

EchoStar CORP  
Form 10-Q  
May 02, 2011  
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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**Form 10-Q**

(Mark One)

**T** **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**FOR THE QUARTERLY PERIOD ENDED MARCH 31, 2011.**

**OR**

**£** **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**FOR THE TRANSITION PERIOD FROM                      TO                      .**

**Commission File Number: 001-33807**

# EchoStar Corporation

(Exact name of registrant as specified in its charter)

**Nevada**  
(State or other jurisdiction of incorporation or organization)

**26-1232727**  
(I.R.S. Employer Identification No.)

**100 Inverness Terrace East**  
**Englewood, Colorado**  
(Address of principal executive offices)

**80112-5308**  
(Zip code)

**(303) 706-4000**

(Registrant's telephone number, including area code)

**Not Applicable**

(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  T No  £

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  T No  £

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer  T

Accelerated filer  £

Non-accelerated filer  £  
(Do not check if a smaller reporting company)

Smaller reporting company  £

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  £ No  T

As of April 20, 2011, the registrant's outstanding common stock consisted of 38,470,471 shares of Class A common stock and 47,687,039 shares of Class B common stock.



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**PART I FINANCIAL INFORMATION**

**DISCLOSURE REGARDING FORWARD-LOOKING STATEMENTS**

We make forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 throughout this report. Whenever you read a statement that is not simply a statement of historical fact (such as when we describe what we believe, intend, plan, estimate, expect or anticipate will occur and other similar statements), you must remember that our expectations may not be achieved, even though we believe they are reasonable. We do not guarantee that any future transactions or events described herein will happen as described or that they will happen at all. You should read this report completely and with the understanding that actual future results may be materially different from what we expect. Whether actual events or results will conform with our expectations and predictions is subject to a number of risks and uncertainties.

The risks and uncertainties include, but are not limited to, the following:

**General Risks Affecting Our Business**

- We currently depend on DISH Network Corporation ( DISH Network ), Bell TV and Dish Mexico, S. de R.L. de C.V. ( Dish Mexico ) for substantially all of our revenue. The loss of, or a significant reduction in, orders from, or a decrease in selling prices of digital set-top boxes and/or other products or services to, DISH Network, Bell TV or Dish Mexico would significantly reduce our revenue and adversely impact our results of operations. In addition, the loss of, or a significant reduction in, orders from, or a decrease in selling price of transponder leasing and/or providing digital broadcast operations to, DISH Network would also significantly reduce our revenue and adversely impact our results of operations.
- Economic weakness, including high unemployment and reduced consumer spending, may adversely affect our ability to grow or maintain our business.
- If we are unable to properly respond to technological changes, our business could be significantly harmed.
- We currently have unused satellite capacity, and our results of operations may be materially adversely affected if we are not able to lease more of this capacity to third parties.
- Our sales to DISH Network could be terminated or substantially curtailed on short notice, which would have a detrimental effect on us.

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- We may need additional capital, which may not be available on acceptable terms or at all, to continue investing in our business and to finance acquisitions and other strategic transactions.
- We may experience significant financial losses on our existing investments.
- We may pursue acquisitions and other strategic transactions to complement or expand our business, which may not be successful and we may lose up to the entire value of our investment in these acquisitions and transactions.
- We intend to make significant investments in new products, services, technologies and business areas that may not be profitable.
- We may not be aware of certain foreign government laws or regulations or changes to them which could have a significant adverse impact on our business.
- We could be adversely affected by violations of the U.S. Foreign Corrupt Practices Act and similar foreign anti-bribery laws.
- Our business depends on certain intellectual property rights and on not infringing the intellectual property rights of others. The loss of or infringement of our intellectual property rights could have a significant adverse impact on our business.
- Any failure or inadequacy of our information technology infrastructure could harm our business.

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- We are party to various lawsuits which, if adversely decided, could have a significant adverse impact on our business, particularly lawsuits regarding intellectual property.
- We have not been an independent company for a significant amount of time and we may be unable to make, on a timely or cost-effective basis, the changes necessary to operate as an independent company.
- We rely on key personnel and the loss of their services may negatively affect our businesses.

**Risks Affecting Our Digital Set-Top Box Business**

- We depend on sales of digital set-top boxes for nearly all of our revenue and a decline in sales of our digital set-top boxes would have a material adverse effect on our financial position and results of operations.
- Our business may suffer if our customer base does not compete successfully with existing and emerging competition.
- Our future financial performance depends in part on our ability to penetrate new markets for digital set-top boxes.
- Component pricing may remain stable or be negatively affected by inflation, increased demand, decreased supply, or other factors, which could have a material adverse effect on our results of operations.
- The average selling price and gross margins of our digital set-top boxes has been decreasing and may decrease even further, which could negatively impact our financial position and results of operations.
- Our ability to sell our digital set-top boxes to other operators depends on our ability to obtain licenses to use the conditional access systems utilized by these other operators.
- Growth in our Digital Set-Top Box business likely requires expansion of our sales to international customers, and we may be unsuccessful in expanding international sales.

