

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of

Pegasus Development DBS Corporation,
Transferor,

and

Spectrum Five LLC,
Transferee,

Application for Consent to Transfer of
Control of 17/24 GHz Space Station
Authorization held by 95 License
Subsidiary, LLC

File No. SAT-T/C-2011_____

Call Sign: S2795

APPLICATION FOR CONSENT TO TRANSFER OF CONTROL

Spectrum Five LLC (“Spectrum Five”) and Pegasus Development DBS Corporation (“Pegasus DBS”) (collectively, the “Applicants”) respectfully submit this application pursuant to Section 310(d) of the Communications Act of 1934 and Section 25.119 of the rules of the Federal Communications Commission (“Commission” or “FCC”) for consent to the transfer of control of 95 License Subsidiary, LLC (“License Sub”) and its 17/24 GHz “reverse band” satellite authorization for the 95° W.L. orbital location (Call Sign S2795) from Pegasus DBS to Spectrum Five. Pursuant to Section 25.119(d) of the Commission's rules,¹ this application and supporting exhibits have been filed electronically as an attachment to FCC Form 312 Main Form and Schedule A.

¹ 47 C.F.R. § 25.119(d).

I. DESCRIPTION OF APPLICANTS

A. Spectrum Five LLC (Transferee)

Spectrum Five is a Delaware limited liability company formed to develop, launch and operate satellite systems for the provision of additional and innovative services to consumers. Spectrum Five and Spectrum Five BV, a Netherlands corporation wholly-owned by Spectrum Five, are parties to agreements with the State of the Netherlands and the Government of the Netherland Antilles, which authorize the launch and operation of satellite systems using 12/17 GHz and 17/25 GHz frequencies at several orbital locations, including the nominal 95° W.L. location. Pursuant to these agreements, the State of the Netherlands acts as the sponsoring administration for Spectrum Five before the International Telecommunication Union (“ITU”) and has submitted filings for Spectrum Five’s use of frequencies and orbital locations.

Spectrum Five is fully qualified to acquire control of License Sub and its reverse band space station authorization for 95° W.L. The FCC has previously granted Spectrum Five U.S. market access to provide direct broadcast service (“DBS”) in the United States from its Netherlands-authorized satellite system at the 114.5° W.L. orbital location and thus its legal qualifications are a matter of public record.² In addition, Spectrum Five’s request to acquire the

² *Spectrum Five LLC, Petition for Declaratory Ruling to Serve the U.S. Market Using Broadcast Satellite Spectrum from the 114.5° W.L. Orbital Location*, Order and Authorization, 21 FCC Rcd 14023 (2006). Spectrum Five filed a petition seeking a declaratory ruling to extend or waive the interim construction milestone associated with the 114.5° W.L. authorization. *Spectrum Five LLC, Petition for Declaratory Ruling To Modify Its Authorization to Serve the U.S. Market Using BSS Spectrum from the 114.5° W.L. Orbital Location*, IBFS File No. SAT-MOD-20101126-00245 (filed Nov. 26, 2010). The International Bureau (“Bureau”) has denied this petition. *In the Matter of Spectrum Five LLC Petition for Declaratory Ruling to Extend or Waive Construction Milestone*, Memorandum Opinion and Order, DA 11-1252 (Int’l Bur., Jul. 26, 2011). Spectrum Five has a pending petition for reconsideration of this decision, asking the Bureau to reconsider its decision and reinstate Spectrum Five’s market access authorization for the 114.5° W.L. orbital location. *Petition for Reconsideration*, File Nos. SAT-MOD-20101126-00245 and SAT-MOD-20101126-00269 (filed Aug. 25, 2011).

reverse band authorization at 95° W.L. is compliant with the limitations on unbuilt satellites set forth in Section 25.159 of the Commission's rules.³

B. Pegasus Development DBS Corporation (Transferor)

Pegasus DBS is a Delaware corporation, which is a wholly owned subsidiary of Xanadoo Company ("Xanadoo"). Xanadoo is publicly traded on the Pink Sheets and is controlled by Marshall W. Pagon.⁴ Xanadoo's principal operating business presently consists of the provision of wireless broadband Internet access, conducted through indirect subsidiaries.⁵

