

Before the  
**Federal Communications Commission**  
Washington, D. C. 20554

In the Matter of

Lockheed Martin Corporation COMSAT  
Corporation, and COMSAT Digital  
Teleport, Inc. ,Assignor,

And

Intelsat, Ltd., Intelsat (Bermuda), Ltd.,  
Intelsat LLC, and Intelsat USA License Corp.  
Assignee

Applications for Assignment of Sections 214  
Authorizations and Earth Station Licenses and  
Declaratory Ruling Requests

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IB DOCKET NO. 02-87

**MOTION TO ACCEPT SUPPLEMENT TO PROVISIONAL PETITION TO DENY**

Litigation Recovery Trust (“Petitioner” or “LRT”), on behalf of its members and its associated entities, and based on good cause, hereby submits the instant MOTION TO ACCEPT SUPPLEMENT TO PROVISIONAL PETITION TO DENY (“LRT Motion”).

In accordance with the Commission’s announced pleading cycle, LRT previously filed on a timely basis a Provisional Petition to Deny (“Petition”) and Reply Comments (“Reply”) in this proceeding. Concurrent with this Motion, LRT is filing a pleading denominated, Supplement to Provisional Petition to Deny (“Supplement”). LRT submits the instant Motion requesting that the Commission accept the Supplement although filed following the due date for the acceptance of pleadings under the accepted pleading cycle.

LRT is submitting the instant LRT Motion, in support of which, LRT states as follows:

1. Heretofore, LRT submitted its Petition and Reply pleadings on a timely basis in this proceeding.
2. On the day LRT filed its Reply, Lockheed Martin Corporation (“Lockheed”), Comsat Corporation (“Comsat”) and Intelsat, Ltd. (“ Intelsat”) jointly filed a pleading denominated Opposition of Lockheed Martin Corporation, et al and Intelsat, Ltd., et al, To Petitions to Deny and Petitions to Condition Grant (“Opposition”).
3. The contents of the Opposition was found to be directly relevant to issues and arguments raised in the Petition and Reply and to material evidence which has recently come into the possession of LRT.
4. In their Opposition, Comsat and Lockheed “[a]s a threshold matter” included the following attack against LRT and its members :

COMSAT and Lockheed Martin note that they previously have submitted materials to the Commission demonstrating that LRT’s pleadings are not filed for any legitimate purpose, but rather for purposes of harassment and extracting a settlement. Rather than repeat the facts again here, COMSAT and Lockheed Martin respectfully direct the Commission’s attention to the record in the Telenor-COMSAT docket.<sup>100</sup> LRT’s submission should be evaluated in light of this record.

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<sup>100</sup> See *Opposition of Telenor Services Holdings, Inc. et al, and Lockheed Martin Global Telecommunications, et al*, at 5-7, FCC File No. SES-ASG-20010504-00896 (filed Jan. 28, 2002) (discussing various court findings and sanctions against individual members of LRT arising out of “campaign of harassment against COMSAT and former subsidiary BelCom, Inc., which was sold in December 2001). LRT’s alleged business grievances plainly fall into the category of private contractual disputes in which the Commission will not intervene. See e.g. *Telenor-COMAT Stay Denial Order* at n. 33. Opposition, at pp. 31-32,

5. With the Applicants’ submission of the above attack against LRT members, referencing a series of their past pleadings in other proceedings before the Commission, Comsat and Lockheed have made the “legitimacy” of LRT’s actions a fundamental issue, and they have sought to totally discredit LRT’s participation in the current proceeding.

6. LRT has recently secured new evidence, which not only directly addresses the attacks by Lockheed and Comsat on the Trust's "legitimacy," but most importantly, provides vital information which establishes the dishonesty and misconduct of these two companies.
7. As described in detail in its Supplement, LRT has recently secured an Affidavit and become the beneficiary of a series of legal agreements, which directly impact the "threshold" issue raised in the Opposition.
8. LRT has secured new legal rights as outlined fully in the Supplement and supported by the Exhibits attached thereto, which will open the way for it to seek and secure the reversal of all illegal actions taken against it and its members to date by both Comsat and Lockheed.
9. These new legal rights will permit LRT to effectively dispose of all decisions obtained through fraud, which Comsat and Lockheed have referenced in the Opposition as the support for their "threshold" argument .
10. LRT is of the considered opinion that the information contained in the Supplement and Exhibits should be reviewed and considered by the Commission in the interest of the fair and efficient administration of justice, as it determines whether it should approve the pending applications, including making necessary findings pursuant to the Communications Act of 1934, as amended .
11. In addition, LRT has concluded that it is critical to transmit all such available information in the Supplement and Exhibits to permit the Commission to complete a full and proper review and analysis of the critical matters at issue in this proceeding.
12. The filing of the Supplement together with the Exhibits attached thereto has necessitated the submission of this Motion for good cause.
13. The Commission has set forth a definitive statement regarding its policy with respect to the granting motions of this type as follows:

