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**MAY 19 1992**

Federal Communications Commission  
Office of the Secretary

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May 19, 1992

**EX PARTE OR LATE FILED**

**Ms. Donna Searcy  
Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554**

**Re: Requests for Pioneer's Preferences with regard to Proposals to Establish Low-Earth Orbit Satellite Systems in the 1610-1626.5 MHz and 2483.5-2500 MHz Bands, ET Docket No. 92-28, PP-29, PP-30, PP-31, PP-32, PP-33**

Dear Ms. Searcy:

Attached are an original and the required copies of the "Comments" of Loral Qualcomm Satellite Services, Inc. in the above-captioned matter.

Please contact the undersigned should you have any questions.

Sincerely yours,

Leslie A. Taylor

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MAY 19 1992

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

Federal Communications Commission  
Office of the Secretary

In the Matter of:	)	ET Docket No. 92-28
	)	
LORAL QUALCOMM SATELLITE	)	PP-31
SERVICES, INC.	)	
	)	
CONSTELLATION COMMUNICATIONS, INC.	)	PP-29
	)	
TRW, INC.	)	PP-33
	)	
ELLIPSAT CORPORATION	)	PP-30
	)	
MOTOROLA SATELLITE	)	PP-32
COMMUNICATIONS, INC.	)	
	)	
	)	
Requests for Pioneer's Preferences	)	
with regard to Proposals to	)	
Establish Low-Earth Orbit	)	
Satellite Systems in the 1610-1626.5 MHz	)	
and 2483.5-2500 MHz Bands	)	
	)	
	)	

**COMMENTS OF LORAL QUALCOMM SATELLITES SERVICES, INC.  
ON MOTION FOR STAY OF TRW INC.**

Loral Qualcomm Satellite Services, Inc. (LQSS), by its attorneys, hereby respectfully submits its comments with regard to the Motion for Stay of action in ET Docket No. 92-28 filed by TRW Inc. Although, as stated in earlier filings,<sup>1</sup> LQSS believes it is deserving of a pioneer's preference for its proposed low-earth orbit satellite system which will provide location determination, voice and data services, and has previously argued that the Commission should defer action in this proceeding, pending the conclusion of the

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<sup>1</sup> See, LQSS Reply Comments in ET Docket No. 92-28, filed April 23, 1992.

rulemaking concerning the radio-determination satellite service (RDSS) frequency bands. The Commission should complete its consideration of pending petitions for further reconsideration of the recently established pioneer preference rules.<sup>2</sup>

LQSS recently expressed its grave concern "that the Commission, in an effort to help speed delivery of new technologies and services to the American people, may inadvertently establish a noncompetitive and spectrum inefficient satellite service when competitive and spectrum efficient alternatives readily exist."<sup>3</sup> In that letter, LQSS urged the Commission to avoid taking "interim or piecemeal steps" which could inadvertently "create the ultimate technological and market structure through which these [low-earth orbit] services reach the public, even if the Commission intends these steps to be only interim."<sup>4</sup> LQSS asked the Commission to "resist Motorola's attempts to pressure it to act on its pending experimental license, pioneer's preference and Section 214 requests." Instead, LQSS asked the Commission to focus on the generic issues concerning RDSS licensing, service and spectrum standards.<sup>5</sup>

As does TRW, LQSS has pending before the Commission a petition for further reconsideration of the pioneer preference rules.<sup>6</sup> In that petition, LQSS raises important

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<sup>2</sup> Establishment of Procedures to Provide a Preference to Applicants Proposing an Allocation for New Services, 6 FCC Rcd 3488 (1991) ("Pioneer's Preference Order"), recon. in part, FCC 92-57 (released February 26, 1992) ("Pioneer's Preference Recon. Order").

<sup>3</sup> See, Letter of LQSS to Chairman Alfred Sikes and Commissioners Quello, Marshall, Barrett and Duggan, dated May 8, 1992.

<sup>4</sup> Supra., p. 3.

<sup>5</sup> See also, LQSS Reply Comments, p. 3, wherein LQSS states that the Commission should defer action on the Pioneer Preference requests and proceed with a narrowly focused rulemaking and processing of the applications.

<sup>6</sup> See, LQSS Petition for Further Reconsideration in GEN Docket No. 90-217, Establishment of Procedures to Provide a Preference to Applicants Proposing an Allocation for New Services (Filed April 6, 1992).

questions concerning the nature of preferences to be granted, e.g., whether a "dispositive preference" can be granted in a case where an applicant is subject to competing applications.<sup>7</sup> In addition, LQSS asked the Commission to clarify the scope of a preference and "the criteria under which one type of geographic area, rather than another" would be identified.<sup>8</sup> These important issues should be addressed in the pioneer's preference proceeding prior to consideration of the preference requests in ET Docket No. 92-23.

In the case of the RDSS applications, and petitions for rulemaking, the Commission must squarely face the important public policy issues of spectrum allocation, use of spectrum by multiple entities, competition as well as numerous technical issues. These issues are complex and deserving of full and fair consideration. The Commission cannot, and should not, allow the use of the pioneer preference to shape the rulemaking to Motorola's system which would monopolize a critical portion of the RDSS spectrum and preclude multiple service providers.

As LQSS has stated in the past:

The public and the RDSS applicants deserve the opportunity for full and fair consideration of the pending applications. To pre-empt this consideration through the award of a pioneer's preference to Motorola would deny these rights and could subsequently deny the United States public as well as the world the opportunity to receive high-quality, cost-effective new communications service on a competitive basis.<sup>9</sup>

LQSS, in its letter of May 8, 1992, and now, TRW, emphasize the critical importance of the Commission moving forward to address the underlying issues raised by the petitions

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<sup>7</sup> LQSS believes that the Commission has not adequately explained how the grant of a dispositive preference can be made when mutually exclusive applications are pending without violating the rights of applicants under Section 310 of the Communications Act of 1934, as amended, 47 U.S.C. 310, and as further elucidated in Ashbacker Radio Corp. v. FCC, 326 U.S. 327 (1945).

<sup>8</sup> LQSS Petition for Further Reconsideration, p. 3.

<sup>9</sup> Reply Comments of LQSS, at p. i.

for rulemaking and the applications. For the Commission to proceed with consideration of Motorola's pioneer preference request would be likely to result in delay rather than expedition in the implementation of the important new telecommunications services proposed by LQSS, TRW, Motorola and others.

Respectfully submitted,

**LORAL QUALCOMM SATELLITE SERVICES, INC.**

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May 19, 1992

CERTIFICATE OF SERVICE

I, Andrew Taylor, hereby certify that I have on this 19th day of May, 1992, caused to be sent copies of the foregoing "Comments of Loral Qualcomm Satellite Services, Inc. on Motion for Stay of TRW, Inc." by U.S. mail, postage prepaid, to the following:

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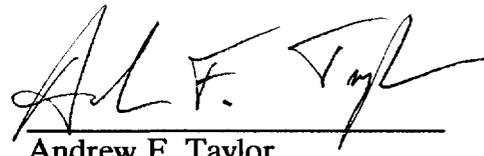
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