

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

PanAmSat	File Nos. CSS-88-003(M)
Licensee Corp.	CSS-91-003
Applications for	CSS-91-006
Final Authority to	
Construct Hybrid Separate	
System International	
Communications Satellites	

**MEMORANDUM OPINION,
ORDER AND AUTHORIZATION**

Adopted: March 30, 1994;

Released: April 22, 1994

By the Commission:

1. PanAmSat Licensee Corp. (PAS) has filed the above-captioned application for final authority to construct its Pacific Ocean Region satellite system (PAS-4), its second Atlantic Ocean Region satellite system (PAS-2) and its Indian Ocean Region satellite system (PAS-7).¹ In support of its request, PAS has filed information required by the *Separate Systems* decision for its second stage financial showing.² Since we find that PAS has complied with the financial requirements set forth in *Separate Systems*, we grant PAS's request for final authority to construct its PAS-4, PAS-2 and PAS-7 satellite systems.

2. In issuing PAS conditional authorizations to construct, launch and operate its PAS-4, PAS-2 and PAS-7 satellite systems, the Commission stated that the authorization was conditioned on PAS's subsequent submission of the second stage financial information required under the *Separate Systems* decision. We stated that, unless otherwise authorized, PAS could not expend any funds on the proposed system until it could demonstrate sufficient non-contingent funds to meet the construction, launch and first-year operational costs it projects for PAS-4, PAS-2 and PAS-7. The Commission required that PAS make its second stage financial showing no later than 60 days following the State Department's notification to the Commission that the United States has fulfilled its Article XIV(d) obligations and that the Commission may proceed with final authorization of the proposed system.³

3. On August 19, 1993, PAS submitted its second stage financial showing for its PAS-4, PAS-2 and PAS-7 satellite systems. In its submission, PAS states that its estimated total costs to construct, launch and operate its three satellites are approximately \$666.3 million. Of this amount, according to PAS, \$104.6 million has already been paid for construction and prelaunch expenses.⁴ PAS claims that it has a total in cash, noncontingent partnership subscriptions, and vendor financing of over \$607.6 million to cover the remainder of its costs for the three satellites.⁵

4. Along with its filing, PAS has submitted a letter from Chase Manhattan Bank of Connecticut, N.A. confirming receipt by the bank of approximately \$425 million into an escrow account set up between PAS and the bank. PAS states that it raised \$440 million through a public debt offering which closed on August 5, 1993. According to PAS, the offering resulted in two notes: one for \$175 million, bearing interest at 9 3/4% per annum and the other for \$265 million, bearing interest at 11 3/8% per annum. PAS will begin paying interest on the first note beginning in February, 1994, with semi-annual installments of approximately \$8.5 million, and on the second note in February, 1999. PAS states that an additional \$10 million represents monies on deposit in several other accounts. In

¹ *Pan American Satellite Corporation*, 101 FCC 2d 1318 (1985) (PAS Order). On December 31, 1992, the Common Carrier Bureau consented to the assignment by Alpha Lyracom, d/b/a Pan American Satellite of its international space station authorizations, including its conditional authorizations for PAS-4, PAS-2 and PAS-7, to PanAmSat, L.P. (PAS, L.P.) See *Alpha Lyracom, d/b/a Pan American Satellite, Alpha Lyracom Space Communications, Inc., Cygnus Satellite Corp.*, 8 FCC Rcd 376 (Com. Car. Bur. 1992). The assignments were consummated on the same day. See Letter, dated December 31, 1992, from Joseph A. Godles, Attorney for PanAmSat, L.P. to Donna R. Searcy, Secretary, Federal Communications Commission. Alpha Lyracom, d/b/a Pan American Satellite filed amendments to the present applications on December 9, 1992, requesting that the name of the applicant be changed to PanAmSat, L.P. See File Nos. CSS-003-(M), CSS-91-003 and CSS-91-006. On January 28, 1994, the Common Carrier Bureau granted PAS, L.P.'s application for consent to the *pro forma* assignment of PAS, L.P.'s conditional authorizations for PAS-2, PAS-4 and PAS-7 to PanAmSat Licensee Corp. See *PanAmSat, L.P.*, 9 FCC Rcd 668 (Com. Car. Bur. 1994). The assignment was consummated on January 31, 1994. See Letter, dated February 1, 1994, from Joseph A. Godles, Attorney for PanAmSat Licensee Corp., to William F. Caton, Acting Secretary, Federal Communications Commission. Accordingly, the authority granted herein for final construction of the PAS-4, PAS-2 and PAS-7 satellite systems is

granted to PanAmSat Licensee Corp.

