

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 28 2002

OFFICE OF
MANAGING DIRECTOR

James U. Troup, Esquire
Adrian B. Copiz, Esquire
McGuireWoods LLP
1050 Connecticut Avenue, N.W.
Suite 1200
Washington, DC 20036-5317

86-285

RE: WSNNet Holdings, Inc., (FRN 0005088265) Request for Waiver and
Deferral of Application Fees, Fee Control No., 0201148160054003

Dear Messrs. Troup and Copiz:

This is in response to your letter dated January 11, 2002, with which you submitted a fee of \$7,510 for an initial application fee associated with an application for a Fixed Satellite Very Small Aperture Terminal (VSAT) System. You request that the Commission accept that fee, and thereafter waive and defer payment of individual fees for each of 999,999 receive-only earth stations. Combined with the request for waiver is the substantive application by WSNNet Holdings, Inc. (WSNNet), for Commission authorization for a system that includes a transmit-receive earth station, two non-U.S. licensed space stations and the million receive-only earth stations. For the reasons below, we grant your request for a waiver, and find that the amount paid is consistent with the Commission's decision to permit a blanket application fee for this matter.

WSNNet intends to operate a transmit/receive earth station that will uplink to a non-U.S. licensed space station located at 91.0 degrees W.L. and a non-U.S. license space station that is (as of the date of the application) under construction,¹ but will be located at 82.0 degrees W.L. The Canadian government administers both non-U.S. licensed space stations. These components provide the signal to be received by the one million receive-only earth stations for which WSNNet requests a fee waiver. Section 25.137 of the Commission's rules (47 CFR § 25.137) provides the procedures applicants use to request authority to operate such a system with a non-U.S. licensed space station. In that regard, the Commission held that in order to provide regulatory control for the transmissions entering the United States, it would license the receive-only terminal(s). Such a process provides a means to control interfering transmissions into the United States and to provide a vehicle by which to evaluate effective competitive opportunities in foreign markets as

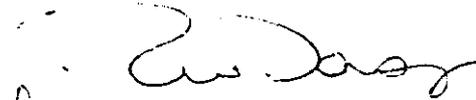
¹ Our discussion and decision is limited to the question whether WSNNet paid the correct fee or whether, as the request is framed, the Commission should grant a waiver of the correct fee. Consequently, our comments and decision do not extend to the substantive issues of the application and/or whether the status of the second space station could result in the dismissal of the application as premature. Cf. *Opinion and Order, Application of Telquest Ventures, L.L.C.*, 16 FCC Rcd. 15026 (2001), *affirming Report and Order, Applications of Telquest Ventures, L.L.C.*, 11 FCC Rcd. 8151 (1996) (International Bureau dismissed, without prejudice, earth station application by Telquest Ventures, L.L.C. and Western TeleCommunications, Inc., to provide Direct Broadcast Satellite Service using transponders on satellites in Canadian orbital locations that at the time were not yet issued licenses.)

well as other public interest considerations.² Mindful of the potential burden applicable to those requesting authorization, however, the Commission held "we will permit applicants to request 'blanket' licenses for large numbers of technically identical receive-only antennas, such as home 'dishes.' Blanket applications may be filed by the space station operator, the service supplier, the equipment manufacturer, or the electronics retailer."³ WSNet's application involves the class of technically identical receive-only antennas described by the Commission. In that regard, the Commission's application fee for comparable blanket applications⁴ is the same as the fee for the VSAT.⁵

Consequently, the fee paid in connection with the application for a waiver is accepted, and we grant WSNet's request for a waiver.

If you have any questions concerning this letter, please call the Revenue and Receivable Operation Group at (202) 418-1995.

Sincerely,


for Mark A. Reger
Chief Financial Officer

² *Report and Order, 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*, FCC 97-399, 12 FCC Rcd. 24094, 24180-181 (1997).

³ *Id.*, at 24180-181, ¶ 204.

⁴ 47 CFR § 1.1107.7.a. (\$7,510).

⁵ 47 CFR § 1.1107.6.a. (\$7,510).