C. 95 License Subsidiary, LLC (Licensee)

License Sub is a Delaware limited liability company, which is a wholly owned subsidiary of Pegasus DBS. The FCC authorized License Sub to operate a reverse band satellite at 95° W.L. on August 30, 2011.⁶

II. DESCRIPTION OF TRANSFER OF CONTROL

Pegasus DBS has agreed to transfer control of License Sub and its 95° W.L. reverse band authorization to Spectrum Five. Pegasus DBS will transfer all of the membership interests in License Sub to Spectrum Five, and License Sub will become a wholly-owned subsidiary of

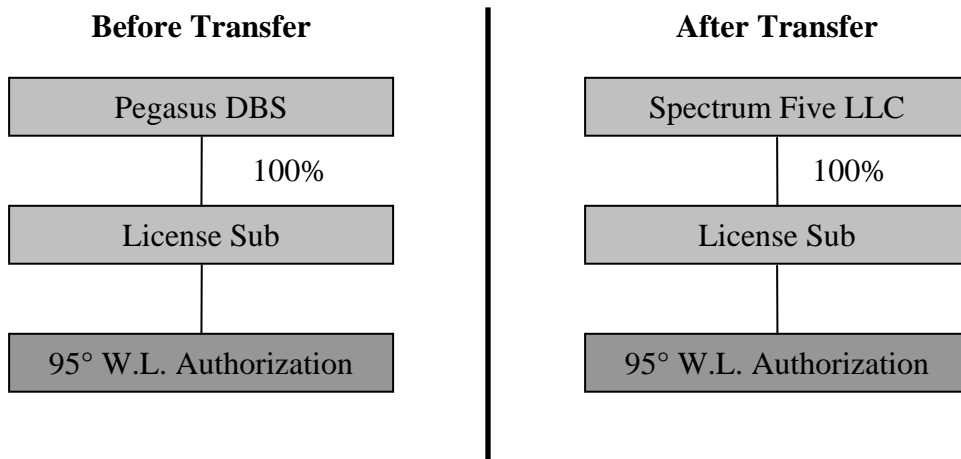
³ 47 C.F.R. § 25.159. *See* Spectrum Five LLC, Petition for Declaratory Ruling to Serve the U.S. Market from the 103.15° W.L. Orbital Location in the 17/24 Broadcasting Satellite Service Band, IBFS File No. SAT-LOI-20081119-00217 (filed Nov. 19, 2008); Spectrum Five LLC, Petition for Declaratory Ruling to Serve the U.S. Market from the 118.8° W.L. Orbital Location in the 17/24 Broadcasting Satellite Service Band, IBFS File No. SAT-LOI-20081113-00216 (filed Nov. 13, 2008); Pegasus Development DBS Corporation, Transferor, and Spectrum Five LLC, Transferee, Application for Consent to Transfer of Control of 17/24 GHz Space Station Authorization held by 115 License Subsidiary, LLC, IBFS File No. SAT-T/C-20110630-00124 (filed Jun. 30, 2011)..

⁴ *See* Application, File No. SAT-AMD-20110503-00084 (filed May 3, 2011).

⁵ *See* <http://www.xanadoo.com/>.

⁶ *Policy Branch Information Actions Taken*, Report No. SAT-00805, DA 11-1498, File Nos. SAT-LOA-20090807-00084, SAT-AMD-20100528-00114, SAT-AMD-20100729-00170, and SAT-AMD-20110503-00084 (Sept. 2, 2011) (Public Notice).

Spectrum Five. Before and after the transfer License Sub will continue to hold its reverse band space station authorization for 95° W.L. Below is a chart showing the ownership of License Sub before and after the transfer for which consent is being sought hereunder.



