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July 26, 2002

**VIA ELECTRONIC FILING**

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Written Ex Parte Communication in IB Docket No. 01-185  
Grant of Ancillary Terrestrial Component Authority to  
Mobile-Satellite Service Licensees

Dear Ms. Dortch:

The Official Creditors' Committee ("Creditors") of Globalstar, L.P. ("Globalstar") is filing this informal pleading with the Federal Communications Commission ("Commission") to support Commission grant of ancillary terrestrial component ("ATC") authority to Mobile-Satellite Service ("MSS") licensees in IB Docket No. 01-185. This pleading elaborates upon the myriad of public interest benefits provided by the MSS industry, including the provision of ubiquitous mobile communications capabilities to rural Americans and public safety and homeland security agencies. As set forth herein, the Creditors believe that, if the Commission fails to grant ATC authority in the instant proceeding, these benefits eventually will be lost as current operating systems degrade. Therefore, the Creditors request the Commission expeditiously to grant ATC authority to MSS licensees.

The Creditors represent the interests of investors in Globalstar that currently hold approximately \$3.5 billion of Globalstar debt and liabilities. The Creditors have funded the substantial majority of Globalstar's satellite system deployment and operations to date.

**Akin, Gump, Strauss, Hauer & Feld, L.L.P.**

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Please do not hesitate to contact the undersigned with any questions that you may have regarding this matter.

Sincerely,

/s/ Tom Davidson

Tom Davidson, Esq.  
*Counsel for Official Creditors  
Committee of Globalstar, L.P.*

***Informal Pleading of the Official Creditors' Committee of Globalstar, L.P. in Support of Grant of Ancillary Terrestrial Component Authority by the Federal Communications Commission to Mobile-Satellite Service Licensees in IB Docket No. 01-185***

**I. Introduction and Executive Summary**

The Official Creditors' Committee ("Creditors") of Globalstar, L.P. ("Globalstar") request the Federal Communications Commission ("Commission") to expeditiously grant Mobile-Satellite Service ("MSS") licensees ancillary terrestrial component ("ATC") authority. MSS providers offer unique communications capabilities that make them ideally suited to provide mobile communications to rural Americans, public safety and homeland security personnel, and certain industries that operate in remote areas. No other communications technology is capable of offering truly ubiquitous mobile communications or is equally resistant to man-made and natural catastrophes.

Today, the scope of the public benefits the MSS industry provides is a fraction of what could be achieved by MSS licensees using their same spectrum resources because of the poor adoption of current MSS service offerings. In particular, MSS subscribers find that expensive per-minute charges, combined with large and expensive handsets that do not work indoors or in urban areas, offset the benefits of MSS. Grant of ATC addresses each of these concerns, and as such will attract a multitude of new users and investment to the MSS industry.

Moreover, absent the public interest benefits that will be derived by MSS licensees from ATC, and the improved business model these benefits will enable, the future of the industry is clear—Motient, Iridium, ICO, and Globalstar all have filed for bankruptcy. Without ATC authority, Globalstar may not be able to continue as a viable business and it will be difficult, if not impossible, for any MSS licensee to raise sufficient funds to launch a new first or second generation global MSS constellation.

Finally, contrary to the assertions of opponents of Commission grant of ATC authority, such a grant is a reasoned policy decision by the Commission aimed at preserving the unique communications capabilities offered by MSS providers. Grant of ATC authority does not represent an unwarranted and inappropriate subsidy of certain licensees. The Commission has a longstanding history of intervening in free markets to ensure that the markets accomplish the Commission's intended public interest objectives. In particular, the Commission has not hesitated in the past to promulgate rules to ensure the provision of adequate communications services to rural communities and to support public safety efforts.

As further set forth herein, the Commission expeditiously should grant ATC authority to MSS providers to preserve the benefits of MSS for the American public.

## **II. Public Interest Benefits of MSS**

In 1994, when the Commission adopted the Big LEO MSS allocation, the Commission stated that:

Big LEO service can offer an almost limitless number of services, including ubiquitous voice and data mobile services, position location services, search and rescue communications, disaster management communications, environmental monitoring, paging services, facsimile transmissions, cargo tracking, and industrial monitoring and control. This service will help meet the demand for a seamless, nationwide, and eventually global communications system that is available to all and that can offer a wide range of voice and data telecommunications services.

