



July 24, 2019

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Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Written *Ex Parte* Presentation
MD Docket No. 19-105

Dear Ms. Dortch:

EchoStar Satellite Operating Corporation and Hughes Network Systems, LLC (collectively, “EchoStar”) submit this *ex parte* response to reply comments and other filings in the above-referenced proceeding to consider the Commission’s proposed regulatory fees for fiscal year (“FY”) 2019.¹ Specifically, EchoStar supports the Satellite Industry Association’s (“SIA”) proposal to phase in the extraordinary fee increases proposed for space and earth stations,² at least on an interim basis until the Commission considers fundamental reforms. Additionally, the Commission should promptly commence a proceeding to consider expanding the pool of regulatory fee payors to include additional parties (*i.e.*, other than licensees already subject to regulatory fees) that directly benefit from the Commission’s activities,³ as well as other revisions required under the RAY BAUM’s Act of 2018 to ensure that fees reasonably reflect the benefits that payors receive from the Commission’s activities.⁴

As SIA has noted, the Commission’s proposed fee increases for space and earth stations are unusually large and unduly burdensome, particularly for satellite operators.⁵

¹ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2019*, Notice of Proposed Rulemaking, FCC 19-37 (rel. May 8, 2019) (“*NPRM*”).

² See Letter from Tom Stroup, President, SIA, to Marlene Dortch, Secretary, FCC, MD Dkt. No. 19-105, at 2 (July 15, 2019) (“*SIA Letter*”).

³ See Reply Comments of Intelsat License LLC (“*Intelsat*”), MD Dkt. No. 19-105, at 1-2 (June 24, 2019) (“*Intelsat Reply Comments*”); Comments of the National Association of Broadcasters (“*NAB*”), MD Dkt. No. 19-105, at 8-11 (June 7, 2019) (“*NAB Comments*”).

⁴ See Consolidated Appropriations Act, 2018, Division P — RAY BAUM’S Act of 2018, Title I, FCC Reauthorization, Public Law No. 115-141, § 102, 132 Stat. 348, 1082-86 (2018) (codified at 47 U.S.C. §§ 159, 159A).

⁵ See *SIA Letter* at 2.

In view of substantial questions raised in the record regarding the basis (and fairness) of the proposed fee increases,⁶ the Commission should phase in the proposed fee increases on an interim basis until it can develop a record to address these questions. A temporary phase-in is consistent with Commission precedent⁷ and, importantly, will minimize adverse impacts on satellite operators while providing sufficient opportunity for the Commission to address outstanding questions and re-examine underlying fee assumptions.

The Commission further should consider fundamental long-term reforms, such as: (i) expanding the pool of regulatory fee payors to include non-U.S.-licensed satellite operators granted U.S. market access; and (ii) redistributing fee burdens among geostationary orbit (“GSO”) and non-geostationary orbit (“NGSO”) space and earth station operators to be more consistent with the regulatory costs and benefits attributable to these operators. As Intelsat and NAB have noted, modifications to the Commission’s regulatory fee authority under the RAY BAUM’s Act require a more thorough re-assessment of the pool of regulatory fee payors supporting the funding of the Commission’s activities, as well as the distribution of fee burdens to reflect benefits received.⁸

Specifically, by deleting the prior statutory reference to “licensees,” the RAY BAUM’s Act removes restrictions on the Commission’s authority to impose regulatory fees on non-licensees that directly benefit from Commission activities, but to date have been exempt from sharing the costs of those activities.⁹ Indeed, the Commission previously considered applying space station regulatory fees to non-U.S. licensed satellite operators granted U.S. market access, but avoided addressing the issue, apparently due to concerns regarding its lack of statutory authority.¹⁰ In view of the modifications to its regulatory fee authority under the RAY BAUM’s Act, however, the Commission should

⁶ See Comments of EchoStar, Intelsat, Inmarsat Inc., SES Americom, Inc. (“SES”), Space Exploration Technologies Corp., and WorldVu Satellites Ltd. (collectively, “Satellite Operators”), MD Dkt. No. 19-105, at 1-2 (June 7, 2019); Reply Comments of SIA, MD Dkt. No. 19-105, at 2-4 (June 24, 2019); Reply Comments of Intelsat and SES, MD Dkt. No. 19-105, at 2-4 (June 24, 2019); Intelsat Reply Comments at 2.

⁷ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2015*, Report and Order and Further Notice of Proposed Rulemaking, 30 FCC Rcd 10268, ¶ 20 (2015) (adopting phase-in of new DBS regulatory fee).

⁸ See Intelsat Reply Comments at 1-2; NAB Comments at 8-11.

⁹ See 47 U.S.C. § 159(c)(1)(A); see also Intelsat Reply Comments at 1-2; NAB Comments at 8-11.

¹⁰ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2014*, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 10767, ¶ 12 (2014); see also *Assessment and Collection of Regulatory Fees for Fiscal Year 2014*, Notice of Proposed Rulemaking, Second Further Notice of Proposed Rulemaking, and Order, 29 FCC Rcd 6417, ¶¶ 47-48 (2014).

revisit requiring regulatory fee payment from non-U.S.-licensed satellite operators granted U.S. market access, as such operators derive substantial regulatory and economic benefits from the Commission's activities without paying application processing or regulatory fees to fund those activities.¹¹

Additionally, the Commission should re-examine the distribution of fee burdens among space and earth station operators. As Intelsat and SES have noted,¹² no basis exists for the Commission's proposed regulatory fee allocation of 61.61 percent to GSO space station licensees, with allocations of less than six percent to NGSO space station licensees and earth station licensees.¹³ Accordingly, the Commission should provide for more equitable fee allocations among space and earth station operators, or at least provide a more detailed explanation for its proposed allocations.

Based upon the foregoing, EchoStar urges the Commission to phase in the proposed regulatory fee increases for space and earth stations, on an interim basis, to mitigate the adverse impacts on licensees until the Commission adopts fundamental reforms. EchoStar further urges the Commission to consider revising its regulatory fee schedule to ensure that fee burdens are equitably distributed among GSO and NGSO space and earth station operators, including non-U.S.-licensed satellite operators granted U.S. market access.

Please direct any questions regarding this matter to the undersigned.

Respectfully Submitted,

/s/ Jennifer A. Manner

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Senior Vice President, Regulatory Affairs

cc: Sally Stone Paul Blais
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¹¹ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 28 FCC Rcd 7790, ¶ 48 (2013) (noting regulatory benefits provided by the Commission to non-U.S.-licensed satellite operators serving the United States without paying regulatory or application processing fees).

¹² See Intelsat Reply Comments at 3-4.

¹³ See *NPRM* ¶ 14.