EX PARTE OR LATE FILED

ORIGINAL

FISHER WAYLAND COOPER LEADER & ZARAGOZA L.L.P.
2001 PENNSYLVANIA AVENUE, N.W.
SUITE 400
WASHINGTON, D. C. 20006-1851
TELEPHONE (202) 659-3494

BRUCE D. JACOBS
(202) 775-3543

FACSIMILE
(202) 296-6518

INTERNET
bjacobs@fwclz.com

June 18, 1999

RECEIVED
JUN 18 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
TW-B204
Washington, D.C. 20554

Re: *Ex Parte* Presentation
File Nos. 47-SAT-WAIV-97; 548-SSA-97(50); 1281-DSE-P/L-96 (Call Sign E960327); ITC-95-341; IB Docket No. 96-111; CC Docket No. 93-23, RM-7931; CC Docket No. 87-75; IB Docket No. 95-41; 730-DSE-P/L-98; 647-DSE-P/L-98; 1217-SSA-98

Dear Ms. Salas:

On June 17, Lon Levin, Vice President and Regulatory Counsel of AMSC Subsidiary Corporation ("AMSC") and Bruce Jacobs, outside regulatory counsel to AMSC, met with Kathy Brown, Robert Calaff, Linda Haller, and Tom Tycz to discuss the Commission's policies in connection with the licensing of MSS systems in the L-band. AMSC's presentation is summarized in the attached statement.

Two copies of this notice for each of the above-captioned proceedings are being submitted to the Secretary of the FCC in accordance with the Commission's Rules. Please direct any questions regarding this matter to the undersigned.

Very truly yours,

Bruce D. Jacobs

cc: Kathy Brown
Robert Calaff
Linda Haller
Tom Tycz

No. of Copies rec'd 0+22
List ABCDE

Any grant of applications to use foreign-licensed MSS systems to provide U.S. service in the L-band (1.5/1.6 GHz) will undermine the integrity of the FCC's spectrum management function.

As spectrum manager, the Commission allocated spectrum to MSS in the L-band, decided that there was enough spectrum in the band to license only a single system to provide service in the United States, required the 12 applicants to form a single consortium, granted the consortium license to AMSC to build and operate the system, and undertook to coordinate 10-14 MHz internationally for that system -- an amount of spectrum that the FCC consistently has said is appropriate for the license it granted to AMSC. The Commission's coordination strategy has been based on reaching temporary, annual arrangements with foreign-licensed systems until AMSC's traffic has developed to its expected levels, which will be so much greater than those of the other systems that those systems will concede the right of the U.S. system to access its minimum amount of spectrum. The strategy also has been based on the view that the foreign systems involved in coordination have overstated their need for spectrum, particularly since they do not have authority to operate in the United States.

By its own admission, the Commission so far has been unsuccessful in coordinating AMSC's access to its minimum amount of spectrum. AMSC's system is still young, and traffic, while growing, has not yet reached the point where foreign-licensed systems that overstated their long-term reasonable demand will concede that AMSC is entitled to stable access to at least 10 MHz. If the Commission adheres to its existing policies, its coordination strategy may yet be a success; but at least through 1999, in terms of coordinating AMSC's stable access to at least 10 MHz of spectrum, it has not yet succeeded.

AMSC's actions since its licensing have been based on an expectation of stability in the Commission's policies, including the Commission's continued support for the coordination of long-term access to at least 10 MHz of L-band spectrum. AMSC would not have agreed to the current approach to coordination if it had understood that the Commission would abandon its existing policies before AMSC had an opportunity to develop the demand necessary to implement the strategy. AMSC has recognized that the Commission might eventually permit additional systems to operate in the U.S. in its spectrum, including foreign-licensed systems, but such entry would be only after AMSC has coordinated long-term access to its minimum licensed spectrum.

If the Commission changes its established spectrum management policies now, and permits additional, foreign-licensed systems to operate in AMSC's bands in the United States, it will do so without any record evidence for variance from its established policies. There is no record for concluding that AMSC needs less than 10-14 MHz or that there will be a surplus of spectrum in the L-band. The evidence, of course, strongly indicates that AMSC still needs 10-14 MHz and that coordination of the L-band is becoming more difficult over time, as new systems must be coordinated (such as that of Japan) and as Inmarsat fails to become more efficient.

The simple but powerful truth is that the licensing of additional systems to use the L-band to provide service in the United States will substantially and adversely affect ongoing efforts to coordinate AMSC's long-term, stable access to a minimum amount of L-

band spectrum. The other systems that are capable of operating in the band will remain at least as aggressive in their coordination demands and the U.S. will lose whatever leverage is provided by the incentive that, once AMSC achieves stable access to the minimum amount of spectrum, the U.S. market may be opened to additional systems operating in the band. The dynamic of the coordination is already fragile and difficult; even minor retrenchment by the Commission is very damaging to the long-term effort. Moreover, there is apparently no new Commission strategy for helping AMSC to coordinate access to that minimum amount of spectrum.

If the Commission changes its policies now, it will be favoring foreign-licensed systems over domestic entities, including the 12 original MSS applicants that were forced into the consortium and the Big LEO licensees that have indicated an interest in applying to use any surplus spectrum. The right way to authorize operation by foreign-licensed systems is the one the Commission is taking in the 2 GHz bands, in which all potential system operators are treated equally if they submit an application by an appropriate cut-off.