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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Application of)	
)	
CONSTELLATION)	File Nos. 159-SAT-AMEND-96
COMMUNICATIONS, INC.)	17-DSS-P-91 (48)
)	CSS-91-013
For Authority to Construct,)	9-SAT-LA-95
Launch and Operate A Mobile-)	10-SAT-AMEND-95
Satellite Service System in the)	
1.6/2.4 GHz MSS Service)	
)	

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Satellite Policy Branch
International Bureau

**CONSOLIDATED OPPOSITION TO
APPLICATIONS FOR REVIEW**

CONSTELLATION COMMUNICATIONS, INC.

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Date: August 18, 1997

EXECUTIVE SUMMARY

Constellation Communications, Inc. ("Constellation"), by its attorneys, hereby files this Consolidated Opposition to the Applications for Review in the Constellation licensing proceeding. On July 31, 1997, L/Q Licensee, Inc. ("LQL"), Motorola Satellite Communications, Inc. ("Motorola") and TRW, Inc. ("TRW") (collectively, the "Petitioners") requested that the Commission review the International Bureau's Order granting Constellation a license to construct, launch, and operate a low-Earth orbit ("LEO") Mobile Satellite Service ("MSS") system in the 1610-1626.5 MHz and 2483.5-2500 MHz bands (the "MSS Above 1 GHz" or "Big LEO" service). In the *Constellation Order*, the Bureau correctly granted Constellation a license based on a waiver of the financial qualification requirements contained in Sections 25.140 and 25.143 of the Commission's Rules. The Bureau's decision was the outcome of reasoned decisionmaking. The Petitioners have failed to establish that the Bureau exceeded its authority or to raise any other issues which would warrant reversal of the *Constellation Order*. The Bureau's issuance of a license to Constellation and grant of a waiver of the financial qualification requirements serve the public interest by fostering a more competitive market for Big LEO services. Furthermore, the Bureau's action is consistent with the Commission's financial qualifications test and presents no risk of harm to Petitioners. As such, the Bureau's decision to waive the Commission's financial standards is unassailable. The Petitioners have failed to demonstrate an abuse of discretion and Constellation requests that their Applications for Review be denied.

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CONSOLIDATED OPPOSITION TO APPLICATIONS FOR REVIEW

Constellation Communications, Inc. ("Constellation"), by its attorneys, hereby files this Consolidated Opposition to the Applications for Review in the above-referenced proceeding.¹ On July 31, 1997, L/Q Licensee, Inc. ("LQL"), Motorola Satellite Communications, Inc. ("Motorola") and TRW, Inc. ("TRW") (collectively, the "Petitioners") requested that the Commission review the International Bureau's Order granting Constellation a license to construct, launch, and operate a low-Earth orbit ("LEO") Mobile Satellite Service ("MSS") system in the 1610-1626.5 MHz and 2483.5-2500 MHz bands (the "MSS Above 1 GHz" or "Big LEO" service).² In the *Constellation Order*, the Bureau correctly granted Constellation a license based on a waiver of the financial qualification requirements contained in Sections 25.140 and 25.143 of the Commission's Rules.³ The Bureau's

¹ On August 15, 1997, Constellation filed with the Commission a Motion for a *de minimis* extension of time to extend until August 18, 1997 the deadline for filing this Consolidated Opposition. The Petitioners orally agreed to this one day extension on August 15, 1997. Because the Commission has not reached a final determination on that motion, a motion for acceptance of late-filed pleading accompanies this submission.

² *Constellation Communications, Inc., DA 97-1366, Order and Authorization* (Int'l Bur. July 1, 1997) (the "*Constellation Order*").

