

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

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Federal Communications Commission
Office of Secretary

In the Matter of)
)
Spectrum Five LLC) File Nos. SAT-LOI-20050312-00062/63
)
Petition for Declaratory Ruling To)
Serve the U.S. Market from the)
114.5° W.L. Orbital Location)

Received

MAY 19 2005

COMMENTS OF SES AMERICOM, INC.
Policy Branch
International Bureau

SES Americom, Inc. ("SES Americom"), by its attorneys and pursuant to Section 25.154 of the Commission's Rules, 47 C.F.R. § 25.145, hereby submits its comments on the above-captioned Petition for Declaratory Ruling of Spectrum Five LLC (the "Petition"). Spectrum Five asks the Commission to find that the public interest would be served by its provision of direct broadcast satellite services to U.S. customers using two Netherlands-licensed satellites to be located at the 114.5° W.L. orbital location. Petition at 1. SES Americom requests that the Commission impose a coordination requirement as a condition of any authority Spectrum Five is granted to serve the U.S. market.

The Petition states that the Netherlands has filed on behalf of Spectrum Five the information needed to initiate a modification to the ITU Plan for Region 2 Broadcasting Satellite Service ("BSS") pursuant to the procedures specified in Appendices 30 and 30A of the ITU Radio Regulations. *Id.* at 5. SES Satellites (Gibraltar) Limited ("SES Gibraltar"), a wholly-owned subsidiary of SES

Americom, has approval from the Gibraltar Regulatory Authority ("GRA") to employ BSS frequencies for a satellite network at 114.5° W.L. The United Kingdom submitted filings on behalf of the GRA for this network, USAT S2 (114.5W) and USAT S2 MOD A (114.5W). The U.K. filings have date priority over the Netherlands filings made on behalf of Spectrum Five.

In its Petition, Spectrum Five recognizes that implementation of the U.K. filings would preclude its own planned operations:

There are two filings at 114.5° W.L., the proposed UK filings USAT-S2 and USAT-S2 MOD-A. These systems offer neither service area discrimination nor angular separation in the orbital arc. Simultaneous operation of Spectrum Five and these two UK systems at 114.5° W.L. is not considered to be possible. Spectrum Five Petition, Technical Appendix, Exh. 1 at 4.

In these circumstances, Commission precedent requires the imposition of coordination conditions to protect the rights of SES Gibraltar, which has date precedence under ITU regulations. For example, when EchoStar sought authority for EchoStar VIII, the Commission noted that because the satellite's technical parameters varied from those set forth in the U.S. assignments for the Region 2 Plan, the U.S. would need to file for modification of the BSS Plan for EchoStar VIII.¹ The Commission authorized launch and operation of the satellite, but reminded EchoStar that its satellite operations would not be "guaranteed protection from interference from systems licensed by other Administrations

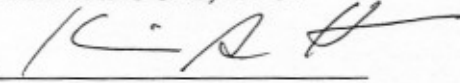
¹ *EchoStar Satellite Corporation, Application for Minor Modification of Direct Broadcast Satellite Authorization, Launch and Operating Authority for EchoStar VIII*, Order and Authorization, 17 FCC Rcd 11326 (Sat. Div. 2002) at ¶ 5.

operating in accordance with the ITU Radio Regulations unless and until the Region 2 BSS Plan and its associated Feeder Link Plan are modified to include the technical parameters of EchoStar VIII." *Id.* at ¶ 7. The Commission also imposed conditions that required EchoStar "to coordinate with any Administration having an affected Region 2 Plan assignment or prior-filed Plan modification" unless and until the Region 2 BSS and Feeder Link Plans were modified to reflect the EchoStar VIII parameters. *Id.*

The same action is appropriate here. If the Commission grants Spectrum Five's request to serve the U.S. market, it must advise Spectrum Five that it is not entitled to interference protection from networks operating pursuant to prior ITU filings. In addition, the Commission should include a condition requiring Spectrum Five to coordinate with affected systems of other administrations that have priority over the Netherlands filing for modification of the Region 2 Plan. These measures are necessary to ensure that Spectrum Five's proposed network complies with ITU requirements and the Commission's rules.

Respectfully submitted,

SES AMERICOM, INC.

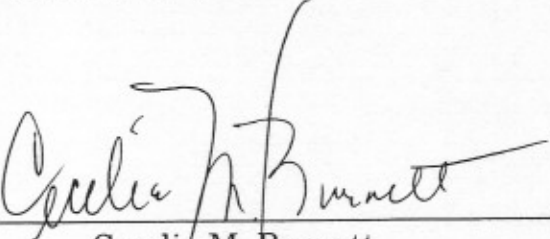
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CERTIFICATE OF SERVICE

I, Cecelia Burnett, do hereby certify that on this 16th day of May, 2005, copies of the foregoing "Comments of SES Americom, Inc." were served to the following parties by first class mail:


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