Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of:	)	
	)	
Amendment of the Commission's Rules Regarding Maritime Automatic Identification Systems	)	**WT Docket No. 04-344**
	)	
Petition for Rulemaking Filed by National Telecommunications and Information Administration	)	**RM-10821**
	)	
Emergency Petition for Declaratory Ruling Filed by MariTEL, Inc.	)	
	)	
To: The Commission		

Comments of

Ingram Barge Company

Ingram Barge Company ("Ingram"), by its attorneys, respectfully submits its comments in response to the Memorandum Opinion and Order and Notice of Proposed Rulemaking ("NPRM") concerning the Automatic Identification System ("AIS") employed in conjunction with the Coast Guard's Ports and Waterways Safety System ("PAWSS").[1]

I. Background

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,

[1] 69 Fed. Reg. 65570 (Nov. 15, 2004).

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.

Ingram filed both Comments and Reply Comments in response to the Commission's Public Notice of the MariTEL proposal to serve as the exclusive "frequency coordinator" for the AIS channels.[2] In those comments Ingram detailed the substantial and deleterious impact of the MariTEL proposal and the complete lack of both precedent and merit for such recognition.

II. Comments

Ingram's primary interest in this proceeding concerns MariTEL's frequency coordination proposal. MariTEL's initial proposal was wholly self-serving and unsound from a public and regulatory policy perspective, and it did not improve with either its initial comments or its reply comments in the Public Notice proceeding.

The Commission clearly saw through the MariTEL proposal. The NPRM recites the Commission's conclusions that "there is no need for a frequency coordinator" for the AIS channels[3], that it "share[s] the concerns of commenters over the fees MariTEL seeks to impose"[4], that such fees would serve as "an unwarranted disincentive for voluntary carriage of AIS equipment"[5], that there is "no countervailing public interest benefit in

[2] 18 FCC Rcd 24057 (2003).

[3] NPRM at ¶ 53.

[4] *Id.* at ¶ 54.

[5] *Id.* at ¶ 55.

MariTEL's proposal to act as AIS frequency coordinator"[6], and that "the proposed fees would unfairly burden the owners and operators of vessels subject to mandatory AIS carriage requirements."[7]

After the Commission has afforded MariTEL three opportunities to make a case for recognition as the AIS "frequency coordinator"—initial proposal, comments on the Public Notice and reply comments, and the Commission having concluded there is no such case to be made, Ingram respectfully submits that this issue neither needs nor qualifies for further consideration. Indeed, if further consideration is to be given to this concept, Ingram submits that the Commission must do so through a further (separate) notice and comment opportunity. Section 553 of the Administrative Procedure Act requires the Commission to give notice of proposed rule making, including both the legal authority under which the rule is proposed and the terms or substance of the proposed rule.[8] Here, the Commission states it "propose[s] not to adopt the *MariTEL Frequency Coordinator Proposal,"* and that it accordingly will not address the comments questioning the Commission's legal authority to impose such a requirement on vessel operators.[9] Consequently, there is no proposal outstanding which the Commission may consider to adopt regarding AIS "frequency coordination."

Finally, Ingram in its earlier Comments and Reply Comments urged the Commission to 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

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[6] *Id.*

[7] *Id.*

[8] 5 U.S.C. § 553 (b).

[9] NPRM at ¶ 55 and n. 217.

additional channel for the PAWSS. The Commission has proposed doing so in this NPRM, and Ingram supports adoption of the rules regarding AIS channel designation as proposed.

Respectfully Submitted,

INGRAM BARGE COMPANY

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