

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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In the Matter of)	
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Hughes Communications, Inc., Transferor, and EchoStar Corporation, Transferee)	IB Docket No. 11-55
)	
Consolidated Application for Authority to Transfer Control)	
)	
)	

SUPPLEMENT

I. INTRODUCTION AND SUMMARY

EchoStar Corporation (“EchoStar”), through its counsel, files this supplement to the applications seeking the transfer of control over the authorizations held by Hughes Network Systems, LLC (“HNS”).¹ Specifically, EchoStar provides certain information in response to questions asked by Commission staff about its satellite fleet deployment plans and the presumption of 47 C.F.R. § 25.159(d), to the extent these matters are relevant to this proceeding and to the Commission’s public interest analysis. Moreover, based on the same information, EchoStar requests that the Commission find that it has made the showing, as invited by the International Bureau in its July 29, 2010 *Memorandum Opinion and Order*,² that EchoStar has

¹ Hughes Communications, Inc., Transferor, and EchoStar Corporation, Transferee, Consolidated Application for Authority to Transfer Control, IB Docket No. 11-55; File Nos. SAT-T/C-20110228-00041 and -00042; SES-T/C-20110228-00221, -00222, -00223, and -00224; File Nos. 0001-EX-TC-2011, 0002-EX-TC-2011, and 0003-EX-TC-2011 (filed Feb. 28, 2011), as corrected by Erratum (filed Mar. 2, 2011).

² EchoStar Corporation, File No. SAT-LOA-20090528-00060, *Memorandum Opinion and Order*, DA 10-1401 ¶ 14 (rel. July 29, 2010) (“*Bureau Order*”).

now rebutted the presumption of speculative purposes consistent with the Commission's rules, 47 C.F.R. § 25.159(d).

With this supplement, EchoStar submits declarations from Mr. Dean A. Manson, Senior Vice President, General Counsel, and Secretary of HNS,³ and Mr. Kenneth Carroll, Chief Operating Office of EchoStar Satellite Services,⁴ showing that EchoStar and Hughes are very likely to complete construction, launch, and commence operation of the Spaceway 4 satellite (also known as Jupiter 1), for which HNS holds a UK license and "Letter of Intent" authorization to provide service to the United States,⁵ well in advance of the milestones applicable to that authorization. For his part, EchoStar's Mr. Carroll confirms that, upon consummation of EchoStar's merger with HNS' parent, Hughes Communications, Inc. ("Hughes"), EchoStar intends to and is very likely to carry the Jupiter 1 project to construction completion, launch, and operation well before the applicable milestones. Messrs. Manson's and Carroll's declarations show that the Jupiter 1 satellite is very likely to be launched during the first half of 2012, some three years ahead of its launch milestone.

EchoStar, of course, has agreed to pay approximately two billion dollars to acquire Hughes, whose assets include one operational satellite, Spaceway 3, and the soon-to-be-launched Jupiter 1 satellite. Therefore, the plan to build Jupiter 1, coupled with the significant payment agreed by EchoStar for the acquisition of Hughes, including its under-construction and operational assets, constitutes conclusive proof that EchoStar is not a speculator.

³ See Attachment A ("Manson Declaration").

⁴ See Attachment B ("Carroll Declaration").

⁵ See Hughes Network Systems, LLC, File No. SAT-LOI-20091110-00119, Call Sign S2753 (rel. May 5, 2010).

