

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

In the Matter of)	
)	
Mobile Satellite Ventures)	File No. SES-MOD-19990727-01301
Subsidiary LLC)	File No. SES-STA-20000703-01105
)	
Application to Modify Blanket)	
License Authorization to Operate)	
Up to an Additional 36,900 Mobile)	
Earth Terminals in the L-Band and)	
Request for Special Temporary)	
Authority (E900081))	

MEMORANDUM OPINION, ORDER AND AUTHORIZATION

Adopted: March 12, 2004

Released: March 12, 2004

By the Deputy Chief, Satellite Division, International Bureau:

INTRODUCTION

1. In this order, we grant the petition filed by Mobile Satellite Ventures Subsidiary (“MSV”) for partial reconsideration¹ of that portion of the International Bureau, Satellite Division’s Order issued on July 2, 2002 in the above-captioned proceeding that dismissed MSV’s application to operate an additional 36,900 half-duplex mobile earth terminals (METs) in the lower L-band via the AMSC-1 satellite.² Grant of this order will permit MSV to operate an additional 17,000 half-duplex METs³ in the lower L-band and continue to provide mobile satellite service to its customers in the United States while it transitions to METs capable of full compliance with the Commission’s standards for real-time priority and preemptive access that are designed to ensure the integrity of maritime safety communications.⁴

¹ MSV Petition for Clarification and Partial Reconsideration filed on August 1, 2002 (MSV Petition).

² Mobile Satellite Ventures Subsidiary, 17 FCC Rcd 12894 (2002) (*July 2, 2002 Order*).

³ These terminals will be manufactured by VISTAR Telecommunications, Inc.

⁴ These rules are set forth in Footnote US315 to Section 2.106 of the Commission’s Rules, 47 C.F.R. § 2.106, which contains the Table of Frequency Allocations. Footnote US315 to the Table of Frequency Allocations provides for real-time access and priority and preemptive access preemption capability for maritime mobile satellite service distress and safety communications.

BACKGROUND

2. In its *July 2, 2002 Order*, the Commission denied MSV's application to increase the number of half-duplex METs it could operate in the lower L-band by 36,900, bringing its total METs authorized to 70,000.⁵ The denial was based on concerns of the National Telecommunications and Information Administration (NTIA) that the possible likelihood of interference will increase as more MSS terminals are placed in operation.⁶ At that time, MSV operated 33,100 half-duplex METs in the lower L-band on a temporary basis.⁷ In its *July 2, 2002* decision, the Commission granted MSV regular authority for a term of two years for those METs it had operated pursuant to Special Temporary Authority (STA) with no increase in the number of authorized METs.⁸ The Commission encouraged MSV to continue to work to bring its half-duplex METs into full compliance with Footnote US315 to the Table of Allocations set forth in Section 2.106 of the Commission's rules.⁹ Footnote US315 provides that MSS systems may not interfere with maritime mobile-satellite service distress and safety communications that also operate in the lower L-band.

3. MSV seeks reconsideration and clarification of the *July 2, 2002 Order* based on its revised request to operate an additional 17,000 half-duplex METs in the lower L-band instead of the 36,900 originally proposed. MSV also asks that we extend the license term of the half-duplex METs authorized in the *July 2, 2002 Order* from July 2004 to July 2006, the projected end of life of the AMSC-1 satellite.¹⁰ This additional time will permit service providers that are heavily invested in Standard C technology to gradually transition to newer technology. According to MSV, during 2004 Aether Systems, Inc. (Aether), the distributor of the current generation of half-duplex terminals, expects to introduce a new generation terminal that will be fully compliant with the

⁵ Application of AMSC Subsidiary Corporation, File No. SES-MOD-19990727-01301 (July 27, 1999) (Application).

⁶ See Letter from Jim Vorhies, Acting Program Manager, Spectrum Plans, NTIA, to Thomas S. Tycz, Chief, Satellite Division, International Bureau, FCC, dated May 24, 2002.

