

**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)	

MOTION TO HOLD GLOBALSTAR APPLICATIONS IN ABEYANCE

Iridium Satellite LLC (“Iridium”), by its attorneys and pursuant to 47 C.F.R. § 1.45, submits this motion to hold in abeyance the above-captioned applications of Globalstar Licensee LLC, GUSA Licensee LLC, and GCL Licensee LLC (“Globalstar”) pending Commission investigation of, public comment on, and remediation of Globalstar’s several apparent violations of its U.S. satellite authorization, an International Bureau directive, and FCC rules. As detailed below, Globalstar has:

- Operated for over a year illegally on frequencies no longer included in its U.S. space station license despite an International Bureau letter expressly warning that compliance was necessary;

- Added eight satellites and re-arranged its constellation's orbital planes without Commission approval;
- Violated Section 1.65 of the Commission's rules by not timely amending its pending Second Generation Application to disclose Globalstar's business decision to have the French government register its "next generation" satellite system at the ITU; and
- Omitted a written presentation to FCC staff on December 9, 2009 from the ex parte notice required under Section 1.1206(b) of the Commission's rules.

This pattern of non-compliance cannot be countenanced. Moreover, every one of these apparent rule or license violations is directly related to the very subject of the above-captioned applications now pending before the Commission. Accordingly, the Commission should defer action on the Globalstar applications until compliance is first secured; and, remedial actions are taken following full public participation.

I. GLOBALSTAR IS VIOLATING ITS MSS LICENSE TERMS AND IGNORING A DIRECTIVE OF THE COMMISSION'S INTERNATIONAL BUREAU.

After a protracted rulemaking, the Commission issued an order in December 2007 reallocating the 1618.725-1621.35 MHz band from Globalstar's CDMA MSS system to the exclusive use of Iridium's TDMA MSS system.¹ On October 15, 2008, the FCC removed this spectrum from Globalstar's space station license.² On December 15, 2008, one day after the modified license took effect, Globalstar asked the Commission for a waiver and special

¹ *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, 22 FCC Rcd 19733, 19734 (¶ 1) (2007) ("*Reconsideration Order*"). On May 1, 2009, the D.C. Circuit affirmed the *Reconsideration Order*. *Globalstar, Inc. v. FCC*, No. 08-1046, 2009 WL 1162581 (D.C. Cir. 2009).

² *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*").

temporary authority to continue operating its space stations on the reassigned spectrum.³ In response, Iridium filed a Petition to Deny and the International Bureau sent Globalstar a letter reminding it to operate in full compliance with its licenses pending action on its waiver and STA requests.⁴

As Iridium has previously shown,⁵ Globalstar has admitted that it is in direct, knowing, and willful violation of the terms of its modified MSS space station license and the specific direction provided by the International Bureau. Iridium's Petition to Deny documented that Globalstar was continuing to operate illegally on spectrum reallocated and licensed exclusively to Iridium.⁶ In response, Globalstar conceded the violation and stated that it had no plans to alter the operations of its MSS satellite fleet to comply with the Commission's spectrum reassignments.⁷ In August 2009 and again in December 2009, Globalstar noted that it continues

³ *Globalstar Licensee LLC, GUSA Licensee, Modification of Authority to Operate a Mobile Satellite System in the 1.6 GHz Frequency Band*, Call Sign S2115, Call Sign E970381, Globastar Request for Waiver and Request for Special Temporary Authority File No. SAT-STA-20081215-00231 at 12-15 (filed Dec. 15, 2008).

⁴ 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).

⁵ *See 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 (filed Jan. 21, 2009); *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, Reply of Iridium Satellite LLC (filed Feb. 9, 2009); *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, File No. SAT-MOD-20080904-00165, Petition to Deny of Iridium Satellite LLC (filed May 18, 2009) ("Iridium Petition to Deny Globalstar Second Generation Application").

⁶ *See Iridium Petition to Deny Globalstar Second Generation Application* at 5.

