In the Matter of
Report on FCC Process Reform

To: The Commission

COMMENTS OF ECHOSTAR SATELLITE OPERATING COMPANY & HUGHES NETWORK SYSTEMS, LLC

EchoStar Satellite Operating Company, EchoStar Technologies LLC and Hughes Network Systems, LLC (together “EchoStar”) hereby comment on the recently released Report on FCC Process Reform on which public comment was sought on February 14. As a well-established satellite service provider and FCC licensee, EchoStar has a substantial interest in the initiatives and goals outlined in the Report.

Founded by Charlie Ergen in 1980, EchoStar has grown to operate a fleet of 23 satellites in the Direct Broadcast Satellite (“DBS”) Service, the Fixed-Satellite Service and the Mobile-Satellite Service, making it the largest U.S. geostationary (“GSO”) satellite operator and the fourth largest in the world. These facilities provide innovative multi-channel video programming distribution, state-of-the-art fixed broadband and innovative mobile services. Under contract to DISH Network, EchoStar operates all of the space station and earth station assets, as well as

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related consumer equipment, necessary to serve over 14 million U.S. DBS customers. EchoStar Corporation, the parent company of EchoStar, is also the parent company of Hughes, which is the global leader in providing broadband satellite services.

I. Overview and Summary

EchoStar strongly supports the implementation of the Report as a means of providing more timely and efficient service to the public through procedural streamlining and improvements in internal communication, policy development and information technology services. Through its input, EchoStar hopes to assist the Commission in the development of efficient, transparent and effective agency procedures.

While most of the proposals contained in the Report have significant merit, the Commission should prioritize those that can be implemented quickly and/or which will have the greatest impact in improving the speed and efficiency with which the Commission processes applications and makes policy. In particular, the Commission should move quickly to adopt the following critical satellite policy and regulatory reforms:

- Modernizing the International Telecommunication Union (“ITU”) registration process to adjust to the speed of business decisionmaking, allowing potential applicants to request FCC submission of Advance Publication filings to the ITU prior to the filing of a satellite license application;

- Establishing greater operational flexibility for geostationary satellite operators to reach individualized coordination agreements with other operators that may depart nominally from the Commission’s two degree spacing policy, but demonstrate consistency with the interference protections afforded by two-degree spacing; and

- Additional streamlining, clarification and simplification of the Commission’s Part 25 Rules to promote the goals of efficiency and modernization,
  - Simplification of the current fleet management rule to allow operators greater flexibility in implementing operational changes and satellite relocations;
  - Broadening of the Permitted Space Station List to include the extended C- and Ku-bands; and
II. The Commission Should Make Increasing the Speed and Transparency of Its Licensing and Other Decision-making Processes a Top Priority.

A paramount goal of this proceeding should be faster, more efficient agency decisionmaking in policy, rulemaking, adjudicatory and licensing proceedings generally. For example, as outlined in the very first recommendation contained in the Report, the Commission should establish additional target timelines (aka “shot clocks”) for a wider array of licensing and adjudicatory proceedings. Assignment and transfer applications are not the only Commission proceedings in which straightforward and consistently followed processing targets will serve the public interest. Most FCC facilities applications are submitted in connection with the development and planned launch of new or expanded services. Significant processing delays can therefore be very costly to operators and deprive users of needed communications services, including access to innovative and cost-effective services. Accordingly, the public interest would benefit from the establishment of clear guidelines to ensure timely action, as detailed below.

A. International Bureau License and License Modification Applications

New International Bureau license and license modification applications, contested and uncontested, should be subject to specific intake and processing guidelines. The Commission should adopt a schedule with the following general parameters: initial review and evaluation for completeness of a newly filed application within 10-15 days of receipt; and placement on Public Notice, when required, at the first opportunity after acceptance review finds that an application is substantially complete. Upon expiration of a required Public Notice period, the Commission should have a target action date of 10-15 days following the conclusion of the notice period where

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3 See Report at 6-7, Recommendation 1.1.
the application is uncontested. Establishment of this approach would provide for most routine, unopposed applications to be acted upon within 60 days of filing.

