

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
RIG TELEPHONES, INC D/B/A DATACOM
and
STRATOS OFFSHORE
TELEPHONE COMPANY
For Consent to Transfer Control of Microwave
and Other Licenses
File No 0000100503 et al.

ORDER

Adopted: September 29, 2000

Released: October 6, 2000

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

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I. INTRODUCTION

1. In this Order, we grant the applications to assign licenses held by Rig Telephones, Inc. d.b.a. Datacom (Datacom) to Stratos Offshore Services Company (Stratos). In doing so, we conclude that the proposed transaction is in the public interest, and will result in benefits to consumers in the Gulf of

Mexico (Gulf). We take this action after considering the opposition of Petroleum Communications, Inc. (PetroCom), as well as several letters from other parties who expressed support for the proposed transaction.

## II. BACKGROUND

2. Datacom is a commercial entity providing telecommunications services to the oil and gas industry offshore, in the inland water, and on land, in the Gulf area.<sup>1</sup> Datacom identifies its primary activities as the supply of microwave circuits, radio communications equipment, and Supervisory Control and Data Acquisition (SCADA) systems for oil, gas, and refinery applications. It advertises that its microwave system “substantially cover[s] all the areas of the Gulf where oil and gas drilling or production is taking place.”<sup>2</sup>

3. Stratos advertises that it specializes in the provision of communications services for customers whose operations lie outside the bounds of traditional terrestrial telecommunications.<sup>3</sup> Within the Gulf, Stratos advertises that it provides both microwave and satellite services.<sup>4</sup>

4. On April 7, Stratos and Datacom filed applications for the assignment of Datacom’s Specialized Mobile Radio (SMR) licenses,<sup>5</sup> Marine Coastal licenses,<sup>6</sup> and Industrial/Business Land Mobile Radio licenses.<sup>7</sup> On April 10, Stratos and Datacom filed an application for the assignment of 211 common carrier point-to-point (common carrier) and private operational fixed service (private) microwave licenses held by Datacom.<sup>8</sup> Stratos and Datacom subsequently amended the pending application on April 27, 2000, and June 2, 2000, to add seven additional call signs. The parties also separately filed an Earth Space Station assignment application with the Commission’s International Bureau in conjunction with this transaction.<sup>9</sup>

5. By delegated authority,<sup>10</sup> the Wireless Telecommunications Bureau (Bureau) released a series of Public Notices announcing that the SMR, Marine Coastal, and microwave applications had been accepted for filing and establishing pleading cycles to enable interested parties to comment on the

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<sup>1</sup> Rig Telephones, Inc. d/b/a Datacom Petitions for Reconsideration of the Commission’s Grant of Datacom’s Request for Waiver of Part 101 of the Commission’s Rules, *Order on Reconsideration*, DA 00-487, ¶ 2 (WTB PSPWD, Mar. 3, 2000).

<sup>2</sup> *About the Company* (visited September 13, 2000) <<http://www.datacomnet.net/about.html>>.

<sup>3</sup> *Company Overview* (visited September 13, 2000) <<http://www.stratos.ca/overview>>.

<sup>4</sup> *Oil and Gas Services* (visited September 13, 2000) <[http://www.stratos.ca/services/oil\\_gas/offshore/og\\_services.cfm](http://www.stratos.ca/services/oil_gas/offshore/og_services.cfm)>.

<sup>5</sup> File number S005908 (lead call sign WFPD628).

<sup>6</sup> File numbers 853180 through 853187 (lead call sign KEB611).

<sup>7</sup> Lead call signs WNRX711 and KD41151.

<sup>8</sup> File number 0000100503 (lead call sign KTR41).

<sup>9</sup> Satellite Radio Applications Accepted for Filing, *Public Notice*, Rept. No. SES-00176 (April 26, 2000). *See also Public Notice*, Rept. No. SES-00195 (June 28, 2000).

