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Before the
FEDERAL COMMUNICATIONS COMMISSION
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FEDERAL COMMUNICATIONS COMMISSION
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In re)
)
NORRIS SATELLITE COMMUNICATIONS, INC.)
)
Authorization to Construct, Launch)
and Operate Satellites in the Ka-Band)

File No. 54-DSS-P/L-90
File No. 54-DSS-P/L-90
Policy Branch
International Bureau

To: The Commission

**REQUEST FOR WAIVER TO FILE
SECOND SUPPLEMENT TO APPLICATION FOR REVIEW**

Norris Satellite Communications, Inc. ("Norris"), by counsel and pursuant to Section 1.3 of the Commission's Rules, hereby requests waiver of Sections 1.115(c) and (d) in order to have considered its concurrently-filed Second Supplement to Application for Review, supplementing its Application for Review ("Application") filed on April 15, 1996.¹ The Application seeks review of the Order of the Chief, International Bureau ("Bureau") in Norris Satellite Communications, Inc., DA 96-363 (released March 14, 1996) ("Norris Order") and reinstatement of the above-referenced Ka-band Fixed Satellite Service authorization.

Section 1.115(c) provides that "[n]o application for review will be granted if it relies on questions of fact or law upon which the designated authority has been afforded no opportunity to pass." Section 1.115(d) states that any supplemental information must be filed within thirty (30) days of the order for which review is sought.

¹ An earlier Supplement was filed May 23, 1996.

Notwithstanding these provisions, and consistent with precedent, there is good cause for the Commission to consider Norris' Second Supplement. The Second Supplement presents important new information that arose after Norris filed its Application that the Bureau could not have possessed when it issued the Norris Order. Specifically, Norris' Second Supplement discusses the importance of the Commission's First Report and Order and Fourth Notice of Proposed Rulemaking, CC Docket No. 92-297, released July 22, 1996 ("28 GHz Order"), a Commission decision released three months after Norris filed its Application. The Second Supplement discusses the regulatory delays and uncertainties underlying the 28 GHz Order, which are at the core of Norris' arguments in the Application.

Consideration of Norris' analysis of the 28 GHz Order will assist the Commission in its consideration of Norris' Application and thus would be in the public interest. Absent a discussion of this important action, the Commission could render its decision based on an incomplete legal and factual analysis. As Norris states in its Second Supplement, the 28 GHz Order represents the near-culmination of four years of uncertainty regarding spectrum allocation, sharing and technical rules that, while under consideration, placed prohibitive restraints on Norris' ability to raise capital and complete construction without incurring substantial risks. The Commission should not disregard the relevance of these issues where consideration would further the public interest of ensuring fundamental fairness. See Lebanon

Broadcasting Co., Inc., 43 RR2d 876 (1978) (consideration of supplemental information appropriate in light of "wholly new situation arising from a subsequent event.")

Further, waiver of Sections 1.115(c) and (d) also is justified to ensure that Norris is afforded due process of law. In Garrett, Andrews & Letizia, Inc., 50 RR2d 802, 805 (1981), the Commission held that "due process requires that the opposing parties be afforded an opportunity to meet and rebut" evidence which "had a direct bearing on the case." See also Kenter B/casting Co., 62 RR2d 1573 (1986). (Commission considered application for review where waiver of page limitation was late-filed in order to resolve long-pending matter). In this case, Norris did not previously have an opportunity to discuss the 28 GHz Order, which has ramifications important to disposition of the instant case. Certainly, Norris' due process right applies with equal force where the Bureau has rendered an adverse decision and subsequent relevant circumstances arise which serve to amplify arguments made in the Application.

WHEREFORE, in consideration of the foregoing, Norris Satellite Communications, Inc. respectfully requests that the Commission waive of Section 1.115(c) and (d) and consider Norris' concurrently-filed Second Supplement to Application for Review.

Respectfully submitted,

NORRIS SATELLITE COMMUNICATIONS, INC.

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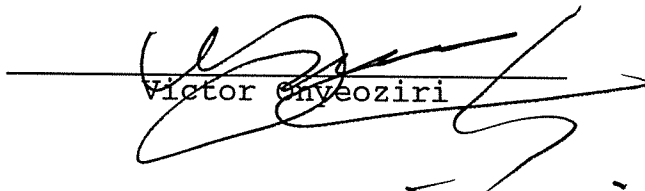
CERTIFICATE OF SERVICE

I, Victor Onyeoziri, with the law firm of Rini, Coran & Lancellotta, P.C., do hereby certify that the foregoing "Request For Waiver To File Second Supplement To Application For Review" was served on the below-listed parties by hand delivery this 15th day of August, 1996.

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