

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Light Squared Subsidiary LLC)	SAT-MOD-20101118-00239
)	
Request for Modification of Authority For an Ancillary Terrestrial Component)	
)	
Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz)	ET Docket No. 10-142

REPLY COMMENTS OF GLOBALSTAR, INC.

Globalstar, Inc. (“Globalstar”) hereby replies to comments on the above-captioned request of LightSquared Subsidiary LLC (“LightSquared”) for either a modification of its existing Ancillary Terrestrial Component (“ATC”) authority or a waiver of the Federal Communications Commission’s (“Commission’s”) ATC rules.¹ As commenters and numerous other observers have pointed out, greater terrestrial use of mobile satellite service (“MSS”) spectrum is critical to addressing the nation’s urgent need for additional mobile broadband spectrum. Authorizing increased terrestrial flexibility is one of the few means readily available to the Commission to address the nation’s spectrum shortage. Accordingly, Globalstar urges the Commission to act expeditiously to authorize increased terrestrial flexibility. Whether it does so through individual licensing procedures (as LightSquared requests) or in a rulemaking

¹ Request for Modification of an Ancillary Terrestrial Component, LightSquared Subsidiary LLC, IBFS File No. SAT-MOD-20101118-00239 (Nov. 18, 2010) (“LightSquared Request”).

proceeding, the Commission should act expeditiously and even-handedly to authorize increased terrestrial flexibility for MSS operators who provide substantial satellite service.

I. THE COMMISSION SHOULD ACT EXPEDITIOUSLY TO ESTABLISH GREATER TERRESTRIAL FLEXIBILITY IN MSS SPECTRUM

To obtain greater flexibility for terrestrial operations in its MSS L-band spectrum, LightSquared requests either an ATC license modification or a waiver of the Commission's ATC rules. As numerous commenters point out, grant of this request would permit LightSquared to lease or sell L-band wholesale capacity to terrestrial wireless retailers who, in turn, would be able to use that spectrum to provide terrestrial-only service to customers with single-mode terrestrial devices.² With this increased terrestrial flexibility, LightSquared's spectrum would become available for mobile broadband use.

The urgent need for additional spectrum to support mobile broadband is well established. In March 2010, the National Broadband Plan recognized that the "growth of wireless broadband will be constrained if government does not make spectrum available" and that if "the U.S. does not address this situation promptly, scarcity of mobile broadband could mean higher prices, poor service quality, an inability for the U.S. to compete internationally, depressed demand and, ultimately, a drag on innovation."³ Chairman Julius Genachowski recently observed that "[t]he future of our mobile economy depends on spectrum, America's invisible infrastructure. If we don't act to update our spectrum policies for the 21st century, we're going to face a spectrum

² Comments of CTIA – The Wireless Association at 2-4 ("CTIA Comments"); Comments of AT&T Inc. at 5-6 ("AT&T Comments"); Comments of Verizon Wireless at 2-3 ("Verizon Comments"). (Unless otherwise indicated, all comments and the petition to deny cited herein were filed in IBFS File No. SAT-MOD-20101118-00239 on December 2, 2010.)

³ See FCC, "Connecting America: The National Broadband Plan," at 77 (rel. March 16, 2010), *available at*: <<http://download.broadband.gov/plan/national-broadband-plan.pdf>> ("National Broadband Plan").

crunch that will stifle American innovation, economic growth, and job creation.”⁴ CTIA agrees with this view in its comments on LightSquared’s request, pointing to the “surge in mobile broadband usage and the looming spectrum crunch faced by wireless broadband providers.”⁵ AT&T also notes that “with next generation network deployments currently underway, the need for additional spectrum is increasingly pressing.”⁶

In their comments, CTIA and AT&T identify greater terrestrial flexibility in MSS spectrum as an important mechanism for addressing this growing spectrum deficit. CTIA notes that it “has been and continues to be a supporter of policies and rules designed to further flexible use of MSS spectrum,” and points out that “MSS spectrum is ideally suited for terrestrial mobile broadband.”⁷ AT&T states that it “supports the National Broadband Plan’s identification of the MSS bands as a significant and promising source of spectrum, important to meeting its spectrum goals,” and that it “fully supports efforts to promote market mechanisms for transitioning the MSS spectrum to mobile broadband use.”⁸ In line with these commenters’ views, Globalstar has proposed that the Commission adopt a new, more flexible regulatory framework for MSS-

