



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
445 12th STREET, S.W.
WASHINGTON, D.C. 20554

DA 01-3005

News media information 202/418-0500 Fax-On-Demand 202/418-2830 Internet: <http://www.fcc.gov> <ftp.fcc.gov>

CABLE SERVICES BUREAU ACTION

December 21, 2001

**ECHOSTAR COMMUNICATIONS CORPORATION, GENERAL MOTORS CORPORATION,
AND HUGHES ELECTRONICS CORPORATION SEEK FCC CONSENT
FOR A PROPOSED TRANSFER OF CONTROL
CS DOCKET NO. 01-348**

Petitions/Comments due: February 4, 2002

Oppositions/Responses due: February 25, 2002

On December 3, 2001, the Commission received applications requesting consent to the transfer of control of licenses and authorizations held by Hughes Electronics Corporation ("Hughes") and its subsidiaries and affiliates and by EchoStar Communications Corporation ("ECC") and its subsidiaries and affiliates (collectively, the "Applicants") to EchoStar Communications Corporation, a Delaware corporation. Hughes controls various space station, earth station, wireless and experimental licenses and Section 214 authorizations, including licenses and Section 214 authorizations held by PanAmSat Corporation ("PanAmSat") and its wholly-owned subsidiaries. ECC controls various space station and earth station licenses, including licenses and authorizations held by EchoStar Satellite Corporation, EchoStar 110 Corporation, EchoStar North America Corporation and EchoStar VisionStar Corporation.

Additionally, the Applicants request that the Commission approve the transfer of control of Section 214 authorizations controlled by Hughes to New EchoStar.

The proposed license transfers will result from the spin-off of Hughes from General Motors Corporation ("GM"), which currently owns all of the capital stock of Hughes, and the merger of ECC with and into Hughes. Hughes will be the surviving corporation, with a new ownership structure, and the merged entity will be renamed EchoStar Communications Corporation ("New EchoStar"). The proposed transaction includes the transfer of Hughes' indirect majority equity stake in PanAmSat, either to New EchoStar through the merger, or in the event the merger agreement is terminated under certain specified circumstances to ECC through a separate purchase of Hughes' interest in PanAmSat.

On December 18, 2001, the Applicants submitted a letter advising the Commission that on December 14, 2001, ECC signed definitive agreements relating to a transaction with Vivendi Universal S.A. ("Vivendi") that will, among other things, result in certain minor changes to ECC's ownership structure and composition of its Board of Directors. In addition, as part of the transaction, ECC has agreed to carry five new Vivendi channels, to make available the equivalent of about eight video channels on its system for new interactive services, to deploy certain "middleware" technology on some set-top boxes, and to carry Vivendi films and music on a pay-per-view basis. The Applicants indicate that they will amend their application to reflect the changes in ownership structure and composition of the Board of Directors following the closing of ECC's transaction with Vivendi. The Commission is reviewing the letter and will inform the Applicants when it determines what additional information and/or amendments to the applications may be appropriate in light of the arrangement it describes.

ECC and Hughes, through its DirecTV subsidiary, are the two major direct broadcast satellite ("DBS") providers in the United States. ECC, GM, and Hughes submit that the proposed transaction will promote the public interest. They state that New EchoStar will more efficiently use spectrum to offer more local-into-local programming, provide a competitive alternative to cable television, offer more broadband services, provide better service to rural and outlying areas at nationally standardized prices, and offer more niche, educational and high-definition television programming. Further, the Applicants assert that the transaction with Vivendi will provide consumers with additional programming diversity and enhanced services.

Interested parties may file comments or petitions to deny the applications no later than **February 4, 2002**. Oppositions or responses to these comments and petitions may be filed no later than **February 25, 2002**. Given recent changes in the mail delivery process, we strongly urge commenters to use the Commission's Electronic Comment Filing System (ECFS). Procedures for filing through ECFS are described below in the "General Information" section.

For administrative convenience, the various applications listed in the Attachment below have been consolidated into one general docket. All filings regarding any aspect of the proposed merger should reference the docket assigned to this proceeding, **CS Docket No. 01-348**.

