Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Stratos Communications, Inc.	)	File No. SES-LFS-20050826-01175
Application for Title III Blanket License to	)	File No. SES-AMD-20050922-01313
Operate Mobile Earth Terminals with Inmarsat	)	
4F2 at 52.75°W	)	
	)	
Stratos Communications, Inc.	)	File No. ITC-214-20050826-00351
Application for Section 214 Authorization to	)	
Operate Mobile Earth Terminals with Inmarsat	)	
4F2 at 52.75°W	)	

RESPONSE OF INMARSAT VENTURES LIMITED

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RESPONSE OF INMARSAT VENTURES LIMITED

Inmarsat Ventures Limited ("Inmarsat") opposes the Petition to Hold in Abeyance or Grant with Conditions filed by Mobile Satellite Ventures Subsidiary LLC ("MSV") in the above-captioned proceedings.

I. INTRODUCTION AND SUMMARY

Prompt Commission grant of authority to Stratos Communications, Inc. ("Stratos") in these proceedings will open the door to revolutionary changes in the MSS industry here in the United States. Through these applications,[1] Stratos proposes to offer broadband MSS to the United States at speeds of almost half a megabit per second to satellite earth terminals that are one third the price, size and weight of those in use today with the Inmarsat system. Stratos will do so by providing Broadband Global Area Network ("BGAN") service over the U.K.-licensed Inmarsat 4 L-Band satellite that was launched just two days ago, and that will be ready to provide commercial service early next year. Thus, prompt approval of these applications is

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[1] Stratos Communications, Inc., File No. SES-LFS-20050826-01175 (Aug. 26, 2005) ("Stratos Title III Application"); Stratos Communications, Inc., File No. ITC-214-20050826-00351 (Aug. 26, 2005).

essential to allow Stratos and Inmarsat to bring these technological innovations to U.S. consumers, enhancing their options for communications services, and increasing competition.

MSV currently provides MSS in the United States over two L-Band satellites, one licensed by the United States, and one licensed by Canada. Thus, MSV is Inmarsat's direct competitor. Significantly, MSV does not oppose the grant of these applications. Rather, MSV seeks regulatory delay in the provision of Inmarsat services in the U.S. And MSV seeks to do so simply for its own commercial advantage in international spectrum negotiations: MSV expressly asks that the Commission hold Stratos' applications in abeyance "until the conclusion of a coordination agreement that results in a more efficient assignment of L band spectrum" among the five existing L-Band operators, "including the assignment of contiguous and wider frequency blocks."[2]

As detailed below, MSV's request is fundamentally inconsistent with how the Commission consistently has authorized L-Band service in the U.S. in the absence of an L-Band coordination agreement. Moreover, the Commission has recognized that it would be inconsistent with U.S. market access commitments in the WTO Agreement to withhold market access in order to improve MSV's leverage in international spectrum negotiations, as MSV requests here.[3]

The use of the L-Band by MSV, Inmarsat, and three other non-U.S.-satellite operators for MSS is governed by the 1996 Mexico City Memorandum of Understanding (the "*Mexico City MoU*" or the "*MoU*"). The *Mexico City MoU* does not assign specific frequencies to any L-Band operator, nor does it govern the types of carriers that the operators may employ.

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[2] MSV Petition at 1.

[3] *See SatCom Systems, Inc., et al.,* 14 FCC Rcd 20798, 20813 ¶ 30 (1999) ("*TMI Market Access Order*") (declining to exact coordination concessions favorable to MSV as the price for U.S. market access, because doing so would violate U.S. WTO commitments).

Frequency assignments are made through successively negotiated coordination agreements, each with a one-year term. The last annual agreement, covering the twelve months ended December 1999, expired by its own terms and has not been extended or renewed.[4] Thus, there is no coordination agreement in effect assigning specific L-Band frequencies to any operator, or governing any of the carriers (wideband or narrowband) that any operator uses in its current MSS operations, or that it may wish to use on its future satellites.

Any new coordination agreement would require the consent not only of Inmarsat and MSV, but also of the Russian, Mexican, and Canadian L-Band operators. Thus, the ability to successfully negotiate a five-party L-Band coordination agreement is not a matter within any one party's control. Despite the efforts of Inmarsat and its regulator, Ofcom, to convene a meeting of all L-Band operators to facilitate the possible negotiation of a new multi-lateral coordination agreement, no such meeting has been held since 1999.

