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Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
The Establishment of Policies and )  
Service Rules for the Mobile-Satellite )  
Service in the 2 GHz Band )  
\_\_\_\_\_ )

IB Docket No. 99-81

REPLY OF GLOBALSTAR, L.P.

Pursuant to Section 1.429 of the Commission's Rules (47 C.F.R. § 1.429), Globalstar, L.P., by its undersigned attorneys, hereby replies to the parties opposing its Petition for Reconsideration of the Report and Order released August 25, 2000.<sup>1</sup>

Globalstar sought two changes in the rules adopted for 2 GHz Mobile-Satellite Service ("MSS") systems. First, the band plan for 2 GHz MSS should be made consistent with the Clinton Administration's policy on development of Third Generation wireless services by adopting Globalstar's proposed "all shared band plan."<sup>2</sup> Globalstar's plan will facilitate delivery of 3G services, optimizing use of the spectrum, and will avoid valuable 2 GHz MSS spectrum from being severely underutilized or lying completely fallow.

<sup>1</sup> Report and Order, FCC 00-302 (released Aug. 25, 2000) ("Order").

<sup>2</sup> See Globalstar Comments, at 9-12 (filed June 24, 1999).

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Second, the Commission should abandon its policy of reserving spectrum for 2 GHz MSS licensees that commit to serve rural and underserved areas because the Commission has already decided in another context that such policies are not warranted and do not result in delivery of new service to rural and underserved areas. The parties opposing Globalstar's petition have offered no valid justification not to adopt either of these recommended changes.

**I. THE 2 GHZ BAND PLAN SHOULD BE MODIFIED TO ENSURE DELIVERY OF THIRD GENERATION SERVICES.**

Only two 2 GHz MSS applicants filed oppositions to Globalstar's petition.<sup>3</sup> ICO Services Limited ("ICO") and Celsat America, Inc. ("Celsat") both filed oppositions to Globalstar's petition, claiming that the Commission has already considered and rejected the "all shared band plan." This argument ignores the significant development mandated by President Clinton's Memorandum directing the Commission and National Telecommunications and Information Administration ("NTIA") to ensure that terrestrial wireless service providers have access to spectrum capable of delivering Third Generation ("3G") services to the American public. In order for MSS providers to compete in this new environment, the

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<sup>3</sup> The Boeing Company filed a "Reply" on January 8, 2001, which "opposes" Globalstar's petition with respect to the 2 GHz MSS band plan. Boeing's opposition is thus untimely. See 47 C.F.R. § 1.429(f). Moreover, the copy of Boeing's "Reply" on the Commission's electronic database includes no certificate of service, showing service as required. See 47 C.F.R. § 1.429(f-g). Accordingly, Boeing's "Reply" should be stricken as procedurally defective.

Commission must similarly ensure that 2 GHz MSS licensees have access to sufficient spectrum to provide 3G services.

The band plan adopted in the Order does not meet this standard. Rather, the existing 2 GHz MSS band plan will only ensure that operational systems can provide first generation voice and data services. That result is neither sufficient to assure a competitive MSS industry nor consistent with the policy goals in the Presidential Memorandum.

Globalstar's concern has been highlighted by the Petition for Reconsideration of the Order filed by Final Analysis, Inc. Final Analysis holds a license for a Non-Voice, Non-Geostationary ("NVNG" or "Little LEO") satellite system. It asked that the Commission reconsider the 2 GHz MSS rules to make spectrum available for Little LEO systems from 2 GHz MSS frequencies designated for systems that ultimately do not implement and from the set-aside for carriers committing to serve rural markets.

Even though its petition is procedurally barred,<sup>4</sup> Final Analysis's underlying concern is similar to that of Globalstar. Currently, Little LEO systems serve a niche market for non-voice, data messaging services. In the future, 2 GHz MSS systems and 1.6/2.4 GHz MSS systems will be able to provide a variety of services, including data messaging and voice. Final Analysis doesn't want to be limited in

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<sup>4</sup> See Globalstar's Opposition to Petitions for Reconsideration (filed Dec. 28, 2000).

the markets it can reach as an NVNG system, and, therefore, desires access to more bandwidth.

