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0480

September 11, 1997

VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Washington, D.C. 20554

Re: RM No. 9147

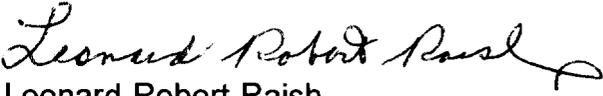
Dear Mr. Caton:

On behalf of the Fixed Point-to-Point Communications Section of the Telecommunications Industry Association ("TIA"), we are filing an original and four (4) copies of its Reply Comments in the above cited matter.

If there are any questions, do not hesitate to contact the undersigned.

Respectfully submitted,

FLETCHER, HEALD & HILDRETH, PLC


Leonard Robert Raish
Of Counsel

LRR:cej
Enclosures

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Federal Communications Commission

WASHINGTON, D.C. 20554

COMMUNICATIONS SECTION
DEPT. OF THE INTERIOR

In the Matter of)	
)	
Amendment of Parts 2.106 and 25.202)	
of the Commission's Rules to Permit)	RM No. 9147
Operation of NGSO FSS Systems)	
Co-Frequency with GSO and)	
Terrestrial Systems in the)	
10.7-12.7 GHz, 12.75-13.25 GHz,)	
13.75-14.5 GHz, and 17.3-17.8 GHz)	
Bands, and to Establish Technical Rules))	
Governing NGSO FSS Operations)	
in these Bands)	

REPLY COMMENTS OF THE FIXED POINT-TO-POINT COMMUNICATIONS SECTION OF THE TELECOMMUNICATIONS INDUSTRY ASSOCIATION

The Fixed Point-to-Point Communications Section of the Telecommunications Industry Association ("TIA") hereby submits its Reply Comments on the above-captioned Petition for Rulemaking ("Petition") by SkyBridge LLC ("SkyBridge"). In the Petition, SkyBridge seeks amendment of the Commission's Rules to permit operation of a nongeostationary orbit ("NGSO") Fixed-Satellite System ("FSS") on a co-primary basis in certain bands with geostationary orbit ("GSO") FSS, GSO direct broadcast satellite ("DBS") and terrestrial fixed point-to-point microwave service ("FS") systems.

As detailed below, the Petition must be denied. First, grant of the Petition is not in the public interest because there is no record support for SkyBridge's proposal. Second, grant of the Petition is premature because SkyBridge has failed to provide adequate technical data proving that its claimed ability to share spectrum is feasible and because it has failed to demonstrate empirically that its proposed technology even

works. Third, grant of the Petition is inappropriate because SkyBridge's proposal conflicts with International Telecommunications Union ("ITU") spectrum designations and there has been no showing that this restriction is likely to be eliminated. Under these circumstances, and based upon applicable rules and precedent, the Commission cannot grant the Petition and institute the requested rulemaking.

THE RECORD DOES NOT SUPPORT GRANT OF THIS PETITION

SkyBridge, in its Petition, proposes a regulatory framework that permits its NGSO FSS to share bands with GSO FSS, DBS and FS users. This proposal is based upon SkyBridge's claims that its novel technology would not degrade operations by co-primary users.

These potential co-habitants, however, almost universally condemn SkyBridge's proposal. Comments filed by GSO FSS interests,¹ DBS interests,² and FS interests³ strongly urge the Commission to deny the Petition. Only Loral Space & Communications, Ltd. ("Loral"), which has a sizeable equity investment in SkyBridge, supports grant of the Petition.

¹See comments by PanAmSat Corporation ("PanAmSat") and Hughes Communications, Inc. ("Hughes"). Another GSO FSS licensee, Teledesic Corporation ("Teledesic"), takes no position on the merits of SkyBridge's proposal.

²See comments by Tempo Satellite, Inc. ("Tempo"); AMSC Subsidiary Corporation ("AMSC"); Home Box Office ("HBO"), DirecTV, Inc. ("DIRECTV"); and United States Satellite Broadcasting Company, Inc. ("USSB").

³See comments by TIA and by Harris Corporation-Farion Division ("Harris").

**THE PETITION MUST BE DENIED BECAUSE SKYBRIDGE
HAS FAILED TO PROVIDE SUFFICIENT TECHNICAL SUPPORT**

Essential to SkyBridge's proposal to operate on a co-primary basis with GSO FSS, DBS and FS users is its claimed innovative system design. Under this proposed design, a satellite hands-off traffic to another satellite when the operating satellite enters into a "non-operating zone" where interference could be caused to FS, GSO FSS, or DBS users.

SkyBridge, however, clearly fails to provide sufficient technical data to support these claims. Indeed, SkyBridge proffers no documented evidence whatsoever that sharing with FS, GSO FSS or DBS users is attainable or that it even has tested the feasibility of its complex system design.