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- If we are successful in growing sales of our digital set-top boxes to international customers, we may be subject to greater risks.
- The digital set-top box business is extremely competitive.
- We expect to continue to face competition from new market entrants, principally located in Asia, that offer low cost set-top boxes.
- Our digital set-top boxes are highly complex and may experience quality or supply problems.
- If significant numbers of television viewers are unwilling to pay for pay-TV services that utilize digital set-top boxes, we may not be able to sustain our current revenue level.
- Our reliance on a single supplier or a limited number of suppliers for several components used in our digital set-top boxes could restrict production, result in higher digital set-top box costs and delay deliveries to customers.
- Our future growth depends on growing demand for advanced technologies.
- If the encryption and related security technology used in our digital set-top boxes is compromised, sales of our digital set-top boxes may decline.

### **Risks Affecting Our Satellite Services Business**

- We currently face competition from established competitors in the satellite service business and may face competition from others in the future.
- Our owned and leased satellites in orbit are subject to significant operational and environmental risks that could limit our ability to utilize these satellites.
- Our satellites have minimum design lives ranging from 12 to 15 years, but could fail or suffer reduced capacity before then.





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- Our satellites under construction are subject to risks related to construction and launch that could limit our ability to utilize these satellites.
- Our Satellite Services business is subject to risks of adverse government regulation.
- Our business depends on Federal Communications Commission ( FCC ) licenses that can expire or be revoked or modified and applications for FCC licenses that may not be granted.
- Our dependence on outside contractors could result in delays related to the design, manufacture and launch of our new satellites, which could in turn adversely affect our operating results.
- We generally do not have commercial insurance coverage on the satellites we use and could face significant impairment charges if one of our satellites fails.

**Risks Relating to the Spin-Off**

- We have potential conflicts of interest with DISH Network due to our common ownership and management.

**Risks Relating to our Common Stock and the Securities Market**

- We cannot assure you that there will not be deficiencies leading to material weaknesses in our internal control over financial reporting.
- It may be difficult for a third party to acquire us, even if doing so may be beneficial to our shareholders, because of our capital structure.
- We are controlled by one principal shareholder who is our Chairman.

**Risks Relating to our Acquisition of Hughes Communications Inc. ( Hughes )**

- Governmental authorities must approve our acquisition of Hughes and could impose conditions on, delay, or refuse to approve the merger.
- Stockholders of Hughes have filed purported class action lawsuits challenging the merger, and are seeking, among other things, injunctive relief to enjoin the consummation of the merger.
- We may not be able to obtain the financing required to fulfill our obligations under our agreement to acquire Hughes.
- The terms of the financing related to our acquisition of Hughes will significantly reduce our ability to incur additional indebtedness.
- The incurrence of indebtedness to finance our acquisition of Hughes will substantially increase our leverage.
- Although we expect that our acquisition of Hughes will benefit us, those expected benefits may not occur because of the complexity of the integration and other challenges.
- If we are able to complete our acquisition of Hughes, we will be subject to the risks related to Hughes' business.

All cautionary statements made herein should be read as being applicable to all forward-looking statements wherever they appear. Investors should consider the risks described herein and should not place undue reliance on any forward-looking statements. We assume no responsibility for updating forward-looking information contained or incorporated by reference herein or in other reports we file with the Securities and Exchange Commission ( SEC ).

In this report, the words EchoStar, the Company, we, our and us refer to EchoStar Corporation and its subsidiaries, unless the context otherwise requires. DISH Network refers to DISH Network Corporation and its subsidiaries, unless the context otherwise requires.

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(Dollars in thousands, except share amounts)

(Unaudited)