III. PUBLIC INTEREST BENEFITS

The proposed transfer of control serves the public interest.⁷ Pursuant to Section 310(d) of the Communications Act of 1934, as amended,⁸ the Commission conducts a public interest analysis when assessing transfer of control applications for space station authorizations. In conducting its analysis, the Commission uses its expertise to “weigh the potential public interest harms against the potential public interest benefits to ensure that, on balance, the proposed transaction will serve the public interest, convenience, and necessity.”⁹ As demonstrated below, the balance in this case clearly favors approval of the transfer of control.

⁷ The public interest section is responsive to Question A21 of the FCC Form 312.

⁸ 47 U.S.C. § 310(d).

⁹ *Lockheed Martin Corp., COMSAT Corp. and COMSAT Digital Teleport, Inc. Assignors and Intelsat, Ltd., Intelsat (Bermuda), Ltd, Intelsat LLC, and Intelsat USA License Corp., Assignees Application for Assignment of Earth Station and Wireless Licenses and Section 214 Authorizations and Petitions for Declaratory Ruling, Order and Authorization*, 17 FCC Rcd 27,732, 27,739 (¶ 12) (2002); see also *Applications for Consent to the Assignment and/or*

The proposed transaction will serve the public interest by facilitating Spectrum Five's provision of additional and innovative services to consumers. Spectrum Five is a new entrant in the highly competitive satellite services industry. Pursuant to the proposed transaction, Spectrum Five will be well-positioned to be one of the first entities to bring the myriad benefits of the new 17/24 GHz reverse band to the public, which, according to the Commission, is intended to "facilitate the introduction of new and innovative services to consumers in the United States and promote increased competition among satellite and terrestrial services."¹⁰ Specifically, the Commission has found that this reverse band promises to bring "a new generation of broadband services to the public, providing a mix of local and domestic video, audio, data, video-on-demand, and multi media services to U.S. consumers."¹¹ Spectrum Five's plan to use the 17/24 GHz reverse band to provide innovative services, including new broadband services, promotes the public interest objective of expanding the provision of mobile broadband services to U.S. consumers.¹²

Transfer of Control of Licenses, Adelphia Commc'ns Corp. (and subsidiaries, debtors-in-possession), Assignors, to Time Warner Cable Inc., Assignees, et al., Memorandum Opinion and Order, 21 FCC Rcd 8203, 8217 (¶ 23) (2006); Applications for Consent to the Transfer of Control of Licenses from Comcast Corp. and AT&T Corp., Transferors, to AT&T Comcast Corp., Transferee, Memorandum Opinion and Order, 17 FCC Rcd 23,246, 23,255 (¶ 26) (2002).

¹⁰ *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, and at the 24.75-25.25 GHz Frequency Band for Fixed Satellite Services Providing Feeder Links to the Broadcasting-Satellite Service and for the Satellite Services Operating Bi-directionally in the 17.3-17.8 GHz Frequency Band, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 8842 (2007).*

¹¹ *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, and at the 24.75-25.25 GHz Frequency Band for Fixed Satellite Services Providing Feeder Links to the Broadcasting-Satellite Service and for the Satellite Services Operating Bi-directionally in the 17.3-17.8 GHz Frequency Band, Order on Reconsideration, 22 FCC Rcd 17951, ¶ 1 (2007).*

¹² *See, e.g., Federal Communications Commission, Connecting America: The National*

Moreover, the proposed transaction will not result in any public harm. Spectrum Five will comply with the Commission's rules relevant to reverse band satellites, including milestone obligations. Spectrum Five is also aware of the Commission's recent adoption of new service rules for the 17/24 GHz band.¹³ Spectrum Five will comply with those new rules, including filing additional technical information as appropriate.

Broadband Plan at 19 (2010) (“Broadband is a platform to create today’s high-performance America—an America of universal opportunity and unceasing innovation, an America that can continue to lead the global economy, an America with world-leading, broadband-enabled health care, education, energy, job training, civic engagement, government performance and public safety.”); National Broadband Plan at 77 (noting that the “scarcity of mobile broadband could mean higher prices, poor service quality, an inability for the U.S. to compete internationally, depressed demand and, ultimately, a drag on innovation.”).

