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File Number: SAT-T/C-20110408-00071

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| APPLICATION FOR SATELLITE SPACE AND EARTH STATION AUTHORIZATIONS FOR TRANSFER OF CONTROL OR ASSIGNMENT FCC 312 MAIN FORM FOR OFFICIAL USE ONLY | FCC Use Only |
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APPLICANT INFORMATION

Enter a description of this application to identify it on the main menu:

LOI Transfer of Control to DISH Network Corporation

| | | | |
|------------------------------|---|----------------------|-------------------------|
| 1-8. Legal Name of Applicant | | | |
| Name: | New DBSD Satellite Services G.P., Debtor-in-Possession | Phone Number: | 703-964-1417 |
| DBA Name: | | Fax Number: | 703-964-1401 |
| Street: | 11700 Plaza America Drive Suite 1010 | E-Mail: | stephen.deweecs@ico.com |
| City: | Reston | State: | VA |
| Country: | USA | Zipcode: | 20190 - |
| Attention: | Stephen M DeWees | | |

9-16. Name of Contact Representative

| | | | |
|-------------------|---|----------------------|---------------------|
| Name: | Peter Corea | Phone Number: | (202) 577-1491 |
| Company: | New DBSD Satellite Services G.P., Debtor-in-Possession | Fax Number: | 703-964-1401 |
| Street: | 11700 Plaza America Drive Suite 1010 | E-Mail: | peter.corea@ico.com |
| City: | Reston | State: | VA |
| Country: | USA | Zipcode: | 20190- |
| Attention: | Peter Corea | Relationship: | Same |

CLASSIFICATION OF FILING

17. Choose the button next to the classification that applies to this filing for both questions a. and b. Choose only one for 17a and only one for 17b.

- a1. Earth Station
- a2. Space Station

- (N/A) b1. Application for License of New Station
- (N/A) b2. Application for Registration of New Domestic Receive-Only Station
- (N/A) b3. Amendment to a Pending Application
- (N/A) b4. Modification of License or Registration
- b5. Assignment of License or Registration
- b6. Transfer of Control of License or Registration
- (N/A) b7. Notification of Minor Modification
- (N/A) b8. Application for License of New Receive-Only Station Using Non-U.S. Licensed Satellite
- (N/A) b9. Letter of Intent to Use Non-U.S. Licensed Satellite to Provide Service in the United States
- (N/A) b10. Other (Please specify)

| | | | | | |
|---|--|---|---|----------------------|---|
| <p>17c. Is a fee submitted with this application?</p> <p><input type="radio"/> If Yes, complete and attach FCC Form 159. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114).</p> <p><input type="radio"/> Governmental Entity <input type="radio"/> Noncommercial educational licensee</p> <p><input checked="" type="radio"/> Other (please explain): Letter of Intent filings are not subject to application fees. See 12 FCC Rcd 12050 (1997).</p> | | | | | |
| <p>17d.</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">Fee Classification A</td> <td style="width: 50%; border: none;">Quantity 1 (First Station)</td> </tr> <tr> <td style="border: none;">Fee Classification B</td> <td style="border: none;">Quantity 0 (Each Additional Station)</td> </tr> </table> | | Fee Classification A | Quantity 1 (First Station) | Fee Classification B | Quantity 0 (Each Additional Station) |
| Fee Classification A | Quantity 1 (First Station) | | | | |
| Fee Classification B | Quantity 0 (Each Additional Station) | | | | |
| <p>18. If this filing is in reference to an existing station, enter:</p> <p>(a) Call sign of station: Not Applicable</p> | <p>19. If this filing is an amendment to a pending application enter:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">(a) Date pending application was filed: Not Applicable</td> <td style="width: 50%;">(b) File number of pending application: Not Applicable</td> </tr> </table> | (a) Date pending application was filed: Not Applicable | (b) File number of pending application: Not Applicable | | |
| (a) Date pending application was filed: Not Applicable | (b) File number of pending application: Not Applicable | | | | |

TYPE OF SERVICE

20. NATURE OF SERVICE: This filing is for an authorization to provide or use the following type(s) of service(s): Select all that apply:

- a. Fixed Satellite
- b. Mobile Satellite
- c. Radiodetermination Satellite
- d. Earth Exploration Satellite
- e. Direct to Home Fixed Satellite
- f. Digital Audio Radio Service
- g. Other (please specify)

