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May 22, 1997

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Federal Communications Commission
Office of Secretary

EX PARTE

William F. Caton
Acting Secretary
1919 M Street NW, Room 222
Washington, D.C. 20554
Federal Communications Commission

Re: MD Docket No. 96-186

Dear Mr. Caton:

On May 22, 1997, Joe Godles, Jim Rogers, Karis Hastings, George Wazeter, and Ken Ferree, representing several GSO satellite operators, met with Fern Jarmulnek and Jackie Ponti of the International Bureau, and Peter Herrick and Terry Johnson of the Office of the Managing Director, regarding the above-referenced proceeding. The substance of the issues discussed is summarized in the attached outline.

Respectfully,

/s/ W. Kenneth Ferree
Attorney for PanAmSat Corporation

encl.

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SATELLITE REGULATORY FEES

MD Docket No. 96-186

Columbia Communications Corporation
Comm, Inc.
GE American Communications, Inc.
Hughes Communications Galaxy, Inc.
Loral/Skynet
Orion Network Systems, Inc.
PanAmSat Corporation

May 22, 1997

1. Some History

Section 9(b) of the Communications Act, 47 U.S.C. § 159(b), requires the Commission to ensure that its regulatory fees are reasonably related to the benefits conferred upon the fee payors by Commission regulation. Two years ago, the Commission proposed regulatory fees for GSO satellite operators of **$142,250** per space station. Prior to the release of the final fee schedule, however, a number of space station operators met with the staff of the International Bureau and the Managing Director's office and explained that, because the Commission engages in little regulatory activity of space stations after they are launched and operational, the proposed fee of $142,250 was unreasonable and disproportional to the actual costs of space station regulation. When the final order was issued, the Commission reduced the satellite fee to $75,000 per space station.

In terms of the regulatory resources committed to GSO space station regulation, not much has changed in the past two years. Yet, because of the Commission's reliance on a new cost accounting system, which we believe to be seriously flawed and unreliable, the NPRM for 1997 regulatory fees would have (but for a cap that may or may not benefit satellite operators in the future) increased the GSO satellite fee to a level comparable to that initially proposed in 1995, which virtually all agreed was too high only two years ago.

2. The Fees Proposed For 1997 Do Not Accurately Reflect The Regulatory Activity Related To Licensed GSO Satellite Services.

The vast majority of Commission resources expended on geostationary satellite services are devoted to the satellite licensing process. These costs, however, already are recovered through the substantial application fees (over $85,000 per satellite) paid by satellite applicants. Once the application process is complete, the Commission engages in very little regulatory activity in the four feeable categories contained in the statute:

- Enforcement: The Commission staff spends virtually no enforcement resources in the satellite area. Satellite services typically are provided on a non-common carrier basis (obviating Title II tariff and enforcement activities) and the Commission rarely becomes involved in interference issues for licensed satellites.

- Policy and Rulemaking: Although the Commission occasionally conducts rulemaking proceedings affecting GSO satellite operations, this activity is minimal in comparison to that which is done in other industries. Further, much of the rulemaking work in the satellite area relates to new services that will benefit the public at large. To the extent that these costs are recoverable through regulatory fees, they should be treated as overhead and spread

among all payors rather than assessed against one group of licensees.

- User Information Services: Minimal for GSO satellite services.

- International: Although some of the Commission's international activities are on behalf of current GSO satellite operations, much, if not most, of it relates to new satellite services and, indeed, to other non-satellite services.

3. The Proposed Fees Are Disproportionate To Those Paid By Other Communications Services.

The proposed satellite fee is facially unreasonable, particularly when compared to the fees proposed for other industries. The Commission has attributed $4,596,437 to direct regulatory costs associated with geostationary space stations. By way of comparison, the Commission attributed the following direct regulatory costs to other services:

- CMRS Mobile Services — $8,656,765

- All IXCs, LECs, and CAPs — $37,118,528

- VHF Television —$3,660,252

Thus, costs attributed to geostationary satellites are approximately half that attributed to all CMRS services, 1/8th that attributed to IXCs, LECs, and CAPs, and more than that attributed to VHF television. Yet, for instance, the IXC, LEC, and CAP industry dwarfs the satellite industry. In 1994, the telecommunications industry generated almost $200 billion in revenue. The entire satellite industry, on the other hand, is projected to generate only $10 billion by the year 2000, or approximately 1/20th of that generated by telephone operations in 1994. Further, while the Commission has invested considerably in the implementation of the Telecommunications Act of 1996 and produced items of heroic scope dealing with hotly contested issues (e.g., Universal Service, Interconnection, Access Reform, Number Portability), the regulation of GSO satellites has, with but few exceptions (e.g., streamlining, DISCO), remained unchanged.

4. The Commission's Cost Accounting Data Is Flawed.

The facially unreasonable fees assigned to GSO space stations can only have resulted from flawed cost accounting figures. This inference is borne out by discussion with former Commission employees who confirm that the reporting system used to collect data for the cost accounting system is rudimentary at best and, at worst, non-existent. Indeed, the NPRM itself acknowledges that the cost

accounting data associated with international activities had to be "adjusted" because the system was used "for only a small portion of FY 1996." See Attachment D, footnote. There is no discussion of how this "adjustment" was made.

Because of the opacity of the cost figures used by the Commission, it is impossible to analyze the figures meaningfully. However, the sheer size of the costs attributed to GSO space stations in relation to the actual degree of Commission oversight of these systems suggests strongly that the allocation has been skewed. For instance, the Commission's cost accounting system may not have accounted for the fact that only a fraction of "international" activities are done for the benefit of the satellite industry, and those that do often benefit new satellite services rather than those of existing licensees. In any event, the results derived from the cost accounting system belie its reliability.

5. Commission Action Required.

The Commission should substantially reduce its proposed GSO satellite regulatory fee to more closely reflect the very small percentage of overall Commission resources consumed by satellite operators outside of the application process.