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November 24, 2003

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Int'l Bureau

DEC 08 2003

Front Office

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
236 Massachusetts Avenue, N.E., Suite 110
Washington, DC 20002

Re: Notice of Oral Ex Parte Presentations
Final Analysis Communication Services, Inc.
Petition for Waiver (filed Mar. 29, 2002);
File Nos. SAT-LOA-19941116-00088;
SAT-AMD-19950224-00033; SAT-AMD-19960223-00031;
SAT-AMD-19960819-00107; SAT-AMD-19971030-00175

25-SAT-PLA-95

Dear Ms. Dortch:

Patricia Paoletta, counsel to New York Satellite Industries LLC ("NYS"), which owns FCC licensee Final Analysis Communication Services, Inc. ("FACS"), had a conversation with International Bureau Chief Don Abelson on Wednesday, November 19, 2003, and with Associate Chief and Bureau Chief of Staff Jackie Ruff on Thursday, November 20, 2003 on the status of FACS' milestone extension request, filed June 6, 2003, due to unique circumstances beyond its control.

Counsel reiterated that due to the involuntary Chapter 7 bankruptcy filing against FAI, FACS' former parent, it was beyond the control of FACS, the FCC licensee, to meet its 2002 milestones. The fact that FAI was both FACS' parent and the prime developer of its system, and was also in liquidation are unique circumstances mitigating in favor of extension. FACS remained financially solvent before, during and after the bankruptcy of FAI. In fact, in August 2001, FACS signed a secondary payload contract for \$10 million, with the \$2 million installment paid to FACS in September, the same month creditors of FAI filed their Chapter 7 filing. Nonetheless, since FAI was the primary developer of the system, up until the close of the bankruptcy proceedings, FACS was legally obligated to rely on FAI to meet the milestones.

Counsel reiterated the circumstances beyond FACS' control, including the automatic stay and bankruptcy trustee prohibiting FACS from moving forward with another system developer until any sale of FAI's assets was complete. Therefore, FACS could not enter into a new system development contract with an alternative provider and meet its milestones until the bankruptcy sale to NYS was complete. Three days after the sale, NYS applied to the FCC for a transfer of control. The

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application to transfer of control was pending when FACS' March 2002 milestone came due. FACS needed, as a matter of law, to wait for the FCC to approve the transfer of control of FACS from the trustee to NYS, in order to register with the State Department for approval of the Technical Assistance Agreement (TAA) with its system developer, Russian aerospace company Polyot. The FACS registered with the State Department, with its new owner NYS, for purposes of TAA approval, August 19, 2002, the same day the FCC approved the transfer of control. The State Department, with much urging by FACS, approved the TAA between FACS and Polyot late May 2003. Prior to this State Department approval, FACS could not provide the FCC a firm date for satellite construction, launch and operation of its system – information required in an extension request.

Within days of the State Department's approval, FACS filed its extension request with the FCC. FACS has consistently, aggressively moved forward with its system, at each possible juncture. While this information is on the record already, counsel reiterates it here, in the interest of expediting the Bureau's grant of FACS' extension request. Counsel reiterates that there have been both unforeseeable circumstances beyond FACS' control that prohibited it from meeting its 2002 milestones, as well as unique circumstances mitigating in favor of extension, and that the public interest would be served in granting a waiver of the March 2002 milestones and approving new milestones.

Sincerely,



Patricia J. Paoletta

cc: Bryan Tramont
Sheryl Wilkerson
Sam Feder
Jennifer Manner
Paul Margie
Barry Ohlson
Don Abelson
Jackie Ruff
Tom Tycz
Cassandra Thomas
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