

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

In the Matter of	)	
	)	
DIRECTV Enterprises, LLC	)	File Nos. SAT-MOD-20140612-00066 &
	)	SAT-MOD-20140624-00075
Applications for Modification of the	)	Call Sign S2712
RB-2 Satellite License	)	

To: International Bureau

**REPLY OF DISH OPERATING L.L.C.**

DISH Operating L.L.C. (“DISH”) hereby files this reply to the consolidated response of DIRECTV Enterprises, LLC (“DIRECTV”)<sup>1</sup> regarding the above-referenced modification applications (collectively, “Applications”).<sup>2</sup> Consistent with the terms of DIRECTV’s RB-2 satellite license and the FCC’s rules, policies, and international obligations, and in order to protect DISH’s operations from interference, the Commission should condition any positive action on the Applications upon DIRECTV’s completion of coordination with Ciel Satellite Limited Partnership (“Ciel”) and modification of its RB-2 operational parameters to reflect that coordination, all before commencing operations in the 17/24 GHz Broadcasting-Satellite Service (“BSS”) band. Such a condition is required to ensure interference protection for DISH’s use of

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<sup>1</sup> See Consolidated Response of DIRECTV (Sept. 15, 2014). Unless otherwise noted, filings cited herein are in reference to the above-captioned Applications.

<sup>2</sup> The Applications seek to modify the operational parameters for the RB-2 satellite, and to extend the launch and operations milestone for the satellite. See DIRECTV Application, IBFS File No. SAT-MOD-20140612-00066 (filed June 12, 2014); DIRECTV Application, IBFS File No. SAT-MOD-20140624-00075 (filed June 24, 2014).

the Ciel-6i payload, which has indisputably higher International Telecommunication Union (“ITU”) priority than DIRECTV’s RB-2 satellite.<sup>3</sup>

## **I. THE FCC SHOULD REQUIRE DIRECTV TO COMPLETE COORDINATION PRIOR TO COMMENCING 17/24 GHz BSS OPERATIONS**

DISH has contracted to use 17/24 GHz BSS frequencies at 103° W.L. on Ciel-6i, and filed an application with the Commission on September 24, 2014 to operate up to 50,000 earth stations in the United States for the purpose of receiving service from Ciel-6i.<sup>4</sup> As part of its decision to utilize this spectrum, DISH relied on the fact that the Ciel-6i payload holds the highest priority at the ITU and is capable of utilizing the full complement of licensed spectrum in the 17/24 GHz BSS band over North America.<sup>5</sup> This reasonable reliance is based on Ciel’s rights under well-established ITU procedures and on the FCC’s explicit licensing condition requiring DIRECTV to operate RB-2 in a manner consistent with FCC rules and practices.<sup>6</sup> Notwithstanding this legal requirement, DIRECTV has avoided initiating coordination discussions and only recently agreed to meet with Ciel, at Ciel’s request. To date, these coordination meetings have been unsuccessful. Accordingly, the FCC should require DIRECTV

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<sup>3</sup> See *SES Americom, Inc., Application for Authority to Operate the SES-3 Satellite at the 103° W.L.*, 29 FCC Rcd 3678, 3681 ¶ 8 (IB 2014) (“The Canadian ITU filing for the 17/24 GHz BSS operations at the 103° W.L. orbital location predates the U.S. filing.”).

<sup>4</sup> See DISH Petition to Condition at 3 (Sept. 2, 2014). See also Application for Blanket Earth Station License, DISH Operating L.L.C., File No. SES-LFS-2014-\_\_\_\_-\_\_\_\_, filed Sept. 24, 2014.

<sup>5</sup> The Canadian ITU filing for the 17/24 GHz BSS frequencies at the 103° W.L. orbital location, for coverage that includes all of North America, was filed on January 30, 2006, prior to the U.S. filing for DIRECTV’s 17/24 GHz BSS satellite at this nominal location. See ITU Special Section CRC 1907, IFC No. 2590 (Mar. 3, 2007) (publishing CANBSS-19 filing); ITU Special Section CRC 2009, IFIC No. 2600 (July 23, 2007) (publishing USABSN-12 filing); ITU Special Section CRC 2389, IFIC No. 2648 (June 29, 2009) (publishing USABSN-12A filing); ITU Special Section CRC 3410, IFIC No. 2756 (Oct. 14, 2013) (publishing USABSN-12B filing).

<sup>6</sup> See *DIRECTV Enterprises, LLC, Order and Authorization*, 24 FCC Rcd 9393 (IB 2009) (“*RB-2 Order*”), recon. denied, 27 FCC Rcd 5932 (IB 2012).

to complete coordination with Ciel and submit an application for further modification to the RB-2 technical parameters to reflect the terms of such coordination before DIRECTV may operate in the 17/24 GHz BSS spectrum.<sup>7</sup>

Such action is particularly important here, because the risk of harmful interference to DISH's planned operations is real and significant.<sup>8</sup> Yet DIRECTV does not even attempt to demonstrate that RB-2 can operate at 102.75° W.L. over the same frequencies and coverage area as Ciel-6i without causing harmful interference. In contrast, DISH submitted detailed calculations quantifying the adverse impact that RB-2 will have on Ciel-6i absent successful coordination.<sup>9</sup> As the record shows, grant of the proposed RB-2 payload modification must be conditioned on completion of coordination and further technical modification before DIRECTV is authorized to operate. DIRECTV's technical submission is non-compliant with the FCC's application requirements,<sup>10</sup> because it fails to take into account Ciel-6i and its higher ITU priority status, resulting in proposed RB-2 operations that would cause harmful interference to Ciel-6i operations.