⁴ FCC Chairman Julius Genachowski Statement on NTIA Spectrum Report (Nov. 15, 2010), *available at*: <http://www.fcc.gov/Daily_Releases/Daily_Business/2010/db1115/DOC-302801A1.pdf>. In its November 15, 2010 spectrum report, the National Telecommunications and Information Administration (“NTIA”) states that “[i]dentifying spectrum that could be made available for fixed and/or mobile wireless broadband is vital as the United States plans its spectrum use and as industry plans to meet the marketplace requirements of the future. . . . America’s future competitiveness and global technology leadership depends, in part, upon the availability of spectrum to meet this demand.” *An Assessment of the Near-Term Viability of Accommodating Wireless Broadband Systems in the 1675-1710 MHz, 1755-1780 MHz, 3500-3650 MHz, and 4200-4220 MHz, 4380-4400 MHz Bands*, National Telecommunications and Information Administration, U.S. Department of Commerce, at 2 (Oct. 2010) (“NTIA Report”), *available at*: <http://www.ntia.doc.gov/reports/2010/FastTrackEvaluation_11152010.pdf>.

⁵ CTIA Comments at 5.

⁶ AT&T Comments at 3.

⁷ CTIA Comments at 5-6.

⁸ AT&T Comments at 3.

terrestrial operators that provide substantial satellite service, including rule changes that would enable LightSquared to move forward with its proposal to sell wholesale capacity to terrestrial wireless retailers.⁹ Among other things, Globalstar has urged the Commission to adopt a more flexible approach that permits end-user customers (i) to purchase single-mode terrestrial devices that operate in MSS spectrum, and (ii) to sign up for terrestrial-only subscriptions from service providers operating in MSS spectrum. Like LightSquared, Globalstar is nonetheless working on the development of technology and devices that provide dual-mode functionality for customers who want that capability, such as first responders and other public safety personnel.

The greater terrestrial flexibility that LightSquared asks for in its ATC modification request and that Globalstar proposed in its comments clearly would have substantial public interest benefits. Increased terrestrial flexibility in MSS spectrum would promote the development of additional competition for wireless services, and would make new spectrum capacity available almost immediately for mobile broadband services. Globalstar itself has a nearly 20 MHz allotment of terrestrial use spectrum in the Big LEO band, which, in contrast to the broadcast and other MSS bands, can be quickly added to the nation's broadband "spectrum inventory" without the need for legislation or the relocation of incumbent licensees.¹⁰ As

⁹ Globalstar submitted this proposal in its comments on the Commission's July 2010 Notice of Proposed Rulemaking and Notice of Inquiry on the terrestrial use of MSS spectrum. *See, e.g.*, Comments of Globalstar, Inc., ET Docket No. 10-142, at 8-9 (Sep. 15, 2010) ("Globalstar NOI Comments"); *Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz*, Notice of Proposed Rulemaking and Notice of Inquiry, 25 FCC Rcd 9481 (2010) ("*NPRM/NOI*").

¹⁰ The Commission should reject Iridium's extraneous and empty claim that the Big LEO band "must be retained for primary use by MSS and that any terrestrial use of this band must remain ancillary to MSS." Comments of Iridium Satellite LLC at 4. Iridium fails to explain why this restriction is necessary to "support" its MSS offerings or ensure that "adequate spectrum remains available" for its services. There is no evidence that terrestrial operations in Globalstar's spectrum would cause harmful interference – or any other harm – to Iridium's

Globalstar has previously described, greater terrestrial flexibility will also help preserve the crucial services that MSS licensees provide to thousands of consumers and other customers in the United States, particularly in rural and remote areas.¹¹ To realize these critical public interest benefits, Globalstar urges the Commission to act expeditiously to establish greater terrestrial flexibility in MSS spectrum.