This economic imperative applies to the 2 GHz MSS band plan. The Commission and NTIA are developing a plan to enable terrestrial wireless providers to offer 3G services. In order for 2 GHz MSS licensees to compete on a level playing field with these companies in the future, satellite systems must have access to the bandwidth needed to provide similar services. The current 2 GHz band plan does not provide that bandwidth because there are too many scenarios in which operational systems can be limited to 3.88 MHz in each direction (35 MHz divided by eight remaining applicants plus one, see Order, ¶ 16). This limitation on bandwidth constrains marketability and viability for 2 GHz MSS systems. As Globalstar pointed out in its petition (at 4):

Internet service offerings most popular with consumers require bandwidths on the order of 10-15 MHz. Multimedia applications for handheld terminals such as videoconferencing, distance learning, and interactive services also require a minimum of 10-15 MHz. With 3.5 MHz, the amount presumptively available to each licensee under the Commission's 2 GHz MSS band plan, or even 5 MHz, the next generation of satellite systems would be restricted to voice and lower speed data services. In other words, with access guaranteed to only 3.5 MHz of spectrum, 2 GHz MSS systems can only plan to offer services that were available 10 years ago, rather than five years into the future.

The all shared band plan mitigates this problem by giving all operational systems the opportunity to share the entire 35 MHz bandwidth in each direction.

Avoiding the problem faced by Final Analysis is a clear rationale for the Commission to grant Globalstar's petition.

ICO and Celsat also repeat the concerns voiced by the Commission that Globalstar's plan is unworkable because it requires prior coordination or unsuitable because it mandates the use of a certain technology.<sup>5</sup> These are both red herrings. Inter-system coordination is a feature of the Commission's plan as well as the all shared band plan. Indeed, under the adopted plan, all licensees will be limited to the least amount of spectrum (3.88 MHz) if they cannot find a method of cooperating on spectrum usage. Coordination is integral to both plans. The Commission does a disservice to 2 GHz MSS applicants and the public to avoid a superior band plan based on an unsupportable assumption that there will be less cooperation under one plan than the other.<sup>6</sup>

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<sup>5</sup> Celsat makes the absurd statement that Globalstar's petition should be dismissed and addressed in the studies of 3G spectrum undertaken by the Commission and NTIA. Celsat Opp., at 3 n.6. Obviously, the 2 GHz MSS spectrum is not under study in those proceedings, and, NTIA is not the decisionmaker for the 2 GHz MSS band plan. In any event, the issue is not whether the 2 GHz frequencies should be designated for 3G; the issue is whether the Commission should provide licensed 2 GHz MSS systems with the capacity to compete with wireless systems that use frequencies that are designated for 3G services.

<sup>6</sup> The Commission criticized Globalstar's plan based on Globalstar's comment that "negotiations do not always succeed, or can drag on for years." Order, ¶ 26. But, this applies equally to negotiations to aggregate spectrum, or to coordinate secondary frequency uses, under the adopted band plan. The all shared band plan has the benefit of providing an incentive to cooperate at the initial stages before systems can be constructed and placed into operation.

As to technology, Globalstar's plan does not mandate the use of a certain technology. It encourages the use of sharing technology, or mutually-agreeable methodologies to ensure that sharing and non-sharing technologies can be accommodated. Again, this false concern about technological freedom is not a rational basis on which to reject the all shared band plan.

Celsat also reiterates the Commission's observation that all proposed Third Generation radio transmission technologies ("RTTs") can be accommodated in the 3.88 MHz available for each 2 GHz MSS applicant. This argument misses the point of Globalstar's petition. The issue is not just whether a certain RTT *can* be used.<sup>7</sup> Rather, as described above, the critical issue is whether operational 2 GHz MSS systems will have access to the bandwidth necessary for 3G services, such as multimedia applications. The all shared band plan resolves this critical problem, and gives all 2 GHz MSS licensees the opportunity to provide competitive 3G services.

ICO claims that the Commission should not be concerned with this issue because there is no "real-world obstacle" to aggregation of 3.88 MHz segments by multiple 2 GHz MSS systems. ICO Opp., at 4. Obviously, in theory, operational 2 GHz MSS systems can aggregate spectrum. But, in reality, aggregation may prove more difficult. In Phase I of the band plan, there is 18 MHz of spectrum available,

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<sup>7</sup> It is, of course, important for all RTTs to be available for use by MSS providers to take advantage of equipment that has already been designed and built for terrestrial operations. See Globalstar's Petition, at 5-6 (filed Nov. 3, 2000).

or 4.5 segments of 3.88 MHz each. If two operational systems choose non-contiguous Selected Assignments, and decline to reconfigure to accommodate later entrants (e.g., because of the costs expended to clear the bands of terrestrial systems), then the next several systems cannot aggregate any spectrum. And, even if several systems are willing to aggregate up to 15 MHz to accommodate 3G service offerings, the timing of their in-service dates may impair the ability of the first to offer such services for years. Thus, the fact that Globalstar's goals are theoretically possible under the Commission's band plan does not mean that they can or will be achieved. These theoretical possibilities are no reason to ignore a more flexible and efficient plan for use of the available spectrum.