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<sup>7</sup> See *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, Report and Order, 12 FCC Rcd 24,094, 24,183 ¶ 214 (1997) (“[I]t is paramount that all operators providing satellite service in the United States comply with Commission rules and policies applicable to that particular satellite service. In addition, we often attach specific conditions to licenses relating to operating requirements, system implementation requirements, and technical parameters. Entities violating the terms of their license are subject to administrative penalties, including monetary forfeitures and license revocation. We will continue our efforts to ensure compliance by all providers, whether U.S. or foreign, and to impose sanctions when appropriate.”).

<sup>8</sup> See DISH Petition to Condition, at 6 & App. A (showing that RB-2 operations will result in a negative margin of 17.6 dB for a 36-MHz carrier on Ciel-6i).

<sup>9</sup> See *id.*

<sup>10</sup> See 47 C.F.R. §§ 25.114(d)(4) & 25.140.

The Commission should also reject DIRECTV's claim that because the existing RB-2 license already includes a coordination requirement, no further action is needed or warranted.<sup>11</sup> The inclusion of the standard coordination language in the RB-2 authorization has had no apparent effect, as DIRECTV never initiated coordination discussions with Ciel in the five years following issuance of the *RB-2 Order* and only recently has even agreed to meet with Ciel, at Ciel's request. In addition, the Commission has previously determined that licensing conditions may be added to clarify the requirement to protect a higher priority network even when standard coordination condition language has already been imposed.<sup>12</sup> This is contained in the language of Section 25.111(b) of the Commission's rules, which was incorporated into the standard conditions of the RB-2 license, as well as many other licenses.<sup>13</sup> The Commission has in the past invoked this language to add new conditions to effectuate the United States' obligation to "avoid interference to any operational system that has a higher ITU priority."<sup>14</sup> For example, in the *EchoStar 11* and *Star One C5* cases, the FCC allowed interim operations pending launch and

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<sup>11</sup> DIRECTV Response at 2 & 10, citing *RB-2 Order* at ¶ 41 ("Any radio station authorization for which coordination has not been completed may be subject to additional terms and conditions as required to effect coordination of the frequency assignments with other Administrations.")

<sup>12</sup> See *The Establishment of Policies and Service Rules for the Broadcasting-Satellite Service at the 17.3-17.7 GHz Frequency Band and at the 17.7-17.8 GHz Frequency Band Internationally*, Second Report and Order, 26 FCC Rcd 8927, ¶ 60 (2011) (the Commission will impose additional conditions relating to international coordination if justified by the facts of a specific case)

<sup>13</sup> See *RB-2 Order* ¶ 41 ("Any radio station authorization for which coordination has not been completed may be subject to additional terms and conditions as required to effect coordination of the frequency assignments with other Administrations.").

<sup>14</sup> See *Spectrum Five LLC Petition for Clarification of Condition in EchoStar 11 License*, Order, 23 FCC Rcd 12786, ¶ 8 (IB 2008) ("*EchoStar 11*"); see also *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*, Order on Reconsideration, 23 FCC Rcd 10896, ¶ 6 (IB 2008) ("*Star One C5*").

operation of a higher-priority spacecraft.<sup>15</sup> Here, there is already a higher-priority spacecraft in operation. Thus, the Commission should expressly instruct DIRECTV that it cannot operate the RB-2 payload until it has successfully completed coordination. Failure to do so would result in a significant risk of harmful interference to the higher priority Ciel-6i satellite network in operation at 103° W.L.

Further, upon finalizing a coordination agreement with Ciel, DIRECTV should be required to further modify RB-2's technical operations to conform to the requirements of such coordination agreement. DIRECTV's arguments against the imposition of a condition requiring further license modification are incorrect.<sup>16</sup> The Commission's authority to modify or add conditions when "coordination has not been completed" or "to effect coordination" is expressly stated in the *RB-2 Order*.<sup>17</sup> Moreover, DIRECTV itself has actively participated in a proceeding in which the Commission made submission of revised technical characteristics a condition of another licensee's grant of U.S. market access. Specifically, "[r]ecognizing that Spectrum Five would need to modify its proposed technical design parameters to reach coordination agreements, [the Commission] also required Spectrum Five to provide all the technical characteristics of the satellites modified as a result of the coordination process, within 30 days after completing CDR."<sup>18</sup> Similarly, the Commission should require DIRECTV to submit for public review the revised RB-2 technical parameters resulting from the as-yet-uncompleted coordination process, before allowing operation of the RB-2 payload to commence.

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<sup>15</sup> *See id.*

<sup>16</sup> DIRECTV Response at 10.

<sup>17</sup> *RB-2 Order* ¶ 41.

<sup>18</sup> *Spectrum Five LLC*, Memorandum Opinion and Order, 26 FCC Rcd 10448, ¶ 3 (IB 2011).

## II. CONCLUSION

For the reasons explained above, the FCC should condition any grant of the Applications on both completing coordination with Ciel and obtaining a further license modification to reflect the requirements resulting from coordination, prior to allowing RB-2 to commence operation. To allow otherwise would be inconsistent with DIRECTV's FCC authorization and the Commission's rules, policies, and international obligations.

Respectfully Submitted,

By: /s/ \_\_\_\_\_  
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September 25, 2014

**Certificate of Service**

I, Alison Minea, hereby certify that on September 25, 2014, I sent true and complete copies of the above Reply via First Class mail to the following:

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