21. STATUS: Choose the button next to the applicable status. Choose only one.

- Common Carrier Non-Common Carrier

22. If earth station applicant, check all that apply.

- Using U.S. licensed satellites
 Using Non-U.S. licensed satellites

23. If applicant is providing INTERNATIONAL COMMON CARRIER service, see instructions regarding Sec. 214 filings. Choose one. Are these facilities:

- Connected to a Public Switched Network Not connected to a Public Switched Network N/A

24. FREQUENCY BAND(S): Place an "X" in the box(es) next to all applicable frequency band(s).

- a. C-Band (4/6 GHz) b. Ku-Band (12/14 GHz)
 c. Other (Please specify upper and lower frequencies in MHz.)
Frequency Lower: 2000 Frequency Upper: 2200

TYPE OF STATION

25. CLASS OF STATION: Choose the button next to the class of station that applies. Choose only one.

- a. Fixed Earth Station
- b. Temporary-Fixed Earth Station
- c. 12/14 GHz VSAT Network
- d. Mobile Earth Station
- e. Geostationary Space Station
- f. Non-Geostationary Space Station
- g. Other (please specify)

26. TYPE OF EARTH STATION FACILITY: Choose only one.

- Transmit/Receive Transmit-Only Receive-Only N/A

PURPOSE OF MODIFICATION

27. The purpose of this proposed modification is to: (Place an "X" in the box(es) next to all that apply.)

Not Applicable

ENVIRONMENTAL POLICY

28. Would a Commission grant of any proposal in this application or amendment have a significant environmental impact as defined by 47 CFR 1.1307? If YES, submit the statement as required by Sections 1.1308 and 1.1311 of the Commission's rules, 47 C.F.R. 1.1308 and 1.1311, as an exhibit to this application. A Radiation Hazard Study must accompany all applications for new transmitting facilities, major modifications, or major amendments. Yes No

ALIEN OWNERSHIP Earth station applicants not proposing to provide broadcast, common carrier, aeronautical en route or aeronautical fixed radio station services are not required to respond to Items 30–34.

29. Is the applicant a foreign government or the representative of any foreign government? Yes No

30. Is the applicant an alien or the representative of an alien? Yes No
 N/A

31. Is the applicant a corporation organized under the laws of any foreign government? Yes No
 N/A

32. Is the applicant a corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country? Yes No
 N/A

33. Is the applicant a corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?

Yes No
 N/A

34. If any answer to questions 29, 30, 31, 32 and/or 33 is Yes, attach as an exhibit an identification of the aliens or foreign entities, their nationality, their relationship to the applicant, and the percentage of stock they own or vote.

BASIC QUALIFICATIONS

35. Does the Applicant request any waivers or exemptions from any of the Commission's Rules?
If Yes, attach as an exhibit, copies of the requests for waivers or exceptions with supporting documents.

Yes No

36. Has the applicant or any party to this application or amendment had any FCC station authorization or license revoked or had any application for an initial, modification or renewal of FCC station authorization, license, or construction permit denied by the Commission? If Yes, attach as an exhibit, an explanation of circumstances.

Yes No

37. Has the applicant, or any party to this application or amendment, or any party directly or indirectly controlling the applicant ever been convicted of a felony by any state or federal court? If Yes, attach as an exhibit, an explanation of circumstances.

Yes No

| | |
|---|---|
| <p>38. Has any court finally adjudged the applicant, or any person directly or indirectly controlling the applicant, guilty of unlawfully monopolizing or attempting unlawfully to monopolize radio communication, directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement or any other means or unfair methods of competition? If Yes, attach as an exhibit, an explanation of circumstances</p> | <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p> |
| <p>39. Is the applicant, or any person directly or indirectly controlling the applicant, currently a party in any pending matter referred to in the preceding two items? If yes, attach as an exhibit, an explanation of the circumstances.</p> | <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p> |
| <p>40. If the applicant is a corporation and is applying for a space station license, attach as an exhibit the names, address, and citizenship of those stockholders owning a record and/or voting 10 percent or more of the Filer's voting stock and the percentages so held. In the case of fiduciary control, indicate the beneficiary(ies) or class of beneficiaries. Also list the names and addresses of the officers and directors of the Filer.</p> | |
| <p>41. By checking Yes, the undersigned certifies, that neither applicant nor any other party to the application is subject to a denial of Federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Act of 1988, 21 U.S.C. Section 862, because of a conviction for possession or distribution of a controlled substance. See 47 CFR 1.2002(b) for the meaning of "party to the application" for these purposes.</p> | <p><input checked="" type="radio"/> Yes <input type="radio"/> No</p> |
| <p>42a. Does the applicant intend to use a non-U.S. licensed satellite to provide service in the United States? If Yes, answer 42b and attach an exhibit providing the information specified in 47 C.F.R. 25.137, as appropriate. If No, proceed to question 43.</p> | <p><input checked="" type="radio"/> Yes <input type="radio"/> No</p> |

42b. What administration has licensed or is in the process of licensing the space station? If no license will be issued, what administration has coordinated or is in the process of coordinating the space station?United Kingdom

43. Description. (Summarize the nature of the application and the services to be provided).

(If the complete description does not appear in this box, please go to the end of the form to view it in its entirety.)

