

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

In the Matter of	)	
	)	
DISH Operating L.L.C.	)	File No.: EB-SED-22-00034635
	)	CD Acct. No.: 202332100010
	)	FRN: 0010500338

**CONSENT DECREE**

1. The Enforcement Bureau of the Federal Communications Commission and DISH Operating L.L.C., by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s investigation into whether the Company violated section 301 of the Act and section 25.102 of the Commission’s rules in connection with the failure to minimize the creation of space debris in connection with relocating DISH’s direct broadcast satellite (“DBS”) service EchoStar-7 satellite at the satellite’s end-of-life to a disposal orbit above 300 kilometers (km), contrary to the orbital debris mitigation plan set forth in an amendment to a modification application that was granted by the Commission. To resolve this matter, the Company agrees to the terms and conditions of this Consent Decree, including an admission of liability, implementation of a compliance plan, and a Civil Penalty of \$150,000.

**I. DEFINITIONS**

2. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) “Act” means the Communications Act of 1934, as amended.<sup>1</sup>
  - (b) “Adopting Order” means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
  - (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
  - (d) “CD Acct. No.” means account number 202332100010, associated with payment obligations described in paragraph 22 of this Consent Decree.
  - (e) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
  - (f) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which DISH is subject by virtue of its business activities, including but not limited to the Satellite Rules.
  - (g) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 18.
  - (h) “Covered Employees” means those employees and agents of the Company who perform, or directly supervise, directly oversee, or directly manage the performance of, duties that relate to the Company’s responsibilities under the Satellite Rules.
  - (i) “DISH” or “Company” means DISH Operating L.L.C., along with its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
  - (j) “Effective Date” means the date by which both the Bureau and the Company have signed the Consent Decree and the Bureau has released an Adopting Order.
  - (k) “Investigation” means the investigation commenced by the Bureau in File No.

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<sup>1</sup> 47 U.S.C. § 151 *et seq.*

EB-SED-22-00034635 regarding whether the Company violated the Satellite Rules.

- (l) “Operating Procedures” means the standard internal operating procedures and compliance policies established by the Company to implement the Compliance Plan.
- (m) “Parties” means the Company and the Bureau, each of which is a “Party.”
- (n) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (o) “Satellite Rules” means the Act, the Rules (including but not limited to section 25.102),<sup>2</sup> and Commission orders related to satellite and radio frequency device operations to which DISH is subject by virtue of its commercial satellite operations.

## II. BACKGROUND

3. Section 301 of the Act and section 25.102(a) of the Rules, prohibit the use or operation of any apparatus for the transmission of energy or communications or signals by a space or earth station except under and in accordance with a Commission-granted authorization.<sup>3</sup> This important rule prevents interference in satellite operations and allows the Commission to coordinate and evaluate those operations, including minimizing the creation of space debris and ensuring responsible end-of-life satellite disposal.

4. On January 15, 2002, the International Bureau (IB), Satellite Division,<sup>4</sup> granted the Company authority to construct, deploy, and operate one DBS satellite known as EchoStar-7 at 119° W.L. that would be used to provide satellite TV to DISH subscribers.<sup>5</sup> EchoStar-7 was launched on February 21, 2002, and commenced operations at the 119° W.L. orbital location on April 22, 2002.<sup>6</sup>

5. On March 29, 2010, the Company filed for a modification to its authorization, requesting authority to permanently operate the EchoStar-7 satellite at 118.8° W.L.<sup>7</sup> In the modification, the Company stated that the prior authorization parameters were unaffected by the requested modification other than a slight change in orbital location.<sup>8</sup>

6. The Company amended the pending modification on June 10, 2010, to include an orbital debris mitigation plan.<sup>9</sup> The amendment narrative indicated that, upon mission completion, DISH would maneuver the EchoStar-7 satellite to a disposal orbit at least 300 km above its operational geostationary orbit and that, based on data from the satellite manufacturer, it would reserve 11 kilograms (kg) of fuel for this maneuver.<sup>10</sup>

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<sup>2</sup> 47 CFR § 25.102.

<sup>3</sup> 47 U.S.C. § 301; 47 CFR § 25.102.

<sup>4</sup> On April 11, 2023, the Commission reorganized the International Bureau into: (1) a Space Bureau to handle policy and licensing matters related to satellite communications and other in-space activities under the Commission’s jurisdiction; and (2) an Office of International Affairs to handle issues involving foreign and international regulatory authorities as well as international telecommunications and submarine cable licensing. *Establishment of the Space Bureau and the Office of International Affairs and Reorganization of the Consumer and Governmental Affairs Bureau and the Office of the Managing Director*, MD Docket No. 23-12, Order, FCC 23-1 (rel. Jan. 9, 2023).

