

William D. Wallace
(202) 624-2807
wwallace@crowell.com

May 28, 2004

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

RE: IB Docket No. 02-364

IBFS Application File Numbers:
SAT-LOA-19970926-00151-154
SAT-LOA-19970926-00156
SAT-AMD-20011103-0154
SAT-MOD-20020717-00116-119
SAT-MOD-20020717-00107-110
SAT-MOD-20020722-00112

EX PARTE NOTICE

Call Signs S2320/S2321/S2322/S2323/S2324

Dear Ms. Dortch:

On May 27, 2004, Tony Navarra, President of Globalstar LLC, James Lynch of Thermo Capital Partners, L.L.C., Thomas Gutierrez of Lukas Nace Gutierrez & Sachs, Chartered, and the undersigned participated in a meeting with Sheryl Wilkerson, Legal Advisor to Chairman Michael K. Powell. Bethany Smocer, an intern in Chairman Powell's office also attended.

As described on the enclosed outline, we discussed Globalstar's positions on the issues raised in the Big LEO L-band rulemaking (IB Docket No. 02-364), and we also explained why Globalstar, L.P.'s Emergency Application for Review of the

International Bureau's Memorandum Opinion and Order, DA 03-328 (released Jan. 30, 2003), should be granted and Globalstar's 2 GHz MSS licenses reinstated.¹

Globalstar has emerged from financial restructuring and has initiated a variety of new projects to improve and expand service to the public. These products include broadband services to public safety and government organizations. Access to sufficient spectrum to provide these services is critical to Globalstar and its customers in the U.S. In short, Globalstar is using its assigned spectrum to provide innovative new services in the United States and globally, thereby fulfilling the Commission's expectations for Big LEO MSS.

The record in IB Docket 02-364 has demonstrated that Globalstar is using Big LEO CDMA spectrum fully, and that Iridium does not need additional spectrum at this time to meet its capacity requirements. Moreover, because the CDMA lower band segment is more encumbered with interservice sharing constraints than the TDMA segment, it is essential that Globalstar should have access to spectrum above 1616 MHz, particularly for aviation services.

As Globalstar has explained in its filings in this docket, given the current use of Big LEO spectrum, the record establishes that there is no reason for the Commission to change the existing Big LEO spectrum assignments or to take spectrum away from Big LEO MSS. Re-allocating spectrum to another service would adversely affect the business of Globalstar and the services available to unserved and underserved populations globally and to various public safety and government customers that use MSS for critical infrastructure needs. We also noted that Globalstar believes that TDMA and CDMA systems can develop spectrum-sharing strategies through coordination.

To the extent that the Commission is considering imposing new rules on Big LEO MSS systems, Globalstar urged the Commission to give the parties time to react to and comment on the proposals and how they would affect their services and system operations before final rules are adopted.

Our presentation also covered Globalstar, L.P.'s arguments in its Emergency Application for Review of the International Bureau's order canceling the 2 GHz MSS licenses because Globalstar's satellite construction contract reflected changes

¹ The International Bureau granted Globalstar, L.P.'s request to change the *ex parte* status of the 2 GHz MSS license pleadings to permit-but-disclose on November 19, 2003. Globalstar LLC is the successor to Globalstar, L.P.

Ms. Marlene H. Dortch
May 28, 2004
Page 3 of 3

to certain future milestones for which contemporaneous requests for extensions had been filed. The 2 GHz MSS licenses are important to future developments in MSS, particularly for services that demand greater bandwidth, and there is no other MSS spectrum likely to be available in the immediate future.

Our legal arguments are summarized on the enclosed presentation. In its pleadings, Globalstar has explained that the International Bureau did not correctly evaluate Globalstar's request for extension of certain future milestones, that Globalstar met its first milestone by entering into a non-contingent construction contract, and that the Bureau erred by canceling the license for the domestic geostationary satellite for which no request for milestone extension was filed. Moreover, the Bureau applied a new policy on milestone compliance retroactively to Globalstar, contrary to well-settled principles of administrative due process, and did not consider the impact of Globalstar, L.P.'s bankruptcy on whether the 2 GHz MSS licenses should be canceled. For the reasons outlined by Globalstar in its pleadings, the Bureau's decision should be vacated and the 2 GHz MSS licenses reinstated.

Pursuant Section 1.1206(b)(2), this *ex parte* notice and the enclosure have been filed electronically in IB Docket 02-364. Also, two copies are being provided by hand for the application file numbers listed above.

Respectfully submitted,



William D. Wallace

Enclosure

cc: Sheryl Wilkerson



GLOBALSTAR LLC

May 2004

Globalstar

Globalstar LLC

- Successor to Globalstar, L.P., and L/Q Licensee, Inc.
- Now holds space station, earth station and Section 214 authorizations associated with Globalstar “Big LEO” MSS system
- Also successor to Globalstar, L.P.’s rights to the 2 GHz MSS licenses cancelled by International Bureau in January 2003

Globalstar

Globalstar LLC

- Emerged from restructuring April 15
- Initiating system improvements, new products, expansion of services
 - Florida gateway, Alaska gateway
 - Plan for launch of spare satellites
 - New government, industrial applications
 - Enhanced data, encryption for DOD services
 - Acquisition of Central American operations

