BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In re Applications of	)	
	)	
FINAL ANALYSIS, INC.	)	File Nos. 4682-EX-PL-95
	)	4680-EX-PL-95
For Authority to Establish a Low-Earth Orbit Satellite, to Modify a Fixed Ground Station, and to Establish 9.240 Remote Mobile Terminals in the Experimental Radio Services	)	4683-EX-PL-95

To: Chief Engineer

PETITION TO DENY

Leo One USA Corporation ("Leo One USA")[1], by its attorneys, hereby petitions to deny the above-captioned applications of Final Analysis, Inc. ("Final Analysis") for authority to operate the following: an experimental low-earth orbit satellite in a 1,000 km orbit, a "Master Ground Station" at Logan, Utah, and 9,240 "Remote Mobile Terminals" at various locations within the United States. The purported purpose of Final Analysis' proposed experiment is to determine whether Non-Voice, Non-Geostationary Mobile Satellite Service

[1] Leo One USA's Petition is submitted more than a month after Final Analysis' application was filed only because counsel's repeated efforts to secure a copy of the application from the Commission were to no avail until April 11, 1995, when copies of the applications were finally made available at the Commission. In the event that the Petition is untimely, Leo One USA respectfully submits that the public interest dictates the acceptance of the Petition as an informal objection to Final Analysis' application.

Leo One USA also has secured a copy of Comments on the Final Analysis application which were filed by Starsys Global Positioning, Inc. ("Starsys") on April 5, 1995, and is in complete agreement with the views contained therein.

("NVNG MSS") operations can share the 153 - 162 MHz band with existing users of that band. However, as shown below, certain details of Final Analysis' proposed experiment indicate that a subterfuge is at work here; Final Analysis is improperly using the experimental rules to engage in a commercial endeavor, and its applications therefore should be denied.

By way of background, Leo One USA and Final Analysis' wholly owned subsidiary, Final Analysis Communications Services, Inc., are two of five new applicants for NVNG MSS authorizations whose applications are in the Commission's second processing round of such applications.[2] An overarching and still unresolved issue in these proceedings is

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[2] Petitions to deny filed by Leo One USA and others have challenged the technical, financial and basic qualifications of Final Analysis' subsidiary to hold a NVNG MSS licensee. Specifically, Leo One has demonstrated, inter alia, that Final Analysis's "current assets" are grossly insufficient to support its subsidiary's financial qualifications. In addition, Final Analysis' financial documentation submitted in its subsidiary's application was misleading, riddled with the most basic of accounting errors and was prepared by an individual who held himself out as a Certified Public Accountant when he had no such credentials. Although Final Analysis has recently filed replacement financial documentation in an effort to cosmeticize its original submission, the underlying facts remain -- Final Analysis does not have "current assets" sufficient to financially qualify its subsidiary. Specifically, Final Analysis estimates that one of its satellites will cost $6,216,565 to construct, launch and operate for one year. In the present application, Final Analysis proposes to operate 9,240 transceivers. Leo One USA believes that each of these units will cost between $500 and $1,000. Given these costs, this experiment will cost between $10,836,565 ($6,216,565 for the satellite and $4,620,000 for the transceivers) and $14,839,768 ($6,216,565 for the satellites and $4,620,000). A review of Final Analysis' financial qualifications reveals clearly that it does not have the resources to implement this experimental system. The Commission should bear this in mind in considering Final Analysis' experimental application. That there is an undisclosed commercial component to Final Analysis' experimental proposal is all the more obvious given its financial profile.

whether enough spectrum can and will be allocated for NVNG MSS use.[3] Although Leo One USA would enthusiastically support rational experimentation that is narrowly tailored to determine the feasibility of spectrum sharing between NVNG MSS and other users, in this instance, Leo One USA can only register incredulity in response to Final Analysis' proposal, which is neither rational nor narrowly tailored for experimental purposes.

Indeed, Final Analysis' proposal strongly suggests that it is really covertly pursuing a commercial venture with experimental trappings so that it can obtain a premature leg up against its competitors for NVNG MSS authorizations. The main feature of Final Analysis' proposed operation that belies its purported experimental purpose is its planned use of 9,240[4] "Remote Mobile Terminals" across the United States. There is simply no rational justification for this aspect of Final Analysis' proposal, and Final Analysis does not attempt to provide one. Although it boldly asserts at Exhibit I, p. 3, that "reliable real world data would be difficult if not impossible to obtain" without the terminals, Final Analysis offers no support whatsoever for this contention. The fact is, thousands of "Remote Mobile Terminals" simply are not necessary to determine the level of activity on the frequency band in question.