II. THE COMMISSION MUST BE EVEN-HANDED IN GRANTING FLEXIBILITY TO OPERATORS PROVIDING SUBSTANTIAL SATELLITE SERVICE

The Commission has two procedural options for establishing terrestrial greater flexibility in MSS spectrum. Pursuant to LightSquared's request, the Commission (or International Bureau) could modify MSS licensees' ATC authority and/or waive its ATC rules in individualized licensing proceedings. Alternatively, the Commission could adopt rules of general applicability in its pending rulemaking proceeding on MSS-terrestrial flexibility.

Whichever regulatory mechanism the Commission chooses to promote mobile broadband in

services above 1618.725 MHz. Significantly, in the 2008 order expanding Globalstar's ATC authority to the edge of its unshared spectrum at 1617.775 MHz, the Commission found no threat of interference to Iridium's MSS operations. *Spectrum and Service Rules for Ancillary Terrestrial Components in the 1.6/2.4 GHz Big LEO Bands; Globalstar Licensee LLC, Authority to Implement an Ancillary Terrestrial Component*, Report and Order and Order Proposing Modification, 23 FCC Rcd 7210, ¶¶ 19-20 (2008). If Iridium's concern instead is that terrestrial use of Globalstar's Big LEO L-band spectrum will prevent Iridium from gaining access to that spectrum, this concern should be summarily rejected by the Commission. Once launched by summer 2011, Globalstar's second-generation MSS system will make intensive use of every available megahertz of L- and S-band spectrum in order to provide an array of services to customers around the world. Globalstar will have no excess L-band frequencies. Moreover, the Commission revised the Big LEO band plan just three years ago, taking 2.6 MHz of L-band spectrum from Globalstar and adding it to Iridium's licensed TDMA spectrum allotment. Iridium has provided no reason to revisit that decision. *See Spectrum and Service Rules for Ancillary Terrestrial Components in the 1.6/2.4 GHz Big LEO Bands; Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands*, Second Order on Reconsideration, Second Report and Order, and Notice of Proposed Rulemaking, 22 FCC Rcd 19733 (2007).

¹¹ Globalstar NOI Comments at 23-27.

MSS spectrum, Globalstar urges the Commission to proceed both expeditiously and in an even-handed manner.

If the Commission pursues a case-by-case licensing approach and grants LightSquared's request, Globalstar should be able to obtain similar terrestrial flexibility through an analogous modification of its ATC license or an analogous waiver request. Having invested more than \$5 billion toward the development of its global MSS network, Globalstar is making full, intensive use of its Big LEO MSS spectrum. Today, Globalstar uses its global non-geostationary ("NGSO") MSS constellation to provide affordable, high-quality mobile satellite voice and data services to over 400,000 customers in 120 countries. With its global network, Globalstar provides communications services to significant U.S. interests all over the world, including to such federal agencies as the State Department and the Federal Emergency Management Agency, and also to the U.S. Army and other segments of the U.S. military. U.S. first responders and other entities involved in relief efforts around the world have relied on Globalstar's services after events such as earthquakes, hurricanes, and other natural disasters. In addition, Globalstar in recent years has focused on the development of affordable, consumer-oriented devices and services, most notably offering an innovative MSS device – the SPOT Satellite GPS Messenger ("SPOT") – that plays a critical role in the provision of emergency and safety-of-life services to individual consumers beyond terrestrial wireless reach. The SPOT and Globalstar's related service offerings have been utilized by thousands of Americans traveling around the world. To date, the SPOT has been used to initiate more than 800 rescues in over 50 countries on land and at sea.

On October 19, 2010, Globalstar launched the first six satellites of its second-generation MSS constellation. By summer 2011, Globalstar expects to become the first global LEO MSS

voice and data company to have launched a state-of-the-art, second-generation MSS system, one that is expected to support reliable and effective voice and data services at least until 2025. With its new MSS constellation and ground infrastructure, Globalstar will be able to provide current and future customers with new service features including advanced (and affordable) voice, two-way data, and messaging services. With this second-generation MSS constellation in place, Globalstar will provide substantial satellite service under any reasonable definition and should be granted all available terrestrial flexibility in its Big LEO MSS spectrum.