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McGUIREWOODS

January 11, 2002

Via Hand Delivery

Office of the Managing Director
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Attention: Susan Donahue

Re: WSN Net Holdings, Inc.'s (FRN 0005088265) Request for Waiver and Deferral of Fees

Dear Ms. Donahue:

WSNet Holdings, Inc. ("WSNet" or "Applicant") respectfully requests that, pursuant to Sections 1.3 and 1.1117 of the Commission's Rules,¹ and the Communications Act of 1934, as amended,² the Commission waive and defer the filing fee requirement for the Initial Application for Registration or License of a Receive Only Earth Station, as well as the fee for Each Additional Station. Rather, the Applicant is providing an initial fee of \$7,510 as is required for the Initial Application fee for Fixed Satellite Very Small Aperture Terminal (VSAT) Systems, which is a reasonable fee to cover the administrative costs and is consistent with the International Bureau's recommendation. For waiver requests, the Commission must have good cause to deviate

¹ 47 C.F.R. § 1.3 and 1.1117 (2000).
² 47 U.S.C. § 158(d)(2) (2001).

from its general practice and doing so would serve the public interest.³ As will be demonstrated below, the Commission has good cause for deviating from its general practice and accepting an alternative fee.

The Applicant is requesting authorization for one-million (1,000,000) receive only earth stations in order to provide consumers in the United States with Broadcasting-Satellite Services.⁴ Were the Applicant to submit a fee based on the Commission's Fee Filing Guide, there would be a fee of \$310.00 covering the cost of the Initial Application, which would cover one of the 1,000,000 earth stations; and, read literally, the Commission would expect a fee of \$135.00 for each of the other 999,999 earth stations, which would result in a total filing fee cost of \$135,000,175.00. Obviously this is not what either the Commission or Congress, when granting the Commission authority to impose and collect fees,⁵ intended or would require.

Imposing such a massive fee on the Applicant would make it entirely impossible for the Applicant to pursue authorization of 1,000,000 receive only earth stations for American consumers of satellite services. Limiting the Applicant's entry into the satellite market through such a prohibitive fee would not serve the public interest as the absence of the Applicant from the U.S. market would result in a DBS monopoly under the control of EchoStar after its acquisition of Hughes. Competition would benefit American consumers through improved DBS service and lower prices. Thus, it is in the public interest for the Applicant to be able to file its application for receive only earth stations

³ See *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1069); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1166 (D.C. Cir. 1990).

⁴ Broadcasting-Satellite Service is known as Direct Broadcast Satellite ("DBS") service in the United States.

⁵ See Title III, Section 3001 of the Omnibus Budget and Reconciliation Act of 1989, Section 8, 47 U.S.C. 158 (2000).

without submitting a massive fee of \$135,000,175.00. Therefore, the Applicant respectfully requests that the Commission waive and defer this requirement.

As directed by the International Bureau's staff and consistent with reasoning previously relied on by the Commission, the Applicant is submitting a fee of \$7,510.00 which is normally required for the Initial Application for Fixed Satellite Very Small Aperture Terminal (VSAT) Systems (fee code BGV). The Commission has previously reasoned that when there is not a specific fee for a given service, a fee for a comparable service may be the proper fee. For example, in one instance the Commission stated, "Because the CSAT service most closely matches the GTE Spacenet system, the existing fee structure for Fixed-Satellite Transmit/Receive Earth Stations (2 meters or less and operating in the 4/6 GHz frequency band) is the fee most comparable to CSAT applications."⁶ In that same proceeding the Commission waived and deferred the full fee upon the submission of a lead application fee where the full fee would have exceeded one million dollars as required by the Fee Filing Guide.⁷

⁶ *In the Matter of FWCC Request for Declaratory Ruling on Partial-Band Licensing of Earth Stations in the Fixed-Satellite Service that Share Terrestrial Spectrum; FWCC Petition for Rulemaking to Set Loading Standards for Earth Stations in the Fixed-Satellite Service that Share Terrestrial Spectrum; Onsat Petition for Declaratory Order that Blanket Licensing Pursuant to Rule 25.115(c) is Available for Very Small Aperture Terminal Satellite Network Operations at C-Band; Onsat Petition for Waiver of Rule 25.212(d) to the Extent Necessary to Permit Routine Licensing of 3.7 Meter Transmit and Receive Stations at C-Band; Ex parte Letter Concerning Deployment of Geostationary Orbit FSS Earth Stations in the Shared Portion of the Ka-band, Notice of Proposed Rulemaking, 15 FCC Rcd 23127, ¶¶ 90-91 (rel. Oct. 24, 2000).*

