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January 31, 2007

Via Hand Delivery

Ms. Marlene H. Dortch
Federal Communications Commission
The Portals, TW-A325
445 12th Street, SW
Washington, DC 20554

Re: Opposition to Petition to Deny
File No. SES-STA-20070112-00112 (Call Sign E070006)

Dear Ms. Dortch:

Attached please find an *Opposition to Petition to Deny* to be filed in connection with Horizon Mobile Communications, Inc.'s above-referenced application for Special Temporary Authority.

Pursuant to the Commission's rules, an original and four copies of this *Opposition to Petition to Deny* are being filed in the above-referenced file for inclusion in the public record. Please do not hesitate to contact me directly should you have any questions.

Respectfully submitted,



E. Ashton Johnston
Counsel to Horizon Mobile Communications, Inc.

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

In the Matter of)	
)	
Horizon Mobile Communications, Inc.)	File No. SES-STA-20070112-00112
)	(Call Sign E070006)
Application for)	
Special Temporary Authority)	

OPPOSITION TO PETITION TO DENY

Horizon Mobile Communications, Inc. (“Horizon”), hereby opposes the Petition to Deny (the “Petition”) filed by Mobile Satellite Ventures Subsidiary LLC (“MSV”) in connection with Horizon’s above-captioned application for Special Temporary Authority (“STA”). MSV fails to rebut the showing of the public interest benefits of Broadband Global Area Network (“BGAN”) service and fails to demonstrate any harm to MSV that would result from a grant of the STA. Nor does MSV provide any basis for why the Commission should treat Horizon’s request any differently than similar requests from other applicants for authority to provide BGAN service. Because there is no basis on which either to deny Horizon’s request or to impose the conditions requested by MSV, the Commission should deny the Petition and promptly grant the requested STA.

I. Background

Horizon recently applied to the Commission for authority to provide Inmarsat BGAN services using the Inmarsat 4-F2 satellite.¹ Based on MSV’s opposition to prior

¹ See Application for Blanket Authority to Operate 20,000 Mobile Earth Terminals in Conjunction with Inmarsat’s Broadband Global Area Network Service Satellites, File No. SES-LFS-20070109-00042 (January 9, 2007); Application for Section 214 Authority to Provide Inmarsat Broadband Global Area Network Mobile Satellite Service, File No. ITC-214-20070110-00021 (January 10, 2007).

applications for authority to provide BGAN services, Horizon anticipated that MSV also would oppose Horizon's applications. Consequently, on January 12, 2007, Horizon submitted the above-captioned request for STA to operate 5,000 BGAN Mobile Earth Terminals ("METs") pending grant of its underlying application.² Shortly thereafter, Horizon received copies of MSV's Notice of Intent to Participate in Horizon's application proceedings and of MSV's Motion to Designate Proceedings as "Permit-But-Disclose." These filings confirmed MSV's intent to oppose Horizon's applications.

II. The Public Interest Will Be Served By Grant of the STA

As the Commission is aware, BGAN is a broadband and voice service available to all mobile users within the continental United States. The introduction of this service has benefited the public interest substantially.³ BGAN provides voice and broadband service at speeds of almost half a megabit per second to mobile terminals that are small, lightweight, and highly portable, and can be placed into operation more quickly than any other satellite terminal with comparable capabilities. BGAN thus provides a host of communications capabilities that cannot be provided by any other Mobile Satellite Service spacecraft serving the United States. Furthermore, BGAN's use of IP technology makes possible greater flexibility and operability that, combined with other technology advances, enable BGAN terminals to provide a highly portable communications link to support both individual first responders and mobile command posts. Because BGAN provides interoperable connectivity with other IP-based technology, it supports new

² Horizon also has requested STA in connection with its application for Section 214 authority. *See* File No. ITC-STA-INTR2007-00259 (January 26, 2007).

³ Horizon incorporates by reference its pending applications, which described in detail the BGAN service and its benefits to users, including first responders and public safety entities.

technology-based solutions that address the pressing problem of first responder interoperability and serve the communications needs of a variety of users.