In addition to enhancing the competitive market for mobile telecommunications services in areas served by terrestrial mobile services, this new mobile satellite service will offer Americans in rural areas that are not otherwise linked to the communications infrastructure immediate access to a feature-rich communications network. Moreover, Big LEO systems can extend these benefits throughout the world, and can provide those countries that have not been able to develop a nationwide communications service with an “instant” global and national telecommunications infrastructure. This network can be used to provide both basic and emergency communications virtually anywhere in the world.<sup>1</sup>

Each and every one of these original benefits envisioned by the Commission remains viable today. Some, in fact, even have become vital. Moreover, with advances in technology over the last several years, several applications that initially were not envisioned have been developed that use Globalstar’s space segment, including broadband data capabilities (144 kbps) for satellite Internet access, aeronautical monitoring and communications services, and many others.<sup>2</sup>

Further, the significance of the ubiquitous coverage, survivability, and redundancy that are the hallmarks of MSS should not be underestimated in the aftermath of the worst terrorist attack ever to occur on U.S. soil. The tragedy of the September 11 attacks demonstrates that the unique benefits of MSS need to be preserved, further developed, and promoted without regulatory handicap.

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<sup>1</sup> Commission Adopts Final Rules and Policies for "Big LEOS", News, CC Docket No. 92-166, DC Report No. 2660 (rel. Oct. 14, 1994).

<sup>2</sup> See, e.g., Press Release, QUALCOMM, QUALCOMM Introduces Technology to Enhance Aviation Safety Services: Enables Real-Time Video and Audio Communications Between Aircraft and Ground Network (October 30, 2001) (available at <http://www.qualcomm.com/press/pr/releases2001/press27.html>).

Commission grant of ATC authority will accomplish this result. With a grant of ATC authority, the MSS industry will be able to attract additional capital and quickly move toward commercial viability.

**A. MSS is the Only Communications Sector That is Capable of Providing Mobile Voice and Data Services Nationwide, Including to the Most Underserved, Rural Locations in the Country**

It is the longstanding policy of the Commission to support the delivery of communications services to rural Americans that are comparable to the communications services available to other Americans. In fact, in its recently released draft strategic plan for 2003 to 2008, the Commission stated that

[i]t is the mission of the FCC to ensure that the American people have available, without discrimination, rapid, efficient, Nation and world-wide communication services at reasonable charges.<sup>3</sup>

From the first day it commenced commercial service, Globalstar has offered ubiquitous service nationwide (except indoors and in urban areas), including to the most rural areas of America. By contrast, the terrestrial mobile wireless industry (“Wireless Industry”), comprised of cellular and Personal Communications Systems (“PCS”) licensees, provides barely adequate coverage of suburban areas and, in many rural areas, only provides coverage along highways and in towns.<sup>4</sup> As anyone who works or lives in the Washington, D.C./Baltimore, MD metropolitan region can attest, terrestrial network coverage gaps abound even in the 4<sup>th</sup> largest metropolitan region in the nation.

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<sup>3</sup> Draft Text for the FCC’s Strategic Action Plan, 2003-2008, at 3, available at <http://www.fcc.gov/omd/strategicplan/strategicplan2003-2008.pdf>.

<sup>4</sup> The Commission does not collect data that accurately portrays the sparse coverage provided by Wireless Providers in rural areas. As recognized by Commissioner Copps, the Commission considers an entire county to be served by the Wireless Industry if any portion of a county, no matter how small, is served by a Wireless Provider. According to Commissioner Copps:

“ . . . I am concerned that our [Seventh Annual] Report on the State of Competition in the Wireless Industry] continues to define an entire county as being served by a carrier if any part of the county is served. This means we count an entire county as served even though only a highway that runs through it is actually served. . . . I’m glad that the Report notes that we lack “data specific to rural markets.”

Statement of Commissioner Michael J. Copps on the Commission’s Seventh Annual Report on the State of Competition in the Wireless Industry, FCC 02-179 (June 13, 2002).

