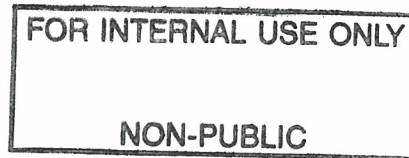
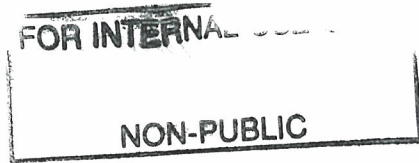


STEPTOE & JOHNSON LLP

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



June 16, 2010

Via HAND DELIVERY

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

FILED/ACCEPTED

JUN 16 2010

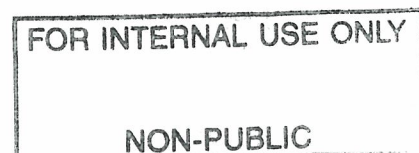
Federal Communications Commission
Office of the Secretary

Re: REQUEST FOR CONFIDENTIAL TREATMENT
Application for Authority to Launch the EchoStar 15 Satellite and for Modified
Authority to Operate that Satellite at 61.5° W.L., File No. SAT-LOA-20100310-
00043; Call Sign S2811

Dear Ms. Dortch:

EchoStar Corporation (“EchoStar”), pursuant to the provisions of Sections 0.457 and 0.459 of the Commission’s Rules governing submission of confidential materials, 47 C.F.R. §§ 0.457, 0.459, respectfully requests that the copy of the Satellite Capacity Agreement for EchoStar XV between DISH Network L.L.C. (“DISH”) and EchoStar Satellite Operating Corporation (“ESOC”) (an affiliate of EchoStar) and the copy of the Satellite Capacity Sub-Agreement for EchoStar XV between DISH and ESOC (collectively, the “Agreements”) be afforded confidential treatment and not be placed in the Commission’s public files of the above-referenced application. The Agreements are being submitted as part of EchoStar’s application for authority to launch and operate the EchoStar 15 satellite from the 61.5° W.L. orbital location. This request for confidential treatment relates to the Agreements in their entirety.

The Agreements address current and future commercial arrangements and obligations of the parties related to the launch and operation of the EchoStar 15 satellite. They set forth the customized terms upon which EchoStar has agreed to obtain capacity from, and provide capacity to, DISH. The Agreements qualify as “commercial or financial 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); *Critical Mass Energy Project*



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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.”); *see also DIRECTV, Inc.; Request for Special Temporary Authority to Relocate DIRECTV 3 to 82° W.L. and to Conduct Telemetry, Tracking and Command (“TT&C”) Operations for an Interim Period*, File No. SAT-STA-20030903-00300 (application in which the FCC accepted redacted contract as part of record).

The Agreements pertain to the provision of multichannel video programming as well as to the provision of satellite capacity. EchoStar and DISH face fierce competition in both the multichannel video programming distribution (“MVPD”) market and the wholesale satellite capacity market. *See, e.g., In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Thirteenth Annual Report, 24 FCC Rcd. 542 (2009).

Disclosure of the Agreements could result in substantial competitive harm to both EchoStar and DISH. Notice of these terms would allow the competitors of both EchoStar and DISH to take steps to counter whatever advantage EchoStar and DISH may gain in the market based on the future operations of the EchoStar 15 satellite.

Generally, businesses do not publicly reveal customized capacity contracts such as the two agreements. Thus, almost all of the specific terms in such an agreement would be the type of commercial information that “would not customarily be released to the public” and should be treated as confidential. EchoStar and DISH take significant measures to ensure that this confidential information is not disclosed to the public as is demonstrated by the Confidentiality and Nondisclosure provisions in Article 9 of both Agreements. Thus, the Commission should treat the Agreements as confidential under Section 0.457(d).

EchoStar requests that the Agreements be withheld from disclosure for an indefinite period. Disclosure of this information at any time could jeopardize the competitive positions of EchoStar and DISH.

Finally, EchoStar notes that a denial of 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 (D.C. Cir. 1992) (“Where, however, the information is provided to the Government voluntarily, the presumption is that [the Government’s] interest will be threatened by disclosure as the persons whose confidences have been betrayed will, in all likelihood, refuse further cooperation.”). The U.S. Court of Appeals for the D.C. Circuit has recognized a “private interest in preserving the

