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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

DEC - 7 2005

Federal Communication Commission  
Bureau / Office

In the Matter of	)	
	)	
<b>TELENOR SATELLITE, INC.</b>	)	File No. SES-LFS-20050930-01352
	)	File No. SES-AMD-20051111-01564
Application for Title III Blanket License to Operate Mobile Earth Terminals with Inmarsat 4F2 at 52.75°W	)	
	)	
<b>TELENOR SATELLITE, INC.</b>	)	File No. ITC-214-20051005-00395
	)	
Application for Section 214 Authorization to Provide BGAN Mobile Satellite Service via Inmarsat 4F2 at 52.75°W	)	
	)	

To: International Bureau

**MOTION TO STRIKE**

Telenor Satellite, Inc. ("Telenor") urges the Bureau to strike the Petition to Hold in Abeyance or to Grant with Conditions ("Petition") filed by Mobile Satellite Ventures Subsidiary LLC ("MSV") on November 23, 2005 against the above-captioned Applications (collectively, the "Telenor Applications"). The Bureau should strike those portions of the MSV Petition that rely on redacted material which MSV refuses to provide to Telenor even under a protective order. Since Telenor is unable to respond effectively to the MSV Petition, any reliance by the Bureau on the redacted material in that Petition would violate Telenor's due process rights and the Administrative Procedure Act.<sup>1</sup>

On September 30, 2005, Telenor filed an application for a blanket license to operate 20,000 mobile earth terminals ("METs") with Inmarsat's Broadband Global Area Network

<sup>1</sup> Concurrently with this Motion to Strike, Telenor is filing an Opposition to the MSV Petition based on the non-redacted portions of that filing. See Telenor Opposition (Dec. 3, 2005). By filing that opposition, Telenor in no way concedes that it has been afforded an adequate opportunity to respond effectively to the MSV Petition.

("BGAN"). Subsequently, on October 5, 2005, Telenor filed an application for Section 214 authority to offer the BGAN service. Telenor seeks authority to access the new Inmarsat 4F2 satellite, which was launched on November 8, 2005, and has been licensed by the United Kingdom to operate at 52.75° W.L. The BGAN service will allow U.S. consumers to obtain enhanced Mobile Satellite Services ("MSS") at much higher data transmission speeds than current MSS offerings.

On November 23, 2005, MSV filed its Petition against the Telenor Applications. Significant portions of that Petition are redacted from the public copy of the filing, including portions of the Background section and Discussion sections I and II. MSV has sought confidential treatment of this material because it allegedly relates to the Mexico City Memorandum of Understanding for L-band operations. While Telenor has requested an unredacted copy of the Petition from MSV and has offered to enter into a protective order, MSV has refused to provide Telenor with such an unredacted copy.<sup>2</sup>

The MSV Petition has substantial redactions that go to the heart of its arguments against the Telenor Applications. Telenor simply cannot respond effectively to these arguments without knowing what specific assertions MSV is making. The Commission has held that the APA and the Due Process Clause of the Constitution "generally entitled parties in administrative proceedings to have access to the documents necessary for effective participation in those proceedings."<sup>3</sup> This general principle clearly applies in the context of Title II authorizations and Title III license applications.

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<sup>2</sup> See attached Declaration of Keith H. Fagan.

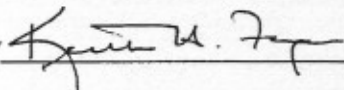
<sup>3</sup> *In the Matter of Open Network Architecture Tariffs of Bell Operating Companies*, 10 FCC Rcd 1619, 1621 (1995).

The Bureau should also strike the portions of the MSV Petition that are based on redacted material not provided to Telenor because the Bureau cannot rely on such information as a basis for its decision on these applications.<sup>4</sup> At a minimum, the Bureau should not base its decision on any redacted material presented by MSV and withheld from Telenor. Such an approach would be consistent with that taken by the Commission in 2001 when it granted Inmarsat access to the U.S. market. In that proceeding, MSV similarly opposed certain MSS applications, but did not provide the applicants with unredacted copies of its filings because they contained information concerning the Mexico City Memorandum of Understanding. The Commission appropriately did not rely on any of that material as a basis for its decision in that proceeding.<sup>5</sup>

For the foregoing reasons, Telenor respectfully requests that the Bureau strike those portions of the MSV Petition that include redacted material not provided to Telenor. Alternatively, the Bureau should not rely on that material in reaching its decision on the instant applications.

Respectfully submitted,

**TELENOR SATELLITE, INC.**

By  \_\_\_\_\_

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Its Attorney

December 7, 2005

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<sup>4</sup> See, e.g., *U. S. Lines, Inc. v. Federal Maritime Comm.*, 584 F.2d 519 (D.C. Cir. 1978).

<sup>5</sup> See *Comsat Corp. et al.*, Memorandum Opinion, Order and Authorization, FCC 01-272, ¶¶ 106-107 (2001).



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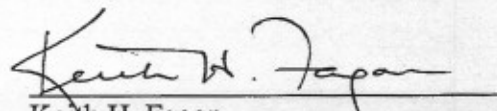
**DECLARATION OF KEITH H. FAGAN**

I, Keith H. Fagan, hereby declare as follows:

1. I am Senior Counsel for Telenor Satellite, Inc. ("Telenor")
2. On November 28, 2005, I sent an e-mail to David Konczal, an attorney representing Mobile Satellite Ventures Subsidiary LLC ("MSV"). In that e-mail, I asked Mr. Konczal whether MSV would provide Telenor with an unredacted copy of the MSV Petition to Hold in Abeyance or to Grant with Conditions ("Petition") that was filed against the above-captioned applications on November 23, 2005. I further stated that Telenor would be willing to enter into a protective order or confidentiality agreement in order to obtain such an unredacted copy.
3. Later that day, I received an e-mail response from Mr. Konczal. He stated that because Telenor is not a party to the Mexico City Memorandum of Understanding ("MOU"), MSV was not at liberty to provide Telenor with an unredacted copy of its Petition. Mr. Konczal suggested that Telenor contact the FCC to determine whether it could access that information, and noted that Inmarsat had been provided with an unredacted copy of the Petition because it was a party to the MOU.

I, Keith H. Fagan, declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on December 7, 2005.

  
Keith H. Fagan

## CERTIFICATE OF SERVICE

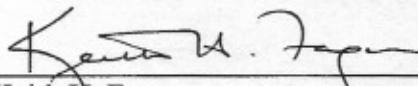
I, Keith H. Fagan, hereby certify that on this 7<sup>th</sup> day of December, 2005, I served a copy of the foregoing "Motion to Strike" by first class mail, postage prepaid, upon the following:

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Keith H. Fagan