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

In the Matter of	)	
	)	
Spectrum and Service Rules for Ancillary Terrestrial Components in the 1.6/2.4 GHz Big LEO Bands	)	IB Docket No. 07-253 RM-11339
	)	
Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands	)	IB Docket No. 02-364

REPLY COMMENTS OF CTIA – THE WIRELESS ASSOCIATION®

CTIA – The Wireless Association® ("CTIA")[1] hereby submits reply comments in response to the Federal Communications Commission's ("FCC" or "Commission") Notice of Proposed Rulemaking ("NPRM") in the above captioned proceedings.[2] Neither Globalstar, Inc. ("Globalstar") nor any other commenter supporting Globalstar's request to expand its existing authority to provide Ancillary Terrestrial Component ("ATC") service in the S-band spectrum has persuasively demonstrated a need to contravene the Commission's tentative conclusion that such a request is not in the public interest.[3] Accordingly, CTIA urges the Commission to reject Globalstar's attempt to expand authority for its ancillary service to the detriment of adjacent primary services.

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[1] CTIA – The Wireless Association® is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers Commercial Mobile Radio Service ("CMRS") providers and manufacturers, including cellular, Advanced Wireless Service, broadband PCS, and ESMR, as well as providers and manufacturers of wireless data services and products.

[2] *In re: Spectrum and Service Rules for Ancillary Terrestrial Components in the 1.6/2.4 GHz Big LEO Bands*, Second Order on Reconsideration, Second Report and Order, and Notice of Proposed Rulemaking, IB Docket No. 07-253 (2007) ("*Globalstar NPRM*").

[3] Despite Globalstar's slight change to its requested expansion of authority, Globalstar Comments at n. 2, CTIA's position remains the same, *i.e.*, an expansion of Globalstar's ATC authority will put adjacent terrestrial licensees at risk for harmful interference and will serve to validate Globalstar's attempts to establish MSS as a primarily terrestrial service with an ancillary satellite component. The Commission has given Globalstar ample authority to deploy ATC for the purpose for which it was created: to supplement MSS in areas that are hard to serve by satellite alone.

Globalstar's comments in response to the November 9, 2007 NPRM appear to betray its true plans for its Mobile Satellite Service ("MSS") spectrum: to establish a primarily terrestrial service with an ancillary satellite component. Moreover, Globalstar's business agreement with Open Range Communications is premature, as it is seeking to provide terrestrial wireless broadband outside of Globalstar's license authorization. Globalstar, fully aware of its license conditions and previously willing to accept them, now touts its decision to engage in an "extra-authority" business arrangement in an attempt to force the Commission's hand at the expense of other adjacent licensees. The Commission should (1) reject Globalstar's request to expand its ATC authority and (2) maintain adequate separation between ATC operations and incumbent Broadband Radio Service ("BRS") licensees to minimize the potential for ATC to cause harmful interference to BRS licensees. As CTIA has argued in other contexts, sufficient separation is necessary to ensure an interference-free environment.

I. Globalstar Asks the Commission to Support Its Particular Business Model by Deviating from Established Spectrum Policy.

In its comments, Globalstar cites its business arrangement with Open Range Communications to provide wireless broadband service in rural areas as a reason Commission action to expand Globalstar's ATC authority.[4] Globalstar claims that an expansion of its authority to provide ATC is necessary to provide rural America with wireless broadband service.[5] Globalstar's Petition asks the Commission to reverse course on established spectrum policy and ignores the fact that other licensees with existing authority are providing and continue to deploy wireless broadband service to rural America.

Globalstar's argument that the Commission must accommodate its business arrangement with Open Range to advance rural broadband deployment ignores several key facts. First,

[4] Globalstar Comments at 5-8.