In its comments, TIA identified numerous material problems with SkyBridge's proposal. These problems include: (i) substantially underestimating the ability to coordinate between SkyBridge earth stations and FS earth stations; and (ii) using inappropriate standards for calculating potential interference into FS receivers by its operation and into FSS receivers by FS operations.

Almost every party to this proceeding echoes TIA's concerns. Other FSS operators, Hughes and PanAmSat, all indict SkyBridge's technical showing as highly "theoretical," which they find unacceptable given the complex frequency sharing and interference avoidance issues involved. They demand that SkyBridge provide substantially more information to demonstrate that NGSO systems successfully can share spectrum with GSO, FSS, FS or DBS systems before any further action can be taken regarding the frequency bands sought by SkyBridge in its Petition. Similarly, TIA and Harris, in their comments, criticized SkyBridge's purported solution to FSS/FS

sharing issues. Finally, and not surprisingly, the comments of all four DBS licensees either oppose the Petition outright because SkyBridge's system would cause significant inter-system harmful interference to their operations or they seek additional information that might verify the validity of SkyBridge's claims.

**THE PETITION MUST BE DENIED BECAUSE IT CONFLICTS
WITH INTERNATIONAL SPECTRUM DESIGNATIONS**

As SkyBridge acknowledges in the Petition, its proposal conflicts with myriad ITU requirements.⁴ SkyBridge's NGSO FSS operation is prohibited in certain of the proposed downlink bands under ITU Appendix 30B and under ITU Resolution 506.

Several parties cite to this conflict as a basis for rejecting the Petition.⁵ SkyBridge attempts to circumvent this conflict by stating that it "anticipates that the relevant ITU restrictions will be removed prior to SkyBridge's scheduled launch dates in 2001."⁶ Such unsupported speculation is inadequate and must not excuse the Commission from characterizing the Petition as premature and unripe for grant.

**UNDER APPLICABLE COMMISSION RULES AND PRECEDENT,
THE PETITION CANNOT BE GRANTED**

Pursuant to Section 0.251 of the Commission's rules, it can deny a rulemaking petition if it does "not warrant [further] consideration"⁷ Furthermore, under Section 1.407 of its rules, the Commission cannot grant a rulemaking petition unless it

⁴Petition at 9.

⁵See comments by PanAmSat, DIRECTV, Tempo, and USSB.

⁶Petition at 9.

⁷47 C.F.R. §0.251 (1997). See also WWHT, Inc. V. FCC., 656 F.2d 807, 818 (D.C. Cir. 1981).

“discloses sufficient reasons in support of the action requested”⁸ For the reasons set forth above, the Petition clearly does not warrant any further action. Denial of the Petition would be consistent with applicable Commission precedent, which requires such action if the record does not support institution of a rulemaking or if serious technical issues exist that require further study before rules could be proposed.⁹

CONCLUSION

TIA shares the views and concerns of the commenting parties as recapped above. TIA urges the Commission not to proceed with instituting a rulemaking unless SkyBridge demonstrates convincingly that the proposed sharing by NGSO systems and FS systems effectively can be accomplished. The potential impact of the Petition on essential FS operations is of such significance that the Commission must not proceed to rulemaking on the basis of information provided thus far.

As an alternative, a Notice of Inquiry could be issued to obtain the same information. This approach, which also was suggested by Hughes, would compel SkyBridge to either provide “hard” evidence that its system could share the bands as

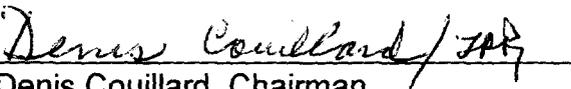
⁸47 C.F.R. §1.407 (1997).

⁹See, e.g., Amendment of C-Band Satellite Orbital Spacing Policies to Increase Satellite Video Service to the Home, 7 FCC Rcd 456, 461 (1992); Signal Carriage Rules-STV, 77 FCC 2d 523 (1980).

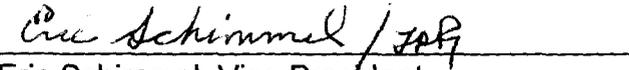
claimed or to re-evaluate this design. Until such information is provided, there is no proof that the public interest would be served by instituting a rulemaking.

Respectfully submitted

FIXED POINT-TO-POINT COMMUNICATIONS
SECTION NETWORK EQUIPMENT DIVISION
OF THE TELECOMMUNICATIONS
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Date: September 11, 1997

cej/gp/gp#7/TIA4.PLEADING

CERTIFICATE OF SERVICE

I, Chellestine Johnson, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., do hereby certify that copies of the foregoing Reply Comments were sent this 11th day of September, 1997, by first-class United States mail, postage prepaid, to:

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