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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

February 14, 1995

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: MD Docket No. 95-3

Dear Mr. Caton:

Enclosed for filing in the above-referenced docket are an original and four copies of the comments of GE American Communications, Inc.

Leave is requested to file these comments one day late. This slight delay was due to unanticipated difficulties in obtaining Company clearance for this filing, which was complicated by absences of clearing officers from Company headquarters. This delay is not likely to cause any prejudice to any party to these proceedings and is otherwise in the public interest.

Will you please acknowledge filing of these comments by stamping the fifth copy and returning it to the undersigned.

Respectfully submitted,

Alexander P. Humphrey

Alexander P. Humphrey

cc (w/enc): H. Walker Feaster

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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

In the Matter of	)	
	)	
Assessment and Collection	)	MD Docket No. 95-3
of Regulatory Fees for	)	
Fiscal Year 1995	)	

COMMENTS OF
GE AMERICAN COMMUNICATIONS, INC.

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February 14, 1995

Summary

In this proceeding, GE American Communications, Inc. (GE Americom comments on the proposed schedule of regulatory fees to be collected pursuant to section 9 of the Communications Act of 1934, as amended. 47 U.S.C. § 159. In its comments, GE Americom shows that the proposed fees for space stations are contrary to the Act, the intent of Congress, and the public interest. These proposed fees are far in excess of the Commission's activities in enforcement, policy and rulemaking, international and public information consumed in regulating space stations. GE Americom concludes that an adjustment of space station fees is required so that these accurately reflect the de minimis amount of regulatory activities space stations require.

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In the Matter of	)	
	)	
Assessment and Collection of Regulatory Fees for Fiscal Year 1995	)	MD Docket No. 95-3

COMMENTS OF
GE AMERICAN COMMUNICATIONS, INC.

Introduction

GE American Communications, Inc. (GE Americom) hereby comments upon the Notice of Proposed Rulemaking in the above-referenced docket.[1] The Notice proposes adjustments to the regulatory fees authorized by section 9 of the Communications Act of 1934, as amended. 47 U.S.C. § 159.

GE Americom is a leading provider of domestic satellite communications services, with a fleet of fourteen operating satellites that would be impacted by the proposed fees applicable to space stations. GE Americom strongly opposes the proposed increases in the fees to be charged to operating satellites. The user fees proposed in the FY 1995 schedule will more than double, from the $65,000 per operating space station charged pursuant to FY 1994 regulatory fees, to $142,250 per facility.

Fees of the magnitude of those proposed for space stations depart from the statutory mandate that user fees be "reasonably related to the benefits provided to the payor of the fee by the Commission's activities." 47 U.S.C. § 159(b)(1)(A).

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[1] Notice of Proposed Rulemaking, Order FCC 95-14 (released January 12, 1995)(Notice).

The inequity in the increase in satellite fees goes far beyond the proposed $142,250 per facility charge itself. Last year, GE Americom demonstrated that the initial $65,000 per space station charge was itself excessive.[2] We nevertheless acquiesced in that charge based upon the Commission's representation that it would initiate a separate proceeding to determine fees for FY 1995 based upon the actual cost of performing the activities for which fees would be charged.[3] We had hoped this new rulemaking would be the avenue in which inequities in the fees would be addressed and those fees reduced. Instead, however, the Commission now proposes to increase space station fees substantially, both absolutely and disproportionately. While the amount that Congress has directed the Commission to recover from fees has increased the amount to be recovered by fees by an additional 93 percent of the original amount, the Notice proposes increased fees for space stations in an amount that is an additional 19 percent over the FY 1994 fees.

The proposed space station fees violate the statute and Congressional intent. We understand that Congress sets the overall revenue level that the Commission must recover through fees. But Congress has also clearly delineated how those revenues must be recovered from among the service it regulates. The overriding principle is that Congress requires the Commission to adopt fees that are reasonable in relation to the benefits of

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[2] Comments of GE American Communications, MD Docket Np. 94-19.