Further, cellular and PCS providers (“Wireless Providers”) are unlikely to ever adequately serve rural America, or provide mobile service with ubiquitous coverage to the remainder of America. The technology employed by the Wireless Industry is particularly suited for deployment in urban areas, where users are conveniently (for the carriers) clustered together, thus minimizing the number of towers and the backhaul requirements. The lack of population density across much of the United States ensures that it will never be cost-effective for Wireless Providers to build the infrastructure necessary to even approach ubiquitous geographic coverage. This effectively allows the Wireless Providers to selectively discard rural (i.e., undesirable and unprofitable) users and cherry pick only the more desirable users that cluster near their antennas.<sup>5</sup>

Thus, MSS providers offer the only satisfactory mobile telecommunications service to rural communities and offer the only mobile coverage of much of the geographic area of the United States. Without a vibrant MSS industry, rural Americans simply will not have adequate access to mobile communications. By granting ATC authority, the Commission can provide MSS providers with flexibility to more fully use their allocated spectrum to correct the discrimination that rural users face today from Wireless Providers. ATC authority has the potential to enable Globalstar to reduce its per-minute and equipment costs to make MSS an affordable mobile service for rural consumers nationwide. By contrast, if the MSS industry is unable to remain viable, rural Americans will be deprived of the only adequate mobile communications option currently available to them.

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<sup>5</sup> For example, the Commission noted in its Seventh Annual Report on the State of Competition in the Wireless Industry that counties representing half of the geographic area of the United States are served by three or less Wireless Providers. Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, Seventh Report, FCC 02-179, at 24-25 (rel. July 3, 2002). Importantly, these largely rural counties are considered “served” if a Wireless Provider offers service along even a single road in a county. As a result, it is not necessary for Wireless Providers in a given county to have overlapping networks for the Commission to determine that competition exists in the county. Two Wireless Providers could serve different small portions of the county. See id. at 24. Further, given that extensive coverage gaps exist even in relatively densely populated counties that are served by more than two Wireless Providers, it seems highly likely that many of the rural counties served by three or less Wireless Providers have very little actual terrestrial wireless coverage. Thus, it seems likely that half or more of the geographic area of the United States is not actually covered by any Wireless Provider. The Commission, however, does not currently collect geographic data that enables this very reasonable hypothesis to be confirmed.

## **B. The MSS Industry is Uniquely Suited to Serve Certain Industries**

The MSS industry is uniquely suited to provide mobile communications services to industries that operate in remote locations such as the construction industry, the aeronautical industry (i.e., real-time service to planes traveling over remote areas), broadcast and print journalists, the forestry industry, oil exploration and transport, recreational and commercial maritime users, utilities, and the transportation industry. The communication capabilities that MSS providers are able to provide to these industries are not available from any other communications technologies. Attached hereto is a list of some of the companies that have purchased Globalstar's satellite phones for commercial uses.

Further, the potential for the MSS industry to benefit these private sectors is only beginning to be realized. Adoption of MSS by the private sector largely has been hindered by the precarious state of the MSS industry. Many corporations have been hesitant to expend substantial resources to deploy MSS facilities because the corporations are concerned about the long-term viability of MSS. By affirming its support of the MSS industry through a grant of ATC authority, the Commission can facilitate widespread use of MSS by the private sector. This will promote more efficient operations within the industries listed above and reduced costs to these industries. Moreover, such increased industrial deployment of MSS will, in turn, further cement the viability of MSS.

## **C. The Robust, Ubiquitous Nature of MSS Networks Makes MSS Vital for Public Safety and Homeland Security Applications**

The MSS industry offers several capabilities to governmental public safety and homeland security personnel that are unavailable from any other communications technology.

- MSS provides truly ubiquitous domestic and international coverage (the security interests of the United States do not end at its borders).
- MSS is not dependent on localized terrestrial infrastructure, but instead utilizes a small number of remote gateways. Thus, MSS services remain available even when localized natural and man-made disasters disable or congest wireline and terrestrial wireless networks.
- MSS utilizes a small number of remote gateway earth stations, which are more easily defended against attack or sabotage than the extensive terrestrial facilities on which wireless and wireline networks rely. Further, these gateway earth stations can be made redundant so that service is not interrupted even in the unlikely event that any single gateway is disabled.