³ 47 C.F.R. §§ 25.140 and 25.143.

decision was the outcome of reasoned decisionmaking. The Petitioners have failed to establish that the Bureau exceeded its authority or to raise any other issues which would warrant reversal of the *Constellation Order*. The Bureau's issuance of a license to Constellation and grant of a waiver of the financial qualification requirements serve the public interest by fostering a more competitive market for Big LEO services. Furthermore, the Bureau's action is consistent with the Commission's financial qualifications test and presents no risk of harm to Petitioners. As such, the Bureau's decision to waive the Commission's financial standards is unassailable. The Petitioners have failed to demonstrate an abuse of discretion and their Applications for Review should be denied.

I. BACKGROUND

On July 1, 1997, the Bureau granted Constellation's application for a license to construct, launch and operate a satellite system in the Big LEO service.⁴ In the *Constellation Order*, the Bureau concluded that a waiver of the Big LEO financial qualification requirements was warranted.⁵ This conclusion was based on the Bureau's finding that it was able to accommodate the two remaining applicants (Constellation and MCHI) and also provide for future entry.⁶ In particular, the Bureau noted that the dismissal of American Mobile Satellite Corporation's ("AMSC") Big LEO application

⁴ The Bureau simultaneously granted a license in the Big LEO service to Mobile Communications Holdings Inc. ("MCHI"). *Mobile Communications Holdings, Inc.*, DA 97-1367, *Order and Authorization* (Int'l Bur. July 1, 1997) ("MCHI Order").

⁵ In the *Constellation Order*, the Bureau concluded that Constellation was unable to establish its financial qualifications under Sections 25.140(c) and (d) and 25.143(b)(3) of the Commission's rules. Constellation continues to believe that it did demonstrate its financial qualifications in a manner consistent with the Commission's rules. Nevertheless, it is pleased to be awarded a license and does not believe it would be fruitful to review the Bureau's analyses of Constellation's financial qualifications.

⁶ *Constellation Order* at ¶ 16.

had eliminated mutual exclusivity among pending applicants and that the recent allocation of 2 GHz spectrum for MSS would provide for the possibility of future entry.⁷ The Commission has consistently favored granting waivers or otherwise reducing the burdens associated with financial qualification tests when it has had the ability to accommodate all applicants and to permit future entry.⁸

Petitioners have provided no justification for reversing the Bureau's findings. Rather, they have raised a number of specious arguments that are poorly disguised attempts to limit competition. Grant of a waiver serves the public interest by permitting the introduction of additional competitive Big LEO systems which will create a more robust marketplace for Big LEO services. The Bureau's decision should be upheld.

II. THE BUREAU'S DECISION WAS BASED ON REASONED DECISIONMAKING

The Bureau's decision to waive the financial qualification rules and grant Constellation a license was based on reasoned decisionmaking consistent with Commission precedent. The Bureau acted within the scope of its authority and correctly applied a number of previous decisions interpreting the Commission's financial qualification rules. As discussed below, there is no basis for reversing this decision.

⁷ *First Report and Order and Further Notice to Proposed Rule Making in ET Docket No. 95-18*, FCC 97-93, released March 14, 1997.

⁸ *See, e.g., Norris Satellite Communications, Inc.*, 7 FCC Rcd 4289 (1992); *Echostar Satellite Corporation*, 11 FCC Rcd 20466, (1996) at ¶ 12; *See also*, Orders released on May 9, 1997: *EchoStar Satellite Corporation* (DA 97-969); *NetSat 29 Company, L.L.C.* (DA 97-976); *PanAmSat Licensee Corporation* (DA 97-978); *Lockheed Martin Corporation* (DA 97-973); *Hughes Communications Galaxy* (DA 97-973); *Hughes Communications Galaxy* (DA 97-91); *Morning Star Satellite Company, L.L.C.* (DA 97-975); *KaStar Satellite Communications Corporation* (DA 97-972); *Orion Network Systems, Inc.* (DA 97-977); *Orion Atlantic, L.P.* (DA 97-980); *LQL Space & Communications Ltd.* (97-974); and *VisionStar, Inc.* (DA 97-980).

