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

In the Matter of	)	
	)	
Stratos Communications, Inc.	)	File No. SES-MFS-20051122-01614
Application for Modification of Blanket	)	(Call Sign E000180)
License to Operate Inmarsat M-4 Mobile Earth	)	
Terminals with Inmarsat 4F2 at 52.75° W	)	
	)	
Stratos Communications, Inc.	)	File No. SES-MFS-20051122-01615
Application for Modification of Blanket	)	(Call Sign E010050)
License to Operate Inmarsat C Mobile Earth	)	
Terminals with Inmarsat 4F2 at 52.75° W	)	
	)	
Stratos Communications, Inc.	)	File No. SES-MFS-20051122-01616
Application for Modification of Blanket	)	(Call Sign E010048)
License to Operate Inmarsat Mini-M Mobile Earth	)	
Terminals with Inmarsat 4F2 at 52.75° W	)	
	)	
Stratos Communications, Inc.	)	File No. SES-MFS-20051122-01617
Application for Modification of Blanket	)	(Call Sign E010049)
License to Operate Inmarsat B Mobile Earth	)	
Terminals with Inmarsat 4F2 at 52.75° W	)	
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Stratos Communications, Inc.	)	File No. SES-MFS-20051122-01618
Application for Modification of Blanket	)	(Call Sign E010047)
License to Operate Inmarsat M Mobile Earth	)	
Terminals with Inmarsat 4F2 at 52.75° W	)	

To: International Bureau

OPPOSITION TO MSV PETITION TO HOLD IN ABEYANCE

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January 19, 2006

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To: International Bureau

OPPOSITION TO MSV PETITION TO HOLD IN ABEYANCE

Pursuant to Section 25.154(c) of the Commission's Rules, 47 C.F.R. § 25.154(c), Stratos Communications, Inc. ("Stratos") hereby opposes Mobile Satellite Ventures Subsidiary

LLC's ("MSV's") Petition to hold in abeyance the above-captioned applications of Stratos (collectively referred to as the "Stratos Applications").[1]

I. INTRODUCTION AND SUMMARY

Stratos has filed applications to modify its existing authorizations to operate Inmarsat terminals to include the recently launched fourth-generation Inmarsat satellite to be located at 52.75° W.L. ("Inmarsat 4F2") as a point of communication.[2] Stratos is currently authorized to use a third generation Inmarsat satellite located at 54° W.L. to offer Inmarsat B, C, M, mini-M, M4 to U.S. customers. Inmarsat is scheduled to migrate these services from that third generation satellite at 54° W.L. to the Inmarsat 4F2 at 52.75° W.L. on January 22, 2006.[3]

The Inmarsat services that are the subject of the Stratos Applications are not new and are well-known to the Bureau. Stratos has been authorized to provide these Inmarsat services since 2001. To date, these services have been provided to customers without interference to or complaint from MSV. The Stratos customers rely heavily on the existing

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[1] *See* MSV Petition To Hold in Abeyance (Jan. 6, 2006) ("MSV Petition"). Concurrently with this Opposition, Stratos is filing a Motion to Strike Portions of the MSV Petition. *See* Stratos Motion to Strike (filed Jan. 19, 2006). As set forth in that Motion to Strike, the MSV Petition should be dismissed by the Bureau because it contains confidential information and redacted arguments that Stratos has not been given access to by MSV, thereby depriving Stratos of a full and fair opportunity to defend its applications. At a minimum, the Bureau cannot base any decision to hold in abeyance the Stratos Applications on what has been deemed confidential by MSV and withheld from Stratos. To the extent that Stratos is given access to the confidential information contained in the MSV Petition after this Opposition is filed, Stratos reserves the right to amend this Opposition as necessary.

[2] *See* File Nos. SES-MFS-20051122-01614, SES-MFS-20051122-01615, SES-MFS-20051122-01616, SES-MFS-20051122-01617 and SES-MFS-20051122-01618.

[3] On January 18, 2006, Stratos was granted special temporary authority ("STA") to use the Inmarsat 4F2 in advance of the Bureau's decision on its modification applications to use the Inmarsat 4F2 as a point of communication. *See* SES-STA-20051216-01760 (E000180), SES-STA-20051216-01761 (E010047), SES-STA-20051216-01762 (E010048), SES-STA-20051216-01763 (E010049) and SES-STA-20051216-01764 (E010050).

