Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz For Mobile and Fixed Services to Support The Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems	)	ET Docket No. 00-258
	)	
Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum At 2 GHz for the Mobile Satellite Service	)	ET Docket No. 95-18
	)	
The Establishment of Policies and Service Rules for the Mobile-Satellite Service In the 2 GHz Band	)	IB Docket No. 99-81
	)	
Petition for Rule Making of the Wireless Information Networks Forum Concerning The Unlicensed Personal Communications Service	)	RM-9498
	)	
Petition for Rule Making of UTStarcom, Inc. Concerning the Unlicensed Personal Communications Service	)	RM-10024

COMMENTS OF GLOBALSTAR, L.P.

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SUMMARY

Globalstar, L.P., opposes the reallocation of any segment of the 2 GHz Mobile-Satellite Service ("MSS") spectrum for licensing to terrestrial mobile carriers. The Commission has long recognized the public interest benefits of MSS, and those benefits are not served by taking spectrum away from the licensed 2 GHz MSS systems. Indeed, the Commission has twice found on a comprehensive factual record that 2 GHz MSS requires the entire 70 MHz currently allocated to that service. Nothing has changed to affect that finding.

Taking spectrum away from 2 GHz MSS would impair MSS systems and harm potential users. With less spectrum, licensed MSS systems may be limited in the types of telecommunications services that they can offer to rural and underserved areas of the United States. As Globalstar has established in the 2 GHz MSS proceedings, each MSS licensee should have access to 10-15 MHz of contiguous spectrum to provide advanced wireless services, like those to be offered by terrestrial networks. Decreasing the frequencies available for 2 GHz MSS may make it impossible for the licensed systems to provide such services, thereby increasing the telecommunications divide between urban and rural areas.

Limiting MSS spectrum also may restrict the diversity of telecommunications services available in all areas of the United States. Diversity is a critical component of a nationwide communications system, as illustrated by the communications needs following the events of September 11, 2001. Rushing to reallocate MSS

spectrum due to the unavailability of the terrestrial IMT-2000 bands is short-sighted.

Another reason for not reallocating the 2 GHz MSS spectrum is that the currently allocated 70 MHz is the last available spectrum for MSS in the United States. The Commission has declined to allocate in the United States an international allocation of 40 MHz for MSS in the 2.5 GHz band. It has previously taken 10 MHz at 1980-1990 MHz from an international MSS allocation for use by terrestrial services in the U.S. Further reductions in MSS spectrum available in the United States could seriously impair the industry.

Reallocation of 2 GHz MSS spectrum should also be rejected as inconsistent with the Commission's spectrum management policies. This proceeding was originally initiated to designate spectrum in the United States for terrestrial 3G services to be harmonized with spectrum for terrestrial 3G services globally. Use of the 2 GHz MSS spectrum is inconsistent with that goal because it is not one of the band segments designated for the terrestrial component of global 3G services.

Moreover, the Commission has established no rational process to identify whether spectrum can or should be reallocated from 2 GHz MSS. The Commission has already recognized that 2 GHz MSS licensees need more, not less spectrum, and it has declined to require 2 GHz MSS licensees to share spectrum, resulting in increased need for the total amount of spectrum for operational systems. Decreasing the available spectrum is contrary to these actions.

The Commission should not plan to reallocate spectrum assigned to 2 GHz MSS systems that fail to launch. The inability of one MSS licensee to construct and launch its system cannot be equated with a decreased "need" for MSS spectrum. The need for spectrum has been firmly justified, and given the number of licensees, the entire 70 MHz will be needed for operational systems to provide advanced wireless services. The 70 MHz allocation should be retained to ensure that 2 GHz MSS systems can establish viable business plans based on offering advanced telecommunications services to consumers.

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COMMENTS OF GLOBALSTAR, L.P.

Pursuant to Section 1.415 of the Commission's Rules, Globalstar, L.P. ("GLP") submits the following comments on certain proposals in the "Further Notice of Proposed Rulemaking" in the above-referenced dockets, specifically, on issues related to the allocation for Mobile-Satellite Service ("MSS") at 2 GHz.

