

SAT-LOI-20160308-00025

File # SAT-LOI-20160308-00026

Call Sign S2957 S2958 Grant Date 11/18/16

From: 11/18/16 Term Dates To: 12/02/16

Approved: Jose Albuquerque

JOSE ALBUQUERQUE  
Chief, Satellite Divi



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

**GRANTED**

International Bureau

In the Matter of

Spectrum Five LLC Petition for Declaratory Ruling To Provide Service from 110.9

Spectrum Five LLC Petition for Declaratory Ruling To Provide Service from 115

\* Extension of time to post surety bonds SAT-LOI-20160308-00025

SAT-LOI-20160308-00026

**EMERGENCY MOTION FOR CLARIFICATION AND EXTENSION OF TIME OR, IN THE ALTERNATIVE, FOR WAIVER**

In December 2015, the Commission comprehensively revised its milestone and bond rules.<sup>1</sup> Those rules took effect on September 19, 2016.<sup>2</sup> On October 5, 2016, the Commission granted Spectrum Five's applications for satellite space station authorizations, seeking to provide service from 110.9° W.L. and 115° W.L.<sup>3</sup> To Spectrum Five's knowledge, these are the first approved applications for geostationary satellites under the newly effective milestone and bond rules. Under those rules, and the conditions on the licenses, Spectrum Five was initially required to post surety bonds that comply with newly adopted 47 C.F.R. § 25.165(a)(2) & (b) by November 4, 2016. On November 2, 2016, the Commission granted Spectrum Five's Motion for

<sup>1</sup> See Second Report and Order, *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, 30 FCC Rcd 14713, ¶¶ 49-85 (2015) ("Satellite Rules Order").

<sup>2</sup> See Public Notice, *International Bureau Announces Effective Date of Rules Adopted in the Part 25 Second Report and Order*, 31 FCC Rcd 9807 (2016).

<sup>3</sup> See Stamp Grant, *Spectrum Five LLC Petition for Declaratory Ruling to Provide Service from 110.9*, SAT-LOI-20160308-00025 (Oct. 5, 2016); Stamp Grant, *Spectrum Five LLC Petition for Declaratory Ruling to Provide Service from 115*, SAT-LOI-20160308-00026 (Oct. 5, 2016).

unclear whether the Commission will view that provision as placing an unacceptable contingency on the bond amount or otherwise non-compliant with the new rules.<sup>6</sup>

Spectrum Five, therefore, seeks clarification that a surety bond with these limitations satisfies the Commission's rules.<sup>7</sup> If such terms do not satisfy the Commission's rules, Spectrum Five seeks clarification of how a license applicant and surety are to avoid over-securitization when using a series of fixed-value bonds to comply with the Commission's new rules. For example, are there terms that can be included in the bond itself that will ensure the automatic release of a bond upon posting of a subsequent bond? If no such terms are acceptable, does the Commission have in place, or does it intend to create, a process of the expeditious release of a bond upon posting of a subsequent bond? As the Commission is aware, under the old milestone regime, it was often the case that applicants satisfied intermediate milestones but had to wait months (or even years) to obtain approval to reduce the amount of their bond. That over-securitization led to increased costs for license applicants, which Spectrum Five understands that the Commission sought to avoid by enacting its new surety bond rules.

In conjunction with its request for clarification, Spectrum Five seeks a further extension of the deadline for posting surety bonds, so that the date for posting the bonds is two weeks after the Commission provides the requested clarification. In the alternative, Spectrum Five requests that the Commission waive 47 C.F.R. § 25.165(a) and Condition 4.a of each license grant to allow the posting of a conforming surety bond within two weeks of the issuance of the clarification requested in this motion.

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<sup>6</sup> *See id.* ¶ 6.

<sup>7</sup> *See id.* ¶ 7 (agreeing that such clarification “would be welcomed before finalization of the surety bonds for these licenses”).

Respectfully submitted,

/s/ Scott H. Angstreich

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November 18, 2016

5. In an effort to address that concern, the surety bond that Chubb Limited has proposed would have a fixed end date that is before the October 5, 2021 deadline in the licenses for the launch, positioning, and operation of a compliant space station, and would provide that no extension of time or increase in the bond amount shall be granted by the surety.

6. Although I believe that a surety bond with such limitations would satisfy the new Commission rules — and that Spectrum Five would remain in compliance with those rules so long as it posted a replacement surety bond before the end date of the initial bond — neither the Commission's rules nor the October 7, 2016 guidance makes clear that such a time limited bond satisfies the Commission's new rules.

7. Because the Commission has no process for Commission review and pre-approval of bond terms, further clarification of the new rules would be welcomed before finalization of the surety bonds for these licenses, to ensure that the intent of all parties to the surety bond arrangement — Marsh, Chubb, and Spectrum Five — is fulfilled: namely, that the surety bonds satisfy the condition on these two spectrum licenses.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed in Philadelphia, Pennsylvania this 18th day of November, 2016.

  
Francis J. Curran