

January 6, 2012

**BY ELECTRONIC FILING**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, DC 20554

Re: *IBFS File Nos. SAT-LOA-20060908-00100, SAT-AMD-20080114-00014, and SAT-AMD-20080321-00077 (Call Sign S2712)*

Dear Ms. Dortch:

On July 27, 2009, the International Bureau adopted an order granting DIRECTV Enterprises, LLC (“DIRECTV”) authority to construct, launch, and operate a 17/24 GHz BSS space station at 102.825° W.L.<sup>1</sup> Spectrum Five LLC, which had opposed DIRECTV’s application, filed a petition for reconsideration of that decision based upon the contention that DIRECTV’s calculation of the power flux-density (“PFD”) of its system did not comply with Section 25.208(w) because it included minute amounts of atmospheric attenuation. This issue had been heavily litigated, and authoritatively resolved in DIRECTV’s favor, in the proceeding below.<sup>2</sup>

In order to avoid a similarly belabored exchange of filings with Spectrum Five over an ultimately inconsequential issue, DIRECTV did not include any atmospheric attenuation in the PFD calculation submitted in a subsequent application to modify its 17/24 GHz BSS authorization at 102.825° W.L.<sup>3</sup> Although that application was filed over five months ago, Spectrum Five just last week filed a Supplement to its petition for reconsideration, arguing that DIRECTV’s decision not to include atmospheric attenuation in its more recent PFD calculation is a concession that the use of such attenuation in the original application did not comply with Section 25.208(w).<sup>4</sup> Of course, DIRECTV has conceded no such thing.

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<sup>1</sup> See *DIRECTV Enterprises, LLC*, 24 FCC Rcd. 9393 (Int’l Bur. 2009).

<sup>2</sup> See generally *id.*, ¶¶ 10-25.

<sup>3</sup> See IBFS File No. SAT-MOD-20110727-00136 (filed July 27, 2011).

<sup>4</sup> Supplement to Petition for Reconsideration at 2 (filed Dec. 27, 2011). Unless otherwise noted, all filings referred to herein were filed in the instant proceeding.

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This is not the first time Spectrum Five has made this argument. Indeed, its petition for reconsideration noted an earlier application in which DIRECTV similarly did not include atmospheric attenuation in its PFD calculation.<sup>5</sup> The response is the same now as it was then:

This is not a concession by DIRECTV that such losses should not be considered in the PFD analysis, as speculated by Spectrum Five. Simply put, DIRECTV concluded that it would be preferable to forego any insignificant increase in PFD that would result by including atmospheric losses rather than invite the inevitable further opposition from Spectrum Five. . . . DIRECTV chose to avoid the issue and the attendant delay and expense arising from further filings by Spectrum Five. The change in approach reflects a preference for expedited processing, not any implicit concession about the PFD methodology used in prior applications.<sup>6</sup>

Spectrum Five's desire to divine a more substantive meaning is understandable, but erroneous as a matter of both fact and logic.

Spectrum Five's filing does force DIRECTV to concede one fact: unfortunately, it appears that there is no way for DIRECTV to prevent Spectrum Five from submitting yet another frivolous filing. The only hope is that a firm rejection of its pending petition for reconsideration will take at least one issue off the table for further briefing. Accordingly, DIRECTV urges the Commission to deny the petition expeditiously.

Respectfully submitted,

/s/

William M. Wiltshire  
*Counsel to DIRECTV Enterprises, LLC*

cc: David Wilson (President, Spectrum Five LLC)  
Robert Nelson  
Kathryn Medley  
Chip Fleming

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<sup>5</sup> Petition for Reconsideration of Spectrum Five LLC at 10 (filed Aug. 27, 2009) (citing IBFS File No. SAT-LOA-20090807-00085).

<sup>6</sup> Opposition to Petition for Reconsideration at 21 (filed Sep. 10, 2009).