Transfer of control of Letter of Intent authorization from New DBSD
Satellite Services G.P., Debtor-in-Possession and ICO Global
Communications (Holdings) Limited to DISH Network Corporation.

Narrative

CERTIFICATION

The Applicant waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. The applicant certifies that grant of this application would not cause the applicant to be in violation of the spectrum aggregation limit in 47 CFR Part 20. All statements made in exhibits are a material part hereof and are incorporated herein as if set out in full in this application. The undersigned, individually and for the applicant, hereby certifies that all statements made in this application and in all attached exhibits are true, complete and correct to the best of his or her knowledge and belief, and are made in good faith.

44. Applicant is a (an): (Choose the button next to applicable response.)

- Individual
- Unincorporated Association
- Partnership
- Corporation
- Governmental Entity
- Other (please specify)

| | |
|---|---|
| 45. Name of Person Signing Stephen M. DeWees | 46. Title of Person Signing Director |
|---|---|

47. Please supply any need attachments.

| | | |
|---------------|---------------|---------------|
| Attachment 1: | Attachment 2: | Attachment 3: |
|---------------|---------------|---------------|

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND / OR IMPRISONMENT
(U.S. Code, Title 18, Section 1001), AND/OR REVOCATION OF ANY STATION AUTHORIZATION
(U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).

SATELLITE EARTH STATION AUTHORIZATIONS
FCC Form 312 – Schedule A
FOR OFFICIAL USE ONLY

Select one of the following

CONSENT TO TRANSFER OF CONTROL
 CONSENT TO ASSIGNMENT OF LICENSE

NOTIFICATION OF TRANSFER OF CONTROL OF RECEIVE ONLY REGISTRATION
 NOTIFICATION OF ASSIGNMENT OF RECEIVE ONLY REGISTRATION

A1. Name of Licensee (as shown on FCC 312 – Main Form)

| | | | |
|-------------------|---|----------------------|---------------------|
| Name: | New DBSD Satellite Services G.P., Debtor-in-Possession | Phone Number: | (202) 577-1491 |
| DBA Name: | | Fax Number: | 703-964-1401 |
| Street: | 11700 Plaza America Suite 1010 | E-Mail: | peter.corea@ico.com |
| City: | Reston | State: | VA |
| Country: | USA | Zipcode: | 20190 - |
| Attention: | Peter Corea | | |

A8. List Callsign(s) of station(s) being assigned or transfered

| | | | | | | | |
|------------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| Callsign: S2651 | Callsign: |
|------------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|

A9. No. of station(s) listed

1

A10. Name of Transferor/ Assignor

| | | | |
|-------------------|---|--------------------------|-------------------------|
| Name: | New DBSD Satellite Services G.P., Debtor-in-Possession | Phone Number: | 703-964-1417 |
| Company: | New DBSD Satellite Services G.P., Debtor-in-Possession | Fax Number: | 703-964-1401 |
| Street: | 11700 Plaza America Suite 1010 | E-Mail: | stephen.deweese@ico.com |
| City: | Reston | State: | VA |
| Country: | USA | Zipcode: | 20190 - |
| Attention: | Stephen M. DeWees | Relationship: | Other |

A15. Name of Transferee/ Assignee

| | | | |
|-------------------|--------------------------|--------------------------|------------------------------|
| Name: | DISH Network Corporation | Phone Number: | 202-293-0981 |
| DBA Name: | | Fax Number: | 202-429-0984 |
| Street: | 9601 S. Meridian Blvd. | E-Mail: | alison.minea@dishnetwork.com |
| City: | Englewood | State: | CO |
| Country: | USA | Zipcode: | 80112 - |
| Attention: | Alison Minea | | |

A20. If these facilities are licensed, is the transferee / assignee directly or indirectly controlled by any other entity? Yes
 If yes, attach as Exhibit E, a statement (including organizational diagrams where appropriate) which fully and completely identifies the nature and extent of control including: (1) the name, address, citizenship, and primary business of the controlling entity and any intermediate subsidiaries or parties, and (2) the names, addresses, citizenship, and the percentages of voting and equity stock of those stockholders holding 10 percent or more of the controlling corporation's voting stock. No N/A

A21. If these facilities are licensed, attach as Exhibit F, a complete statement setting forth the facts which show how the assignment or transfer will serve the public interest.

