## Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

| In the matter of        | ) |                                 |
|-------------------------|---|---------------------------------|
|                         | ) | File No. SES-AMD-20070723-00978 |
| TerreStar Networks Inc. |   | File No. SES-AMD-20070907-01253 |
|                         |   |                                 |

## **REPLY**

Inmarsat Global Limited ("Inmarsat") replies to the Consolidated Response and Opposition ("Opposition") of TerreStar Networks Inc. ("TerreStar").

As Inmarsat explained in its Comments, TerreStar's brief description of its ground spare plans does not provide certainty that TerreStar will satisfy the ATC gating requirement that it have a ground spare fully constructed within one year of commencing ATC operations.

Moreover, "[g]ranting ATC authority before TerreStar has fully satisfied the ground spare requirement would undermine the fundamental policy rationale for this gating criterion (providing redundancy to ensure continuous service to the public), and would call into question whether TerreStar's planned ATC operations are in fact ancillary to its planned MSS service." 1

TerreStar responds by incorporating by reference the information about its ground spare contained in its recent Form 10-K filed with the Securities and Exchange Commission.<sup>2</sup>

TerreStar is mistaken that this cross-reference renders "moot" the issues raised in Inmarsat's Comments.

Commission policy is clear that the limited information TerreStar provides in its Opposition is not dispositive of whether TerreStar has satisfied the ground spare requirement. Specifically, in developing its ATC licensing framework, the Commission rejected the

<sup>1</sup> Comments of Inmarsat Global Limited at 4.

<sup>&</sup>lt;sup>2</sup> Consolidated Response and Opposition of TerreStar Networks Inc. at 4-5.

 $<sup>^{3}</sup>$  *Id.* at 5.

suggestion that providing a copy of a construction contract for a spare satellite, or certifying to the scheduled completion date, would be a "conclusive demonstration" of compliance with the ground spare gating criterion. Indeed, the Commission expressly "reserve[d] the right to require additional detail and certainty." Consistent with Commission precedent in the milestone context, the Commission should look beyond the assertions made by TerreStar and carefully review a complete, unredacted copy of the construction contract in order to make its own conclusions about the adequacy of TerreStar's efforts toward satisfying the ground spare gating criterion. Furthermore, the Commission should review the actual progress made by the manufacturer toward completing construction in a timely fashion (not just information on payments made). In this way, the Commission can confirm whether TerreStar will in fact soon satisfy the ground spare gating criterion.

Respectfully submitted,

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May 20, 2008

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Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, 20 FCC Rcd 4616, 4649-50,  $\P$  88-90 & n.211 (2005).

<sup>&</sup>lt;sup>5</sup> *Id.* 

The version of the contract that TerreStar cross-references is heavily redacted, omitting literally hundreds of pages in the aggregate.

## CERTIFICATE OF SERVICE

I, Jeffrey A. Marks, hereby certify that on this 20<sup>th</sup> day of May, 2008, I caused to be served a true copy of the foregoing Reply by first class mail, postage prepaid, upon the

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