



Federal Communications Commission
Washington, D.C. 20554

August 15, 2003

DA 03-2682

Timothy E. Welch, Esq.
Hill & Welch
1330 New Hampshire Ave., NW
Suite # 113
Washington, D.C. 20036

Re: Request for Confidentiality Pursuant to 47 C.F.R. § 0.459

Dear Mr. Welch:

Northeast Communications of Wisconsin, Inc. ("Northeast") requests¹ that the Commission grant confidential treatment, pursuant to Section 0.459² of the Commission's rules, of a disclosure it made to the Commission under the Commission's rules. For the reasons discussed below, we deny Northeast's request.

The Commission's confidentiality rule sets forth specific reasons for withholding materials from public inspection.³ Northeast, however, fails to allege that the information contained in its letter is protected from disclosure by any of the exemptions identified in the confidentiality rule.⁴ For instance, Northeast does not claim that the information submitted to the Commission is "commercial or financial, or contains a trade secret or is privileged."⁵ Instead, Northeast states that "it does not necessarily have an interest in confidentiality" but is making its request "as a courtesy to counsel" for another party who also requests confidential treatment of similar information.⁶ Northeast's request therefore fails to meet the requirements of Section 0.459 because it does not explain how the information it disclosed to the Commission qualifies for confidential treatment within the standards set forth in the rule. Northeast's request instead appears to be a "casual request" for confidentiality that under our rules will not be

¹ Letter from Mr. Timothy Welch, Esq., Hill and Welch, to Margaret W. Wiener, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, dated September 6, 2002 ("Northeast Letter").

² 47 C.F.R. § 0.459.

³ *Id.* Section 0.457 sets forth the categories of records that are not routinely available for public inspection, *i.e.*, accorded confidential treatment, and section 0.459 sets forth the procedures for submitting requests that material or information be withheld from public inspection. 47 C.F.R. §§ 0.457, 0.459. For instance, Section 0.459(b)(3) provides that a request for confidentiality shall, among other things, include an "explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged." 47 C.F.R. § 0.459.

⁴ 47 C.F.R. § 0.457.

⁵ 47 C.F.R. § 0.459(b)(3).

⁶ Northeast Letter at 2. We note that the other party's request for confidential treatment was also denied.

Timothy E. Welch
August 15, 2003

considered.⁷ Accordingly, Northeast has failed to meet its burden under Section 0.459⁸ to establish by a preponderance of the evidence that the information contained in its letter should be afforded confidential treatment.

Accordingly, for the reasons discussed above, we DENY Northeast's request for confidential treatment. This action is taken under delegated authority pursuant to Section 0.331 of the Commission's rules.⁹

Pursuant to Section 0.459(g)¹⁰ of the Commission's rules, the Commission has provided notice to Northeast's counsel that it may, within 5 working days file an application for review by the Commission. If the application for review is denied, Northeast will be afforded 5 working days in which to seek a judicial stay of the ruling. If these periods expire without action by Northeast, its letter will be placed in a public file. Northeast's letter, however, will be accorded confidential treatment, as provided in Sections 0.459(g) and 0.461,¹¹ until the Commission acts on any timely applications for review of an order denying a request for confidentiality, and until a court acts on any timely motion for stay of such an order denying confidential treatment.

Sincerely,

Margaret W. Wiener
Chief, Auctions and Industry Analysis Division
Wireless Telecommunications Bureau

⁷ 47 C.F.R. § 0.459(c).

⁸ 47 C.F.R. § 0.459.

⁹ 47 C.F.R. § 0.331.

¹⁰ 47 C.F.R. § 0.459(g).

¹¹ 47 C.F.R. §§ 0.459(g), 0.461.