

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of )
DIRECTV Enterprises, LLC ) File Nos. SAT-STA-20091202-00136
Request for Special Temporary Authority for In- ) Call Sign: S2796
Orbit Testing of the DIRECTV RB-2A Space )
Station at the 76° W.L. orbital location )

ORDER

Adopted: January 21, 2010

Released: January 21, 2010

By the Chief, Satellite Division, International Bureau:

I. INTRODUCTION

1. With this Order, we deny the opposition filed by Spectrum Five, LLC (Spectrum Five) against DIRECTV Enterprises, LLC's (DIRECTV's) request for authority to operate its DIRECTV RB-2A space station at the 76° W.L. orbital location to conduct in-orbit testing. By separate action today, we also grant, with conditions, all of the applications filed by DIRECTV related to its in-orbit testing of the DIRECTV RB-2A space station.

II. BACKGROUND

2. DIRECTV 12/RB-2A is a hybrid satellite with both Ka-band Fixed-Satellite Service (FSS) and 17/24 GHz Broadcasting-Satellite Service (BSS) space stations on the satellite. The FSS space station is called DIRECTV 12, and the 17/24 GHz BSS space station is called DIRECTV RB-2A. The DIRECTV 12/DIRECTV RB-2A satellite is authorized to operate at the 102.765° W.L. orbital location. On December 1 and 2, 2009, DIRECTV filed a number of applications, collectively requesting

1 The following applications were granted by grant stamp on January 21, 2010 relating to the in-orbit testing of the DIRECTV RB-2A space station: IBFS File Nos. SES-STA-20091202-01525 (E090173); SAT-STA-20091202-00136 (S2796). The following applications relate to the in-orbit testing of the DIRECTV 12 space station: IBFS File Nos. SES-STA-20091202-01520 (E090076); SES-STA-20091202-01526 (E070027); SAT-STA-20091201-00132 (S2797)

2 The Ka-band frequencies on the satellite are the 18.3-18.8 GHz and 19.7-20.2 GHz (space-to-Earth) frequency bands and the 28.35-28.6 GHz, 29.25-29.5 GHz, and 29.5-30.0 GHz (Earth-to-space) frequency bands, and are referenced under Call Sign S2797. The 17/24 GHz BSS frequencies on the satellite are the 17.3-17.8 GHz (space-to-Earth) and 24.75-25.15 GHz (Earth-to-space) frequency bands, and are referenced under Call Sign S2796.

3 DIRECTV was granted authority to construct, launch, and operate the Ka-band space station on the satellite on December 15, 2009. At the same time, DIRECTV was granted authority to construct and launch the 17/24 GHz BSS frequencies on the space station with operational authority deferred. Policy Branch Information, Actions Taken, Public Notice, DA No. 09-2607, Report No. SAT-00656 (rel. Dec. 18, 2009). Subsequently, on January 8, 2010, DIRECTV was granted operational authority for the 17/24 GHz BSS space station. Policy Branch Information, Actions Taken, Public Notice, DA No. 10-89, Report No. SAT-00660 (rel. Jan. 15, 2010). On January 19, 2010, Spectrum Five filed a Petition for Reconsideration of the December 18, 2009 grant of authority to construct and launch the RB-2A space station. Petition For Reconsideration of Spectrum Five, LLC, filed Jan. 19,

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authority to perform in-orbit testing of the DIRECTV-12 and DIRECTV RB-2A space stations at the 76° W.L. orbit location for a period of 30 days commencing upon the arrival of the satellite at the orbital location.

3. On December 23, 2009, Spectrum Five filed an opposition to one application related to DIRECTV's in-orbit testing operations of the DIRECTV RB-2A space station in the 17/24 GHz BSS frequency bands.<sup>4</sup> In its filing, Spectrum Five states that DIRECTV's request should be denied because DIRECTV failed to make the requisite showing under Section 25.120 of the Commission's rules.<sup>5</sup> Spectrum Five further argues that testing at the 76° W.L. orbital location "is not necessary to determine the health and security of the satellite."<sup>6</sup> In Spectrum Five's view, testing can be safely accomplished at the assigned location of 102.765° W.L. orbital location, or any other orbital location.<sup>7</sup> Spectrum Five further notes that the power level of the 17/24 GHz BSS space station during testing would exceed the technical parameters of the regular authority by up to 8.4 dB.<sup>8</sup> Spectrum Five does not allege that DIRECTV's in-orbit testing operations will cause unacceptable interference to any other authorized radio communication services. Further, Spectrum Five does not allege that it operates any authorized radio communications facilities in this frequency band.<sup>9</sup> In response, DIRECTV disputes that in-orbit testing can occur at any orbital location and at any time.<sup>10</sup> DIRECTV indicates that during the in-orbit testing, the DIRECTV 12/RB-2A satellite will be biased (or oriented) in such a way that the transmit antenna beams are positioned directly over the associated earth station(s) utilized for this testing.<sup>11</sup> DIRECTV states that the satellite cannot be biased in this manner once the satellite commences Ka-band operations at the 102.765° W.L. orbital location.