In the case of contested applications, the Commission cannot adhere to such a time-specific, regularized schedule; nonetheless, it should endeavor to expedite evaluation and resolution of these proceedings as quickly as possible. For example, the Commission should establish a two-tiered triage approach to contested International Bureau applications, identifying at the earliest opportunity after the conclusion of the pleading cycle those proposals where the disagreement among the relevant parties is relatively minor, and targeting the resolution of these applications within six months of the filing date, either through status conferences designed to achieve expedited resolution, and/or through focused staff analysis to consider quickly the merits of the matters in dispute. In instances where the matters in dispute are broader or more complex, the Commission should nonetheless establish a goal of completing action on the application no later than one year after its filing, at least where the issues involved do not implicate unresolved policy or rulemaking matters.

B. Use-Prior-to-Grant Operations for Satellite Earth Stations

Consistent with this overall approach, the Commission should also streamline and regularize the processes of considering use-prior-to-grant special temporary authority (‘‘STA’’) requests for satellite Earth stations, or replace this process in significant part with grants of provisional authority effective upon application acceptance. The Commission already allows some Earth station applicants to begin providing service pursuant to conditional or provisional authority following release of the public notice accepting the application for filing.4 These regulations

4 See 47 C.F.R. §25.115(c)(2)(vi) (conditional authorization for large Networks of Small Antennas operating in the 4/6 GHz frequency bands with U.S.-licensed or non-U.S. licensed satellites for domestic services (‘‘CSATs’’)) and §25.151(e) (temporary fixed earth station operation in the conventional Ku-band.
should be expanded to a broader range of C-, Ku-, and Ka-band Earth station facilities, provided that coordination has been completed (when necessary), the Earth station will operate in conventional frequency bands, no waivers of FCC Rules are required to implement operations, and provisional status will be granted only to Permitted List satellites for the relevant frequency bands. This approach will allow applicants to begin using new facilities four to six weeks earlier than under the current system.

C. Improved Inter-Bureau and Inter-Agency Coordination and Planning

In order to facilitate the Commission’s overall goals, it should work to enhance inter-Bureau coordination in areas of shared responsibility. For example, as outlined in Recommendation 1.13 of the Report, internal timelines should be established at an early stage for resolution of any unresolved issues and for drafting and review of agency actions requiring written decisions. Similarly, in those instances where spectrum is shared between federal and non-federal government users, the Commission should enhance the FCC-NTIA coordination process through early issue identification and the prompt establishment of timelines for these agencies to resolve any questions encountered.

D. Satellite Space Network Implementation Milestones

The principles of timely decisionmaking should also be extended to satellite construction milestone satisfaction determinations. Currently, there is little consistency in the review and timing of action for these showings. While each individual milestone involves the review of different types of documentation, the Commission should consider adopting a set time period within which the submitted information will be reviewed and a determination made with respect to each type of milestone. Having taken the time and effort to assemble the significant data required,

for example, to document completion of critical design review, licensees should not be forced to
wait for many months, or in some cases years, for Commission staff to review and determine
compliance. Delay in these determinations imposes additional financial costs on satellite
licensees, which must continue to maintain higher performance bond amounts until the
Commission renders a decision on milestone satisfaction. Even more significantly, delay in
agency recognition that a milestone has been met creates unnecessary uncertainties with respect to
continuing steps toward satellite network implementation. A licensee has a right to a
determination that its license continues to be valid before it commits substantial additional
resources to design and construction.

For these reasons, the Commission should establish a sixty (60) day time limit for
determining whether a satellite milestone has been satisfied, while endeavoring, to the extent that
staff resources permit, to render decisions more quickly. If at the end of such period the
Commission has made no adverse determination regarding milestone compliance, the milestone
should be deemed satisfied and the International Bureau should issue a Public Notice permitting
the licensee to reduce the amount of its performance bond accordingly.