MSV has a long history of opposing new competitive MSS offerings in the L-Band, cloaked under the guise of "international coordination" concerns, and based on absence of an existing coordination agreement. Prior to 2000, MSV's predecessors, AMSC/Motient, had a regulatory monopoly in the U.S. land mobile market in the United States.[5] MSV opposed the

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[4] *Mobile Satellite Ventures Subsidiary LLC*, DA 05-1492, at ¶ 34 (rel. May 23, 2005) ("*MSV 101° Order*"); *Mobile Satellite Ventures Subsidiary LLC*, DA 05-50, at ¶ 23 (rel. Jan. 10, 2005) ("*MSV 63.5° Order*"); *Kitcomm Satellite Communications Ltd.*, 19 FCC Rcd 6069, ¶ 9 (2004); *AMSC Subsidiary Corp. v. FCC*, 216 F.3d 1154, 1159-1160 (D.C. Cir. 2000) ("*AMSC v. FCC*"); MSV Petition at 4.

[5] *See TMI Market Access Order,* 14 FCC Rcd at 20813 ¶ 30 ("AMSC argues that . . . we should preclude any other L-band system from serving the United States until AMSC has coordinated 20 megahertz of spectrum. . . . Put another way, AMSC requests that we keep foreign carriers out of the U.S. market long enough for AMSC to use its monopoly power over U.S. customers to increase its traffic so significantly that it justifies its increased spectrum assignment.").

entry by TMI into the U.S. market.[6] Once TMI received market access, MSV partnered with TMI, and thereby effectively restored MSV's longstanding monopoly in the U.S.[7] MSV next opposed Inmarsat's entry into the U.S. market, which the Commission approved.[8] Each time, the Commission rejected MSV's request to forestall competition, and each time the Commission's policy regarding the absence of a coordination agreement was clear: "Without an agreement assigning each of the five systems to specific operating frequencies, *all systems* must operate on a non-interference basis consistent with the ITU Radio Regulations."[9]

In fact, in the absence of a coordination agreement, the Commission has uniformly provided *all* operators (including MSV) the right to operate in the *entire range of L-Band frequencies*, on a non-interference basis. The Commission did so for MSV's partner, MSV Canada (in its prior incarnation as TMI) in 1999, it did so for Inmarsat's distribution partners when they first received U.S. market access in 2001, and it did so twice for MSV itself just this year.[10] Thus, the Commission has not, as MSV requests here, constrained operators to the spectrum last coordinated for their use under an expired agreement.

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6 *See id.* at 20807-20808, 20810 ¶¶ 17, 24.

7 MSV's attempts to paint Inmarsat as a "monopolist" are particularly hollow in light the Commission's repeated rejection of those arguments and its express findings to the contrary—that Inmarsat's privatization and entry into the U.S. market have enhanced service options and competition in the U.S. *See FCC Report to Congress as Required by the ORBIT Act*, FCC 04-132, at 13-14 (2004); *see also Inmarsat Market Access Order*, 16 FCC Rcd at 21697-21700 ¶¶ 69-76; *FCC Report to Congress as Required by the ORBIT Act*, FCC 03-131, at 16 (2003).

8 *Comsat Corporation d/b/a Comsat Mobile Communications, et al.*, 16 FCC Rcd 21661, 21695-21996 (2001) ("*Inmarsat Market Access Order*") (finding that grant of market access for the Inmarsat system will promote competition in the U.S.).

9 *TMI Market Access Order,* 14 FCC Rcd at 20814 ¶ 34.

10 *See id.*; *Inmarsat Market Access Order* , 16 FCC Rcd at 21698-21699 ¶ 72, 21712 ¶ 115; *MSV 63.5° Order* at ¶ 23; *MSV 101° Order* at ¶ 34.

