

LEXSEE 8 FCC Rcd 807

In the Matter of the Application of IDB Aero-Nautical Communications, Inc., For authority Pursuant to Sections 503 and 504(c) of the International Maritime Satellite Telecommunications Act and Section 214 of the Communications Act of 1934, as amended, to provide Inmarsat-C Mobile Satellite Services via the Inmarsat System in the Indian Ocean Region; IDB Aero-Nautical Communications, Inc., For authority Pursuant to Sections 503 and 504(c) of the International Maritime Satellite Telecommunications Act and Section 214 of the Communications Act of 1934, as amended, to provide Inmarsat-C Mobile Satellite Services via the Inmarsat System in the Atlantic and Pacific Ocean Regions

File No. I-T-C-93-013; File No. I-T-C-93-014

FEDERAL COMMUNICATIONS COMMISSION

8 FCC Rcd 807; 1993 FCC LEXIS 613

RELEASE-NUMBER:
DA 93-116

February 5, 1993 Released; Adopted January 29, 1993

ACTION: **1

MEMORANDUM, OPINION, ORDER AND AUTHORIZATION

JUDGES:

By the Chief, International Facilities Division

OPINIONBY:

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OPINION:

*807 1. On October 26, 1992, IDB Aero-Nautical Communications, Inc. dba IDB Mobile Communications (IDB) filed applications pursuant to Sections 503 and 504(c) of the International Maritime Satellite Telecommunications Act and Section 214 of the Communications Act of 1934, as amended, for authority to provide Inmarsat-C mobile satellite services via the Inmarsat System in the Atlantic Ocean Region (AOR), Pacific Ocean Region (POR) and Indian Ocean Region (IOR). The applications were placed on public notice on November 4, 1992, and no oppositions were received.

2. IDB requests authority to provide Inmarsat-C mobile satellite services in the ship-to-shore direction in the AOR-East via the Burum, the Netherlands foreign land earth station (LES) operated by PTT Telecom Netherlands and in the ship-to-shore direction in the POR via the Perth, Australia foreign LES operated by OTC Limited of Australia. The applicant states that it will construct its own U.S.-based Inmarsat-C facilities for this traffic as soon as there is adequate volume to justify the cost of modifying its existing **2 U.S.-based Inmarsat LESs. n1 IDB requests authority to provide Inmarsat-C mobile satellite services in the ship-to-shore and shore-to-ship directions in the IOR via the

Perth, Australia foreign LES. IDB proposes to provide service in the ship-to-shore direction in the AOR-West via the Communications Satellite Corporation's (Comsat) LES at Southbury, Connecticut. IDB states that it currently has authority to provide maritime mobile satellite service (MMSS) and aeronautical mobile satellite service (AMSS) via the Inmarsat system in the AOR and POR via the LES facilities at Niles Canyon, California, and Staten Island, New York. n2 It also has been granted authority to provide MMSS in the IOR in both the ship-to-shore and shore-to-ship directions via OTC's LES in Perth. n3

n1 Since the time of this application, these earth stations have been transferred to Southwest Communications, Inc. (SCI). See CICI, Inc., File Nos. CSG-92-042-(8)-AL, CSG-92-043-(21)-AL, EID-680, 7 FCC Rcd 6031 (1992).

n2 IDB Aeronautical Communications, Inc., File No. I-T-C-90-088, 6 FCC Rcd 2485 (1991). See also n.1, supra.

n3 IDB Aeronautical Communications, Inc., File No. I-T-C-91-012, 6 FCC Rcd 5962 (1991). **3

3. The applications inform us that all service will be provided via Inmarsat first and second generation satellites. IDB seeks to offer Inmarsat-C for the following applications: MMSS, AMSS, and land mobile satellite service (LMSS).

4. IDB states that accounting will be performed in accordance with generally accepted accounting principles. Charges and regulations governing the service will be specified in one or more tariffs which IDB will file with the Commission to the extent required by law.

5. According to IDB, grant of this application will serve the public interest because Inmarsat-C service is of enormous benefit to IDB's potential customers. Authorization of IDB to provide Inmarsat-C service in the AOR, POR, and IOR will enable IDB to offer global Inmarsat-C services, which are vital for IDB as a U.S. carrier to compete effectively with foreign Signatories offering global coverage.

6. We note that IDB's proposed services in the AOR and POR are limited to ship-to-shore communications and that no oppositions have been received. In a similar proceeding in the past, Comsat, the U.S. Signatory to Inmarsat, has stated that it:

believes that the Commission may authorize **4 IDB to make arrangements with foreign Signatories for routing of ship-to-shore traffic consistent with the Inmarsat Act. Ship-to-shore traffic in the Inmarsat system may be routed by a maritime sender to whatever coast earth station it desires, and the space segment is provided by the coast earth station operator. The statutory requirement that U.S. carriers obtain space segment from the U.S. Signatory comes into play only with regard to shore-to-ship traffic. n4

n4 Communications Satellite Corporation, Petition to Deny in Part, File Nos. I-T-C-91-011 and I-T-C-91-012, filed November 19, 1990.

7. Furthermore, in the circumstances present here, we find that it is necessary for IDB to use a foreign LES in order to provide ship-to-shore and shore-to-ship Inmarsat-C *808 services in the IOR. Without this arrangement in this case, service would not be possible. n5 Moreover, Comsat is not asserting in this particular proceeding any purported statutory protection under §§ 751 et seq. of the Inmarsat Act, which may bar the use of foreign LESs to



carry U.S.-originated shore-to-ship traffic without Comsat's provision of the Inmarsat space segment. We therefore infer that Comsat **5 is waiving any statutory right it might have to provide the space segment in this case, if such a right exists.

n5 The only authorized Comsat LES facility that is capable of serving the IOR is a Standard-A LES near Ankara, Turkiye. See Communications Satellite Corporation, File No. I-T-C-91-228, 7 FCC Rcd 2218 (1992). That facility does not provide Standard-C service.

