

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In re

NORRIS SATELLITE COMMUNICATIONS, INC.

Authorization to Construct, Launch
and Operate Satellites in the Ka-Band

To: The Commission

)
)
) File No. 54-DSS-P/L-90

) File No. 54-DSS-P-90

) 60/61-SAT-MISC-96

) 62-SAT-MP/L-96

) 63-SAT-MP-96

REQUEST FOR WAIVER TO FILE
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 supplement its Application for Review ("Application") filed on April 15, 1996,¹ seeking reinstatement of the above-referenced Ka-band satellite authorization.²

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.

Notwithstanding these provisions, and consistent with precedent, there is good cause for the Commission to consider Norris' Supplement. The Supplement presents important new

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").

² Norris's Supplement to Application for Review ("Supplement") is being submitted concurrently herewith.

information that arose after filing of the Application that the Bureau could not have possessed when it issued the Norris Order. Specifically, Norris' Supplement discusses the relevance of Advanced Communications Corporation v. FCC, No. 95-1551 (D.C. Cir. May 8, 1996) ("Advanced"), a Court of Appeals decision decided three weeks after Norris filed its Application. The Supplement serves only to update the Commission on the distinctions between Advanced and the instant case.

Consideration of Norris' analysis of Advanced will assist the Commission in its consideration of Norris' Application and thus would be in the public interest. Absent a discussion of this important case, the Commission could render its decision based on an incomplete legal and factual analysis. As Norris states in its Supplement, there are significant distinctions between Advanced and the instant case which require a full, on-the-record discourse. The Commission should not turn a blind eye to relevant facts and issues that arose after the filing of the Application 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 Advanced, 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 Supplement to Application for Review.

Respectfully submitted,

NORRIS SATELLITE COMMUNICATIONS, INC.

By:


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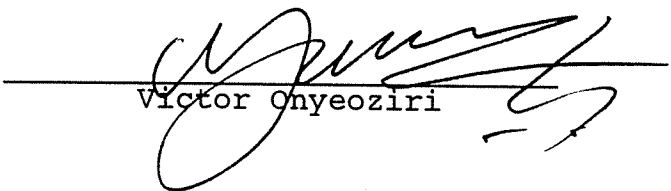
CERTIFICATE OF SERVICE

I, Victor Onyeoziri, with the law firm of Rini, Coran & Lancellotta, P.C., do hereby certify that the foregoing "Request For Waiver To File Supplement To Application For Review" was served on the below-listed parties by hand delivery this 23rd day of May, 1996.

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