

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of the Applications of:

Space System License, Inc., and

Iridium Constellation LLC

For Authority to Assign Various Licenses
and Authorizations and Assume Certain
Pending Applications Related to the Iridium
Satellite System.

File No. SAT-ASG-20010319-00025

**REPLY TO JOINT OPPOSITION
OF L/Q LICENSEE AND GLOBALSTAR**

Space System License, Inc. ("Motorola") and Iridium Constellation LLC

("Iridium Constellation"), through their respective counsel, hereby reply to the joint

Opposition filed by L/Q Licensee, Inc. ("LQL") and Globalstar, L.P. ("GLP") (jointly,

"Globalstar") regarding the above-captioned applications.¹ Globalstar does not oppose

¹ This reply is being timely filed in accordance with the Satellite Policy Branch's *Public Notice*, Report No. SAT-00070 (April 17, 2001), which established May 27, 2001, as the date for filing such Replies. See 47 C.F.R. § 1.4 (j). The United States Department of Justice ("DOJ") and the Federal Bureau of Investigation ("FBI") have also asked that the Commission defer grant of the assignment of the Section 214 authorizations "pending a resolution by the applicant and the Department of Justice of those aspects of the applications that the FBI and DOJ believe may raise potential national security, law enforcement, and public safety issues." DOJ/FBI Petition to Defer at 1. Applicants do not object to the underlying relief sought by the DOJ and the FBI, and are willing to accept the grant of these assignments with the requested conditions to accommodate the requirements of the DOJ and the FBI. To the extent the

(Continued ...)

the assignment of any of the Iridium system licenses identified in the Commission's *Public Notice* to Iridium Constellation. Rather, the sole focus of its Opposition is the requested assignment of the pending modification application for Aeronautical Mobile Satellite (Route) Service ("AMS(R)S").² For the reasons set forth below and in the pleadings submitted in support of Motorola's AMS(R)S application, Globalstar's Opposition should be summarily rejected.³

Globalstar does not oppose substitution of Iridium Constellation for Motorola as the applicant for an AMS(R)S authorization, nor does it oppose Iridium Constellation's request for an exemption of the processing guidelines under Section 25.116(c)(2) of the Commission's Rules.⁴ Instead, Globalstar uses this proceeding as a vehicle to repeat arguments filed against Motorola's AMS(R)S application more than four years ago. Those arguments have no more merit today than they did in 1997. The one new argument made by Globalstar against Motorola's AMS(R)S application in this proceeding is untimely and therefore procedurally defective under Section 25.154(a) of the Rules.

Commission declines to issue a conditional grant, Applicants respectfully request that the Commission staff complete processing of all other aspects of the applications so that they can be expeditiously granted after a satisfactory CALEA/national security agreement is finalized.

² See Motorola AMS(R)S Application, File No. 18-SAT-ML-97 (Filed Dec. 4, 1996).

³ In any event, Globalstar's Opposition has no bearing on the Commission's consideration of the pending applications to assign the referenced licenses and authorizations. Accordingly, all of these applications can be granted without regard to the Opposition.

⁴ Opposition at 1.

On substance, the issues revisited by Globalstar concerning use of the 1610-1626.5 MHz band for AMS(R)S are still plainly without merit. Moreover, its new assertion regarding Part 87 of the Rules is not relevant to the pending AMS(R)S application, which requests a modification of the Iridium space segment license and not the certification of aeronautical terminals. None of these arguments should be permitted to delay grant of the underlying AMS(R)S application – or the instant applications for assignment of licenses to Iridium Constellation.

I. GLOBALSTAR'S OPPOSITION IS PROCEDURALLY DEFECTIVE AND SHOULD BE DISMISSED

Section 25.154(a) of the Commission's Rules states without any confusion, doubt or need for interpretation that "petitions to deny, petitions for other forms of relief, and other objections or comments" must be filed within 30 days after the date of public notice announcing the acceptance for filing of an application.⁵ On February 18, 1997, Globalstar filed a Petition to Deny or Grant With Conditions against Motorola's AMS(R)S application, arguing essentially that a rulemaking proceeding should be required before Motorola can be authorized to provide AMS(R)S in the 1.6 GHz band.⁶ In response, Motorola demonstrated that the 1610-1626.5 MHz band is already allocated to AMS(R)S on a co-primary basis and therefore does not require a new allocation of spectrum by the Commission or a corresponding rulemaking.⁷

⁵ See Public Notice, SPB-73, January 16, 1997.

⁶ See LQL Petition (Feb. 18, 1997) at 5-6.

⁷ Motorola Consolidated Opposition and Reply Comments (Mar. 26, 1997) at 9-10 (noting that Articles 50 (S43) and 51 (S44) of the ITU's Radio Regulations (RR) (Continued ...)

Motorola further showed that provision of AMS(R)S in the Big LEO MSS band is consistent with the Commission's rules.