***EX PARTE* STATUS OF THIS PROCEEDING**

Because this proceeding involves broad public policy issues, the proceeding will be treated as "permit but disclose" for purposes of the Commission's *ex parte* rules. *See generally* 47 C.F.R. §§ 1.1200-1.1216. Should circumstances warrant, this proceeding or any related proceeding may be designated as restricted. As a "permit but disclose" proceeding, *ex parte* presentations will be governed by the procedures set forth in Section 1.1206 of the Commission's rules applicable to non-restricted proceedings.¹

Parties making oral *ex parte* presentations are directed to the Commission's statement re-emphasizing the public's responsibility in permit-but-disclose proceedings and are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed.² More than a one or two sentence description of the views and arguments presented is

¹ An *ex parte* presentation is any communication (spoken or written) directed to the merits or outcome of a proceeding made to a Commissioner, a Commissioner's assistant, or other decision-making staff member, that, if written, is not served on other parties to the proceeding or, if oral, is made without an opportunity for all parties to be present. 47 C.F.R. § 1.1201.

² *See Commission Emphasizes the Public's Responsibilities in Permit-But-Disclose Proceedings*, Public Notice, FCC 00-358, 15 FCC Rcd 19945 (2000).

generally required. See 47 C.F.R. § 1.1206(b)(2), as revised. Other rules pertaining to oral and written presentations are set forth in Section 1.1206 (b) as well. We urge parties to use ECFS to file *ex parte* submissions. See “General Information” section below.

TRANSFER OF CONTROL APPLICATIONS

ECC’s, GM’s, and Hughes’s consolidated application includes the Commission authorizations and licenses listed in the Attachment below. They are separated by type of authorization and license. Interested parties should refer to the transfer of control applications for a listing of the authorizations or licenses. Each of the Applicants’ subsidiaries or affiliates may hold multiple authorizations or licenses of a particular type. Parties should be aware that additional applications may have to be filed to identify any additional authorizations involved in this transaction. ECC, GM, and Hughes have requested a waiver of the Commission’s “cut-off” rule that requires an application to be newly filed if the applicant’s beneficial ownership or control structure substantially changes.³ ECC, Hughes and its subsidiaries have numerous pending applications for earth and space station authorizations before the Commission and these additional authorizations, pending approval, would be included in this consolidated application.

GENERAL INFORMATION

The applications for transfer of control of the licenses/authorizations referenced herein have, upon initial review, been accepted for filing. The Commission reserves the right to return any applications if, upon further examination, they are determined to be defective and not in conformance with the Commission’s rules, regulations, or policies.

Final action will not be taken on the applications earlier than 31 days following the date of this Notice. Interested parties may file pleadings as indicated above regarding the applications. Parties are encouraged to file comments using ECFS. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24,121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, “get form <your e-mail address>.” A sample form and directions will be sent in reply.

Parties submitting paper filings must file an original and four (4) copies of all pleadings, in accordance with Section 1.51(c) of the Commission’s Rules, 47 C.F.R. § 1.51(c), with the Commission’s Secretary, Magalie Roman Salas, 445 12th Street, S.W., TW-B204, Washington, D.C. 20554. All filings sent to the Commission by overnight delivery, *e.g.* Federal Express, must be sent to the Commission’s Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., TW-A325, Washington, D.C. **20024**. All hand-delivered or messenger-delivered filings must be delivered at the Commission’s new filing location in downtown Washington D.C.: 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002-4913.⁴ The filing hours at this facility are 8:00 a.m. to 7:00 p.m. Parties also must send twelve (12) paper copies of their filing to Linda Senecal, Policy and Rules Division, Cable Services Bureau, Federal Communications Commission, 445

³ See 47 C.F.R. § 25.116.

⁴ See *FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence*, Public Notice, DA 01-2919 (rel. Dec. 14, 2001)>

12th Street, S.W., Room 3-A734, Washington, D.C. 20554, or one electronic copy via e-mail to lseneccal@fcc.gov.

We urge persons submitting written *ex parte* presentations or summaries of oral *ex parte* presentations in this proceeding to use ECFS in accordance to the Commission rules discussed above. Parties using paper *ex parte* submissions must file an original and one copy with the Commission's Secretary, Magalie Roman Salas. As applicable, please follow the procedures set forth in the paragraph above for sending your submission by mail, or for hand-delivery of your submission to the Commission's new filing location in downtown Washington, D.C.