BACKGROUND

The initial "Notice of Proposed Rulemaking" in ET Docket No. 00-258 sought comment on proposed allocations for advanced terrestrial mobile services in bands specifically designated for that purpose globally by the International Telecommunication Union ("ITU").[1] At the 2000 World Radiocommunication Conference, the ITU recommended that administrations select spectrum from the bands 2500-2690 MHz and 1710-1885 MHz for services designated as "IMT-2000," that is, Third Generation ("3G") terrestrial mobile services. However, the Commission has found that the existing uses of these bands in the United States present difficult political and technical issues that it cannot resolve quickly for the purpose of designating some or all that spectrum for terrestrial IMT-2000.[2]

Hence, in the "Further Notice of Proposed Rulemaking," the Commission is seeking comment on the possibility of introducing 3G services **into bands not designated** for the terrestrial component of IMT-2000 by the ITU, nor identified as

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[1] See Amendment of Part 2 of the Commission's Rule to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems, 16 FCC Rcd 596 (2001) ("Initial 3G NPRM").

[2] Nevertheless, the Commission has already taken a step toward introducing advanced wireless services into the 2500-2690 MHz band by adopting an allocation for "mobile" services in this band, even though it has declined to relocate the incumbent users. First Report and Order and Memorandum Opinion and Order, ET Dkt. No. 00-258, FCC 01-256 (released Sept. 24, 2001) ("First 3G Order").

possible 3G terrestrial allocations in the United States in ET Docket No. 00-258.[3] Included among the frequencies for comment are bands allocated for MSS at 1990-2025 MHz (earth-to-space) and 2165-2200 MHz (space-to-earth) ("2 GHz MSS"). GLP has an interest in these bands because the Commission recently licensed Globalstar, L.P., and seven other applicants to launch and operate MSS systems within these two bands.[4]

For the reasons set forth below, the Commission should not reallocate any of the 2 GHz MSS spectrum for terrestrial 3G services at this time.[5] Satellite systems, rather than terrestrial systems, will bring 3G services to rural and underserved areas and, therefore, 2 GHz MSS is an essential component of establishing advanced telecommunications services throughout the United States. Reallocating MSS spectrum at 2 GHz is inconsistent with this spectrum management goal, contrary to the public interest, and harmful to the MSS industry and consumers of telecommunications services.

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[3] Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, FCC 01-224 (released Aug. 20, 2001) ("Further 3G NPRM").

[4] Globalstar, L.P., DA 01-1634 (released July 17, 2001). The other licensees are The Boeing Company, Celsat America, Inc., Constellation Communication Holdings, Inc., ICO Services Limited, Iridium LLC, Mobile Communications Holdings, Inc., and TMI Communications and Company, Limited Partnership.

[5] Globalstar, L.P., is a member of the Satellite Industry Association ("SIA") and supports the comments being filed by SIA in this docket. In its own comments, Globalstar has attempted to amplify and expand on the issues rather than reiterate the points made by SIA.

I. TO ACHIEVE THE PUBLIC INTEREST BENEFITS OF MSS, THE COMMISSION MUST RETAIN THE 2 GHz MSS ALLOCATION.

In the past ten years, the Commission has repeatedly taken the position that MSS systems serve the public interest by offering advanced telecommunications services to all persons in the United States and, in particular, by connecting persons in rural and other areas unserved by terrestrial wireline and wireless companies with other places in the United States and around the world.[6] MSS systems thus fulfill one of the core purposes of the Communications Act of 1934, "to make available, so far as possible, to all the people of the United States . . . a rapid, efficient nationwide, and world-wide wire and radio communication service."[7]

A. 2 GHz MSS Systems Require All Spectrum Currently Allocated.

When the Commission adopted rules and policies specifically for 2 GHz MSS licensees, it noted:

> These satellite systems will provide new and expanded regional and global data, voice and messaging services using the 2 GHz frequency band (2 GHz MSS). The 2 GHz MSS systems also will enhance competition in mobile satellite and terrestrial communications services, and complement wireless service offerings through expanded geographic coverage. 2 GHz MSS systems will

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[6] See, e.g., Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service, 12 FCC Rcd 7388, ¶ 13 (1997) ("2 GHz MSS Allocation Order"), aff'd on recon., 13 FCC Rcd 23949, ¶ 10-11 (1998); 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, 9 FCC Rcd 5936, ¶ 3 (1994) ("Big LEO Service Rules Order").