If the Commission granted LightSquared's request for greater terrestrial flexibility in the instant licensing proceeding, an analogous grant to Globalstar would be necessary to ensure a fair and non-arbitrary process. As AT&T points out, granting relief to LightSquared alone "would amount to preferential treatment of LightSquared relative to other MSS licensees, who would, comparatively, be more restricted in their permissible use of their spectrum resources."¹² Such preferential treatment "could have anticompetitive effects on the abilities of other MSS operators to secure important partnerships and financing. The head start afforded to LightSquared could so tip the competitive scales in its favor as to ensure that LightSquared becomes and remains the dominant player in MSS ATC services."¹³ The Commission should take the steps necessary to avoid such an inequitable outcome, which would be unlikely to withstand judicial review. As courts have made clear, absent sufficient justification, the Commission is obligated to provide similar regulatory treatment to similarly-situated entities under its jurisdiction.¹⁴

¹² AT&T Comments at 4.

¹³ *Id.* at 10.

¹⁴ The Commission abuses its discretion if it fails to "provide adequate explanation before it treats similarly situated parties differently." *Petroleum Comm., Inc. v. FCC*, 22 F.3d 1164, 1172 (D.C. Cir. 1994). *See also Burlington N. & Santa Fe Ry. Co. v. Surface Transp. Bd.*, 403 F.3d

Most commenters believe that the Commission should reject a case-by-case approach and should only consider LightSquared's requested relief in the context of its pending rulemaking on MSS-terrestrial flexibility.¹⁵ For instance, Verizon Wireless says that the "broad issues of general applicability" raised by LightSquared "should be addressed through rulemaking, not piecemeal adjudication."¹⁶ CTIA states that "such modifications to the Commission's requirements are best addressed in the Commission's ongoing rulemaking regarding MSS spectrum, and not as a response to an individual application,"¹⁷ while AT&T argues that the Commission's rulemaking process "will allow for full public participation and the promulgation of competitively neutral rules that will apply uniformly throughout the industry."¹⁸

Globalstar appreciates the rulemaking benefits cited by these commenters, and in fact it has been the most active participant to date in the Commission's proceeding on MSS-terrestrial flexibility. At the same time, Globalstar is concerned that exclusive reliance on the Commission's rulemaking process may not yield greater terrestrial flexibility quickly enough to maximize mobile broadband development and the other public interest benefits. Accordingly, if the Commission decides to incorporate LightSquared's request and other analogous requests into its pending rulemaking, it will be even more critical for the Commission to accelerate this

771, 777 (D.C. Cir. 2005) ("Where an agency applies different standards to similarly situated entities and fails to support this disparate treatment with a reasoned explanation and substantial evidence in the record, its action is arbitrary and capricious and cannot be upheld."); *Chadmoore Communications, Inc. v. FCC*, 113 F.3d 235, 242 (D.C. Cir. 1997); *Adams Telecom, Inc. v. FCC*, 38 F.3d 576, 581 (D.C. Cir. 1994); *McElroy Electronics v. FCC*, 990 F.2d 1351, 1365 (D.C. Cir. 1993); *Melody Music, Inc. v. FCC*, 345 F.2d 730, 732-33 (D.C. Cir. 1965).

¹⁵ See, e.g., CTIA Comments at 7-8; AT&T Comments at 4, 7-10; Verizon Comments at 8-9; Petition to Deny of Wireless Communications Association International at 13-15.

¹⁶ Verizon Comments at 8-9.

¹⁷ CTIA Comments at 1.

¹⁸ AT&T Comments at 4.

rulemaking process by “expeditiously promulgating a further rulemaking proposal seeking comment on whether and how to relax gating criteria and other rule changes necessary to allow for flexible use of the MSS spectrum for mobile broadband services.”¹⁹

III. CONCLUSION

For the aforementioned reasons, the Commission should expeditiously and even-handedly grant greater terrestrial flexibility to MSS operators that provide substantial satellite service, either through individualized licensing proceedings or through its pending rulemaking on MSS-terrestrial flexibility.

Respectfully submitted,

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December 9, 2010

¹⁹ CTIA Comments at 8.

Certificate of Service

I hereby certify that on this 9th day of December, 2010, I caused a true and correct copy of the foregoing Reply Comments of Globalstar, Inc. to be mailed by U.S. mail, postage prepaid, to:

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