

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

In the Matter of	)	
	)	
Spectrum Five LLC	)	IBFS File Nos. SAT-LOI-20081113-00216
	)	SAT-AMD-20091026-00113
Petition for Declaratory Ruling Regarding 17/24	)	SAT-AMD-20111223-00247
GHz Broadcasting-Satellite Service to the U.S.	)	SAT-AMD-20120308-00038
Market from the 119.25° W.L. Orbital Location	)	SAT-AMD-20120314-00043
	)	SAT-AMD-20120525-00090
	)	SAT-AMD-20120615-00098
	)	
	)	Call Sign: S2777

**ORDER**

**Adopted: January 12, 2018**

**Released: January 12, 2018**

By the Chief, Satellite Division, International Bureau:

**I. INTRODUCTION**

1. By this Order, we declare null and void Spectrum Five LLC's (Spectrum Five) grant of access to the U.S. market for a geostationary satellite orbit (GSO) satellite to be located at the 119.25° W.L. orbital location operating in the 17/24 Broadcast-Satellite Service (BSS) satellite, for failure to meet its final milestone requirement, launch and operation. Specifically, Spectrum Five's failure to launch and begin operations of its satellite by the required date renders its authorization null and void by its own terms. Consequently, the outstanding balance on the bond, \$750,000, is now due to the U.S. Treasury.

**II. BACKGROUND AND DISCUSSION**

2. On October 17, 2012, the International Bureau's Satellite Division (Division) granted Spectrum Five authority to access the U.S. market in the 17/24 GHz BSS, using a proposed satellite that would operate under the authority of the Netherlands at the 119.25° W.L. orbital location.<sup>1</sup>

3. Consistent with the Commission's rules,<sup>2</sup> the Division imposed a milestone schedule on Spectrum Five's authorization.<sup>3</sup> Spectrum Five was required to meet four milestones: 1) enter into a binding non-contingent construction contract for the satellite within one year of authorization; 2) complete critical design review within two years of authorization; 3) begin construction of the satellite within three years of authorization; and 4) launch and operate the satellite within five years of

<sup>1</sup> *Spectrum Five LLC*, Declaratory Ruling, 27 FCC Rcd 13129 (IB, Sat. Div. 2012) (*Spectrum Five Declaratory Ruling*). The declaratory ruling granted Spectrum Five's application, IBFS File No. SAT-LOI-20081113-00216, as amended by IBFS File Nos. SAT-AMD-20091026-00113, SAT-AMD-20111223-00247, SAT-AMD-20120308-00038, SAT-AMD-20120314-00043, SAT-AMD-20120525-00090, and SAT-AMD-20120615-00098.

<sup>2</sup> See 47 CFR § 25.164.

<sup>3</sup> *Spectrum Five Declaratory Ruling*, 27 FCC Rcd at 13137, para. 23.

authorization.<sup>4</sup> These milestones were incorporated as a condition of Spectrum Five's authorization, which also provided that failure to comply with a milestone would result in automatic cancellation of Spectrum Five's authorization.<sup>5</sup> In addition, Spectrum Five was required to file a bond for \$3 million within 30 days of grant.<sup>6</sup>

4. The Commission modified the milestone and bond rules in 2015.<sup>7</sup> Existing licensees and market access recipients were given the option to either request to proceed under the new milestone and bond regime, or to continue under the bond and milestone conditions established in their grants.<sup>8</sup> Since Spectrum Five did not request to proceed under the new milestone and bond regime, the existing bond and milestone conditions to its grant continued to apply.

5. On October 14, 2016, the Division determined that Spectrum Five had met the contract execution, critical design review, and commence construction milestones.<sup>9</sup> The Division concluded accordingly that Spectrum Five could reduce the bond amount by \$2,250,000, to \$750,000.<sup>10</sup>

6. October 17, 2017, was the deadline for Spectrum Five to launch and begin operations of its satellite.<sup>11</sup> The Commission's rules state that if a licensee or market access recipient fails to meet any milestone deadline set forth in section 25.164, or has not provided a sufficient basis for extending the milestone at the time of the milestone deadline, the licensee or market access recipient will be considered to be in default with respect to the bond.<sup>12</sup> The conditions of Spectrum Five's authorization, which state that failure to comply with a milestone will result in automatic cancellation of Spectrum Five's authorization,<sup>13</sup> are consistent with this rule. Spectrum Five did not make any filings in the International Bureau Filing System or otherwise demonstrate to the Commission that it had satisfied this milestone, and there is no other evidence that Spectrum Five has met this milestone for its planned 17/24 GHz BSS satellite.

### III. CONCLUSION

7. Based on the lack of evidence that Spectrum Five's planned satellite has been launched and is operational, we find that Spectrum Five has failed to meet the fourth and final milestone in its grant of market access. Therefore, by its terms, Spectrum Five's satellite authorization is null and void. Consequently, the outstanding balance on the bond, \$750,000, is now due to the U.S. Treasury.

### IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED that Spectrum Five LLC's grant of access to the U.S. market for a 17/24 GHz BSS satellite to be located at the 119.25° W.L. orbit location, IBFS File Nos. SAT-LOI-20081113-00216, SAT-AMD-20091026-00113, SAT-AMD-20111223-00247, SAT-AMD-20120308-00038, SAT-AMD-20120314-00043, SAT-AMD-20120525-00090, and SAT-AMD-20120615-00098

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 13136, 13137, paras. 18, 23(a). Spectrum Five filed documentation of the bond with the Commission on November 16, 2012. *See* IBFS File No. SAT-LOI-20081113-00216.

<sup>7</sup> *See Comprehensive Review of Licensing and Operating Rules for Satellite Services*, Second Report and Order, 30 FCC Rcd 14713, 14734, para. 52 (2015).

<sup>8</sup> *Id.* at 14746, para. 86.

<sup>9</sup> *Policy Branch Information Actions Taken*, Public Notice, 31 FCC Rcd 11656 (IB, Satellite Div. 2016).

<sup>10</sup> *Id.*

<sup>11</sup> *Spectrum Five Declaratory Ruling*, 27 FCC Rcd at 13137, para. 23(e).

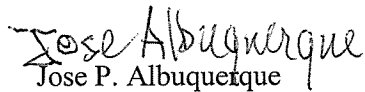
<sup>12</sup> 47 CFR §§ 25.161(a)(1), 25.165(c); *see* 47 CFR § 25.137(d) (applying bond and milestone requirements to recipients of U.S. market access grants for non-U.S. licensed space stations that are not in-orbit and operating).

<sup>13</sup> *Spectrum Five Declaratory Ruling*, 27 FCC Rcd at 13137, para. 23.

(Call Sign: S2777) is null and void.

9. IT IS FURTHER ORDERED that Spectrum Five LLC's remaining bond balance of \$750,000 is now due and payable to the U.S. Treasury.

FEDERAL COMMUNICATIONS COMMISSION



Jose P. Albuquerque

Chief

Satellite Division, International Bureau