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In the Matter of the Application of IDB Mobile Communications, Inc., For authority Pursuant to Section 214 of the Communications Act of 1934, as amended, to provide Inmarsat Standard B and Standard M Mobile Satellite Services in the Atlantic, Pacific and Indian Ocean Regions

File No. I-T-C-93-188

FEDERAL COMMUNICATIONS COMMISSION

8 FCC Rcd 5616; 1993 FCC LEXIS 4286

RELEASE-NUMBER:

DA 93-996

August 20, 1993 Released; Adopted August 9, 1993

ACTION: \*\*1

MEMORANDUM OPINION, ORDER AND AUTHORIZATION

JUDGES:

By the Chief, International Facilities Division

OPINIONBY:

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OPINION:

\*5616 1. On May 11, 1993, IDB Mobile Communications, Inc. (IDB) filed an application pursuant to Section 214 of the Communications Act of 1934, as amended, for authority to provide Inmarsat Standard B and Standard M mobile satellite services in the Atlantic Ocean Region (AOR), Pacific Ocean Region (POR) and Indian Ocean Region (IOR). The application was placed on public notice on May 19, 1993, and no oppositions were received. On June 18, 1993, Comsat filed a letter regarding the application, and on June 30, 1993, IDB responded.

2. IDB requests authority to provide service in the ship to shore direction only in the AOR-East and AOR-West via the Laurentides, Quebec, Canada foreign land earth station (LES) and in the POR via LES facilities at Hong Kong. IDB states that it will construct its own U.S. based Inmarsat Standard B and Standard M facilities for this traffic as soon as there is adequate justification for the cost of modifying its existing U.S. based Inmarsat LESs. n1 IDB requests authority to provide service in the ship to shore and shore to ship directions in the IOR \*\*2 via the Hong Kong foreign LES. It states that it cannot provide IOR service from U.S. based facilities because the footprint of Inmarsat's IOR satellite does not cover the United States. n2

n1 Although IDB continues to own these earth stations, control and authorization for their operation 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 currently has authority to provide maritime mobile satellite service (MMSS), international aeronautical mobile satellite service (AMSS) and international land mobile satellite service (LMSS) via the Inmarsat system in the AOR and POR via SCI's LES facilities and MMSS and LMSS in the IOR via LES facilities in Perth, Australia. It also has been granted authority to provide Inmarsat Standard C MMSS, AMSS, and LMSS in the ship to shore direction only in the AOR-West via Comsat's earth station at Southbury, Connecticut, in the AOR-East via the Burum, the Netherlands LES, in the POR via Perth, and in both direction in the IOR via Perth. See IDB Aeronautical Communications, Inc., File No. I-T-C-90-088, 6 FCC Rcd 2485 (1991); IDB Aeronautical Communications, Inc., File No. I-T-C-91-012, 6 FCC Rcd 5962 (1991); IDB Aeronautical Communications, Inc., File No. I-T-C-93-013-014, 8 FCC Rcd 807 (1993); IDB Aeronautical Communications, Inc., File Nos. I-T-C-92-058-059, I-T-C-93-013-014, 8 FCC Rcd 930 (1993). \*\*3

3. IDB seeks to offer Inmarsat Standard B and Standard M for MMSS and international LMSS. n3 The application informs us that all service will be provided via Inmarsat first and second generation satellites. 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.

n3 IDB's international LMSS services include (1) communications within and between foreign countries, excluding North America, and (2) communications between North America and mobile satellite terminals located outside North America. IDB does not seek authorization to provide LMSS to or from mobile satellite terminals located in North America, defined as the United States, Canada and Mexico. IDB seeks to offer service both to mobile satellite terminals and to temporary fixed satellite terminals.

4. According to IDB, grant of this application will serve the public interest because Inmarsat Standard B and Standard M services are of enormous benefit to IDB's potential customers. Authorization of IDB to provide \*\*4 Inmarsat Standard B and Standard M service in the AOR, POR, and IOR will enable IDB to offer these services globally, which is vital for IDB as a U.S. carrier to compete effectively with foreign signatories offering global coverage.

5. Although §§ 751 et seq. of the Inmarsat Act may bar the use of foreign LESSs to carry U.S. originated shore to ship traffic without Comsat's provision of the Inmarsat space segment, Comsat in its letter states it does not oppose the grant of this application as long as it does not establish any precedent. In response, IDB agrees to inclusion of a proviso that the a grant of the instant application would be limited to the facts of this case. 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. Furthermore, in the circumstances present here, we note that it is necessary for IDB to use a foreign LES in order to provide ship to shore and shore to ship Inmarsat Standard B and Standard M services in the IOR. Without this arrangement in this case, service would not be possible. n4 Therefore, we find the circumstances of this request for shore to ship traffic in \*\*5 the IOR to be unique, and limit our findings to the specific facts of this case.

n4 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 B or Standard M service.