8. We also note that IDB has pending applications for authority to provide limited international LMSS, File Nos. I-T-C-92-058 and I-T-C-92-059. On August 7, 1992, TAO-2081 was granted permitting IDB temporary authority to provide limited international LMSS until February 2, 1993, or until action in File Nos. I-T-C-92-058 and I-T-C-92-059, whichever is sooner. IDB's LMSS services include (1) communications within and between foreign countries, excluding North America, and (2) communications between North America and mobile terminals located outside North America. IDB does not have authorization to provide LMSS to or from mobile terminals located in North America, defined as the United States, Canada and Mexico. n6

n6 IDB clarified the instant applications to include these limitations. See letter from Robert S. Koppel, IDB, to Linda Trochim, International Facilities Division, dated January 15, 1993. **6

9. Based on the foregoing, we conclude that it will be in the public interest to grant IDB authority for the provision of ship-to-shore Inmarsat-C MMSS and AMSS in the AOR, POR and IOR, and shore-to-ship Inmarsat-C MMSS and AMSS in the IOR subject to the conditions set forth herein. Because the issue of IDB's use of Inmarsat for international LMSS will be considered in File Nos. I-T-C-92-058 and I-T-C-92-059, we need not here address IDB's request to provide Inmarsat-C LMSS. Therefore, we defer consideration of this issue to File Nos. I-T-C-92-058 and I-T-C-92-059. We will, however, modify TAO-2081 to include Inmarsat-C LMSS via the LESs as authorized herein on an interim basis subject to the same terms and conditions contained in TAO-2081.

10. Accordingly, IT IS ORDERED, pursuant to Sections 503 and 504(c) of the International Maritime Satellite Telecommunications Act, 47 U.S.C. §§ 752, 753(c), and Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, that the applications of IDB Aero-Nautical Communications, Inc. File Nos. I-T-C-93-013 and I-T-C-93-014 ARE GRANTED IN PART and IDB **7 is authorized to:

A. provide Inmarsat-C mobile satellite services in the ship-to-shore direction in the AOR-West via Comsat's LES at Southbury, Connecticut, in the AOR-East via the Burum, the Netherlands foreign LES operated by PTT Telecom Netherlands, and in the POR via the Perth, Australia foreign LES operated by OTC Limited of Australia.

B. provide Inmarsat-C mobile satellite services in the ship-to-shore and shore-to-ship directions in the IOR via the Perth, Australia foreign LES operated by OTC Limited of Australia, and

C. to offer Inmarsat-C for the following applications: maritime mobile satellite service and aeronautical mobile satellite service.

11. IT IS FURTHER ORDERED that IDB's temporary authority to provide



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international LMSS granted in TAO-2081 on August 7, 1992, is modified to include Inmarsat-C international LMSS in the ship-to-shore direction in the AOR-West via Comsat's LES at Southbury, Connecticut, in the AOR-East via the Burum, the Netherlands foreign LES operated by PTT Telecom Netherlands, and in the POR via the Perth, Australia foreign LES operated by OTC Limited of Australia, and in the ship-to-shore and shore-to-ship directions in the IOR via the **8 Perth, Australia foreign LES operated by OTC Limited of Australia, subject to the same terms and conditions stated in TAO-2081, including but not limited to conditions relating to consultations required by Article XIV(d) of the Intelsat agreement, frequency use, priority and preemption requirements, and tariffs. IDB's provision of international LMSS will be limited to (1) communications within and between foreign countries, excluding North America, and (2) communications between fixed points in North America and mobile terminals located outside North America. IDB may not provide LMSS to or from mobile terminals located in North America, defined as the land area of the United States, Canada and Mexico. The United States includes Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands. This modification of temporary authority shall automatically terminate in the event that the Commission denies IDB's applications in File Nos. I-T-C-92-058 or I-T-C-92-059, or denies any extension of TAO-2081. This modification of temporary authorization is without prejudice to the Commission's action on IDB's applications in File Nos. I-T-C-92-058 and I-T-C-92-059, and the grant of this modification **9 of temporary authorization does not constitute precedent for the determination of any issues raised by those applications.

12. IT IS FURTHER ORDERED that IDB's request to provide regular Inmarsat-C international LMSS via Inmarsat is deferred and will be considered in File Nos. I-T-C-92-058 and I-T-C-92-059.

13. IT IS FURTHER ORDERED that IDB shall not provide any Inmarsat-C service from the United States to points in the AOR or POR under this authorization.

14. IT IS FURTHER ORDERED that IDB will be classified as dominant in the provision of the services authorized herein.

15. IT IS FURTHER ORDERED, pursuant to Section 203 of the Communications Act, 47 U.S.C. § 203, and Part 61 of the Commission's Rules, 47 C.F.R. Part 61, that IDB shall file and have in effect a tariff for the services authorized in this order before offering services to the public.

16. IT IS FURTHER ORDERED that IDB shall file copies of any operating agreements entered into by itself or its parent/affiliates with its correspondents within 30 days of their execution.

*809 17. IT IS FURTHER ORDERED that IDB shall file quarterly reports of revenue, number of messages, **10 and number of minutes of both originating and terminating trafffterminating traffic for all international services between the U.S. and all international points it is authorized to serve within 90 days from the end of each calendar quarter.

18. This order is issued under Section 0.291 of the Commission's Rules and is effective upon adoption. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's Rules may be filed within 30 days of public notice of this order (see Section 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

George S. Li