|  | March 31,<br>2011 | As of | December 31,<br>2010 |
|--|-------------------|-------|----------------------|
| <b>Assets</b>  |                   |       |                      |
| <i>Current Assets:</i>   |                   |       |                      |
| Cash and cash equivalents  | \$ 121,596        | \$    | 141,814              |
| Marketable investment securities   | 1,018,140         |       | 989,086              |
| Trade accounts receivable - DISH Network, net of allowance for doubtful accounts of zero                       | 250,050           |       | 238,997              |
| Trade accounts receivable - other, net of allowance for doubtful accounts of \$8,988 and \$7,644, respectively | 43,336            |       | 42,247               |
| Inventory  | 30,063            |       | 30,433               |
| Other current assets   | 117,503           |       | 92,890               |
| Total current assets   | 1,580,688         |       | 1,535,467            |
| <i>Noncurrent Assets:</i>  |                   |       |                      |
| Restricted cash and marketable investment securities   | 17,426            |       | 17,426               |
| Property and equipment, net of accumulated depreciation of \$1,807,582 and \$1,766,290, respectively           | 1,276,352         |       | 1,263,303            |
| FCC authorizations   | 69,810            |       | 69,810               |
| Intangible assets, net   | 160,579           |       | 165,451              |
| Marketable and other investment securities   | 752,836           |       | 725,588              |
| Other noncurrent assets, net   | 64,330            |       | 64,975               |
| Total noncurrent assets  | 2,341,333         |       | 2,306,553            |
| Total assets   | \$ 3,922,021      | \$    | 3,842,020            |
| <b>Liabilities and Stockholders Equity (Deficit)</b>   |                   |       |                      |
| <i>Current Liabilities:</i>  |                   |       |                      |
| Trade accounts payable - other   | \$ 169,073        | \$    | 145,203              |
| Trade accounts payable - DISH Network  | 21,854            |       | 14,155               |
| Accrued royalties  | 16,334            |       | 20,199               |
| Accrued expenses and other   | 73,295            |       | 62,079               |
| Deferred tax liabilities   | 63,890            |       | 64,121               |
| Current portion of long-term debt and capital lease obligations  | 54,675            |       | 53,060               |
| Total current liabilities  | 399,121           |       | 358,817              |
| <i>Long-Term Obligations, Net of Current Portion:</i>  |                   |       |                      |
| Long-term debt and capital lease obligations, net of current portion   | 354,534           |       | 359,825              |
| Deferred tax liabilities   | 79,031            |       | 75,840               |
| Other long-term liabilities  | 35,316            |       | 34,348               |
| Total long-term obligations, net of current portion  | 468,881           |       | 470,013              |
| Total liabilities  | 868,002           |       | 828,830              |

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Commitments and Contingencies (Note 11)

*Stockholders' Equity (Deficit):*

|  |              |              |
|--|--------------|--------------|
| Preferred Stock, \$.001 par value, 20,000,000 shares authorized, none issued and outstanding   |              |              |
| Class A common stock, \$.001 par value, 1,600,000,000 shares authorized, 43,664,136 and 43,103,166 shares issued, 38,131,818 and 37,570,848 shares outstanding, respectively | 44           | 43           |
| Class B common stock, \$.001 par value, 800,000,000 shares authorized, 47,687,039 shares issued and outstanding  | 48           | 48           |
| Class C common stock, \$.001 par value, 800,000,000 shares authorized, none issued and outstanding   |              |              |
| Class D common stock, \$.001 par value, 800,000,000 shares authorized, none issued and outstanding   |              |              |
| Additional paid-in capital   | 3,329,160    | 3,311,405    |
| Accumulated other comprehensive income (loss)  | 194,896      | 188,982      |
| Accumulated earnings (deficit)   | (371,962)    | (389,126)    |
| Treasury stock, at cost  | (98,162)     | (98,162)     |
| Total EchoStar stockholders' equity (deficit)  | 3,054,024    | 3,013,190    |
| Noncontrolling interest  | (5)          |              |
| Total stockholders' equity (deficit)   | 3,054,019    | 3,013,190    |
| Total liabilities and stockholders' equity (deficit)   | \$ 3,922,021 | \$ 3,842,020 |

The accompanying notes are an integral part of these condensed consolidated financial statements.

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**ECHOSTAR CORPORATION**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**  
**AND COMPREHENSIVE INCOME (LOSS)**

(In thousands, except per share amounts)

(Unaudited)