<sup>10</sup> *See* 47 C.F.R. § 0.331.

applications.<sup>11</sup> Because they are not subject to the 30-day public notice requirement,<sup>12</sup> Datacom's Private Land Mobile Radio (PLMR) authorizations were not included in these Public Notices.<sup>13</sup>

6. On June 2, 2000, PetroCom – a Commission licensee that also provides telecommunications services in the Gulf – filed a petition to deny in response to the pleading cycle established for Datacom's microwave applications.<sup>14</sup> Specifically, PetroCom claims that the application to assign Datacom's microwave licenses should be denied because it will lessen competition and, therefore, not serve the public interest.<sup>15</sup> Furthermore, PetroCom accuses Stratos and Datacom of operating in violation of the Commission's Rules.<sup>16</sup> On June 15, 2000, Stratos and Datacom filed an Opposition to the Petition.<sup>17</sup> Finally, PetroCom submitted a reply to the Stratos/Datacom pleading on June 23, 2000.<sup>18</sup>

7. Four other parties have filed pleadings in this proceeding: Chevron USA Production Company,<sup>19</sup> Shell Offshore, Inc.,<sup>20</sup> Coastel Communications Company,<sup>21</sup> and Apache Corporation<sup>22</sup>

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<sup>11</sup> Wireless Telecommunications Bureau Weekly Receipts and Disposals, *Public Notice*, Report Number 2090 (WTB, April 25, 2000) (SMR); Wireless Telecommunications Bureau Weekly Receipts and Disposals, *Public Notice*, Report Number 2091 (WTB, May 2, 2000) (Marine Coastal); Wireless Telecommunications Bureau Assignment of Authorization and Transfer of Control Applications Accepted for Filing, *Public Notice*, Report Number 522 (WTB, May 3, 2000) (Microwave). The amendments to the Microwave applications were also placed on Public Notice. Wireless Telecommunications Bureau Assignment of Authorization and Transfer of Control Applications Accepted for Filing, *Public Notice*, Report Number 553 (WTB, June 7, 2000).

<sup>12</sup> 47 U.S.C. § 309(b).

<sup>13</sup> It nonetheless should be noted that, to date, we have not taken any action on these PLMR applications. Further, we anticipate that we will act on those applications in concert with our disposition of the other Datacom and Stratos applications.

<sup>14</sup> Petroleum Communications, Inc., *Petition to Deny* (June 2, 2000) (Petition).

<sup>15</sup> *Id.* at 12.

<sup>16</sup> *Id.* at 10-11.

<sup>17</sup> Stratos Offshore Services Company and Rig Telephones, Inc. d/b/a Datacom, *Opposition to Petition to Deny* (June 15, 2000) (Opposition).

<sup>18</sup> Petroleum Communications, Inc., *Reply to Opposition to Petition to Deny* (June 23, 2000) (Reply). We also note that on September 25, 2000, PetroCom stated an intent to file an additional pleading. Letter to Ms. Magalie Roman Salas, Secretary, Federal Communications Commission, from Richard S. Meyers, Attorney for Petroleum Communications, Inc. (Sept. 25, 2000) ("PetroCom Letter"). On September 27, 2000, Stratos and Rig filed a response to this letter. Letter to Ms. Magalie Roman Salas, Secretary, Federal Communications Commission, from Alfred M. Mamlet and Colleen Sechrest, Counsel for Stratos Offshore Services Company and Rig Telephone, Inc. d/b/a Datacom (Sept. 27, 2000). These letters constitute unauthorized pleadings. Any further pleadings, such as that intended by PetroCom, would also be unauthorized, given that no additional pleading cycle has been established.

<sup>19</sup> Chevron U.S.A. Production Company, *In re: Application of Rig Telephones, Inc. d/b/a Datacom and Stratos Offshore Services Company for Assignment of Fixed Point-to-Point Microwave Service Authorizations File No. 0000100503* (July 3, 2000) (Chevron Letter).