[5] *Id.*

Globalstar has not provided any persuasive technical *need* for additional spectrum to provide wireless broadband over its existing ATC spectrum authorization. As both Globalstar and Open Range acknowledge in their comments, WiMAX technology can use channels of varying sizes to provide service.[6] While the spectrum currently assigned to Globalstar for ATC may not support the particular business plan it seeks with Open Range, Globalstar has provided no apparent reason why the current spectrum could not support wireless broadband over a WiMAX interface in rural areas.[7]

Second, a grant of Globalstar's request and implementation of its desired broadband solution would require additional changes to its ATC authority before it could offer service as described in its Comments. Globalstar's original grant of authority to engage in ATC operations is specific to an air interface utilizing cdma2000 technology.[8] According to the filings by Open Range and Globalstar, their proposed wireless broadband solution contemplates the use of WiMAX – not CDMA – to deliver services in the ATC spectrum.[9] While ATC licensees generally may be permitted to use technologies other than CDMA, the Commission's rules require that the licensee apply for authority to use an alternative technology and make an affirmative showing that the technology will not cause any interference above that allowed by CDMA.[10] Thus, even if the Commission were inclined to grant Globalstar's request – which CTIA maintains it should not – it would need to undertake a new proceeding to examine a

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6 Globalstar Comments at 8; Open Range Comments at 4-6.

7 Open Range Comments at 5 (stating that "the existing 5.5 MHz paired ATC spectrum licensed to Globalstar is not sufficient to support deployment of *the proposed network*" but acknowledging that "WiMAX channels are designed to work in a variety of bandwidths including 3.5 MHz and 5 MHz and multiples of these." (emphasis added)).

8 Globalstar LLC, Request for Authority to Implement an Ancillary Terrestrial Component for the Globalstar Big LEO Mobile Satellite Service (MSS) System, *Order and Authorization*, 21 FCC Rcd 398 (2006) at ¶¶ 10, 43.

9 Globalstar Comments at 7-8; Open Range Comments at 3.

10 *See* Note to 47 C.F.R. § 25.254 (stating that the "rules of §25.254 [for ATC operation] are based on cdma2000 and IS–95 system architecture. To the extent that a Big LEO MSS licensee is able to demonstrate that the use of different system architectures would produce no greater potential interference than that produced as a result of implementing the rules of this section, an MSS licensee is permitted to apply for ATC authorization based on another system architecture.").

modification of Globalstar's ATC license authority, complete with technical analysis related to the use of WiMAX – all to accommodate an *ancillary* service.

Last, Globalstar's potential foray into the world of terrestrial broadband Internet access is hardly necessary to bring broadband to rural areas. CMRS licensees are already rolling out and improving broadband wireless services in rural areas, through spectrum licensed for terrestrial services. Wireless carriers today are not only delivering a broadband pipe to the home and the office, but unlike the original broadband platforms, wireless is delivering service to the person, wherever they are, when they want it. The Commission's most recent study shows mobile wireless broadband additions *today* driving the growth of high speed lines overall. Specifically, the Commission's most recent report on *High-Speed Services for Internet Access: Status as of December 31, 2006* found that from June 2006 to December 2006, the number of wireless high-speed lines doubled.[11] During the same period, 62% of all new high-speed lines were mobile broadband wireless lines.[12]

In addition to the established nationwide wireless carriers, new carriers are constantly entering the market to serve consumer needs. For example, Stelera Wireless plans to provide rural and underserved areas with wireless broadband, but will do so with spectrum allocated primarily for *terrestrial* services. Stelera purchased 42 licenses in the Commission's Advanced Wireless Services ("AWS") Auction No. 66 to serve the wireless broadband needs of rural and underserved markets.[13]

Simply put, Globalstar apparently has entered into a business arrangement predicated on operating outside its license authority (*i.e.*, without the ability to use the spectrum or the air

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[11] Industry Analysis and Technology Division: *Wireline Competition Bureau High-Speed Services for Internet Access: Status as of December 31, 2006* at tbls.1, 8 (Oct. 31, 2007) *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-277784A1.pdf.