Inmarsat services to facilitate military communications, law enforcement, homeland security and to protect, track and monitor sensitive assets throughout the United States. Any disruption to these services would be devastating to these essential activities and would not be in the public interest.

The MSV Petition should be either dismissed or denied by the Bureau as a transparent attempt to use the Stratos Applications as leverage in its on-going spectrum dispute with Inmarsat. MSV's spectrum dispute should be resolved through the agreed-upon mechanism for international coordination -- *i.e.*, the Mexico City Memorandum of Understanding ("Mexico City MOU") -- and not this proceeding. The Bureau should not allow MSV to treat Stratos as a pawn in its dispute, especially when vital communications services are involved. The Stratos Applications satisfy the Commission's Rules and should be promptly granted by the Bureau.

Contrary to the claims of MSV, a new international L-band coordination agreement is not needed before the Stratos Applications can be granted. Indeed, two MSV satellite applications (one for a replacement satellite at 101° W.L. and a new satellite at 63.5° W.L.) were granted by the Bureau last year on a non-harmful interference basis and in the absence of a new L-band coordination agreement. There is no justification for treating the Stratos Applications and their proposed use of the Inmarsat 4F2 satellite differently.

Despite what MSV may argue, the Stratos Applications clearly establish that the existing Inmarsat services will be provided over the recently launched Inmarsat 4F2 satellite within the same technical envelope (*e.g.*, no greater EIRP spectral density, no unauthorized out-of-band emissions, and no need for greater interference protection) as these services are being provided today, and as a result, there will be no increased interference risk to MSV. MSV has not provided any technical evidence to suggest otherwise.

Finally, the Stratos Applications do not contain the additional issues claimed by MSV to warrant further "scrutiny" by the Bureau.[4] First, the proposed Inmarsat 4F2 satellite is properly considered a replacement satellite for the third generation Inmarsat satellite ("Inmarsat 3 satellite") at 54° W.L. because it will cover the same geographic areas as that satellite, and does not seek to use any additional L-band frequencies beyond those currently authorized. Second, despite MSV's suggestion otherwise, Section 25.210(j) of the Commission's Rules, 47 C.F.R. § 25.210(j), requiring FSS satellites to operate with +/- 0.05° East-West station keeping, does *not* apply to MSS satellites.

The Bureau should promptly grant the Stratos Applications and allow U.S. consumers to continue to receive Inmarsat services, which they have come to rely on over the past 4 years.

II. MSV HAS NOT PROVIDED A LEGITIMATE BASIS FOR DELAYING GRANT OF THE STRATOS APPLICATIONS

Rather than pursuing its spectrum dispute with Inmarsat as part of the established international coordination procedures for the L-band, MSV is attempting to use its Petition against the Stratos Applications as leverage for resolving an on-going and protracted L-band spectrum dispute with Inmarsat. Allowing MSV to do so would be inconsistent with the Commission's obligations under the Mexico City MoU, violate the *DISCO II* principles regarding the treatment of applications for access to foreign satellites licensed by WTO Member countries, and succeed in disrupting the delivery of existing Inmarsat services to U.S. customers. The Bureau must reject the arguments in the MSV Petition.

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[4] *See* MSV Petition at 19-20.

A. Grant of the Stratos Applications is in the Public Interest

Having been licensed for over four years, the Stratos Inmarsat services, including B, C, M, mini-M and M4, are well-known by the Bureau and in the marketplace to offer (up to 64 kbps) voice and data satellite communications solutions to a wide-range of customers. The continued and uninterrupted distribution of these Inmarsat services in the U.S. is in the public interest. Stratos' U.S. military customers, including the U.S. Navy, U.S. Army and U.S. Air Force, rely on Stratos for military communications, such as those between U.S. Navy ships and land bases, and for Special Forces operating in remote areas.[5] The Federal Government, including the State Department, Federal Emergency Management Agency ("FEMA"), the U.S. Coast Guard and FBI use Inmarsat services for emergency relief (including in the wake of the recent hurricanes in the Gulf), law enforcement and homeland security.[6] State and local government customers, including the New York Fire Department, the Los Angeles Fire Department and National Guard Units, similarly rely on the Stratos Inmarsat services for emergency relief.[7] Private sector customers of Stratos, including some of the largest companies in the country (Chevron/Texaco, Global Santa Fe and Edison International), rely on Inmarsat