A. The Bureau Has Correctly Followed Previous Financial Qualification Decisions

The bulk of Petitioners' arguments are directed at the Bureau's waiver of the financial qualification test. These arguments, however, ignore the actual facts at hand and provide an overly simplistic approach to interpreting the Commission's financial qualification rules. The Commission has consistently avoided application of strict financial tests when there has been an ability to accommodate all pending applicants and to provide for future entry. For example, in the *Radio Determination Satellite Service* (“RDSS”), the Commission chose not to impose strict financial qualification standards because all pending applicants could be accommodated and future entry was possible. The Commission concluded:

RDSS is a new, innovative and as yet unproven service and applicants without substantive internal assets may have difficulty obtaining the large amounts of financing to construct, launch and operate those systems. Moreover, all applicants who have filed RDSS applications can be accommodated today, and it appears feasible to authorize additional RDSS applications in the future. Thus, licensing applicants that do not have the current ability to finance their entire system will not preclude other qualified applicants from implementing their RDSS system plans at this time.⁹

In *Norris Satellite*¹⁰, the Bureau waived financial qualification requirements in the Ka-band because there was more than enough spectrum to accommodate future entry. More recently, in *Teledesic Corporation*, the Bureau waived the financial qualifications requirements because the “authorization

⁹ *In the matter of Amendment to the Commission's Rules to Allocate Spectrum for, and to Establish Other Rules and Policies Pertaining to, a Radiodetermination Satellite Service*, 104 FCC 2d 650 at ¶ 23 (1986) (“RDSS Order”).

¹⁰ 7 FCC Rcd 4289.

of the Teledesic system [did] not preclude use of the [28 GHz] band by other NGSO systems.¹¹ In other services, the Commission adopted less rigorous financial qualification tests where there was sufficient spectrum.¹² In all cases, the Commission has consistently noted that its financial qualification rules are designed to prevent warehousing spectrum.

where a grant to an underfinanced applicant may preclude a fully capitalized applicant from implementing its plans, and service to the public may be consequently delayed, we have required a stringent financial showing to ensure that the public interest would be served. We have required a less stringent financial showing where grant to an under-financed applicant will not prevent another from going forward.¹³

The Commission's initial determination that a strict financial standard should be required for Big LEO applicants was based on its perceived inability to accommodate all the applications pending at that time or provide an opportunity for system expansion or future MSS systems.¹⁴ In 1994, the Commission had six pending applications but believed that only five licenses could be

¹¹ *Teledesic Corporation*, 12 FCC Rcd 3154, 3160 (1997).

¹² *See, e.g., Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Non-Voice, Non-Geostationary Mobile-Satellite Service*, 8 FCC Rcd 8450 (1993).

¹³ *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 (1994) ("*Big Leo Order*").

¹⁴ The Commission explicitly relied on the existence of mutual exclusivity in adopting a strict financial qualification standard:

The Negotiated Rulemaking Committee could not agree to a method by which all six proposed systems could be licensed. Further, the sharing plan we proposed in the *Notice*, and which we adopt today, does not accommodate all pending applicants and leaves little or no spectrum available for expansion of existing systems or the development of future MSS systems within the United States. Consequently, consistent with our past practice, we seek to ensure that those applicants awarded Big LEO licenses have the financial ability to proceed.

Big LEO Order at ¶ 27.

awarded.¹⁵ However, in January 1997, the Bureau dismissed AMSC's application, leaving open the opportunity for the two remaining applicants to be granted licenses. Additionally, in March 1997, the Commission allocated 70 MHz of spectrum to the MSS in the 1990-2025 MHz (uplink) and 2165-2200 MHz downlink bands. This spectrum can accommodate additional MSS operators and/or expansion requirements of existing MSS operators. The Petitioners raise some questions regarding potential encumbrances associated with this spectrum and the likelihood that the spectrum will be available for future entrants. With regard to potential encumbrances, the only issue is the cost of migrating existing users out of the bands. This is irrelevant and not of decisional significance since spectrum with equivalent propagation characteristics has been made available to the MSS. Contrary to the arguments of Petitioners, the Commission's policy on "future entry" does not require that the Commission make spectrum available for "system expansion" before waiving the financial qualification rules. Rather there has to be an opportunity for *either* licensing new systems *or* for expansion of existing systems.¹⁶ The 2 GHz allocation provides this opportunity. Thus, the Bureau correctly concluded that all applicants could be accommodated and an opportunity exists for "future entry" or existing system expansion.