The right of an L-Band operator to operate anywhere in the L-Band, in the absence of an L-Band coordination agreement, was at the heart of a recent appeal by MSV's predecessor to the U.S. Court of Appeals for the D.C. Circuit.[11] In 1999, MSV (then AMSC) disputed MSV Canada's (then TMI's) ability to serve the U.S. in certain L-Band frequencies, arguing that allowing MSV Canada to do so would impermissibly modify MSV's FCC license for those very same frequencies. Both the Commission[12] and the Court of Appeals[13] examined MSV Canada's right to operate in the disputed portion of the L-Band, under ITU regulations, the *MoU*, and relevant FCC license provisions. They also considered whether, in the absence of a coordination agreement, MSV had a right to any segment of the L-Band that warranted precluding MSV Canada (TMI) from being allowed to use that very same spectrum. Both the Commission and the Court of Appeals determined that MSV had no right to keep others from using frequencies once coordinated for MSV's use under an expired coordination agreement. In fact, MSV's predecessor, AMSC, admitted in federal court that, in the absence of a coordination agreement, another operator is *"free to operate on any frequency [licensed to AMSC], including the frequencies that previously had been coordinated for AMSC" under an expired coordination agreement.* [14]

Thus, there is no question that the Commission can and should grant the Stratos applications to operate in the L-Band in the absence of a coordination agreement. MSV's other

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[11] *AMSC v. FCC*, 216 F.3d at 1154.

[12] *TMI Market Access Order*, 14 FCC Rcd at 20810-20814 ¶¶ 25-34.

[13] *AMSC v. FCC*, 216 F.3d at 1159-1160.

[14] *Id.* at 1158-59 (emphasis supplied) (citing *TMI Market Access Order*, 14 FCC Rcd at 20826 ¶¶ 63-64).

assertions about "replacement satellites," station-keeping parameters, possible national security concerns, and E911 are entirely baseless and dispensed with below.

For these reasons, Inmarsat urges the Commission to grant the Stratos applications without delay and without any conditions, other than the requirement to operate on a non-interference basis in the absence of an international coordination agreement covering the L-Band operations of the Inmarsat 4 satellite.

II. THE STRATOS APPLICATIONS CAN AND SHOULD BE GRANTED PROMPTLY

Inmarsat is replacing its Inmarsat 3 L-Band satellite at 54° W.L. with a new Inmarsat 4 spacecraft, Inmarsat 4F2, located at 52.75° W.L., and capable of providing MSS over the same L-Band frequency range as the existing Inmarsat 3 satellite.[15] Specifically, Inmarsat 4F2's MSS service links will operate using 1525-1544/1545-1559 MHz and 1626.5-1645.5/1646.5-1660.5 MHz, the same frequency range authorized for communications with the Inmarsat fleet in the *Inmarsat Market Access Order*.[16] Moreover, the geographic coverage of the U.S. from 52.75° W.L is very similar to the coverage 1.25 degrees away at 54° W.L.

In its petition, MSV baldly claims that the Inmarsat 4F2 satellite is "more likely to cause harmful interference" and that "[t]he technical issues presented by the proposed operation of Inmarsat 4 satellites can only be resolved through *a priori* frequency coordination among L-Band operators and their license administrations . . . ."[17] MSV is wrong.

First, and foremost, Inmarsat can operate Inmarsat 4F2 in a manner that produces no greater potential for interference into MSV's 101° W.L. satellite than Inmarsat 3. In fact, in

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[15] Due to the highly-non-directional antennas used to provide MSS, Inmarsat 4F2's orbital location is the functional equivalent of Inmarsat 3's current location at 52.75° W.L.

[16] Stratos Title III Application, Attachment 3, at 6; *Inmarsat Market Access Order*, 16 FCC Rcd at 2168 ¶ 1 & n.3.

[17] MSV Petition at 8.

many ways, Inmarsat 4F2 is more "interference friendly" than the Inmarsat 3 satellite that it will replace: (i) its narrower spot beams with steeper antenna side lobes reduce interference to adjacent areas, and (ii) its higher gain spot beams allow the use of terminals that radiate less than one-tenth the power of existing Inmarsat high speed data terminals.

Second, the Commission has consistently found, as recently as a few months ago, that in the absence of a coordination agreement, the satellite operators covered by the *MoU*, including MSV and Inmarsat, "have continued to coordinate their operations informally and have been operating interference-free."[18] Citing the Commission's enforcement authority, the Court of Appeals for the D.C. Circuit has previously noted, "without surprise," that MSV's predecessor (AMSC) did not claim to have experienced any interference since the last coordination agreement expired.[19] And MSV presents not a shred of evidence here that this situation will not continue to be the case after Inmarsat 4 is launched.