[7] 47 U.S.C. § 151.

> thereby promote development of regional and global communications to unserved communities in the United States, its territories and possessions, including rural and Native American areas, as well as worldwide.[8]

The question in this proceeding for the Commission is whether these public interest functions can be maintained with less spectrum? The answer is clearly "no" as indicated in the Commission's own findings.

First, when the Commission adopted the 70 MHz allocation for 2 GHz MSS, it specifically found that 70 MHz was needed to achieve the benefits of MSS.[9] In its comments, Globalstar argued that it and other MSS systems require 10-15 MHz of contiguous spectrum to provide satellite-based 3G services. While the Commission's spectrum assignment decision has made achievement of that objective more problematic, the "need" for MSS spectrum has not changed, nor has the Commission identified any circumstances that suggest the utility of 2 GHz MSS can be preserved with less spectrum. Indeed, if the Commission substantially reduces the amount of spectrum available to 2 GHz MSS, it would substantially reduce the 3G services available over 2 GHz MSS systems. With less spectrum, operational systems may be restricted to offering narrowband voice and data services despite

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[8] See The Establishment of Policies and Service Rules for the Mobile-Satellite Service in the 2 GHz Band, 15 FCC Rcd 16127, ¶ 1 (2000) ("2 GHz MSS Service Rules Order").

[9] 2 GHz MSS Allocation Order, 12 FCC Rcd at 7395, ¶ 14 ("it is in the public interest to allocate the full 70 megahertz . . . to MSS as proposed, rather than a lesser amount"); 2 GHz MSS Allocation Recon. Order, 13 FCC Rcd at 23954, ¶ 10 ("The record contains ample evidence that MSS will need at least 70 megahertz of spectrum to meet demand.").

the fact that the services in demand for the future via satellite are the same broadband services that terrestrial carriers intend to offer. If multiple MSS systems are to provide broadband services to rural America, they require all the spectrum currently allocated at 2 GHz.

Second, in granting multiple 2 GHz MSS licenses, the Commission recognized that the amount of spectrum specifically assigned to each of the eight licensees was only enough to "commence" operations and that each licensee needs access to additional frequencies to build a robust MSS business.[10] Globalstar has repeatedly explained to the Commission why individual systems need access to at least 10-15 MHz in each direction to provide 3G services via satellite.[11] Given the number of 2 GHz MSS licensees, and the variety of system architectures, more, not less, spectrum is needed to ensure that each operational system will be able to provide a robust service menu, including advanced services.

Third, reallocating spectrum to terrestrial mobile services will impair the capability of MSS systems to serve the public, leaving rural and unserved areas lagging behind urban areas. Terrestrial wireless carriers, for economic reasons, rather than a shortage of resources, have not extended their networks into rural areas. For example, after over 15 years of cellular and PCS service, 60% of the U.S.

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[10] See 2 GHz MSS Service Rules Order, 15 FCC Rcd at 16138-39, ¶ 17.

[11] See, e.g., Supplemental Comments of Globalstar, L.P., IB Docket No. 99-81 (filed Feb. 17, 2000).

land mass is served by two or fewer mobile phone providers.[12] Terrestrial wireless carriers have simply failed to rollout service to vast areas of rural America.

In contrast, the Commission has required every 2 GHz MSS system to extend service to all parts of the United States.[13] Thus, for example, the Globalstar system currently provides the same level of service in the rural American plains and southwest as it does in the urban areas of the east and west coasts. MSS, not cellular or PCS, provides the best opportunity for rural America to receive advanced telecommunications services. The Commission must ensure that MSS systems have sufficient spectrum to provide such services, consistent with its actions in the 2 GHz MSS allocation orders.