⁷ On August 1, 1995, MSV was granted authority to operate up to 30,000 METs in the upper L-band, and at the same time authorized to operate 3,100 of these METs in the lower L-band in half-duplex mode. See AMSC Subsidiary Corporation, Order and Authorization, 10 FCC Rcd 10458 (1995), (Lower L-band Order). On August 4, 1995, MSV was authorized to increase the number of half-duplex METs operating in the lower L-band to 15,100. See *AMSC Subsidiary Corporation*, Order on Reconsideration, 11 FCC Rcd 5527 (1995). On November 22, 1996, the Commission granted its request (File No. 179-DSE-MP/L-97), allowing MSV to acquire an additional 18,000 half-duplex METs from Rockwell International Corporation. See MSV Request for Modification of Blanket License at 3.

⁸ *July 2, 2002 Order* at para. 7.

⁹ *Id.*

¹⁰ MSV Petition at 1, 9.

Commission's priority and preemptive access guidelines.¹¹ MSV also states that it needs authority for an additional 17,000 half-duplex METs to ensure an uninterrupted transition to this new technology.¹² These 17,000 half-duplex METs would require an additional one-half of a megahertz of lower L-band spectrum.¹³ MSV also argues that without studies, the current interpretation of the real-time priority and preemptive access standard of one second is arbitrary.¹⁴

DISCUSSION

4. NTIA, after consultation with the U.S. Coast Guard, does not oppose MSV's revised request to operate an additional 17,000 half-duplex METs subject to certain conditions.¹⁵ Based on NTIA's recommendation, we grant MSV's petition. MSV acknowledges that its half-duplex terminals do not fully comply with the real-time priority and preemptive access requirements of Footnote US315. Nevertheless, MSV points out that full compliance with US315 has been waived because experience has shown that with appropriate constraints and due to the short duration of half-duplex transmissions, the integrity of maritime safety and distress communications can be maintained. MSV indicates that most of the spectrum used by its half-duplex METs can be made available within less than 12 seconds and all of it in no more than 48 seconds.¹⁶ Consistent with NTIA's recommendation, we find it unlikely that the preemptive capability of MSV's half-duplex terminals will adversely affect maritime safety communications. Accordingly, we grant a waiver of Footnote US315. However, we will limit the number of additional METs MSV is authorized to operate in the lower L-band to 17,000, thereby expanding its authority to operate up to 50,100 half-duplex METs in the lower L-band. Further, we will require that the spectrum used in connection with the additional METs authorized be limited to 2.0 MHz of the spectrum that MSV has already coordinated for its own system. In addition, the authority granted herein will not be extended beyond 2006, the expected year the AMSC-1 satellite reaches the end of its useful life. MSV's METs must also comply with the Commission's out-of-band emission requirements for mobile terminals operating in the L-band.¹⁷

¹¹ MSV Petition at 8.

¹² MSV Petition at 1.

¹³ MSV Petition at 7.

¹⁴ MSV Petition at 7.

¹⁵ Letter from James Vorhies, Program Manager, Spectrum Plans, NTIA, to Thomas S. Tycz, Chief, Satellite Division, International Bureau, FCC, dated March 5, 2003.

¹⁶ *July 2, 2002 Order* at paras. 5-6.

¹⁷ These requirements are set forth in Section 25.216 of the Commission's rules. See Amendment of Part 2 and 25 to Implement the Global Mobile Personal Communications by Satellite (GMPCS) Memorandum of Understanding and Arrangements; Petition of the National Telecommunications and Information Administration to Amend Part 25 of the Commission's Rules to Establish Emissions Limits for Mobile and Portable Earth Stations Operating in the 1610-1660.5 MHz Band, Report and Order and Further Notice of Proposed Rulemaking, IB Docket No. 99-67, FCC 02-134, 17 FCC Rcd 12941 (rel. May 14, 2002);

5. Grant of authority to MSV to operate an additional 17,000 METs is consistent with NTIA's concern that the terminals do not meet priority and preemptive access guidelines and therefore, these METs should be authorized for a limited or temporary period. This limited license term will also encourage manufacturers to continue to develop and deploy new technology capable of full compliance with US Footnote 315 while enabling MSV to accommodate growing customer demand for mobile data services as it transitions to terminals that fully comply with US Footnote 315. To that end, we modify our *July 2, 2002 Order* so that MSV's current authorization for 33,100 METs will expire at the same time as the additional 17,000 METs authorized here. In the unlikely event that MSV seeks to operate the AMSC-1 satellite beyond December 31, 2006, it will have to seek additional authority at that time.

