

COUDERT BROTHERS

ATTORNEYS AT LAW

1627 I STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006

January 24, 2000

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Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W. TW-A325
Washington, D.C. 20554

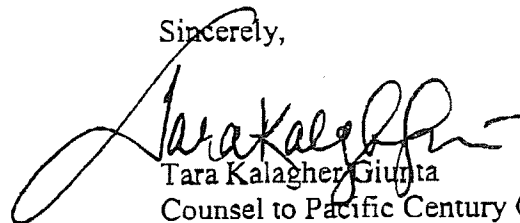
Re: Application for Modification of Space Station Authorization of Loral Space & Communications Ltd., File No. SAT-MOD-19991102-00106; Application for Extension of Milestones of Loral Space & Communications Ltd., File No. SAT-MOD-19991101-00107; Application for Modification of Space Station Authorization, of Loral Orion, Inc., File No. SAT-MOD-19991101-00108; Application; Application for Modification of Space Station Authorization, of Loral SpaceCom Corporation, File No. SAT-MOD-19991101-00109

Dear Ms. Roman Salas:

Enclosed please find an original and four (4) copies, plus a stamped and return copy, of Pacific Century Group, Inc.'s Petition to Deny of the above-referenced modification requests, which has been served on those parties included in the attached service list.

Please contact me at (202) 736-1809 if you have any questions concerning this filing.

Sincerely,



Tara Kalagher Giunta
Counsel to Pacific Century Group, Inc.

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

In the Matter of)	
)	
Loral Space & Communications Ltd.)	SAT-MOD-19991102-00106
)	
Application for Modification of)	
Space Station Authorization)	
)	

In the Matter of)	
)	
Loral Space & Communications Ltd.)	SAT-MOD-19991101-00107
)	
Application for Extension)	
of Milestones)	
)	

In the Matter of)	
)	
Loral Orion, Inc.)	SAT-MOD-19991101-00108
)	
Application for Modification of)	
Space Station Authorization)	
)	

In the Matter of)	
)	
Loral SpaceCom Corporation)	SAT-MOD-19991101-00109
)	
Application for Modification of)	
Space Station Authorization)	
)	

PETITION TO DENY

PACIFIC CENTURY GROUP, INC.

Tara K. Giunta
Coudert Brothers
1627 I Street, N.W.
Suite 1200
Washington, D.C. 20006
Its Attorneys

Date: January 24, 2000

**Before the
FEDERAL COMMUNICATIONS COMMISSION
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Space Station Authorization)	

In the Matter of)	
)	
Loral SpaceCom Corporation)	SAT-MOD-19991101-00109
)	
Application for Modification of)	
Space Station Authorization)	

PETITION TO DENY

Pacific Century Group, Inc. ("PCG"), by its attorneys, and pursuant to Section 25.154(a) of the Commission's Rules, 47 C.F.R. § 25.154(a) (1999), hereby submits this Petition to Deny ("Petition") requesting that the Federal Communications Commission (the "Commission" or "FCC") reject the four interrelated license modifications requests captioned above submitted by

Loral Space & Communications Ltd., Loral Orion, Inc., and Loral Spacecom Corporation (collectively "Loral") as they relate to Loral's authorization to deploy Ka-band satellite communications capacity at 89 degrees W.L. PCG further requests that the Commission declare Loral's 89 degree W.L. Ka-band authorization null and void. PCG has no objection to those portions of the captioned modification requests which deal only with deployment of C- and Ku-band capacity at 77 W.L. and 89 degrees W.L.

I. BACKGROUND

In May 1997, Orion Network Systems, a Loral predecessor, was licensed to launch three satellites to provide Ka-band broadband services to the United States and to place them at 89 degrees W.L., 81 degrees W.L., and 78 degrees W.L.¹ Construction of the satellite to be located at 89 degrees W.L. was to commence by May 1998 and was to be completed by April 2002. Launch was to be accomplished by May 2002.²

In the four interrelated applications captioned above, Loral seeks to modify the licenses of two hybrid C- and Ku-band satellites. Specifically, it proposes to add a limited-capability Ka-band communications payload to a new hybrid C- and Ku-band satellite it calls Telstar-8 that it proposes to launch to 89 degrees W.L., instead of 77 degrees W.L. The proposed Ka-band payload would use half of Loral's authorized Ka-band spectrum at 89 degrees W.L., channeled through four narrow downlink spot beams³ to provide coverage over only four metropolitan

¹ *In Re Orion Network Systems, Inc., Application for Authority to Construct, Launch, and Operate a Ka-Band Satellite System in the Fixed-Satellite Service*, Order and Authorization, 12 FCC Rcd. 23027, 23036 (1997) ("Orion Order and Authorization").

² Orion Order and Authorization at 23037.