[3] Notice of Proposed Rulemaking, MD Docket No. 94-19, Order FCC 94-46 n. 13.

regulations and that are otherwise in the public interest. Accordingly, the Commission should use this proceeding to reduce space station fees to an amount that is reasonably related to the actual costs of operating the Commission's activities benefitting space stations, as distinct from requiring them to cross-subsidize Commission activities that benefit other sectors of the regulated community and do not benefit satellites.

I.

CONGRESS REQUIRED FEES TO BE REASONABLY RELATED THE COST OF COMMISSION ACTIVITIES

Section 9(a) of the Communications Act of 1934, as amended, requires the Commission to "assess and collect regulatory fees to recover the costs of * * * enforcement activities, policy and rulemaking activities, user information services, and international activities." In doing so, however, Congress stressed that, after determining the Full Time Equivalent Employees (FTEs) performing these activities in each bureau, that the fees be adjusted "to take into account factors that <u>are reasonably related to the benefits provided to the payor of the fees</u> by the Commission's activities, including * * * factors that the Commissions determines are necessary in the public interest." Section 9(b)(1)(A)(emphasis added). This requirement that fees be "reasonably related" is also incorporated in the mandatory adjustments to the original fee schedule established by Congress (i.e., adjustments to fee levels made necessary by changes in appropriations and in the number of payment units) and in providing for "permitted amendments" to the original fee schedule

(i.e., amendments to the fee schedules that the Commission may permit because of changes in its services or applicable law or for other reasons). 47 U.S.C. § 159(b)(2), (b)(3).

Congress made it clear in the reports and floor debates that fees authorized under section 9 must be "reasonably related" to the costs of regulation. For example, the Conference Report for the bill that later became 47 U.S.C. § 159 specifically incorporated a report for an identical bill (H.R. 1674, 102nd Cong., 1st Session) that had passed the House in 1991. The report stated:

> The Committee adopted a substitute during consideration of H.R. 1674. In response to the concerns of Members, the substitute includes the revised FCC fee schedule that specifically aligns the revenue each of the FCC bureaus receives from the users it regulates with the costs . . . of that bureau's budget for performing its regulatory functions. As a result, the fees collected will correspond closely to the costs incurred by the FCC in operating the bureau that regulates the entity paying the fee. . .."
>
> . . . .
>
> . . . The user fee scheduled contained in H.R. 1674 as reported insures an equitable distribution of the fees among entities within a given industry to establish a clearer distinction between small and large users.
>
> . . . This provision ensures that the fees will continue to be tied to the regulatory activities of the agency, and that an industry or class or users will not pay more than their fair share of costs because of industrial growth or success.

H. Rept. No, 207, 102nd Cong, 1st Sess. 16 (1991)(emphasis added).

The debates similarly evidence congressional reluctance to impose the fees without guarantees that regulated entities would pay only for regulatory activities that affect them. Cong.

Rinaldo, the Ranking Minority Member of the House telecommunications subcommittee that originated the bill in question, stated:

> The bill contains an important user fee that I feel is equitable. . . .[T]he user fee proposal has been adjusted to bring the estimated fee revenue in line with the budget allocations for each of the FCC bureaus. This adjustment gives me greater confidence that there is a true nexus between the service provided by the FCC and the amount of the fee imposed. That nexus is critical . . . . I consider this change a matter of fundamental fairness.

137 Cong. Rec. H67566 (daily ed. Sept. 24, 1991).

The fee schedule proposed in the Notice violates both the statute and clear statement of Congressional intention.

II.

