

Request for Modification

DIRECTV Enterprises, LLC (“DIRECTV”) seeks to modify its Castle Rock, Colorado Earth Station, Call Sign E070027, to add the 25.05-25.13 GHz band frequencies to DIRECTV’s existing authorization. DIRECTV is currently authorized to operate in the 24.75–25.05 GHz band. This modification simply seeks to add an additional 80 MHz from 25.05-25.13 GHz to allow this earth station to communicate more fully with DIRECTV’s 17/24 GHz Broadcasting Satellite Service (“BSS”) satellites. Other than this change, the information in the current authorization remains unchanged and is incorporated by reference.¹

To the extent necessary, DIRECTV seeks waiver of Section 25.203(l) of the Commission’s rules, which states that earth stations operating in the 25.05–25.25 GHz band may be licensed only in Economic Areas where no existing fixed service licensee has been authorized.² DIRECTV seeks to operate an earth station in an area where a fixed service (“FS”) licensee has been authorized; however, not in the same frequencies. Because of frequency diversity, DIRECTV can operate in the same economic area without causing harmful interference to the FS licensee.

DIRECTV’s Castle Rock facility falls within the Denver-Boulder Economic Area (“EA”) used for licensing 24 GHz FS systems. According to the Commission’s electronic database, only one terrestrial license has been issued for that area in a portion of the relevant frequencies to FiberTower Spectrum Holdings LLC (“FiberTower”).³ Call Sign WQCJ304 was purchased at auction in 2004, and authorizes operations throughout the EA using the 25.13-25.17 GHz portion of this band.⁴ That license remains in force, and will not expire until March 2025.

In the BSS R&O, the Commission established procedures for licensing of 17/24 GHz feeder link earth stations, subject to coordination with 24GHz FS licensees when warranted.⁵ In doing so, however, the Commission said that its rules would “presume[]

¹ See File Nos. SES-MOD-20150424-00274 (granted Jul. 14, 2015) and SES-MOD-20121212-01095 (granted Jan. 6, 2014).

² 47 C.F.R. § 25.203(l).

³ There are no co-frequency terrestrial licenses that would provide a basis to block DIRECTV’s use the spectrum. The only existing terrestrial license in the Denver EA does not cover the same frequencies requested in this application. Although previously there was a license for DEMS service in the 25090-25130M MHz band in the Denver EA, it was terminated in 2012 for failure to demonstrate substantial service. See *FiberTower Spectrum Holdings, LLC*, Memorandum Opinion and Order, 27 FCC Rcd 13562 (WTB 2012), affirmed FCC 13-67 (May 7, 2013).

⁴ See Call Sign WQCJ304.

⁵ See *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*

that the earth station's location is outside of the 24 GHz FS license area," and further stated that it does not "intend to license 17/24 GHz BSS feeder links to operate in an existing 24 GHz FS license area."⁶ In implementing this decision, Section 25.203(l) states that 17/24 GHz BSS feeder link earth stations operating in the 25.05-25.25 GHz band "may be licensed only in Economic Areas where no existing FS licensee has been authorized."⁷ DIRECTV has asked the Commission to clarify that this rule does not prohibit licensing of 17/24 GHz BSS earth stations in areas licensed to 24 GHz FS operations for frequencies not covered by such terrestrial authorizations.⁸ No one opposed this clarification request, but it remains pending.

DIRECTV requests a waiver of Section 25.203(l) so that it may operate in the 25.05-25.13 GHz band. The Commission may grant a waiver for good cause shown.⁹ Grant of this waiver would serve the public interest by allowing DIRECTV to operate in the Denver EA without causing harmful interference to any FS licensee. Currently fallow and unlicensed spectrum will be put to productive use in support of DIRECTV's launch of service to millions of subscribers nationwide in the 17/24 GHz BSS band. Moreover, grant of the waiver would not undermine the purpose of the rule, as FiberTower would retain all the rights and ability to operate in its licensed spectrum throughout the EA that it currently enjoys, because, through spectrum separation, DIRECTV can operate without causing any harmful interference to FiberTower's operations.

FiberTower is not licensed to use the 25.05-25.13 GHz band in the Denver EA. Thus, there is no spectrum overlap with DIRECTV's proposed operation. As such, there is no reason for FiberTower's license to block DIRECTV from making full use of this spectrum in this EA. As noted above, DIRECTV has asked the FCC to clarify that the Section 25.203(l) licensing restrictions were not intended to prohibit licensing of 17/24 GHz BSS earth stations in areas licensed to 24 GHz FS operations for frequencies not covered by such terrestrial authorizations, but this request remains pending.¹⁰

For the foregoing reasons, DIRECTV requests that the Commission grant the requested modification application, and the waiver, to authorize DIRECTV to operate its uplink earth station over the frequencies from 25.05-25.13 GHz.

Providing Feeder Links to the Broadcasting-Satellite Service and for the Broadcasting Satellite Service Operating Bi-directionally in the 17.3-17.7 GHz Frequency Band, 22 FCC Rcd. 8842 (2007) ("BSS R&O").

⁶ *Id.* at ¶ 127.

⁷ 47 C.F.R. § 25.203(l).

⁸ *See* Petition for Reconsideration of DIRECTV, Inc., IB Docket No. 06-123 (filed Sep. 28, 2007).

⁹ 47 C.F.R. § 1.3.

¹⁰ *See supra* note 8.