

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

In the Matter of)	
)	
Hughes Network Systems, LLC)	IBFS File No. SAT-MOD-20221017-00137
)	Call Sign: S3017
Request to Extend)	
Launch and Operation Milestone)	

ORDER

Adopted: March 14, 2023

Released: March 14, 2023

By the Chief, International Bureau:

I. INTRODUCTION

1. By this order, we grant the request of Hughes Network Systems, LLC (Hughes) to modify the milestone for launching and operating the EchoStar XXIV satellite (aka Jupiter 3), which is planned to provide fixed-satellite service from the 95.2° W.L. orbital location. Specifically, we modify the milestone by extending it from the current date, March 20, 2023, to March 20, 2024. This action is taken based on a finding that the additional time needed by Hughes to launch and operate is due to continued COVID-19 related delays as well as delays resulting from the war in Ukraine, circumstances beyond Hughes' control. Grant of the request for a one-year extension will allow for completion of construction and launch of the satellite. The launch and operation of the EchoStar XXIV satellite will provide additional capacity for new broadband service to government, small business, and residential customers throughout the continental United States.

II. BACKGROUND

2. On March 20, 2018, the Satellite Division granted Hughes authority to deploy and operate a geostationary orbit space station, EchoStar XXIV to provide fixed-satellite service at the 95.2° W.L. orbital location using certain Ka-band and V-band frequencies.¹ The authorization included several milestone requirements, including that Hughes launch the space station and commence operations at the assigned orbital location no later than March 20, 2023.²

3. On October 17, 2022, Hughes filed an application requesting modification of the authorization for the EchoStar XXIV satellite to extend by one year the requirement to launch and operate

¹ Hughes Network Systems, LLC, IBFS File Nos. SAT-LOA-20170621-00092 and SAT-AMD-20170908-00128 (granted March 20, 2018) (Hughes Grant). The application was deferred-in-part at the time regarding operations in the 50.4-51.4 GHz frequency band. *Id.* On June 13, 2019, the Satellite Division granted Hughes' request to modify the license to include additional frequency bands, including the 50.4-51.4 GHz band. *See* Hughes Network Systems, LLC, IBFS File No. SAT-MOD-20190212-00011 (granted June 13, 2019). The Satellite Division granted further modification of the license on September 3, 2020, to authorize additional frequencies for telemetry, tracking, and command, as well some other technical adjustments. *See* Hughes Network Systems, LLC, IBFS File No. SAT-MOD-20200612-00072 (granted Sept. 3, 2020). None of these modification actions altered the milestone date.

² *Id.* at ¶ 24.

the space station by March 20, 2023.³ Hughes states the extension is warranted due to unforeseeable circumstances beyond its control, and due to unique and overriding public interest considerations.

4. Hughes cites several reasons in support of its request, starting with COVID-19 delays. According to Hughes, the satellite manufacturer experienced numerous disruptions leading to accumulated delays resulting from restrictions - including stay at home orders and country border restrictions - imposed to combat the pandemic. Hughes states that the delays included the manufacturing of critical components and the limited availability of key personnel to work on the satellite.⁴

5. In addition, Hughes cites significant delays that occurred as a result of the war in Ukraine.⁵ According to Hughes, U.S. sanctions imposed on Russia precluded the use of a Russian based cargo ship to deliver the satellite from the manufacturing facility to the launch site. Hughes states that the war also dictated that the satellite manufacturer prioritize the fulfillment of U.S. government contracts and as a result, the key testing facility was unavailable for a period of time.⁶

6. Hughes maintains that these delays also affected the ability of sub-contractors to produce novel components for the manufacturer. Due to the complexity of the satellite design, Hughes states much of the construction work is performed sequentially, slowing construction because steps could not be completed without the delivery of certain components.⁷ These production delays, Hughes asserts, were beyond its control.

7. Hughes notes that despite the challenges it has worked diligently to mitigate the delays including hiring consultants to address personnel shortages, moving the locations of certain tasks, and procuring a launch vehicle that removes the need for electrical orbit raising to minimize months of further delay.⁸ Importantly, Hughes states it has paid over 93 percent of the cost for constructing the satellite and has the financial resources to complete construction and launch and operate the satellite.⁹ Hughes states that it also continues to develop the ground network and expects to spend 90 percent of construction costs for its system by the end of 2022.¹⁰ Hughes states it has “every confidence in the successful launch of the EchoStar XXIV satellite and consequently the provision of a new broadband service with improved services, speeds and cost efficiencies.”¹¹

III. DISCUSSION

8. Commission rules allow for milestone extensions when the delay is due to unforeseeable circumstances beyond the applicant’s control, or when there are unique and overriding public interest

³ Hughes Network Systems, IBFS File No. SAT-MOD-20221017-00137 (filed Oct. 17, 2022) (Hughes Modification).

⁴ Hughes Modification, Exh 1, at 3.

⁵ *Id.*

⁶ *Id.* at 3-4.

⁷ *Id.* at 4.

⁸ *Id.*

⁹ *Id.* at 5.

