

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

In the Matter of)
Monitoring DISH’s Compliance with Conditions) WT Docket No. 22-212
Granting an Extension of Time to Complete)
Construction of Facilities and Buildout)
Commitments)
EchoStar Construction Milestone Extension) ULS Lead Call Signs WQXK340, WQTX200,
Request) T070272001, T060430001, WQJY944,
WQWQ558, WQWQ819

ORDER ON RECONSIDERATION

Adopted: May 12, 2026

Released: May 12, 2026

By the Chief, Wireless Telecommunications Bureau:

1. For the reasons discussed below, we dismiss the Petition for Reconsideration (Petition) filed by VTel Wireless, Inc (VTel) for lack of standing.¹

I. BACKGROUND

2. On September 17, 2024, EchoStar Corporation (EchoStar) requested an extension of its final construction deadline for some of its wireless licenses (Extension Request), which the Wireless Telecommunications Bureau (WTB or Bureau) granted in ULS.² On October 21, 2024, VTel, filed its Petition asking WTB to reconsider granting EchoStar’s Extension Request.³

3. VTel’s Petition challenges WTB’s authority to extend a construction deadline that has been set by the Commission and asserts that VTel has standing to file such a petition due to alleged competitive injury.⁴ The foundation of VTel’s standing arguments is that VTel participated in Auctions 96 and 97, in which EchoStar won many of the licenses at issue.⁵ VTel characterizes the grant of

¹ Petition for Reconsideration of VTel Wireless, Inc. (filed Oct. 21, 2024) (VTel Petition). The VTel Petition was filed both in ULS (Lead call signs and associated ULS File Nos. WQXK340 (ULS File No. 0011244477), WQTX200 (ULS File No. 0011245219), T070272001 (ULS File No. 0011245488), T060430001 (ULS File No. 0011245357), WQJY944 (ULS File No. 0011245624), WQWQ558 (ULS File No. 0011244682), WQWQ819 (ULS File No. 0011244484)) and WT Docket No. 22-212. See Letter from Bennet L. Ross, Counsel for VTel Wireless, Inc., Wiley Rein LLP, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 22-212 (filed Oct. 21, 2024).

² The Extension Request was filed in ULS on September 17, 2024 (Lead call signs and associated ULS File Nos. WQXK340 (ULS File No. 0011244477), WQTX200 (ULS File No. 0011245219), T070272001 (ULS File No. 0011245488), T060430001 (ULS File No. 0011245357), WQJY944 (ULS File No. 0011245624), WQWQ558 (ULS File No. 0011244682), WQWQ819 (ULS File No. 0011244484)). See, e.g., Request for Extension of Time, ULS File No. 0011244477, Exhibit 1 (filed Sept. 17, 2024) (Extension Request). A courtesy copy was also filed in WT Docket No. 22-212. See Letter from Jeffrey H. Blum, Executive Vice President, DISH, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 22-212 (filed Sept. 18, 2024) (Extension Request).

³ See generally VTel Petition.

⁴ VTel Petition at 7–14.

⁵ VTel Petition at 8.

EchoStar's Extension Request as a post-auction change to the requirements of the relevant licenses such that VTel was deprived of the ability to compete in a valid and fair bidding process.⁶ VTel also asserts a variety of competitive injuries, including delayed access to roaming on EchoStar's unfinished network and delayed access to directly acquire the spectrum licenses that would be reauctioned if EchoStar failed to meet its construction obligations under the original deadline.⁷ EchoStar challenges VTel's standing, arguing that its claims are speculative and that no concrete injury has been demonstrated.⁸

II. DISCUSSION

4. In order to demonstrate standing, a petitioner such as VTel must demonstrate, among other things, that the challenged action would cause it to suffer a direct injury.⁹ The injury must be both "concrete and particularized" and "actual or imminent, not conjectural or hypothetical."¹⁰ Speculative injuries are insufficient.¹¹ VTel's claimed injuries do not fulfill these requirements.

5. VTel's first claimed harm, that the grant of the Extension Request is a post-auction change to the licensing requirements implicating the fairness of the auction process, is unconvincing. The Commission's rules state that we may waive specific requirements of our rules on our own motion or on request.¹² Buildout requirements applicable to licenses issued at auction are not excepted from that procedure, and any relevant party, including other winning bidders in Auctions 96 and 97, could and can make such a request.¹³ Whether any such extension request is ultimately submitted or granted does not change the underlying requirements for those licenses.¹⁴ There is thus no *ex post* change to the license terms or the Commission rules, including the auction rules, let alone one that would constitute an injury-in-fact for the purpose of standing.

