United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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No. 13-1231   **September Term, 2013**

FCC-13-593
FCC-13-93

Filed On: October 2, 2013

Spectrum Five LLC,

        Appellant

    v.

Federal Communications Commission,

        Appellee

Consolidated with 13-1232

      BEFORE: Henderson, Griffith, and Kavanaugh, Circuit Judges

O R D E R

       Upon consideration of Spectrum Five LLC's motion for summary reversal or, in the alternative, for expedition; intervenor Echostar Satellite Operation Corporation's response thereto, which includes a motion to dismiss; the Federal Communications Commission's motion to dismiss and response to the motion for summary reversal, or, in the alternative, for expedition; Spectrum Five LLC's reply in support of the motion for summary reversal, or in the alternative, for expedition and response to the motion to dismiss; the Federal Communications Commission's reply in support of its motion to dismiss; and the Rule 28(j) letter and the response thereto, it is

       ORDERED that the motion for summary reversal be denied. The merits of the parties' positions are not so clear as to warrant summary action. See Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam). It is

       FURTHER ORDERED, on the court's own motion, that the motions to dismiss be referred to the merits panel to which this case is assigned. The parties are directed to address in their briefs the arguments raised by the motions to dismiss rather than incorporate those issues by reference. It is

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     FURTHER ORDERED that the motion to expedite be denied. Movant has not demonstrated expedition is warranted. See D.C. Cir. Handbook of Practice and Internal Procedures 33 (2011).

     Because the court has determined that summary disposition is not in order, the Clerk is directed to schedule this case for presentation to a merits panel.

<u>**Per Curiam**</u>

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
      Amy Yacisin
      Deputy Clerk/LD