Demonstrating the overwhelming importance of the MSS industry to public safety and homeland security personnel, when terrestrial networks were congested or

destroyed after the September 11 terrorist attacks, public safety personnel relying on MSS handsets continued to have uninterrupted communications capabilities.

Given these unique attributes of MSS networks, MSS is the best possible communications service for law enforcement officers, emergency medical service providers, border and coastline patrols, customs, park and forestry services, homeland security efforts, the military, and emergency management and rescue personnel. These governmental sectors already benefit from MSS, including Globalstar's service, at the local, state, and federal levels. Attached hereto is a list of some of the domestic and international public safety personnel that already are utilizing Globalstar and other satellite telephones, including the Office of Homeland Security, the Federal Bureau of Investigation, the Central Intelligence Agency, the Drug Enforcement Agency, the Federal Emergency Management Agency, the Department of Defense, the Secret Service, the United States Coast Guard, the National Aeronautics and Space Administration, and the United States Forest Service. Further, such use of Globalstar's services is likely to increase dramatically as a result of President Bush's homeland security initiatives. For example, one of the Mission Statements of the Commission's Homeland Security Policy Council is to:

[a]ssist the Commission in ensuring that public safety, public health, and other emergency and defense personnel have effective communications services available to them in the immediate aftermath of any terrorist attack within the United States.<sup>6</sup>

As recognized by Commissioner Michael J. Copps, MSS is uniquely suited to fulfilling the nation's homeland security communications needs. According to Commissioner Copps:

[s]atellite communications were critical as we all struggled to make sense of, and react to, the crimes that were committed [on September 11] . . . . Now the challenge is to prepare for the worst. We really have no option. We must be about the task of prioritizing what we do, of allocating resources toward new ends, and mobilizing the great power of communications to serve the safety and security of all our people. Recent events do not change what the public interest is, but they do focus us on the most

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<sup>6</sup> FCC Homeland Security Policy Council, Mission Statement, available at <http://www.fcc.gov/hspc>. Similarly, in its draft Strategic Plan, the Commission emphasized the importance of “[d]eveloping policies that promote access to effective communications services by public safety, public health, and other emergency and defense personnel in emergency situations.” Strategic Plan, at 5.

fundamental pillar of the public interest, which is the safety and security of the people.<sup>7</sup>

Similarly, the United States Conference of Mayors (“Mayors”), which represents cities with populations above 30,000, recognizes the pressing need for back-up satellite telecommunications systems. In December 2001, the Mayors created a National Action Plan for Safety and Security in America’s Cities, in which they held that:

[t]he compatibility, security and reliability of federal, state, regional and local emergency telecommunications systems must be assured, and accomplishing this requires redundancy in the systems available . . . . A satellite communication system should be available when other communications systems are non-functional.<sup>8</sup>

The importance of the MSS industry, however, is not limited to homeland security concerns. MSS also is ideally suited to fulfill conventional public safety mobile communications needs. According to Thomas E. Wheeler, President and Chief Executive Officer of the Cellular Telecommunications and Internet Association:

[l]ocal public safety should have networks that are robust (and include voice, data and dispatch), secure, interoperable, interconnected, ubiquitous, accessible (by all safety-related functions), affordable and spectrum efficient.<sup>9</sup>

Further, the ubiquitous coverage of MSS networks extends the eyes and ears of public safety organizations. Mr. Wheeler notes that:

[t]here are literally thousands of Americans who credit their wireless phone with aiding a fellow citizen, preventing a crime or in the ultimate form of public safety expression, saving a life—it is

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<sup>7</sup> Commissioner Michael Copps, Address at the U S Telecommunications Training Institute (Sept. 28, 2001).

<sup>8</sup> United States Conference of Mayors, National Action Plan for Safety and Security in America’s Cities (December 2001) at 11.

