Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Star One S.A.	)	
Petition for Declaratory Ruling to Add The Star One C1 Satellite at 65° W.L. To the Permitted Space Station List	)	File No. SAT-PPL-20031230-00367 Call Sign S2611

ORDER

Adopted: August 23, 2004 Released: August 24, 2004

By the Chief, Satellite Division, International Bureau:

I. INTRODUCTION

1. In this Order, we grant the Star One S.A. ("Star One") petition for declaratory ruling to add the Star One C1 satellite, which is licensed by Brazil and is to be located at the 65° W.L. orbital location, to the Commission's Permitted Space Station List ("Permitted List") subject to the conditions contained in this order. As a result of this action, earth stations with "routine" technical parameters will be able to communicate with Star One C1 in the conventional C and Ku-bands[1] as soon as Star One C1 becomes operational. Placing Star One C1 on the Permitted List should stimulate competition in the United States by providing consumers more alternatives in choosing communications providers and services.

II. BACKGROUND

2. In 1997 in the *DISCO II Order*,[2] the Commission, among other things, implemented the satellite market-opening commitments made by the United States in the World Trade Organization Agreement on Basic Telecommunications Services (WTO Basic Telecom Agreement).[3] Subsequently, in the *DISCO II First Reconsideration Order*, the Commission adopted a new procedure by which the operators of in-orbit non-U.S. satellites could request to

[1] For purposes of this Order, the "conventional C and Ku-bands" denotes the 3700-4200 MHz/5925-6425 MHz and 11.7-12.2 GHz/14.0-14.5 GHz frequency bands, respectively.

[2] *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Satellites Providing Domestic and International Service in the United States*, Report and Order, IB Docket No. 96-111, 12 FCC Rcd 24094, 24174 (para. 186) (1997) ("*DISCO II"* or "*DISCO II Order"*).

[3] The WTO came into being on January 1, 1995, pursuant to the Marrakesh Agreement Establishing the World Trade Organization (The Marrakesh Agreement). 33 I.L.M. 1125 (1994). The Marrakesh Agreement includes multilateral agreements on trade in goods, services, intellectual property, and dispute settlement. The General Agreement on Trade in Services (GATS) is Annex 1B of the Marrakesh Agreement. 33 I.L.M. 1167 (1994). The WTO Telecom Agreement was incorporated into the GATS by the Fourth Protocol to the GATS (April 30, 1996), 36 I.L.M. 354 (1997) (Fourth Protocol to the GATS).

serve the U.S. market. Under this process, operators of non-U.S. satellites seeking to serve the U.S. market in the conventional C- and Ku-bands may file a petition to be added to the "Permitted List."[4] This list identifies all satellites and services with which U.S. earth stations with routinely-authorized technical parameters (known as "ALSAT" earth stations) are permitted to communicate without additional Commission action, provided that those communications fall within the same technical parameters and conditions established in the earth stations' original licenses.[5] The Permitted List is maintained on the Commission's website, and is also available via fax or e-mail.[6]

3. On December 30, 2003, Star One S.A., which holds the license for Star One C1, filed a petition for declaratory ruling requesting us to add Star One C1 to the Permitted List.[7] Comision Nacional De Telecomunicaciones (CONATEL), the Venezuelan regulator, acting in its role as the International Telecommunication Union (ITU) notifying Administration for the inter-governmental organization La Asociación de Empresas de Telecomunicaciones de la Comunidad Andina (ASETA) filed comments.[8] CONATEL informs us that ASETA plans to implement a satellite at 67° W.L., two degrees away from the Star One C1 satellite at 65° W.L., with C-band coverage over North America and South America.[9]

III. DISCUSSION

A. General Framework

4. In *DISCO II*, the Commission set forth the public interest analysis applicable in evaluating applications to use non-U.S. licensed space stations to provide satellite service in the United States. This analysis considers the effect on competition in the United States,[10] eligibility and operating (*e.g.*, technical) requirements,[11] spectrum availability,[12] and national security, law enforcement, foreign policy, and trade concerns.[13] We evaluate the Star One S.A. request under

[4] Amendment of the Commission's Regulatory Policies to Allow Non-U.S.-Licensed Space Stations to Provide Domestic and International Satellite Service in the United States, First Order on Reconsideration, IB Docket No. 96-111, 15 FCC Rcd 7207, 7209-10, 14. (paras. 10,16) (1999) ("*DISCO II First Reconsideration Order"*).