⁷ *In the Matter of FWCC Request for Declaratory Ruling on Partial-Band Licensing of Earth Stations in the Fixed-Satellite Service that Share Terrestrial Spectrum; FWCC Petition for Rulemaking to Set Loading Standards for Earth Stations in the Fixed-Satellite Service that Share Terrestrial Spectrum; Onsat Petition for Declaratory Order that Blanket Licensing Pursuant to Rule 25.115(c) is Available for Very Small Aperture Terminal Satellite Network Operations at C-Band; Onsat Petition for Waiver of Rule 25.212(d) to the Extent Necessary to Permit Routine Licensing of 3.7 Meter Transmit and Receive Stations at C-Band; Ex parte Letter Concerning Deployment of Geostationary Orbit FSS Earth Stations in the Shared Portion of the Ka-band, First Report and Order, 16 FCC Rcd 11511, ¶ 9 (rel. May 25, 2001).*

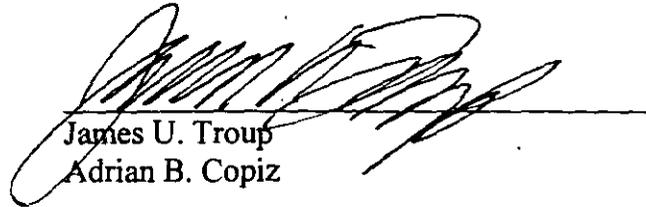
In the present application the VSAT fee reasonably covers the administrative costs and VSAT systems are comparable to the services proposed by the Applicant in that both services have potentially numerous stations. As detailed in the Fee Filing Guide, the VSAT fee covers a system, which may include many remote earth stations, rather than a single station, referred to as a "blanket" application. Similarly, the Applicant is seeking the authorization of numerous receive only earth stations, specifically 1,000,000, which may also be viewed as a "blanket" application. As the VSAT system is similar to the service the Applicant proposes, it would be reasonable and in the public interest for the Commission to accept the filing fee for a VSAT system application in lieu of the \$135,000,175.00 the Applicant would be otherwise required to pay. The \$7,510.00 fee normally associated with VSAT applications should be sufficient to cover the Commission's administrative costs and at the same time will not be so cost prohibitive such as to prevent the Applicant from seeking authorization to provide the public with new, innovative, and alternative satellite services.

Therefore, WSNNet respectfully requests that the Commission waive and defer its general requirement for the Applicant to pay \$310.00 for the Initial Application for Registration or License of a Receive Only Earth Station, as well as the \$135.00 fee for Each Additional Station. The Applicant further requests that the Commission accept the VSAT filing fee of \$7,510.00.

Also, for your convenience, enclosed is a copy of the application materials to which this request for waiver is associated. Acknowledgement and date of receipt of this submission is requested and a duplicate of this filing is provided for this purpose. Should

you have any questions, please do not hesitate to contact James U. Troup at 202-857-1702 or Adrian B. Copiz at 202-857-1724.

Respectfully submitted,



James U. Troup
Adrian B. Copiz

Counsel for WSN Net Holdings, Inc.

Enclosures

Cc: FCC / Mellon Bank
Donald Abelson, Chief of the International Bureau

COPY

McGuireWoods LLP
Washington Square
Connecticut Avenue N.W.
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Washington, DC 20036-5317
Phone: 202.857.1700
Fax: 202.857.1737
www.mcguirewoods.com

McGUIREWOODS

January 11, 2002

Via Hand Delivery

Federal Communications Commission
c/o Mellon Bank
500 Ross Street
Pittsburgh, PA 15362

Lockbox: 358160

Re: **Application of WSN Net Holdings, Inc. (FRN 0005088265) for Receive Only Earth Station Initial Application and Requests for Waiver**

Dear Sir or Madam:

WSNet Holdings, Inc. ("WSNet") (FRN 0005088265), by its attorneys, hereby submits for filing one original and three copies of its Initial Application for Receive Only Earth Stations. Enclosed is a Form 159 and a check payable to the FCC for \$7,510.00 to cover the filing fee for the application. WSNet is also seeking two waivers in association with this application. This application includes a request for a waiver of procedures, and enclosed is a Form 159 and check payable to the FCC for \$145.00 to cover the filing fee. WSNet is also requesting a waiver and deferral of the application fees and this request is being formally submitted to the Office of the Managing Director, a copy of which is being provided under Exhibit 1 of the application. The request for a waiver and deferral of the application fees does not require a fee.

