

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

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MAY 26 2005

Federal Communications Commission
Office of Secretary

In the Matter of)
)
Globalstar LLC)
)
Request for Authority to Implement an)
Ancillary Terrestrial Component for the)
Globalstar above 1 GHz, or Big LEO,)
Mobile Satellite Service (MSS) System)
(Call Sign ES2115))
)
Globalstar USA, LLC)
)
Application for Modification of Blanket)
License Authorization for Mobile Earth)
Station Terminals (Call Sign E970381))

File No. SAT-MOD-20050301-00054

Received

JUN 01 2005

Policy Branch
International Bureau

File No. SES-MOD-20050301-00261

REPLY OF GLOBALSTAR LLC AND GLOBALSTAR USA, LLC

Globalstar LLC and Globalstar USA, LLC (collectively "Globalstar") submit this reply to the comments provided by the Wireless Communications Association International, Inc. ("WCA")^{1/} and the Informal Objection filed by the Society of Broadcast Engineers, Inc. ("SBE")^{2/} in connection with the above-referenced applications in which Globalstar is seeking authority to implement an Ancillary Terrestrial Component ("ATC") for the Globalstar Above 1 GHz, or "Big LEO," Mobile Satellite Service ("MSS") system.^{3/} For the reasons discussed

^{1/} See Comments of the Wireless Communications Association International, Inc., FCC File Nos. SAT-MOD-20050301-00054 and SES-MOD-20050301-00261 (filed May 16, 2005) ("WCA Comments").

^{2/} See Informal Objection of the Society of Broadcast Engineers, Inc., Docket No. 02-364 (filed May 16, 2005) ("SBE Comments").

^{3/} See Globalstar LLC Request for Authority to Implement an Ancillary Terrestrial Component for the Globalstar above 1 GHz, or Big LEO, Mobile Satellite Service (MSS) System

below, the extraordinary relief WCA and SBE request is neither justified nor necessary, and the Commission should expeditiously proceed to grant Globalstar's ATC Applications, which no party has opposed on the merits.

WCA and SBE's filings represent simply an unwarranted effort to hold Globalstar's ATC Applications hostage because those parties are unhappy with certain aspects of the Commission's decision, in another proceeding, to establish a spectrum-sharing plan for MSS and fixed-wireless operators in the 2.4 GHz band.^{4/} Globalstar's Applications here unquestionably comport with FCC policy as established in that proceeding. WCA's and SBE's request to change that policy on reconsideration in that proceeding have been fully argued there and will be resolved there; there is no reason for them to be made an issue here.

As Globalstar has made clear in its ATC Applications, it will comply with all applicable Commission rules in connection with its deployment of ATC services, including any Commission rules intended to prevent interference to terrestrial operations in the 2.4 GHz band. Specifically, Globalstar has certified that: (1) "[t]he Globalstar ATC system will comply with all requirements of the Commission's Rules regulating ATC for 1.6/2.4 GHz MSS systems,"^{5/} (2) "[Globalstar] will take steps necessary to ensure that ATC base stations do not cause harmful

(Call Sign ES2115); Globalstar USA LLC Application for Modification of Blanket License Authorization for Mobile Earth Station Terminals (Call Sign E970381); FCC File Nos. SAT-MOD-20050301-00054 and SES-MOD-20050301-00261 ("ATC Applications").

^{4/} See Report and Order, Fourth Report and Order, and Further Notice of Proposed Rulemaking, *Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands; Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services To Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems*, 19 FCC Rcd 13356 (2004) ("Reallocation Order").

^{5/} See ATC Applications, Exhibit B (Compliance with 47 C.F.R. Part 25) at 1.

interference to other services sharing the use of the 2450-2500 MHz band through frequency coordination;"^{6/} and (3) "[p]rior to initiating service, [Globalstar] will perform any required frequency coordination, noting any necessary steps taken or to be taken to avoid causing interference from an ATC base station to other services sharing the 2450-2500 MHz band."^{7/}

In short, Globalstar has made crystal clear that it intends to comply fully with the Commission's rules governing ATC operations in the 2.4 GHz band, including any modified rules that may eventuate from reconsideration of the existing spectrum sharing plan.^{8/} The pendency of WCA's and SBE's reconsideration petitions furnishes no basis for delaying action on, or otherwise conditioning the grant of, Globalstar's ATC Applications.

