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

In the Matter of the Petition of DIRECTV ENTERPRISES, INC. to Amend Parts 2, 25 and 100 of the Commission's Rules to Allocate Spectrum for the Fixed-Satellite Service and the Broadcasting-Satellite Service	)))))))))))	RM No. 9118

COMMENTS OF ECHOSTAR COMMUNICATIONS CORPORATION

EchoStar Communications Corporation ("EchoStar") hereby files its comments on the Petition for Rulemaking filed by DIRECTV Enterprises, Inc. ("DIRECTV") in the above-captioned matter.[1] DIRECTV requests that the Commission institute a rulemaking to allocate the 17.3-17.8 GHz band to Broadcasting-Satellite Service ("BSS") downlinks on a reverse-band-working ("RBW") basis, and the 24.75-25.25 GHz band to feeder uplinks for BSS systems. EchoStar does not in principle oppose the institution of such a rulemaking, provided that, among other things, the Commission adopts adequate rules to avoid interference into existing feeder link operations in the 17.3-17.8 GHz band. To that end, with respect to each orbital location assigned to the U.S. under the Region 2 BSS Allotment Plan, the Commission

[1] The Commission placed DIRECTV's petition on public notice on July 1, 1997. *See* Report No. 2208 (rel. July 1, 1997).

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should preclude downlink BSS operations in the RBW mode by anyone other than the DBS permittees assigned to the orbital location. Furthermore, the Commission should initially prescribe 9°

orbital spacing, including the current 101°, 110° and 119° W.L. orbital locations. The Commission should not experiment with narrower spacing (such as 4.5°) unless it is conclusively demonstrated that high power BSS operations in the 17.3-17.8 GHz band can successfully coexist at such narrower intervals without causing harmful interference into adjacent satellite downlink or feeder uplink operations in the band.

The 17.3-17.8 GHz band is currently allocated domestically to Fixed-Satellite Service uplinks, subject to a footnote, US271, limiting use of the band to feeder links for BSS systems. EchoStar and other Direct Broadcast Satellite ("DBS") operators, like DIRECTV, utilize this band for this purpose. Specifically, EchoStar uplinks about 130 channels of programming from its center in Cheyenne, Wyoming to its two operational satellites at 119° W.L. It will also use its uplink center, and possibly back-up centers at different geographic locations, to transmit programming to additional satellites soon to be launched at other orbital locations assigned to EchoStar's subsidiaries.

RBW operation in the 17.3-17.8 GHz band may cause electrical interference from the satellite transmitting in the space-to-Earth direction to the satellite receiving feeder uplinks; and from the earth station transmitting programming in the Earth-to-space direction to neighboring receive dishes. Both of these interference cases are especially serious in light of the characteristics of DBS service and the millions of homes that rely on DBS as their multi-channel video provider. EchoStar currently has over 600,000 subscribers. Any harmful interference into

the feeder uplinks transmitting programming to its satellites could disrupt EchoStar's service across the board, causing an avalanche of consumer complaints and almost inestimable damage to the company. EchoStar also needs flexibility in installing back-up uplink centers at different locations that are affected by different weather conditions than the Cheyenne center.

In these circumstances, it would clearly be inappropriate for a DBS operator to be asked to coordinate its uplink operations with a satellite collocated at, or adjacent to, its orbital slot. Therefore, with respect to each orbital location allotted to the U.S. under the Region 2 plan, only the DBS permittees with assignments at that location should be eligible to operate in the 17.3-17.8 GHz band in the space-to-Earth direction.

With respect to the question of orbital spacing, EchoStar agrees with DIRECTV that the narrow orbital spacing prescribed for other services prevents the utilization of the small pizza-sized dishes made possible in the high-power DBS environment. On the other hand, DIRECTV does not submit any technical analysis supporting the view that 4.5° spacing is sufficient. Accordingly, the Commission should prescribe 9° spacing -- the current spacing among the three full-CONUS U.S. slots, unless it is conclusively demonstrated that 4.5° spacing would be sufficient to avert harmful interference. The Commission's orbital plan for this band should include the full-CONUS DBS slots -- 101°, 110° and 119° W.L. -- to avoid harmful interference into or from DBS operators and to provide spectrum-constrained operators such as EchoStar with the additional capacity that they need to compete against dominant multi-channel video programming distributors ("MVPD"s) such as cable operators.

The Commission should also initiate a rulemaking to prescribe service rules for the bands in question. To ensure that the expansion DBS capacity is used to compete against

dominant MVPDs, the Commission should make all dominant MVPDs ineligible for licenses in these bands.

The prospect of expansion full-CONUS capacity is welcome. Nevertheless, the long-term time horizon of such a prospect means that it is bound to make no difference in terms of the realities of the current MVPD marketplace, where EchoStar is handicapped because it has access to less full-CONUS DBS capacity than DIRECTV and MCI. In that respect, as DIRECTV notes, the international Region 2 allocations of the band are not triggered until the year 2007. Any domestic allocation prior to that time would be non-conforming and any operations pursuant to that allocation would be ineligible for international protection, further attenuating even the long-term benefits of these expansion bands in alleviating EchoStar's competitive disadvantages.

CONCLUSION

EchoStar does not oppose the institution of a rulemaking to effect the requested allocations, subject to the conditions set forth above.

Respectfully submitted,

EchoStar Satellite Corporation

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CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of July, 1997, I caused copies of the foregoing pleading to be served by hand delivery to the following:

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