

December 2, 2005

RECEIVED

ORIGINAL

DEC - 2 2005

BY HAND OR ELECTRONICALLY, AS NOTED

Federal Communications Commission  
Office of Secretary

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, D.C. 20554

**Re: WT Docket 04-344; Amendment of the Commission's Rules Regarding Maritime Automatic Identification Systems ("AIS Proceeding"); NOTICE OF EX PARTE PRESENTATION; Filed Electronically**

**DA 06-1665; 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:

On December 1, 2005, MariTEL, Inc. submitted a notice of ex parte presentation in the above referenced proceedings. An incorrect version of the presentation circulated at the November 30, 2005 meeting was submitted with that ex parte notification. The correct version of the presentation is attached.

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

Cordially,



Russell H. Fox

Attachment

cc: (each electronically, w/attachment)  
Cathy Massey  
Scot Stone  
Michael Wilhelm  
Nicole McGinnis

No. of Copies rec'd 091  
List A B C D E

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.



Meeting with FCC Staff  
November 30, 2004



- After investing nearly \$50M on a state-of-the industry system, MarITEL stopped providing commercial services.
- Because of the changing nature of maritime communications, MarITEL re-focused its efforts on developing advanced maritime services.
- In order to permit the complete development of these services, MarITEL sought extension of its then applicable construction deadline of May, 2004, to May, 2006.



- On December 4, 2003, the FCC granted MarITEL's extension request, giving it until May 19, 2006 to construct its system.
  - The construction deadline for MarITEL's inland VPC licenses remained October 19, 2006.
- On January 4, 2004, nearly two years ago, the Coast Guard submitted an Application for Review of the FCC's decision.



- MarITEL vigorously defended against the Coast Guard's unfounded Application for Review.
  - The FCC's decision remains in effect -- meaning that unless the FCC reverses itself, the current construction deadlines are May, 2006 for maritime stations and October, 2006 for inland stations.
- The FCC initiated the AIS proceeding, but delayed doing so until ten months after grant of the extension request.



- Would strip Maritel of its rights to use channel 87B.
- Would permit traffic on the “wrong side of the road.”
- Would sanction the introduction of a technology -- AIS -- that has been demonstrated to cause interference well beyond the channel -- 87B -- on which it will be used.
- Would establish whether the FCC believes it could routinely modify Maritel’s licenses.
- Would signal that the FCC is willing to depart from the frequency use and other rules established in the Third Report and Order, under which Maritel’s operations are structured.

- It is unclear which channel, if any, will be dedicated for AIS.
- It is unclear how the FCC will address the interference caused by traffic on the “wrong side” of the frequency pair.
- It is unclear how the FCC will address the demonstrated interference to MarITEL’s operations caused by the use of AIS technology.



- Because of these uncertainties, and the outstanding Application for Review, MarITEL's ability to engage in basic frequency and financial planning has been hampered.
- Therefore, MarITEL has been unable to introduce full-scale commercial services.
- As a result, on May 25, 2005, MarITEL submitted a request for further extension of its construction deadlines.



- MarITEL requests an extension of time to construct to the later of:
  - Two years from the time that the rules in the AIS proceeding are final; or
  - MarITEL's current ten year buildout deadline of May 19, 2009.
  
- Deadline for inland licenses would be the same for maritime areas.



## Waiver Request Justification

- MarITEL has invested substantially in its network.
  - In addition to the over \$50M in lost investment costs, it has spent hundreds of thousand to defend its spectrum against actions taken and threatened by the FCC and Coast Guard.
  - MarITEL has tested product and is ready to offer services. has
    - MarITEL demonstrated NuLink product to FCC 18 months ago.
    - MarITEL has reached agreement with a customer with nationwide maritime requirements.
    - MarITEL is ready to deploy its network, but for FCC delay on rules that will critically impact its operations.
  - Therefore, MarITEL is not like others, for whom the FCC has rejected relief because of lack of demonstrated commitment to the service.



## MarITEL Waiver Request Justification (cont'd)

- The AIS proceeding has made it impossible for MarITEL to meaningfully introduce services.
  - This external factor is completely outside of MarITEL's control.
  - Yet, it will determine how much of MarITEL's spectrum will be available to the Company and how the spectrum will be encumbered by destructive technology.
  - Extension of time due to uncertainty of this nature is consistent with Commission precedent.
- MarITEL may be required to completely replace a network it installs today, in light of FCC rule changes in AIS proceeding.



**MarITEL**  
A Wireless Communications Company

**FCC Action is Needed NOW**

- MariTEL's ability to attract investment is hampered by FCC inaction.
  - A company with 2+ years to develop technology and construct is more attractive than a company that may need to construct in the face of regulatory and technological uncertainty.



- Fundamental fairness requires immediate action.
  - The FCC cannot reasonably expect MarITEL to construct in 9 VPCs by May 19, 2006 (and 7 inland VPCs by October, 2006) unless it orders MarITEL to do so immediately.