

Int'l Bureau
JUL 21 2003
Front Office

July 17, 2003

Via Hand Delivery

Satellite Division

~~Ms. Marlene H. Dortch~~

Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Received
JUL 25 2003
Policy Branch
International Bureau

RECEIVED

JUL 17 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: CAI Data Systems, Inc.'s Response to Pegasus Development Corporation's Request for Ka-band Orbital Reassignment to 87 Degrees W.L., File Nos. 88-SAT-P/LA-97; 32-SAT-AMEND-98; IBFS Nos. SAT-LOA-19970702-00057; SAT-AMD-19971219-00199; SAT-AMD-19990930-00093

Dear Ms. Dortch:

CAI Data Systems, Inc. ("CAI Data") hereby opposes Pegasus Development Corporation's ("Pegasus") recent request for reassignment of its Ka-band authorization at 117 degrees W.L. to the 87 degrees W.L. orbital location.¹ Furthermore, CAI Data affirms its request that the Federal Communications Commission ("Commission" or "FCC") reassign its Ka-band authorization at 125 degrees W.L. to the 87 degrees W.L. orbital location.

For more than two years prior to Pegasus' recent request for reassignment, CAI Data has consistently requested that the Commission assign it the 87 degrees W.L. orbital location. Having expected Motorola Inc.'s ("Motorola") orbital locations to become available for second-round applicants, CAI Data requested that the FCC assign the 87 degrees W.L. orbital location to CAI Data.² As anticipated, the Commission rendered a decision declaring Motorola's Millenium license, which included the orbital locations 75 degrees W.L., 77 degrees W.L., 87 degrees W.L., and 91 degrees W.L., null and void.³ Subsequently CAI affirmed its request for reassignment of its 125 degrees W.L. orbital location to the 87 degrees W.L. orbital location.⁴

¹ See Letter from Bruce D. Jacobs and Tony Lin, counsel for Pegasus, to Marlene H. Dortch, FCC Secretary (July 10, 2003).

² See Letter from James U. Troup, counsel for CAI Data, to Magalie Roman Salas, FCC Secretary, (June 8, 2001).

³ *In the Matter of Application of Motorola, Inc. and Teledesic, LLC for Consent to Assignment of Authority to Launch and Operate the Millenium Geostationary Fixed-Satellite Service System; Request of Teledesic for Exemption from the Cut-Off Rule for Pending Applications for Authority to Launch and Operate Geostationary and Non-Geostationary Fixed Satellite Systems; Petition of Motorola, Inc. and Teledesic LLC for Extension of Time Allowed for Commencement of Construction*, Memorandum and Order, 17 FCC Rcd 16543 (2002).

⁴ Letter from James U. Troup, counsel for CAI Data, to Marlene H. Dortch, FCC Secretary, (September 16, 2002).

In addition to CAI Data's long-standing request to be assigned the 87 degrees W.L. orbital location, it would also be more equitable and in the public interest to assign the 87 degrees W.L. orbital location to CAI Data rather than to Pegasus. As part of the second-round assignments, the Commission granted Pegasus authority to operate at five orbital locations: 117 degrees W.L.; 107 degrees W.L.; 43 degrees W.L.; 28 degrees E.L.; and, 107.5 degrees E.L.⁵ In fact, Pegasus was granted the largest number of Ka-band orbital locations as part of the second-round assignments.⁶ On the other hand, CAI Data, was granted one Ka-band orbital location at 125 degrees W.L.⁷ CAI Data's entire business plan is dependent on the one orbital location, whereas Pegasus, with its five orbital locations, has greater flexibility to develop its proposed services.

Furthermore, Pegasus already has two orbital locations (117 degrees W.L. and 107 degrees W.L.) that provide superior coverage of the continental United States compared to the one far western orbital location (125 degrees W.L.) assigned to CAI Data. It would promote competition and better serve the public interest to assign the 87 degrees W.L. orbital location to the party—CAI Data—that has not only one assigned orbital location, but one that is inferior in coverage compared to the two orbital locations assigned to the other party—Pegasus. The very viability of CAI Data's entire business plan is significantly improved by reassigning it the 87 degrees W.L. orbital location, whereas assigning it to Pegasus might only enhance its ability to supplement an already existing service. The public interest would be better served by ensuring that a truly new entrant to the satellite business, CAI Data, is able to effectively compete to provide new and innovative services to the public.

CAI Data, therefore, requests that the Commission grant its request for reassignment of the 87 degrees W.L. orbital location and reject Pegasus similar request. Should you have any questions regarding this matter, please do not hesitate to contact the undersigned.

Very truly yours,



James U. Troup
Adrian B. Copiz

Counsel for CAI Data Systems, Inc.

⁵ *In the Matter of Pegasus Development Corporation; Application for Authority to Construct, Launch, and Operate a Ka-Band Satellite System in the Fixed-Satellite Service*, 16 FCC Rcd 14378 (2001). CAI Data also notes that Pegasus, in its recent letter to the FCC, only mentions two of the five orbital locations for which it was granted authority (117 degrees W.L. and 107 degrees W.L.). See also *In the Matter of Second Round Assignment of Geostationary Satellite Orbit Locations to Fixed Satellite Service Space Stations in the Ka-Band*, 17 FCC Rcd 14400 (2002) (listing the five Ka-band orbital locations for which Pegasus holds authorization).

⁶ *Id.*

⁷ *Id.*

CERTIFICATE OF SERVICE

I, Monica Gibson-Moore, a secretary with the law firm of McGuireWoods, LLP hereby certify that I have this 17th day of July, 2003 caused copies of the foregoing letter to be delivered by hand (*) or served by first class mail, postage prepaid, to the following:

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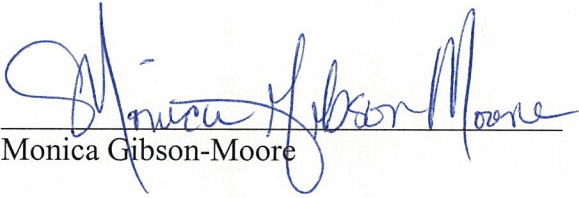
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