



**REDACTED FOR PUBLIC INSPECTION**

July 7, 2023

**BY ELECTRONIC MAIL**

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

Re: REQUEST FOR CONFIDENTIAL TREATMENT

*Interconnected VoIP Numbering Authorization Application Filed by Consolidated Communications Enterprise Services, Inc. Pursuant to Section 52.15(g)(3) of the Commission's Rules, WC Docket No. 23-6*

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Dear Ms. Dortch:

On December 19, 2022, Consolidated Communications Enterprise Services, Inc. (“CCES”) filed an application seeking direct access to numbering resources for provision of interconnected VOIP services (the “Application”). In the attached Supplement, CCES provides additional operational information requested by the Wireline Competition Bureau staff concerning that Application.

Pursuant to Section 0.459(b) of the Commission’s rules, CCES requests confidential treatment of certain non-public information provided as Exhibit A to the Supplement. In support of this request, CCES hereby states as follows:

- (1) Identification of the specific information for which confidential treatment is sought.** CCES seeks confidential treatment of Exhibit A to the Supplement in its entirety. Exhibit A is the “VoIP TN Service Schedule,” dated October 2, 2018, to the Master Services Agreement between CCES and Inteliquent, Inc. (the “Confidential Information”).
- (2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission.** The Confidential Information is submitted to supplement the CCES Application currently pending in *Interconnected VoIP Numbering Authorization Application Filed by Consolidated Communications Enterprise Services, Inc. Pursuant to Section 52.15(g)(3) of the Commission's Rules*, WC Docket No. 23-6.

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- (3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.** “[T]rade secrets and commercial or financial information obtained from a person and privileged or confidential” are exempt from disclosure under FOIA Exemption 4.<sup>1</sup> CCES and its affiliates compete vigorously for market share among business, enterprise, and residential customers; government and non-profit entities; and other community anchor institutions such as schools, libraries, and healthcare providers. The Confidential Information concerns the terms and conditions for critical wholesale inputs to the services CCES provides. Disclosure of that Information would harm the competitive position of CCES in these important markets and place them at an unfair competitive disadvantage in seeking to serve these customers.
- (4) Explanation of the degree to which the information concerns a service that is subject to competition.** CCES operates in highly competitive telecommunications markets across the country, facing substantial competition from wireline incumbents, competitive providers (including other interconnected VOIP providers), and wireless service providers. The presence of such competition and the likelihood of competitive injury as a result of the release of the Confidential Information should compel the Commission to withhold the information from public disclosure.<sup>2</sup>
- (5) Explanation of how disclosure of the information could result in substantial competitive harm.** The Supreme Court has held that a showing of competitive harm is not required to satisfy FOIA Exemption 4.<sup>3</sup> Nevertheless, this information is highly sensitive because multiple service providers compete, or could potentially compete, with CCES and its affiliates throughout their service areas. Disclosure of the Confidential Information would give competing service providers access to sensitive information concerning CCES’s VOIP service operations. Doing so would undermine its competitive position and would place CCES and its affiliates at an unfair competitive disadvantage in the market.
- (6) Identification of any measures taken by the submitting party to prevent unauthorized disclosure.** This information is not normally distributed, circulated, or provided to any party outside of CCES and its affiliates. CCES treats this information as confidential and competitively sensitive information; thus, only specialized

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<sup>1</sup> 5 U.S.C. §552(b)(4).

<sup>2</sup> *Frazee v. U.S. Forest Service*, 97 F.3d 367, 371 (9th Cir. 1996); *CNA Financial Corp. v. Donovan*, 830 F.2d 1132, 1152 (D.C. Cir. 1987); *Gulf & Western Indus. v. U.S.*, 615 F.2d 527, 530 (D.C. Cir. 1979); *National Parks & Conservation Assoc. v. Morton*, 498 F.2d 765, 769-70 (D. C. Cir. 1974).

<sup>3</sup> *Food Mktg. Inst. v. Argus Leader Media*, 139 S. Ct. 2356, 2363 (2019) (“*Argus Leader*”) (rejecting “substantial competitive harm” as probative under FOIA Exemption 4).

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personnel within the company, as well as outside counsel who are bound by ethical obligations to preserve client confidences, have access to it.<sup>4</sup>

- (7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.** To the knowledge of CCES, the Confidential Information is not available to the public and has not previously been disclosed to third parties; any such disclosure would be made only pursuant to confidentiality obligations and/or nondisclosure agreements.
- (8) Justification of the period during which the submitting party asserts that material should not be available for public disclosure.** The Confidential Information should remain subject to confidential treatment indefinitely. CCES intends to operate indefinitely under the VoIP TN Service Schedule that comprises the Confidential Information. Disclosure at any time would provide a competitive and strategic advantage to CCES's competitors.
- (9) Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.** The information covered by this request falls under Exemption 4 of the Freedom of Information Act (FOIA), insofar as this information is (i) commercial or financial in nature; (ii) obtained by a person outside government; and (iii) privileged and confidential. *See, e.g., Washington Post Co. v. U.S. Department of Health and Human Services*, 690 F.2d 525 (D.C. Cir. 1982).