The Commission's action on the application by Mobile Satellite Ventures ("MSV") for ATC authority^{9/} mandates rejection of the relief sought by WCA and SBE. The Commission granted that application even before the licensing and technical rules establishing the ATC service itself had become final. The Commission authorized MSV to provide ATC service on November 8, 2004, even though a number of parties (including SBE) had challenged various

^{6/} *Id.* at 4.

^{7/} *See* ATC Applications, Exhibit B-3 at 2.

^{8/} Globalstar and others have stated in the spectrum sharing rulemaking the reasons why WCA's and SBE's reconsideration petitions are unfounded and should be denied. *See, e.g.*, Globalstar LLC, Consolidated Opposition to Petitions for Reconsideration, Docket Nos. 02-364 and 00-258 (filed Oct. 27, 2004); Globalstar LLC, Consolidated Reply to Oppositions of Broadband Radio Services Proponents, Docket Nos. 02-364 and 00-258 (filed Nov. 10, 1004).

^{9/} *See* Mobile Satellite Ventures Subsidiary LLC, Application for Minor Modification of Space Station License for AMSC-1; Application for Minor Modification of Blanket License for Authority to Operate Mobile Earth Terminals with MSAT-1, FCC File Nos. SAT-MOD-20031118-00333; SAT-AMD-20031118-00332, SES-MOD-20031118-01879 (amended application filed Nov. 18, 2003) ("MSV ATC Application").

aspects of the ATC rules, and those challenges remained pending.^{10/} The Commission proceeded with a grant of MSV's ATC Application even though it was in the process of formulating revised ATC rules that it later acknowledged would "substantially change certain technical standards for ATC in the L-Band,"^{11/} in which MSV operates. The Commission simply observed that MSV's ATC authorization was "subject to any restriction necessary for conformance with a Commission decision disposing of petitions for reconsideration of the *ATC Report and Order*."^{12/} The Commission's sound conclusion that it was unnecessary to impose any specific conditions to account for potential future changes in the ATC rules applies *a fortiori* here: the applicable rules are already in place, and Globalstar's application fully complies with them.

The precedents cited by WCA do not remotely support the relief it requests.^{13/} The Commission's decision not to process pending mutually exclusive applications for licenses in the 39 GHz service while it considered whether to make such applications subject instead to competitive bidding made sense in that entirely different context: In that case, the FCC was reexamining the very licensing process for award of the licenses at issue. Here, by contrast, the

^{10/} See Order and Authorization, *Mobile Satellite Ventures Subsidiary LLC, Application for Minor Modification of Space Station License for AMSC-1; Application for Minor Modification of Blanket License for Authority to Operate Mobile Earth Terminals with MSAT-1*, 19 FCC Rcd 22144 (2004) ("*MSV Order and Authorization*").

^{11/} See Memorandum Opinion and Order, *Flexibility for the Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Band*, 20 FCC Rcd 4616 at ¶ 1(2005) ("*ATC Reconsideration Order*").

^{12/} See *MSV Order and Authorization*, 19 FCC Rcd at 22176-79 ¶ 95.

^{13/} See WCA Comments at 6 n. 13 (citing Notice of Proposed Rulemaking and Order, *Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.00 GHz Bands; Implementation of Section 309(j) of the Communications Act -- Competitive Bidding*, 11 FCC Rcd 4930, 4988-89 (1995) ("*39 GHz Rulemaking*") and Memorandum Opinion and Order, *CellularVision, Inc.*, 11 FCC Rcd 9672 (WTB 1995) ("*CellularVision*").

FCC has already adopted final rules to govern the processing of ATC applications and, in fact, has already granted another MSS licensee's ATC application. The fact that disappointed parties have petitioned for reconsideration of spectrum sharing rules in *a totally separate proceeding* should have no impact on the Commission's consideration of Globalstar's ATC Applications. Globalstar's ATC authorization will be subject to the Commission's spectrum sharing policies, as they presently exist and as they may lawfully be changed in the future.

