



Federal Communications Commission
Washington, D.C. 20554

July 16, 1997

Honorable Bill Goodling
Congress of the United States
House of Representatives
Washington, D.C. 20515-3819

Re: Norris Satellite Communications, Inc.
(File Nos. 54-DSS-P/L-90 and 54-DSS-P-90); AT&T
Corporation (File No. 156-162-SAT-P/LA-95); Comm,
Inc. (File No. 163-166-SAT-P/LA-95); EchoStar Satellite
Corporation (File No. 167/168-SAT-P/LA-95); GE American
Communications, Inc. (File No. 169-173-SAT-P/LA-95);
Hughes Communications Galaxy, Inc. (File Nos. 3/4-DSS-
P/LA; CSS-94-021-025; 174-181 SAT-AMEND-95); KaStar
Satellite Communications Corp. (File No. 127-SAT-P/LA-
95); Lockheed Martin Corporation (File No. 182-186-SAT-
P/LA-95); Loral Aerospace Holdings, Inc. (File Nos.
109-SAT-P/LA-95; 110-SAT-P-95; 187-SAT-AMEND-95; and
188/189-SAT-P/LA-95); Morning Star Satellite Co.,
L.L.C. (File No. 190-193-SAT-P/LA-95); NetSat 28 (File
No. 194-SAT-P/LA-95); Orion Network Systems, Inc. (File
No. 195-197-SAT-P/LA/95); PanAmSat Corporation (File
Nos. 117-SAT-AMEND-95; 198/199-SAT-P/LA-95); and
VisionStar, Inc. (File No. 200-SAT-P/LA-95)

Dear Representative Goodling:

This is in reference to your letter of March 27, 1997 to Chairman
Hundt relating to Norris Satellite Corporation's April 15, 1996,
Application for Review, which seeks Commission review of an
International Bureau Order voiding and nullifying its 1992
authorization to construct, launch, and operate a Ka-band
satellite system at 90 degrees, W.L. See *Norris Satellite
Communications, Inc.*, 11 FCC Rcd 5402 (Int'l Bur. 1996). Your
letter was forwarded to this office for handling in accordance
with the Commission's ex parte rules.

Under the ex parte rules in effect at the time of your letter,
the Norris application proceeding was deemed a restricted
proceeding. *Public Notice, "Common Carrier Bureau Announces
Restricted Adjudicative Proceeding Regarding Applications at
27.5-30.0 GHz (Ka-Band),"* 9 FCC Rcd 2081 (CCB 1994). As such, no
written communications directed to the merits or outcome of the
proceedings could be made unless served on the other parties.
Further, although circumstances have occurred that warrant
modification of the original scope of the ex parte restrictions

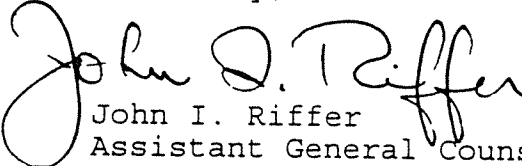
of that public notice, the Norris application continues to be closely interrelated with recently granted geostationary satellite orbit applications, captioned above, to provide fixed satellite service in the Ka-band. See *Public Notice, "Clarification of Ex Parte Status of 28 GHz Ka-Band Application Proceedings"*, DA 97-1490 (Int'l Bur. July 15, 1997) (copy enclosed). These applications are interrelated because a sufficient number of clear orbital locations may not exist if all of the applications, including that of Norris, were to be granted. Therefore, the Norris proceeding and these other interrelated applications will continue to be considered mutually exclusive for purposes of the Commission's ex parte rules. As a consequence, all written presentations concerning the merits of these proceedings are prohibited unless served on the parties to these proceedings.

Because it appears that your letter was not served on all the parties to these interrelated application proceedings, in accordance with Section 1.1212 of the Commission's Rules, 47 C.F.R. § 1.1212(d), a copy of your letter shall be associated with but not made a part of the record of the proceeding. In addition, parties to the above-captioned application proceedings shall be apprised of this presentation through issuance of a public notice in accordance with Section 1.1212(f), 47 C.F.R. § 1.1212(f).

