

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
DIRECTV ENTERPRISES, LLC)	Call Sign S2796 (File No. SAT-LOA-
)	20090807-00085)
Application for Authority to Launch and)	
Operate a 17/24 GHz Broadcasting-)	
Satellite Service Space Station)	

COMMENTS OF CIEL SATELLITE LIMITED PARTNERSHIP

Ciel Satellite Limited Partnership (“Ciel”), pursuant to Section 1.106 of the Commission’s Rules, 47 C.F.R. § 1.106, hereby submits its comments concerning the Spectrum Five LLC (“Spectrum Five”) Petition for Reconsideration¹ of the grant of construction and launch (but not operating) authority to DIRECTV Enterprises, LLC (“DIRECTV”) for DIRECTV RB-2A, a 17/24 GHz Broadcasting-Satellite Service (“BSS”) payload at the 102.765° W.L. orbital location.²

Ciel has actively participated in the proceedings relating to the DIRECTV RB-2A license application (the “RB-2A Application”)³ as well as the proceedings concerning Spectrum

¹ Petition for Reconsideration of Spectrum Five LLC, File No. SAT-LOA-20090807-00085, Call Sign S2796, filed Jan. 19, 2010 (“Spectrum Five Petition”).

² *DIRECTV Enterprises, LLC*, Stamp Grant, File No. SAT-LOA-20090807-00085, Call Sign S2796 (granted in part and deferred in part Dec. 15, 2009) (“December 15 RB-2A Grant”).

³ See Comments of Ciel Satellite Limited Partnership, File No. SAT-LOA-20090807-00085, filed Nov. 2, 2009 (“Ciel RB-2A Comments”); Reply Comments of Ciel Satellite Limited Partnership, File No. SAT-LOA-20090807-00085, filed Nov. 24, 2009 (“Ciel RB-2A Reply Comments”).

Despite the fact that Ciel is a party to the proceeding, Spectrum Five failed to serve Ciel with a copy of its reconsideration petition as required by Section 1.106(f) of the Commission’s Rules. See 47 C.F.R. § 1.106(f) (“The petition for reconsideration . . . shall be served upon parties to the proceeding.”). Ciel nevertheless learned of the Spectrum Five Petition and is filing these comments on the petition within the time specified under Section 1.106(g) as if Spectrum

Five's request for authority to serve the U.S. market using the Netherlands-licensed BSSNET2-103W 17/24 GHz BSS spacecraft at the nominal 103° W.L. orbital location (the "BSSNET2-103W LOI").⁴ As Ciel has explained, Ciel holds Canadian authority to provide 17/24 GHz BSS at 103° W.L., and the underlying Canadian International Telecommunication Union ("ITU") filings have date priority over both the U.S. filings relied on by DIRECTV and the Netherlands filings relied on by Spectrum Five for the 17/24 GHz BSS frequencies at this orbital position.⁵

To ensure protection of its spectrum rights, Ciel has requested in both proceedings that the Commission impose its standard conditions relating to international coordination on any authorization for 17/24 GHz BSS services at the nominal 103° W.L. location.⁶ In addition, Ciel has demonstrated that under the Commission's first-come, first-served framework for processing of satellite applications, award of a U.S. license to DIRECTV does not preclude the Commission from considering and granting a request for market access for the same frequencies and nominal orbital location filed by a foreign-licensed satellite operator whose licensing administration holds

Five had served Ciel as required with a copy of the petition by mail. *See* 47 C.F.R. § 1.106(g); 47 C.F.R. § 1.4(h).

⁴ *See* Comments of Ciel Satellite Limited Partnership, File No. SAT-LOI-20081119-00217, dated Nov. 9, 2009 ("Ciel Comments on Petition to Deny BSSNET2-103W"); Comments of Ciel Satellite Limited Partnership, File No. SAT-LOI-20081119-00217, dated Nov. 23, 2009 ("Ciel BSSNET2-103W Comments"); Reply Comments of Ciel Satellite Limited Partnership, File No. SAT-LOI-20081119-00217, dated Dec. 10, 2009 ("Ciel BSSNET2-103W Reply Comments").

