

September 27, 2013

VIA HAND DELIVERY & ECFS

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

Re: Request for Confidential Treatment In Conjunction with WaveDivision Holdings, LLC's Opposition to Price Cap Carrier Elections Seeking Incremental Support in Connect America Fund Phase 1 (Round 2); WC Docket No. 10-90

Ms. Dortch:

Pursuant to Sections 0.457 and 0.459 of the Commission's rules, WaveDivision Holdings, LLC ("Wave") hereby requests confidential treatment of certain information that it is providing in its challenge of price cap carrier requests for Connect America Fund Phase I Round 2 Support.

This confidential information consists of the following:

- (i) Certain information regarding the location of serviceable homes passed in blocks served by Wave.

These documents are being provided to the Wireline Competition Bureau ("Bureau") and Wave requests that they be withheld from routine public inspection, as the information is of a commercially-sensitive nature, contains trade secrets, and Wave has not previously made these documents public. The pertinent sections of each document have been clearly marked "**CONFIDENTIAL—NOT FOR PUBLIC INSPECTION,**" as instructed on the FCC Secretary's web page.

Section 0.457(d) of the Commission's rules provides that this information is automatically protected under the Commission's confidentiality procedures because it contains trade secret information. Section 0.457 of the Commission's rules also requires that the Commission treat as confidential documents that contain "trade secrets and commercial or

¹ 47 C.F.R. § 0.459(a) ("If the materials are specifically listed in § 0.457, such a request is unnecessary.")

financial information ... not routinely available for public inspection.”² The information being provided by Wave is exempt from public disclosure under the exemptions set forth under FOIA, the Trade Secrets Act and the FCC’s regulations because it constitutes commercial and financial information, obtained from a person, which is confidential in nature.

Wave is also making a showing that the information would also qualify for protection pursuant to Commission rule 0.459.³ As required in rule 0.459, Wave provides below a statement of the reasons for withholding the information marked confidential, as well as a statement of facts underlying the information.

(1) Identification of the specific information for which confidential treatment is sought - Wave seeks to withhold from public inspection and otherwise seeks confidential treatment of the confidential information described on page 1 of this letter. Each page of the documents containing confidential information has been marked “**CONFIDENTIAL—NOT FOR PUBLIC INSPECTION.**”

(2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission - Wave is providing the confidential information to the Bureau as part of Wave’s opposition to the elections of various price cap carrier requests seeking Connect America Fund (“CAF”) Phase I Round 2 support in those census blocks served by Wave.⁴

(3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged - The confidential information consists of the geographic location of homes passed and capable of being served by Wave’s facilities, all of which is of a confidential and proprietary nature. Wave has not previously publicly disclosed any of this information.

(4) Explanation of the degree to which the information concerns a service that is subject to competition - The confidential information relates directly to the broadband service market, which is highly competitive. The number of new entrants in this market has steadily increased over the past few years, thereby increasing the competitive pressures in an already competitive market.

² These Commission regulations implement and incorporate exemptions from the Freedom of Information Act, 5 U.S.C. § 552(b)(4), and the Trade Secrets Act, 18 U.S.C. § 1905. See 47 C.F.R. § 0.457(d). Under these exemptions, information is exempt from public disclosure if it is (1) commercial or financial in nature, (2) obtained from a person, and (3) privileged or confidential in nature. 5 U.S.C. § 552(b)(4).

³ 47 C.F.R. § 0.459.

⁴ Wireline Competition Bureau Publishes Census Blocks, and Commences Challenge Process, for Second Round of Connect America Phase I, WC Docket No. 10-90 (WCB rel. Aug. 28, 2013).

(5) Explanation of how disclosure of the information could result in substantial competitive harm - There is a high risk that Wave would suffer competitive harm if its confidential and trade secret information were made available to its competitors.

(6) Identification of any measures taken by the submitting party to prevent unauthorized disclosure - Wave consistently seeks to keep the above referenced confidential information from being publicly disclosed, only shares such information with its attorneys and any other professional advisors on a need-to-know basis.

(7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties - As far as Wave is aware, this confidential information has never been made available to or otherwise disclosed to the public except to attorneys and similar advisors on a need-to-know basis.

(8) Justification of the period during which the submitting party asserts that material should not be available for public disclosure - Wave does not foresee a determinable date or timeframe after which it will no longer consider this information to be highly confidential, commercially-sensitive trade secret information.

The foregoing establishes that this confidential information is subject to confidential treatment pursuant to the FCC's rules at 47 C.F.R. §§ 0.457, 0.459, and 18 U.S.C. § 1905, and that it contains information containing trade secrets, and commercial and financial information in a company-specific manner that has not been previously made public. Please contact the undersigned if you have any questions about this matter. Thank you.

Sincerely,



K.C. Halm
Counsel for WaveDivision Holdings, LLC

Encl.

cc: Ryan Yates, WCB