|   | For the Three Months<br>Ended March 31, |            |
|---|---|------------|
|   | 2011                                    | 2010       |
| <b>Revenue:</b>   |   |            |
| Equipment revenue - DISH Network  | \$ 272,126                              | \$ 385,848 |
| Equipment revenue - other   | 65,909                                  | 111,703    |
| Services and other revenue - DISH Network   | 121,207                                 | 115,060    |
| Services and other revenue - other  | 20,584                                  | 14,469     |
| Total revenue   | 479,826                                 | 627,080    |
| <b>Costs and Expenses:</b>  |   |            |
| Cost of sales - equipment   | 293,384                                 | 422,208    |
| Cost of sales - services and other (exclusive of depreciation shown below - Note 6)                 | 61,460                                  | 57,433     |
| Research and development expenses (exclusive of depreciation shown below - Note 6)                  | 8,859                                   | 12,234     |
| Selling, general and administrative expenses (exclusive of depreciation shown below - Note 6)       | 44,772                                  | 32,631     |
| General and administrative expenses - DISH Network (exclusive of depreciation shown below - Note 6) | 3,489                                   | 4,159      |
| Depreciation and amortization (Note 6)  | 57,014                                  | 57,649     |
| Total costs and expenses  | 468,978                                 | 586,314    |
| Operating income (loss)   | 10,848                                  | 40,766     |
| <b>Other Income (Expense):</b>  |   |            |
| Interest income   | 2,677                                   | 1,846      |
| Interest expense, net of amounts capitalized  | 462                                     | (11,595)   |
| Unrealized and realized gains (losses) on marketable investment securities and other investments    | 665                                     | (537)      |
| Unrealized gains (losses) on investments accounted for at fair value, net                           | 3,304                                   | 65,828     |
| Other, net  | 6,991                                   | (1,671)    |
| Total other income (expense)  | 14,099                                  | 53,871     |
| Income (loss) before income taxes   | 24,947                                  | 94,637     |
| Income tax (provision) benefit, net   | (7,788)                                 | (22,891)   |
| Net income (loss)   | 17,159                                  | 71,746     |
| Less: Net income (loss) attributable to noncontrolling interest                                     | (5)                                     |            |
| Net income (loss) attributable to EchoStar common shareholders                                      | \$ 17,164                               | \$ 71,746  |
| <b>Comprehensive Income (Loss):</b>   |   |            |
| Net income  | \$ 17,159                               | \$ 71,746  |
| Foreign currency translation adjustments  | (192)                                   | (390)      |
| Unrealized holding gains (losses) on available-for-sale securities                                  | 6,771                                   | 26,669     |
|   | (665)                                   |            |

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|  |    |        |    |        |
|--|----|--------|----|--------|
| Recognition of previously unrealized (gains) losses on available-for-sale securities included in net income (loss) |    |        |    |        |
| Comprehensive income (loss)  |    | 23,073 |    | 98,025 |
| Less: Comprehensive income (loss) attributable to noncontrolling interest  |    | (5)    |    |        |
| Comprehensive income (loss) attributable to EchoStar common shareholders   | \$ | 23,078 | \$ | 98,025 |
| <b>Weighted-average common shares outstanding - Class A and B common stock:</b>                                    |    |        |    |        |
| Basic  |    | 85,466 |    | 84,855 |
| Diluted  |    | 92,331 |    | 84,933 |
| <b>Earnings per share - Class A and B common stock:</b>  |    |        |    |        |
| Basic net income (loss) per share attributable to EchoStar common shareholders                                     | \$ | 0.20   | \$ | 0.85   |
| Diluted net income (loss) per share attributable to EchoStar common shareholders                                   | \$ | 0.19   | \$ | 0.84   |

The accompanying notes are an integral part of these condensed consolidated financial statements.

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## ECHOSTAR CORPORATION

## CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(In thousands)

(Unaudited)

|  | For the Three Months<br>Ended March 31, |                 |
|--|---|-----------------|
|  | 2011                                    | 2010            |
| <b>Cash Flows From Operating Activities:</b>   |   |                 |
| Net income (loss)  | \$ 17,159                               | \$ 71,746       |
| <i>Adjustments to reconcile net income (loss) to net cash flows from operating activities:</i>             |   |                 |
| Depreciation and amortization  | 57,014                                  | 57,649          |
| Equity in losses (earnings) of affiliates  | (5,008)                                 | 1,690           |
| Unrealized and realized (gains) losses on marketable investment securities and other investments           | (665)                                   | 537             |
| Unrealized (gains) losses on investments accounted for at fair value, net                                  | (3,304)                                 | (65,828)        |
| Non-cash, stock-based compensation   | 2,981                                   | 4,242           |
| Deferred tax expense (benefit)   | 1,759                                   | (8,820)         |
| Other, net   | 353                                     | 2,184           |
| Change in noncurrent assets  | 1,570                                   | 1,122           |
| Changes in current assets and current liabilities, net   | 21,313                                  | (35,646)        |
| <b>Net cash flows from operating activities</b>  | <b>93,172</b>                           | <b>28,876</b>   |
| <b>Cash Flows From Investing Activities:</b>   |   |                 |
| Purchases of marketable investment securities  | (551,508)                               | (570,308)       |
| Sales and maturities of marketable investment securities   | 488,781                                 | 642,418         |
| Purchases of property and equipment  | (39,140)                                | (32,492)        |
| Launch service assigned to DISH Network (Note 13)  |   | 102,913         |
| Purchase of strategic investments included in marketable and other investment securities                   | (27,775)                                | (18,601)        |
| Proceeds from sale of strategic investments  | 15,437                                  |                 |
| Other, net   | 51                                      | (200)           |
| <b>Net cash flows from investing activities</b>  | <b>(114,154)</b>                        | <b>123,730</b>  |
| <b>Cash Flows From Financing Activities:</b>   |   |                 |
| Repayment of long-term debt and capital lease obligations  | (13,019)                                | (12,845)        |
| Net proceeds from Class A common stock options exercised and issued under the Employee Stock Purchase Plan | 14,153                                  | 524             |
| Other  | 694                                     |                 |
| <b>Net cash flows from financing activities</b>  | <b>1,828</b>                            | <b>(12,321)</b> |
| <b>Effect of exchange rates on cash and cash equivalents</b>   | <b>(1,064)</b>                          |                 |
| Net increase (decrease) in cash and cash equivalents   | (20,218)                                | 140,285         |
| Cash and cash equivalents, beginning of period   | 141,814                                 | 23,330          |
| Cash and cash equivalents, end of period   | \$ 121,596                              | \$ 163,615      |
| <b>Supplemental Disclosure of Cash Flow Information:</b>   |   |                 |
| Cash paid for interest (including capitalized interest)  | \$ 11,716                               | \$ 11,422       |
| Capitalized interest   | \$ 9,050                                | \$              |
| Cash received for interest   | \$ 4,693                                | \$ 2,803        |