<sup>5</sup> IBFS File Nos. SAT-MOD-20010810-00071 and SAT-A/O-20010810-00073.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> See IBFS File No. SAT-AMD-20100610-00127.

<sup>10</sup> IBFS File No. SAT-AMD-2010610-00127, Narrative at 4. When submitting the amendment, DISH stated that the amendment was not necessary because “an orbital debris mitigation plan is not required for this application” due to no change to the overall orbital debris risk environment, but agreed to submit a plan “at the request of the Bureau.”

7. While the modification was pending, the Company filed for a 10-year license extension on January 24, 2012, to extend the license term from April 22, 2012, to April 22, 2022. The Company incorporated its pending modification by reference.<sup>11</sup> The license extension application stated that the predicted end-of-life for the EchoStar-7 satellite, based on the remaining fuel and projected operational parameters, was May 2022.<sup>12</sup> On October 18, 2012, IB granted the application “in accordance with the terms, conditions, and technical specifications set forth in the Company’s application and the FCC’s rules . . . .”<sup>13</sup> The grant was subject to several conditions, including that the Company “operate the EchoStar-7 satellite in accordance with the terms of its current authorization, IBFS File Nos. SAT-MOD-20100329-00058 and SAT-AMD-20100610-00127.”<sup>14</sup>

8. In mid-February 2022, the Company asked its satellite manufacturer for assistance in investigating thruster operations on the EchoStar-7 satellite after satellite maneuvers conducted by the Company did not produce the expected change in satellite trajectory. As part of that investigation, and based on data provided by the satellite manufacturer, on February 28, 2022, the Company determined that the EchoStar-7 satellite was unexpectedly running low on propellant and would need to be deorbited shortly. On the same day, Company personnel called International Bureau staff to alert the Commission about the possibility that the satellite might no longer be capable of executing its end-of-life disposal plan as authorized.

9. On April 7, 2022, the Company met with International Bureau, Satellite Division staff to provide an update. Thereafter, on May 6, 2022, the Company notified the Commission that the EchoStar-7 satellite had completed end-of-life deorbit maneuvers and surrendered its license for the EchoStar-7 satellite.<sup>15</sup> The notice indicated that the satellite had been placed in a disposal orbit approximately 122 km above the geostationary arc, short of the disposal orbit of 300 km specified in its orbital debris mitigation plan.<sup>16</sup>

10. The International Bureau referred the matter to the Enforcement Bureau and on December 27, 2022, the Enforcement Bureau issued a Letter of Inquiry (LOI) to the Company directing it to submit a sworn written response to a series of questions relating to the EchoStar-7 satellite end-of-life deorbit maneuvers.<sup>17</sup> The Company timely responded to the LOI.<sup>18</sup>

11. In its response to the LOI, the Company concedes that, in late February 2022, it determined that not enough propellant was available to maneuver EchoStar-7 to a disposal orbit of at least 300 km above its operational geostationary orbit as specified by its orbital debris mitigation plan as it was approved by the Commission, and that the Company placed the satellite at a disposal orbit approximately

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*Id.* at 2. The minimum perigee requirement of the end-of-life disposal provision, 47 CFR § 25.283(a), is not applicable because EchoStar-7 was launched prior to March 18, 2002. *See* 47 CFR § 25.283(d).

<sup>11</sup> IBFS File No. SAT-MOD-20120124-00011 (granted Oct. 18, 2012); *see also* IBFS File No. SAT-AMD-20100610-00127.

<sup>12</sup> IBFS File No. SAT-MOD-20120124-00011, Narrative at 2.

<sup>13</sup> IBFS File No. SAT-MOD-20120124-00011 (granted Oct. 18, 2012). *See also* *DISH Operating L.L.C.*, Memorandum Opinion and Order, 27 FCC Rcd. 13123, 13127, para. 11 (2012).

<sup>14</sup> *Id.* IBFS File No. SAT-AMD-20100610-00127 amended the Company’s modification application to include the orbital debris plan.

<sup>15</sup> IBFS File No. SAT-MOD-20100329-00058, Surrender of Authorization Letter (filed May 6, 2022).

<sup>16</sup> *Id.*

<sup>17</sup> *See* Letter of Inquiry from Spectrum Enforcement Division, FCC Enforcement Bureau, to DISH Operating, L.L.C. (Dec. 27, 2022) (on file in EB-SED-22-00034635).

