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FEDERAL COMMUNICATIONS COMMISSION
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February 13, 2004

BY HAND AND/OR ELECTRONICALLY, AS NOTED

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

Re: DA 03-3585, RM-10821; 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 VHF Channels 87B and 88B; NOTICE OF EX PARTE PRESENTATION; Filed By Hand and Electronically

PR Docket No. 92-257; Amendment of the Commission's Rules Concerning Maritime Communications; NOTICE OF EX PARTE PRESENTATION; Filed Electronically

ET RM-10743; Commission's Rules to Promote the Use of VHF Public Coast Station Frequencies; NOTICE OF EX PARTE PRESENTATION; Filed Electronically

DA 03-1484; MARITEL, Inc. Request to Extend Construction Deadline for Certain VHF Public Coast Station Geographic Area Licenses; NOTICE OF EX PARTE PRESENTATION; Filed by Hand

Dear Ms. Dortch:

Pursuant to the provisions of Section 1.1206(b) of the rules and regulations of the Federal Communications Commission ("FCC"), this letter provides notice of a written *ex parte* communication from Jason Smith of MariTEL, Inc. ("MariTEL") to Catherine Seidel, D'wana Terry, Scot Stone, Jeffrey Tobias and Tim Maguire, all of the Wireless Telecommunications Bureau.

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In particular, Mr. Smith provided these FCC officials with the attached letter, in which MariTEL shares information regarding the evolution of marine VHF data services and provides specific information regarding developments in Norway.

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

Cordially yours,

Russell H. Fox

Attachment

cc: (each electronically, w/attachment)
Catherine Seidel
D'wana Terry
Scot Stone
Jeffrey Tobias
Tim Maguire

WDC 345371v1

February 12, 2004

Catherine W. Seidel
Deputy Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Subject: Evolution of Marine VHF Data Services Requires FCC Action

Dear Cathy,

Previously, MariTEL presented to you an overview of our planned marine data network services business and the progress made in identifying and evaluating various technologies using our licensed VHF spectrum.[1] This letter serves to share with you additional information regarding the evolution of marine VHF data services for consideration in the various proceedings concerning the introduction of digital and data services using VPC spectrum.

MariTEL has demonstrated that, due to competition from cellular/PCS licensees, there is insufficient demand for traditional marine VHF telephony services that connect subscribers to the public switched telephone network ("PSTN")[2]. In contrast, the interest in maritime data applications has grown in recent years as vessel operators increasingly want to extend network capabilities from their office to their vessels. Marine communications is beginning to experience a shift from voice to data services similar to terrestrial communications where the percentage of data traffic now exceeds that of voice. Look no further than the burgeoning interest in Automatic Identification System ("AIS") technology that is expected to substantially reduce both inter-ship and

[1] *See* letter dated February 9, 2004 from Dan Smith, President and CEO, MariTEL, to Catherine W. Seidel, Deputy Chief, Wireless Telecommunications Bureau.
[2] The same market conditions exist for all other commercial mobile radio service licensees below 800 MHz that now almost exclusively provide dispatch, group call, automatic vehicle location ("AVL") and other private mobile radio services that are not interconnected to the PSTN.

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ship-shore voice communications. Experience demonstrates that even low speed data applications such as e-mail, text messaging and instant messaging drastically improve productivity and the marine industry is expected to be no different.

MariTEL is not the only VHF network operator recognizing the demand for maritime data services. Among the papers expected to be presented next week at the International Maritime Organization's ("IMO") Subcommittee on Radiocommunications and Search and Rescue ("COMSAR") is an overview of a VHF data network service in Norway that was originally presented by Telenor as a trial in December 2000.[3] Exhibit A demonstrates the use of VHF public correspondence channels in Norway for data communications that enable a variety of useful applications for the maritime industry[4].

While MariTEL's network design and implementation could possibly differ from that in Norway, the trend towards new and innovative digital services for the maritime community and VHF maritime spectrum is undeniable. Recognizing this evolution from analog voice to digital services, new rules adopted as a result of several open maritime proceedings should allow a wide variety of both digital and data technologies for VPC spectrum that enable valuable new applications. At minimum, new emissions standards should be established for both duplex and simplex digital technologies including but not limited to AIS.[5]

MariTEL and its investors are anxious to fully utilize the firm's assets to generate revenues by provisioning VHF data services to the maritime industry. Regrettably, the United States Coast Guard ("USCG") continues to stymie[6] our efforts, in cooperation with the National Telecommunications and Information Administration ("NTIA") to

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[3] COMSAR 8/10/2 and RTCM 29-2004

[4] More information regarding Telenor's marine VHF data network can be found at www.maritimradio.no. Additionally, information regarding the radio equipment can be found at www.racom.cz.