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|   |    |       |    |        |
|---|----|-------|----|--------|
| Cash paid for income taxes  | \$ | 474   | \$ | 8,481  |
| Satellites and other assets financed under capital lease obligations                  | \$ | 9,343 | \$ | 47,808 |
| Reduction of capital lease obligations and associated asset value for AMC-16 (Note 6) | \$ |       | \$ | 34,693 |

The accompanying notes are an integral part of these condensed consolidated financial statements.

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**ECHOSTAR CORPORATION**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

(Unaudited)

**1. Organization and Business Activities**

***Principal Business***

EchoStar Corporation is a holding company, whose subsidiaries (which together with EchoStar Corporation are referred to as EchoStar, the Company, we, us and/or our ) operate two primary business units:

- ***Digital Set-Top Box Business*** which designs, develops and distributes digital set-top boxes and related products and technology, including our Slingbox placeshifting technology, primarily for satellite TV service providers, telecommunication and cable companies and, with respect to Slingboxes, directly to consumers via retail outlets. Our Digital Set-Top Box business also provides digital broadcast operations including satellite uplinking/downlinking, transmission services, signal processing, conditional access management and other services primarily to DISH Network.
- ***Satellite Services Business*** which uses our ten owned and leased in-orbit satellites and related FCC licenses to lease capacity on a full-time and occasional-use basis primarily to DISH Network, and secondarily to Dish Mexico, U.S. government service providers, state agencies, Internet service providers, broadcast news organizations, programmers and private enterprise customers.

Effective January 1, 2008, DISH Network completed its distribution to us (the Spin-off ) of its digital set-top box business and certain infrastructure and other assets, including certain of its satellites, uplink and satellite transmission assets, real estate and other assets and related liabilities. Since the Spin-off, we and DISH Network have operated as separate publicly-traded companies, and neither entity has any ownership interest in the other. However, a substantial majority of the voting power of the shares of both companies is owned beneficially by Charles W. Ergen, our Chairman, or by certain trusts established by Mr. Ergen for the benefit of his family.

***Recent Developments***

On February 13, 2011, we and certain of our subsidiaries, including EchoStar Satellite Services L.L.C., ( ESS ) entered into an agreement and plan of merger (the Hughes Agreement ) with Hughes, whereby we will acquire all of the outstanding equity of Hughes and its subsidiaries, including its main operating subsidiary, Hughes Network Systems, LLC ( HNS ) (the Hughes Merger ). Pursuant to the Hughes Agreement, each issued and outstanding share of common stock of Hughes (other than common stock with respect to which appraisal rights have been exercised) will be converted into the right to receive \$60.70 in cash. The Hughes Agreement also contemplates the repayment of all of the outstanding debt

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of Hughes and HNS (including the 9½% Senior Notes due 2014 issued by HNS), except that the \$115 million loan facility guaranteed by COFACE, the French Export Credit Agency, will continue to remain outstanding following the Merger if certain consents are obtained. As a result, the Hughes Merger is valued at approximately \$2.0 billion, including the Hughes debt expected to be refinanced. The Hughes Merger is expected to close later this year, subject to certain closing conditions, including among others, certain government regulatory approvals, including approval by the FCC. The Hughes Agreement contains certain termination rights for both Hughes and us.

