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DEC - 8 2005

Federal Communications Commission  
Office of Secretary

VIA HAND DELIVERY

December 8, 2005

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
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DEC 13 2005

WILLIAM K. COULTER  
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Satellite Division  
International Bureau

Re: FTMSC US, LLC; Application for Title III Blanket License to Operate Mobile Earth Terminals with Inmarsat 4F2 at 52.75 degrees W and Application for Section 214 Authorization to Operate Mobile Earth Terminals with Inmarsat 4F2 at 52.75 degrees W; File Nos. SES-LFS-20051011-01396; SES-AMD-20051118-01602; and ITC-214-20051012-00406

Dear Ms. Dortch:

By its undersigned counsel, enclosed for filing please find FTMSC US, LLC's ("FTMSC's") Opposition to Mobile Satellite Ventures Subsidiary LLC's ("MSV's") Petition to Hold in Abeyance or to Grant with Conditions in the above captioned applications.<sup>1</sup>

Kindly direct any questions regarding this filing to the undersigned.

Sincere regards,

William K. Coulter  
Counsel for FTMSC US, LLC

WKC:clz  
Enclosure

<sup>1</sup> In order to consolidate this Opposition to MSV's Petition regarding both the Title II and Title III applications, this Opposition is being filed today, December 8, 2005. To the extent that a motion to accept late filed pleading is required as pertaining to the Section 214 Application, such a motion is hereby made.

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Federal Communications Commission  
Office of Secretary

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the matter of	)	
FTMSC US, LLC	)	
Application for Title III Blanket License	)	File No. SES-LFS-20051011-01396
to Operate Mobile Earth Terminals with	)	File No. SES-AMD-20051118-01602
Inmarsat 4F2 at 52.75°W	)	
	)	
FTMSC US, LLC	)	File No. ITC-214-20051012-00406
Application for Section 214 Authorization	)	
to Operate Mobile Earth Terminals with	)	
Inmarsat 4F2 at 52.75°W	)	

**OPPOSITION**

Pursuant to Sections 25.154(c) and 63.20(d) of the Commission's Rules, 47 C.F.R. §§ 25.154(c) and 63.20(d), FTMSC US, LLC ("FTMSC"), by its undersigned counsel, hereby opposes Mobile Satellite Ventures Subsidiary LLC's ("MSV's") Petition to Hold in Abeyance or to Grant with Conditions ("MSV Petition") the above-captioned applications of FTMSC (collectively "FTMSC BGAN Applications").<sup>1</sup> Because the MSV Petition does not demonstrate that grant of the above-referenced applications is *prima facie* inconsistent with the public interest as required by the Commission's Rules,<sup>2</sup> the Bureau must dismiss or deny the MSV Petition and promptly grant the FTMSC BGAN Applications.

**I. INTRODUCTION AND SUMMARY**

FTMSC is seeking Commission authority to provide new Broadband Global Area Network ("BGAN") services in the United States. At least two other carriers, including Stratos Communications, Inc. ("Stratos") and Telenor Satellite, Inc. ("Telenor"), have also filed

<sup>1</sup> *In Re* MSV Petition to Hold in Abeyance or to Grant with Conditions (Nov. 23, 2005).

<sup>2</sup> 47 C.F.R. §§ 25.154 and 63.20.

applications to provide BGAN services in the United States.<sup>3</sup> MSV, a competing mobile satellite service provider in the United States, has sought to delay the grant of all pending BGAN applications with almost identical pleadings.<sup>4</sup> The MSV pleadings are clearly designed to delay as much as possible the entry of new competitive services into the mobile satellite services (“MSS”) market, as well as to pressure Inmarsat to settle an unrelated dispute between itself and MSV related to the international coordination of L-band frequencies. Because the MSV Petition does not demonstrate that grant of the above-referenced applications is *prima facie* inconsistent with the public interest and does not oppose it on this basis, the Bureau must dismiss or deny the MSV Petition.

## II. GRANT OF THE FTMSC APPLICATIONS IS IN THE PUBLIC INTEREST

The FTMSC BGAN Applications satisfy the Commission’s rules and grant of such applications is in the public interest. As explained below, the MSV Petition does not demonstrate otherwise.<sup>5</sup>

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<sup>3</sup> See Stratos Communications, Inc. Application for Title III Blanket License to Operate Mobile Earth Terminals with Inmarsat 4F2 at 52.75°W.L.; File Nos. SES-LFS-20050826-001175 and SES-AMD-20050922-01313, and Application for Section 214 Authorization to Operate Mobile Earth Terminals with Inmarsat 4F2 at 52.75° W.L., File No. ITC-214-20050826-00351; and Telenor Application for Title III Blanket License to Operate Mobile Earth Terminals with Inmarsat 4F2 at 52.75°W.L., File Nos. SES-LFS-20050930-01352, SES-AMD-20051111-01564, and Application for Section 214 Authorization to Operate Mobile Earth Terminals with Inmarsat 4F2 at 52.75° W.L., File No. ITC-214-20051005-00395.

