ORIGINAL

LATHAM & WATKINS

ATTORNEYS AT LAW

1001 PENNSYLVANIA AVE., N.W.

SUITE 1300

WASHINGTON, D.C. 20004-2505

TELEPHONE (202) 637-2200

FAX (202) 637-2201

PAUL R. WATKINS (1899 - 1973)
DANA LATHAM (1898 - 1974)

CHICAGO OFFICE
SEARS TOWER, SUITE 5800
CHICAGO, ILLINOIS 60606
PHONE (312) 876-7700, FAX 993-9767

HONG KONG OFFICE
SUITE 2205A, 22ND FLOOR
NO. 9 QUEEN'S ROAD CENTRAL
HONG KONG
PHONE + 852-2522-7886, FAX 2522-7006

LONDON OFFICE
ONE ANGEL COURT
LONDON EC2R 7HJ ENGLAND
PHONE + 44-171-374 4444, FAX 374 4460

LOS ANGELES OFFICE
633 WEST FIFTH STREET, SUITE 4000
LOS ANGELES, CALIFORNIA 90071-2007
PHONE (213) 485-1234, FAX 891-8763

MOSCOW OFFICE
ULITSA GASHEKA, 7, 9TH FLOOR
MOSCOW 123056, RUSSIA
PHONE + 7-095 785-1234, FAX 785-1235

NEW JERSEY OFFICE
ONE NEWARK CENTER, 16TH FLOOR
NEWARK, NEW JERSEY 07101-3174
PHONE (973) 639-1234, FAX 639-7298

NEW YORK OFFICE
885 THIRD AVENUE, SUITE 1000
NEW YORK, NEW YORK 10022-4802
PHONE (212) 906-1200, FAX 751-4864

ORANGE COUNTY OFFICE
650 TOWN CENTER DRIVE, SUITE 2000
COSTA MESA, CALIFORNIA 92626-1925
PHONE (714) 540-1235, FAX 755-8290

SAN DIEGO OFFICE
701 "B" STREET, SUITE 2100
SAN DIEGO, CALIFORNIA 92101-8197
PHONE (619) 236-1234, FAX 696-7419

SAN FRANCISCO OFFICE
505 MONTGOMERY STREET, SUITE 1900
SAN FRANCISCO, CALIFORNIA 94111-2562
PHONE (415) 391-0600, FAX 395-8095

SILICON VALLEY OFFICE
135 COMMONWEALTH DRIVE
MENLO PARK, CALIFORNIA 94025
PHONE (650) 328-4600, FAX 463-2600

SINGAPORE OFFICE
20 CECIL STREET, SUITE 25-02
THE EXCHANGE, SINGAPORE 049705
PHONE + 65-536-1161, FAX 536-1171

TOKYO OFFICE
INFINI AKASAKA, 8-7-15, AKASAKA, MINATO-KU
TOKYO 107-0052, JAPAN
PHONE +813-3423-3970, FAX 3423-3971

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February 3, 2000

BY MESSENGER

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

Re: Notice of Ex Parte Presentation:
IB Docket No. 98-172, RM-9005, RM-9118

Dear Ms. Salas:

Pursuant to Section 1.1206(b) of the Commission's rules, Hughes Network Systems ("Hughes") hereby submit this notice of an ex parte presentation.

Yesterday, Michael Cook of Hughes Network Systems and I met with Ari Fitzgerald, Legal Advisor to Chairman Kennard, and discussed matters raised in Hughes's Comments and Reply Comments filed in the above-referenced proceeding. In addition, Hughes distributed the enclosed materials.

In the event there are any questions concerning this notification, please feel free to contact me at 202/637-2132.

A copy of this Notice of Ex Parte Presentation has been provided to Mr. Fitzgerald. An original and one copy are enclosed.

