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February 19, 2016

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: Spectrum Five LLC, 17/24 GHz Broadcasting-Satellite Service Authorizations,
File Nos. SAT-LOI-20150416-00025, SAT-LOI-20150416-00026**

Dear Ms. Dortch:

Spectrum Five requests that the Commission allow Spectrum Five to withdraw its November 30, 2015 letter that declined the grant of two licenses, and to post for each license the milestone bond of \$1 million required under the Commission's recently adopted rules within thirty days of its action on this request.

On April 16, 2015, Spectrum Five applied for two licenses to provide 17/24 GHz Broadcasting-Satellite Service to the United States from the 110.9° W.L. and 115° W.L. orbital locations.¹ With one limited exception, these applications were unopposed.² On October 29, 2015, the Commission granted the licenses.³

On November 25, 2015, the Commission announced that it would soon vote on adopting an order "that streamlines, eliminates or updates numerous provisions of Part 25 of the Commission's rules governing licensing and operation of space stations and earth stations for the

¹ See Application, *Spectrum Five LLC Petition for Declaratory Ruling to Provide Service from 110.9 W.L.*, IBFS No. SAT-LOI-20150416-00025 (Apr. 16, 2015); Application, *Spectrum Five LLC Petition for Declaratory Ruling to Provide Service from 115.0 W.L.*, IBFS File No. SAT-LOI-20150416-00026 (Apr. 16, 2015).

² Although no one opposed the grant of the licenses, Ciel Satellite Limited Partnership requested that certain limited conditions be imposed on the license at 110.9° W.L. See Comments of Ciel Satellite Limited Partnership, IBFS File No. SAT-LOI-20150416-00025 (Sept. 11, 2015). The Commission did not impose those conditions.

³ Stamp Grant, *Spectrum Five LLC Petition for Declaratory Ruling to Provide Service from 110.9 W.L.*, IBFS File No. SAT-LOI-20150416-00025 (Oct. 29, 2015); Stamp Grant, *Spectrum Five LLC Petition for Declaratory Ruling to Provide Service from 115.0 W.L.*, IBFS File No. SAT-LOI-20150416-00026 (Oct. 29, 2015).

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provision of satellite communication services.”⁴ These imminent rule changes “created substantial uncertainty” in the marketplace.⁵ For example, because the rule changes being contemplated affected the construction milestone bond requirements, the cost of securing a bond had risen significantly.⁶ Accordingly, on November 30, 2015, Spectrum Five submitted a letter declining the two licenses that had been granted rather than post the \$3 million bonds that were required under the then-effective rules.⁷

On December 17, 2015, the Commission released its revised satellite licensing rules.⁸ In recognition that the interim milestone requirements were difficult to administer and that there had been significant delays in deciding whether those requirements had been satisfied, the Commission abolished the interim milestone requirements and revised the bond requirement.⁹ Additionally, the Commission allowed existing licensees to opt into the new bond and milestone rules.¹⁰ It was not previously clear that this option would be available to Spectrum Five. These rules have thus removed the regulatory uncertainty that caused Spectrum Five to submit the November 30, 2015 letter declining the license grants.

Given the unique issues caused by the timing of the grants of these two licenses and the Commission’s announcement of new rules, Spectrum Five withdraws the November 30, 2015 letter and requests that the Commission accept the milestone bonds that are required under the newly adopted rules.

Allowing Spectrum Five to post the bond required under the newly adopted rules for each of the licenses will save Spectrum Five the time and resources associated with filing new satellite applications that would seek licenses identical to the ones the Commission previously granted. And it would save the Commission the time and resources associated with evaluating and approving those applications once again. Nor is there any good reason to require Spectrum Five to submit new applications. There have been no material changes in circumstances that would alter the Commission’s consideration of the applications, and no other entity has applied for 17/24 GHz Broadcasting-Satellite Service licenses at these locations.

⁴ Press Release, *FCC Announces Tentative Agenda for December Open Meeting* (Nov. 25, 2015), available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2015/db1125/DOC-336593A1.pdf.

⁵ See Letter from Scott H. Angstreich, Kellogg, Huber, Hansen, Todd, Evans & Figel, P.L.L.C., to Marlene H. Dortch, Secretary, FCC, IBFS File Nos. SAT-LOI-20150416-00025 *et al.* (Nov. 30, 2015) (“Spectrum Five 11/30/15 Letter”).

⁶ Further Notice of Proposed Rulemaking, *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, 29 FCC Rcd 12116, ¶ 19 (2014).

⁷ See Spectrum Five 11/30/15 Letter.

⁸ Second Report and Order, *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, FCC 15-167 (2015) (“Satellite Licensing Order”).

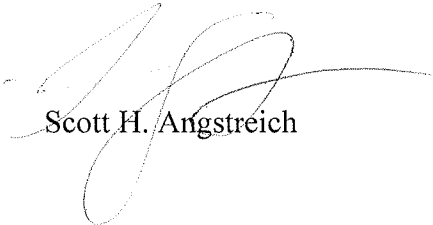
⁹ *Id.* ¶¶ 59, 62.

¹⁰ *Id.* ¶ 86.

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These circumstances provide ample good cause for the Commission to waive any rules that would otherwise prevent Spectrum Five from withdrawing its November 30, 2015 letter and posting the bonds at this time under the new rules.¹¹ Indeed, in adopting the recently revised satellite licensing rules, the Commission expressly noted that preserving “scarce Commission resources” is a factor supporting waiver of the Commission’s rules.¹²

Sincerely,



Scott H. Angstreich

cc: (via email)
Jose Albuquerque

¹¹ See 47 C.F.R. §§ 1.3 (“Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.”); 25.165 (“[T]he licensee is required to post a bond within 30 days of the grant of its license.”).

¹² *Satellite Licensing Order* ¶ 89.