

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

ORIGINAL

In re Application of )  
)  
AMSC SUBSIDIARY CORPORATION )  
)  
For Modification of Its Blanket License )  
for Operation of Up to 30,000 Mobile )  
Earth Stations )

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

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Satellite Policy Branch  
International Bureau

**OPPOSITION**

AMSC Subsidiary Corporation ("AMSC") hereby responds to the Petition for Partial Reconsideration filed by Loral/Qualcomm Partnership, L.P. ("LQP"). As discussed below, LQP offers no good cause to disturb the Commission's rulings on those points addressed in its petition.

**Background**

On August 1, 1995, the Commission issued an Order and Authorization ("Order") granting the application of AMSC for modification of its blanket license to construct and operate 30,000 data mobile earth terminals ("METs").<sup>1/</sup> In its Order, the Commission granted AMSC special temporary authority to operate up to 3,100 of its data METs in the lower L-band.<sup>2/</sup> The Commission increased the number of terminals authorized under this temporary authority by 12,000 in an Order on Reconsideration issued August 4, 1995.<sup>3/</sup> The Commission granted AMSC a temporary waiver of Footnote US315 to Section 2.106 of the Commission's Rules which requires licensees operating in the lower L-band to provide real-time priority and

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<sup>1/</sup> Order and Authorization, File No. 681-DSE-MP/L-95, DA 95-1701 (August 1, 1995).

<sup>2/</sup> 1530-1544/1626.5-1645.5 MHz.

<sup>3/</sup> Order on Reconsideration, File No. 681-DSE-MP/L-95, DA 95-1723 (August 4, 1995).

preemptive access to maritime safety and distress communications. The Commission based this waiver on its conclusion that, due to their half-duplex nature, AMSC's data METs could not provide real-time priority and preemptive access as required by Footnote US315, but that under current conditions, their operation in the lower L-band would provide sufficient distress and safety communications priority to comply with the intent of US315.<sup>4/</sup>

In its petition, LQP does not challenge the Commission's grant of temporary authority to operate in the lower L-band to AMSC, but instead seeks two further conditions on this grant. First, LQP asserts that AMSC's operation in the lower L-band should be made secondary to operations of licensed systems operating in the 1610-1626.5 MHz band, in order to protect such systems from harmful out of band interference. Second, LQP asserts that AMSC's lower L-band operations must cease if and when licensed operators begin to employ mobile terminals in the band that comply with Footnote US315.

#### **I. Operation in Lower L-Band Need Not Be Secondary**

LQP has recently been licensed by the Commission to construct, launch and operate a Big LEO satellite system in the 1610-1626.5 MHz band.<sup>5/</sup> In comments filed in response to AMSC's application for modification of its license, LQP raised concerns regarding possible out-of-band

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<sup>4/</sup> Order at ¶20. The Commission also held that AMSC's data METs could not meet the same requirements for provision of real-time priority and preemptive access for aeronautical safety communications required by Footnote US308 for operation in the upper L-band (1545-1559/1646.5-1660.5 MHz). On August 30, 1995, AMSC filed a Petition for Partial Reconsideration of the Commission's Order challenging the Commission's finding that AMSC's system does not meet the requirements for protection of maritime and aeronautical safety communications.

<sup>5/</sup> See Loral/Qualcomm Partnership, L.P., 10 FCC Rcd 2333 (1995).

interference caused by AMSC to Big LEO systems operating in that band.<sup>6/</sup> The Commission found on the record that the out-of-band emission limits set forth in Section 25.202(f) of the Rules applied in this case. Order at ¶24. In addition, the Commission noted that there was nothing in the record that would indicate that these limits would not provide sufficient adjacent channel interference protection.

LQP here recites the same unsupported procedural objections to the Commission's use of the Section 25.202(f) emissions limits as it did in its original comments. Conspicuously absent is any technical showing that out-of-band emissions from AMSC's METs pose any threat to the METs that LQP may operate.