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[5] *See* File Nos. SES-STA-20051216-1760 - Attachment A at p.1, SES-STA-20051216-1761 - Attachment A at p.1, SES-STA-20051216-1762 - Attachment A at p.1, SES-STA-20051216-1763 - Attachment A at p.1, and SES-STA-20051216-1764 - Attachment A at p.1.

[6] *See* File Nos. SES-STA-20051216-1760 - Attachment A at pp.1-2, SES-STA-20051216-1761 - Attachment A at pp.1-2, SES-STA-20051216-1762 - Attachment A at pp.1-2, SES-STA-20051216-1763 - Attachment A at pp.1-2, and SES-STA-20051216-1764 - Attachment A at pp.1-2.

[7] *See* File Nos. SES-STA-20051216-1760 - Attachment A at p.2, SES-STA-20051216-1761 - Attachment A at p.2, SES-STA-20051216-1762 - Attachment A at p.2, SES-STA-20051216-1763 - Attachment A at p.2, and SES-STA-20051216-1764 - Attachment A at p.2.

services for business operations in remote areas, emergency communications (*e.g.*, restoring operations devastated in the Gulf) and to monitor and protect vital business assets.[8]

Disruption of the Inmarsat services offered by Stratos would not be in the public interest. In the words of Chairman Martin:

> If we learned anything from Hurricane Katrina, it is that we cannot rely solely on terrestrial communications. When radio towers are knocked down, satellite communications are, in some instances, the most effective means of communicating.[9]

Cutting off the Inmarsat services offered by Stratos by denying the Stratos Applications would severely compromise the efforts of government "first responders" who rely on the Inmarsat services as a flexible and mobile back-up to terrestrial voice and data networks in the event that a natural disaster or terrorist attack takes place.[10]

B. Grant of the Stratos Applications Should Not Be Delayed Pending Completion of a New L-band Coordination Agreement

MSV suggests that the Stratos Applications should be delayed "until the new Inmarsat satellite has been coordinated."[11] The absence of an L-band coordination agreement, however, is not an adequate justification for the Bureau to delay action on the Stratos Applications.

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[8] *See id.*

[9] Written Statement of Chairman Kevin J. Martin at the Hearing on Communications in a Disaster before the U.S. Senate Committee on Commerce, Science and Transportation at 7 (Sept. 22, 2005).

[10] *See* File Nos. SES-STA-20051216-1760 - Attachment A at p.3, SES-STA-20051216-1761 - Attachment A at p.3, SES-STA-20051216-1762 - Attachment A at p.3, SES-STA-20051216-1763 - Attachment A at p.3, and SES-STA-20051216-1764 - Attachment A at p.3.

[11] MSV Petition at 2.

According to MSV, the Stratos Applications should be treated differently than other similar applications since "the spectrum management issues presented now are fundamentally different" because other L-band satellites, unlike the Inmarsat 4F2, that have been licensed in the absence of a coordination agreement at least "had been coordinated in the past for narrowband carriers and were in the ITU Master Registry."[12] However, just last year, the Bureau granted two MSV applications to operate in the L-band -- one for a replacement satellite at 101° W.L. and one for a new satellite (*i.e.*, a satellite not contemplated by the Mexico City MoU) at 63.5° W.L.[13] Inmarsat ignores the fact that neither of these satellites had been coordinated in the past, and one of satellites uses carriers that are 25 times wider than those on the Inmarsat 4F2 satellite.[14] Rather than delaying action on either MSV application pending the completion of a new L-band coordination agreement, both applications were granted on a "non-harmful interference basis to other mobile-satellite service systems operating in the L-band."[15] Indeed, since the UK (the administration licensing the Inmarsat system) and Canada (home of the ultimate corporate parent of Stratos) are WTO Members, the U.S. has an obligation to do same in this case.[16]

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[12] MSV Petition at 10.

