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March 16, 2009

**BY HAND DELIVERY**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
236 Massachusetts Avenue, N.E.  
Suite 110  
Washington, D.C. 20002

Re: Tonga Communications Corporation  
March 16, 2009 Ex Parte Presentation in IB Docket No. 09-10

Attn: John Giusti  
Chief, International Bureau

Dear Ms. Dortch:

Tonga Communications Corporation ("TCC"), by its attorneys, hereby requests confidential treatment, pursuant to Sections 0.457 and 0.459 of the Commission's rules,<sup>1</sup> for the redacted portions of its March 16, 2009 ex parte presentation in the proceeding captioned above. This proceeding concerns the Petition of AT&T Inc. ("AT&T") to stop settlement payments on the U.S.-Tonga route. TCC has opposed AT&T's Petition.

The redacted portions of TCC's March 16, 2009 ex parte presentation contain details of TCC's rate to terminate traffic for its competitor in Tonga, Digicel, as well as details regarding TCC's and Digicel's universal service obligations in Tonga. This information is not ordinarily disclosed to unrelated third parties because disclosure of the information could have adverse competitive consequences for TCC and Digicel. In addition, the information for which confidential treatment is requested is information that TCC was asked by International Bureau staff to provide during a meeting between International Bureau staff and TCC's counsel on

<sup>1</sup> 47 C.F.R. §§ 0.457, 0.459.

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March 11, 2009. Public release of this information would likely discourage other carriers from voluntarily providing similar information to the Commission in the future. According, this information qualifies for confidential treatment under Exemption 4 of the Freedom of Information Act ("FOIA").<sup>2</sup>

In accordance with the requirements of Section 0.459(b) and in support of this request for confidential treatment, TCC provides the following information:

1. *Identification of specific information for which confidential treatment is sought (Section 0.459(b)(1))*

TCC seeks confidential treatment for the redacted portions of its March 16, 2009 ex parte presentation in IB Docket No.09-10. The information in the redacted portions comprises commercially sensitive business and financial information that falls within Exemption 4 of the FOIA.

2. *Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission (Section 0.459(b)(2))*

TCC is submitting the information for which confidential treatment is requested in IB Docket No.09-10 pursuant to the March 11, 2009 request of International Bureau staff.

3. *Explanation of the decree to which the information is commercial or financial, or contains a trade secret or is privileged (Section 0.459(b)(3))*

The redacted portions of TCC's March 16 ex parte presentation contain details of TCC's termination rates and TCC's and Digicel's universal service obligations in Tonga. This information is financial information.

4. *Explanation of the degree to which the information concerns a service that is subject to competition (Section 0.459(b)(4))*

The Tonga Minister responsible for Communications has issued a telecommunications license to Digicel. Digicel operates a GSM cellular network to provide

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<sup>2</sup> See 5 U.S.C. § 552(b)(4); 47 C.F.R. § 0.457(d). Exemption 4 allows parties to withhold from public information "trade secrets and commercial or financial information obtained from any person and privileged or confidential-categories of materials not routinely available for public inspection." Applying Exemption 4, the courts have stated that commercial or financial information is confidential if its disclosure will have either of the following effects: (1) impairment of the government's ability to obtain necessary information in the future; or (2) causation of substantial harm to the competitive position of the person from whom the information was obtained.

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international and domestic telecommunications services, Internet access, and broadcast services. As such, there is competition in Tonga for the provision and termination of domestic and international telecommunications services.

5. *Explanation of how disclosure of the information could result in substantial competitive harm (Section 0.459(b)(5))*

The information for which TCC requests confidentiality, if released to the public, could be used by the carriers who are terminating (or are interesting in terminating) TCC's traffic to develop negotiating strategies to enhance their competitive position. This could hinder TCC's ability to negotiate the best possible rates for terminating traffic in the U.S. and other countries.

6. *Identification of any measures taken to prevent unauthorized disclosure (Section 0.459(b)(6))*

Information regarding TCC's termination rate for Digicel and TCC's and Digicel's universal service fund obligations is not ordinarily released to third parties or otherwise made available publicly in the normal course of business.

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))*

To the best of TCC's knowledge and belief, details regarding the termination rates agreed between TCC and Digicel have not been previously made public. To the best of TCC's knowledge and belief, details regarding the universal service obligations of TCC and Digicel also have not been made available to the public.

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))*

TCC respectfully requests that the Commission withhold the information from public inspection indefinitely.

As demonstrated above, the information for which TCC seeks confidential treatment is entitled to exemption from disclosure under both FOIA and the Commission's rules. If any person or entity requests disclosure of the enclosed response, please notify the undersigned counsel for TCC immediately in order to permit it to oppose such request or take such other action to safeguard its interests as it deems necessary. Please direct any questions as to this matter, including the request for confidential treatment, to the undersigned.

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Respectfully submitted,

**Tonga Communications Corporation**

By:   
Joan M. Griffin  
Its Attorney

Enclosure

**Tonga Communications Corporation**  
**Answers to March 10, 2009 Questions**

(1) *What is the rate that TCC charges Digicel to terminate Digicel's traffic in Tonga?*

TCC charges Digicel [REDACTED] (using the exchange rate of T\$1.00 = US\$0.4787).

(2) *What carriers does TCC have direct connections with, other than AT&T and Verizon?*

TCC has direct connections with the following non-U.S. carriers:

Telecom NZ International Ltd. (New Zealand)  
Optus (Australia)  
REACH (Australia)  
Pacific Teleports (Australia)  
FINTEL (Fiji)

(3) *Does all international traffic to and from Tonga go by satellite?*

Yes. TCC uses Intelsat (180° E.L) and New Skies (183° E.L). Both Digicel and TCC have their own earth stations.

(4) *Does Tonga have a universal service fund?*

At present, Tonga does not have a universal service obligation ("USO"), but it is TCC's understanding that it is the Government's intention to set up a USO fund before the end of the year. Historically, TCC and Tonga Telecommunications Commission ("TTC," one of the companies that merged to form TCC) were subject to an unofficial USO where the Government directed TTC to provide services in locations where the provision of service is not financially viable. TCC is currently paying a levy to the Government ([REDACTED] on inbound international telephone calls) to assist in setting up the USO. It is TCC's understanding that Digicel is paying the same levy.

(5) *What is Tonga's teledensity?*

For fixed line services, Tonga's teledensity is 13%, while for mobile services, Tonga's teledensity is about 60% (TCC and Digicel).