II. SURRENDERS OF CERTAIN AUTHORIZATIONS

In making the showing that it will carry the Jupiter 1 project to construction completion, launch, and operation well in advance of the applicable milestones, EchoStar must consider certain trade-offs. Particularly, EchoStar is in the process of preparing the paperwork to surrender its authorizations for 17/24 GHz Broadcasting-Satellite Service (“BSS”) satellites using the 62.15° W.L., 75° W.L., 79° W.L., 107° W.L., and 110.4° W.L. orbital locations. Upon careful review of the U.S. priority for four of these five licensed 17/24 GHz BSS satellites under International Telecommunication Union (“ITU”) rules, EchoStar has concluded that senior priority claims of other administrations to the four slots in question have a high chance of resulting in actual satellites with priority over EchoStar’s satellites. Therefore, proceeding further with these projects would carry the risk that satellites in which EchoStar would have invested hundreds of millions of dollars would prove incapable of meaningful operations due to the inability of the harmonious operation of the EchoStar satellites in the U.S. slots with those adjacent satellite networks with senior ITU priority claim. At the present time, even the 75° W.L. orbital location, while more promising than some of the other licensed 17/24 GHz BSS slots, is subject to the ITU priority rights of a number of administrations (including Canada, Luxembourg, and the United Kingdom). Additionally, EchoStar believes that the integrated outdoor units required to combine service from 75° W.L. with that from other EchoStar satellite assets will require the development of new technology, which may delay deployment. While these challenges may be mitigated or overcome in the future, surrender of the 75° W.L. authorization is the appropriate course now based on the totality of the circumstances.

EchoStar is also in the process of preparing the paperwork to withdraw its petition for reconsideration of the Commission’s dismissal of its application to operate a C-band Geostationary Orbit (“GSO”) satellite in the Fixed-Satellite Service (“FSS”) at the 84.9° W.L.

orbital location (Call Sign S2791),⁶ and its requests that the bonds for certain surrendered licenses (Call Sign S2499 at 97° W.L. and Call Sign S2636 at 113° W.L.) be released.⁷

EchoStar has made these decisions as part of its continual assessment regarding how to best deploy and develop its satellite systems in light of its proposed acquisition of Hughes and following completion of CDR for three of its 17/24 GHz BSS authorizations.⁸ EchoStar notes that its planned surrender of certain satellite authorizations is intended to strengthen its showing that, in combination with its acquisition of Hughes, EchoStar is very likely to construct the Jupiter 1 satellite. As part of that showing, the five surrenders should not count for purposes of Section 25.159(d).⁹ Rather, if the Commission accepts this showing as sufficient, EchoStar requests a “clean slate” for EchoStar and its corporate structure – including Hughes and its subsidiaries, once the Commission approves the merger.

III. BACKGROUND ON THE “SPECULATIVE PURPOSES” PRESUMPTION

Section 25.159(d) of the Commission’s rules provides that, if a space station licensee misses three implementation milestones for licensed satellites within a three-year period, the licensee triggers a presumption that it obtained one or more of the licenses for speculative purposes.¹⁰ The rule further states that, “[u]nless the licensee rebuts this presumption, it will not be permitted to file another [application] in any frequency band if it has two or more satellite

⁶ EchoStar Corporation, Petition for Reconsideration, File No. SAT-LOA-20090528-00060 (filed Aug. 30, 2010).

⁷ Separately, EchoStar will soon submit additional evidence that Critical Design Review (“CDR”) has been duly completed for three of its 17/24 GHz BSS satellite licenses that EchoStar has now (post-CDR) decided to surrender – the licenses for the 62.15° W.L., 75° W.L., and 79° W.L. orbital locations.

⁸ Carroll Declaration ¶ 6.

⁹ 47 C.F.R. § 25.159(d).

¹⁰ *Id.*

applications pending, or two licensed-but-unbuilt satellite systems of any kind.”¹¹ This limit remains in effect until the licensee provides adequate information to demonstrate that it is “very likely to construct its licensed facilities” if it were allowed to file more applications.¹²

On July 29, 2010, the Bureau dismissed¹³ EchoStar’s application to operate a GSO FSS space station using the C-band frequencies at the 84.9° W.L. orbital location.¹⁴ The Bureau held that, “[i]n an almost three-year period, from December 2006 through September 2009, EchoStar did not implement five of its licensed satellites,”¹⁵ triggering the presumption of 47 C.F.R. § 25.159(d). In dismissing EchoStar’s application, the Bureau invited EchoStar to make a showing that rebuts the presumption of speculative purposes consistent with the Commission’s rules, 47 C.F.R. § 25.159(d).

IV. JUPITER 1 IS VERY LIKELY TO BE CONSTRUCTED, LAUNCHED, AND PUT INTO OPERATION

On May 5, 2010, the Commission granted HNS authority to provide service into the United States from its proposed UK-licensed Jupiter 1 satellite over the Ka-band at 107.1° W.L.¹⁶ That authorization is subject to the following milestones:

- Execute a binding contract for construction by May 5, 2011.
- Complete CDR by May 5, 2012.
- Commence construction by May 5, 2013.

