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2009 ANNUAL REPORT

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BY HAND DELIVERY

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

FILED/ACCEPTED
JUN 30 2009
Federal Communications Commission
Office of the Secretary

Attention: Satellite Engineering Branch, International Bureau

Dear Ms. Dortch:

SES Americom, Inc. ("SES Americom") hereby submits a redacted copy of the report required by Sections 25.210(l) and 25.145(f) of the Commission's rules. Part 1 of this report sets forth the status of satellite construction. Part 2 describes non-scheduled transponder outages. Part 3 includes information relating to transponders sold on SES Americom's operational satellites. Part 4 provides data regarding transponders not available for service or not performing to specifications.

SES Americom requests that the data provided in Parts 2, 3, and 4 of this report be exempted from Freedom of Information Act ("FOIA") disclosure requirements, under 5 U.S.C. § 552(b)(4) and 47 C.F.R. §§ 0.457(d) and 0.459, and that data is redacted in the attached copy of the report. As discussed in more detail below, these portions relate to transponder outages, transponder utilization, and transponders not available for service and provide information that is commercially sensitive and would not normally be available to the public. SES Americom is simultaneously filing under separate cover letter an unredacted version of the complete report that includes the information that we are requesting be withheld from public disclosure.

Exemption 4 of FOIA provides protection from disclosure for "trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. § 552(b)(4). *See also* 47 C.F.R. § 0.457(d). In applying Exemption 4, the courts have recognized that commercial or financial information is confidential if its disclosure will either impair the government's ability to obtain necessary information in the future or cause substantial

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harm to the competitive position of the entity from which the information was obtained.¹ The unredacted Sections 2, 3, and 4 of the attached report fall squarely within this description. Furthermore, other operators of fixed-satellite space station have routinely requested confidential treatment of transponder outage and utilization information supplied in their annual reports, and the Commission has accordingly refrained from disclosing this data publicly.²

In support of this request for confidential treatment, SES Americom submits the following information responsive to the requirements delineated in Section 0.459(b) of the Commission's Rules:

1. SES Americom seeks confidential treatment of the data provided in Sections 2, 3, and 4 of its unredacted annual report, which relate to unscheduled transponder outages, transponder utilization, and transponders not available for service.
2. SES Americom is submitting the information for which it seeks confidential treatment pursuant to the requirements of Sections 25.210(l) and 25.145(f) of the Commission's Rules.
3. Sections 2, 3, and 4 of the report contain sensitive commercial information that has not been made public and is not available to SES Americom's competitors. Specifically, these Sections include data regarding transponder outages, transponder usage, and unavailable transponders that could be used by SES Americom's competitors in an attempt to improve their market position at SES Americom's expense.
4. SES Americom faces competition from numerous other providers of telecommunications services. Other geostationary fixed-satellite service operators include Intelsat, Hughes Network Systems, EchoStar, Telesat Canada, Eutelsat, and Hispasat. Given the robustly competitive market in which SES Americom operates, protection of the company's commercially sensitive data is essential.
5. Disclosure of the information in Sections 2, 3, and 4 of SES Americom's annual report could significantly harm SES Americom competitively. SES Americom's rivals and customers could use the data regarding transponder usage, outages, and unavailability in an attempt to negotiate more favorable terms of service. In addition, SES Americom's competitors could use the information to target SES Americom's customers, many of whom rely on more than one satellite capacity provider.
6. SES Americom limits access to transponder usage, outage, and availability information to personnel for whom the information is needed in the course of their jobs. SES Americom takes precautions to ensure that this information is not released to the general public.

¹ See, e.g., *National Parks and Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974); *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879-80 (D.C. Cir. 1992, cert. denied, 507 U.S. 984 (1993)).

² See, e.g., Request for Confidential Treatment of Intelsat North America LLC, PanAmSat Licensee Corp. and PanAmSat H-2 Licensee Corp. (filed June 30, 2008).

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7. The material for which SES Americom seeks confidential treatment is not available to the public.
8. SES Americom requests that the Commission withhold the transponder usage, outage, and availability information from public disclosure for a period of twenty years. The Commission licenses space stations for an initial period of fifteen years. The information for which SES Americom seeks confidential treatment remains competitively sensitive while a spacecraft is in service and for several years beyond decommissioning of the satellite. Thus, the requested twenty-year period should be sufficient to ensure that the information is protected during and beyond the typical life expectancy of a spacecraft.

Please address any questions concerning this submission to the undersigned.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'K A H', is positioned above the typed name.

Karis A. Hastings
Counsel for SES Americom, Inc.

Enclosure

cc: Columbia Operations Center

SES AMERICOM, INC.

PART 1:

Status of Satellite Construction

In its 2008 Annual Report, SES Americom advised the Commission that it had commenced construction of two satellites. Construction of those spacecraft continues, but they have been re-designated AMC-24 and AMC-25 respectively. AMC 24 is tentatively scheduled to be launched between fourth quarter of 2009 and first quarter of 2010. AMC-25 is tentatively scheduled to be launched in the first half of 2011.

Pursuant to 47 C.F.R. § 25.113(f), SES Americom notifies the Commission that it has begun construction at its own risk of the AMC-26 satellite. This satellite is tentatively scheduled for launch in the second half of 2011.

SES AMERICOM, INC.

PART 2:

Non-Scheduled Transponder Outages

[REDACTED]

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SES AMERICOM, INC.

PART 3:

Transponder Utilization

Transponder capacity on all SES Americom satellites is offered on a private, non-common carrier basis. Pursuant to Section 25.210(1)(3) of the Commission's rules, 47 C.F.R. § 25.210(1)(3), for each U.S.-licensed and in-orbit spacecraft this section reports the number of transponders of which all or part of the capacity were sold to customers under such arrangements.

[REDACTED]

[REDACTED]

SES AMERICOM, INC.

PART 4:

**Transponders Not Available for Service,
Or Not Performing to Specifications**

[REDACTED]