[5] *DISCO II First Reconsideration Order*, 15 FCC Rcd at 7214-16 (paras. 16-20).

[6] The website is www.fcc.gov/ib/sd/se/permitted.html.

[7] Petition for Declaratory Ruling to Add the Star One C1 Satellite at 65° W.L. to the Permitted Space Station List File No. SAT-PPL-20031230-00367, S2611, filed December 30, 2003 ("Petition"). Star One filed additional technical information on April 22, 2004. *See* Letter to Marlene H. Dortch, FCC, Office of the Secretary, (April 22, 2004) (Star One April 22, 2004 Letter) and Letter to Marlene H. Dortch, FCC, Office of the Secretary, (April 27, 2004). Star One S.A. is licensed by the Brazilian government to operate the Star One C1 satellite at the 65° W.L. orbit location.

[8] Letter from Alvin Lezama Pereira, Director General, CONATEL, to Jeree Payton, Satellite Division, International Bureau (Feb. 27, 2004). This letter did not comply with the Commission's filing procedures Nevertheless, we will treat this letter as an informal comment to the Petition. 47 C.F.R. §§ 25.154(b); 1.41.

[9] *Id*.

[10] *DISCO II*, 12 FCC Rcd at 24107-56 (paras. 30-145).

[11] *DISCO II*, 12 FCC Rcd at 24159-69 (paras. 151-74).

[12] *DISCO II*, 12 FCC Rcd at 24157-59 (paras. 146-50).

this framework.

B. Competition Considerations

5. In *DISCO II*, the Commission established a rebuttable presumption that entry by non-U.S. satellites licensed by WTO Members to provide services covered by the U.S. commitments under the WTO Basic Telecom Agreement will further competition in the United States.[14] These commitments include fixed-satellite service, but specifically exclude direct-to-home (DTH) services, Direct Broadcast Satellite Service (DBS), and Digital Audio Radio Service (DARS).[15] This means that we will presume that WTO-member licensed satellites providing WTO-covered services satisfy the competition component of the public interest analysis. The Commission concluded that the market access commitments made under the WTO Basic Telecom Agreement will help ensure the presence and advancement of competition in the satellite services market and yield the benefits of a competitive marketplace to consumers in the United States and other countries.[16]

6. In this case, the presumption in favor of entry applies to Star One C1, which is licensed by Brazil, a WTO Member,[17] and which will provide non-DTH fixed-satellite service to customers in the United States. There is no evidence to rebut the proposition that Star One C1's entry into the U.S. market is pro-competitive. Therefore, we conclude that Star One C1's proposed entry for purposes of offering fixed-satellite services, excluding DTH, DBS, and DARS, will enhance competition for these services in the U.S. market. As a condition on Star One C1's placement on the Permitted List, however, we prohibit U.S. earth stations from accessing Star One C1 for DTH, DBS, or DARS.

C. Eligibility Requirements

a. Legal Qualifications

7. In *DISCO II*, the Commission stated it would require non-U.S. space station operators to meet the same technical, legal, and financial qualifications that U.S.-licensed space station operators must meet to obtain a license.[18] Nothing in the record suggests that Star One S.A. is not legally qualified to provide service to the United States using its Star One C1 satellite.

b. Technical Qualifications

8. The Commission's satellite licensing policy is predicated upon two-degree orbital

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[13] *DISCO II*, 12 FCC Rcd at 24169-72 (paras. 175-82).

[14] *DISCO II*, 12 FCC Rcd at 24112 (para. 39).

[15] *DISCO II*, 12 FCC Rcd at 24112 (para. 25).

[16] *DISCO II*, 12 FCC Rcd at 24112 (para. 39); 24157 (para. 143).

[17] *See* http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm (a list of WTO members); *See also* http://www.wto.org/english/tratop_e/serv_e/telecom_commit_exempt_list_e.htm (a list of WTO members that made market-access commitments, with links to each member's schedule of commitments and Article II exceptions.).