¹⁰ *Id.*

¹¹ *Id.*

concerns that justify an extension.¹² An applicant must justify the precise extension period requested.¹³ The unforeseeable circumstances in this instance are attributed to the COVID-19 pandemic, which the Commission has acknowledged is a unique and unusual circumstance that resulted in widespread delays in the receipt of communications equipment and caused delays in network construction.¹⁴ Further, it recognized that various stay-at-home orders, necessary for public health and safety, have created “gaps in all phases of the supply and deployment chain.”¹⁵ As a result, we find that Hughes’ claims with respect to supply chain and human resource disruptions and consequent construction and delivery delays to be generally credible. We also acknowledge that the war in Ukraine is disrupting air and shipping freight, and involves sanctions that may affect transportation. We also observe that such circumstances may have necessitated the manufacturer’s shift to prioritizing government contracts over commercial enterprises.¹⁶

9. In response to these interruptions, Hughes has taken concrete steps to reduce further delays, specifying that it has hired consultants to address personnel shortages and reassigned tasks to the manufacturer’s production facility to reduce the need for subcontractors. We note that Hughes has spent over 93 percent of the satellite construction costs and continues to invest in completing the EchoStar XXIV satellite. The policy objective of the Commission’s milestone rules is to ensure that licensees proceed with the construction and launch of their satellites in a timely manner so that valuable spectrum will not be held to the exclusion of others by those unwilling or unable to proceed. We find no basis to conclude that Hughes is unable or unwilling to proceed with completion of the satellite, but rather that the record presented demonstrates substantial expenditures and concrete progress toward completion of the satellite.

10. In light of these factors, grant of an extension will serve the public interest by allowing Hughes to promptly complete its system. We condition this extension on Hughes also having its bond requirement extended. The bond requirement was adopted to establish a market-based mechanism for ensuring that licensees are willing and able to proceed with satellite construction and to discourage warehousing of scarce resources.¹⁷ An extension of the bond is consistent with and supports the Commission’s policy of using a market-based approach toward ensuring that licensees complete construction and not warehouse scarce resources.¹⁸

¹² 47 CFR § 25.117(e).

¹³ *Id.*

¹⁴ Viasat Inc., Request to Extend or Waive Milestone Date, *Order*, DA 22-1141 (IB, Oct. 2022), at para. 7, and Waiver of FCC Rule Sections 1.946 (c) and (d) for Wireless Site-Based and Mobile-Only System, *Order*, 35 FCC Rcd 3536, 3536-3539, paras. 2-5 (WTB, PSHSB 2020) (Waiver of 1.946); Request for Waiver by the Schools, Health & Libraries Broadband (SHLB) Coalition, *Order*, 36 FCC Rcd 9956, 9958-59, paras. 4-7 (WCB 2021).

¹⁵ Waiver of 1.946, 35 FCC Rcd at 3537, paras. 4-5; SHLB Coalition, 36 FCC Rcd at 9958, para. 4 (“[T]he impacts of the virus are still being felt. For example, widespread delays in the receipt of ‘communications equipment of all kinds, which extends not only to electronics (such as routers, optical network terminals, and customer premises equipment (CPE)) but also fiber’ is causing delays in network construction. The impact of the pandemic is causing delays in construction projects across the country.”).

¹⁶ Hughes Modification, Exh. 1 at para. 3.

¹⁷ Amendment of the Commission’s Space Station Licensing Rules and Policies, *First Order on Reconsideration and Fifth Report and Order*, 19 FCC Rcd 12637, 12645 (2004).

¹⁸ *Id.* at 12646. We modify the bond beyond the regular five-year period to continue the escalation of the bond through March 20, 2024. The specific bond requirement included in the conditions of this grant requires that the bond amount continue to increase at the same rate as specified under our rules. For a bond coming due on March
(continued....)

IV. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED that Hughes Network Systems, LLC's request to extend the milestone date to launch and operate the EchoStar XXIV satellite to March 20, 2024 is GRANTED pursuant to sections 0.51, 0.261, and 25.117(e) of the Commission's Rules, 47 CFR §§ 0.51, 0.261 and 25.117(e).

12. Hughes Network Systems, LLC, must launch the EchoStar XXIV satellite, position it in its assigned orbital location, and operate it in accordance with the grant in IBFS File Nos. SAT-LOA-20170621-00092 and SAT-AMD-20170908-00128 (granted March 20, 2018), as subsequently modified, no later than March 20, 2024.

13. Hughes Network Systems, LLC must maintain a surety bond requiring payment in the event of default as defined in section 25.165(c) of the FCC rules, in an amount, at a minimum, determined according to the following formula, with the resulting dollar amount rounded to the nearest \$10,000: $A = \$3,000,000 + \$2,000,000 * D / 1827$, where A is the amount to be paid and D is the lesser of 366 days or the number of days elapsed from March 20, 2023, until the date when the grant is surrendered.

14. This grant will be null and void automatically, without further Commission action if Hughes Network Systems, LLC fails to comply with these requirements. Failure to comply with the milestone requirement will also result in forfeiture of Hughes' surety bond. By April 4, 2024, Hughes Network Systems, LLC must either demonstrate compliance with its milestone requirement or notify the Commission in writing that the requirement was not met. 47 CFR § 25.164(f).

FEDERAL COMMUNICATIONS COMMISSION

Thomas P. Sullivan
Chief,
International Bureau

20, 2024, this results in a total required bond amount of \$3,400,000. The escalation of the bond value beyond the regular five-year period is a simple extrapolation of the linear increase. See 47 C.F.R. § 25.165(a)(2).