[13] *See In the Matter of Mobile Satellite Ventures Subsidiary LLC,* DA 05-50 (rel. Jan. 10, 2005) ("*MSV 63.5° W.L. Order*"); *In the Matter of Mobile Satellite Ventures Subsidiary LLC,* DA 05-1492 (rel. May 23, 2005) ("*MSV 101° W.L. Order*").

[14] *See* File No. SAT-AMD-20031118-00335 at Appendix A, p.23.

[15] *See MSV 63.5° W.L. Order* at ¶ 39; *MSV 101° W.L. Order* at ¶ 59.

[16] *See TMI Market Access Order*, 14 FCC Rcd. at 20813 (rejecting the attempt of AMSC to preclude other L-band systems from serving the U.S. until AMSC had completed coordination of 20 MHz of spectrum because doing so "would be inconsistent with U.S. market access commitments in the WTO Agreement"); *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Satellites Providing Domestic and International Service in the United States,* 12 FCC Rcd. 24094, 24104(1997) ("*DISCO II*") (recognizing the US commitment "to

C. Stratos Should Not Be Prevented From Using Any Available Inmarsat Spectrum

MSV argues that "interference" will result from "Inmarsat's continued use of spectrum that it agreed to return to MSV and MSV Canada."[17] Implicitly, MSV seeks to exclude Stratos from operating over this "disputed" spectrum when providing existing Inmarsat services to its customers using the Inmarsat 4F2. The Bureau must reject MSV's request. Indeed, as Inmarsat has pointed out, if the Bureau were to restrict operations over this disputed spectrum, it would be tantamount to the reinstatement and modification of the expired 1999 L-band spectrum coordination agreement.[18] However, this is not the forum to adopt a new coordination agreement and policy for the L-band.

The Inmarsat METs in the Stratos Applications should be free to use all of the L-band frequencies used by Inmarsat, subject to the outcome of any international coordination. If MSV has a dispute over the current distribution and coordination of L-band spectrum, it should bring this dispute with Inmarsat in accordance with the agreed-upon procedures for international coordination, not in these application proceedings.[19]

Despite MSV's suggestion otherwise, the Commission has not previously limited operators to the spectrum last coordinated for their use under an expired coordination

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provide market access to all basic telecommunications services and national treatment to service suppliers of WTO members").

[17] MSV Petition at 11.

[18] *See* Opposition of Inmarsat at 9-10, filed in File Nos. SES-LFS-20050930-01352, SES-AMD-20051111-01564, and ITC-214-20051005-00395 (Dec. 7, 2005) ("Inmarsat Opposition").

[19] Despite what MSV may imply, the Bureau acknowledges in the *MSV 63.5° W.L. Order* and *MSV 101° W.L. Order* that "informal" arrangements now govern the coordination of L-band spectrum, not the 1999 coordination agreement. *See MSV 63.5° W.L. Order* at ¶ 23; *MSV 101° W.L. Order* at ¶ 34.

agreement.[20] The 2001 *Inmarsat Market Access Order* is clear: "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."[21] Subject to a non-harmful interference condition, the Commission has consistently held that MSV, TMI, Stratos and others could use the entire range of L-band frequencies in the absence of a coordination agreement.[22] There is no reason to treat Stratos differently now. If international coordination changes the spectrum available to Inmarsat, Stratos will modify the operations of its METs accordingly. Until that time, however, there is no reason to delay approval of these applications.

D. Grant of the Stratos Applications Will Not Create Any Technical Interference Issues

The existing Inmarsat services have been provided with the current Inmarsat satellite for several years without causing harmful interference, and Stratos and Inmarsat do not expect any increase in interference when these services are provided using the Inmarsat 4F2.[23] MSV claims regarding possible interference due to technical differences between the Inmarsat 4F2 satellite and previous satellites do not support holding the Stratos Applications in abeyance. Indeed, the technical differences between the Inmarsat 4F2 satellite and earlier L-band satellites

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[20] *See* MSV Petition at 12.

[21] *Inmarsat Market Access Order*, 16 FCC Rcd. at 21712-13.

[22] *See MSV 101° W.L. Order* at ¶ 34; *See MSV 63.5° W.L. Order* at ¶ 23; *Inmarsat Market Access Order*, 16 FCC Rcd. at 21712; *TMI Market Access Order*, 14 FCC Rcd. at 20814.

