

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

In the Matter of )  
 )  
Spectrum Five LLC ) Call Sign S2778 (File No. SAT-LOI-  
 ) 20081119-00217)  
Petition for Declaratory Ruling to Serve the )  
U.S. Market Using a Netherlands- )  
Licensed 17/24 GHz Broadcasting-Satellite )  
Service Space Station )

**REPLY OF CIEL SATELLITE LIMITED PARTNERSHIP**

Ciel Satellite Limited Partnership (“Ciel”), pursuant to Section 25.154 of the Commission’s Rules, 47 C.F.R. § 25.154, hereby submits its reply concerning the above-captioned request of Spectrum Five LLC (“Spectrum Five”) for authority to serve the U.S. using BSSNET2-103W, a Netherlands-licensed 17/24 GHz Broadcasting-Satellite Service (“BSS”) space station to be located at the nominal 103° W.L. orbital location (the “Spectrum Five Request”).

Ciel’s comments demonstrate that any grant of the Spectrum Five Request must be subject to conditions designed to ensure that Spectrum Five does not cause harmful interference to a satellite network with higher International Telecommunication Union (“ITU”) priority.<sup>1</sup> Ciel holds Canadian authority to provide 17/24 GHz BSS at 103° W.L., and the underlying Canadian ITU filings have date priority over the Netherlands filings relied upon by Spectrum Five for these frequencies at this orbital position.<sup>2</sup>

---

<sup>1</sup> See Comments of Ciel Satellite Limited Partnership, File No. SAT-LOI-20081119-00217, dated Nov. 23, 2009 (“Ciel Comments”).

<sup>2</sup> *Id.* at 2.

In its response, Spectrum Five states that it “does not object to the Bureau’s imposition of conditions that are typically imposed” on 17/24 GHz BSS authorizations and confirms that it “fully intends to comply with its coordination obligations” under the ITU’s rules.<sup>3</sup> Spectrum Five’s agreement that coordination requirements are appropriate disposes of the only matter raised by Ciel. Thus, to the extent that the Commission grants the Spectrum Five Request, it should do so subject to the conditions enumerated in the Ciel Comments.<sup>4</sup> To re-iterate, those conditions are as follows:

1. Communications between U.S. earth stations and BSSNET2-103W shall be in compliance with the satellite coordination agreements reached between the Netherlands and other Administrations.
2. In the absence of a coordination agreement with a satellite network with higher ITU priority, BSSNET2-103W must cease service to the U.S. market immediately upon launch and operation of the higher ITU priority satellite, or be subject to further conditions designed to address potential harmful interference to a satellite with ITU date precedence.
3. In the absence of a coordination agreement with a satellite network with higher ITU priority, earth station licensees communicating with BSSNET2-103W must terminate immediately any operations that cause harmful interference.

Spectrum Five, however, goes on to allege that Ciel will not be eligible for U.S. market access for its planned 17/24 GHz BSS operations from 103° W.L. because the Canadian

---

<sup>3</sup> Spectrum Five LLC Response to Comments of Ciel Satellite Limited Partnership, File No. SAT-LOI-20081119-00217, dated Dec. 3, 2009 (“Spectrum Five Response”) at 1.

<sup>4</sup> Ciel Comments at 2-3.

ITU filings at that location demonstrate that Ciel will not serve Alaska and Hawaii.<sup>5</sup> As a result, Spectrum Five argues, it should not be required to coordinate with Ciel with respect to U.S. operations.<sup>6</sup>

Spectrum Five's argument is meritless. First, Spectrum Five's claim that Ciel would be denied U.S. market access is irrelevant to the instant proceeding. As Spectrum Five acknowledges, Ciel has not yet submitted a U.S. market access request,<sup>7</sup> so the question of whether Ciel's proposed operations would qualify for U.S. market access is not before the Commission. The sole issue to be decided here is whether and on what terms the Spectrum Five Request should be granted.

Second, and in any event, Spectrum Five is simply wrong on the facts. Spectrum Five's pronouncement that "neither Hawaii nor the bulk of Alaska" is within the coverage of the higher priority Canadian ITU filings is based entirely on a reference to a single beam depicted in the CAN BSS-19 filing.<sup>8</sup> Spectrum Five ignores the fact that in both the CAN BSS-11 and CAN BSS-19 filings, there are steerable beams that have coverage of Hawaii and Alaska.<sup>9</sup> Thus, contrary to Spectrum Five's claim, no new Canadian ITU filings are needed for Ciel to provide service to the U.S., including Alaska and Hawaii.<sup>10</sup> The existing Canadian filings are sufficient and have ITU priority over the Netherlands filings with respect to Alaska and Hawaii as well as

---

<sup>5</sup> Spectrum Five Response at 2-3.

<sup>6</sup> *Id.* at 3.

<sup>7</sup> *Id.* at 2.

<sup>8</sup> *Id.* at 2-3 & n.5, *citing* the CAN BSS-19 filing at figure 5.

<sup>9</sup> *See* CAN BSS-11 at Figure 8; CAN BSS-19 at Figure 8.


<sup>10</sup> *See* Spectrum Five Response at 3.

the contiguous United States. Spectrum Five is obligated under the ITU rules to coordinate with Ciel for all of Spectrum Five's proposed coverage area, including the United States, and its ability to operate over the United States will be subject to the outcome of such coordination.

Spectrum Five recognizes that coordination conditions are appropriate here. The Commission should incorporate Ciel's requested coordination conditions in any grant of the Spectrum Five Request and dismiss Spectrum Five's remaining arguments as irrelevant and unfounded.

Respectfully submitted,

**CIEL SATELLITE LIMITED PARTNERSHIP**

By   
Scott Gibson  
Vice President & General Counsel  
Ciel Satellite Limited Partnership  
275 Slater Street, Suite 810  
Ottawa, Ontario, Canada  
K1P 5H9

December 10, 2009


## CERTIFICATE OF SERVICE

I, Scott Gibson, hereby certify that on this 10th day of December, 2009, I caused to be served a true copy of the foregoing "Reply of Ciel Satellite Limited Partnership" by first class mail, postage prepaid, upon the following:

David Wilson, President  
Spectrum Five LLC  
1776 K Street, N.W., Suite 200  
Washington, DC 20006

William Wiltshire  
Harris, Wiltshire & Grannis LLP  
1200 18th Street, N.W.  
Washington, DC 20036  
*Counsel to DIRECTV ENTERPRISES, LLC*

Howard W. Waltzman  
Adam C. Sloane  
Mayer Brown LLP  
1999 K Street, N.W.  
Washington, DC 20006  
*Counsel to Spectrum Five LLC*

  
Scott Gibson