

SATMEX

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www.satmex.com.mx

February 8, 2000.

Mr. Thomas S. Tycz
Chief
Satellite and Radiocommunication Division
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Received

JAN 2 2001

Satellite Policy Branch
International Bureau

Dear Mr. Tycz:

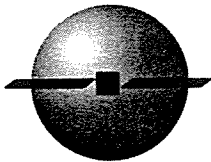
Re: Reply to Opposition of Telesat Canada, File No. SAT-PDR-19991214-00131

Satelites Mexicanos, S.A., DE C.V. ("Satmex") writes in reply to the Opposition of Telesat Canada¹ to Satmex's December 14, 1999 letter requesting that the Commission immediately add three Satmex satellites – Solidaridad 1, Solidaridad 2 and Satmex 5 – to the Permitted Space Station List ("List"). Telesat only objects to the Commission acting immediately to put Satmex 5 on the List but has no objection to Satmex's request to put Solidaridad 1 and 2 on the List. No other comments on Satmex's request were filed. As discussed briefly below, Telesat's reasons for delaying the addition of Satmex 5 to List lack merit and the Commission should immediately add the Satmex satellites to the List. Although Satmex, like Telesat, is pleased that current coordination between the two operators regarding a number of satellites, including Satmex 5, is nearing completion, that process is not relevant, under the Commission's rules, to Satmex's request to add its satellites to the List.

As a procedural matter, the Satmex request was not a request for declaratory ruling but rather a ministerial request to add Satmex satellites to the Permitted Space Station List based on the multiple earth station authorizations that the Commission has already granted to U.S. operators to communicate with Satmex 5, Solidaridad 1 and Solidaridad 2. The Commission stated in its order creating the Permitted Space Station List that:

[W]e see no reason to treat any non-U.S. satellite differently than U.S. satellites once we have determined to grant it access to the United States market for fixed-satellite service in the conventional C- and Ku-bands. In particular, earth stations in the United States should be able to access that satellite *immediately* under the same service restrictions and operating conditions as placed on the original

¹ Satmex did not receive a copy of the Telesat pleading (dated January 24, 2000) from Telesat. John Stern, Associate General Counsel for Loral Space & Communications Ltd, received a copy on January 27, 2000 and forwarded it to me.



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authorization of access. To this end, we will compile a list of satellites authorized to provide service in the United States, noting any service restrictions or operating conditions for that particular satellite.²

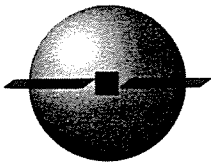
Consistent with this clear statement of policy, because the Commission has granted multiple earth station authorizations permitting access to Satmex 5 and Solidaridad 1 and 2, the Commission should immediately grant Satmex's request to have all three satellites added to the List, with any service restrictions or operating conditions attached to the authorizations granting such access.

Telesat apparently misunderstands the Commission's rule, 25.137(b), which states only that applicants seeking access to non-U.S. space stations need not submit technical information about the non-U.S. licensed satellite if international coordination – *defined as coordination between the U.S. and the non-U.S. licensing administration*³ – has been completed with respect to that satellite. The U.S. and Mexico have coordinated Satmex 5. Accordingly, contrary to Telesat's argument, earth station applicants seeking access to Satmex 5 were not required to submit technical information required by section 25.114 with their applications. However several applicants for earth station authorizations to communicate with Satmex 5 did submit the technical information required by 25.114, anyway. That technical criteria and the Coordination agreement between the U.S. and Mexico regarding Satmex 5 both demonstrate that Satmex 5 complies with the Commission's two degree spacing policy. The Commission reviewed the applications containing the technical data about Satmex 5 and granted various applications to access the satellite. No oppositions or comments were filed with respect to those applications by Telesat or anyone else prior to grant by the Commission. Telesat offers no valid reason that the FCC should not immediately put Satmex 5 on the List.

Telesat asserts that because coordination of all Mexican FSS slots with all Canadian slots has not yet been completed, the FCC should withhold Satmex 5 from the Permitted Space Station List. Telesat asserts that "unrestricted use of Satmex 5 in the United States prior to coordination with Canada could result in unacceptable interference to future users of Telesat's satellites and Satmex 5, including U.S. earth stations."⁴

² In re Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States, First Order on Reconsideration, IB Docket No. 96-111 (rel. Oct. 29, 1999) at paragraph 19.

³ Amendment of the Commission's Regulatory Policies to Allow Non-U.S. licensed Space Stations to Provide Domestic and International Satellite Services in the United States, 12 FCC Rcd 24094 (1997) at paragraph 191.



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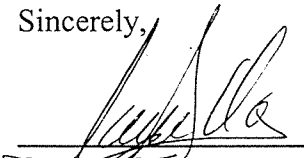
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This statement is at once without foundation and irrelevant. It is without foundation because Satmex 5 is two degree spacing compliant, as discussed above. And it is irrelevant because Satmex is not required to complete coordination with Telesat (although it expects to do so imminently) under the Commission's rules and policies, prior to being added to the List.

Finally, in the order in which the Commission granted Telesat's request for a declaratory ruling to put Telesat's Anik E1 and Anik E2 satellites on the Permitted Space Station List, the Commission expressly conditioned its action on operation of all U.S. earth stations communicating with those Anik satellites on a non-interference basis with respect to other earth stations authorized in the U.S. to communicate with U.S. licensed or non-U.S. licensed two degree compliant satellites.⁵ Thus, Telesat's only operating FSS satellites are already required to operate on a non-interference basis with respect to Satmex 5 operations in the U.S., since Satmex 5 has been shown to be two degree spacing compliant and is operating with U.S. earth stations already authorized by the Commission to communicate with it.

For the reasons discussed above, Satmex requests that the Commission immediately honor its commitment in its recent adoption of the streamlined process by which non-U.S. licensed satellites may better serve the U.S. market and comply with Satmex's simple request to add the Satmex 5, Solidaridad 1 and Solidaridad 2 to the Permitted Space Station List.

Sincerely,

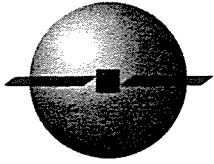


Carmen Ochoa
General Counsel

Cc: Magalie R. Salas, FCC
Fern Jarmulnek, FCC
Cassandra Thomas, FCC
Steve Spaeth, FCC
Karl Kensinger, FCC
Jennifer Wheatley, Esq., counsel to Telesat Canada
John Stern, Loral Space & Communications Ltd.

⁴ Opposition of Telesat Canada at 3.

⁵ In the Matter of Telesat Canada Request for Declaratory Ruling or Petition for Waiver, File No. 116-SAT-STA-98, Order (rel. Dec. 9, 1999) at paragraphs 24 and 25.



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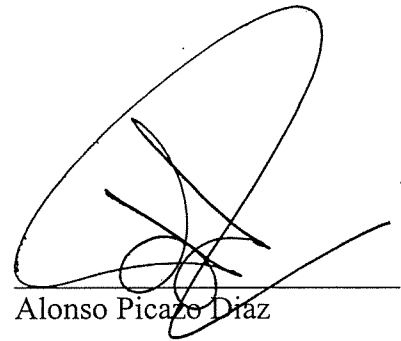
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CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of February 2000, I caused copies of the foregoing
Opposition of Telesat Canada to be mailed via first class postage prepaid mail to the following:

Jennifer Wheatley
of
Wiley, Rein & Fielding
1776 K Street NW
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Tom Tycz
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Alonso Picazo Diaz