

DA 98-303

Released: February 17, 1998

Timothy E. Welch
Hill & Welch
1330 New Hampshire Avenue, N.W.
Suite 113
Washington, D.C. 20036

Re: Confidentiality Request of Northeast Communications of Wisconsin, Inc.,

Dear Mr. Welch:

This letter responds to the January 23, 1998 request of Northeast Communications of Wisconsin, Inc. ("Northeast") for confidential treatment of the information contained in Exhibit C of its 175 application. Specifically, Northeast requests the non-disclosure of financial information regarding its "small business" status submitted in Exhibit C because it is a privately-held company.

We review requests for confidentiality and non-disclosure on a case-by-case basis. Section 0.459 of the Commission's rules requires an entity requesting confidential treatment of material to submit a statement of the reasons for withholding the materials from inspection and of the facts upon which those reasons are based. Mere conclusory or generalized allegations cannot support a request for nondisclosure. Rather, the submissions must show by a preponderance of the evidence that nondisclosure is consistent with the provisions of the Freedom of Information Act, 5 U.S.C. § 552.

We find that your request does not meet the requirements set forth in Section 0.459 of the Commission's rules. Northeast's status as a privately held company does not justify withholding from inspection materials that bear upon its qualifications to participate in the LMDS auction as a "small business". *See* Sections 101.1104, 101.1107, 101.1109 and 101.1112. Therefore, your request for confidentiality IS HEREBY DENIED.

Sincerely,

Kathleen O'Brien Ham
Chief, Auctions and Industry Analysis Division
Wireless Telecommunications Bureau

