

I am writing in **support** of the assignment to Echostar Satellite L.L.C. (Echostar) from Rainbow DBS Company LLC (Rainbow DBS) for the authority to operate the Direct Broadcast (DBS) space station Rainbow 1 (DBS 8701) at the 61.5 W.L. orbital location, the associated earth station facilities at the Black Hawk site in Rapid City South Dakota (E020248). This assignment also includes the 11 odd-numbered channels (channels 1-21) at the 61.5 W.L. orbital location and the 2 additional DBS channels at that orbital location (channels 23 and 24) under Special Temporary Authority.

The key issue related to this assignment appears to be competition, specifically competition in the Multichannel Video Programming Distribution (MVPD) market that includes both satellite and cable video television providers. Limited available bandwidth especially DBS frequencies has been a significant constraint on the satellite providers in their competition with the cable providers. In order to overcome this constraint, DirecTV, the largest satellite television provider has invested over 1 billion dollars in their Spaceway satellites that will utilize Ka band frequencies to provide satellite television service. Echostar, the second largest satellite television provider currently utilizes Ku band frequencies at the 105 and 121 W.L. orbital locations to provide satellite television service and will soon add Ku band at the 85 W.L. orbital location. Echostar has also obtained both Ka band and extended Ku band licenses for several orbital locations and has initiated efforts for construction of satellites. Even Rainbow DBS had plans to utilize Ku band at the 72 W.L. orbital location to provide satellite television service and had a contract in place for the construction of 5 Ka band satellites.

The DBS frequencies have historically been given special treatment by the FCC over the other frequencies including the auctioning off of these frequencies. Admittedly there are technical advantages of the DBS frequencies over both Ka and regular Ku bands. For the consumer, the DBS frequencies technical advantage results in the ability to use a smaller dish antenna to receive a reliable signal. These technical advantages have not dissuaded the two largest satellite television providers in their recent efforts to utilize the other frequency bands. This will soon result in a significant percentage of the subscribers to the two largest satellite providers to receive at least some of their programming via either Ka or regular Ku band requiring the use of larger dish antennas. As noted above, Rainbow DBS had plans to utilize Ku band that would have required its subscribers to use a larger dish antenna. It is immaterial to the consumer if their satellite signal they receive is DBS, Ka or regular Ku band but the size of the dish antenna needed might be a factor in selecting their television provider. This factor is irrelevant if all the satellite television providers require the use of a larger dish antenna. (It should be noted that the need to use multiple dish antennas may dissuade a consumer from subscribing to a specific satellite television provider and this would probably be the case for Echostar with the 61.5 W.L. orbital location based on the television services they provide from other orbital locations.) If all the satellite television providers require a significant number of their subscribers to use larger dish antennas to receive Ka or regular Ku band frequencies because of the limited amount of DBS frequency capacity then the advantage of the DBS frequencies is limited. It can be concluded that the special treatment allotted the DBS frequencies should also be limited if not eliminated. This argument for the limitation on the special treatment of DBS frequencies is even more relevant to the 61.5 W.L. orbital location and this situation since some areas in the CONUS specifically the west coast already require a larger dish antenna to receive a reliable signal from Rainbow 1. Based on recent FCC decisions, if this assignment was for Ka or regular Ku band

frequencies, there would be little doubt that the assignment would be approved. **Therefore the assignment in question should be approved.**

As a final comment, one could argue that the commercial failure of Rainbow DBS was a result of its failure to obtain enough bandwidth capacity soon enough to provide the amount of programming necessary to compete in the MVPD market. Based on this lesson, the success of any future satellite television provider will not depend on its ability to obtain a license or use of DBS frequencies but on its ability to obtain enough capacity independent of its frequency in a timely fashion.