THE PROPOSED FEES ARE NOT REASONABLY RELATED TO THE COSTS OF REGULATING SATELLITES

In the case of space station fees, the "reasonable relation" that Congress considered essential between the service provided by the Commission and the amount of fee imposed was not implemented in the FY 1994 schedule and is further exacerbated by the proposed FY 1995 schedule. Except for assignments to orbital positions and frequencies, for which domestic satellite operators pay application fees under section 8, the domestic satellite industry is essentially unregulated. Once launched, satellites remain in orbit for ten years of more, during which time they require minimal regulatory supervision by the Commission, which should amount to far less than the $142,250 per satellite charge

in the proposed schedule.[4]

A. Commission Regulation of In-Orbit Satellites, Especially Domsats, is Minimal At Best

The Commission's activities funded by section 9 fees with respect to in-orbit domestic satellites are truly de minimis. For example, it has been years since a satellite operator has been in enforcement proceedings. All but a few satellite services are offered on a private, non-common carrier basis, which means that there are no customer complaints that the Commission's enforcement or tariff branches must adjudicate.[5] Likewise, apart from satellite processing rounds, which domestic and separate system satellite operators underwrite by section 8 fees, there are little policy or rulemaking activities affecting satellites. As far as GE Americom is aware, there is only one rulemaking activity pending before the International Branch affecting FSS satellites, and this is on reconsideration on a very narrow and technical issue relating to technical standards for earth stations. It also has been pending for several years.[6]

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[4] Occasionally operators need to reassign satellites but pay section 8 fees for Commission action on these requests.

[5] In addition, satellite operators have compiled an unparalleled record in coordinating their activities with each other to avoid interference. As a result, GE Americom is unaware of any satellite operator being charged in an enforcement proceeding with violation of the Commission's Part 25 rules.

[6] Also GE Americom has requested a routine declaratory ruling that the presence of alien officers within its ownership structure do not violate section 312(b).

This leaves the only the costs of international and public information services relating to space stations to be recouped by the proposed section 9 fees. Even without offsetting the costs of providing information by the fees charged to the public for copying files and subscribing to publications, these costs cannot by any stretch of the imagination even approach the $5 million for which domestic operators, as a group, would be charged for the space stations. Given the minimal cost of regulating space stations, it is apparent that the bulk of proceeds from these fees is going elsewhere to support the Common Carrier Bureau's activities benefitting other regulated firms, which activities do not affect satellite carriers.

The Notice makes no effort to demonstrate that the regulatory services provided to space station operators warrant an above-average fee increase -- or even a fee increase at all. To the best of GE Americom's knowledge and belief, the limited satellite resources (to the extent that the are not directed at pending applications for which section 8 fees have been paid in full) are devoted to MSS and international matters of little or no relevance to operating domsats. That said, however, even the satellite class as a whole bears a disproportionate burden of supporting the cost of common carrier regulatory activities.

B. It is Unfair to Allocate User Fees Charged to Space Stations to Pay for Unrelated Activities

The unfairness of the proposed FY 1995 fees proposed to

Similar rulings have been routinely granted in the past.

recoup the costs of regulating for space stations is only magnified when this minor amount of regulation required is compared to the vast array of telephone issues regulated by the Common Carrier Bureau, which benefit telephone companies. For example, the aggregate amount of proposed fees for space stations alone is more than 10 percent of the aggregate amount of fees proposed to be charged to all IXCs, LECs, CAPs and other segments of the telephone industry.[7] Yet by no means do space stations consume a tenth of the vast regulatory resources consumed by section 9-type activities dedicated to telephone companies.

To the contrary, these telephone companies consume the lion's share of the Common Carrier Bureau's activities but are charged fees that meet only 69 percent of the Common Carrier Bureau's total section 9 revenue requirements. It is likely that proceeds from fees charged to space stations are picking up a large portion of the bill of regulating telephone companies.