[23] Stratos was originally authorized to provide Inmarsat B, C, M, mini-M and M4 services in October 2001. As the Bureau has recognized, current L-band operators have been operating "interference-free" for some time. *See MSV 63.5° W.L. Order* at ¶ 23 ("While the most recent annual operator-to-operator agreement has not been renewed since 1999, the five parties have continued to coordinate their operations informally and have been operating interference-free."); *MSV 101° W.L. Order* at ¶ 34.

are unlikely to cause harmful interference in the L-band. First, MSV claims that the increased number of regional beams employed by the Inmarsat 4F2 satellite could cause harmful interference in the L-band.[24] However, as set forth in the Technical Appendix of the Stratos Applications and as explained by Inmarsat elsewhere, the Inmarsat 4F2 is more "interference friendly" than the third generation satellite because: (1) its narrower spot beams with steeper antenna side lobes reduce interference to adjacent areas; and (2) 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.[25] Further, the Inmarsat 4F2 satellite will be located 1.25° further away from MSV. This increased separation will further reduce any interference risk. In the absence of the coordination agreement, the Inmarsat 4F2 is capable of operating on a non-harmful interference basis.

MSV suggests that in the absence of a coordination agreement the "significantly larger aggregate EIRP ("AEIRP") of Inmarsat 4F2 relative to Inmarsat-3, could cause harmful intersystem interference. . . ."[26] This claim is also unavailing because the EIRP spectral density of the currently authorized services will be no greater than the EIRP spectral density of those same services provided today on the Inmarsat-3 satellite, which will allow Inmarsat to operate the Inmarsat 4F2 satellite within technical envelope of the last coordination agreement with MSV.[27]

Finally, MSV argues that "Inmarsat itself may suffer greater interference upon operation of its new satellite to support existing services" because of the higher antenna gain of

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[24] *See* MSV Petition at 13-14.

[25] *See* Imarsat Opposition at 21-22.

[26] MSV Petition at 14.

[27] *See* Inmarsat Opposition at 22.

the Inmarsat 4F2.[28] This claim is also not valid. As set forth in the Technical Appendix of the Stratos Applications and as explained by Inmarsat elsewhere, the global beam on the Inmarsat 4F2 satellite has same receive sensitivity as the global beam on the Inmarsat-3 satellite. Further, the regional and narrow spot beams on the Inmarsat 4F2 satellite have better receive performance and better side-lobe roll-off than the Inmarsat-3 satellite.[29] Inmarsat has taken these factors into account and is confident that it can operate Inmarsat 4F2, so that it is no more susceptible to interference than Inmarsat-3.[30]

E. The Inmarsat 4F2 Satellite Is Properly Regarded As A Replacement Satellite

Despite what MSV may argue, the Inmarsat 4F2 satellite is properly regarded as a replacement satellite.[31] Through the Inmarsat 3 satellite at 54° W.L., Stratos currently provides Inmarsat services to the continental U.S., Puerto Rico and the U.S. Virgin Islands. Although 1.25° further east, the Inmarsat 4F2 at 52.75° W.L. will also serve the continental U.S., Puerto Rico and the U.S. Virgin Islands, as well as operate over the same L-band service link frequencies that are authorized for use on the Inmarsat 3 satellite at 54° W.L. Despite what MSV may imply, Stratos does not seek FCC authority to use Inmarsat METs in conjunction with the Inmarsat 4F2 satellite in any regions of the U.S. which are not presently served by the Inmarsat 3 satellite. Accordingly, the proposed use of the Inmarsat 4F2 satellite can be considered a replacement satellite. This was precisely the Bureau's treatment of MSV's satellite application at 101° W.L. -- the Inmarsat 4F2 satellite should not be treated any differently.[32] In fact, MSV's

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[28] MSV Petition at 15.

[29] *See* Inmarsat Opposition at 22.

[30] *See id.*

[31] *See* MSV Petition at 9, 19.