⁷ *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,

to operate in Russia on the reassigned frequencies without FCC approval.⁸

II. GLOBALSTAR ADDED EIGHT SATELLITES AND IS OPERATING IN ORBITAL PLANES WITHOUT COMMISSION AUTHORIZATION.

In November 2006, Globalstar alerted the International Bureau that it intended to launch eight new space stations and to adjust its MSS constellation by increasing the total number of operating satellites, in-orbit spares and in-orbit test bed satellites, and rearranging its satellites' orbital planes.⁹ After two letters from the International Bureau requesting a formal application,¹⁰ Globalstar filed in July 2007 an application for interim operating authority to add these eight

File No. SAT-STA-20081215-00231, Opposition of Globalstar Licensee LLC, at 8 (filed Feb. 2, 2009). *See also id.* at 9 n.20 (admitting “Globalstar’s difficulties in achieving full compliance with the *Modification Order*”); *id.* at 5-6 (alleging that Globalstar has made “substantial efforts to transition its gateways off of [Iridium’s] spectrum” in all regions “[w]ith the exception of the three gateways located in Russia” where it simply “cannot terminate operations on the affected channels”); *id.* at Affidavit of Paul A. Monte ¶ 14 (admitting that Globalstar was out of compliance with the *Modification Order* at least until January 29, 2009 in the region Iridium had tested).

⁸ *See* Letter from William F. Adler, Vice President – Legal & Regulatory Affairs, Globalstar, to Marlene Dortch, Secretary, FCC, Re: SAT-STA-20081215-00231 (filed Aug. 17, 2009); *Globalstar Licensee LLC, GUSA Licensee LLC, and GCL Licensee LLC, Application for Modification of Nongeostationary Mobile Satellite Service System License (S2115) To Launch a Second-Generation System, Application for Modification of Mobile Satellite Services Earth Station Licenses and Mobile Earth Terminal Licenses To Authorize Communications with Second Generation System and To Incorporate Previously-Granted Ancillary Terrestrial Component Authority*, File Nos. SAT-MOD-20080904-00165 & SAT-AMD-20091221-00147 at 11, n.17 (filed Dec. 21, 2009) (“Globalstar Amendment and Application”).

⁹ Letter from William F. Adler, Vice President and Assistant Secretary, Globalstar, to John Giusti, Acting Chief, International Bureau, FCC, Certification Pursuant to 47 C.F.R. § 25.143(c), File Nos. SAT-AMD-20050105-00003 and SAT-MOD-20030606-00098 (filed Nov. 20, 2006).

¹⁰ *See* Letter from Robert G. Nelson, Chief, Satellite Division, International Bureau, FCC, to William Adler, Vice President and Assistant Secretary, Globalstar, Re: Call Sign S2115 (filed May 25, 2007); Letter from Helen Domenici, Chief, International Bureau, FCC, to William Adler, Vice President and Assistant Secretary, Globalstar, Re: Call Sign S2115 (filed July 6, 2007).

satellites to its 40-satellite constellation.¹¹

Although the Commission has never approved Globalstar's application, Globalstar has already placed the eight new MSS satellites into orbit. In November 2007 and July 2008, Globalstar certified that all eight satellites "have drifted into their orbital locations in the Globalstar Big LEO constellation and been placed into operation."¹² But as Globalstar itself admitted, the authorization request was still pending at that time—and is still pending today.¹³ As a result, Globalstar is currently operating 8 more satellites than its authorization allows and has placed its constellation in orbital configuration at variance from its license.

III. GLOBALSTAR VIOLATED SECTION 1.65 OF THE COMMISSION'S RULES BY FAILING TIMELY TO AMEND ITS SECOND GENERATION APPLICATION.

In August 2008, Globalstar filed its Second Generation Application seeking authorization to construct, launch, and operate up to 48 U.S.-licensed replacement satellites to replenish,

¹¹ See File No. SAT-STA-20070713-00098. Since this filing, Globalstar has filed five extension requests. See IBS File Nos. SAT-STA-20091130-00131, SAT-STA-20090527-00058, SAT-STA-20081205-00221, SAT-STA-20080707-00142, and SAT-STA-20080104-00003.

¹² Letter from William F. Adler, Secretary, Globalstar, to Helen Domenici, Chief, International Bureau, FCC, Re: Globalstar Licensee LLC – Notification Pursuant to 47 C.F.R. § 25.113(h) (Call Sign S2115) (dated Nov. 20, 2007) ("Nov. 20, 2007 Adler Letter"); accord Letter from William F. Adler, Secretary, Globalstar, to Helen Domenici, Chief, International Bureau, FCC, Re: Globalstar Licensee LLC – Notification Pursuant to 47 C.F.R. § 1.113(h) (Call Sign S2115) (dated July 7, 2008) (July 7, 2007 Adler Letter"). See also Globalstar Licensee LLC 2008 Annual MSS Report for S2115, at 1 (filed Oct. 15, 2008) (noting that the first launch took place on May 30, 2007, local time at the launch site and the second took place on October 21, 2007, also local time at the launch site," and that "[a]ll eight satellites are now part of the operating constellation").