Acknowledgement and date of receipt of this filing is requested. A duplicate copy of this application is provided for this purpose. Should you have any questions concerning this matter, please do not hesitate to contact James U. Troup at 202-8571702 or Adrian B. Copiz at 202-857-1724.

Respectfully submitted,



James U. Troup
Adrian B. Copiz

Counsel for WSN Net Holdings, Inc.

Enclosures

Cc: Donald Abelson, Chief of the International Bureau
Office of the Managing Director

FCC 312
Main Form

FEDERAL COMMUNICATIONS COMMISSION

APPLICATION FOR SATELLITE SPACE AND EARTH STATION AUTHORIZATIONS

Approved by OMB
3061-0678

Est. Avg. Burden Hours
Per Response: 11 Hrs

FCC Use Only

File Number:

Call Sign:

Fee Number:

APPLICANT INFORMATION

1. Legal Name of Applicant WSNet Holdings, Inc.		2. Voice Telephone Number 512-327-3300	
3. Other Name Used for Doing Business (if any)		4. Fax Telephone Number 512-327-7272	
5. Mailing Street Address or P.O. Box 11044 Research Boulevard, Suite C-500 ATTENTION:		6. City Austin	
		7. State / Country (if not U.S.A.) Texas	8. Zip Code 78759
9. Name of Contact Representative (If other than applicant) James U. Troup and Adrian B. Copiz		10. Voice Telephone Number 202-857-1700	
11. Firm or Company Name McGuireWoods LLP		12. Fax Telephone Number 202-857-1737	
13. Mailing Street Address or P.O. Box Washington Square, 1050 Connecticut Avenue, N.W., Suite 1200 ATTENTION:		14. City Washington, D.C.	
		15. State / Country (if not U.S.A.)	16. Zip Code 20036-5317

CLASSIFICATION OF FILING

17. Place an "X" in the box next to the classification that applies to this filing for both questions a. and b. Mark only one box for 17a and only one box for 17b.			
<input checked="" type="checkbox"/> a1. Earth Station	<input type="checkbox"/> b1. Application for License of New Station	<input type="checkbox"/> b6. Transfer of Control of License or Registration	
<input type="checkbox"/> a2. Space Station	<input type="checkbox"/> b2. Application for Registration of New Domestic Receive-Only Station	<input type="checkbox"/> b7. Notification of Minor Modification	
	<input type="checkbox"/> b3. Amendment to a Pending Application	<input checked="" type="checkbox"/> b8. Application for License of New Receive-Only Station Using Non-U.S. Licensed Satellite	
	<input type="checkbox"/> b4. Modification of License or Registration	<input type="checkbox"/> b9. Letter of Intent to Use Non-U.S. Licensed Satellite to Provide Service in the United States	
	<input type="checkbox"/> b5. Assignment of License or Registration	<input type="checkbox"/> b10. Other (Please Specify):	
18. If this filing is in reference to an existing station, enter: Call sign of station:		19. If this filing is an amendment to a pending application enter: (a) Date pending application was filed: (b) File number of pending application:	

TYPE OF SERVICE

20. NATURE OF SERVICE: This filing is for an authorization to provide or use the following type(s) of service(s). Place an "X" in the box(es) next to all that apply.

a. Fixed Satellite
 c. Radiodetermination Satellite
 e. Direct to Home Fixed Satellite
 b. Mobile Satellite
 d. Earth Exploration Satellite
 f. Digital Audio Radio Service
 g. Other (please specify) Broadcasting-Satellite Service

