

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

| | | |
|------------------------------|---|---|
| In the matter of |) | |
| |) | |
| VIZADA Services LLC |) | File No. SES-STA-20070814-01092 (Call Sign E050284) |
| |) | |
| Thrane & Thrane Airtime Ltd. |) | File No. SES-STA-20070817-01101 (Call Sign E060179) |

COMMENTS OF MOBILE SATELLITE VENTURES SUBSIDIARY LLC

Mobile Satellite Ventures Subsidiary LLC (“MSV”) urges the International Bureau (“Bureau”), in acting on the above-captioned requests for renewal of Special Temporary Authority (“STA”) to operate Broadband Global Area Network (“BGAN”) terminals using the uncoordinated Inmarsat 4F2 satellite at 52.75°W, to (i) establish a firm expiration date for these STAs and provide that no further extensions will be granted without Inmarsat first having completed coordination of its now nearly two-year-old satellite with the North American L band operators; (ii) limit the use of BGAN terminals authorized under the STAs to “first responders”; and (iii) adopt conditions consistent with what MSV has requested in a pending Petition for Clarification.¹ The Bureau cannot simply continue to renew these STAs with no firm end in sight.

As Industry Canada has recognized in similar proceedings in its jurisdiction, the unrestricted operation of the uncoordinated Inmarsat 4F2 satellite has a negative impact on the L band coordination process and increases potential interference to North American L band operators. For these reasons, Industry Canada has adopted a restricted approach to the temporary

¹ See Mobile Satellite Ventures Subsidiary LLC, Petition for Clarification, File No. SES-STA-20060310-00419 *et al.* (June 12, 2006) (attaching Letter from Ms. Jennifer A. Manner, MSV, to Ms. Marlene H. Dortch, FCC, File No. SES-STA-20060310-00419 *et al.* (May 26, 2006)). This Petition is attached hereto as Exhibit A, and the Reply is attached hereto as Exhibit B.

authorization of BGAN service by permitting the operation of only a very few number of terminals and for only critical operations. The Bureau's conclusions should be no different here. Any other result, such as the FCC's continued renewal of the STAs for far more capacity than Inmarsat or its distributors can use in the foreseeable future or justify for STA operations, only disincentivizes Inmarsat from coordinating the Inmarsat 4F2 satellite and increases the risk of harmful interference to North American L band operators from Inmarsat's continued uncoordinated operations.

Background

On May 12, 2006, the Bureau granted STA requests to five entities to operate BGAN terminals subject to a number of very important and appropriate conditions that are essential to help mitigate the harmful interference to MSV's customers from Inmarsat's uncoordinated BGAN operations.² On June 12, 2006, MSV filed the attached Petition for Clarification asking the Bureau to clarify certain of these conditions. *See* Exhibit A. On June 19, 2006, Inmarsat, along with Telenor Satellite Inc., VIZADA Services, LLC. ("VIZADA"),³ BT Americas Inc., MVS USA, Inc., and Stratos Communications, Inc. (collectively, the "BGAN Distributors") filed a Joint Opposition to MSV's Petition.⁴ MSV filed a Reply to this Opposition on June 29, 2006.

² *See, e.g.*, Stratos Communications, Inc., Request for Special Temporary Authority, File No. SES-STA-20060310-00419 (filed March 10, 2006; granted with conditions on May 12, 2006).

³ VIZADA was formerly FTMSC US, LLC ("FTMSC") and changed its name on June 7, 2007. *See* VIZADA Services, LLC, Request for Special Temporary Authority, File No. SES-STA-20070619-00833, at Attachment 1.

⁴ *See* Inmarsat Ventures Limited *et al.*, Joint Opposition to Petition for Clarification, File No. SES-STA-20060310-00419 *et al.* (June 19, 2006).

See Exhibit B.⁵ Periodically, the BGAN Distributors have sought extensions of their original STA grants, and MSV has reiterated its comments expressing its concerns.

On June 30, 2006, the Bureau granted the request of Thrane & Thrane Airtime Ltd. (“Thrane & Thrane”) for an STA to operate 5000 BGAN METs subject to the same conditions imposed on the STAs issued to the BGAN Distributors.⁶ Thrane & Thrane has subsequently sought extensions of its original STA grant, and MSV has filed comments regarding those extension requests as well. In August 2007, Thrane & Thrane and VIZADA filed the above-referenced extension requests.

Discussion

I. The Bureau Should Establish a Firm Expiration Date for these STAs and Provide that No Further Extensions or Renewals Will Be Granted Absent Coordination of the Inmarsat 4F2 Satellite

In acting on these applications, the Bureau should establish a firm expiration date for the above-referenced STAs (as well as the other BGAN STAs) and provide that no further extensions or renewals will be granted without Inmarsat having first completed coordination of its new satellite with the North American L band operators.⁷ The Inmarsat 4F2 satellite is nearly two-years old, and for over a year the Inmarsat distributors have been providing BGAN service under STAs. Yet, coordination of the satellite still has not been completed. If the Bureau continues to grant new or renew or extend these and the other existing BGAN STAs without

⁵ See Mobile Satellite Ventures Subsidiary LLC, Reply, File No. SES-STA-20060310-00419 *et al.* (June 29, 2006).