In addition, interested parties must serve the following with either one electronic copy via e-mail or two paper copies of each pleading or *ex parte* submission: (1) Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or email at qualexint@aol.com; (2) Royce Sherlock, Cable Services Bureau, 445 12th Street, S.W., 3-A729, Washington, D.C. 20554, rsherloc@fcc.gov; (3) Marcia Glauberman, Cable Services Bureau, 445 12th Street, S.W., 3-A738, Washington, D.C. 20554, mglauber@fcc.gov; (4) Barbara Esbin, Cable Service Bureau, 445 12th Street, S.W., Room 3-C458, Washington, D.C. 20554, besbin@fcc.gov; (5) James Bird, Office of General Counsel, 445 12th Street, S.W., Room 8-C824, Washington, D.C. 20554, jbird@fcc.gov; (6) David Sappington, Office of Plans and Policy, 445 12th Street, S.W., Room 7-C452, Washington, D.C. 20554, dsapping@fcc.gov; (7) JoAnn Lucanik, International Bureau, 445 12th Street, S.W., Room 6-C416, Washington, D.C. 20554, jlucanik@fcc.gov; (8) Douglas Webbink, International Bureau, 445 12th Street, S.W., Room 6-C730, Washington, D.C. 20554, dwebbink@fcc.gov; and (9) Julius Knapp, Office of Engineering and Technology, 445 12th Street, S.W., Room 7-B133, Washington, D.C. 20554, jknapp@fcc.gov.

Copies of the applications and any subsequently filed documents in this matter may be obtained from Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, and will also be available through ECFS. Copies of the applications and documents are also available for public inspection and copying during normal reference room hours at the Commission's Reference Information Center, 445 12th Street, S.W., CY-A257, Washington, D.C. 20554. The Cable Services Bureau's home page <<http://www.fcc.gov/csb>> will contain electronic versions of selected key documents, including applicants' public interest statement, public notices, and procedural orders.

Alternate formats of this public notice (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 voice, (202) 418-7365 TTY, or send an e-mail to access@fcc.gov.

For further information, contact Marcia Glauberman (202) 418-7046 or Linda Senecal (202) 418-7044, of the Cable Services Bureau. Press inquiries should be directed to Michelle Russo (202) 418-2358 of the Cable Services Bureau. TTY: (202) 418-7172 or (888) 835-5322.

ATTACHMENT

File No. **SAT-T/C-20011204-00104** is the Lead File number for the space station series of applications. The complete list of File Numbers follows:

Satellite Space Stations:

| File Number | †Licensee/Call Signs |
|------------------------|--|
| SAT-T/C-20011204-00104 | DIRECTV Enterprises, LLC <i>Call Sign(s):</i> DBS8402; DBS8402; S2430; S2417; DBS8804; S2369; DBS8402 |
| SAT-T/C-20011204-00105 | PanAmSat Corporation <i>Call Sign(s):</i> S2223; S2427; S2191; S2226; S2225; S2220; S2426; S2221; S2425; S2192; S2429; S2224; S2428 |
| SAT-T/C-20011204-00106 | PanAmSat Corporation <i>Call Sign(s):</i> GAL I-R; GAL IX; GAL V; S2102; S2377; S2378; GAL VIII-I; GAL III-R; S2382; S2253; BR-A1; SBS-6; PAS-6; S2380; S2368; S2359; PAS-2R; PAS-22; PAS-4; PAS-5; PAS-9; PAS-7; GAL VI; S2229 |
| SAT-T/C-20011204-00107 | USSB II, Inc. <i>Call Sign(s):</i> DBS8107; DBX8107 |
| SAT-T/C-20011204-00108 | Hughes Network Systems, Inc. <i>Call Sign(s):</i> S2132; S2133; S2340; S2185; S2339; S2190; S2189; S2338; S2188; S2341; S2187; S2186 |
| SAT-ASG-20011204-00109 | Hughes Communications, Inc. <i>Call Sign(s):</i> S2341; S2340; S2339; S2338 |
| SAT-ASG-20011204-00110 | Hughes Communications Galaxy, Inc. <i>Call Sign(s):</i> S2190; S2189; S2188; S2187; S2186; S2185; S2133; S2132 |
| SAT-T/C-20011204-00111 | Hughes Global Services, Inc. <i>Call Sign(s):</i> KS39 |
| SAT-T/C-20011204-00112 | USSB II, Inc. <i>Call Sign(s):</i> DBS8107; DBS8107 |
| SAT-ASG-20011204-00113 | DIRECTV Enterprises, Inc. <i>Call Sign(s):</i> S2417; S2369; DBS8804; DBS8402; DBS8402; DBS8402 |
| SAT-T/C-20011204-00114 | EchoStar Satellite Corporation <i>Call Sign(s):</i> DBS88-01; DBS88-02; DBS88-08 |
| SAT-T/C-20011205-00115 | EchoStar Satellite Corporation <i>Call Sign(s):</i> S2142; S2143; S2179; S2178 |
| SAT-T/C-20011204-00116 | EchoStar 110 Corporation <i>Call Sign(s):</i> S2232 |
| SAT-T/C-20011205-00117 | EchoStar VisionStar Corporation <i>Call Sign(s):</i> S2210 |

