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December 18, 2002

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

RE: IB Docket No. 01-185
Response to Iridium Satellite LLC Ex Parte Presentation

Dear Ms. Dortch:

Globalstar, L.P. ("GLP") and Globalstar USA LLC ("GUSA") are hereby responding to the letter submitted by Iridium Satellite LLC ("Iridium") on December 3, 2002, in this docket, recommending that the Commission not grant ancillary terrestrial authority ("ATC") for 1.6/2.4 GHz Mobile-Satellite Service ("MSS") ("Big LEO") systems until the Commission has modified the band plan currently governing operations of Big LEO systems. Iridium has pending a petition for rulemaking, which has not yet appeared on Public Notice, proposing modifications to the Big LEO band plan.[1]

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[1] The Commission has not yet placed Iridium's petition for rulemaking on Public Notice. Accordingly, GLP and GUSA will reserve comment on the merits of that petition until the Commission has established comment dates. Obviously, the Commission has yet not developed the record that it recognized would be required to adjust the existing Big LEO band plan. See Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610-1626.5 MHz/2483.5-2500 MHz Frequency Bands, 9 FCC Rcd 5936, 5961 (1994) ("Big LEO Rules Order"). Iridium's suggestion (Letter, at 12-13) that the Commission can modify the Big LEO band plan in *this* proceeding, which covers a completely different service and included no notice that the Big LEO band plan was at issue, is contrary to the laws and regulations governing proceedings before the Federal Communications Commission.

GLP and GUSA urge the Commission to reject Iridium's effort to impose an artificial regulatory restraint on the provision of ATC by other MSS systems.

The sole reason for Iridium's request is that Iridium, which never embraced ATC in the first place, now finds that it cannot offer ATC within its current spectrum assignment. Accordingly, Iridium seeks to prevent the other operational Big LEO system, Globalstar, from offering ATC, unless Iridium obtains additional spectrum either for its existing MSS service or for both MSS and ATC.

As indicated in its prior pleadings in this docket, Iridium is not particularly interested in offering ATC.[2] Its request for an artificial restraint on the only other Big LEO system is a blatant and self-serving effort to deny a competitor the opportunity to offer ATC and to deny the public the benefits of ATC over the Globalstar system. This anti-competitive, anti-consumer campaign should not be countenanced. If and when the Commission authorizes MSS systems the flexibility to offer ATC, it should place no artificial regulatory restraints on the authority to offer this service.

Iridium's Technical Difficulties Are of Its Own Choosing

Ten years ago, the proponents of the Iridium system touted its bidirectional use of the 1.6 GHz band (for both MSS uplinks and downlinks) as the only technical way to use the 1.6/2.4 MSS bands to achieve a successful MSS business.[3] The

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[2] See Comments of Iridium Satellite LLC, at 4 (Oct. 22, 2001) ("it is not essential to the success of the Iridium System that MSS licensees be permitted to offer ancillary terrestrial services ("ATS") of the sort discussed in the NPRM"); Ex Parte Notice of Iridium Satellite LLC, p. 2 (Oct. 3, 2002) (even if granted additional spectrum at 1.6 GHz, Iridium's bidirectional spectrum assignment "would hamstring Iridium's ability to develop a competitive ATC service").

[3] "There are serious risks and limitations associated with a CDMA full band interference sharing approach which will have a significant impact on CDMA system capacity and performance. These risks and limitations include:

(i) Substantial ambient noise levels in the S-band from ISM devices (primarily microwave ovens) exceeding the thermal noise of the receivers which will prevent MSS operations in many urban and other populated areas."

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Iridium system specifically and emphatically eschewed the use of the 2.4 GHz band for MSS downlinks, even though that band was specifically allocated for MSS downlinks, and sought an exclusive segment in the 1.6 GHz band for its TDMA technology.[4] In order to accommodate the Iridium system, the United States also sought and achieved an international secondary allocation in the 1.6 GHz band specifically for Iridium's downlink at the 1992 World Administrative Radio Conference.[5]

The proponents of the Globalstar system and other aspiring CDMA applicants urged the Commission to authorize only CDMA use of the 1.6 GHz and 2.4 GHz bands so that the two bands could be used by all authorized Big LEO systems on a shared basis.[6]

Ultimately, the Commission decided that Iridium's freedom to choose a technical design "to meet the particular needs of [its] customer base" outweighed the benefits of authorizing all systems to use the same spectrum through CDMA sharing.[7] That decision, however, required the Commission to slice off a segment of

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Report of Motorola on Band Segmentation Sharing, at 2 (*Executive Summary)*, Report of the MSS Above 1 GHz Negotiated Rulemaking Committee, Att. 2 to Annex 1 (Apr. 6, 1993).

[4] See id. (*Report of Motorola*) at 10-13.

[5] See Amendment of Section 2.106 of the Commission's Rules to Allocate the 1610-1626.5 MHz and the 2483.5-2500 MHz Bands for Use by the Mobile Satellite Service, 9 FCC Rcd 536, 539-40(1994); An Inquiry Relating to Preparation for the International Telecommunication Union World Administrative Radio Conference, 6 FCC Rcd 3900, 3939 (1991).

