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May 3, 2016

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

Re: MB Docket No. 14-250
CSR-8895-C

Further Objections to Request for Confidential Treatment

Dear Ms. Dortch:

Optical Telecommunications, Inc. and HControl Corporation (collectively, “OpticalTel”) hereby submit these further objections to the “Updated Request for Confidential Treatment” submitted by DISH Network L.L.C. (“DISH”) on March 3, 2016 in connection with the above-referenced proceeding. On November 16, 2015, the Media Bureau sought responses from DISH to certain specific questions deemed relevant to the matters at issue in this proceeding. DISH responded on January 5, 2016 and sought confidential treatment for its entire 396 page submission, which was fully redacted.

On January 25, 2016, OpticalTel noted that DISH’s confidentiality request appeared to be grossly over-broad, and expressed doubt whether every word of DISH’s response contained proprietary financial or competitively sensitive information that would merit protection under the Commission’s rules. Moreover, OpticalTel pointed out that principles of fundamental due process require that it must be afforded a full and fair opportunity to review and respond to any materials submitted in this proceeding.

In apparent recognition of the concerns expressed by OpticalTel, on March 3, 2016, DISH submitted its “Updated Request for Confidential Treatment,” along with a revised version of its January 5, 2016 response. DISH’s revised filing is a significant improvement in that its answers to the questions posed by the Bureau are no longer fully redacted. However, the most critical documents offered in support of DISH’s responses continue to be withheld in their entirety.

As noted in its initial comments on DISH’s confidentiality request, OpticalTel greatly appreciates the need to protect competitively sensitive information from public disclosure. Indeed, DISH’s revised response perhaps reflects an appropriate level of redaction for purposes of general availability in the FCC’s docket. Nevertheless, because Sun Broadcasting, Inc. (“Sun”) continues to



seek the imposition of potentially crippling sanctions, it is crucial that OpticalTel be afforded the opportunity to review DISH's response in its entirety, with no redactions, and if necessary upon execution of a reasonable non-disclosure agreement.

OpticalTel's request to review DISH's unredacted response is all the more reasonable when one considers the fact that four of the fully redacted documents, Exhibits D, E, J and K, are materials that appear to have been already provided to OpticalTel by DISH in the normal course of business, and thus there is no rational basis to withhold those documents from OpticalTel now. A fifth document, Exhibit C, is the "Bulk PSA" agreement currently used by DISH (but which OpticalTel believes was not in use at the time the Sail Harbour and Glades Country Club resale agreements were executed). Naturally, as a continuing authorized reseller of the DISH service, there is no legitimate reason not to provide a copy of DISH's current reseller agreement template to OpticalTel.

OpticalTel acknowledges that the DISH/Sun retransmission consent agreement poses a different situation from the other documents referenced above that have no reasonable basis to be withheld from OpticalTel. In recognition of the competitive sensitivity surrounding retransmission consent negotiations, OpticalTel sees no reason at this time why the financial terms need to be examined. However, certain fundamental aspects of that agreement could be central to issues involved in this proceeding. In particular, it is critical to know whether the current agreement authorizes receipt of WXCW by viewers in Sail Harbour and Glades Country Club, and whether DISH accounts for such viewers in its compensation paid to Sun. Thus, OpticalTel's outside counsel should be provided a copy of DISH Exhibit G, on a confidential basis, with only the monetary figures redacted.¹

In conclusion, as explained in its January 25, 2016 comments in response to DISH's initial request for confidential treatment, and as further amplified here, OpticalTel has been deprived of a full and fair opportunity to review and respond to DISH's revised submission dated January 5, 2016, which continues to be heavily redacted. Moreover, we assume that the Commission shares our desire to achieve a timely and deliberative resolution to this matter. Thus, OpticalTel commits to submitting its response to DISH's January 25, 2016 submission and Sun's March 14, 2016 supplemental response within five (5) business days after receipt of the unredacted version of DISH's response, subject to the conditions described above.

¹ DISH Exhibit H was also redacted in its entirety, and OpticalTel can find no reference in the text of DISH's response that reveals the subject matter or general contents of Exhibit H. We assume that Exhibit H is also somehow related to the DISH/Sun retransmission consent arrangement, in which case OpticalTel requests that Exhibit H be made available under the same terms as Exhibit G described above.



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Please let me know if I can provide any additional information regarding this matter.

Respectfully submitted,

GARVEY SCHUBERT BARER

A handwritten signature in cursive script that reads "Arthur H. Harding".

Arthur H. Harding
Counsel for Optical Telecommunications, Inc.
and HControl Corporation

AHH:mer

cc: Lynne Montgomery
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