

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Revision or Elimination of Rules Under the)	CB Docket No. BO 18-31
Regulatory Flexibility Act, 5 U.S.C. § 610)	
)	

**COMMENTS OF ECHOSTAR SATELLITE OPERATING CORPORATION AND
HUGHES NETWORK SYSTEMS, LLC**

EchoStar Satellite Operating Corporation and Hughes Network Systems, LLC (“Hughes”) (together with their affiliates, “EchoStar”) submit these comments in response to the Commission’s public notice seeking input on its statutory mandate under Section 610 of the Regulatory Flexibility Act of 1980 (the “RFA”)¹ to eliminate or revise rules, adopted in 2005 and 2006, that have or may have a significant economic impact on a substantial number of small entities.² EchoStar welcomes this opportunity to assist in the Commission’s review of such rules, particularly those impacting satellite operators and their customers, both small and large.

I. THE COMMISSION’S PERIODIC RFA REVIEW OF ITS RULES IS CRITICAL TO EXISTING AND NEW SATELLITE INVESTMENTS

With its fleet of predominantly U.S.-licensed satellites and U.S.-based ground network facilities, EchoStar is the largest U.S.—and fourth largest worldwide—commercial geostationary satellite orbit (“GSO”) operator, providing broadband, video, and other services to meet the

¹ 5 U.S.C. § 610(a).

² See *FCC Seeks Comment Regarding Possible Revision or Elimination of Rules Under the Regulatory Flexibility Act*, 5 U.S.C. Section 610, Public Notice, DA 18-115 (Apr. 6, 2018), published in 83 Fed. Reg. 36848 (July 31, 2018).

needs of small and large customers, including internet service providers, media and broadcast organizations, direct-to-home providers, enterprise customers, government service providers, and residential consumers in the United States and abroad. Additionally, Hughes is the largest provider of satellite broadband services in the United States and globally, with approximately 1.3 million subscribers in the Americas.³ As the nation's leading satellite provider of consumer broadband, Hughes is filling the void in the market by deploying new and innovative broadband services to large pockets of unserved or underserved communities throughout the United States and the world.

Given its long history as a Commission-licensed and regulated provider of broadband and other communications services to U.S. and global consumers, EchoStar consistently has supported streamlining the Commission's rules to mitigate economic burdens imposed on regulated entities and their customers, both small and large. In support of the Commission's RFA review of rules adopted in 2001 through 2004,⁴ EchoStar previously identified a number of Part 25 rules that have or may have significant economic impact on small entities, and further proposed deleting or revising those rules, as follows:

- delete Section 25.110(e)'s requirement to keep the original copy of an electronically filed application;
- delete Section 25.112(a)(3)'s requirement to dismiss applications for satellite operations in a frequency band not allocated internationally for such operations;

³ See Press Release, Hughes, *Bank BRI Selects Hughes to Power Next Generation Satellite Network* (July 17, 2018), <https://www.hughes.com/who-we-are/resources/press-releases/bank-bri-selects-hughes-power-next-generation-satellite-network>; see also Hughes, *Consumer and Enterprise*, <https://www.echostar.com/solutions/hughes.aspx> (last visited Oct. 29, 2018).

⁴ See *FCC Seeks Comment Regarding Possible Revision or Elimination of Rules Under the Regulatory Flexibility Act*, 5 U.S.C. Section 610, Public Notice, 31 FCC Rcd 13053 (Dec. 28, 2016), published in 82 Fed. Reg. 9282 (Feb. 3, 2017).

