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November 19, 1998

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VIA HAND DELIVERY

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20024

Re: Report of the GSO Ka-Band Blanket Licensing Industry Working Group: Separate Statement of Hughes Communications Galaxy, Inc.
IB Docket No. 98-172, RM-9005, RM-9118

Dear Ms. Salas:

Enclosed on behalf of Hughes Communications Galaxy, Inc. are an original and four copies of the Separate Statement of Hughes Communications Galaxy, Inc. with respect to the Report of the GSO Ka-Band Blanket Licensing Industry Working Group. This is submitted in connection with the pleading cycle on the Notice of Proposed Rulemaking in this proceeding regarding blanket licensing of satellite earth stations at 17.7-20.2 GHz and 27.5-30.0 GHz.

Respectfully submitted,

John P. Janka
Arthur S. Landerholm

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November 19, 1998

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SEPARATE STATEMENT OF HUGHES COMMUNICATIONS GALAXY, INC.
Report of the GSO Ka-Band Blanket Licensing Industry Working Group
IB Docket No. 98-172, RM-9005, RM-9118

For the following reasons, Hughes Communications Galaxy, Inc. ("Hughes") reluctantly is submitting this separate statement to, rather than joining, the November 19, 1998 Report of the GSO Ka-Band Blanket Licensing Industry Working Group (the "BL-WG").

Hughes is one of the original parties to the petition for rulemaking that gave rise to this working group and the pending Ka band blanket licensing rulemaking at the FCC. From the outset, Hughes has been committed to the development by industry of appropriate criteria that will allow blanket licensing in the U.S. of ultra small earth stations ("USATs") that are essential to the provision of broadband services at Ka band. Hughes reaffirms that commitment, as well as the commitment to continue with further work that is necessary in the BL-WG, and with work that is needed on the issues described below.

However, Hughes is unable to endorse the Report at this time. The Report reaches conclusions about certain significant issues, endorses the applicability of its results in certain circumstances, and states that the BL-WG relied on certain "presumptions" that, in fact, (i) were not adequately, if at all, addressed by the group, and (ii) would unduly and unnecessarily constrain the use of the Ka band for uses other than USATs.

Satellite services in the Ka band are in their infancy. It is in no one's interest to limit the development of this band without fully and explicitly addressing the necessity and consequences of doing so. An adequate opportunity to do so simply has not yet arisen.

More fundamentally, the Report of this group appears to vary from its original terms of reference. Instead of simply recommending parameters that will facilitate blanket licensing of USATs in the U.S., the Report now appears to suggest the terms and conditions under which U.S. GSO Ka band licensees will need to coordinate their spacecraft both in the U.S. and around the world. Those may be important issues to address, but the work of the BL-WG was not framed to address these issues, and the BL-WG simply has not addressed them adequately. Moreover, as Hughes cannot accept the technical parameters that the BL-WG is endorsing, Hughes is particularly at risk from the improper extension of these parameters beyond their intended purposes.

The fundamental policy issues raised in the Report fall into two broad categories:

(i) whether Ka band space station operators should have the flexibility to enter into coordination agreements that they can build their businesses around (as they do today in other bands); and

(ii) whether U.S. space station operators that seek to serve foreign markets should have flexibility to meet those needs and freely compete with non-U.S. licensed systems.

With respect to inter-system coordination, the Report effectively endorses the establishment of a spacecraft downlink power limit that an operator can exceed only if it is willing to risk the chance that it might be required to fundamentally change its business to accommodate a new neighboring system many years from now. Essentially, the Report provides that a satellite operator who enters into a binding coordination agreement with its neighbor and builds a business based on that agreement must live at the constant risk that any new licensee who might replace that neighbor has the right to force the existing satellite operator to "power down" and thereby disrupt service to existing customers. (Report at 5-6). Such a requirement is unprecedented in the satellite industry, provides undue negotiating leverage to the newcomer, and is unacceptable as a business risk.

With respect to applicability outside the United States, the Report concludes that any U.S. satellite operator who intends to serve a foreign region must design its system around parameters that were intended for USAT licensing in the U.S., regardless whether it intends to provide service to and from USATs, and regardless of the fact that neighboring (and competitive) foreign satellite systems are under no such constraints. (Report at 6). U.S. blanket licensing parameters, as such, provide no reasoned basis for limiting the ability of U.S. Ka band licensees to serve foreign markets.

The issues here are far too complex, and the stakes too high, to unthinkingly apply parameters outside the context in which they were developed. It may or may not be appropriate to consider the desirability of developing general parameters to govern the global operation of U.S. licensed GSO spacecraft, but any such work needs to be done in a context that is broader than the task of addressing blanket licensing of USATS in the U.S.

It is unfortunate that the problems described became apparent only recently and during the course of preparing the Report for filing during the pleading cycle of the Ka band blanket licensing rulemaking. Ideally, further work on these matters would have occurred before the Report was submitted. Under the current circumstances, however, Hughes has no choice but to submit this separate statement.

Finally, as described more fully in its comments in the blanket licensing rulemaking (filed today), Hughes and PanAmSat disagree with the primary technical parameters that the BL-WG is endorsing for blanket licensing of USATs. At bottom, Hughes believes that those parameters would unduly restrict both (i) the ability to provide a competitive, low-cost alternative to terrestrial broadband services, and (ii) the ability to utilize cutting edge satellite technology to respond to the fast-moving broadband, multimedia world. For USATs in the U.S., Hughes recommends (i) the adoption of an uplink coordination threshold based on an off-axis (2°) EIRP of +20.0 dBW/MHz, and the adoption of a downlink coordination threshold based on an average pfd on the earth's surface over any contiguous 40 MHz segment of -118 $dbW/m^2/MHz$. Further details on these matters are contained in Hughes's comments in the

blanket licensing rulemaking. Hughes also calls to the Commission's attention the separately filed comments of DIRECTV, which express the related concern that the Ka band needs of DTH providers also must be accommodated.

Hughes will be pleased to provide any further information that would assist the Commission in these matters.