

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
GLOBALSTAR LICENSEE LLC, GUSA	)	
LICENSEE LLC, AND GCL LICENSEE	)	
LLC	)	
	)	
Application for Modification of License for	)	File No. SAT-MOD-20080516-00106
Operation of Ancillary Terrestrial	)	
Component Facilities	)	
	)	
Application for Modification of	)	File No. SAT-MOD-20080904-00165
Nongeostationary Mobile Satellite Service	)	
System License (S2115) To Launch a	)	
Second-Generation System	)	
	)	
Application for Modification of Mobile	)	File No. SAT-AMD-20091221-00147
Satellite Service Earth Station Licenses and	)	
Mobile Earth Terminal Licenses To	)	
Authorize Communications with Second-	)	
Generation System and To Incorporate	)	
Previously-Granted Ancillary Terrestrial	)	
Component Authority	)	

**REPLY OF IRIDIUM SATELLITE LLC IN SUPPORT OF  
MOTION TO HOLD GLOBALSTAR APPLICATIONS IN ABEYANCE**

Iridium Satellite LLC (“Iridium”) hereby replies to the opposition submitted by Globalstar Licensee LLC, GUSA Licensee LLC, and GCL Licensee LLC (collectively “Globalstar”)<sup>1</sup> to Iridium’s Motion to Hold Globalstar Applications in Abeyance.

**I. INTRODUCTION**

Even without Iridium’s motion, Globalstar’s Opposition provides reason enough to hold

---

<sup>1</sup> Opposition to Iridium’s Motion to Hold Globalstar Applications in Abeyance, File Nos. SAT-MOD-20080516-00106, SAT-MOD20080904-00165, SAT-AMD-20091221-00147 (filed Jan. 11, 2009) (“Globalstar Opposition”).

Globalstar’s above-captioned applications in abeyance. As Iridium documented in its motion, Globalstar freely admits that it:

- Knowingly failed to “comply[] fully with the *Modification Order* ... in certain countries,” has only “come into compliance where possible,” and continues *at least* in Russia to operate in violation of the terms of its license<sup>2</sup>;
- Knowingly launched and operated eight new satellites even though the International Bureau “has not acted” on Globalstar’s applications for approval to do so<sup>3</sup>;
- Knowingly “wait[ed] to amend” its Second Generation Application<sup>4</sup> with information about its decision to proceed with French, rather than U.S., licensing until well after “30 days of its decision in the summer of 2009”<sup>5</sup>; and
- Knowingly failed to submit “a copy of [] slides Globalstar had used at [an *ex parte* meeting]” and “had not intended to do so” until it received an “inquiry” from FCC staff.<sup>6</sup>

Globalstar’s own admissions in this pleading—and prior pleadings—make plain that this is far from a matter of mere “accusations” and “allege[d] violat[ions].”<sup>7</sup> Globalstar’s outright disregard for Commission authority could not be clearer.

Distilled to its essence, Globalstar’s Opposition boldly advances the remarkable proposition that the company should not be held responsible for its repeated violations because it was forced into those violations by “[t]he Commission’s failure to act ... within a reasonable

---

<sup>2</sup> *Id.* at 4.

<sup>3</sup> *Id.* at 6.

<sup>4</sup> See *Globalstar Licensee LLC, GUSA Licensee LLC, Application for Modification of Nongeostationary Mobile Satellite Service System License (S2115) To Launch a Second-Generation System*, Call Sign S2115, Modification Application of Globalstar Licensee LLC, File No. SAT-MOD-20080904-00165 (filed Sep. 4, 2008) (“Globalstar Second Generation Application”).

<sup>5</sup> Globalstar Opposition at 7.

<sup>6</sup> *Id.* at 10.

<sup>7</sup> *Id.* at 1.

time frame”<sup>8</sup> and because it has “transparently” kept the Commission or Bureau informed of its law-breaking.<sup>9</sup> It cannot be held responsible, Globalstar protests, when it “has filed repeated requests for authority in accordance with the Bureau’s instructions.”<sup>10</sup> Globalstar is so secure in this attempt to lay the blame at the feet of the agency, in fact, that it essentially invites a referral to the Enforcement Bureau.<sup>11</sup>

Globalstar must be compelled to operate on an even playing field with other regulated entities. Iridium’s request that Globalstar first be required to comply with the Commission’s rules, conditions, and orders before obtaining further relief hardly constitutes “us[ing] the regulatory process as an anti-competitive weapon.”<sup>12</sup> To the contrary, by simply ignoring the Commission’s rules, conditions, and orders when they are not convenient, it is Globalstar that seeks to gain a competitive advantage over its law-abiding competitors and make a mockery of the regulatory process.