CERTIFICATION

1. The undersigned, individually and for licensee, certifies that all attached exhibits pertain to Schedule A and all statements made in Schedule A of this application are true, complete and correct to the best of his/her knowledge and belief. The undersigned also certifies that any contracts or other instruments submitted herewith are complete and constitute the full agreement.

2. The undersigned represents that stock will not be delivered and that control will not be transferred until the Commission's consent has been received, but that transfer of control or assignment of license will be completed within 60 days of Commission consent. The undersigned also acknowledges that the Commission must be notified by letter within 30 days of consummation.

| | |
|--|--|
| A22. Printed Name of Licensee (Must agree with A1) New DBSD Satellite Services G.P., Debtor-in-Posses | A24. Title (Office Held by Person Signing) Director |
| A26. Printed Name of License Transferor / Assignor (Must agree with A10) New DBSD Satellite Services G.P., Debtor-in-Posses | A28. Title (Office Held by Person Signing) Director |
| A26. Printed Name of License Transferee / Assignee (Must agree with A15) DISH Network Corporation | A28. Title (Office Held by Person Signing) Senior Vice President and Deputy General Counsel |

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT

The public reporting for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, AMD-PERM, Paperwork Reduction Project (3060-0678), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to PRA@fcc.gov. PLEASE DO NOT SEND COMPLETED FORMS TO THIS ADDRESS.

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THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.

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

| | | |
|--|---|-----------------|
| <i>Application of</i> |) | |
| ICO GLOBAL COMMUNICATIONS (HOLDINGS) LIMITED; DBSD NORTH AMERICA, INC. DEBTOR-IN-POSSESSION; NEW DBSD SATELLITE SERVICES G.P. DEBTOR-IN-POSSESSION, |) | |
| Transferors, |) | |
| and |) | File Nos. _____ |
| DISH NETWORK CORPORATION, |) | |
| Transferee, |) | |
| For Authority to Transfer Control. |) | |
| |) | |

**CONSOLIDATED APPLICATION FOR AUTHORITY
TO TRANSFER CONTROL**

I. INTRODUCTION AND SUMMARY

The Applicants seek the consent of the Federal Communications Commission (the “Commission”) to the transfer of control over the licenses and authorizations held by New DBSD Satellite Services G.P. Debtor-in-Possession (“DBSD DIP”). The proposed transfer will allow DBSD DIP to emerge from bankruptcy as New DBSD Satellite Services G.P. (individually and collectively with its predecessors-in-interest and debtor-affiliates, “DBSD”), an indirect, wholly owned subsidiary of DISH Network Corporation (“DISH”). The Commission previously approved the transfer of control over these licenses to allow DBSD to emerge from bankruptcy

under different proposed ownership.¹ That transaction, however, has not been consummated because of intervening events in the bankruptcy proceeding. Specifically, the Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”), which has been supervising DBSD’s restructuring, has now given its preliminary approval to a superior alternative. The Court has approved an investment agreement between DBSD and DISH leading to a new plan for DBSD’s emergence from bankruptcy. The parties expect the Bankruptcy Court to confirm a new plan of reorganization by July 18, 2011, provided that the plan will not become effective until the grant of the appropriate regulatory approvals, including Commission consent.² The transaction proposed in the instant application is intended to effectuate this plan of reorganization. Upon confirmation of the plan of reorganization by the Bankruptcy Court, Commission approval, and consummation of the proposed transaction, DISH will own all of DBSD’s stock and thereby control the authorizations held by DBSD.

This transaction represents a turning point for the 2 GHz Mobile-Satellite Service (“MSS”) band by enabling DBSD to emerge from bankruptcy under the control of DISH – a pioneer and innovator in the satellite and video distribution industries. Competitively, the Applicants expect that the transaction will enable a Mobile-Satellite Service/Ancillary Terrestrial Component (“MSS/ATC”) competitor to commence service. DISH will contribute its financial wherewithal and its experience in expanding the subscriber base of new services. The plan of DISH and DBSD will also benefit from the complementary relationship between mobile broadband services and the Multichannel Video Programming Distributor (“MVPD”) service

¹ See New DBSD Satellite Services G.P., Debtor-in-Possession, Transfer of Control of Earth Station and Ancillary Terrestrial Component Licenses and Conforming Modifications to Commission Records, *Order*, 25 FCC Rcd. 13664 (2010) (“*DBSD Transfer Order*”).