[5] As MariTEL has stated in the past, the FCC acted beyond the scope of its authority under the Administrative Procedures Act ("APA") by allowing the use of ship borne AIS transmitters that use channel 87B prior to promulgating AIS rules as considered in Docket No. 92-257 proceeding (in the Fourth Further Notice). The Commission's rules should now consider all digital uses of the maritime spectrum rather than considering AIS in isolation.

[6] Although MariTEL presented its plan for VHF data communications to the USCG in November 2002, almost two years *after* Norway's presentation at COMSAR 5, the USCG recently dismissed our VHF data communication services plan in a manner that ignores both history and MariTEL's auctioned spectrum rights. On March 18, 2003 in Alpharetta, GA, MariTEL formally shared its goals with the USCG after informally sharing this information in late 2002. The goals presented were to 1) lead maritime data development, 2) provide maritime data network for multiple applications, 3) provide AIS information for government / commercial use, 4) advance the adoption / utilization of AIS transponders by providing additional benefits to the end user, and 5) effectively manage the maritime frequency band.

destroy MariTEL's auctioned spectrum rights and impede the provision of service to mariners[7]. Among the most blatant of those actions is the USCG's recent request to overturn the Wireless Telecommunication Bureau's approval of our extension request, reversing positions taken previously by the USCG.[8]

We are hopeful our recent proposal to share channels 87B and 88B for AIS will help expedite a resolution to these matters such that MariTEL may fully utilize its auctioned spectrum rights to provision commercial and private radio communication services. We look forward to working with you and your staff to provide additional information or answer any questions.

Sincerely,

Dan Smith

Dan Smith
President and CEO

cc: D'wana Terry (by e-mail)
Scot Stone (by e-mail)
Tim Maguire (by e-mail)
Jeffrey Tobias (by e-mail)

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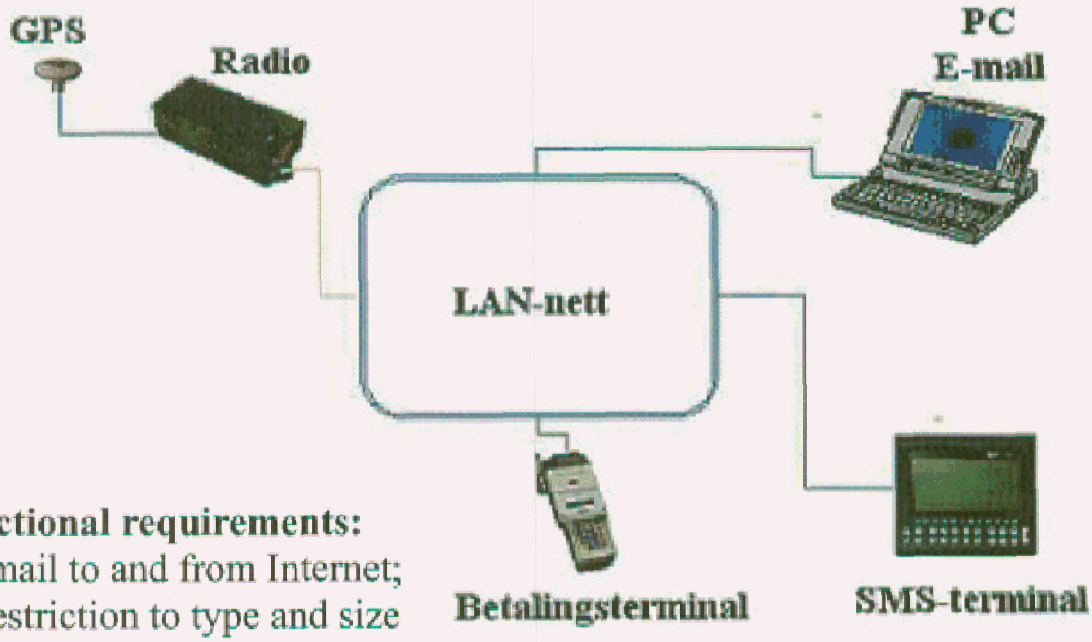
[7] *See* letter dated October 24, 2003 from Frederick R. Wentland, Associate Administrator, Office of Spectrum Management, NTIA to John B. Muleta, Chief, Wireless Telecommunications Bureau, RM-10821.

