



Federal Communications Commission  
Washington, D.C. 20554

April 25, 2017

David Wilson  
President  
Spectrum Five LLC  
1776 K Street, NW  
Suite 200  
Washington, D.C. 20006

Re: Spectrum Five LLC, Petition for Declaratory Ruling to Serve the U.S. Market from the 95.15° W.L. Orbital Location in the 17/24 Broadcasting Satellite Service Band, IBFS File No. SAT-PPL-20170411-00063 (Call Sign S3013)

Dear Mr. Wilson:

This letter seeks confirmation that Spectrum Five LLC intends to accept and post a bond for a grant of U.S. market access for a 17/24 GHz Broadcast Satellite Service (BSS) satellite at the 95.15° W.L. orbital location, if such market access is granted within the next six months.

Spectrum Five has been previously granted authorizations for a 17/24 GHz BSS satellite at the 95.15° W.L. orbital location, beginning in January 2012, but has either surrendered or declined to accept the authorizations.<sup>1</sup> Most recently, on March 2, 2017, the Satellite Division granted Spectrum Five U.S. market access to provide 17/24 GHz BSS using the proposed BSSNET2A-95W space station under the authority of the Netherlands, at the 95.15° W.L. orbital location.<sup>2</sup> As a condition of its grant of market access, and pursuant to Section 25.165 of the Commission's rules, Spectrum Five was required to post a surety bond 30 days after grant. Spectrum Five did not post a bond, but instead declined the grant of U.S. market access.<sup>3</sup> The frequencies and orbital location became available for reassignment on April 11, 2017.<sup>4</sup> On April 11, Spectrum Five filed the above-captioned petition, which seeks to provide the same service from the 95.15° W.L. orbital location, using the Netherland's authorized satellite, BSSNET2A-95W.

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<sup>1</sup> Spectrum Five was authorized to provide 17/24 GHz BSS from 95.15° W.L. in 2012 as a result of a transfer of control to its wholly owned subsidiary, 95 License Subsidiary, LLC, IBFS File No. SAT-T/C-20111013-00201 (consummated Jan. 13, 2012). It surrendered this authorization in August 2016. See Letter to Marlene H. Dortch, Secretary, FCC, from David Wilson, Spectrum Five, LLC, IBFS File No. SAT-LOA-20090807-00084 (Aug. 29, 2016) explaining the license was surrendered because it had to "shift business strategies away from satellite TV and toward super broadband ... when it was unable to secure international rights from DBS spectrum at the 95.15° W.L. orbital location." Spectrum Five then filed a request for market access via a satellite authorized by the Netherlands for the frequencies at 95.15° W.L. the same day the frequencies were made available for reassignment. Public Notice, *Policy Branch Actions Taken*, 31 FCC Rcd 9693 (Sept. 2, 2016).

<sup>2</sup> Spectrum Five LLC, IBFS File No. SAT-PDR-20160906-00087 (granted March 2, 2017).

<sup>3</sup> Letter to Marlene H. Dortch, Secretary FCC, from Scott H. Angstreich, Counsel for Spectrum Five LLC (April 3, 2017).

<sup>4</sup> Public Notice, *Policy Branch Actions Taken*, DA 17-335 (April 7, 2017).

The purpose of the surety bond is to require the licensee or grantee of market access to commit at the time the license or market access is granted to construct and launch a satellite system, and is intended to discourage the warehousing and speculative pursuit of spectrum.<sup>5</sup> It also helps ensure that the licensee or grantee has a good faith intent to apply for the spectrum rights for the purpose of establishing a satellite service.<sup>6</sup>

As part of the above-captioned re-filed request for market access, Spectrum Five notes its failure to post the previous bond and now states it is “able and willing to post the bond.”<sup>7</sup> To assist our review, we ask Spectrum Five to explain the change in circumstances between April 3, 2017, when Spectrum Five declined its grant of U.S. market access, and April 11, 2017, when Spectrum Five re-filed the same petition for market access.<sup>8</sup> We also ask Spectrum Five to confirm that the issue preventing it from posting the bond for its prior grant has been resolved, and that Spectrum Five will accept the grant of U.S. market access at 95.15° W.L. if its petition is granted within the next six months under substantially the same conditions as the grant of market access of March 2, 2017.

Spectrum Five must file a letter providing this information by **May 2, 2017**. Failure to do so may result in the dismissal of Spectrum Five’s Petition pursuant to Section 25.112(c) of the Commission’s rules, 47 CFR § 25.112(c).

Sincerely,

  
José P. Albuquerque  
Chief, Satellite Division  
International Bureau

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<sup>5</sup> Warehousing refers to the pre-emptive rights to use spectrum and orbital resources by a licensee that does not intend to bear the cost and risk of constructing, launching, and operating an authorized space station or is not fully committed to doing so. See *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, Second Report and Order, 30 FCC Rcd 14713, 14725 n. 65 (2015).

<sup>6</sup> *Amendment of the Commission’s Space Station Licensing Rules and Policies*, First Order on Reconsideration and Fifth Report and Order, 19 FCC Rcd 12637, 12647 (2004). “We conclude that we must maintain the bond requirement to create incentives for companies to consider their business risks *before* applying for a license... [and] to prevent valuable resources from lying fallow when another party might be able to put those resources to use.” (emphasis added). *Id.* at 12652.

<sup>7</sup> See IBFS File No. SAT-PPL-20170411-00063, Petition at 2 (acknowledging that Spectrum Five did not post a bond for its prior grant but that “if this petition is granted, it is able and willing to post the bond”). See also, Spectrum Five LLC, IBFS File Nos. SAT-PDR-20160906-00087, and SAT-PPL-20170411-00063, certification at p. 9 (all information in the application is “true, complete and correct ... and made in good faith”).

<sup>8</sup> 47 CFR § 25.111(a).