Third, this year, in two separate decisions, and despite the absence of a coordination agreement, the Commission granted MSV authority to launch and operate new L-Band spacecraft with far different technical parameters than MSV's existing spacecraft, including wider-band carriers than those about which MSV expresses concern here. In both cases, MSV proposed carriers that are up to 1000x wider than MSV's existing carriers, and up to *twenty-five times* wider than the Inmarsat 4 carriers at issue here. MSV also proposed to add an entirely new geographic region to its service area---South America. In fact, one new L-Band MSS spacecraft that the Commission authorized MSV to operate is both (i) *approximately 40°*

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[18] *MSV 101° Order* at ¶ 34; *MSV 63.5° Order* at ¶ 23.

[19] *AMSC v. FCC*, 216 F.3d at 1159-60 (citing 47 U.S.C. § 312).

closer to Inmarsat's L-Band satellite at 54° W.L. than MSV ever was before (in fact, only 9.5° away from Inmarsat),[20] and (ii) not even contemplated by the terms of the *Mexico City MoU.*

The Commission did not hold either of MSV's L-Band applications in abeyance despite (i) the fundamental changes in MSV's geographic coverage and technical architecture, (ii) the potential for increased interference into Inmarsat, (iii) the absence of a coordination agreement covering these very different parameters, or (iv) the fact that the new MSV satellite at 63.5° W.L. is outside the ambit of the *MoU* and MSV has not even attempted to initiate coordination of that location with Inmarsat. Rather, the Commission simply imposed the same types of conditions that it has imposed for years: the operation of MSV's satellites must be conducted on a non-harmful interference basis until MSV completes a coordination agreement that governs those spacecraft.[21] If MSV's evolution from 5 kHz carriers to 5,000 kHz carriers (a 1,000x increase in bandwidth), its new coverage of South America, and its use of an entirely new orbital location almost 40 degrees away, did not warrant holding its applications in abeyance, pending MSV's entry into a new coordination agreement, neither does Inmarsat's evolution to 200 kHz carriers with the Inmarsat 4 satellite.[22]

In sum, the Commission's international and domestic legal obligations mandate that it grant this request for market access over the Inmarsat 4 satellite in a manner consistent

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[20] Thus, if any issue even theoretically existed whether Inmarsat 4 fits with the scope of the *MoU*, the same issue would exist with respect to the new MSV spacecraft at 101° W.L. and 63.5° W.L.

[21] *MSV 101° Order* at ¶ 34 ("We also remind MSV that until coordination is completed, its operations will be on a non-harmful interference basis to other lawfully operating satellite or radio facilities and will receive no protection from interference caused by those facilities."); *MSV 63.5° Order* at ¶ 39 ("in the absence of a coordination agreement, MSV's operation in the L-band will be on a non-harmful interference basis to other mobile-satellite service systems operating in the L-band.").

[22] Stratos Title III Application, Attachment A, at 18.

with its treatment of MSV and with existing U.S. precedent, and without regard for the absence of an L-Band coordination agreement.

III. THERE IS NO BASIS TO LIMIT THE SPECTRUM ON WHICH INMARSAT 4 SERVES THE U.S.

Recognizing that the Commission cannot treat Stratos' application for Inmarsat 4 differently than it treated MSV's applications for new L-Band satellites, MSV has a fall-back request: that the Commission exclude from its grant of authority certain frequencies with respect to which MSV claims certain rights under the *Mexico City MoU*. MSV grossly mischaracterizes the *MoU*. However, the Commission need not (and should not) address in this proceeding issues that currently are under dispute in international coordination negotiations.

Fortunately, the Commission can (and should) grant the Stratos applications based on longstanding Commission precedent. In fact, in the absence of a coordination agreement, the Commission has uniformly provided all operators (including MSV) the right to operate in the *entire range of L-Band frequencies on a non-interference basis.* The Commission did so for MSV's partner, MSV Canada (in its prior incarnation as TMI) in 1999, it did so for Inmarsat's distribution partners when they first received U.S. market access in 2001, and it did so twice for MSV itself just this year.[23] Thus, the Commission has not, as MSV requests here, constrained operators to the spectrum last coordinated for their use under an expired agreement.

The Commission has allowed *all* operators, including MSV, to operate in the *entire range of L-Band frequencies,* in the absence of a coordination agreement, because no L-Band operator has the exclusive, permanent right to any particular frequency.[24] Because no

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[23] *See TMI Market Access Order*, 14 FCC Rcd at 20814 ¶ 34, 20826 ¶¶ 63-64; *Inmarsat Market Access Order*, 16 FCC Rcd at 21698-21699 ¶ 72, 21712 ¶ 115; *MSV 63.5° Order*, DA 05-50, at ¶ 23; *MSV 101° Order*, DA 05-1492, at ¶ 34.

