

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

In the Matter of

Directsat Corporation

Application for Authority to Launch and Operate
a Direct Broadcast Satellite

File No. DBS-88-02/94-01M

ORDER

Adopted: September 9, 1996

Released: September 9, 1996

By the Chief, International Bureau:

1. By this Order, we grant the request of Directsat Corporation ("Directsat") for authority to launch its "USABSS-4" Direct Broadcast Satellite ("DBS") service satellite into the 118.8° W.L. orbital location and to operate the satellite using its DBS channel assignments at that location.¹ We also grant Directsat authority to make minor modifications to the satellite design.

2. Directsat holds a construction permit for a DBS system, which includes satellites at the 119° W.L., 110° W.L. and 166° W.L. orbital locations.² Directsat has completed construction of its central satellite, USABSS-4, and has provided the technical information required for international notification in accordance with the ITU Radio Regulations. Directsat now seeks authority to launch and operate that satellite. It also requests authority to use digital rather than FM modulation and to change the satellite's equivalent isotropically radiated power (e.i.r.p.).³

¹ *Public Notice*, Report No. DBS/PN 94-01, File No. DBS-88-02/94-01M, February 11, 1994 ("*Public Notice*")("Application for Minor Modification of Construction Permit to, *inter alia*, employ digital modulation.").

² *Directsat Corp.*, 8 F.C.C. Rcd. 7962 (1993)("Directsat Channels Order").

³ See Technical Amendment and Request for Issuance of a Construction Permit and Launch Authority, filed January 24, 1994, at 3-5; Updated Technical Information and Renewed Request for Launch Authority, File No. DBS-88-02, filed July 29, 1996.

3. Dominion Video Satellite, Inc. ("Dominion") filed a petition to deny Directsat's application. It contends that we should defer action on Directsat's application pending resolution of its petitions for reconsideration regarding the order granting orbital/channel assignments to Directsat and the order revoking Dominion's orbital/channel assignments.⁴ Dominion also requests that we deny Directsat's application due to Directsat's failure to comply with a Commission requirement that it complete satellite contracting for one channel at the 110° W.L. orbital position.

4. Directsat notes that the Commission has already determined that it has satisfactorily completed the contracting necessary to demonstrate due diligence for USABSS-4 using the criteria delineated in *Tempo Enterprises, Inc.*, 1 F.C.C. Rcd. 20, 21 (1986), and clarified in *United States Satellite Broadcasting*, 3 F.C.C. Rcd. 6558, 6861-6862 (1988).⁵ Directsat also points out that it timely filed the required demonstration of satellite construction contracting for its one channel at the 110° W.L. orbital position.⁶ Directsat states that Dominion has failed to demonstrate that Directsat's contract is deficient in any manner, and simply reiterates arguments it made in its petitions for reconsideration in separate proceedings.⁷

5. Dominion has failed to cite any errors of law or fact that would warrant denying or further delaying a grant of Directsat's request for authority to launch and operate USABSS-4. In the *Directsat Channels Order*, the Commission found that Directsat satisfied its due diligence obligations for satellite construction contracting with respect to the 119° W.L. and 166° W.L. orbital locations.⁸ In that order, the Commission conditioned Directsat's orbital/channel assignments on the outcome of the *Dominion Channels* proceeding.⁹ The Commission has since denied Dominion's petition for reconsideration of the *Dominion Channels Order* and its petition for reconsideration of the order awarding Directsat's orbital/channel assignments.¹⁰ In doing so, the Commission addressed and

⁴ See *Dominion Video Satellite, Inc.*, 8 F.C.C. Rcd. 6680 (1993) ("*Dominion Channels Order*"), recon. denied, *Dominion Video Satellite ("Dominion Channels Reconsideration Order")*, 10 F.C.C. Rcd 12743 (1995); *Directsat Corporation*, DA 96-6 (released January 11, 1996) ("*Extension Order*").

⁵ See Directsat Opposition at 4-5.

⁶ See Letter from Frank S. Trumbower, President, Directsat Corporation, to Honorable William F. Caton, Acting Secretary, dated February 10, 1994, notifying Commission of Directsat's exercise of its contractual option to construct a third satellite for use at the 110° W.L. location (includes executed copy of Contract Modification No. 6).

⁷ See Directsat Opposition at 6, 9.

⁸ *Directsat Channels Order* at 7964.

⁹ *Id.* at 7964 n.6.

¹⁰ See note 4 *supra*.

rejected arguments virtually identical to those raised in Dominion's petitions with respect to Directsat's application here. Moreover, contrary to Dominion's assertions, Directsat has completed its obligations for satellite construction contracting for the 110° W.L. orbital location.¹¹ Accordingly, we dismiss Dominion's petition to deny Directsat's application.

6. Further, we grant Directsat's modification requests. All of the proposed modifications are minor because they do not entail the use of any additional orbit/spectrum resources,¹² and are consistent with international agreements and treaty obligations.

7. Accordingly, pursuant to authority delegated by Section 0.261 of the Commission's Rules, 47 C.F.R. § 0.261, IT IS ORDERED that the Application for Authority to Launch and Operate a DBS satellite at the 118.8° W.L. orbital location filed by Directsat Corporation (DBS-88-01) IS GRANTED, SUBJECT TO THE CONDITIONS that: (1) the ITU confirms that the operation of USABSS-4 is in conformance with Appendices 30, 30A and Resolution 42 of the ITU Radio Regulations; (2) until the Region 2 Plan is modified to include the technical parameters of USABSS-4, this satellite will not cause harmful interference to or receive protection from other assignments that are in conformance with Appendix 30 of the ITU Radio Regulations; and (3) Directsat coordinates its operations with the operation of in-orbit United States DBS service providers before it brings its satellite into service. The grant of this application includes launch and positioning authority for USABSS-4.

8. IT IS FURTHER ORDERED that upon successful launch and positioning of USABSS-4, Directsat shall: (1) file an application for license to cover the facilities authorized herein within thirty days; and (2) certify to the Commission that the in-orbit operations of the satellite fully conform to the specifications set forth in the application and in this authorization, and that the satellite is fully capable of providing the services proposed.

9. IT IS FURTHER ORDERED that this Order is effective upon adoption.

FEDERAL COMMUNICATIONS COMMISSION


Donald H. Gips
Chief, International Bureau

¹¹ See note 7 *supra*.

¹² *Processing Procedures Regarding the Direct Broadcast Satellite Service*, 95 F.C.C. 2d 250, 252 (1983).