4. The DIRECTV 12/RB-2A satellite was launched on December 28, 2009. The satellite is expected to arrive at the 76° W.L. orbital location by approximately February 15, 2010. Once at the 76° W.L. orbit location, DIRECTV intends to conduct in-orbit testing for a period of 30 days utilizing the full capacity on the satellite.<sup>12</sup> After completion of in-orbit testing, DIRECTV intends to drift the satellite to

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2010 in IBFS File No. SAT-LOA-20090807-00085. In that filing, Spectrum Five noted that the time within which to challenge the January 8, 2010 operational grant had not yet expired.

<sup>4</sup> Opposition of Spectrum Five, LLC, filed on December 23, 2009 (Opposition)

<sup>5</sup> 47 C.F.R. § 25.120.

<sup>6</sup> Opposition at 2.

<sup>7</sup> *Id.*

<sup>8</sup> Spectrum Five further asserted that grant of in-orbit testing prior to grant of operational authority at the regularly assigned location would be premature. Because DIRECTV has been granted operational authority at the regularly assigned location, that argument is now moot.

<sup>9</sup> Spectrum Five has a number of authorizations from the Netherlands Administration to operate space stations. To the Commission's knowledge, none of these space stations have been launched to date.

<sup>10</sup> Response of DIRECTV Enterprises, LLC, filed on January 4, 2010 (DIRECTV Response); Letter from William Wiltshire, Esq., Counsel to DIRECTV Enterprises, LLC to Marlene H. Dortch, Secretary, Federal Communications Commission, dated January 20, 2010. DIRECTV also notes that failure to test and confirm the performance characteristics of the 17/24 GHz BSS space station would complicate passage of title over the spacecraft from the manufacturer to DIRECTV. DIRECTV Response, footnote 9.

<sup>11</sup> Response of DIRECTV Enterprises, LLC, filed January 4, 2010.

<sup>12</sup> For the full particulars of the testing, *see* IBFS Files listed in footnote 1.

its assigned 102.765° W.L. orbital location.<sup>13</sup>

### III. DISCUSSION

5. Section 25.154(a)(4) of the Commission's rules requires that when filing petitions to deny, petitions for other forms of relief, and other objections, the filer must demonstrate, among other things, that it is "a party of interest."<sup>14</sup> Section 25.154(b) of the Commission's rules further provides that a pleading not filed in accordance with Section 25.154(a) of the Commission's rules will be classified as an "informal objection."<sup>15</sup> Spectrum Five does not allege in its opposition that it is a party-of-interest or that grant of DIRECTV's request to conduct in-orbit testing at the 76° W.L. will cause it any cognizable injury. As such, its opposition is an informal objection under our rules.<sup>16</sup> There is no standing requirement for informal objections.<sup>17</sup> Whether such objections are reviewed on the merits, however, is a matter of discretion. In this instance, we exercise our discretion and consider Spectrum Five's informal objection.

6. In-orbit testing is a critical event in the life cycle of a space station. Satellite operators conduct in-orbit testing to measure the performance characteristics of their space stations' antennas, transmitters, and receivers. While operators must have authority to conduct in-orbit testing, the specific technical parameters of such testing and choice of orbital location are made by the satellite operator.<sup>18</sup> Such testing often requires the satellite operator to operate their space stations in special configurations and/or with special test input and output signals that facilitate component and subsystem performance measurements. Operators often conduct in-orbit testing of a space station at an orbital location other than the regularly assigned location.

7. The International Bureau has historically accepted and granted requests for special temporary authority as the means for authorizing in-orbit testing of a newly launch space station.<sup>19</sup> Based

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<sup>13</sup> The following IBFS File Nos. seek authority to conduct telemetry, tracking, and telecommand during the drift to the assigned orbital location: SES-STA-20091202-01521, SES-STA-20091202-01523, and SAT-STA-20091201-00133.

<sup>14</sup> 47. C.F.R. § 25.154(a)(4).

<sup>15</sup> 47. C.F.R. § 25.154(b). Section 1.41 of the Commissions rules also contains a provision for informal requests. 47 C.F.R. § 1.41.

<sup>16</sup> 47. C.F.R. § 25.154 (b).

<sup>17</sup> In contrast, the Communications Act of 1934 has a statutory standing requirement to file a petition to deny. 47 U.S.C. § 309(d) (providing that "any party in interest" may file a petition to deny).