In order to finance the Hughes Merger, we and ESS obtained an aggregate financing commitment of \$1.0 billion in senior secured bridge financing and \$800 million in senior unsecured bridge financing, in each case from Deutsche Bank AG Cayman Islands Branch (collectively, the Bridge Commitment ). Deutsche Bank's obligations under the Bridge Commitment are subject to a number of conditions, including that the conditions to closing under the Hughes Agreement have been met (subject to certain exceptions); that we have a minimum amount of cash on hand at the closing; that we have provided certain financial statements and other information relating to us and Hughes in specified time periods; and that our aggregate indebtedness not exceed specified levels. There is no assurance that we will be able to satisfy these conditions. The initial term of the Bridge Commitment is six months. We have the option to extend the term of the Bridge Commitment to nine months so long as we have delivered certain required

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**ECHOSTAR CORPORATION**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS Continued**

(Unaudited)

information, including certain financial statements, and have complied with our obligations to issue debt securities in lieu of borrowing under the Bridge Commitment. Subject to certain exceptions, we do not have the ability to terminate the Hughes Agreement until nine months after the date the Hughes Agreement was executed. Accordingly, there is no assurance that the Bridge Commitment will remain in effect for the duration of our obligations under the Hughes Agreement. We do not have the ability to terminate the Hughes Agreement if we are unable to obtain sufficient funds to satisfy our obligations under the Hughes Agreement. If the funding under the Bridge Commitment were to become unavailable for any reason, there is no assurance that we will be able to obtain sufficient funds to satisfy our obligations under the Hughes Agreement.

**2. Summary of Significant Accounting Policies**

***Basis of Presentation***

The accompanying unaudited Condensed Consolidated Financial Statements have been prepared in accordance with accounting principles generally accepted in the United States ( GAAP ) and with the instructions to Form 10-Q and Article 10 of Regulation S-X for interim financial information. Accordingly, these statements do not include all of the information and notes required for complete financial statements prepared under GAAP. In our opinion, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation have been included. Our results of operations for the interim periods presented are not necessarily indicative of the results that may be expected for the full year. For further information, refer to the Consolidated Financial Statements and notes thereto included in our Annual Report on Form 10-K for the year ended December 31, 2010 ( 2010 10-K ). Certain prior period amounts have been reclassified to conform to the current period presentation.

***Principles of Consolidation***

We consolidate all majority owned subsidiaries, investments in entities in which we have controlling influence and variable interest entities where we have been determined to be the primary beneficiary. Non-majority owned investments are accounted for using the equity method when we have the ability to significantly influence the operating decisions of the investee. When we do not have the ability to significantly influence the operating decisions of an investee, the cost method is used. All significant intercompany accounts and transactions have been eliminated in consolidation.

***Use of Estimates***

## Edgar Filing: EchoStar CORP - Form 10-Q

The preparation of financial statements in conformity with GAAP requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expense for each reporting period. Estimates are used in accounting for, among other things, allowances for doubtful accounts, allowance for sales returns, warranty obligations, self-insurance obligations, deferred taxes and related valuation allowances, uncertain tax positions, loss contingencies, fair value of financial instruments, fair value of options granted under our stock-based compensation plans, fair value of assets and liabilities acquired in business combinations, capital leases, asset impairments, useful lives of property, equipment and intangible assets, and royalty obligations. Weakened economic conditions have increased the inherent uncertainty in the estimates and assumptions indicated above. Actual results may differ from previously estimated amounts, and such differences may be material to the Condensed Consolidated Financial Statements. Estimates and assumptions are reviewed periodically, and the effects of revisions are reflected prospectively in the period they occur.

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## ECHOSTAR CORPORATION

## NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS Continued

(Unaudited)

*Fair Value of Financial Instruments*

As of March 31, 2011 and 2010, the carrying value of our cash and cash equivalents; current marketable investment securities, trade accounts receivable, net of allowance for doubtful accounts; current liabilities and long-term debt is equal to or approximates fair value due to their short-term nature or proximity to current market rates.

**3. Basic and Diluted Net Income (Loss) Per Share**

We present both basic earnings per share ( EPS ) and diluted EPS. Basic EPS excludes potential dilution and is computed by dividing Net income (loss) attributable to EchoStar common shareholders by the weighted-average number of common shares outstanding for the period. Diluted EPS reflects the potential dilution that could occur if stock awards were exercised.

