

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

In the Matter of)	
)	IB Docket No. 08-232
Iridium Holdings, LLC)	DA No. 08-2574
and Iridium Carrier Holdings LLC,)	
Transferors,)	FCC File Nos.
)	ITC-T/C-20081021-00471
and)	SES-T/C-20081021-01353
)	SES-T/C-20081021-01350
GHL Acquisition Corp.,)	SES-T/C-20081021-01351
Transferee)	SES-T/C-20082021-01352
)	SAT-T/C-20081021-00208
)	

REPLY OF GLOBALSTAR LICENSEE LLC

Globalstar Licensee LLC (“Globalstar”) submits this Reply to the Opposition filed by the parties to the above-referenced Application in which Iridium Holdings, LLC and Iridium Carrier Holdings, LLC (collectively “Iridium”) and GHL Acquisition Corp. (“GHQ,” and together the “Applicants”) seek Commission consent for the transfer of control of the licenses and authorizations held by Iridium Carrier Services LLC, Iridium Satellite LLC, and Iridium Constellation LLC.^{1/} The Applicants’ Opposition does nothing to refute Globalstar’s showing that the proposed transaction appears to be intended to enrich Iridium’s present owners and

^{1/} See Joint Opposition and Response of Iridium Holdings LLC, Iridium Carrier Holdings LLC and GHL Acquisition Corp. (filed Jan. 12, 2008) (“*Opposition*”). See also Iridium Carrier Services LLC, FCC File Nos. ITC-T/C-20081021-00471 and SES-T/C-20081021-01353; Iridium Satellite LLC, FCC File Nos. SES-T/C-20081021-01350 and SES-T/C-20081021-01351; Iridium Constellation LLC, FCC File Nos. SES-T/C-20082021-01352 and SAT-T/C-20081021-00208 (filed Oct. 21, 2008) (collectively “*Application*”).

Greenhill and its principals without providing any assurance that Iridium's services will continue to be available over the long term. The Opposition also fails to address the significant questions identified in Globalstar's Petition about the state of Iridium's existing satellite constellation and current operations that are triggered by the recent public disclosures in GHQ's SEC filings. In light of these omissions, the Applicants have not met their burden under section 310(d) of the Act of demonstrating that the proposed transaction would serve the public interest. The Application therefore should be denied.^{2/}

DISCUSSION

As Globalstar showed in its Petition, the information the Applicants have submitted for the record to date suggests that the overriding purpose of the proposed transaction is to provide Iridium's owners with a windfall, rather than to ensure that Iridium will have the financial means to construct a second-generation constellation or otherwise to ensure the ongoing availability of its services. Specifically, the Application and GHQ's SEC disclosures make clear that, after payments to Iridium's creditors, its present owners, possible dissenting GHQ shareholders, and underwriters and other transaction service providers, only approximately \$17 million would be even theoretically available to fund the estimated \$2.7 billion that Iridium has suggested its second-generation constellation might cost.^{3/} The nonexistent or virtually nonexistent

^{2/} The Applicants assert that Globalstar's Petition is defective because it was not accompanied by an affidavit. *See Opposition* at n. 3. But Globalstar's Petition does not rely on any facts other than those disclosed in the Application and in GHQ's filings before the SEC. Accordingly, it requires no supporting affidavit.

^{3/} *See Petition* at 6.

contribution from GHQ's investment toward ensuring the future availability of Iridium's services throws into doubt any public interest benefit from the proposed transaction.

That doubt is of particular concern against the backdrop of GHQ's recent disclosure that Iridium's satellite constellation is degrading and that it "cannot guarantee it will provide commercially viable service through the transition period" to any replacement constellation.^{4/} Yet the Applicants brush aside this critical fact with a single conclusory sentence, asserting that Iridium's previously unacknowledged "satellite anomalies" "have not been out of the ordinary." These are the same "anomalies" that Iridium redacted from its annual report, asserting a need for confidential treatment.^{5/} The Applicants make no attempt to explain the apparent contradiction between their position that the satellite failures are "not . . . out of the ordinary" and their plea that the failures be hidden from public inspection. Until the Applicants come to terms with this situation candidly on the public record, the Commission cannot find "by a preponderance of the

^{4/} See GHL Acquisition Corp., Schedule 14A, filed with the SEC on Dec. 1, 2008 ("*GHQ SEC Filing*") at 37 (cited in *Petition* at 3-4).

