

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

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In the Matter of)
)
Policy and Rules Concerning the) CC Docket No. 96-61
Interstate, Interexchange Marketplace)
)
Implementation of Section 254(g) of the)
Communications Act of 1934, as amended)

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

COMMENTS OF AMSC SUBSIDIARY CORPORATION

AMSC Subsidiary Corporation ("AMSC"), hereby submits its comments in response to the Notice of Proposed Rulemaking in the above-referenced proceeding.^{1/} AMSC is particularly concerned with the implementation of new Section 254(g) of the Communications Act, involving rate averaging and rate integration.^{2/} The design of AMSC's satellite requires substantially more power to provide service to Alaska, Hawaii, Puerto Rico and the Virgin Islands and the Commission has permitted AMSC to charge more for service to these areas. As discussed in more detail below, AMSC urges the Commission to forebear from applying the rate integration requirement to AMSC's provision of Mobile Satellite Service ("MSS").^{3/}

^{1/} FCC 96-123 (March 25, 1996).

^{2/} Section 254(g) provides as follows:

Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall adopt rules to require that the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas. Such rules shall also require that a provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State.

^{3/} New Section 10 of the Communications Act gives the Commission broad authority to

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AMSC is the licensee of the U.S. MSS system.^{4/} At a cost of over \$650 million, AMSC launched its first satellite a year ago and began provided service in January 1996, offering the first two-way voice communications system capable of providing service in a mobile environment throughout the United States, including Alaska, Hawaii, Puerto Rico and the U.S. Virgin Islands. With the Commission's approval, AMSC's system design involves four overlapping beams to provide service to the contiguous 48 states ("Region 1") and two special beams to provide service to Alaska, Hawaii, Puerto Rico and the U.S. Virgin Islands ("Region 2"). See Exhibit A (attached). Using standard ground equipment, Region 2 service requires substantially more satellite power than does Region 1 service. AMSC therefore charges more for Region 2 service. For instance, one of AMSC's rate plans prices Region 1 service at \$1.49 per minute, with a \$1.25 surcharge for Region 2 service. There are no Region 2 surcharges for initial activation or for monthly access. The Commission upheld AMSC's Region 2 surcharge policy when it was challenged in 1993.^{5/}

AMSC includes in its basic rate the cost of completing a domestic call using the PSTN,

^{3/} (...continued)
forbear from imposing requirements on carriers.

The rate averaging provisions do not appear to be a problem to AMSC, since AMSC does not charge different rates to urban and rural areas.

^{4/} Memorandum Opinion, Order and Authorization, 4 FCC Rcd 6041 (1989); Final Decision on Remand, 7 FCC Rcd 266 (1992); aff'd sub nom. Aeronautical Radio, Inc. v. FCC, 983, F.2d 275 (D.C. Cir. 1993).

The FCC has classified AMSC as a non-dominant common carrier, based on its service being new and on the existence of substitutes for some of the services that it provides. Second Report and Order, 2 FCC Rcd 485. 490 (1987).

^{5/} Order, DA 93-61 (Chief, Tariff Division, April 19, 1993), in response to Petition of General Communications, Inc. (April 13, 1993) to reject or suspend and investigate AMSC Subsidiary Corp. Tariff F.C.C. No. 3 (April 6, 1993).

regardless of whether the call is to Alaska, Hawaii, Puerto Rico, or the Virgin Islands. Thus, for example, a veterinarian in Idaho using AMSC's service pays the same per-minute rate for a call to Idaho or New York as he pays for a call to Alaska.

As the Commission notes in its NPRM, the Congressional intent in adopting Section 254(g) was to codify existing Commission policies, which as noted above have not been applied to mobile services such as that of AMSC. Moreover, AMSC's service is not easily classified as "interexchange" service. All services that AMSC provides transit AMSC's Reston, Virginia earth station, which is connected to the Public Switched Telephone Network ("PSTN"). In that sense, all traffic (other than communications to and from Virginia) is interexchange service. At the same time, however, much of the traffic is to and from points in the same Local Access and Transport Area. For instance, the Idaho veterinarian may typically use the system to communicate with his office or with ranchers in his local area. That traffic might be viewed as local service. Because the service is mobile and has geographically large beams, AMSC typically cannot tell whether customers are using its system for interexchange or local service.