¹³ 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, and at the 24.75-25.25 GHz Frequency Band for Fixed Satellite Services Providing Feeder Links to the Broadcasting-Satellite Service and for the Satellite Services Operating Bi-directionally in the 17.3-17.8 GHz Frequency Band*, Second Report and Order, FCC 11-93 (rel. June 14, 2011).

IV. CONCLUSION

For the foregoing reasons, the Commission should grant the proposed transfer of control of License Sub and its 17/24 GHz reverse band satellite authorization for the 95° W.L. orbital location to Spectrum Five.

Respectfully submitted,

Pegasus Development DBS Corporation

By: Scott A. Blank

Scott A. Blank
Sr. Vice President, General Counsel and Secretary

and

Spectrum Five LLC

By: R. David Wilson

R. David Wilson
President

October 13, 2011

Ownership Information

FCC Form 312, Schedule A, Response to Question A20: Officers, Directors, and Ten Percent or Greater Shareholders

Spectrum Five LLC (“Spectrum Five”) is a Delaware limited liability corporation. R. David Wilson and Elizabeth Wilson, both United States citizens, hold (as tenants in the entirety) 70.84 percent of the equity in Spectrum Five. Mr. and Mrs. Wilson’s address is 2445 California Street, NW, Washington, DC 20008. SkyWorks LLC holds 16.06 percent of the equity of Spectrum Five. SkyWorks LLC is located at 450 Laurel Street, Suite 1600, Baton Rouge, LA 70801. Although no single investor in Skyworks LLC individually owns more than 10 percent of the equity of Spectrum Five, Scott H. Crawford, a U.S. citizen, votes the 16.06 percent on behalf of all of the investors. No other person or entity has a ten percent or greater direct or indirect interest in Spectrum Five.

OFFICERS AND DIRECTORS

President: R. David Wilson

Board of Directors:

R. David Wilson
Elizabeth A. Wilson
2445 California Street, NW
Washington, DC 20008

Scott Crawford, Managing Partner
450 Laurel Street, Suite 1600
Baton Rouge, LA 70801

Raymond S. McGuire
PMB 345
10859 Emerald Parkway West
Destin, Florida 32541

H. Carter Hood
2315 Tracey Place NW
Washington, DC 20008

All officers and directors of Spectrum Five are United States citizens.

Cancelled Authorizations

FCC Form 312, Response to Question 36

Spectrum Five filed a petition¹ seeking a declaratory ruling to extend or waive the interim construction milestone associated with the 114.5° W.L. authorization.² The International Bureau (“Bureau”) has denied this petition and cancelled Spectrum Five’s authorization for the 114.5° W.L. orbital location.³ Spectrum Five has a pending petition for reconsideration of this decision, asking the Bureau to reconsider its decision and reinstate Spectrum Five’s market access authorization for the 114.5° W.L. orbital location.⁴ Notwithstanding the fact that the Bureau’s action does not seem to be the kind of revocation action contemplated by Question 36, Spectrum Five is herein making note of the decision in the interest of absolute candor and out of an abundance of caution. In any event, the Bureau’s action does not reflect on Spectrum Five’s basic qualifications, which are well-established and a matter of public record.

¹ Spectrum Five LLC, Petition for Declaratory Ruling To Modify Its Authorization to Serve the U.S. Market Using BSS Spectrum from the 114.5° W.L. Orbital Location, IBFS File No. SAT-MOD-20101126-00245 (filed Nov. 26, 2010).

² *Spectrum Five LLC, Petition for Declaratory Ruling to Serve the U.S. Market Using Broadcast Satellite Spectrum from the 114.5° W.L. Orbital Location*, Order and Authorization, 21 FCC Rcd 14023 (2006).

³ *In the Matter of Spectrum Five LLC Petition for Declaratory Ruling to Extend or Waive Construction Milestone*, Memorandum Opinion and Order, DA 11-1252 (Int’l Bur., Jul. 26, 2011).

⁴ Petition for Reconsideration, File Nos. SAT-MOD-20101126-00245 and SAT-MOD-20101126-00269 (filed Aug. 25, 2011).