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Respectfully submitted,

Arthur S. Landerholm
of LATHAM & WATKINS

cc: Ari Q. Fitzgerald

HUGHES SPACEWAY

[redacted]

February 2000

HUGHES NETWORK SYSTEMS

Purpose of meeting

HUGHES SPACEWAY

- <u>Problem:</u> The FCC is about to vote on an Order that will have a negative effect on the Hughes SPACEWAY system
- Hughes has consistently stated that a full 1 GHz downlink is necessary for the SPACEWAY system
- However, the impact of the Proposal under consideration:
  - precludes use of necessary bandwidth
  - requires a redesign of the SPACEWAY system architecture
  - is fundamentally inconsistent with the 28 GHz band plan compromise in 1996 that Hughes faithfully has relied upon and in the SPACEWAY license of 1997

Hughes Network Systems (HNS)

HUGHES SPACEWAY

- HNS is a Hughes Electronics Corporation company
- World leader in satellite products and network systems for more than 25 years
- Holds 55% of the global VSAT market
- Manufacturer and provider of DIRECTV digital satellite systems and services
- Provider of the DirecPC broadband satellite Internet service - in the US and abroad
- Annual revenues in excess of $1.3 billion in 1999
- Headquartered in Germantown, Md., with worldwide offices

What is the SPACEWAY Satellite System?

HUGHES SPACEWAY

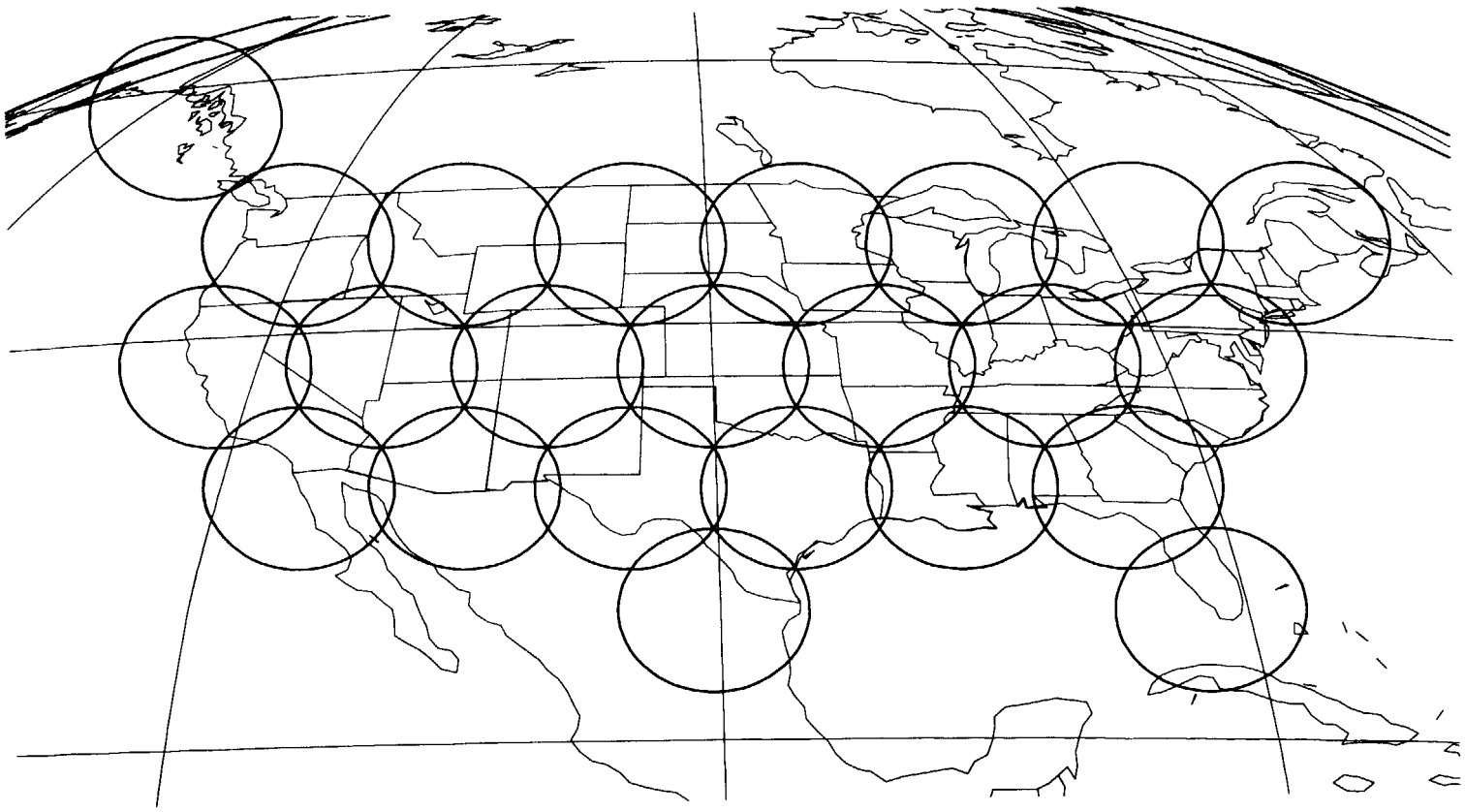
- Hughes has already committed $1.4 billion to first phase North American SPACEWAY system
- SPACEWAY is integral to $1.5 billion corporate endeavor with AOL
- Broadband competition to terrestrial telecom providers (cable, DSL, fiber)
  - we are different from today's satellite services
- Ubiquitous service to all of the US with the launch of a single satellite
- Indiscriminately serves all: rural/urban/suburban, tribal, business/home
- To be viable as a business, must be cost competitive with terrestrial alternatives