⁶ See Thrane & Thrane Airtime Ltd., Application for STA, File No. SES-STA-20060522-00857 (granted June 30, 2006).

⁷ As with all STAs, the BGAN STAs expressly contain a condition that the STA may be modified at the Bureau’s discretion at any time without a hearing. See, e.g., Stratos Communications, Inc., Request for Special Temporary Authority (BGAN), File No. SES-STA-20060310-00419 (filed March 10, 2006; granted with conditions on May 12, 2006), at Condition No. 8.

insisting that Inmarsat first complete coordination, there are no reasonable prospects that such coordination will ever be successfully completed.

This is especially the case considering that only approximately 11,782 BGAN terminals have been activated *worldwide*.⁸ Indeed, using Inmarsat's own estimate of 400 new BGAN activations *worldwide* per month, it will be several years before Inmarsat and its distributors approach the use of 30,000 terminals that the FCC has authorized.⁹ Of course, given that the vast majority of BGAN terminals are used only outside of the United States, it will in fact take considerably longer to reach that limit for terminals operating in the United States.¹⁰ The authorization of far more BGAN terminals than Inmarsat and its distributors need in the foreseeable future disserves the public interest by removing the incentive for Inmarsat to satisfy its obligation to coordinate its Inmarsat 4F2 satellite pursuant to the L band coordination process. Accordingly, the Bureau must establish a firm expiration date for the BGAN STAs.

Recognizing this negative impact on the L band coordination process and the potential for interference resulting from operation of the uncoordinated Inmarsat 4F2 satellite, Industry Canada has taken a much more limiting approach to the temporary authorization of BGAN service by permitting the operation of only a very limited number of terminals and for only critical operations.¹¹ In so restricting BGAN authority, Industry Canada has explained that

⁸ See Inmarsat Group Limited, 2007 Form 6-K (August 7, 2007), at 2.

⁹ See Inmarsat Ventures Limited *et al.*, Joint Reply, File No. SES-STA-20061027-01898 *et al.* (November 22, 2006), at 1.

¹⁰ While MSV is not aware of any publicly available figures on the number of BGAN terminals deployed in the United States (and Inmarsat has failed to provide any such figure in the record of this or any other proceeding), it is safe to assume that only a fraction of the 7,119 BGAN terminals activated worldwide today are used in the United States, a number far less than the 30,000 BGAN terminals authorized for use in the United States pursuant to STA.

¹¹ See, e.g., Letter from Chantel Beaumieur, Director, Space and International Regulatory Activities, Industry Canada, to Lieutenant-Colonel J.J. F La Boissonnière, Director Information

“[s]uccessful completion of this coordination is essential in order to ensure an interference-free environment for the operation of all valuable satellite services.”¹² Not only will successful coordination mitigate the harmful interference that would otherwise result from operation of Inmarsat’s uncoordinated satellite, this coordination should also facilitate rebanding of L band spectrum into more contiguous frequency blocks that will increase efficient use of L band spectrum and maximize the potential for offering broadband services, which Chairman Martin has explained is a top Commission priority.¹³

II. The Bureau Should Limit the Use of BGAN Terminals Authorized Under the STAs to “First Responders”

Until coordination is completed, the Bureau should limit the BGAN terminals authorized under these STAs to those issued to “first responders,”¹⁴ based on sworn affidavits provided by the STA holders supporting their claims. The only plausible “extraordinary circumstance” that justified grant of the BGAN STAs was the claim that BGAN terminals would be used to support

Management Technologies, Products and Services 5, National Defence Headquarters (December 6, 2006) (authorizing the Canadian National Defence Headquarters to operate ten BGAN terminals).

¹² *Id.* at 1 (“Canada’s policy for permitting the use of foreign satellites to serve the Canadian market requires that they be successfully coordinated with other satellites through the international coordination process. Successful completion of this coordination is essential in order to ensure an interference-free environment for the operation of all valuable satellite services. At this time, Inmarsat has not completed this coordination for its Inmarsat 4F2 satellite located at the 52.75°W.L. orbital position. . . . Accordingly, until the coordination status of the Inmarsat satellite has changed, Industry Canada will not authorize Canadian service providers to provide Inmarsat’s BGAN service in Canada.”).

¹³ See Remarks of FCC Chairman Kevin J. Martin, *Imagining the Digital Healthcare Future in the Rural West*, Montana State University – Bozeman (July 7, 2006).

¹⁴ The Bureau should define a “first responder” as a unit of the Federal Government or any entity that would qualify to hold a license under Section 90.523 of the Commission’s rules. See 47 C.F.R. § 90.523 (providing that State or local government entities and certain nongovernmental organizations that provide services, the sole or principal purpose of which is to protect the safety of life, health, or property, as well as satisfy other criteria, may qualify to hold certain licenses).

first responders, such as during hurricane season.¹⁵ Neither Inmarsat nor its distributors have any basis to expect that their STA grants would support continuing service to users other than first responders.

