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January 23, 2002

Via ECFS

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

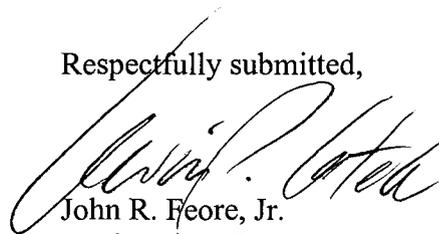
Re: NAB/ALTV Emergency Petition
CS Docket No. 00-96

Dear Madam Secretary:

On behalf of Roberts Broadcasting Company of Denver, permittee of Television Station KTVJ(TV), Boulder, Colorado, and Roberts Broadcasting Company, licensee of Television Station WHSL(TV), East St. Louis, Illinois, we hereby submit electronically the enclosed Comments on the Emergency Petition filed on January 4, 2002, by the National Association of Broadcasters and the Association of Local Television Stations in CS Docket No. 00-96.

If we can provide the Commission with any further information about the material addressed in these Comments, please contact us directly.

Respectfully submitted,



John R. Feore, Jr.
Kevin P. Latek

Enclosure

cc w/ encl. via e-mail: Ms. Eloise Gore (FCC)
Mr. Ben Bartolome (FCC)
Qualex International



WHSL

January 18, 2002

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: NAB/ALTV Emergency Petition
CS Docket No. 00-96

Dear Madam Secretary:

Roberts Broadcasting Company and Roberts Broadcasting Company of Denver (collectively, "Roberts") urges the Commission to grant the Emergency Petition filed on January 4, 2002, by the National Association of Broadcasters and the Association of Local Television Stations. The Emergency Petition seeks clarification or modification of the Commission's Rules to prohibit a direct broadcast satellite operator from requiring the installation of additional equipment to receive selected local television stations.

Placing "disfavored" local stations on a satellite that cannot be seamlessly received by subscribers of the "favored" local stations (the "Second-Dish Requirement") constitutes blatant discrimination against the "disfavored" local stations. As aptly demonstrated by the Emergency Petition, such discrimination violates both the letter and spirit of the Satellite Home Viewer Improvement Act of 1999 ("SHVIA") and the Commission's Rules.

As the Commission itself recognized by setting an expedited pleading cycle, the Emergency Petition has raised a serious issue that demands immediate resolution. To facilitate a prompt resolution, we will not restate the indisputable legal conclusions set forth in the Emergency Petition. Rather, we wish to notify the Commission of how the Second-Dish Requirement, currently employed by EchoStar, has disadvantaged television viewers in the Denver and St. Louis markets and therefore has harmed the public interest.

Roberts owns UHF Television Stations KTVJ(TV), Boulder, Colorado, and WHSL(TV), East St. Louis, Illinois, which respectively serve the Denver DMA and the St. Louis DMA. These stations are among the last independent, minority-owned television stations in the Top 25 markets.

Each station broadcasts a unique mix of programming that is not available from any other source. For example, both stations air several hours each of week of multiple five-minute episodes of "In Your Interest," which explores various issues that are important to the station's respective communities.

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Other examples of the stations' unique programming include KTVJ(TV)'s daily, prime-time religious programming from the Heritage Christian Center in Denver, and WHSL(TV)'s periodic specials devoted to timely themes, such as Afrocentric programming during Black History Month.

Each station also airs a number of educational and informational programs directed at children. This programming includes "Enchanted Tales," a program that promotes reading by introducing young children to music and literature; "So You Want to Be," an upbeat, interactive series exploring career possibilities for young people; and "Book Mice," a program that teaches children about values, constructive behavior and problem solving.

As DBS operators have rapidly increased their base of subscribers in our markets, it has become an economic imperative that our stations obtain carriage on the satellite platforms. Without access to a sizeable portion of its local market, neither station may be able to attract a sufficient number of viewers to support its unique and (as the FCC has repeatedly recognized) valuable programming.

EchoStar is not carrying the signals of KTVJ(TV) or WHSL(TV) in a manner consistent with SHVIA, the Commission's requirements, or the public interest. First, the stations do not appear in the on-screen electronic programming guides that depicts the local affiliates of the major networks. As a result, there is simply no way that EchoStar's local-into-local subscribers in the Denver and St. Louis markets would know about the programming offered by Roberts' television stations.

Second, if a subscriber learned about and wanted to watch a program on KTVJ(TV) or WHSL(TV), and that subscriber typed in the appropriate station's channel number on the remote, he or she would not be able to view the desired programming. Rather, the television would display a message indicating that the channel selection is not available. To access one of these must-carry signals, the subscriber would need to undertake all of the following tasks:

1. Call EchoStar;
2. Wait for and perhaps seek out a customer service representative that understood the problem;
3. Learn about EchoStar's Second-Dish Requirement;
4. Decide whether installation of a second receiving dish was desirable and permissible;
5. Attempt to obtain permission from the landlord, building manager, condominium association, or homeowner's association for the installation of the second dish and associated cables, especially if the existing equipment is located in a common area;
6. Schedule an appointment for the installation of a second receiving dish and the replacement of all existing receivers;

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7. Take time off of work to wait for the installers to install and test the new equipment; and
8. Pay the installer for secondary receivers and (presumably) the difference in price necessary to secure replacement of upgraded receivers.

It is highly unlikely that DBS subscribers, even if they learn about the Second-Dish Requirement, will choose to or be able to follow through all of these steps. From a practical standpoint, then, the Second-Dish Requirement costs "disfavored" stations the practical ability to reach a sizable percentage of their local viewing audience. Similar lessons were learned when cable and satellite subscribers were forced to use A/B switches to obtain off-air broadcast signals. Congress intervened in those cases by granting compulsory copyrights for cable and satellite operators – the latter at the strong urging of EchoStar.

The Second-Dish Requirement mocks the tireless efforts of Congress and the Commission to ensure the viability of all broadcast stations, including those broadcasting less popular programming. In short, the Second-Dish Requirement is contrary to the public interest.

Roberts Broadcasting Company respectfully requests that the Commission grant the Emergency Petition and confirm the obvious fact that EchoStar's conduct violates SHVIA and the Commission's rules.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. Roberts'.

Steven C. Roberts
President

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