<sup>20</sup> Shell Offshore, Inc., *Re: Application of Rig Telephones, Inc. d/b/a Datacom and Stratos Offshore Services Company for Assignment of Fixed Point-to-Point Microwave Service Authorizations -- File No. 0000100503* (June 13, 2000) (Shell Offshore, Inc., Letter).

(collectively, letter filers).<sup>23</sup> The letter filers, who identify themselves as customers of Stratos and/or Datacom in the Gulf,<sup>24</sup> all support the proposed transaction and state that the proposed transaction would result in public interest benefits.

### III. DISCUSSION

8. As explained below, we find that the proposed assignee, Stratos, is qualified to hold the licenses as proposed and that the assignment of the licenses does not pose an undue risk of harm to competition in the U.S. telecommunications markets. Moreover, we find that this transaction should result in certain public interest benefits. We accordingly conclude that, pursuant to Section 310(d) of the Communications Act, grant of the pending applications will serve the public interest. Hence, we deny the petitions filed with respect to the Stratos and Datacom microwave applications and will grant the pending applications. We note that our approval of this transaction is consistent with the position of the Department of Justice, which has not challenged the proposed transaction.<sup>25</sup>

#### A. Statutory Authority

9. Section 310(d) of the Communications Act provides that “[n]o construction permit, or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner ... to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby.”<sup>26</sup> In applying the public interest test under Section 310(d), the Commission considers four overriding questions: (1) whether the transaction would result in a violation of the Act or any other applicable statutory provision; (2) whether the transaction would result in a violation of Commission rules; (3) whether the transaction would substantially frustrate or impair the Commission's implementation or enforcement of the Act or interfere with the objectives of that and other statutes; and (4) whether the transaction promises to yield affirmative public interest benefits.<sup>27</sup> Prior to approving the applications, we must determine whether the Applicants

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<sup>21</sup> Coastel Communications Company, *Re: Application of Rig Telephones, Inc. d/b/a Datacom and Stratos Offshore Services Company for Assignment of Fixed Point-to-Point Microwave Service Authorizations – File No. 0000100503* (June 14, 2000) (Bachow/Coastel Letter).

<sup>22</sup> Apache Corporation, *Re: Application of Rig Telephones, Inc. d/b/a Datacom and Stratos Offshore Services Company for Assignment of Fixed Point-to-Point Microwave Service Authorizations – File No. 0000100503* (June 14, 2000) (Apache Letter).

<sup>23</sup> The Shell Offshore, Inc., Letter and the Bachow/Coastel Letter were also included as part of the Opposition. We will consider the Apache Letter and the Chevron Letter as late-filed comments. Because these comments represent the Gulf user group, we find them highly relevant to this proceeding and conclude that it is in the public interest to consider them as part of this proceeding.

<sup>24</sup> Coastel is the B Block Cellular Carrier in the Gulf (MSA 306B), and uses microwave facilities operated by Datacom and Stratos as a backbone for its communications operations. Coastel is thus both a customer and a potential competitor within the Gulf. To the extent that the other letter filers do own or can establish their own private microwave facilities we also conclude here that they too are potential competitors. *See infra* ¶ 16.

<sup>25</sup> *See, e.g.,* Various Subsidiaries and Affiliates of Geotek Communications, Inc., Debtor in Possession, *Memorandum Opinion and Order*, 15 FCC Rcd 790, 801 ¶ 24 (2000).

<sup>26</sup> 47 U.S.C. § 310(d).

