



Wiley Rein & Fielding LLP

ORIGINAL

ORIGINAL

U.S. DEPARTMENT OF JUSTICE
WIRETAPPING AND COMMUNICATIONS
ACTIVITY
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, DC 20535
ATTENTION: DIRECTOR
SECURITY
MAIL ROOM
RECEIVED
FBI
WASHINGTON, DC

October 7, 2002

Lawrence W. Secrest, III
202.719.7074
LSecrest@wrf.com

VIA HAND DELIVERY

RECEIVED

OCT - 7 2002

Ms. Marlene Dortch
Secretary
Federal Communications Commission
236 Massachusetts Avenue NE
Suite 110
Washington, DC 20002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: *Notice of Ex Parte Presentation, MD Docket No. 01-76, Assessment of Regulatory Fees for Fiscal Year 2001, Report & Order*

Dear Ms. Dortch:

By its undersigned attorney, COMSAT Corporation ("COMSAT" or "the Company") hereby submits this written *ex parte* presentation in the above-referenced proceeding. This letter supplements my *ex parte* letter of May 6, 2002, by referring to materials provided to COMSAT on August 1, 2002, in response to our Freedom of Information Act request dated May 6, 2002.¹

As our previous letter indicates, in *COMSAT Corp. v. FCC*, 283 F.3d 344 (D.C. Cir. 2002), the U.S. Court of Appeals for the District of Columbia Circuit generally upheld the Commission's authority to assess space station regulatory fees on COMSAT for COMSAT's use of satellites owned and operated by INTELSAT during all relevant periods. In that case, the Commission had represented to the Court that the challenged fees were assessed against COMSAT to recover the costs the agency incurred in overseeing the Company in its role as U.S. Signatory to INTELSAT. *See* FCC Resp. Br. at 33 ("[T]he costs attributable to space station oversight include costs directly related to Intelsat signatory activities."). However,

¹ For Fiscal Year 2001, COMSAT is disputing \$1,668,125 in annual space station regulatory fees assessed against it on the basis of the INTELSAT space stations. *See Assessment and Collection of Regulatory Fees for Fiscal Year 2001, Report & Order*, 16 F.C.C. Rcd 13525 (2001) ("*FY 2001 Order*"). COMSAT also is disputing \$1,609,050 in annual space station regulatory fees assessed against it for Fiscal Year 2000, also on the basis on the INTELSAT space stations.

D+2

Ms. Marlene Dortch, Secretary
Federal Communications Commission
Page 2

regulatory fees imposed on COMSAT. In particular, the Court observed that those “fees assessed to COMSAT seem to bear no relation to the signatory-related costs that the Commission identified COMSAT as having created and that it has said it wishes to recover.” 283 F.3d at 349.

Materials provided by the Commission in response to the FOIA request indicate that the Court’s concern was well-founded. The attached summary sheets, which the Commission provided to COMSAT in response to the FOIA request, indicate that the Commission incurred approximately \$564,082 in “Signatory”-related costs in FY2000, and approximately \$370,476 in such costs in FY2001. As the following table illustrates, these costs are far smaller than the \$1,609,050 assessed for FY2000 and the even higher \$1,668,125 for FY2001 (a year in which the Signatory-related costs declined by nearly one-third). These equate to markups of 285 percent (in FY2000) and of 450 percent (for FY2001).

	(1) FCC Signatory- related costs	(2) Space Station regulatory fees assessed COMSAT	Markup of (2) over (1)
FY2000	\$ 564,082	\$1,609,050	285 %
FY2001	\$ 370,476	\$1,668,125	450%

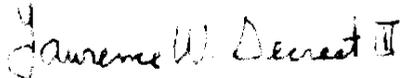
Markups of such enormity clearly “bear no relation to the signatory-related costs that the Commission identified COMSAT as having created and that it has said it wishes to recover.” The documents produced in response to the FOIA request contain no evidence that the Commission incurred greater costs in FY2001 than in FY2000 in addressing issues related to COMSAT’s Signatory status. Indeed, the Commission’s documents show quite the contrary: they indicate that Signatory-related costs *declined* more than 34 percent from FY2000 to FY2001 while the assessed regulatory fees *rose* over the same period.

Accordingly, COMSAT respectfully requests that the Commission reduce the space station regulatory fees assessed against the company to an amount that accurately

Ms. Marlene Dortch, Secretary
Federal Communications Commission
Page 3

reflects the costs that the Commission incurred in regulating COMSAT's use of the INTELSAT space stations during Fiscal Years 2000 and 2001. COMSAT suggests that the fees for FY2000 should be reduced to \$564,082; and the fees for FY2001 should be reduced to \$370,476.

Sincerely,

A handwritten signature in black ink that reads "Lawrence W. Secrest III". The signature is written in a cursive style with a large initial "L".

Lawrence W. Secrest, III

Enclosures

cc: Andrew S. Fishel, Office of the Managing Director
Bryan Tramont, Senior Legal Advisor to Chairman Powell
John Branscome, Acting Legal Advisor to Commissioner Abernathy
Paul Margie, Spectrum and International Legal Advisor to
Commissioner Copps
Sam Feder, Legal Advisor on Spectrum and International Issues to
Commissioner Martin

**Federal Communications Commission
Cost Regulatory Fee Summary Report
S/E Rollup by Non Reimbursable Projects**

Period Covered: 10/1999 - 9/2000

Code	Project	10, 11 Authorization of Service (\$)	20, 21 Policy and Rule Making (\$)	30, 31 Enforcement (\$)	40, 41 Public Info. Services (\$)	Total for 20, 21, 30, 31, 40, 41 (\$)	%	Total (\$)
N32	Direct Broadcast Satellite (DBS)	\$18,056.03	\$707,252.92	\$89,550.44	\$12,952.23	\$809,755.59	0.483%	\$827,811.62
N38	Low Earth Orbiting Satellite	\$64,817.64	\$1,526,195.76	\$16,483.24	\$18,037.48	\$1,560,716.48	0.930%	\$1,625,534.12
N39	Signatory to Inmarsat and Instelsat	\$25,941.41	\$511,926.87	\$1,792.14	\$24,421.67	\$538,140.68	0.321%	\$564,082.08

** Columnar totals may not add due to rounding

Date Prepared: 10/30/00

**Federal Communications Commission
 Cost Regulatory Fee Summary Report
 S/E Rollup by Non Reimbursable Projects**

Period Covered: 10/2000 9/2001

Code	Project	10. 11 Authorization of Service (\$)	20. 21 Policy and Rule Making (\$)	30. 31 Enforcement (\$)	40. 41 Public Info. Services (\$)	Total for 20. 21. 30. 31. 40. 41 (\$)	%	Total (\$)
N32	Direct Broadcast Satellite	\$14,661.58	\$536,058.14	\$84,973.77	\$4,155.53	\$625,187.44	0.342%	\$639,849.01
N38	Low Earth Orbiting Satellite	\$62,534.75	\$457,272.03	\$13,318.59	\$10,072.36	\$480,662.98	0.263%	\$543,197.73
N39	Signatory to Inmarsat and Instelsat	\$0.00	\$346,356.03	\$14,131.85	\$9,988.14	\$370,476.01	0.203%	\$370,476.01

** Columnar totals may not add due to rounding

Date Prepared: 10/16/01