

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

FCC 02M-111
01778

In the Matter of Application of)
)
EchoStar Communications Corporation,)
(a Nevada Corporation), **General Motors**)
Corporation, and **Hughes Electronics**)
Corporation (Delaware Corporations))
)
(Transferors))
)
and)
)
EchoStar Communications Corporation)
(a Delaware Corporation))
)
(Transferee))

CS Docket No. 01-348

DEC 11 2002

ORDER

Issued: December 10,2002

Released: December 11,2002

On December 6,2002, Advanced Communications Corporation (“Advanced”) filed Reply to Opposition to Petition to Intervene and Seek Continuance of Hearing (“Reply”). The issue of Advanced’s right to intervene in this proceeding has been decided. See Memorandum Opinion and Order FCC 02M-103, released November 20, 2002, in which the Presiding Judge denied Advanced’s Petition to Intervene and Seek Continuance of Hearing. Also, the Reply is an unauthorized pleading under applicable Commission rule.

In filing its Reply, Advanced relied on 47 C.F.R. §1.45 of the General Rules of Practice and Procedure which permits reply pleadings “[e]xcept as otherwise provided ---.” The applicable “othenvise provided” rule in formal hearings is prescribed at 47 C.F.R. §1.294 of Subpart B Hearing Proceedings.¹ Section 1.294(b) provides that in motions practice after commencement of a hearing, “replies to oppositions will not be entertained except as provided in subsection (c). Under the subsection (c) exception, replies to oppositions *are* permitted as a matter of right only in response to requests to add or delete issues, requests to dismiss applications, and requests for approval of settlements. See 47 C.F.R. §1.294(c)(1), (3), (4). None of those events apply here.

¹ In assignment Order FCC 02M-102, released November 14,2002, parties were put on notice as to applicability of Subpart B.

Section 1.294 further provides that “[a]dditional pleadings may be filed only if specifically requested or authorized.” 47 C.F.R. §1.994 (d). No such request ~~was~~ made or authorization granted by the Presiding Judge.

Accordingly, IT IS ORDERED that Advanced’s Reply to Oppositions to Petition to Intervene and Seek Continuance of Hearing filed on December 6, 2002, IS DISMISSED as ~~an~~ unauthorized pleading, and as a moot filing, and will not be considered.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink that reads "Richard L. Sippel". The signature is written in a cursive, flowing style.

Richard L. Sippel
Chief Administrative Law Judge