

WILMER CUTLER PICKERING
HALE AND DORR LLP



File # SAT MOD-20050301-00054
Change to
Call Sign permit but disclose
for other identify
Date July 7, 2005
From
To
Approved: *William T. Lake*
July 6, 2005
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William.lake@wilmerhale.com

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 10554

Policy Branch Chief

RE: Globalstar LLC Request for Authority To Implement an Ancillary Terrestrial Component for the Globalstar above 1 GHz, of 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) -- FCC File Nos. SAT-MOD-20050301-00054 and SES-MOD-20050301-00261

Dear Ms. Dortch:

This letter is written on behalf of Globalstar LLC and Globalstar USA, LLC (collectively "Globalstar"), to request modification of the *ex parte* status of the proceedings concerning the above-referenced applications from "restricted" to "permit-but-disclose."^{1/} **We also ask that the Commission expedite action on this request.**

On March 1, 2005, Globalstar filed the above-referenced companion applications ("ATC Applications") seeking authority to implement an Ancillary Terrestrial Component ("ATC") for the Globalstar Above 1 GHz, or "Big LEO," Mobile Satellite Service ("MSS") system.

On April 15, 2005, the International Bureau announced by public notice that the ATC Applications had been accepted for filing and providing interested parties with 30-days in which to file comments.^{2/}

^{1/} See 47 C.F.R. § 1.1200(a) (the Commission has the discretion to modify the *ex parte* status of proceedings "where the public interest so requires").

^{2/} See "Policy Branch Information -- Satellite Space Station Applications Accepted for Filing, Report No. SAT-00284, *Public Notice* (rel. April 15, 2005); Satellite Communications Services -- Satellite Radio Applications Accepted for Filing, Report No. SES-00704, *Public Notice* (rel. April 15, 2005) (collectively "Public Notices").

On May 16, 2005, the Wireless Communications Association International, Inc. ("WCA") and the Society of Broadcast Engineers ("SBE") filed comments³ and an informal objection⁴ requesting that the Commission hold Globalstar's ATC Applications in abeyance pending Commission action on the petitions for reconsideration filed by WCA and others of the Commission's *Report and Order* in IB Dockets 02-364 and 00-258.⁵ Alternatively, WCA requests that the Commission condition the grant of the ATC Applications on the outcome of the pending petitions for reconsideration of the *Reallocation Order*. On May 26, 2005, Globalstar filed a reply to the WCA and SBE filings, arguing that WCA and SBE have failed to provide any legitimate reason why the Commission's grant of Globalstar's ATC Applications should be delayed or subject to any condition other than Globalstar's full compliance with all relevant Commission rules.⁶ These pleadings remain pending. Accordingly, pursuant to section 1.1208 of the Commission's rules,⁷ the *ex parte* status of these proceedings is "restricted."

Generally, the Commission's use of "permit-but-disclose" procedures is appropriate where such status allows the Commission "to engage in discussions for the purpose of obtaining information deemed essential" to, and "to resolve expeditiously the issues raised" in a proceeding.⁸ Given the importance to Globalstar and its customers of an expeditious grant of Globalstar's ATC Applications, Globalstar believes that the public interest would be served by applying the "permit-but-disclose" procedures in this case.

In addition, WCA and SBE have attempted to link Globalstar's ATC Applications with issues raised before the Commission in its pending reconsideration of the *Reallocation Order*. Although, as Globalstar has argued in its Opposition to WCA and SBE's filings, there is no justification for delaying Commission action on the ATC Applications pending the outcome of

³ See Comments of the Wireless Communications Association International, Inc., FCC File Nos. SAT-MOD-20050301-00054 and SES-MOD-20050301-00261 (May 16, 2005).

⁴ See Informal Objection of the Society of Broadcast Engineers, Inc., FCC File Nos. SAT-MOD-20050301-00054 and SES-MOD-20050301-00261 (May 16, 2005).

