

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

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EchoStar Communications Corporation )

General Motors Corporation )

Hughes Electronics Corporation )

For a Transfer of Control )

CS Docket No. 01-348 /

To: Cable Services Bureau

**MOTION FOR ACCEPTANCE OF PETITION**

Eagle III Broadcasting, LLC ("Eagle III" or "Petitioner"), by counsel, hereby moves for acceptance of the attached Petition to Deny the applications of EchoStar Communications Corporation, General Motors Corporation and Hughes Electronics Corporation, and their subsidiaries and affiliates, for consent to a transfer of control of various authorizations (the "Applications").

In a December 21, 2001, Public Notice (DA 01-3005), the Cable Services Bureau announced that it was consolidating the Applications and that "interested parties" could file comments and petitions to deny until February 4, 2002. The Commission enjoys discretion to accept it this date pursuant to Section 1.3 of its Rules.

In view of security considerations prompted by the September 11, 2001, terrorist attacks, the Commission recently established a new filing location in Capitol Heights, Maryland and more recently at 236 Massachusetts Avenue, N.E., Washington DC (the "New Location"). Yesterday, on the announced deadline for filing petitions to deny in the above-referenced matter, counsel for Eagle III encountered unforeseen difficulties while attempting to file the Petition. On that date a trade publication announced that the Maryland facility would not accept deliveries due to the discovery

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of anthrax spores, but that filings delivered in person “at the Commission office” would be accepted. *See* Attachment 1. Counsel took the attached Petition to the Commission office at the Portals. There, counsel was advised that pleadings would be accepted until 7:00 pm, but only at the New Location.

This effort constituted counsel’s first attempt, since the New Location was established, to file a pleading at the New Location without the benefit of a professional courier. Counsel arrived at the New Location at 6:55 pm. Nonetheless, the door to the building was locked and no one responded to the buzzer for the Commission’s contractor. Accordingly, counsel was unable to gain entrance to the filing location.

Nevertheless, this development did not result in any material delay in consideration of the Petition by the Commission or other parties. The Public Notice identified numerous individuals at the FCC to whom petitioners should direct courtesy copies of their petitions. Accordingly, Petitioner transmitted copies of the attached Petition electronically to the FCC *yesterday* pursuant to this requirement. Thus, for all practical purposes, the Commission did receive the Petition of Eagle III in a timely manner.

Moreover, the Public Notice directed service on Qualex, the Commission’s contract duplicator. Petitioner e-mailed the Petition to Qualex in a timely fashion. Accordingly, through Qualex the Petition is publicly available as soon as it would have been had the door been open at the New Location at the stated time.

Additionally, the attached Petition is being hand delivered this date to counsel for the applicant parties. It is identical to the copies that have been mailed to opposing counsel already. Thus, opposing counsel will have received their copies of the pleading no later than if counsel had

been able to tender the hard copies to the FCC's filing contractor on February 4. Accepting the Petition of Eagle III would therefore not convey any benefit of additional time on Eagle III. Eagle III made no changes in the Petition since it was completed and copied on February 4. Consequently, acceptance of the Petition would not prejudice other participants in this proceeding.

It may well be that the Commission will extend the time for filing objections to the Applications based on its inability to receive documents sent by mail and overnight delivery for receipt on February 4. If the agency does so, this Motion would be moot. However, Eagle III is submitting this Motion in an abundance of caution.<sup>1</sup>

In view of the foregoing, Eagle III requests that the attached Petition be accepted as timely-filed.

Respectfully submitted,

**EAGLE III BROADCASTING, LLC**

By: 

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Its attorneys

Dated: February 5, 2002

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<sup>1</sup> If the Commission should decline to treat the Petition as a Petition to Deny despite the *sui generis* aspects of this situation, Petitioner hereby requests that it be considered as an informal objection to the Applications.

## INSIDE RADIO/BREAKING NEWS

Monday, February 4, 2002

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Wall Street analysts say Karmazin is worth as much as \$10-\$15 billion in terms of share price. There has been talk of former Deputy Chairman Philippe Dauman and Thomas Dooley coming back. Or that CBS Television President Les Moonves could be Karmazin's replacement. He denies it. There has reportedly even been talk of three executives sharing power – Moonves, MTV Chairman Tom Freston and Viacom Entertainment Group Chairman Jonathan Dolgen. Here's the likely fall out *if* Karmazin lasts until May, 2003: the ultimate departure of Karmazin hangs over everything Viacom does. Recruiting. Keeping the Karmazin key people who now have to at least examine their other options. Share price will be a hostage to this dispute and will hang over Viacom until a successor is chosen. Redstone bungled it by letting it go public – some say in hopes that Karmazin would leave earlier. Karmazin has promised to stay which may not be a favor to Redstone. Karmazin's next company will be headline news.

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**Anthrax discovered at the FCC.** Forcing the FCC to stop mail deliveries from their processing center located in suburban Maryland. A testing of the site turned up anthrax contamination, but it was only a trace. FCC employees are presumed to be at no risk from handling mail that was previously delivered. For now all mail and UPS, FedEx and other deliveries will not be accepted until the FCC gets an all clear signal. No reports of anyone with symptoms so far. The FCC says it will still handle filings at the Commission office if they are delivered in person or through a messenger service. →

**Proven ways to sell against stations that insist on cutting their rates.** It's one of the critical issues in *How to Maximize Sales for Cluster Selling* presented by Abbe Marshall who is now with Hispanic Broadcasting and a group of distinguished sales experts. This CD warns that the low-balling of ad rates is out of control and how to appropriately respond now that the "bar has been lowered". You may be surprised at the answers. You'll also learn the one area of cluster selling that could produce the most revenue and which is almost always ignored (hint: it has to do with renewals). Other issues include why poor communication between the clusters and sales professionals almost always dooms the advantage of putting numerous stations together in a package. And how to improve communication so everyone is on the same page – generating increased revenue. If you're ready for a fresh look at the problems and opportunities in maximizing sales revenues in cluster selling, call (856) 424-6000.

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**BOB & SHERI**

Contact Tony Garcia for more info. (704) 374-3689 [tony@bobandsheri.com](mailto:tony@bobandsheri.com)

ATTACHMENT 1

CERTIFICATE OF SERVICE

I, Kerstin Koops Budlong, hereby certify that on this date I caused the foregoing "Motion for Acceptance of Petition" to be hand delivered or served by e-mail, on the following:

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Kerstin Koops Budlong

Dated: February 5, 2002

\*by e-mail