21. STATUS: Place an "X" in the box next to the applicable status. Mark only one box.

a. Common Carrier
 b. Non-Common Carrier

22. If earth station applicant, place an "X" in the box(es) next to all that apply.

a. Using U.S. licensed satellites
 b. Using Non-U.S. licensed satellites

23. If applicant is providing INTERNATIONAL COMMON CARRIER service, see instructions regarding Sec. 214 filings. Mark only one box. Are these facilities:

a. Connected to the Public Switched Network
 b. Not connected to the Public Switched Network

24. FREQUENCY BAND(S): Place an "X" in the box(es) next to all applicable frequency band(s).

a. C-Band (4/6 GHz)
 b. Ku-Band (12/14 GHz)
 c. Other (Please specify) Broadcasting-Satellite Service

TYPE OF STATION

25. CLASS OF STATION: Place an "X" in the box next to the class of station that applies. Mark only one box.

a. Fixed Earth Station
 b. Temporary-Fixed Earth Station
 c. 12/14 GHz VSAT Network
 d. Mobile Earth Station
 e. Space Station
 f. Other (Specify) _____

If space station applicant, go to Question 27.

26. TYPE OF EARTH STATION FACILITY Mark only one box.

a. Transmit/Receive
 b. Transmit-Only
 c. Receive-Only

PURPOSE OF MODIFICATION OR AMENDMENT

27. The purpose of this proposed modification or amendment is to: Place an "X" in the box(es) next to all that apply.

a -- authorization to add new emission designator and related service
 b -- authorization to change emission designator and related service
 c -- authorization to increase EIRP and EIRP density
 d -- authorization to replace antenna
 e -- authorization to add antenna
 f -- authorization to relocate fixed station
 g -- authorization to change assigned frequency(ies)
 h -- authorization to add Points of Communication (satellites & countries)
 i -- authorization to change Points of Communication (satellites & countries)
 j -- authorization for facilities for which environmental assessment and radiation hazard reporting is required
 k -- Other (Please Specify) _____

ENVIRONMENTAL POLICY

28. Would a Commission grant of any proposal in this application or amendment have a significant environmental impact as defined by 47 CFR 1.1307? If YES, submit the statement as required by Sections 1.1308 and 1.1311 of the Commission's rules, 47 C.F.R. §§ 1.1308 and 1.1311, as an exhibit to this application.

YES
 NO

A Radiation Hazard Study must accompany all applications as an exhibit for new transmitting facilities, major modifications, or major amendments. Refer to OET Bulletin 65.

ALIEN OWNERSHIP

29. Is the applicant a foreign government or the representative of any foreign government?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
30. Is the applicant an alien or the representative of an alien?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
31. Is the applicant a corporation organized under the laws of any foreign government?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
32. Is the applicant a corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
33. Is the applicant a corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
34. If any answer to questions 29, 30, 31, 32 and/or 33 is Yes, attach as an exhibit, the identification of the aliens or foreign entities, their nationality, their relationship to the applicant, and the percentage of stock they own or vote.		

BASIC QUALIFICATIONS

35. Does the applicant request any waivers or exemptions from any of the Commission's Rules? If Yes, attach as an exhibit, copies of the requests for waivers or exceptions with supporting documents.	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
36. Has the applicant or any party to this application had any FCC station authorization or license revoked or had any application for an initial, modification or renewal of FCC station authorization, license, or construction permit denied by the Commission? If Yes, attach as an exhibit, an explanation of the circumstances.	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
37. Has the applicant, or any party to this application, or any party directly or indirectly controlling the applicant ever been convicted of a felony by any state or federal court? If Yes, attach as an exhibit, an explanation of the circumstances.	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
38. Has any court finally adjudged the applicant, or any person directly or indirectly controlling the applicant, guilty of unlawfully monopolizing or attempting unlawfully to monopolize radio communication, directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement or any other means or unfair methods of competition? If Yes, attach as an exhibit, an explanation of the circumstances.	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
39. Is the applicant, or any person directly or indirectly controlling the applicant, currently a party in any pending matter referred to in the preceding two items? If Yes, attach as an exhibit, an explanation of the circumstances.	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
40. If the applicant is a corporation and is applying for a space station license, attach as an exhibit the names, addresses, and citizenship of those stockholders owning of record and/or voting 10 percent or more of the Filer's voting stock and the percentages so held. In the case of fiduciary control, indicate the beneficiary(ies) or class of beneficiaries. Also list the names and addresses of the officers and directors of the Filer.		
41. By checking Yes, the undersigned certifies, that neither the applicant nor any other party to the application is subject to a denial of Federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Act of 1988, 21 U.S.C. Section 862, because of a conviction for possession or distribution of a controlled substance. See 47 CFR 1.2002(b) for the meaning of "party to the application" for these purposes.	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
42a. Does the applicant intend to use a non-U.S. licensed satellite to provide service in the United States? If yes, answer 42b and attach an exhibit providing the information specified in 47 C.F.R. § 25.137, as appropriate. If no, proceed to question 43.	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
42b. What administration has licensed or is in the process of licensing the space station? If no license will be issued, what administration has coordinated or is in the process of coordinating the space station? <u>Canada for satellites at 82 W.L. and 91 W.L.</u>		