[8] *See* Application for Review submitted January 5, 2004 by the USCG requesting the FCC overturn the Wireless Telecommunications Bureau's order granting MariTEL a two-year extension of its initial five-year service obligation. In several meetings with MariTEL from November 2002 through May 2003, the USCG expressed no concern or objections regarding our desire to discontinue voice operations and obtain an extension to more fully develop our VPC license to provision marine VHF data services. In fact, the USCG indicated that commercial voice services were inconsequential to their mission of providing maritime safety and distress communications. In June 2003, the USCG issued public comments opposing MariTEL's extension request solely on the basis of their desire to protect AIS operations from MariTEL's contemplated use of AIS technology to provision commercial data services. Oddly, the USCG now opposes MariTEL's extension on the basis that VHF data services are an undesirable experiment. In MariTEL's opinion, such a change is solely a gratuitous attack on a private company in an effort to mask the USCG's own dramatic mis-management of its spectrum resources and to reclaim the VPC spectrum as its own.

Exhibit A

Maritime VHF Data Services in Norway

The concept comprises the following:
- digital (IP) communication on maritime VHF channels
- intended for commercial traffic
- using ship MMSI number as identity
- competitive price compared to satellite and GSM/cellular



Functional requirements:
- E-mail to and from Internet; no restriction to type and size of attachments
- Web browsing (thin client)
- SMS
- payment transactions
- group calls
- tracking
- alarms (fleet management)

Frequencies:
The system is using maritime VHF channels, which according to Radio Regulations 'Appendix 18' may be used for digital communications. Channel 86 is common calling and working channel, and in addition each base station is equipped with a dedicated working channel.

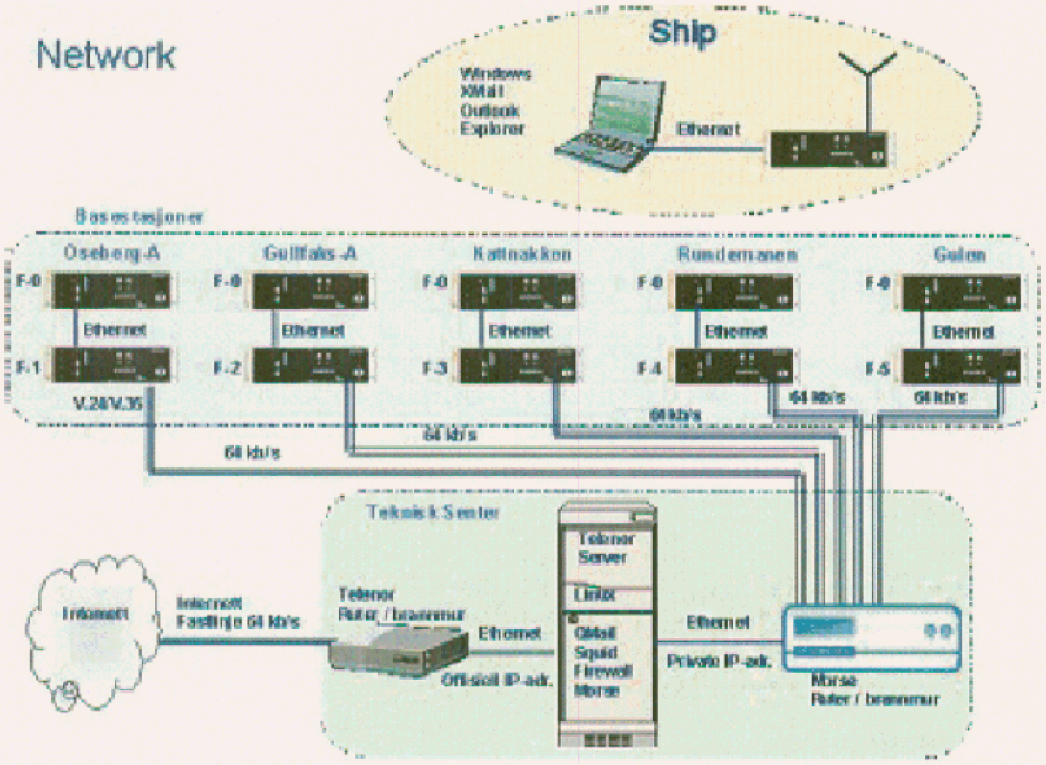
Information obtained from Telenor at www.maritimradio.no.

Exhibit A

Maritime VHF Data Services in Norway

RACOM MR25ET Ethernet Modem

Enables direct connection of the radio modem to the Ethernet networks using standard TCP/IP communication. Due to the hardware design together with respective modification of the firmware inside the modem problem-free transmission of MORSE system packets is ensured in the environment of Internet protocols. The new interface fitted with a standard RJ45/ STP connector allows it to communicate at a speed of 10 Mbps. Even 3 serial interfaces are kept in the MR25ET modem which can be operated in synchronous or asynchronous mode on a V.24 - RS232 interface. The memory of the computer part of the MR25ET radio modem is enhanced by 2 MB DRAM.



Information obtained from Telenor at www.maritimradio.no and from RACOM at www.racom.cz