

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

In re: the Matters of)	
)	
New DBSD Satellite Service G.P.,)	IB Docket No. 11-149
<i>Debtor-in-Possession</i>)	
)	
and)	SES-MOD-20110822-00985
)	
TerreStar Licensee Inc.,)	SES-MOD-20110822-00983
<i>Debtor-in-Possession</i>)	
)	
Requests for Rule Waivers and Modified Ancillary)	
Terrestrial Component Authority)	

**RESPONSE OF THE U.S. GPS INDUSTRY COUNCIL
TO INITIAL COMMENTS OF GLOBALSTAR, INC.**

The U.S. GPS Industry Council (the “Council”), by its attorneys and pursuant to Section 25.154(c) of the Commission’s Rules (47 C.F.R. § 25.154(c)) and the Public Notice released September 15, 2011,¹ hereby responds to initial comments in the above-captioned proceedings filed by Globalstar, Inc. (“Globalstar”). The sole purpose of these proceedings is to address the applications of New DBSD Satellite Service G.P., debtor-in-possession (“New DBSD”), and TerreStar Licensee Inc., debtor-in-possession (“TerreStar”), which each seek a waiver of, among other regulations, the “integrated service” requirement of Section 25.149(b)(4) of the Commission’s Rules (47 C.F.R. § 25.149(b)(4)) to permit a modification of each licensee’s current mobile-satellite service (“MSS”) ancillary terrestrial component (“ATC”) authorizations to allow provision of services to users equipped with single-mode,

¹ See FCC Public Notice, “New DBSD Satellite Service G.P., Debtor-in-Possession, and TerreStar Licensee Inc., Debtor-in-Possession, Request for Rule Waivers and Modified Ancillary Terrestrial Component Authority,” DA 11-1555, released September 15, 2011.

terrestrial-only terminals. These are not rulemaking proceedings of general applicability and are not intended to have any effect beyond the current applicants. Nor do they raise issues outside the scope of the 2 GHz S-band spectrum authorized for use by New DBSD and TerreStar in their current MSS and MSS ATC operations.

Like the Council, Globalstar has endorsed favorable FCC action on the two pending waiver requests. From that point of common ground, however, Globalstar has strayed far from the subject matter of these proceedings in an effort to further its own aspirations in a different spectrum band not at issue here, a band that has both a distinctly different operating environment and regulatory status than the 2 GHz MSS spectrum subject to the New DBSD and TerreStar requests.

Specifically, Globalstar asserts in the introduction to its Comments that “the Commission must also grant the same relief to Globalstar and other qualifying [MSS] providers.”² Globalstar offers a general opinion that “it would be more equitable and efficient for the Commission to eliminate the integrated service gating requirement and otherwise increase terrestrial flexibility through its rulemaking process ... [to] yield rules that apply uniformly to all MSS licensees,”³ but goes on to assert that in the event that the Commission grants waivers of these requirements to the 2 GHz applicants, “an analogous grant to Globalstar in a separate license proceeding would be necessary to ensure a fair and non-arbitrary process.”⁴ Globalstar offers no specific support for the latter assertion, but ultimately

² Globalstar Comments at 2 (emphasis added).

³ Globalstar Comments at 4-5.

⁴ Globalstar Comments at 6 (emphasis added).

maintains that “the Commission is obligated to provide similar regulatory treatment to similarly-situated entities under its jurisdiction.”⁵

The asserted impact of any relief granted to the 2 GHz MSS licensees in these proceedings upon other parties alleged to be “similarly-situated” is, in the first instance, not germane to the license-specific requests actually at issue in these proceedings. Moreover, the assertion itself is simply incorrect as a legal matter. In fact, Globalstar is not similarly-situated with the 2 GHz MSS ATC licensees. In April, the FCC added both terrestrial Fixed and Mobile allocations to the 2 GHz MSS frequency bands,⁶ following a rulemaking process that favorably considered the technical viability of terrestrial use and served as a predicate to the Terrestrial and DBSD requests. The Commission has taken no similar steps with respect to the Big LEO L-band MSS spectrum for which Globalstar is licensed. Moreover, any increased terrestrial use of MSS spectrum requires analysis of the impact of such use on co- and adjacent-band services. The 2 GHz MSS spectrum for which Terrestrial and New DBSD are licensed, however, does not present “substantially similar” intra-band and out-of-band interference considerations to Globalstar. The 2 GHz MSS band is located adjacent to several bands already allocated for terrestrial mobile use and is not, in contrast to the Big LEO L-band MSS, part of a larger range of allocations used primarily for space-based services.

