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**BY HAND**

Ms. Helen Domenici  
Chief, International Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: Update to Row 44, Inc. Request for Special Temporary Authority and Request for Expedited Action (File No. SES-STA-20080711-00928; Call Sign E080100)**

Dear Ms. Domenici:

Row 44, Inc. ("Row 44"), by counsel, hereby supplements its above-referenced request for limited special temporary authority ("STA") to clarify that the technical parameters for the twelve (12) remote terminals for which it seeks STA are subject to the recent amendments to its pending aeronautical mobile satellite service ("AMSS") Earth station license. *See* File Nos. SES-AMD-20080819-01074 and SES-AMD-20080829-01117. Specifically, Row 44 incorporates the power reduction and related changes proposed in the amendments, as well as the supplemental information specifically requested by the Bureau. As of yesterday, these amendments have been accepted for filing, and a Public Notice to that effect has been issued. *See* FCC Public Notice, Rep. No. SES-01066 (released Sept. 10, 2008).

By way of background, Row 44's permanent license application was filed on May 8, 2008. *See* File No. SES-LIC-20080508-00570 ("License Application"). The License Application included, as Appendix 1, a coordination agreement completed with the National Science Foundation concerning radioastronomy operations in the 14.47-14.5 GHz band. Row 44 amended the License Application on June 19, 2008 to include additional coordination agreements, Appendices 2 through 4, with all satellite operators within six degrees adjacent to the AMC-9 (83° W.L.), AMC-2 (101° W.L.) and Horizons-1 (127° W.L.) satellites that Row 44 proposes to use, as well as with the National Aeronautics and Space Administration's operations in the 14.0-14.05 GHz band. *See* SES-AMD-20080619-00826.



Ms. Helen Domenici  
September 11, 2008  
Page -2-

Row 44 filed the more limited STA request addressed by this letter on July 11, 2008, seeking permission to conduct tests employing up to twelve (12) aircraft Earth station (“AES”) antennas operating in the 14.05-14.47 GHz transmit and 11.7-12.2 GHz receive bands. As detailed in its letters filed July 31, 2008 and September 4, 2008, Row 44’s initial request was premised on plans to commence limited mobility testing with two of its airline partners, Alaska Airlines (“Alaska”) and Southwest Airlines (“Southwest”), on or about September 1, 2008. *See* Letter from David S. Keir, Counsel to Row 44, to Marlene H. Dortch, Secretary, FCC, dated July 31, 2008; Letter from David S. Keir, Counsel to Row 44, to Marlene H. Dortch, Secretary, FCC, dated September 4, 2008. Row 44 sought approval as of early August to permit Row 44 to conduct testing of a single mobile terminal for both evaluation and demonstration purposes prior to the tests involving Alaska Airlines (“Alaska”) and Southwest Airlines (“Southwest”).

As reported in its September 4 Letter, Row 44 has been able to undertake limited flight testing pursuant to authority granted on July 24, 2008 by Industry Canada (IC File No. 157565 RH), and has rescheduled the planned airline trials in U.S. airspace to commence, subject to grant of the STA request, during the final week of September, 2008. Although the STA request seeks authority to operate up to twelve units, implementation will be carefully phased. In the initial stage, only one to two aircraft-mounted antenna will be utilized -- one on a Row 44 aircraft and one on an Alaska aircraft. This testing stage is expected to continue for up to a month before up to four additional antennas would be deployed on Southwest aircraft, for a total of six units in use. Twelve units are requested in order to allow for a subsequent extension of authority, and modest incremental expansion of the testing program, without the need to add more units to the authorization.

With the acceptance for filing of the two amendments to the underlying License Application, Row 44 believes that the International Bureau has all of the data necessary to permit grant of the limited interim authority that Row 44 has sought in the pending STA request. All inquiries posed by International Bureau staff have been responded to fully and quickly. Indeed, the only party to oppose grant of the underlying permanent license application expressed as a key concern that “transmit/receive flight testing of [Row 44’s] proposed antenna” should be conducted prior to grant. *See* ViaSat Petition at 4, filed June 27, 2008. Grant of the limited STA requested would allow Row 44 to address these concerns, to the extent necessary, and develop real world data using a small number of remote terminals prior to final action on the underlying License Application. Row 44 fully understands that any STA grant will require it to operate on a non-harmful interference, non-interference-protected basis, and will be without prejudice to ultimate action on the underlying License Application.

Unlike the License Application, which is subject to the public notice and comment provisions of Section 309(b) of the Communications Act, as implemented by Section 25.154 of the Commission’s Rules, the STA request is a Section 309(c)(2)(G) application, which can be granted at any time at the Bureau’s discretion without any further proceedings. *See* 47 U.S.C.



Ms. Helen Domenici

September 11, 2008

Page -3-

§309(c)(2)(G). Immediate grant of the limited mobility authority sought for the operation of twelve aircraft-mounted terminals, based on the extensive information already filed, would allow installation of equipment to proceed in time to maintain Row 44's modified testing schedule. (As a practical matter, Row 44's airline customers will not allow installation to proceed until FCC authority has been granted). This testing, in turn, will serve the public interest by promoting the development of FSS-compatible aeronautical-mobile applications, maximizing efficient use of the Ku-band spectrum generally and hastening the introduction of new competitive, in-flight broadband access services that are much desired by the flying public. As noted in its September 4 Letter, Row 44 is prepared to accept any appropriate STA conditions in order to permit it to proceed as outlined herein and in its initial STA request.

Accordingly, in order to commence the limited in-flight testing outlined above during the week of September 28th, Row 44 respectfully requests immediate grant of the authority requested in its July 11 STA application. Row 44 seeks action prior to September 18, 2008 to allow sufficient lead time to permit installation of equipment on test aircraft.

Should there be any questions regarding this matter, please contact the undersigned counsel.

Respectfully submitted,

David S. Kert

*Counsel to Row 44, Inc.*

cc: Robert, Nelson, FCC\*  
Fern Jarmulnek, FCC\*  
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