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FILED/ACCEPTED

AUG 14 2009

Federal Communications Commission
Office of the Secretary

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August 14, 2009

By Hand Delivery

Marlene H. Dortch
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: REQUEST FOR CONFIDENTIAL TREATMENT
Confidential Appendix
SkyTerra Subsidiary LLC
File Nos. SAT-MOD-20090813-00089 (Call Sign S2358)
SES-MOD-20090813-00997 (Call Sign E980179)
SAT-MOD-20090813-00088 (Call Sign AMSC-1)

Dear Ms. Dortch:

SkyTerra Subsidiary LLC (“SkyTerra”) hereby requests confidential treatment for the attached document (hereafter “Confidential Appendix”) submitted in connection with the above-referenced applications to SkyTerra’s space station license and authority to operate an Ancillary Terrestrial Component (“ATC”) in the L band.¹ The Confidential Appendix contains information pertaining to SkyTerra’s international L-band frequency coordination agreements and negotiations with other L-band operators, including technical information provided to SkyTerra in confidence by those other operators. Consistent with Commission precedent, the information should be treated as confidential.² If disclosed, it would violate confidentiality agreements with those

¹ A copy of this request for confidential treatment without the Confidential Appendix is being filed in the public record.

² See *Robert J. Butler*, 6 FCC Rcd 5414 (1991); *In the Matter of Amendment of the Commission’s Rules to Establish Rules and Policies Pertaining to a Non-voice, Non-Geostationary Mobile Satellite Service*, 8 FCC Rcd 8450, at ¶ 10 (1993); *Comsat Corporation d/b/a Comsat Mobile*

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operators and prejudice ongoing and future negotiations. This would undermine the ability of SkyTerra to obtain optimal use of the L-band spectrum, resulting in substantial competitive harm to SkyTerra. Moreover, disclosure of the Confidential Appendix would undermine the ability of the United States, as SkyTerra's licensing administration, to conclude and maintain coordination agreements with other administrations.³ For these reasons, SkyTerra submits that the Commission should grant this request for confidential treatment.

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

47 C.F.R. § 0.459(b)(1) -- Identification of the specific information for which confidential treatment is sought

SkyTerra seeks confidential treatment of the information contained in the attached Confidential Appendix, pertaining to SkyTerra's international L-band frequency coordination agreements and negotiations with other L-band operators.

47 C.F.R. § 0.459(b)(2) -- Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission

The information contained in the Confidential Appendix is being submitted in connection with SkyTerra's above-referenced modification applications to its space station license and authority to operate an ATC in the L band.

47 C.F.R. § 0.459(b)(3) -- Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged

The Confidential Appendix contains information pertaining to SkyTerra's international L-band frequency coordination agreements and negotiations with other L-band operators, including technical information provided by other operators. The information provided in these negotiations is provided confidentially; the maintenance of that confidentiality is important to the ultimate success of the coordination, which in turn impacts SkyTerra's commercial and financial interests.⁴ As the Commission has concluded, such information is also confidential because its disclosure would adversely

Communications, et al., 16 FCC Rcd 21661, at ¶¶ 110-11 (2001).

³ See *Robert J. Butler*, at ¶ 14.

⁴ See *Robert J. Butler*, at ¶ 12.

affect the ability of the United States, as SkyTerra's licensing administration, to negotiate L-band spectrum on SkyTerra's behalf.⁵

47 C.F.R. § 0.459(b)(4) -- Explanation of the degree to which the information concerns a service that is subject to competition

The information contained in the Confidential Appendix concerns the market for mobile communication services, in which SkyTerra faces competition from, *inter alia*, mobile satellite service providers and terrestrial wireless operators.

47 C.F.R. § 0.459(b)(5) -- Explanation of how disclosure of the information could result in substantial competitive harm

Disclosure of the Confidential Appendix would result in substantial competitive harm. The Confidential Appendix contains information pertaining to SkyTerra's international L-band frequency coordination agreements and negotiations with other L-band operators. If disclosed, it would prejudice negotiations in international coordination with other operators. This would undermine the ability of SkyTerra (and the United States) to obtain optimal use of the L-band spectrum, resulting in substantial competitive harm to SkyTerra.⁶

47 C.F.R. § 0.459(b)(6) -- Identification of any measures taken by the submitting party to prevent unauthorized disclosure

SkyTerra has limited the distribution of the information contained in the Confidential Appendix to authorized employees and agents. Additionally, as the Commission has recognized, the terms of coordination agreements are confidential to the parties to the agreements.⁷

⁵ *Id.* at ¶ 13 (documents related to L-band coordination meeting are "privileged or confidential" because disclosure would "hamper the United States' ability to engage in successful MSS negotiations with the other entities and countries proposing MSS systems, for which the United States might develop a different negotiation strategy.").

⁶ See *Robert J. Butler*, at ¶ 15 (disclosure of information concerning L-band coordination meeting would limit ability of the parties to adopt different negotiating positions in other L-band coordination meetings, adversely affecting their ability to obtain the optimal amount of spectrum to conduct business successfully).

⁷ See, e.g., *Comsat Corporation d/b/a Comsat Mobile Communications, et al.*, 16 FCC Rcd 21661, at ¶¶ 110-11 (2001) ("The Mexico City Agreement and related coordination documents, such as minutes of coordination meetings, are considered confidential.").

47 C.F.R. § 0.459(b)(7) -- Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties

The information contained in the Confidential Appendix has not been made available to the public or disclosed to unauthorized third parties.

47 C.F.R. § 0.459(b)(8) -- Justification of the period during which the submitting party asserts that material should not be available for public disclosure

There is no benefit to be derived from public disclosure of the Confidential Appendix. But, as discussed above, there is the potential for substantial harm to SkyTerra if disclosed. Therefore, the Confidential Appendix should be withheld permanently from public disclosure.

47 C.F.R. § 0.459(b)(9) -- Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted

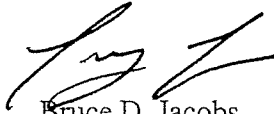
Foreign operators and administrations expect that coordination agreements and discussions are conducted in private and held in confidence.⁸ Accordingly, disclosure of the information contained in the Confidential Appendix would impair the ability of the United States in the future to conclude coordination agreements with other administrations, which would be discouraged from negotiating openly.

⁸ See *Robert J. Butler*, at ¶ 14.

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For these reasons, the Commission should grant the request for confidential treatment. Please contact the undersigned with any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Bruce D. Jacobs".

Bruce D. Jacobs
Tony Lin

cc: (w/confidential attachment)
Kathryn Medley
Robert Nelson
Kathryn O'Brien
Sankar Persaud