

REDACTED – FOR PUBLIC INSPECTION

September 18, 2019

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

Re: *Telephone Number Portability, et al.*, CC Docket No. 95-116, WC Docket Nos. 07-149 & 09-109

Dear Ms. Dortch:

As a supplement to its letter of May 13, 2019, at the request of staff, iconectiv is providing additional provisions from its LLC Agreement.

iconectiv requests pursuant to Sections 0.457 and 0.459 of the Commission's rules, 47 C.F.R. §§ 0.457, 0.459, that the Commission withhold from any future public inspection and accord confidential treatment to the confidential, business sensitive information contained in the attached provisions of its LLC Agreement (the "Confidential Information").

The Confidential Information constitutes highly sensitive commercial information that falls within Exemption 4 of the Freedom of Information Act ("FOIA"). Exemption 4 of FOIA provides that the public disclosure requirement of the statute "does not apply to matters that are . . . (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. § 552(b)(4). Because iconectiv is providing commercial information "of a kind that would not customarily be released to the public," this information is "confidential" under Exemption 4 of FOIA. *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992). Because this is a voluntary filing, if the Commission denies this request for confidential treatment, iconectiv requests for its Confidential Information to be returned.

In support of this request and pursuant to Section 0.459(b) of the Commission's rules, iconectiv hereby states as follows:

1. Identification of the Specific Information for Which Confidential Treatment Is Sought (Section 0.459(b)(1))

iconectiv seeks confidential treatment with respect to the Confidential Information in the attached LLC Agreement.

2. Description of the Circumstances Giving Rise to the Submission (Section 0.459(b)(2))

iconectiv is submitting the excerpts of the LLC Agreement at the request of Commission staff. The LLC Agreement is not publicly available, and contains details of iconectiv's governance structure.

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))

The information described above is protected from disclosure because the Confidential Information constitutes sensitive information about iconectiv's capital and governance structures. This information constitutes highly sensitive commercial information "which would customarily be guarded from competitors." 47 C.F.R. § 0.457.

4. Explanation of the Degree to Which the Information Concerns a Service that Is Subject to Competition (Section 0.459(b)(4))

iconectiv was selected to be the LNPA as a result of a competitive bidding process, and has participated in other competitive bids at the FCC. iconectiv also provides LSMS and SOA equipment and services in competition with other entities. iconectiv also provides other information technology services related to the rating, routing and management of telecommunications and information services, all of which are competitive lines of business.

5. Explanation of How Disclosure of the Information Could Result in Substantial Competitive Harm (Section 0.459(b)(5))

iconectiv's competitors could gain a competitive advantage in bidding against iconectiv if they had a detailed understanding of iconectiv's capital and governance structure.

6. Identification of Any Measures Taken to Prevent Unauthorized Disclosure (Section 0.459(b)(6))

iconectiv does not make the Confidential Information publicly available. This information is subject to a nondisclosure agreement between the parties to the LLC Agreement and would not be disclosed without a non-disclosure agreement or equivalent confidentiality obligation.

7. Identification of Whether the Information Is Available to the Public and the Extent of Any Previous Disclosure of the Information to Third Parties (Section 0.459(b)(7))

iconectiv has not made the Confidential Information publicly available in this form at this level of detail.

8. Justification of the Period During Which the Submitting Party Asserts That Material Should Not Be Available for Public Disclosure (Section 0.459(b)(8))

iconectiv requests that the information remain confidential for ten years, because its disclosure during that time could give iconectiv's competitors insights into how to compete with iconectiv or prejudice it in transactions.

9. Any Other Information That the Party Seeking Confidential Treatment Believes May Be Useful in Assessing Whether Its Request for Confidentiality Should Be Granted (Section 0.459(b)(9))

The provisions of the LLC Agreement subject to this request also would qualify for Exemption 4 of the Freedom of Information Act. Exemption 4 protects information that is (i) commercial or financial; (ii) obtained by a person outside of the government; and (iii) privileged or confidential. 5 U.S.C. § 552(b)(4).

Sincerely,



John T. Nakahata
Counsel to iconectiv, LLC

Attachments

cc: Marilyn Jones
Terry Cavanaugh
Neil Dellar

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ATTACHMENT REDACTED IN ITS ENTIRETY