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VIA HAND DELIVERY

1 December 2000

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Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Counter TW-A325
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Ex Parte Presentation in File Nos. SAT-AMD-19971219-00199, SAT-AMD-19971222-00204, SAT-AMD-19971222-00216, SAT-AMD-19971222-00229, SAT-AMD-19980123-00009, SAT-LOA-19951109-00185, SAT-LOA-19951109-00186, SAT-LOA-19970702-00057, SAT-LOA-19971222-00201, SAT-LOA-19971222-0205, SAT-LOA-19971222-00206, SAT-LOA-19971222-00207, SAT-LOA-19971222-00208, SAT-LOA-19971222-00209, SAT-LOA-19971222-00211, SAT-LOA-19971222-00212, SAT-LOA-19971222-00213, SAT-LOA-19971222-00214, SAT-LOA-19971222-00215, SAT-LOA-19971222-00223, SAT-LOA-19971222-00224, SAT-LOA-19971222-00225, SAT-LOA-19971222-00226, SAT-LOA-19971222-00227, SAT-LOA-19971222-00228, SAT-LOA-19980312-00018, SAT-LOA-19980312-00019, SAT-LOA-19980403-00025, SAT-LOA-19980403-00026, SAT-LOA-19980403-00027, SAT-LOA-19980403-00028, SAT-LOA-1998-0403-00029, 94- through 98-SAT/P/LA-97, SAT-LOI-19971222-0217, and SAT-LOI-19971222-0218

Dear Ms. Salas:

Pacific Century Group ("PCG") submits this *ex parte* letter in response to the filing on November 1, 2000, of a revised orbital deployment plan by several applicants in the Federal Communications Commission's second Ka-band processing round for geostationary satellites. The revision to the "Majority Plan" originally filed on August 11, 2000, identifies two CONUS orbital locations for PanAmSat at 58° and 133° W.L. (referred to hereinafter as the "Revised Majority Plan"). In joining the Revised Majority Plan, PanAmSat agreed to give up its request for two locations in other parts of the global geostationary orbital arc in the second Ka-band processing round. The Revised Majority

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Plan was signed by representatives for PanAmSat and all of the original Majority Group: CAI Data Systems, Inc., TRW Inc., Celsat America, Inc., Hughes Communications, Inc., Lockheed Martin Corporation, KaStarCom World Satellite, LLC, and PCG.

PCG agreed to put aside its previous concerns and to support the Revised Majority Plan in the interest of resolving the arduous second Ka-band processing round. PCG has been an active litigant against PanAmSat with regard to two Ka-band orbital locations, at 58° and 125 ° W.L., for which PanAmSat received licenses in the Commission's first Ka-band processing round. When PanAmSat sought to modify its licenses for these two locations and extend the milestones for construction, PCG alone filed a Petition to Deny its request.¹ The FCC, on its own motion, nullified PanAmSat's licenses for these two locations in June 2000² and the matter is under appeal.³ PanAmSat has agreed that if it receives licenses for 58° and 133° W.L. in the second round as contemplated in the Revised Majority Plan, it will withdraw its appeal of the FCC's June 2000 nullification order.⁴

To say that the second processing round has gone on too long would be a great understatement. The public notice announcing the formation of the second processing round was released on October 15, 1997 and applications were due by December 22, 1997. Now, three years later, every passing month brings closer the expiration of the ITU filings for all of the U.S. orbital locations, as well as the ones PCG has requested authority to use to access the U.S. market.⁵ For a foreign filer of a Letter of Intent ("LOI"), the entire process has been frustrating and inefficient. Moreover, the manner in which it has been conducted, at a minimum, is inconsistent with the commitments made by the United States under the World Trade Organization's Basic Telecommunications Agreement.

¹ See Pacific Century Group, Petition to Deny Request by PanAmSat Licensee Corp. for Modification of Authorization to Construct, Launch and Operate a Ka-Band Satellite System in the Fixed Satellite Service, File No. SAT-MOD-19980522-00070, August 26, 1999.

² *PanAmSat Licensee Corp. Application for Authorization to Construct, Launch, and Operate a Ka-band Communications Satellite System in the Fixed-Satellite Service at Orbital Locations 58° W.L. and 125° W.L., Applications for Modification of License and for Extension of Milestone Schedule.*, Memorandum Opinion and Order, June 26, 2000.

³ PanAmSat Licensee Corp., Application for Review and Request for Expedited Processing, July 26, 2000.

⁴ Ex Parte presentation of CAI Data Systems, Inc. TRW Inc., Celsat America, Inc., Hughes Communications, Inc., Lockheed Martin Corporation, KaStarCom World Satellite, LLC, and Pacific Century Group, November 1, 2000.

