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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

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

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In the Matter of )  
 )  
FINAL ANALYSIS COMMUNICATIONS )  
SERVICES, INC. )  
 )  
Application for Authority to )  
Construct, Launch and Operate a )  
Non-Voice, Non-Geostationary )  
Mobile-Satellite System )  
\_\_\_\_\_

File No. 79-SAT-AMEND-96

Received

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Satellite Policy Branch  
International Bureau

COMMENTS OF ORBCOMM ON FINAL ANALYSIS' AMENDMENT

Orbital Communications Corporation ("ORBCOMM") hereby briefly comments on the Amendment recently filed by Final Analysis Communications Services, Inc. ("Final Analysis").<sup>1/</sup> In that Amendment, Final Analysis proposes to modify its frequency plan to incorporate the spectrum that was allocated for use by non-geostationary satellite systems at the 1995 World Radiocommunications Conference ("WRC-95").<sup>2/</sup> ORBCOMM believes that Final Analysis' request is premature, because the Commission

<sup>1/</sup> Public Notice, Report No. SPB-40, March 20, 1996.

<sup>2/</sup> Final Analysis also proposes to add spare satellites into its constellation. ORBCOMM has no objection to in-orbit (vs. unlaunched) spares, so long as they are not transmitting until used as a replacement.

has not yet allocated those frequencies in the United States for Non-Voice, Non-Geostationary ("NVNG") satellite services.

ORBCOMM was the first proponent and applicant for NVNG satellite services, having filed its petition for rulemaking and application in February 1990. ORBCOMM became the first NVNG satellite service licensee in October 1994.<sup>3/</sup> ORBCOMM subsequently filed a request to modify its system by adding twelve satellites to its constellation (necessitating a slight increase in required spectrum) and by moving its gateway uplink to the Transit Band (149.9-150.05 MHz). That modification request apparently is being considered in the second processing round.<sup>4/</sup> Therefore, ORBCOMM has an interest in Final Analysis' amendment.

The Commission's Rules for NVNG satellite service do not presently incorporate the 455-456 MHz and 459-460 MHz bands requested by Final Analysis in its amendment.<sup>5/</sup> ORBCOMM does not believe that Final Analysis has justified a waiver of those Rules, insofar as it has presented no unique or compelling circumstances that would warrant Final Analysis' exclusive or

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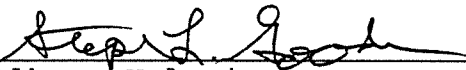
<sup>3/</sup> Orbital Communications Corporation (Order and Authorization), 9 FCC Rcd 6476 (1994). ORBCOMM has launched its first two satellites, and is now offering limited, intermittent commercial services.

<sup>4/</sup> Orbital Communications Corporation, File No 28-SAT-MP/ML-95. Report No. DS-1484, November 25, 1994.

<sup>5/</sup> 47 C.F.R. § 25.202(a)(3).

immediate access to the spectrum allocated at WRC-95.<sup>6/</sup> ORBCOMM contends that all NVNG satellite service applicants should have the opportunity to apply for use of this spectrum after the Commission allocates it to the NVNG satellite service.<sup>7/</sup> ORBCOMM thus urges the Commission to dismiss or hold in abeyance Final Analysis' amendment, because all of the pending NVNG applicants should have equal rights to that spectrum.

Respectfully submitted,

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Dated: April 19, 1996

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<sup>6/</sup> Cf., Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164 D.C. Cir. 1990) ("a waiver is appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest").

<sup>7/</sup> As a related matter, ORBCOMM believes that when the Commission does allocate that spectrum to the NVNG satellite service, it can and should limit the access to that spectrum to the pending applicants. Cf., E.g., Radio Relay Corporation v. F.C.C., 409 F.2d 322 (2nd Cir. 1969) (upholding FCC set-aside for incumbents).