

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

In the matter of)	
)	File Nos. SAT-LOA-20040210-00015
EchoStar Satellite LLC)	SAT-AMD-20040428-00085
)	
Application for Authority to Construct, Launch,)	Call Sign: S2615
and Operate a Geostationary Satellite Using)	
the Extended Ku-band Frequencies in the)	
Fixed-Satellite Service at the 101° W.L. Orbital)	
Location		

ORDER

Adopted: July 6, 2005

Released: July 6, 2005

By the Deputy Chief, Satellite Division, International Bureau:

I. INTRODUCTION

1. By this Order, we deny EchoStar Satellite LLC's (EchoStar) application to construct, launch, and operate a satellite at the 101° W.L. orbital location.¹ As explained below, Mobile Satellite Ventures Subsidiary LLC (MSV) has first-in-line status under the Commission's first-come, first-served processing procedure² with regard to the 101° W.L. orbital location.³ Therefore, pursuant to Section 25.158(b)(3)(ii)⁴ of the Commission's Rules, we deny EchoStar's application.

¹ This action is without prejudice to two separate Applications for Review filed by EchoStar Satellite LLC. Application for Review filed by EchoStar Satellite LLC on January 26, 2005 (challenging the International Bureau's Dec. 27, 2004 Order, DA 04-4056, affirming dismissal of EchoStar's 101° W.L. extended Ku-band amended application, IBFS File Nos. SAT-LOA-20030827-00179 and SAT-AMD-20031126-00343, as not substantially complete) and Application for Review filed by EchoStar Satellite LLC on October 15, 2004 (challenging the International Bureau's September 15, 2004, decision, DA 04-2985, to reinstate MSV's amendment, IBFS File No. SAT-AMD-20040209-0014, to its next generation system application at 101° W.L. orbital location).

² See Amendment of the Commission's Space Station Licensing Rules and Policies, *First Report and Order*, 18 FCC Rcd. 10760 at 10805 (2003) ("*First Space Station Reform Order*").

³ Mobile Satellite Ventures Subsidiary LLC, *Order and Authorization*, DA 05-1492 (rel. May 23, 2005) (granting with conditions IBFS File Nos. SAT-LOA-19980702-00066, SAT-AMD-20001214-00171, SAT-AMD-20010302-00019, SAT-AMD-20031118-00335, SAT-AMD-20040209-00014, and SAT-AMD-20040928-00192) ("*MSV-I Order*") pending Petition for Reconsideration/Clarification. We note that both MSV and EchoStar have filed petitions regarding the *MSV-I Order*. Petition for Clarification and/or Reconsideration filed By EchoStar Satellite L.L.C. on June 22, 2005; and Petition for Clarification or Partial Reconsideration filed by Mobile Satellite Ventures Subsidiary LLC on June 22, 2005. Our action here is without prejudice to those petitions.

⁴ 47 C.F.R. § 25.158(b)(3)(ii) (precluding grant of GSO-like applications if "the proposed satellite will cause harmful interference to any previously licensed operations").

II. BACKGROUND

2. On February 10, 2004, EchoStar Satellite LLC (EchoStar), filed an application for authority to construct, launch, and operate a geostationary (GSO) satellite in the Fixed-Satellite Service (FSS) using allotted extended Ku-band frequencies (10.7-10.75 GHz and 11.2-11.45 GHz downlink; 12.75-13.0 GHz and 13.15-13.2 GHz uplink) at the 101° W.L. orbital location. Echostar's application was second-in-line to the MSV's 101° amended application.⁵ EchoStar's application was accepted for filing and placed on public notice on March 26, 2005.⁶ Comments were filed by MSV and EchoStar.⁷

3. On May 23, 2005, MSV was granted authority to construct, launch, and operate a second-generation Mobile Satellite Service (MSS) satellite at the 101° W.L. orbital location.⁸

