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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Extending Wireless	)	WT Docket No. 99-266
Telecommunications Services	)	
To Tribal Lands	)	

COMMENTS
OF
CCI INTERNATIONAL N.V.

CCI International N.V. ("CCII"), by its attorneys, hereby submits these Comments in response to the Commission's Notice of Proposed Rule Making ("Notice")[1] in the above referenced proceeding. The Commission's Notice requests comment on potential policy initiatives to extend telecommunications services to tribal lands and other unserved areas. CCII holds a license from the Commission to construct a low earth orbit ("LEO") 1.6/2.4 GHz mobile-satellite service ("MSS") system,[2] and has filed an application for a 2 GHz MSS system.[3] Although the Commission's Notice addresses a wide range of issues concerning the licensing of both terrestrial and satellite radio facilities capable of providing telecommunications services, CCII's comments address only satellite-related matters.

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1 *Extending Wireless Telecommunications Services to Tribal Lands*, WT Docket No. 99-266, *Notice of Proposed Rulemaking*, (rel. Aug. 18, 1999).

2 *Constellation Communications, Inc.*, DA 97-1366, released July 1, 1997. That license was assigned to CCII on September 30, 1999. *See* Letter from Thomas S. Tycz to Robert A. Mazer, File No. SAT-ASG-19990222-00023, dated Sept. 14, 1999. *See also* Letter from Robert A. Mazer to Magalie Roman Salas dated Oct. 14, 1999; Notice at ¶ 37, n. 26.

3 Application of Constellation Communications, Inc., File Number 181-SAT-P/LA-97(46).

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I. MSS And Other Satellite Systems Are An Effective Means Of Extending Modern Telecommunications To Unserved Areas With Low Population Densities

CCII agrees with the Commission's preliminary conclusion that satellite facilities, and MSS systems in particular, hold great potential for extending telecommunications services to tribal lands and other unserved areas.[4] There are a variety of satellite-based system configurations that are possible to provide such service, such as direct service to users by MSS systems,[5] hybrid satellite and terrestrial systems, and VSAT systems. These satellite options offer a wide range of costs and capabilities, however, the choice of the best option should be left to the marketplace. The marketplace is in the best position to determine the most efficient manner to extend service to any particular user or group of users in currently unserved areas.

In particular, LEO MSS systems, such as CCII's, will offer basic telephone service, as well as other modern data and facsimile services, including Internet access, to any mobile or fixed user within their coverage areas. Unlike terrestrial wireless facilities, the cost of providing MSS service is independent of user location or population density. CCII's cost of serving an individual residence or business establishment will be significantly less than $1,000 per user terminal and less than $1.00 per minute of air time.[6] Thus, LEO MSS systems can be a cost effective means of providing efficient telecommunications to users on tribal lands or in other

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4 *See* Notice at ¶¶ 7 and 12-15.

5 The unique capabilities of new satellite systems to provide service to individual subscribers is recognized by the Global Mobile Personal Communications by Satellite Memorandum of Understanding and Arrangements. *See Notice of Proposed Rulemaking*, IB Docket No. 99-67, FCC 99-37, rel. March 5, 1999.

6 These costs are lower than those cited in the Commission's Notice for an existing regional MSS system. *See* Notice at ¶ 13, n 14.

currently unserved areas. Moreover, MSS systems can serve both mobile users as well as fixed residential and business sites in these areas.

II. The Commission's Current Policies Governing The Licensing Of Satellite Systems Provide Sufficient Incentive To Extend Modern Telecommunications Services To Tribal Lands And Other Unserved Areas

The Commission's current satellite licensing policies are based on entry by multiple operators, encouragement of new entrants, and competitive markets.[7] These policies have resulted in a competitive satellite marketplace that has brought a wide variety of innovative services to the American public in an efficient manner. Even further innovations will become apparent as the capabilities offered by new LEO MSS systems, such as the CCII system, are introduced into this marketplace.

LEO MSS systems are an inherently efficient means of providing two-way telecommunications services on a global basis to widely dispersed users living in remote or low population density areas. Customers in such unserved areas, such as tribal lands, constitute a major market that LEO MSS system operators will naturally seek to serve as part of their core business strategy, not only in the United States, but globally as well. Consequently, CCII does not believe that any new satellite licensing policies are needed to provide greater incentives to satellite operators to extend service to tribal lands and other unserved areas. Nor does it appear that any existing satellite licensing regulations need to be eliminated or streamlined to encourage such service, particularly if the result is increased interference to, or reduced system capacity of, other systems. Instead, continuation of the Commission's current satellite licensing policies is

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[7] *See e.g. Licensing of Space Stations in the Domestic Fixed-Satellite Service and Related Revisions of Part 23 of the Rules and Regulations*, CC Docket No. 81-7041 *Report and Order* (rel. Aug. 16, 1983); *Report and Order* in CC Docket No. 92-166, FCC 94-261 (rel. Oct. 14, 1994).

