

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of	)	
	)	
iPASS, INC.	)	File No. SES-STA-20070716-00944
	)	(Call Sign E070144)
Request for Special Temporary Authority to	)	
Provide Inmarsat's Broadband Global Area	)	
Network Services	)	

To: Chief, International Bureau

IPASS, INC. OPPOSITION TO PETITION TO DENY

By this filing, iPass, Inc. ("iPass") opposes Mobile Satellite Ventures Subsidiary LLC's ("MSV") petition to deny iPass' request for Special Temporary Authority ("STA").¹ iPass seeks an STA to operate 4000 Broadband Global Area Network ("BGAN") mobile earth terminals ("METs") using the Inmarsat 4F2 satellite.² Contrary to MSV's assertions, grant of iPass' STA request will clearly serve the public interest and will pose no harm to MSV, and there is no basis for imposing additional conditions on iPass beyond those already applicable to other BGAN STA grantees. iPass' STA request should therefore be granted promptly and MSV's Petition denied.

I. It Is Unnecessary to Impose Additional Conditions on iPass

MSV makes the same arguments in opposition to iPass' STA request that it has made in opposing other BGAN MET applicants' STA requests. MSV asserts in general that:

¹ Mobile Satellite Ventures Subsidiary LLC, Petition to Deny, File No. SES-STA-20070716-00944, filed Aug. 20, 2007 ("Petition").

² iPass, Inc., Request for Special Temporary Authority to Provide Inmarsat's Broadband Global Area Network Services, File No. SES-STA-20070716-00944, Attachment ("STA Request"). The STA Request and the underlying main application, File No. SES-LIC-20070712-00933, describe the public interest benefits of the BGAN service and are incorporated herein by reference.

interference concerns and disputed issues concerning Inmarsat's and MSV's coordination of L Band frequencies warrant denial of the STA request;³ there are no extraordinary circumstances justifying grant of the STA request;⁴ and there are sufficient numbers of BGAN METs in the marketplace already.⁵ MSV alternatively requests that the International Bureau impose (i) the same conditions it has applied to other BGAN STA grants, (ii) the "clarifications" MSV has requested regarding those conditions,⁶ and (iii) restrictions on the use of the service to first responders during an emergency.⁷

MSV's stated concern relating to RF interference clearly relates to the L-Band spectrum coordination process. Such concerns, however, are plainly not a basis for blocking the deployment of new and innovative services via the BGAN service platform. Inmarsat has explained to the Commission that BGAN service will be provided consistent with the technical parameters of prior coordination arrangements with MSV. Moreover, iPass customers will utilize the same METs that existing BGAN providers offer to their customers, subject to the same operating and technical parameters. As there have been no reports of actual interference to MSV's operations from BGAN service providers, MSV's allegations defy reason and experience and should be rejected.

³ Petition at 2.

⁴ *Id.* at 3.

⁵ *Id.* at 3-4.

⁶ *Id.* at 4 (citing Letter from Jennifer A. Manner, MSV, to Marlene H. Dortch, in File Nos. SES-STA-20060310-00419 et al, filed May 26, 2006).

⁷ *Id.* at 4 (citing to MSV Comments in File No. SES-STA-20070609-00833, filed July 6, 2007, and MSV Supplement to Petitions to Hold in Abeyance or to Grant with Conditions, File No. SES-LFS-20050930-01352, filed June 18, 2007).

MSV also urges the Bureau to impose the same “clarifications” and additional conditions on BGAN STA grants that MSV proposed to the Commission over a year ago. The Bureau has not imposed such conditions on current BGAN STA holders even as their STAs have been extended further, and there is no reason for the Bureau to impose them here.⁸ Moreover, iPass has *already* agreed to be subject to the same conditions the Bureau has imposed on other BGAN STA grants.⁹ MSV’s proposed restriction of service to first responders, moreover, is both unnecessary and patently inconsistent with Commission precedent.¹⁰ In any case, the Bureau to date has not imposed these conditions on *any* BGAN STA and, as noted above, MSV has not apprised the Commission of any instances of interference resulting from BGAN STA grantees’ operations, even as many BGAN STA grantees have had such authority for some time. MSV provides no additional basis for the Bureau to impose such a restriction now.