B. 2 GHz MSS Licensees Do Not Have Access to Spectrum Other Than Within the 2 GHz MSS Allocation.

In deciding whether to reallocate any spectrum from 2 GHz MSS, the Commission must take into account that MSS spectrum resources are limited, and there are no prospective expansion bands for MSS. Currently, all 70 MHz within the 2 GHz MSS allocation in the United States are allocated either internationally or regionally for MSS. The other MSS spectrum allocations have been assigned to

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[12] See Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, FCC 01-192, App. C, Table 4 (July 17, 2001).

[13] See 47 C.F.R. § 25.143(b)(2).

existing systems or reserved for existing systems.[14] Thus, unlike terrestrial service providers, who have access to over 200 MHz in every market (not counting the 190 MHz now available at 2500-2690), and have the technical ability to reuse their frequencies more intensively than MSS, there is no expansion spectrum for 2 GHz MSS systems.

Moreover, the Commission has already reduced by 50 MHz the international allocation for MSS in the United States; further reductions will damage the potential for this industry. The Commission has rejected for the U.S. an ITU allocation for MSS at 2500-2520/2670-2690 MHz and has taken away 10 MHz (1980-1990 MHz) from the global MSS allocation at 2 GHz. The former 40 MHz are being reserved for new fixed two-way services,[15] while the latter 10 MHz are allocated to PCS.[16] Therefore, MSS has already been shortchanged in the U.S. by 50 MHz compared with the rest of the world. Any further diminution would handicap the industry beyond hope for recovery.

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[14] See Big LEO Service Rules Order, 9 FCC Rcd at 5954-56 (adopting band plan to accommodate five of six 1.6/2.4 GHz MSS applicants); Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Service in the Upper and Lower L-Band, 11 FCC Rcd 11675 (1996) (proposing to assign lower L-band MSS spectrum exclusively for the benefit of AMSC).

[15] See Initial 3G NPRM, 16 FCC Rcd at 624-25, ¶ 73, aff'd on recon., FCC 01-256, ¶¶ 31-38 (released Sept. 24, 2001).

[16] See Amendment of the Commission's Rules to Establish New Personal Communications Services, 9 FCC Rcd 4957, ¶¶ 94-97 (1994).

C. The Public Interest Is Served by Maintaining Diversity in Available Mobile Services.

The tragic events of September 11, 2001, have pointed out the need for the Commission not to rush to judgment on reallocating MSS spectrum for terrestrial 3G services. Historically, the Commission has allocated spectrum for a variety of wireless services, ensuring that not all communications channels are disrupted at the same time. That diversity proved critical for the relief efforts following the terrorist attacks.

Local terrestrial-based communications systems were overwhelmed following the attacks in New York City and the Washington Metropolitan area. The existing MSS systems Globalstar and Iridium both donated equipment and airtime for the rescue and recovery efforts. At least one satellite phone sales outlet saw a 400 percent increase in sales, because satellite phone systems were not affected by events on the ground.

Even if the terrestrial wireless phone industry can make a case that it needs more spectrum to meet demand and introduce new services, the Commission has a public interest obligation to look beyond that industry's short-sighted demands and provide for "nationwide and world-wide" communications networks. It is not always possible to predict why or when a certain form of communications service will be needed. It is possible, however, to provide for diversity in services, ensuring a variety of communications channels when needed. That important principle dictates that the allocation for 2 GHz MSS be preserved, and that MSS systems

have access to sufficient spectrum to offer robust communications services that remain available throughout the U.S.

II. THE REALLOCATION PROPOSALS IN THE FURTHER NPRM ARE CONTRARY TO EXISTING COMMISSION POLICIES.

In the Further 3G NPRM, the Commission seeks comment on reducing the 2 GHz MSS allocation by 10, 14 or 30 MHz and reallocating the excess to terrestrial mobile services. The Commission has offered no public interest reason for any of these reallocation proposals. Rather, because it is reluctant to reallocate the bands designated for IMT-2000 by the ITU, the Commission is arbitrarily attempting to cobble together 3G spectrum by taking spectrum from other services.