Ciel notes that DIRECTV failed to serve Ciel with a copy of DIRECTV's response to Ciel's comments concerning the Spectrum Five BSSNET2-103W LOI. *See* Consolidated Reply and Response of DIRECTV Enterprises, LLC, File No. SAT-LOI-20081119-00217, filed Nov. 17, 2009. Ciel requests that Spectrum Five and DIRECTV ensure that they comply with the Commission's requirements for serving all parties with respect to any future filings they make concerning the RB-2A Application and BSSNET2-103 LOI proceedings.

⁵ *See* Ciel RB-2A Comments at 2; Ciel BSSNET2-103W Comments at 2.

⁶ *See* Ciel RB-2A Comments at 3-6; Ciel BSSNET2-103W Comments at 2-6.

ITU date priority.⁷ Instead, under the ITU Radio Regulations and clear Commission precedent applying those rules, if DIRECTV cannot successfully coordinate its 17/24 GHz BSS operations at the nominal 103° W.L. orbital position with the higher priority Ciel network, DIRECTV will be required to modify or even terminate those operations to accommodate Ciel when Ciel commences service.⁸

The Commission's actions to date concerning the RB-2A Application conform to these principles. Specifically, both the December 15 RB-2A Grant and the subsequent grant of operating authority for the RB-2A 17/24 GHz BSS payload⁹ include the Commission's standard language concerning coordination obligations under the ITU Radio Regulations. That language makes clear that DIRECTV is not protected from interference caused by stations authorized by other Administrations if coordination has not been completed and that the RB-2A license may be subject to additional terms and conditions if necessary to effect coordination.¹⁰ In addition, the January 8 RB-2A Grant expressly provides that "DIRECTV must terminate operations" on RB-2A when a "17/24 GHz BSS space station regularly authorized to provide service to the United States pursuant to the Commission's first-come, first-served processing framework commences operations at the 103° W.L. location, or its offsets" unless DIRECTV "has entered into a coordination agreement with the operator of the newly launched 17/24 GHz BSS space

⁷ See Ciel Comments on Petition to Deny BSSNET2-103W at 1-7; Ciel RB-2A Reply Comments at 13-19.

⁸ Ciel RB-2A Reply Comments at 6-11.

⁹ *DIRECTV Enterprises, LLC*, Stamp Grant, File No. SAT-LOA-20090807-00085, Call Sign S2796 (granted Jan. 8, 2010) ("January 8 RB-2A Grant").

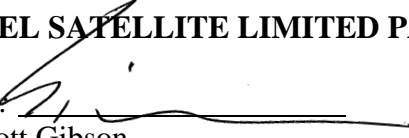
¹⁰ See December 15 RB-2A Grant at 2 (¶ 7); January 8 RB-2A Grant at 2 (¶ 5).

station.”¹¹ Thus, the RB-2A license conditions are consistent with U.S. obligations under the ITU treaty and Commission precedent relating to international coordination, ITU priority, and measures for preventing harmful interference in the absence of a coordination agreement.

The Spectrum Five Petition does not appear to question these aspects of the RB-2A authority. Spectrum Five raises objections concerning the processing of the RB-2A Application prior to action on the BSSNET2-103W LOI and the absence of a condition relating to Spectrum Five’s prior petition for reconsideration of DIRECTV’s license for the RB-2 17/24 GHz BSS spacecraft.¹² Ciel takes no position with respect to these matters. Ciel simply requests that in any decision addressing the Spectrum Five Petition, the Commission take no action that would conflict with international law and Commission policies with respect to coordination requirements and the obligation of a U.S. licensee to yield to a foreign-licensed network with ITU priority absent a coordination agreement.

Respectfully submitted,

CIEL SATELLITE LIMITED PARTNERSHIP

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February 3, 2010

¹¹ January 8 RB-2A Grant at 2 (¶ 2).

¹² Spectrum Five Petition at 1-3.

CERTIFICATE OF SERVICE


I, Scott Gibson, hereby certify that on this 3rd day of February, 2010, I caused to be served a true copy of the foregoing "Comments of Ciel Satellite Limited Partnership" by first class mail, postage prepaid, upon the following:

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