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BUSINESS PROPRIETARY VERSION

Proprietary Treatment Requested



COPY

George F. Wazeter
Director, Regulatory Affairs

November 30, 2007

VIA HAND DELIVERY

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

FILED/ACCEPTED
DEC - 3 2007
Federal Communications Commission
Office of the Secretary

Re: Request for Confidential Treatment Pursuant to Sections 0.457
and 0.459
Additional Information to Update the Record
File No. SAT-MOD-20060306-00024
Call Sign: S2357

Dear Ms. Dortch:

Skynet Satellite Corporation, a subsidiary of Telesat (collectively "Telesat"),¹ respectfully requests that, pursuant to Sections 0.457 and 0.459 of the Commission's rules, 47 C.F.R. §§ 0.457 & 0.459, the Commission withhold from public inspection and accord confidential treatment to the declaration of satellite expenditures and summary of customer and cost information filed as attachments to Telesat's November 30, 2007 filing in the above-referenced proceeding. These attachments contain commercially sensitive information that falls within Exemption 4 of the Freedom of Information Act ("FOIA"). See 5 U.S.C. § 552(b)(4); 47 C.F.R. § 0.457(d).

Exemption 4 permits parties to withhold from public information "trade secrets and commercial or financial information obtained from a person and privileged or confidential-categories of materials not routinely available for public inspection." *Id.* Applying Exemption 4, the courts have stated that commercial or financial information is

¹ On October 31, 2007, Telesat acquired the assets of Loral Skynet Corporation. Upon consummation of the transaction, the authorizations held by Loral Skynet Corporation were transferred to Skynet Satellite Corporation. For convenience, this letter refers consistently to Telesat rather than Loral Skynet Corporation or Skynet Satellite Corporation.

500 Hills Drive, Bedminster, NJ 07921
908-470-2350 (v), 908-470-2453 (f)

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confidential if its disclosure will either (1) impair the government's ability to obtain necessary information in the future; or (2) cause substantial harm to the competitive position of the person from whom the information was obtained. *See National Parks and Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974)(footnote omitted); *see also Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879-80 (D.C. Cir. 1992), *cert. denied*, 507 U.S. 984 (1993).

Section 0.457(d)(2) allows persons submitting materials that they wish to be withheld from public inspection in accordance with Section 552(b)(4) to file a request for non-disclosure, pursuant to Section 0.459. In accordance with the requirements contained in Section 0.459(b) for such requests, Telesat hereby submits the following:

(1) *Identification of Specific Information for Which Confidential Treatment is Sought (Section 0.459(b)(1))*. Telesat seeks confidential treatment for the declaration of satellite expenditures and the confidential summary of costs and customer identities submitted as attachments to Telesat's November 30, 2007 filing to provide additional updated information for the pending modification application.

(2) *Description of Circumstances Giving Rise to Submission (Section 0.459(b)(2))*. Telesat is filing the additional information to update the record of a pending modification application, which seeks authority to modify the continuity of service condition of the Telstar 11N authorization.

(3) *Explanation of the Degree to Which the Information is Commercial or Financial, or Contains a Trade Secret or is Privileged (Section 0.459(b)(3))*. The confidential attachments contain both commercial and financial information that competitors could use to Telesat's disadvantage. The courts have given the terms "commercial" and "financial," as used in Section 552(b)(4), their ordinary meanings. The Commission has broadly defined commercial information, stating that "[c]ommercial" is broader than information regarding basic commercial operations, such as sales and profits; it includes information about work performed for the purpose of conducting a business's commercial operations." The information in the confidential attachments, which summarizes both costs and customer identities, falls clearly within the definition of commercial. Competitors could use this information to enhance their market position at Telesat's expense.

(4) *Explanation of the Degree to Which the Information Concerns a Service that is Subject to Competition (Section 0.459(b)(4))*. Substantial competition exists in the fixed satellite service industry. The presence of competitors makes imperative the confidential treatment of sensitive commercial and financial information.

(5) *Explanation of How Disclosure of the Information Could Result in Substantial Competitive Harm (Section 0.459(b)(5))*. As explained briefly in Section 3, release of the information in the confidential attachment could have a significant impact on Telesat's commercial operations. If competitors or customers had access to this information, it could negatively affect Telesat's future negotiations with potential and existing customers.

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(6) *Identification of Measures Taken to Prevent Unauthorized Disclosure (Section 0.459(b)(6)).* Telesat limits access to this confidential cost and customer information to necessary personnel only. Also, Telesat takes every precaution to ensure that this information is not released to the general public.

(7) *Identification of Whether the Information is Available to the Public and the Extent of Any Previous Disclosure of Information to Third Parties (Section 0.459(b)(7)).* Telesat has not made the information in the confidential attachments available to the public and has not disclosed the information to any third parties.

(8) *Justification of Period During Which the Submitting Party Asserts that the Material Should Not be Available for Public Disclosure (Section 0.459(b)(8)).* Telesat respectfully requests that the Commission withhold the information in the confidential attachments from public inspection indefinitely. This information will remain commercially sensitive until the satellite system is decommissioned.

Please contact the undersigned with any questions. Thank you for your assistance.

Sincerely,



George F. Wazeter
Director, Regulatory Affairs

cc (via email): Helen Domenici, Roderick Porter, Gardner Foster, Robert Nelson,
Cassandra Thomas, and Andrea Kelly