The amount of regulatory resources consumed by the telephone industry has not escaped Congress' recognition. For example, as the Senate Committee on Appropriations, which directed the Commission to charge regulatory fees to make up its FY 1995

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[7] In table 6 of the Notice, it is estimated that IXCs, LECs, alternative service providers and other companies involved in telephone services would be charged user fees of $39,325,321, compared to the proposed space station fees of $4,128,849. Satellite-related activities taken as a whole would be charged section 9 fees that would amount to almost a third of those user fees charged to the telephone companies.

budget shortfall of $116,400,000, noticed:

> filings requesting or commenting on Commission actions have increased from 80,435 to 125,768 -- a 56 percent increase in only five years. In the enforcement areas, telephone company tariffs submitted for review and approval have increased from 1,900 in 1980 to 4,430 in 1993. In 1993 alone, the FCC received over 32,000 complaints from the public and common carriers on various aspects of telephone services.[8]

Compared to the 32,000 complaints that the Commission receives for various aspects of telephone company activities, it has not received one in the last decade resulting from operation of a space station.

The overwhelming amount of the Common Carrier Bureau's regulatory resources devoted to the telephone industry is confirmed by the Commission's most recent Annual Report, in which it listed as "Major Proceedings" of the Bureau such telephone-related matters as the following: expanded interconnection transport rate structure and pricing; tariff filing requirements for nondominant common carriers; Third Computer Inquiry; intelligent networks; video dialtone; North American numbering plan; interexchange competition; cellular radio -- renewal proceedings; audits of telephone companies; prescription of depreciation rates; Network Reliability Council; implementation of the Telephone Consumer Protection Act of 1991; uniform system of accounts and reporting issues; implementation of the Telephone Disclosure and Dispute Regulation Act; regulatory reform for small and mid-size telephone companies subject to rate-of-return

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[8] S. Rep. No. 103-309, 103rd Cong., 2d Sess. 100 (1994).

regulation; price cap performance review for AT&T; and telecommunications relay services.[9]

Compared to these plenary telephone-related activities, the Report had only this to say about satellites: "In 1993, Domestic fixed satellite licensees continued to implement satellite systems that were authorized in 1988,"[10] for which these satellite companies paid hundreds of thousands of dollars in section 8 application fees.

FY 1994 had and FY 1995 will have similar telephone-intensive dockets. Most of the proceedings mentioned above remain open and active in further phases of rulemaking. It is noteworthy, too, that, as part of restructuring the Commission to readjust regulatory resources, the Commission has created a new Wireless Telecommunications Bureau to handle exploding mobile service requirements. In short, other areas are growing much faster than FSS satellites in their demands on the Commission's regulatory resources and in particular growing much faster than domestic space stations. Thus, the proposed space station fee increases, on their face, are not "reasonably related" to the

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[9] Federal Communications Commission Annual Report for the Year 1993, 40-50.

[10] Id. at 50.

services received as required by section 9.

III.

THE FAILURE OF THE PROPOSED FY 1995 FEES TO RELATE FEES TO SPACE STATION REGULATORY COSTS STEMS FROM METHODOLOGICAL FLAWS AND ERRONEOUS CALCULATIONS

It appears that the reason the proposed space station fees are not rasonably related to the cost of regulating these facilities is attributable to flaws in the methodology by which these fees were derived, which result in inflated cost allocations. It also appears that the proposed fees are skewed further against space stations and other satellite-related activities by the fact that the Notice undercounts the facilities to be charged such fees, inappropriately increasing the amount of fees to each unit.

A. The Commission's Methodology for Calculating Fees is Seriously Flawed

In large part, the proposal to increase space station fees to levels that are not reasonably related to the benefits of regulation stems appears occasioned by serious conceptual flaws in the Commission's methodology of calculating these fees. To arrive at the figure of $142,250 per space station, the Commission engaged in several fundamental errors.

The first relates to the formula for calculating the proposed FY 1995 schedule. This incorporates the FY 1994 fees as a baseline. The FY 1994 fees, however, resulted from a Congressional dictate. Therefore, for FY 19945, the Commission did not establish a method of reasonably relating fees to the

costs of regulation.

Rather than using FY 1995 to implement the Congressional mandate to reasonably relate fees to costs by taking an informed look at how the Commission's regulatory resources were to be used in FY 1995, the Notice takes the short cut by simplyincreasing the amount of the FY 1994 fees by a pro rata share of the FY 1995 appropriations shortfall.