¹¹ *Id.*

¹² Amendment of the Commission’s Space Station Licensing Rules and Policies, *First Report and Order*, 18 FCC Rcd. 10760, 10836 (2003).

¹³ *Bureau Order* ¶ 1.

¹⁴ *See* EchoStar Corporation, File No. SAT-LOA-20090528-00060 (filed May 28, 2009).

¹⁵ *Bureau Order* ¶ 1.

¹⁶ *See* Stamp Grant, File No. SAT-LOI-20091110-00119, Call Sign S2753 (granted May 5, 2010).

- Launch and begin operations by May 5, 2015.

Mr. Manson's declaration confirms that the Jupiter 1 satellite is a central focus of Hughes' business plans as it is designed to add significant capacity to Hughes' Internet offerings.¹⁷ Mr. Manson also confirms that Hughes intends to and is very likely to complete construction of the Jupiter 1 satellite and launch and operate that satellite well before the May 4, 2015 milestone.

Specifically, Mr. Manson points out that, having met the CDR and "Commence Construction" milestones ahead of schedule,¹⁸ construction of the Jupiter 1 satellite is progressing ahead of the milestone schedule. According to Mr. Manson's Declaration:

- all panels are now complete and have been mated with the satellite bus;
- integration of the main body is currently underway;
- waveguides and coaxes are being installed as part of the integration process and are expected to be complete by the end of May;
- baseline performance testing follows and is expected to be completed by mid-summer, at which point satellite level testing is scheduled to begin (e.g., vacuum chamber, vibration);
- all payload components and most bus components have been received by the manufacturer, with those pieces not yet received being on schedule for delivery in the next eight weeks;
- at present, the entire bus and payload have been successfully powered up, with two of the four antenna systems having been completed and having passed compact range testing; and
- the remaining two antenna systems are scheduled to be tested next month.¹⁹

¹⁷ Manson Declaration ¶ 5.

¹⁸ The International Bureau determined that HNS had met these two milestones in a Public Notice released January 14, 2011. *See* Public Notice, Policy Branch Information, Actions Taken, Report No. SAT-00750, DA 11-75, at 2 (rel. Jan. 14, 2011); *see also* Manson Declaration ¶ 6. The relevant deadlines were May 5, 2012 for CDR and May 5, 2013 for commencement of construction.

EchoStar also understands that HNS is filing photographic evidence and financial information under cover of confidentiality with the International Bureau in the Jupiter 1 application file,²⁰ further demonstrating its progress towards completion of construction.²¹

HNS anticipates that construction will be completed in time for an early 2012 launch.²² Mr. Manson also confirms that HNS has entered into a launch contract with Arianespace for Jupiter 1, consistent with that schedule, and has made significant payments to Arianespace under that contract.²³ These preparations will very likely put Jupiter into orbit approximately three years before the May 5, 2015 milestone to launch and begin operations.²⁴

For EchoStar's part, Mr. Carroll confirms that, following consummation of its acquisition of Hughes, EchoStar intends to and is very likely to complete construction of the Jupiter 1 satellite and launch and operate that satellite well before the May 4, 2015 FCC milestone.²⁵

V. CONCLUSION

For the foregoing reasons, EchoStar requests respectfully that the Commission find that EchoStar has made the required showing to rebut the speculative purposes presumption and that there are no public interest concerns that weigh against an expedited approval of the transfer of control over the HNS authorizations.

¹⁹ Manson Declaration ¶ 8.

²⁰ *See* Hughes Network Systems, LLC, File No. SAT-LOI-20091110-00119, Call Sign S2753 (granted May 5, 2010).

²¹ Carroll Declaration ¶ 7; Manson Declaration ¶ 9.

²² Manson Declaration ¶¶ 10-11.

²³ *Id.* ¶ 11.

²⁴ *Id.* ¶ 12.

²⁵ Carroll Declaration ¶ 3.

