

REQUEST FOR CONFIDENTIAL TREATMENT

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Accepted/Filed

April 30, 2014

APR 30 2014

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

FCC Office of the Secretary

Re: Request for Confidential Treatment

Dear Sir or Madam:

Pursuant to Section 0.459(b) of the Commission's rules, 47 C.F.R. § 0.459(b), LightSquared Subsidiary LLC ("LightSquared") hereby requests confidential treatment of the enclosed Quarterly Report of LightSquared Subsidiary LLC ("Report"), which is being submitted in IB Docket No. 08-184 and IBFS File No. SAT-MOD-20101118-00239. In support of this request, LightSquared states as follows:

- (1) Identification of the specific information for which confidential treatment is sought.** LightSquared requests that the Commission withhold from public inspection, and afford confidential treatment to, the information redacted in the "public" version of the Report ("Confidential Material"). LightSquared requests that the Commission effect this request by withholding the entirety of the unredacted "confidential" version of the Report from public inspection.
- (2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission.** The Report is being submitted in response to requirements imposed on LightSquared by the Commission in: (i) the *Memorandum Opinion and Order* adopted by the Commission on March 26, 2010 in IB Docket No. 08-184 (DA 10-535); and (ii) the *Order and Authorization* adopted by the Commission on January 26, 2011 in IBFS File No. SAT-MOD-20101118-00239 (DA 11-133).
- (3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.** The Confidential Material contains detailed information regarding LightSquared's business plans, network deployment, and operations. This information is commercially and competitively sensitive. Public disclosure of this information could place LightSquared at a competitive disadvantage vis-à-vis its competitors, and damage LightSquared's position in the marketplace. The Commission has long recognized that

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competitive harm can result from the disclosure of confidential business information. See *Pan American Satellite Corporation*, FOIA Control Nos. 85-219, 86-38, 86-41 (May 2, 1986). Moreover, by adopting a *Protective Order* in one of the proceedings in which the report is required to be filed, IB Docket No. 08-184 (DA 09-2472), the Commission has recognized that the type of information being submitted should be protected from public disclosure.

- (4) **Explanation of the degree to which the information concerns a service that is subject to competition.** The Confidential Material concerns LightSquared's activities in the market for commercial mobile radio service ("CMRS") offerings. LightSquared is subject to robust competition from numerous existing and potential service providers, as the Commission has acknowledged. Participants in adjacent market segments—*e.g.*, wireline, satellite, and fixed wireless service providers—apply additional competitive pressure.
- (5) **Explanation of how disclosure of the information could result in substantial competitive harm.** As discussed above, the Confidential Material contains sensitive commercial and financial information. LightSquared has a commercial interest in all of this information and would be harmed by its disclosure. In particular, the disclosure of this information would provide competitors with unwarranted insights into the operational status of LightSquared, and would facilitate the development of strategic and competitively harmful responses by those competitors. For example, competitors could use this information to: (i) narrowly target build-out and marketing efforts to specific service areas in order to exploit insights regarding the timing or substance of LightSquared's planned offerings; (ii) adopt pricing and marketing strategies that would confer a competitive advantage over LightSquared; and (iii) undermine LightSquared's negotiations with third parties.
- (6) **Identification of any measures taken by the submitting party to prevent unauthorized disclosure.** The Confidential Material is not normally distributed, circulated, or provided to any party outside of LightSquared that is not bound by confidentiality obligations. LightSquared treats this information as sensitive information; thus only certain personnel within the company have access to it.
- (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 Confidential Material is not available to the public, and has not previously been disclosed to third parties not bound by confidentiality obligations, excepting agents of the Commission.

- (8) **Justification of the period during which the submitting party asserts that material should not be available for public disclosure.** LightSquared maintains that the Confidential Material should remain subject to confidential treatment indefinitely. Even historical data can be used to track trends or business decisions, and this information could then be used against LightSquared.
- (9) **Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.** LightSquared notes that the Confidential Material is exempt from disclosure under Exemption 4 to FOIA. 5 U.S.C. § 552(b)(4). Exemption 4 covers “trade secrets and commercial or financial information obtained from a person and privileged or confidential.” *Id.* The exemption extends to all information that is: (i) commercial or financial, (ii) obtained from a person, and (iii) privileged or confidential. *See National Parks and Conservation Association vs. Morton*, 498 F.2d 765, 766 (D.C. Cir. 1974). The Confidential Material meets all three of these prongs.

First, the terms “commercial” and “financial” are “given their ordinary meaning,” and include any information in which a submitter holds a “commercial interest.” *Public Citizen Health Research Group vs. FDA*, 704 F.2d 1280, 1288 (D.C. Cir. 1983). As noted above, the Confidential Material contains sensitive commercial and financial information. LightSquared has a commercial interest in all of this information; thus, it is “commercial or financial.”

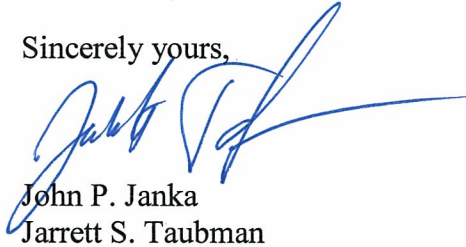
Second, “obtained by a person” refers to receipt of information from “a wide range of entities, including corporations.” *Landfair v. U.S. Dep't. of Army*, 645 F.Supp. 325, 327-28 (D.D.C. 1986). LightSquared is a corporation and it provided the Commission with the Confidential Material; thus, the information at issue here is “obtained by a person.”