² *DBSD North America, Inc.*, Case No. 09-13061 (REG) (Bankr. N.Y.S.D. Mar. 15, 2011).

DISH provides today, and from access to DISH's existing customer base of more than 14 million satellite TV subscribers.

II. THE PARTIES AND THE TRANSACTION

A. Description Of The Parties

1. DISH

DISH's roots reach back more than 30 years when its Chairman, Charles W. Ergen, first entered the satellite television business as a distributor of C-band television satellite systems. DISH's predecessor in interest received its first Direct Broadcast Satellite ("DBS") construction permit in 1989.³ Of the more than a dozen entities that obtained such permits, only DISH and one other company have succeeded. DISH launched its first satellite, EchoStar 1, in December 1995, and began providing service in 1996. Many analysts questioned DISH's ability to reach the 1 million household milestone; yet it vaulted past 1 million subscribers in 1997 and signed up its 14 millionth household in 2009.⁴

DISH is now a publicly-traded Fortune 200 company and consists of the entities that made up the media and entertainment arm of the former EchoStar Communications Corporation, founded in 1980 by Mr. Ergen, Cantey M. Ergen, and Jim DeFranco. The two businesses officially split in 2008, with EchoStar Corporation ("EchoStar") becoming the source for the technology DISH uses to offer TV services. Mr. Ergen has remained the controlling shareholder of both entities. EchoStar has a minority ownership interest in TerreStar Corporation, the parent company of TerreStar Networks, Inc. ("TerreStar"), the other 2 GHz MSS licensee, which is the

³ See Continental Satellite Corporation, *Memorandum Opinion and Order*, 4 FCC Rcd. 6292 (1989).

⁴ Declaration of Thomas Cullen ¶ 7 (attached hereto) ("Cullen Declaration").

subject of another bankruptcy proceeding, and is also a debt investor in TerreStar and TerreStar-affiliated entities.

DISH is known as the value leader among all subscription television providers. The company has a reputation for keeping internal costs low in order to pass savings on to subscribers. Additionally, DISH is focused on improving customer service, an investment that has paid off: DISH ranks first in customer satisfaction among all cable and satellite providers according to the 2010 American Customer Satisfaction Index survey results.⁵

DISH's goal is to be the best at delivering video, anytime, anywhere. The Slingbox product of DISH's affiliate EchoStar was a natural fit for that goal, complementing the service that DISH provides its subscribers by empowering them to access their programming wherever they are.

2. DBSD

In July 2001, the Commission authorized ICO Services Limited, the predecessor-in-interest to DBSD and an indirect wholly owned subsidiary of ICO Global Communications (Holdings) Limited ("ICO Global"), to provide MSS using nongeostationary-orbit satellites.⁶ In May 2005, the Commission modified the authorization to allow DBSD to provide MSS using a geostationary-orbit ("GSO") satellite.⁷ DBSD later selected the 2010-2020 MHz and 2180-2190 MHz bands for its operation.⁸ In January 2009, DBSD received Commission approval to operate dual-mode mobile earth terminals and ATC facilities on a non-common-carrier basis.⁹

⁵ *Id.* ¶ 9.

⁶ See ICO Services Limited, 16 FCC Rcd. 13762, 13762 ¶ 1 (2001).

⁷ See ICO Satellite Services G.P., 20 FCC Rcd. 9797, 9797 ¶ 1 (2005).

⁸ See Policy Branch Information: Actions Taken, 23 FCC Rcd. 8551, 8551 (2008).

⁹ See New ICO Satellite Services G.P., *Order and Authorization*, 24 FCC Rcd. 171, 171 ¶ 1 (2009) ("ATC Order").

In August 2005, DBSD North America, Inc. (“DBSD NA”), DBSD’s corporate parent, issued \$650 million in the aggregate principal amount of 7.5% convertible senior secured notes due August 15, 2009 (the “Senior Notes”) to fund DBSD’s North American satellite development initiatives and operations. On March 27, 2008, due in part to the unanticipated illiquidity of certain auction rate securities in which DBSD NA had invested, DBSD NA entered into a \$40 million revolving credit facility (the “Credit Facility”) to provide the cash flow necessary to insure DBSD’s satellite, DBSD G1, for launch and to sustain operations during 2008.