## **II. THE COMMISSION SHOULD ELIMINATE THE SET-ASIDE FOR SERVICE TO RURAL AREAS.**

In asking the Commission to reconsider the set-aside of spectrum for 2 GHz MSS systems committing to serve rural areas, Globalstar explained that this rule is inconsistent with policy established prior to the adoption of the rules for 2 GHz MSS. Specifically, the Commission recently determined that allocations of spectrum for specific geographic areas, i.e., tribal areas, are not warranted because they do not promote service.<sup>8</sup>

Celsat opposed Globalstar's petition on this point claiming that "the rural set-aside spectrum is not designated for a specific geographic area but instead is simply

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<sup>8</sup> Extending Wireless Telecommunications Services to Tribal Lands, Report and Order, WT Dkt. No. 99-266, ¶¶ 56-57 (released June 30, 2000).

additional spectrum awarded to those companies that commit to providing service to rural areas. The rural set-aside spectrum can be used anywhere.” Celsat Opp., at 4.

For purposes of the 2 GHz MSS set-aside, this is *not* a difference and has no significance. Although, in the tribal lands proceeding, the Commission declined to assign spectrum for terrestrial services in specific geographic areas, it effectively has done so here. All 2 GHz MSS licensees must meet certain geographic coverage standards to provide service *throughout* the United States. Order, ¶¶ 55-60. By setting aside spectrum for service to rural communities within that area, the Commission has effectively assigned spectrum for specific geographic areas.

This is exactly why the rural set-aside is based on an arbitrary premise. The Commission has required all 2 GHz MSS licensee to be capable of providing service throughout the entire United States. Therefore, acquiring additional spectrum to serve a subset of that service area will not provide any additional incentive to make MSS available within the United States.<sup>9</sup>

Moreover, the economics of satellite-delivered services make the rural set-aside unnecessary. The best markets for satellite voice and data services generally lie outside those markets covered by terrestrial wireline and wireless services. The terrestrial service providers have a lower cost basis, and are generally able to offer

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<sup>9</sup> Furthermore, licensees are awarded additional spectrum for committing to serve rural areas, but there is no apparent penalty if that commitment does not result in an actual increase in service to such areas.

cheaper rates in high population areas. Because satellite services have higher build-out costs, satellite service providers must focus their marketing efforts where they may have an advantage in cost or quality of service -- in rural and underserved areas. Thus, the higher costs of satellite service provide even more incentive for satellite providers to use every frequency available to attract customers in the areas where satellite services are more competitive. A spectrum-based incentive, such as the rural set-aside, is neither needed nor effective.

### III. CONCLUSION

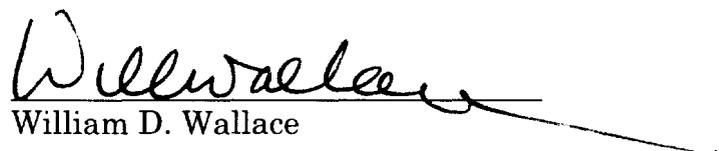
For the reasons set forth in Globalstar's Petition for Reconsideration and this Reply, the Commission should modify the spectrum plan for 2 GHz MSS licensees and adopt the "all shared band plan" detailed in Globalstar's comments, and eliminate the spectrum set-aside for service to rural and underserved areas.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I, William D. Wallace, hereby certify that I have on this 10th day of January, 2001, caused to be served true and correct copies of the foregoing "Reply of Globalstar, L.P." upon the following parties via hand delivery (indicated by an asterisk (\*)) or United States first-class mail, postage prepaid, to the following persons:

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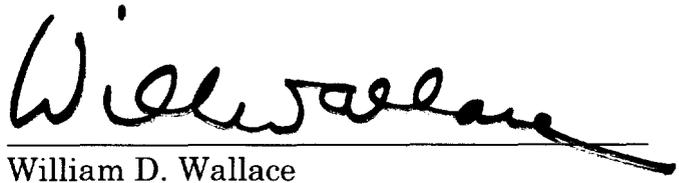
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