6. VTel's second and third claimed harms are too attenuated and too speculative to support standing. VTel alleges that it is harmed because the grant of the extension means that it will take additional time for EchoStar to either: (1) forfeit its licenses back to the Commission for reauction (thus

⁶ VTel Petition at 8.

⁷ VTel Petition at 8–9.

⁸ See EchoStar Opposition to Petition for Reconsideration at 19–23 (filed Oct. 31, 2024) (EchoStar Opposition). EchoStar's Opposition was filed both in ULS (Lead call signs and associated ULS File Nos. WQXK340 (ULS File No. 0011244477), WQTX200 (ULS File No. 0011245219), T070272001 (ULS File No. 0011245488), T060430001 (ULS File No. 0011245357), WQJY944 (ULS File No. 0011245624), WQWQ558 (ULS File No. 0011244682), WQWQ819 (ULS File No. 0011244484)) and WT Docket No. 22-212. See Letter from Jeffrey H. Blum, Executive Vice President, DISH, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 22-212 (filed Oct. 31, 2024).

⁹ See, e.g., *Applications of AT&T Mobility Spectrum LLC*, Memorandum Opinion and Order, 27 FCC Rcd 16459, 16465, para. 16 (2012); *Wireless Co., L.P.*, Order, 10 FCC Rcd 13233, 13235, para. 7 (WTB 1995) (*Wireless Co.*), citing *Sierra Club v. Morton*, 405 U.S. 727, 733 (1972); see also *New World Radio, Inc. v. FCC*, 294 F.3d 164 (D.C. Cir. 2002). See generally *T-Mobile License LLC, AT&T Mobility Spectrum LLC, New Cingular Wireless PCS LLC*, Memorandum Opinion and Order, 29 FCC Rcd 6350, 6355, para. 12 (2014).

¹⁰ *Conference Group, LLC v. FCC*, 720 F.3d 956 (D.C. Cir. 2013), quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992).

¹¹ See *Clapper v. Amnesty International USA*, 568 U.S. 398, 414 (2013).

¹² 47 CFR § 1.925.

¹³ See 47 CFR § 1.925; see also EchoStar Opposition at 19–20.

¹⁴ Further, all extension requests are evaluated under the same standard. See 47 CFR §§ 1.946(e), 1.925(b)(3). This universally applicable review standard is a sharp contrast to *U.S. Airwaves v. FCC*, which concerned a change to the financial options offered to auction participants at the time of the auction. The new financial options were available only to the winning bidders, retroactively depriving the other participants of the ability to factor those options into their auction decision-making. See *U.S. Airwaves v. FCC*, 232 F.3d 227 (D.C. Cir. 2000). Here, VTel has not been deprived of any options for fulfilling its construction requirements, nor has EchoStar been offered options unavailable to VTel, including at the time of the auction.

affording VTel potential access to them as licensee); or (2) successfully build out the licenses so that the spectrum becomes available to VTel through a hypothetical roaming agreement.¹⁵ Both these hypothetical situations are speculative and uncertain. In the reauction scenario, spectrum access for VTel would require EchoStar's licenses in fact terminating, and the Commission scheduling an inventory auction for those licenses. In the roaming agreement scenario, VTel's spectrum access would depend on EchoStar building out its network in licenses and locations useful to VTel, and VTel and EchoStar then successfully negotiating a roaming agreement. In either case, VTel's desired outcome hinges not primarily on the grant or denial of the Extension Request, but on a variety of other factors, including some outside the control of either VTel or the Commission.¹⁶ VTel cannot reasonably claim imminent particularized injury when its theories of harm are essentially being offered in the alternative and depend on the actions of a third party. Accordingly, VTel's claimed injuries are insufficient to support standing in this matter.

7. Because we conclude that VTel lacks standing to bring this Petition, we do not address VTel's subsequent arguments concerning WTB's authority to grant the Extension Request or the adequacy of EchoStar's justification for the grant.

III. ORDERING CLAUSES

8. ACCORDINGLY, pursuant to sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, IT IS ORDERED that the petition for reconsideration filed by VTel Wireless, Inc. on October 21, 2024 IS DISMISSED.

9. This action is taken under delegated authority pursuant to sections 0.131 and 0.331 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Joel Taubenblatt
Chief, Wireless Telecommunications Bureau

¹⁵ VTel Petition at 8–9.

¹⁶ VTel does not even allege, for example, that the grant of the Extension Request interrupted previously ongoing roaming negotiations. *See* VTel Petition at 8–9.