FEDERAL COMMUNICATIONS COMMISSION
APPLICATION FOR SATELLITE SPACE AND EARTH STATION AUTHORIZATIONS
Technical and Operational Description)

(Place an "X" in one of the blocks below)

- License of New Station Registration of new Domestic Receive-Only Station Amendment to a Pending Application Modification of License/Registration Notification of Minor Modification

B1. Location of Earth Station Site. If temporary-fixed, mobile, or VSAT remote facility, specify area of operation and point of contact. If VSAT hub station, give its location. For VSAT networks attach individual Schedule B, Page 1 sheets for each hub station and each remote station. Individually provide the Location, Points of Communications, and Destination Points for each hub and remote station.

B1a. Station Call Sign		B1b. Site identifier (HUB, REMOTE1, etc.) REMOTE1		B1c. Telephone Number		B1j. Geographic Coordinates N/S, Deg. - Min. - Sec. - E/W		B1k. Lat./Lon. Coordinates are: <input type="checkbox"/> NAD-27 <input type="checkbox"/> NAD-83	
B1d. Mailing Street Address of Station or Area of Operation CONUS				B1e. Name of Contact Person				Lat. Lon.	
B1f. City	B1g. County	B1h. State	B1i. Zip Code	B1l. Site Elevation (AMSL)					

B2. Points of Communications: List the names and orbit locations of all satellites with which this earth station will communicate. The entry "ALSAT" is sufficient to identify the names and locations of all satellite facilities licensed by the U.S. All non-U.S. licensed satellites must be listed individually.

Satellite Name and Orbit Location	Satellite Name and Orbit Location	Satellite Name and Orbit Location
Nimiq DBS Satellite 91.0 W.L.	Nimiq DBS Satellite 82.0 W.L.	

B3. Destination points for communications using non-U.S. licensed satellites. For each non-U.S. licensed satellite facility identified in section B2 above, specify the destination point(s) (countries) where the services will be provided by this earth station via each non-U.S. license satellite system. Use additional sheets as needed.

Satellite Name	List of Destination Points
Nimiq DBS 91.0 W.L.	Blanket Earth Stations located at various points in the CONUS
Nimiq DBS 82.0 W.L.	Blanket Earth Stations located at various points in the CONUS

FEDERAL COMMUNICATIONS COMMISSION
APPLICATION FOR SATELLITE SPACE AND EARTH STATION AUTHORIZATIONS
FCC Form 312 - Schedule B: (Technical and Operational Description)

If VSAT Network, provide the SITE-ID (Item B1b) of the station that B8-B13 are in response to (HUB, REMOTE1, etc.): REMOTE1

Form containing questions B8 through B13 regarding satellite service compliance, remote control, and FAA notification. Includes a sub-table for Remote Control Point Location with fields for Street Address, City, County, State/Country, Zip Code, Telephone Number, and Call Sign.