ORDERING CLAUSES

6. Accordingly, IT IS ORDERED that MSV's petition for partial reconsideration of our Order in Application File No.SES-MOD-19990727- 01301 IS GRANTED to the extent described herein, and Mobile Satellite Ventures Subsidiary LLC IS AUTHORIZED to operate an additional 17,000 half duplex METs on a common carrier basis, in the 1626.5-1645.5 MHz and 1530-1544 MHz frequency bands through the AMSC-1 space station at 101° W.L. to provide mobile satellite service in the United States for a license term of two years, in accordance with the technical specifications set forth in its application and its Radio Station Authorization, and consistent with the Commission's rules, subject to the conditions set forth below.

7. IT IS FURTHER ORDERED that Mobile Satellite Ventures Subsidiary LLC's MET operations shall be limited to 2.0 MHz of spectrum in each direction of the 1626.5-1645.5 MHz and 1530-1544 MHz band coordinated for the satellite being accessed in the most recent annual L-band operator-to-operator agreement, and that no additional spectrum will be requested or used.

8. IT IS FURTHER ORDERED that, in the absence of a continuing annual operator-to-operator coordination agreement, Mobile Satellite Ventures Subsidiary LLC's operation in the 1626.5-1645.5 MHz and 1530-1544 MHz band will be on a non-harmful interference basis. Consequently, in the absence of a coordination agreement, Mobile Satellite Ventures Subsidiary LLC shall not cause harmful interference to any other lawfully operating satellite or radio facility and shall cease operations upon written notification of such interference. Furthermore, Mobile Satellite Ventures Subsidiary LLC must notify all other operators in these frequency bands that it will be operating on a non-harmful interference basis. MSV, Inc. must also notify its customers in the United States that its operations are on a non-harmful interference basis.

9. IT IS FURTHER ORDERED that Mobile Satellite Ventures Subsidiary LLC's METs shall comply with the out-of-band emission limits set forth in Section 25.216 of the Commission's rules. See *Out-of-Band Emission Orders*, FCC 02-34 (rel. May 14, 2002), and FCC 03-183 (rel. November 18, 2003).

10. IT IS FURTHER ORDERED that this authorization does not permit Mobile Satellite Ventures Subsidiary, LLC to provide common carrier service outside of the United States. If Mobile Satellite Ventures Subsidiary, LLC wishes to provide such service, it must obtain authority pursuant to Section 214 of the Communication Act, 47 U.S.C. § 214, before doing so.

11. IT IS FURTHER ORDERED that Mobile Satellite Ventures Subsidiary LLC IS GRANTED a waiver of the real-time priority and preemptive access requirements of Footnote US315 to Section 2.106 of the Commission's rules, 47 C.F.R. § 2.106, and ITU Radio Regulation 5.353A, for the term of the license.

12. IT IS FURTHER ORDERED that Mobile Satellite Ventures Subsidiary LLC's operation of the 17,000 additional METs is on a secondary basis to safety and distress communications of those stations operating in the Global Maritime Distress Satellite Service.

13. IT IS FURTHER ORDERED that MSV's MET operations shall meet the priority and preemption limits set forth in MSV's letter of January 10, 2003 and that this authorization shall not be viewed as setting any precedent for future applications.

14. IT IS FURTHER ORDERED that this license shall not vest in the licensee any right to operate Earth stations or use the assigned frequencies beyond the term thereof or in any manner other than authorized herein, and neither the licensee nor the rights granted thereunder shall be assigned or otherwise transferred in violation of the Communications Act.

15. IT IS FURTHER ORDERED that the license term for the additional 17,000 half-duplex METs shall be for two years and that MSV's current authority to operate 33,100 half-duplex METs in the lower L-band is modified to expire at the same time as the expiration date of the additional METs authorized in this Order.

16. IT IS FURTHER ORDERED that Mobile Satellite Ventures Subsidiary LLC be afforded thirty day to decline this authorization. Failure to respond within this period will constitute formal acceptance of the authorization.

17. This Order is issued pursuant to Section 0.216 of the Commission's rules on delegated authority, 47 C.F.R. §0.261, and is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Cassandra C. Thomas
Deputy Chief, Satellite Division
International Bureau