

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

In the Matter of

SPECTRUM FIVE LLC

Petition for Declaratory Ruling to Serve the U.S.
Market from the 110.9° W.L. Orbital Location in
the 17/24 Broadcasting Satellite Service Band

File No. SAT-LOI-20150416-00025
Call Sign S2940

To: Chief, International Bureau

**SPECTRUM FIVE RESPONSE TO COMMENTS OF
CIEL SATELLITE LIMITED PARTNERSHIP**

In response to the Commission's announcement that the 17/24 GHz Broadcasting Satellite Service ("BSS") spectrum at 110.4° W.L. was available for assignment,¹ Spectrum Five LLC filed a petition for a declaratory ruling that would allow it to use a Netherlands-authorized satellite at the 110.9° W.L. orbital location.² The Commission accepted Spectrum Five's petition for filing and placed it on public notice on August 7, 2015, with any opposition due September 7, 2015.³ Spectrum Five is not aware of any other active petitions to use the 17/24 GHz BSS spectrum at this orbital location. Nor has any satellite operator opposed the petition. The Bureau should grant Spectrum Five's petition.

¹ See *Policy Branch Information; Actions Taken*, Public Notice, Report No. SAT-01059, DA 14-1821 (Dec. 12, 2014) (announcing frequencies "available for reassignment pursuant to the Commission's first-come, first served licensing process").

² *Spectrum Five LLC Petition for Declaratory Ruling to Provide Service from 110.9° W.L.*, IBFS File No. SAT-LOI-20150416-00025 (Apr. 16, 2015).

³ See *Policy Branch Information; Satellite Space Applications Accepted for Filing*, Report No. SAT-01101 (Aug. 7, 2015).

The only comments filed regarding Spectrum Five’s petition were submitted by Ciel Satellite Limited Partnership (“Ciel”) on September 11, 2015.⁴ While Ciel does not oppose Spectrum Five’s petition,⁵ it requests that the Commission impose additional license conditions relating to ITU coordination with the Ciel network, and further that Spectrum Five notify its customers of these conditions.⁶ The Bureau has already rejected requests to impose similar conditions upon other satellite operators, and it should do the same here.

When DIRECTV submitted a similar application for a 17/24 GHz BSS license at 102.8° W.L., Ciel and SES Americom Inc. (“SES”) both asked the Commission “to place additional conditions relating to DIRECTV’s international coordination responsibilities on any license.”⁷ As it has done here, Ciel requested that the Commission impose conditions “mak[ing] clear that any licenses awarded are subject to the licensee’s obligation to coordinate with satellite operators having ITU date priority” and that the licensees be required “to advise [their] customers that

⁴ Comments of Ciel Satellite Limited Partnership, *Spectrum Five LLC; Petition for Declaratory Ruling to Serve the U.S. Market from the 110.9° W.L. Orbital Location in the 17/24 Broadcasting Satellite Service Band*, IBFS File No. SAT-LOI-20150416-00025 (Sept. 11, 2015) (“Ciel Comments”).

⁵ Ciel asserts that Spectrum Five has “not address[ed] the obligation to undertake international coordination of [Ciel’s] planned operations.” Ciel Comments at 2. But Ciel currently has no satellite with which Spectrum Five could coordinate.

⁶ Ciel requests three conditions: (1) earth communications “shall be in compliance with the satellite coordination agreements reached between the Netherlands and other Administrations”; (2) “[i]n the absence of a coordination agreement with a satellite network with higher ITU priority,” Spectrum Five “must cease service to the U.S. market immediately upon launch and operation of the higher ITU priority satellite” or take other measures “designed to address potential harmful interference to a satellite with ITU date precedence”; and (3) “[i]n the absence of a coordination agreement with a satellite network with higher ITU priority,” earth communications “must terminate immediately any operations that cause harmful interference.” *Id.* at 2-3.

⁷ Order and Authorization, *DIRECTV Enterprises, LLC; Application for Authorization to Launch and Operate DIRECTV RB-2, a Satellite in the 17/24 GHz Broadcasting Satellite Service at the 102.825° W.L. Orbital Location*, 24 FCC Rcd 9393, ¶ 4 (Int’l Bur. 2009) (“*DIRECTV Order*”).

service might be discontinued or altered as a result of coordination agreements with other operators.”⁸ SES made substantially the same request.⁹

The Bureau rejected these requests, finding “no compelling reason to impose such a condition on this authorization at this time.”¹⁰ It noted that “[m]ost of the conditions sought” are already included in the Commission’s rules.¹¹ The Bureau further referenced a prior order in which it described the “responsibility to coordinate with other potentially affected space station operators” but declined to impose explicit license conditions because coordination was already adequately addressed by the Commission’s rules.¹² The Bureau’s prior refusals to impose license conditions that mirror its rules is sound practice. Such duplicative conditions pose the risk that, if the Commission’s rules change, old licenses may still be governed by legacy rules.