In the Report, the Commission advances an alternative proposal to allow licensees to
submit sworn certifications of compliance in lieu of detailed evidentiary documentation.7
EchoStar believes that this approach has considerable merit, particularly with respect to the second
milestone for Critical Design Review. In recent years, licensees have submitted voluminous
technical materials to demonstrate that this process has been completed – a quantity of material
that FCC staff does not likely have the resources to review. As outlined in the recent Petition for
Reconsideration of the Boeing Company concerning the Commission’s Part 25 Review, staff

7 See Report at 72-73, Recommendation 5.29.
requests for this information have become commonplace rather than exceptional, as was the original intent when the milestone was established. It would be much more efficient for the Commission to accept as evidence of satisfaction of this milestone a declaration by a recognized satellite vendor that this step in the satellite manufacturing process has been completed. The optimal approach may be to combine expanded use of such sworn certifications coupled with the automatic grant procedure outlined in the foregoing paragraph.


As proposed in the Report, the Commission should strive generally to streamline review and adoption of its decisions across all areas of regulation. To this end, the Commission should adopt best practices for drafting written decisions; improve coordination and standardization for preparing mandatory Paperwork Reduction Act and Regulatory Flexibility analyses; and draft orders that are to be published in the Federal Register in a manner consistent with that publication’s style requirements from their inception.

Moreover, the Commission also should identify and act on opportunities for summary disposition of routine items, including the use of autogrant procedures for routine applications and

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9 See Reply Comments of EchoStar Corporation, IB Dkt. No. 12-267, at 5-6 (filed February 13, 2013); Boeing Petition at 5-7.
10 See Report at 14-15 (Recommendations 1.16 & 1.17), 40 & 41-42 (Recommendations 3.6, 3.8 & 3.9).
11 See Report at 29-33 (Recommendations 2.24 to 2.30).
12 See Report at 33-34 (Recommendations 2.31 & 2.32).
STA requests (or adoption of expanded rules permitting provisional or conditional operation), and a greater use of a “consent agenda” approach for Commission meetings.\textsuperscript{13}

\section*{IV. The Commission Should Upgrade and Modernize Its Information Technology Infrastructure, Including Its Data Collection and Licensing Databases, Internal Processing Software, and the FCC.gov Website.}

As a technology-focused agency, the Commission should have up-to-date software and database management techniques, to standardize and streamline data collection, and to maximize information sharing among its constituent bureaus and with the public at large. Overall, and as noted in the Report, the agency should have “a more holistic, strategic and modernized approach” to data intake and sharing across the agency.\textsuperscript{14} In adapting to meet these goals, the Commission should focus particularly on several specific goals stated in the \textit{Report}.

\textbf{Recommendation 4.1:} All Bureaus should make available on their home pages a link to a list of subject matter experts able to address questions regarding the major areas and issues subject to each Bureau’s jurisdiction.\textsuperscript{15} The Media Bureau has done this for a number of years,\textsuperscript{16} and the practice should be extended throughout the agency. This step will provide substantial benefits to licensees, other Commission-regulated entities, and the general public.

\textbf{Recommendation 4.22:} The Commission should enhance its ability to track matters and activities across all agency functions and allow easy data sharing within and across bureaus to facilitate collaboration and expedite review.\textsuperscript{17} All systems should be integrated electronically so that data, once input by an applicant or report filer, is automatically shared across all relevant

\textsuperscript{13} \textit{See Report} at 17 (\textit{Recommendation 1.22}).

\textsuperscript{14} \textit{See Report} at 54.

\textsuperscript{15} \textit{See Report} at 45, \textit{Recommendation 4.1} (Enhance Availability of Current Information on Staff Expertise).