[24] *See Flexibility for Delivery of Communications by MSS Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands*, FCC 05-30 at n.91 (rel. Feb. 25, 2005) ("In the L-Band, all

operator "owns" any L-Band frequency, and because there is no operating agreement in effect assigning any specific frequency to any operator, (i) no operator today has any spectrum assignment that it can "loan" to another; consequently, (ii) no operator has any spectrum loan that it can "recall."[25]

More fundamentally, the law is clear that when no coordination agreement is in effect, as here, any operator is free to use any L-Band frequencies on a non-interference basis, *including those previously coordinated for another operator under an expired coordination agreement.* Thus, it simply does not matter whether MSV claims that certain parts of the L-Band spectrum were "owned" or "loaned" at one time.

The right of an L-Band operator to operate anywhere in the L-Band, in the absence of an L-Band coordination agreement, was at the heart of a recent appeal of a Commission decision to the U.S. Court of Appeals for the D.C. Circuit. In 1999, MSV (then AMSC) disputed MSV Canada's (then TMI's) ability to serve the U.S. in certain L-Band

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licenses have equal rights to all channels in the band."); *TMI Market Access Order*, 14 FCC Rcd at 20803 ¶ 8 ("The 1996 operator-to-operator agreement provided each system with an amount of spectrum based upon its current and projected near-term traffic requirements. Thus unlike most international coordination agreements that create permanent assignments of specific spectrum, here the operators' assignments could change from year to year."); *Inmarsat Market Access Order*, 16 FCC Rcd at 21670 ¶ 6 (the *MoU* creates a "unique framework to facilitate annual spectrum assignment agreements among the operators.").

25 Inmarsat does not agree with MSV's recitation of the history of spectrum assignments under the *MoU,* its characterization of the terms and conditions under which various operators used or use portions of the L-Band, its assertions whether a specific portion of the L-Band was ever "loaned," or its assertions about global beams or its assertions about which Inmarsat satellites are covered by the *MoU.* Nor has Inmarsat "acknowledged its refusal to return the loaned spectrum" as MSV wrongly claims. *Id.* at n.8.; *cf.* Inmarsat plc, Prospectus, June 17, 2005 at 45 (available at http://about.inmarsat.com/investor_relations/default.aspx) ("MSV and MSV Canada have challenged our right to use particular frequency ranges . . ., claiming they are entitled to those spectrum segments. We have rejected those claims."). MSV's claims in that regard are legal "red herrings" because the Commission has consistently granted applications, such as this one, subject to the outcome of international coordination negotiations over such issues. *See* cases cited, *supra*, notes 9 & 10.

frequencies, arguing that allowing MSV Canada to do so would impermissibly modify MSV's FCC license for those very same frequencies. Both the Commission[26] and the Court of Appeals[27] examined MSV Canada's right to operate in the disputed portion of the L-Band, under ITU regulations, the *MoU*, and relevant FCC license provisions. They also considered whether, in the absence of a coordination agreement, MSV had a right to any segment of the L-Band that warranted precluding MSV Canada (TMI) from being allowed to use that very same spectrum. Both the Commission and the Court of Appeals determined that MSV had no right to keep others from using frequencies once coordinated for MSV's use under an expired coordination agreement. Specifically, the Court found that the condition in MSV Canada's license that limited its operations to frequencies coordinated for its satellite[28] "*comes into play, however, only when there is a coordination agreement in effect.*"[29] In contrast, and as MSV's predecessor, AMSC, admitted in federal court, in the absence of a coordination agreement, another operator is *"free to operate on any frequency [licensed to AMSC], including the frequencies that previously had been coordinated for AMSC" under an expired coordination agreement.*[30] The

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26 *TMI Market Access Order*, 14 FCC Rcd 20798.

27 *AMSC v. FCC*, 216 F.3d at 1159-1160.

28 *TMI Market Access Order*, 14 FCC Rcd at 20826 ¶ 64 ("TMI Communications and Company, L.P. IS AUTHORIZED to operate up to 100,000 mobile earth terminals through the Canadian licensed MSAT-1 space station in the portions of the 1545-1558.5 and 1646.5-1660 MHz band coordinated for the TMI satellite network in the most recent annual L-band operator-to-operator coordination agreement, to the extent indicated herein, in accordance with the technical specifications set forth in its application and its Radio Station Authorization, and consistent with the Commission's rules.").

