

June 16, 2021

South Dakota Network, LLCc
FRN 0005-0974-07
Request for Confidential Treatment
2021 Annual Access Charge Tariff Filing; Transmittal No. 18

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W. –Room TW-A325
Washington, D.C. 20554

Attention: Wireline Competition Bureau

Dear Ms. Dortch:

South Dakota Network, LLC (SDN) by its attorney, requests that certain revenues, expenses, investments and demand data provided under Transmittal No. 18, in connection with its 2021 Annual Access Charge Filing for Tariff F.C.C. No. 1, be withheld from public inspection and afforded confidential treatment, pursuant to Sections 0.457 and 0.459 of the Commission’s Rules, Exemption 4 of the Freedom of Information Act and the Tariff Streamlining Order. Because of the competitively sensitive nature of the information, SDN seeks to maintain confidentiality for the unredacted supporting materials it has submitted to the Commission in connection with its 2021 Annual Access Charge filing for Tariff F.C.C. No. 1, under Transmittal No. 18. A copy of the unredacted materials has been submitted via the Electronic Tariff Filing System (“ETFS”) and marked “CONTAINS PRIVILEGED AND CONFIDENTIAL INFORMATION- DO NOT RELEASE SUBJECT TO PROTECTIVE ORDER IN WC DOCKET NO. 21-148, DA 21-644.” A redacted version for public inspection has also been submitted via ETFS.

SDN is hereby requesting that such revenues, expenses, investments and demand data be treated as confidential and be made subject to the standard Protective Order and Declaration adopted by the Commission in the *Tariff Streamlining Order* and published in Appendix B thereof, and in the Commission's June 2, 2021 Public Notice, Announcing Procedures for Obtaining Confidential Information for 2021 Annual Access Charge Tariff Filings, DA 21-644.

Information for which confidential treatment is sought and proceeding

SDN seeks to maintain the unredacted supporting data it has submitted to the Commission in connection with its 2021 Annual Access Charge Tariff Filing as confidential. This data is competitively sensitive in nature.

Degree to which the information is commercial or financial or contains a trade secret or is privileged

The information for which SDN seeks confidential treatment is competitively sensitive financial data that SDN maintains as confidential and does not make available to the public, including information regarding services other than SDN's regulated CEA service that, if made available to competitors and alternative providers, would provide such entities with valuable competitive information that would assist competitors in targeting their marketing efforts. SDN is subject to actual and potential competition with respect to certain of its services. The financial information details the level of success SDN is experiencing with specific types of services. If competitors are able to gain an unfair advantage by obtaining such a detailed picture of SDN's strategies and successes, they may be able to anticipate SDN's strategic initiatives in a targeted way. Thus, the filing contains information about the company's business plans that is clearly "commercial" and "financial" in nature. *See Board of Trade v. Commodity Futures Trading Comm'n*, 627 F.2d 392, 403 & n.78 (D.C. Cir. 1980). The information is confidential and entitled to protection because disclosure of the information is likely to cause substantial harm to the competitive position of the person from whom the information was obtained. *See, National Parks and Conservation Ass'n v. Morton*, 498 F.2d 764, 770 (D.C. Cir. 1974) (footnote omitted); *see also Critical Mass Energy Project v. NRC*, 975 F.2d 871 (D.C. Cir. 1992), *cert. denied*, 113 S. Ct. 1579 (1993).

Degree to which the information concerns a service that is subject to competition; and manner in which disclosure of the information could result in substantial competitive harm

As shown above, the information for which SDN seeks confidential treatment is competitively sensitive financial data which, if made available to competitors and alternative providers, would provide those entities with valuable information concerning SDN's services and customer base.

Measures taken by SDN to prevent unauthorized disclosure and availability of the information to the public.

As shown above, SDN maintains the data for which confidential treatment is requested as confidential and does not make it available to the public.

Justification of the period during which SDN asserts the material should not be available for public disclosure

SDN requests that this information be accorded confidential treatment until such time as it is publicly disclosed by SDN. An indefinite period of confidentiality is required because SDN cannot predict at this time when the proceeding will be terminated.

Pursuant to the non-disclosure agreement that provides for review of information granted confidential treatment by interested parties, for the specific purpose of review and comment on the instant transmittal only, SDN will provide access and review of such information to signatories of such an agreement at the location listed below.

All correspondence and inquiries in connection with this request should be addressed to SDN's counsel, whose facsimile number is 202-828-5568 and whose email address is mjs@bloostonlaw.com.

Respectfully submitted,
South Dakota Network, LLC

/s/ Mary J. Sisak
Mary J. Sisak
Its Attorney

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