Respectfully submitted,

/s/

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May 19, 2011

ATTACHMENT A

DECLARATION OF DEAN A. MANSON

I, Dean A. Manson, being over 18 years of age, swear and affirm as follows:

1. I make this declaration based upon personal knowledge, information and belief.

2. I am the Senior Vice President, General Counsel and Secretary of Hughes Network Systems, LLC (“Hughes”), the grantee of a letter of intent (“LOI”) authorization to serve the United States of America from a foreign-licensed satellite, designated Spaceway 4 and also known as Jupiter 1, which is set to operate in the Ka-band Fixed-Satellite Service (“FSS”) frequencies at the 107.1° W.L. orbital location (FCC File No. SAT-LOI-20091110-00119, Call Sign S2753, rel. May 5, 2010).

3. The milestones applicable to the authorization are:

- Execute a binding contract for construction by May 5, 2011.
- Complete Critical Design Review (“CDR”) by May 5, 2012.
- Commence construction by May 5, 2013.
- Launch and begin operations by May 5, 2015.

4. I hereby confirm that Hughes intends to and is very likely to complete construction of the Jupiter 1 satellite and launch and operate that satellite well before the May 5, 2015 milestone.

5. The Jupiter 1 satellite is a central focus of our business plans as it is designed to add significant new capacity for our Internet offerings.

6. On December 29, 2010, the International Bureau determined that Hughes had met its Contract Execution milestone. *See* Public Notice, Policy Branch Information, Actions Taken, Report No. SAT-00746, DA 10-2427, at 2 (rel. Dec. 29, 2010). And on January 14, 2011, the International Bureau determined that Hughes had met its CDR and Commence Construction milestones. *See* Public Notice, Policy Branch Information, Actions Taken, Report No. SAT-00750, DA 11-75, at 2 (rel. Jan. 14, 2011). These determinations were made well before the

deadlines for each of the milestones (May 5, 2011 for contract execution, May 5, 2012 for CDR and May 5, 2013 for commencement of construction).

7. Construction of the Jupiter 1 satellite is progressing ahead of the milestone schedule.

8. The current status of the Jupiter 1 satellite construction is as follows: all panels are now complete and have been mated with the satellite bus. Integration of the main body is currently underway. Waveguides and coaxes are being installed as part of the integration process and are expected to be complete by the end of May 2011. Baseline performance testing follows and is expected to be completed by mid-summer, at which point satellite level testing is scheduled to begin (e.g., vacuum chamber, vibration). All payload components and most bus components have been received by the manufacturer, with those pieces not yet received being on schedule for delivery in the next eight weeks. At present, the entire bus and payload have been successfully powered up, with two of the four antenna systems having been completed and having passed compact range testing. The remaining two antenna systems are scheduled to be tested next month.

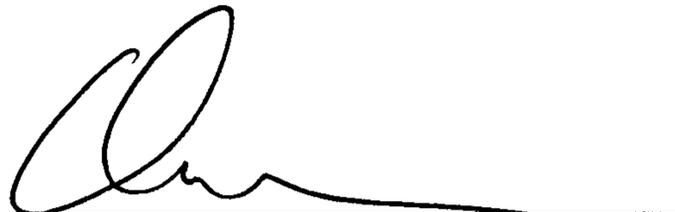
9. Hughes is filing confidential photographic evidence and financial information with the International Bureau in the Jupiter 1 application file, demonstrating the current progress being made toward completion of construction.

10. Hughes anticipates that construction will be completed in time for launch during the first half of 2012.

11. Hughes has entered into a launch contract with Arianespace consistent with that schedule, and it has already made significant payments to Arianespace under that contract.

12. Hughes' plans for launch during the first half of 2012 should put Jupiter 1 into orbit about three years before the milestone to launch and begin operations (May 5, 2015).

I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge, and belief. Executed on May 19, 2011.

A handwritten signature in black ink, appearing to read 'Dean A. Manson', written over a horizontal line.

Dean A. Manson
Senior Vice President, General Counsel & Secretary
Hughes Network Systems, LLC

ATTACHMENT B

DECLARATION OF KENNETH CARROLL

I, Kenneth Carroll, being over 18 years of age, swear and affirm as follows:

1. I am EchoStar Satellite Services' Chief Operating Officer. In this role, I participate in assessing the state of EchoStar's satellite fleet and EchoStar's business plans for building new satellites. I make this declaration based upon personal knowledge, information and belief.

