



Federal Communications Commission
Washington, D.C. 20554

March 4, 2016

Mr. Scott H. Angstreich
Kellogg, Huber, Hansen, Todd, Evan & Figel, P.L.L.C.
1615 M Street, N.W.
Washington, D.C. 20036

Re: Spectrum Five LLC, closed IBFS File Nos. SAT-LOI-20150416-00025 (Call Sign S2940) and SAT-LOI-20150416-00026 (Call Sign S2941)

Dear Mr. Angstreich:

This letter responds to your correspondence dated February 19, 2016, regarding the above-referenced proceedings. On October 29, 2015, the Satellite Division granted Spectrum Five access to the U.S. market to provide direct-to-home services using proposed 17/24 GHz BSS space stations at the 115° W.L. and 110.9° W.L. orbital locations under the authority of the Netherlands.¹ Both grants were subject to conditions, including the requirement that Spectrum Five post a bond in the amount of \$3 million within 30 days of the grant. The grants also specified that Spectrum Five had 30 days to decline the grant, and that failure to respond would constitute an acceptance of the grant as conditioned.² In your letter, you request to withdraw Spectrum Five's November 30, 2015 letter that declined the grant of market access in the above-referenced proceedings, and to effectively reinstate these grants.³ You also ask that the Spectrum Five be permitted to post a reduced bond pursuant to the Commission's recently adopted rules.⁴ For the reasons stated below, the grants expired by their own terms as of November 30, 2015, regardless of whether Spectrum Five withdraws its letter declining acceptance of the grants.

Section 25.165 of the Commission's rules requires the posting of a bond within 30 days of license grant or a grant of market access. Failure to post a bond "will render the license null and void

¹ IBFS File No. SAT-LOI-20150416-00026 (grant stamped Oct. 29, 2015), granting Spectrum Five U.S. market access for a proposed 17/24 GHz BSS space station from the 115° W.L. orbital location, and IBFS File No. SAT-LOI-20150416-00025 (grant stamped Oct. 29, 2015), granting Spectrum Five U.S. market access for a proposed 17/24 GHz BSS space station from the 110.9° W.L. orbital location.

² *Id.* at conditions 5 and 9.


³ Spectrum Five also seeks a waiver of any rules that would prevent the withdrawal of the November 30 letter. *See* Letter to Marlene H. Dortch, Secretary FCC, from Scott H. Angstreich, Counsel for Spectrum Five (Feb. 19, 2016). Spectrum Five also seeks a waiver of the Commission's rules to allow it to post a bond of \$1 million for each grant of market access. *Id.* The request fails to state any persuasive public interest reasons for a waiver. The frequencies and orbital location that were the subject of the grant will be made available for assignment in the near future. We do not interpret Section 25.153 of the Commission's rules, concerning repetitious applications, as precluding Spectrum Five from submitting a new application once that action is taken.

⁴ *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, Second Report and Order, FCC 15-167, ¶ 80 (Dec. 17, 2015). Changes to the Part 25 rules adopted in this Order are not yet in effect. 5 U.S.C. § 553. The International Bureau will publish a public notice announcing the effective date for the rule changes adopted in the order. Second Report and Order at ¶ 371.

automatically.”⁵ In this case, not only did Spectrum Five decline the market access grants on November 30, 2015, but it failed to post the required bonds.⁶ Thus, under Section 25.165 of the Commission’s rules and by the terms of the grant conditions themselves, the grants of market access became null and void on November 30, 2015. Whether Spectrum Five withdraws its letter declining acceptance of the grants is immaterial to the status of these grants of market access, which are null and void.

As Spectrum Five noted in its November 30 letter, it may reapply for market access. Specifically, Spectrum Five may re-file its applications after the Satellite Division releases a public notice stating that the orbital and frequency assignments are available for use by otherwise mutually exclusive applications. Any applications filed before the public notice will be dismissed as premature.

Sincerely,


Jose P. Albuquerque
Chief, Satellite Division
International Bureau

⁵ 47 CFR § 25.165.

⁶ Letter to Marlene H. Dortch, Secretary FCC, from Scott H. Angstreich, Counsel for Spectrum Five (Nov. 30, 2015).