The second error is that the Notice's calculations are based on the FTEs assigned to each Bureau as a whole rather than to the specific divisions within that Bureau that engage in activities for which section 9 fees are designed to compensate. Elimination of these two errors would result in a substantial reduction of space station fees.

The third mistake is that the Notice calculates the cost for in-orbit satellites on the basis of the Common Carrier BNeau's costs rather than assigning to the International Bureau the FTEs of those activities transferred there.

1. The Commission Should Avoid Perpetuation of Past Unfair User Fees Paid by Space Stations

The Notice's major flaw is its decision to incorporate the FY 1994 fees as a starting point for setting the 1995 fees. This only perpetuates the inequities imposed by the $65,000 per facility fee charged to earth stations in FY 1994. Rather than estimate the cost of each activity which section 9 fees are to cover, the Notice takes a mechanical approach, which ignores the real costs and their relation to the fees to be assessed.

To reach the revenue requirements of each activity, the

Notice takes the 1995 appropriation shortfall and, after allocating it to the various bureaus on the basis of the respective number of FTE's, it then assigns each Bureau's share among fee categories by making pro rata increases to each fee based on the amount that activity collected in 1994.[11] Thus, the current proposal of $142,250 for a space station is based in large part on the FY 1994 space station fees, which GE Americom believed seriously overstated the cost of relating such facilities.[12] Although the cost of regulating satellites has not increased, the proposed FY 1995 fees simply compound this cost overstatement.

This approach is fundamentally wrong, because it perpetuates the inequities in the fee schedule established by Congress (which GE Americom hoped that the Commission would reduce) rather than reflecting the actual costs of regulation. In addition, this methodology prevents the Commission from reducing fees in categories where there has been a decrease in regulatory activities. Rather than accepting the FY 1994 space station charges uncritically to use as a baseline, the Commission must recalculate them, in accordance with the requirements of section 9, by relating the actual costs of regulating these facilities to the fees to be charged.

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[11] Notice at ¶12.

[12] The Notice fails to set forth the total FY 1994 cost allocations to each category, which makes confirmation of its calculations difficult.

2. The Commission Should Adopt an Office-by-Office Approach to Revenue Requirements

Another major error in the Notice's methodology is that it aggregates all the FTEs in the Common Carrier Bureau engaged in section 9-type activities and uses this as the basis for allocating fees to be raised in each fee category. For example, a number of satellites file no tariffs, being entirely in private rather than common carriage. Yet a proportion of the costs of the FTEs in the tariff division engaged in rendering section 9-type services to telephone companies or Comsat's international rates is in effect charged to space stations.

This error can be rectified in part by reflecting the Commission's current organizational structure, in which satellites are regulated by the International Bureau.[13] Removing FTEs from the Common Carrier Bureau and assigning them to the International Bureau[14] as part of a process of recalculating fees would ameliorate what is a principal inequity of the excessive space station fees, which is that their proceeds are used to cross-subsidize Common Carrier Bureau activities affecting telephone companies.

To prevent cross-subsidization of other International Bureau activities, the next step would be to determine the FTEs in each office dealing with satellites and to add a proper amount of

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[13] Order FCC 94-222 (released Oct. 19, 1995).

[14] This should not be a difficult task, since presumably the Commission knows the personnel transferred to the International Bureau and how many FTE's these represented.

overhead to reflect costs of the Commissioners' offices and other offices without line responsibility.[15]

These simple steps would result in a reduction of the fees to be paid by space stations to reflect the minimal costs involved in their regulation. For example, if there were 20 FTEs engaged in section 9-type activities affecting satellites,[16] the International Bureau would have a revenue requirement to be raised by section 9 fees of $1.66 million.[17] This is substantially less than the $5 million that would be raised by fees levied upon space stations alone and constitutes a more valid reflection of the small costs of regulating satellites.