The potential dilution from stock awards was computed using the treasury stock method based on the average market value of our Class A common stock. The following table presents earnings per share amounts for all periods and the basic and diluted weighted-average shares outstanding used in the calculation.

|  | For the Three Months<br>Ended March 31,  |           |
|--|--|-----------|
|  | 2011                                     | 2010      |
|  | (In thousands, except per share amounts) |           |
| Net income (loss) attributable to EchoStar common shareholders                   | \$ 17,164                                | \$ 71,746 |
| <b>Weighted-average common shares outstanding - Class A and B common stock:</b>  |  |           |
| Basic  | 85,466                                   | 84,855    |
| Dilutive impact of stock awards outstanding                                      | 6,865                                    | 78        |
| Diluted  | 92,331                                   | 84,933    |
| <b>Earnings per share - Class A and B common stock:</b>                          |  |           |
| Basic net income (loss) per share attributable to EchoStar common shareholders   | \$ 0.20                                  | \$ 0.85   |
| Diluted net income (loss) per share attributable to EchoStar common shareholders | \$ 0.19                                  | \$ 0.84   |

## Edgar Filing: EchoStar CORP - Form 10-Q

As of March 31, 2011 and 2010, there were stock awards to purchase 2.3 million and 5.2 million shares, respectively, of Class A common stock outstanding, not included in the weighted-average common shares outstanding above, as their effect is antidilutive.

Vesting of options and rights to acquire shares of our Class A common stock ( Restricted Performance Units ) granted pursuant to a performance based stock incentive plan is contingent upon meeting a certain company goal which is not yet probable of being achieved. As a consequence, the following are also not included in the diluted EPS calculation.

|                              | As of March 31, |      |
|------------------------------|-----------------|------|
|                              | 2011            | 2010 |
|                              | (In thousands)  |      |
| Performance based options    | 689             | 716  |
| Restricted Performance Units | 92              | 98   |
| Total                        | 781             | 814  |

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## ECHOSTAR CORPORATION

## NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS Continued

(Unaudited)

## 4. Marketable Investment Securities, Restricted Cash and Other Investment Securities

Our marketable investment securities, restricted cash and other investment securities consist of the following:

|  | March 31,<br>2011 | As of<br>(In thousands) | December 31,<br>2010 |
|--|-------------------|-------------------------|----------------------|
| <b>Marketable investment securities:</b>   |                   |                         |                      |
| Current marketable investment securities - VRDNs   | \$ 546,420        |                         | \$ 395,715           |
| Current marketable investment securities - strategic   | 239,503           |                         | 232,718              |
| Current marketable investment securities - other   | 232,217           |                         | 360,653              |
| <i>Total marketable investment securities - current</i>  | 1,018,140         |                         | 989,086              |
| Restricted marketable investment securities (1)  | 1,987             |                         | 1,337                |
| <b>Total</b>   | 1,020,127         |                         | 990,423              |
| <b>Restricted cash and cash equivalents (1)</b>  | 15,439            |                         | 16,089               |
| <b>Marketable and other investment securities - noncurrent:</b>                                |                   |                         |                      |
| Cost method  | 3,097             |                         | 3,097                |
| Equity method  | 116,575           |                         | 109,366              |
| Fair value method  | 633,164           |                         | 613,125              |
| <b>Total marketable and other investment securities - noncurrent</b>                           | 752,836           |                         | 725,588              |
| <b>Total marketable investment securities, restricted cash and other investment securities</b> | \$ 1,788,402      |                         | \$ 1,732,100         |

(1) Restricted marketable investment securities and restricted cash and cash equivalents are included in Restricted cash and marketable investment securities on our Condensed Consolidated Balance Sheets.

**Marketable Investment Securities**

Our marketable investment securities portfolio consists of various debt and equity instruments, all of which are classified as available-for-sale.

*Current Marketable Investment Securities - VRDNs*



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Variable rate demand notes ( VRDNs ) are long-term floating rate municipal bonds with embedded put options that allow the bondholder to sell the security at par plus accrued interest. All of the put options are secured by a pledged liquidity source. Our VRDN portfolio is comprised of investments in many municipalities, which are backed by financial institutions or other highly rated companies that serve as the pledged liquidity source. While they are classified as marketable investment securities, the put option allows VRDNs to be liquidated generally on a same day or on a five business day settlement basis.

### *Current Marketable Investment Securities - Strategic*

Our current strategic marketable investment securities are highly speculative and have experienced and continue to experience volatility. As of March 31, 2011, a significant portion of our strategic investment portfolio consisted of securities of several issuers and the value of that portfolio depends on those issuers.

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**ECHOSTAR CORPORATION**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**    **Continued**

(Unaudited)

*Current Marketable Investment Securities - Other*

Our other current marketable investment securities portfolio includes investments in various debt instruments including corporate and government bonds.

*Restricted Cash and Marketable Investment Securities*

As of March 31, 2011 and December 31, 2010, our restricted marketable investment securities, together with our restricted cash, included amounts required as collateral for our letters of credit or surety bonds.

*Marketable and Other Investment Securities - Noncurrent*

We account for our unconsolidated debt and equity investments under the fair value, equity and/or cost method of accounting. We have several strategic investments in certain equity securities that are included in noncurrent Marketable and other investment securities on our Condensed Consolidated Balance Sheets.