² See *Establishment of Satellite Systems Providing International Communications*, 101 FCC 2d 1046, 1164 (1985).

³ On October 5, 1993, the Commission received notification from the United States Department of State that the United States had fulfilled its obligations to consult with INTELSAT under Article XIV(d) of the INTELSAT Agreement, and that the Commission could proceed with final authorization of the PAS-4 system. See Letter, dated October 5, 1993, from Steven W. Lett, Director for Satellite and Cable Policy, Bureau of International Communications and Information Policy, U.S. Department of State, to George S. Li, Chief, International Facilities Division, Common Carrier Bureau, Federal Communications Commission. We grant final authority for PAS to launch and operate PAS-4 in a separate order. See *PanAmSat Licensee Corp.*, FCC 94-78 (adopted March 30, 1994).

⁴ The Commission has permitted PAS to spend up to \$185.75 million for construction and pre-launch expenses for PAS-4. See *PanAmSat, L.P.*, 8 FCC Rcd 5120 (1993). In addition, the Bureau has given PAS permission to spend up to \$103.25 million and \$90.75 million on construction and pre-launch expenses for PAS-2 and PAS-7, respectively.

⁵ In addition, PAS predicts that its earnings on its PAS-1 satellite should be well over \$30 million per annum through 1995.

addition, PAS states that it has received \$100 million and will receive another \$100 million due it as a part of a "Purchase Agreement" committing Grupo Televisa to purchase \$200 million in partnership assets in PAS.⁶

5. Finally, PAS states that it has agreed with Hughes Aircraft Company (Hughes) to defer approximately \$72.6 million in construction costs, which will be paid in the form of "Supplemental Incentives" and "Incentives Obligations." Under the agreement with Hughes, the Supplemental Incentives and Incentives Obligations are payable to Hughes after delivery and in-orbit performance tests, respectively. PAS states that the Supplemental Incentives are due in monthly installments of \$77,088 per satellite, and that the amount to be paid per satellite for one year after launch would be slightly over one million dollars, assuming delivery occurs approximately 45 days prior to launch. According to PAS, the Incentives Obligations are due in monthly installments of \$197,369 per satellite, and the amount required to be paid per satellite through one year after launch would be slightly under \$2.1 million per satellite, assuming in-orbit performance tests are completed within 45 days of launch.

6. Based on this information, we find that the showing by PAS satisfies the requirement that it show sufficient noncontingent funds to cover the costs of construction, launch and first-year operation of its PAS-4, PAS-2 and PAS-7 satellite systems.

7. Accordingly, IT IS ORDERED that PAS is granted final authority to construct its PAS-4, PAS-2 and PAS-7 satellite systems, and that final authorization for launch and operation of PAS-2 and PAS-7 shall not be issued unless and until: (1) one or more foreign authorities authorize use of this system and enter into consultation procedures with the United States Party or Signatory under Article XIV(d) of the INTELSAT Agreement to ensure technical compatibility and to avoid significant economic harm; (2) the Department of State informs the Commission that the United States has completed its Article XIV(d) obligations and that the Commission may proceed with final authorization of the proposed system; and (3) the Commission grants final authorization.

8. IT IS FURTHER ORDERED that PAS shall file with the Commission no later than one year from the release date of this authorization information showing that it is making all reasonable efforts toward obtaining foreign approval to provide services via its proposed PAS-2 and PAS-7 systems.

9. IT IS FURTHER ORDERED that this Memorandum Opinion, Order and Authorization is effective upon adoption.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
Acting Secretary

⁶ The Purchase Agreement was part of the assignment of space station and earth station licenses to PAS, L.P. See *Alpha Lyracom, d/b/a Pan American Satellite, Alpha Lyracom Space Communications, Inc., Cygnus Satellite Corp.*, *supra* note 1.