<sup>9</sup> Thomas E. Wheeler, Address at National Wireless Safety Week (May 20 – 24, 2002).

a distinction that the wireless industry is proud of and inspired by.<sup>10</sup>

Globalstar handsets enable these “safety sentinels,” as Mr. Wheeler calls them, to protect themselves and other Americans by allowing Globalstar subscribers to extend the benefits of the ubiquity of MSS beyond the finite reach of the Wireless Industry.<sup>11</sup> The Creditors believe that Globalstar can enhance public safety, and add a completely new population of “safety sentinels,” by providing a primary or secondary telecommunications system for public safety agencies, municipalities, average citizens, and private sector companies. This benefit should not be underestimated, especially in light of our nation’s present homeland security needs.<sup>12</sup> Unlike the Wireless Industry, Globalstar can provide these benefits in a

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<sup>10</sup> Thomas E. Wheeler, Address at the Senate Commerce Committee Subcommittee on Communications Hearing (May 12, 1999).

<sup>11</sup> For example, Mr. Wheeler quoted Senator Conrad Burns (R-MT) as follows:

The National Highway Traffic Safety Administration has conducted studies showing that crash-to-care time for fatal accidents is about a half hour in urban areas. In rural areas, which covers most of my home state of Montana, that crash-to-care time almost doubles. . . . Almost half of the serious crash victims who do not receive care in the first hour die at the scene of the accident. . . . Response time is critical in rural areas and the industry is continually searching for technologies to reduce the time it takes for emergency personnel to arrive at the scene of an accident.

Thomas E. Wheeler, Address at the Senate Commerce Committee Subcommittee on Communications Hearing (May 12, 1999) (quoting remarks of Senator Conrad Burns during the introduction of E911 legislation). Broad scale deployment of satellite phones as safety devices could greatly improve response times in rural areas and save lives.

<sup>12</sup> The “safety sentinels” concept also is very important to homeland security. According to Homeland Security Director Tom Ridge:

Americans can help by reporting suspicious activity to police. . . . [Recent alerts were] intended to remind our citizens, no matter where you live—it can be a big state with a dense population, or you can be a smaller state with a lot of rural communities—we have no way of assuring or guaranteeing or pinpointing where the terrorists will attack.

Seth Borenstein, Country Should be on Guard, Ridge Says: Third Terrorism Alert in 53 Days Not Rooted in Specifics, KNIGHT RIDDER NEWS SERVICE, Dec. 3, 2001.

manner that truly is ubiquitous and physically secure, and do so without requiring additional spectrum resources.

### **III. ATC Authority Will Sustain the MSS Industry and Improve the Public Interest Benefits That it Provides to the Public**

#### **A. Grant of ATC Authority is Necessary to Sustain the MSS Industry**

The public interest benefits discussed above are unlikely ever to be realized fully if the Commission does not grant ATC authority to MSS providers. Absent the benefits and additional revenues derived from ATC, MSS licensees will struggle to attract sufficient investment to construct and launch any new MSS satellite systems. Thus, modern MSS service offerings may cease to exist at the end of the useful lives of the systems that already have been deployed. Moreover, in the interim, MSS systems primarily will serve only niche industrial markets, much like Inmarsat and the reorganized Iridium. The general public, including rural communities, will never realize the benefits of MSS service.

#### **B. The Capital Markets Will Not Further Fund MSS Unless the Commission Grants ATC Authority to MSS Licensees**

A confluence of factors has caused the financial community to stop funding domestic MSS ventures. Given the inherent risks in developing satellite systems and the demonstrably poor business case for large, expensive handsets that do not work in buildings, the capital markets are closed to MSS providers. Globalstar's current capital structure demonstrates this. Globalstar has in excess of three billion dollars of outstanding debt. The debt trades in the secondary market at 6% of its face value. Therefore, the implied current value of Globalstar's fixed assets, without ATC, is a mere \$180 million—about 6% of the system's estimated \$3 billion replacement cost. Consequently, Wall Street is unlikely to further finance Globalstar or any other similar MSS constellations. The Creditors believe that grant of ATC authority is the necessary catalyst to spur additional financing for Globalstar and other MSS providers because it rejoins the revenue streams from urban and rural users, which heretofore have been split between cellular and MSS companies.

