Before the
Federal Communications Commission
Washington, .C. 20554

In the Matter of	)	
	)	
TELENOR SATELLITE SERVICES HOLDINGS, INC.	)	File No. ISP-PDR-20020122-00002
	)	
Petition for Declaratory Ruling In Applicability of Cost Accounting Requirements	)	

ORDER

Adopted: March 17, 2003 Released: March 18, 2003

By the Chief, International Bureau:

I. INTRODUCTION

1. In this Order we grant the Petition for Declaratory Ruling filed by Telenor Satellite Services Holdings, Inc., and its affiliates, Telenor Satellite Services, Inc., and Telenor Satellite, Inc. (collectively "Telenor"). Telenor requests a ruling that cost accounting and reporting requirements imposed on the former COMSAT Mobile Communications (CMC), including the annual filing of a Cost Allocation Manual (CAM), Joint Cost Report (JCR), and Form M, as well as quarterly filing of Form 901, are not applicable to the ongoing business of Telenor following its recent acquisition of CMC.

2. Telenor filed its petition on January 22, 2002. The Wireline Competition Bureau has granted a temporary waiver of form M, Form 901, and associated filing requirements pending the outcome of this proceeding.[1] No opposition or other comments were filed in response to the Telenor petition.

II BACKGROUND

3. On January 11, 2002, Telenor acquired CMC and all of CMC's licenses and authorizations, transferred pursuant to Commission authorization.[2] CMC had provided mobile satellite services via the Inmarsat system. Inmarsat was created in 1978 as an intergovernmental organization to develop a global satellite that initially provided commercial maritime and safety

[1] Letters from Peyton L. Wynns, Chief, Industry Analysis Division, Wireline Competition Bureau, to Bruce A. Henoch, Counsel for Telenor Satellite Services Holdings, Inc. dated February 28, 2002 and June 27, 2002.
[2] *In the Matter of Lockheed Martin Global Telecommunications, et al.*, Order and Authorization, FCC 01-369, 16 FCC Rcd 22897 (rel. Dec. 18, 2001); *recon. denied,* FCC 02-207, 17 FCC Rcd 14036 (rel. July 12, 2002) (*Telenor Order*).

services and later aeronautical and land mobile services. U.S. participation in Inmarsat was through Comsat Corporation (Comsat). Comsat was designated as the U.S. Signatory to Inmarsat and provided services through Inmarsat pursuant to the International Maritime Satellite Telecommunications Act of 1978.[3] Inmarsat privatized in 1999. In 2000, Comsat's statutory role in Inmarsat was largely terminated by the enactment of the Open-Market Reorganization for the Betterment of International Telecommunications Act (Orbit Act).[4]

4. In the early 1980's, in order to allow Comsat to offer services outside its statutory Inmarsat and INTELSAT roles, the Commission required Comsat to be separated into two distinct corporate elements. One element was to handle all non-jurisdictional, i.e., non INTELSAT Inmarsat activities, and the other was to handle the INTELSAT and Inmarsat activities.[5] In addition, the Commission imposed upon Comsat certain accounting procedures, coupled with structural separation and arms-length dealings between the separate elements. The Commission's concern at the time was the potential for cross-subsidizing, which could harm rate payers as a result of an improper allocation of jurisdictional and non-jurisdictional costs.

5. In 1993, the Commission granted Comsat a waiver of its structural separation requirements to permit Comsat to offer certain value-added maritime services on an un-separated basis, subject to Comsat's compliance with new non-structural safeguards.[6] The Commission found that the accounting and cost allocation principles established by the *Comsat Structure* orders would be insufficient to prevent jurisdictional services' cross-subsidizing of non-jurisdictional services when the latter were not offered on a separated basis. The Commission therefore conditioned its waiver on the establishment of certain non-structural safeguards to ensure that service providers and customers are protected from the potential abuse of Comsat's monopoly power.[7] Specifically, the Commission required Comsat to develop nonstructural safeguards concerning non-discrimination in the provision of its Inmarsat satellite services, public disclosure of satellite network information, and the use of customer proprietary network information (CPNI). In addition, it required Comsat to certify that it would not bundle these value-added services with its tariffed jurisdictional services. The Commission further conditioned its waivers on Comsat developing accounting safeguards and cost allocation procedures to assure that Comsat's non-jurisdictional value-added maritime services are not

[3] 47 U.S.C. § 501 *et seq.* (1978).

[4] 47 U.S.C. § 761 *et seq*. (2000).