[32] *See MSV 101° W.L. Order* at ¶¶ 13-14.

satellite at 101° W.L. increased its geographic coverage area from the satellite it replaced by adding parts of South America, but it was still regarded as a replacement satellite by the Bureau.[33]

F. The Commission's FSS Station Keeping Rule Does Not Apply to MSS Satellites

The MSV Petition states that it is not clearly "settled" whether the Commission's Rule, 47 C.F.R. § 25.210(j), requiring FSS satellites to operate with +/- 0.05° East-West station keeping applies to MSS satellites.[34] However, the Commission's Rule and subsequent decisions are very clear -- Section 25.210(j) does not apply to MSS satellites. The Commission stated in its 2004 decision concerning the mitigation of orbital debris: "We decline, at this time, to adopt changes to Section 25.210(j) to specify a longitudinal tolerance of +/-0.05° for all space stations, including MSS and remote sensing space stations."[35] Indeed, in filing a Petition for Clarification or Partial Reconsideration of its 101° W.L. authorization, MSV acknowledged that "there is no rule requiring MSS satellites to operate with a +/- 0.05° East-West station keeping box."[36]

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[33] *Compare MSV 101° W.L. Order* at ¶ 1 ("The satellite will provide MSS on a common carrier basis within the United States, and between the United States and North America, Central America, the northern part of South America, and the Caribbean.") *with Amendment of Parts 2, 22, 25 of the Commission's Rules to Allocate Spectrum for and to Establish Rules and Policies Pertaining to the Use of Frequencies in a Land Mobile Satellite Service for the Provision of Various Common Carrier Services*, Memorandum Opinion and Order and Authorization, 4 FCC Rcd. 6041, 6053 (1989) ("The proposed beam coverage areas for the MSS network include the continental United States (CONUS), Alaska, Hawaii, Puerto Rico, Virgin Islands, Canada, parts of Mexico and Central America, including the Gulf of Mexico, and U.S. coastal areas up to 200 miles off-shore.").

[34] *See* MSV Petition at 20.

[35] *In the Matter of Mitigation of Orbital Debris*, 19 FCC Rcd. 11567, 11586 (2004).

[36] MSV Petition for Clarification or Partial Reconsideration, filed in File No. SAT-LOA-19980702-00066 et al. (June 22, 2005). This is not an unsettled point of law as MSV argues. As the MSV Petition for Clarification or Partial Reconsideration makes clear, MSV's own request for a waiver of Section 25.210(j) for its replacement satellite at 101° W.L. (and its new satellite

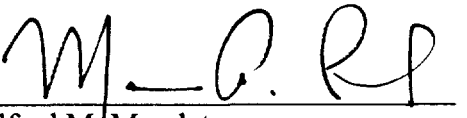
Section 25.210(j) is not applicable to the Inmarsat 4F2 satellite, and accordingly, a waiver of this rule by Stratos is not required for the Stratos Applications.[37]

III. CONCLUSION

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

Respectfully submitted,

Stratos Communications, Inc.



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January 19, 2006

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at 63.5° W.L.) was filed because when those applications were filed there was a proposal to apply 25.210(j) to MSS. *See id.* at 2. However, as the 2004 Orbital Debris Mitigation Order makes clear, this proposal to modify 25.210(j) was never adopted by the Commission.

[37] If Section 25.210(j) were applicable to MSS, which it is not, the Inmarsat 4F2 satellite would be in a better position than MSV to receive such a waiver. Unlike the orbital positions where MSV is authorized to operate, the 52.75° W.L. orbital location for the Inmarsat 4F2 is not nearly as congested, thereby mitigating the need for a strict station keeping rule with a longitudinal tolerance of +/-0.05°. *See MSV 63.5° W.L. Order* at ¶ 12; *MSV 101° W.L. Order* at ¶¶ 20-21.

CERTIFICATE OF SERVICE

I, Marc A. Paul, an attorney with the law firm of Steptoe & Johnson LLP, hereby certify that on this 19th day of January, 2006, served a true copy of the foregoing Opposition by first class mail, postage pre-paid (or as otherwise indicated) upon the following:

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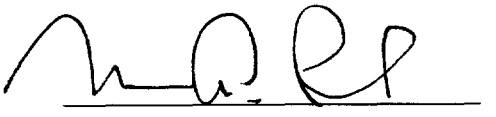

* by Hand Delivery