

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

FILED/ACCEPTED
JUL 11 2008
Federal Communications Commission
Office of the Secretary

In the Matter of)	
)	
Globalstar Licensee LLC)	Call Sign S2115
GUSA Licensee LLC)	Call Sign E970381
)	
Iridium Constellation LLC)	Call Sign S2110
)	
Iridium Satellite LLC)	Call Sign E960132
Iridium Carrier Services)	Call Sign E960622
)	
Modification of Authority to)	
Operate a Mobile Satellite System in the)	
1.6 GHz Frequency Band)	
)	

**OPPOSITION OF GLOBALSTAR TO
IRIDIUM'S REQUEST TO STRIKE AFFIDAVIT**

Pursuant to section 1.45 of the Commission's rules, Globalstar Licensee LLC and GUSA Licensee LLC ("Globalstar") hereby oppose the Request To Strike Affidavit submitted by Iridium Satellite LLC ("Iridium")^{1/} in the above-referenced proceeding^{2/} in which the

^{1/} See Iridium Satellite LLC, "Request To Strike Affidavit" (filed July 1, 2008) ("*Iridium Request*").

^{2/} See Globalstar Licensee LLC, Call Sign S2115; GUSA Licensee LLC, Call Sign E970381; Iridium Constellation LLC, Call Sign S2110; Iridium Satellite LLC, Call Sign E960132; Iridium Carrier Services, Call Sign E960622 – *Modification of Authority To Operate a Mobile Satellite System in the 1.6 GHz Frequency Band*, FCC 08-125 (rel. May 7, 2008) ("*Modification Order*"). The *Modification Order* was issued in order to give effect to the Commission's *Second Report and Order* revising the Big LEO spectrum sharing plan in the United States by reassigning certain spectrum previously reserved for CDMA carriers, such as Globalstar, for exclusive use by Iridium. See *Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands, Second Order on Reconsideration and Second Report and Order*, 22 FCC Rcd 19733 (2007) ("*November 9th Order*"). Globalstar has filed a protest of the modifications proposed in the *Modification Order* to the extent that they purport to forbid Globalstar's provision of service in other countries on frequencies permitted by the MSS band plans in effect there. See *Protest of*

Commission proposes to modify Globalstar's and Iridium's space and earth station authorizations.

Iridium's Request fails to present any reason why the Navarra Affidavit should be stricken. To the contrary, Iridium's filing highlights the need for a hearing under section 316 to enable the Commission to resolve the factual issues raised by Globalstar's Protest and the Navarra Affidavit.

Iridium quotes snippets from prior Globalstar filings in an attempt to establish that the factual issues Globalstar raises were raised and resolved earlier in the proceeding.^{3/} But those snippets show just the opposite – they show clearly that never until Iridium's March 7, 2008 *ex parte* letter^{4/} did the Commission or any party propose that the Commission's US band plan for Big LEO MSS services be given effect outside the United States, or discuss the possible consequences of such an action. The Globalstar filings from which Iridium quotes – most of which were filed in 2003 and 2004, before the Commission authorized Iridium to share an initial 3.1 MHz of Globalstar's spectrum in July 2004^{5/} – could not have addressed the consequences of limiting Globalstar's use of spectrum in other countries to the frequencies prescribed in the US band plan, because no such action had been proposed or was being considered. Accordingly,

Globalstar Licensee LLC and GUSA Licensee LLC (filed June 6, 2008) (“*Globalstar Protest*”); Reply of Globalstar To Opposition of Iridium (filed June 23, 2008) (“*Globalstar Reply*”) and attached Affidavit of Anthony J. Navarra (“*Navarra Affidavit*”).

^{3/} See *Iridium Request* at 4-10.

^{4/} See *Iridium Satellite LLC Ex Parte* Filing in IB Docket No. 02-364 (filed Mar. 7, 2008) (“*Iridium March 7th Letter*”).

^{5/} See *Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands, Report and Order, Fourth Report and Order, and Further Notice of Proposed Rulemaking*, 19 FCC Rcd 13386 (2004) (requiring Globalstar to share 3.1 MHz of spectrum with Iridium in the United States).

Globalstar noted in its filings that, as a technical matter, Iridium might cause interference with Globalstar's operations overseas if Iridium transmitted indiscriminately in other countries on spectrum that Iridium might be authorized to share with Globalstar in the United States but not authorized to use in other countries.^{6/}

Far from suggesting that the Commission's US band plan would constrain Globalstar's operations overseas, Globalstar expressly noted that other countries would decide whether "to follow the Commission's lead in requiring spectrum-sharing between Globalstar and Iridium" in their territories.^{7/} Tellingly, Iridium can point to no statement it made disagreeing with that proposition, prior to its March 7, 2008 letter. Thus, the Navarra Affidavit is absolutely correct in asserting that the record before the Commission contains no factual evidence about the impact on Globalstar's operations of a Commission decision to require "that Globalstar operate throughout the rest of the world in conformance with the Big LEO MSS band plan that the FCC has

^{6/} See, e.g., Joint Reply Comments of L/Q Licensee, Inc., Globalstar, LP, and Globalstar USA, LLC in IB Docket No. 02-364 (filed Jul. 25, 2003) at 27 ("Interference from Iridium's operations in Channels 8 and 9 has...been experienced by Globalstar's local service provider in Australia, and it has filed a complaint with the Australian Communications Authority."); Globalstar LP *Ex Parte* Filing in IB Docket No. 02-364 (filed Sept. 11, 2003) at 30 ("Because the Iridium system cannot assign frequencies geographically, Iridium could not implement a new U.S. assignment in the U.S. alone."); Globalstar LLC *Ex Parte* Filing in IB Docket No. 02-364 at 9 (filed May 27, 2004) at ("Iridium cannot discriminate spectrum use geographically.").