MSV's request is eminently reasonable. As discussed above, Industry Canada has authorized the temporary use of only a very limited number of BGAN terminals to meet the "critical" communications needs of entities such as the Canadian National Defence Headquarters.¹⁶ There is no reason why the Bureau's conclusions here should be any different.

III. The Bureau Should Impose the Conditions MSV Has Requested in Its Pending Petition for Clarification

The conditions imposed by the Bureau in the STA grants to the BGAN Distributors are insufficient to protect MSV and its customers from harmful interference. MSV urges the Bureau in acting on these applications to adopt clarified conditions, consistent with MSV's pending Petition for Clarification attached hereto as Exhibit A. These clarifications will reduce the potential for harmful interference to MSV and its customers. MSV's customers include important public safety users equipped with MSV terminals for essential communications during hurricane season, including terminals that provide interoperable communications for key government agencies in the hurricane region. Indeed, numerous public safety users have filed letters with the Commission expressing concern with potential interference caused by Inmarsat's uncoordinated operations and expressing support for rebanding of L band spectrum into more

¹⁵ See 47 U.S.C. § 309(f); 47 C.F.R. § 25.120(b)(1); Consolidated Joint Opposition, File No. SES-STA-20060310-00419 *et al.* (April 6, 2006), at 4. Indeed, the Commission's rules specifically state that "[c]onvenience to the applicant, such as marketing considerations or meeting scheduled customer in-service dates, will not be deemed sufficient" for grant of an STA. See 47 C.F.R. § 25.120(b)(1).

¹⁶ See *supra* note 11.

contiguous frequency blocks, which will reduce the potential for harmful interference and promote efficient use of spectrum.¹⁷

Moreover, as MSV explained in Comments filed on the Commission's Notice of Proposed Rulemaking ("*NPRM*") seeking input on the recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks ("*Katrina Panel*"),¹⁸ MSV currently offers the only satellite-based push-to-talk ("*PTT*") service in the country today.¹⁹ This product allows point-to-point or point-to-multipoint voice communications among users in a customer-defined group using a PTT handset. Using a customer-defined calling group, a public safety user can communicate with one or up to 10,000 users

¹⁷ The following public safety entities or their representative filed such letters in a related proceeding (see file nos. SES-LFS-20050826-01175 *et al.*):

Blue Cross and Blue Shield of Florida; Hinds County (MS) Sheriff's Department; Florida Department of Agriculture and Consumer Services; Bolivar County (MS) Emergency Management Agency; Alliance to Save Florida's Trauma Care; City of Orlando Emergency Management; Community Development Leagues of America, Inc.; Charles Barbour, Supervisor, Hinds County (MS); Collier (FL) County Government; Seminole County (FL) Department of Information Technologies; Hernando County (FL) Emergency Management; Santa Rosa County (FL) Division of Emergency Management; Southwest Texas Regional Advisory Council for Trauma; J. Bradley Reynolds, Commissioner Northeast Ward, Nacogdoches, Texas; John W. Jones, Executive Director, Virginia Sheriffs' Association; Commonwealth of Kentucky's Division of Emergency Management; Steve McCraw, Homeland Security Director, Office of Texas Governor Rick Perry; John Wood, Cameron County Commissioner, Precinct 2; Sheriff Bob Holder, Comal County (TX) Sheriff's Office; Kendell Poole, Director of Tennessee Governor's Office of Highway Safety; Mike Krusee, Chairman of the Committee on Transportation of the Texas House of Representatives; Dr. Daniel D. Canale, Department of Pathology, Baptist Hospital, Nashville, TN; Ron Harris, Collin County (TX) Judge; Kenneth W. Stolle, Member, Virginia Senate; David B. Albo, Member, Virginia House of Delegates; Scott Lingamfelter, Member, Virginia House of Delegates; and John M. O'Bannon, III, MD, Delegate, 73rd District.

¹⁸ See *Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks, Notice of Proposed Rulemaking*, EB Docket No. 06-119, FCC 06-83 (June 16, 2006).

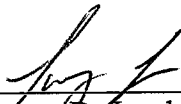
¹⁹ See Comments of Mobile Satellite Ventures Subsidiary LLC, EB Docket No. 06-119 (August 7, 2006).

simultaneously. With this technology, all users within the call group receive the same information simultaneously. During emergencies when terrestrial infrastructure is impaired, MSV's PTT service can be of critical importance in keeping first responders informed. In addition, MSV's PTT service can be interfaced with existing terrestrial-based public safety radios ("LMRs") or commercial Enhanced Specialized Mobile Radios ("ESMR"), and thus serve as a satellite repeater to both technologies. This enables the radios to continue to function even when the terrestrial infrastructure supporting the LMRs or ESMRs is destroyed. It is precisely this type of critical, interoperable public safety service that is being threatened by Inmarsat's continued operation of uncoordinated satellites and services. Clarification of the conditions imposed on BGAN operations is critical to reduce this threat.

