

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

NOV 15 2000

CREDIT & DEBIT MANAGEMENT
G. R. OUD, OMD

OFFICE OF
MANAGING DIRECTOR

James U. Troup, Esquire
Brian D. Robinson, Esquire
Arter & Hadden
1801 K Street, N.W.
Suite 400K
Washington, D.C. 20006-1301

Fee Control #000000CDMC--99-001

Dear Messrs. Troup and Robinson:

This will respond to your request on behalf of TelQuest Satellite Services, LLC ("TelQuest") for a determination of the appropriate fee to be charged by the Commission in connection with its application to deploy "up to 1 million technically identical receive-only earth stations as part of a planned direct-to-home ("DTH") satellite service using the Fixed Satellite Service." You argue that there is good cause for reducing the fee based on the Commission's determination in "Televisa." See Letter from Marilyn McDermett to Norman Leventhal and David S. Keir, dated February 26, 1997.

The purpose of the Commission's fee program is to enable the Commission "to assess and collect charges for certain of the regulatory services it provides to the public. The charges are based primarily on the Commission's costs of providing these regulatory services." See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, 2 FCC Rcd 947, 948 (1987). We agree with TelQuest that a literal interpretation and application of the Commission's rules, here, would result in the imposition of a \$295,000,000 fee requirement, which would bear scant, if any, relation to the Commission's cost of processing TelQuest's application. Moreover, as TelQuest points out, the Commission has issued blanket authorizations for the operation of such multiple technically identical receive-only earth stations, in conjunction with an application fee associated with a blanket earth station "under nearly identical circumstances."

See Amendment of the Commission's Regulatory Policies to Allow Non-U.S.-Licensed Space Stations to Provide Domestic and International Satellite Service in the United States, IB Docket 96-111 (Released May 14, 1996) (para. 80).

The Commission may waive filing fees upon a showing of good cause and a finding that the public interest will be served thereby. See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, 2 FCC Rcd at 961; see also 47 C.F.R. § 1.1117. We find that the circumstances presented here warrant the waiver of the \$295,000,000 fee requirement for individual stations and the

imposition of a fee for a blanket authorization. Specifically, we find that the requested waiver will minimize the regulatory burdens on TelQuest and expedite processing of its application.

With respect to the appropriate fee to be charged, we find that the regulatory costs involved in processing TelQuest's application will be similar to, if not the same as, blanket authorizations for Fixed Satellite Very Small Aperture Terminal (VSAT) Systems and Mobile Earth Satellite Stations, for which the Commission's fee specifies a \$7,200.00 charge. See 47 C.F.R. § 1.107(6)(a). As with blanket authorizations for VSAT's and Mobile Earth Stations, the Commission staff will expend less resources and will be able to more efficiently process TelQuest's application because the multiple earth stations will be technically identical. We thus find that the imposition of a \$7,200.00 fee is appropriate for processing TelQuest's proposed deployment of multiple technically identical DTH earth stations.

Accordingly, under the authority delegated to the Managing Director by section 0.231(a) of the Commission's rules, the filing fee requirement for TelQuest's proposed deployment of multiple technically identical receive-only earth stations is waived, and the appropriate filing fee is determined to be \$7,200.00. Your request is granted and the Commission accepts your check of \$7,200.00. If you have any questions concerning this matter, please contact the Credit & Debt Management Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger". The signature is fluid and cursive, with a large initial "M" and "R".

 Mark A. Reger
Chief Financial Officer

00000 CDMC-99-001

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June 23, 1999

BY HAND DELIVERY

Mr. Andrew S. Fishel, Managing Director
Office of the Managing Director
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

RECEIVED

JUN 23 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Request for Fee Determination/Deferral Concerning Application for Blanket License to Deploy up to 1,000,000 Receive-Only Earth Stations

Attn: Shirley Wood

Dear Mr. Fishel:

This letter is submitted on behalf of TelQuest Satellite Services, LLC ("TelQuest") in conjunction with its application for a blanket authorization to deploy up to one million technically identical receive-only Earth stations as part of a planned direct-to-home ("DTH") satellite service using the Fixed Satellite Service (FSS). The only fee available for an application for receive-only earth stations is applied per station. Thus, the current fee guide does not contemplate blanket licensing of receive-only earth stations. TelQuest is seeking blanket authority for up to 1 million receive-only earth stations. Read literally, the current fee of \$295 *per station* would require TelQuest to submit a fee of \$295,000,000. Given the Commission's stated policy to accept applications for blanket authority and the extreme burden that such a fee presents, TelQuest requests a waiver of the current fee and a fee determination consistent with the Commission's policies and past precedent. As discussed below, under nearly identical circumstances the Commission issued a fee determination requiring an applicant seeking a blanket license for receive only earth stations to submit the fee required of applicants seeking blanket authorizations for Mobile Satellite Service and Terminal VSAT systems.¹ Consistent with this past precedent, TelQuest has concurrently submitted its application along with a check

