

ORIGINAL

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

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In the Matter of:

AMSC Subsidiary Corporation

For Modification of its Blanket License to
Construct and Operate 30,000 L-Band
Mobile Earth Terminals

Docket No. File No. 681-DSE-MP/L-95

Received

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To: The International Bureau

Satellite Policy Branch
International Bureau

Opposition to Petition for Reconsideration

Aeronautical Radio, Inc. (ARINC), by its attorneys, hereby opposes the petition for reconsideration filed by AMSC Subsidiary Corporation (AMSC) in the above-captioned application.¹ AMSC attempts to change the FCC's now well-settled position -- embodied in the order at issue and elsewhere² -- that the upper L-Band must afford priority and real-time preemptive access for aeronautical safety services.

AMSC's petition adds no new facts that would warrant reconsideration. The FCC has already made its decision, and the record fully supports the agency's determination that half-

¹ Petition for Partial Reconsideration, File No. 681-DSE-MP/L-95 (filed Aug. 30, 1995).

² AMSC Subsidiary Corporation, DA 95-1701 (Aug. 1, 1995), *recon.*, DA 95-1723 (Aug. 4, 1995) (*Order*); 47 C.F.R. § 2.106 footnote US308.

duplex terminals would violate Commission rules and create serious risks to aviation safety. Indeed, the FCC's conclusion was fully supported by the Executive Branch -- specifically NTIA and the FAA -- and the analysis of those agencies has not been shown to be faulty. Accordingly, the Commission should deny reconsideration of its decision.

I. ARGUMENT

Not satisfied with one reconsideration three days after release of the order, AMSC now requests that the Commission further review its decision to permit AMSC to deploy half-duplex mobile earth stations in the upper L-Band, but it presents no new facts or evidence warranting reconsideration. The Commission should stay the course. The existing record and the Bureau's own language support the agency's conclusion to prohibit the proposed mobile earth terminals in the band. It is undisputed, and the Commission so determined, that half-duplex mobile earth terminals would not be under the full-time positive control of AMSC.³ As such, these terminals obviously cannot preempt lower-priority traffic on a real time basis, rendering in violation with U.S. policy embodied in footnote US308 in Commission's allocation table. Moreover, such terminals fall woefully short of the carefully formulated, clearly defined NTIA/FAA criteria;⁴ AMSC participated in the drafting of those standards,

³ AMSC has long conceded that these terminals would not be under positive control of AMSC while they are transmitting, rendering it impossible to ensure "priority and real-time preemptive access" for aeronautical safety services, and subjecting the mobile satellite service to potential disruption by long half-duplex messages and possible stuck carriers. *See Order*, ¶ 10; ARINC Petition to Deny at 5 (filed Apr. 7, 1995).

⁴ Letter from Richard E. Parlow, NTIA, and Gerald Markey, FAA, to Chief Common Carrier Bureau at 2 (Jan. 14, 1993) (requiring mobile earth stations either to

which were included as conditions to its license.⁵ Given the failure to meet well-established policies and standards, the Commission properly rejected the AMSC request.

Indeed, the Commission itself recognized the illogic of AMSC's plan in connection with its recent authorization of Rockwell for similar earth terminals just a few days ago.⁶ In that decision, the FCC reiterated that domestic and international rules require "real-time preemptive access" for aviation safety services.⁷ The Commission then found that the "statistical, systemic approach to achieving real-time preemption" did not satisfy those requirements. No different conclusion is warranted here. Indeed, implementation of half-duplex terminals in the upper L-Band would likely preclude for all time use of the band by aviation safety services.

Moreover, AMSC's petition distorts the record by ignoring inconvenient facts. Although AMSC claims that "no party to this proceeding has offered any evidence to refute the practical feasibility" of AMSC's preemption approach, ARINC did provide the example of two aircraft approaching each other at 600 miles per hour⁸ and the Commission cited this example in its order.⁹ Similarly, although it claims that opposition to the use of the terminals

"continuously monitor a separate signaling channel [or] have a provision for signaling within the communications channel").

⁵ AMSC Subsidiary Corp., DA 95-482 (Mar. 13, 1995).

⁶ Rockwell International Corp., DA 95-1919 (Sept. 7, 1995).

⁷ *Id.*, ¶ 9.

