

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

In the Matter of)	
)	
Iridium Constellation LLC Petition for)	RM-_____
Rulemaking to Promote Expanded Mobile)	
Satellite Service in the Big LEO MSS Band)	
)	
In the Matter of)	
)	RM-11685
Globalstar, Inc. Petition for Rulemaking to)	
Reform the Commission’s Regulatory)	
Framework for Terrestrial Use of the Big LEO)	
MSS Band)	
)	

MOTION TO CONSOLIDATE OF IRIDIUM CONSTELLATION LLC

Iridium Constellation LLC (“Iridium”) hereby files this Motion to Consolidate (“Motion”) the two above-captioned Petition for Rulemaking proceedings into a single proceeding considering the Future of the Big LEO MSS Band.¹ Iridium and Globalstar, Inc. (“Globalstar”) are the two mobile satellite service (“MSS”) licensees in the 1610-1626.5 MHz/2483.5-2500 MHz (“Big LEO”) band.² Globalstar has petitioned the Commission for rule

¹ Iridium Constellation LLC, Petition for Rulemaking to Promote Expanded Mobile Satellite Service in the Big LEO MSS Band, RM-_____ (filed Feb. 11, 2013) (“Iridium Petition”); Globalstar Inc., Petition for Rulemaking to Reform the Commission’s Regulatory Framework for Terrestrial Use of the Big LEO MSS Band, RM-11685 (filed Nov. 13, 2012) (“Globalstar Petition”).

² Currently Iridium provides MSS in the 1.6 GHz Big LEO Band (1618.725-1626.5 MHz exclusive, 1617.775-1618.725 MHz shared with Globalstar). Globalstar is licensed to provide MSS in the 2.4 GHz Big LEO band (2483.5-2500 MHz) and 1.6 GHz band (1610-1617.775 MHz exclusive, 1617.775-1618.725 MHz shared with Iridium). *See Third Report and Analysis of Competitive Market Conditions with Respect to Domestic and International Satellite Communications Services*, 26 FCC Rcd 17284, ¶ 65 (2011).

changes to (1) eliminate the requirement that MSS providers provide “substantial satellite service”; (2) permit terrestrial services to be deployed independent of the mobile satellite service; and, (3) authorize a Terrestrial Low Power Service under which terrestrial services preempt and preclude MSS services. Iridium, on the other hand, has petitioned the Commission to (1) preserve the Big LEO band for MSS purposes; (2) expand the amount of spectrum for TDMA MSS; and, (3) meet the critically important existing and future needs of MSS users in the U.S. and around the world. Given these conflicting visions of the Big LEO band, the Commission should consolidate both petitions in a single holistic proceeding to the extent that any aspect of the Globalstar petition is deemed worthy of further exploration.

I. BACKGROUND – THE TWO PETITIONS

On November 13, 2012, Globalstar filed a Petition for Rulemaking (“Globalstar Petition”) which seeks to revisit existing Big LEO rules and policies to use MSS spectrum for terrestrial purposes.³ Specifically, Globalstar proposes three new paths for pursuing its terrestrial ambitions. The first path is simply to remove any obligation for Big LEO MSS licensees to provide satellite service by eliminating from the Commission’s rules the Ancillary Terrestrial Component (“ATC”) requirements to provide substantial satellite service, to have a spare satellite and to limit terrestrial services to where MSS are provided. The second path—called the short-term plan—is to cobble together Globalstar’s 2.4 GHz Big LEO spectrum with adjoining industrial, scientific, and medical (“ISM”) spectrum to form a 22 MHz home for Wi-Fi uses that would be under Globalstar’s control and dubbed the “Terrestrial Low Power Service” (“TLPS”).⁴ The third path—characterized as the long-term plan—involves some notion of Long Term

³ Globalstar Petition at 3-7.

⁴ *Id.* at 4.

