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

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| **In the Matter of** | ) | |
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| **Amendment of Parts 13 and 80 of the Commission's Rules Concerning Maritime Communications** | ) | **WT Docket No. 00-48** |
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| **Petition for Rule Making Filed by Globe Wireless, Inc.** | ) | **RM-9499** |
| | ) | |
| **Amendment of the Commission's Rules Concerning Maritime Communications** | ) | **PR Docket No. 92-257** |

**To: The Commission**

**REPLY TO OPPOSITION OF**
**THE NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION**

MariTEL, Inc. ("MariTEL"), by its counsel, hereby submits the following reply ("Reply") to the Opposition ("Opposition") submitted by the National Telecommunications and Information Administration ("NTIA") in the above referenced proceeding on April 28, 2005. The Opposition challenged the petition for reconsideration ("Petition") of the Sixth Report and Order in the Docket No. 92-257 proceeding[1/] that MariTEL initially submitted on December 8, 2004.[2/]

The Petition demonstrated that the FCC adopted regulations governing the acceptance of automatic identification system ("AIS") equipment that will ultimately cause harmful

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[1/] *Amendment of Parts 13 and 80 of the Commission's Rules Concerning Maritime Communications; Petition for Rule Making Filed by Globe Wireless, Inc.; Amendment of the Commission's Rules Concerning Maritime Communications, Second Report and Order, Sixth Report and Order, and Second Further Notice of Proposed Rulemaking,* 19 FCC Rcd 3120 (2004) (referred to respectively as "Second Report and Order," "Sixth Report and Order," and "Second FNPRM").

[2/] MariTEL submitted an amendment (the "Amendment") to its Petition on April 12, 2005.

interference to MariTEL's operations.[3/] Those regulations have two principal effects. First, they incorporate an AIS emission mask that is not as stringent as the FCC's emission mask for other data devices in the maritime VHF spectrum.[4/] Second, and more problematic, the international standards incorporated by reference by the FCC, designed to measure compliance with the mask, do not adequately do so.

NTIA does not materially dispute MariTEL's assertions, particularly as they relate to the international standards' ability to measure compliance with emission mask requirements. MariTEL provided two examples of how the procedures designed to measure compliance fail to do so. NTIA asserts on the one hand that MariTEL misunderstands the spurious emission element of the emission mask requirements in evaluating the compliance of one device and that it does not have sufficient data to evaluate MariTEL's claim with respect to the second device. MariTEL offered these two devices as examples. Tellingly, NTIA does not dispute the essential point -- the international test procedures, adopted by the FCC, are faulty. Regardless of the propriety of the AIS emission mask itself, the measurement techniques embodied in international standards, adopted by the FCC, do not ensure that devices actually meet those emission masks. In fact, due to the faulty nature of the emissions test, the emissions mask can be exceeded by widely varying amounts between manufacturers and even by the same manufacturer on different production dates.

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[3/] MariTEL has provided numerous documents to the FCC demonstrating the harmful effects that AIS operations will have on MariTEL's operations. Most recently, MariTEL met with the FCC's staff on March 30, 2005 and provided further evidence of that harmful interference. *See also* MariTEL Petition for Reconsideration at n. 14. MariTEL followed up its recent *ex parte* meeting with a letter dated April 11, 2005.

[4/] Sixth Report and Order at ¶ 70. Despite the Sixth Report and Order's clear conclusion to the contrary, NTIA attempts to mislead the FCC regarding the stringency of the emission mask requirements for other data devices compared with that applicable to AIS devices. *See* Opposition at 4-5.

As NTIA should be aware, the inadequacy of the existing IEC 61993-2 test procedures for emissions mask has been recognized by the international community already and measures are underway to correct the emission test. In particular, the IEC 1) has developed an updated transmission mask test for the so-called "Class B" AIS devices and 2) has stated its intention to update the current test specification when it modifies IEC 61993-2 to emulate the Class B test methodology. In fact, it is MariTEL's understanding that some manufacturers have conformed their current AIS Class A devices to conform with the test methods being developed for Class B devices in anticipation of their eventual adoption into the Class A specification

Yet, despite this recognition that the current test procedures are faulty, devices continue to proliferate that are tested by these faulty procedures, creating a steadily increasing embedded base of devices that have unpredictable transmission characteristics. Despite the progress mentioned above, thousands of AIS devices have been and may continue to be approved for use without consideration of the new transmitter test methodology. The FCC should, as a result of MariTEL's Petition, amend its rules to specify the use of a more appropriate test procedure. Anything short of a reversal of the Commission's original position on this issue will mean that MariTEL will receive harmful and unpredictable interference from AIS devices well beyond the bounds of the FCC adopted AIS emissions mask.