<sup>27</sup> *See Applications of GTE Corporation and Bell Atlantic Corporation for Transfer of Control*, CC Docket No. 98-184, *Memorandum Opinion and Order*, FCC 00-221, at ¶ 22 (rel. June 16, 2000) (*Bell Atlantic/GTE Order*); *Applications of Ameritech Corp. and SBC Communications Inc. for Transfer of Control*, CC Docket No. 98-141, (continued....)

have shown that the transaction will not violate or interfere with the objectives of the Act or the Commission's Rules, and that the predominant effect of the transaction will be to advance the public interest.<sup>28</sup>

## B. Qualifications

10. In evaluating assignment and transfer applications under section 310(d) of the Communications Act, we do not re-evaluate the qualifications of the assignor or transferor unless issues related to its basic qualifications have been designated for hearing by the Commission or have been sufficiently raised in petitions to warrant the designation of a hearing.<sup>29</sup> By contrast, as a regular part of our public interest analysis, we determine whether the proposed assignee or transferee is qualified to hold Commission licenses.<sup>30</sup>

11. As an initial matter, PetroCom challenges the qualification of Datacom to hold certain private fixed point-to-point microwave licenses, alleging that common carrier traffic is flowing through the private licenses in violation of the Commission's Rules.<sup>31</sup> PetroCom bases its contention on the configurations of two Datacom microwave paths.<sup>32</sup> In its opposition, however, Datacom certifies that the first disputed configuration does not carry any common carrier traffic, and that the second is not in service.<sup>33</sup> For its reply, PetroCom continues to challenge the second configuration and requests that the Commission demand certification from Datacom that it is not providing common carrier traffic over *any* of its private carrier facilities that *are* in service.<sup>34</sup>

12. PetroCom provides no affirmative evidence that Datacom is transmitting common carrier traffic over its private facilities. PetroCom has not provided us with an adequate reason to require that Datacom account for every one of its private wireless licenses and certify its compliance with these operational rules. In the absence of specific evidence to the contrary, we have no reason to believe that

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Memorandum Opinion and Order, FCC 99-279, at ¶¶ 49-50 (rel. Oct. 8, 1999) (*SBC/Ameritech Order*); *Applications of WorldCom and MCI Communications Corporation*, 13 FCC Rcd 18025, 18030-33, ¶¶ 9-12 (*WorldCom/MCI Order*) (citing *Applications of NYNEX Corporation and Bell Atlantic Corporation*, Memorandum Opinion and Order, 12 FCC Rcd 19985, 19987 ¶ 2 & n.2 (1997) (*Bell Atlantic/NYNEX Order*)); *Applications of MCI Communications Corporation and British Telecommunications P.L.C.*, Memorandum Opinion and Order, 12 FCC Rcd 15351, 15367 ¶ 33 (1997) (*BT/MCI Order*).

<sup>28</sup> *Bell Atlantic/NYNEX Order*, 12 FCC Rcd at 20001, 20007, ¶¶ 29, 36; *BT/MCI Order*, 12 FCC Rcd at 15367 ¶ 33.

<sup>29</sup> See *Mobilemedia Corporation, et al.*, 14 FCC Rcd 8017 ¶ 4 (1999) (citing *Jefferson Radio Co. v. FCC*, 340 F.2d 781, 783 (D.C. Cir. 1964)); see also Stephen F. Sewell, "Assignments and Transfers of Control of FCC Authorizations Under Section 310(d) of the Communications Act of 1934," 43 Fed. Comm. L.J. 277, 339-40 (1991). The policy of not approving assignments or transfers when issues regarding the licensee's basic qualifications remain unresolved is designed to prevent licensees from evading responsibility for misdeeds committed during the license period. *Id.*

<sup>30</sup> See *In re Applications of AirTouch Communications, Inc. and Vodafone Group, Plc*, Memorandum Opinion and Order, DA 99-1200, 1999 WL 413,237 (WTB rel. June 22, 1999) at ¶¶ 5-9.

<sup>31</sup> Petition at 10-11 (citing 47 C.F.R. § 101.603(b)(1); 47 C.F.R. § 101.135).

<sup>32</sup> *Id.* at 10.

<sup>33</sup> Opposition at 23-26.

<sup>34</sup> Reply at 13.

