Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
EchoStar KuX Corporation Application for	)	
Authority to Construct, Launch, and Operate a	)	File No: SAT-LOA-20031215-00355
Geostationary Satellite Using the Extended	)	Call Sign: S2609
Ku-band Frequencies in the Fixed-Satellite	)	
Service at the 121° W.L. Orbital Location	)	
	)	
	)	

ERRATUM

Released: October 20, 2004

By the Chief, Satellite Division, International Bureau

1. On September 30, 2004, the Commission released an *Order and Authorization* (DA 04-3164) in the above captioned proceeding. This Erratum corrects paragraph 4 to read as follows:

> 4. On April 23, 2003, the Commission adopted the *First Space Station Reform Order,* substantially revising its satellite licensing process[1] by, among other things, adopting a "first-come, first-served" procedure for applications for satellites operating in geostationary-satellite orbit, such as EchoStar-121W.[2] We placed the application on Public Notice on January 23, 2004 pursuant to the new licensing process.[3] New Skies Satellites N.V. (New Skies) submitted a petition to condition EchoStar's license to reflect New Skies' filing with the International Telecommunication Union (ITU) in the extended Ku-band at the 120.8° W.L.

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[1] Amendment of the Commission's Space Station Licensing Rules and Policies, *First Report and Order and Further Notice of Proposed Rulemaking*, IB Docket No. 02-34, 18 FCC Rcd 10760 (2003) (*First Space Station Reform Order).*

[2] *See First Space Station Reform Order,* 18 FCC Rcd at 10804-18 (paras. 108-50).

[3] *See* Public Notice, Report No. SAT-00188, rel. January 23, 2004.

orbital location that had filing-date priority over EchoStar's ITU filing.[4] EchoStar filed an opposition[5] to New Skies' Petition and New Skies filed a reply.[6]

2. In addition, the *Order and Authorization* is corrected to include the following new paragraph between the existing paragraphs 5 and 6:

a. INTERNATIONAL COORDINATION

6. In the *First Space Station Reform Report and Order*, the Commission explained that U.S. licenses assigned to a particular orbit location in a first-come, first-served approach take their licenses subject to the outcome of the international coordination process and that the Commission does not guarantee the success of this coordination.[7] The Commission specifically noted that "this may mean that the U.S.-licensee may not be able to operate its system if the coordination cannot be appropriately completed. Indeed, with the first-come, first-served approach, we assign applicants to the orbit location that is requested. Consequently, the applicant assumed the coordination risk when choosing the particular orbit location at the time it submitted its application."[8] As a general practice, U.S. licenses, including the Echostar's authorization here, are conditioned to reflect this Commission policy.[9] Therefore, we find that the conditions proposed by New Skies are partially redundant with our standard condition and otherwise unnecessary in this instance.[10]

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4 Petition to Condition filed by New Skies Satellites N.V. on February 23, 2004 (New Skies Petition). Specifically, New Skies requested the following conditions: (1) that EchoStar's license is subject to the ITU process and that EchoStar has no protection from interference unless coordination procedures are timely completed and is encouraged to initiate negotiations with other affected administrations; (2) that in the absence of a coordination agreement, EchoStar must terminate its extended Ku-band operations once a satellite with higher ITU priority is brought into use within 2 degrees of the 121° W.L. orbital location; and (3) that EchoStar must inform its customers of the requirement to cease operations in the extended Ku-band service at the 121° W.L. orbital location if a satellite with higher ITU priority is brought into use within 2 degrees of the 121° W.L. orbital location. *See* New Skies Petition at 6.

5 Opposition to Petition to Condition filed by EchoStar KuX Corp. on March 4, 2004 (EchoStar Opposition). In its Opposition, EchoStar opposes all of New Skies' proposed conditions. EchoStar argues that these additional conditions are unnecessary in light of Commission precedent. It further argues that the third condition that New Skies proposes is "onerous and impractical."

6 Reply Comments filed by New Skies Satellites N.V. on March 15, 2004 (New Skies Reply).

7 *See First Space Station Reform Order,* 18 FCC Rcd at 10797 (para. 96). *See also* Pegasus Development Corporation, Application for Authority to Construct, Launch, and Operate a Ka-Band Satellite System in the Fixed-Satellite Service, *Order and Authorization*, 16 FCC Rcd 14378, 14386 (para. 24) (Int'l Bur., 2001).

8 *Id.*

9 *See* para. 37, *infra.*

10 New Skies requests us to add conditions similar to the ones it requested, and which we imposed upon Papua New Guinea's Telstar 13, when we added that satellite to the Permitted Space Station List. *See* Loral SpaceCom Corp., Petition for Declaratory Ruling to Add Telstar 13 to the Permitted Space Station List, *Order*, 18 FCC Rcd 16374, 16380-81 (para. 17) (Satellite Div., 2003). (*Telstar 13 Order)* As a preliminary matter, we note that the Telstar 13 conditions are similar to the conditions generally imposed on U.S. licensees. However, because Telestar 13's authorization was issued by Papua New Guinea, we added certain additional conditions to ensure that transmissions to or from earth stations in the United States did not cause harmful interference to a satellite with higher ITU priority or otherwise conflict with coordination agreements between Papua New Guinea and the Netherlands. Because under normal circumstances, the United States does not have access to coordination agreements where the United States is not a party to the agreement, and because the United States does not have jurisdiction to terminate

(continued....)

The subsequent paragraphs will be renumbered and reformatted accordingly.[11]

FEDERAL COMMUNICATIONS COMMISSION

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operations over foreign satellites, such as Telstar 13, it was necessary to specify the conditions of Telstar 13's access to the U.S. market. That is not the case here.

[11] We note that these corrections were made prior to publication in the Federal Register.