^{5/} See *Petition* at 4.

evidence, that Applicants have met their burden of showing that the proposed transaction, on balance, will serve the public interest.”^{6/}

Essentially conceding that none of GHQ’s investment will go toward the replacement of Iridium’s troubled constellation, the Applicants assert that use of a portion of the proceeds to eliminate Iridium’s existing debt is sufficient to justify a public interest finding.^{7/} But paying off debt, in itself, does nothing to ensure that Iridium will have the capacity to continue providing its services over the long term. Likewise, the conversion of Iridium – previously a public company before it was taken private – back into a public company is a change of form that does nothing to satisfy the public interest requirement of section 310(d). It is disingenuous for Iridium to

^{6/} See Applications for Consent to the Transfer of Control of Licenses XM Satellite Radio Holdings Inc., Transferor to Sirius Satellite Radio Inc., Transferee, MB Docket No. 07-57, *Memorandum Opinion and Order and Report and Order*, 23 FCC Rcd 12348, 12365-66 ¶ 30 (2008). The Applicants argue that the “Commission routinely finds transfers of control of satellite companies to be in the public interest without requiring that the new financial assets be used to fund replacement satellite systems.” See *Opposition* at 5, n.13. However, the cases cited by the Applicants do not support that proposition. In only one of those cases did the Commission address the question whether the assets would be used for the construction of a new satellite system. See Motient Corp. and SkyTerra Communications, Inc., Applications to Transfer Control, *Memorandum Opinion and Order and Declaratory Ruling*, 21 FCC Rcd 10198 (2006). The Commission there specifically found that “the proposed transaction . . . [was] designed to facilitate development of MSV’s next generation satellite system and TerreStar’s new satellite system,” and that the applicants had demonstrated that they were “moving forward” with their plans for a new satellite system. *Id.* at ¶ 25 (emphasis added). Here, by contrast, the Applicants have made no such showing.

^{7/} See, e.g., *Opposition* at 3-4.

trumpet the public interest benefits of the disclosure requirements imposed on public companies, while it simultaneously resists public disclosure of the status of its satellite system.^{8/}

The Applicants also have not rebutted Globalstar's showing that Greenhill and its principals stand to make a profit in excess of \$70 million as a result of the transaction, regardless of whether or not Iridium's system remains viable.^{9/} They point to a "lockup agreement" that limits the ability of Greenhill's principals to sell their shares,^{10/} but, according to GHQ's SEC disclosures, that agreement contains numerous exceptions that appear to allow GHQ's board of directors to authorize the affected shareholders to dispose of some or all of their shares only six months after the closing.^{11/} A requirement to hold the shares for six months cannot be viewed as giving Greenhill and its principals a stake in Iridium's long-term ability to provide services.

The Applicants suggest that similar doubt exists about Globalstar's financial ability to

^{8/} Compare *Opposition* at 4 (citing benefits of "greater transparency") with Iridium Constellation LLC, 1.6/2.4 GHz Mobile Satellite System License, Call Sign S2110, Section 25.143(e) Annual Report and Request for Confidential Treatment Pursuant to Sections 0.457 and 0.459 at 1-2 (asking the Commission to "withhold from public inspection" all "information on unscheduled space station [outages], utilization and space stations not available for service or satellites not performing within specifications"). Iridium previously asserted that the transaction that took it private was in the public interest. See *Applications of Space Station System Licensee, Inc., Assignor, and Iridium Constellation LLC, Assignee, et al., Memorandum Opinion and Order, Order and Authorization*, 17 FCC Rcd 2271 (Int'l Bur. 2002) at ¶ 40 ("The Applicants contend that the proposed license assignments will yield several public interest benefits.").

^{9/} See *Petition* at 6 & n.16.

^{10/} See *Opposition* at 7-8.

