

**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)	

**OPPOSITION TO IRIDIUM’S MOTION
TO HOLD GLOBALSTAR APPLICATIONS IN ABEYANCE**

Globalstar Licensee LLC, GUSA Licensee LLC, and GCL Licensee LLC (collectively “Globalstar”) hereby oppose Iridium Satellite LLC’s (“Iridium”) motion to hold three Globalstar applications in abeyance based on Iridium’s accusations that Globalstar has allegedly violated certain FCC rules.¹ As discussed below, notwithstanding Iridium’s rhetoric, it fails to raise any

¹ Globalstar Licensee LLC – Application for Modification of License for Operation of Ancillary Terrestrial Component Facilities, File No. SAT-MOD-20080516-00106, Request for Modification of Waiver Conditions (filed Dec. 14, 2009) (“ATC Modification Request”); Globalstar Licensee LLC, GUSA Licensee LLC, and GCL Licensee LLC – Amendment To

legitimate issue that would justify delay in acting on Globalstar's pending applications. To the contrary, Iridium's plea for delay is transparently self-serving and contrary to the public interest.

Failure to act on Globalstar's Space Station Amendment and Earth Station Application would reduce competition in the MSS marketplace by delaying (or potentially derailing) the deployment of Globalstar's second-generation system to the detriment of Globalstar's customers. As for Globalstar's ATC Modification Request, Globalstar filed that request in December 2009 specifically to give the Commission ample time to seek comment and reach a decision well before the July 2010 deadline that Globalstar's request seeks to modify. Holding that request in abeyance simply would mean creating an accelerated and compressed schedule that would serve no one except Iridium, which has chosen to use the regulatory process as an anticompetitive weapon in a manner the Commission should not condone

I. Mobile Satellite Service License Terms

Iridium claims that the operational difficulties Globalstar has faced in complying with the terms of the Commission's October 15, 2008, *Modification Order*² should cause the Commission to hold Globalstar's applications in abeyance. But Iridium can offer no explanation for why the fact that the Commission has not yet acted on Globalstar's long-pending request for a limited waiver of that order with respect to its operations in Russia would somehow justify holding *additional* applications in abeyance.

Application For Modification of Mobile Satellite Service Space Station License and Application For Modification of Mobile Satellite Service Earth Station and Mobile Earth Terminal Licenses, File Nos. SAT-MOD-20080904-00165, SAT-AMD-20091221-00147 (filed Dec. 21, 2009) ("Space Station Amendment and Earth Station Application").

² See Globalstar Licensee LLC, Call Sign S2115, Modification of Authority to Operate a Mobile Satellite Service System in the 1.6/2.4 GHz Frequency Band, *Order of Modifications*, 23 FCC Rcd 15207 (2008) ("*Modification Order*").

As Globalstar explained in responding to a variation of the same argument Iridium made in its petition to deny Globalstar's original application to modify its mobile satellite service system license,³ the Commission specifically recognized that "requiring Globalstar to terminate transmissions in certain parts of the world on frequencies in which it has existing operating agreements may impose undue costs on both Globalstar and the countries accessing the Globalstar space stations" and expressly acknowledged that a waiver of those terms might be necessary in certain circumstances.⁴ Notwithstanding its legal position that the *Modification Order* is both unlawful and contrary to the public interest,⁵ Globalstar took extensive measures to comply with its terms while avoiding disruptions of service. Immediately after the Order was released, Globalstar began the process of adjusting its global channel assignments to conform with the Commission's decision.⁶ Among other steps, Globalstar contacted its independent gateway operators ("IGOs") to determine whether their national licenses would allow them to use channels below 1618.725 MHz within their territories. However, as Globalstar has acknowledged, in certain countries outside of the United States, Globalstar and the IGOs faced significant technical as well as regulatory constraints in attempting to comply with the terms of the *Modification Order*.⁷ Among other constraints, a multiplicity of factors affect which channels can be assigned to which gateways, and the assignment of specific channels to any

³ See Opposition of Globalstar Licensee LLC, Call Sign S2115, File No. SAT-MOD-20080904-00165 (filed May 28, 2009).

⁴ See *Modification Order* ¶ 41.

⁵ See Petition for Reconsideration of Globalstar Licensee LLC and GUSA Licensee LLC at 2-13 (filed Nov. 14, 2008).