WCA's reliance on the Wireless Telecommunications Bureau's decision to condition the grant of CellularVision's applications in the 28 GHz (LMDS) service is similarly misplaced. As was the case in the *39 GHz Rulemaking*, in *CellularVision*, the applications at issue were filed while the Commission was seeking comment on proposals to revise the very licensing and technical rules that would govern all aspects of the operations proposed in the applications. Understandably, when the Bureau decided to grant the applications, it specifically conditioned the grant on the outcome of its pending rulemaking proceeding.^{14/} By contrast, in the instant case, the rulemaking proceeding governing Globalstar's ATC Applications has been completed, and the relevant rules are effective. The fact that petitions for reconsideration of Commission action in a separate proceeding remain pending does not justify any special condition on Globalstar's requested ATC authorization.

The regulatory hostage-taking that WCA and SBE advocate would simply penalize the ultimate beneficiaries of Globalstar's application for ATC authority — Globalstar's current and future customers, its investors and its employees. As Globalstar's ATC applications make clear,

^{14/} Notably, in *CellularVision*, the Wireless Bureau specifically *rejected* commenters' requests that the applications be held in abeyance pending the outcome of the rulemaking proceeding, on the theory that granting CellularVision's application was consistent with "the Commission's desire to facilitate the development of LMDS" and thus was "in the public interest." See *CellularVision*, 11 FCC Rcd at 9679 ¶ 21.

Globalstar is the *only* MSS operator presently capable of incorporating ATC into its existing, first-generation MSS system in full compliance with all of the relevant terms and conditions contained in the Commission's ATC rules.^{15/} This means that, upon grant of the ATC Applications, Globalstar is poised to bring to reality all of the significant public interest benefits the Commission envisioned when it decided to permit MSS operators to integrate ATC into their existing services.

As described in detail in its Applications, Globalstar intends to employ its ATC authorization to provide new and innovative services to consumer and governmental telecommunications customers whose needs are not currently being met by existing satellite or terrestrial providers.^{16/} In urban areas, for example, grant of ATC authority will enable Globalstar dramatically to increase the usability of MSS phones, thus making Globalstar's MSS/ATC service invaluable for public safety and emergency response providers who demand fulltime communications capabilities in the event of natural disasters or terrorist attacks.^{17/} Similarly, Globalstar's proposed MSS/ATC service will benefit customers in rural and remote areas, enabling Globalstar to offer much needed day-to-day, as well as emergency telecommunications services to customers that are currently unserved or underserved by wireline or wireless providers.^{18/} Finally, by enabling Globalstar rapidly and inexpensively to deploy MSS/ATC local area networks in areas where terrestrial wireless infrastructures are currently

^{15/} ATC Applications, Exhibit A (Description of Globalstar MSS/ATC System and Public Interest Benefits) at 3.

^{16/} *Id.*

^{17/} *Id.*

^{18/} *Id.* at 4.

unreliable, Globalstar's proposed MSS/ATC service will bring immeasurable benefits to Globalstar's military and other customers.^{19/} WCA and SBE have not justified putting on hold these much needed services while the Commission considers WCA's and SBE's reconsideration petitions in a separate rulemaking proceeding.

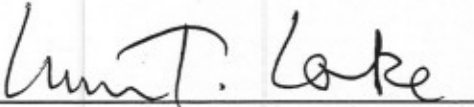
For these reasons, the Commission should deny the relief requested by WCA and SBE and promptly grant Globalstar's ATC Applications.

Respectfully submitted,

**GLOBALSTAR LLC AND
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^{19/} *Id.*

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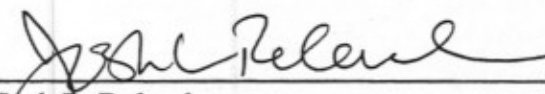
I, Josh L. Roland, do hereby certify that a copy of the foregoing Reply of Globalstar LLC and Globalstar USA LLC was served by hand this 26th day of May, 2005, to the following parties, unless otherwise noted:

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