The contrary authority on which Ciel relies is unavailing. In the *Star One Order*, the Bureau imposed two of the three conditions that Ciel requests here (but not the customer-notification provision).¹³ But the Bureau noted that “the inclusion of these conditions may be

⁸ Ciel Comments at 2-3, *DIRECTV Enterprises, LLC, et al.; Applications for Authority to Launch and Operate 17/24 GHz Broadcasting-Satellite Service Space Stations*, IBFS File Nos. SAT-LOA-19970605-00049 *et al.* (Aug. 1, 2008).

⁹ See SES Comments at 2-3, *DIRECTV Enterprises, LLC, et al.; Applications for Authority to Launch and Operate 17/24 GHz Broadcasting-Satellite Service Space Stations*, IBFS File Nos. SAT-LOA-19970605-00049 *et al.* (Aug. 1, 2008).

¹⁰ *DIRECTV Order* ¶ 32.

¹¹ *Id.* (citing 47 C.F.R. § 25.111(b)). Section 25.111(b) states that “[n]o protection from interference . . . is guaranteed unless ITU procedures are timely completed [and] . . . coordination agreements are successfully completed. A license for which such procedures have not been completed may be subject to additional terms and conditions required for coordination of the frequency assignments with other Administrations.” 47 C.F.R. § 25.111(b).

¹² *DIRECTV Order* ¶ 32 n.80 (citing Order and Authorization, *Intelsat North America LLC*, 24 FCC Rcd 7058, ¶¶ 18-19 (Int’l Bur. 2009)).

¹³ Order on Reconsideration, *Star One S.A.; Petition for Declaratory Ruling to Add the Star One C5 Satellite at 68° W.L. to the Permitted Space Station List*, 23 FCC Rcd 10896, ¶ 6 (Int’l Bur. 2008) (“*Star One Order*”).

viewed as *unnecessary in ordinary circumstances*,” imposing them in this case only to “remov[e] any uncertainty as to the applicability of Commission policy in this case.”¹⁴ The uncertainty in that case was evidenced by the several filings of foreign nations requesting that the license provide further clarification regarding the Commission’s rules and practices.¹⁵ Similarly, in the *Telstar 13 Order*, the Commission imposed extra conditions (but not a customer-notification requirement) during a time of relative uncertainty. The *Telstar 13 Order* was issued less than three months after the Commission had revised its space station licensing process in May 2003, and the *Telstar 13 Order* provided an opportunity to demonstrate how the new process would be applied.¹⁶ Notably, Ciel does not suggest that any similar uncertainty exists here. It merely requests the extra conditions so that “Spectrum Five is aware of [its] obligation[s].”¹⁷ Spectrum Five is fully aware of those obligations, and Ciel has identified no reason to impose conditions that the Bureau has previously refused to impose, including at the request of Ciel.

¹⁴ *Id.* ¶ 5 (emphasis added).

¹⁵ See Letter from Joaquin Restrepo, International Affairs Advisor, Ministry of Communications, Republic of Columbia, to Kevin J. Martin, Chairman, FCC, at 3, IBFS File No. SAT-PPL-20071113-00159 (Mar. 13, 2008) (Andean Community (Bolivia, Colombia, Ecuador, and Peru) requesting that “coordination aspects” of the Brazilian and Andean networks be “spelled out more definitively in the grant”).

¹⁶ See Order, *Loral Spacecom Corporation; Petition for Declaratory Ruling to Add Telstar 13 to the Permitted Space Station List*, 18 FCC Rcd 16374, ¶ 16 (Int’l Bur. 2003) (“*Telstar 13 Order*”) (referencing the new licensing rules in its imposition of license conditions).

¹⁷ Ciel Comments at 6. Ciel claims (at 6 n.10) that Spectrum Five has “conceded” these conditions are appropriate. Not so. In a prior licensing proceeding for the 103° W.L. orbital location, Spectrum Five merely did not object to Ciel’s requested conditions, but it did not concede such conditions were either appropriate or necessary. See Spectrum Five Response to Ciel Comments at 1, *Spectrum Five LLC; Petition for Declaratory Ruling to Serve the U.S. Market from the 103.15° W.L. Orbital Location in the 17/24 GHz Broadcasting Satellite Service Band*, File No. SAT-LOI-20081119-00217 (Dec. 3, 2009). The Commission awarded a license to DIRECTV for that orbital location without the conditions that Ciel requested. See *DIRECTV Order*.

CONCLUSION

The Commission should grant Spectrum Five's petition without the conditions Ciel requests.

October 7, 2015

Respectfully submitted,

SPECTRUM FIVE LLC

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CERTIFICATE OF SERVICE

I, David Wilson, hereby certify that a true and correct copy of the foregoing Opposition of Spectrum Five LLC was served on the following by overnight international mail, on October 7, 2015.

Scott Gibson
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/s/ David Wilson
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