File No. **SES-T/C-20011204-02261** is the Lead File number for the earth station series of applications. The complete list of File Numbers follows:

Satellite Earth Stations:

| File Number | †Licensee/Call Signs |
|------------------------|--|
| SES-T/C-20011204-02261 | PanAmSat Corporation <i>Call Sign(s):</i> E990365; E990364; E4132; E990334; E990323; E990091; E010133; E980503; E010131; E000363; E000063; E950508; E950502; E010113; E940368; E930088; E920377; E920340; E900089; E980501 (Transmit/Receive) |
| SES-T/C-20011204-02263 | PanAmSat Corporation <i>Call Sign(s):</i> E970051 (Transmit Only) |
| SES-T/C-20011204-02265 | Hughes Network Systems, Inc. <i>Call Sign(s):</i> E880970; E881109; E890425; E890627; E900013; E910612; E920556; E940460; E940478; SES-STA-20011107-02083 (Transmit/Receive) |

SES-T/C-20011204-02266 PanAmSat Corporation
Call Sign(s): E970080 (Receive Only)

SES-T/C-20011204-02268 DIRECTV Enterprises, LLC
Call Sign(s): E930229; E930304 (Transmit Only)

SES-T/C-20011204-02270 DIRECTV Enterprises, LLC
Call Sign(s): E930191; E980285; E980338; E980340; E980473; E990159;
E010129; E010130; E950349 (Transmit/Receive)

SES-T/C-20011204-02271 USSB II, Inc.
Call Sign(s): E930485 (Transmit/Receive)

SES-T/C-20011204-02273 DIRECTV Enterprises, LLC
Call Sign(s): E990545 (Temporary Transmit/Receive)

SES-T/C-20011204-02275 HOT Telecommunications, Ltd
Call Sign(s): E010187; E000362 (Transmit/Receive)

SES-T/C-20011204-02277 Hughes Communications Satellite Services, Inc.
Call Sign(s): E970094; E970079; E960001; E4723 (Receive Only)

SES-T/C-20011204-02279 PanAmSat Communications Carrier Services, Inc.
Call Sign(s): KA71 (Transmit/Receive)

SES-T/C-20011204-02281 DIRECTV Latin America, LLC
Call Sign(s): E990232 (Transmit/Receive)

SES-T/C-20011204-02282 PanAmSat Communications Services, Inc.
Call Sign(s): E5702 (Transmit/Receive)

SES-T/C-20011204-02285 Hughes Global Services, Inc.
Call Sign(s): E990055 (Temporary Transmit/Receive)

SES-T/C-20011204-02287 Hughes Global Services, Inc.
Call Sign(s): E990024 (Transmit/Receive)

SES-T/C-20011204-02288 Hughes Network Systems, Inc.
Call Sign(s): E861092; E873438 (Temporary Transmit/Receive)

SES-T/C-20011204-02290 USSB II, Inc.
Call Sign(s): E930437 (Receive Only)