Using the current ratio that space station fees bear to those charged to other satellite-related activities, which GE Americom considers fair, would, under this approach, reduce space

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15 This should be done on a pro rata basis, so that the Bureau with the largest FTE's would be assigned FTE's of personnel with no line responsibility.

16 The Satellite Policy Branch, which is the line office for the regulation of satellites, has approximately only twenty professional employees, and, upon information and belief, they have spent the last year engaged in LEO-related matters, for which no user fee is charged. Accordingly, in these illustrative calculations for fees that might be charged to space stations under a more appropriate methodology, GE Americom has taken a conservative approach.

17 GE Americom derived this estimate by dividing the $116,400,000 that the Commission is to collect in user fees by the 1,406 FTEs estimated in the Notice to be engaged in activities to be recouped by fees. This means that the fees to be recouped for each such employee would be $82,790. Twenty such employees would be expected to recoup $1,655,761.

station user fees to $11,860 per space station.[18] Fees based on this illustrative example would approach far nearer the actual cost of regulation than those proposed in the Notice.

3. The Notice Wrongfully Attributes Costs of Regulating Common Carrier Activities to the International Bureau

As noted, the space station fees in the proposed FY 1995 schedule were derived in most part from the costs of regulatory activities of the Common Carrier Bureau not affecting space stations. The Notice's methodology compounds this error by moving these costs out of the Common Carrier Bureau and importing them into the International Bureau. This will establish an exorbitantly high baseline for space stations in FY 1995 that will be wrongly perpetuated into future years.

Gain, the proper way for the Commission to rectify this error is to calculate the FTEs in the International Bureau and determine the number of these assigned to regulating FSS satellites.

4. The Proposed Fees Are Based Upon Miscalculations

In every activity involving satellites, even under the arbitrary cost allocations assigned in the Notice, downward adjustments of the section 9 fees are required. This results from the fact that the Notice has miscalculated the number of

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[18] The cost allocation for all satellite-related industries -- i.e., VSATs, transmit/receive earth stations, and receive only earth stations, and space stations is $12,718,605. The amount charged to space stations is 25.5 percent of this. 25.5% of $1.6 million is $415,000, which would be the cost allocations for 35 satellites -- or $11,857.

space stations and other facilities operational as of October 1, 1994. Consequently, the cost allocations in each fee category should be spread over a number of units far greater than those estimated by the Notice, which would reduce the fees proposed in the Notice.

By GE Americom's calculation, there were 41 space stations in operation as of October 1, 1994 -- not the 35 stated in the Notice.[19] This means that, just to account for this miscalculation, space station fees must be reduced from $142,250 per space station to $121,440 to meet the proposed aggregate cost allocation for space stations of $4,979,131.

The Notice also errs in the number of earth station receive-only antennas deployed in the field, which are divided into the cost allocation figure of $4,128,869 to produce a fee of $120 per meter. Attached is a letter from Comsearch, which, using data from the Commission's files, states that the number of licensed receive antennas is not the 24,300 stated in the Notice but actually 71,264[20] As a result, the fees for receive-only antennas should be reduced from $120 to $58 per meter.

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[19] This includes 4 satellites for AT&T; 2 for Columbia Communications; 7 for GE Americom; 7 for GTE Spacenet; 13 for Hughes Communications Galaxy (including DirectTV 1 and DirectTV 2); 3 for Marisat; 3 for Comsat General; and 2 for PanAmSat. In this respect, we agree with the determination in the Notice that BSS satellites should be included within the payees, since they consume the same, if not a greater amount of resources as FSS satellites.

[20] This includes 12,728 licensed C-band antennas and 127 licensed Ku-band antennas.

On information and belief, the Notice also seriously undercounted the number of transmit/receive and transmit-only antennas. Rather than the 19,000 meters the Notice estimated were deployed as of October 1994, GE Americom believes that the figure should be more in the neighborhood of an aggregate 30,000 meters. Using this figure to meet the cost allocation of $3,553,239 proposed in the Notice, GE Americom calculates that this should be spread among 30,000 square meters, which would reduce the fee per square meter from $185 per meter to $119 per meter.

