

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF IM TELECOM, LLC DBA INFINITI)	
MOBILE FOR DESIGNATION AS AN ELIGIBLE)	CASE NO.
TELECOMMUNICATIONS CARRIER IN THE)	2016-00276
COMMONWEALTH OF KENTUCKY)	

ORDER

On November 23, 2016, IM Telecom, LLC d/b/a Infinity Mobile (“Infiniti Mobile”) filed a petition, pursuant to KRS 61.878(1), requesting that the Commission grant confidential protection for an indefinite period of time to its response to Commission Staff’s Second Request for Information (“Staff’s Second Request”), Item 5, Exhibits 1 and 2. The designated material for which confidential protection is requested is more specifically described as financial statements for calendar years 2013, 2014, and 2015 that include Infiniti Mobile’s balance sheet, profit and loss statement, and cash flow, and certified letters of credit.

In support of its petition requesting confidential treatment, Infiniti Mobile asserts that the designated material in its response to Staff’s Second Request, Item 5, contains commercially sensitive information that if publicly disclosed would place Infiniti Mobile at a competitive disadvantage, and thus is exempt from public disclosure pursuant to KRS 61.878(1)(c). Infiniti Mobile states that it provides pre-paid wireless service targeting low-income customers and that the market is highly competitive in Kentucky and nationally. Infiniti Mobile asserts that public disclosure of the financial information and sources of credit would allow Infiniti Mobile’s competitors to emulate Infiniti Mobile’s

business model without the same investment of time and money that Infiniti Mobile has made. Infiniti Mobile further asserts that public disclosure of the designated material could permit its competitors to adjust operations to take undue advantage of any perceived financial or business vulnerability.

Having considered the petition and the material at issue, the Commission finds that the designated material contained in Infiniti Mobile's response to Staff's Second Request, Item 5, is generally recognized as confidential or proprietary, and which, if openly disclosed, could result in commercial harm to Infiniti Mobile, and therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

IT IS THEREFORE ORDERED that:

1. Infiniti Mobile's petition for confidential protection for designated material contained in its response to Staff's Second Request, Item 5, is granted.
2. The designated material set forth in Infiniti Mobile's response to Staff's Second Request, Item 5, shall not be placed in the public record or made available for public inspection for an indefinite period, or until further Orders of this Commission.
3. Use of the material in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).
4. Infiniti Mobile shall inform the Commission if the material in question becomes publicly available or no longer qualifies for confidential treatment.
5. If a non-party to this proceeding requests to inspect material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, then Infiniti Mobile shall have 20 days

from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Infiniti Mobile is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. The Commission shall not make the requested material available for inspection for 20 days following an Order finding that the material no longer qualifies for confidential treatment in order to allow Infiniti Mobile to seek a remedy afforded by law.

By the Commission

ENTERED
MAR 01 2017
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

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