1001 Pennsylvania Avenue, NW, Washington, DC 20004-2595 ▪ p202 624-2500 ▪ f202 628-5116

crowell moring

William D. Wallace
(202) 624-2807
wwallace@crowell.com

August 27, 2002

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

RE: IB Docket No. 01-185, Flexibility for Delivery of Communications by Mobile Satellite Service Providers (electronically filed *ex parte* presentation);

ET Docket No. 95-18, Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile Satellite Service (electronically filed *ex parte* presentation);

ET Docket No. 00-258, Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services (electronically filed *ex parte* presentation);

ET Docket No. 99-81, The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band (electronically filed *ex parte* presentation);

Application File Nos. SAT-LOA-19970926-00151/152/153/154/156;

Application File Nos. SAT-MOD-20020717-00116/117/118/119;

Application File Nos. SAT-MOD-20020722-00107/108/109/110/112.

Dear Ms. Dortch:

Globalstar, L.P. ("GLP"), hereby responds to the August 15, 2002, letter submitted by AT&T Wireless Services, Inc., Cingular Wireless LLC and Verizon Wireless ("the Terrestrial Carriers") in the above-referenced dockets and proceedings that urges the Commission to "revisit" a number of issues related to the allocation, rules, and licenses for the Mobile-Satellite Service ("MSS") at 2 GHz.

The Terrestrial Carriers' letter contains unwarranted insinuations that the Commission and/or certain 2 GHz MSS licensees, including GLP, have failed to comply with the Commission's rules, procedures and policies governing these proceedings. Based on these alleged acts of non-compliance, the Terrestrial Carriers ask that the Commission reconsider the spectrum allocation for 2 GHz MSS, revoke the 2 GHz MSS licenses issued in July 2001, and scuttle the rulemaking regarding flexibility for MSS providers (IB Docket No. 01-185).

The Terrestrial Carriers have repeatedly made known their disagreement with the decisions made in these proceedings and/or the manner in which the Commission is conducting these proceedings and their desire to take the 2 GHz MSS spectrum for their own terrestrial wireless purposes. By casting benign facts with allegations of misconduct, the current letter demonstrates only the intensity of their campaign against MSS and a decision to clutter, rather than to contribute to, the record before the Commission.

There is no reason to dwell at length on the specifics of the Terrestrial Carriers' allegations. The Terrestrial Carriers note that GLP filed a certification that it had met its first 2 GHz MSS milestone, although they describe it as a "cursory statement of compliance." (Letter, at 4.) Section 25.143(e)(3) governs this statement, and requires that licensees "certify to the Commission by affidavit that *the milestone has been met.*" 47 C.F.R. § 25.143(e)(3) (emphasis supplied). This is exactly what GLP filed. If the Terrestrial Carriers find this filing deficient, then they may seek to have the rule changed, rather than gratuitously accusing GLP of non-compliance.

As for the trade press reports allegedly casting doubt on the validity of GLP's 2 GHz MSS satellite manufacturing contract (Letter, at 4), GLP has certified compliance with the non-contingent contract requirement and its contract with Space Systems/Loral, Inc., has been submitted to the Commission for review. The Terrestrial Carriers' insinuation that the contract may not be in compliance demonstrates the folly of relying on secondary sources to make claims about the relevant facts.

The Terrestrial Carriers also point out that GLP has filed applications to extend certain of the implementation milestones for its 2 GHz MSS system and to authorize certain technical changes. (Letter, at 5-6.) The Terrestrial Carriers suggest that the mere filing of applications to modify system parameters raise questions that the Commission "dodged" when the licenses were granted. These applications have been placed on Public Notice (Report No. SAT-00115, released August 1, 2002), and the Commission's existing rules set forth the procedure for parties to comment on the substance therein. GLP will not comment here.