GE Americom is unaware of the amount of VSAT earth stations on which the proposed fees were levied, but, if the Notice's undercounting of other aspects of satellite activity is representative of its treatment of VSATs, there may be undercounting of VSATs as well.

IV.

THE COMMISSION IS OBLIGATED TO
CORRECT THE IMBALANCE IN THE PROPOSED FEES

Two types of adjustments in fees are required under section 9. Mandatory adjustments, set forth in section 9(b)(2), direct the Commission to recover in fees the amount of any shortfall in appropriations. The strict mechanical result the Notice proposes by allocating appropriation shortfalls across the bureaus and then increasing pro rata the FY 1994 fees stops short of fulfilling the statutory mandate, which requires that fees be set equally by consideration of "factors that are reasonably related to the benefits provided to the payor." 47 U.S.C. §

159(b)((1)(A). The considerations that the Commission is required to take into account under subsection (b)(1)(A) include such factors as service area coverage, shared use versus exclusive use, "and other factors that the Commission considers in the public interest."

The second type of adjustment that can be made is a permissive one. The authorizing legislation permits the Commission to adjust fees, as it deems appropriate, based on the public interest factors in subsection (b)(1)(A).

Mandatory adjustment of the fees proposed to be charged to space stations is clearly warranted here, in light of Congress' explicit instruction that there be a reasonable nexus between the fees charged and the cost of that regulatory activity, As GE Americom has shown, the regulation of space stations consumes small fraction of the administrative costs that are to be recouped by section 9 fees. In addition to the Congressional mandate, smple fairness demands that those companies engaged in cost-causative activities should pay for them and that those cauuse minimal costs should be required to pay for the costs they occasion, rather than subsidize the excess costs caused by regulating other sectors of the telecommunications industry.

The proposed fee as it applies to space stations stands this principle on its head. Once space stations are authorized, for which licensees pay section 8 fees, these facilities require little or no regulation. While some international activity is required to coordinate these with space stations of other

nations, and some unrecompensed public information may be provided, the costs in these two categories is considerably less than the $4.9 million that the Notice has allocated to be recovered by space stations. This is simply too much.

The Commission should make mandatory adjustments to reduce these fees to determine the percentage of the appropriations shortfall required to be made up by FTEs in the International Bureau engaged in section 9-type activities. It should then determine how many of these International Bureau FTEs are engaged in activities pertaining to satellites, as distinct from other facilities within its jurisdiction. It can then make cost allocations to fee categories specific to satellite operations that reflect as closely as possible the actual cost of regulation. Finally,it should rectify the per-unit charges in each category by properly counting those units.

These steps should produce section 9 fees for space stations and other satellite-related activities that comport with the requirements of the statute.

The same logic that requires a mandatory adjustment to the space station fees compels a permissive adjustment. It is inequitable and contrary to the public interest to charge fees to space stations when the fees are being used to support the Commission's regulation of other licensees.

Finally, and in any event, if the Commission is not otherwise willing to adjust its proposed fees in general, and its satellite fees in particular, to align them more directly with

costs, it hould at last adopt a more equitable fee structure for domestic and separate system satellites that require little Commission oversight and regulation at all. Specifically, the Commission should exercise its separate authority to waive or reduce fees, as provided in section 9(f), to meet the public interest. It would be arbitrary and capricious for the Commission not to correct the excessive burden presented by the unjustified space station charges. And, in particular, it would be arbitrary not to recognize the modest regulatory demands of domestic and separate system satellites by a significant reduction in current fees.[21]

Respectfully submitted,

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[21] We note that while judicial review is foreclosed for Commission actions under its mandatory and permissive adjustment powers, no such restriction applies with respect to Commission decisions under section 9(b)(2).