The disrupted credit markets and the continued illiquidity of the auction rate securities rendered DBSD NA unable to satisfy, recapitalize, or refinance (i) the Senior Notes when they matured in August 2009, or (ii) the Credit Facility when it matured in May 2009. In addition, despite the successful launch of the DBSD G1 satellite in April 2008, DBSD was prohibited under Commission rules from offering commercial services for more than a year, until the Commission provided regulatory relief in June 2009.¹⁰ In these circumstances, DBSD NA, DBSD, and certain subsidiaries of DBSD NA (collectively, the “Debtors”) filed for chapter 11 protection on May 15, 2009.

On September 29, 2010, the Commission approved a transfer of control to allow DBSD to emerge from bankruptcy under a reorganization plan previously approved by the Bankruptcy Court.¹¹ That proposed transaction, however, was not consummated because of intervening events in the bankruptcy proceeding. Specifically, on February 1, 2011, DBSD entered into an investment agreement with DISH to provide it with a means for restructuring and emerging from

¹⁰ See *Improving Public Safety Communication in the 800 MHz Band, Report and Order and Order and Further Notice of Proposed Rulemaking*, 24 FCC Rcd. 7904, 7922-23 ¶ 47 (2009).

¹¹ See *DBSD Transfer Order*, 25 FCC Rcd. at 13664 ¶ 1.

bankruptcy. The agreement was subsequently modified to take into account concerns raised in the bankruptcy proceeding, and on March 15, 2011, it was approved by the Bankruptcy Court as modified. In approving the investment agreement, Judge Gerber characterized it as a “win-win” for the company and its creditors, something that he found to be “a very rare occurrence” in his time as a bankruptcy judge.¹² If the reorganization is successfully completed and the Commission approves this application, DBSD will become indirectly and wholly owned by DISH. A hearing to confirm the plan of reorganization is expected to occur by July 18, 2011.

B. Description Of The Transaction

1. The Investment Agreement

DBSD and DISH have entered into an investment agreement pursuant to which DISH will acquire 100 percent of the equity of the reorganized DBSD upon DBSD’s emergence from bankruptcy, which will only occur upon receipt of regulatory approvals. Pursuant to that agreement, DISH has made a cash tender offer to purchase all allowed Senior Note claims, allowed general unsecured claims, and allowed non-ordinary course administrative claims on account of cure costs to the extent that DISH does not hold those claims already. Further, DBSD has received Bankruptcy Court approval for a debtor-in-possession credit facility, which DISH has agreed to provide in the aggregate principal amount of \$87.5 million, to allow DBSD to continue operations prior to its emergence from bankruptcy. Upon consummation, DBSD will emerge as an indirect, wholly owned subsidiary of DISH, with all outstanding prepetition debt claims extinguished.

¹² Hearing Transcript, *DBSD North America, Inc.*, Case No. 09-13061 (REG), at 43 (Bankr. N.Y.S.D., Mar. 16, 2011).

2. Sprint Claims

Like certain other prepetition claims (as described above) asserted against the Debtors during bankruptcy, the claims asserted by Sprint Nextel Corporation (“Sprint”), seeking reimbursement of costs arising from the relocation of Broadcast Auxiliary Service facilities from the 2 GHz bands, are covered under DISH’s tender offer. DISH has specifically offered to pay Sprint \$40 million in full and final satisfaction of its prepetition claims if Sprint agrees to tender its claims. If Sprint does not tender its claims, DISH and DBSD have agreed to pay Sprint the allowed amount of the claims, as adjudicated by the Bankruptcy Court. Thus, Sprint’s claims will be, and should be, resolved by the Bankruptcy Court if Sprint does not choose to tender. This is consistent with the Commission’s acknowledgment that “the automatic stay imposed by the Bankruptcy Code prohibits Sprint Nextel from seeking reimbursement of costs directly from New DBSD DIP outside of the bankruptcy claims process.”¹³

3. Implementation Agreement, Coordination Agreement, And Other Agreements With ICO Global

DISH has also entered into various agreements with ICO Global, including an Implementation Agreement, a Restructuring Support Agreement, and a Tax Matters Agreement.¹⁴ Among other things, ICO Global has agreed to give DBSD’s system priority over ICO Global’s Medium Earth Orbit system over a territory in and around North America. ICO Global has also agreed to grant DISH a call right to acquire its equity interest in DBSD upon Commission approval and certain other conditions. ICO Global has further agreed to provide certain transitional services and intellectual property rights, to collaborate in connection with

¹³ *DBSD Transfer Order*, 25 FCC Rcd. at 13669 ¶ 12.