**II. GLOBALSTAR’S OPPOSITION FURTHER ESTABLISHES ITS COMPLETE DISREGARD FOR THE FCC’S AUTHORITY AND DEMONSTRATES THE NEED TO HOLD GLOBALSTAR’S APPLICATIONS IN ABEYANCE.**

Consistent with Iridium’s motion, Globalstar’s Opposition makes clear the company’s complete disregard for the FCC’s authority. Globalstar concedes a pattern and practice of behavior that unambiguously violates a number of FCC rules, conditions, and orders. Worse yet, Globalstar offers no commitment to rectify its behavior or even to comply with Commission directives in the future. Instead, Globalstar takes the astonishing position that it may disregard

---

<sup>8</sup> *Id.* at 5 n.13.

<sup>9</sup> *Id.* at 5.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 5 n.14.

<sup>12</sup> *Id.* at 2.

the FCC if the Commission has delayed in acting on Globalstar's requests,<sup>13</sup> if Globalstar has acted "transparently" in violating the law,<sup>14</sup> if there is a business necessity<sup>15</sup> or it is convenient for Globalstar to do so,<sup>16</sup> or if there is no showing of prejudice by another regulated entity.<sup>17</sup> In effect, Globalstar has made its own set of rules. The Commission cannot condone this behavior.

***Violation of MSS License Terms.*** As it has in other pleadings, Globalstar admits both a past and continuing violation of its modified MSS space station license,<sup>18</sup> and continues to ignore even the existence of an International Bureau letter specifically directing the company to comply with its licenses.<sup>19</sup> Globalstar concedes that it did not "comply[] fully with the *Modification Order* ... in certain countries"<sup>20</sup> and that, at a minimum, it continues to violate its license terms

---

<sup>13</sup> See *id.* at 5 (citing Commission's "delay in acting"); *id.* at 5 n.13 (noting "[t]he Commission's failure to act on Globalstar's requests"); *id.* at 7 (explaining that it "received no response" from the Bureau).

<sup>14</sup> See *id.* at 5; see also *id.* (arguing that it has been "entirely forthright"); *id.* at 7 (arguing that it has "kept the Bureau informed").

<sup>15</sup> See *id.* at 5 (explaining that it acted "to avoid shutting down service"); *id.* at 7 (explaining that it acted to address "disruption and deterioration of service").

<sup>16</sup> See *id.* at 7 (explaining that compliance with Section 1.65 of the Commission's rules "made little sense").

<sup>17</sup> See *id.* at 4 (asserting that Iridium has "made no factual showing of any harm"); *id.* at 8 (urging that "Iridium can claim no prejudice"); *id.* at 10 (asserting that there is "no showing ... of any prejudice").

<sup>18</sup> See *Globalstar Licensee LLC, GUSA Licensee LLC, Iridium Constellation LLC, Iridium Satellite LLC, Iridium Carrier Services, Modification of Authority to Operate a Mobile Satellite System in the 1.6 GHz Frequency Band*, Call Sign S2115, Call Sign E970381, Call Sign S2110, Call Sign E960132, Call Sign E960622, Order of Modifications, FCC 08-248, 23 FCC Rcd 15207 (¶ 1) (rel. Oct. 15, 2008) ("*Modification Order*").

<sup>19</sup> See Letter from Roderick K. Porter, Deputy Bureau Chief, International Bureau, FCC, to William T. Lake, Counsel to Globalstar LLC, Call Sign S2115 (filed Dec. 17, 2008). There is no citation or reference to this letter in Globalstar's Opposition.

