

STEPTOE & JOHNSON LLP

ATTORNEYS AT LAW

Pantelis Michalopoulos
202.429.6494
pmichalo@steptoe.com

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
Tel 202.429.3000
Fax 202.429.3902
steptoe.com

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NON-PUBLIC

May 2, 2008

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

FILED/ACCEPTED
MAY - 2 2008
Federal Communications Commission
Office of the Secretary

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 Corporation (“EchoStar”) respectfully requests that the enclosed letter and attachments provided by Space Systems/Loral (“SSL”) (“Confidential Letter and Attachments”) be treated as confidential and not routinely available for public inspection. The Confidential Letter and Attachments are being submitted in response to a request on the part of the International Bureau for 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 Attachments are being filed separately with the Commission for the public record.

The Confidential Letter and Attachments contain 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.”). This information includes many of the literal “nuts and bolts” of making a satellite: photographs of components, a granular list of high-reliability components, and invoices and purchase orders.

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All in all, this information tells an eloquent story about the process of constructing a satellite, a story that the competitors of SSL and EchoStar would love to hear. Such information warrants protection under 47 C.F.R. §§ 0.457 and 0.459.¹

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. As noted above, EchoStar is filing a public version of the Confidential Letter and Attachments, 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.²
3. As mentioned, this information contains extremely sensitive commercial, financial, and technical information that would customarily be kept from competitors. EchoStar would be severely prejudiced in its ability to compete if such detailed information about the process of constructing its satellites were released to competitors. Moreover, SSL could be prejudiced in future negotiations regarding construction of satellites (both with satellite operators and subcontractors) if information about its arrangements with EchoStar regarding the timing of purchase orders and the amounts spent on construction were made public. Finally, this information would afford a very valuable glimpse of SSL's construction process to SSL's competitors.
4. The information, for which non-disclosure is sought, pertains to the Fixed-Satellite Service, for which numerous competitors have received licenses.

¹ 47 C.F.R. §§ 0.457, 0.459.

² 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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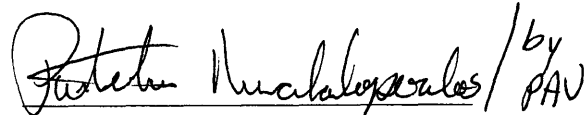
Other providers of such services (as well as the competitors of SSL) stand to benefit competitively from any knowledge of the construction status and progress of EchoStar's proposed satellite contained in the Confidential Letter and Attachments.

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, subcontractors, the satellite construction industry and the public, the construction status of EchoStar's proposed satellite system in almost exhaustive detail. Such information could be used by EchoStar's competitors 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, as well as SSL, would be prejudiced in any future negotiations regarding construction of satellites if such information were available to other satellite manufacturers and subcontractors.
6. EchoStar and SSL take significant measures to ensure that the timing, technical criteria and characteristics of their 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.
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.

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Pantelis Michalopoulos / by PAV". The signature is written in a cursive style and is positioned above a horizontal line.

Linda Kinney
Vice President, Law and Regulation
Brad Gillen
Director and Senior Counsel
ECHOSTAR CORPORATION
1233 20th Street N.W.
Washington, D.C. 20036-2396
(202) 293-0981

Pantelis Michalopoulos
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, D.C. 20036
(202) 429-3000

Counsel for EchoStar Corporation

Enclosure

cc: Robert Nelson, International Bureau