¹³ Nov. 20, 2007 Adler Letter ("operation of these [eight] technically identical satellites d[id] not cause it to exceed the number of operating space stations contemplated in [the] pending request for interim operating authority.") (emphasis added); accord July 7, 2008 Adler Letter (emphasis added).

augment, and enhance Globalstar's currently authorized first-generation MSS system.¹⁴ The Second Generation Application clearly anticipates that the United States would be the ITU sponsoring administration for these new satellites.¹⁵

However, as evidenced by its recent Amendment and Application, Globalstar "has now decided that its second generation satellite constellation will be registered with the [ITU] by the Republic of France, and not the United States."¹⁶ According to Globalstar's recent 10-Q filing with the SEC, "[t]he French radiofrequency spectrum regulatory agency, ANFR, submitted the technical papers to the ITU on our behalf in July 2009."¹⁷ To enable ANFR to make that ITU filing, Globalstar must have provided it with the necessary information well in advance of the July filing. As such, it appears that Globalstar may have taken the decision to seek French licensing during the May to June 2009 time frame, which is precisely when interested parties were filing comments on Globalstar's now moot application.¹⁸

¹⁴ 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 (filed Aug. 29, 2008) ("Globalstar Second Generation Application").

¹⁵ See *id.* at 22 ("The Commission undertakes all necessary international advance publication, coordination, and notification efforts on behalf of US space station licensees in accordance with the ITU's frequency assignment procedures. Globalstar believes that no new information is required to be submitted for the replacement satellites, because for ITU coordination purposes they are identical to the first-generation satellites. However, if the Commission believes that its notification of the Globalstar system, known as 'HIBLEO-4,' must be augmented, then Globalstar commits to furnish the Commission with whatever additional materials or assistance may be required to complete the necessary ITU frequency registration process.").

¹⁶ Globalstar Amendment and Application at 3.

¹⁷ See Globalstar, Inc., SEC Form 10-Q at 40 (filed Nov. 6, 2009).

¹⁸ Iridium filed its Petition to Deny Globalstar's Second Generation Application on May 18, 2009, and its reply in support of that petition on June 4, 2009. See Iridium Petition to Deny Globalstar Second Generation Application; *Globalstar Licensee LLC, GUSA Licensee LLC*,

Globalstar's failure to amend its Second Generation Application until December 21, 2009 constitutes a clear violation of Section 1.65 of the Commission's rules, 47 C.F.R. § 1.65. For roughly half a year, the information furnished in Globalstar's Second Generation Application was "no longer substantially accurate and complete in all significant respects," and Globalstar failed to "amend or request the amendment" of its Application "as promptly as possible *and in any event within 30 days*" as required by Section 1.65(a) of the Commission's rules.¹⁹

Globalstar's delay in the filing of the updated application information seems particularly suspect since its amended application was timed to come just before new European spectrum policies are taking effect – policies that Globalstar seeks to exploit.²⁰ The Commission should investigate whether or not the Globalstar's failure to comply with Section 1.65 was intentional and willful. The timing of the amendment, failure to comply with the ex parte rules (see below) and the interest in delaying comments or objections raise concerns about manipulation of the FCC's processes.

IV. GLOBALSTAR HAS SKIRTED THE FCC'S RULES GOVERNING EX PARTE CONTACTS.

On December 8, 2009, the FCC designated Globalstar's Second Generation Application a permit but disclose proceeding under Sections 1.1200(a), 1.1206 and 1.1208 of the

Application for Modification of Nongeostationary Mobile Satellite Service System License (S2115) To Launch a Second-Generation System, Call Sign S2115, File No. SAT-MOD-20080904-00165, Reply of Iridium Satellite LLC (filed June 4, 2009).

¹⁹ 47 C.F.R. § 1.65(a) (emphasis added).

²⁰ The European Communications Office ("ECO") of the Conference of Postal and Telecommunications Administrations ("CEPT")(formerly the European Communications Committee, or "ECC") adopted the following decision. ECC/DEC(09)(02), *Harmonisation of the Bands 1610-1626.5 MHz and 2483.5-2500 MHz Used by Systems in the Mobile-Satellite Service* replaces the 1997 decision, ERC/DEC/(07)(03) (Jun. 26, 2009).

