

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
DIRECTV ENTERPRISES, LLC)	File No. SAT-STA-20091202-00136
)	
Request for Special Temporary Authority)	
for In-Orbit Testing of RB-2A)	Call Sign S2796
(S2796) at 76° W.L)	
_____)	

OPPOSITION OF SPECTRUM FIVE LLC

Spectrum Five LLC (“Spectrum Five”) hereby files this opposition to the request of DIRECTV Enterprises, LLC (“DIRECTV”) for special temporary authority for in-orbit testing of DIRECTV RB-2A (S2796) at the 76° W.L. orbital position.

DIRECTV’s request should be denied. Under Federal Communications Commission regulations, an application for special temporary authorization may be granted only in “circumstances *requiring* immediate or temporary use of facilities”¹ and “only upon a finding that there are *extraordinary circumstances* requiring temporary operations *in the public interest* and that delay in the institution of these temporary operations would *seriously prejudice the public interest. Convenience to the applicant . . . will not be deemed sufficient for this purpose.*”² Here, DIRECTV has not come close to making the requisite showing under Section 25.120, and there is no basis under that regulation for granting DIRECTV’s request.

As an initial matter, the Bureau has not yet granted DIRECTV leave to operate DIRECTV RB-2A. Indeed, in a decision issued December 15, 2009, the Bureau expressly

¹ 47 C.F.R. § 25.120(a) (emphasis added).

² 47 C.F.R. § 25.120(b)(1) (emphasis added).

deferred action on DIRECTV's request for operating authority for DIRECTV RB-2A.³ Moreover, unlike the Ka band, there are no other Reverse-Band space stations at the nominal 103° W.L. orbital position, or at any other orbital position for that matter, with which RB-2A could interfere, so testing in advance at 76 degrees is not necessary to determine the health and security of the satellite.

Additionally, in an letter to Marlene H. Dortch, dated December 17, 2009, counsel for DIRECTV revealed that during the testing of DIRECTV RB-2A, there would be what he described as "short periods" "when the maximum transit power could exceed" the transmit powers set forth in the DIRECTV RB-2A application "by up to 8.4 dB. As a result, during those short periods of maximum power, DIRECTV RB-2A would exceed the power flux-density ("PFD") limit in Section 25.208(w)(3) of the Commission's rules for the 17.3-17.7 GHz band."⁴ Thus, not only is DIRECTV's proposed testing of DIRECTV RB-2A premature and unnecessary, but that testing will result in periods when the "downlink PFD will exceed the PFD limit in Section 25.208(w)(3)."⁵

In light of these facts, there is no conceivable reason why DIRECTV should be permitted to test DIRECTV RB-2A at the 76° W.L. orbital position at this juncture. Indeed, Section 25.120 plainly requires that DIRECTV's request be denied.

³ IBFS File Nos. SAT-LOA-20090807-00086, Call Sign S2797, SAT-LOA-20090807-00085, Call Sign S2796 (released Dec. 15, 2009).

⁴ Letter, dated December 17, 2009, from William M. Wiltshire, Counsel to DIRECTV Enterprises, LLC, to Marlene H. Dortch, Secretary, FCC, docketed in IBFS File Nos. SAT-STA-20091202-00136 (S2796) and SES-STA-20091202-01525 (EO90173), at p. 1 (footnote omitted).

⁵ *Id.*

Respectfully submitted,

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December 23, 2009

CERTIFICATE OF SERVICE

I, Howard W. Waltzman, hereby certify that on this 23rd day of December, 2009, I caused a true copy of the foregoing to served upon the following by e-mail:

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s/s Howard W. Waltzman
Howard W. Waltzman