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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range;	)	ET Docket No. 98-206 RM-9147 RM-9245
	)	
In the Matter of	)	
	)	
Petition for Rulemaking to Amend Eligibility Requirements in Part 78 Regarding 12 GHz Cable Television Relay Service	)	CS Docket No. 99-250 RM-9257
	)	
In the Matter of	)	
	)	
EchoStar Communications Corporation, General Motors Corporation, and Hughes Electronics Corporation Seek FCC Consent For A Proposed Transfer of Control	)	CS Docket No. 01-348

ERRATUM

Satellite Receivers, Ltd., by its counsel, timely filed its *Opposition to the DBS Petition For Consolidation And For Declaration That Planned Terrestrial Service In The 12.2-12.7 GHz Band Should Be Moved To Alternate Spectrum* ("Opposition") on February 1, 2002 (*see* copy attached). The heading inadvertently omitted reference to CS Docket No. 01-348. This Erratum

is submitted to correct the heading of the Opposition and to ensure services upon all interested parties.

SATELLITE RECEIVERS, LTD.

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Date: February 8, 2002

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OPPOSITION OF SATELLITE RECEIVERS, LTD.
TO DBS PETITION FOR CONSOLIDATION AND
FOR DECLARATION THAT PLANNED TERRESTRIAL SERVICE IN
THE 12.2-12.7 GHZ BAND SHOULD BE MOVED TO ALTERNATE SPECTRUM

Satellite Receivers, Ltd., (Satellite Receivers) by its counsel, hereby opposes the Petition for Consolidation filed by DBS operators DIRECTV, Inc. and EchoStar Satellite Corp., with regard to their proposed merger, and their Petition for Declaration that planned Terrestrial Service in the 12.2 –12.7 GHz Band be Moved to Alternative Spectrum.[1] Satellite Receivers submits that the Commission should reject both of these Petitions out of hand as naked attempts

[1] *DIRECTV, Inc. and EchoStar Satellite Corp., Petition for Consolidation of Rulemaking Proceedings and for a Declaration that Alternative spectrum is Suitable for the Proposed "Multichannel Video Distribution and Data Service,"* ET Docket No. 98-206, CS Docket No. 99-250; ET Docket No. 00-258 (FCC filed Dec. 3, 2001 ("DBS Petition")

to thwart competition from terrestrial wireless services such as those proposed by Satellite Receivers.

Neither Petition is in the Public Interest

It is obvious that the merger of two major direct broadcast satellite operators will simply reduce to two, the number of competitors providing multi-channel video services to consumers: the surviving merged DBS supplier and the MSO/Cable TV industry. Satellite Receivers opposes this merger because it will lessen consumer choice and competition; Satellite Receivers submits that the proposed merger is contrary to the public interest.

If the Merger is to Proceed, the Commission should authorize MVDDS

However, should the Commission determine to let the proposed merger proceed, Satellite Receivers urges that the Commission immediately expand the supply of multi-channel video programming by authorizing additional competitors to provide multi-channel video delivery service to homes and businesses. Specifically, the Commission should license qualified entities, *e.g.,* Satellite Receivers, to provide Multi-channel Video Distribution and Data Service (MVDDS) by reusing the 12.2-12.7 GHZ band – the so-called DBS spectrum. Satellite Receivers approves of the Commission's technical proposals stated in its Further Notice of Proposed Rulemaking[2]. These guidelines demonstrate that reuse of the 12.2-12.7 GHz spectrum by MVDDS is feasible because individual cases of interference can be mitigated.[3] Authorizing MVDDS would result in three choices of program delivery for consumers: MSOs/cable companies, a consolidated DBS entity and newly authorized MVDDS providers.

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2 *Amendment to the Commission's Rules to Authorize Subsidiary Terrestrial Use of the 12.2-12.7 GHz Band by Direct Broadcast Satellite Licensees and Their Affiliates, Further Notice of Proposed Rulemaking ("FNPRM")* FCC 00-418, ET Docket No. 00-206 (released December 8, 2000).

3 *See id.* at 119-120.

Moreover, it is now clear that this spectrum can be regulated by the Commission to prevent harmful interference with existing DBS services. The viability of harmonizing the shared use of the 12.2-12.7 GHz spectrum has been effectively documented in the MITRE Report[4] submitted to the Commission on April 18, 2001 in the context of the Commission's multi-channel video distribution and data service (MVDDS) – ET Docket No. 98-206.[5] This Report concludes that cases of individual interference can be mitigated by a variety of acceptable and known technological means, regularly and routinely employed by RF engineers. Importantly, affording the terrestrial reuse of the 12.2 –12.5 GHz band is in keeping with the Commission's policies of promoting efficient use of scarce spectrum resources.

Keeping the MVDDS transmitter power as low as possible without forgoing terrestrial coverage, and adjusting the elevation tilt of the MVDDS transmitting antenna are two effective ways of achieving interference mitigation suggested by the MITRE report.[6] However, because both of these techniques shrink the potential MVDDS coverage area, terrestrial service most logically should be licensed on regional, rather than a national basis.[7] This is the proposal of Satellite Receivers pursuant to its reply comments filed on May 23, 2001, regarding the MITRE Corporation's Technical Report.[8]

Thus, the Commission can promote multi-channel video competition, while also assuring that interference between the existing satellite-based services and newly authorized terrestrial competitors does not occur by licensing terrestrial competitors on a regional basis promptly, without need to resort to an auction. A regional licensee is far more likely to meet the rural needs

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4 The MITRE Corp., MITRE Technical Report, *Analysis of Potential MVDDS Interference to DBS in the 12.2-12.7 GHz Band* (FCC sponsored report, Project No. 1201 FCC 2-01, Apr. 2001)("MITRE Report").

5 *Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range*, ET Docket No. 98-206 (FCC filed Dec. 3, 2001) ("DBS Petition").

6 *See id.* at xvii.

7 *See id.* at xix.

8 *See,* Comments of Satellite Receivers, Ltd., ET Docket No. 98-206 (FCC filed May 23, 2001).

in its service area and be able to quickly and effectively mitigate individual cases of inter-system interference.

Should, arguendo, the Commission determine that the proposed merger may proceed, Satellite Receivers submits that to ensure that the merged DBS entity faces adequate competition, the FCC should impose conditions on the merger -- specifically, the merged entity should be required to enter into a Consent Decree hospitable to the FCC's authorization of terrestrial sharing of the 12.2 –12.5 GHz spectrum with the merged entity. The Commission should institute a separate Rulemaking proceeding that would result in specification and requirements of a Consent Decree.

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Date: February 1, 2002

CERTIFICATE OF SERVICE

I, Denise A. Branson, hereby certify that on this 8th day of February 2002, true and correct copies of the foregoing **ERRATUM** have been served by first class U.S. Mail, postage prepaid on the following:

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