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May 20, 2004

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RECEIVED

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
Suite 100, 236 Massachusetts Ave., N.E.  
Washington, DC 20002

Satellite and  
Radiocommunications Division  
International Bureau

MAY 20 2004

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Response of SWE-DISH Satellite Communications, Inc., to Supplemental Comments  
Filed by AvL Technologies, FCC Files Nos. SES-LIC-20030910-01236; SES-AMD-  
20040116-0057

Dear Ms. Dortch:

SWE-DISH Satellite Communications, Inc. ("SWE-DISH") hereby provides this brief response to the unauthorized Supplemental Comments filed by AvL Technologies regarding our pending Application for authority to license a temporary fixed earth station known as the IPT SUITCASE.

First, we note that AvL's Supplemental Comments were filed on May 13, 2004, nearly four months after SWE-DISH submitted a minor amendment to its pending earth station Application on January 16, 2004. AvL somewhat disingenuously ties its filing to a Public Notice erroneously issued by the Commission on April 14, 2004 (Public Notice SES-00595), ignoring a corrected Public Notice dated May 5, 2004 (Public Notice SES-00601) that removed the Application from public notice at that time. There is absolutely no possible justification for AvL's submission of its Supplemental Comments at this time and, on that basis alone, we submit it would be entirely appropriate for the Supplemental Comments to be stricken from the record of this proceeding as an untimely and unauthorized pleading.

Having said that, the one thing that the AvL Supplemental Comments has served to clarify is that there in fact is no major issue of consequence at this juncture that should further delay the expeditious grant of SWE-DISH's application by even one day. In fact, the bulk of the

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AvL submission is simply devoted to revisiting matters that have been fully addressed already or seeking reconfirmation of matters not even in controversy.<sup>1</sup>

Indeed, what we are reduced to at this point is a single area of disagreement, if it can even be dignified as such, concerning the totally unnecessary suggestion that the license be conditioned so as to require that the IPT SUITCASE can only be operated by a trained technician, of similar experience as required by the FCC for installation of fixed earth station antennas of similar aperture size of elliptical shape, in the absence of the implementation of “automatic safeguards” to avoid accidental adjacent satellite interference.<sup>2</sup>

The truth of the matter is that imposition of such a condition is not warranted. SWE-DISH has on its own developed a training program that is provided to all purchasers of its transportable antenna product line (whether larger or smaller than 1.2M) that includes safety and hazard training, deployment and assembly, antenna alignment, use of the spectrum analyzer, general maintenance, emergency shutdown procedures, and procedures for coordination of transmissions with the satellite operator. In addition, the IPT SUITCASE has been designed

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<sup>1</sup> Specifically, we note in this regard that AvL does not dispute the sufficiency of the supporting affidavits submitted by the operators of the satellites on which we propose to provide service (or satellites adjacent thereto). The AvL Supplemental Comments also rattle off a series of so-called conditions, which are really unnecessary or simply reaffirm matters already clearly stated for the record in this proceeding. To avoid any further confusion on these points, I am authorized on behalf of my client to reconfirm that:

- the performance of the antenna to be licensed (or any subsequent IPT Suitcase antennas that may be licensed by the Commission in the future) will satisfy the 29-25log $\Theta$  standard (indeed, this standard is also required by Eutelsat, where the IPT SUITCASE has been type approved);
- the major axis will be aligned with the orbital arc (any variability here being limited to  $\pm 20^\circ$  which, per the Georgia Tech Research Institute study attached to the Amendment, confirms that such variability will not result in adjacent satellite interference at power levels up to  $-14\text{dBw}/4\text{kHz}$ );
- the link budgets will use the 38.4dBi gain at 14.25 GHz; and
- the transmit power input to the antenna flange will not exceed  $-14\text{dBw}/4\text{kHz}$ , as allowed by the FCC (indeed, in light of the PanAmSat pleading, we have agreed that the transmit power input will not exceed  $-16\text{dBw}/4\text{kHz}$ ).

<sup>2</sup> The idea that a “point and shoot” type of control mechanism would be intrinsically superior to operational arrangements in which the antenna operator uses a spectrum analyzer and actually interacts with the satellite operator is counterintuitive, to say the least.

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with a number of features to facilitate ease of operation, including assuring appropriate pointing accuracy, such as a sophisticated Graphical User Interface (“GUI”).<sup>3</sup>

We furthermore note that virtually any dish is susceptible to mis-operation, should the intent to do so be present, but this has not caused the Commission to impose such requirements with respect to other dishes. Should any problems arise, the operating parameters that have been imposed by the satellite operators with whom we have now coordinated are fully sufficient to address such concerns. Rather than providing meaningful protection for satellite operations, imposition of an arbitrary restriction on who can operate the IPT SUITCASE would appear to be a transparent attempt to constrain SWE-DISH’s ability to market the IPT SUITCASE to U.S.-based customers.

In summary, it should now be clearer than ever that the FCC has before it *all* of the technical information and details necessary to enable it to expeditiously grant the requested license for the IPT SUITCASE. SWE-DISH has acknowledged and accepted the concerns of the satellite operators and is fully prepared to abide by the conditions laid out in their letters of January 8, 2004 (PanAmSat, Loral, SES) and January 9, 2004 (Intelsat). Most importantly, as is always the case in a competitive marketplace, time is of the essence. SWE-DISH has waited patiently for several months as its Application has been subjected to intense scrutiny. This delay, and in particular the most recent loss of an additional three weeks when the application was mistakenly placed on public notice for a second time, has taken its greatest toll in terms of lost business opportunities for marketing the IPT SUITCASE to potential U.S. customers.

For all of these reasons, we submit that there is no reason whatsoever to further delay the grant of the SWE-DISH Application and strongly urge the FCC to take immediate action to do so.

Sincerely,



Maury J. Mechanick  
Attorney for SWE-DISH Satellite  
Communications, Inc.

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<sup>3</sup> The features and characteristics of the GUI are described in more detail in the Opposition and Response of SWE-DISH Satellite Communications, filed on November 6, 2003.

**CERTIFICATE OF SERVICE**

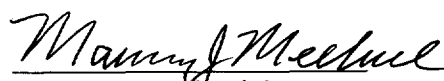
I hereby certify that a true and correct copy of the foregoing was sent by first-class mail, postage prepaid, this 20<sup>th</sup> day of May, 2004, to the following:

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Maury J. Mechanick

\* via Hand Delivery