

26. Comsat believes that the requirement in the Commission's letter of February 16, 1968, regarding proportionate fill offers reasonable protection for the future of the satellite system. It also believes that the assumption of the parties that the unfilled capacity of the satellite facilities will not exceed 3500 circuits may well be true. However, it sees no purpose in imposing what it calls such an artificial limitation.

27. We can appreciate both Comsat's concern and the interests of the cable partners in incorporating definitive terms in their agreement with respect to proportionate fill. It appears to us that the difference between the two is more apparent than real since all data submitted to us does not indicate that any satellite which may reasonably be expected to be operational in the 1970-72 time frame would in fact have more than 3,500 unfilled circuits. We, therefore, regard the cable partners' agreement as designed to achieve proportionate fill. In addition, our order, directed at the carriers subject to our jurisdiction, will maintain this requirement for proportionate fill.

28. Comsat also notes that the agreement between the carriers with respect to proportionate fill is based on the "assumption" that each of the European parties will be able to use the nearest earth station unless it chooses to use another earth station. Comsat urges that the assumption shall not weaken or vitiate the proportionate fill requirement and requests that we condition any authorization herein to eliminate any doubts regarding the obligation of the U.S. carriers to implement the spirit and extent of the proportionate fill requirement.

29. We appreciate Comsat's concern for the integrity of the proportionate fill requirement. We also understand the concerns which led to the assumption regarding the ability to use the nearest earth station. Assignments of units of satellite utilization to earth stations are made by INTELSAT and are not under the control of the European parties of the cable project. They have a legitimate concern that they should not be required to undertake long and expensive land-line hauls in Europe to reach an earth station which has capacity available to handle the satellite circuits which they would be required to use under Comsat's proposal; for example, Portuguese traffic routed via earth stations in England or Germany. We do not expect INTELSAT, or Comsat as manager of INTELSAT, to configure its system in such fashion except in unusual or emergency situations. If this should occur for a temporary period, then we would expect that achievement of the proportionate fill goal would be deferred until an adequate number of circuits are made available at nearby earth stations at which time we would expect that the deficit would be made up before additional cable circuits are used by the carriers involved. We further note that the proportionate fill requirement is not related to particular circuits or countries. The agreement provides that the exact ratio of cable to satellite circuits may vary from country to country as long as the overall proportions designed to insure a rate of fill under which the cable and satellites reach complete fill at the same time are maintained. In any event, as set forth in our order, we are retaining jurisdiction over the activation of circuits in TAT-5 and will be able to take such action to implement the proportionate fill requirement as the situation at any time may require.

30. Comsat requests that we note that the carriers' rate reductions seem to depend largely on the economic success in the development of the satellite system and not solely on the allegedly low revenue requirements of the TAT-5 cable. There is no doubt that this is true. But it is true because of the proportionate fill requirement in our order. Under this provision the carriers may be required to take as many as four or five satellite circuits for each cable circuit they use. Thus, the cost of satellite circuits rather than that of cable circuits is the controlling factor in the carriers' revenue requirements.

31. It should be clear, however, that the estimated cable costs themselves fully justify the proposed rate reduction and that there is no element of subsidy from the satellite circuits involved in these reductions. We do expect, however, that as the satellite technology matures and the potential economies are realized, the progressively reduced Comsat charges will provide a basis for further and continuing large scale reductions in charges for service to the public. It is this potential and our desire that it be realized as quickly as possible which was the basis for our letter of February 16, 1968 to Comsat expressing an expectation that Comsat would proceed promptly in cooperation with other members of INTELSAT to implement its plans for high capacity, flexible, long life and economical satellites of the next generation.