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Before the
Federal Communications Commission
Washington, DC 20554

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Federal Communications Commission
Office of the Secretary

In the Matter of:	)	
MariTEL, Inc. Proposal to Serve as Automatic Identification System Frequency Coordinator	)	**DA 03-3669**
Wireless Telecommunications Bureau Seeks Comment on MariTel, Inc. Petition for Declaratory Ruling and National Telecommunications and Information Administration Petition for Rulemaking Regarding the Use of Maritime Channels 87B and 88B	)	**DA 03-3585** **RM-10821**

To: The Commission

Comments of

Ingram Barge Company

Ingram Barge Company ("Ingram"), by its attorneys, respectfully submits its comments in response to the Public Notice of the request by MariTEL, Inc. to be designated as the "frequency coordinator" for the Automatic Identification System ("AIS") employed in conjunction with the Coast Guard's Ports and Waterways Safety System ("PAWSS").[1] Ingram finds the MariTEL proposal to be an egregious effort to establish a toll booth across the Nation's ports and waterways and to charge exorbitant fees solely in exchange for MariTEL agreeing to comply with its FCC licensee

[1] Public Notice DA 03-3669 (released Nov 19, 2003). These Comments also are submitted as Reply Comments to Public Notice DA 03-3585, RM-10821 (released Nov. 7, 2003).

obligations Ingram urges the Commission to DENY the MariTEL request and to GRANT the National Telecommunications and Information Administration ("NTIA") petition for rulemaking, RM-10821, and thereby to enforce the Section 80.371(c)(3) commitment to designate two channels for the PAWSS system.

I. Background

A. Ingram Barge Company

Ingram Barge Company is one of the leading carriers on America's inland waterways Ingram operates more than 3,700 barges powered by more than 100 vessels, one of the largest towboat fleets in the industry. Ingram transports a wide variety of cargos, including coal, grain, aggregates, fertilizer, ores, alloys, steel products, and chemicals. Ingram operates on the Mississippi, Ohio, Cumberland, Tennessee, Kanawha, Illinois and Monongahela Rivers and on the Gulf Intracoastal Waterway.

B. MariTEL Proposal

MariTEL, which holds license authority from the Commission for all of the VHF maritime public coast station service areas, has requested that the Commission recognize MariTEL as the exclusive "frequency coordinator" for the Automatic Identification System ("AIS") to be employed for vessel recognition in conjunction with the Coast Guard's PAWSS. In essence, MariTEL proposes to assign Maritime Mobile Service Identities ("MMSI") to maritime operators for use in the AIS, maintain a database of AIS registrations, provide AIS registration information to the Coast Guard, and provide certain other information services to the Coast Guard and/or other parties.[2] In exchange

[2] Letter from Dan Smith, MariTEL to Catherine W. Seidel, Deputy Chief, Wireless Telecommunications Bureau (Nov. 7, 2003) ("MariTEL Letter"). As to MariTEL providing information on ports requiring AIS transponders, undoubtedly the Coast Guard must promulgate and maintain that information, and cannot rely on MariTEL or any other third party to fulfill that responsibility.

for recognition as the exclusive "frequency coordinator," MariTEL will cooperate with the Coast Guard in the designation of channels 87B and 88B for AIS, which cooperation MariTEL acknowledges in its letter to the Commission is required by Section 80.371 of the Commission's rules.[3] For providing its "frequency coordination" services, MariTEL proposes to charge fees for initial registration of $300 for each mandatory carriage vessel and $375 for each non-mandatory carriage vessel,[4] and $75 per vessel for annual "renewal "[5]

II. Comments

A. MariTEL Does Not Propose to Render a Frequency Coordination Service

The service MariTEL proposes to render is NOT frequency coordination. MariTEL's proposal concerns neither frequencies nor coordination. The frequencies for the AIS function are to be fixed and designated; and at any given time and location, a user will have access to the assigned AIS channels pursuant to a "self-organizing" function within the AIS system. MariTEL cannot affect either function. Rather, MaritTEL proposes to provide a registration function for MMSI numbers, a function

[3] *Id.* at 1. The Coast Guard maintains that it already is allocated Channel 88B, one of the two channels at issue, by NTIA. *See* Letter from Kathy D Smith, Chief Counsel, NTIA to Marlene H. Dortch, Secretary, FCC, RM-10821 (Oct. 24, 2003) at 2.