Evolution (“LTE”) services supplanting short-term TLPS (in the 2.4 GHz Big LEO band) and existing MSS (in both the 2.4 GHz Big LEO band as well as the 1.6 GHz Big LEO band).⁵ As made clear in latest public statements and filings, Globalstar’s terrestrial services would actually preempt and preclude MSS wherever they are deployed.⁶

On November 30, 2012, the Commission issued a Public Notice inviting comment on the Globalstar Petition for Rulemaking.⁷ Consistent with the prescribed comment deadlines, Iridium filed an Opposition to the Globalstar Petition for Rulemaking.⁸ In opposing the Globalstar Petition, Iridium expressed concerns that the policies and rule changes being advocated would impair existing and future Big LEO MSS and threaten the availability of spectrum to meet Big LEO MSS growth needs.

Today, in the wake of the Globalstar filing, Iridium concurrently is filing a Petition for Rulemaking to Promote Expanded Mobile Satellite Service in the Big LEO MSS Band. The Iridium Petition asks the Commission to designate the 1616-1618.725 MHz portion of the Big LEO band for exclusive use by MSS systems employing time division multiple access (“TDMA”) techniques rather than code division multiple access (“CDMA”) techniques.⁹ More

⁵ *Id.* at 3-4.

⁶ *See* Consolidated Reply of Globalstar, Inc. at n.46, RM-11685 (filed January 29, 2013) (“Globalstar Reply”); L. Barbee Ponder, General Counsel & VP Regulatory Affairs, Globalstar Inc. & John A. Dooley, Managing Director, Jarvinian Wireless Innovation Fund, Fierce Live! Webinar: Globalstar’s New “Wi-Fi” Super Highway (Jan. 22, 2013) (discussing MSS “exclusion zones” to be created by TLPS).

⁷ *See* Petition for Rulemaking Filed, Public Notice, Report No. 2971 (Nov. 30, 2012).

⁸ *See* Opposition of Iridium Constellation LLC, RM-11685 (filed Jan. 14, 2013).

⁹ Iridium Petition at 1.

fundamentally, the Iridium Petition focuses on the vision of ensuring growth opportunities for true MSS services as opposed to Globalstar's focus on terrestrial spectrum plays.

As detailed below, given these conflicting views and conflicting petitions, to the extent the Commission decides to pursue the Globalstar Petition, Iridium herewith moves to consolidate the two petitions into a single rulemaking to ensure that the public interest in continued and future Mobile Satellite Services is fully and efficiently considered.¹⁰

II. THE COMMISSION SHOULD ADDRESS THE GLOBALSTAR AND IRIDIUM RULEMAKING PETITIONS IN A SINGLE RULEMAKING PROCEEDING.

The Globalstar Petition and Iridium Petition put forth dramatically different visions for the future of the Big LEO MSS band. As a result, the conflicting Petitions raise interconnected technical and policy issues affecting core Big LEO operations that should be addressed on an integrated basis. The Commission, of course, has broad discretion in conducting its proceedings¹¹ and may consolidate petitions when they “address similar issues and affect the same parties.”¹² In such cases, consolidation is “administratively more convenient and in the public interest.”¹³

¹⁰ As Iridium explained in its Petition, no changes to the Commission rules are required to effectuate the minor band plan adjustment Iridium proposes. In fact, if the Commission were so inclined, it could proceed with the band plan changes Iridium requests without going through a rulemaking at all. However, the Commission has proceeded through rulemaking before, and Iridium filed its Petition in light of that history.

¹¹ See 47 C.F.R. § 1.1.

¹² *Teleprompter Corporation (Santa Cruz County, California)*, 91 FCC 2d 146, 148 (1982).

¹³ *Nextel License Holdings 4, Inc.*, 17 FCC Rcd 7028, ¶ 9 (2002); see also *Shareholders of Tribune Company and Sam Zell et al.*, 22 FCC Rcd 21266, ¶ 2 (2007); see also *Mercury PCS II, LLC*, 15 FCC Rcd 9654, ¶ 12 (2000) (consolidation proper where applications “raise issues arising out of the same facts”); *Petition of Bell Atlantic for Relief from Barriers to Deployment of Advanced Telecommunications Services*, 13 FCC Rcd 5179, ¶ 3 (1998) (consolidation proper where petitions “raise certain similar issues”).

Here, Globalstar's proposed changes would have a pervasive impact on the Big LEO band that would have serious implications for the future of critical MSS in the band.