Third, information is privileged or confidential if disclosure of it (i) is likely to cause substantial harm to the submitter's competitive position, (ii) would make it difficult for the government to obtain reliable information in the future, or (iii) would impair other governmental interests. *See Judicial Watch, Inc. v. Exp.-Imp. Bank*, 108 F. Supp. 2d 19, 28-29 (D.D.C. 2000). As discussed above, disclosure of the Confidential Material would cause substantial harm to LightSquared's competitive position. For this reason, disclosure of the Confidential Material also would encourage LightSquared and others “to be less forthcoming in their submissions, out of concern both for appearances and their own financial interests.” *Id.* at 29-30.

LATHAM & WATKINS LLP

Please contact the undersigned should you have any questions concerning this filing.

Sincerely yours,

A handwritten signature in blue ink, appearing to be "John P. Janka" followed by a flourish.

John P. Janka
Jarrett S. Taubman

Counsel for LightSquared Subsidiary LLC



April 30, 2014

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

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Re: IB Docket No. 08-184 and IBFS File No. SAT-MOD-20101118-00239

Dear Ms Dortch:

LightSquared Subsidiary LLC ("LightSquared")¹ hereby submits this combined semi-annual report pursuant to the *Memorandum Opinion and Order and Declaratory Ruling* adopted by the Commission on March 26, 2010 in IB Docket No. 08-184 (the "MO&O"), and quarterly report pursuant to the *Order and Authorization* adopted by the Commission on January 26, 2011 in IBFS File No. SAT-MOD-20101118-00239 (the "O&A") (collectively, the "Orders"). By separate letter, LightSquared requests confidential treatment of this report.

On February 15, 2012, the Commission released a Public Notice seeking comment on the letter sent to it on February 14, 2012 by the National Telecommunications and Information Administration's (NTIA).² The Public Notice addressed certain issues related to the potential incompatibility of GPS receivers with LightSquared's planned operations, and recommended vacating the Commission's *Conditional Waiver Order* and modifying LightSquared's satellite license to suspend indefinitely its ATC authority. The *Conditional Waiver Order* itself provides that LightSquared and members of the GPS industry must resolve certain outstanding issues "before LightSquared commences offering commercial service pursuant to [the waiver granted in the *Conditional Waiver Order*] on its L-band MSS frequencies."³ In light of the Commission's Public Notice and the unresolved condition in the *Conditional Waiver Order*, LightSquared is not yet providing commercial service using its ATC authority. LightSquared remains committed to working cooperatively with Congress, federal

¹ See Letter from Jeffrey J. Carlisle, Executive Vice President, LightSquared GP Inc., to Marlene H. Dortch, Secretary, FCC (July 20, 2010) (notifying the Commission of the corporate name changes affecting various SkyTerra-named entities).

² See *Public Notice: International Bureau Invites Comment on NTIA Letter Regarding LightSquared Conditional Waiver*, IB Docket No. 11-109, DA 12-214 (Feb. 15, 2012).

³ *LightSquared Subsidiary LLC*, 26 FCC Rcd 566, at ¶ 41 (2011).

government agencies, and the GPS industry to address the concerns raised by the GPS industry and others.

Beginning in September of 2012, LightSquared made a series of filings with the Commission proposing solutions that would allow it to deploy terrestrial broadband service in a way that ensures that GPS receivers are compatible with LightSquared's operations. These filings have been accepted by the Commission and all have been placed on public notice for comment.⁴

SITE DEVELOPMENT

As a result of the Commission's Public Notice of February 15, 2012, LightSquared has not undertaken any significant site development activity related to the provision of two-way terrestrial mobile service during this reporting period.⁵ LightSquared has focused its efforts on resolving the underlying spectrum and deployment issues identified by the Commission through the series of filings referenced above.

DEVICE MANUFACTURERS

Qualcomm Incorporated has integrated L-Band LTE technology in its chipset roadmap and has developed an advanced satellite air interface technology to enable the satellite mode of operation in mobile devices.

SATELLITE

Each of the satellites operated by LightSquared has performed nominally and as expected over the past six months.

PARTICULAR REPORTING REQUIREMENTS

1. Pursuant to reporting requirement III.A of the O&A, LightSquared reports that as of December 31, 2013, there were approximately [REDACTED] terminals and approximately [REDACTED] active private network customers on its MSS-only network. LightSquared is capable of providing only an estimate of the latter figure because LightSquared does not have direct access to the subscriber counts of its wholesale customers. As noted above, LightSquared is not yet

⁴ See *Public Notice, Federal Communications Commission Invites Comment on LightSquared Request to Modify Its ATC Authorization*, DA 12-863 (rel. Nov. 16, 2012); *Public Notice, Consumer & Governmental Affairs Bureau Reference Information Center Petition for Rulemaking Filed*, RM No. 11683 (rel. Nov 16, 2012).

⁵ LightSquared has implemented a one-way DVB-H network in the 1670-1675 MHz band.

providing commercial MSS/ATC or terrestrial-only services. Accordingly, the number of reportable active terminals and active users on its network in these categories is zero. As the terrestrial network is not yet in commercial service, the number of reportable total bytes carried by LightSquared's terrestrial network also is zero (see Condition 3 to the MO&O).

2. Pursuant to reporting requirement III.B of the O&A, LightSquared provides the following list of components available from mainstream component suppliers to support L-band dual mode operations:



Sincerely,

A handwritten signature in black ink, appearing to read 'Jeffrey J. Carlisle'.

Jeffrey J. Carlisle
Executive Vice President
Regulatory Affairs and Public Policy

Cc: Jonathan Sallet
John Leibovitz
Mindel De La Torre
Rod Porter
Jennifer Gilsonan
IB-SATFO@fcc.gov