<sup>18</sup> *See* Letter of Inquiry Response from DISH Operating, L.L.C., to Spectrum Enforcement Division, FCC Enforcement Bureau (Feb. 16, 2022) (LOI Response) (on file in EB-SED-22-00034635).

122 km above the geostationary arc.<sup>19</sup> The Company and the Bureau subsequently engaged in settlement negotiations. To resolve this matter, the Company and the Bureau enter into this Consent Decree and agree to the following terms and conditions.

### III. TERMS OF AGREEMENT

12. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

13. **Jurisdiction.** The Company agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

14. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

15. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, the Company agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute any new proceeding on its own motion against the Company concerning the matters that were the subject of the Investigation, or to set for hearing the question of the Company's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations based on the matters that were the subject of the Investigation.<sup>20</sup>

16. **Admission of Liability.** The Company admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 15 herein, that its actions described in paragraphs 4-9 violated section 301 of the Act and section 25.102 of the Rules, which requires operations in accordance with an authorization granted by the Commission.<sup>21</sup>

17. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, the Company shall designate a senior corporate manager or above with requisite corporate, budget, and organizational authority to serve as a Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that the Company complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Satellite Rules prior to assuming his/her duties.

18. **Compliance Plan.** For purposes of settling the matters set forth herein, the Company agrees that it shall, within sixty (60) calendar days after the Effective Date, develop or update, keep in its files, and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the Satellite Rules, the Company will implement, at a minimum, the following:

- (a) **Operating Procedures.** Within forty-five (45) calendar days after the Effective Date, the Company shall establish Operating Procedures that the Company must follow for current and future United States satellites owned and operated during the term of the consent decree to help ensure the Company's compliance with the Satellite Rules. The Company shall also develop a Compliance Checklist that describes the steps that the Company must follow to ensure compliance with the Satellite Rules. With respect to

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<sup>19</sup> LOI Response at 7.

<sup>20</sup> See 47 CFR § 1.93(b).

<sup>21</sup> 47 U.S.C. § 301; 47 CFR § 25.102.

the Satellite Rules Operating Procedures, the Company will implement the following procedures:

- i. **Develop and Improve Upon Propellant Tracking.** The Company will utilize all manufacturer recommended methods to assess satellite propellant usage, including: (1) utilizing bookkeeping, Pressure-Volume-Temperature (PVT), and any other available manufacturer recommended method of propellant gauging (such as Propellant Gauging System (PGS), Propellant Depletion Gauge Operations (PDGO), or bookkeeping/PVT combined statistical analysis), and (2) any other methods that enhance the accuracy of accounting for the amount of satellite propellant remaining. The Company will audit the application of the manufacturer-recommended methods on an annual basis to identify application steps that can be improved upon. The Company will analyze unexpected discrepancies in the data between any and all of the methodologies used, and will request that its satellite manufacturers review these results annually with the Company. In addition, the Company will arrange for a third-party propellant gauging expert to complete a full PGS analysis to determine the amount of remaining fuel on DISH owned Lockheed Martin manufactured A2100-model operational satellites in the Company's fleet, including previously deployed and new A2100-model satellite launches of DISH. The expert will prepare three periodic reports, due by April 30, 2024 (based on 2022 data), June 30, 2024 (based on 2023 data), and June 30, 2025 (based on 2024 data), respectively.
  - ii. **Develop and Improve Upon End-of-Mission Disposal Plans.** The Company will document for each operational satellite an End-of-Mission Disposal Plan (EOMDP) that includes, at a minimum, information on the geostationary orbital position, the intended disposal orbit, the amount of propellant necessary for disposal, the necessary systems and capabilities for disposal and their reliability, criteria for initiating disposal, energy sources that must be depleted before end-of-life, the schedule for initiating and executing the disposal action and depleting energy sources, and a list of entities to be informed of the end-of-mission and disposal. In addition, the Company will update the EOMDP plans based on any changed circumstances, but not less than annually, as well as work with the satellite manufacturer to establish worst-case values to calculate satellite propellant usage and consider those values for EOMDP calculations.
  - iii. **Satellite Disposal Planning.** The Company will create clear criteria for initiating the satellite disposal process, incorporate them into the EOMDP, and monitor those criteria at least every quarter throughout the license term.
- (b) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall review, update as needed, and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain the Satellite Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure the Company's compliance with the Satellite Rules and to implement the Operating Procedures. The Company shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. The Company shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** The Company shall establish and implement a Compliance Training Program to ensure Covered Employees comply with the Satellite Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of the Company's obligation to report any

noncompliance with the Satellite Rules under the next paragraph of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within thirty (30) calendar days after the Compliance Manual is distributed, except that any person who becomes a Covered Employee at any time after the initial Compliance Training Program shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. The Company shall repeat compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