⁸ See, e.g., Joint Opposition, File Nos. SES-STA-20060310-00419, *et al.* (filed June 19, 2006); Joint Letter to Marlene H. Dortch, File Nos. SES-LFS-20050826-01175, *et al.* (filed Dec. 6, 2006); Joint Letter to Marlene H. Dortch, File Nos. SES-MFS-20051122-01614, *et al.* (filed July 6, 2006); Joint Letter to Marlene H. Dortch, File Nos. SES-MFS-20051122-01614, *et al.*, (July 6, 2006).

⁹ STA Request, Attachment at 2-3.

¹⁰ See, e.g., *OuterLink, Inc.*, Order and Authorization, 17 FCC Rcd 12757, ¶ 2, n.8 (IB 2002) and *OuterLink*, Order and Authorization, 16 FCC Rcd 8389, ¶¶ 5-7 (IB 2001) (STAs granted to provide limited commercial service while main applications remain pending and petitions to deny regarding underlying RF interference and spectrum licensing issues are addressed); *Applications of SatCom Systems, Inc.*, Order and Authorization, 14 FCC Rcd. 20798, ¶ 6 (1999) (same), *aff’d sub. nom. AMSC Subsidiary Corp. v. FCC*, 216 F.3d 1154 (D.C. Cir. 2000).

II. Grant of iPass' STA Request Is Consistent with the Public Interest and the Commission's Rules

A. BGAN Service Will Facilitate Ubiquitous Availability of iPass' Innovative Internet Connectivity Offering

As explained in iPass' main application and the applications of other parties, Inmarsat's BGAN service will facilitate the deployment of a myriad of different services. Unlike other BGAN applicants, iPass intends to employ BGAN connectivity in a more focused manner to enhance the availability of the data-based Internet access services for iPass' customers, which include not only commercial businesses generally, but government and public safety entities and commercial entities with safety-related connectivity needs in remote areas in times of emergency, such as utilities, energy companies, non-governmental organizations ("NGOs") and media companies.¹¹ By way of background, iPass offers a variety of software-enabled enterprise services that unify the management of remote and mobile connectivity and devices on a global basis. Our flagship connectivity service, iPass Virtual Office, is designed to enable enterprises to provide their employees with secure Internet and corporate network access over mobile and fixed networks through a single easy-to-use interface. iPass Virtual Office unifies access across more than 150 fixed broadband networks in the U.S. and approximately 400 dial-up or mobile broadband networks in over 160 countries. The service also gives customers the option to use the service for access over networks that are not yet part of the iPass global "virtual network" such as on-campus wireless local area networks (LANs) as well as third-party home broadband links, Wi-Fi hotspot networks, municipal Wi-Fi networks, 3G mobile data networks and hotel Ethernet links.

¹¹ See STA Request, Attachment at 1.

Incorporating Inmarsat's global BGAN network into iPass' basket of Internet connectivity options will enable iPass to supplement its already extensive virtual network by effectively eliminating any geographic use restrictions for its customers. Companies with employees or operations in the field or in remote unserved or underserved areas, including those who provide critical infrastructure or services, such as health care, public utilities, resource exploration, and NGOs, will be assured of secure, reliable connectivity wherever they work or travel. Satellite broadband connectivity will enable these iPass customers, as well as government entities, to deliver secure, integrated high-performance connections to their mobile users in places where other broadband technologies do not reach, including rural areas where 3G or Wi-Fi hotspots have not been deployed, and to some of the most remote locations in the world.

B. The Public Interest and Extraordinary Circumstances Warrant Grant of iPass' STA Request

The Commission has made it clear that “[w]hen an application cannot be routinely granted within sixty days,” consideration of a request for Special Temporary Authority “is in line with the requirements of the Communications Act which contemplates STAs only in extraordinary situations.”¹² iPass' pending application clearly fits this description. MSV does not substantively dispute the public interest benefits of iPass' provision of BGAN service. As discussed above and in its STA Request, grant of the STA Request will have clear public safety benefits.¹³ Moreover, grant of the STA Request would help the Commission fulfill its

¹² *Amendment of Part 25 of the Commission's Rules and Regulations to Reduce Alien Carrier Interference Between Fixed-Satellites at Reduced Orbital Spacings and to Revise Application Processing Procedures for Satellite Communications Services*, First Report and Order, 6 FCC Rcd 2806, ¶ 27 (1991) (citing 47 U.S.C. § 309(f)).

