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RECEIVED

JUN 11 1997

Federal Communications Commission  
Office of Secretary

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June 10, 1997

JUN 11 / 1997

**BY HAND DELIVERY**

Mr. William F. Caton, Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, DC 20554

**Re: In re Application of Constellation Communications, Inc.  
File Nos. 159-SAT-AMEND-96, 11-SAT-LA-95,  
10-SAT-AMEND-95, CSS-91-013 and 17-DSS-P-91(48)**

Dear Mr. Caton:

On behalf of Motorola Satellite Communications, Inc. ("Motorola") enclosed please find for filing an original and five (5) copies of Motorola's Comments concerning the Request for Expedited Action filed concerning the above-captioned application.

Also enclosed is an additional copy of Motorola's Comments which we ask you to date stamp and return with our messenger.

If you have any questions, please do not hesitate to contact me.

Respectfully submitted,



Marc A. Paul  
Counsel for Motorola Satellite  
Communications, Inc.

Enclosures

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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

Federal Communications Commission  
Office of Secretary

In re Application of

**CONSTELLATION COMMUNICATIONS,  
INC.**

**For Authority to Construct,  
Launch and Operate A Low-Earth  
Orbit Satellite System in the  
1610-1626.5/2483.5-2500 MHz Bands.**

File Nos. 159-SAT-AMEND-96  
11-SAT-LA-95  
10-SAT-AMEND-95,  
CSS-91-013  
17-DSS-P-91(48)

**COMMENTS**

Motorola Satellite Communications, Inc. ("Motorola") hereby submits these comments in response to the Request for Expedited Action filed by Constellation Communications, Inc. ("CCI") on May 27, 1997, in support of the above-captioned application.<sup>1/</sup> Although Motorola and others have already demonstrated that CCI's application does not satisfy the Commission's Big LEO MSS financial standard,<sup>2/</sup> Motorola does not object to CCI's proposal that the Commission act on its application prior to the time that a decision is made on the application of Mobile Communications Holdings, Inc. ("MCHI").

<sup>1/</sup> CCI Motion for Expedited Action (May 27, 1997)("CCI Motion").

<sup>2/</sup> See Motorola Consolidated Petition to Dismiss or Deny (Dec. 24, 1996); Motorola Consolidated Reply (Feb. 11, 1997); TRW Petition to Deny (Dec. 27, 1996); TRW Reply to Consolidated Opposition (Feb. 11, 1997); LQL Petition to Deny (Dec. 27, 1996); LQL Reply to Consolidated Opposition (Feb. 11, 1997).

Unlike MCHI's application, CCI's application has not materially evolved since the pleading cycle closed on its September 1996 amendment. Nor is there any evidence to suggest a need for an ex parte inquiry by the Managing Director regarding CCI's lobbying activities. Accordingly, CCI's amended application is ripe for decision.

The Commission, however, must reject CCI's argument that its application should be granted because sufficient capacity may exist to accommodate the expansion needs of the Big LEO MSS licensees since "the Commission recently allocated 70 MHz of additional spectrum to the Mobile Satellite Service in the 1990-2025 MHz and 2165-2200 MHz bands."<sup>3/</sup> The financial standard to be applied here was adopted by the Commission in the Big LEO rulemaking. It has not been reopened by the Commission's 2 GHz decision. Moreover, Motorola submits that it is premature to rely upon these bands as a source of spectrum for any MSS system because the Commission has "[deferred] action on technical parameters and licensing issues for MSS in the 2 GHz band."<sup>4/</sup> In view of CCI's request for expedition, the Commission must proceed to decide CCI's application without reference to the as yet uncertain results of the 2 GHz proceeding. Accordingly, the Commission must focus on the Big LEO MSS bands (for which the technical and service rules have been established) as being the primary source of spectrum for existing Big LEO MSS licensees.

To the extent that an applicant is not financially qualified to construct, launch and operate its proposed system, the Commission should deny it a license. To do otherwise would run the serious risk of allocating spectrum to a licensee who would warehouse the spectrum and delay prompt service to the public. With the increasing

<sup>3/</sup> CCI Motion at 6.

<sup>4/</sup> Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for use by the Mobile Satellite Service, FCC 97-93 at ¶ 1 (rel. Mar. 14, 1997).

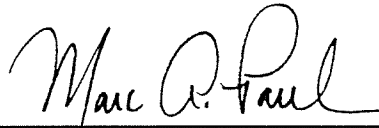
number of mobile satellite systems being proposed, the Commission cannot afford to assign scarce spectrum to an applicant unable to implement its proposed system.

In sum, Motorola does not oppose CCI's Motion. Motorola has no objection to the Commission acting upon CCI's application prior to MCHI's application. The record on CCI's amended application closed several months ago, and CCI has not made any attempts to buttress its application with new material which would require a formal response from Motorola and the other parties to this proceeding. The financial deficiencies of CCI's application are clear and have already been pointed out by several parties.

Dated: June 11, 1997

Respectfully submitted,

**Motorola Satellite Communications, Inc.**



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*Counsel for Motorola Satellite  
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## CERTIFICATE OF SERVICE

I, Marc A. Paul, do hereby certify that a copy of the foregoing **Motorola's Comments** has been sent, via first class mail, postage prepaid (or as otherwise indicated), on this 11th day of June, 1997 to the following:

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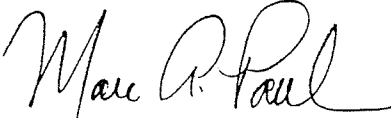
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