[4] The basis for the distinction between mandatory and non-mandatory carriage vessel registration fees is not explained in the MariTEL letter. Query: whether the distinction is that mandatory carriage vessels can obtain MMSI registrations as part of their FCC licensing process, and/or that the population of non-mandatory carriage vessels swamps that of the mandatory carriage vessels and so offers a very rich potential revenue stream to MariTEL?

[5] At these fee levels, with registration of the approximate 4000 domestic tugboats and towing vessels and only 10% of the 750,000 radio-equipped non-mandatory vessels (Public Notice, *FCC Seeks Comment Regarding Provision of Procedures for Assigning Maritime Mobile Service Identities*, FCC 97-69 (released Mar. 6, 1997)), MariTEL would reap initial registration fees in excess of $29 million, and annual renewal fees of $5 9 million.

which entails neither judgment nor skill. Indeed, many vessels already have been assigned MMSI registration numbers, either through the FCC vessel licensing process or by means of the FCC-approved process for non-mandatory carriage vessels.[6]

In contrast, frequency coordination, as most prominently practiced in the private land mobile services, entails rendering an engineering-type service wherein the coordinator selects the most appropriate frequency for an applicant based on factors such as location, analysis of current channel occupancy, ability to co-exist with other licensees, and power, directionality and other signal characteristics.[7] Second, frequency coordinator status is granted to those who are representative of the user community [8] MariTEL is neither representative of, nor responsible to, the maritime user community. Rather, MariTEL is a commercial entity which seeks to exploit its status as licensee of the VHF maritime channels into a taxing authority, notwithstanding that it must in any case dedicate two channels to AIS pursuant to Commission rules and the terms of its license authority, in an effort to rescue a failed business plan.[9] Other than being a licensee of the VHF public coast station frequencies—whose service the marine community did not support and has been discontinued while it searches for a business

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[6] *Id* ; *see also* Public Notice, *Commission Announces Agreement . . to Assign Maritime Mobile Service Identities*, DA 01-2463 (Oct 23, 2001)

[7] *See, e.g* , 47 C.F.R §90.175 (a), *Frequency Coordination in the Private Land Mobile Radio Services* (PR Docket No 83-737), 103 F.C C. 2d 1093, 1094-1095 (1986).

[8] *Id* at 1096, 1126.

[9] *See* RM-10821 at p 2 of attached letter of July 30, 2003 to Mr. Frederick R Wentland, Associate Administrator, NTIA from Albert S. Jacquez, Administrator, Saint Lawrence Seaway Development Corporation and Emil H Frankel, Assistant Secretary for Transportation Policy, U.S Department of Transportation *See also MARITEL,INC , Request to Extend Construction Deadline for Certain VHF Public Coast Station Geographic Area Licenses, DA 03-3614 (released Dec 4, 2003)*

plan,[10] MariTEL has no relationship to the maritime community. Third, frequency coordination, except in unique circumstances involving public safety and embedded users on highly congested channels, is a competitive endeavor [11] Similarly, MMSI assignments currently are handled by multiple parties for non-compulsory equipped vessels.[12] No rationale is offered by MariTEL as to why in the future this function should be handled on an exclusive basis. And there is no reason. Frequency coordinators in the private land mobile services render a complex service, and they exchange frequency assignment information among themselves If land mobile radio service frequency coordinators can operate in a competitive environment, *a fortiori* so can those issuing MMSI registrations. The only reason to grant MariTEL an exclusive over the MMSI registration process is to enable MariTEL to price its "service" on a monopoly basis, i.e., to legally sanction (maritime) "highway robbery." To do so would violate both Commission and public policy.

B. MariTEL's Proposed Pricing is Unjustified and Unreasonable

MariTEL's contemplated pricing is highly unreasonable. At $300 or 375 per vessel for initial registration and $75 per vessel for annual renewal, the cost to Ingram alone would be more than $30,000 initially—for registration of a MMSI already assigned to Ingram's vessels—and $7,500 annually to refrain from removing Ingram's vessels

[10] *Id , see also* MariTEL web site, www.maritelusa.com.

[11] *See Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Services* (PR Docket No. 92-235), 12 FCC Rcd 14307 (1997).

