

**James M. Talens**  
***Attorney-at-Law***<sup>\*</sup>  
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FILED/ACCEPTED

MAY - 8 2009

Federal Communications Commission  
Office of the Secretary

May 8, 2009

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: AtContact Communications, LLC, File Nos. SAT-MOD-20080813-00155 (S2346); SAT-AMD-20080930-00195 (S2680); SAT-AMD-20080505-00098 (S2381); SAT-AMD-20080930-00194 (S2682); SAT-MOD-20060511-00057 (S2683).**

Dear Ms. Dortch:

This responds to a letter from Intelsat North America LLC (“Intelsat”) that was submitted on May 1, 2009, intervening in AtContact Communications, LLC’s (“AtContact”) effort at securing relief from the Commission as outlined in AtContact’s letters of February 6, 2009 and April 22, 2009.<sup>1</sup> For the reasons stated below, Intelsat’s interest in this matter is without standing, and its submission is without merit and should be rejected forthwith.

At the outset, there is no demonstrated nexus in any matter referenced above that warrants Intelsat’s intervention in this proceeding. Intelsat is neither a competitor nor an affected licensee in the Ka-band, it is not a financial institution affected by AtContact’s needs, and it is not a protector of the public interest. To the contrary, the obvious purpose of Intelsat’s submission is to delay or disrupt AtContact’s progress toward launch and operation of a state-of-the art Ka-band satellites system that ultimately will serve as a competitor to Intelsat’s orbital oligopoly. This follows Intelsat’s repeated efforts at soliciting and taking AtContact’s teleport customers while imposing huge increases on bandwidth it sells to AtContact. Nonetheless, AtContact responds herein to the assertions raised by Intelsat.

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<sup>\*</sup> Admitted to practice in the District of Columbia only.

<sup>1</sup> See letter to Marlene H. Dortch, Secretary, Federal Communications Commission from James M. Talens, Counsel for AtContact (February 6, 2009), and follow-up letter dated April 22, 2009 (with attachment letter from David M. Drucker, Manager, AtContact).

Importantly, it should be noted that Intelsat did not comment on AtContact's request for immediate relief with regard to approval of AtContact's October 15, 2008 milestone submission. Both in its February 6 and April 22 letters, AtContact asks for separation of that milestone approval from the other issues discussed. AtContact now again asks that the milestone matter be bifurcated and resolved immediately under delegated authority given there are no non-routine issues involved.

Intelsat asserts that AtContact does not provide specific factual justification for its waiver requests of the milestone and bond requirements associated with its two remaining satellites. Perhaps Intelsat did not fully apprehend the detailed discussion and justifications provided in the February 6 letter. To assist Intelsat, AtContact notes that it presented nearly eight pages of explanation, precedent and justification for the narrow, limited waivers it seeks. Those justifications support a finding that the public interest will be served by grant of the requested waivers, using specific criteria contained in the Commission's rules and in case precedents.<sup>2</sup> Such grant is consistent with long-standing Commission precedent and the public interest. Moreover, grant clearly does not undermine the purpose of the rule in question because, as explained in the February 6 letter, there is simply no element of warehousing of satellite spectrum at issue.

AtContact as a United States satellite company faces financing challenges unlike at any other time in our collective national memory. Fulfillment of the promise of AtContact's license at its two remaining satellite slots requires regulatory flexibility and support, as well as new, creative collaborations with other private sector entities. Unlike Intelsat, which was conceived by international cooperative financing and propelled later by public financing at a market peak, AtContact faces the worst conditions to obtain financing since satellite technology was born.