<sup>18</sup> When the operator conducts in-orbit testing at its regularly assigned orbital locations within the technical parameters of its authorization, no additional authority from the Commission is required. When the operator conducts in-orbit testing at an orbital location other than its regularly assigned orbital location, or with technical parameters that exceed those authorized at the regularly assigned orbital location, then the operator must receive temporary authority from the Commission to conduct in-orbit testing.

<sup>19</sup> See, e.g., IBFS Files: SAT-STA-20091014-00110 (granting Intelsat North America LLC authority to conduct in-orbit testing of the Intelsat-15 space station at the 63.15° E.L. orbital location and to drift Intelsat-15 from 63.15° E.L. to its assigned orbital location of 85.15° E.L. after completion of testing); SAT-STA-20090825-00093 (granting PanAmSat Licensee Corp. authority to conduct in-orbit testing of the Intelsat-14 C-/Ku-band geostationary orbit space station at the 47° W.L. orbital location and to drift Intelsat 14 from 47° W.L. to its assigned orbital location of 45° W.L. conclusion of testing); SAT-STA-20090204-00016 (granting Skynet Satellite Corporation authority to conduct in-orbit testing with un-modulated continuous-wave carriers aboard the Telstar 11N satellite at the 37.55° W.L. orbital location); SAT-STA-20070830-00118 (granting Hughes Communications, Inc. authority to conduct in-orbit testing of the SpaceWay 3 satellite at the 94.95° W.L. orbital location); SAT-STA-20080724-00148

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on our longstanding precedent, we conclude that in-orbit testing of the newly launched DIRECTV 12/RB-2A satellite constitutes extraordinary circumstances requiring temporary operations in the public interest.<sup>20</sup> Accordingly, we deny Spectrum Five's informal objection.

8. Finally, we note that in a recent *ex parte* filing, Spectrum Five suggests that any in-orbit testing of the 17/24 GHz BSS space station, even at its regularly assigned location, would be premature pending final resolution of its challenge to a related authorization.<sup>21</sup> Spectrum Five has advanced no interference concerns or other public policy reasons that would suggest that the in-orbit testing of a newly launched satellite should be postponed indefinitely. Grant of DIRECTV's request for a 30-day temporary authorization to conduct in-orbit testing at the 76° W.L. orbital location has no bearing on the merits of Spectrum Five's pending petition for reconsideration. Accordingly, we reject Spectrum Five's request to defer or withhold action on DIRECTV's application.

#### IV. CONCLUSION AND ORDERING CLAUSES

9. Consequently, Spectrum Five's Opposition filed on December 23, 2009 is DENIED.

10. This order is issued pursuant to Section 0.261 of the Commission's rules on delegated authority, 47 C.F.R. § 0.261, and is effective immediately. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.115, may be filed within 30 days of the release of this order.

FEDERAL COMMUNICATIONS COMMISSION

Robert G. Nelson  
Chief, Satellite Division  
International Bureau

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(granting Intelsat North America LLC authority to operate the Galaxy 19 satellite at the 145.5° W.L. orbital location in C-band frequencies Ku-band frequencies to provide in-orbit testing); SAT-STA-20080219-00048 (granting EchoStar Corporation authority to operate the AMC-14 space station at the 56.5° W.L orbital location); and SAT-STA-20071005-00136 (granting with conditions PanAmSat's request, to conduct in-orbit testing and tracking, telemetry and control operations for the Intelsat 11 satellite at the 47.5° W.L. orbital location).

<sup>20</sup> 47 C.F.R. § 25.120.

<sup>21</sup> Letter from Howard Waltzman, Esq., Counsel to Spectrum Five, to Marlene Dortch, Secretary, Federal Communications Commission, dated January 8, 2010 at 4 (filed under Call Signs: S2796 (DIRECTV), S2790 (DISH), S2777, S2778 (Spectrum Five)) ("As a result, the Bureau should withhold action on STA for IOT of RB-2A until the resolution of Spectrum Five's Petition for Reconsideration, and until the Bureau grants DIRECTV authorization to operate RB-2A."). In contrast, in the underlying application to construct, launch and operate the RB-2A space station, Spectrum Five acknowledged that grant of the application with appropriate conditions would avoid prejudice to related pending actions. Petition of Spectrum Five LLC to Condition any Approval of DIRECTV's Application On Spectrum Five's Related Pending Petition For Reconsideration, filed on October 28, 2009, regarding IBFS File No. SAT-LOA-20090807-00085, page 4 ("Accordingly, the Bureau should follow the Commission's established practice and condition any grant of DIRECTV's RB-2A Application on the outcome of the pending proceeding on Spectrum Five's Petition for Reconsideration.").