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July 30, 2010

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

FILED/ACCEPTED

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Federal Communications Commission
Office of the Secretary

**Re: REQUEST FOR CONFIDENTIAL TREATMENT PURSUANT TO
SECTIONS 0.457 AND 0.459 GLOBALSTAR LICENSEE, LLC
File No. SAT-MOD-20091214-00152**

Dear Ms. Dortch:

Globalstar Licensee LLC (“Globalstar”) hereby submits the attached Letter, along with accompanying Exhibits (“Exhibits”), in response to a request from staff in the Commission’s International Bureau relating to the status of the deployment of Globalstar’s second-generation satellite constellation, Globalstar 2.0, in connection with the Commission’s consideration of the above-referenced application.^{1/} Globalstar 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 Exhibits, which contain commercially sensitive information that falls within Exemption 4 of the Freedom of Information Act (“FOIA”).^{2/} Globalstar is filing a public redacted copy of the Letter and Exhibits as well.

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.”^{3/} Applying Exemption 4, the courts have stated that commercial or financial information is 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

^{1/} Globalstar Licensee LLC – Application for Modification of License for Operation of Ancillary Terrestrial Component Facilities (File No. SAT-MOD-20091214-00152), filed on December 14, 2009 (“Globalstar Application”).

^{2/} See 5 U.S.C. § 552(b)(4); 47 C.F.R. § 0.457(d).

^{3/} *Id.*

July 30, 2010

Page 2

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, Globalstar hereby submits the following:

(1) *Identification of Specific Information for Which Confidential Treatment is Sought (Section 0.459(b)(1))*. Globalstar seeks confidential treatment of the Exhibits, which contain information about the final testing, delivery, and launch schedule of the satellites that will constitute the Globalstar 2.0 satellite constellation.

(2) *Description of Circumstances Giving Rise to Submission (Section 0.459(b)(2))*. Globalstar is filing the Letter and Exhibits at the request of staff in the Commission's International Bureau to aid in the Commission's consideration of a pending application filed by Globalstar. *See Globalstar Licensee LLC – Application for Modification of License for Operation of Ancillary Terrestrial Component Facilities* (File No. SAT-MOD-20091214-00152), filed on December 14, 2009.

(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 Exhibits contain sensitive commercial information that Globalstar's competitors could use to Globalstar'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 contained in the Exhibits falls clearly within the definition of commercial. Competitors could use this information to enhance their market position at Globalstar'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 mobile satellite service industry. The presence of competitors makes imperative the confidential treatment of sensitive commercial information. Indeed, for this reason, Globalstar's primary competitor, Iridium Satellite LLC, routinely requests and has obtained confidential treatment of information submitted to the Commission concerning the status of its mobile satellite service constellation. *See, e.g. Iridium Communications Inc., 1.6/2.4 GHz Mobile Satellite System License, Call Sign S2110, Section 25.143(e) Annual Report and Request for Confidential Treatment Pursuant to Sections 0.457 and 0.459* (filed Oct. 15, 2009).

July 30, 2010
Page 3

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

(6) *Identification of Measures Taken To Prevent Unauthorized Disclosure (Section 0.459(b)(6))*. Globalstar treats the information contained in the Exhibits as confidential information and has not disclosed it publicly. Globalstar limits access to the information contained in the Exhibits to necessary personnel only. In addition, Globalstar takes precautions to ensure that this information is not released to the general public or obtained by its competitors through other means.

(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))*. Globalstar has not made the information in the Exhibits 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))*. Globalstar respectfully requests that the Commission withhold the information in the Exhibits from public inspection indefinitely. This information will remain commercially sensitive until the Globalstar 2.0 satellite constellation is launched and becomes fully operational.

Should there be any questions concerning this matter, please contact the undersigned.