⁶ Globalstar's efforts to comply with the terms of the *Modification Order* are described in the Affidavit of Paul A. Monte filed on February 2, 2009 in support of Globalstar's Request for Waiver ("Monte Affidavit"). See also Opposition of Globalstar Licensee LLC (filed Feb. 2, 2009) ("Globalstar Opposition").

⁷ See Monte Affidavit at 6-10.

single gateway affects the channels assigned to adjacent gateways and so on with a cascade effect.⁸

In light of these difficulties, complying fully with the *Modification Order* was not possible in certain countries without substantially compromising Globalstar's existing services and its plans to deploy its SPOT Satellite Personal Tracker. As Globalstar informed the Commission, for example, if Globalstar were required to cease operations on the spectrum at its Russian gateways, it would be forced to eliminate service to many subscribers, including U.S. troops in Afghanistan who are served through those gateways.⁹ Accordingly, Globalstar filed a request for waiver of the application of the *Modification Order* with respect to certain countries as that Order contemplated.¹⁰ Globalstar simultaneously filed a Request for Special Temporary Authority ("STA") to allow it to continue to operate on the affected frequencies from enumerated gateways "for 180 days or until the Commission acts on [its waiver], whichever is shorter."¹¹

Since filing its waiver and STA request, Globalstar has continued to work hard with its IGOs to come into compliance where possible and has done so in several countries that were part of its original waiver request, with the result that the only country with respect to which Globalstar is now seeking a waiver is Russia.¹² Iridium, the sole beneficiary of the *Modification Order*, is not even currently authorized to operate on the affected spectrum in Russia and so has made no factual showing of any harm to it from Globalstar's operation in Russia.

⁸ *Id.* at 3-6.

⁹ *See* Monte Affidavit at 9-10.

¹⁰ *See* Globalstar Licensee LLC and GUSA Licensee LLC – Request for Waiver and Request for Special Temporary Authority, SAT-STA-20081215-00231 (filed Dec. 15, 2008).

¹¹ *See* Request for Waiver at 19-20.

¹² *See* Letter from William F. Adler, Globalstar, Inc. to Marlene Dortch, FCC (August 17 2009).

Given the unique circumstances at issue here, and Globalstar's good faith and entirely forthright attempt to obtain relief so as to avoid shutting down service to customers, there simply is no basis to hold *other* applications in abeyance while the Commission resolves Globalstar's pending waiver request. Although Globalstar certainly hopes that the Commission will act as soon as possible on that request and indeed has urged it to do so,¹³ it makes no sense to suggest, as Iridium does, that delay in acting on one request should engender delays in acting on other applications.¹⁴

II. Operation of Eight Replacement Satellites

Iridium also points (at 4-5) to Globalstar's launch and operation of eight replacement satellites as another reason to hold Globalstar's applications in abeyance. But again, Globalstar has acted transparently in response to exigent circumstances – namely the rapid deterioration of its in-orbit satellites – and has filed repeated requests for authority in accordance with the Bureau's instructions. Iridium provides no basis for why this course of action could possibly warrant holding other pending applications in abeyance. Rather, this again is an attempt to manipulate the regulatory process for anticompetitive purposes.

As Iridium notes, on November 21, 2006, Globalstar filed a letter with the Bureau certifying that it intended to launch its eight ground spare satellites pursuant to authority granted in section 25.143(c) of the Commission's rules, and to make certain other changes to its

¹³ The Commission's failure to act on Globalstar's requests within a reasonable time frame and consistent with its prior actions on requests of this nature is problematic both for Globalstar and for other regulated companies that depend on timely processing of their applications.

¹⁴ To the extent that the Bureau were of the view that Globalstar's continued operation in Russia was a violation of the *Modification Order* notwithstanding the circumstances, it could refer that issue to the Enforcement Bureau. Contrary to Iridium's assertion (at 1), there would be no right to "full public participation" in such a proceeding.

constellation.¹⁵ Globalstar stated in its letter that, because of “reduced call capacity attributable to degrading S-band antenna amplifiers,” such changes were necessary “to maintain the highest possible capacity and best possible quality of service.”¹⁶ Globalstar had several discussions in the first half of 2007 with Bureau staff to keep them apprised of the situation and Globalstar’s response.

