

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF TOTAL CALL MOBILE, )  
INC. FOR LIMITED DESIGNATION AS AN ) CASE NO.  
ELIGIBLE TELECOMMUNICATIONS ) 2014-00268  
CARRIER )

ORDER

On December 18, 2014, Total Call Mobile, Inc. ("Movant") filed a petition, pursuant to 807 KAR 5:001, Section 13(2), and KRS 61.878, requesting that the Commission grant confidential protection to portions of Movant's Supplemental Responses to Commission Staff's First Request for Information ("Staff's First Request"). Movant requests that all of the information in Attachment B to its supplemental response to Staff's First Request, Item 7 ("Attachment B"), and all of the information in Attachment C to its supplemental response to Staff's First Request, Item 9 ("Attachment C"), remain confidential for an indefinite period. Attachment B includes Movant's marketing strategies and business planning, and Attachment C includes information regarding the total number of customers receiving certain services from Movant for each state in which Movant has been designated as an Eligible Telecommunications Carrier.

In support of its petition for confidential treatment, Movant argues that public disclosure of the information contained in Attachment B and Attachment C would permit an unfair commercial advantage to Movant's competitors. Therefore, Movant asserts, the information contained in Attachment B and Attachment C is generally recognized as confidential or proprietary and is exempt from public disclosure, pursuant to KRS

61.878. Movant further argues that public disclosure of the information sought to be protected would enable Movant's competitors to determine whether and how to compete with Movant to provide service to Lifeline-eligible customers.

Having carefully considered the petition for confidential treatment and the materials at issue, the Commission finds that:

1. The information in Attachment B, containing Movant's supplemental responses to Staff's First Request, Item 7, for which Movant requests confidential treatment, does not meet the criteria for confidential treatment under 807 KAR 5:001, Section 13(2), and KRS 61.878(1)(c). The Commission finds that the disclosure of information contained in Attachment B would not provide existing and potential competitors with an unfair competitive advantage. The totality of information in Attachment B for which Movant requests confidential treatment is identical or substantially similar to information filed in Movant's application, for which Movant has not requested confidential treatment;<sup>1</sup> is identical or substantially similar to information in Movant's responses to Item 4 and 5 of Staff's First Request, for which the Commission denied confidential treatment in an Order entered January 12, 2015; and is substantially similar to information filed by competing Eligible Telecommunications Carriers for which confidential treatment was not requested.<sup>2</sup> The information

---

<sup>1</sup> See Application, pp. 14-15; Exhibit 4, pp. 117-130; and Exhibit 5.

<sup>2</sup> See Case No. 2013-00482, Application of Sage Telecom Communications, LLC for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky for the Limited Purpose of Offering Wireless Lifeline Service (Ky. PSC filed Dec. 26, 2013); Case No. 2013-00301, Application of Amerimex Communications Corp. for Designation as an Eligible Telecommunications Carrier on a Wireless Basis (Low Income Only) (Ky. PSC filed July 23, 2013); Case No. 2013-00175, Application of American Broadband and Telecommunications Company for Limited Designation as an Eligible Wireless Telecommunications Carrier (Ky. PSC filed May 1, 2013).

contained in Attachment B does not contain specific marketing practices, but instead consists of statements of a general nature regarding business practices. Movant's request for confidential treatment should be denied for information contained in Attachment B to Movant's supplemental responses to Staff's First Request.

2. The information in Attachment C, containing Movant's supplemental responses to Staff's First Request, Item 9, for which Movant requests confidential treatment, is generally recognized as confidential or proprietary, and which, if openly disclosed, would permit an unfair commercial advantage to competitors. Therefore, the information contained in Attachment C to Movant's supplemental responses to Staff's First Request meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13(2), and KRS 61.878(1)(c).

IT IS THEREFORE ORDERED that:

1. Movant's motion for confidential protection is hereby granted in part and denied in part.

2. Movant's request for confidential treatment of the information contained in Attachment B submitted as an attachment to Movant's supplemental response to Item 7 of Staff's First Request is denied.

3. Movant's request for confidential treatment of the information contained in Attachment C submitted as an attachment to Movant's supplemental response to Item 9 of Staff's First Request is granted. The information set forth in Attachment C shall remain confidential for an indefinite period of time.

4. The materials for which Movant's request for confidential treatment has been denied shall not be placed in the public record or made available for inspection for

20 days from the date of this Order in order to allow Movant to seek a remedy afforded by law.

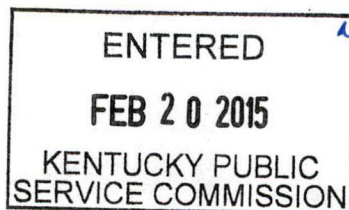
5. Use of the materials that were granted confidential treatment in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

6. Movant shall inform the Commission if the materials granted confidential protection become publicly available or no longer qualify for confidential treatment.

7. If a non-party to this proceeding requests to inspect materials granted confidential treatment by this Order and the period during which the materials have been granted confidential treatment has not run, Movant shall have 20 days from receipt of written notice of the request to demonstrate that the materials still fall within the exclusions from disclosure requirements established in KRS 61.878. If Movant is unable to make such demonstration, the requested materials shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

8. The Commission shall not make the materials available for inspection for 20 days following an Order finding that the materials no longer qualify for confidential treatment in order to allow Movant to seek a remedy afforded by law.

By the Commission



ATTEST:

  
\_\_\_\_\_  
Executive Director

\*Total Call Mobile, Inc.  
1411 W 190th Street, Suite 700  
Gardena, CA 90248

\*Robert Yap  
Chief Legal Officer  
1411 W. 190th Street, Suite 700  
, CALIFORNIA 90248

\*Mark S Yurick  
Taft Stettinius & Hollister, LLP  
65 E. State Street, Suite 1000  
Columbus, OHIO 43215