

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

In the matter of)	
)	
LEO ONE WORLDWIDE, INC.)	Call Sign S2145
)	
Authorization to Construct, Launch and Operate)	File Nos. 57-DDS-P/LA-94(48)
a Non-Voice, Non-Geostationary Mobile Satellite)	27-SAT-AMEND-95
System in the 137-138, 148-150.5 MHz and)	10-SAT-AMEND-98
400.15-401 MHz Frequency Bands)	64-SAT-AMEND-98
)	161-SAT-AMEND-97

MEMORANDUM OPINION AND ORDER

Adopted: March 25, 2004

Released: March 25, 2004

By the Chief, Satellite Division:

I. INTRODUCTION

1. With this Order, we cancel the authorization granted to Leo One Worldwide, Inc. (“Leo One”) to construct, launch and operate a 48-satellite non-voice, non-geostationary mobile satellite service system (a “Little LEO” system). Leo One’s authorization set forth a system implementation milestone schedule, including completing construction of the first two satellites by February 2002, and launching those first two satellites by August 2002. Leo One did not meet these deadlines, and subsequently submitted its license for cancellation. Consequently, the Leo One license is rendered null and void by its own terms. The spectrum licensed to Leo One is now available to new applicants and will be considered on a first-come, first-served basis.¹

II. BACKGROUND

2. In 1998, the International Bureau granted Leo One a license to launch and operate a Little LEO system in the second processing round for the Little LEO service.² Leo One was authorized to operate a 48-satellite Little LEO system in the 148-150.05 MHz uplink and the 137-137.025 MHz and 400.15-401 MHz downlink frequency bands.

3. The *Leo One Authorization* required Leo One to meet a specified milestone schedule, including completing construction of its first two satellites by February 2002 and launching the first two satellites by August 2002.³ The *Leo One Authorization* stated that, in the event the space stations were not constructed and launched in accordance with those milestones, the authorization would be rendered

¹ *Policy Branch Information, Spectrum Available*, Public Notice, Report No. SPB-205, DA 04-791 (released March 26, 2004).

² *Leo One USA Corporation Application for Authorization to Construct, Launch and Operate a Non-Voice, Non-Geostationary Mobile Satellite System in the 137-138, 148-150.05 and 400.15-401 MHz Frequency Bands*, Order and Authorization, 13 FCC Rcd 2801 (Int’l Bur. 1998) (the “*Leo One Authorization*”). Leo One subsequently changed its name to Leo One Worldwide, Inc. Public Notice, Satellite Policy Branch Information, Report No. Sat-00023 (released August 3, 1999).

³ *Leo One Authorization*, 13 FCC Rcd at 2822, 2824.

null and void.⁴ In February 2002, Leo One requested that the Commission extend the system implementation milestones.⁵

III. DISCUSSION

4. It is longstanding Commission policy to impose system implementation milestone schedules, typically deadlines by which licensees must commence construction, complete construction, and launch their satellites.⁶ Requiring licensees to make and fulfill realistic construction and launch commitments prevents increasingly scarce orbital and spectrum resources from being warehoused by licensees. The Commission has strictly enforced system implementation milestones because it is in the public interest to ensure that licensees proceed expeditiously to complete construction of their full systems and to commence service.⁷

5. By its terms, the *Leo One Authorization* required Leo One to construct its first two satellites by February 2002 and to launch those satellites by August 2002. Leo One has now voluntarily submitted its license for cancellation.⁸ We deem this surrender as acknowledgement that the milestones were not met. Because Leo One surrendered its license, we need not address any issues related to its request for an extension of its milestones schedule.⁹ Thus, we hereby cancel the *Leo One Authorization* and dismiss the extension request as moot. We also note that Leo One has a pending application to modify its Little LEO system to include V-band service capability. As a result of our action today, we dismiss that application as moot.

6. Finally, we address the effect of the Commission's *First Space Station Reform Order* on the spectrum formerly licensed to Leo One that is now available for reassignment to new applicants.¹⁰ In the *Second Processing Round Order*, the Commission determined that the best approach to licensing Little LEO systems was to adopt the unique sharing arrangements proposed by the applicants.¹¹ The spectrum assigned to Leo One was described in the *Second Processing Round Order* as System 1.¹² A simple

⁴ *Leo One Authorization*, 13 FCC Rcd at 2824.

⁵ Leo One Worldwide, Inc. Request for Limited Waiver and Extension of Time, (filed February 28, 2002) (the "Milestone Extension Request").

⁶ See, e.g., *MCI Communications Corporation*, 2 FCC Rcd 233, 234 (1987) (milestone schedule included in each domestic space station authorization issued by the Commission).

⁷ See *Advanced Communications Corporation*, Memorandum Opinion and Order, 10 FCC Rcd 13337, 13338 (Int'l Bur. 1995); *Policies and Procedures for the Licensing of Space and Earth Stations in the Radiodetermination Satellite Service*, Second Report and Order, 104 F.C.C.2d 650, 665 (1986) (*Radiodetermination Satellite Service Rules Order*).

⁸ Letter from Robert A. Mazer, counsel for Leo One USA Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission (filed March 19, 2004).

⁹ We note that Leo One's Milestone Extension Request was not properly filed as a modification application, with the required filing fee. Consequently, on January 30, 2004, the Managing Director issued a Bill for Collection of the required filing fee. Leo One did not pay the bill by the February 29, 2004 due date. On March 18, 2004, Leo One submitted its license for cancellation.

¹⁰ *Amendment of the Commission's Space Station Licensing Rules and Policies and Mitigation of Orbital Debris*, First Report and Order and Further Notice of Proposed Rulemaking, IB Dockets No. 02-34 and 02-54, 18 FCC Rcd 10760, 10774-90 (2003) ("*First Space Station Reform Order*").

¹¹ *Amendment of Part 25 of the Commission's Rules to Establish Rules and Policies Pertaining to the Second Processing Round of the Non-Voice, Non-Geostationary Mobile Satellite Service*, Report and Order, 13 FCC Rcd 9111, 9117 (1997) ("*Second Processing Round Order*").

¹² *Second Processing Round Order*, 13 FCC Rcd at 9123.

division of the Little LEO spectrum among qualified applicants at this time in a modified processing round would be inconsistent with those sharing arrangements. Therefore, in order to preserve the carefully balanced policy decisions adopted by the Commission in the *Second Processing Round Order*, we conclude that a waiver of Sections 25.157 and 25.158 is warranted,¹³ to the extent necessary to permit consideration of any future Little LEO applications for the System 1 license under the first-come, first-served processing procedure, rather than the modified processing round procedure.

IV. CONCLUSION

7. Based on the foregoing, we conclude that Leo One did not implement its system consistent with the deadlines in its license. Consequently, Leo One's system license is rendered null and void by its own terms.

V. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED, that the authorization held by Leo One Worldwide, Inc., File Nos. 57-DDS-P/LA-94(48), 27-SAT-AMEND-95, 10-SAT-AMEND-98, 64-SAT-AMEND-98 is DECLARED NULL and VOID.

9. IT IS FURTHER ORDERED that the Milestone Extension Request of Leo One Worldwide, Inc. is DISMISSED.

10. IT IS FURTHER ORDERED that the pending application of Leo One Worldwide, Inc. for V-band service, 00161-SAT-AMEND-97 (SAT-AMD-19970926-00125) is DISMISSED.

11. This Order is issued pursuant to delegated authority, 47 C.F.R. § 0.261, and is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Thomas S. Tycz
Chief, Satellite Division
International Bureau

¹³ 47 C.F.R. §§ 25.157 and 25.158 (2003).