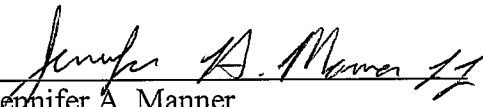
Conclusion

MSV urges the Bureau to protect the existing and reliable services MSV currently provides to public safety users by (i) establishing a firm expiration date for these STAs and provide that no further extensions or renewals will be granted without Inmarsat having first completed coordination of its new satellite with the North American L band operators; (ii) limiting the use of BGAN terminals authorized under the STAs to "first responders"; and (iii) adopting conditions consistent with what MSV has requested in its pending Petition for Clarification.

Respectfully submitted,



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Dated: August 20, 2007

Exhibit A

Mobile Satellite Ventures Subsidiary LLC, Petition for Clarification, File No. SES-STA-20060310-00419 *et al.* (June 12, 2006)

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

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JUN 12 2006

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| In the matter of |) | |
| |) | Federal Communications Commission |
| Stratos Communications, Inc. |) | Office of Secretary |
| |) | File No. SES-STA-20060310-00419 (Call Sign E050249) |
| Telenor Satellite, Inc. |) | File No. SES-STA-20060313-00430 (Call Sign E050276) |
| |) | |
| FTMSC US LLC |) | File No. SES-STA-20060314-00438 (Call Sign E050284) |
| |) | |
| BT Americas, Inc. |) | File No. SES-STA-20060315-00445 (Call Sign E060076) |
| |) | |
| MVS USA Inc. |) | File No. SES-STA-20060316-00454 (Call Sign E050348) |

PETITION FOR CLARIFICATION

Mobile Satellite Ventures Subsidiary LLC ("MSV"), pursuant to Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, hereby files this Petition for Clarification of the International Bureau's ("Bureau") May 12, 2006 decision granting the above-referenced requests for Special Temporary Authority ("STA") to operate Broadband Global Area Network ("BGAN") terminals using an uncoordinated Inmarsat satellite, Inmarsat 4F2 at 52.75°W. The Bureau's decision contains a number of very important and appropriate conditions that are essential to help mitigate the harmful interference that will result to customers of other L band Mobile Satellite Service ("MSS") operators once Inmarsat begins its uncoordinated BGAN operations. On May 26, 2006, prior to the deadline for filing Petitions for Clarification or Reconsideration of the decisions granting the BGAN STAs,¹ MSV filed the attached letter asking that the Bureau clarify certain of these conditions to improve their effectiveness. *See Exhibit A.* MSV hereby requests that the Bureau treat the attached letter and the clarifications requested therein as a Petition for Clarification of the Bureau's decisions granting the above-referenced

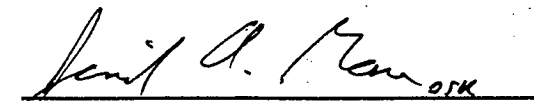
¹ The deadline for filing Petitions for Clarification or Reconsideration of the grant of the BGAN STAs is today, June 12, 2006. *See* 47 C.F.R. § 1.106(f).

STA requests. 47 C.F.R. § 1.106. A copy of this Petition has been served on the parties to the above-referenced proceedings. *Id.*

Respectfully submitted,



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Dated: June 12, 2006

Exhibit A



RECEIPT COPY

Jennifer A. Manner
Vice President, Regulatory Affairs

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May 26, 2006

Via Hand Delivery
Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RECEIVED

MAY 26 2006

Federal Communications Commission
Office of Secretary

Re: Mobile Satellite Ventures LP
Ex Parte Presentation
File No. SES-STA-20060310-00419 (Call Sign E050249)
File No. SES-STA-20060313-00430 (Call Sign E050276)
File No. SES-STA-20060314-00438 (Call Sign E050284)
File No. SES-STA-20060315-00445 (Call Sign E060076)
File No. SES-STA-20060316-00454 (Call Sign E050348)

Dear Ms. Dortch:

The May 12, 2006 decisions granting the above-captioned requests for Special Temporary Authority ("STA") to operate Broadband Global Area Network ("BGAN") terminals using an uncoordinated Inmarsat satellite, Inmarsat 4F2 at 52.75°W, contain a number of very important and appropriate conditions that are essential to help mitigate the harmful interference that will result to customers of other L band Mobile Satellite Service ("MSS") operators once Inmarsat begins its uncoordinated BGAN operations. Mobile Satellite Ventures Subsidiary LLC ("MSV") requests that the International Bureau clarify certain of these conditions to improve their effectiveness.

Condition 1. The May 12th decisions require the "downlink EIRP densities" at any geographical point within the United States to not exceed the levels previously authorized in connection with operations of the Inmarsat 3F4 satellite. As it did in limiting the aggregate uplink EIRP density, the Bureau should specify that the downlink EIRP limit is an aggregate limit. The Bureau should also clarify that the aggregate uplink and aggregate downlink EIRP density limits specified in Condition 1 apply in the aggregate to all Inmarsat satellites visible over North America. The condition as written appears to address only the emissions contributed by Inmarsat 4F2 to the aggregate emissions from all of Inmarsat satellites operating over North America. At least some of the frequencies used on the Inmarsat 4F2 at 52.75°W, however, are reused by Inmarsat on its other satellites visible over North America, which operate at 15.5°W, 98°W, 142°W, 143°E, and 178°E. The Bureau should make clear that the aggregate uplink and aggregate downlink EIRP densities from all Inmarsat satellites, including Inmarsat 4F2, must not exceed the level that existed before launch of Inmarsat 4F2.