In the NPRM, the Commission points out that it adopted its policies of rate averaging and rate integration in the context of interexchange service being provided by satellite, which it characterized as distance insensitive. NPRM, para. 75, citing Second Report and Order in Docket No. 16495, 35 FCC 2d 844, at 856-57 (1972). In contrast to the Fixed Satellite Service ("FSS") systems described in that earlier case, AMSC's costs, as discussed above, do vary substantially depending on whether the service is to Region 1 or Region 2. Moreover, MSS systems have less flexibility than FSS systems to compensate for differing power requirements by modifying the size of the ground equipment. In the case of FSS systems, if there are areas that need more power, the solution is typically to increase the size of the earth station antenna. In

a mobile environment, the more viable option is to increase the satellite power allocated to serving the terminal.

Therefore, for the above-stated reasons, AMSC urges the Commission not to apply a rate integration requirement to AMSC.

Respectfully submitted,

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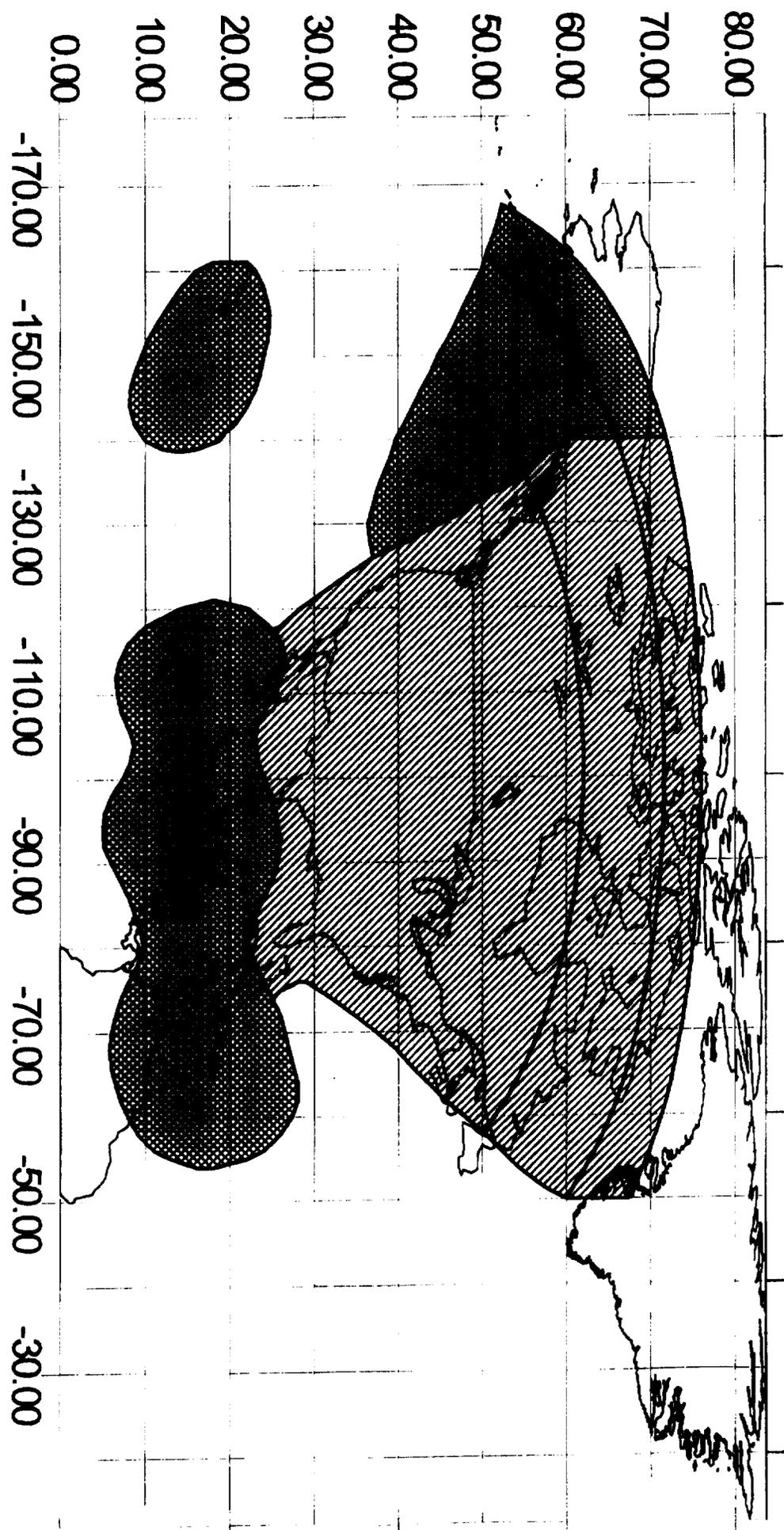


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AMSC-1 GEOGRAPHIC COVERAGE



REGION 1
REGION 2