Datacom is operating any of the subject facilities in violation of the Commission's Rules. We find, therefore, that PetroCom's contentions regarding alleged violations of the Commission's Rules by Datacom do not constitute a sufficient basis to conclude that Datacom, and hence the assignee, Stratos, are disqualified to hold Commission licenses on this basis.<sup>35</sup>

### C. Public Interest Analysis

13. In conducting our public interest analysis of competitive conditions in markets affected by the proposed assignment, we follow an approach consistent with that previously taken by the Commission.<sup>36</sup> All of these orders followed the approach used in the *LEC In-Region Interexchange Order*,<sup>37</sup> where the Commission found the Department of Justice and Federal Trade Commission 1992 Horizontal Merger Guidelines<sup>38</sup> to be a useful analytical tool for evaluating the likely competitive effects of mergers and acquisitions.<sup>39</sup>

14. Our analysis of competitive effects under the Commission's public interest standard will identify the markets potentially affected by the proposed transaction,<sup>40</sup> assess the effects that the transaction may have on competition in these markets,<sup>41</sup> and evaluate whether the proposed transaction

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<sup>35</sup> As a peripheral matter, we note that the Wireless Telecommunications Bureau previously granted waiver to Datacom of the Part 101 restrictions on common carrier traffic across private 1850-1990 MHz stations. In the Matter of Rig Telephones, Inc. d/b/a Datacom, *Order*, 13 FCC Rcd 25391 (1998). Subsequent to that, the Bureau reversed its decision and denied the waiver. In the Matter of Rig Telephones, Inc. d/b/a Datacom, *Order on Reconsideration*, 15 FCC Rcd 8566 (2000). It also denied another substantially similar waiver request. In the Matter of Rig Telephones, Inc. d/b/a Datacom, *Order*, 15 FCC Rcd 4668 (2000). For purposes of clarification, we note that the waiver request, subsequent grant, and reversal, have no bearing on the instant petition. Here, Datacom does not assert its prior waiver interests, nor does PetroCom cite to the related proceedings.

<sup>36</sup> See, e.g., *Bell Atlantic/GTE Order*, FCC 00-221 at ¶¶ 20-25; *Bell Atlantic/NYNEX Order*, 12 FCC Rcd at 20000-01, 20007 ¶¶ 29, 36; *BT/MCI Order*, 12 FCC Rcd at 15367 ¶ 33; *WorldCom-MCI Order*, 13 FCC Rcd at 18035-39 ¶¶ 15-22. See also Applications of PacificCorp Holdings, Inc., and Century Telephone Enterprises, Inc., *Memorandum Opinion and Order*, 13 FCC Rcd 8891, 8898 ¶ 12 (WTB 1997).

<sup>37</sup> Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area and Policy and Rules Concerning the Interstate, Interexchange Marketplace, *Second and Third Reports and Order*, CC Docket Nos. 960149 & 96-61, 12 FCC Rcd 15756 (1997) (*LEC In-Region Interexchange Order*).

<sup>38</sup> *Department of Justice and Federal Trade Commission 1992 Horizontal Merger Guidelines*, 4 Trade Reg. Rep. (CCH) ¶ 13104 (1992), 57 Fed Reg. 41552 4 (dated Apr. 2, 1992, as revised, Apr. 8, 1997) (Guidelines).

<sup>39</sup> We note that PetroCom suggests an obligation for the Commission to apply the Herfindahl-Hirschman Index (HHI) consistent with the Guidelines. See PetroCom Letter, *supra* note 19. The Commission has stated, however, that according to the Guidelines, the HHI analysis is not meant to be conclusive. See In the Matter of Application of WorldCom, Inc. and MCI Communications Corporation for Transfer of Control of MCI Communications Corporation to WorldCom, Inc., *Memorandum Opinion and Order*, 13 FCC Rcd 18025, 18048 ¶ 37. Furthermore, the Commission has proceeded to note that, "given the unique economic, legal, and technical circumstances that color the telecommunications industry, we will not rigidly adhere to the results of this analysis where our independent expert analysis suggests a different outcome." *Id.*

<sup>40</sup> Our determination of the affected markets requires us to identify the applicants' existing and potential product offerings, and may require us to determine which products offered by other firms compete or potentially compete with these offerings.

