

EX PARTE OR LATE FILED

555 Eleventh Street, N.W., Suite 1000
Washington, D.C. 20004-1304
Tel: (202) 637-2200 Fax: (202) 637-2201
www.lw.com

LATHAM & WATKINS LLP

ORIGINAL

FIRM / AFFILIATE OFFICES	
Boston	New Jersey
Brussels	New York
Chicago	Northern Virginia
Frankfurt	Orange County
Hamburg	Paris
Hong Kong	San Diego
London	San Francisco
Los Angeles	Silicon Valley
Milan	Singapore
Moscow	Tokyo
	Washington, D.C.

June 25, 2003

BY HAND DELIVERY

RECEIVED

JUN 25 2003

Ms. Marlene H. Dortch, Secretary
 Federal Communications Commission
 445 12th Street, S.W.
 Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

Re: *DIRECTV, Inc. Request for Special Temporary Authority to Move Direct Broadcast Satellites DIRECTV 6 and DIRECTV 1; Response to National Rural Telecommunications Cooperative ("NRTC"); MB Docket No. 03-82; IB Docket No. 98-21; Ex Parte*

Dear Ms. Dortch:

This letter is to inform you that the undersigned, on behalf of DIRECTV, Inc. ("DIRECTV"), attended a meeting requested by the National Rural Telecommunications Cooperative ("NRTC") with Tom Tycz, Jennifer Gilson, Selina Khan and Evan Kerrane of the FCC's International Bureau, and Rosalee Chiara and Eloise Gore of the FCC's Media Bureau, in connection with the above-referenced matter. During that meeting, Steven Berman, General Counsel for the NRTC, and Jack Richards, outside counsel for the NRTC, made a power point presentation to the Commission representatives reiterating the positions contained in the NRTC's letter dated June 17, 2003.¹ Mr. Richards and Mr. Berman stated that their presentation was intended to "clarify" certain facts relating to DIRECTV's request for special temporary authority ("STA"), filed on June 11, 2003, to move the DIRECTV 6 and DIRECTV 1 direct broadcast satellites to the 110° W.L. and 101° W.L. orbital positions, respectively. Msrs. Berman and Richards reiterated the NRTC's general view that DIRECTV had not complied with the Commission's rules pertaining to the provision of direct broadcast service ("DBS") service to Hawaii. They also stated, having reiterated this view, that the NRTC did not oppose DIRECTV's STA request.

DIRECTV, in turn, confirmed the following points and reiterates them here:

¹ Letter from Jack Richards, Keller and Heckman LLP, Counsel to NRTC, to Jennifer Gilson, Chief, Satellite Policy Branch, Satellite Division, International Bureau, FCC, Regarding DIRECTV, Inc.; Request for Special Temporary Authority to Move DIRECTV 6 and DIRECTV 1 Direct Broadcast Satellites (June 17, 2003) ("NRTC Letter").

No. of Copies rec'd 0+4
 List A B C D E

LATHAM & WATKINS LLP

- DIRECTV disagrees with the NRTC's analysis of DIRECTV's compliance with the Commission's geographic service rules, as well as with any implication by the NRTC that DIRECTV has not at all times been forthright with the Commission. DIRECTV believes that it is in full compliance with FCC geographic service requirements for DBS, and noted that, in addition, it is actively engaged in dialogue with the Commission and the State of Hawaii with respect to the state of DIRECTV service to Hawaii.
- DIRECTV is committed to improving its service to Hawaii, and, as noted, has been in active discussions with Hawaii and with the Commission regarding its plans to improve Hawaii service. To this end, DIRECTV has committed, upon the successful launch of the DIRECTV 7S satellite (expected in the fourth quarter of this year), to add 22 additional programming services to its Hawaii service programming packages, *regardless* of the status of the NRTC litigation.
- As another piece of its plan to improve Hawaii service, DIRECTV's STA request is driven by DIRECTV's desire to initiate new high-definition television ("HDTV") programming service to Hawaii at the same time that it introduces such service to the rest of the United States, on July 1, 2003 (see attached press release). As a technical matter, this can *only* be accomplished by replacing the DIRECTV 1 satellite at 110° W.L., which cannot "see" Hawaii, with the DIRECTV 6 satellite, which can.
- DIRECTV notes that the DIRECTV 6 satellite has adequate capacity to ensure transponder redundancy due to the fact that DIRECTV has only three assigned frequencies at 110° W.L.
- DIRECTV notes that it requires approximately nine days to move each satellite at issue. Given the plan to first move DIRECTV 6, each day of delay in granting the STA is a day of delay for current and potential DIRECTV customers residing in Hawaii in receiving HDTV programming from 110° W.L.
- Because DIRECTV 1 will be available for new uses once traffic is transitioned to DIRECTV 6, that satellite will be available for re-positioning to its original orbital location at 101° W.L.
- Moving the DIRECTV 1 satellite enables DIRECTV to have the flexibility to pursue a number of important business objectives. These include backing up other satellites at 101° W.L., as well as freeing up the DIRECTV 2 satellite for relocation in the event of DIRECTV's acquisition of additional DBS frequencies, *e.g.*, in the upcoming (though recently postponed) auction of western slot DBS frequencies (Auction No. 52).
- It is most efficient to move DIRECTV 1 serially and in conjunction with DIRECTV 6, given the steps that must be taken to coordinate individuals and company resources involved in moving the satellites. It is particularly important

LATHAM & WATKINS^{LLP}

to achieve these moves promptly in light of the impending launch and positioning of DIRECTV 7S, which will implicate the same people and resources.