[18] *DISCO II*, 12 FCC Rcd at 24161-63 (paras. 154-59).

spacing between geostationary satellites.[19] This policy permits the maximum use of the geostationary satellite orbit.[20] All space stations, including non-U.S. satellites seeking to serve the U.S. market, must comply with the Commission's technical requirements, designed to permit two-degree orbital spacing, before being authorized to provide service in the United States.[21] The Commission may license satellites that are not two-degree compliant (or earth stations seeking to access such), but only when the applicants can demonstrate that their operations will cause no harmful interference to existing compliant satellite operations. Further, non-conforming operations are authorized conditioned upon a licensee accommodating future satellite networks serving the United States that are two-degree compliant.[22]

9. Based on our review of the technical information Star One S.A. submitted, we conclude that Star One C1 complies with all applicable Commission rules, except Sections 25.210(a)(3), and 25.210(i).[23] Star One requests that we grant waivers of each of these requirements.[24] We note that none of these instances involves the potential for interference to other satellites. We discuss Star One's waiver requests below.

i. Switchable Polarization

10. Section 25.210(a)(3)[25] requires that all space stations in the Fixed-Satellite Service used for domestic service in the C-band shall be capable of switching polarization sense upon ground command. Star One claims its C-band communications payload is based on the previous Brasilsat series design where most of the C-band transponders on the satellite do not have this switching capability. According to Star One the Commission has waived this requirement for the ANIK F1[26] and Brasilsat A2[27] satellites because those satellites successfully

[19] For more information regarding the Commission's two-degree spacing policy, see, *See* 47 C.F.R. § 25.140; Licensing of Space Stations in the Domestic Fixed-Satellite Service and Related Revisions of Part 25 of the Rules and Regulations, *Report and Order*, CC Docket No. 81-704, FCC 83-184, 54 Rad. Reg. 2d 577 (released Aug. 16, 1983); *summary printed in* Licensing Space Stations in the Domestic Fixed-Satellite Service, 48 F.R. 40233 (Sept. 6, 1983) (*Two Degree Spacing Order*).

[20] *Assignment of Orbital Locations to Space Stations in the Domestic Fixed-Satellite Service*, 11 FCC Rcd 13788, 13790 (para. 6) (1996). Prior to the Commission's adoption of the two-degree spacing policy, satellites in the geostationary satellite orbit were usually spaced three or four degrees apart. By adopting rules that enabled satellite operators to place their space stations two degrees apart, the Commission was able to accommodate more geostationary satellites.

[21] Amendment of the Commission's Space Station Licensing Rules and Policies, *First Report and Order and Further Notice of Proposed Rulemaking*, IB Docket No. 02-34, 18 FCC Rcd 10760 (para. 300) (2003) ("*First Space Station Reform Order"*).

[22] *See*, *e.g.*, Systematics General Corporation, *Order and Authorization*, 2 FCC Rcd 7550, 7550-51 (para. 9) (Com. Car. Bur. 1987); New Skies Satellites, N.V., *Order and Authorization*, 14 FCC Rcd 13003, 13038 (para. 78) (1999).

[23] 47 C.F.R. §§ 25.210(a)(3) and (i).

[24] Petition at 11-14.

[25] 47 C.F.R. § 25.210(a)(3).

[26] *See, e.g., Telesat Canada Petition for Declaratory Ruling for Inclusion of ANIK F1 on the Permitted Space Station List,* Order, 15 FCC Rcd. 24828, 24834-35 (paras. 16-17) (2000).

[27] *See Empresa Brasileira de Telecomicaçöes S.A., Petition for Declaratory Ruling on Access to Brasilsat A2 Satellite via U.S. Earth Stations,* Order, 16 FCC Rcd. 655, 659 (para. 10) (2001) ("*Brasilsat A2 Order*").

coordinated their FM/TV operations, which are highly susceptible to interference, with U.S. satellites. Star One has not completed coordination of the FM/TV carriers with potentially affected U.S. operators, but until such time, Star One S.A. states it will not transmit FM/TV transmissions to, from, or within the United States.[28]