Globalstar has now raised many of these same issues as well as new arguments in its Opposition. None of these arguments was necessitated by the instant assignment applications, which merely request that Iridium Constellation be allowed to assume the role as the applicant in the pending AMS(R)S application. Indeed, there is no justification four years after the record has closed in the AMS(R)S proceeding for Globalstar to be granted a waiver of Section 25.514(a) of the Rules in order to allow it to rehash stale arguments or make new ones, particularly given the voluminous record that the Commission already has before it in that proceeding, the inter-agency discussions that have already occurred and the resources that have already been expended in approaching a resolution of the issues in the AMS(R)S proceeding.

Were the Commission to address any of Globalstar's arguments now in the context of this assignment proceeding, it would endorse an unending right of litigious parties to reiterate, repeat, resubmit and otherwise burden the Commission with paper and frustrate the application process generally. For these reasons alone Globalstar's Opposition should be summarily dismissed.

Of critical decisional importance, Globalstar has not opposed the assignment of licenses *per se*, the essence of the matter that is now before the Commission. Nor has it objected to the proposed ownership amendment to the

provide special rules relating to AMS(R)S, including the nature of communications to be handled and the order of priority of those communications).

AMS(R)S application being treated as "minor" under Section 25.116(c)(2) of the Rules.⁸ Globalstar merely "oppose[s] further action on the [AMS(R)S] application originally filed. . . ."⁹ No matter what the Commission chooses to do with regard to the AMS(R)S application on the merits, it should not delay grant of the assignment applications and attendant waiver request, which have not been opposed by any party.

II. GLOBALSTAR'S ARGUMENTS AGAINST THE AMS(R)S APPLICATION ARE UNFOUNDED

As previously noted, Motorola has already addressed the arguments now being rehashed by Globalstar in its Opposition. There is already a primary allocation in the Big LEO MSS band for AMS(R)S that does not contain any directional limitation.¹⁰ Moreover, in its *BIG LEO Allocation Order*, the Commission not only found that Big LEO MSS systems could offer worldwide cellular-like services such as voice, data and facsimile, but that these systems may also provide radiolocation and radionavigation services.¹¹ Motorola also noted that the Commission's *Big LEO Order* stated that both

⁸ Public Notice, Report No. SAT-00070 (April 17, 2001).

⁹ Opposition at 1.

¹⁰ See 47 C.F.R. § 2.106 note S5.367 ("The bands 1610-1626.5 MHz and 5000-5150 MHz are also allocated to the aeronautical mobile-satellite (R) service on a primary basis. . . .").

¹¹ *In re Amendment of Section 2.106 of the Commission's Rule to Allocate the 1610-1626.5 MHz & the 2483.5-2500 MHz Bands for Use by the Mobile-Satellite Service, Including Non-Geostationary Satellites*, 9 FCC Rcd. 536, 539 (1994) ("Big Leo Allocation Order") ("MSS LEO systems potentially can provide a universally available world-wide cellular-like radiotelephone service offering voice, data and facsimile services. In addition, radiolocation and radionavigation applications can also be provided.")

basic and emergency communications can be provided.¹² The only condition imposed on Big LEO MSS licensees offering distress and safety services is to coordinate with the appropriate safety organization in a particular service area.¹³ It was clear, therefore, that AMS(R)S is “merely one of the ‘applications’ envisioned by the Commission to fall within the broader range of services set out in the Commission’s Big LEO Order.”¹⁴

Since the end of the AMS(R)S pleading cycle, the Commission has provided further guidance regarding the relationship between AMS(R)S and MSS in the 2 GHz MSS proceeding, which supports Motorola’s interpretation of the Big LEO rules:

As the Commission has stated in the past, AMSS is an example of MSS. The Commission has also stated that AMSS includes AMS(R)S. Therefore, we believe that Boeing can enter into contracts with members of the aviation community to provide

¹² *In re Amendment of the Commission’s Rules to Establish Rules & Policies Pertaining to a Mobile Satellite Service in the 1610-1626.5/2483.5-2500 MHz Frequency Bands*, 9 FCC Rcd. 5936, 5940 (1994) (“Big LEO Order”).

¹³ *Big LEO Order* at 6013-14 (“We also noted, however, that we expected any satellite licensee that chose to offer emergency or safety communications to coordinate with appropriate SAR [search and rescue] organizations. No commenters opposed this suggestion and we are adding it to the proposed rule.”).

¹⁴ See Motorola Consolidated Opposition at 12. AMS(R)S is clearly one of the constituent services encompassed under the definition of MSS. The Commission defines “Mobile-Satellite Service” as a “radiocommunications service: (1) [b]etween mobile earth stations and one or more space stations. . . .” 47 C.F.R. ¶2.1 (1996). It defines “Aeronautical Mobile-Satellite Service” as a “**mobile-satellite service**” in which mobile earth stations are located on board aircraft.” 47 C.F.R. ¶2.1 (emphasis added). It defines “Aeronautical Mobile-Satellite (R) service” as an “aeronautical **mobile-satellite service** reserved for communications relating to safety and regularity of flights, primarily along national or international civil air routes.” 47 C.F.R. ¶2.1 (emphasis added). See also *In re Amendment of Part 87 of the Commission’s Rules to Establish Technical Standards & Licensing Procedures for Aircraft Earth Stations*, 7 FCC Rcd 5896 n. 6 (1992) (“AMS(R)S is a **mobile satellite service** in which mobile earth stations are on board aircraft. Survival craft and emergency position-indicating radiobeacon stations may also participate in this service.”) (Emphasis added).