Commission's rules.²¹ On December 9, 2009, Globalstar met with International Bureau staff. On December 10, 2009,²² Globalstar filed a brief letter in the file for its Second Generation Application noting that it met with FCC staff on December 9, 2009 and "[a]mong other issues, during the meeting Globalstar discussed the [Second Generation] application proceeding, including its plans to amend that application in the next several days to update the Commission on Globalstar's planned deployment of its second-generation constellation."²³ On December 15, 2009, Globalstar filed another notice for the same December 9th meeting, this time attaching a written presentation that Globalstar had given to FCC staff.²⁴

Neither notice satisfies the Commission's rules governing *ex parte* contacts. *First*, the December 10th letter fails to disclose the "substance of the *ex parte* presentation," as required by Section 1.1206(b)(2) of the Commission's rules.²⁵ *Second*, neither letter identifies all of the proceedings that were discussed at this meeting, nor was it filed in all of the relevant proceedings, as required under the rules.²⁶ The written presentation confirms that Globalstar

²¹ See Public Notice, Policy Branch Information, Actions Taken, Report No. SAT-00654, DA 09-2583 at 2 (rel. Dec. 11, 2009)

²² See Letter from Samir C. Jain, Counsel to Globalstar, to Marlene H. Dortch, Secretary, FCC, Re: Ex Parte Notification, FCC File No. SAT-MOD-20080904-00165 (filed Dec. 10, 2009) ("Dec. 10, 2009 Jain Letter").

²³ See Dec. 10, 2009 Jain Letter.

²⁴ See Letter from Samir C. Jain, Counsel to Globalstar, to Marlene H. Dortch, Secretary, FCC, Re: Ex Parte Notification, File No. SAT-MOD-20080904-00165, Attachment at 12 (filed Dec. 15, 2009) ("Dec. 15, 2009 Jain Letter").

²⁵ 47 C.F.R. § 1.1206(b)(2) (requiring persons who make oral *ex parte* presentations to FCC staff in permit-but-disclose proceedings to submit a memorandum summarizing the "substance of the *ex parte* presentation" and noting that "[m]ore than a one or two sentence description of the views and arguments presented is generally required").

²⁶ See 47 C.F.R. § 1.1206(b)(2) ("The Memorandum (and cover letter) shall clearly identify the proceeding to which it relates, including the docket number, if any . . . If the presentation

discussed a pending STA Request, File No. SAT-STA-20070713-00098, and a request for extension of time for compliance with conditions of its Ancillary Terrestrial Component (“ATC”) Waiver.²⁷ *Third*, Globalstar did not provide a copy of the December 10th notice to any “Commission employees involved in the oral presentation,” and only provided a copy of the December 15th notice to two Commission employees, rather than all the Commission employees involved in the meeting, as required by Section 1.1206(b)(2).²⁸ *Fourth*, the written presentation was filed for public review four business days after it was provided to the FCC staff, not the next day as the rules require.

V. CONCLUSION

In view of the foregoing, there are compelling grounds for the Commission to investigate potential rule and license violations by Globalstar and to take remedial action before considering the above-captioned applications. Moreover, because these rule and license violations relate to and further the very subject of the above-captioned applications, the Commission should provide

relates to more than one proceeding, two copies of the memorandum (or an original and one copy) shall be filed for each proceeding”).

²⁷ The ATC Waiver proceeding, File No. SAT-MOD-20080516-00106 is subject to a petition for reconsideration filed by CTIA – The Wireless Association® and thus remains subject to the FCC’s ex parte rules. *See* 47 C.F.R. § 1.1206(a) (“ . . . until the proceeding is no longer subject to administrative reconsideration or review or to judicial review, ex parte presentations . . . are permissible” provided that they are disclosed pursuant to Section 1.1206(b)).

²⁸ *Id.* (“Except in proceedings subject to § 1.49(f) in which pleadings are filed electronically [i.e., general rulemaking proceedings other than broadcast allotment proceedings, notice of inquiry proceedings, and petition for rulemaking proceedings (except broadcast allotment proceedings)], a copy of the memorandum must also be submitted to the Commissioners or Commission employees involved in the oral presentation”).

interested parties the opportunity for full participation in the investigations and proceedings to consider remedial actions.

Respectfully submitted,

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December 31, 2009

AFFIDAVIT OF DONNA BETHEA MURPHY

I, Donna Bethea Murphy, am the Vice President of Regulatory Engineering for Iridium Satellite LLC (“Iridium”). I hereby declare under penalty of perjury that I am qualified to speak on behalf of Iridium and that I have reviewed the preceding Motion to Hold Applications in Abeyance submitted on behalf of Iridium, and the factual statements therein are complete and accurate to the best of my knowledge, information, and belief.

/s/ Donna Bethea Murphy

Donna Bethea Murphy
Vice President – Regulatory Engineering
Iridium Satellite LLC

CERTIFICATE OF SERVICE

I hereby certify that on December 31, 2009 I caused a true and correct copy of the foregoing to be served by first-class mail, unless noted otherwise, on the following:

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