Conditions 2 and 5. The May 12th decisions impose conditions on Inmarsat's service providers which should apply to Inmarsat as well. In Condition 2, the Bureau specified that BGAN operations are permitted only on a strictly unprotected basis. Because MSV has no means of determining which of the Inmarsat BGAN service providers may be responsible for causing interference to MSV's operations, we urge the Bureau to make clear that upon MSV's notice to Inmarsat of interference, Inmarsat and its service providers are jointly and severally responsible for taking immediate action to rectify any interference. In Condition 5, the Bureau explained that any action taken or expense incurred as a result of operations pursuant to this STA by a BGAN service provider is solely at the service provider's own risk. MSV urges the Bureau to similarly explain that any action taken or expense incurred by Inmarsat as a result of operations pursuant to this STA is solely at its own risk.

Condition 3. The May 12th decisions prohibit the STA holders from operating on certain disputed frequencies. The STA holders, however, do not have access to the specific frequencies covered by this condition. To ensure that the STA holders comply with this condition, MSV urges the Bureau to require each of the STA holders to submit a certification from Inmarsat declaring that Inmarsat has not and will not assign any unauthorized frequencies for operation of the earth stations covered by the STA.

Condition 4. The May 12th decisions require "adequate guard bands" to be provided between the band edges of the carriers used by the BGAN service provider and the band edges of MSV's operations to preclude the possibility of unacceptable interference to MSV's operations. Rather than relying on Inmarsat to determine what constitutes an "adequate guard band," the Bureau should specify a guard band of at least 50 kHz between the band edges of the carriers used by the BGAN service provider and the band edges of MSV's coordinated frequencies. This specification is essential because MSV has already suffered interference from Inmarsat's assignment of inadequate guard bands on other Inmarsat wideband carriers. Based on MSV's initial observation of experimental BGAN signals, a guard band of at least 50 kHz is needed to limit interference to MSV's narrowband carriers to the levels accepted under the Operators' Agreements developed pursuant to the *Mexico City MOU*. While MSV may discover during the course of coordination or from operations pursuant to these STAs that a different guard band is required to protect MSV, specification of a 50 kHz minimum guard band now in advance of coordination will reduce the material risk of harmful interference to MSV's customers while still enabling BGAN service. Moreover, because BGAN operations are permitted only on a strictly unprotected basis, the Bureau should also clarify that the 50 MHz guard band must lie entirely within Inmarsat's coordinated frequency assignments and may not lie within the frequencies coordinated for MSV or MSV Canada.

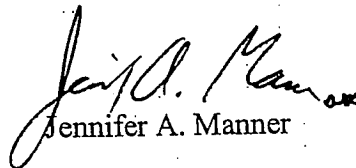
Conditions 6, 7, and 10. In Conditions 6, 7, and 10, the May 12th decisions explain that grant of the STA (i) is not based on a finding, and is without prejudice to any future determination the Commission may make, that Inmarsat's L band operations are consistent with operation on a non-interference basis, and (ii) is without prejudice to disposition of the pending applications for permanent authority to operate BGAN terminals. Consistent with these conditions, the Bureau should also explain that it expects Inmarsat to diligently conclude coordination of its Inmarsat 4F2 satellite with respect to the current and planned operations of

Ms. Marlene H. Dortch
May 26, 2006
Page 3

MSV and MSV Canada before it can make a definitive determination that operation of the Inmarsat 4F2 satellite will not result in unacceptable interference and before it can grant the pending applications for permanent authority.

Please contact the undersigned with any questions.

Very truly yours,


Jennifer A. Manner

CERTIFICATE OF SERVICE

I, Sylvia A. Davis, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that on this 26th day of May 2006, I served a true copy of the foregoing by first-class United States mail, postage prepaid, upon the following:

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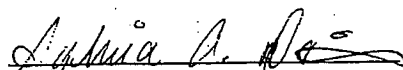
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Counsel for MVS USA, Inc.


Sylvia A. Davis

*By hand delivery

Technical Certification

I, Richard O. Evans, Senior Engineer of Mobile Satellite Ventures Subsidiary LLC, certify under penalty of perjury that:

I am the technically qualified person with overall responsibility for the technical information contained in the foregoing. I am familiar with the Commission's rules, and the information contained in the foregoing is true and correct to the best of my knowledge and belief.