^{7/} See Comments of Globalstar LLC in IB Docket No. 02-364 (filed Sept. 8, 2004) at n.12 (cited in *Iridium Request* at n. 32). See also Globalstar, Inc. *Ex Parte* Filing in IB Docket No. 02-364 (filed Feb. 6, 2007) at 3 ("Iridium now is soliciting regulators in Europe and elsewhere to conform their authorizations to the FCC's (to allow Iridium to use the 1616-1618.25 MHz band which is allocated to Globalstar on a global basis However, in Europe, a technical committee of regulators recently concluded that CDMA and TDMA systems cannot share spectrum in the *traditional* sense, and that therefore there was no technical basis to give Iridium access to Globalstar's spectrum."); Globalstar LLC *Ex Parte* Filing in IB Docket No. 02-263 (filed May 28, 2004) at 2 ("A reduction in the number of channels available to Globalstar at either L-band or S-band may impact Globalstar services internationally, if other countries attempt to follow the Commission's action.").

established in the United States.”^{8/} And the Commission’s *November 9th Order* contains no discussion or findings about any impact that the revision of the US band plan might have on Globalstar’s or Iridium’s operations in other countries.

In short, Globalstar’s limited earlier references to possible international ramifications of a spectrum-sharing regime do not address – and do not relieve the Commission of the duty to resolve – the serious and wide-ranging factual questions about the likely impact of a Commission decision to restrict Globalstar’s use in other countries of frequencies that it is permitted to use under the band plans in effect in those countries. The Navarra Affidavit draws attention to the impact that such a decision would have on Globalstar’s operations in over 60 countries and regions, served by eight gateways. Iridium may want to avoid having those factual issues examined under a bright light and determined fairly, but section 316 and the Administrative Procedure Act do not allow the Commission to ignore the factual justification for its proposed action or the likely consequences of its action on services outside its regulatory jurisdiction.

Iridium’s assertion that the Navarra Affidavit should be stricken as untimely is no more persuasive. Section 309 expressly authorizes the filing of affidavits to “support[.]” the allegations of fact in a protest,^{9/} which the Navarra Affidavit does. The affidavit is well within the scope of Iridium’s Opposition, which challenges the specificity and relevance of Globalstar’s allegations of harm.^{10/} And Iridium plainly has not been prevented from responding to the affidavit, which it has done in a filing longer than the affidavit itself. Iridium’s Request actually serves to confirm Globalstar’s argument that the proposed *Modification Order* raises significant and relevant

^{8/} See *Navarra Affidavit* at ¶ 3.

^{9/} 47 U.S.C. § 309(d)(1).

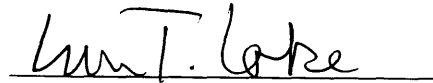
^{10/} See *Opposition of Iridium Satellite LLC to License Protest of Globalstar, Inc.* (filed June 16, 2008) at 31-33.

factual issues that must be resolved in a hearing under section 316 if the Commission does not rescind the order for the other reasons stated in Globalstar's Protest.

Conclusion

For these reasons, the Commission should deny Iridium's Request to Strike Affidavit.

Respectfully submitted,



William F. Adler
Vice President – Legal and
Regulatory Affairs
GLOBALSTAR, INC.
461 S. Milpitas Blvd.
Milpitas, CA 95035
(408) 933-4401

William T. Lake
Josh L. Roland
WILMER CUTLER PICKERING HALE
AND DORR L.L.P.
1875 Pennsylvania Ave., NW
Washington, D.C. 20006
(202) 663-6000

*Counsel for Globalstar Licensee LLC and
GUSA Licensee LLC*

July 11, 2008

CERTIFICATE OF SERVICE

I, Josh L. Roland, do hereby certify that a copy of the foregoing Opposition of Globalstar To Iridium's Request To Strike Affidavit was served by hand this 11th day of July, 2008, on the following parties, unless otherwise noted:

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


Matthew Berry, General Counsel*
Federal Communications Commission
445 12th Street, SW
Room CY-B402
Washington, DC 20554

Helen Domenici, Chief*
International Bureau
Federal Communications Commission
445 12th Street, SW
Room CY-B402
Washington, DC 20554

Jim Ball, Chief*
Policy Division, International Bureau
Federal Communications Commission
445 12th Street, SW
Room CY-B402
Washington, DC 20554

Robert Nelson, Chief*
Satellite Division, International Bureau
Federal Communications Commission
445 12th Street, SW
Room CY-B402
Washington, DC 20554

Michael Senkowski*
Brendan Carr
Elbert Lin
Wiley Rein LLP
1776 K Street, NW
Washington DC 20006
*Counsel to Iridium Satellite LLC, Iridium
Constellation LLC, and Iridium Carrier
Services*



Josh L. Roland

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

July 11, 2008