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

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| **In the Matter of** | ) | |
| | ) | |
| **Amendment of the Commission's Space Station Licensing Rules and Policies** | ) | **IB Docket No. 02-34** |
| | ) | |
| **2000 Biennial Regulatory Review – Streamlining and Other Revisions of Part 25 of the Commission's Rules** | ) | **IB Docket No. 00-248** |

**REPLY COMMENTS OF**
**THE BOEING COMPANY, HUGHES NETWORK SYSTEMS, INC., IRIDIUM SATELLITE LLC, LOCKHEED MARTIN CORPORATION, LORAL SPACE & COMMUNICATIONS LTD., MOBILE SATELLITE VENTURES LP, PANAMSAT CORPORATION, AND SES AMERICOM, INC.**

The Boeing Company, Hughes Network Systems, Inc., Iridium Satellite LLC, Lockheed Martin Corporation, Loral Space & Communications Ltd., Mobile Satellite Ventures LP, PanAmSat Corporation, and SES Americom, Inc. (collectively, the "Petitioners") hereby offer these brief Reply Comments on the Further Notice of Proposed Rulemaking in this proceeding.[1]

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[1] Amendment of the Commission's Space Station Licensing Rules and Policies, First Report and Order and Further Notice of Proposed Rulemaking, IB Dkt No. 02-34, FCC 03-102 (rel. May 19, 2003) (the "*Order*").

The Petitioners demonstrated in their initial Petition for Reconsideration and Comments[2] that the requirement that licensees post bonds that are payable upon failure to meet any license milestone[3] is legally unsubstantiated, unnecessary, and unduly burdensome, and as such should be eliminated. First and foremost, there is no statutory basis for the bond requirement. The Communications Act defines and narrowly circumscribes the Commission's authority to require payments, and provides no basis for the new multi-million dollar fine to be paid for missing a license milestone. Second, a bond requirement is unnecessary in light of the combined effect of the five other separate provisions in the Commission's new regulatory framework that are intended to deter speculation. Third, a bond requirement would pose significant costs on satellite operators, and deter the development of new and innovative services by existing satellite operators, as well as by potential new competitors. Nothing in the various parties' Petitions and Comments would challenge these conclusions.

The focus of the further NPRM is on the amount of the bond and the details of its implementation. However, the various comments and petitions filed on September 26, 2003 reflect a much broader theme. The satellite industry is virtually unanimous in its recognition that the bond requirement itself is deeply flawed. Telesat Canada, for example, asserts that bonds are unnecessary for foreign-licensed systems such as its own.[4] Northrop Grumman argues that the bond requirement is unnecessary in the context of existing applications, such as its own,[5] because

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[2] Petition for Reconsideration and Comments of the Boeing Company, Hughes Network Systems, Inc., Iridium Satellite LLC, Lockheed Martin Corporation, Loral Space & Communications Ltd., Mobile Satellite Ventures LP, PanAmSat Corporation, and SES Americom, Inc. (the "*Petition*").

[3] *See Order* ¶¶ 166-172.

[4] Telesat Canada Comments at 3.

[5] Northrop Grumman Comments at 7-9.

the requirement "may potentially inhibit system implementation."[6] Even Intelsat acknowledges that a bond requirement may pose a "barrier to entry."[7] SES Americom demonstrates "the harm that the bond will do to the satellite market,"[8] and SIA acknowledges that the requirement could be one of a series of "crippling new fees" that could lead to an "abrupt halt" to the expansion of satellite services.[9] Thus, while each party emphasizes the particular burdens that would attend application of a bond to itself, there is broad agreement that any bond requirement will impose significant and unnecessary costs. The totality of the comments and petitions demonstrate that the bond requirement is flawed beyond redemption.

Of course, the deadline has not arisen for any pleadings in opposition to the Petitions for Reconsideration in this matter. The Petitioners will address any such opposition to their Petition if and when it arises.

In sum, nothing in the comments on the further notice of proposed rulemaking provides any justification for the Commission's new bond requirement. To the contrary, the record demonstrates that the bond requirement is fatally flawed. The Commission should accordingly eliminate the requirement that satellite licensees post a performance bond payable upon failure to meet a license milestone.

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6 Northrop Grumman Comments at 5-6.

7 Intelsat Comments at 6.

8 SES Americom Comments at 2.

9 SIA Comments at 23.

Respectfully submitted,

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