This approach to spectrum management is irrational on several levels. On the one hand, the Commission has drifted far afield from the goal underlying this proceeding, that is, to identify in the United States spectrum consistent with the global ITU designation for IMT-2000.[17] If the Commission will not designate a global band for 3G services, it should reexamine whether it makes sense to designate any new spectrum at all for terrestrial mobile services, as opposed to implementing a transition plan for existing cellular and PCS frequencies to be used for 3G services.

CTIA, for example, has made it abundantly clear that its members have little interest in the 2 GHz MSS bands for 3G terrestrial services. CTIA's goals for 3G are to harmonize U.S. spectrum allocations with U.S. allies and trading partners

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[17] See Initial 3G NPRM, 16 FCC Rcd at 610, ¶ 32.

and to do so in the 1710-1850 MHz band, supplemented by 2110-2150/2160-2165 MHz.[18] According to CTIA, "attempting to develop commercially viable [terrestrial] advanced wireless systems in spectrum bands used by few other nations" would deny to the U.S. the benefits of harmonization and would increase the costs of equipment for new 3G services.[19]

The 2 GHz MSS band also presents serious difficulties for implementation of terrestrial 3G services. The relocation of Broadcast Auxiliary Service stations from the 1990-2025 MHz band and Fixed Microwave Service stations from the 2165-2200 MHz band is premised on a 10-year sunset date.[20] That time period is not inconsistent with the long lead-time needed to complete construction and launch of a global MSS system, but is contrary to CTIA's members' need for 60-90 MHz of new spectrum by December 2004 and an additional 110-140 MHz by December 2008.[21]

On the other hand, in attempting to reallocate MSS spectrum on an *ad hoc* basis according to arbitrary formulas (Further 3G NPRM, ¶¶ 25-26) rather than a

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[18] See CTIA, "Harmonized Spectrum for Advanced Mobile Services," ex parte presentation in ET Dkt. No. 00-258 (Sept. 27, 2001).

[19] Id., at 2, 4.

[20] Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service, 15 FCC Rcd 12315, ¶¶ 52, 80 (2000).

[21] CTIA ex parte presentation, supra, at 2.

comprehensive plan, the Commission ignores its very own predicate for allocating 70 MHz for 2 GHz MSS. As discussed above, the Commission has already made a positive determination that MSS at 2 GHz requires 70 MHz. The fact that some in the terrestrial mobile industry may "want," as opposed to "need," additional spectrum for new 3G services does not vitiate this finding. Moreover, any allocation for IMT-2000 services from the 2 GHz MSS band will be superfluous because the Commission has initiated the reallocation of the 2500-2690 MHz band for the terrestrial mobile service to be fulfilled through "a market-based approach."[22]

The Further 3G NPRM is itself internally inconsistent. While suggesting that spectrum might be shaved off the 2 GHz MSS allocation, the Commission insists that "any reallocation of existing MSS spectrum would not significantly impair any of the current licensees' rights and reasonable expectations to retain its current assigned spectrum allotment and acquire additional MSS spectrum for purposes of deploying and operating a fully matured 2 GHz MSS system." Further 3G NPRM, ¶ 29. "Fully matured" MSS systems need all the available spectrum and access to at least 10-15 MHz contiguous spectrum in each direction for each system. Since not all systems can share spectrum, 35 MHz in each direction will plainly not be sufficient for four "fully-matured" MSS systems, let alone the eight that are licensed.

