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November 7, 2000

Honorable Susan Ness
Federal Communications Commission
The Portals
445 12th St., S.W., Room TW-B204
Washington, D.C. 20554

Re: Ex Parte File No. ET Docket No. 98-206

Dear Commissioner Ness:

This letter is written on behalf of SkyBridge, LLC ("SkyBridge") and responds to a question raised by Mark Schneider during a recent meeting held in your office among various parties interested in the above-referenced matter. Specifically, Mr. Schneider inquired regarding the genesis and legal status of the so-called "10% interference budget" allocated to nongeostationary orbit ("NGSO") fixed satellite service ("FSS") systems with relation to the protection of geostationary orbit ("GSO") broadcast satellite service ("BSS") (or direct broadcast satellite ("DBS")) systems.

1. **Background**

The ITU-R Joint Task Group ("JTG") 4-9-11 was established to develop technical approaches to sharing between NGSO FSS - GSO FSS, NGSO FSS - GSO BSS, and NGSO FSS - terrestrial services. The task group's work was defined by several resolutions adopted by WRC-97, e.g., Res. 130, 131, and 538. Res. 130 dealt with sharing with GSO FSS, Res. 131 dealt with sharing with FS, and Res. 538 dealt with sharing with GSO BSS. The JTG involved representatives from ITU-R Study Group 4 (FSS issues), Study Group 9 (FS and other terrestrial system issues) and Study Group 11 (BSS issues).

JTG 4-9-11 worked from the conclusion of WRC-97 (Fall, 1997) until the Conference Preparatory Meeting for WRC-2000 held in November 1999. The interference analyses, sharing criteria, and suggested sharing approaches developed by JTG 4-9-11 were critical to finalizing the regulations that govern operation of NGSO FSS systems, which were adopted at WRC-2000.

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Northpoint Technology, Ltd ("Northpoint") had an opportunity to participate in the JTG process, and in fact, attended one or two of the early meetings. However, Northpoint did not submit detailed technical papers which addressed how it could share with either GSO BSS or NGSO FSS, or present any proposed technical sharing criteria.

2. Development of Sharing Regime to Protect GSO BSS from NGSO FSS Systems

For many years, the ITU-R has had recommendations to protect GSO-FSS systems from interference from both other GSO FSS systems and time-varying sources of interference. However, prior to the JTG, there was no parallel recommendation for the protection of GSO BSS from time-varying sources, such as NGSO systems. While Appendix S30 does establish protection for BSS systems for interference to and from FSS and FS systems operated in an adjacent ITU region, the Appendix 30 sharing criteria do not address time-varying sources of interference.

Thus, a necessary component of the JTG process was to examine both the nature of interference to GSO BSS systems that might be caused by NGSO FSS systems and the performance needs of those GSO BSS systems. This, in turn, would lead to the development of ITU-R recommendations and Radio Regulations applicable to NGSO FSS systems for the protection of GSO BSS systems. The goal of these sharing criteria has always been to ensure the quality of BSS service, by protecting the performance objectives of the BSS links.

During this process, in the JTG, as well in ITU-R Joint Task Group 10-11S, a new recommendation was adopted. Recommendation BO.1444 states in Recommends 1:

1. that for a GSO BSS network in the 12 GHz band and its associated feeder links in the 17 GHz band, the aggregate inter-network interference caused by the earth and space station emissions of all non-GSO FSS satellite networks operating in the same frequency band, should:
 - 1.1. be responsible for at most 10% of the time allowance(s) for unavailability of the given C/N value(s) as specified in the performance objectives of the desired network, where N is the total noise level in the noise bandwidth associated with the wanted carrier including all other non-time-varying sources of interference.

Thus, this 10% allowance applies only to earth and space station emissions of NGSO networks (which are considered to be time-varying in nature). The 10% allowance is determined based on the total C/N of the BSS carrier, where the noise (N) includes all other constant sources of interference (such as FS, within the limits defined in

Appendix S30). So, in developing This recommendation, it was assumed that the performance objectives of the BSS carrier already account for all other constant interference sources before the 10% is applied to NGSO systems. This recommendation does not provide a rationale to apportion any of the 10% increase in unavailability to FS operations.

The 10% criteria was used to develop the EPFD limits applicable to each NGSO FSS system, which represented a critical accomplishment of WRC-2000. Again, the development of the EPFD limits did not consider a "new source" of interference to GSO BSS, e.g., from point-to-multipoint FS systems (indeed, it should be recalled that, almost 20 years ago, the FCC directed that all FS systems in the 12.2-12.7 GHz band be relocated upon the implementation of U.S. DBS systems).

In order to appropriately consider how GSO BSS systems can be protected from interference from FS systems (particularly point-to-multipoint systems like Northpoint), other analyses would be required, which take into account current interference allowances defined in the Radio Regulations (Appendix S30 and Article S22), in order to afford BSS systems the appropriate protection of their quality of service. If Northpoint had continued to participate in the JTG process, perhaps This could have taken place and another recommendation developed. However, Northpoint chose not to participate in the process.

3. Enforceability of ITU-R Recommendations

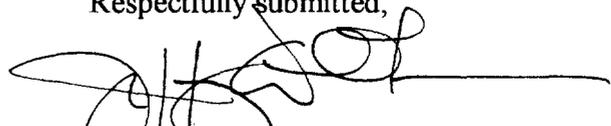
ITU-R Recommendations are not mandatory for administrations to follow. However, some countries do adopt the recommendations in their national regulations governing telecommunication systems. In the case of the instant recommendations developed through the JTG process, they formed a critical building block towards identification of the power limits to be imposed on NGSO FSS systems, which were ultimately adopted by WRC-2000 and, presumably, will be reflected in the Report and Order ultimately adopted in the above-referenced docket. Changing these recommendations, or their intended scope and applicability, would change the fundamental assumptions behind the WRC-2000 power limits. These limits, which were the product of an unprecedented effort at the ITU and, in the end, the product of a compromise proposed and nurtured by the Commission staff, would be difficult, if not impossible, to now revisit.

Honorable Susan Ness
November 7, 2000

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If there are any questions regarding This matter, please contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeffrey H. Olson", written over a horizontal line.

Jeffrey H. Olson
Attorney for SkyBridge L.L.C.

cc: Mark Schneider, Esq.