<sup>20</sup> Globalstar Opposition at 4.

on its three gateways in Russia.<sup>21</sup> Globalstar has previously explained that its Russian gateways serve Russia and a number of other countries, including Japan.<sup>22</sup> In its defense, Globalstar asserts that its illegal actions have been in “good faith and entirely forthright,” that is has done so out of business necessity, and that it should not be punished for the Commission’s “failure to act on Globalstar’s requests within a reasonable time frame.”<sup>23</sup>

***Unauthorized Launch and Operation of Eight New Satellites.*** Globalstar does not deny that it launched eight satellites and adjusted the orbital planes of its constellation at variance from its license without receiving the required FCC prior approval.<sup>24</sup> Indeed, Globalstar admits that it did not formally apply for approval until it received “a letter directing it to file an application,” and it admits that “the Bureau has not acted.”<sup>25</sup> Again, Globalstar defends these actions on the grounds that it violated the law “candidly and in good faith,” that it had “exigent” business interests, and that it should not be held responsible for the Bureau’s delay.<sup>26</sup>

***Violation of Section 1.65 of the Commission’s Rules.*** Globalstar does not dispute that it

---

<sup>21</sup> *Id.* Although Globalstar has withdrawn its waiver request for all other gateways, it has never certified that it has come into compliance with its license in all the countries covered by those gateways. See Letter from William F. Adler, Globalstar Inc., to Marlene H. Dortch, FCC, Secretary, File No. SAT-STA-20081215-00231 (filed Aug. 17, 2009).

<sup>22</sup> *Globalstar Licensee LLC, GUSA Licensee LLC, Iridium Constellation LLC, Iridium Satellite LLC, Iridium Carrier Services, Modification of Authority to Operate a Mobile Satellite System in the 1.6 GHz Frequency Band*, Call Sign S2115, Call Sign E970381, Call Sign S2110, Call Sign E960132, Call Sign E960622, Reply of Globalstar to Opposition of Iridium, attach. 1 to Affidavit of Anthony Navarra (filed Jun. 23, 2008).

<sup>23</sup> Globalstar Opposition at 5 & n.13. Of course, Globalstar did not file its waiver request until *after* the modifications to its license had already become effective. See, e.g., *Globalstar Licensee LLC, GUSA Licensee LLC, Modification of Authority to Operate a Mobile Satellite System in the 1.6 GHz Frequency Band*, Call Sign S2115, Call Sign E970381, File No. SAT-STA-20081215-00231, Petition to Deny of Iridium Satellite LLC, at 3 (filed Jan. 21, 2009).

<sup>24</sup> Globalstar Opposition at 5.

<sup>25</sup> *Id.* at 6.

<sup>26</sup> *Id.* at 5-6.

decided “in the summer of 2009” to register its second-generation satellite system through France rather than the United States.<sup>27</sup> Nor does it deny that this decision, which effectively mooted Globalstar’s Second Generation Application, rendered that application “no longer substantially accurate” within the meaning of Section 1.65 of the Commission’s rules.<sup>28</sup> Indeed, Globalstar has acknowledged that under Section 25.151 of the Commission’s rules, which applies to “major modifications to station authorizations,”<sup>29</sup> a new public notice is required.<sup>30</sup> Globalstar’s only excuse for its failure to amend the Second Generation Application within 30 days of making its decision to pursue French licensing is that it “made little sense” to do so.<sup>31</sup> Globalstar determined that it would be more “sensible,”<sup>32</sup> in its view, to group together a number of decisions into one single amendment<sup>33</sup> and to have its “technical team drive its regulatory filings.”<sup>34</sup>

***Skirting of Ex Parte Rules.*** Globalstar admits that it met with members of the International Bureau staff on December 9, 2009, and used “slides” at the meeting.<sup>35</sup> Those

---

<sup>27</sup> *Id.* at 7.

<sup>28</sup> 47 C.F.R. § 1.65(a).

<sup>29</sup> *Id.* § 25.151(a)(3).

<sup>30</sup> See Letter from Samir C. Jain, Counsel to Globalstar, to Mindel De La Torre, Chief, International Bureau, FCC, File Nos. SAT-MOD-20080904-00165, SAT-AMD-20091221-00147 (filed Jan. 7, 2010).

<sup>31</sup> Globalstar Opposition at 7.

<sup>32</sup> *Id.* at 8.

<sup>33</sup> *Id.* at 7-8. Globalstar appears to be suggesting that it actually committed multiple violations of Section 1.65(a), by failing to file an appropriate amendment within 30 days of *each* of these decisions.

<sup>34</sup> *Id.* at 8.

<sup>35</sup> *Id.* at 9-10.

