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August 17, 2007

**VIA ELECTRONIC FILING**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**Re: The Boeing Company**  
**Written Ex Parte Presentation**  
**IB Docket No. 05-20**

Dear Ms. Dortch:

The Boeing Company (“Boeing”), by its attorneys, herein urges the Commission to undertake a renewed focus on the above-referenced proceeding by adopting rules that mirror those that the Commission recently proposed for vehicle mounted earth stations (“VMES”) that operate with the fixed-satellite service (“FSS”) in the Ku-band.<sup>1</sup>

In making this proposal, Boeing acknowledges that it is requesting a significant shift in the direction of this proceeding. Such a change, however, is necessary to ensure that aircraft equipped with earth stations that operate with the Ku-band FSS are not subjected to harmful interference in the United States. Such action is also necessary to ensure that operators of FSS earth stations that are mounted on aircraft have coordination parity with VMES network operators in the United States.

In making this request, Boeing is not suggesting that a new proceeding be initiated to convert the existing secondary aeronautical mobile-satellite service (“AMSS”) allocation to a primary allocation. Instead, the Commission should treat FSS earth stations mounted on aircraft in the same manner that it is

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<sup>1</sup> Amendment of Parts 2 and 25 of the Commission’s Rules to Allocate Spectrum and Adopt Service Rules and Procedures to Govern the Use of Vehicle-Mounted Earth Stations in Certain Frequency Bands Allocated to the Fixed-Satellite Service, IB Docket No. 07-101, *Notice of Proposed Rulemaking*, FCC 07-86, (May 15, 2007).

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proposing to treat VMES. Specifically, all aircraft-mounted earth stations (suitably referred to as "AMES") that comply with the applicable off-axis e.i.r.p. density limits should be deemed to be a permissible application of the primary FSS allocation.

The Commission can take such action by adopting an order in IB Docket 05-20 without issuing a further notice. The Commission provided adequate notice in the *NPRM* to elevate aeronautical services to a primary application of the FSS in the Ku-band.<sup>2</sup> In the *NPRM*, the Commission requested comment on "rules for allocation and procedures for licensing AES terminals in the AMSS."<sup>3</sup> In doing so, the *NPRM* specifically raised the question of treating AES terminals as primary in the 11.7-12.2 GHz band<sup>4</sup> and sought comment on making AMSS co-secondary in the 14.2-14.5 GHz band.<sup>5</sup> Finally, the Commission requested comment on the interrelation between a secondary allocation for AES terminals in the 14.0-14.5 GHz band and the primary allocation for earth stations onboard vessels ("ESVs") in the same band.<sup>6</sup> This issue necessarily raises the question of band sharing between primary ESVs and secondary AES terminals and whether AMES should be treated as primary to facilitate such sharing.

If the Commission concludes that it has not provided adequate notice in the *NPRM* to treat earth stations mounted on aircraft as an application of the primary FSS allocation, the Commission should issue a further notice in this proceeding to specifically address this issue, or issue a further notice that combines this proceeding with the VMES proceeding. Importantly, the Commission should take such action concurrently with any action that is taken in the VMES proceeding in order to avoid establishing potentially harmful regulatory disparity between VMES and AMES operations in the United States.

Boeing has attached to this letter a copy of its comments that were filed today in the VMES proceeding. These comments provide significantly greater detail regarding the need for comparable treatment for AMES and VMES and the operational and interference rules that should be applied to AMES and VMES. Boeing requests that the Commission include its VMES comments in the record for IB Docket 05-20.

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<sup>2</sup> Administrative procedure permits the Commission to take action in a rule making proceeding if the action is a "foreseeable outcome of the proceeding." In the Matter of Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, *Memorandum Opinion and Order*, 20 FCC Rcd 16015, 16029-16030, ¶ 32 (2005).

<sup>3</sup> Service Procedures and Rules to Govern the Use of Aeronautical Mobile Satellite Service Earth Stations in Frequency Bands Allocated to the Fixed Satellite Service, IB Docket No. 05-20, *Notice of Proposed Rulemaking*, 20 FCC Rcd 2906, 2913, ¶10 (2005) ("*NPRM*").

<sup>4</sup> *See id.*, ¶ 15.

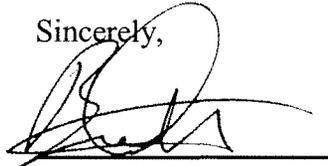
<sup>5</sup> *See id.*, ¶ 26. The Commission states "[w]e propose making AMSS co-secondary with the grandfathered LTTS operations, and invite comment." *Id.* Certainly a foreseeable comment could be a request to elevate AMSS to a primary allocation in the band due to interference or other concerns.

<sup>6</sup> *See id.*, ¶ 20.

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Thank you for your attention to this matter. Please let us know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to be "Bruce A. Olcott", written over a horizontal line.

Bruce A. Olcott  
Joshua T. Guyan

Attachment