<sup>41</sup> Depending on circumstances, this step may include the identification of market participants and analysis of market structure, market concentration, and potential entry.

will result in merger-specific public interest benefits.<sup>42</sup> Ultimately, we must weigh any harmful and beneficial effects to determine whether, on balance, the merger is likely to enhance competition in the relevant markets.

### 1. Competitive Harm Analysis

15. In its petition to deny the proposed transfer of control of licenses, PetroCom defines the relevant market as common carrier microwave radio systems in the Gulf. Using this market definition, PetroCom has calculated that the pre- and post-merger concentration levels, using the Herfindahl-Hirschman Index (HHI), would be 5112.34 and 9743.38, respectively. PetroCom concludes that the significant increase in the HHI resulting from the merger raises significant competitive concerns. We disagree with PetroCom for the following reasons.

16. First, we find that the product market used by PetroCom, common carrier microwave radio systems, is too narrowly drawn and does not reflect the realities of the communications market in the Gulf. One major microwave competitor in the Gulf, SOLA, appears to operate entirely on private microwave channels. There is no significant functional difference for end users between radio systems operating on common carrier microwave channels and those operating on private microwave channels. This is particularly relevant in the Gulf because most of the customers are oil and gas exploration and drilling companies who are themselves eligible to obtain private microwave licenses. Further, many of these companies currently operate private microwave systems in the Gulf and would be in a position to expand such use if third-party providers attempted to raise prices above competitive levels.

17. Second, PetroCom uses callsigns as the basis for market shares used in their HHI analysis. Even within PetroCom's narrowly defined common carrier microwave market, the use of callsigns is misleading because it does not provide any indication of the communications capacity associated with a particular callsign. PetroCom's analysis does not account for the broad range of differing bandwidths that exist throughout the microwave spectrum, reaching from frequency bands at 900 MHz to beyond 39 GHz. Thus, we do not believe that callsigns are an accurate indicator of market share in this context.

18. Third, there is no evidence to indicate that there are significant barriers, such as lack of spectrum, that would preclude a firm from entering or expanding in the Gulf in response to price increases. Rather, Commission licensing records show that applications for microwave licenses in the Gulf continue to be granted.<sup>43</sup> The availability of spectrum would, for example, enable a communications company to enter the Gulf, or expand its current presence there. Spectrum availability also would appear to enable a gas or oil rig owner to consider the option of installing its own microwave system to meet its communications needs.

19. Fourth, the record on balance supports the argument of the applicants that alternative systems are also widely available in the Gulf. Satellite systems and submarine fiber are being used, in some cases, as substitutes for microwave systems. Although we lack specific data that specifies the

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<sup>42</sup> These include but may extend beyond factors relating to cost reductions, productivity enhancements, or improved incentives for innovation. See *Bell Atlantic/NYNEX Order*, 12 FCC Rcd at 20014 ¶ 49; *BT/MCI Order*, 12 FCC Rcd at 15368 ¶ 35. See also Guidelines, 57 Fed. Reg. 41,552, §§ 2.1, 2.2, 4.

<sup>43</sup> For example, the Commission has granted the following microwave licenses in the Gulf: Union Oil Company of California, WPQS652, File No. 0000108919 (Sept. 21, 2000); Coastal Product Service, WPQS632, File No. 0000117254 (Sept. 21, 2000); Petroleum Communications, Inc., WPQR754, File No. 0000163392 (Sept. 6, 2000); Vastar Resources, Inc., WPON831, File No. 0000055157 (Apr. 21, 2000).

relative costs of each of these options, the record indicates that these services are being marketed in the Gulf as competitors to microwave.<sup>44</sup>

20. Finally, we note that four large customers of Stratos and/or Datacom in the Gulf submitted letters supporting the proposed merger, and no customers oppose the transaction. Such a showing of support by current customers reinforces our determination that the proposed merger does not pose a risk of competitive harm to the communications market in the Gulf. To the contrary, these customers support the merger because they believe the combined firm will be able to provide more ubiquitous and more reliable service. In addition, we consider the fact that no opposition from customers has been received to be additional evidence that competitive harm is absent in this context.

