

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OCT 13 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:)
)
ICO SERVICES LIMITED) RM No. 9328
)
Petition for Expedited Rule Making To)
Establish Eligibility Requirements for the)
2 GHz Mobile Satellite Service)

To the Commission:

MOTION FOR LEAVE TO FILE SURREPLY COMMENTS

Pursuant to Section 1.45(c) of the Commission's rules, 47 C.F.R. § 1.45(c), ICO Services Limited¹ hereby moves for leave to file surreply comments in the above captioned proceeding.² ICO files this request in order to respond to a new assertion made by Iridium, LLC ("Iridium") in its reply comments in the above referenced proceeding. As explained below, fundamental fairness, as well as the public interest, dictate that this motion be granted.

¹ ICO Services, a company established under the laws of England and Wales, is a wholly owned subsidiary of ICO Global Communications (Holdings) Limited, which is the ultimate parent of a wholly owned group of companies (referred to herein collectively as "ICO") that is developing a satellite system for the provision of global MSS

² ICO is filing its surreply comments to Iridium's reply comments contemporaneously with this motion. ICO's surreply comments are limited to responding to the new assertion raised in Iridium's reply comments and do not raise any new issues.

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ARGUMENT

In its September 11 reply comments in the above captioned proceeding, Iridium asserts -- for the first time -- that "under the Little LEO new entrant policy of which ICO Services appears to approve, ICO would be deemed to hold an affiliation with at least three entities holding substantial MSS interests in the United States: Hughes Electronics; Inmarsat; and COMSAT."¹ Although it clearly could have done so, Iridium failed to make this assertion in its earlier comments.² ICO feels compelled to reply to Iridium's assertion because it is patently misleading. Because the normal pleading cycle has concluded, however, ICO can file another formal pleading in this proceeding only with the Commission's permission.

The Commission should grant such permission as a matter of fundamental fairness. By raising this issue for the first time in its reply comments, rather than in its earlier comments, Iridium effectively has cut off a formal response by ICO. ICO's position with respect to this issue should not be prejudiced by Iridium's procedural ploys.

Grant of ICO's motion also will serve the public interest. Specifically, the Commission will be better able to decide the important issues involved in this proceeding having heard fully from all interested parties with respect to those issues. The

¹ Reply Comments of Iridium, LLC at 11.

² Although Iridium did assert in its earlier comments, in a footnote, that ICO would be deemed an affiliate of Inmarsat, it did not rely on the Little LEO new entrant policy as support for its assertion. Rather, Iridium relied on the Commission's statement, in the *DISCO II* proceeding, that ICO is an affiliate of Inmarsat. See Comments of Iridium, LLC at 9 n.16. ICO has filed a petition for reconsideration in that proceeding, in which it asked the Commission, among other things, to reconsider its decision to classify ICO as an affiliate of Inmarsat. See Petition for Clarification and Reconsideration of ICO Global Communications, IB Docket No. 96-11; CC Docket No. 93-23; RM-7931; File No. ISP092-007 (January 5, 1998) at 6-7.

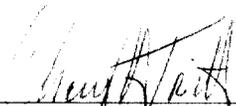
Commission therefore should have the benefit of ICO's response to Iridium's newly asserted claim.

CONCLUSION

For the foregoing reasons, ICO respectfully requests that the Commission grant this motion and accept for filing ICO's surreply comments filed contemporaneously with this motion.

Respectfully submitted,

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October 13, 1998

Certificate of Service

I, James S. Bucholz, do hereby certify that the foregoing MOTION FOR LEAVE TO FILE SURREPLY COMMENTS were delivered, via hand delivery, on this 13th day of October, 1998, to the following:

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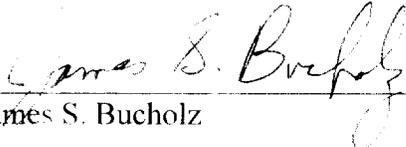
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