LQL, in a vain attempt to narrow the focus of the Commission's consideration of the facts, argues that the Bureau failed in the *Constellation Order* to establish a rationale for granting a waiver to Constellation. LQL's argument is wrong. The Bureau correctly reasoned that

[T]he dismissal of AMSC's application and the recent allocation of additional spectrum for MSS at 2 GHz are changed circumstances

¹⁵ In January 1995, the Bureau awarded licenses to all three Petitioners, leaving three applicants for two available licenses.

¹⁶ MCHI Order at ¶ 24.

that warrant the grant of a waiver based on the availability of spectrum to accommodate all current applications and the possibility of entry by additional applicants in the future. Moreover, implementation of Constellation's system could promote the public interest by providing additional competition and consumer choice in the MSS market.¹⁷

Although the Commission did not believe that it could meet its policy objectives at the time the initial licenses were granted, the situation had changed at the time of the *Constellation Order*. Petitioners have no basis to make any other conclusion.

Each of the Petitioners attempts to distinguish the present case from *Norris* and *Teledesic* based on the fact that strict financial qualifications standards had been previously adopted for the Big LEO service. This is a very legalistic argument that ignores the policies that underly all satellite service rules. Given the changed circumstances and the Commission's long standing policies promoting multiple entry and competition,¹⁸ it is abundantly clear that the waiver was appropriate in this proceeding, fully consistent with the Commission's satellite policy and the result of reasoned decisionmaking.

B. Grant of the Waiver Has Numerous Public Benefits

The grant of the waiver was consistent with the Commission's policy goals for satellite services. Specifically, the Commission has consistently referred to the following policy objectives when considering satellite licensing decisions:

- (a) to maximize the opportunities for the early acquisition of technical, operational, and marketing data and experience in the use of this technology as a new communications resource for all types of services;

¹⁷ *Constellation Order* at ¶ 16.

¹⁸ LQL Application for Review at 5 (filed July 31, 1997) ("LQL Application").

- (b) to afford a reasonable opportunity for multiple entities to demonstrate how any operational and economic characteristic peculiar to the satellite technology can be used to provide existing and new specialized services more economically and efficiently than can be done by terrestrial facilities;
- (c) to facilitate the efficient development of this new resource by removing or neutralizing existing institutional restraints or inhibitions; and
- (d) to retain flexibility in our policy making with respect to the use of satellite technology for domestic communications so as to make such adjustments therein as future experience and circumstances may dictate.¹⁹

Each of these goals is served by the grant of the waiver to Constellation. Specifically, the license issued to Constellation will provide an opportunity for an additional entrant to develop technical and operational experience in this service. The waiver also eliminates one barrier to entry. As the Commission is aware, very few companies have balance sheets that can be used to demonstrate resources necessary to construct, launch and operate a Big LEO system. Moreover, no one company is going to assume the entire risk for a new, unproven billion dollar telecommunications service. Thus, the success of a MSS Above 1 GHz satellite system operator to fund its business rests on the ability of a licensee to adequately spread the risk of the business. Undoubtedly, failure to hold a license is a significant impediment to achieving this goal. The grant of the waivers eliminates this impediment for two smaller companies that do not have large balance sheets.