- delete Section 25.131(h)'s licensing requirement for receive-only earth stations accessing non-U.S.-licensed satellites not on the Permitted List;
- delete Section 25.131(j)'s requirement to renew registrations for receive-only earth stations;
- delete Section 25.159's "three-strikes" rule;
- revise Section 25.114 to permit an option to file a streamlined application for a comprehensive license for both space and earth station operations;
- revise Section 25.117(d) to add a new subsection (4) codifying a longstanding Commission presumption deferring to satellite operators' fleet management decisions;
- revise Section 25.118(a)(4) to permit additional earth station modifications not requiring prior Commission authorization, including (i) antenna height increases within the limits prescribed by the Federal Aviation Administration; and (ii) changes in the authorized coordinates of up to 10 seconds in latitude or longitude for stations operating on frequencies shared with terrestrial systems or up to 30 seconds in latitude or longitude for stations operating on frequencies not shared with terrestrial systems;
- revise Sections 25.118(a) and (e) to eliminate the Form 312 filing requirement (including filing fees) for permitted Commission notification of certain space and earth station modifications;
- revise Section 25.121(a) to: (i) apply the same 15-year license term to all satellite licenses, except DBS/SDARS/BSS licensed as broadcast facilities; and (ii) add a new subsection (3) permitting issuance of an official instrument of authorization for space station operations; and
- revise Section 25.121(e) to: (i) provide for the filing of applications for replacement authorization and license renewal of any space stations, and not just non-geostationary orbit satellites; and (ii) permit license renewal filings any time prior to the expiration date.⁵

The Commission's RFA review of those Part 25 rules, along with additional Part 25 rules discussed below, is critical to eliminating regulatory barriers to investments in existing and new satellite networks and technologies. Indeed, in reaffirming the Commission's deep commitment to creating opportunities for the satellite industry, Chairman Pai recently highlighted the Commission's efforts to repeal or revise outdated rules as a key component of its plan to promote

⁵ See Comments of EchoStar, CB Dkt. No. BO 16-251, at 4-12 (May 4, 2017).

investment in new networks.⁶ As Chairman Pai rightfully noted, “eliminating some regulatory burdens ... can enable a fast-growing segment of the satellite industry to innovate and invest in new technologies.”⁷ With that objective in mind, EchoStar fully supports a prompt and thorough Commission review of its rules, particularly Part 25 rules that should be repealed or revised to mitigate any significant economic impact on satellite operators and their customers, both small and large.

II. THE COMMISSION SHOULD ELIMINATE OR REVISE CERTAIN PART 25 RULES THAT ARE UNNECESSARY, DUPLICATIVE, OR OTHERWISE UNDULY BURDENSOME

In determining whether its rules should be eliminated or revised to minimize any significant economic impact, the Commission is required under Section 610 of the RFA to consider factors such as “(1) the continued need for the rule; (2) the nature of complaints or comments received concerning the rule from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.”⁸ Accordingly, consistent with these statutory factors, the Commission should consider eliminating or revising certain Part 25 rules adopted in 2005 and 2006, as proposed below and in the attached Appendix A (Proposed FCC Rule Revisions).

⁶ See Ajit Pai, Chairman, FCC, *Remarks at the 7th Annual Americas Spectrum Management Conference*, National Press Club, Washington, D.C. at 2-3 (Oct. 3, 2018), <https://www.fcc.gov/document/chairman-pai-5g-americas-spectrum-management-conference> .

⁷ *Id.* at 3.

⁸ 5 U.S.C. § 610 (b).

As demonstrated below, such rules are unnecessary, duplicative, or otherwise unduly burdensome, and thus should be eliminated or revised as required by statute.

(1) *47 C.F.R. § 25.118(b) (Modifications not requiring prior authorization).*

The Commission should revise subsection (b) to permit additional earth station modifications not requiring notification to the Commission, including modifications for replacement equipment operating consistent with the technical parameters authorized for the existing equipment. Such modifications do not involve any changes to existing authorized technical parameters and thus do not increase any risk of harmful interference. Consequently, requiring Commission notification of such minor, noncontroversial modifications is unduly burdensome and unnecessary for interference protection of other services.

