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July 18, 2000

Magalie Roman Salas, Secretary Federal Communications Commission 445 12th Street, S.W. Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION OFFICE OF THE SECRETARY

Re: Permitted Written Ex Parte Presentation ET Docket No. 98-206, RM-9147, RM-9245

Dear Secretary Salas:

The Boeing Company submits this letter in order to comment briefly on recent ex parte submissions filed with your office by SkyBridge L.L.C. on July 10, 2000 and July 13, 2000 and Northpoint Technology, Ltd. on July 11, 2000 and July 6, 2000 in the above referenced proceeding.

In its July 10th letter, SkyBridge proposes a regulatory and technical framework intended to permit non-geostationary fixed satellite service ("NGSO FSS") systems to share spectrum with terrestrial fixed point-to-multipoint ("PTM") systems such as the one proposed by Northpoint. Boeing is encouraged by the tremendous amount of technical analysis that obviously went into developing SkyBridge's proposal. Boeing is currently analyzing the regulatory and technical framework and will provide detailed comments to the Commission as soon as they are completed. In any event, Boeing believes that the Commission should take steps to expedite this proceeding by placing immediately SkyBridge's proposal on Public Notice for comment.

Boeing also herein observes that on July 11th, Northpoint submitted a letter to the Commission indicating that "the band segmentation plan proposed by the Boeing Company ("Boeing") may be the best strategy to permit effective sharing by both Boeing and SkyBridge."¹ Throughout this proceeding, Boeing has consistently urged the Commission to make the entire 11.7-12.7 GHz band available for NGSO FSS space-to-Earth service links. Boeing has also

¹ See Letter to Hon. William E. Kennard, Chairman, Federal Communications Commission, from David H. Pawlik, Counsel for Northpoint Technology, Ltd., at 2 (July 11, 2000).

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Ms. Magalie Roman Salas
July 18, 2000
Page 2

consistently urged the Commission to refrain from allocating spectrum for PTM networks in the 12.2-12.7 GHz band and instead identify alternate spectrum for such networks in a portion of the more than three gigahertz of spectrum previously made available for terrestrial point-to-multipoint and wireless communication services.²

Boeing continues to support its position and urges the Commission's concurrence. The Commission is justified fully in refraining from allocating spectrum for PTM systems in the 12.2-12.7 GHz band. As Northpoint once again acknowledges in its July 6th letter, Northpoint's proposed PTM transmitters will create exclusion zones where consumers will be unable to receive service from Boeing's NGSO FSS network.³ Northpoint claims in its July 6th letter that it has "repeatedly demonstrated" that interference mitigation techniques exist that would permit Boeing to operate inside the exclusion zones.⁴ Northpoint cites no previous FCC filing to support this claim. Furthermore, Northpoint has never attempted to refute the extensive interference analysis that Boeing submitted to the Commission on February 16, 2000, which explained in detail why it would be technically infeasible and prohibitively expensive for Boeing to use any of the interference mitigation techniques that have been suggested.⁵

Northpoint also claims falsely that Boeing supports a proposal to segment the 11.7-12.7 GHz band and permit PTM networks to operate in the upper half of the band, while Boeing and SkyBridge operate in the lower half.⁶ Boeing fails to appreciate Northpoint's perceived motivation in blatantly misrepresenting Boeing's position. Boeing has argued unambiguously throughout this proceeding that NGSO FSS networks must have unfettered access to the entire 11.7-12.7 GHz band in order to enable sharing between multiple NGSO FSS networks. As

² See, e.g., *Letter to Hon. William E. Kennard, Chairman, Federal Communications Commission, from David A. Nall, Counsel for The Boeing Company*, at 13 (February 16, 2000) ("*Boeing Feb. 16th Letter*") (listing available spectrum bands, including some bands that the Commission is planning to license through auctions in the near future).

³ See *Letter to Hon. William E. Kennard, Chairman, Federal Communications Commission, from David H. Pawlik, Counsel for Northpoint Technology, Ltd.*, at 2 (July 6, 2000) ("*Northpoint July 6th Letter*"). In its July 6th letter, Northpoint disputes Boeing's technical findings regarding the size of the exclusion zones produced by its transmitters. Boeing observes that many of the arguments appear to have been previously raised by Northpoint, and previously refuted by Boeing. Nevertheless, Boeing is preparing an additional technical analysis that addresses Northpoint's claims and will submit the material to the Commission when it is completed.

⁴ *Id.*

⁵ See *Boeing Feb. 16th Letter*, Technical Attachment at 13-19.

⁶ See *Northpoint July 6th Letter* at 2.

Ms. Magalie Roman Salas
July 18, 2000
Page 3

Northpoint seems to have overlooked in its July 6th letter, there are eight NGSO FSS applications pending before the Commission and numerous other NGSO FSS systems being designed by other countries. Spectrum sharing between all, or even many, NGSO FSS systems will be impossible unless unfettered access to the entire 11.7-12.7 GHz band is available in the United States.

In weighing the options in this proceeding, Boeing urges the Commission to think globally as well as locally. NGSO FSS networks offer the ability to provide on their first day of operation modern data and communication services to rural, remote and unserved consumers in every corner of the world. The broadband satellite networks that have been proposed could greatly enhance remote education and medicine. Such networks could also provide access to new consumers for the United States' expansive high technology and content industries.

Satellite operators such as Boeing cannot launch global networks, however, unless they have unfettered access to the critical United States market. Any proposal that significantly limits Boeing's access to customers in the United States would compromise the economic viability of its global NGSO FSS network.

Furthermore, the Commission should not delay further in licensing NGSO FSS networks. After more than three years of exhaustive efforts by the United States and other countries, the 2000 World Radiocommunication Conference adopted spectrum sharing criteria that enables NGSO FSS networks to coexist with all existing users of the Ku-band. The time is now ripe for the issuance of a Commission order adopting operating rules for NGSO FSS networks in the United States and for licensing qualified operators. Any further delay would only extend the unfortunate reliance of consumers in unserved and underserved areas on outdated, inefficient, or nonexistent, telecommunication services.

Ms. Magalie Roman Salas
July 18, 2000
Page 4

Thank you for your ongoing attention to this matter. Please contact me if you have any questions.

Sincerely,

/s/ David A. Nall

David Alan Nall
Counsel for The Boeing Company

cc: Jeffrey H. Olson
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Commissioner Harold Furchtgott-Roth
Commissioner Susan Ness
Commissioner Michael Powell
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