¹ See Request of Televisa International, Fee Control #9612188160147; see also Letter from Marilyn McDermott to Norman Leventhal and David S. Keir, dated February 26, 1997 ("Televisa Fee Determination"), attached as Exhibit 1.

ARTER & HADDEN_{LLP}

Mr. Andrew S. Fishel
June 23, 1999
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payable to the Federal Communications Commission in the amount of \$7,200, the current fee for blanket authorization of mobile satellite Earth stations and Terminal VSAT systems.

TelQuest's request for blanket authority is consistent with the FCC's policies articulated in its "*Disco II*" decision. There the Commission stated:

to impose the least burdensome requirements possible while fulfilling our regulatory responsibilities, we will permit applicants to request 'blanket' licenses for technically identical receive-only antennas, such as home dishes.²

Moreover, in 1997 the FCC issued a decision in *Televisa International, LLC* authorizing Televisa "to operate 1,000,000 receive-only earth stations to receive Direct-to-Home Fixed Satellite Service" from a satellite licensed by Mexico.³ Concurrent with the filing of its application, Televisa requested a waiver of the per station filing fee and a fee determination. And, as indicated above, the Commission granted the waiver and determined that the appropriate fee should be the fee required for applications for blanket authorizations in the Mobile Satellite Service or for Terminal VSAT systems.⁴

As in the *Televisa* case, TelQuest is proposing to utilize a foreign satellite licensed by Mexico. Grant of TelQuest's request is consistent with the DTH Protocol agreed to by Mexico and the United States which makes specific reference to blanket licensing for receive-only Earth stations. See "Protocol Concerning the Transmission and Reception of Signals from Satellites for the Provision of Direct-to-Home Satellite Services in the United States of America and the United Mexican States" at Art. V, ¶ 1.

Unfortunately, the FCC's current fee guide has not kept up with the Commission's policies making the instant request necessary. TelQuest is compelled to choose the most reasonable and appropriate means for submission of its request for authorization. Rather than submitting no fee or submitting a single \$295 fee for one receive-only earth station, TelQuest has filed the \$7,200 fee to cover the Commission's application processing costs consistent with the *Televisa Fee Determination* with the expectation that the International Bureau staff can and will

² *Amendment of the Commission's Regulatory Policies to Allow Non-U.S.-Licensed Space Stations to Provide Domestic and International Satellite Service in the United States and Amendment of Section 25.131 of the Commission's Rules and Regulations to Eliminate the Licensing Requirement for Certain International Receive-Only Earth Stations*, 12 FCC Rcd 24094 (¶ 204) (released November 26, 1997) ("*Disco II*").

³ *Televisa International, LLC*, 13 FCC Rcd. 10074 (1997).

⁴ See *supra* n. 1 and Exhibit 1.

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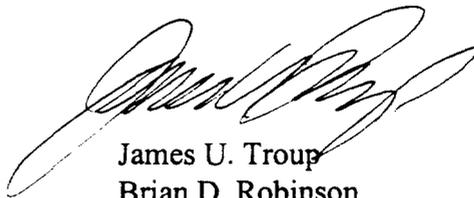
Mr. Andrew S. Fishel
June 23, 1999
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expeditiously process TelQuest's application while the Office of the Managing Director processes the instant request for fee determination.

Accordingly, Telquest respectfully requests that the Managing Director's Office determine that TelQuest's blanket receive-only Earth station application is acceptable for filing based upon its initial payment of \$7,200.

Should you have questions concerning this request, please contact Brian Robinson at 202-775-7126.