In perhaps the most absurd of their accusations, the Terrestrial Carriers complain that "this proceeding is careening out of control" because GLP obtained an experimental license to test ATC phones. (Letter, at 9-10.) It is certainly true that GLP filed an experimental license application to test ATC phones. As the Terrestrial Carriers concede (Letter, at n.46), Part 5 contains no requirement that such an application be placed on public notice. But, the application was publicly available in full on the web site of the Office of Engineering & Technology ("OET"). The application was granted by OET. GLP made a presentation on the value of ATC at demonstrations attended by a few FCC Staff Members, which included the making of phone calls in MSS and ATC modes. The presentations were reported in an *ex parte* notice in IB Docket No. 01-185 in accordance with the Commission's rules. It was reported that attendees at the demonstrations made phone calls. The Terrestrial Carriers complain that no technical information was filed about the phone calls. (Letter, at 10.) The technical information about the ATC phones is available in the OET application file, which the Terrestrial Carriers have obviously reviewed, and, presumably, they understand how wireless phone calls are made.[1]

The Terrestrial Carriers complain that the complexity of these proceedings requires a change in course. (Letter, at 2.) The interrelatedness of these various proceedings certainly demonstrates the critical role that access to spectrum plays in maintaining the viability of MSS. But, the complexity of these proceedings does not justify precipitous changes in the decisions already made or the slowing of the progress of development of the record on these issues.

The Terrestrial Carriers have not asked for a stay, obviously because they could not meet the stringent requirements for such action. Undaunted, they are adopting indirect methods of attack on MSS to induce the Commission to stop in its tracks, reverse course, unwind decisions made on complete records, and ignore the increasing amount of evidence that supports grant of flexibility for MSS providers. In short, the Terrestrial Carriers seek the antithesis of the administrative process – agency action based on the desires of one set of interests rather than reasoned decisionmaking based on the evidentiary record. "[T]he Commission need [not]

---

[1] The Terrestrial Carriers note that the Commission has requested technical comments on ATC, that they have filed such comments, and that GLP responded to the Terrestrial Carriers' filing. (Letter, at 9.) They neglect to mention, however, that GLP had previously filed *timely* technical comments in response to the Commission's request on March 22, 2002. They also are simply wrong in characterizing GLP's technical filings as "not disput[ing] the carriers' underlying showings." (Letter, at 9-10.) The differences are a matter of public record.

allow the administrative processes to be obstructed or overwhelmed by captious or purely obstructive protests,"[2] and it should not do so here.

Putting aside the unfounded accusations in the August 15, 2002, letter, the Terrestrial Carriers' efforts to demonize MSS generally, and 2 GHz MSS specifically, are a smokescreen intended to obscure the Commission's vision for providing service to the areas of and populations in the United States that the Terrestrial Carriers do not serve at all or do not serve well. The Commission has already found:

> These satellite systems will provide new and expanded regional and global data, voice and messaging services using the 2 GHz frequency band (2 GHz MSS). The 2 GHz MSS systems also will enhance competition in mobile satellite and terrestrial communications services, and complement wireless service offerings through expanded geographic coverage. 2 GHz MSS systems will thereby promote development of regional and global communications to unserved communities in the United States, its territories and possessions, including rural and Native American areas, as well as worldwide.[3]

These findings remain just as true today as they were when adopted by the Commission. Moreover, as the record in the ATC proceeding makes clear, MSS stands alone as the wireless service that can provide a truly national, competitive systems for public safety, homeland security and first response services.

Finally, the Terrestrial Carriers attempt to justify their demands for spectrum by citing the financial difficulties experienced by MSS companies. (Letter, at 3.) Recent events in the telecommunications industry have demonstrated that financial difficulties are not limited to MSS or other services in their infancy. Moreover, as the Commission itself has recognized, financial difficulty alone is not a

---

[2] United Church of Christ v. FCC, 359 F.2d 994, 1005 (1966).

[3] The Establishment of Policies and Service Rules for the Mobile-Satellite Service in the 2 GHz Band, 15 FCC Rcd 16127, ¶ 1 (2000).

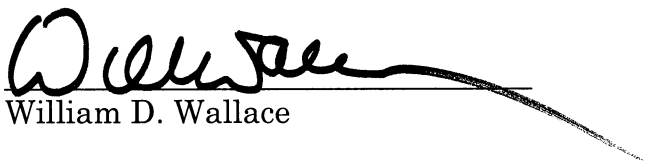
sufficient rationale to eliminate or discount systems that provide valuable services to consumers.[4]

With respect to these public interest concerns, the demands of the Terrestrial Carriers are obviously at odds with the national policy goals set forth in the Communications Act and implemented over many years by the Commission. The decisions in the rulemaking proceedings referenced above will have nationwide consequences. The Commission should not be detoured from its mandate of achieving nationwide communications services by the Terrestrial Carriers' faulty directions.

