

**FHH Telecom Law**  
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**DBS Apps Stuck In The Middle**  
**FCC OKs “Tweener” Slots**

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The Commission has granted direct broadcast satellite (DBS) applications to EchoStar and Spectrum 5 at short-spaced “tweener” orbital locations. The new DBS satellites are authorized at orbital locations only 4.5 degrees, rather than the standard 9 degrees, from previously authorized DBS satellites. The FCC took action on the applications prior to its completion of a related rulemaking, which proposes the establishment of service rules for DBS satellites at reduced orbital spacing.

Spectrum 5 was authorized to construct, launch and operate two DBS satellites at 114.5°W for the provision of video service to the United States, the Netherlands Antilles and the Netherlands. EchoStar was authorized to construct a new DBS satellite to be operated at 86.5°W. EchoStar will be authorized to launch and operate its satellite once it files a satellite end-of-life disposal plan for its proposed spacecraft.

Both the Spectrum 5 and EchoStar authorizations are subject to any rules adopted in the related “tweener” rulemaking. In addition, Spectrum 5 and EchoStar must coordinate their proposed operations with the currently operating 9 degree spaced DBS satellites. Spectrum 5 will need to coordinate with both EchoStar and DirecTV, since its satellite will be located between DBS satellites operated by the incumbent U.S. DBS operators. Spectrum 5’s application was granted over the opposition of both EchoStar and DirecTV. EchoStar will need to coordinate its new satellite with Telesat, which operates the Canadian DBS satellites Nimiq 1 and Nimiq 2 at 91°N and 82°W, respectively, and which had opposed the EchoStar “tweener” application.

Separately, the FCC’s International Bureau dismissed the original “tweener” application filed in 2002 by SES Americom (SES) at 105.5°W. SES’s original filing did not satisfy the FCC’s feeder link cross-polarization requirements. SES was given 30 days to refile a compliant proposal and trade press reports indicated SES will do so.