There are two other specific public policy goals served by the waivers. First, the waiver will create the opportunity for two additional entities to provide service. Thus, consumers will benefit by having the option to purchase service from five different operators as opposed to three operators. This will encourage the development of a competitive market structure where prices are related to costs and operators are offering innovative services. Second, the grant of the waivers is fully

¹⁹ *Domestic Communications Satellite Facilities*, 35 FCC 2d 844, 846-47 (1972) (“Domsat II”).

consistent with Section 257 of the Telecommunications Act of 1996. This section instructs the Commission to eliminate "market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications services. . . ."20 Both Constellation and MCHI are small businesses established by entrepreneurs. The waivers issued by the Bureau eliminate the market entry barrier established in the financial qualification rules thereby promoting the policy articulated by Congress in Section 257 of the Telecommunications Act of 1996.

C. The Bureau Acted Within Its Authority

Constellation strongly disagrees with Motorola's assertion that the Bureau "abused its discretion under delegated authority" when it granted Constellation's waiver.²¹ The International Bureau has been given broad delegated authority to "interpret and enforce rules and regulations pertaining to matters under its jurisdiction."²² It is unquestioned that this broad authority extends to the grant of waivers. Petitioners provide no citations to any cases that refutes this conclusion, in fact, in numerous proceedings the Commission has upheld Bureau waivers of various rules.²³ Here, the Bureau granted a narrowly tailored waiver based on the specific facts of the case and grounded in

²⁰ See 47 U.S.C. § 257.

²¹ Motorola Application for Review at 6 (filed July 31, 1997).

²² 47 C.F.R. § 0.261(a)(15).

²³ See, e.g., *The City of Lewinsville, Texas Application for Modification of Trunked Public Safety/Special Emergency Radio Station License Station KNGK 472*, 11 FCC Rcd 19638 (1996) (The Commission upheld the Bureau's decision to waive the database deletion requirement); *MTS and WATS Market Structure*, 2 FCC Rcd 2409 (1987) (The Commission upheld the Bureau's decision to grant waivers to certain parties regarding tariff revisions); *RCA American Communications, Inc.*, 65 F.C.C.2d 351 (1977) (The Commission upheld the Bureau's decision to grant a waiver of the construction permit requirement of a satellite earth station).

long-standing Commission policies. Finally, any objections of the Petitioners to this exercise of delegated authority are unsupported.²⁴

D. The Negative Impacts of the Waiver Articulated by LQL, Motorola and TRW Are Specious

The Petitioners argue that the waivers will have a number of deleterious results. First, they argue that the waivers will encourage the filing of speculative applications. Constellation disagrees. As the Commission is well aware, the administrative process associated with prosecuting a satellite application is extremely expensive and time-consuming. This is amply demonstrated by the six years, hundreds of pleadings and innumerable settlement meetings associated with the Big LEO proceeding. Additionally, the filing fees associated with satellite service are not insignificant. No one would enter into this process and pay the appropriate filing fees that was not serious about pursuing the implementation of a proposed satellite system. Together, the process and the filing fees are a sufficient deterrent to filing speculative applications. Second, the petitioners argue that waiver will result in increasing the coordination burden on the existing licensees. This argument focuses on the parochial interests of LQL, Motorola and TRW. In fact, the coordination should be reasonably straight forward. Each CDMA licensee will need to select a polarization and to establish interference thresholds. CDMA and FDMA/TDMA licensees will need to coordinate out-of-band interference limitations. All of this must be done regardless of whether there are two or four CDMA operators. The Petitioners all concurred with the Commission's licensing proposal for the Big LEO service, it is disingenuous for them now to complain about coordination burdens. Finally, the

²⁴ Constellation notes this is not a case where the Bureau has waived a rule in conflict with underlying policies. *LQL Application for Review* at 16. The underlying policy is to grant licenses in a way that maximizes competition without promoting the warehousing of spectrum or inefficient use of spectrum. Here, the waiver upholds these policies.

Petitioners argue that the waivers will cause a delay in the implementation of service. Constellation is at a loss to understand the logic of this argument. Each of the existing licensees has a launch and implementation schedule. The fact that Constellation and MCHI have each been awarded a license will not impact this schedule. Moreover, there are no other parties standing in the wings seeking to implement MSS systems in the 1.6/2.4 GHz bands. Thus, the best chance available for implementing fourth and fifth Big LEO systems rests with Constellation and MCHI. If successful, the public will reap the benefits of more robust competition in Big LEO services.