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[22] See First 3G Order, FCC 01-256, ¶ 19

In this regard, the Commission's analysis in the Further 3G NPRM is fundamentally flawed because it reaffirms the policy of permitting 2 GHz MSS licensees to launch non-sharing MSS systems (¶ 23) even as it fails to acknowledge that multiple non-sharing MSS systems will ultimately require more spectrum rather than less. In denying Globalstar's proposal for the "all shared band" plan, the Commission actually *increased* the spectrum requirements for 2 GHz MSS licensees, while attempting to find ways to decrease the total allocated spectrum. These conflicting actions in the Further 3G NPRM underscore the Commission's failure to take into account the issues actually affecting the operation of MSS systems. Therefore, the Commission must preserve the status quo at 2 GHz MSS established as a result of proceedings in which the Commission actually compiled and considered a complete record.

III. THE 2 GHZ MSS ALLOCATION SHOULD NOT BE ALTERED IF LICENSED SYSTEMS FAIL BECAUSE THE SPECTRUM WILL NOT BE UNUSED.

The Commission seeks comment on whether to preserve "abandoned" spectrum at 2 GHz for the remaining 2 GHz MSS licensees or whether to reallocate that spectrum to terrestrial wireless services. Further 3G NPRM, ¶ 28. This suggestion is based on incorrect assumptions about the 2 GHz MSS service, and, if implemented, will inevitably lead to decisions that do not serve the public interest.

Spectrum allotted for 2 GHz MSS systems that do not implement is not "abandoned." All 2 GHz MSS licensees have the "right and reasonable expectation" (Further 3G NPRM, ¶ 29) to use the entire 63 MHz of spectrum beyond the 7 MHz

of their "Selected Assignment," to the extent that they can coordinate such use with other licensees.[23] Indeed, given the number of licensees, the opportunity to share spectrum across the entire band is the only certain avenue for 2 GHz MSS systems to mature fully.

The loss of the opportunity to coordinate or acquire access to more spectrum compounds the impairment to licensees and the public. At the outset, it impairs MSS systems' ability to offer advanced wireless services, which in turn will adversely affect the commercial viability of 2 GHz MSS systems and, consequently, will adversely affect the ability of 2 GHz MSS licensees to raise the financing necessary to build and operate the systems. By limiting the scope of services, the Commission limits the opportunities for these systems to become operational and thereby limits the access to advanced wireless services for rural America. Preserving the entire 2 GHz MSS allocation allows MSS operators to plan to offer 3G services and to innovate and expand services in the future, increasing their ability to attract financing.

Accordingly, the Commission must cease using the assumption that the failure of one MSS system suggests that the public interest in the MSS allocation lies elsewhere. This is simply incorrect; the Commission itself concluded to the contrary in the 2 GHz allocation proceeding. The failure of one company to

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[23] 2 GHz MSS Service Rules Order, 15 FCC Rcd at 16139, ¶ 19.

implement is generally based on its failure to raise the necessary financing, not because the public interest in the allocation has shifted.

A compelling example of this principle has recently presented itself from another quarter. Verizon Wireless has asked the Commission to allow it to spread out its payments for spectrum purchased in Auction No. 35, because the financial markets are no longer as receptive as Verizon Wireless needs to raise the money all at once.[24] No one would suggest that Verizon's financing shortfall demonstrates that cellular service no longer serves the public interest. Similarly, the financial difficulties of MSS systems do not indicate a shift in the public interest benefits of MSS. The Commission should not equate the need for an allocation with the complex calculations that the financial markets make in deciding whether and which projects to fund. By advancing the "abandonment" premise for reallocation, the Commission arbitrarily ignores justifiable spectrum needs and misapprehends the vagaries of financing telecommunications projects.

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[24] See Communications Daily, Oct. 1, 2001, at 4-5.

IV. CONCLUSION

For the reasons set forth above, Globalstar urges the Commission to preserve the 2 GHz MSS allocation as it currently stands. The Commission should give the MSS industry an opportunity to mature fully with adequate spectrum resources and should preserve the opportunity for rural and underserved areas to obtain advanced, wireless services via satellite.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, William D. Wallace, hereby certify that I have on this 22nd day of October, 2001, caused to be served true and correct copies of the foregoing "Comments of Globalstar, L.P." upon the following parties via first-class United States mail, postage prepaid:

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