29 *AMSC v. FCC,* 216 F.3d at 1158-59 (emphasis supplied) (citing *TMI Market Access Order*, 14 FCC Rcd at 20826 ¶¶ 63-64).

30 *Id.* In this instance, MSV Canada's authorization provided: "In the absence of a continuing annual L-band operator-to-operator coordination agreement, TMI's operation in the 1545-1558.5 and 1546.5-1660 MHz bands will be on a non-interference basis until a future

Commission acknowledged this is the case, arguing that it did not increase the likelihood of interference because of the continuing requirement that operations be on a non-interfering basis.[31]

In sum, in the absence of an L-Band coordination agreement, the Commission has uniformly provided operators the express right to operate in the *entire range of L-Band frequencies*, subject to a non-interference condition: "without an agreement assigning each of the five systems to specific operating frequencies, *all systems* must operate on a non-interference basis consistent with the ITU Radio Regulations."[32] No further condition is warranted or appropriate here.

Finally, the *Mexico City MoU* provides clear measures to resolve disputes among operators—a specified multilateral dispute resolution process. Consistent with the obligations on the United States under that *MoU*, any unresolved disputes between the operators should be resolved through that multilateral process, in a manner that involves all of the Administrations, not just the United States.

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operator-to-operator agreement is concluded." *TMI Market Access Order*, 14 FCC Rcd at 20826 ¶ 64.

Inmarsat's U.S. distributors have a virtually identical provision in their authorizations to provide service over the current Inmarsat fleet. *See Inmarsat Market Access Order*, 16 FCC Rcd at 21712-21713 ¶ 115 ("IT IS FURTHER ORDERED that the applications listed in Appendix C to operate mobile earth terminals to provide domestic and international Mobile Satellite Service via the privatized Inmarsat system ARE GRANTED subject to the following conditions: . . . . c. Operations shall be limited to the portions of the 1525-1559 and 1626.5-1660.5 MHz band coordinated for the Inmarsat satellite system in the most recent annual L-Band operator-to-operator agreement; d. In the absence of a continuing annual L-band operator-to-operator coordination agreement, operations of METs in the 1525-1559 and 1626.5-1660.5 MHz bands will be on a non-interference basis until a future operator-to-operator agreement is concluded.").

Thus, there is no basis to modify the existing authorizations of Inmarsat's distributors, as MSV suggests. MSV Petition at 10, n.16.

[31] *AMSC v. FCC,* 216 F.3d at 1158-59.

[32] *TMI Market Access Order,* 14 FCC Rcd at 20814 ¶ 34.

IV. No Other Issue Provides a Reason to Withhold Authority

MSV raises four additional issues that warrant a brief response, none of which warrants withholding grant of Stratos' applications.

First, MSV claims that there is a question whether Inmarsat 4 qualifies as a "replacement satellite" under the Commission's rules. As an initial matter, the rule to which MSV cites---specifying when a bond must be posted[33]---is wholly inapposite. Inmarsat 4 was launched on November 8, 2005, and no bond is due after launch. Inmarsat 4F2's orbital location is the functional equivalent of the current location of the Inmarsat 3 satellite 1.25° away, and no other operator could use at any nearby orbital location the same L-Band frequencies that Inmarsat will continue to employ to serve the U.S.[34] Moreover, the Commission has a longstanding policy of allowing replacement satellites to cover additional areas beyond that of the spacecraft they replace.[35]

Second, MSV's arguments regarding Inmarsat's station-keeping tolerance are baseless. MSV acknowledges that "the Commission rule requiring FSS satellite to operate with

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[33] 47 C.F.R. § 25.165.

[34] *See, e.g., MSV 63.5° Order* at ¶ 8 ("geographic separation is not sufficient to limit co-frequency interference between multiple NGSO-like systems serving [North and South America]. The Commission . . . will not consider applications for new systems where the new system's operations would cause interference to licensed systems.").

[35] *Amendment of the Commission's Space Station Licensing Rules and Policies*, 18 FCC Rcd 10760, 10857 ¶ 258 (2003). Indeed, MSV's substantial geographic coverage expansion *to reach an entirely new hemisphere* did not prevent the Commission from deeming MSV's next-generation satellite at 101° W.L. a "replacement," s*ee MSV 101° Order* at ¶ 14, or from considering MSV's application for 63.5° W.L. outside a processing round, *MSV 63.5° Order* at ¶ 8.