⁵ PCG filed for its locations through the U.K. Administration and has date precedence over U.S. filings at or near 89°, 82° and 75° W.L.

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There remain several obstacles to final resolution of the second processing round, including posturing by certain of the participants. PanAmSat's flexibility (driven undoubtedly by its weak legal position) is contrasted by the position of its affiliate, Hughes Communications Inc. ("Hughes"). Hughes' stance was clear: it would support the original Majority Plan *only if* the plan rewarded it with two more CONUS locations, in addition to the two prime CONUS locations it had received in the first processing round.⁶ Further, Hughes erroneously portrayed the original Majority Plan as supporting its position that applications first should be screened on the basis of financial qualifications, rather than equitable distribution of orbital locations among competing applicants.⁷ If Hughes had made that view clear before August 11, PCG -- and perhaps several other members of the Majority Plan -- might not have joined it. The Majority Plan and its recent revision are best recognized as imperfect compromises. In fact, they are especially imperfect with regard to the situation facing PCG, which has ITU date precedence for orbital locations from which it is precluded from providing service to the U.S. market because of decisions made regarding the first round.⁸

Hughes is hardly alone in taking unhelpful positions. The original and Revised Majority Plans attempted to accommodate Pegasus. In fact, the Majority Group insisted that PanAmSat, when accepting inclusion in the Revised Majority Plan, accept 133° W.L. instead of 125° W.L., its originally licensed location, because the original Majority Plan had assigned Pegasus to 125° W.L. Nevertheless, Pegasus, along with Directcom and CAI (also a Majority Plan adherent) have promoted another plan. While PCG is sympathetic to some of the principles used to prepare the Pegasus-lead plan, the time is well past for the working group to come together with one plan. The shortage of available orbital locations and the intransigence of certain participants in the process makes it difficult to reconcile the two plans.

The contribution of Loral Space and Telecommunications ("Loral"), on the other hand, has been ludicrous. Despite PCG's offers, Loral has been unwilling to discuss a resolution to the mutual exclusivity issue which it and PCG face around 89° and 82° W.L. Even though it already holds licenses for five orbital locations between 115° and 67° W.L., Loral's most recent contribution towards resolution of the second processing round has been to suggest that it is willing to sacrifice its application for 139° E.L. in the second round for 95° W.L.,⁹ one of the very few central CONUS orbital locations now available for second round applicants. The request is completely unsupported and unsupportable.

⁶ Ex Parte presentation, Hughes Communications, Inc., August 14, 2000.

⁷ Ex Parte presentation, Hughes Communications, Inc., September 7, 2000.

⁸ Ex Parte presentation, Pacific Century Group, Inc., August 11, 2000.

⁹ Ex Parte presentation, Loral Space & Communications Ltd., August 11, 2000. Loral submitted another Ex Parte presentation on November 21, 2000, to which PCG intends to separately respond.

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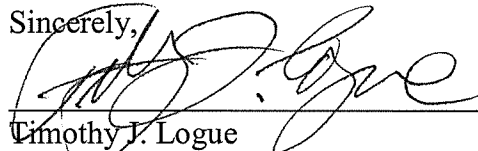
Another notable obstacle to resolution of the second processing round is the large number of orbital locations assigned to first round licensees who appear to have abandoned their original business plans, or have been unable to raise sufficient funding. The Commission's nullification in June 2000 of licenses held by MorningStar, PanAmSat and NetSat 28 covering seven orbital locations sent a helpful message to other non-performing first round licensees that they could not warehouse orbital locations. However, the Commission's failure to implement the 1997 World Radiocommunication Conference's spectrum allocation for intersatellite links has stayed the milestones for half of the first round licensees. Second round applicants can only hope that the Commission will soon act on these frequency assignments.

When the Commission finally does assign ISL frequencies, the FCC should give the affected first round licensees only a short timetable to accept the assignments and begin satellite construction, or risk forfeiture of their licenses. The typical one-year timetable for accomplishment of the first milestone, commencement of construction, is unjustified because: (1) ITU notifications will soon expire, leaving little time for licensees to contemplate contractual provisions; and (2) these licensees have had ample opportunity to prepare to proceed with construction and commencement of their systems.

PCG stands ready to work with the Commission and any and all of the first round licensees and second round applicants to come to a mutually acceptable, fair orbital deployment plan. Time is of the essence.

Two copies of this letter should be associated with each of the above referenced files.

Sincerely,



Timothy J. Logue

Space & Telecommunications Analyst

cc: Mr. Ray Kennedy
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