[12] *Id.*

[13] *See* Stelera Wireless *at* http://www.stelerawireless.com (last accessed Jan 2, 2008).

interface contemplated) and now asks the Commission to bless its business deal after the fact by making changes to its license authority. Moreover, Globalstar makes this request prior to applying to modify its license to use WiMAX instead of CDMA. Even if the Commission were to grant Globalstar's request – in the face of potential interference to adjacent channel licensees – Globalstar will still have to apply for authority to use WiMAX in any ATC offering. The Commission should not reward Globalstar's attempts to "game the system" by validating its improper and premature private business arrangement through Commission regulation.

II. The Commission Should Continue to Protect BRS-1 Licensees From Potential Interference from ATC Operations by Maintaining Adequate Separation.

Since its initial 2003 *ATC Report and Order*, the Commission has always contemplated separation between ATC operations and BRS licensees. The Commission found that adequate protection of MMDS/ITFS operations in the 2500-2690 MHz band could be achieved "provided that ATC base station operations are below 2498.0 MHz."[14] Globalstar itself had observed that "ATC base stations will not interfere with ITFS or MMDS if operated below 2498.0 MHz."[15]

Despite this history of separation between the ancillary terrestrial component of MSS and other primary terrestrial operations, Globalstar now claims that it should be entitled to use its spectrum allocation for expanded ATC and that such use would not interfere with adjacent services if power levels and locations are properly coordinated.[16] Globalstar is entitled to neither the expanded use of its spectrum allocation for ATC, nor coordination rights with BRS licensees.

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[14] *Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands, Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands*, Report and Order and Notice of Proposed Rulemaking, 18 FCC Rcd 1962, ¶ 204 (2003) ("*ATC Report and Order*").

[15] Globalstar, L.P., et al., *Ex Parte* Presentation in IB Docket No. 01-185, Attachment at 26 (filed Mar. 13, 2002).

[16] Globalstar Comments at 22-30.

Section 25.255 of the Commission's rules clearly states that interference to other services from ATC must be resolved by the MSS ATC operator.[17] This secondary status for ATC operations places the onus of preventing interference to BRS on ATC operators, not in any part on adjacent licensees. Globalstar asks the Commission effectively to place a coordination requirement on BRS licensees that would contravene established rules governing ATC and violate BRS licensees' investment-backed expectations for reliable use of licensed spectrum. Moreover, the expansion of the BRS frequency coordination rules to ATC operations would unnecessarily shift part of the financial burden of preventing interference from the ancillary service to the primary service that enjoys protection from the interference.[18] Accordingly, the Commission should reject Globalstar's efforts to expand its ATC authority at the expense – both in terms of reduced spectrum reliability and the costs of interference coordination – of adjacent primary service licensees.

[17] 47 C.F.R. § 25.255.

[18] *See* Globalstar Comments at 29 (stating that out-of-band interference can be controlled "through appropriate antenna isolation techniques where possible and by filtering techniques at the ATC base station (and, in certain cases, *the BRS base station*)" (emphasis added)); *see also* Globalstar Technical Appendix 10-19.

III. Conclusion

Globalstar's request for expanded ATC authority asks the Commission to validate a prematurely-executed business plan through regulatory fiat and threatens adjacent BRS licensees with interference. For the foregoing reasons, CTIA urges the Commission to reject Globalstar's attempt to expand its ATC authority at the expense of adjacent BRS licensees.

Respectfully submitted,

/s/ *David J. Redl*

CTIA – THE WIRELESS ASSOCIATION®

1400 16th Street, NW Suite 600
Washington, D.C. 20036
(202) 785-0081

David J. Redl
Counsel, Regulatory Affairs

Michael F. Altschul
Senior Vice President, General Counsel

Christopher Guttman-McCabe
Vice President, Regulatory Affairs

Brian M. Josef
Director, Regulatory Affairs

Its Attorneys

January 3, 2008