SES-T/C-20011204-02291 DIRECTV Enterprises, LLC
Call Sign(s): E950423; E950424; E980170; E980341 (Receive Only)

SES-T/C-20011204-02292 PanAmSat Licensee Corp.
Call Sign(s): E950067 (Transmit Only)

SES-T/C-20011204-02293 PanAmSat Licensee Corp.
Call Sign(s): E7465; E010112; KA245; E010019; KA244; E000488; E990433; E000364;
E990363; E000274; E990224; E000049; E990223; E000048; E990214; E990093; E990092;
E980467; E980460; E970392; E970391; E970352; E950307; KA450; E950267; E940532;
E940333; KA391; E980502; E890530; E881286 (Transmit/Receive)

SES-T/C-20011204-02294 PanAmSat Licensee Corp.
Call Sign(s): E010118 (Temporary Transmit/Receive)

SES-T/C-20011204-02295 PanAmSat Corporation
Call Sign(s): KL92; E900757; E900621; E881304; E860175; E3943; E2178
(Transmit/Receive)

SES-T/C-20011205-02260 EchoStar Satellite Corporation
Call Sign(s): E010242; E010241; E010240; E980117 (Transmit/Receive)

SES-T/C-20011205-02262 EchoStar North America Corporation
Call Sign(s): E970396; E970395 (Receive Only)

SES-T/C-20011205-02264 EchoStar North America Corporation
Call Sign(s): E980081; E980047; E980005; E970394; E950288; E990310; E950287;
E990309; E950253; E950252; E990138; E980180; E980178; E980174; E980143;
E980142; E980128; E980127; E980118; E980082; E990139 (Transmit/Receive)

SES-T/C-20011217-02328 EchoStar North America Corporation
Call Sign(s): E890631 (Temporary Transmit-Only)

VSAT Earth Stations:

| File Number | *Licensee/Call Signs |
|------------------------|---|
| SES-T/C-20011204-02289 | Hughes Network Systems, Inc. <i>Call Sign(s):</i> E000166; E880787; E880788; E880789; E881110; E881111; E881112; E890426; E890427; E890428; E890628; E890629; E890630; E891001; E891002; E900192; E900682; E940455; E950471; E950472; E950473; E990170; E970067 |

File No. **ITC-T/C-20011203-00613** is the Lead File number for the Section 214 series of applications. The complete list of File Numbers follows:

Section 214 Authorizations:

| File Number | Licensee/File Nos. |
|------------------------|---|
| ITC-T/C-20011203-00613 | PanAmSat Communications Carrier Services Inc. File No. I-T-C-85-069, CSG-85-002-P/L (1985) File No. I-T-C-85-221 (1985) |
| ITC-T/C-20011203-00614 | PanAmSat Carrier Services Inc. File No. I-T-C-98-052 (1998) File No. I-T-C-93-236 (1995) |

File No. **0000662719** is the Lead File number for the wireless radio series of applications. The complete list of File Numbers follows:

Wireless Licenses

| File Number | Licensee/Call Signs |
|--------------------|--|
| 0000662719 | Hughes Communications Satellite Services, Inc. <i>Call Sign(s):</i> WPKJ833 |
| 0000679724 | Hughes Electronics Corporation <i>Call Sign(s):</i> KE2356; WNIU649; WNIR536; WNEU909; KE4524; KXU919; WNEP883 |
| 0000679730 | Hughes Electronics Corporation <i>Call Sign(s):</i> WPLT306 |
| 0000680651 | Hughes Electronics Corporation* <i>Call Sign(s):</i> 21AM |
| 0000680653 | Hughes Electronics Corporation* <i>Call Sign(s):</i> 21AX |

File No. **0100-EX-TC-2001** is the sole and Lead File number for the experimental application. The application is as follows:

Experimental Licenses:

| File Number | Licensee/Call Signs |
|--------------------|---|
| 0100-EX-TC-2001 | Hughes Network Systems, Inc. <i>Call Sign(s):</i> WB2XIX |

* Some of the listed Licensees are subject to grant of a pending pro forma assignment and/or name correction.

* These applications are for new licenses because aviation licenses do not transfer.