(2) *47 C.F.R. § 25.133(a) and (b) (Period of construction; certification of commencement of operation).*

The Commission should revise subsections (a) and (b) to permit additional flexibility to commence earth station operations within the longer milestone period required under Section 25.164 for new satellite systems authorized for communications with such earth stations. The existing one-year earth station construction requirement effectively forces satellite operators to delay obtaining Commission authorizations for gateway and other earth stations until one year before launching a new satellite system. This creates additional regulatory uncertainty, given that satellite network operators typically require a longer lead time, often two to three years, to finalize the design for their networks to include both satellite and earth station operations. Thus, the existing one-year construction requirement is unduly burdensome and unnecessary to ensure timely commencement of earth station operations.

(3) 47 C.F.R. § 25.210(j) (*technical requirements for space stations*).

The Commission should revise Section 25.210(j), which requires maintaining GSO satellites within 0.05° of their assigned orbital longitude in the east-west direction, to conform to the ITU's less stringent 0.1° east-west station-keeping requirement.⁹ The rationale for retaining Section 25.210(j)'s more stringent station-keeping requirement remains unclear.¹⁰ Moreover, the disparity between FCC and ITU station-keeping requirements has resulted in forcing U.S.-licensed GSO operators to bear additional operational costs that are not otherwise imposed on their non-U.S.-licensed GSO competitors. Consequently, Section 25.210(j) should be revised to conform to ITU station-keeping requirements, thus removing a largely duplicative U.S. regulatory requirement that has imposed significant, unfair economic burdens on U.S.-licensed satellite operators and their customers. Doing so will promote international harmonization of regulatory requirements, enhance operational flexibility for satellite operators, and ensure regulatory parity between U.S.- and non-U.S.-licensed satellite operators.

III. CONCLUSION

Based upon the foregoing, EchoStar urges the Commission to conduct a prompt and thorough review of its Part 25 rules to mitigate any significant impact on satellite operators and their customers. In carrying out its statutory mandate under the RFA, the Commission should determine that certain Part 25 requirements are unnecessary, duplicative, or unduly burdensome,

⁹ See ITU Radio Regulations § 22.8.

¹⁰ See, e.g., *Mitigation of Orbital Debris*, Second Report and Order, 19 FCC Rcd 11567, ¶¶ 42-44 (2004).

and thus should be repealed or revised accordingly. Such Commission action is critical to ensure that its regulatory processes afford U.S.-licensed satellite operators the flexibility required to offer cost-effective, innovative services to U.S. consumers on a timely basis.

Respectfully submitted,

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October 29, 2018

APPENDIX A PROPOSED PART 25 RULE REVISIONS

§ 25.118 Modifications not requiring prior authorization.

(b) *Earth station modifications, notification not required.* Notwithstanding paragraph (a) of this section, equipment in an authorized earth station may be replaced without prior authorization and without notifying the Commission if the new equipment is electrically identical to the existing equipment [or operates consistent with the technical parameters authorized for the existing equipment.](#)

§ 25.133 Period of construction; certification of commencement of operation.

(a)(1) Each initial license for an earth station governed by this part, except for blanket licenses, will specify as a condition therein the period in which construction of facilities must be completed and station operation commenced. Construction of the earth station must be completed and the station must be brought into operation within 12 months from the date of the license grant, except as may be determined by the Commission for any particular application [or as may be permitted by the Commission to commence earth station operations with an authorized satellite system consistent with the milestone period required under § 25.164 for such satellite system.](#)

(2) Operation of a network of earth stations at unspecified locations under an initial blanket license must commence within 12 months from the date of the license grant, unless the Commission orders otherwise [or permits commencement of earth station operations with an authorized satellite system consistent with the milestone period required under § 25.164 for such satellite system.](#)

§ 25.210 Technical requirements for space stations.

(j) Space stations operated in the geostationary satellite orbit must be maintained within 0.~~10~~⁵° of their assigned orbital longitude in the east/west direction, unless specifically authorized by the Commission to operate with a different longitudinal tolerance, and except as provided in Section 25.283(b) (End-of-life Disposal).