



Federal Communications Commission
Washington, D.C. 20554

International Bureau

DA 06-862

April 14, 2006

Ms. Bettina Eckerle
General Counsel
DigitalGlobe, Inc.
1601 Dry Creek Drive
Longmont, CO 80503

Re: DigitalGlobe, Inc, Request for Public Notice of Milestone Completion; File No. SAT-MOD-20040728-00151; Call Sign: S2129

Dear Ms. Eckerle:

On February 21, 2006, DigitalGlobe, Inc. (DigitalGlobe) filed the above-referenced request for a Commission determination that DigitalGlobe has completed several satellite implementation milestones for its Non-Geostationary Satellite Orbit (NGSO) satellite system. Specifically, DigitalGlobe requests that the Commission determine that DigitalGlobe has completed the contract, critical design review and begin construction implementation milestones. In connection with this request, DigitalGlobe also asks that we reduce the amount of its bond from \$5,000,000 to \$2,000,000. For the reasons discussed below, we deny DigitalGlobe's request.

Sections 25.164 (b) (1), (2), and (3) of the Commission's rules require all space station licensees to meet certain satellite implementation milestones.¹ NGSO licensees are required to submit a non-contingent construction contract for the licensed constellation, within one year of grant; complete critical design review of the licensed system within two years of grant; begin construction of the first satellite in the licensed system within two and a half years of grant; launch and operate the first satellite in the licensed system within three and a half years of grant; and, finally, bring all the satellites in the licensed system into operation within six years of grant.

Although DigitalGlobe's authorization does not require it to meet the first implementation milestone until October 2, 2006, DigitalGlobe contends it has met the first three of its implementation milestones and requests us to reduce the amount of its bond accordingly.

We have reviewed DigitalGlobe's request, including the contract and other relevant documentation submitted in support of your milestone showing, and find that it does not show that the contract meets the first milestone. In the *First Space Station Reform Order*² and subsequent orders,³ the Commission has

¹ See 47 C.F.R. § 25.164.

² Amendment of the Commission's Space Station Licensing Rules and Policies, First Report and Order and Further

consistently held that satellite licensees must execute a binding non-contingent contract in order to meet their first milestone. A non-contingent contract must identify specific satellites and their design characteristics, and specify dates for the start and completion of construction. Moreover, a non-contingent construction contract must set forth a specific construction schedule that is consistent with the licensee's milestones. In particular, the contract must require the licensee to make significant initial payments and the majority of payments well before the end of the construction period. DigitalGlobe, however, has redacted information in its contract about the design characteristics of the specific satellites covered by its authorization, as well as payment and construction schedules for those satellites. Without this information, we cannot determine whether DigitalGlobe's contract is binding and non-contingent, and therefore cannot find that DigitalGlobe is in compliance with its first implementation milestone.

Given its failure to provide adequate information regarding its commence construction milestone, we cannot make a determination with respect to DigitalGlobe's CDR milestone or its beginning physical construction milestone. We encourage DigitalGlobe to review both the *First Space Station Reform Order* and the *CDR Public Notice*⁴ for guidance regarding the supporting documentation necessary to meet its CDR milestone.

Accordingly, pursuant to Section 25.164 of the Commission's rules, 47 C.F.R. § 25.164, and Section 0.261 of the Commission's rules on delegations of authority, 47 C.F.R. § 0.261, we deny your request without prejudice to refileing.

Sincerely,

Robert G. Nelson
Chief, Satellite Division
International Bureau

Notice of Proposed Rulemaking, IB Docket No. 02-34, 18 FCC Rcd 10760, 10831 (para.184) (2003) (*First Space Station Reform Order*).

³ See Joint Application for Review of Constellation Communications Holding, Inc., et al., *Memorandum Opinion and Order*, 19 FCC Rcd 11631 (2004); Emergency Application for Review and Request for Stay of GlobalStar, L.P., *Memorandum Opinion and Order*, 19 FCC Rcd 11548 (2004).

⁴ The International Bureau Provides Guidance Concerning the Critical Design Review Milestone Requirement, *Public Notice*, Report No. SPB-204, DA 04-787 (March 25, 2004).