19. **Reporting Noncompliance.** The Company shall report to the Commission any noncompliance with the Satellite Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of noncompliance; (ii) the steps that the Company has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that the Company has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted electronically to Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission at [EB-SED-Response@fcc.gov](mailto:EB-SED-Response@fcc.gov).

20. **Compliance Reports.** The Compliance Officer on behalf of the Company shall file a certification with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, and thirty-six (36) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of the Company's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Satellite Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of the Company, stating that the Compliance Officer has personal knowledge that the Company: (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 18 of this Consent Decree.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.<sup>22</sup>
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of the Company, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (i) each instance of noncompliance; (ii) the steps that the Company has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that the Company has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted electronically to Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, via [EB-SED-Response@fcc.gov](mailto:EB-SED-Response@fcc.gov).

21. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 17

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<sup>22</sup> 47 CFR § 1.16.

through 20 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

22. **Civil Penalty.** The Company will pay a Civil Penalty to the United States Treasury in the amount of one hundred fifty thousand dollars (\$150,000) within thirty (30) calendar days of the Effective Date. The Company acknowledges and agrees that upon execution of this Consent Decree, the Civil Penalty shall become a “Claim” or “Debt” as defined in 31 U.S.C. § 3701(b)(1).<sup>23</sup> Upon an Event of Default, all procedures for collection as permitted by law may, at the Commission’s discretion, be initiated. The Company shall send electronic notification of payment to [EB-SED-Response@fcc.gov](mailto:EB-SED-Response@fcc.gov) on the date said payment is made. Payment of the Civil Penalty must be made by credit card using the Commission’s Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account. The Commission no longer accepts payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:<sup>24</sup>

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. In the OBI field, enter the FRN(s) captioned above and the letters “FORF”. In addition, a completed Form 159<sup>25</sup> or printed CORES form<sup>26</sup> must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to [RROGWireFaxes@fcc.gov](mailto:RROGWireFaxes@fcc.gov) on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 or CORES may result in payment not being recognized as having been received. When completing FCC Form 159 or CORES, enter the Account Number in block number 23A (call sign/other ID), enter the letters “FORF” in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).<sup>27</sup> For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the CD Acct. No. The bill number is the CD Acct. No. with the first two digits excluded (e.g., CD 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by ACH, log in using the FCC Username associated with the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the CD Acct. No. The bill number is the CD Acct. No. with the first two digits excluded (e.g., CD 1912345678 would be associated with FCC Bill Number 12345678). Finally, choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to

<sup>23</sup> Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

<sup>24</sup> For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

<sup>25</sup> FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

<sup>26</sup> Information completed using the Commission’s Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at <https://apps.fcc.gov/cores/userLogin.do>.

<sup>27</sup> Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

23. **Event of Default.** The Company agrees that an Event of Default shall occur upon the failure by the Company to pay the full Civil Penalty on or before the due date specified in this Consent Decree.

24. **Interest, Charges for Collection, and Acceleration of Maturity Date.** After an Event of Default has occurred under this Consent Decree, the then unpaid amount of the Civil Penalty shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75%, from the date of the Event of Default until payment in full. Upon an Event of Default, the then unpaid amount of the Civil Penalty, together with interest, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charges, plus the costs of collection, litigation, and attorneys' fees, shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by the Company.

25. **Waivers.** As of the Effective Date, the Company waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. The Company shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or the Adopting Order, neither the Company nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and the Company shall waive any statutory right to a trial *de novo*. The Company hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act<sup>28</sup> relating to the matters addressed in this Consent Decree.

26. **Severability.** The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

27. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

28. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which the Company does not expressly consent) that provision will be superseded by such Rule or order.

29. **Successors and Assigns.** The Company agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

30. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

31. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

32. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

33. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on

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<sup>28</sup> See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.



behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

34. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

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Loyaan A. Egal  
Chief  
Enforcement Bureau

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Date

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Alison Minea  
Vice President and Associate General Counsel, Regulatory Affairs  
DISH Operating, L.L.C.

\_\_\_\_\_  
Date