



Federal Communications Commission
Washington, DC 20554

International Bureau

February 12, 2004

David K. Moskowitz
Senior Vice President and General Counsel
EchoStar Satellite Corporation
5701 South Santa Fe Drive
Littleton, CO 80120

Re: In the Matter of EchoStar Satellite Corporation Application for Authority to Construct, Launch and Operate a Direct Broadcast Satellite in the 12.2-12.7 GHz and 17.3-17.8 GHz Frequency Bands at the 96.5° W.L. Orbital Location, File No. SAT-LOA-20030605-00109, Call Sign S2453, Application of EchoStar Satellite Corporation for Authority to Construct, Launch and Operate a Direct Broadcast Satellite in the 12.2-12.7 GHz and 17.3-17.8 GHz Frequency Bands at the 123.5° W.L. Orbital Location, File No. SAT-LOA-20030606-00107, Call Sign S2450, and Application of EchoStar Satellite Corporation for Authority to Construct, Launch and Operate a Direct Broadcast Satellite in the 12.2-12.7 GHz and 17.3-17.8 GHz Frequency Bands at the 86.5° W.L. Orbital Location, File No. SAT-LOA-20030609-00113, Call Sign S2454.

Dear Mr. Moskowitz:

On June 5, June 6, and June 9, 2003, EchoStar Satellite Corporation ("EchoStar") filed the above-captioned applications for authority to construct, launch, and operate direct broadcast satellites ("DBS") EchoStar-96.5W, EchoStar-123.5W, and EchoStar-86.5W, respectively.

In June 2002, the Commission incorporated the DBS service rules into Part 25 of the Commission's rules.¹ It stated that DBS applicants will be required to provide the information requested by Form 312 and to follow all relevant Part 25 procedures.² Most significantly, Section 25.114(c) of the Commission's rules³ requires space station applicants to submit all applicable items of information listed in its subsections. On January 28, 2004, the International Bureau issued a Public Notice⁴ reminding DBS applicants of these filing requirements. In the Public Notice, the Bureau also indicated that applications filed prior to the release of the Public Notice that do not meet these filing requirements may be subject to a Commission letter requesting that the applicant provide the required information.

¹ *Policies and Rules for the Direct Broadcast Satellite Service, Report and Order*, 17 FCC Rcd 11331 (2002) ("*Part 100 R&O*").

² *Id.* at para. 36.

³ 47 C.F.R. § 25.114(c).

⁴ *See* Public Notice, International Bureau Clarifies Direct Broadcast Satellite Space Station Application Processing Rules, Report No. SPB-198, DA 04-195 (rel. January 28, 2004).

Upon examination of the above-referenced applications, we find that EchoStar did not include the following information in these applications as required under Section 25.114(c):

- 1) Emission designators and allocated bandwidths of the telemetry emissions, final amplifier output power of the telemetry transmitters, receiving system noise temperature for the telecommand receivers, the relationship between satellite receive antenna gain pattern and gain-to-temperature ratio and saturation flux density for each antenna beam (may be indicated on antenna gain plot), the gain of each transponder channel (between output of receiving antenna and input of transmitting antenna) including any adjustable gain step capabilities, and predicted receiver and transmitter channel filter response characteristics (*See* 47 C.F.R. § 25.114(c)(5));
- 2) Performance objectives for each type of proposed service, details of the link noise budget and overall link performance analysis (including an analysis of the effects of each contributing noise and interference source) for each antenna beam (*See* 47 C.F.R. § 25.114(c)(8));
- 3) Physical characteristics of the space stations including weight and dimensions of spacecraft, detailed mass (on ground and in-orbit) and power (beginning and end of life) budgets, and estimated operational lifetime and reliability of the space stations and the basis for that estimate (*See* 47 C.F.R. § 25.114(c)(12));
- 4) Sufficient technical showing that the proposed systems could operate satisfactorily if all assignments in the Broadcasting-Satellite Service (“BSS”) and feeder link Plans were implemented (*See* 47 C.F.R. § 25.114(c)(23)(i)), and analyses of the proposed systems with respect to the limits in Annex 1 to Appendices 30 and 30A of the International Telecommunication Union (“ITU”) Radio Regulations (*See* 47 C.F.R. § 25.114(c)(23)(ii));

In addition, Section 25.202(g) of the Commission’s rules⁵ states that telemetry, tracking and telecommand functions for U.S. domestic satellites shall be conducted at either or both edges of the allocated band(s). EchoStar listed telecommand frequencies in the 14.0 to 14.5 GHz band for transfer orbit operation in the applications. These frequencies are not within the allocated service or feeder link band for DBS (12.2 to 12.7 GHz and 17.3 to 17.8 GHz respectively). EchoStar did not apply for waivers of Section 25.202(g).

Consequently, we will not consider further Application File No. SAT-LOA-20030605-00109, Call Sign S2453, Application File No. SAT-LOA-20030606-00107, Call Sign S2450, and Application File No. SAT-LOA-20030609-00113, Call Sign S2454, until the applications are amended to supply the information required by Section 25.114(c) and listed above as missing from the applications. Also, EchoStar should either amend the applications to conform to Section 25.202(g), or provide adequately justified requests for waivers of this rule. This request for information does not reflect any predisposition by the Commission towards the merits of this application. Further, action on the application may be subject to the outcome of other Commission proceedings.

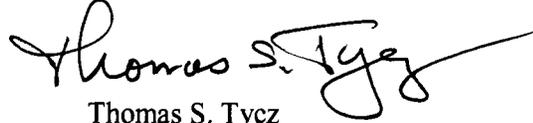
Please provide the required information by February 27, 2004. Failure to respond by this date will subject the applications to dismissal pursuant to Section 25.152(b) of the Commission’s rules.⁶

⁵ 47 C.F.R. § 25.202(g).

⁶ 47 C.F.R. § 25.152(b).

Please hand-deliver or email courtesy copies of any filings made in response to this letter to Arthur Lechtman (arthur.lechtman@fcc.gov) and Chip Fleming (chip.fleming@fcc.gov) of my staff.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas S. Tycz", with a long, sweeping horizontal line extending to the right.

Thomas S. Tycz
Chief, Satellite Division

cc: Pantelis Michalopoulos
Counsel for EchoStar Satellite Corp.
Steptoe & Johnson, LLP
1330 Connecticut Avenue, N.W.
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