Because the international community is not expected finalize a modification to IEC 61993-2 for another 18-24 months, the FCC should not continue to reference international procedures in its rules, but it should modify its regulations to include the corrected test procedures. Because the United States Coast Guard ("Coast Guard") is part of the equipment approval process, MariTEL requests that the Coast Guard test the equipment to these new

procedures in operational mode.[5/] In the unlikely event that there is a distinction between the Commission's rules and the international standards ultimately adopted, the Commission can later amend its regulations.

With respect to the embedded base of equipment that was tested to the faulty international standard, MariTEL requests that the FCC require the Coast Guard to replace non-compliant devices identified by MariTEL or others with compliant devices. The Coast Guard sought incorporation of the faulty test standards into the FCC's rules; it should be required to take measures to ameliorate the negative effects caused by the devices in use due to the employment of that faulty measurement technique.[6/]

The NTIA continues to dispute that the use of this faulty test standard will not cause a deleterious effect on MariTEL's operations. It states: "AIS equipment meeting the international standards has been operating internationally for some time now, and to the best of the knowledge of the United States Coast Guard (USCG) there have been no reports of harmful interference being caused to any VPC operations."[7/] The Commission should not rely on the "best knowledge of the United States Coast Guard" as the basis for a decision in this matter, particularly since neither the NTIA nor Coast Guard have stated that they will take action to correct potential interference caused by AIS transmissions. Additionally, the NTIA fails to

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[5/] MariTEL believes the "slotted" emissions test procedure found in IEC 62287 CD 11.1.3 is the type of testing necessary to insure proper evaluation of AIS devices.

[6/] *See* MariTEL Petition for Reconsideration at n. 4. Because the Coast Guard has been the principal force behind the designation of channels 87B and 88B for AIS operations and the acceptance of equipment that uses AIS technology, MariTEL has suggested that the FCC's rules ensure that the Coast Guard have primary responsibility for curing interference caused by AIS operations. If the Coast Guard accepted this responsibility, MariTEL would consider dropping its continued opposition to the designation of channel 87B for AIS. Regrettably, the Coast Guard has remained silent in response to MariTEL's proposal.

[7/] NTIA Opposition at 5.

mention critical differences between United States VPC operations and those conducted in other countries. Elsewhere, VPC stations are primarily owned and operated by the government, and there is a full complement of VHF spectrum available for VPC operations. Accordingly, most nations have been able to create a guard band and other regulatory schemes to separate AIS operations on channels 87B and 88B from public correspondence traffic to protect both AIS and VPC services. In the United States, the VPC spectrum is privately held and much of the VHF spectrum available internationally for maritime operations has been allocated for other purposes. Accordingly, there is no ability to create a similar regulatory structure that exists in other countries.

The NTIA's suggestion is emblematic of its desire that the FCC follow international standards, regardless of their impact on U.S. operations. However, as MariTEL demonstrated in its Petition for Reconsideration, the FCC is not obligated in general, and should not in this case, follow international standards when they are incompatible with the U.S. regulatory scheme.[8/] As noted above, the international VHF regulatory scheme is premised on conditions that simply do not exist in the United States. Therefore, there is ample reason for the FCC to diverge from those standards in this case.

MariTEL recognizes that there is a benefit to the FCC following the international lead by adopting emission mask requirements that have been approved by IEC. However, the FCC should not take the convenient approach when it should be evident by now, based on all the data provided by MariTEL, that the introduction of AIS technology as contemplated by international standards will interfere with MariTEL's provision of a viable maritime communications service. Having authorized MariTEL to provide maritime communications services, the FCC must take appropriate measures –including ensuring lack of interference from other services – to allow the

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[8/] MariTEL Petition for Reconsideration at p. 8.

introduction and implementation of that service. The FCC cannot responsibly continue to ignore the reality of interference caused by AIS operations to VPC stations. Instead, it must take affirmative measures designed to allow MariTEL to continue to provide service without being subject to harmful interference.

MariTEL, Inc. hereby submits the foregoing Reply and asks that the FCC reverse its decision to permit the approval of AIS equipment based on international standards and take other such actions consistent with the views expressed herein and its Petition for Reconsideration.

Respectfully submitted,

**MariTEL, Inc.**

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May 9, 2004

## CERTIFICATE OF SERVICE

I, Karen Smith, do hereby certify that on this 9th day of May, 2005, the foregoing Amendment was served on the following persons by the method indicated:

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