^{11/} See *GHQ SEC Filing* at 84 (cited in *Opposition* at 7-8).

proceed with a second-generation satellite constellation.^{12/} Of course, that suggestion is wholly irrelevant to whether grant of *this* Application would serve the public interest. In any event, it ignores the record facts. Globalstar's commitment to the construction and launch of its second-generation replacement satellites is tangible and significant. Construction of the system has been underway since 2006. Globalstar has already expended approximately \$420 million of the estimated \$900 million cost to construct and launch the satellites, and it has contracted for the launch of the first 24 of its 48 second-generation satellites. The first launch is merely eight months away.^{13/} All of this is in the public record. The contrast to Iridium could not be more stark – it has not and may never contract for a replacement constellation. Nothing in the Application or the Opposition provides any basis for assuming that it will do so.

Finally, the Opposition fails to answer significant additional questions raised by GHQ's SEC disclosures and flagged by Globalstar's Petition, which must be answered before a public interest finding can be made, including:

- the substantial possibility that Iridium will be forced to de-orbit some or all of its satellites well before the launch of any second-generation constellation, based on the U.S. Government's right to order such de-orbiting in the event that Iridium is sold or that any of its satellites have been in orbit for more than seven years;^{14/}
- the prospect that Iridium's assertion that its service provides "complete coverage of the entire globe" is materially misleading, given the description in the proxy materials

^{12/} See *Opposition* at 2 n.4, 4.

^{13/} See, e.g., See Globalstar, Inc., Quarterly Report (SEC Form 10-Q), filed May 12, 2008, Capital Expenditures, available at <http://www.sec.gov/Archives/edgar/data/1366868/000110465908032046/0001104659-08-032046-index.htm>.

^{14/} See *Petition* at 8-9 (citing *GHQ SEC Filing* at 145).

of failed components and subsystems on specific satellites, which create coverage gaps and preclude global roaming;^{15/}

- whether Iridium satisfies the coverage requirements contained in section 25.143(b)(2) of the Commission's rules, in light of GHQ's disclosure that "fewer than 66 of [Iridium's] in-orbit satellites may be fully functioning at any time;"^{16/} and
- whether Iridium is operating in other countries unlawfully in certain portions of the L-band spectrum for which it has obtained the authority to operate only in the United States, in light of GHQ's assertions that Iridium holds "7.775 MHz of [L-band] spectrum" that is "authorized for operation in over 100 countries."^{17/}

Contrary to the Applicants' assertions, these questions are far from "irrelevant to the Commission's consideration of the Application[],"^{18/} as they implicate both the continued existence of the Iridium system and Iridium's compliance with the terms of its space station licenses. The Applicants accordingly must respond to these questions on the record before the Application can be granted.

^{15/} *Id.* (citing *Iridium Application*, Exhibit E at 1).

^{16/} *Id.* (citing *GHQ SEC Filing* at 37). The Applicants assert that Globalstar's placement of these facts before the Commission is somehow "improper[]" because they were publicly disclosed as material risks in GHQ's proxy materials. *See Opposition* at 6. That assertion is inexplicable, given that Iridium itself repeatedly has relied on Globalstar's SEC risk disclosures to advance its cause before the Commission at Globalstar's expense. *See, e.g., Iridium Satellite LLC Ex Parte Filing* in IB Docket No. 02-364 (filed May 9, 2007).

^{17/} *Id.* (citing *GHQ SEC Filing* at 141).

^{18/} *See Opposition* at 8.

Conclusion

For these reasons and those stated in the Petition, the Commission should deny the Application unless the Applicants provide additional information for the public record concretely meeting their burden of demonstrating that the proposed transaction will serve the public interest.

Respectfully submitted,

/s/ William T. Lake

William F. Adler
Vice President – Legal and
Regulatory Affairs
GLOBALSTAR, INC.
461 S. Milpitas Blvd.
Milpitas, CA 95035
(408) 933-4401

William T. Lake
Samir Jain
Josh L. Roland
WILMER CUTLER PICKERING HALE
AND DORR L.L.P.
1875 Pennsylvania Ave., NW
Washington, D.C. 20006
(202) 663-6000

Counsel for Globalstar Licensee LLC

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