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July 2, 2012

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2012 ANNUAL REPORT

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

Attention: Satellite Engineering Branch, International Bureau

Dear Ms. Dortch:

SES Americom, Inc. and New Skies Satellites B.V. (collectively referred to as "SES"), by their attorney, hereby submit 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 operational satellites in the SES fleet. Part 4 provides data regarding transponders not available for service or not performing to specifications.

SES 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. 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 is simultaneously filing a redacted version of the report that can be made available to the public.

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 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 stations have routinely requested confidential treatment

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)).

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 submits the following information responsive to the requirements delineated in Section 0.459(b) of the Commission's Rules:

1. SES seeks confidential treatment of the data provided in Sections 2, 3, and 4 of the attached annual report, which relate to unscheduled transponder outages, transponder utilization, and transponders not available for service.
2. SES 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's competitors. Specifically, these Sections include data regarding transponder outages, transponder usage, and unavailable transponders that could be used by competitors of SES in an attempt to improve their market position at SES's expense.
4. SES faces competition from numerous other providers of telecommunications services. Other geostationary fixed-satellite service operators include Intelsat, EchoStar, Telesat Canada, Eutelsat, and Hispasat. Given the robustly competitive market in which SES operates, protection of SES's commercially sensitive data is essential.
5. Disclosure of the information in Sections 2, 3, and 4 of SES's annual report could significantly harm SES competitively. SES'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's competitors could use the information to target SES's customers, many of whom rely on more than one satellite capacity provider.
6. SES limits access to transponder usage, outage, and availability information to personnel for whom the information is needed in the course of their jobs. SES takes precautions to ensure that this information is not released to the general public.
7. The material for which SES seeks confidential treatment is not available to the public.
8. SES 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 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.

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

Ms. Marlene H. Dortch

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Please address any questions concerning this submission to the undersigned.

Respectfully submitted,

/s/ Karis A. Hastings

Karis A. Hastings

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Enclosure

cc: Columbia Operations Center

**SES AMERICOM, INC.
NEW SKIES SATELLITES B.V.**

PART 1:

Status of Satellite Construction

Not Applicable.

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**SES AMERICOM, INC.
NEW SKIES SATELLITES B.V.**

PART 2:

Non-Scheduled Transponder Outages

[REDACTED]

**SES AMERICOM, INC.
NEW SKIES SATELLITES B.V.**

PART 3:

Transponder Utilization

Transponder capacity on all SES Americom, Inc. and New Skies Satellites B.V. satellites authorized to serve the United States 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 in-orbit spacecraft with U.S. coverage this section reports the number of transponders of which all or part of the capacity were sold to customers under such arrangements as of May 31, 2012. The number of transponders sold is expressed in terms of 36 MHz-transponder-equivalents.

[REDACTED]

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[REDACTED]

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**SES AMERICOM, INC.
NEW SKIES SATELLITES B.V.**

PART 4:

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

[REDACTED]