E. Grant of a Waiver Has Been at No Risk to Petitioners

The Bureau's grant of a waiver has put the Petitioners at no risk. The *Constellation Order* contains explicit milestones for system implementation.²⁵ Constellation must begin construction by July 1998 and complete satellite construction by July 2003. By the terms of the *Constellation Order*, the license automatically will be rendered null and void unless these milestones are satisfied. In the event Constellation fails to implement its system, it will relinquish its spectrum long before Petitioners will need additional MSS spectrum. Thus, the grant of the waiver will not harm any of the applicants. As the Commission is aware, Motorola will not complete system installation until September 1998.²⁶ LQL is scheduled to commence service in late 1998²⁷ and TRW in 2002.²⁸ These dates only represent the earliest possible dates for system implementation. There is no claim

²⁵ *Constellation Order* at ¶ 29.

²⁶ *Iridium IP LLC*, Securities and Exchange Commission Form-Type S-4 (July 23, 1997).

²⁷ *Globalstar Telecommunications Limited*, Securities and Exchange Commission Form-Type S-3A (July 15, 1997).

²⁸ *TRW Modification of License in the Mobile Satellite Service Above 1 GHz*, 11 FCC Rcd 20419 at ¶ 27 (1996).

that Petitioners will experience system saturation until several years after these dates. If Constellation is not able to meet its milestone requirements, its license will be relinquished long before any of the Petitioners will have any need to look to the Constellation spectrum for system expansion. Contrary to the Petitioners' arguments, enforcement of milestones will not be a long and laborious process. The Commission's rules require each of the Big LEO licensees to report annually on system implementation.²⁹ Through this process, the Commission can determine whether any individual licensee is in compliance with the construction milestones. Constellation takes its obligations as a licensee seriously and is prepared to accurately provide the required information in its annual report submitted to the Commission. Based on the absence of any current need of the Petitioners for this spectrum and the Commission's ability to strictly monitor Constellation's compliance with the milestone requirements, there is no possibility of harm to the Petitioners from the Bureau's waiver.

If one pierces through the arguments made by LQL, Motorola and TRW, it becomes clear that these licensees are merely attempting to cut-off competition. This is readily apparent when analyzing the potential impact of the Constellation and MCHI licenses on the existing licensees. LQL, Motorola and TRW accepted their licenses with the understanding that there would be five Big LEO licensees. The waivers and grant of licenses to Constellation and MCHI have not altered this fact. Additionally, even presuming that the Petitioners are correct that Constellation and MCHI cannot implement their systems, it will still not harm the Petitioners' desire to inherit the remaining 1.6/2.4 GHz spectrum. As discussed above, the construction milestones will insure that Constellation and MCHI will either be implementing their systems or have had their licenses

²⁹ 47 C.F.R. § 25.143(e)(1)(i).

declared null and void long before any expansion spectrum is required. In the end the only beneficiaries of reversing the Bureau's orders are LQL, Motorola and TRW. This is because these three companies would inherit the Constellation and MCHI spectrum and create a more favorable competitive environment. However, the implications from such a decision would be to deprive the public the benefits of a competitive marketplace.

III. ALL LICENSES SHOULD BEAR TECHNICAL BURDEN EQUALLY IF SHARING WITH GLONASS

Motorola argues that "the Commission should also overturn the Bureau's decision to the extent that it suggests that MCHI and Constellation will not have the "principle burden of bearing any operational restraints as against FDMA/TDMA systems if the Commission were to adopt future means of protecting GLONASS operations in the United States."³⁰ Constellation strongly disagrees with this view. Constellation has been following the negotiations regarding the out-of-band emissions relating to GLONASS very closely. It believes that an acceptable out-of-band emission standard can be established that will allow all CDMA systems to operate in the entire 1610-1621.35 MHz band. Nevertheless, Constellation recognizes that this issue has not been finally resolved. If GLONASS requires protection up to 1612 MHz it could have serious repercussions on the Constellation system. It may require a redesign of the communications payload and all related communication systems as well as the subscriber equipment. Constellation recognizes that this is a burden that it may have to bear. However, it strongly objects to any suggestion that it should shoulder a heavier burden than any other licensee. Such a requirement would be wholly inconsistent with the express statements on this issue made by the Commission in this proceeding. For instance,

