



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

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

www.wileyrein.com

Mimi W. Dawson
202.719.7034
mdawson@wileyrein.com

February 13, 2006

**CONFIDENTIALITY REQUEST
EX PARTE PRESENTATION**

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

**Re: Petition for Forbearance and Waiver by Iowa Telecommunications
Services, Inc., WC Docket No. 05-337**

Dear Ms. Dortch:

Pursuant to Section 0.459(a) of the Commission's rules,¹ Iowa Telecommunications Services, Inc. ("Iowa Telecom") requests confidential treatment of the attached ex parte report entitled "Evaluation of the Impact of Iowa Telecom's Participation in the Federal Non-Rural High Cost Support Program" and the corresponding model data runs (hereafter "Report"), because they contain proprietary commercial and financial information. If the Commission cannot maintain the confidentiality of the information in the Report, Iowa Telecom requests that the Commission return the Report to Iowa Telecom, pursuant to Section 0.459(e) of the Commission's rules, because Iowa Telecom voluntarily provided the information.² Additionally, Iowa Telecom submits this letter to acknowledge the ex parte nature of the attached Report, as required under the Commission's ex parte rules.³

The information contained in the Report is proprietary commercial and financial information that is routinely withheld from public disclosure. Under Section 0.459 of the Commission's rules, parties who submit confidential information to the Commission may file a request that the FCC not disclose the information to the public. If that information is withholdable by the agency pursuant to an exemption of the Freedom of Information Act ("FOIA"),⁴ the Commission's rules require that

¹ 47 C.F.R. § 0.459(a).

² *Id.* § 0.459(e).

³ 47 C.F.R. § 1.1206.

⁴ 5 U.S.C. § 522(b)(4).

February 13, 2006

Page 2

the information remain confidential unless the Commission identifies a “compelling public interest in disclosure.”⁵

In this case, Iowa Telecom’s Report fits into Exemption 4 of FOIA, which exempts “commercial or financial information obtained from a person” that is “confidential” from public disclosure under FOIA.⁶ Where the information is provided to the Government voluntarily, as is the case here, Exemption 4 protects as confidential any commercial or financial information that is “of a kind that would not customarily be released to the public by the person from whom it was obtained.”⁷

Here, the Report contains extensive commercial information regarding sensitive Iowa Telecom-specific information necessary to run the model adopted pursuant to the non-rural high cost support mechanism. The Report contains and relies on sensitive commercial data, including line count data by wire center, traffic data, and general support facilities investment data specific to this model run. This detailed commercial information is customarily not released to the public, and therefore falls under FOIA Exemption 4.

Moreover, all of the information for which Iowa Telecom is seeking confidential treatment would be extremely beneficial to Iowa Telecom’s actual and potential competitors. Approximately twenty competitive local exchange carriers (“CLECs”) have commenced operation within the company’s service territory and are presently competing against Iowa Telecom. Iowa Telecom would therefore suffer substantial competitive harm if the confidential commercial and financial information contained in the Report were released to the public. Furthermore, Commission precedent has found this type of information to be competitively sensitive and withholdable under Exemption 4.⁸

⁵ Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, Report and Order, 13 FCC Rcd 24816 ¶ 8 (1998) (“*Confidential Treatment Order*”). Before authorizing release of information, the Commission “‘insists upon a showing that the information is a necessary link in a chain of evidence’ that will resolve an issue before the Commission.” *Id.* (quoting *Classical Radio for Connecticut, Inc.*, 69 FCC Rcd 1517, 1520 n.4 (1978)).

⁶ 5 U.S.C. § 552(b)(4).

⁷ *Critical Mass Energy Project v. Nuclear Regulatory Comm’n*, 975 F.2d 871, 879 (D.C. Cir. 1992) (“*Critical Mass*”); see also *Confidential Treatment Order*, 13 FCC Rcd 24816 ¶ 4.

⁸ Other carriers have submitted this type of data pursuant to requests for confidentiality. See Federal-State Joint Board on Universal Service, Twentieth Order on Reconsideration, 15 FCC Rcd. 12070 ¶ 6 (2000).

February 13, 2006

Page 3

For all the foregoing reasons, Iowa Telecom requests that the Commission withhold from public disclosure the proprietary commercial and financial information contained in the attached ex parte Report, pursuant to Section 0.459 of the Commission's rules.

Sincerely,

A handwritten signature in black ink, appearing to read "Mimi Dawson", with a long horizontal flourish extending to the right.

Mimi Dawson

Counsel for Iowa Telecommunications Services, Inc.