11. The Commission may waive its rules when there is "good cause" to do so and where waiver would not be inconsistent with the purpose of the rule.[29] The Commission implemented two-degree spacing to maximize the number of satellites in orbit.[30] In doing so, it recognized that new technical standards were needed to ensure that C-band satellites could operate interference-free in a reduced spacing environment.[31] Co-polarized FM/TV transmissions are highly susceptible to causing interference between adjacent satellites. To prevent such potential interference, the Commission adopted a rule that requires C-band satellites to be capable of switching polarity from the ground.[32] Star One does not propose to provide FM/TV services to the U.S. from Star One C1 until such operations are coordinated with potentially affected U.S. operators. Consequently, Star One's failure to meet our polarity-switching capability requirement will not create interference into the operations of satellites that conform to our two-degree spacing requirements. Under these circumstances, we find that a waiver of that polarity-switching rule is warranted here, together with a condition on Star One C1's placement on the Permitted List that precludes earth stations from transmitting or receiving FM/TV signals from the satellite.[33] If any earth station operator decides to provide FM/TV service, a separate modification application will be required, which must include a two-degree spacing compliance analysis, or an affidavit demonstrating that Star One C1 has been coordinated for the specific frequencies used for these FM/TVoperations, as specified in Section 25.211(b) of the Commission's rules.[34] Each modification application shall include an analysis showing that such

[28] *See* Petition at 11-12.

[29] 47 C.F.R. §1.3.

[30] *Two-Degree Spacing Order.*

[31] *Id*. at paras. 33-43.

[32] *See In The Matter Of Amendment Of Part 25 Of The Commission's Rules And Regulations To Reduce Alien Carrier Interference Between Fixed-Satellites At Reduced Orbital Spacings And To Revise Application Processing Procedures For Satellite Communication Services,* Second Report And Order , CC 86-496, RM-4206, 8 FCC Rcd. 1316,1318 (paras. 10-11) (1993).

[33] *See Mabuhay Philippines Satellite Corp*., DA 00-2649, 15 FCC Rcd at 23,676-77 (paras. 12-13) (granting a waiver of section 25.210(i) and imposing a condition upon grant).

[34] 47 C.F.R. § 25.211(b). Section 25.211(b) requires carrier frequencies for Ku-band TV/FM transmissions to be identified for coordination with adjacent U.S. satellite systems and affected satellite systems of other administrations Also, Section 25.211(a), 47 C.F.R. § 25.211(a), requires C-band analog video transmissions to occur at specific center frequencies. Star One states that it has not completed coordination with all potentially affected U.S. satellite operators and thus it is not certain what center frequencies may be used for C-band and Ku-band FM/TV transmissions. Star One has agreed to provide such information after completion of the coordination with potentially affected U.S. satellite operators and request any necessary waivers at that time. See Petition at 13. Under these circumstances, we find that Star One's failure to identify the center frequencies to be used for C-band and Ku-band FM/TV transmissions does not preclude grant of the petition for declaratory ruling in this instance as we have already precluded this type of transmission. Specifically, as noted above as a condition of inclusion on the Permitted List, U.S. licensed earth stations are prohibited from transmitting or receiving FM/TV transmissions from television signals from the satellite. *See Mabuhay Philippines Satellite Corp*., DA 00-2649, 15 FCC Rcd at 23,676-77 (paras. 12-13) (granting a waiver of section 25.210(i), 47 C.F.R. § 25.210(i) and imposing a condition upon grant).

analog television operations do not exceed the power flux density (PFD) limits prescribed by Section 25.208(a) of the Commission's rules.[35]