<sup>4</sup> See Petition of Mobile Satellites Ventures Subsidiary LLC to Hold in Abeyance or to Grant with Conditions Application of Stratos Communications, Inc., dated Oct. 28, 2005; and Petition of Mobile Satellite Ventures Subsidiary LLC to Hold in Abeyance or to Grant with Conditions Application of Telenor, dated Nov. 23, 2005.

<sup>5</sup> Because the MSV Petition is practically identical to the MSV Petition to Hold in Abeyance or to Grant with Conditions in the Stratos proceeding, in order to avoid duplicative arguments before the Commission, FTMSC is incorporating by reference arguments contained in the responses filed by Inmarsat and Stratos to the MSV pleading in that case. The Response of

(footnote continued to next page)

First, MSV argues that grant of the FTMSC BGAN Applications should be delayed pending the conclusion of an international coordination agreement in the L-band.<sup>6</sup> However, the absence of an L-band coordination agreement does not justify postponement of a grant of the FTMSC BGAN Applications.<sup>7</sup> In fact, the FCC has recently granted two MSV applications to operate in the L-band despite the fact that no L-band coordination agreement exists.<sup>8</sup> Further, it appears that MSV's predecessor is the entity responsible for the expiration of the last L-band coordination agreement in 1999. Next, MSV argues that the Inmarsat 4F2 satellite will result in increased risk of harmful interference to other L-band operators.<sup>9</sup> This allegation is both unfounded and technically incorrect. The Inmarsat 4F2 satellite does not use wide band carriers as alleged by MSV, and the Inmarsat 4F2 satellite will in fact not increase interference when compared to the Inmarsat 3 satellite (by using narrower spot beams with steeper antenna side

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*(footnote continued from previous page)*

Inmarsat Ventures Limited ("Inmarsat") to the MSV Petition ("Inmarsat Response"), as well as the Stratos Opposition to the MSV Petition to Hold in Abeyance or to Grant with Conditions ("Stratos Opposition") in File Nos. SES-LFS-20050826-001175, SES-AMD-20050922-01313, and ITC-214-20050922-01313, filed on Nov. 10, 2005. FTMSC also hereby incorporates by reference the arguments contained in the Opposition of Inmarsat Ventures Limited in this case, File Nos. SES-LFS-20051011-01396, SES-AMD-20051118-01602 and ITC-214-20051012-00406, dated Dec. 7, 2005 ("Inmarsat Opposition").

<sup>6</sup> MSV Petition at 7.

<sup>7</sup> FTMSC hereby incorporates by reference the arguments raised by the Inmarsat Response, Inmarsat Opposition and Stratos Opposition on this issue. Inmarsat Response at 6-9, Inmarsat Opposition at 5-11 and Stratos Opposition at 5-7.

<sup>8</sup> *In Re Mobile Satellite Ventures Subsidiary LLC, Order and Authorization*, DA 05-1492, (rel. May 23, 2005); *In Re Mobile Satellite Ventures Subsidiary, Order and Authorization*, 20 FCC Rcd. 479 (2005).

<sup>9</sup> MSV Petition at 10.



lobes).<sup>10</sup> Further, interference should not be an issue because FTMSC is requesting that the Commission grant the FTMSC BGAN Applications on a non-harmful interference basis.

Second, MSV argues that FTMSC should not be allowed to use certain frequencies which were "loaned" by MSV to Inmarsat.<sup>11</sup> FTMSC opposes this condition.<sup>12</sup> MSV has no legal right to keep FTMSC from using frequencies that at one time were coordinated for MSV's use under an expired coordination agreement. Further, in the absence of a coordination agreement, all operators have the express right to operate in the entire range of the L-band frequencies, subject to a non-harmful interference condition.<sup>13</sup>

Third, MSV argues that the Inmarsat 4F2 satellite is not a "replacement satellite" under the Commission's Rules.<sup>14</sup> FTMSC disagrees with this contention.<sup>15</sup> Inmarsat 4F2's orbital location is the functional equivalent of the orbital location of Inmarsat 3, and FTMSC will use the Inmarsat 4F2 satellite to provide service only in U.S. regions currently served by the

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<sup>10</sup> FTMSC hereby incorporates by reference the arguments raised by the Inmarsat Response, Inmarsat Opposition and Stratos Opposition on this issue. Inmarsat Response at 6-7, Inmarsat Opposition at 19-25 and Stratos Opposition at 6-7.

<sup>11</sup> MSV Petition at 14-17.

<sup>12</sup> FTMSC hereby incorporates by reference the arguments raised by the Inmarsat Response, Inmarsat Opposition and Stratos Opposition on this issue. Inmarsat Response at 9-12, Inmarsat Opposition at 11-19, and Stratos Opposition at 7-8.

<sup>13</sup> *In Re SatCom Systems, Inc., Order and Authorization*, FCC 99-344, 14 FCC Rcd. at 20814 (rel. Nov. 30, 1999).

<sup>14</sup> MSV Petition at 8.

<sup>15</sup> FTMSC hereby incorporates by reference the arguments contained in the Inmarsat Response and Stratos Opposition on this issue. Inmarsat Response at 13 and Stratos Opposition at 8-9.