#### **C. ATC Authority Will Revive Globalstar's Short-Term and Long-Term Prospects and Thereby Increase the Public Interest Benefits Derived From MSS**

The Creditors firmly believe that Commission grant of ATC authority will enable MSS providers to raise additional capital and thereby sustain the availability of, and public interest benefits derived from, MSS services. The capital markets believe that ATC authority is the missing ingredient that will jumpstart the MSS industry. With the additional capital that can be raised following Commission grant of ATC authority, Globalstar will be able to sustain and expand its existing operations, complete its reorganization and emergence

from bankruptcy, develop and commercially deploy new applications, and greatly enhance its marketing efforts. Moreover, all of this can be accomplished without additional spectrum grants and without impairing the use of shared and adjacent spectrum by other, existing licensees.

Commission grant of ATC authority will enable Globalstar to lower its per-minute and handset prices and thereby increase subscribership. An ATC platform will enable Globalstar to provide uninterrupted service indoors and in urban areas.<sup>13</sup> This will make Globalstar's service attractive to the large, untapped market of users that desire both rural and urban mobile coverage. The resulting increases in subscribership that the Creditors believe will occur as Globalstar deploys urban ATC platforms will allow Globalstar to reduce equipment and per-minute charges through economies of scale, and enable Globalstar to develop smaller, more lightweight handsets.<sup>14</sup> This will lead to further increases in Globalstar's subscriber base, which will ignite a self-reinforcing spiral of price reductions and increasing subscribership. Clearly, the public interest benefits provided by Globalstar increase as Globalstar serves more and more consumers, businesses, and government users.

Further, grant of ATC authority will allow Globalstar to raise additional capital to develop new customized equipment tailored to meet the needs of technology-intensive industries. For example, Qualcomm has developed aviation applications that use Globalstar MSS space segment to enable planes to exchange a constant stream of audio, video, and data while in flight over remote regions. In addition, Qualcomm is in the process of developing mobile broadband applications with speeds of over 200 kbps that use Globalstar's existing MSS constellation. Such new applications, which only will be commercially deployed if Globalstar is able to raise additional capital, will expand Globalstar's potential subscriber base. Moreover, Globalstar currently only is able to employ a minimal staff for marketing worldwide, and therefore essentially must rely on prospective subscribers to approach it, rather than vice versa. Additional funding will provide for the development of a sophisticated international marketing program which

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<sup>13</sup> Further, ATC authority will enable Globalstar to make more efficient use of its spectrum assignment through terrestrial spectrum reuse without significantly reducing satellite capacity. Globalstar estimates that it can provide ATC services to as many as 3.9 million subscribers in eleven urban markets nationwide by reducing its satellite capacity by only 60 simultaneous MSS calls in these markets. See Ex Parte Presentation filed by Globalstar, L.P. in IB Docket No. 01-185, at 8-11 (June 27, 2002).

<sup>14</sup> The Creditors believe that the brick-like size and weight of Globalstar's existing handsets is one of the primary constraints to wider subscriber adoption of Globalstar's services. Additional investment will allow Globalstar to reduce the size of its existing handsets by about half, which will make the handsets roughly comparable in size to the larger cellphones widely used today.

will enable Globalstar to better promote its services, and expand the public interest benefits derived from its services by greatly increasing its subscribership through increased awareness of the benefits of MSS. In concert, the Creditors believe that these factors will transform Globalstar into a healthy and sustainable commercial operation.

**IV. Preservation of the MSS Industry Through Grant of ATC Authority is Regulatory Action Intended to Support the Public Interest, Rather Than Inappropriate Subsidization of MSS**

Grant of ATC authority by the Commission directly supports the public interest by preserving the unique and vital capabilities and benefits offered by the MSS industry that are discussed above. Certain Wireless Providers have alleged that such action represents an unwarranted discriminatory subsidy of particular licensees by the Commission. To the contrary, preservation of MSS through the grant of ATC authority reflects a direct policy determination that the availability of the ubiquitous, secure, and robust mobile communications provided by satellite constellations is consistent with the public's convenience, interest, and necessity.<sup>15</sup>

Although the Commission relies extensively on market dynamics to identify and support the public interest, the Commission also recognizes that Commission intervention often is warranted to achieve policy goals that are not adequately captured by free markets.<sup>16</sup> Free markets do not always, or

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<sup>15</sup> Under the Communications Act of 1934, as amended, the Commission is required to regulate spectrum use as required to further the public convenience, interest, and necessity, including by granting flexible use of such spectrum to licensees. See 47 U.S.C. § 303.