³ *See Loral Orion, Inc., Application for Modification of Space Station Authorization*, File No. SAT-MOD-19991101-00108, at Appendix A, Figure 7-9, p. A-42. ("Loral Orion, File No. SAT-MOD-19991101-00108".)

areas, leaving most of the country unserved. In comparison, the satellite licensed by the Commission in May 1997 was to provide full coverage of the contiguous 48 states ("CONUS") through 25 fixed and two steerable spot beams.⁴

PCG is vitally interested in this matter because it filed a Letter of Intent ("LOI") in the second Ka-band processing round which commenced in December 1997. PCG's LOI specifically requested the 89 degree W.L. location because it had submitted a request for coordination to the International Telecommunication Union ("ITU") for this location through the Administration of the United Kingdom in advance of any similar filing by the Administration of the United States or any licensing decision by the FCC.⁵ PCG, in its LOI, proposed to launch an advanced broadband, Ka-band satellite system providing full CONUS coverage within the technical parameters established by the FCC for such systems, including full frequency reuse.

II. LORAL'S PROPOSED KA-BAND MODIFICATIONS WOULD VIOLATE ITS LICENSE CONDITIONS AND COMMISSION POLICIES

Loral's modification requests demonstrate that it has already violated certain conditions of its Ka-band license and proposes to violate others. Moreover, its proposed modifications would violate Commission policies specific to Ka-band and general policies concerning usage of fixed-satellite service radio frequencies, especially by hybrid satellites. Finally, the public

⁴ Orion Order and Authorization at 23028.

⁵ *Pacific Century Group, Inc., Letter of Intent as a Foreign Satellite Operator to Provide Fixed Satellite Services in the Ka-band to the United States*, File Nos. SAT-LOI-19971222-00217 and SAT-LOI-19971222-00218. PCG also requested 82 degrees W.L., where it had previously filed a request for coordination with the ITU. PCG's requests for coordination were submitted to the ITU in August 1995 and published in April 1997. The U.S. and U.K. Administrations held a coordination meeting in October 1999 at which it was concluded that PCG and Loral could not provide co-frequency, co-coverage from the 89 degree W.L. location.

interest would hardly be served by permitting such a parsimonious deployment of broadband Ka-band capacity to serve just a fraction of the country's population and landmass.

A. Loral Missed Its Construction Milestone and Its License Should Be Declared Null and Void

Loral's proposal provides evidence that in fact it missed its May 1998 construction commencement milestone for its 89 degrees W.L. Ka-band satellite.⁶ Loral's multiple filings make no mention of the satellite that was supposed to be under a non-contingent contract with a satellite manufacturer.⁷ In fact, the only satellites that are mentioned by Loral in its voluminous filings are the C- and Ku-band hybrids identified as the operational Telstar-4 and under construction Telstar-8, to which Loral proposes to add a few Ka-band transponders and antennas. What happened to Orion F7? The present modification request for Telstar-8⁸ appears to be Loral's first serious plan to launch Ka-band capacity to 89 degrees W.L.

If in fact Loral has not proceeded with construction of a Ka-band satellite to occupy 89 degrees W.L., then it has violated the terms of its license and its authorization should be declared null and void by the Commission by the very terms of that authorization.⁹

B. Loral's Proposal Violates Key Tenets of the Commission's Ka-Band Policies

Loral tries to justify its proposal only to launch limited Ka-band capacity to 89 degrees W.L. by claiming that its modification would fulfill the stated objective of the Commission's Ka-

⁶ Loral's annual reports on the progress of construction of this satellite, submitted under Sec. 25.145(g), are missing from the FCC's public reference room and could not be reviewed.

⁷ See, e.g., *In Re Norris Satellite Communications, Inc.* Memorandum Opinion and Order, 12 FCC Rcd. 22299, 22303 (1997).

⁸ Loral Orion, File No. SAT-MOD-19991101-00108.

⁹ Orion Order and Authorization at 23037.

band policies enunciated in the 28 GHz Third Report and Order¹⁰ to stimulate economic growth and the development of enhanced communications infrastructures and services.¹¹ Loral's arguments notwithstanding, its modification proposal falls far short of the conditions laid down for Ka-band fixed satellite licensees in the 28 GHz Third Report and Order. Those requirements include completion of milestones¹² and use of state-of-the-art spotbeam and polarization techniques to obtain maximum use of the available frequencies -- a policy Loral advocated.¹³ Instead, Loral now proposes to miss its launch milestone, having apparently missed its construction commencement milestone. Further, the partial Ka-band payload it proposes to mount on Telstar-8 could hardly be called "state-of-the-art", likely to stimulate the economic development and technological innovation or to be a "major step in achieving a seamless information infrastructure", as sought by the Commission.¹⁴

Rather, Loral's proposal represents the kind of experimental approach that NASA's Advanced Communications Technology Satellite ("ACTS") program has already accomplished.¹⁵ Moreover, through their applications and participation in the 28 GHz docket and related proceedings, Loral and the other first round Ka-band applicants provided assurances to the Commission that the experimental period with Ka-band satellite technology was past and

¹⁰ *In Re Rulemaking to Amend Parts 1, 2, 21 and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to Reallocate the 29.5-30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Service*, Third Report and Order, 12 FCC Rcd. 22310 (1997), ("28 GHz Third Report and Order").