21. For the forgoing reasons, we reject PetroCom's claim that the relevant product market for the Gulf geographic region consists solely of common carrier microwave service. Instead, we largely agree with Stratos and Datacom that the relevant product market is broader, and includes private microwave, submarine fiber, and satellite services. We reach no determination as to whether other services that have been identified as potential elements of the product market in the Gulf are in fact part of the relevant product market. Further, we have not recalculated the pre- and post-transaction HHIs using the appropriate market definition and a measure of capacity more accurate than call signs. However, the extent of private microwave operations in the Gulf suggests that the HHI figures would be considerably lower than those submitted by PetroCom. Moreover, whatever the correct HHI levels, we find that no anticompetitive effects will arise, based on the other factors we have outlined, namely: (1) entry is possible because of the availability of microwave spectrum in the Gulf, and would deter any anticompetitive behavior by the applicants; and (2) several large customers of the applicants support the transaction because it will result in improved service to them, and none have filed objections.

## 2. Public Benefit Analysis

22. Stratos and Datacom assert that their merged microwave system will produce both network and administrative efficiencies. Stratos and Datacom claim that, because the Gulf marketplace requires the frequent construction of new facilities that link to existing microwave networks, a combined system will fill in geographic gaps and reduce the cost of constructing facilities in new locations.<sup>45</sup> In addition, Stratos and Datacom claim that a combined system would improve network reliability by increasing the routing options for transmissions.<sup>46</sup> They also state that administrative efficiencies – such as lower maintenance costs, billing efficiencies, and lower tower rental costs – will reduce costs and therefore result in public interest benefits.<sup>47</sup>

23. By contrast, PetroCom disputes whether the efficiencies Stratos and Datacom have identified are sufficient for the purposes of our analysis. It claims that those efficiencies are too generic to be verified, and thus should not be included in our analysis of the public interest benefits.<sup>48</sup> “[W]here efficiency claims are vague, speculative or unverified, such as is the case here,” PetroCom says, “such

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<sup>44</sup> See Opposition at 10-17.

<sup>45</sup> *Id.* at 19.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.* at 21.

<sup>48</sup> Reply at 12.



claims will not be considered.”<sup>49</sup> It also claims that, because of the lack of competition within the product market PetroCom defines (common carrier point-to-point microwave), there is no evidence that any efficiencies will benefit customers.<sup>50</sup>

24. Because a combined Stratos/Datacom system would increase the options for routing transmissions,<sup>51</sup> we conclude that the merger would result in more reliable microwave transmissions in the Gulf. Indeed, Chevron, which supports the proposed merger, identified “better continuity” as one benefit it anticipates,<sup>52</sup> and Shell Offshore, Inc. (SOI) states that “[a]ny redundancy that increases the capacity and reliability of communications of Stratos Offshore’s network is of significant benefit to SOI.”<sup>53</sup> We find this benefit to be particularly relevant in the microwave services, in which adverse weather can disrupt or impair the quality of microwave transmissions.<sup>54</sup>

25. We also find the claimed administrative efficiencies to be achievable and likely to improve market performance. While PetroCom’s claim that the administrative efficiencies “are generic and would apply to the combination of almost any two telecommunications systems with overlapping geographic territories,”<sup>55</sup> these benefits are uniquely beneficial in the Gulf marketplace. Gulf users who are participating in this proceeding and who currently use both Stratos and Datacom services specifically note that the anticipated administrative efficiencies will benefit them. For example, Bachow/Coastel states that “[i]t is efficient, both economically and administratively, for Bachow/Coastel to work with one company to supply the changing communications needs of its customers.”<sup>56</sup> Because many Gulf customers currently link to both Stratos and Datacom’s networks, and because these companies’ communications needs in the Gulf are continuously changing as new facilities are deployed and others are scaled back,<sup>57</sup> the efficiencies in the unified billing systems, consistent product offerings, and coordinated points of contact that the proposed merger will bring are both real and meaningful to Gulf customers. For these reasons, we find merit in Stratos and Datacom’s claim that “[t]hese network efficiencies are vital to

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<sup>49</sup> *Id.* (citing Guidelines).