What SPACEWAY needs and why

- SPACEWAY needs "real" access to 1 GHz of *downlink* spectrum at 18 GHz
- Why?
  - To have sufficient capacity to compete with broadband terrestrial alternatives
    - on price
    - on access and call availability (no busy signals)
    - SPACEWAY has coverage to deliver service to everyone, regardless of location
  - To provide the maximum number of consumers access to the SPACEWAY broadband service
  - To universally serve both rural and urban areas competitively
    - Unlike terrestrial providers, SPACEWAY does not "cream-skim"

GSO FSS Provide Better Coverage to USA than Terrestrial Technologies

HUGHES SPACEWAY



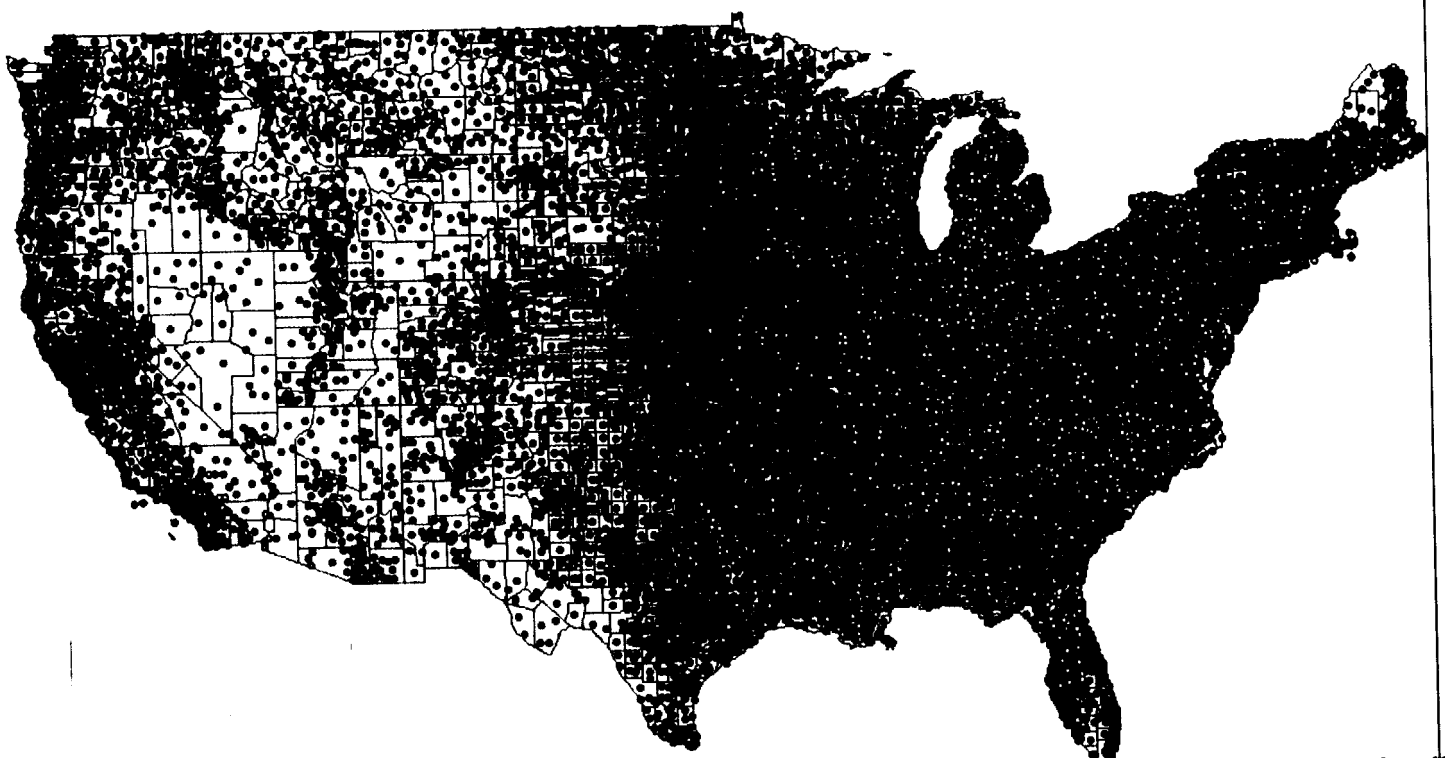
SPACEWAY US
coverage for 24 beams

HUGHES NETWORK SYSTEMS

February 2000

GSO FSS Provide Better Coverage to USA than Terrestrial Technologies

HUGHES SPACEWAY



- More than 75 Households /Sq. Mile (XDSL will have an advantage over Satellites)
- 25 to 75 Households/Sq. Mile (Satellites are competitive with XDSL)
- Less than 25 households/Sq. Mile (Satellites have an advantage over XDSL)

Source: Claritas Data base & MapInfo 1998 Population

HUGHES NETWORK SYSTEMS

February 2000

Impact of the Commission's 18 GHz proposal on SPACEWAY

HUGHES SPACEWAY

- Under NPRM proposal for 750 MHz, SPACEWAY would have to reconstruct business and technology approach
- Under new proposal for 720 MHz, GSO FSS gets disproportionately less usable bandwidth
  - Proposed limitations on other 280 MHz render that spectrum unusable for SPACEWAY-like systems
    - "Gateway" limitations are fundamentally inconsistent with trends in technology and regulatory flexibility
  - Terrestrial use of *any part* of a 125 MHz channel impedes use for ubiquitous satellite terminals
  - Would require further system redesigns that will cause cost increases and system delay

Impact of the Commission's 18 GHz proposal on SPACEWAY

HUGHES SPACEWAY

- GSO FSS access to only 750 MHz means:
  - Lower system capacity
  - Reduced call availability
