

DA 99-360

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VIA FACSIMILE

Sylvia Lesse, Esquire
Margaret Nyland, Esquire
Kraskin, Lesse & Cosson, LLP
2120 L Street, N.W., Suite 520
Washington, D.C. 20037

Re: Confidentiality Request of Pine Belt PCS, Inc.

Dear Ms. Lesse and Ms. Nyland:

This letter responds to the February 12, 1999, request for confidential treatment of the information contained in Exhibit C of Pine Belt PCS's, Inc.'s (Pine Belt) FCC Form 175 application for Auction No. 22. Specifically, you request non-disclosure of financial information, submitted in support of Pine Belt's claim to "very small business" status. You contend that disclosure of such information could harm the applicant's competitive position and discourage auction participation.

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 C may result in substantial competitive harm are conclusory, and do not justify withholding from inspection materials that bear upon the applicant's qualifications to participate in Auction No. 22 as a "very small business." *See* 47 C.F.R. Sections 90.1017, 90.1021, 90.1023, and 1.2105. Further, the information concerning Rose Mary S. Nettles' "personal wealth and cashflow," for which you seek confidential treatment does not appear to be required by our rules. *See Fifth Memorandum Opinion and Order*, 10 FCC Rcd 403, 421 (1994). Therefore, your request for confidentiality IS HEREBY DENIED.

Sincerely,

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