ii. Cross-Polarization Isolation

12. Section 25.210(i)[36] requires space station antennas in the Fixed-Satellite Service to provide cross-polarization isolation such that the ratio of the on axis co-polarization gain to the cross-polarization gain of the antenna in the assigned frequency band shall be at least 30 dB within its primary coverage area. Star One claims that the cross-polarization isolation of the Star One C1 satellite's antenna will comply with the 30 dB minimum isolation over 80% of the satellite's coverage area, but the isolation of the C-band BSAC antenna and the Ku-band MCRK antenna[37] will be as low as 27-28 dB in the remaining 20 % of the coverage area (typically at the edge of coverage).[38] Star One claims that this deviation from the minimum isolation ratio will not cause harmful interference to any U.S. licensed satellite networks because the deviation is typically at the beam edges, is outside the Star One C1 satellite's "primary coverage area" and there are no U.S. licensed satellites within two degrees of 65º W.L. Star One also notes that coordination agreements between Star One and potentially affected U.S. satellite operators will ensure that this cross-polarization deviation does not affect U.S. licensed satellites. Star One contends that the Commission has waived this requirement for New Skies Satellites N.V. for the NSS-7 satellite network where the deviation from the minimum was limited to a portion of the coverage area and isolation was 25-30 dB, with typical isolation better than 27 dB.[39] We find that a waiver is warranted under the same rationale articulated in the *New Skies Satellites NSS-7 Order*, where we agreed with New Skies that, under similar circumstances to those detailed in the Star One C1 satellite petition, the impact on neighboring satellite systems of this 3-5dB difference from the required cross-polarization isolation ratio would be negligible.[40]

iii. Extended Bands

14. We also observe that Star One C1 is capable of operating in the extended C and Ku-band frequencies.[41] The Commission has consistently held that, because of interference concerns with other services operating in the extended bands, the Permitted List includes only the

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In addition to the points discussed above, this condition will only be lifted upon the filing of a modification request that demonstrates compliance with the Commission's rules, including section 25.211(a), 47 C.F.R. § 25.211(a).

[35] 47 C.F.R. § 25.208(a).

[36] 47 C.F.R. § 25.210(i)

[37] BSAC refers to the Brazil South America Beam and MCRK ostensibly refers to the Mercosul Regional Beam. Both are names that are given to antenna beams that cover certain areas of the Earth.

[38] *See* Petition at 12.

[39] *See* Petition at 12-13. *See, e.g., New Skies Satellites N.V. Petition for Declaratory Ruling for Inclusion of NSS-7 on the Permitted Space Station List,* Order, FCC Rcd. 10369, 10376-77 (para. 19)(2002)("*New Skies Order")*.

[40] *New Skies Order*, 17 FCC Rcd. at 10376-77 (para. 19).

[41] *See* Petition, Technical Appendix at 1-4. Star One indicates that the Star One C1 satellite is capable of operating in the extended C-band at 5850–5925 MHZ uplink and 3625–3700 MHz downlink; and in the extended Ku-band at 13.75–14.0 GHz uplink and 10.95–11.2 GHz downlink.

conventional C and Ku-bands.[42] Consequently, we limit the Star One C1's Permitted Space Station List operations to the conventional C-band (3700-4200 MHz, 5925-6425 MHz) and conventional Ku-band (11.7-12.2 GHz, 14.0-14.5 GHz). Any earth station wishing to communicate with Star One C1 using the extended C or Ku-band frequencies must file a separate application with the Commission which will be considered on a case-by-case basis.

c. Financial Qualifications

15. In its *First Space Station Licensing Reform Order*, the Commission eliminated the financial requirements then in place and replaced them with a bond requirement.[43] Under this new financial requirement, any entity awarded a license for a GSO satellite must execute a payment bond, payable to the U.S. Treasury, within 30 days of the date of the license grant. The bond is payable upon failure to meet any implementation milestone in the license, where adequate justification for extending that milestone is not provided.[44] Licensees may reduce the amount of the bond upon meeting each milestone.[45] This requirement applies both to U.S.-licensed satellites and satellites licensed by other countries that seek to serve the U.S. market.[46] Star One states that it has met two of the five implementation milestones -- executing a satellite construction contract and beginning physical construction -- and its bond should be reduced accordingly.[47] We cannot find that Star One has met either of these milestones. First, Star One has not provided a copy of its construction contract. Without this documentation, which all satellite licensees must submit as evidence of meeting this first milestone,[48] we are unable to determine whether or not the contract fulfills our criteria for a non-contingent contract as the milestone requires.[49] Similarly, we are not persuaded that Star One has met the commencement of physical construction milestone. In the *First Space Station Reform Order*, we codified "Critical Design Review" or CDR as the second implementation milestone. We defined CDR as the stage in the spacecraft implementation at which the design and development phase ends and the manufacturing phase begins.[50] The "commencement of physical construction" milestone follows the CDR milestone. Star One acknowledges that it has not completed CDR.[51] Thus, we cannot determine that Star One has begun constructing a satellite whose design is finalized, as the beginning of construction

[42] *DISCO II First Reconsideration Order*, 15 FCC Rcd at 7210; *See also In the Matter of European Telecommunication Satellite Organization*, Petition for Declaratory Ruling, File No. SAT-PDR-20000214-0059, 15 FCC Rcd 23486, 23487-8 (2000).