III. DISCUSSION

4. In its *Space Station Licensing Reform Order*,⁹ the Commission adopted a first-come, first-served procedure for geostationary satellite orbit (GSO)- like systems.¹⁰ MSV currently operates the AMSC-1 MSS satellite at the 101° W.L. orbit location. As noted above, MSV filed an application to launch and operate a second-generation satellite at that location using existing Ku-band feeder link frequencies as well as additional frequencies.¹¹ On May 23, 2005, we released the *MSV-1 Order*, granting MSV's application and authorizing it to launch and operate MSV-1, a second-generation L-band MSS satellite at the 101° W.L. orbit location.¹² The *MSV-1 Order* held that MSV had first-in-line status with respect to the additional Ku-band spectrum

⁵ *MSV-1 Order* at para. 16 ("MSV is first-in-line for all of its proposed 1000 megahertz of feeder link spectrum (500 megahertz in each direction) under the Commission's first-come, first-served policy . . .").

⁶ Policy Branch Information, Satellite Space Applications Accepted for Filing, *Public Notice*, Report No. SAT-00203 (March 26, 2004).

⁷ The Comments and Replies filed on the amended application address whether sharing is possible. *See* Comments filed by MSV on April 26, 2004; Response Filed by EchoStar on May 11, 2004, Reply filed by MSV on June 11, 2004. As noted in the *MSV-1 Order*, if the parties reach an agreement on sharing, we will entertain a request that involves co-frequency operations. *MSV-1 Order* at note 45. We will not, however, retain EchoStar's amended application based upon the assertion that sharing may be possible and an agreement will be reached to that effect in the future. We also note that on June 17, 2005, MSV filed an *ex parte* letter with the International Bureau requesting that EchoStar's application be dismissed as mutually exclusive with MSV's authorization at 101° W.L. Letter to Donald Abelson, Chief, International Bureau, Federal Communications Commission from Jennifer A. Manner, Vice President, Regulatory Affairs, Mobile Satellite Ventures, Subsidiary, LLC, dated June 15, 2005. EchoStar filed an *ex parte* letter on June 23, 2005, responding to MSV's June 17, 2005 letter. Letter to Marlene H. Dortch, Secretary, Federal Communications Commission, from Pantelis Michalopoulos and Philip L. Malet, Counsel to EchoStar Satellite L.L.C., dated June 23, 2005.

⁸ *MSV-1 Order*.

⁹ *First Space Station Reform Order*, 18 FCC Red at 10805.

¹⁰ The Commission defined GSO-like satellite systems as GSO satellites designed to operate with directional antennas. 47 C.F.R. § 25.158 (a).

¹¹ While MSV had a replacement expectancy with regard to existing frequencies used on its AMSC-1 satellite, the additional frequencies MSV requested were subject to the first-come, first-served processing procedure. *MSV-1 Order* at para. 16.

¹² *See* note 3, *supra*.

requested by MSV at the 101° W.L. orbital location. Consequently, pursuant to Section 25.158 of the Commission's rules, we must deny EchoStar's application to launch and operate a satellite at the 101° W.L. orbital location using these same Ku-band frequencies because it would cause harmful interference to MSV's previously licensed operations.¹³

IV. ORDERING CLAUSES

5. Accordingly, pursuant to Section 25.158(b)(3)(ii)¹⁴ of the Commission's Rules, EchoStar's application (IBFS File Nos. SAT-LOA-20040210-00015 as amended by SAT-AMD-20040428-00085) IS DENIED.

6. This Order is issued pursuant to Section 0.261 of the Commission's rules on delegated authority, 47 C.F.R. § 0.261, and is effective upon adoption. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.115, may be filed within 30 days of the date of the Public Notice announcing that this action was taken.

FEDERAL COMMUNICATIONS COMMISSION

Cassandra C. Thomas
Deputy Chief, Satellite Division
International Bureau

¹³ *First Space Station Reform Order*, 18 FCC Rcd at para. 113. ("We decide not to keep subsequently filed applications on file. In other words, if an application reaches the front of the queue that conflicts with a previously granted license, we will deny the application rather than keeping the application on file in case the lead application does not construct its satellite system.")

¹⁴ 47 C.F.R. § 25.158(b)(3)(ii).