

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

Application of)	
SPECTRUM FIVE LLC)	File No. SAT-LOI-20081119-00217
Petition for Declaratory Ruling to Serve)	
The U.S. Market from the 103.15° W.L.)	
Orbital Location in the 17/24 GHz BSS)	
Band)	

PETITION TO DENY

DIRECTV Enterprises, LLC (“DIRECTV”) hereby requests that the International Bureau deny the above referenced application filed by Spectrum Five LLC (“Spectrum Five”) for authority to serve the U.S. market from a 17/24 GHz BSS space station operating at the nominal 103° W.L. orbital location. That application is patently inconsistent with a license already issued to DIRECTV. The Commission has clearly stated that, in such a situation, it “will deny applications that conflict with previously granted applications.”¹ In accordance with that policy, DIRECTV requests that Spectrum Five’s application be denied.

Just three months ago, the Commission licensed DIRECTV to operate a 17/24 GHz BSS space station at the same nominal 103° W.L. orbital location using the same frequencies to serve the same coverage area as currently proposed by Spectrum Five.²

¹ *Amendment of the Commission’s Space Station Licensing Rules and Policies*, 18 FCC Rcd. 10760, ¶ 113 (2003) (“FCFS Order”).

² *See DIRECTV Enterprises, LLC*, 24 FCC Rcd. 9393 (Int’l Bur. 2009) (“*DIRECTV Authorization Order*”).

DIRECTV has posted the required performance bond,³ and is proceeding to satisfy the other milestones applicable to its license. The system licensed to DIRECTV and that proposed by Spectrum Five plainly cannot both operate from this slot. Nonetheless, the Bureau recently accepted Spectrum Five's application for filing.⁴

Commission precedent compels the Bureau to dismiss the application, not accept it. In adopting the first come, first served methodology for processing geostationary space station applications, the Commission created a system under which such applications – including requests for authority to serve the U.S. market from a non-U.S. licensed space station⁵ – are placed in a queue according to their date of filing. Those applications are then generally considered in the order in which they are filed. If for any reason the earliest-filed application cannot be granted, comment is solicited on the next application in the queue, with the process repeating until a license is granted.⁶ In adopting this system, the full Commission specifically considered and resolved the question of how to deal with later-filed applications remaining in the queue that are inconsistent with a license that has been granted.

We decide not to keep subsequently filed applications on file. In other words, *if an application reaches the front of the queue that conflicts with*

³ See Public Notice, DA 09-2036 (rel. Sep. 11, 2009).

⁴ See Public Notice, Rep. No. SAT-00641 (rel. Oct. 23, 2009).

⁵ See *FCFS Order*, ¶ 294.

⁶ See *id.*, ¶¶ 108-10 (describing first come, first served processing). The Commission adopted the first come, first served processing methodology for 17/24 GHz BSS space station applications. See *Establishment of Policies and Service Rules for the Broadcasting Satellite Service at the 17.3-17.7 GHz Frequency Band and at the 17.7-17.8 GHz Frequency Band Internationally, and at the 24.75-25.25 GHz Frequency Band for Fixed Satellite Services Providing Feeder Links to the Broadcasting-Satellite Service and for the Satellite Services Operating Bi-directionally in the 17.3-17.8 GHz Frequency Band*, 22 FCC Rcd. 8842, ¶ 8 (2007).

a previously granted license, we will deny the application rather than keeping the application on file in case the lead applicant does not construct its satellite system. We agree with Teledesic that keeping applications on file would encourage speculative or “place holder” applications. . . . ***In summary, we will deny applications that conflict with previously granted applications*** because it is more likely to result in faster service to the public, and it will not disadvantage any party that may wish to apply for that orbit location if it becomes available.⁷

The Commission’s policy is clearly stated and unequivocal.⁸ Once a license is granted, conflicting applications remaining in the queue are to be denied. DIRECTV has been granted the license to use the 17/24 GHz BSS band from the nominal 103° W.L. orbital location, and Spectrum Five’s application to use the same band from the same nominal orbital location to serve the U.S. clearly conflicts with that license.

Accordingly, DIRECTV requests that the Bureau implement the Commission’s policy by denying Spectrum Five’s application.

Respectfully submitted,
DIRECTV ENTERPRISES, LLC

By: _____ /s/

William M. Wiltshire
Michael Nilsson

Susan Eid
Senior Vice President, Government Affairs
Stacy R. Fuller
Vice President, Regulatory Affairs
DIRECTV, INC.
901 F Street, NW, Suite 600
Washington, DC 20004
(202) 383-6300

WILTSHIRE & GRANNIS LLP
1200 Eighteenth Street, N.W.
Washington, DC 20036
202-730-1300

⁷ *FCFS Order*, ¶ 113 (emphasis added).

⁸ Spectrum Five has filed a petition for reconsideration of the *DIRECTV Authorization Order*. However, there is no indication in the *FCFS Order* that dismissal of later-filed applications should be delayed pending resolution of such petitions – much less accepted for filing. Moreover, if the simple filing of such a petition were sufficient to override the Commission’s directive, such petitions would become a matter of course – adding to the burden on Commission resources and undermining the processing efficiency that the Commission’s dismissal policy was designed to achieve.

October 28, 2009

Counsel for DIRECTV Enterprises, LLC