[12] *See* Public Notice, *Commission Announces Agreement . , supra.*

from the database.[13] As detailed at note 5, *supra*, from the maritime industry as a whole MariTEL would reap an enormous windfall unjustified by any contribution it may make

Compare MariTEL's proposed fees to those charged by the industry-sponsored and supervised frequency coordinators:

- Frequency assignment entailing channel analysis and application review and interface with the FCC: $150-300,[14]
- Registration-type of frequency recommendation, e.g., implementing an existing frequency plan or adding a user onto an existing system, including reviewing the application and interface with the FCC: $50-100.[15]

Other relevant comparisons include:

- FCC new or renewal ship station license: $200;[16]
- Power line carrier registration (a database management function more akin to AIS registration than frequency coordination): $3.00/transmitter;[17]
- MMSI assignments by BoatUS and Sea Tow International: $0.00.[18]

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[13] The figures cited are from MariTEL's "Initial Anticipated AIS Frequency Coordination Fee Schedule." MariTEL Letter at 3. There is no commitment to these fees, nor discussion of how or why they may change, initially or subsequently. Nor is there a standard for determining reasonableness nor an oversight process. Query: if a vessel operator fails to pay MariTEL the annual ransom for "renewal," would its MMSI be cancelled, even if the MMSI were assigned initially by the Commission as part of the vessel station license?

[14] *See* Web sites of PCIA (www.pcia.com) "Coordination fees"; ITA (www.ita-relay.com) "ITA Fee Schedule"; IMSA (www.imsasafety.org) "Coordination fee schedule", and APCO (www apcointl.org) "AFC Coordination Fees".

[15] *Id*

[16] 47 C.F R Part 1, Subpart G § 1.1102 (FCC's Fee Filing Guide revised September 2003).

[17] *See* UTC web site, https://unitedtl.securesites.com/plc/assessment/index.php .

[18] *See* http://www boatus com/mmsi/, http://www seatow.com/mmsiinfo htm. MariTEL does not disclose if MMSI assignments are issued with or without charge. The link on its web site under MMSI Registrations to Plans & Pricing has been discontinued. *See http //www maritelusa com/.*

Against this background, MariTEL's proposed fee schedule is outrageous. If MariTEL desires to render a service for the Coast Guard, and if the Coast Guard desires that service, MariTEL should arrange for compensation from the Coast Guard. The maritime user community should not be subjected to an being taxed by an entity with no accountability solely for MariTEL's benefit and convenience.

C. MariTEL's Cooperation in the Use of Channels 87B and 88B is Irrelevant

MariTEL proposes to "satisfy" its obligation to specify two narrowband channel pairs for PAWSS under Section 80.371 (c)(3) of the Commission's rules through its exclusive "frequency coordinator" plan. Being under legal obligation as a license condition to coordinate with the Coast Guard for use of those channels, MariTEL's proffered *sine qua non* is without basis and meaningless, and particularly to the extent the Coast Guard already is allocated one of the channels in contention.

The issue for the Commission is whether, beyond complying with its duty as a Commission licensee, MariTEL offers any public benefit warranting its designation as exclusive "frequency coordinator" for AIS assignments. The answer, as detailed above, is a resounding: NO. MariTEL and the others authorized to issue MMSI numbers are required to maintain an electronic database and to provide that database to the Coast Guard.[19] MariTEL proposes to offer no other service not currently available from other, more accountable and responsible sources.

[19] *See* Public Notice, FCC 97-69, *supra*, Order, *Amendment of Part 0 of the Commission's Rules to Delegate Authority to the Wireless Telecommunications Bureau Concerning Procedures for Assigning Domestic Maritime Mobile Service Identities*, FCC 99-373 (released Dec. 15, 1999).

III. Conclusion

The Commission must reject the MariTEL proposal to "coordinate" AIS assignments. MariTEL offers neither benefit to the Commission or to the user community, nor accountability. Rather, this proposal—ironically being considered during the Christmas season—is to provide MariTEL a monopoly-priced revenue stream to render a ministerial administrative function, which currently is being provided efficiently by multiple entities and in at least two instances without charge.

The Commission should GRANT the NTIA request in RM-10821 and compel compliance with the terms of Section 80.371 (c)(3) of the Commission's rules regarding designation of an additional channel for the PAWSS.

Respectfully Submitted,

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