Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

EchoStar Satellite Corporation File No. 38-DSS-MP/ML-94

Application for Modification of Construction Permit for a Direct Broadcast Satellite System

ORDER

Adopted: December 21, 1995; Released: January 11, 1996

By the Chief, International Bureau:

1. By this Order, we grant EchoStar Satellite Corporation ("EchoStar"), a permittee in the Direct Broadcast Satellite ("DBS") service, authority to use in-orbit fixed-satellite service C-band (4/6 GHz) frequencies for all telemetry, tracking and control ("TT&C") functions on its DBS space station, EchoStar-101, to be located at 119.2° W.L.

2. In March 1992, the Commission awarded orbital/channel assignments to EchoStar at the 119° orbital location for its eastern DBS satellite, EchoStar-101. At that time, EchoStar planned to use Ku-band frequencies for TT&C functions. TT&C functions are required by all spacecraft for general orbital maneuvers and spacecraft control operations.

3. EchoStar requests authority to modify its space station to use C-band frequencies (5926.5 MHz and 6423.5 MHz for uplink and 4198.5 MHz and 4199.5 MHz for downlink) at 119.2° W.L. for TT&C operations.[1] EchoStar asserts that the use of Ku-band for TT&C operations would significantly increase the costs of construction and operation of its space station. EchoStar contends that the modification will serve the public interest because it will enhance the operational reliability of the satellite and reduce the overall cost of its satellite, allowing EchoStar to compete more effectively with other planned DBS systems and terrestrial cable systems. EchoStar recognizes its obligation to coordinate its operations with those of existing and planned adjacent satellites, and states that it will take all reasonable steps necessary to avoid interference. No comments or oppositions were filed.[2]

4. Under the 1988 Trilateral Orbit Arrangement,[3] each C- and Ku-band orbital location for fixed-satellite service ("FSS") in the 103° to 123° W.L. orbital arc has been designated for use by the United States, Canada, or Mexico. C-band frequencies in the orbital arc 107.3° to 118.7° W.L. were identified for use by Canadian and Mexican satellites. Thus, coordination with Canada and Mexico is required to permit EchoStar to use C-band frequencies for the 119.2° W.L. orbital location. This coordination process has now been successfully completed.

5. EchoStar's proposed use of C-band FSS frequencies for the TT&C functions of its DBS system is a non-conforming use of the C-band frequencies. In general, we permit non-conforming uses of frequency bands when that use will not adversely impact compliant operators or where existing operators have agreed to the non-conforming use. EchoStar's proposed operations have been successfully coordinated with Canada and Mexico. Further, we do not believe other users of the C-band frequencies should be affected. Nevertheless, we will require Echostar to complete coordination before commencing operations in this band, including operations during transfer orbit.

6. Consequently, grant of the application will permit EchoStar to operate its satellite with greater reliability and lower cost, with no adverse impact on other operators. We therefore find that grant will serve the public interest, convenience, and necessity.

7. Accordingly, IT IS ORDERED, pursuant to §0.261 of the Commission's rules, 47 C.F.R. § 0.261, that the "Application for Modification of Construction Permit for a Direct Broadcast Satellite System" filed by EchoStar Satellite Corporation (38-DSS-MP/ML-94) IS GRANTED, SUBJECT TO THE CONDITIONS that (1) EchoStar coordinate the operations of EchoStar-101, including operations during transfer orbit, with the operation of in-orbit satellites of U.S. and other affected Administrations; and (2) EchoStar coordinate its TT&C earth station operations with co-primary terrestrial services operating in the band.

8. IT IS FURTHER ORDERED that this Order is effective upon adoption.

FEDERAL COMMUNICATIONS COMMISSION

Scott Blake Harris
Chief, International Bureau

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[1] Public Notice Report No. DS-1439 (July 13, 1994). EchoStar initially proposed to use C-band frequencies for launch and ascent TT&C functions and Ku-band frequencies (14/16 GHz) for in-orbit TT&C operations.

[2] EchoStar also requested limited waiver authority pursuant to Section 319(d) of the Communications Act, as amended, to begin construction of its modified DBS space station. Because we grant EchoStar's modification application, its Section 319(d) waiver request is hereby dismissed as moot.

[3] "Trilateral Arrangement Regarding Use of the Geostationary Orbit Reached by Canada, Mexico, and the United States," *Public Notice*, Mimeo No. 4406 (September 2, 1988).