[5] *Changes in the Corporate Structure and Operations of the Communications Satellite Corporation*, Memorandum Opinion and Order, 90 FCC 2d 1159 (1983) (*First Structural Order*), *recon.*, 93 FCC 2d 701 (1983) (*First Structural Recon*)*;* Second Memorandum Opinion and Order, 97 FCC 2d 145 (1984) (*Second Structural Order*), *recon*. 99 FCC 2d 1040 (1984) (*Second Structural Recon*), Report and Order, FCC No. 85-178, 50 Fed. Reg. 18304 (April 30, 1985) (*Final Structural Order*).

[6] *Communications Satellite Corporation*, Memorandum Opinion and Order, 8 FCC Rcd 1531, 1536 (1993) (*Comsat Waiver Order*).

[7] *In the Matter of Comsat Mobile Communications, AAD 94-24 Permanent Cost Allocation Manual for the Separation of Jurisdictional and Non-jurisdictional Cost*, DA 95-1509, Memorandum Opinion and Order, 10 FCC Rcd 7639, n.1 (Com. Car. Bur. July 13, 1995) (*CAM Order*) ("The term 'Jurisdictional' refers to the activities and services undertaken by Comsat pursuant to the Communications Satellite Act and subject to rate of return regulation……The term 'non-jurisdictional' refers to the activities outside Comsat's statutory mission and thus free of traditional rate of return regulation.").

subsidized by jurisdictional activities. In 1995, the Commission conditionally approved Comsat's Cost Accounting Manual.[8]

III. DISCUSSION

6. Telenor asserts in its Petition that the cost accounting and reporting requirements formerly imposed on CMC, which have not been eliminated to date, are not applicable to Telenor because (1) the statutory basis for these requirements was eliminated as a matter of law by the passing of the ORBIT Act; (2) any competitive reason for regulating CMC, now Telenor, differently than its competitors evaporated with the 1999 privatization of Inmarsat; (3) Telenor, in acquiring the CMC business, did not step into the historical shoes of Comsat Corporation for regulatory purposes; and (4) continuing to impose the cost accounting requirements places Telenor at a significant competitive disadvantage. Telenor seeks a ruling that the cost accounting and reporting requirements placed on CMC as the former U.S. Signatory to Inmarsat do not apply to Telenor on a going-forward basis.

7. We find that the basis for the cost accounting and reporting requirements imposed upon CMC no longer exists and that these requirements do not now apply to Telenor. First, Inmarsat's 1999 privatization eliminated certain competitive advantages that Inmarsat enjoyed as an intergovernmental organization and from which CMC benefited. The Commission has found that, with the exception of a yet-to-be-held IPO, Inmarsat's privatization has satisfied the requirements of the ORBIT Act intended to promote competition in satellite communications.[9] Second, the ORBIT Act eliminated Comsat's statutorily-mandated role in Inmarsat, including designation of Comsat as the U.S. Signatory to and the sole U.S. operating entity in Inmarsat.[10] Third, the Commission has authorized other service providers to compete with Comsat in the provision of the full range of Inmarsat services to, from, and within the United States.[11] In addition, in authorizing Telenor's acquisition of CMC, the Commission noted the existence of competing mobile satellite systems, including Inmarsat and the carriers that provide service via the Inmarsat system.[12] In view of all of these factors, the historical basis for imposing the cost accounting and reporting requirements upon CMC no longer exists and applying them to Telenor would serve no purpose.

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[8] *See CAM Order*. *See also Comsat Satellite Corporation*, DA 97-826 (rel. April 18, 1997).
[9] *In the Matter of Comsat Corporation d/b/a Comsat Mobile Communications*, *et al.*, File No. ITC-97-22 *et al*, Memorandum Opinion, Order and Authorization, FCC 01-272, 16 FCC Rcd 21661 (2001) *recon. denied* FCC 02-200, 17 FCC Rcd 13179 (2002) (*Inmarsat ORBIT Act Compliance Order*).
[10] 47 U.S.C. § 765d.
[11] *Inmarsat ORBIT Act Compliance Order*, 16 FCC Rcd 21661.
[12] *Telenor Order* at para. 31.

8. Accordingly, Telenor's Petition for Declaratory Ruling is GRANTED and the requirements formerly imposed upon CMC to file annually a Cost Allocation Manual, joint cost report and Form M and to file quarterly a Form 901 are not applicable to Telenor.

FEDERAL COMMUNICATIONS COMMISSION

Donald Abelson, Chief
International Bureau