¹⁴ ICO Global has also entered into a related License and Spectrum Coordination Agreement and Transition Space and Services Agreement with DBSD as part of this transaction.

certain tax matters, and to support and facilitate DBSD's restructuring. DISH will pay ICO Global a total of approximately \$325 million for all of these rights and services.¹⁵

C. Authorizations To Be Transferred

Of the agreements, only the transfer of control over DBSD's authorizations and the exercise of the call right to acquire ICO Global's equity interest in DBSD require Commission approval.¹⁶ The issuance of all of DBSD's stock to DISH, and the ability to exercise the call right, will occur subsequent to confirmation of the reorganization plan and Commission approval.

1. Authorizations

DBSD and DISH seek consent to the transfer of control of the following authorizations:¹⁷

¹⁵ Of that amount, \$10 million will be deferred and paid within five days after all necessary approvals from governmental entities have been obtained and are in full force and effect.

¹⁶ The Applicants note that DISH's exercise of the call right for ICO Global's equity interests in DBSD and the issuance of all of DBSD's new stock to DISH are duplicative of one another in their substance in that each would provide for DISH's ownership of all or nearly all of DBSD's capital stock, but in either case after receipt of FCC approval. The Implementation Agreement does not provide an additional avenue of emergence for DBSD from bankruptcy other than the anticipated Bankruptcy Court confirmation of the plan. Upon emergence from bankruptcy, the existing equity interests in DBSD (whether held by DISH or ICO Global) will be extinguished, and the new equity of DBSD will be issued to DISH pursuant to DBSD's plan of reorganization. As a practical matter, it is highly unlikely that the call right will ever be exercised so long as the Investment Agreement remains in place. Nevertheless, as a technical matter, the Applicants are requesting approval for both the transfer of control reflected in the Investment Agreement and for the potential exercise of DISH's call right under the Implementation Agreement, and thus ICO Global has been included as a transferor.

¹⁷ The transfer of control of the Letter of Intent ("LOI") authorization resulting from the instant transaction is not subject to public notice and prior Commission approval requirements. *See DBSD Transfer Order*, 25 FCC Rcd. at 13667-68 ¶ 7. Nonetheless, the Applicants have completed a Form 312 with respect to that transfer for informational purposes and to assist the Commission in making the appropriate administrative updates to its records.

| Licensee | Call Sign | Radio Service |
|---|------------------|---|
| New DBSD Satellite Services G.P., Debtor-in-Possession | S2651 | MSS space station |
| New DBSD Satellite Services G.P., Debtor-in-Possession | E080035 | S-band earth station in North Las Vegas |
| New DBSD Satellite Services G.P., Debtor-in-Possession | E080070 | Ku-band earth station in North Las Vegas |
| New DBSD Satellite Services G.P., Debtor-in-Possession | E070291 | S-band pointing beacon earth stations |
| New DBSD Satellite Services G.P., Debtor-in-Possession | E070290 | Ka-band gateway earth station in North Las Vegas |
| New DBSD Satellite Services G.P., Debtor-in-Possession | E070272 | S-band blanket license for mobile earth terminals and ATC authority |

2. Other Filings

The Applicants request that grant of these applications include authority for transfer of control over any authorizations that may be obtained after this date and prior to consummation of the transaction discussed herein, including: (1) Special Temporary Authorizations (“STAs”) held by DBSD; (2) authorizations issued to DBSD prior to consummation; and (3) applications filed by DBSD and pending during the period prior to consummation.

3. Effect Of Transfer

After Commission approval and consummation of the proposed transaction, DBSD will continue to hold the Letter of Intent (“LOI”) authorization for the 2 GHz MSS band, the license for four S-band Pointing Beacon earth stations, the North Las Vegas S-band test antenna license, Ku-band and Ka-band gateway earth station licenses, the blanket MET/ATC license, and any new authorizations obtained prior to consummation of the transaction.