Sincerely yours,

/s/ Samir C. Jain

Samir C. Jain

Counsel to Globalstar Licensee LLC

Attachments

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Mr. Roderick Porter
Deputy Chief, International Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

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Re: Globalstar Licensee LLC -- Call Sign: S2115
File No. SAT-MOD-20091214-00152

Federal Communications Commission
Office of the Secretary

Dear Mr. Porter:

In response to a request by Commission staff, Globalstar Licensee, LLC (“Globalstar”) submits this additional information in the above-referenced application proceeding in which it has requested a sixteen (16) month extension of the deadlines by which it must come into compliance with certain of the Ancillary Terrestrial Component (“ATC”) gating criteria. As demonstrated in its pending application and further explained below, Globalstar has established that there is good cause for the requested extension because it was necessitated by unforeseeable circumstances beyond its control. Even if there were no delay at all related to the financing of Globalstar’s second-generation constellation, Globalstar would have needed the requested extension for two reasons, each of which independently constitutes good cause under the Commission’s established precedents for granting milestone extensions. First, an earthquake – a paramount Act of God – directly and indirectly caused no less than a seventeen (17) month delay in the ultimate launch of Globalstar’s new constellation. Second, contractor and subcontractor problems associated with the manufacturing of thrusters – obviously a critical component of the satellites – that were entirely outside of Globalstar’s control separately caused at least a fifteen (15) month delay.

In the WiMAX ATC Order, the Commission concluded that a temporary waiver of the ATC gating criteria was appropriate because Globalstar had satisfied the general waiver standard set forth in section 1.3 of the Commission’s rules.^{1/} Under that standard, “good cause” for a waiver exists “where particular facts would make strict compliance [with the underlying rule]

^{1/} See Globalstar Licensee LLC – Application for Modification of License for Operation of Ancillary Terrestrial Component Facilities, *Order and Authorization*, 23 FCC Rcd 15975 (2008) (“*WiMAX ATC Order*”) at ¶ 20 (citing 47 C.F.R. § 1.3).

July 30, 2010

Page 2

inconsistent with the public interest” and waiver of the rule would “better serve the public interest than insisting on strict compliance.”^{2/} That standard should govern here and, for the reasons set forth below and in its prior filings, Globalstar clearly meets it. Even under the more stringent standard set forth in section 25.117(c) of the Commission’s rules, which by its terms only applies to milestones related to the construction and launch of initial satellite systems, Globalstar should be granted an extension. That section provides that milestones may be extended where additional time is required (1) “due to unforeseeable circumstances beyond the applicant’s control” or (2) where “there are unique and overriding public interest concerns that justify an extension.”^{3/} In applying these standards to specific factual circumstances involving the Mobile Satellite Services (MSS) industry, the FCC has recognized that “unanticipated technical problems encountered during physical construction of the satellite may justify a milestone extension” where they are beyond the control of the licensee.^{4/} Globalstar meets this standard for two independent reasons.

First, through its previous filings, Globalstar has demonstrated that the April 6, 2009, L’Aquila earthquake – which was indisputably beyond Globalstar’s control – directly caused at minimum an unavoidable nine (9) month delay in the planned delivery of the first 24 of its second-generation satellites due to the closing of the Thales facility and the subsequent need to establish alternative production facilities across Italy. In addition to the physical damage that delayed the delivery schedule for the components being manufactured at the L’Aquila plant, as Globalstar has previously explained, after the earthquake the French government acting through COFACE and Globalstar’s French lenders required a five (5) month longer than budgeted in-orbit testing period after the first launch to assure no “infant mortality issues” arose in the first six satellites launched with hardware from L’Aquila. Further, Arianespace and the Russian launch support team informed Globalstar that, due to Baikonur ground spacecraft processing issues, additional processing time was required for each spacecraft and between satellite batches, which resulted in an increase from 30 to 64 days before the first, third, and fourth launches, adding an additional three (3) months delay (because of the longer in-orbit testing period after the first launch, the change in processing time did not add to the delay before the second launch).

^{2/} *Id.* at ¶¶ 20, 23.

^{3/} 47 C.F.R. § 25.117(c). *See also* New ICO Satellite Services G.P. – Application to Extend Milestones, *Memorandum Opinion and Order*, 22 FCC Rcd 2229 (2007) (citing 47 C.F.R. § 25.117(c); Intelsat LLC, *Order and Authorization*, 17 FCC Rcd 2391 (Int’l Bur. 2002)).

^{4/} *See* Intelsat LLC – Request for Extension of Milestone Dates for the INTELSAT 10-02 (INTELSAT Alpha-2) Satellite, *Memorandum Opinion and Order*, 19 FCC Rcd 5266 (2004) (citations omitted).

July 30, 2010

Page 3

Together, these events caused an additional eight (8) month delay in the launch of Globalstar's replacement satellites, for a total of seventeen (17) month delay that was due to circumstances entirely beyond Globalstar's control.