Additionally, the Commission historically has examined changes to the band plan holistically, taking into account the current and future needs of all operators. Accordingly, if the Commission intends to pursue the Globalstar Petition despite Iridium's Opposition, it should consolidate the two petitions and issue one Notice of Proposed Rulemaking to address the fundamental reexamination of the Big LEO band contemplated by both parties.

A. Globalstar's Proposals Would Have a Pervasive Impact on the Future of the Big LEO Band.

Globalstar's proposals would effect a fundamental alteration of the Big LEO band. In particular, elimination of the ATC gating criteria and grant to Globalstar of full flexibility of use for terrestrial operations could change the entire character of the band by giving priority to terrestrial services over MSS. Because this vision is in tension with Iridium's plans for continued expansion and innovation in MSS, the two licensees' proposals must be considered in relation to each other. Moreover, to ensure an orderly progression to the future for the Big LEO band, the Commission should consider the proposals simultaneously in a single rulemaking, rather than in a multiple stage approach.

Globalstar's proposals go to the core of spectrum use in the entire Big LEO band. Elimination of the ATC gating criteria would change the band from being one of the last remaining homes for robust global MSS to being dedicated to a non-standard, one-off terrestrial band that would take years to be incorporated into consumer devices and carrier network infrastructure, if it succeeds at all. Let there be no confusion about it, Globalstar seeks a total repurposing of the Big LEO band. To its credit, Globalstar was forthright about its intent in its January 29 Consolidated Reply, where it explained that the entire purpose for elimination of the

ATC requirement that it provide a substantial satellite service is so that it can “ensure that consumers who rely on uninterrupted TLPS and other AWS-5 service will be protected from service disruptions.”¹⁴

The implication of Globalstar’s admission is clear: Globalstar’s desire in getting relief from the ATC rules and being granted full flexibility of terrestrial use is to be able to turn off its MSS system wherever it can deploy terrestrially. This is a complete reversal of the reasoning underlying the Commission’s introduction of terrestrial flexibility in satellite bands through the ATC rules, which were intended to create a gap-filler terrestrial service to “increase the efficiency of spectrum use through MSS network integration and terrestrial reuse and permit better coverage in areas that MSS providers could not otherwise serve.”¹⁵ Instead, Globalstar’s proposal would render MSS the ancillary service, which the AWS-5 licensee would have the option of deploying discretionally wherever it did not offer its terrestrial services.

The ATC protections apply to both the 1.6 GHz and the 2.4 GHz portions of the Big LEO band as one.¹⁶ Therefore, Globalstar’s proposals would create a new policy for the entire Big LEO band. Although Globalstar points to the Commission’s recent *AWS-4 Order* precedent as a model,¹⁷ that item did not address the 2 GHz MSS band piecemeal, or operator-by-operator.

¹⁴ Consolidated Reply of Globalstar, Inc. at n.46, RM-11685 (filed January 29, 2013) (“Globalstar Reply”).

¹⁵ 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, IB Docket No. 01-185, *Report and Order and Notice of Proposed Rulemaking*, 18 FCC Rcd 1962, ¶ 1 (2003).

¹⁶ See, e.g., 47 C.F.R. § 25.149 (addressing ATC requirements for the entire “1.6/2.4 GHz” MSS band).

¹⁷ See Globalstar Reply at 2 (citing Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-220 MHz Bands, *Report and Order and Order of Proposed Modification*, FCC 12-151 (rel. Dec. 17, 2012)).

Instead, the Commission considered the future of the 2 GHz MSS band as a whole and crafted rules for both MSS licensees.

Globalstar suggests that if the Commission undertakes the “fundamental reforms” it proposes, it will “ultimately deploy a mix of FDD LTE and TLPS facilities in the Big LEO band,”¹⁸ but that it remains “fully committed to the continued development and future success of its MSS business.”¹⁹ Yet Globalstar offers no explanation of how all three of these seemingly incompatible services will coexist in the band at the end of the day. The various 1.6 GHz and 2.4 GHz proposals need to be considered in their entirety from the start to ensure a result that serves the public interest in continued availability of innovative critical MSS for first responders, public safety, U.S. military, U.S. government, commercial users, and consumers while also allowing for efficient use of the Big LEO band spectrum. Attempting to bifurcate the proceeding as Globalstar suggests (or trifurcate it, as would happen if a separate Notice was released on Iridium’s Petition) would be less likely to produce a coherent, well-planned, coordinated result for the entire Big LEO band. By dealing with the band in stages, the Commission would run the risk of setting off down a particular path without considering fully all the implications for current and future services, possibly leading to wasted effort and resources. Instead, the Commission should consolidate the various proposals for consideration in a single proceeding on the future of the Big LEO band.

