



Business Proprietary Information Deleted

1776 K STREET NW
WASHINGTON, DC 20006
PHONE 202.719.7000
FAX 202.719.7049

October 15, 2008

Jennifer Hindin
202.719.4975
jhindin@wileyrein.com

FILED/ACCEPTED

OCT 15 2008

Federal Communications Commission
Office of the Secretary

7925 JONES BRANCH DRIVE
McLEAN, VA 22102
PHONE 703.905.2800
FAX 703.905.2820

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

www.wileyrein.com

Re: Iridium Constellation LLC, 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

Dear Ms. Dortch:

Pursuant to Section 25.143(e) of the Federal Communications Commission's rules, 47 C.F.R. § 25.143(e), Iridium Constellation LLC ("Iridium"), by its attorney, hereby notifies the Commission that a confidential annual report regarding the status of the Iridium 1.6/2.4 GHz Mobile Satellite Services system as of September 30, 2008 ("Annual Report") has been submitted to Helen Domenici, Chief of the International Bureau, and the FCC's Columbia Operations Center. A public redacted copy of the Annual Report has been submitted to the Secretary's Office.

Iridium 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 those sections of the Annual Report designated herein. Specifically, as described more fully below, Sections (ii), (iii) and (iv) of the Annual Report contain commercially sensitive information that fall within Exemption 4 of the Freedom of Information Act ("FOIA").¹

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." *Id.* 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 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

¹ See 5 U.S.C. § 552(b)(4); 47 C.F.R. § 0.457(d).



Ms. Marlene H. Dortch, Secretary
October 15, 2008
Page 2

requirements contained in Section 0.459(b) for such requests, Iridium hereby submits the following:

- (1) *Identification of Specific Information for Which Confidential Treatment is Sought (Section 0.459(b)(1))*. Iridium seeks confidential treatment of Sections (ii), (iii) and (iv) of the Annual Report, which contain information on unscheduled space station outage information, utilization and space stations not available for service or satellites not performing within specifications.
- (2) *Description of Circumstances Giving Rise to Submission (Section 0.459(b)(2))*. Iridium is filing the instant Annual Report pursuant to Section 25.143(e), which requires all 1.6/2.4 GHz Mobile Satellite Service systems to file on October 15 of each year a report with the International Bureau containing: (1) the status of satellite construction and anticipated launch dates; (2) a listing of non-scheduled space station outages lasting 30 minutes or more; and (3) a detailed description of utilization made of each in-orbit satellite system; and (4) identification of any space stations not available for service or otherwise not performing to specifications and related information.
- (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))*. Sections (ii), (iii) and (iv) of the Annual Report contain sensitive commercial information that competitors could use to Iridium'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 in Sections (ii), (iii) and (iv) of the Annual Report falls clearly within the definition of commercial. Competitors could use this information to enhance their market position at Iridium'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.

Ms. Marlene H. Dortch, Secretary
October 15, 2008
Page 3

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

(6) *Identification of Measures Taken to Prevent Unauthorized Disclosure (Section 0.459(b)(6)).* Iridium limits access to the capacity and outage and malfunction information to necessary personnel only. Also, Iridium takes every precaution to ensure that this information is not released to the general public.

(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)).* Iridium has not made the information in the Annual Report 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)).* Iridium respectfully requests that the Commission withhold the information in Sections (ii), (iii) and (iv) of the Annual Report from public inspection indefinitely. This information will remain commercially sensitive until the satellite system is decommissioned.

Please contact the undersigned with any questions. Thank you for your assistance.

Sincerely,



Jennifer Hindin
Counsel for Iridium Constellation LLC

Encl: Public Redacted Annual Report
cc: Helen Domenici (by Hand Delivery, with confidential Report)
Columbia Operations Center, Columbia MD (with confidential Report)

In accordance with Section 25.143(e)(i)-(iv) of the Commission's Rules, Iridium Satellite LLC ("ISLLC") herein provides the following information regarding the Iridium system as of September 30, 2008. This information was prepared by ISLLC's subcontractor for satellite operations and maintenance, the Boeing Company.

- (i) **Status of satellite construction and anticipated launch dates, including any major problems or delays encountered;**

The constellation of 66 Space Vehicles (SVs) was complete as of November 1, 1998. As of September 30, 2008, the constellation consisted of 66 SVs plus 9 spares.

- (ii) **A listing of any non-scheduled space station outages for more than 30 minutes and the cause or causes of the outage;**

Business Proprietary Information Deleted

Business Proprietary Information Deleted

- (iii) A detailed description of the utilization made of the in-orbit satellite system. That description should identify the percentage of time that the system is actually used for U.S. domestic or transborder transmission, the amount of capacity (if any) sold but not in service within U.S. territorial geographic areas, and the amount of unused system capacity;**

- (iv) **Identification of any space stations not available for service or otherwise not performing to specifications, the cause or causes of these difficulties, and the date any space station was taken out of service or the malfunction identified;**

Business Proprietary Information Deleted