Maintaining that no permanent technical rules have been adopted for lower L-band service, LQP argues that the Commission's use of the standards set forth in Section 25.202(f) amounts to adoption of a rule without a notice and comment rulemaking, and is therefore invalid. This argument ignores the fact that the frequency emissions limitations set forth in Section 25.202(f) apply generally to all satellite systems licensed under Part 25 of the Rules, of which AMSC's system is clearly included. LQP offers no showing that these standards would not provide ample protection to users of adjacent bands. Moreover, as mentioned above, Motorola Satellite Communications, Inc., also filed comments raising concerns regarding adjacent band interference between Big LEO systems and AMSC. Unlike LQP, Motorola submitted technical interference data to support its concern, to which AMSC responded in its reply. On June 28, 1995, after consultation with AMSC, Motorola submitted a letter to the Commission indicating its satisfaction that there would not be any interference to its system caused by AMSC's

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<sup>6/</sup> See Letter from LQP to William F. Caton (April 20, 1995); Petition to Deny of Motorola Satellite Communications, Inc. (April 7, 1995)

operation above 1530 MHz.

LQP also argues that neither LQP nor any other Big LEO licensee should be required to coordinate their systems with AMSC's lower L-band operations. LQP maintains that such a requirement would be inconsistent with Commission policies regarding grant of interim authority, and that AMSC's system should be secondary to all licensed operation in the lower L-band and adjacent bands. Again, all of LQP's concern is moot if AMSC's MET's do not cause any interference, and LQP has failed to even attempt to show that such interference would be a problem.

The only precedent LQP offers in support of this argument is Newcomb Communications, Inc., 8 FCC Rcd 3631 (CCB 1993), in which an applicant was granted interim authority to operate in the 1610-1626.5 MHz band pending grant of permanent licenses for operation in that band. In that case, the Commission required the applicant to operate on a secondary basis in relation to permanent licensed operations in the same band, and to cease operation immediately if it caused interference to the permanent licensees. LQP suggests that this case limits the scope of the Commission's authority to establish coordination requirements between permanent and temporary licensees operating in adjacent bands. This is far too broad a proposition. The Commission's primary concern in Newcomb was that nothing interfere with permanent operations in the same band, where there was no dispute that the two operations could not proceed simultaneously. Id. at 3632. Such is not the case here. LQP and AMSC do not operate in the same bands. Further, as noted above, LQP has provided no evidence of adjacent band interference between the two systems.

## II. AMSC's Lower L-Band Authority Will Not Prejudice Permanent Licensing

LQP also requests that the Commission require AMSC to cease interim operations in the lower L-band if and when any U.S. licensed system commences operations in the band with METs that comply with US315. LQP suggests that without such a requirement, AMSC may gain an "unfair advantage" over its competitors at such time as the Commission issues an authorization for permanent authority to operate in this band. LQP's request is moot, because AMSC's current authority to operate in the lower L-band is already conditioned to expire no later than release of the Commission's final order on operation and licensing in the lower L-band.

Order at ¶ 31.<sup>27</sup>


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<sup>27</sup> AMSC has an application pending for permanent authority to operate in the lower L-band. See Application of AMSC Subsidiary Corporation, Request for Authority to Construct, Launch and Operate AMSC-1 in the 1530-1544/1626.5-1645.5 MHz Bands, File No. 59-DSS-MP/ML-93 (July 7, 1993). AMSC's position is that there has been ample process already for the Commission to license this spectrum. See Consolidated Opposition and Reply of AMSC, File No. 59-DSS-MP/ML-93 (December 22, 1993) at 17. Moreover, the record in the lower L-band proceeding demonstrates without contradiction that AMSC, with its geostationary system, is the only entity capable of using the limited amount of spectrum available in the band. Id. at 12.

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**Conclusion**

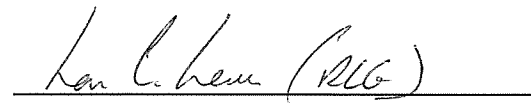
LQP offers no reason for the Commission to disturb its conclusions regarding the issues discussed above. Therefore, for the reasons stated herein, AMSC respectfully requests that the Commission deny the petition of LQP.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I, Cynthia Smith, a secretary to the law firm of Fisher Wayland Cooper Leader & Zaragoza L.L.P., hereby certify that on this 14th day of September, 1995, I served a true copy of the foregoing "Opposition" by first class United States Mail, postage prepaid, upon the following:

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