Globalstar



Big LEO L-Band Sharing

IB Docket No. 02-364

Globalstar

Big LEO L-Band Sharing

(IB Docket No. 02-364)

- Currently, Globalstar uses CDMA spectrum:
 - 1610-1621.35 MHz uplink
 - 2483.5-2500 MHz downlink
 - 1.23 MHz channels (9 at L-band/13 at S-band)
- Iridium uses TDMA spectrum:
 - 1621.35-1626.5 MHz
 - For bidirectional links
 - 41.67 kHz spacing

Globalstar

Big LEO L-Band Sharing

(IB Docket No. 02-364)

-
- Globalstar designed and built system to use asymmetric spectrum assignment
 - Globalstar accommodated other services:
 - to protect GLONASS/GPS in L-band
 - to protect Radio-Astronomy in L-band
 - to share with Industrial-Scientific-Medical devices in S-band
 - to protect terrestrial fixed services in S-band

Globalstar

Big LEO L-Band Sharing

(IB Docket No. 02-364)

- CDMA systems were assigned more spectrum in part due to restrictions on use of lower L-band
 - 1610.6-1613.8 MHz: Radio-Astronomy
 - Below 1610 MHz: GPS/GLONASS
 - 1610-1616 MHz: FAA/RTCA regulations require channels above 1616 MHz for aviation products

Globalstar

Big LEO L-Band Sharing

(IB Docket No. 02-364)

- Big LEO service has evolved in 10 years
 - In 1993, focus on voice services
 - Now, niche services predominate, including:
 - Public safety
 - Government agencies (DOD)
 - Maritime
 - Aviation
 - Remote telemetry (requires 2.5 MHz channels)
 - Future: ATC-MSS combinations

Globalstar

Big LEO L-Band Sharing

(IB Docket No. 02-364)

- Globalstar has demonstrated that it is fully using the assigned CDMA spectrum
 - Loss of L-band or S-band spectrum in the U.S. will severely curtail Globalstar's ability to provide service to both private and government users, and to implement ATC
- Globalstar has demonstrated that Iridium does not need more spectrum at this time
 - Iridium cannot discriminate spectrum use geographically
- No other commercial terrestrial service sought to be licensed in this band (sharing with ISM, BAS, FS)
 - Globalstar is using the spectrum now; a new entrant would require years to implement

Globalstar

Big LEO L-Band Sharing

(IB Docket No. 02-364)

- The record in this docket does not support any change to the existing band plan or diminution in the amount of spectrum available to the Big LEO service
- There are voluntary, cooperative methods of addressing temporary, geographically isolated capacity shortages, if needed

Globalstar



Emergency Application for Review and
Request for Stay
2 GHz MSS

(File Nos. SAT-LOA-19970926-
00151-154/56 etc.)

Globalstar

2 GHz MSS Application for Review (File Nos. SAT-LOA-19970926-00151-154/56 etc.)

- Globalstar, L.P., was licensed for NGSO constellation and 4 GSO satellites
- Entered into non-contingent contract with Space Systems/Loral by first milestone
- Requested extension of future milestones for NGSO constellation and 3 GSOs
- Planned to put spectrum into use on existing milestone schedule with U.S. GSO

Globalstar

2 GHz MSS Application for Review (File Nos. SAT-LOA-19970926-00151-154/56 etc.)

- In denying milestone extension request, the International Bureau ignored facts, precedent and established law
 - IB characterized extension request as a “business decision” – *it was not*
 - IB decided SSL contract did not meet first milestone – *it did*
 - IB refused opportunity to reform SSL contract to specify future milestones – *this was unprecedented*
 - IB cancelled NGSO and all 4 GSO satellite licenses – *no change was requested for U.S. GSO milestones*

Globalstar

2 GHz MSS Application for Review (File Nos. SAT-LOA-19970926-00151-154/56 etc.)

- IB ignored the construction schedule for the GSO satellite serving U.S. (operational on existing milestone schedule)
- IB ignored policy permitting filing non-contingent contract reflecting changes with application for license modifications
- IB ignored precedent granting opportunities to cure contracts (in more extreme factual circumstances)

2 GHz MSS Application for Review (File Nos. SAT-LOA-19970926-00151-154/56 etc.)

- IB violated GLP's rights to administrative due process by articulating and applying a new policy retroactively
- IB refused to give meaningful consideration to facts and circumstances for extension
- IB refused to consider impact on bankruptcy law on canceling licenses

2 GHz MSS Application for Review (File Nos. SAT-LOA-19970926-00151-154/56 etc.)

- 2 GHz spectrum represents the only opportunity for expansion of Globalstar system and services
- Only two MSS systems are providing voice and data to handheld terminals
- No other spectrum pending for allocation to MSS
- Globalstar has proven MSS works and offers valuable services to government, public safety and private users in remote areas and in areas where there is no wireline/cellular infrastructure

Globalstar

2 GHz MSS Application for Review (File Nos. SAT-LOA-19970926-00151-154/56 etc.)

- FCC should reinstate the U.S. GSO license for which no milestone extension request was filed, so no basis for cancellation
- FCC should vacate IB decision and reinstate all 2 GHz MSS licenses
- FCC should provide Globalstar with an opportunity to re-start its contract with SSL on an appropriate milestone schedule give loss of 1.5 years of schedule

Globalstar