

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

In the Matter of	)	
	)	
	)	
<b>Virtual Geosatellite, LLC</b>	)	IBFS No. SAT-LOA -19990108-00007
	)	IBFS No. SAT-MOD-20070118-00018
	)	
Request for Two-Week Extension of Performance	)	Call Sign S2366
Bond Filing Deadline	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted:** January 25, 2007

**Released:** January 25, 2007

By the Acting Chief, International Bureau:

**I. INTRODUCTION**

1. In this Order, we grant a limited waiver of the satellite bond rule to permit Virtual Geosatellite, LLC (Virtual Geo) two additional weeks to post its bond. We find that this limited waiver is justified by the unique circumstances under which Virtual Geo was hindered in financial negotiations by year-end holiday work schedules. This action will grant Virtual Geo a full month of business working days to post its bond. No further extension is contemplated. If Virtual Geo does not post a \$5 million bond on or before February 5, 2007, its license will be null and void without further action by the Commission.

**II. BACKGROUND**

2. On Friday, December 21, 2006, the International Bureau released an Order and Authorization in which it granted Virtual Geo authority to construct a constellation of satellites in the Ku-band, non-geostationary satellite orbit (NGSO), fixed-satellite service. As is required by section 25.165 of the Commission's Rules,<sup>1</sup> paragraph 93 in the ordering clauses of the Order and Authorization directed Virtual Geo to file the required \$5 million bond by January 20, 2007.

3. On January 18, 2007, Virtual Geo filed a letter in which it requested a two-week extension of the bond filing deadline to February 5, 2007.<sup>2</sup> Because the license was issued on the Friday before

<sup>1</sup> 47 C.F.R. § 25.165.

<sup>2</sup> January 18, 2007 Letter from Raul R. Rodriguez and Stephen D. Baruch, Attorneys for Virtual Geosatellite, LLC to Marlene H. Dortch, Secretary, Federal Communications Commission (*January 18 Letter*). While Virtual Geo made its request in a letter, the bond requirement is a condition of Virtual Geo's license. A request to change a license condition must be made in application to modify the license. Given the timing of this matter, we will treat Virtual Geo's request as a modification application, and refer the matter to the Office of the Managing Director for the appropriate billing.

Christmas, Virtual Geo asserts that it was unable to meet prospective investors or financial backers during the Christmas and New Year's holiday weeks because their offices were closed or minimally staffed. Virtual Geo states that it made substantial progress in securing arrangements to post its bond in the 10 days subsequent to January 8, when offices had resumed full activity after the holidays. Virtual Geo has agreed to voluntarily return its authorization to the Commission by February 5, 2007 if it has not secured arrangements to post the bond.<sup>3</sup>

### III. DISCUSSION

4. Rules may be waived if there is "good cause" to do so.<sup>4</sup> 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.<sup>5</sup> If the Commission grants a waiver, it must identify and articulate reasonable standards that are predictable, workable, and not susceptible to discriminatory application.<sup>6</sup> 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.<sup>7</sup>

5. We find that the unique circumstance of a new satellite system license issued to a new entrant on the eve of the Christmas holiday season merits a limited waiver of the bond rule. A two-week extension will provide Virtual Geo with the benefit of 30 calendar days in which business offices are fully staffed and operational before having to post the bond. This amount of time is consistent with the time available to licensees whose licenses were issued at any other time of the year.<sup>8</sup>

6. Further, a two-week extension will not undermine the policy objective of the bond requirement. The Commission adopted the bond requirement to provide assurance that the licensee is fully committed at the time its license is granted to construct and launch its satellite, and is not "warehousing" scarce spectrum resources to the exclusion of other qualified applicants. Further, the

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<sup>3</sup> See *January 18 Letter* at 2.

<sup>4</sup> 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*).

<sup>5</sup> *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).

<sup>6</sup> *Northeast Cellular*, 897 F.2d at 1166.

<sup>7</sup> *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*).

<sup>8</sup> In other contexts, the Commission has recognized the difficulty of meeting deadlines that fall near the end-of-year-holidays due to unavailability of necessary personnel. The Commission has granted short extensions of time in such situations. See, e.g., *Fibertech Networks, LLC, Petition for Rulemaking, Order*, 21 FCC Rcd 155 (Wireline Comp. Bur. 2006); *Wireline Competition Bureau Grants Motion for Extension of Time to File Opposition to Request for Stay in the Communications Assistance for Law Enforcement Act and Broadband Access and Services Proceeding, Public Notice*, 18 FCC Rcd 26307 (Wireline Comp. Bur. 2003); *AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced Prepaid Calling Card Services, Order*, 18 FCC Rcd 13108 (Wireline Comp. Bur. 2003).

Commission designed the requirement to involve the financial community in determining whether a licensee is likely to construct its satellite.<sup>9</sup>

7. We find that the minimal extension requested based on the unique circumstances presented will better serve the public interest than strict adherence to the rule. A brief two-week extension based on financiers' unavailability during the Christmas and New Year holiday season will not encourage applications by entities not fully committed to their proposed satellite systems. It will also afford Virtual Geo a roughly equivalent number of actual "business" days in which to procure a bond as afforded to other satellite licensees. Accordingly, we grant the requested two-week extension. We emphasize that we do not contemplate any further extension of Virtual Geo's bond filing deadline.

#### IV. ORDERING CLAUSES

8. IT IS ORDERED that the request to extend the bond filing deadline, filed by Virtual Geosatellite, LLC, on January 18, 2007, IS GRANTED.

9. IT IS FURTHER ORDERED that Virtual Geosatellite, LLC must file a bond with the Commission in the amount of \$5 million, pursuant to the procedures set forth in Public Notice, DA 03-2602, 18 FCC Rcd 16283 (2003), by February 5, 2007.

10. IT IS FURTHER ORDERED that the authorization granted to Virtual Geosatellite, LLC, Call Sign S2366, IBFS No. SAT-LOA-19990108-00007, shall become NULL and VOID with no further action required by the Commission in the event that Virtual Geosatellite, LLC fails to post a performance bond by February 5, 2007.

11. 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

John Giusti  
Acting Chief, International Bureau

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<sup>9</sup> Amendment Of The Commission's Space Station Licensing Rules And Policies, *First Report and Order and Further Notice of Proposed Rulemaking in IB Docket No. 02-34, and First Report and Order in IB Docket No. 02-54*, 18 FCC Rcd 10760, 10825 ¶ 1670 (2003) (*First Space Station Reform Order*).