Stratos' application provides that "Inmarsat will retire Inmarsat 3 from service *at 54° W.L.* shortly after bringing Inmarsat 4F2 into commercial service." Stratos Title III Application, Attachment A, at 2. Stratos did not, nor could it, indicate what Inmarsat would do with the Inmarsat 3 spacecraft after Inmarsat 4F2 is launched. Nor is the question of Inmarsat's fleet management relevant here.

±0.05° East-West station keeping does not apply to MSS satellites," such as Inmarsat 4F2. Indeed, the Commission explicitly declined to apply this station keeping requirement to MSS satellites.[36] Yet MSV tries to tie this proceeding to an unrelated problem---an issue that arose elsewhere because MSV asked for a waiver of a rule that did not exist.[37] As Stratos described in its application,[38] Inmarsat has coordinated the operation of Inmarsat 4F2 with adjacent operators and ensured that the station-keeping boxes do not overlap. Any reasons that might have justified imposing a ±0.05° East-West station keeping requirement on MSV at the congested 101° W.L. location[39] do not exist in the case of Inmarsat 4F2. Therefore, there is no legitimate basis to tie the grant of Stratos' application to the resolution of an issue raised by MSV in its petition for reconsideration of a decision involving an entirely separate application.

Third, there is no reason for the Commission even to entertain MSV's request that Stratos file with the Commission Stratos' network security arrangements with the United States

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[36] *Mitigation of Orbital Debris*, 19 FCC Rcd 11567, 11586 ¶ 44 (2004) ("We conclude that the record in this proceeding is not sufficiently developed at this time to adopt a change in our rules [to apply the station-keeping requirement] to non-FSS space stations.").

[37] In its pending Petition for Reconsideration of that authorization for a new satellite at 101° W.L., MSV also admits that "there is no rule requiring MSS satellites to operate with a ±0.05° East-West station keeping box." Mobile Satellite Ventures Subsidiary, LLC, Petition for Clarification or Partial Reconsideration, filed in File No. SAT-LOA-19980702-00066 *et al.*, at 3 (Jun. 22, 2005).

[38] Stratos Title III Application, Attachment A, at 47-48.

[39] While there is no station-keeping tolerance requirement of general application to MSS satellites, the Commission reserved discretion to impose a condition on station-keeping tolerance on a case-by-case basis (*e.g.*, where there are multiple spacecraft leading to concerns related to orbital collisions). *Mitigation of Orbital Debris*, 19 FCC Rcd at 11587 ¶ 47 ("We retain discretion in any specific case, based upon any concerns arising in the licensing process, to include any needed conditions concerning the tolerance within which an NGSO spacecraft maintains its orbit.").

Government. Stratos' arrangements with the Executive Branch are not a matter for public comment by competitive MSS providers.[40]

Fourth, MSV's speculation about the possible future application of E911 to MSS[41] provides no basis to withhold action on this application. Inmarsat and its distribution partners will make appropriate provision for E911 service to covered terminals, in accordance with such requirements as may be adopted in the future.

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For the foregoing reasons, the Commission should deny MSV's petition and grant the Stratos applications without further delay.

Respectfully submitted,

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November 10, 2005

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[40] Inmarsat is confident that Stratos will address any national security concerns of the U.S. government prior to grant, but notes that national security and business confidentiality are among the legitimate reasons that resolution of national security issues may not be appropriate for disclosure on the *public* record, as MSV requests.

[41] MSV Petition at 13.

CERTIFICATION OF PERSON RESPONSIBLE FOR PREPARING ENGINEERING INFORMATION

I hereby certify that I am the technically qualified person responsible for preparation of the engineering information contained in the foregoing Response of Inmarsat Ventures Limited, that I am familiar with Part 25 of the Commission's rules, that I have either prepared or reviewed the engineering information contained therein, and that it is complete and accurate to the best of my knowledge and belief.

/s/
Jonas Eneberg
Manager, Spectrum Regulatory Affairs
Inmarsat Global Limited

November 10, 2005

CERTIFICATE OF SERVICE

I, Jeffrey A. Marks, hereby certify that on this 10th day of November, 2005, I caused to be served a true copy of the foregoing "Response of Inmarsat Ventures Limited," by first class mail, postage pre-paid (or as otherwise indicated) upon the following:

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