[6] "[T]he Full Band Interference Sharing approach will best serve the public interest because it maximizes multiple entry, promotes competition, and facilitates . . . domestic and international coordination. Most importantly, the Full Band Interference Sharing approach provides for efficient use of spectrum." Final Report of the Majority of the Active Participants of Informal Working Group 1, at xiii, Report of the MSS Above 1 GHz Negotiated Rulemaking Committee, Att. 1 to Annex 1 (Apr. 6, 1993).

[7] See Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610-1626.5 MHz/2483.5-2500 MHz Frequency Bands, Notice of Proposed Rulemaking, 9 FCC Rcd 1094, 1100-01 (1994).

the 1.6 GHz band for Iridium's exclusive use. Since the other Big LEO applicants also needed spectrum assignments in the 1.6 GHz band, the Commission authorized Iridium to use approximately one-third of the band, and authorized the four CDMA Big LEO applicants to use the remaining two-thirds on a shared basis, plus the entire 2.4 GHz band, which was needed for the CDMA systems' duplex downlinks.[8] The result was the current assignment in which Iridium has exclusive spectrum at 1.6 GHz, and Globalstar operates in a segment of the 1.6 GHz band and the 2.4 GHz band that were designated for spectrum-sharing.

Iridium Now Seeks to Impose the Limitations of its Design
on Other Systems Through Artificial Regulatory Restraints

Iridium has discovered that its technology does not provide much flexibility, particularly with respect to ATC. It filed comments in this proceeding recommending that the Commission not grant ATC authority to MSS licensees.[9] And, more recently, it claimed that even with additional spectrum, it would be difficult to provide ATC.[10] In short, Iridium's choice of technology created "inequities [that] would hamstring Iridium's ability to develop a competitive ATC service."[11]

On the other hand, despite Iridium's dire warnings about the difficulties of providing MSS with separate uplink and downlink bands, the Globalstar system was constructed and launched using exactly that technology. Currently, Globalstar has over 80,000 subscribers worldwide, and is using its flexible design to develop products to meet the needs of a variety of niche markets.[12] This proceeding on

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[8] See Big LEO Rules Order, 9 FCC Rcd at 5854-56.

[9] See Comments of Iridium Satellite LLC, at 5-8 (Oct. 22, 2001) (recommending creation of a secondary terrestrial service in the MSS bands and auction of licenses for same to any interested party).

[10] See Ex Parte Notice of Iridium Satellite LLC, p. 2 (Oct. 3, 2002).

[11] Id.

[12] GLP is the manager of the Globalstar™ MSS system and owns and operates the global MSS business provided over a constellation of 48 non-geostationary satellites. GLP contracts for space segment capacity with service providers who are authorized to offer voice, data and other telecommunications services to end users in individual countries. In certain territories, including North America, subsidiaries of GLP offer MSS directly to consumers. GUSA is the service provider

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flexible services for MSS licensees offers the opportunity to target additional niche markets with MSS and ATC services. Indeed, GLP has identified a number of markets, including public safety and homeland security, that are potential users of combinations of MSS and ATC services.[13]

Iridium's Request for Delay Should Be Rejected

Unable to serve the ATC markets identified by GLP, Iridium has initiated a campaign to deny all consumers the benefits of ATC over a Big LEO system. First, Iridium claims that the Commission has to remedy the alleged inequities in the Big LEO band plan before Globalstar should be authorized for ATC. (Letter, at 6-7.) As detailed above, any inequities in the Big LEO band plan are the direct result Iridium's efforts to obtain exclusive spectrum for its own use and to use a technology that it selected knowing its shortcomings. And, Iridium concedes that expanding the TDMA portion of the 1.6 GHz band will not significantly improve Iridium's ability to offer ATC. Therefore, action on the request in Iridium's petition is irrelevant to addressing whatever perceived inequities there may be.

Second, Iridium claims that authorizing Globalstar for ATC without expanding Iridium's spectrum assignment would "severely injure Iridium." (Letter, at 7-8.) This is no rationale for denying service to the public. If the Commission were to tailor spectrum usage to the designs and desires of a licensee's competitors, consumers would never have competitive spectrum-based services. The Globalstar and Iridium systems each offer advantages and disadvantages to consumers. Each system should be able to address the markets that can best take advantage of the available services. If Iridium ultimately cannot serve customers seeking an MSS-ATC combination, there is no reason to preclude Globalstar or other MSS systems from attempting to serve them.

Iridium also claims that sound spectrum management, as embodied in the Spectrum Policy Task Force Report,[14] supports denying Globalstar the opportunity to offer ATC and consumers the opportunity to use ATC until the Commission has

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for Globalstar in the United States, and is licensed to operate a gateway earth station in Clifton, Texas.

[13] See Reply Comments of Globalstar, L.P., and L/Q Licensee, Inc., at 3-6 (Nov. 13, 2001).

[14] Spectrum Policy Task Force, Report (Nov. 2002).

reviewed the Big LEO band plan. (Letter, at 9.) This claim is, of course, the exact opposite of the Task Force recommendations.