\textsuperscript{17} \textit{See Report} at 57-58, \textit{Recommendation 4.22}. 
platforms without the need for re-entry of data or other time-consuming transfer. This approach would help to mitigate processing delays caused by the need to move data between outdated FCC computer systems.

**Recommendation 4.24:** The Commission should explore new approaches to data collection to reduce the burden on reporting entities and to enhance the usefulness of data collected by both modernizing collection techniques and eliminating outdated reporting requirements. Such steps would be consistent with current bipartisan initiatives under way in Congress to reduce unnecessary or redundant agency reports.

**Recommendation 5.9:** The Commission should upgrade or replace its International Bureau Filing System to increase functionality and searchability. Consistent with past practice, the Commission should allow multiple networked Earth stations that are geographically dispersed to be included under a single call sign.


As noted at the outset, as a satellite licensee and operator, EchoStar has particular interest in specific enhancements and streamlining efforts with respect to the Commission’s Part 25 Rules governing satellites and international telecommunications. EchoStar appreciates the recent efforts undertaken to reform and simplify these rules, changes which began to take effect formally earlier this month, and which the Commission has begun to implement on a practical level prior to the

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18 *See Report at 59-60, Recommendation 4.24.*

19 *See S.2109, Government Reports Elimination Act of 2014, introduced March 11, 2014 (co-sponsored by Senators Mark Warner (D-VA) and Kelly Ayotte (R-NH)).

20 EchoStar and Hughes have a Petition for Clarification pending with the Commission seeking reaffirmation of this approach. *See EchoStar/Hughes Petition for Clarification, IB Dkt. No. 12-267 (filed March 14, 2014).*
effective date. These changes are an encouraging first step. EchoStar encourages the Commission to expedite the next stage of Part 25 reform by taking the following further steps outlined in the Report.21

A. Eliminate the Prior Approval Requirement for Pro Forma Satellite Space and Earth Station Ownership Changes.

Recommendation 5.7: The Commission should immediately eliminate the requirement for prior approval of pro forma ownership changes of space and earth station licensees.22 Both Section 214 authorization holders and many types of Title III wireless licensees are permitted to restructure in ways that assign their licensees to different subsidiaries or insert new intermediate entities in the licensee ownership chain without seeking prior FCC approval, requiring only post-consummation notification. There is no reason that this same simplified approach should not also apply to space and earth station authorizations licensed under Part 25.

B. Allow Satellite Operators to Initiate the ITU Registration Process Prior to Filing a New Satellite Application with the Commission.

Recommendation 5.8: The process of registering new orbital locations and other satellite networks with the ITU should be updated to allow companies to initiate the process prior to filing a complete space station application with the FCC.23 Because the design and completion of a satellite network proposal is a complex undertaking that necessarily follows the identification of available orbital/spectrum resources for its implementation, it is logical to allow service providers to begin the ITU registration process prior to the submission of a completed FCC Form 312 Space

21 For convenience and ease of tracking, EchoStar lists these proposals in the same order they appear in the Report, not in order of priority. The items that EchoStar believes are of greatest importance are detailed in the first section of these Comments.

22 See Report at 65, Recommendation 5.7.

23 See Report at 65, Recommendation 5.8.
Station Application, with all of the technical data and descriptive narrative that step requires. These submissions, following an expedited review for completeness, should be immediately submitted to the ITU.

For any type of network that entails cost recovery obligations at the initial advance publication (API) stage, a registrant should be required to certify that it takes responsibility for these obligations. For most GSO filings, however, the certification with respect to cost recovery could be made later, at the time that the full Form 312 application is submitted.

Prospective applicants should be permitted to file any number of requests that is consistent with Section 25.159(a) of the Commission’s Rules, which currently places a limit of five on the total number of satellite applications plus licensed-but-unbuilt satellites an entity may have in a particular frequency band.24 While this rule should be updated to increase licensee flexibility, any limit that is retained would establish an effective cap on the number of advance publication requests. To protect against warehousing, pre-application registrants should be required to file a complete FCC application within three months after either: (1) FCC submission of a coordination request to the ITU; or (2) the filing of an alternative expression of interest for the orbital location with the FCC, whichever occurs later. Consistent with ITU regulations, registrants should be permitted to shift their request along the orbital arc at the time of the coordination request by up to six degrees in either direction.