[43] Amendment of the Commission's Space Station Licensing Rules and Policies, *First Report and Order and Further Notice of Proposed Rulemaking*, IB Docket No. 02-34, 18 FCC Rcd 10760,10826 (para. 170) (2003) ("*First Space Station Reform Order"*).

[44] *Id*.

[45] *Id*. at 10826-27 (para. 172).

[46] *Id*. at 10875 (para. 309).

[47] Petition at 7.

[48] *See* 47 C.F.R. § 25.164(c).

[49] *See, e.g.*, Joint Application for Review of Constellation Communications Holdings, Inc., Mobile Communications Holdings, Inc. and ICO Global Communications (Holdings) Limited, *Memorandum Opinion and Order*, FCC 04-131, (released. Jun 24, 2004) at para. 18.

[50] *First Space Station Reform Order*, 18 FCC Rcd at 10833 (para. 191).

[51] Star One April 22, 2004 Letter at unnumbered 2.

milestone requires. Accordingly, we will require Star One to post a $3 million payment bond within 30 days of the date of this order.[52] If Star One does not do so, we will remove Star One from the Permitted List.

D. Spectrum Availability

16. In *DISCO II*, the Commission determined that, given the scarcity of geostationary-satellite orbit locations and spectrum resources, it would consider spectrum availability as a factor in determining whether to allow a foreign satellite to serve the United States.[53] This is consistent with the Chairman's Note to the Basic Telecom Agreement, which states that WTO Members may exercise their domestic spectrum/frequency management policies when considering foreign entry. Thus, in *DISCO II*, we stated that when grant of access would create interference with U.S.-licensed systems, we may impose technical constraints on the foreign system's operations in the United States or, when conditions cannot remedy the interference, deny access.

17. Star One C1 will provide service to the United States from the 65° W.L. orbit location. Brazil has filed coordination information with the International Telecommunication Union (ITU) for both C- and Ku-band at 65° W.L. Star One states that it is authorized by Brazil to operate under this ITU filing.[54] There are no other satellites authorized to serve the United States operating in the conventional C- and Ku-bands that are located within two degrees of Star One C1.[55] As explained above, Star One has supplied an interference analysis demonstrating that its satellite system will be compatible with the Commission's two-degree orbital spacing environment.[56] Further, we have found that Star One C1 complies with the Commission's two-degree spacing requirements. Consequently, allowing Star One C1 to serve the United States from the 65° W.L. orbital location will not affect operations of any U.S.-licensed satellites nor contravene the Commission's spectrum/frequency management policies. Further, we acknowledge CONATEL's plan to implement a satellite at 67° W.L. CONATEL, however, has not requested access to the United States using such a satellite. In any event, as in all other orders permitting non-U.S. satellites to serve the United States, we require all communications between earth stations in the United States and Star One C1 to be in compliance with all satellite coordination agreements reached by Brazil and other countries.

[52] In light of the Commission's recent decision to revise the bond amount in the *First Order on Reconsideration and Fifth Report and Order*, FCC 04-147 (rel. July 6, 2004) from $5 million to $3 million for a geostationary satellite orbit satellite, we will require Star One S.A. to post a $3 million bond. In the event that the revised bond amount has not become effective when Star One's bond is due, we waive Section 25.165 of the Commission's rules, 47 C.F.R § 25.165, to the extent necessary.

[53] *DISCO II*, 12 FCC Rcd at 24159 (para. 150).

[54] Petition at 7.

