

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

In the Matter of
Star One, S.A.
Petition for Modification of Declaratory Ruling
That Added the Star One C5 Satellite to the
Permitted Space Station List
IBFS File No. SAT-MOD-20080304-00057
Call Sign S2742

MEMORANDUM OPINION AND ORDER

Adopted: March 7, 2008

Released: March 7, 2008

By the Chief, Satellite Division, International Bureau:

I. INTRODUCTION

1. In this Order, we deny Star One S.A.'s (Star One's) application for a one-week extension of time in which to post the required \$3 million bond for the Star One C5 satellite. Star One has not provided any unique or unusual circumstances to warrant an extension. Consequently, if Star One does not post a \$3 million bond for the Star One C5 satellite on or before March 10, 2008, we will remove Star One C5 from the Commission's Permitted List. This will preclude the Star One C5 satellite from providing service in the United States. Dismissal would be without prejudice to refiling.

II. BACKGROUND

2. On Thursday, February 7, 2008, the International Bureau granted a petition for declaratory ruling in which it placed Star One C5, located at 68° W.L., on the Permitted List. As is required by section 25.165 of the Commission's Rules, paragraph 5(e) in the ordering clauses of the grant stamp directed Star One to file the required \$3 million bond by March 10, 2008.

3. On March 4, 2008, Star One filed an application modification in which it requested a one-week extension of the bond filing deadline to March 17, 2008. Star One states that after the authorization for Star One C5 was issued, Star One's Chief Executive Officer, the "key decision-maker within the company with respect to the bond," was on travel outside of Brazil for nearly two weeks

1 See Star One S.A.; Petition for Declaratory Ruling to Add the Star One C5 Satellite at 68° W.L. to the Permitted Space Station List, IBFS File No. SAT-PPL-20071113-00159, Grant Stamp (February 7, 2008) (Star One C5 Grant).

2 47 C.F.R. § 25.165.

3 IBFS File No. SAT-MOD-20080304-00057 (Modification Application).

(February 16-28) of the 30-day period. It states that as a result of the CEO's unavailability, it is not certain that it can complete the documentation for the bond by the March 10, 2008 deadline.⁴

III. DISCUSSION

4. Star One styles its request as an application for modification of its license, to extend the deadline for filing its bond. However, we note that the 30-day bond deadline is set forth in Section 25.165(a) of the Commission's rules.⁵ Accordingly, in this case, we find that it is reasonable to treat Star One's application as a request for a waiver of the bond deadline in Section 25.165(a). Rules may be waived if there is "good cause" to do so.⁶ Waiver is appropriate if (1) special circumstances warrant a deviation from the general rule, and (2) such deviation would better serve the public interest than would strict adherence to the general rule.⁷ If the Commission grants a waiver, it must identify and articulate reasonable standards that are predictable, workable, and not susceptible to discriminatory application.⁸ Generally, the Commission may grant a waiver of its rules in a particular case only if the relief requested would not undermine the policy objective of the rule in question, and would otherwise serve the public interest.⁹

5. We find that Star One has not presented any special circumstances that justify a waiver of the 30-day bond filing requirement. It is fairly common for high ranking company officials to be on travel during any particular 30-day period. Star One does not explain why its CEO could not have made arrangements to procure the bond while he was on travel, or why its CEO did not designate another company official to handle this matter in his absence. Further, we disagree with Star One's assessment that the existence of Star One's license from Brazil eliminates warehousing concerns in this instance. The license from Brazil does not, in itself, provide assurance that Star One will bring the satellite into use at the 68° W.L. location to serve the U.S. market.¹⁰

6. In addition, we do not find that Star One's reference to the *Virtual GEO Order* is applicable here. In *Virtual GEO*, the International Bureau granted a short extension of the bond deadline because the license at issue in that Order was issued shortly before the Christmas and New Year holiday season. As a result, the financial community was not available to issue a bond to the licensee during a portion of the 30-day bond period.¹¹ In this case, Star One does not allege that the financial community is unavailable, but rather that its CEO was unavailable. As noted above, Star One does not adequately explain why it did

⁴ See Modification Application at 2.

⁵ 47 C.F.R. § 25.165(a).

⁶ See Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3. See also *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969) (*WAIT Radio*); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

⁷ *Northeast Cellular*, 897 F.2d at 1166. See also *Comsat Corporation, Petition for Partial Relief from the Current Regulatory Treatment of Comsat World Systems' Switched Voice, Private Line, and Video and Audio Services, Order*, 11 FCC Rcd 9622, 9625 (para. 10) (1996); *Petition of General Communications, Inc. for a Partial Waiver of the Bush Earth Station Policy, Memorandum Opinion and Order*, 11 FCC Rcd 2535, 2536 (para. 4) (Int'l Bur. 1996).

⁸ *Northeast Cellular*, 897 F.2d at 1166.

⁹ *WAIT Radio*, 418 F.2d at 1157; *Dominion Video Satellite, Inc., Order and Authorization*, 14 FCC Rcd 8182, 8185 (para. 5) (Int'l Bur., 1999) (*Dominion Video*).

¹⁰ See, e.g., *EchoStar Satellite, LLC, Order and Authorization*, 22 FCC Rcd 20083, 20091-92 (paras. 21-23) (Int'l Bur. 2005).

¹¹ *Virtual Geosatellite, LLC, Memorandum Opinion and Order*, 22 FCC Rcd 938 (Int'l Bur., 2007).

not make other arrangements to procure a bond in its CEO's absence.

7. Accordingly, we deny Star One's request to extend the bond deadline from March 10 to March 17, 2008. If Star One does not file a bond by March 10, 2008, its rights to access the U.S. market from the Star One C5 satellite will become null and void, without prejudice to refiling.

IV. ORDERING CLAUSES

8. IT IS ORDERED that the application for modification filed by Star One, S.A., on March 4, 2007, IBFS No. SAT-MOD-20080304-00057, IS DENIED.

9. IT IS FURTHER ORDERED that the Star One, S.A. C5 satellite (Call Sign S2742) shall be removed from the Commission's Permitted List in the event that Star One, S.A. fails to post a \$3 million bond by March 10, 2008. Such removal shall be without prejudice to Star One refiling another request to serve the U.S. market via Star One C5.

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 upon release.

FEDERAL COMMUNICATIONS COMMISSION

Robert G. Nelson
Chief, Satellite Division
International Bureau