C. Update the Two-Degree Satellite Spacing Policy to Afford Operators Greater Flexibility to Enter into Alternative Coordination Arrangements.

Recommendation 5.28: The Commission should update its two-degree spacing policy to provide operators with the flexibility to enter into coordination agreements that may not be in precise alignment with the two degree policy, while maintaining the two degree policy as the

24 See 47 C.F.R. § 25.159(a).
industry standard. Satellite operators have substantial technical resources that allow them to analyze and refine in-orbit operations in ways not anticipated by the “one-size-fits-all” two degree policy. A more rigidly applied two-degree spacing requirement made sense when the industry was in an early growth stage and the demand for new resources needed to be balanced with both technical limitations and the prospect of new market entrants. Today, with the satellite industry well established, operators have time-tested coordination relationships that should allow greater variations in operation based on unique considerations involving specific operations in different parts of the orbital arc.

The Commission should also adopt its proposal to allow operators to certify compliance with the uplink and downlink power levels provided for under the two-degree spacing rules instead of submitting a full interference analysis. Operators can satisfy interference protection requirements through equivalent offsets without needing to reduce transmit power.

**D. Initiate the Next Stage of Reform of the Commission’s Part 25 Rules.**

_Recommendation 5.29:_ In keeping with the overarching goal of increasing agency efficiency, transparency and clarity, the Commission should quickly move forward with additional efforts to streamline, clarify and simplify its current Part 25 Rules. With the publication of its 2013 rule revisions in the *Federal Register*, the time is ripe for the Commission to move forward with additional modifications of Part 25. The recent rule revisions are welcome changes, but there remain a number of issues outstanding that should be addressed in a further NPRM.

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25 See Report at 72, Recommendation 5.28.
26 Id.
27 See Report at 72-73, Recommendation 5.29.
1. Greater Flexibility for Satellite Fleet Management

The Fleet Management Rule (Section 25.118 of the Commission’s Rules) should be further simplified and applied in a flexible manner to expand its use, and achieve increased efficiencies for operational changes and satellite relocations. In particular, the Commission should allow relocation of a geostationary space station to a position slightly offset from an orbital location assigned to the same licensee without prior approval, and consistent with Recommendation 5.28, discussed above. This flexibility should also encompass both increases in the number of blanket-licensed earth stations without prior approval, subject to notification, and allowing licensed earth stations to communicate without prior approval via space stations that remain located within 0.15 degrees of an originally authorized point of communication.

2. Expanded Use of Auto-grant Procedures.

EchoStar also supports streamlining the Earth station licensing process to ensure that consumers are able to receive services on a more timely and cost-effective basis. Such streamlining is particularly appropriate for segments of the industry that have reached maturity and technical stability, including DBS and Ka-band GSO FSS. In both cases, objections to technical proposals for Earth station operations are rare, and the Commission has routinely granted applications that specify use of millions of FSS user terminals. Accordingly, the 20/30 GHz GSO FSS service (i.e., the sub-bands at 28.35-28.6 GHz and 29.25-29.5 GHz, as well as the 29.5-30 GHz band) and DBS feeder uplinks in the 17.3-17.8 GHz band should be included in the autogrant rules for the C-band and Ku-band GSO FSS, as discussed above at Section II.B.

