

January 20, 2010

BY ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: *Ex Parte Communication, IBFS File No. SAT-STA-20091202-00136*

Dear Ms. Dortch:

In this letter, DIRECTV Enterprises, LLC (“DIRECTV”) responds briefly to the *ex parte* presentation submitted by Spectrum Five LLC (“Spectrum Five”) on January 8, 2010¹ solely with respect to the above referenced proceeding in which DIRECTV has requested special temporary authority (“STA”) for in-orbit testing (“IOT”) of its DIRECTV RB2-A 17/24 GHz BSS payload at the 76° W.L. orbital location. DIRECTV has explained that this payload is part of the DIRECTV 12 Ka-band satellite, and once regular Ka-band operations begin at the licensed orbital location of 103° W.L., DIRECTV will be unable to bias the satellite so that the beam being tested is positioned over DIRECTV’s Northwest Uplink Facility (“NWUF”) located in Moxee, Washington, without disrupting Ka-band service to millions of subscribers.² In its submission, Spectrum Five disputes this contention, arguing that DIRECTV could test the 17/24 GHz payload by utilizing other testing scenarios, such as placing test antennas in the coverage areas of the various beams.³ DIRECTV’s NWUF facility has a 9.2 meter antenna – the kind typically used for IOT in order to ensure rigorous testing and valid results. Such antennas cost millions of dollars to buy and several months to install. Spectrum Five cannot seriously contend that DIRECTV should be required to undertake such an effort, especially given that those antennas would not be used for anything other than initial testing.

Spectrum Five further asserts that grant of the STA application would be “premature” in light of the pendency of a petition for reconsideration of DIRECTV’s authorization for a different 17/24 GHz BSS space station at the same orbital location, and given that DIRECTV

¹ Letter from Howard W. Waltzman to Marlene Dortch, File Nos. SAT-STA-20091202-00136, *et al.* (Jan. 8, 2010) (“S5 Ex Parte”). Although DIRECTV’s response in this submission is limited to matters related to the referenced file number, that should not be taken as acquiescence to the assertions made by Spectrum Five with respect to other matters discussed in its filing.

² See Response of DIRECTV Enterprises, LLC, IBFS File No. SAT-STA-20091202-00136 (Jan. 4, 2010).

³ S5 Ex Parte, Attachment at 2.

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RB2-A had not yet been granted operational authority.⁴ However, the Commission granted such operational authority one day after Spectrum Five's meeting with the staff.⁵ And regardless of the fate of DIRECTV's other authorization, there is no reason to deny DIRECTV the opportunity to test DIRECTV RB2-A in order to assess and ensure its operational capabilities – especially given that such testing will have no material effect on any other user of this spectrum.

Respectfully submitted,

/s/

William M. Wiltshire
Counsel to DIRECTV Enterprises, LLC

cc: Andrea Kelly
Steven Spaeth
Howard W. Waltzman

⁴ See S5 Ex Parte, Attachment at 2.

⁵ See Grant Stamp, IBFS File No. SAT-LOA-20090807-00085 (Jan. 8, 2010). In a separate submission, Spectrum Five attempted to inject its own “understanding” of that authorization based on informal discussions with the International Bureau staff. See Letter from Howard W. Waltzman to Marlene Dortch, IBFS File No. SAT-LOA-20090807-00085 (Jan. 14, 2010). However, Commission precedent is clear that it is the terms of the authorization itself that control, and Spectrum Five's understandings – even assuming they are an accurate reflection of discussions with the staff – are of no consequence. See, e.g., *Texas Media Group, Inc.*, 5 FCC Rcd. 2851, ¶ 8 (1990), *aff'd sub nom. Malkan FM Assocs. v. FCC*, 935 F.3d 1313 (D.C. Cir. 1991) (“It is the obligation of interested parties to ascertain facts from official Commission records and files and not rely on statements or informal opinions by the staff”).