Richard O. Evans

Dated: June 12, 2006

CERTIFICATE OF SERVICE

I, Sylvia A. Davis, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that on this 12th day of June 2006, I served a true copy of the foregoing by first-class United States mail, postage prepaid, upon the following:

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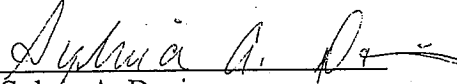
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Exhibit B

Mobile Satellite Ventures Subsidiary LLC, Reply,
File No. SES-STA-20060310-00419 *et al.* (June 29, 2006)

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JUN 29 2006

Federal Communications Commission
Office of Secretary

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

| | | |
|------------------------------|---|---|
| In the matter of |) | |
| |) | |
| Stratos Communications, Inc. |) | File No. SES-STA-20060310-00419 (Call Sign E050249) |
| |) | |
| Telenor Satellite, Inc. |) | File No. SES-STA-20060313-00430 (Call Sign E050276) |
| |) | |
| FTMSC US LLC |) | File No. SES-STA-20060314-00438 (Call Sign E050284) |
| |) | |
| BT Americas, Inc. |) | File No. SES-STA-20060315-00445 (Call Sign E060076) |
| |) | |
| MVS USA Inc. |) | File No. SES-STA-20060316-00454 (Call Sign E050348) |

REPLY TO OPPOSITION TO PETITION FOR CLARIFICATION

Mobile Satellite Ventures Subsidiary LLC ("MSV") hereby submits this Reply to the Opposition to its Petition for Clarification of the International Bureau's ("Bureau") May 12, 2006 decision granting the above-referenced requests for Special Temporary Authority ("STA") to operate Broadband Global Area Network ("BGAN") terminals using an uncoordinated Inmarsat satellite, Inmarsat 4F2 at 52.75°W.

In its Petition, MSV asked the Bureau to clarify some of the conditions imposed on the grants of the STA requests intended to help mitigate the harmful interference that will result to MSV's customers from Inmarsat's uncoordinated BGAN operations.¹ On June 19, 2006, Inmarsat Ventures Limited ("Inmarsat"), along with Telenor Satellite Inc., FTMSC US, LLC, BT Americas Inc., MVS USA, Inc., and Stratos Communications, Inc. (collectively, the "BGAN

¹ See Mobile Satellite Ventures Subsidiary LLC, Petition for Clarification, File No. SES-STA-20060310-00419 et al (June 12, 2006) ("*MSV Petition*") (attaching Letter from Ms. Jennifer A. Manner, MSV, to Ms. Marlene H. Dortch, FCC, File No. SES-STA-20060310-00419 et al. (May 26, 2006) at Exhibit A).

Distributors”) filed a Joint Opposition to MSV’s Petition.² As discussed herein, their objections to MSV’s requested clarifications are baseless.

Condition 1. MSV requested that the Commission clarify that the condition limiting the “downlink EIRP densities” to a certain level is an aggregate limit. *MSV Petition*, Exhibit A at 1. Inmarsat concedes that this is an aggregate limit. *Inmarsat et al Opposition* at 2. As such, the Bureau should clarify this condition as requested. MSV, however, is concerned by Inmarsat’s statement that an aggregate downlink EIRP limit is not necessary because Inmarsat will not illuminate a given geographic area with more than one co-frequency carrier as this would cause self-interference. *Id.* This statement demonstrates a fundamental and disturbing misunderstanding of the condition imposed by the Bureau, which warrants further clarification. The Bureau’s intent in establishing an “aggregate” downlink EIRP density limit is to cap the EIRP coming down from a beam or beams used on Inmarsat 4F2, regardless of whether the beams cover the United States or whether the energy is transmitted via the skirt of the main lobe or the sidelobes of a number of beams that spill energy over the United States. Our understanding of the Bureau’s condition is that it is intended to ensure that the narrow spot beams on Inmarsat 4F2 that reuse the frequencies coordinated for MSAT-1 and MSAT-2 outside of North America limit their aggregate co-channel reuse interference toward the coverage area of MSAT-1 and MSAT-2 to the levels coordinated for the Inmarsat 3F4 satellite at 54°W. The Bureau should promptly correct Inmarsat’s misunderstanding to avoid interference to the operations of other L band MSS operators.

MSV also requested that the Bureau clarify that the aggregate uplink and aggregate downlink EIRP densities from all of Inmarsat’s satellites, including Inmarsat 4F2, must not

² See *Inmarsat Ventures Limited et al., Joint Opposition to Petition for Clarification*, File No. SES-STA-20060310-00419 et al (June 19, 2006) (“*Inmarsat et al Opposition*”).

exceed the level that existed before the launch of Inmarsat 4F2. *MSV Petition*, Exhibit A at 1. Inmarsat avoids this issue by stating that the STAs pertain only to BGAN service and only to the Inmarsat 4F2 satellite. Thus, according to Inmarsat, there is no basis for extending limits to satellites that are not the subject of the STA requests. *Inmarsat et al Opposition* at 3. This clarification, however, is essential to ensure that operation of the uncoordinated Inmarsat 4F2 satellite does not result in interference to other L band operators. Inmarsat has proceeded to operate its new Inmarsat 4F2 satellite as well as other satellites in the United States without coordinating those satellites first with other L band operators.³ Had Inmarsat coordinated these satellites with MSV, agreements would have been made to ensure that MSV would be protected from emissions from Inmarsat 4F2 as well as from the aggregate emissions from all of Inmarsat's other satellites operating over North America. Having failed to coordinate its satellites, Inmarsat cannot complain now if the Bureau attaches a condition intended to ensure that MSV is protected from interference from aggregate emissions of all of Inmarsat's coordinated and uncoordinated satellites.⁴