¹¹ Loral Orion, File No. SAT-MOD-19971101-00108 at 4, quoting the 28 GHz Third Report and Order at 22312.

¹² 28 GHz Third Report and Order at 22318.

¹³ *Id.* at 22320-22322.

¹⁴ *Id.* at 22312.

¹⁵ *Id.*

that the applicants were prepared to move to full commercialization.¹⁶ So assured, the Commission made it quite clear in the 28 GHz Report and Order that it expected licensees to make full use of the new bandwidth it was opening up for commercialization.

Loral seeks to convince the Commission that it would satisfy the Commission's Ka-band policies and the terms of its authorization by playing an orbital "shell game" and burying it under a blizzard of duplicative modification requests. However, Loral cannot hide the fact that even by its own generous estimate the modified Ka-band payload would only make use of 50 percent of the bandwidth it was originally licensed to use. Moreover, it makes no projections as to when it would use the rest of its Ka-band authorization at 89 degrees W.L., except to say that "future Ka-band payloads would provide additional beams and frequency bands to maximize use of the available bandwidth."¹⁷ If these additional payloads are ever launched, it certainly will be long-past Loral's launch milestone. In addition, the proposed modified coverage pattern would leave most of the CONUS landmass and a significant portion of the country's population unserved by broadband fixed satellite service from an orbital location ideally suited to serve all of CONUS.

C. Loral's Proposal Violates the Commission's Hybrid Satellite Policies

While Loral points to the Commission's previous support for hybrid satellites as economical alternatives and the FCC's efforts to accommodate their use¹⁸, it studiously ignores the requirements the Commission has placed on any licensee planning to launch a hybrid satellite. That policy states clearly that hybrid satellites must use state-of-the-art-technology to obtain full frequency reuse in each of the bands it intends to use. Put another way, a hybrid satellite has the same spectrum efficiency requirements as would single-band satellites operating

¹⁶ *Id.* at 22312-22316.

¹⁷ Loral Orion, File No. SAT-MOD-19971101-00108 at 3.

¹⁸ *Id.* at 4.

in the same frequency bands. The Commission instituted this requirement at a point very similar to the present one, when use of a new frequency band -- Ku-band -- was being pioneered. A number of satellites had already been launched or authorized carrying full C-band payloads, but only partial Ku-band payloads. Skyrocketing demand for satellite services forced the Commission to institute uniform two-degree spacing for all fixed-service satellites. In that context, the FCC recognized that it could no longer permit inefficient use of one or another frequency band on a hybrid satellite. The Commission therefore instituted a full frequency reuse policy for hybrid satellites, as it had for single-band spacecraft.¹⁹

Loral does not even attempt to justify or request a waiver of this longstanding requirement. In fact, there can be no justification for waiving this requirement, because the circumstances which drove the Commission to impose it 17 years ago have not changed. Demand for satellite services continues to be high and this fact encouraged the Commission to open up the Ka-band for commercial satellite service.²⁰ In doing so, the Commission did not waive its rules requiring full frequency reuse and in fact it reiterated them, requiring Ka-band licensees to use spotbeams and either of two forms of cross-polarization to obtain maximum frequency reuse.

The Commission should not now abandon its full frequency reuse requirements for hybrid satellites, no matter what bands they would operate in. Demand for satellite services and radio frequency spectrum is far too high for the FCC to sanction less than efficient use of such scarce resources.

¹⁹ *In Re Licensing of Space Stations in the Domestic Fixed-Satellite Service*, Report and Order 54 Rad. Reg. (P&F) 577 (1983), recon. FCC 84-487 (rel. Jan. 9, 1985.).

²⁰ "The band (*Ka-band*) will serve as an expansion alternative to the crowded C- and Ku-bands for traditional fixed-satellite service." 28 GHz Third Report and Order at 22312.