⁸ See ARINC Reply at 4 & n.13 (filed May 8, 1995).

⁹ Order, ¶ 15.

is “unsupported,” ARINC, the FAA and NTIA all reached the same conclusion: a delay between 48 and 450 seconds simply is not “real-time.”¹⁰ By its *Order*, the Commission agreed.

AMSC asserts that half-duplex terminals should be permissible because the FAA has articulated no current plans to use satellites domestically for air traffic control. But, if AMSC has its way, it would significantly impair the upper L-Band for aeronautical safety communications such as air traffic control and air operational control *on any co-frequency system*. As AMSC well knows, the FAA, in cooperation with ARINC and Pacific Rim air traffic control administrations, is beginning to use two-way data links via satellite for automatic dependant surveillance (ADS) and air traffic control in the Pacific. These international air routes fly well within the footprint of AMSC’s system, and safety-related satellite communications to such aircraft could be wiped out by stuck-carrier, or even long-transmitting, half-duplex terminals.

¹⁰ For some time, aviation has recommended formulation of specific standards that would ensure full protection for safety services. Working with airlines, manufacturers, and other interested parties, aviation adopted RTCA-DO-215A, providing specific receiver and signal-in-space standards for aeronautical mobile satellite services. That document requires preemption of non-safety traffic within 0.1 seconds, a scheme that is both technically feasible and would provide the appropriate protection for aviation.

AMSC’s request invites the Commission to revisit this issue. The FCC rejected specific preemption standards for AMSC terminals on the assumption that its terminals would be under real-time positive control of AMSC at all times. Amendment of Part 87, 7 F.C.C. Rcd 5895, 5897 (1992). Should the agency grant AMSC’s reconsideration, it would be required to rethink mobile terminal standards to include specific type acceptance criteria for preemption.

II. CONCLUSION

By proposing half-duplex terminals, AMSC would degrade the spectrum nominally preserved for the safety of life and property, and appropriate it for more remunerative uses. But, the Commission conditioned AMSC's license on a requirement to serve *both* commercial land mobile services and aviation safety traffic, and has consistently required them to do so.

The Commission should stick to its position, as just reiterated in the *Rockwell* decision. ARINC, NTIA and the FAA have shown that half-duplex terminals simply cannot preempt non-safety traffic in real time. AMSC presents no new facts or data supporting reconsideration of the agency's order. Rather, it hopes to convince the FCC by submitting the same arguments a little louder. This is not a valid basis for reconsideration, and it should be rejected here.

Respectfully Submitted,

Aeronautical Radio, Inc.

by: 

John L. Bartlett

Carl R. Frank

of

WILEY, REIN & FIELDING

1776 K Street, N.W.

Washington, D.C. 20006

(202) 429-7000

Its Attorneys

Dated: September 14, 1995

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of
September, 1995, I caused copies of the foregoing "Opposition
to Petition for Reconsideration" to be mailed via first-class
postage prepaid mail to the individuals on the attached list.



Barbara A. Pomeroy

Lon C. Levin
Vice President and Regulatory Counsel
American Mobile Satellite Corporation
10802 Park Ridge Blvd.
Reston, VA 22091

Bruce D. Jacobs
Fisher, Wayland, Cooper, Leader
& Zaragoza, L.L.P.
2001 Pennsylvania Ave., NW
Suite 400
Washington, DC 20006

Robert Frazer
ASR-200
Federal Aviation Administration
800 Independence Ave., SW
Washington, DC 20541

Philip L. Malet
Alfred M. Mamlet
Pantelis, Michalopoulos,
Steptoe & Johnson
1330 Connecticut Ave., NW
Washington, DC 20036

Gerald J. Markey
Robert A. Frazier
Spectrum Engineering Division
Federal Aviation Administration
800 Independence Ave., NW
Washington, DC 20591

Michael D. Kennedy
Barry Lambergman
Motorola, Inc.
1350 I Street, NW
Suite 400
Washington, DC 20005

Norman P. Leventhal
Stephen D. Baruch
Walter P. Jacobs
Leventhal, Senter & Lerman
2000 K Street, NW, Suite 600
Washington, DC 20006

Leslie A. Taylor
Leslie Taylor Associates
6800 Carlynn Court
Bethesda, MD 20817