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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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

To: The Commission

REPLY COMMENTS OF COLUMBIA COMMUNICATIONS CORPORATION

Columbia Communications Corporation ("Columbia"), by its attorneys, hereby submits its reply comments[1/] in the above-captioned proceeding, Assessment and Collection of Regulatory Fees for Fiscal Year 1995, FCC 95-14 (released January 12, 1995) ("NPRM"). As noted in its comments in this proceeding, Columbia believes that the Commission's calculations and assessment of regulatory fees pertaining to geosynchronous space station requires substantial modification.[2/]

1/ Comments regarding regulatory fees for space stations were filed by Columbia, GE Americom Communications ("GE"), Comsat General Corporation ("COMSAT") and PanAmSat, L.P. ("PanAmSat").

2/ Columbia is authorized to operate C-band transponders on the National Aeronautics and Space Administration ("NASA") Tracking and Data Relay Satellite System ("TDRSS") satellites at 41° West Longitude and 174° West Longitude (File Nos. CSS-90-110 and CSS-90-111).

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I. THE COMMISSION'S REGULATORY FEE ALLOCATION FOR GEOSYNCHRONOUS SPACE STATIONS IS EXCESSIVE AND NOT REASONABLY RELATED TO COSTS.

In its NPRM, the Commission estimates that it costs $4,978,750 to regulate space station activities. NPRM, FCC 95-14, slip op. at ¶ 52. All parties that filed comments regarding the Commission's allocation of regulatory fees to satellite licensees noted that the proposed space station fees are excessive and not reasonably related to the cost of regulating satellites. See Comments of Columbia Communications Corp. at 4-6 ("Columbia Comments"); Comments of GE American Communications, Inc. at 5-10 ("GE Comments"); Comments of PanAmSat L.P. at 3 ("PanAmSat Comments"); Comments of COMSAT General Corporation at 5-6, 9-14 ("COMSAT Comments"). For example, like Columbia, GE Americom noted that space station operators must pay substantial application fees, which cover a substantial amount of the regulation relating to satellite operators. GE Comments at 5-6.[3/] Similarly, GE correctly noted that apart from satellite

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3/ As Columbia demonstrated in its comments, the Commission's application fees cover the cost of examining the applicant's qualifications, the technical parameters of the station, determining whether the public interest would be served by the provision of the proposed service, and the consultation and coordination of a proposed station's operation at assigned frequencies and at a given orbital location. Columbia Comments at 5. Accordingly, regulatory fees should not be required for the provision of these services.

processing rounds, there are virtually no policy or rulemaking activities currently affecting geostationary satellite operators. See GE Comments at 6. Columbia agrees.[4/]

Considering the great concern regarding the reasonableness of the satellite regulatory fees proposed by the Commission, Columbia agrees with COMSAT and GE that the Commission must recalculate the appropriate fees and provide a detailed accounting of the costs associated with the regulation of space stations. As COMSAT observed, the Commission is required to make such detailed information available in order to comply with the Administrative Procedure Act. See COMSAT Comments at 4.

For example, several parties noted that the Commission failed to provide reasonable detail concerning its determination of the number of "payee units" (i.e., satellites) subject to Commission regulatory fees (assuming even that geosynchronous space stations are the correct unit for determining satellite

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4/ Columbia disagrees, however, with COMSAT's contention that a distinction for fee purposes between domestic and international geostationary satellite operators is either useful or prudent. Indeed, Columbia believes that the Commission should abolish this distinction. Compare COMSAT Comments at 7-8. Even without such action, as COMSAT is constrained to admit,". . . the Commission's international activities remain important to domestic satellite operators . . ." COMSAT Comment at 13.

related fees.)[5/] See Columbia Comments at 9; GE Comments at 17, n.19; PanAmsat Comments at 3, n.3. At a minimum, the Commission should list exactly which space stations will be included in calculating the regulatory fees obligations. This would allow parties to determine that fees are in fact equitable.