¹⁸ Globalstar Reply at 3.

¹⁹ *Id.* at 19.

B. A Holistic Examination of Modifications to the Big LEO Band is Consistent with Past Practice.

The unique nature of the Big LEO MSS band has led the Commission historically to take a holistic approach to modifications to the band through rulemakings of general applicability. In setting the initial Big LEO MSS band plan in 1994, the Commission addressed a wide range of concerns, including spectrum allocation, spectrum sharing, interservice sharing, and efficiency.²⁰ Subsequent modifications also evaluated a multitude of factors, including ATC authority, market developments, and interference concerns.²¹ Just as with those proceedings, these various interrelated factors are relevant to Iridium's and Globalstar's use of the Big LEO band and suggest consolidation of the Petitions.

Globalstar's proposals to eliminate ATC gating requirements or introduce terrestrial mobile broadband services to the 1.6 GHz Big LEO MSS band cannot be considered in isolation from the urgent need to protect and promote critical MSS services in that band and the expected surge in demand for those services as demonstrated by the Iridium Petition. Nor can Globalstar's proposal to gain an additional 10.5 MHz of spectrum and deploy a TLPS in the 2.4 GHz Big

²⁰ See Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610-1626.5/2483.5-2500 MHz Frequency Bands, CC Docket No. 92-166, *Report and Order*, 9 FCC Rcd 5936, 5961 ¶ 57 (1994) ("*1994 Big LEO Order*") (Contemplating a future rulemaking in response to changes in MSS market conditions, where it would "weigh a variety of factors in a rulemaking, including our preference for multiple entry, constraints on the assigned spectrum due to international coordination agreements, system efficiency, and system loading . . .").

²¹ See 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, *Report and Order, Fourth Report and Order and Further Notice of Proposed Rulemaking*, 19 FCC Rcd 13386 (2004) ("*Big LEO Spectrum Sharing Order*"); 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, *Second Order on Reconsideration, Second Report and Order, and Notice of Proposed Rulemaking*, 22 FCC Rcd 19733 (2007) ("*2007 Big LEO Spectrum Sharing Second Reconsideration Order*")

LEO MSS band be considered without evaluating its effect on the entire Big LEO band. In its Reply, Globalstar asserted that “[w]ith no explanation, Iridium claims that expanded terrestrial use of the Big LEO L band could negatively affect its current or future mobile satellite service.”²² However, as discussed in the Petition for Rulemaking filed by Iridium concurrently with this Motion, Iridium has growing needs for additional mobile satellite spectrum to support the surge in innovation and demand it is experiencing. At the same time, Globalstar seeks to reverse the fundamental structure of the Big LEO band to subjugate MSS as an ancillary service to terrestrial operations. These matters cannot rationally be considered in isolation from each other. The 1.6 and 2.4 GHz portions of the Big LEO band have always been considered collectively,²³ and they should be considered together again here.

²² Globalstar Reply at 19.

²³ See, e.g., *1994 Big LEO Order*; *Big LEO Spectrum Sharing Order*; *2007 Big LEO Spectrum Sharing Second Reconsideration Order*.

III. CONCLUSION.

For the reasons set forth above, and to the extent the Commission proceeds with the Globalstar Petition, Iridium respectfully asks the Commission to consolidate the issues raised in the two Petitions into a single rulemaking proceeding and issue one Notice of Proposed Rulemaking considering the Future of the Big LEO MSS Band if any of the Globalstar proposals are deemed appropriate for seeking public comment.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Pamela Conley, do hereby certify that on this 11th day of February, 2013, I caused copies of the foregoing “Motion to Consolidate of Iridium Constellation LLC” to be delivered to the following via First Class U.S. mail:

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