D. The Public Interest Would Not Be Served By Granting Loral's Ka-band Modification Request

Loral's proposed modification would deny the full benefits the Commission justifiably anticipated when it authorized the commercial implementation of Ka-band fixed satellite services. The Commission anticipated that advanced, broadband satellite services would be made available to large segments of the American public when it authorized Loral and other first round licensees to launch their proposed state-of-the-art, Ka-band satellite systems. What Loral now proposes to do is bring such services only to a limited segment of the American population, most notably those living in selected major urban concentrations who already have access to a wide variety of broadband information services. Loral's proposal does nothing to serve those outside of the four spotbeam areas who in many cases have few if any options for advanced, broadband communications. As the Commission has long recognized, satellites, in comparison with other communications technologies, have the capability to provide the same communications services at the same price to people wherever they are located across the broad expanse of the United States. This is one of the key reasons the Commission has encouraged the development of satellite services for the American public since the early 1970s.²¹

Loral's proposed modification would seek to dole out the most advanced satellite communications services available to a lucky percentage of the American public, while leaving sterile valuable orbit and spectrum resources. These same resources would be better used to blanket the nation with the advanced communications services the American public has come to demand in this new, information-driven millenium.

²¹ The U.S. Congress has also recently shown great interest in making certain that advanced satellite communications services are made available to rural as well as urban populations

III. CONCLUSION

Acceptance of Loral's proposed modification to its Ka-band authorization for 89 degrees W.L. would vitiate longstanding Commission policies requiring full frequency reuse²² by all fixed satellite service systems, and the very specific milestone and frequency reuse requirements it placed on first round Ka-band licensees. In addition, acceptance of Loral's proposal would overturn without justification the Commission's 17-year old policy requiring hybrid satellites to make full frequency reuse of every band accessed. In an era when more and more satellites are being launched or proposed with multiple payloads operating at some combination of C-, Ku-, Ka- and even perhaps V-bands, such a decision would set an unfortunate precedent. Such a decision would make it difficult for the Commission to deny similar relief to other licensees, opening the way for widespread inefficient use of dwindling orbit and spectrum resources.

Loral's proposal is especially egregious because it flies in the face of the situation it knows exists with regard to the second Ka-band processing round. An informal working group of second-round applicants, including Loral, have been attempting to develop a mutually acceptable orbital deployment plan for CONUS and other parts of the global geostationary orbital arc for more than a year. However, the working group has been stymied by a shortage of orbital locations, especially over CONUS. Loral's proposal to modify its first round license and not to make full use of the available resource offends the second-round process to which it is a party.

Acceptance by the Commission of Loral's proposal would also set an extremely poor example for other ITU Administrations with which it seeks to coordinate U.S. satellite systems. How could it justify permitting one of its licensees to make inefficient use of radio frequency

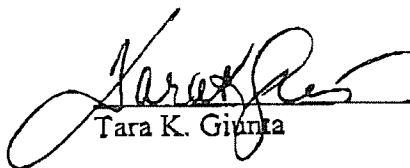
through its passage of the Satellite Home Viewers Improvement Act of 1999.

spectrum at an orbit location at which another Administration has made a prior request for coordination? PCG stands ready to launch a system that would make full use of the Ka-band resources at 89 degrees W.L. to provide advanced information and communications services available to the American public.

The Commission should deny Loral's modifications as they pertain to the deployment of Ka-band capacity at 89 degrees W.L. and should declare its Ka-band authorization for that location null and void. It is obvious that Loral has no intention of fulfilling the terms of its license, at least as far as this location is concerned.

Respectfully submitted,

PACIFIC CENTURY GROUP, INC.



Tara K. Giunta

Coudert Brothers
1627 I Street, N.W.
Suite 1200
Washington, D.C. 20006

Its Attorneys

Date: January 24, 2000

CERTIFICATE OF SERVICE

I, Christine L. Zepka, hereby certify that on this 24th day of January 2000, a true and correct copy of the foregoing "Petition to Deny" was hand delivered to the following parties:

Thomas S. Tycz
Chief, Satellite and Radiocommunications
Division, International Bureau
Federal Communications Commission
445 12th Street, S.W. 6th Floor West
Washington, D.C. 20554

Stephen R. Bell
Jennifer D. McCarthy
Willkie Farr & Gallagher
1155 21st Street, N.W.
Suite 600
Washington, D.C. 20036

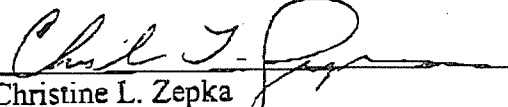
Fern Jarmulnek
Chief, Satellite Policy Branch
International Bureau
Federal Communications Commission
445 12th Street, S.W. 6th Floor West
Washington, D.C. 20554

Counsel for Loral Space & Communications
Ltd.

Jennifer Gilsenan
Satellite Policy Branch
International Bureau
Federal Communications Commission
445 12th Street, S.W. 6th Floor West
Washington, D.C. 20554

Julia Garcia
Satellite Engineering Branch
International Bureau
Federal Communications Commission
445 12th Street, S.W. 6th Floor West
Washington, D.C. 20554

Alyssa Roberts
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554


Christine L. Zepka