Conditions 2 and 5. MSV asked the Bureau to make clear that Inmarsat and the BGAN Distributors are jointly and severally responsible for immediately rectifying any interference caused by BGAN operations. *MSV Petition*, Exhibit A at 2. In addition, MSV asked the Bureau to explain that any action taken or expense incurred by Inmarsat as a result of operations pursuant to this STA is solely at Inmarsat's own risk. *Id.* In response, Inmarsat states that it has "ample incentive" to ensure that the BGAN Distributors comply with the STA conditions.

³ Inmarsat is operating uncoordinated satellites at 52.75°W, 98°W, 142°W, and 143.5°E.

⁴ While Inmarsat complains that the Bureau never imposed an aggregate EIRP density limit on the operations of MSV-1 and MSV-SA, Inmarsat never requested such a limit. In fact, Inmarsat never raised any objections to MSV's applications to operate MSV-1 and MSV-SA. The Bureau cannot be faulted for failing to adopt an interference limit when there was no record evidence to support such a limit. In any event, MSV has since surrendered its license for the MSV-SA satellite.

Inmarsat et al Opposition at 3-4. As the operator of the satellite used for BGAN service, Inmarsat's own compliance with the STA conditions, especially the obligation to take immediate action to rectify any interference, is essential to help mitigate the harmful interference from uncoordinated BGAN operations. Given that Inmarsat has "ample incentive" to help the BGAN Distributors comply with these conditions, it will not be burdened should the Bureau clarify that Conditions 2 and 5 apply to Inmarsat as well.

Condition 3. MSV urged the Bureau to require each of the BGAN Distributors to submit a certification from Inmarsat declaring that Inmarsat has not and will not assign any unauthorized frequencies for operation of the earth stations covered by the STA. *MSV Petition*, Exhibit A at 2. Once again, Inmarsat claims that it has "every incentive" to ensure that the BGAN Distributors comply with this condition. *Inmarsat et al Opposition* at 4. As such, Inmarsat should have no concern with providing the BGAN Distributors with such a certification. Requiring such a certification will provide needed assurance to the Bureau, MSV, and the BGAN Distributors that Inmarsat is complying with this condition. There is precedent for such a requirement. For example, an applicant for a Fixed Satellite Service ("FSS") earth station that does not conform with the Commission's rules must submit with its application certifications from the operators of the satellites with which it intends to communicate demonstrating that all affected satellite operators have taken the non-routine operations into account in their coordination negotiations. 47 C.F.R. § 25.220. In adopting this requirement, the Commission explained that "since the earth station operator will be a customer of the target satellite operator, the target satellite operator has an incentive to obtain the certifications."⁵

⁵ See *Fifth Report and Order*, 20 FCC Rcd 5666, ¶ 50 (March 15, 2005).

Condition 4. MSV requested that the Bureau specify a guard band of at least 50 kHz between the band edges of the carriers used by the BGAN service provider and the band edges of MSV's coordinated frequencies to mitigate harmful interference to MSV. *MSV Petition*, Exhibit A at 2. Inmarsat claims that this condition is unwarranted because it is unclear that 50 kHz is the appropriate guard band size. *Inmarsat et al Opposition* at 4-5. The fact is that BGAN operations are permitted only on a strictly non-interference and unprotected basis. As MSV explained in its Petition, its initial observation of experimental BGAN signals revealed that a *minimum* 50 kHz guard band is needed to protect MSV from interference. *MSV Petition*, Exhibit A at 2. While real world experience may demonstrate that a larger guard band is needed, specification of a 50 kHz guard band now in advance of coordination is a reasonable means to help mitigate harmful interference to MSV's customers. Inmarsat also complains that MSV is trying to "shift the entire operational burden of coordination to Inmarsat." *Inmarsat et al Opposition* at 5. Of course, MSV's request is not a substitute for coordination. The conditions attached to the STAs are temporary measures to minimize interference in the absence of a coordination agreement. Once Inmarsat takes the necessary steps to complete coordination of its satellite with MSV, the size and location of any guardbands can be determined more precisely.