\* \* \* \*

For the foregoing reasons, and pursuant to section 0.459 of the Commission's rules, 47 C.F.R. § 0.459, CCES requests that the Commission withhold the Confidential Information from public disclosure. If the Commission is unable for any reason to do so, CCES respectfully requests that the Commission return the information pursuant to section 0.459(e) of the Commission's rules, 47 C.F.R. § 0.459(e).

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<sup>4</sup> See *Argus Leader*, 139 S. Ct. at 2363 (explaining that information is confidential where a party “do[es] not disclose . . . or make it publicly available . . . [and] only small groups of employees usually have access to it”).

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Should you have any questions, please contact the undersigned at (202) 230-4962 or  
[richard@cameronlawpolicy.com](mailto:richard@cameronlawpolicy.com).

Very truly yours,

Richard R. Cameron  
*Counsel for Consolidated Communications  
Enterprise Services, Inc.*



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**VIA ELECTRONIC FILING**

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
45 L Street N.E.  
Washington, D.C. 20554

Re: *Supplement to Interconnected VoIP Numbering Authorization Application Filed by Consolidated Communications Enterprise Services, Inc. Pursuant to Section 52.15(g)(3) of the Commission's Rules, WC Docket No. 23-6*

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Dear Ms. Dortch:

On December 19, 2022, Consolidated Communications Enterprise Services, Inc. (“CCES”) filed an application seeking direct access to numbering resources for provision of interconnected VOIP services (the “Application”). This Supplement provides additional information concerning CCES’s operational and facilities readiness to provide interconnected VOIP services, as requested by the staff of the Wireline Competition Bureau (the “Bureau”).

The Commission’s 2015 Order establishing the process for authorizing interconnected VoIP providers to obtain direct access to telephone numbering resources permitted applicants to “demonstrate proof of facilities readiness by . . . providing a combination of an agreement between the interconnected VoIP provider and its carrier partner and an interconnection agreement between that carrier and the relevant local exchange carrier.”<sup>1</sup> To meet this requirement, CCES’s Application explained that it currently provides interconnected VOIP services under agreement to use facilities owned by its local exchange carrier (“LEC”) affiliates. CCES further stated that, in areas where CCES does not have an LEC affiliate whose facilities it can use to provision interconnected VOIP service, it has entered into an interconnection or Local Transit agreement, such as the Master Services Agreement (“MSA”) currently in place between CCES and Inteliquent, Inc.,<sup>2</sup> dated May 15, 2018.

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<sup>1</sup> *Numbering Policies for Modern Communications*, WC Docket No. 13-97, Report and Order, FCC 15-70, 30 FCC Rcd 6839 (2015), at ¶ 37; see also 47 C.F.R. §§ 52.15(g)(3)(i)(D), 52.15(g)(2).

<sup>2</sup> See Application, WC Docket No. 23-6 (filed Dec. 19, 2022), at 3.

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In this Supplement, CCES offers additional detail in support of those representations. *First*, CCES calls the Bureau's attention to the interconnection agreement in place between CCES and AT&T Texas, which is a representative example among other interconnection agreements in place in those states where CCES operates. That agreement can be found as follows:

*Joint Application of Southwestern Bell Telephone Company d/b/a AT&T Texas and Consolidated Communications Enterprise Services, Inc. for Approval of Amendment to Interconnection Agreement under PURA and the Telecommunications Act of 1996*, Docket No. 51032 (filed August 10, 2020), available at:  
<https://interchange.puc.texas.gov/search/documents/?controlNumber=51032&itemNumber=4>

*Second*, as **Exhibit A**, CCES submits the text of the VoIP TN Service Schedule to the MSA. The VoIP TN Service Schedule supports CCES delivery of VoIP services in areas where CCES lacks sufficient facilities or customer demand to provide these services efficiently using its own Operating Company Number and interconnection agreements, chiefly (but not solely) in areas outside of those served by one of CCES's ILEC affiliates. For the reasons described in the accompanying Request for Confidential Treatment, **Exhibit A** is redacted in its entirety from the public version of this Supplement.

Please contact the undersigned should you have any questions.

Very truly yours,

Richard R. Cameron  
*Counsel for Consolidated Communications  
Enterprise Services, Inc.*

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**EXHIBIT A**

VoIP TN Service Schedule dated October 2, 2018, to the Master Services Agreement between Inteliquent, Inc., and Consolidated Communications Enterprise Services, Inc.

**[REDACTED IN ITS ENTIRETY]**