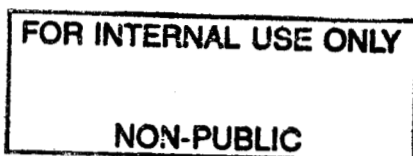


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February 1, 2008

FILED/ACCEPTED

FEB - 1 2008

Federal Communications Commission
Office of the Secretary

Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals, Room TW-A325
445 12th Street, S.W.
Washington, D.C. 20554

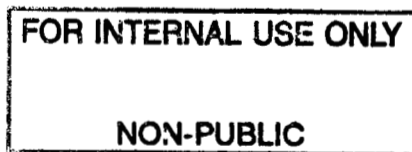
REQUEST FOR CONFIDENTIAL TREATMENT

Re: EchoStar Corporation
File No. SAT-LOA-20040803-00154; Call Sign S2636

Dear Ms Dortch:

Pursuant to 47 C.F.R. §§ 0.457 and 0.459, EchoStar Corporation¹ ("EchoStar") respectfully requests that the enclosed letter and declaration (with exhibits) from Space Systems/Loral ("Confidential Letter and Declaration") be treated as confidential and not routinely available for public inspection. The Confidential Letter and Declaration are being submitted in response to the January 18, 2008 letter from Robert Nelson, Chief, Satellite Division, International Bureau, to Pantelis Michalopoulos, counsel for EchoStar, requesting

¹ EchoStar Corporation is the current licensee of the above-captioned space station license. On November 15, 2007, the International Bureau approved the *pro forma* assignment and transfer of control of this license from EchoStar Satellite Operating Corporation to EchoStar Holding Corporation, and the spin-off of that company to the shareholders of EchoStar Communications Corporation. See Public Notice, DA-07-4655, Report No. SAT-00482 (rel. Nov. 16, 2007). The approved transactions were consummated on January 1, 2008. On January 25, 2008, EchoStar Holding Corporation changed its name to EchoStar Corporation. See Letter from Pantelis Michalopoulos, Counsel for EchoStar Corporation, to Marlene H. Dortch, Secretary, FCC (filed Jan. 31, 2008).



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additional information to demonstrate compliance with the commence-physical-construction milestone for the above-captioned space station authorization. Redacted copies of the Confidential Letter and Declaration are being filed separately with the Commission for the public record.

The Confidential Letter and Declaration contains highly sensitive commercial, financial, and technical information that “would customarily be guarded from competitors” regardless of whether or not such materials are protected from disclosure by a privilege. *See* 47 C.F.R. § 0.457(d); *see also Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992) (“[W]e conclude that financial or commercial information provided to the Government on a voluntary basis is ‘confidential’ for the purpose of Exemption 4 if it is of a kind that would customarily not be released to the public by the person from whom it was obtained.”). In addition, the information contained in the Confidential Letter and Declaration includes sensitive information regarding the construction status of the proposed satellite that if disclosed could place EchoStar and SSL at a competitive disadvantage. Such information warrants protection under 47 C.F.R. §§ 0.457 and 0.459.² A cover sheet representing the redacted version of the attachment is being submitted separately for the public file, together with EchoStar’s certification of compliance with the physical construction milestone.

More specifically, in support of this request for confidential treatment, and pursuant to 47 C.F.R. § 0.459(b), EchoStar hereby states as follows:

1. The information for which confidential treatment is sought is in support of EchoStar’s submission to demonstrate compliance with its commence-physical-construction milestone, and includes detailed information regarding the construction status of the satellite under construction. As noted above, EchoStar is filing a public version of the Confidential Letter and Declaration, and this request for confidential treatment pertains only to the portions that have been redacted from the public version.
2. The information is being submitted, as required under 47 C.F.R. §25.164(d), to demonstrate compliance with the physical construction milestone contained in EchoStar’s Ka-band license for the 112.85° W.L. orbital location.³

² 47 C.F.R. §§ 0.457, 0.459.

³ *See* Stamp Grant, File No. SAT-LOA-20040803-00154, at condition 2.c. (rel. Oct. 8, 2004). *See also First Space Station Licensing Reform Order* at ¶ 192.

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3. As mentioned, this information contains extremely sensitive commercial, financial, and technical information that would customarily be kept from competitors. Specifically, the information consists of the construction status of EchoStar's proposed Ka-band satellite, as certified by SSL. EchoStar would be severely prejudiced in its ability to compete if such information were released to competitors. Moreover, SSL could be prejudiced in future negotiations regarding construction of satellites if information about its arrangements with EchoStar regarding construction timing and the amounts spent on construction were made available to other satellite construction companies or to prospective purchasers of satellites.
4. The information for which non-disclosure is sought pertains to the Fixed-Satellite Service, for which numerous competitors have received licenses. Other providers of such services (as well as the competitors of SSL) stand to benefit competitively from any knowledge of the construction status and progress of EchoStar's proposed satellite contained in the Confidential Letter and Declaration.
5. Disclosure of the information for which non-disclosure is sought could result in substantial harm to EchoStar and SSL by revealing to their competitors, the satellite construction industry and the public, the construction status of EchoStar's proposed satellite system, as certified by SSL. Such information could be used by the competitors of EchoStar to develop competing service offerings. *See In re Application of Mobile Communications Holdings, Inc. for Authority to Construct the ELLIPSO Elliptical Orbit Mobile Satellite System*, 10 FCC Rcd 1547, 1548 (Int'l Bur. 1994). Moreover, EchoStar would be prejudiced in any future negotiations regarding construction of satellites if such information were available to other satellite manufacturers.
6. EchoStar and SSL take significant measures to ensure that the timing, technical criteria and characteristics of its satellite construction projects are not disclosed to the public, including confidentiality clauses in such contracts.
7. The attached material for which non-disclosure is sought is not available to the public.

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8. EchoStar requests that the attached material be withheld from disclosure for an indefinite period. Disclosure of this information at any time could jeopardize the competitive position of EchoStar and SSL.
9. Finally, EchoStar notes that denying its request that this information be kept confidential would impair the Commission's ability to obtain this type of voluntarily disclosed information in the future. The ability of a government agency to continually obtain confidential information was behind the legislative purpose in developing exemptions from the Freedom of Information Act. *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 878-79 (D.C. Cir. 1992). The Commission should extend a similar recognition to the enclosed materials.

EchoStar requests that the Commission not release the information contained in the Confidential Letter and Declaration and return it to EchoStar if its request for confidentiality is denied in whole or in part.

Respectfully submitted,


Pantelis Michalopoulos /DCM

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Enclosures

cc: (by electronic mail)
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