AMS(R)S in the generic MSS allocation without the need for any priority and preemption provision in the U.S. Table of Allocations.¹⁵

Motorola also offered precedents for not proceeding with a separate rulemaking for AMS(R)S, and countered Globalstar's claims that AMS(R)S would be inconsistent with the Commission's policies for the Big LEO MSS band.¹⁶ Motorola further responded that it is licensed to operate only in its authorized 5.15 MHz of spectrum and it will avoid harmful interference into adjacent satellite systems through compliance with all applicable out-of-band emission limitation requirements and with the system operator coordination process established by the Commission.¹⁷

In sum, all substantive arguments raised by Globalstar and the other parties to the AMS(R)S proceeding were squarely and completely addressed by Motorola in that proceeding in early 1997. Accordingly, the Commission's record in the AMS(R)S proceeding is complete in all respects and the AMS(R)S application is therefore ripe for grant.

¹⁵ *In the Matter of The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band*, 15 FCC Rcd. 16127 (2000), at ¶ 63. [footnotes omitted]

¹⁶ *See Motorola Consolidated Opposition* at 12-13.

¹⁷ *Id.* at 13 nn. 45, 46.

III. PART 87 IS NOT RELEVANT TO GRANT OF THE UNDERLYING AMS(R)S APPLICATION BECAUSE THAT APPLICATION ADDRESSES THE IRIDIUM SPACE SEGMENT ONLY

Globalstar's newest argument, filed four years late, is that Part 87 of the Rules does not authorize AMS(R)S in the Big LEO MSS band and there is therefore no basis for granting the modification application. Globalstar has misapplied Part 87, however, in that, by its own terms, those rules address only the terminals used in conjunction with aviation services. Specifically, Subpart F of Part 87, Aircraft Stations, refers to the use of aircraft earth stations, not the capability of the satellites themselves to provide AMS(R)S.¹⁸ The pending AMS(R)S application seeks only a modification of the Iridium space segment authorization, not an earth station authorization.

Globalstar perhaps inadvertently recognizes this fact because it cites to the Commission's AMS(R)S policy in the 2 GHz MSS band – which only addresses “aircraft-to-satellite transmissions.”¹⁹ Similarly, Globalstar incorrectly focuses on Section 87.173(b) of the Rules, noting that this rule does not include AMS(R)S earth stations in the 1559-1626.5 MHz band.²⁰

Contrary to erroneous assertions by Globalstar, Part 25 of the Commission's Rules contains the appropriate requirements for seeking authorization to provide AMS(R)S through the use of MSS space segment in the Big LEO MSS band.²¹

¹⁸ See, e.g., Sections 87.185-87.189 of the Rules, 47 C.F.R. §§ 87.185-87.189.

¹⁹ See Opposition at 5, quoting the 2 GHz Band Order, *supra*, at ¶¶ 61-62.

²⁰ *Id.* at 6, n.11.

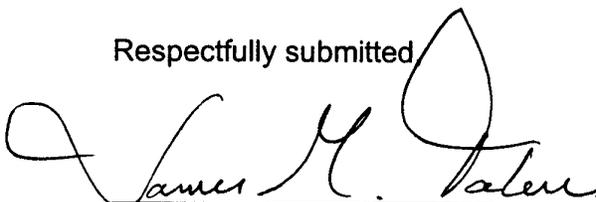
²¹ See Section 25.102 of the Rules, 47 C.F.R. §25.102.

Accordingly, Globalstar raises no legitimate issue with regard to Part 87 that should delay grant of the subject application to permit Iridium Constellation to assume Motorola's AMS(R)S application.

IV. CONCLUSION

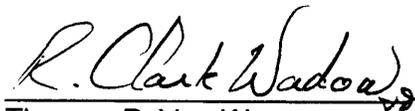
Globalstar's Opposition is procedurally defective and raises no issues of fact or law warranting the denial of the above-captioned applications. Accordingly, the Commission should not delay grant of the subject applications for consent to assignment, as well as the associated request for an exemption under Section 25.116(c)(2) for Iridium Constellation to assume Motorola's pending AMS(R)S application.

Respectfully submitted



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May 29, 2001

CERTIFICATE OF SERVICE

I, James M. Talens, hereby certify that I have on this 29th day of May, 2001, caused to be served true and correct copies of the foregoing Reply upon the following parties via hand delivery (marked with an asterisk (*)) or first-class United States mail, postage prepaid:

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