⁵ See In the Matter of the 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, *Report and Order, Fourth Report and Order, and Further Notice of Proposed Rulemaking*, 19 FCC Rcd 13356 (2004) ("*Reallocation Order*").

⁶ See Reply of Globalstar LLC and Globalstar USA, LLC to the Comments of the Wireless Communications Association International, Inc., FCC File Nos. SAT-MOD-20050301-00054 and SES-MOD-20050301-00261 (May 26, 2005).

⁷ See 47 C.F.R. § 1.1208.

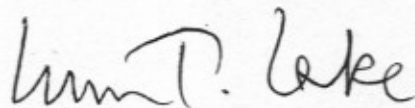
⁸ See *Beehive Telephone, Inc. v. The Bell Operating Companies*, 12 FCC Rcd 17930, ¶ 26 (1997).

the *Reallocation* proceeding, *ex parte* presentations in that proceeding are subject to the Commission's "permit-but-disclose" procedures. By designating the above-referenced application proceedings as "permit-but-disclose," Globalstar, WCA, SBE and the Commission staff will be able to discuss the impact of a decision in one proceeding on the other.

Finally, the Commission has concluded in the past that ATC licensing proceedings should be granted "permit-but-disclose" status, and to refuse to do so here would prejudice Globalstar by limiting its ability to engage freely in discussions with the staff concerning the merits and technical aspects of its ATC Applications.^{2/}

Accordingly, Globalstar requests that the *ex parte* status of the pending proceedings relating to the above-referenced applications be modified to "permit-but-disclose," and that action on this request be expedited.

Respectfully submitted,



William T. Lake

Counsel to Globalstar LLC and Globalstar USA LLC

^{2/} 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, *Order and Authorization*, 19 FCC Rcd 22144 (Int'l Bur., 2004) at ¶ 8 (Applicant's request to convert ATC application proceeding to "permit-but-disclose" status was approved by grant-stamp on December 2, 2003).

CERTIFICATE OF SERVICE

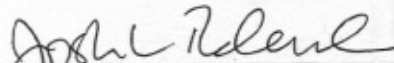
I, Josh L. Roland, do hereby certify that a copy of the foregoing Letter filed by Globalstar LLC and Globalstar USA LLC was served by hand this 6th day of July, 2005, on the following parties, unless otherwise noted:

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Room CY-B402
Washington, DC 20554

Kathleen Campbell
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Josh L. Roland

*By United States Postal Service, First Class postage prepaid.

July 6, 2005

IBFS File Nos. SAT-MOD-20050301-0054 and SES-MOD-20050301-00261 are adjudicative licensing proceedings and are generally restricted under the Commission's ex parte rules. See 47 C.F.R. §§ 1.1202(d) and 1.1208. On July 6, 2005, Globalstar LLC and Globalstar USA, LLC filed a request to designate Files Nos. SAT-MOD-20050301-0054 and SES-MOD-20050301-00261 as "permit-but-disclose" under the Commission's ex parte rules. See Letter from William T. Lake, Wilmer Cutler Pickering Hale and Dorr, LLP, Counsel to Globalstar LLC and Globalstar USA LLC to Marlene H. Dortch, Secretary, Federal Communications Commission. The Bureau concludes that the public interest will be served by designating IBFS Files Nos. SAT-MOD-20050301-0054 and SES-MOD-20050301-00261 as "permit-but-disclose" in order to facilitate comment on the issues implicated by the applications. Accordingly, on July 7, 2005, the Satellite Division, Policy Branch granted the request and designated the applications as "permit-but-disclose." 47 C.F.R. §§ 1.1200(a), 1.1206 and 1.1208, Note 2. This action is without prejudice to any determination regarding the processing of the application.



SES-MOD-20050301-00261
SAT-MOD-20050301-0054

Call Sign _____ Grant Date July 7, 2005
(or other identifier) _____

Term Dates _____
From _____ To: _____

Approved: [Signature]
Policy Branch Chief