2. I make this declaration regarding the development and deployment of satellite systems under Federal Communications Commission ("FCC") authorizations held by EchoStar Corporation ("EchoStar") and its subsidiaries and EchoStar's plans following consummation of its acquisition of Hughes Communications, Inc. ("Hughes"). Specifically, this declaration will discuss the five satellite authorizations EchoStar holds in the 17/24 GHz Broadcasting-Satellite Service ("17/24 GHz BSS") band and the authorization that Hughes' subsidiary, Hughes Network Systems, LLC ("HNS"), holds to provide service into the United States from its Jupiter 1 satellite to the extent that I am familiar with those authorizations. This declaration supplements the declaration offered today by Dean Manson of HNS.

3. Following consummation of its acquisition of Hughes, EchoStar intends to and is very likely to complete construction of the Jupiter 1 satellite and launch and operate that satellite well before the May 4, 2015 FCC milestone.

4. To support its satellite services business, EchoStar owns and operates six satellites: five DBS satellites (EchoStar 3 presently at 61.5° W.L., EchoStar 4 presently at 77° W.L., EchoStar 6 presently at 77° W.L., EchoStar 8 presently at 77° W.L., and EchoStar 12 presently at 61.5° W.L.) and one hybrid Ku-/Ka-band satellite (EchoStar 9 presently at 121° W.L.). EchoStar also leases capacity from third parties on five additional satellites, of which

three are DBS (EchoStar 1 at 77° W.L., EchoStar 15 at 61.5° W.L., and Nimiq 5 at 72.7° W.L.) and two are Ka/Ku band FSS (AMC-15 at 105° W.L., and AMC-16 at 85° W.L.). EchoStar also has an authorization to operate a DBS satellite at 86.5° W.L., and has requested a modification of that license to permit the operation of its EchoStar 8 satellite at that orbital location.

Furthermore, EchoStar holds authorizations for five 17/24 GHz BSS satellites at 62.15° W.L., 75° W.L., 79° W.L., 107° W.L., and 110.4° W.L. To the best of my knowledge, EchoStar has not obtained any of the aforementioned licenses for the purpose of selling any such license for a profit.

5. EchoStar has executed contracts for all five satellites with Space Systems/Loral and completed Critical Design Review (“CDR”) for the authorizations at 62.15° W.L., 75° W.L., and 79° W.L.

6. After analyzing the results of CDR for the 62.15° W.L., 75° W.L., and 79° W.L. authorizations, reviewing the International Telecommunication Union (“ITU”) priority of the U.S. Administration for each of its five licensed 17/24 GHz BSS satellites and reviewing its business plans, EchoStar has determined that it should surrender all five 17/24 GHz BSS authorizations. Specifically, EchoStar has concluded that senior priority claims of other administrations to four of the five slots in question (62.15° W.L., 79° W.L., 107° W.L., and 110.4° W.L.) have a high chance of resulting in actual satellites with priority over EchoStar’s satellites. Therefore, proceeding further with these projects would carry the risk that satellites in which EchoStar would have invested hundreds of millions of dollars would prove incapable of meaningful operations due to the inability of the harmonious operation of the EchoStar satellites in the US slots with those adjacent satellite networks with senior ITU priority claim. At the present time, even the 75° W.L. orbital location, while more promising than some of the other

licensed 17/24 GHz BSS slots, is subject to the ITU priority rights of a number of administrations (including Canada, Luxembourg and the United Kingdom). Additionally, we believe that the integrated outdoor units required to combine service from 75° W.L. with that from other EchoStar satellite assets will require the development of new technology, which may delay deployment. While these challenges may be mitigated or overcome in the future, surrender of the 75° W.L. authorization is the appropriate course now based on the totality of the circumstances.

7. EchoStar has decided to focus its efforts on deploying the Jupiter 1 satellite once the Commission approves the merger with Hughes. EchoStar understands that HNS is filing with the International Bureau, in the Jupiter 1 application file, confidential photographic evidence and financial information that further buttresses our belief that the Jupiter 1 satellite will be constructed, launched, and put into operation in accordance with the Commission's milestone schedule.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge and belief. Executed on May 19, 2011.



Kenneth Carroll
Chief Operating Officer
EchoStar Satellite Services