EXHIBIT 1

No. 35 – Requests for Waiver

Request for Waiver of Procedures

To the extent that the Commission has a general practice to not accept for filing earth station applications for space stations that are not yet in orbit, Applicant, in accordance with Section 1.3 of the Commission's Rules,¹ requests a waiver of this policy and general practice to the extent that it would apply to the 82.0 degrees W.L. orbital location. The Commission, in this case, would have good cause to deviate from its general practice because doing so would serve the public interest.²

The public interest would be served because granting the application with respect to the 82.0 degrees W.L. orbital location is critical to the successful implementation of a DBS system in the United States that requires use of both the 82 degrees W.L. and 91 degrees W.L. orbital locations in order to be attractive to American consumers. Such a waiver is unnecessary for the 91 degrees W.L. orbital location because Telesat's Nimiq 1 satellite is already operating there. However, with the vast amount of DBS spectrum that will be under the control of EchoStar/Hughes, the Applicant can not begin to implement a viable competitive business strategy unless this application is granted simultaneously for both the 82 degrees W.L. and 91 degrees W.L. orbital locations. WSNet needs to plan its business strategy and coordinate services in advance with Telesat for both the 82 degrees W.L. and 91 degrees W.L. orbital locations in order to efficiently utilize its resources as

¹ 47 C.F.R. § 1.3 (2000).

² See *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1069); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1166 (D.C. Cir. 1990).

well as coordinate and implement competitive service arrangements that will be attractive to American consumers. This will result in both financial savings, in optimization of WSNets services, and an earlier availability of a viable WSNets DBS service in the United States, which will benefit its customers, thus serving the public interest. Therefore, WSNets respectfully requests that the Commission grant a waiver of its general practice of not accepting earth station applications for filing when a space station is not yet deployed.

Request for Waiver and Deferral of Fees

January 11, 2002

Via Hand Delivery

Office of the Managing Director
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Attention: Susan Donahue

**Re: WNet Holdings, Inc.'s (FRN 0005088265) Request for Waiver and Deferral
of Fees**

Dear Ms. Donahue:

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² 47 U.S.C. § 158(d)(2) (2001).

from its general practice and doing so would serve the public interest.³ As will be demonstrated below, the Commission has good cause for deviating from its general practice and accepting an alternative fee.

The Applicant is requesting authorization for one-million (1,000,000) receive only earth stations in order to provide consumers in the United States with Broadcasting-Satellite Services.⁴ Were the Applicant to submit a fee based on the Commission's Fee Filing Guide, there would be a fee of \$310.00 covering the cost of the Initial Application, which would cover one of the 1,000,000 earth stations; and, read literally, the Commission would expect a fee of \$135.00 for each of the other 999,999 earth stations, which would result in a total filing fee cost of \$135,000,175.00. Obviously this is not what either the Commission or Congress, when granting the Commission authority to impose and collect fees,⁵ intended or would require.

Imposing such a massive fee on the Applicant would make it entirely impossible for the Applicant to pursue authorization of 1,000,000 receive only earth stations for American consumers of satellite services. Limiting the Applicant's entry into the satellite market through such a prohibitive fee would not serve the public interest as the absence of the Applicant from the U.S. market would result in a DBS monopoly under the control of EchoStar after its acquisition of Hughes. Competition would benefit American consumers through improved DBS service and lower prices. Thus, it is in the public interest for the Applicant to be able to file its application for receive only earth stations

³ See *WAT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1069); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1166 (D.C. Cir. 1990).

⁴ Broadcasting-Satellite Service is known as Direct Broadcast Satellite ("DBS") service in the United States.

⁵ See Title III, Section 3001 of the Omnibus Budget and Reconciliation Act of 1989, Section 8, 47 U.S.C. 158 (2000).

without submitting a massive fee of \$135,000,175.00. Therefore, the Applicant respectfully requests that the Commission waive and defer this requirement.

As directed by the International Bureau's staff and consistent with reasoning previously relied on by the Commission, the Applicant is submitting a fee of \$7,510.00 which is normally required for the Initial Application for Fixed Satellite Very Small Aperture Terminal (VSAT) Systems (fee code BGV). The Commission has previously reasoned that when there is not a specific fee for a given service, a fee for a comparable service may be the proper fee. For example, in one instance the Commission stated, "Because the CSAT service most closely matches the GTE Spacenet system, the existing fee structure for Fixed-Satellite Transmit/Receive Earth Stations (2 meters or less and operating in the 4/6 GHz frequency band) is the fee most comparable to CSAT applications."⁶ In that same proceeding the Commission waived and deferred the full fee upon the submission of a lead application fee where the full fee would have exceeded one million dollars as required by the Fee Filing Guide.⁷