It should be noted that it is of course permissible under the Commission's ex parte rules for you to re-submit your letter if it is served (and shows service) on the parties to the application proceedings. Enclosed is a list of the parties to the Norris and related application proceedings.

Finally, you may be assured that the Commission will closely examine all the materials in the official record of this proceeding in order to determine which course of action will best serve the public interest, convenience, and necessity.

Sincerely,



John I. Riffer
Assistant General Counsel
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Enclosures



PUBLIC NOTICE

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News media Information 202/418-0500 Recorded listing of releases and texts 202/418-2222.

Report No. SPB-87

Released: July 15, 1997

CLARIFICATION OF EX PARTE STATUS OF 28 GHz KA-BAND APPLICATION PROCEEDINGS

This Public Notice is intended to clarify the *ex parte* status of applications filed in several inter-related Commission proceedings involving the 28 GHz frequency band. As the Commission stated in a Public Notice released on April 20, 1994, *Public Notice*, 9 FCC Rcd 2081 (1994) ("*Public Notice*"), over 450 entities had filed applications requesting authority to operate radio facilities in the 28 GHz band. These applications involved three different services: (1) the local multipoint distribution service ("LMDS"); (2) the fixed-satellite service ("FSS"); and (3) fixed feeder links for the mobile-satellite service ("MSS"). In the *Public Notice*, the Commission announced that these applications were mutually exclusive and that *ex parte* presentations were prohibited with respect to these applications under 47 C.F.R. § 1.1208(a).

Since that time, the Commission has issued a Report and Order adopting a band segmentation plan that designates discrete frequencies for LMDS operations, MSS feeder link operations, and FSS operations. The plan further subdivides the designated FSS spectrum into specific frequencies for geostationary-satellite ("GSO") FSS satellites and for non-geostationary satellite orbit ("NGSO") FSS satellites. *Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules*, 11 FCC Rcd 19005 (1996). No petitions for reconsideration were filed with respect to the band segmentation plan. For this reason, if the frequency band designated for a service (LMDS, MSS Feeder Link, GSO-FSS, or NGSO-FSS) for which authorization is sought differs from the band designated for a service of another application, we will no longer treat those applications as mutually exclusive.

Applications *within* the same band or service may, however, still be mutually exclusive. Mutual exclusivity could arise as a consequence of requests for overlapping frequencies made in the same service band or for other reasons. We wish to clarify, for

example, that certain satellite applications that are pending in the 28 GHz band will be treated as mutually exclusive. Specifically, in 1992, the Commission granted Norris Satellite Communications, Inc. a license to construct and operate a GSO-FSS system in the 28 GHz band. *See Norris Satellite Communications, Inc.*, 7 FCC Rcd 4289 (1992). In 1996, the International Bureau revoked Norris's license for failure to implement the system in compliance with the milestone schedule required by its license. *See Norris Satellite Communications*, 11 FCC Rcd 5402 (Int'l Bur. 1996). Norris subsequently filed an Application for Review of the Bureau's Order and its appeal is pending before the Commission. The International Bureau, under delegated authority, has also granted 15 licenses for first-round GSO-FSS applicants in the 28 GHz frequency band, reassigning the orbit location that had been assigned to Norris to a new licensee. *Assignment of Orbital Locations to Space Stations in the Ka-Band*, DA 97-967 (rel., May 9, 1997). On May 23, 1997, Norris filed a request for stay of the Assignment Order.

If the Norris application were to be reinstated on appeal, there may be an insufficient number of orbit locations to accommodate all of the other first-round GSO-FSS licensees. Therefore, the Norris and GSO-FSS applications will be treated as mutually exclusive for *ex parte* purposes. Accordingly, *ex parte* presentations concerning the merits or the outcome of any of these inter-related applications will be prohibited until the application proceedings are no longer subject to administrative reconsideration or review or judicial review. 47 C.F.R. §§ 1.1202 (d)(1), 1.208. An *ex parte* presentation is any communication (spoken or written) directed to the merits or outcome of a proceeding made to a Commissioner, a Commissioner's assistant, or decision-making staff member, that, if written, is not served on other parties to the proceeding or, if oral, is made without advance notice and an opportunity for all parties to be present.

For further information contact, Chris Murphy, International Bureau (202) 418-2373.

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