¹³ See *supra* at Section II.A; STA Request, Attachment at 1-2. Indeed, while iPass' STA Request is not premised solely on the provision of service to commercial entities, the Commission has found that “extraordinary circumstances” may exist in the context of purely commercial services. See, e.g., *XM Radio Inc., Request for Special Temporary Authority to* (continued on next page)

obligations under Section 706(a) of the 1996 Act¹⁴ and is clearly consistent with the Commission's policy objectives toward broadband and IP-enabled services.¹⁵ As demonstrated herein and in the STA Request, grant of the STA Request is consistent with the Commission's pro-competitive satellite licensing policies as well.¹⁶

MSV also asserts that the existence of BGAN STAs held by other companies and the number of BGAN activations to date means that grant of the application will not serve the public interest. The Commission should not countenance this argument in any way, as it runs directly contrary to the Commission's pro-competitive MSS blanket licensing policies. Prospective BGAN service providers with innovative offerings, like iPass, should not be precluded from providing service via their own MET facilities. iPass serves several Forbes Global 2000

Operate a Lower Power Terrestrial Repeater at PGA Tour Events, 20 FCC Rcd 10661 (IB 2005); *XM Radio Inc. Request for Special Temporary Authority to Operate Additional Satellite Digital Audio Radio Service Terrestrial Repeaters*, *Sirius Satellite Radio Inc. Request to Modify Special Temporary Authority To Operate Satellite DARS Terrestrial Repeaters*, Order and Authorization, 19 FCC Rcd 18140, ¶ 6 n.17 (IB 2004) (granting STA to facilitate provision of SDARS in part because "SDARS will offer high-quality radio signals to listeners in areas that have limited radio service"). MSV's assertion that "the only plausible 'extraordinary circumstance' that could justify a grant of the STA" would be "support [of] first responders during an emergency," *see* Petition at 4, is inconsistent with Commission precedent and must be rejected outright as a transparent effort to render iPass' competing commercial offering economically unviable.

¹⁴ Congress explicitly mandated that the Commission "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability *to all Americans* ... by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, *or other regulating methods* that remove barriers to infrastructure investment." Telecommunications Act of 1996, Pub. L. No. 104-104, § 706(a) (1996) (emphasis added). Facilitating the provision of BGAN service via STAs clearly is a "regulating method" that enhances the commercial viability of the underlying BGAN system and network and promotes Congress's objective of ubiquitous availability of broadband services.

¹⁵ *IP-Enabled Services*, Notice of Proposed Rulemaking, 19 FCC Rcd 4863, 4865 (2004).

¹⁶ *See supra* note 10; STA Request, Attachment at 3-4 (citing *FCC Report to Congress as Required by the ORBIT Act*, Eighth Report, FCC 07-113, at 17 (rel. June 15, 2007)).

companies that likely prefer a single vendor solution for network security and reliability and other important business reasons, and thus would prefer to receive the service directly from iPass or a reseller of iPass' service. Grant of the STA Request will clearly increase competition among MSS providers, to the benefit of consumers in terms of new innovative services and lower prices.¹⁷

¹⁷ See, e.g., *OuterLink, Inc.*, 17 FCC Rcd at 12757 ¶ 1 (grant “will facilitate increased competition in the MSS market, providing U.S. consumers and users with innovative and improved mobile data communications service offerings at lower prices”).

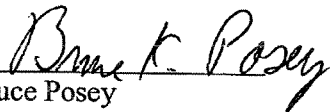
CONCLUSION

For the foregoing reasons, the Commission should deny MSV's Petition and expeditiously grant iPass' STA Request.

Respectfully submitted,

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September 5, 2007

CERTIFICATE OF SERVICE

I, LaVon E. Nickens, hereby certify that on this 5th day of September, 2007, I caused to be served a true copy of the foregoing "Opposition to Petition to Deny" by first class mail, postage pre-paid upon the following:

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