- Counsel for the State of Hawaii has advised the staff orally that Hawaii supports a grant of the STA request. And although the NRTC has asserted that the re-positioning of DIRECTV 1 is purely a litigation stratagem, the NRTC has stated in the NRTC Letter and reiterated its view during the June 24, 2003 meeting that the NRTC does not oppose the STA.
- NRTC's general views of DIRECTV's compliance with geographic service rules are irrelevant to the question of whether the current STA should be granted or denied, since the improvement to Hawaii service is unarguable, regardless of the credence that the NRTC places in DIRECTV's business motivations for effecting the proposed satellite relocations and operations.
- The proposed STA is wholly consistent with the Commission's historical and current policy regarding fleet management, which allows satellite operators "to rearrange satellites in their fleet to reflect business and customer considerations where no public interest factors are adversely affected."² There is no question that the proposed relocations and operations of DIRECTV 6 and DIRECTV 1 are intended to advance DIRECTV's "business and customer considerations," including the important public interest goal of expanded service to Hawaii.
- DIRECTV agrees that any STA grant will be subject to the approval of DIRECTV's pending request for minor modification of its DBS system, on which the NRTC will have an additional opportunity to comment, as well as to the outcome of pending FCC proceedings.

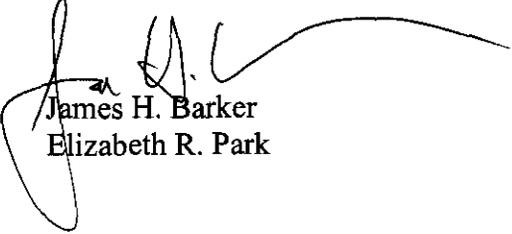
No party, including the NRTC, has objected to the satellite re-locations and operations contemplated in the STA, or claimed that such relocations and operations adversely affect the public interest. Furthermore, NRTC has now had multiple opportunities, in writing and in person, to express its concerns and to "clarify" the record from its perspective, and will be afforded an additional formal opportunity to do so in connection with DIRECTV's minor modification application.

In light of these facts and the facts outlined above, DIRECTV therefore respectfully requests that the Commission grant DIRECTV's request to move the DIRECTV 6 and DIRECTV 1 satellites to the 110° W.L. and 101° W.L. orbital positions, respectively, *as soon as possible via a stamped grant of the STA*. That will allow the requested satellite relocations and operations can be initiated immediately.

² *Amendment of the Commission's Space Station Licensing Policies*, IB Docket No. 02-34 (rel. June 20, 2003), at ¶ 15 (citing *GE American Communications, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 23583, 23588, ¶ 11 (Int. Bur. 2000); *Hughes Communications Galaxy, Inc.*, 5 FCC Rcd 4497 (Com. Car. Bur. 1990).

LATHAM & WATKINS^{LLP}

Respectfully submitted,



James H. Barker
Elizabeth R. Park

Counsel for DIRECTV, Inc.

cc: Attached Service List

CERTIFICATE OF SERVICE

I, James H. Barker, certify that on this 25th day June 20, 2003, a true and correct copy of the foregoing Ex Parte Letter was sent via first class mail, postage prepaid to the following:

W. Kenneth Ferree
Chief, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 3-C740
Washington, D.C. 20554

Rosalee Chiara
Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 6-A624
Washington, D.C. 20554

Donald Abelson
Chief, International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

William D. Friedman
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Tom Tycz
Chief, Satellite and Radiocommunications
Division, International Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 6A624
Washington, D.C. 20554

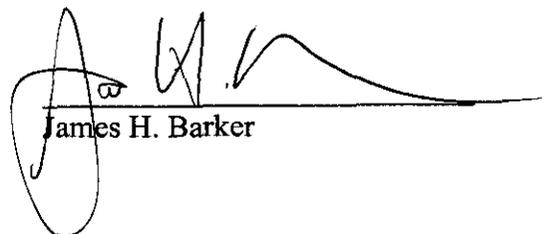
William H. Johnson
Deputy Chief, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 3-C742
Washington, D.C. 20554

Jennifer Gilsean
Chief, Satellite Policy Branch
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Eloise Gore
Assistant Division Chief, Policy Division
Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 4-A726
Washington, D.C. 20554

Selina Khan
Satellite Policy Branch
International Bureau
Federal Communications Commission
445 12th Street, S.W.
6th Floor
Washington, D.C. 20554

Jack Richards, Esq.
Keller & Heckman, LLP
1001 G Street, N.W.
Suite 500 West
Washington, D.C. 20001


James H. Barker