Horizon stands ready to provide BGAN service to end users within the United States promptly upon receipt of Commission authorization. The only party opposing Horizon's application is MSV, a direct competitor of Inmarsat. MSV, which plainly would benefit from a delay in the provision of BGAN services,⁴ has since last year routinely petitioned to deny and/or to condition the applications and STA requests of Inmarsat BGAN service providers.⁵

Not only has MSV ignored the substantial public interest benefits of BGAN service, it also has failed to show any harm that would result from a grant of STA to Horizon. MSV asserts that "harm ... will result from permitting satellite operators such as Inmarsat to cause interference to other satellite operators,"⁶ but has made no showing of actual interference to MSV (or any other operator) from any BGAN provider operating under STA. MSV's real concern plainly is the international L-Band spectrum coordination process.⁷ That concern, however, does not justify preventing first responders and commercial users from obtaining the unique benefits that BGAN service has to offer the American public by delaying or withholding BGAN service from an additional provider.

⁴ See Petition at 7 (describing MSV's own mobile satellite service offerings).

⁵ See, e.g., Mobile Satellite Ventures Subsidiary LLC Consolidated Petition to Deny Applications for Special Temporary Authority of Stratos Communications, Inc. *et al.*, File Nos. SES-STA-20060310-00419 *et al.* (March 29, 2006).

⁶ MSV Petition at 4. See *id.* at 5-6 (referring to letters "expressing concern with *potential* interference....") (emphasis added).

⁷ See *id.* at 3-4 (complaining about unresolved L-Band coordination process).

Prior BGAN applicants have shown that there is no valid technical reason to withhold BGAN service. In the absence of a new L-Band spectrum sharing agreement (which both Inmarsat and MSV have indicated a desire to achieve), Inmarsat has explained that BGAN service will be provided within the same technical envelope that Inmarsat previously coordinated with MSV, and within which Inmarsat has coexisted with MSV for over a decade. MSV has not provided any technical evidence that BGAN service provided in this manner will disrupt its operations. Consequently, it has not shown any harm that would result from a grant of STA to Horizon.

III. Grant of STA Would Be Consistent with Prior Bureau Action

Section 309(f) of the Communications Act of 1934, 47 U.S.C. § 309(f), provides authority to issue temporary authorizations where doing so is in the public interest and where further delay in commencing operations would prejudice the public interest. The Commission has long recognized that grant of STA is appropriate in cases where the underlying application is subject to processing delays. In connection with satellite services, the Commission considers STA requests “[w]hen an application cannot be routinely granted within sixty days.”⁸

To date, no application for Commission authority to provide BGAN service has been granted within sixty days of filing. Consequently, it is reasonable for Horizon to anticipate similar delays in the processing of its underlying applications, and to seek STA. Moreover, all prior BGAN applicants have requested, and been granted, STA to provide BGAN service while their underlying applications remain pending.

⁸ *Amendment of Part 25 of the Commission’s Rules and Regulations*, 6 FCC Rcd 2806, 2810 (1991).

Horizon seeks STA consistent with relief previously granted to other BGAN service providers. MSV, however, urges the Bureau to impose additional conditions that serve only MSV's own interests, including (1) requiring Horizon to provide information not within its possession (specifically, the number of BGAN terminals in operation);⁹ (2) compelling Horizon to resolve events outside of its control (insisting that L-band coordination be completed);¹⁰ (3) treating Horizon differently than other BGAN providers with respect to classes of users (by limiting Horizon to providing service to "first responders," as defined by MSV);¹¹ and (4) requiring Horizon to comply with "clarifications" requested by MSV in its pending petition for reconsideration of prior STA grants.¹² MSV's attempt to resolve these issues – many of which are pending in other proceedings – in the guise of "clarifying" conditions imposed on prior STA applicants, must not be countenanced. There is no justification for adopting the conditions MSV requests.

Issuance of the requested STA will allow the commencement of important BGAN services by an additional provider without prejudicing the outcome of the underlying BGAN applications. As noted, the Commission regularly issues STA while an underlying application is pending, and there is no basis for MSV's concern¹³ that grant of

⁹ Petition at 8.

¹⁰ *Id.*

¹¹ *Id.* at 9-10.

¹² *Id.* at 5.

¹³ *See* Petition at 5; see also Letter from MSV to Marlene H. Dortch, Secretary, Federal Communications Commission, File No. ITC-214-20070110-00021 (January 18, 2007).

STA will prejudice any action that the Commission may take with respect to Horizon's underlying application.

For the foregoing reasons, Horizon respectfully requests that the Commission grant the STA by February 12, 2007, pending action on Horizon's underlying application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "E. Ashton Johnston", with a long horizontal line extending to the right.

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January 31, 2007

CERTIFICATE OF SERVICE

I, Sybil Anne Strimbu, hereby certify that on this 31st day of January 2007, I caused a true and correct copy of the foregoing *Opposition to Petition to Deny* to be sent by first-class United States mail, postage prepaid, to the following:

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