3. Expansion of the Permitted List for Non-U.S. Satellites.

The Permitted Space Station List should be broadened to include both U.S. and non-U.S.-licensed satellites authorized to serve the United States in the extended C-band (5825-5925 MHz, 6425-6725 MHz, and 3650-3700 MHz) and extended Ku-band (10.7-11.7 GHz, 12.75-13.25 GHz,
and 13.75-14.0 GHz). The Commission already allows non-U.S.-licensed space stations to seek U.S. market access using a “Letter of Intent,” and it is a small step to include such space stations in an expanded Permitted Space Station List. This will create a more comprehensive (and therefore more useful) list of non-U.S.-licensed satellites authorized to serve the United States, without any loss of Commission ability to review individual earth station applications for compliance with band-specific rules.28

4. Simplification of FCC Form 312, Schedule S

As proposed in the Report, the process for completing and filing Schedule S information for satellite space stations should also be simplified to ensure that the Commission collects only information that is essential for application processing, and to make form preparation and submission easier.29 The Commission has already initiated a forbearance policy with respect to some Schedule S requirements.30 Further revisions should be contemplated to reduce the amount of time required to complete an application and eliminate the need to provide technical data that has proven over the years to be extraneous to consideration of authorization of new satellite facilities.


Recommendation 5.30: The Commission should align the consummation deadline for International Bureau assignments and transfers of control with the 180-day period that applies for

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28 Although the Commission declined to consider this issue in its recent Part 25 Report & Order, it stated that it was open to examining the issue in the future. See Comprehensive Review of Licensing and Operating Rules for Satellite Services, 28 FCC Rcd 12403, 12410 (¶ 12) (2013).

29 As described above, detailed milestone showings could be replaced in significant part by legally binding compliance certifications executed by corporate officers, as proposed in the Report.

The current 60-day deadline for IB-licensed services creates unnecessary work for FCC staff.


EchoStar also supports the Commission’s proposals to reform and update certain aspects of its Equipment Authorization rules and procedures.

Recommendation 5.40: The Commission has recommended that its Office of Engineering and Technology explore relaxation of the FCC’s equipment certification requirements for devices incorporating RF transmitters. EchoStar supports the proposed change, which would allow more self-approval and self-certification by manufacturers and expand the scope of Technical Certification Bodies (“TCBs”) to issue grants. Adoption of these proposed reforms will assist manufacturers in keeping pace with rapidly changing markets for communications equipment and consumer electronics, while reducing burdens on FCC staff. Engineers for equipment manufacturers and TCBs are well-qualified to perform interference testing pursuant to FCC guidelines and to self-certify pursuant to declarations submitted in accordance with Section 1.16 of the Commission’s Rules.

Recommendation 5.41: EchoStar also supports the Commission’s plan to update the manner in which the requirements for labeling and identification of approved products can be met. In particular, the Report includes proposals to explore increased use of electronic labels on devices that have a display screen, and to allow greater flexibility in the assignment of FCC IDs to multiple, sector-specific devices, that are variations on a single base technology. These reforms

31 See Report at 73, Recommendation 5.30.
would be beneficial for certain of EchoStar’s consumer television market devices, and would enhance end-user access to labeling information.

Recommendation 5.42: The Report also advances the idea of automatically affording confidential treatment to Equipment Authorization filings without requiring an express request for such treatment.\footnote{See Report at 77-78 (Recommendation 5.40).} This proposal makes a great deal of sense given the reality that the majority of equipment filings relate to devices that are about to be introduced into highly competitive markets, and these applications typically contain significant amounts of sensitive, proprietary information that requires protection from competitors. Indeed, the Commission should consider extending this proposal to other areas of Commission regulation, including submissions relating to satellite implementation milestone compliance.

\footnote{See 47 C.F.R. § 1.16 (unsworn declarations under penalty of perjury in lieu of affidavits).}

\footnote{See Report at 78 (Recommendation 5.41).}

\footnote{See Report at 78 (Recommendation 5.42).}
VII. Conclusion

EchoStar appreciates the steps taken by the Commission toward modernizing and improving the FCC’s processes, and looks forward to providing further input on these efforts as specific initiatives move forward. It urges the Commission to act quickly to adopt the changes proposed in the Report that are discussed in these Comments.

Respectfully submitted,

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