Conditions 6, 7, and 10. MSV also urged the Bureau to explain that it expects Inmarsat to diligently conclude coordination of its Inmarsat 4F2 satellite with respect to the current and planned operations of MSV and MSV Canada before it can make a definitive determination that operation of the Inmarsat 4F2 satellite will not result in unacceptable interference and before it can grant the pending applications for full BGAN authority. *MSV Petition*, Exhibit A at 2-3. In response, Inmarsat claims that this condition is inappropriate because Inmarsat 4F2 is operating within the technical envelope coordinated with MSV. *Inmarsat et al Opposition* at 6. In fact,

this “technical envelope” simply does not exist because Inmarsat has not diligently coordinated all of its operations in order to establish such an envelope. The fact is that the key technical parameters of Inmarsat 4F2 used to support BGAN services, such as its proposed use of loaned frequencies, increased number of co-channel reuse beams, higher aggregate EIRP, and wideband carriers, have not been previously coordinated, thus making operation of Inmarsat 4F2 on a non-harmful interference basis relative to other L band systems unlikely.⁶ Inmarsat also contends that this condition is unfair because it provides MSV with “sole control” over whether the Commission will ever grant full authority for BGAN service. *Inmarsat et al Opposition* at 6. MSV, however, has been and continues to be ready and willing to coordinate with Inmarsat. If the parties commit to making a good faith effort to complete a comprehensive regional coordination agreement, MSV’s view is that coordination can be completed in a matter of a few months. Inmarsat next argues that completion of coordination is not a condition precedent to issuance of an authorization to provide MSS. *Inmarsat et al Opposition* at 6. In fact, the Bureau requires prior coordination unless there is a reasonable basis to conclude that harmful interference will not occur in the absence of international coordination. The Bureau will not authorize uncoordinated satellites or services when there is evidence that harmful interference might occur, as in the case of Inmarsat 4F2.⁷ Inmarsat also claims that such a condition is inconsistent with how the Bureau treated MSV in granting it licenses for its next-generation satellites. *Inmarsat et al Opposition* at 6. In those cases, however, no entity claimed that these satellites would cause harmful interference. It was thus entirely reasonable for the Bureau to

⁶ See, e.g., Mobile Satellite Ventures Subsidiary LLC, Petition to Hold in Abeyance, File No. SES-LFS-20060303-00343, File No. SES-AMD-20060316-00448 (Call Sign E060076) (April 14, 2006), at 14-19. MSV incorporates this filing by reference.

⁷ See Letter from Thomas S. Tycz, FCC, to Joseph A. Godles, Counsel for PanAmSat, File No. SAT-STA-19980902-00057 (September 15, 1998); *Loral Orion Services, Inc., Order and Authorization*, DA 99-2222, 14 FCC Rcd 17665, ¶ 10 (October 18, 1999); *BT North America Inc., Order*, DA 00-162, 15 FCC Rcd 15602 (February 1, 2000).

license these satellites in advance of coordination. Conversely, in the case of the Inmarsat 4F2 satellite, its proposed use of loaned frequencies, as well as its wider bandwidth carriers, higher aggregate EIRP, and greater number of co-channel reuse beams relative to any satellite Inmarsat has operated previously means that harmful interference will occur absent prior coordination. In addition, MSV's next-generation satellite is years away from launch, making it reasonable for the Bureau to conclude that any interference issues will be resolved through coordination prior to actual operation. Conversely, an earth station application such as that presented here is fundamentally different because it means that operation of the uncoordinated Inmarsat 4F2 satellite and the resulting harmful interference are imminent. Moreover, in granting the MSV-1 and MSV-SA licenses, the Bureau specifically stated that an authorization for which coordination has not been completed may be subject to additional terms and conditions as required to effect coordination with other Administrations.⁸

⁸ See *Mobile Satellite Ventures Subsidiary LLC, Order and Authorization*, DA 05-1492 (May 23, 2005) (“*MSV-1 Order*”), at ¶ 79; *Mobile Satellite Ventures Subsidiary LLC, Order and Authorization*, DA 05-50 (January 10, 2005) (“*MSV-SA Order*”), at ¶ 58. MSV has since surrendered its license for the MSV-SA satellite.

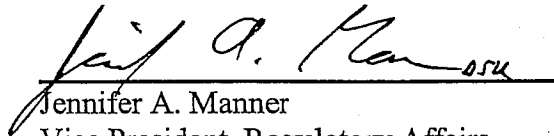
Conclusion

MSV requests that the Bureau adopt MSV's requested clarifications to the conditions imposed on the STAs granted for BGAN operations in the United States to improve their effectiveness in mitigating harmful interference to other L band operators.

Respectfully submitted,



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Dated: June 29, 2006

Technical Certification

I, Richard O. Evans of Mobile Satellite Ventures Subsidiary LLC, certify under penalty of perjury that:

I am the technically qualified person with overall responsibility for the technical information contained in this Reply. I am familiar with the Commission's rules, and the information contained in the Reply is true and correct to the best of my knowledge and belief.


Richard O. Evans

Dated: June 29, 2006

CERTIFICATE OF SERVICE

I, Sylvia A. Davis, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that on this 29th day of June 2006, I served a true copy of the foregoing by first-class United States mail, postage prepaid, upon the following:

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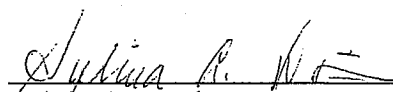
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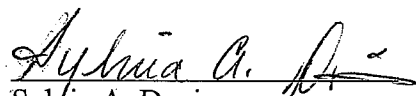
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