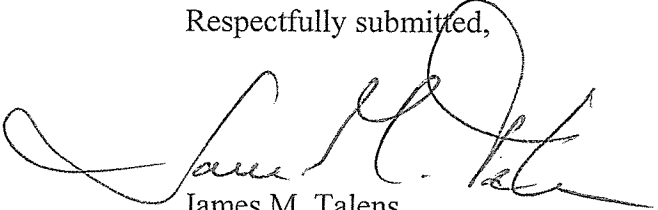
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<sup>2</sup> See, e.g., *ICO Satellite Services G.P., Memorandum Opinion and Order*, 20 FCC Rcd 19696 (Int'l Bur. 2005)(adopting intermediate milestones where applicant proposed a two year construction schedule, and physical construction had not yet begun), and see *In the Matter of Rainbow DBS Company LLC, Consent to Withdraw and Unconditionally Release Bonds and Request for Waiver of the Bond Requirements*, File Nos. SAT-LOA-20030827-00172, SAT-LOA-20030827-00248, SAT-LOA-20030827-00175, SAT-LOA-20030827-00249, SAT-LOA-20030827-00173, *Memorandum Opinion and Order*, FCC 07-11 (rel. Mar. 2, 2007) (granting Rainbow waiver of the bond requirement and allowing it to withdraw and unconditionally release the bonds submitted to satisfy a condition of its Ka-band service licenses); see also Letter to Marlene H. Dortch, Secretary, Federal Communications Commission, from David A. Deitch, S.V.P and General Counsel, Rainbow DBS Company, LLC, January 30, 2006. The economic and finance markets have vastly degraded since this matter was considered. See Letter of February 6, 2009, *supra*, at 3.

Finally, contrary to Intelsat's simplistic claim, there is no inconsistency in AtContact's need to work with other companies in order to proceed with its construction plans. In fact, David Drucker, Manager of AtContact, is co-founder of EchoStar and founder of WildBlue, both financed in vastly better times. Indeed, neither company is providing any significant capital until the Commission grants AtContact the relief it requests in the February 6 letter. Other companies cited by Intelsat are either already established and operating companies or are linked to foreign, government-partnerships for which taxation is the source of funding. In short, Intelsat's effort at disposing of AtContact's claims is belied by the history of the companies it cites as well as current world financial realities. It is unfortunate that Intelsat finds it necessary to resort to patently *in apropos* comparisons to combat a possible future competitor.

AtContact again asks the International Bureau to move forward expeditiously, rejecting Intelsat's assertions and finding that AtContact's waiver requests are fully justified and in the public interest.

Respectfully submitted,

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James M. Talens  
Counsel to AtContact  
Communications, LLC

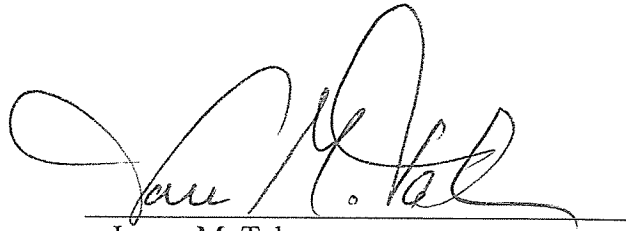
Copies via electronic means:

J. Giusti, IB  
R. Nelson, IB  
Stephen Duall, IB  
F. Jarmulnek, IB  
A. Roberts, IB

**CERTIFICATE OF SERVICE**

I, James M. Talens, do hereby certify that on May 7, 2009, I served a copy of the foregoing letter upon the following parties by U.S. first-class mail, postage pre-paid:

Kalpak S. Gude  
Vice President and Deputy General Counsel  
Intelsat Corporation  
3400 International Drive, NW  
Washington, DC 20008-3006

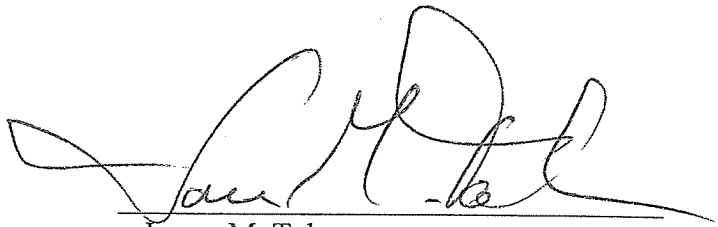
A handwritten signature in black ink, appearing to read "James M. Talens", written over a horizontal line.

James M. Talens

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