideration, filed in File No. SAT-STA-20050321-00068, at 5 (June 14, 2005); *see also* Letter from Pantelis Michalopoulos, Counsel for EchoStar Satellite L.L.C., to Marlene H. Dortch, Secretary, FCC, filed in File No. SAT-STA-20050321-00068, Appendix A, dated May 10, 2005.

<sup>8</sup> See Amendment #2 to Satellite Relocation and Use Agreement for the 77° W.L. Orbital Location (effective Mar. 10, 2008), *filed in* SAT-STA-20080311-00068. This Amendment is being filed under a request for confidentiality. A redacted version is being submitted for the public record under the same file number.

<sup>9</sup> Most likely, EchoStar 6 will be operated on a subset of these 32 channels at full-power mode. Upon arrival of EchoStar 6 at 77° W.L., EchoStar 4 will continue to operate at 77.15° W.L. and will supplement EchoStar 6's operation.

<sup>10</sup> See Attachment 2.

use EchoStar 4 to provide service to several states in the southern U.S. The Commission found that even this limited service from the Mexican orbital slot at 77° W.L. “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.”<sup>11</sup> The redeployment of EchoStar 6 to 77° W.L. will enhance the scope of U.S. coverage without compromising the scope of Mexican coverage and will increase the capacity available to the U.S. by bringing into use a satellite that is not currently providing any programming services.

Specifically, using EchoStar 6 to supplement the service provided by EchoStar 4 will allow EchoStar to provide greatly expanded service into the U.S. The EchoStar 4 satellite will continue to serve Mexico and the southern United States. The EchoStar 6 satellite will operate on some or all of the remaining channels, serving nearly all of the continental United States. This will allow EchoStar to compete more effectively with terrestrial MVPD distributors – both the established cable operators and telephone companies – whose infrastructure endows them with significantly more bandwidth and programming capacity than is available to EchoStar.

Moreover, the public interest benefits from increasing the scope and capacity of the U.S. DBS service provided from 77° W.L. can 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 operation of an additional satellite at 77° W.L. into Canada’s DBS allotments at 72.5° W.L. and 82° W.L. Additionally, EchoStar notes that Canada has modified the coverage of its 72.5° W.L. orbital location to include the United States, and DIRECTV is

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<sup>11</sup> See 77° W.L. Order at ¶ 8.

authorized to serve the United States from its DIRECTV 1R satellite operating at that slot. There is an existing coordination agreement between Mexico and Canada to address interference issues between 77° W.L. and 72.5° W.L., and EchoStar will comply with that agreement, and/or with any future coordination agreements. Similarly, with respect to Canadian operations at 82° W.L., EchoStar 6 will operate in full conformity with the 1996 Mexican ITU modification over all points in Canada and the United States and with the existing coordination agreements between the Administrations of Canada and Mexico and/or any future coordination agreements.

During the transition from 110° W.L. to 77° W.L., regular DBS transmissions on the EchoStar 6 satellite will remain switched off, with only TT&C operations being performed in the DBS bands. EchoStar also will operate its TT&C payload according to the following conditions:

1. EchoStar shall coordinate all drift orbit operations with other potentially affected in-orbit operators.
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 radio communication system.
4. The grant of this STA is at EchoStar's own risk.

### **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 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.

#### IV. CONCLUSION

For the foregoing reasons, EchoStar respectfully requests the expeditious grant of its application for special temporary authority for 30 days to move EchoStar 6 to 77° W.L. and to perform TT&C operations in order to relocate the satellite to this orbital location.

Respectfully submitted,

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

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/s/  
Linda Kinney  
Vice President, Law and Regulation  
Brad Gillen  
Director and Senior Corporate Counsel  
**EchoStar Corporation**  
1233 20th Street, N.W.  
Suite 302  
Washington, DC 20036-2396  
(202) 293-0981

March 11, 2008