<sup>16</sup> For example, Commissioner Kathleen Abernathy recently stated during a speech before the New York Chapter of the Federal Communications Bar Association:

I have previously identified three broad categories where regulators must intervene in the marketplace. First, we must adopt regulations to implement public policy goals unrelated to competition, or even at odds with competition. Universal service and access for persons with disabilities are examples of this kind of regulation .

Commissioner Kathleen Abernathy, Address before the New York Chapter of the Federal Communications Bar Association (July 11, 2002), available at [www.fcc.gov/Speeches/Abernathy/2002/spkqa217.html](http://www.fcc.gov/Speeches/Abernathy/2002/spkqa217.html). See also Commissioner Kathleen Abernathy, Address at the Alliance for Public Technology and High-Tech Broadband Coalition Policy Breakfast (June 28, 2002) (“The reason I generally favor market-based solutions over prescriptive regulation is that unfettered competition is the best tool we have to deliver benefits to consumers. *Regulation of course is necessary in some circumstances—for example, to*

adequately, serve all of the objectives sought to be achieved by the FCC in support of the public interest. Ensuring that rural communities and public safety agencies receive adequate satellite-based mobile services is an appropriate exercise of the Commission's mandate to manage spectrum to support the public interest even if commercial markets acting independently of Commission intervention do not initially fully support the development of such MSS services. The uniquely ubiquitous, robust, and redundant mobile communications services offered by the MSS industry are of sufficient benefit both to the government's public safety and homeland security efforts and to rural America to warrant Commission intervention to ensure the survival of the MSS industry if commercial markets alone initially do not support the industry.

For example, the FCC has a long history of promulgating regulations requiring telecommunications companies of all varieties to provide adequate service to rural communities.<sup>17</sup> Moreover, the value of one of the most important benefits provided by the MSS industry—the availability during times of national emergency of ubiquitous, redundant, and robust mobile communications to governmental public safety organizations—is entirely consistent with the Commission's long-standing policy of supporting public safety communications.<sup>18</sup> Similarly, the Commission promulgated MSS satellite coverage requirements rather than permitting markets independently to determine the appropriate coverage of MSS constellations.<sup>19</sup> In the absence of a Commission requirement

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*eliminate structural entry barriers or to achieve congressional policies such as a universal service that are unrelated to competition.”*) (emphasis added).

<sup>17</sup> See, e.g., 47 C.F.R. §1.2110 (establishing auction bidding credits and other preference in favor of small and rural businesses); 47 C.F.R. 25.143(b)(ii) (establishing minimum coverage requirements for 1.6/2.4 GHz MSS licensees); 47 C.F.R. §100.53 (requiring Direct Broadcast Satellite service licensees to provide coverage to Alaska and Hawaii); 47 C.F.R. §54.301 et seq. (establishing universal service mechanisms to subsidize telephone service to rural areas).

<sup>18</sup> See, e.g., Reallocation of Television Channels 60-69, the 746-806 MHz Band, Report and Order, 12 FCC Rcd 22953 (1998) (carving out 12 MHz of spectrum for public safety use from spectrum to be auctioned for commercial services); Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Report and Order, CC Docket No. 94-102 (rel. July 26, 1996) (imposing enhanced 911 emergency dialing capability requirements on commercial wireless service providers in accordance with the Commission's “longstanding and continuing commitment to manage use of the electromagnetic spectrum in a manner that promotes the safety and welfare of all Americans”).

<sup>19</sup> See, e.g., The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band, Notice of Proposed Rulemaking, 14 FCC Rcd 4843, ¶ 18 (1999) (noting that MSS coverage rules requiring ubiquitous coverage of worldwide population centers and 24-hour coverage of entire United States support the public interest); see also Revision of Rules and Policies for the

that nongeosynchronous MSS providers offer global coverage, MSS licensees may have determined that financial considerations do not support such coverage.<sup>20</sup>

## V. Conclusion

In the instant proceeding, the Commission is faced with the choice of reinvigorating the MSS industry or abandoning it. As explained herein, by granting MSS licensees ATC authority, the FCC simultaneously can allow MSS providers to overcome their urban and indoor reception problems, enable MSS licensees to raise additional capital, and both preserve and facilitate the expansion of the MSS industry, without committing any additional spectrum resources to MSS. As a result, all Americans (urban, suburban, and rural) will be able to fully realize the public interest benefits of MSS, including the benefits to public safety and homeland security efforts, that the Commission seeks to promote.