The Task Force supports "broad, highly flexible uses" of spectrum. The Task Force also supports allowing licensees to make the decision on what services to offer in response to consumer demand: "Flexibility enables spectrum users to make fundamental choices about how they will use spectrum . . . taking into account market factors such as consumer demand, availability of technology, and competition."[15]

Even Iridium's proposed band plan adjustments demonstrate the anti-competitive nature of its request. (Letter, at 10-12.) While Iridium claims it needs more spectrum, it suggests that the Commission take back spectrum from the Big LEO service. The only purpose of such a request is to cripple Globalstar or any other Big LEO competitor. If Iridium cannot use the spectrum, Globalstar certainly can and will to the benefit of homeland security, rural and cellular-deprived populations, and other U.S. and global markets.[16]

Moreover, Iridium proposes that it be allowed to use 5 MHz in the S-band for ATC. (Letter, at 10.) But, the Iridium satellite system *was not authorized for construction or operation in the S-band.*[17] Therefore, with its existing system, Iridium could only use the S-band for terrestrial service, which would not be "ancillary" to any satellite service.

Conclusion

The Commission heeded Iridium's request 10 years ago, and, as a result, Iridium finds itself "constrained" with respect to ATC. However, Iridium was built with its preferred technology and offers certain features not available over the Globalstar CDMA system. The differences between Iridium and Globalstar are the result of design choices approved by the Commission almost a decade ago. The Commission should not revisit these decisions today when it is nearly impossible to assess parity on the technologies in orbit, let alone attempt to remedy any disparity.

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[15] Id. at 16.

[16] See Letter to Mr. Donald Abelson from William D. Wallace on behalf of L/Q Licensee, Inc. (Mar. 21, 2000) (requesting interim authority for Globalstar system to operate up to 1626.5 MHz when Iridium had ceased providing service in 2000).

[17] See Motorola Satellite Communications, Inc., 10 FCC Rcd 2268, ¶ 24 (Int'l Bur. 1995).

Even if the Commission were to consider modifying the Big LEO band plan, it is customary to grant authority and authorize new services subject to the outcome of a new rulemaking rather than to await the result of the rulemaking.[18] By so doing, the parties can evaluate the costs of implementing the authority, and can proceed at their own risk. "A delay in issuance of the licenses would not be in the public interest where it would adversely affect the introduction of competition and new services."[19]

Moreover, the Commission has long rejected efforts of competitors to delay introduction of service to consumers based on arguments similar to those presented by Iridium. For example, in the rulemaking establishing the cellular service, the Commission refused to delay introduction of cellular service by wireline carriers against allegations that they would hold a competitive advantage. The Commission found that "the immediate need for cellular service outweighed the possible anticompetitive effects of allowing wireline carriers to enter a market before non-wireline carriers."[20] Similarly, the benefits to consumers of introducing ATC outweighs any of the arguments for delay made by Iridium.

Accordingly, GLP and GUSA urge the Commission to allow Globalstar to offer those ATC services that the system is capable of providing and not to heed Iridium's request to limit the introduction of ATC. If the Commission ultimately decides to grant flexibility to MSS systems, it should not impose any artificial restraints on which systems can offer ATC or when.

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[18] See, e.g., ICO Services Limited, 16 FCC Rcd 13762, 13773-74 (Int'l Bur. 2001) (authority to launch and operate MSS system granted subject to potential changes in available spectrum); L/Q Licensee, Inc., 11 FCC Rcd 16410,16413-14 (IB/OET 1996) (granting authority to use feederlink spectrum allocated for MSS at ITU, pending U.S. proceeding to adopt same allocations); Cellularvision, Inc., 11 FCC Rcd 9672, 9679 (WTB 1995) (granting applications for transmitters in new service subject to outcome of pending rulemaking to adopt rules for service).

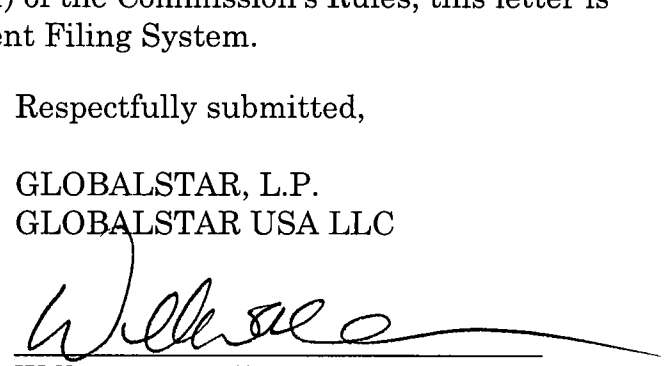
[19] ICO Services Limited, 16 FCC Rcd at 13774.

[20] An Inquiry into the Use of the Bands 825-845 MHz and 870-890 MHz for Cellular Communications Systems, Memorandum Opinion and Order on Reconsideration, 89 FCC 2d 58, 74 (1982).

Pursuant to Section 1.1206(b)(1) of the Commission's Rules, this letter is being filed over the Electronic Comment Filing System.

Respectfully submitted,

GLOBALSTAR, L.P.
GLOBALSTAR USA LLC



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