

February 25, 2008

FILED/ACCEPTED

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Federal Communications Commission  
Office of the Secretary

By Hand Delivery

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554



**Re: REQUEST FOR CONFIDENTIAL TREATMENT  
Report of Mobile Satellite Ventures Subsidiary LLC  
Files Nos. SAT-MOD-20070523-00073, SES-MOD-20070523-00712**

Dear Ms. Dortch:

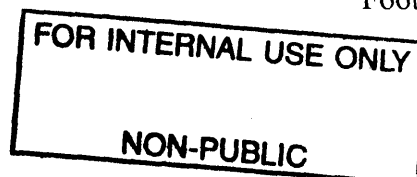
Mobile Satellite Ventures Subsidiary LLC (“MSV”) hereby requests confidential treatment for the attached Report outlining its contingency plans for service restoration in the event of an on-orbit failure of MSV-1 or MSV-2.<sup>1</sup> The Report contains sensitive information regarding MSV’s next-generation system, including its ground network architecture, system configuration, and service restoration processes and procedures in the event of a satellite failure.<sup>2</sup> If disclosed, such information could raise national security concerns, which the FCC has acknowledged is a legitimate basis to withhold information from public disclosure.<sup>3</sup> Additionally, the Report contains information that

<sup>1</sup> See *In the Matter of Mobile Satellite Ventures Subsidiary LLC, Application for Limited Waiver of On-Ground Spare Satellite Rule*, DA 07-4723, at ¶12 (November 26, 2007) (“Waiver Order”) (“We request that MSV provide, within 90 days of the release of this Order, a report outlining contingency plans in the event of a failure of an on-orbit spare satellite.”).

<sup>2</sup> See 5 U.S.C. § 552(b)(4)(agency requirement to disclose information it obtains from a person does not apply to privileged or confidential trade secrets and commercial or financial information); see also 47 C.F.R. §§ 0.457, 0.459.

<sup>3</sup> See *New Part 4 of the Commission’s Rules Concerning Disruptions to Communications*, 19 FCC Rcd 16830, at ¶ 45 (2004) (“*Network Disruptions Order*”); see e.g., Letter from Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, FCC to Maris Cunco, FOIA Control No. 2007-081 (Feb. 27, 2007); Letter from Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, FCC to Giles Meharg, FOIA Control No. 2007-082 (Feb. 27, 2007); Letter from Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, FCC to Bladen Brannon, FOIA Control No. 2007-083 (Feb. 27, 2007); Letter from Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, FCC to Gregory Garten, FOIA Control No. 2007-084 (Feb. 27, 2007); Letter from Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, FCC to John

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is technologically and competitively sensitive and proprietary and, if disclosed, could result in substantial competitive harm to MSV.<sup>4</sup> For these reasons, MSV submits that the public interest would be served by grant of this request for confidential treatment.<sup>5</sup>

In conformity with Section 0.459(b) of the Commission's rules, MSV submits the following:

(1) MSV requests confidential treatment of the attached Report outlining its contingency plans for service restoration in the event of an on-orbit failure of MSV-1 or MSV-2.

(2) The Report is being submitted as required by the International Bureau order granting MSV's waiver request of the requirement to maintain an on-ground spare satellite within one year after commencing operation of Ancillary Terrestrial Component facilities. *See Waiver Order*, at ¶ 12.

(3) The document for which confidentiality is sought contains proprietary and sensitive, commercial and technical information regarding MSV's next-generation system, including its ground network architecture, system configuration, and service restoration processes and procedures in the event of a satellite failure. The Commission has recognized in similar contexts that information vital to national security should be