<sup>50</sup> *Id.*

<sup>51</sup> Opposition at 19. *See also* Reply at 5 (stating that “even a cursory glance at the map provided with PetroCom’s Petition shows that much of the two systems run parallel to one another”).

<sup>52</sup> Chevron Letter.

<sup>53</sup> Shell Offshore, Inc., Letter.

<sup>54</sup> Reply at 9 (noting that one purported benefit of fiber systems is that they are free of the weather-related disruptions that can affect microwave transmissions). *See also* *Times-Picayune* article; “Digital Cable Technology Revolutionizes Oil Production in the 21st Century, by Petroleum Communications, Inc., Harahan, Louisiana,” *ON&T*, May/June 1999 at 46 (reprinted in Reply, appx. B) (stating that “[u]nfavorable atmospheric conditions can interfere with transmission of quality of microwave signals”).

<sup>55</sup> Reply at 12.

<sup>56</sup> Bachow/Coastel Letter.

<sup>57</sup> *See, e.g.* Apache Letter. “In the [Gulf], oil and gas exploration is a transient operation. As oil and gas production and exploration from one location is matured, other location[s] must be identified and the necessary platforms, equipment and personnel moved to the new location.” *Id.*

Stratos Offshore's ability to adapt to the changing communications needs of oil and gas companies in the [Gulf]."<sup>58</sup>

26. We are also persuaded by the conclusions reached by the customers who participated in this proceeding. The efficiencies that have been identified are neither vague nor speculative, but are instead considered likely by Stratos and Datacom's customers. As Apache states, "if Apache desires to coordinate operations in a portion of the [Gulf] where Stratos Offshore is not operating, but Datacom is, Apache would incur administrative and financial costs that would not be incurred if Apache were able to approach Stratos Offshore for the full geographic range of microwave services in the Gulf of Mexico."<sup>59</sup> These obvious benefits are achievable only as a result of the proposed merger.

#### IV. CONCLUSION

27. Stratos and Datacom both currently provide point-to-point microwave services in the Gulf on wide-area common carrier networks. The proposed merger would result in a substantial consolidation of these wide-area common carrier networks. We have concluded that the relevant market in this unique place is larger than that identified by PetroCom, and includes, *inter alia*, Private Fixed Microwave services. We do not believe that the combination of these two major entities within one portion of the market – Stratos and Datacom's merger of their common carrier microwave systems – raises the prospects for anticompetitive harms that PetroCom suggests. Indeed, there is evidence, supported by those Gulf customers who participated in this proceeding, that the proposed merger would produce pro-competitive benefits that are especially significant in the Gulf market.

28. For the above-stated reasons, we conclude that the proposed merger is in the public interest. Accordingly, we grant the applications to assign licenses held by Datacom to Stratos, and we deny the petition to deny filed by PetroCom.

#### V. ORDERING CLAUSES

29. Accordingly, IT IS ORDERED, pursuant to Section 4(i) and (j), 309, and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 309, and 310(d), that the applications filed by Rig Telephones, Inc., d.b.a. Datacom and Stratos Offshore Services Company in the above-referenced proceeding ARE HEREBY GRANTED.

30. IT IS FURTHER ORDERED that the petition filed by Petroleum Communications, Inc., to deny application file number File No. 0000100503, IS DENIED.

31. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry  
Chief, Public Safety and Private Wireless Division  
Wireless Telecommunications Bureau

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<sup>58</sup> Opposition at 19.

<sup>59</sup> Apache Letter at 2.