the most effective means of encouraging the provision of satellite services in tribal areas and other unserved areas.[8]

In particular, the Commission should not try to create any licensing preferences for satellite system operators or applicants based on claims relating to service to tribal lands or unserved areas within the United States.[9] Satellite beams cover a relatively large area, including both tribal lands and other areas, compared with the coverage area of a terrestrial radio tower, and LEO MSS systems will use their assigned frequencies on a global basis. Since LEO MSS systems must aggregate users on a global basis to be profitable, any spectrum assignment preferences based on claimed services to limited areas within the United States will distort the global marketplace necessarily served by LEO MSS systems. Thus, any licensing preferences based on assigning more or reserved spectrum or orbit resources to a licensee will negatively affect other systems and the areas served by those satellite systems on a global basis. Moreover, such an approach is likely to embroil the Commission in controversies involving intrusive examination of business planning and operations as applicants seek to justify claims for preferences over other operators through adversarial regulatory proceedings rather than improved service.

While CCII does not believe it necessary or appropriate for the Commission to grant preferences in issuing space segment licenses, there may be special cases where temporary or conditional authorizations or waivers, or other forms of recognition, might be afforded in order to

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8 Of course, any general streamlining of regulations that benefit satellite operators in general will also benefit operators and users of satellite communications in tribal and other unserved areas in particular. *See* Notice at ¶ 58.

9 *See* Notice at ¶¶ 54-55 and 57. *See also* Comments of Constellation Communications, Inc. in IB Docket No. 99-81, dated June 24, 1999 at 11-14.

reduce the cost of serving tribal lands and other unserved areas without adversely affecting other satellite systems operating in the same band. For example, higher recognition than secondary allocation status can be given to user terminals serving fixed users in MSS bands in resolving any interference problems that arise.[10] The Commission might also consider temporary authorization of all 2 GHz MSS operators, subject to coordination with the other operators, to use the 1980-1990 MHz band which is allocated internationally but not in the United States[11] in order to extend service to tribal lands and other unserved areas if the band is not used in a particular area by terrestrial facilities. Other situations may also arise which can be addressed on a case-by-case basis by a waiver or temporary authorization under a general policy finding that service to tribal lands and other unserved areas is in the public interest.[12]

III. The Most Effective Means Of Extending Satellite Service To Tribal Lands And Other Unserved Areas Is Through Subsidies To Service Providers

As discussed above, there is little the Commission can do beyond maintaining its current space segment licensing policies to provide further incentives to satellite operators to increase the level of service to tribal lands and other unserved areas without creating large distortions in the satellite marketplace and the Commission's regulatory procedures. A liberal waiver policy provides sufficient flexibility to address any case-by-case instances where relaxation of

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[10] *See e.g. AirTouch Satellite Services US, Inc.*, DA 99-2010, rel. Oct. 4, 1999 at ¶ 22.

[11] See United States Table of Allocations, 47 CFR 2.106. *See also First Report and Order and Further Notice of Proposed Rulemaking* in ET Docket No. 95-18, FCC 97-93, rel. Mar. 14, 1997.

[12] Constellation is not convinced that any such waivers or temporary authorizations should be conditioned on the existence of a binding agreement between the licensee and the affected tribe as long as the grant to one licensee does not preclude operations of other licensees also eligible to use the same band in the area. *See* Notice at ¶¶ 40-42.

regulations governing user terminal may be justified to encourage extension of service to tribal lands or other unserved areas.

Although satellite systems, and in particular LEO MSS systems, offer a lower cost alternative for increasing the level of service in tribal lands and other unserved areas with low population densities compared to landline and terrestrial wireless facilities, the currently anticipated costs of such user terminals and service are still likely to be higher than the costs for comparable wireline and wireless services available in high population density urban and suburban areas. For this reason, the most effective means of increasing service to tribal lands is likely to be in making satellite service providers eligible to receive federal universal service support, which is an option under consideration in another proceeding.[13]

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[13] *See Further Notice of Proposed Rulemaking*, CC Docket No. 96-45, FCC 99-204, rel. Sept. 3, 1999.

CONCLUSION

CCII supports the Commission's objectives to improve the telecommunications services available in tribal lands and other unserved areas. CCII believes that LEO MSS systems, such as the CCII system, will help to achieve the Commission's goals. As discussed above, CCII believes that, in general, continuation of the Commission's current policies favoring open entry and minimal regulation of satellite systems is the most appropriate approach to achieving these objectives. Any changes in these policies to grant preferences or assign additional spectrum to individual licensees based on claims of service to tribal lands would only distort the national and global marketplace for U.S. satellite systems. Instead, use of the universal service support mechanisms to reduce the price of terminals and service to users in tribal lands is the most effective means of increasing the level of service in these areas.

Respectfully submitted,

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Dated: November 9, 1999

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of November, 1999, a true and correct copy of the foregoing Comments of CCI International N.V. was served by first class mail, postage prepaid, upon the following:

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