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Direct Broadcast Satellite Service, Notice of Proposed Rulemaking, 11 FCC Rcd 1297, ¶¶ 68-70 (1995) (requiring DBS licensees to provide service to Alaska and Hawaii from western orbital slots if technically feasible);

<sup>20</sup> By contrast to the MSS industry, the Wireless Industry, which is not subject to a ubiquitous coverage requirement, has not, and will not, provide adequate rural coverage. The Wireless Industry determined long ago that doing so is not cost-effective, irrespective of the communications needs of rural America. In fact, the relative commercial success of the Wireless Industry would not have been possible if the Commission had saddled Wireless Providers with the same nationwide coverage requirement that the Commission applies to the MSS industry.

<b>Domestic &amp; International Public Safety and Other Governmental Customers of Globalstar</b>	
Altadena Mountain Rescue Team	American military troops stationed in Egypt
Brazilian Air Force, Police & Fire Departments	Brazilian Tax Authority
Brazilian Network of hydrometeorology measurement stations	Canadian Rangers
Emergency Services Team-1 Environmental Services Inc. (Chemical emergency response)	ENEL (Italian National Power Company)
Italian Navy	Kalbarry Volunteer State Emergency (Australia)
Kativ Regional Government (rural Canada)	Medical and humanitarian programs in Afghanistan
National Aeronautics and Space Administration	Northern Canadian Communities- Air Ambulance operators.
Nunavik Regional Government (rural Canada)	Office of Homeland Security
Orange County, California	Petrobras (Brazilian National Petroleum Company)
Protection Branch of the British Columbia Ministry of Forests	Raytheon (First Responder Command and Communication Vehicle)
Russia's Ministry of Civil Defense, Extraordinary Situations and Natural Disasters	San Dimas Mountain Rescue Team
State of Nevada	United States Forest Service
<b>Domestic &amp; International Public Safety and Other Governmental Customers of Other MSS Providers</b>	
American Red Cross	Central Intelligence Agency
Drug Enforcement Administration	Defense Information Systems Agency
Federal Aviation Administration (through private company, ARNAV)	Fire Department of New York
Federal Bureau of Investigation	Federal Emergency Management Agency
International Red Cross	Ministry of Maritime Fisheries (Morocco)
National Communications Systems	National Science Foundation
Navy SEAL Insertion Team	Netherlands Coast Guard
New York Police Department	Oxfam International
State of New York	Telecoms Sans Frontieres (international NGO)
Touchdown (New Zealand)	UNICEF
United Nations High Comm. for Refugees	United Nations Relief and Work Agency
U.S. Air Force	U.S. Coast Guard
U.S. Department of Defense	U.S. Federal Protective Service
U.S. Secret Service	U.S. Special Forces
Washington, D.C.'s Emergency Management Agency	
<b>Private Sector Customers of Globalstar</b>	
Amazingoutdoors.com	AO Tyumenergo (Electric Power, Russia)
Baltic Construction Company (Russia)	Blackheath (Australia)
BoatTEST.com	Carter and Hail Contracting
Caspian Pipeline Consortium (Russia)	DSND CONSUB (Brazil)
Federal Group Hotels	FedEx Pilot's Association
Fixed services in remote communities across Venezuela and elsewhere in Latin America	Gear Up Florida
Giotto Perspectives (IT analyst)	Izumi Outdoors Inc.
Kennecott Mining Exploration Co.	MayaQuest
North Star	Podolsky Inc. (Trucking)
Popular Communications	SEDCO Oil Platform (Brazil)
Team Adventure	US Television Networks (i.e., ABC, NBC)
West Coast Energy regions in British Columbia	Weyerhaeuser Company Ltd. (Canada)