

DA 99-363

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VIA FACSIMILE

Donald J. Evans
Donelan, Cleary, Wood & Maser, P.C.
1100 New York Avenue, N.W.
Suite 750
Washington, D.C. 20005

Re: Confidentiality Request of North Alabama Cellular, L.L.C.

Dear Mr. Evans:

This letter responds to the February 12, 1999 request for confidential treatment of the information contained in Exhibits C and G of North Alabama Cellular, LLC's (NACELL) FCC Form 175 application for Auction No. 22. Specifically, you request non-disclosure of financial information, submitted in support of the applicant's claim to "very small business" status. You contend that disclosure of information about the earnings of NACELL could result in substantial competitive harm by informing competitors of the financial details of the applicant's 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 Exhibits C and G 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. Therefore, your request for confidentiality IS HEREBY DENIED.

Sincerely,

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