“slides” are a 12-page “PowerPoint presentation” that gave express notice of the substance of the above-captioned applications, none of which had been filed at the time.<sup>36</sup> Specifically, the presentation disclosed Globalstar’s decision to have its second-generation satellites “registered through France,”<sup>37</sup> gave notice of Globalstar’s intent to “request[] a 16-month extension [of its ATC waiver] based on *force majeure* events,”<sup>38</sup> and explained that “FCC actions [are] necessary.”<sup>39</sup> Despite the significant substance in the presentation, Globalstar admits that it “had not intended” to file a copy of the presentation and did not do so until December 15, following a direct request from Commission staff.<sup>40</sup> This plainly violates Section 1.1206(b) of the Commission’s *ex parte* rules.<sup>41</sup> While parties may sometimes quibble over hypertechnical readings of the rules, that is not the case here. The FCC’s General Counsel has “emphasize[d]” that “[a]ny written material shown to Commission personnel during the course of a meeting, even if the materials are not left with the staff, are deemed written presentations and must be filed in accordance with the rule governing written presentations.”<sup>42</sup>

---

<sup>36</sup> See Letter from Samir C. Jain, Counsel to Globalstar, to Marlene H. Dortch, Secretary, FCC, File No. SAT-MOD-20080904-00165 (filed Dec. 15, 2009).

<sup>37</sup> *Id.*, attach. at 8.

<sup>38</sup> *Id.*, attach. at 12.

<sup>39</sup> *Id.*, attach. at 10. Contrary to Globalstar’s suggestion, see Globalstar Opposition at 9 & n.20, it clearly presented “data or arguments not already reflected” in recent filings, 47 C.F.R. § 1.1206(b)(2), and intended to “state[] or impl[y] a view as to the merits or outcome of the proceeding,” *id.* § 1.1202(a).

<sup>40</sup> Globalstar Opposition at 10.

<sup>41</sup> See 47 C.F.R. § 1.1206(b) (requiring that written and oral presentations be submitted in permit-but-disclose proceedings “no later than the next business day”).

<sup>42</sup> Public Notice, *General Counsel Emphasizes the Public’s Responsibilities in Permit-but-Disclose Proceedings*, DA 04-3040 (rel. Sep. 23, 2004) (emphasis added). It is irrelevant whether Iridium was prejudiced, see Globalstar Opposition at 10, as the *ex parte* rules provide no exception for lack of prejudice.

### III. CONCLUSION

Globalstar has shown a clear contempt for Commission authority and made plain that it will operate according to its own rules and to its own convenience. Globalstar must be compelled to operate on an even playing field with its law-abiding competitors. Accordingly, its above-captioned applications for further relief from the FCC should be held in abeyance until the Commission has had the opportunity to investigate and remediate Globalstar's admitted license and rule violations. For the foregoing reasons, and for the reasons set forth in Iridium's Motion to Hold in Abeyance, Iridium's motion should be granted.

Respectfully submitted,

/s/ R. Michael Senkowski

Donna Bethea Murphy  
Vice President, Regulatory Engineering  
Iridium Satellite LLC  
6701 Democracy Blvd., Suite 500  
Bethesda, MD 20817  
(301) 571-6200

R. Michael Senkowski  
Peter D. Shields  
Jennifer D. Hindin  
Wiley Rein LLP  
1776 K Street N.W.  
Washington, D.C. 20006  
(202) 719-7000

January 19, 2010

*Counsel to Iridium Satellite LLC*



**CERTIFICATE OF SERVICE**

I hereby certify that on January 19, 2010, I caused a true and correct copy of the foregoing to be served by first-class mail, unless noted otherwise, on the following:

William F. Adler  
Vice President – Legal and Regulatory  
Affairs  
Globalstar, Inc.  
461 S. Milpitas Blvd.  
Milpitas, CA 95035

Samir C. Jain\*  
Josh L. Roland\*  
Wilmer Cutler Pickering Hale and Dorr LLP  
1875 Pennsylvania Ave N.W.  
Washington, D.C. 20006  
*Counsel to Globalstar Inc.*  
samir.jain@wilmerhale.com  
josh.roland@wilmerhale.com

Best Copy and Printing, Inc.\*\*  
fcc@bcpiweb.com

\* By hand delivery and electronic mail

\*\* By electronic mail only

/s/ Jennifer D. Hindin  
Jennifer D. Hindin