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May 23, 2003

Federal Communications Commission  
Office of Secretary

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

Received

JUN 17 2003

Policy Branch  
International Bureau

www.wrf.com

Re: Ex Parte Presentation  
Final Analysis Communication Services, Inc.  
Petition for Waiver (filed Mar. 29, 2002);  
File Nos. SAT-LOA-19941116-00088;  
SAT-AMD-19950224-00033; SAT-AMD-19960223-00031;  
SAT-AMD-19960819-00107; SAT-AMD-19971030-00175

Dear Ms. Dortch:

On behalf of New York Satellite Industries, LLC ("NYS"), I am filing this notice of an ex parte communication with Commissioner Martin and his legal advisor Sam Feder on May 22, 2003. NYS was represented by Managing Member Nader Modanlo and Patricia Paoletta as counsel, Final Analysis Communication Services, Inc. ("FACS"), NYS' subsidiary and FCC licensee was represented by Jan Friis of FACS, and Governor Jim Gilmore and Randy Sifers of Kelley Drye as counsel, and Amy Mehlman of Capitol Coalitions.

During the meeting, NYS and FACS described the events related to the involuntary Chapter 7 bankruptcy of FAI, FACS' former parent, including the continued financial viability of FACS, the process for seeking and obtaining an approved Technical Assistance Agreement in FACS' own name from the State Department, and FACS' continued development of the FAISAT system. NYS noted how it was able to raise an additional \$10 million in financing in 2002, during difficult economic times, especially in the telecom sector. FACS itself had signed a contract for reservation of secondary payload space on its aircraft just weeks prior to the FAI involuntary bankruptcy and had received the first installment of that contract just days before certain of FAI's creditors filed for bankruptcy. A timeline of such events is attached.

FACS noted that in an effort to expedite the sale of FAI's assets, gain control of FAI's assets and to continue development of the FAISAT system, NYS made a bid for the assets of FAI in November 2001. This bid was rejected by the Trustee, but did lead to her expediting the sale in January 2002. Counsel also shared the letters, submitted to the Commission May 21, 2003, of January 9-10, 2002 between the

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counsels for the Trustee and FACS demonstrating that FACS was prohibited, under threat of legal action, from acting outside the normal course of business during the Chapter 7 liquidation proceedings of its debtor parent, which at the time, held the prime contract to develop the FAISAT system.

NYS and FACS also noted that advocacy of Agenda Item 1.16 at the World Radiocommunication Conference ("WRC") is critical for both FACS and the competitiveness of the Little LEO industry, and the credibility of the U.S. government. Due to the difficulty of getting items on the increasingly crowded WRC agendas, it is likely that if the U.S. is not successful at WRC-03 on Agenda Item 1.16 then additional feeder link spectrum for Little LEO services will not be an agenda item at the next WRC in 2007 or 2008.

For the last several years, continuing throughout 2002 and 2003, FACS has been working domestically and internationally with FCC staff and most recently with the WRC delegation, toward securing an international allocation for Little LEO spectrum at WRC-03. FACS is spending considerable funds at WRC, sending four delegates and many more representatives, exhibiting the technology, and hosting several events to improve the efficacy of advocacy on Agenda Item 1.16.

The companies noted that other governments have relied on U.S. support before the WRC to study technical issues raised by the U.S. Proposal on Agenda Item 1.16, and any action undermining the continuance of FACS' license, and therefore the ability of FACS to effectively advocate for Agenda Item 1.16 at WRC-03, would raise questions regarding U.S. resolution. Other governments are interested in the application of these low-cost data services for fleet management, shipping container security, and pipeline, utility, and environmental monitoring. The United States obviously has a strong interest in ensuring a competitive market for such applications for homeland security. Moreover, since the domestic allocation for the feeder links is conditioned on the international allocation being adopted at WRC'03, successful advocacy is critical to any subsequent domestic implementing allocation and assignment.

Counsel noted that if the Bureau decides not to extend previous, and approve new, milestones than the Little LEO industry will soon become a monopoly, contrary to Commission policy. For all the above reasons, NYS and FACS requested that the Bureau continue to review the substantial materials submitted to the Bureau demonstrating that there were both unforeseeable circumstances outside FACS' control that prohibited it from meeting its 2002 milestones, as well as unique

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circumstances mitigating in favor of extension. The public interest is served in granting both a waiver of the March 2002 milestones, and approving new milestones that FACS, due to the recently approved TAA, will soon be able to provide to the Bureau.

Pursuant to Section 1.1206 of the FCC's rules, an original and one copy of this letter is being filed. Please do not hesitate to contact me with any questions.

Sincerely,



Patricia J. Paoletta

Attachment: Timeline

cc: Bryan Tramont  
Sam Feder  
Jennifer Manner  
Paul Margie  
Barry Ohlson  
Don Abelson  
Anna Gomez  
Jackie Ruff  
Cassandra Thomas  
Mark Young  
Stewart Block

## Meeting with Commissioner Martin – Timeline of FACS license

- April 1998 FACS licensed by FCC
- March 1999 FACS meets first milestone (firm contract between FAI and FACS)
- August 2001 FACS signs contract for payload; receives \$2 M in Sept.
- September 2001 certain creditors file Chapter 7 against FAI, FACS' parent
- October 2001 Trustee appointed for FAI (FACS' parent *and* prime contractor)
- November 2001 NYS bids for FAI's assets (including controlling shares of FACS)
- December 2001 Trustee rejects bid attempt, but sends notice of sale of FAI
- January 2002 NYS wins auction for FAI assets; FACS meets with Bureau and files for transfer of control
- March 2002 FACS files for waiver of March and September 2002 milestones
- April 2002 FACS meets with Bureau staff
- May 2002 NYS raises \$10 M in new financing
- August 19, 2002 TOC granted and same day FACS files for its registration w/ State
- September 2002 FACS requests, suggested by State, transfer of FAI's TAA to FACS
- September 2002, Trustee transfers stock to FACS; NYS signs launch and spacecraft bus contracts with Polyot
- October 2002 FACS continuously urges (numerous communications) State to expedite TAA
- December 2002 State determines TAA cannot be transferred from FAI to FACS; and FACS files for approval of a new TAA
- January – May 2003, NYS and FACS continues to engage in WRC prep (beginning in 2002)
- February 2003 FACS signs \$20 M contract for investment in FACS
- May 14, 2003 FACS receives TAA approval from State
- Expected May 31, 2003 – FACS can file with FCC providing new milestones

- Expected December 2003 flight radios and related equipment delivery to FACS
- Expected mid 2004 spacecraft bus delivery to FACS
- Expected 4Q 2004 launch of the first 2 satellites