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

Federal Communications Commission
Office of the Secretary

In the Matter of)
)
AMERICAN MOBILE SATELLITE) File No. 10-DSS-MISC-90
CORPORATION)
)
Request for Waiver of Table)
of Allocations.)

OPPOSITION

In this proceeding, the American Mobile Satellite Corporation (AMSC) requests a waiver of the Table of Frequency Allocations, Section 2.106 of the Commission's Rules and Regulations, to allow it to use the 1530-1544 and 1626.5-1645.5 MHz bands to provide domestic mobile satellite services using Inmarsat facilities in these bands on an interim basis¹. AMSC is not currently authorized by the Commission to construct space station facilities in these bands². Geostar Messaging Corporation (GMC) is a long standing applicant for authority to construct, launch and operate a mobile satellite system, as well as mobile earth

¹ AMSC's filing is dated December 18, 1989. By public notice, Report No. DS-922, the Commission specified that comments on this request should be filed by January 29, 1990.

² AMSC's authorization is limited to the 1545-1559 and 1646.5-1660.5 MHz bands. *Memorandum Opinion, Order and Authorization*, FCC 89-183 (August 4, 1989).

stations, in these bands. GMC opposes this waiver request for the reasons set forth below.

I. The AMSC Waiver Request Is Incomplete, Overly Broad and Premature and Would Upset Current Commission Proceedings Governing the Use of The 1530-1544 and 1626.5-1645.5 MHz Bands

AMSC's waiver request does not contain any details of the interim operations it intends to conduct under this waiver. At a minimum, such descriptive information should include an identification of the particular Inmarsat satellites to be used, the technical characteristics of the particular transmissions and mobile earth stations to be operated by AMSC, and the period of time AMSC intends to conduct its interim operations in these bands³. Standing alone, AMSC's waiver request is therefore incomplete and overly broad.

GMC recognizes that AMSC has also filed a blanket license application for mobile earth stations⁴ which contains additional information concerning AMSC's proposed operations. However, the Commission has not yet accepted that application for filing and placed it on public notice for comment by interested parties. It would be contrary to normal

³ It should be clear to the Commission at this time that AMSC does not intend to limit its operations in these bands to interim service using Inmarsat satellites. See AMSC's application dated January 24, 1990 for authority to operate in these bands on a regular basis.

⁴ Application for Blanket License filed December 20, 1989.

Commission practice to issue a waiver of the Table of Frequency Allocations without limiting the waiver to the specific facilities and term of operations it was also authorizing⁵. Thus, the Commission should not act on the requested waiver of the the Table of Frequency Allocations until it has processed the underlying blanket license application.

At such time as the Commission places AMSC's blanket application for mobile terminals on public notice, it should do the same with GMC's earlier filed application for mobile terminals. GMC filed its blanket application on May 30, 1989 for 10,000 mobile earth stations, including a request for authority to operate as an end-service provider in these bands with Inmarsat satellites on an interim basis⁶. Only after a complete record is compiled through orderly pleading cycles on these underlying applications can the Commission adequately address the issues presented by AMSC's waiver request.

Moreover, if and when the Commission decides to waive the Table of Allocations to permit AMSC to operate on an interim basis, it must require AMSC to agree to phase out its interim operations in these bands on a timely basis.

⁵ See e.g., *Qualcomm, Inc.*, FCC 89-24 (February 14, 1989) and *Geostar Positioning Corporation*, FCC 89-142 (May 25, 1989).

⁶ GMC also filed at the same time a *Motion to Accept Application* pending Commission action on GMC's rulemaking petition, as well as any necessary waiver of the Table of Frequency Allocations (GMC Application at note 5).

Although AMSC recently filed an application to use the bands covered by this waiver request on a regular basis (in addition to the 28 MHz of spectrum it has already been authorized to use), there is no guarantee that the Commission will grant that application. AMSC must not be allowed to bootstrap its way into a permanent authorization in these bands by selling a large number of "interim" mobile units under this waiver, and then use the existence of these mobile units to assert a claim to its permanent use of these bands for MSS.

II. The Commission Cannot Grant AMSC's Request for Waiver Without First Addressing the Other Issues Now Before the Commission Concerning Interim Use of Inmarsat for Domestic Mobile Satellite Services

The Commission has yet to issue clear policies and guidelines to govern the use of Inmarsat space segment facilities in these bands for interim domestic mobile satellite services. AMSC's request should be denied, or a decision on AMSC's request postponed, until after the Commission establishes generally applicable policies and procedures governing the use of Inmarsat space segment capacity for domestic land mobile satellite services.

GMC has already raised substantive issues relating to the use of the limited Inmarsat capacity available for

lease⁷. In addition to AMSC's and GMC's blanket applications yet to be accepted by the Commission, these matters will also be addressed in the pending application of the Communications Satellite Corporation to lease Marisat capacity to AMSC⁸. However, comments are not due on that application until February 9, 1990.

The issues to be addressed before the Commission authorizes any interim use of Inmarsat capacity include the need for the Commission to establish the necessary technical characteristics of mobile terminals used for interim service in these bands to insure efficient use of the spectrum, and to provide access to the limited available Inmarsat capacity by competing service providers. Of particular concern to GMC in this connection is AMSC's monopolistic claim that it is the only "authorized carrier" eligible to lease Inmarsat capacity and that all interim service providers must obtain Inmarsat capacity only through AMSC⁹. GMC disputes this position and believes that all end-service providers should be able to obtain interim Inmarsat capacity directly from Comsat.

⁷ See e.g., GMC's *Comments* dated May 19, 1989 on the application of the Communications Satellite Corporation, File No. CSS-89-002, and *Comments* dated June 16, 1989 on Comsat's applications File Nos. 1299-DSS-ML-89 et al.

⁸ Application File No. I-T-C-90-038 listed in the Commission's Public Notice of January 10, 1990, Report No. I-6416.

⁹ See e.g., AMSC *Opposition* dated January 8, 1990 in File No. I-S-P-90-002.

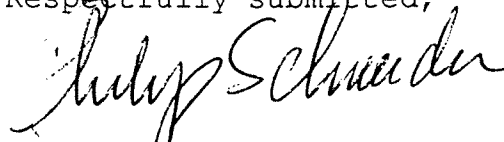
AMSC should not be permitted to preempt careful Commission consideration of these issues by simply claiming a need for expedited Commission action on this waiver to insure early availability of mobile satellite service to the public. AMSC has long been aware of the need to file applications and waiver requests for interim Inmarsat service, but has failed to do so until only very recently.

Conclusion

Consideration of AMSC's waiver request is premature until the Commission places the related GMC and AMSC applications on public notice and accepts comments on them. Such an interim waiver can be meaningfully issued only within the confines of the necessary policies and guidelines to be established in the context of other proceedings now pending before the Commission and as part of a specific facility authorization. The Commission should also clearly state that use of this capacity is on an interim basis and that AMSC is responsible for phasing out its interim use of the 1530-1544 and 1626.5-1645.5 MHz bands on a timely basis. A grant of the broad, open-ended waiver requested by AMSC before the resolution of these other matters would, at best, be meaningless and a waste of Commission resources, and would, at worst, be inconsistent with the Commission's obligations

to afford impartial treatment of other pending applicants,
such as GMC.

Respectfully submitted,

A handwritten signature in cursive script, reading "Philip Schneider".

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January 29, 1990.

CERTIFICATE OF SERVICE

I, Christine A. Brazeau, certify that on 29 January, 1990, a copy of the foregoing "Opposition to the AMSC Request for Waiver of Table of Allocations" was mailed first-class to:

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