Pursuant to Section 1.1206(b)(1) of the Commission' Rules, copies of this letter were submitted electronically to the above-referenced dockets. Copies were submitted by hand delivery for the application file numbers and served on the Terrestrial Carriers and attached service list.

Respectfully submitted,

GLOBALSTAR, L.P.



William D. Wallace

CROWELL & MORING LLP
1001 Pennsylvania Avenue, N.W.
Washington D.C. 20004
(202) 624-2500

Its Attorneys

Of Counsel:

William F. Adler
Vice President, Legal and
Regulatory Affairs
Globalstar, L.P.
3200 Zanker Road
San Jose, CA 95134
(408) 933-4401

---

[4] See, e.g., United States Satellite Broadcasting Co., 1 FCC Rcd 977, ¶¶ 5-7 (1986).

cc: Chairman Michael Powell
Commissioner Kathleen Abernathy
Commissioner Michael Copps
Commissioner Kevin Martin
Kathleen O'Brien Ham
Evan R. Kwerel
James L. Ball
Breck Blalock
Tom Tycz
Karl Kensinger
Christopher Murphy
Bruce Franca
Donald Abelson
Thomas J. Sugrue
Edmond J. Thomas
Robert M. Pepper
David Furth
John Williams
Richard Engelman
Linda Haller
Trey Hanbury
Howard Griboff
Mary Woytek
Geraldine Matise

CERTIFICATE OF SERVICE

I, William D. Wallace, hereby certify that I have on this 27th day of August, 2002, caused to be served true and correct copies of the foregoing Letter upon the following parties via first-class United States mail, postage prepaid:

Cheryl A. Tritt
Morrison & Foerster, L.L.P.
2000 Pennsylvania Avenue, N.W.
Suite 5500
Washington, DC 20006-1888

Tom W. Davidson
Akin Gump Strauss Hauer & Feld, L.L.P.
1333 New Hampshire Avenue, N.W.
Suite 400
Washington, D.C. 20036

Robert A. Mazer
Vinson & Elkins L.L.P.
1455 Pennsylvania Avenue, N.W.
Suite 70
Washington, D.C. 20004-1108

Phillip L. Spector
Jeffrey H. Olson
Paul Weiss Rifkind Wharton & Garrison
1615 L Street, N.W.
Suite 1300
Washington, D.C. 20036

Gerald Helman
Mobile Communications Holdings, Inc.
Two Lafayette Center
1133 21st Street, N.W.
Washington, DC 20036

David A. Nall
Bruce A. Olcott
Squire Sanders & Dempsey L.L.P.
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20044-0407

Gregory C. Staple
R. Edward Price
Vinson & Elkins L.L.P.
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1108

John C. Quale
Brian D. Weimer
Skadden Arps Slate Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, D.C. 20005-2111

Lawrence H. Williams
A. Suzanne Hutchings
New ICO Global Communications
(Holdings), Ltd.
1730 Rhode Island Avenue, N.W.
Suite 1000
Washington, D.C. 20036

Bruce D. Jacobs
David S. Konczal
Paul A. Cicelski
Shaw Pittman
2300 N Street, N.W.
Washington, D.C. 20037

Henry Goldberg
Joseph A. Godles
Mary J. Dent
Goldberg, Godles, Werner & Wright
1229 19th Street, N.W.
Washington, D.C. 20036

James C. Pachulski
Bell Atlantic Corp.
1320 North Courthouse Road
Eighth Floor
Arlington, VA 22201

Peter A. Rohrbach
Karis A. Hastings
Hogan & Hartson, LLP
555 13th Street, N.W.
Washington, D.C. 20004

Paul J. Sinderbrand
Wilkinson Barker Knauer LLP
2300 N Street, N.W.
Washington, D.C. 20037

L. Andrew Tollin
Kathy A. Zachem
Wilkinson Barker Knauer LLP
2300 N Street, N.W.
Washington, D.C. 20037

William D. Wallace