II. COMSAT IS REQUIRED TO PAY REGULATORY FEES TO COVER THE COMMISSION'S ACTIVITIES INVOLVING INTELSAT, INMARSAT, OR COMSAT.

In its comments, PanAmSat stated without elaboration that COMSAT was not a Part 25 licensee with respect to its participation in INTELSAT and INMARSAT space stations, and accordingly is technically exempt from paying regulatory fees. See PanAmSat Comments at 2. PanAmSat's conclusion is incorrect.[6/]

Part 25 of the Commission's Rules states specifically that this part was promulgated, inter alia, pursuant to Section 201(c)(11) of the Communications Satellite Act of 1962 (47 U.S.C.

5/ As noted in Columbia's comments, Columbia believes that the Commission should not base its fee calculations on the number of authorized satellites alone, and should take into account each Space Station licensee's actual transponder capacity in determining the proper fee owed. See Columbia Comments at 10-12.

6/ Nevertheless, PanAmSat agrees with Columbia that COMSAT should be required to pay for the regulatory costs associated with COMSAT's participation in INTELSAT and INMARSAT.

§ 702 et seq.) and represents the only codification of regulations pursuant to the Commission's authority under the Communications Satellite Act. COMSAT's participation in the INTELSAT and INMARSAT systems is explicitly encompassed in this section. See 47 C.F.R. § 25.110(b)(1) (1993) (requiring COMSAT to apply and pay for the applications relating to its participation in the INTELSAT and INMARSAT systems). There is therefore no question that COMSAT is subject to Part 25 of its rules.[7/]

Section 9 of the Communications Act, in turn, requires that the Commission recoup costs for all of its satellite regulatory activities undertaken pursuant to Part 25 of its rules, thereby encompassing oversight of COMSAT's participation in INTELSAT and INMARSAT. See 47 U.S.C. § 159(g) (establishing a fee for "space station (per operational station in geosynchronous orbit) (47 C.F.R. Part 25)") (emphasis added). Neither Section 9 of the Communications Act nor the legislative history relating to its enactment exempt COMSAT from regulatory fee payments or otherwise permit the Commission to treat COMSAT differently with respect to regulatory fees than the Commission has treated COMSAT

7/ It is noteworthy that COMSAT's comments avoid any discussion of its obligations to pay regulatory fees relating to Commission oversight of its participation in INTELSAT and INMARSAT activities.

with respect to application fees.[8/] For this reason, all of COMSAT's regulated activities must be considered in the calculation of appropriate regulatory fees to defray the costs of FCC regulation.

Indeed, COMSAT's own comments implicitly support this view, strongly arguing that the Commission should "ensure that only the specific beneficiary of the Commission's services is billed for those costs associated with actual Section 9 regulatory activities, as required by Congress." COMSAT Comments at 8. While Columbia does not believe it is feasible for the Commission to impose regulatory fees through line-item bills for "services rendered," as COMSAT appears to suggest, other U.S. satellite licensees surely cannot be forced to pick up the tab for the Commission's extensive international activities for the benefit of COMSAT, and its oversight of COMSAT's participation in the INTELSAT and INMARSAT organizations.

Accordingly, the Commission must adjust its number of payees to account for COMSAT's participation in INMARSAT and

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8/ The Commission and Congress have recognized that COMSAT should pay its way. In establishing application fees for authority to construct, launch, and operate Space Stations, the Commission explicitly ruled that COMSAT must pay for its participation in INTELSAT and INMARSAT systems. See Establishment of a Fee Collection Programmed to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, 2 FCC Rcd 947, 987 nn.226, 227 (1986).

INTELSAT activities, and modify its per space station fee to match this adjustment. Columbia also renews its request that the Commission consider the actual capacity of satellites in determining the amount of appropriate fees.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Kaigh K. Johnson, do hereby certify that true and correct copies of the foregoing "Reply Comments of Columbia Communications Corporation" were mailed, first-class postage prepaid, this 28th day of February, 1995 to the following:

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