On July 6, 2007, the Bureau sent Globalstar a letter directing it to file an application for authority within ten days, and Globalstar filed its STA application on July 13 requesting temporary authority for 180 days to modify its constellation. The Bureau did not act on that request or seek additional information from Globalstar. Accordingly, on January 4, 2008 (when the initial 180-day period was about to expire), Globalstar filed another application for a 180-day STA which provided updated information about the status of the constellation, including that the second launch of spare satellites had been successful.¹⁷ Globalstar has continued to file such STA requests approximately every 180 days, but the Bureau has not acted on any of them. In addition, in September 2008, Globalstar filed a comprehensive modification application requesting all of the authority Globalstar believed would be necessary in order to continue to manage its deteriorating first-generation satellites and launch its second-generation constellation, which it then amended in December 2009.

Globalstar has acted candidly and in good faith. It spent \$120 million to launch “technically identical” replacement satellites to preserve its operations in the face of unanticipated and unavoidable exigent circumstances under which it risked significantly greater

¹⁵ See Globalstar Licensee LLC – Certification Pursuant to 47 C.F.R. § 25.143(c), FCC File Nos. SAT-AMD-20050105-0003 and SAT-MOD-20030606-00098 (filed Nov. 20, 2006).

¹⁶ *Id.* at 1.

¹⁷ File No. SAT-STA-20080104-00003, filed Jan. 4, 2008.

disruption and deterioration of service to its customers, including first responders and other public safety officials. Globalstar kept the Bureau informed of the situation and its plans on a regular basis. And, following the Bureau's July 2008 request, it has repeatedly filed STA requests but received no response. While, as with its waiver request, Globalstar certainly supports prompt action on its pending STA requests (and modification application), nothing about these circumstances provides any basis to hold additional Globalstar applications in abeyance until the Bureau decides to act on the STA requests.

III. Amendment to Modification Application

Iridium next suggests that Globalstar should have amended its application for modification of its mobile satellite service space station license within 30 days of its decision in the summer of 2009 to register its second-generation satellites with France. (Motion at 5-7 (citing 47 C.F.R. § 1.65).) But Globalstar had "good cause," 47 C.F.R. § 1.65, to wait to amend its application until it had a more fully formed plan as to how it intended to proceed. The decision to register its satellites with France was only a small piece of a very complex business plan, and it would have made little sense for Globalstar to present a piecemeal amendment that would have raised more questions than it answered.

Among other things, even after its decision to register through France, Globalstar had to make difficult decisions about the ultimate configuration of its satellite constellation; what role, if any, the U.S.-registered first-generation satellites would play and whether Globalstar would need to alter the position of those satellites; and how Globalstar could in real-time launch new satellites, integrate them into a new constellation, and move the existing first-generation satellites all without disrupting existing service. These were critical decisions that, in light of the degradation of Globalstar's first-generation satellites, were literally make-or-break for the

company and that it had to get right. The process is true rocket science, and thus, it is hardly surprising that Globalstar needed a few months to reach resolution. The only sensible course was to have the resolution of the issues by Globalstar's technical team drive its regulatory filings, not the reverse. That is particularly true since, until the technical issues were resolved, Globalstar could not even determine what modified authority it would need from the Commission, let alone provide the technical information needed in connection with an amended application.

Despite its overheated rhetoric, Iridium provides no reason that Globalstar's sensible course warrants holding its applications in abeyance.¹⁸ Contrary to Iridium's speculation (at 6), Globalstar had not made a final decision to register its second-generation satellites with France at the time Iridium filed its petition to deny and reply in connection with Globalstar's original application. Thus, Iridium can claim no prejudice. And its overwrought claim (at 7) that Globalstar delayed its amendment in order to "manipulate[e] . . . the FCC's processes" is an outrageous and unsupported accusation. In fact, Globalstar had every reason to file its amendment as soon as possible. Once Globalstar had decided to register its new satellites with France, grant of its *original* application would have done Globalstar no good since that would not have provided it the authority it needed. And Globalstar has an overriding interest in having its *amended* application decided and granted as soon as possible since that application is a critical gating factor in Globalstar being able to execute on its plan. Thus, Globalstar had no reason to delay filing the amendment beyond the time needed to arrive at a plan for its second-

