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July 22, 2005

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VIA COURIER

Managing Director  
Attn: FOIA Officer  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**Re: Pegasus Development Corporation**  
**Opposition to Freedom of Information Act Request**

To whom it may concern:

Pegasus Development Corporation ("Pegasus") hereby submits this letter opposing the Freedom of Information Act ("FOIA") Request of Highcast Network, Inc. ("Highcast") seeking an unredacted copy of Pegasus' satellite construction contract for its licensed Ka-band satellite system at the 87°W orbital location. See Letter to Managing Director from Mark S. Halpren (July 14, 2005) ("FOIA Request"). Highcast is a corporation controlled by a former employee of Pegasus who is in litigation with Pegasus regarding the termination of his employment. The former employee serves as a director, officer, and principal shareholder of Highcast.<sup>1</sup> Pegasus' satellite construction contract is unrelated to the basis for the employment litigation with its former employee and is not germane to Highcast's business. Accordingly, the FCC should dismiss or deny the FOIA request. See, e.g., *In Re Request of Louis A. Goodman*, 81 FCC 2d 124 (1980) ("The Commission generally has denied requests for inspection . . . where the [confidential] information is to be used for the resolution of essentially private disputes, unrelated to public interest determinations required by the Communications Act"); *McKeon Construction Co.*, 21 RR 2d 919 (1971) (denying FOIA request by entity seeking confidential information of FCC licensee because such material was sought in non-FCC related litigation and discoverable in that proceeding).

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<sup>1</sup> It should be noted that Pegasus is also a shareholder of Highcast.

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None of the cases Highcast cites are relevant. *See* FOIA Request, at 3 nn. 6-8. In those cases, the parties seeking review of the confidential documents were satellite applicants with a legitimate reason for reviewing the confidential material to ensure the licensee's compliance with FCC regulations. Under those circumstances, review pursuant to a protective order was justified. Here, in contrast, Highcast is not a Ka-band satellite applicant and has no real reason for seeking review of the confidential filing.

If the Commission, nonetheless, elects to consider Highcast's FOIA request, Pegasus does not object to Highcast's review of the confidential submission under a protective order. Review pursuant to a protective order is consistent with numerous decisions by the Commission, as Highcast itself has acknowledged. *See* FOIA Request, at 3 nn. 6, 8.

Very truly yours,



Bruce D. Jacobs  
Tony Lin  
*Counsel for Pegasus Development  
Corporation*

cc: Tom Tycz  
Andrea Kelly

Certificate of Service

I, Renee Williams, hereby certify that on the 22nd day of July, 2005, the foregoing Opposition to Freedom of Information Act Request was served by first-class U.S. mail on the following:

Mark S. Halpern  
Halpern & Levy, P.C.  
GSB Building  
One Belmont Avenue, Suite 400  
Bala Cynwyd, PA 19004

  
Renee Williams