

LEOSAT

CORPORATION

ORIGINAL
FILE

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May 29, 1992

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Ms. Donna R. Searcy, Secretary
Office of the Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20054

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Reference: Public Notice No. 92-443 in CC Docket No. 92-76

Dear Ms. Searcy,

Attached are LEOSAT Corporation reply comments concerning the establishment of a Federal Advisory Committee to negotiate regulations concerning the small LEO's, those that would operate under 1 GHz.

An original and nine(9) copies of the reply comments are provided.

Very Truly Yours,



Joseph Roldan
President & CEO
LEOSAT Corporation

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

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MAY 29 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Establishment of an Advisory)
Committee to Negotiate Proposed)
Regulations for Low-Earth Orbit)
Satellite Services)

CC Docket 92-76

To: The Commission

REPLY COMMENTS

LEOSAT Corporation ("LEOSAT") previously submitted comments in response to the Commission's Public Notice that initiated this proceeding. LEOSAT requested that it be permitted to serve on the proposed Federal Advisory Committee intended to establish service rules for small LEO's through regulatory negotiation. In particular, LEOSAT noted that its interests would not be served by the parties tentatively identified by the Commission to serve on this committee. Nor would the Commission have the opportunity to consider an innovative modulation coding scheme -- Space Division Multiple Access (SDMA) -- as the standard for LEO services. LEOSAT's SDMA initiative is indicative of the bold and forward-thinking approach it would bring to the negotiated rule making as well as its approach to the LEO market.

LEOSAT wishes to provide the Commission with these informal comments in response to the joint filing of ORBCOMM, STARSYS and VITA (the "Joint Filing"), which

suggested that the Commission forego a negotiated rule making since these parties had reached agreement on the rules for small LEOs.¹

The very existence of this Joint Filing makes an even stronger case for the need to have an open, on-the-record negotiated rule making to establish the basic parameters of a LEO service to serve the public interest, not those of three applicants.

The Joint Filing presents the Commission with what purports to be the consensus of all parties that will be significantly affected by the LEO rules. In fact, nothing could be further from the truth. The Joint Filing is nothing more than "customized" rules that are intended to foreclose future competition for LEO satellite services.²

The Joint Filing informs the Commission that the parties have made this proposal on the assumption that their systems will coexist and that these parties are now discussing means of sharing the spectrum among themselves. Thus, a proposal that claims to be neutral is in fact a means for certain applicants to ensure that current and

¹ See in particular, Joint Filing at pages 5-6.

² Had this proposal been made as a Petition for Rule making, the proper procedural device for members of the public to suggest rules tailored to private needs, LEOSAT would oppose the Petition through a detailed response. Should the Commission ultimately decide to forego a negotiated rule making, LEOSAT respectfully suggests that the Commission treat the Joint Filing as a Petition for Rule Making and allow the public an opportunity to comment.

future LEO systems will be hamstrung by rules designed to meet the self-interest of these parties. That these parties take for granted that only three systems -- their own proposals -- could be accommodated within the proposed spectrum, and that they are moving to ensure this result, exposes their obvious intent to limit competition.

Moreover, the Joint Filing calls into question the ability of these parties to negotiate in good faith on the issue of "the extent to which the spectrum may be shared by future applicants," an issue raised by the Public Notice.³ At a minimum, the actions alluded to in the Joint Filing indicate that these applicants have reached a de facto settlement and are in fact one applicant. Thus, to allow these parties three seats on the Federal Advisory Committee would be patently unfair since they share a single common interest.

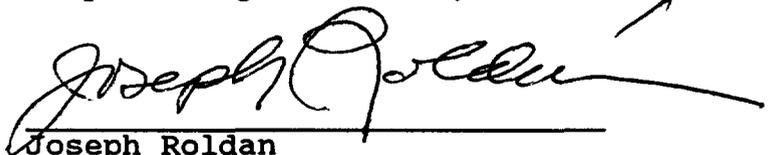
LEOSAT and other respondents to the Public Notice support the use of negotiated rule making procedures. LEOSAT respectfully asks that the Commission not confuse the private interests of certain applicants with the public interest in a future LEO service that is competitive, technologically-efficient and responsive to consumer needs.

The negotiated rule making process will ensure that the interests of all parties are considered in an environment

³ Public Notice of April 16, 1992, DA 92-443, paragraph 6.

conducive to compromise and consensus and that the resulting public rule making will permit the Commission to expeditiously authorize a new LEO satellite service.

Respectfully submitted,



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May 29, 1992

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of May, 1992, I caused copies of the foregoing "Reply Comments" to be mailed via first-class postage prepaid mail to the following:

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