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Maurer, FOIA Control No. 2007-085 (Feb. 27, 2007); Letter from Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, FCC to William Farrell, FOIA Control No. 2007-086 (Feb. 27, 2007); Letter from Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, FCC to Matthew Brown, FOIA Control No. 2007-087 (Feb. 27, 2007); Letter from Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, FCC to Alan Hawkins, FOIA Control No. 2007-088 (Feb. 27, 2007); Letter from Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, FCC to Piotr Mitros, FOIA Control No. 2007-089 (Feb. 27, 2007); Letter from Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, FCC to Michael Rose, FOIA Control No. 2007-090 (Feb. 27, 2007); Letter from Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, FCC to Ilan Rabinovitch, FOIA Control No. 2007-091 (Feb. 27, 2007); Letter from Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, FCC to Kevin Bardon, FOIA Control No. 2007-094 (Feb. 27, 2007); Letter from Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, FCC to Kelly Rice, FOIA Control No. 2007-112 (Feb. 27, 2007); Letter from Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, FCC to Gerard Lauraid, FOIA Control No. 2007-115 (Feb. 27, 2007).

<sup>4</sup> *See Network Disruptions Order*, at ¶ 45.

<sup>5</sup> A copy of this request for confidential treatment without the confidential Report is being filed in the public record.

treated presumptively as confidential.<sup>6</sup> That same reasoning applies here. The FCC's required report is intended to provide an outline of MSV's contingency plans in the event of a failure of an on-orbit satellite. The information could be used to assess the vulnerability of a critical communications and information systems infrastructure. Indeed, MSV currently provides vital satellite communications services to state and local public safety organizations<sup>7</sup> and fully plans to continue doing so on its next-generation system. Accordingly, to permit such information to fall into the hands of the wrong parties could raise national security concerns.<sup>8</sup>

(4) The information contained in the Report concerns a service that is subject to competition. MSV competes with a number of mobile satellite service providers, as well as other communications providers generally.

(5) Disclosure of the Report would result in substantial competitive harm. The Report contains sensitive commercial and technological information regarding MSV's next-generation system and was provided to the FCC to outline MSV's contingency plans in the event of a failure of an on-orbit satellite. The FCC has recognized that information regarding network vulnerability reveals competitive strengths and weaknesses that, if disclosed, could be exploited by a business rival.<sup>9</sup>

(6) MSV has limited the distribution of the Report to authorized employees or agents.

(7) The Report has not been made available to the public, and there has been no intended disclosure to third parties. Additionally, the information contained in the Report is subject to non-disclosure pursuant to an agreement with the manufacturer.

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<sup>6</sup> See *Network Disruptions Order*, at ¶ 45 (network outage reports should be treated as presumptively confidential because of national security concern).

<sup>7</sup> See, e.g., <http://www.msvlp.com/about/pdf/Katrina.pdf> (discussing the public safety benefits that MSV's communications system provided in the wake of Hurricane Katrina).

<sup>8</sup> See *Network Disruptions Order*, at ¶ 30 (“[T]he threat environment following September 11, 2001 dictates that appropriate steps be taken, consistent with law, to safeguard sensitive information, like that included in the outage reports, which could jeopardize our security efforts if disclosed to inappropriate recipients.”); see also, e.g., Letter from Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, to Maris Cuneo (February 27, 2007) (recognizing that disclosure of network outage reports would identify key points of network vulnerability for terrorists).

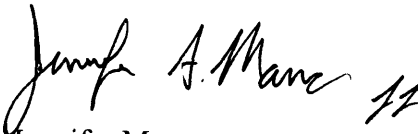
<sup>9</sup> See *Network Disruptions Order*, at ¶ 45; see also, e.g., Letter from Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, to Maris Cuneo (February 27, 2007) (information regarding network configurations, methods and procedures for detecting and correcting network failures, and the identify of customers and vendors whose network equipment failed is commercial in nature and can help rivals identify and exploit a company's weaknesses).

(8) There is no public benefit to be derived from disclosure of the Report. But, as discussed above, there is the potential for substantial harm to the public and MSV, if disclosed. Therefore, the Report should be withheld permanently from public disclosure.

(9) Not applicable.

For the foregoing reasons, the request for confidential treatment should be granted. Please contact the undersigned if you should have any questions regarding this matter.

Respectfully submitted,

  
Jennifer Manner

cc: (w/confidential attachment)

Robert Nelson  
Andrea Kelly