According to Final Analysis, a principal purpose of its experimental program is to determine the level of interference between terrestrial systems and the NVNG MSS downlinks and uplinks. This is ridiculous. For the downlinks, it is not even necessary to

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[3] The allocation of up to 10 megahertz of additional spectrum for the NVNG MSS service has been endorsed by the United States in preparing for the 1995 World Radiocommunications Conference ("WRC-95") to be held in October 1995.

[4] Nowhere does Final Analysis offer any description of the use of these thousands of terminals. Yet, in order to properly evaluate Final Analysis's propose experiment, the Commission should be so informed.

launch a satellite or operate a single transceiver. This is because the level of terrestrial interference into an NVNG MSS downlink is more accurately obtained through field testing using a frequency analyzer and computer software analyses.[5] The only information necessary is the level of interference or noise caused by terrestrial systems into the NVNG MSS receiver. It is not necessary to launch a satellite or operate 9,240 transceivers to obtain this information. As for NVNG MSS uplinks, Leo One USA believes it would be useful to have a satellite in-orbit to determine the level of terrestrial interference into the NVNG MSS satellite. However, to obtain this information it is unnecessary to operate 9,240 transceivers. Simply stated, Final Analysis' plan to use 9,240 terminals is beyond excessive; it smacks of irrational overkill unless, of course, there is a specific commercial use intended for these terminals. Given the number of terminals planned, their strategic location primarily in densely populated areas, and the apparent plan to operate them concurrently across the United States, it is inconceivable that the terminals are designed for any purpose other than a commercial one.

Leo One USA also finds dubious Final Analysis's stated intention to provide data that will aid the process of selecting additional frequency for the NVNG MSS service, particularly since Final Analysis' launch date is proposed for August 1995, which is <u>after</u> the date by which United States proposals are to be submitted to WRC-95. Moreover, since that conference, itself, will convene in October 1995, only two months after Final Analysis' proposed launch, it is utterly unrealistic for Final Analysis (or the Commission) to believe that Final Analysis' experiment might be concluded in time to contribute to the frequency

[5] Once this information is obtained, the ability to share between NVNG MSS downlinks and terrestrial services can be determined through computer analyses.

selection process. It is simply too late in the day for Final Analysis to embark on an experiment of this nature. Indeed, this critical factor of timing only adds additional weight to Leo One USA's contention that Final Analysis' real motive here is a commercial one; the experiment would be a mere a byproduct of the satellite's operations, albeit a necessary one for purposes of securing Commission authorization for the satellite's commercial operations.

The August launch date is particularly troubling for another reason, also. It is simply impossible that Final Analysis could be prepared to launch its satellite in August 1995, without having engaged in premature, unauthorized construction. Leo One therefore suggests that the Commission demand to be informed how Final Analysis plans to meet its August 1995 launch date without violating Commission prohibitions against premature construction.

It is also revealing that Final Analysis has chosen to operate in the 153-162 MHz band. The 153-156.2475 MHz has not been proposed by any of the NVNG MSS proponents, the Industry Advisory Committee ("IAC") or the FCC as a potential band for NVNG MSS allocations. It is equally as curious that Final Analysis has not proposed to analyze any of the frequencies other than 157.0375-161.5756 MHz suggested by the IAC. Given the frequency band selection, it does seem that there must be other motives underlying this experimental application.

These various details of Final Analysis' proposed experiment -- the thousands of terminals, the timing of the experiment way too late for a meaningful contribution to WRC 95, the scheduled satellite launch date in August 1995 and the frequencies selected -- lead ineluctably to the conclusion that Final Analysis seeks to improperly utilize the Commission's experimental rules in the hope of gaining a head start against its NVNG MSS

competitors, whose applications for commercial satellite operations are still being processed. The Commission should not countenance such gamesmanship with its Rules. Moreover, since the experimental aspects of Final Analysis' proposed operation could have no impact on the spectrum allocation determinations that will be made at WRC 95, there is no public interest justification for permitting Final Analysis to go forward with its proposed experiment.

WHEREFORE, for the foregoing reasons, Leo One USA respectfully urges the Commission to deny the above-captioned experimental applications of Final Analysis.

Respectfully submitted,

LEO ONE USA CORPORATION

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April 14, 1995

CERTIFICATE OF SERVICE

I, Robert A. Mazer, hereby certify that the foregoing "Petition to Deny" was served by hand or first-class mail, postage prepaid, this 17th day of April, 1995, on the following persons:

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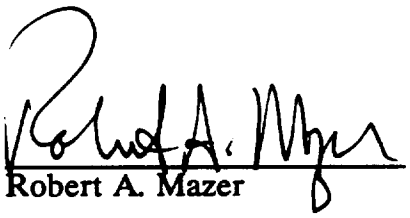

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*By Hand Delivery