III. THE TRANSACTION SERVES THE PUBLIC INTEREST

The proposed DISH-DBSD transaction satisfies every element of the Commission’s public interest analysis under Section 310(d) of the Communications Act: (i) whether the

transaction would result in a violation of the Communications Act, other applicable statutes or the Commission's rules; (ii) whether the transaction promises to yield affirmative public interest benefits; and (iii) whether the transaction would substantially frustrate or impair the Commission's implementation or enforcement of the Communications Act or other related statutes or interfere with the Act's objectives.¹⁸ This public interest evaluation necessarily encompasses the "broad aims of the Communications Act,"¹⁹ which include a deeply rooted preference for preserving and enhancing competition in relevant markets, accelerating private-sector deployment of advanced services, ensuring a diversity of information sources and services to the public,²⁰ and generally managing spectrum in the public interest.²¹ The competition analysis involves an evaluation of the likely competitive effects of the transaction and whether the proposed transfer creates a significant likelihood of competitive harm.²²

¹⁸ See, e.g., Comcast Corp., General Electric Co., and NBC Universal, MB Docket No. 10-56, *Memorandum Opinion and Order*, FCC 11-4 ¶¶ 22-23, 26 (rel. Jan. 20, 2011) ("*Comcast-NBC Order*"); Applications for Consent to the Transfer of Control of Licenses, XM Satellite Radio Holdings Inc., Transferor, to Sirius Satellite Radio Inc., Transferee, *Memorandum Opinion and Order and Report and Order*, 23 FCC Rcd. 12348, 12363 ¶ 30 (2008) ("*Sirius-XM Order*"); News Corp. and DIRECTV Group, Inc. and Liberty Media Corp. for Authority to Transfer Control, *Memorandum Opinion and Order*, 23 FCC Rcd. 3265, 3276 ¶ 22 (2008) ("*Liberty Media-DIRECTV Order*"); SBC Comm. Inc. and AT&T Corp. Applications for Approval of Transfer of Control, *Memorandum Opinion and Order*, 20 FCC Rcd. 18290, 18300 ¶ 16 (2005) ("*SBC-AT&T Order*"); Time Warner Inc. and America Online, Inc., *Memorandum Opinion and Order*, 16 FCC Rcd. 6547, 6548-49 ¶ 1 (2001) ("*AOL-Time Warner Order*").

¹⁹ *Sirius-XM Order*, 23 FCC Rcd. at 12364 ¶ 31; *Liberty Media-DIRECTV Order*, 23 FCC Rcd. at 3277-78 ¶ 23; Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corp. for Consent to Transfer Control of Licenses and Authorizations, *Memorandum Opinion and Order*, 19 FCC Rcd. 21522, 21544 ¶ 41 (2004); *News Corp.-Hughes Order*, 19 FCC Rcd. at 483-84 ¶ 16.

²⁰ 47 U.S.C. § 521(4); see also 47 U.S.C. § 532(a).

²¹ *Comcast-NBC Order* ¶ 23.

²² *AOL-Time Warner Order*, 16 FCC Rcd. at 6549 ¶ 1.

Here, the transaction will violate no statute or Commission rule, will frustrate no Commission objective, and will yield substantial public interest benefits related to the broad aims of the Communications Act, especially with respect to competition. Specifically, we expect that the transaction will result in the use of the 2 GHz band for, among other things, mobile broadband services, marshaling the experience and assets that DISH brings to the table. These benefits can be achieved without paying the price of eliminating a competitor. Neither DISH nor DBSD provides any mobile broadband services today, either by terrestrial or by satellite means. Far from decreasing the number of market participants, the transaction will facilitate the creation of a MSS/ATC service provider and help introduce additional competition in the relevant mobile broadband markets.

A. The Transaction Meets All Applicable Statutory And Regulatory Requirements

Both DISH and DBSD are Commission licensees, and the qualifications of all relevant parties are therefore a matter of record before the Commission. The proposed transaction does not implicate any foreign ownership, aggregation, cross-ownership, or any other restrictions imposed by the Communications Act, other applicable statute, or Commission regulation.

B. The Transaction Will Enable DBSD To Emerge From Bankruptcy

The Commission has found that a transaction facilitating the retirement of debt and improving access to capital is likely to offer substantial public benefits.²³ More generally, the Commission has routinely found that approving the transfer of authorizations in connection with

²³ Iridium Holdings LLC and GHIL Acquisition Corp., *Memorandum Opinion and Order and Declaratory Ruling*, 24 FCC Rcd. 10725, 10736 ¶ 26 (2009) (“[T]he proposed transaction is likely to result in public benefits, including the long-term viability of Iridium as a provider of global mobile satellite services [T]he retirement of Iridium’s debt is a reasonable step to protect Iridium from refinancing existing debt during periods of global financial instability.”).