³⁰ *Motorola Application for Review at 22.*

the Big LEO Order noted "that the burden of the potential 2 MHz shortfall should be shared among all 1.6/2.4 GHz licensees."³¹ On reconsideration, the Commission reiterated this policy when it stated that it would "distribute the burden of [the GLONASS] protection on all Big LEO systems."³² Constellation will work with the other licensees and the Commission to ensure that this issue does not result in a real technical problem. Nevertheless, if a problem arises it strongly objects to any additional burdens vis-a-vis the other licensees being placed in its system's technical operations. As the Commission is well aware, LQL, Motorola and TRW have been provided a two and one-half year head-start in system implementation. This has placed these companies in preeminent competitive positions. To place further burdens on Constellation and MCHI would only improve the competitive position of those companies awarded licenses in January 1995. This would not serve the public's interest in the development of a robust competitive marketplace for Big LEO services. If Constellation is forced to operate with less spectrum than its competitors, it would have a direct impact on its capacity, and thus revenues. Lower revenues would hamper Constellation's ability to offer competitive pricing. This is because Constellation's costs would not be impacted by a reduction in spectrum, but it would limit the amount of revenues that could be obtained from the Constellation systems. This would put Constellation at a significant competitive disadvantage vis-a-vis its competitors. Such a situation would translate into a less vibrant competitive marketplace for Big LEO services. For this reason, Constellation urges the Commission to reject any suggestion that

³¹ *Big LEO Order* ¶ 5958.

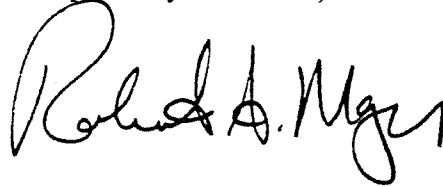
³² *Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610-1626.5/2483.5-2500 MHz Frequency Band*, 11 FCC Rcd 12861 at 12866 (1996).

Constellation and MCHI carry the entire burden that would be associated with protecting the GLONASS radio navigation satellite system.

IV. CONCLUSION

Based on the foregoing, Constellation Communications, Inc. requests that the Commission deny the Applications For Review and uphold the International Bureau's decision to grant it a license.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert A. Mazer". The signature is fluid and cursive, with the first name being the most prominent.

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Dated: August 18, 1997

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of August, 1997, a true and correct copy of the foregoing Consolidated Opposition to Applications for Review and Motion for Acceptance of Late Filed Pleading was served by first class mail, postage prepaid, upon the following:

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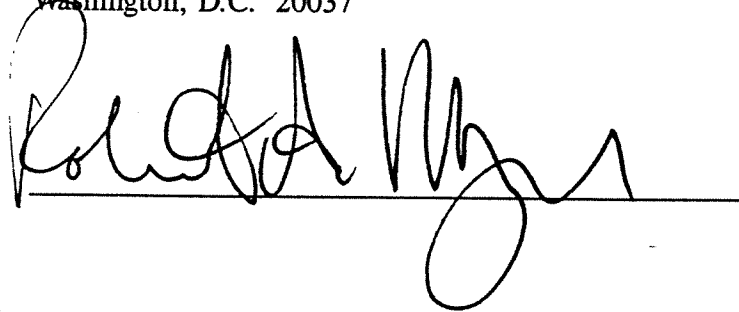
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A handwritten signature in black ink, appearing to read "Ronald A. Mizer", is written over a horizontal line. The signature is cursive and extends below the line.

* By Hand Delivery