Second, as the attached documents demonstrate, independent of the earthquake there have been a series of technical challenges faced by Globalstar's contractors that has caused a delay in the delivery of the satellites. In particular, based on the production schedule set forth in Globalstar's original application to deploy ATC service in partnership with Open Range, filed on May 16, 2008, and in place when the Commission adopted the 2008 WiMAX ATC Order (FCC 08-254) on October 31, 2008, Thales' subcontractor, Rafael Armament Development Authority, Ltd ("Rafael"), had committed to deliver six sets of satellite thrusters for the first six replacement satellites by March 3, 2009. *See* "Globalstar 2 Propulsion Subsystem CDR" (dated October 29, 2008) (excerpts attached as Exhibit 1) at 3, lines 107 and 119. In November 2009, Globalstar contacted Thales to express concerns as to whether the thrusters (as well as certain other satellite components) would meet the technical specifications to which the parties had agreed and whether Rafael was maintaining an effective quality control process. *See* Letter from Globalstar, Inc. to Thales Alenia Space France (dated November 16, 2009) (attached as Exhibit 2). Thales and Rafael subsequently committed to deliver and install the thrusters for the first through eighth satellites, through Flight Model (FM-8), by April 23, 2010 – a delay of more than thirteen (13) months from the original schedule. *See* "Globalstar 2 1N Thruster QM4 Anomaly" (dated January 12, 2010) (excerpts attached as Exhibit 3) at 10. In fact, however, the actual delivery of the thrusters for the first eight satellites was not completed until June 1, 2010, with Rafael factory performance testing continuing through June 17, 2010 – a total delay of more than fifteen (15) months. *See* "Program Management Meeting of 4-6 May 2010 Presentation" (dated May 2010) (excerpts attached as Exhibit 4) at 4-6. In order to proceed with the launch of the second-generation satellites as soon as possible, Globalstar has accepted these thrusters despite the fact that they do not meet all the original performance specifications. As these materials make clear, these manufacturer-caused delays were beyond Globalstar's control^{5/} and indisputably meet the FCC's standard of unforeseeable circumstances as they have been applied in other cases.^{6/}

^{5/} As Globalstar explained in its application for an extension of the ATC deadlines, although work on some of the components of the satellites was slowed by Globalstar's financial issues before the earthquake, work on the thrusters and other key components was impacted less because they had already been on the critical path for some time and therefore Thales and its subcontractors continued work on those components. *See* Globalstar Request for Modification of Waiver Conditions (filed Dec. 14, 2009) at 9. Thales has informed Globalstar that the pre-earthquake impact on final delivery of the thrusters was only approximately two weeks.

^{6/} *See, e.g.,* New ICO Satellite Services – Application to Extend Milestones, *Memorandum Opinion and Order*, 22 FCC Rcd 2229 (IB 2007) at ¶ 15 (extension granted where contractor's

July 30, 2010

Page 4

In sum, therefore, Globalstar incurred a 15 to 17 month delay in deployment of its second-generation constellation due to two independent events beyond its control – the effects of the earthquake in Italy and delays in the manufacturing and delivery of thrusters as a result of problems incurred by a subcontractor. Each of these events independently constitute good cause and justify the requested extension.

Should you have any questions about this submission, please contact the undersigned.

Respectfully submitted,

/s/ Samir C. Jain

Samir C. Jain
Counsel to Globalstar Licensee LLC

cc: Paul de Sa
Robert Nelson

manufacturing problems with important satellite components caused delivery delay); New ICO Satellite Services – FCC File No. SAT-MOD-20070806-00110 (Grant Stamp without decision on April 2, 2008) (extension granted where launch contractor exercised its right to postpone launch because launch subcontractor experienced “unforeseen spacecraft processing issues”); TerreStar Networks, Inc. – FCC File No. SAT-MOD-20090617-00070 (Grant Stamp without decision June 30, 2009) (extension granted based on need for licensee and its contractors to investigate a recent in-orbit anomaly experienced by another satellite constructed by the same vendor); and TerreStar Networks, Inc. – FCC File No. SAT-MOD-20080718-00143 (Grant Stamp without decision November 12, 2008) (extension granted based on delay in satellite delivery because of damage to satellite by subcontractor).

EXHIBIT 1

REDACTED

EXHIBIT 2

REDACTED

EXHIBIT 3

REDACTED

EXHIBIT 4

REDACTED