

DA 98-1688

Released: August 24, 1998

VIA FACSIMILE AND FEDERAL EXPRESS

John Reardon
Mobex Communications Inc.
Suite 250
1150 18th Street NW
Washington, DC 20036

Re: Confidentiality Request of Mobex Communications Inc.

Dear Mr. Reardon:

This letter responds to the August 17, 1998 request for confidential treatment of Exhibit E of your FCC Form 175 application in the 220 MHz auction. Specifically, you request non-disclosure of a petition seeking waiver of certain Commission small business provisions. This document, you contend, contains financial details of your business operations.

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 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. Your statements that disclosure of the financial information in Exhibit E may result in competitive harm from large corporations / other bidders and that the information relates to business plans, market tactics, and other related proprietary information about the business strategies of Mobex are conclusory, and do not justify withholding from inspection materials that bear upon your qualifications to participate in the 220 MHz auction.

Page Two
John Reardon
August 24, 1998

See 47 C.F.R. Sections 90.1017, 90.1021, 90.1023, and 1.2105. Therefore, your request for confidentiality IS HEREBY DENIED.

Sincerely,

Amy J. Zoslov
Chief, Auctions and Industry Analysis Division
Wireless Telecommunications Bureau