Respectfully submitted,



James U. Troup
Brian D. Robinson

cc: Tom Tycz
Fern Jarmulnek
Frank Peace
Claudette Pride

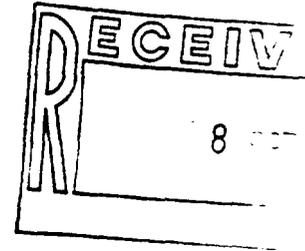
206700

Exhibit 1

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

February 26, 1997

OFFICE OF
MANAGING DIRECTOR



Norman P. Leventhal, Esquire
David S. Keir, Esquire
Leventhal, Senter & Lerman
Suite 600 - 2000 K Street, N. W.
Washington, D.C. 20006-1809

Re: Fee Control # 9612188160147001

Dear Messrs. Leventhal and Keir:

This will respond to your request filed on behalf of Grupo Televisa, S.A. ("Televisa") for a determination of the appropriate fee to be charged by the Commission in connection with its application to deploy "up to one million technically identical receive-only earth stations as part of a planned direct-to-home ("DTH") satellite service."

Televisa represents that the Commission's licensing rules do not expressly authorize the filing of a blanket license application for such multiple technically identical receive-only earth stations, nor does the Commission's fee schedule specify a corresponding fee category. Rather, the Commission's licensing rules and fee schedule are based on a single earth station application, the applicable fee being \$280 per application, see 47 C.F.R. §§ 25.110, 25.115, 25.131, 1.1107(5)(a)(ii). Televisa maintains that the filing of a million technically identical applications would be "absurdly burdensome, require reams of documents containing duplicative information" and necessitate "an astronomical aggregate filing fee of \$280,000,000.00." Televisa thus requests a waiver of the Commission's fee requirements and a determination of the appropriate filing fee for its proposal to deploy approximately one million technically identical receive-only DTH stations.

The purpose of the Commission's fee program is to enable the Commission "to assess and collect charges for certain of the regulatory services it provides to the public. The charges are based primarily on the Commission's costs of providing these regulatory services." See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, 2 FCC Rcd 947, 948 (1987). We agree with Televisa that a literal interpretation and application of the Commission's rules, here, would result in the imposition of a \$280,000,000.00 fee requirement, which would bear scant, if any, relation to the Commission's cost of processing Televisa's application. Moreover, as Televisa points out, the Commission has expressly contemplated the issuance of blanket authorizations for the operation of such multiple technically identical receive-only earth stations, in conjunction with an application fee "associated with a blanket earth station." See Amendment of the Commission's Regulatory Policies to Allow Non-U.S.-Licensed Space Stations to Provide Domestic and International Satellite Service in the United States, IB Docket 96-111 (Released May 14, 1996)(#80).

Messrs. Leventhal and Keir

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The Commission may waive filing fees upon a showing of good cause and a finding that the public interest will be served thereby. See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, 2 FCC Rcd at 961; see also 47 C.F.R. §1.1117. We find that the circumstances presented here warrant the waiver of the \$280,000,000.00 fee requirement for individual stations and the imposition of a fee for a blanket authorization. Specifically, we find that the requested waiver will minimize the regulatory burdens on Televisa, expedite processing Televisa's application, and, more importantly, enable the prompt initiation of service by Televisa, during the pendency of the Commission's IB Docket 96-111 proceeding, as well as the Commission's preparation of a congressional proposal to specifically amend the fee schedule in this regard if the Commission decides to adopt a blanket authorization policy for receive-only earth stations in the DTH satellite service.

With respect to the appropriate fee to be charged, we find that the regulatory costs involved in processing Televisa's application will be similar to, if not the same as, blanket authorizations for Fixed Satellite Very Small Aperture Terminal (VSAT) Systems and Mobile Earth Satellite Stations, for which the Commission's fee schedule specifies a \$6,840.00 charge. See 47 C.F.R. §1.1107(6)(a), 7(a). As with blanket authorizations for VSATs and Mobile Earth Stations, the Commission staff will expend less resources and will be able to more efficiently process Televisa's application because the multiple earth stations will be technically identical. We thus find that the imposition of a \$6,840.00 fee is appropriate for processing Televisa's proposed deployment of multiple technically identical DTH earth stations. If, in the future, Congress specifies a fee for blanket receive-only DTH stations, and that fee is greater than the \$6,840.00 charge, we will require Televisa to pay the balance. Of course, if Congress should specify a fee that is less than the \$6,840.00 charge, Televisa will be entitled to a partial refund.

Accordingly, under the authority delegated to the Managing Director by section 0.231(a) of the Commission's rules, the filing fee requirement for Televisa's proposed deployment of multiple technically identical receive-only earth stations is waived, and the appropriate filing fee is determined to be \$6,840.00. Televisa will be required to remit the \$6,560.00 balance within thirty (30) days of the date of this letter. If you have any questions concerning this matter, please contact the Chief, Fee Section, at (202) 418-1995.

Sincerely,



Marilyn McDermott

Associate Managing Director
for Operations