¹⁸ Of course, Iridium's claim that Globalstar should have amended its application to modify its mobile satellite service space station license has nothing at all to do with Globalstar's separate Earth Station Application or ATC Modification Request, and thus by definition could provide no reason to hold those requests in abeyance.

generation constellation. Indeed, regulatory delay is entirely contrary to Globalstar's interests – a fact Iridium well understands, which is why it is seeking to hold the application in abeyance.¹⁹

IV. December 9, 2009 Ex Parte Meeting

Iridium's last gasp is its claim that Globalstar did not fully comply with the Commission's ex parte rules in connection with a meeting held with the International Bureau on December 9, 2009. Iridium's claims are baseless and, in any event, certainly provide no reason to hold Globalstar's pending applications in abeyance. The primary purpose of the December 9 meeting was to introduce the new head of the Bureau, Ms. De La Torre, to Globalstar – the company, its products, and general facts about how it provided service. Although Globalstar briefly mentioned the status of certain pending applications before the Bureau and previewed the fact that it would soon be amending its application to modify its mobile satellite service space station license, Globalstar did not discuss the merits of pending proceedings. Accordingly, no ex parte notice was even required. *See* 47 C.F.R. § 1.1202(a) & note. Nevertheless, out of an abundance of caution, the next day Globalstar filed an ex parte notice of the meeting, stating in particular that it had noted "its plans to amend [its second-generation] application in the next several days to update the Commission on Globalstar's planned deployment of its second-generation constellation."²⁰ On December 14, a member of the FCC staff contacted Globalstar to

¹⁹ Iridium's suggestion (at 7) that Globalstar's application was somehow timed to occur just after new European spectrum policies were to take effect is likewise inexplicable. Iridium offers no explanation how or why the effectiveness of that decision has anything at all to do with Globalstar's application for authority from the Commission. And, in any event, the decision in question was released in June 2009, and so Globalstar could have relied on that decision even if it had amended its application earlier.

²⁰ 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). Iridium's suggestion that Globalstar's notice failed to comply with certain requirements in 47 C.F.R. § 1.1206(b)(2) overlooks the fact that subsection (b)(2) applies only to oral

see if it would also be filing a copy of the slides Globalstar had used at the meeting. Although Globalstar had not intended to do so given the purpose and content of the meeting, it went ahead and did so in light of the inquiry on the next business day.

Thus, Globalstar complied with the applicable ex parte rules. In any case, Iridium makes no showing – nor could it – of any prejudice. Even leaving aside that the presentation did not make any points not made in Globalstar’s written filings, Globalstar filed a copy of the presentation before Iridium made any filing in any relevant docket, and thus Iridium had a full opportunity to respond to the presentation. Notably, Iridium did not so much as cite that presentation in its opposition to Globalstar’s Space Station Amendment and Earth Station Application or its motion to dismiss Globalstar’s ATC Modification Request – a fact that only confirms the lack of any new data or arguments in that presentation. Thus, Iridium can make no claim that Globalstar in any way “sought to conceal” its meeting with the Commission or that Iridium was prejudiced,²¹ let alone provide any reason its assertions provide a basis to hold Globalstar’s applications in abeyance.

CONCLUSION

For the foregoing reasons, Iridium’s motion to hold Globalstar’s pending applications in abeyance should be denied, and the applications should be placed on public notice.

presentations that “present[] data or arguments not already reflected in that person’s written comments, memoranda or other filings in that proceeding.” As noted, Globalstar did not present such data or arguments at the December 9 meeting.

²¹ See Memorandum Opinion and Order, *North County Communications Corp. v. MetroPCS California, PCS*, 24 FCCR 3807 ¶ 26 (2009).

Respectfully submitted,

/s/ Samir C. Jain

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

Samir C. Jain
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

January 11, 2009

CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2010, I caused a true and correct copy of the foregoing to be served by first-class mail and/or electronic mail on the following:

R. Michael Senkowski
Peter D. Shields
Jennifer D. Hindin
Wiley Rein LLP
1776 K Street N.W.
Washington, D.C. 20006
Counsel to Iridium Satellite LLC

Best Copy and Printing, Inc.*
FCC@bcpiweb.com

/s/ Samir C. Jain

Samir C. Jain

*Indicates by electronic mail only.