For these critical reasons, any change in the spectrum allocation, service rules and operating conditions that currently apply to Globalstar’s L-band MSS/ATC operations must be vetted in a separate rulemaking proceeding on the basis of a band-specific interference analysis

⁵ Globalstar Comments at 7 & n.15.

⁶ See *Fixed and Mobile Services in the Mobile-Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz*, 26 FCC Rcd 5710 (2011). See also Comments of the U.S. GPS Industry Council, IB Docket No. 11-149, at 2 & n.3.

and, ultimately, on a specific stand-alone terrestrial proposal from Globalstar. As in the case of the spectrum licensed to New DBSD and TerreStar, the Commission must first consider a proposal to change the spectrum allocation in the portion of the 1610-1626.5 MHz band licensed to Globalstar's MSS system, with full consideration of the potential impact of that change on co- and adjacent-frequency band users – including the Global Positioning System (“GPS”).

Indeed, the Commission has already made clear that further study and a full record is needed on the issues presented by potential non-integrated terrestrial operations in Globalstar's licensed spectrum *before* any stand-alone operations can be considered. In the joint Order denying Globalstar's request for a lengthy extension of time to implement its ATC authority, the Commission made plain that any changes in spectrum allocations necessary to foster additional broadband capability would be made “through proceedings that provide notice and ample opportunity for comment, allowing the agency to generate robust records,”⁷ and that “to the extent the Commission would consider changes in its rules that might permit more extensive standalone terrestrial operations in [the L-band], this action would be taken following a proceeding in which a full record concerning all potentially available options can be developed.”⁸ Only after such a rulemaking proceeding is concluded based upon a full record, as was the case with respect to the 2 GHz MSS spectrum, would there be an opportunity to

⁷ *Globalstar Licensee LLC Application for Modification of License to Extend Dates for Coming into Compliance with Ancillary Terrestrial Component Rules and Open Range Request for Special Temporary Authority*, 25 FCC Rcd 13114, 13130 (¶ 42) (IB/WTB/OET 2010), citing *Joint Statement on Broadband*, FCC 10-42 (released March 16, 2010).

⁸ *Id.* & n.90 (noting that the L-band frequencies were subject to the Commission's *Notice of Inquiry* concerning “steps towards making additional spectrum available for new investment in mobile broadband networks”).

consider possible changes to currently-licensed operations based on any revisions to the FCC's allocation table that might be made as the result of such a proceeding.

Among the substantial issues that need to be addressed on a band- and service-specific basis is the impact of user handsets on the overall interference environment. Even in the ongoing technical evaluation of LightSquared's proposed L-band MSS ATC expansion, the potentially significant impact of mobile user terminals has not yet been tested.⁹ There are, in fact, significant technical concerns that need to be addressed with respect to the potential widespread deployment of stand-alone mobile handsets that a full-time, non-integrated terrestrial mobile system would entail (both in terms of out-of-band emissions from individual handsets and the aggregation of such emissions from an increased number of operating handsets).

Accordingly, to the significant extent that Globalstar's Comments address issues beyond the scope of the New DBSD and TerreStar requests for waiver of the MSS ATC integrated service requirements, the Commission should make plain that: (1) these issues have no relevance to its ultimate disposition of the pending waiver requests; and (2) any broader relief from the MSS ATC integrated service requirements for MSS ATC licensees in other

⁹ See Deere & Company *Ex Parte* Presentation, IB Dkt. No. 11-109, at 2 and Attachment, "LightSquared Interference to GPS and StarFire" at 2, 5, 21 & 25-26 (filed August 22, 2011); Joint *Ex Parte* Presentation of Garmin International, Inc. and Trimble Navigation, Ltd., IB Dkt. 11-109, Attachment D, "General Location/Navigation GPS and Terrestrial MSS Broadband" (Garmin) at 8 & 10 (filed September 15, 2011).

frequency bands must await appropriate action in a future rulemaking proceeding, if taken, and thereafter, action relating to the specific licenses held by these other MSS ATC providers.

Respectfully submitted,

U.S. GPS INDUSTRY COUNCIL

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CERTIFICATE OF SERVICE

I, Sharon A. Krantzman, do hereby certify that on this 27th day of October, 2011, I sent via first class, postage prepaid mail, a copy of the foregoing “Response of the U.S. GPS Industry Council to Initial Comments of Globalstar, Inc.” to each of the following:

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