Inmarsat 3 satellite. Further, the Commission has allowed a replacement satellite to cover additional areas beyond those of the spacecraft being replaced.<sup>16</sup>

Fourth, MSV argues that the Commission's rule requiring FSS satellites to operate with  $\pm 0.05^\circ$  East-West station should be applied to Inmarsat MSS satellites.<sup>17</sup> FTMSC again disagrees with this statement.<sup>18</sup> In 2004, the Commission specifically rejected a proposal to modify Section 25.210(j) of its Rules, 47 C.F.R. § 25.210(j), to such MSS space stations.<sup>19</sup>

Fifth, MSV argues that there is a public safety issue raised by FTMSC's Application related to E911.<sup>20</sup> Currently, the Commission's E911 regulations do not apply to MSS.<sup>21</sup> If and when MSS is subject to E911 requirements, FTMSC will make the necessary modifications to its network to ensure compliance with the Commission's regulations at that time.

Lastly, MSV argues that FTMSC has not satisfied national security and law enforcement concerns raised by operation of the proposed BGAN services.<sup>22</sup> Once again, MSV is incorrect. FTMSC has a current agreement in place with the Department of Justice and the Federal Bureau

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<sup>16</sup> See Stratos Opposition at 9, n.20.

<sup>17</sup> MSV Petition at 18.

<sup>18</sup> FTMSC incorporates by reference the arguments contained in the Inmarsat Response and Stratos Opposition on this issue. Inmarsat Response at 13-14 and Stratos Opposition at 9-10.

<sup>19</sup> *In Re* Mitigation of Orbital Debris, 19 FCC Rcd. 11567 (2004).

<sup>20</sup> MSV Petition at 20.

<sup>21</sup> FTMSC hereby incorporates by reference the arguments contained in the Inmarsat Response and Stratos Opposition on this issue. Inmarsat Response at 15 and Stratos Opposition at 11-12.

<sup>22</sup> MSV Petition at 19.

of Investigation.<sup>23</sup> As requested by U.S. law enforcement, FTMSC submitted for review by the Executive Branch a confidential Implementation Plan to specifically address the proposed BGAN services. This plan is not being filed with the Commission at the request of law enforcement agencies for security reasons. If legitimate security concerns exist, then it is the responsibility of the Executive Branch to raise this issue with the Commission, and not MSV.

### **III. PORTIONS OF THE MSV PETITION SHOULD BE DISMISSED**

For the reasons set forth in the Stratos Motion to Strike Portions of the MSV Petition in that proceeding, incorporated herein by reference, FTMSC also specifically moves that the Commission dismiss those portions of the MSV Petition which are redacted and have not been provided to FTMSC for review.<sup>24</sup> Because FTMSC has not been provided with a full and fair opportunity to defend its applications, the Bureau must not base any decision in this case on any information which has been withheld from FTMSC. To the extent that MSV is willing to provide the redacted information with FTMSC at some point in the future, FTMSC hereby reserves its right to amend this Opposition in order to respond to such information.

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<sup>23</sup> Agreement of France Télécom S.A., Atlas Telecommunications S.A., Equant N.V. and Equant U.S., Inc., the U.S. Department of Justice, and the Federal Bureau of Investigation, dated June 11, 2001.

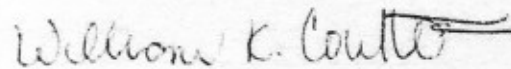
<sup>24</sup> Stratos Communications, Inc., Motion to Strike Portions of the MSV Petition, File Nos. SES-LFS-20050826-001175, SES-AMD-20050922-01313, and ITC-214-20050922-01313, filed Nov. 10, 2005.

**IV. CONCLUSION**

For the reasons stated above, FTMSC respectfully requests that the Bureau dismiss or deny the MSV Petition and promptly grant the FTMSC BGAN Applications as set forth therein.

Respectfully submitted,

**FTMSC US, LLC**



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*Counsel to FTMSC US, LLC*

December 7, 2005



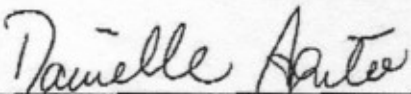
CERTIFICATION

I, Danielle Aguto, am an authorized representative of FTMSC US, LLC.

I have read the foregoing Opposition of FTMSC US, LLC to Mobile Satellite Ventures Subsidiary LLC's Petition to Hold in Abeyance or to Grant with Conditions ("Opposition").

I have personal knowledge of the facts stated in the Opposition. The facts set forth in the Opposition, other than those of which official notice may be taken, are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.

  
\_\_\_\_\_  
Danielle Aguto, Authorized Representative

Dated: Dec. 7, 2005

## CERTIFICATE OF SERVICE

I, Christine L. Zepka, hereby certify that on this 7th day of December, 2005, I caused to be served a true copy of the foregoing "Opposition of FTMSC US, LLC" by first class mail, postage pre-paid (or as otherwise indicated) upon the following:

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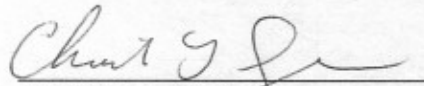
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