*Marketable and Other Investment Securities - Cost and Equity*

Non-majority owned investments in equity securities are generally accounted for using the equity method when we have the ability to significantly influence the operating decisions of an investee. However, when we do not have the ability to significantly influence the operating decisions of an investee, the cost method is used.

Our ability to realize value from our strategic investments in companies that are not publicly traded depends on the success of those companies businesses and their ability to obtain sufficient capital to execute their business plans. Because private markets are not as liquid as public markets, there is also increased risk that we will not be able to sell these investments, or that when we desire to sell them we will not be able to obtain fair value for them.

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### *Marketable and Other Investment Securities - Fair Value*

We elect the fair value method for certain debt and equity investments in affiliates when we believe the fair value method of accounting provides more meaningful information to our investors. For our investments carried at fair value, interest and dividends are measured at fair value and are recorded in Unrealized gains (losses) on investments accounted for at fair value, net. See Investments in TerreStar below for more information.

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## ECHOSTAR CORPORATION

## NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS Continued

(Unaudited)

*Unrealized Gains (Losses) on Marketable Investment Securities*

As of March 31, 2011 and December 31, 2010, we had accumulated net unrealized gains of \$194 million and \$188 million, both net of related tax effect, respectively, as a part of Accumulated other comprehensive income (loss) within Total stockholders' equity (deficit). A full valuation allowance has been established against any net deferred tax assets that are capital in nature. The components of our available-for-sale investments are detailed in the table below.

|   | Marketable<br>Investment<br>Securities | As of March 31, 2011 |                      |            | Net<br>(In thousands) | As of December 31, 2010 |                      |            |
|---|--|----------------------|----------------------|------------|-----------------------|-------------------------|----------------------|------------|
|   |  | Gains                | Unrealized<br>Losses |            |                       | Gains                   | Unrealized<br>Losses | Net        |
| <b>Debt securities:</b>                               |  |                      |                      |            |                       |                         |                      |            |
| VRDNs   | \$ 546,420                             | \$                   | \$                   | \$         | \$ 395,715            | \$                      | \$                   | \$         |
| Other (including<br>restricted)                       | 248,461                                | 690                  | (16)                 | 674        | 375,814               | 1,154                   | (233)                | 921        |
| <b>Equity securities:</b>                             |  |                      |                      |            |                       |                         |                      |            |
| Other   | 225,246                                | 193,097              |                      | 193,097    | 218,894               | 186,745                 |                      | 186,745    |
| <b>Total marketable<br/>investment<br/>securities</b> | \$ 1,020,127                           | \$ 193,787           | \$ (16)              | \$ 193,771 | \$ 990,423            | \$ 187,899              | \$ (233)             | \$ 187,666 |

As of March 31, 2011, restricted and non-restricted marketable investment securities include debt securities of \$795 million with contractual maturities of one year or less and none with contractual maturities greater than one year. Actual maturities may differ from contractual maturities as a result of our ability to sell these securities prior to maturity.

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(Unaudited)

**Marketable Investment Securities in a Loss Position**

The following table reflects the length of time that the individual securities, accounted for as available-for-sale, have been in an unrealized loss position, aggregated by investment category. We do not intend to sell our investments in debt securities before they recover or mature, and it is more likely than not that we will hold these debt investments until that time. In addition, we are not aware of any specific factors indicating that the underlying issuers of these debt securities would not be able to pay interest as it becomes due or repay the principal at maturity. Therefore, we believe that these changes in the estimated fair values of these marketable investment securities are related to temporary market fluctuations.

| Investment Category | Primary Reason for Unrealized Loss | Total Fair Value | As of March 31, 2011            |                 |                               |                 |                                |                 |        |
|---------------------|------------------------------------|------------------|---------------------------------|-----------------|-------------------------------|-----------------|--------------------------------|-----------------|--------|
|                     |                                    |                  | Less than Six Months Fair Value | Unrealized Loss | Six to Nine Months Fair Value | Unrealized Loss | Nine Months or More Fair Value | Unrealized Loss |        |
| (In thousands)      |                                    |                  |                                 |                 |                               |                 |                                |                 |        |
| Debt securities     | Temporary market fluctuations      | \$ 33,096        | \$ 15,389                       | \$ (8)          | \$                            | \$              | \$                             | \$ 17,707       | \$ (8) |
| <b>Total</b>        |                                    | \$ 33,096        | \$ 15,389                       | \$ (8)          | \$                            | \$              | \$                             | \$ 17,707       | \$ (8) |

| Investment | Primary Reason for Unrealized | Total Fair | As of December 31, 2010   |                    |  | Nine Months or More |
|------------|-------------------------------|------------|---------------------------|--------------------|--|---------------------|
|            |                               |            | Less than Six Months Fair | Six to Nine Months |  |                     |