6. 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 Standard B and Standard M MMSS and international LMSS in the AOR, POR and IOR, and shore to ship Inmarsat Standard B and Standard M MMSS and international LMSS in the IOR subject to the conditions set forth herein.

\*5617 7. Accordingly, IT IS ORDERED, pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, that the application of IDB Mobile Communications, Inc., File No. I-T-C-93-188, IS GRANTED and IDB is authorized to:

A. provide Inmarsat Standard B and Standard M mobile satellite service in the ship to shore direction only in the AOR-East and AOR-West via the Laurentides, Quebec, \*\*6 Canada foreign LES and in the POR via LES facilities at Hong Kong;

B. provide Inmarsat Standard B and Standard M mobile satellite service in the ship to shore and shore to ship directions in the IOR via the Hong Kong foreign LES; and

C. offer Inmarsat Standard B and Standard M mobile satellite service for the following applications: maritime mobile satellite service, international land mobile satellite service, and international land based temporary fixed satellite services. IDB's provision of international land mobile satellite service and land based temporary fixed satellite services will be limited to (i) communications within and between foreign countries, excluding North America, n5 and (ii) communications via the Laurentides, Quebec, Canada LES and via the Hong Kong LES between fixed points in North America and mobile satellite terminals located outside North America. IDB may not provide international LMSS to or from mobile satellite 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.

n5 Service also shall be excluded to countries for which the United States has an embargo on telecommunications. \*\*7

8. IT IS FURTHER ORDERED that IDB shall not provide any Inmarsat Standard B or Standard M service from the United States to points in the AOR or POR under this authorization.

9. IT IS FURTHER ORDERED that IDB is authorized to provide international LMSS and land based temporary fixed satellite services only within the frequency bands specified below which are consistent with the U.S. allocation for maritime services. Thus, IDB shall serve only those land mobile satellite and land based temporary fixed satellite terminals communicating in the transmit frequency band 1626.5-1645.5 MHz and the receive frequency band 1530-1544 MHz for the mobile-to-satellite and satellite-to-mobile links of its international land mobile satellite services. In addition, users of this service shall obtain the appropriate license or other authorization from the local telecommunications authority of the country in which the terminal will be used and any necessary licenses or authorizations from Agencies or Departments of the United States government (such as Treasury or Commerce). Thus, this authorization shall not be construed as providing domestic uplink or downlink authority within countries outside \*\*8 of the United States.

10. IT IS FURTHER ORDERED that this authority does not cover the provision

of international land mobile satellite services or land based temporary fixed satellite services via any new land earth stations or Inmarsat satellites or cover any land mobile satellite services not specifically authorized herein.

11. IT IS FURTHER ORDERED that this authorization is conditioned upon completion of the consultation(s) required by Article XIV(d) of the Intelsat Agreement to ensure technical compatibility and to avoid significant economic harm. In addition, IDB shall maintain as its first priority the service of maritime commercial, safety and distress needs, and in particular uphold the safety and distress requirements of the Global Maritime Distress and Safety System.

12. IT IS FURTHER ORDERED that IDB shall file with the Commission every six months a letter reporting Inmarsat's progress in developing a means of distinguishing between maritime, aeronautical, and land mobile satellite transmissions to allow for the primacy of maritime services and compliance with Commission Regulations and Rules regarding the use of these bands.

13. IDB shall terminate the use of \*\*9 LES facilities outside the United States to provide Inmarsat Standard B and Standard M service in the AOR and POR as soon as there is adequate economic justification for the cost of modifying SCI's existing Inmarsat LESSs in the U.S.

14. The Commission retains jurisdiction over this matter to ensure the nondiscriminatory use of, and equitable access to, the Inmarsat satellite system.

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

16. 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.

17. 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, and shall otherwise comply with the filing requirements contained in Section 43.51 of the Commission's Rules, 47 C.F.R. § 43.51.

18. IT IS FURTHER ORDERED that IDB shall file quarterly \*\*10 reports of revenue, number of messages, and number of minutes of both originating and terminating 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.

19. 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)).

\*5618 FEDERAL COMMUNICATIONS COMMISSION

George S. Li

Chief, International Facilities Division