[55] Star One also states it has held productive coordination discussions with U.S. satellite operators and concluded a number of coordination agreements. Star One claims it has reached coordination agreements with SES Americom regarding the 72º W.L. (C and Ku-band) orbital location, with Intelsat regarding all of its satellites (C and Ku-band), and with PanAmSat regarding the 74º W.L. (Ku-band) orbital location. Star One indicates that coordination discussions remain on-going with PanAmSat regarding the 58º W.L. (C and Ku-band) and 74º W.L. (C-band) orbital locations, and have not yet commenced with Loral Skynet regarding the 69° W.L. orbital location (C and Ku-band). Petition at 5.

[56] *See Two Degree Spacing Order*, 54 Rad. Reg. 2d 577.

E. Other Requirements

18. As described above, under *DISCO II*, national security, law enforcement, foreign policy, and trade concerns are included in the public interest analysis.[57] Nothing in the record before us raises any such concerns.

F. Milestones

19. In its *First Space Station Licensing Reform Order*, the Commission adopted generic milestone requirements covering various stages in the satellite procurement/licensing process from contract execution to launch and operation.[58] Star One has not demonstrated that it has met any of these milestones. Consequently, we impose the full set of milestones as follows: Contract execution: August 24, 2005; CDR: August 24, 2006; Commence physical construction: August 24, 2007; Launch: August 24, 2009. We will remove Star One C1 from the Permitted List if any of these milestones are not met.

IV. ORDERING CLAUSES

20. Accordingly, IT IS ORDERED that, pursuant to Sections 303(r), 308, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 303(r), 308, 309, 310, and Sections 0.261 and 25.137(c) of the Commission's rules, 47 C.F.R. §§ 0.261, 25.137(c), the Petition for Declaratory Ruling filed by Star One S.A. (File No. SAT-PPL-20031230-00367) to Add the Star One C1 Satellite at 65° W.L. (S2611) to the Permitted Space Station List is GRANTED and each U.S.-licensed earth station with "ALSAT" designated as a point of communication, IS GRANTED authority to provide Fixed Satellite Services (FSS) in the 3700-4200 MHz, 5925-6425 MHz, 11.7-12.2 GHz and 14.0-14.5 GHz frequency bands, to, from, or within the United States, by accessing the Star One C1 satellite (S2611) at the 65° W.L. orbit location, subject to the parameters set forth in its earth station license and subject to the following conditions:

a) Star One C1 is not authorized to provide any Direct-to-Home (DTH) service, Direct Broadcast Satellite (DBS) service, or Digital Audio Radio Service (DARS) to, from, or within the United States;

b) Star One C1 is not authorized to provide any FM/TV service to, from, or within the United States;

c) Communications between ALSAT-designated routine earth stations and the Star One C1 satellite shall be in compliance with the satellite coordination agreements reached between Brazil and other administrations;

d) Operation of Star One C1 shall be in accordance with the power flux-density requirements of 47 C.F.R. § 25.208 of the Commission's Rules.

21. IT IS FURTHER ORDERED that Star One S.A. IS GRANTED a waiver of Sections 25.210(a)(3), and 25.210(i) of the Commission's rules, 47 C.F.R. §§ 25.210(a)(3), and 25.210(i), for the purpose of operating Star One C1 in the conventional C and Ku-bands.

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[57] *DISCO II*, 12 FCC Rcd at 24170-72 (paras. 178-182).

[58] *First Space Station Licensing Reform Order* at 10828 (para 175). 47 C.F.R. § 25.164(a).

22. IT IS FURTHER ORDERED that, unless extended by the Commission for good cause shown, Star One C1 shall be removed from the Permitted Space Station List in the event the space station is not constructed, launched, and successfully placed into operation in accordance with the technical parameters in its Petition for Declaratory Ruling and the terms and conditions of this Order, by the following dates:

a. Execute a contract for construction: August 24, 2005;
b. Complete Critical Design Review: August 24, 2006;
c. Commence Physical Construction: August 24, 2007;
d. Launch: August 24, 2009 and
e. Star One S.A. must file a bond with the Commission in the amount of $3 million, pursuant to the procedures set forth in Public Notice, DA 03-2602, 18 FCC Rcd 16283 (2003), no later than September 24, 2004.

23. This Order is effective upon release. 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 date of the release of this Order. (See 47 C.F.R. § 1.4(b)(2).)

FEDERAL COMMUNICATIONS COMMISSION

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