Generally, the Commission's rules may be waived for good cause shown. As noted by the Court of Appeals for the D.C. Circuit, however, agency rules are presumed valid. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest. *In re Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 Citizens Utilities Company U S WEST Communications, Inc. Joint Petition for Waiver*, CC Docket No. 94-129 ORDER Released: July 14, 2000 ¶4 14 FCC Rcd (2000) (hereinafter "*Citizens /US West Joint Waiver*"), emphasis added.

14. In the instant case, LRT believes that its actions clearly comply with the Commission's established policy for granting motions for the action outlined herein based on a showing of good cause.
15. The Supplement and Exhibits deal directly with issues impacting the Commission's consideration of the Applicants' pending grant requests, including making necessary policy determinations to ascertain whether a grant of the applications complies with the public interest, convenience and necessity.
16. The facts, as established by LRT and presented in the Petition, Reply and Supplement, address the critical matters at issue in this proceeding, involving a fundamental Commission rules and policies as affecting the ownership and control of licensed communications facilities within the U.S.
17. LRT fully believes that it is in the public interest to assure that the Commission is provided full access to all available information related to the serious matters at issue in this proceeding.
18. LRT contends that, given the unique nature of the issues under review in this proceeding, including, among other matters, the highly unusual circumstances involving the possible authorization of the assignment of US licensed facilities to a company controlled by Intelsat, a Bermuda company, which in turn is owned in part by foreign governments, the sanctioning of Lockheed and Comsat for their past

actions and the requested redirection of all proceeds to be received by Lockheed and Comsat from the proposed transaction to a new fund to assist the digital conversion of small market, minority controlled and public television stations and cable systems, grant of this Motion is appropriate in this case to allow the submission of the Supplement and is in the public interest.

19. Indeed, a grant of the LRT Motion to allow submission of the Supplement including Exhibits will assure that the Commission has full access to the evidence included in the filing related to the past conduct of Lockheed and Comsat.
20. This Motion to allow the submission of the LRT pleading is in the public interest, as it will permit the Commission to review critical new evidence.
21. If LRT is not permitted to submit the Supplement, it will not be able to present full details of the new information related to the past actions of Comsat and Lockheed taken against LRT which directly impact their qualifications to continue as licensees.
22. It would not be in the public interest if the Commission did not have access to all available information, including that included within Supplement and Exhibits thereto, as it undertakes its deliberations in the instant proceeding. (See *Citizens/US West Waiver*, *ibid*, "The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.")
23. Given these particular circumstances, the Commission can and should properly take into account considerations of equity and more effective implementation of overall policy in this individual case to grant the Motion to assure that it has the opportunity to review all available and relevant information.
24. Consequently, LRT respectfully requests the Commission to grant the instant Motion to permit the submission of the Supplement including Exhibits thereto, based on a finding that (i) such a ruling is appropriate, given the special circumstances as outlined by LRT herein, which warrant a grant of the Motion, and (ii) such a ruling will serve the public interest, as it will allow the Commission the opportunity to undertake

a strict review and assess grounds for approval of the subject applications and the order of such other relief as deemed necessary and proper.

Respectfully submitted,

/s/ William L. Whitely

William L. Whitely  
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June 23, 2002

## CERTIFICATE OF SERVICE

I, William L. Whitely, hereby certify that I have this 23rd day of June, 2002 forwarded the foregoing MOTION TO ACCEPT SUPPLEMENT TO PROVISIONAL PETITION TO DENY via Email, Federal Express or US Mail, postage prepaid to the following:

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