



**Steven A. Augustino**

Kelley Drye & Warren LLP  
Washington Harbour, Suite 400  
3050 K Street, NW  
Washington, DC 20007

Tel: (202) 342-8612  
saugustino@kelleydrye.com

October 15, 2020

**Via ECFS**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
45 L Street NE  
Washington, DC 20554

Re: Business Telecommunications Services, Inc. Request for Confidential Treatment, WC Docket No. 20-166

Dear Ms. Dortch:

Business Telecommunications Services, Inc. (“BTS”), by its attorneys, hereby requests confidential treatment of confidential information contained in the attachment (“Attachment”) to its Second Supplement (“Second Supplement”) to its application requesting authority, in its capacity as a provider of interconnected Voice-over-Internet Protocol (“VoIP”) services, to directly obtain numbering resources from the North American Numbering Plan Administrator and the Pooling Administrator (“Application”).<sup>1</sup> At the request of the Wireline Competition Bureau, a public copy of the Second Supplement and its Attachment are being filed via ECFS today.

The Second Supplement contains confidential proprietary business information. Such information is exempted from mandatory disclosure under Exemption 4 of the Freedom of Information Act (“FOIA”)<sup>2</sup> and Section 0.457(d) of the Commission’s rules.<sup>3</sup> Exemption 4 allows the withholding of commercial or financial information that is privileged or confidential.<sup>4</sup> The Supreme Court recently clarified that the confidentiality requirement is satisfied when confidential proprietary business information is “customarily

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<sup>1</sup> See *Business Telecommunications Services, Inc., Application for Authority to Obtain Direct Access to Numbering Resources Pursuant to 52.15(g) of the Commission’s Rules*, WC Docket No. 20-166 (filed Jun. 11, 2020) (“Application”).

<sup>2</sup> See 5 U.S.C. § 552(b)(4). Public disclosure is not required for “trade secrets and commercial or financial information obtained from a person and privileged or confidential.” *Id.*

<sup>3</sup> 47 C.F.R. § 0.457(d). See *S. Co., Request for Waiver of Section 90.629 of the Commission’s Rules*, Memorandum Opinion and Order, 14 FCC Rcd 1851, para. 17 (WTB 1998).

<sup>4</sup> 5 U.S.C. § 552(b)(4).

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and actually treated as private by its owner and provided to the government under an assurance of privacy.”<sup>5</sup> Accordingly, pursuant to Section 0.459 of the Commission’s rules, BTS requests that the information and documents included in the Attachment to this Second Supplement to the Application be withheld from public inspection.<sup>6</sup>

The information for which BTS requests confidential treatment provides completely sensitive information about BTS’s contractual arrangements with other service providers. In particular, the Attachment contains a service order between BTS and Peerless Networks, Inc. The Attachment includes proprietary and completely sensitive information, such as the rates, terms and conditions upon which it receives wholesale inputs to its services, that is not customarily disclosed to the public or within the industry.<sup>7</sup> The market for the services provided, including the services offered by BTS, is highly competitive.<sup>8</sup> BTS derives independent economic value from the fact that such significant, detailed proprietary information regarding its internal operations and business activities is unknown to its competitors.<sup>9</sup> Moreover, failure to treat the Company’s designated information and documents as confidential would provide competitors with an unfair competitive advantage by being granted access to valuable commercial and financial information of BTS.<sup>10</sup> The designated confidential information in the Attachment to the Second Supplement is provided only to those employees and contractors that require such information to perform the requirements of their duties to BTS.<sup>11</sup> The information that is the subject of this confidential treatment request is not part of the public record in any jurisdiction.<sup>12</sup>

In the event that any person or entity requests disclosure of the designated confidential information or documents, please notify counsel for BTS immediately in order to permit it to oppose such a request or take such other action to safeguard its interests as it deems necessary.<sup>13</sup> After the Commission concludes its review, BTS requests the return of the confidential information to counsel. However, in the event that the Commission has reason to keep the confidential materials after the conclusion of this proceeding, BTS requests that all materials be kept under protective seal, as no passage of time will negate the confidential nature of the designated information and documents in the Second Supplement.<sup>14</sup>

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<sup>5</sup> *Food Mktg. Inst. v. Argus Leader Media*, 588 U.S. \_\_\_\_ (2019) (slip op. at 12).

<sup>6</sup> 47 C.F.R. § 0.459.

<sup>7</sup> See 47 C.F.R. § 0.459(b)(3).

<sup>8</sup> See 47 C.F.R. § 0.459(b)(4).

<sup>9</sup> See 47 C.F.R. § 0.459(b)(5).

<sup>10</sup> See *id.*

<sup>11</sup> See 47 C.F.R. § 0.459(b)(6).

<sup>12</sup> See 47 C.F.R. § 0.459(b)(7).

<sup>13</sup> See 47 C.F.R. § 0.459(d).

<sup>14</sup> See 47 C.F.R. § 0.459(b)(8).

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Please direct any questions as to this matter, including the request for confidential treatment, to the undersigned.

Respectfully Submitted,



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Steven A. Augustino

*Counsel to Business Telecommunications  
Services, Inc.*

Cc: Jordan Marie Reth  
Margaux Brown  
Michele Sclater