  - Reduced data throughput
  - Reduced number of consumers having access
  - Reduced ability to provide universal service
  - Higher requirement to focus on business and high-end users
  - Greater difficulty in competing with terrestrial service providers on price

Why the Commission proposal is unbalanced and backtracks

HUGHES SPACEWAY

- Either proposal is inconsistent with 28 GHz band plan compromise among GSO FSS *(uplink)*, MSS feeder links and NGSO FSS
  - GSO FSS assigned 1 GHz, NGSO FSS assigned 500 MHz, MSS feeder links assigned 400 MHz
- GSO FSS need 1 GHz of usable 18 GHz downlink bandwidth to "pair" with its 1 GHz of uplink bandwidth at 28 GHz
- Other participants in the 28 GHz compromise are being fully accommodated at 18 GHz
  - MSS feeder links get 400 MHz
  - NGSO FSS gets 500 MHz

What the Commission should do instead

HUGHES SPACEWAY

- Reaffirm its commitment to provide 1 GHz of downlink spectrum for use by small GSO FSS antennas and designate 18.3 - 18.8 GHz for such use
  - Require terrestrial users to transition to digital technology and use available compression techniques;
    - Increases the number of terrestrial channels, yet using a smaller amount of spectrum
  - Remove limits on use of frequency bands that offer alternative homes for 18 GHz terrestrial users
    - such as, 12 GHz and 23 GHz
- Relax power limit on downlink transmissions at 18.6 - 18.8 GHz

What the Commission should do instead

HUGHES SPACEWAY

- If 1 GHz for GSO FSS cannot be fully accommodated, all industries should bear part of the "pain"
  - Terrestrial, MSS, NGSO FSS should be cut back as well
  - Terrestrial/GSO FSS sharing plan must be balanced and must reflect marketplace realities
  - Must allow GSO FSS to use small dishes throughout primary and co-primary spectrum
  - Must permit dishes in urban/suburban areas wherever they can be coordinated
    - Otherwise, real competition will not exist with terrestrial wireless alternatives
  - Must not limit the number of user terminals in shared spectrum