⁶ *In the Matter of FWCC Request for Declaratory Ruling on Partial-Band Licensing of Earth Stations in the Fixed-Satellite Service that Share Terrestrial Spectrum; FWCC Petition for Rulemaking to Set Loading Standards for Earth Stations in the Fixed-Satellite Service that Share Terrestrial Spectrum; Onsat Petition for Declaratory Order that Blanket Licensing Pursuant to Rule 25.115(c) is Available for Very Small Aperture Terminal Satellite Network Operations at C-Band; Onsat Petition for Waiver of Rule 25.212(d) to the Extent Necessary to Permit Routine Licensing of 3.7 Meter Transmit and Receive Stations at C-Band; Ex parte Letter Concerning Deployment of Geostationary Orbit FSS Earth Stations in the Shared Portion of the Ka-band, Notice of Proposed Rulemaking, 15 FCC Rcd 23127, ¶¶ 90-91 (rel. Oct. 24, 2000).*

⁷ *In the Matter of FWCC Request for Declaratory Ruling on Partial-Band Licensing of Earth Stations in the Fixed-Satellite Service that Share Terrestrial Spectrum; FWCC Petition for Rulemaking to Set Loading Standards for Earth Stations in the Fixed-Satellite Service that Share Terrestrial Spectrum; Onsat Petition for Declaratory Order that Blanket Licensing Pursuant to Rule 25.115(c) is Available for Very Small Aperture Terminal Satellite Network Operations at C-Band; Onsat Petition for Waiver of Rule 25.212(d) to the Extent Necessary to Permit Routine Licensing of 3.7 Meter Transmit and Receive Stations at C-Band; Ex parte Letter Concerning Deployment of Geostationary Orbit FSS Earth Stations in the Shared Portion of the Ka-band, First Report and Order, 16 FCC Rcd 11511, ¶ 9 (rel. May 25, 2001).*

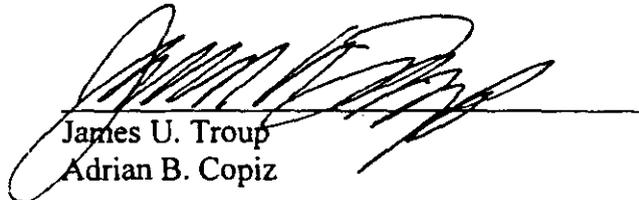
In the present application the VSAT fee reasonably covers the administrative costs and VSAT systems are comparable to the services proposed by the Applicant in that both services have potentially numerous stations. As detailed in the Fee Filing Guide, the VSAT fee covers a system, which may include many remote earth stations, rather than a single station, referred to as a "blanket" application. Similarly, the Applicant is seeking the authorization of numerous receive only earth stations, specifically 1,000,000, which may also be viewed as a "blanket" application. As the VSAT system is similar to the service the Applicant proposes, it would be reasonable and in the public interest for the Commission to accept the filing fee for a VSAT system application in lieu of the \$135,000,175.00 the Applicant would be otherwise required to pay. The \$7,510.00 fee normally associated with VSAT applications should be sufficient to cover the Commission's administrative costs and at the same time will not be so cost prohibitive such as to prevent the Applicant from seeking authorization to provide the public with new, innovative, and alternative satellite services.

Therefore, WNet respectfully requests that the Commission waive and defer its general requirement for the Applicant to pay \$310.00 for the Initial Application for Registration or License of a Receive Only Earth Station, as well as the \$135.00 fee for Each Additional Station. The Applicant further requests that the Commission accept the VSAT filing fee of \$7,510.00.

Also, for your convenience, enclosed is a copy of the application materials to which this request for waiver is associated. Acknowledgement and date of receipt of this submission is requested and a duplicate of this filing is provided for this purpose. Should

you have any questions, please do not hesitate to contact James U. Troup at 202-857-1702 or Adrian B. Copiz at 202-857-1724.

Respectfully submitted,



James U. Troup
Adrian B. Copiz

Counsel for WNet Holdings, Inc.

Enclosures

Cc: FCC / Mellon Bank
Donald Abelson, Chief of the International Bureau