

April 26, 2018

BY ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street N.W.
Washington, DC 20554

Re: Request for Confidential Treatment, File No. 0353-EX-CN-2018

Dear Ms. Dortch:

Pursuant to the provisions of Sections 0.457 and 0.459 of the Commission's rules governing submission of confidential materials,¹ PointView Tech LLC ("PointView") respectfully requests that certain portions of the attached application be afforded confidential treatment and not be placed in the Commission's public files. PointView is providing this information to the Commission in a confidential exhibit to accompany its application for an experimental license, File No. 0353-EX-CN-2018.

Specifically, PointView's Orbital Debris Assessment Report, attached as Exhibit 2, contains information controlled under the Export Administration Regulations. This information is automatically protected under 47 C.F.R. § 0.457(a, c).² In addition, some portions of PointView's application contain statements that qualify as trade secrets and are automatically protected under 47 C.F.R. § 0.457(d).³ They include discussion of PointView's business plans, technology strategies, experiment parameters and PointView's business objectives in conducting the proposed experiment, as such discussion specifically concerns the use and implementation of technologies that are not regulated by the Commission. PointView guards this information from competitors because its disclosure would give them an undue commercial advantage in connection with the development of advanced wireless technologies. The confidential

¹ 47 C.F.R. §§ 0.457, 0.459.

² 47 C.F.R. § 0.457(a, c).

³ 47 C.F.R. § 0.457(d).

information thus qualifies as “commercial” information that “would customarily be guarded from competitors” and entitled to the automatic protection afforded by Section 0.457. PointView therefore requests that the Commission “not permit the inspection” of these materials.⁴

Alternatively, PointView also requests that these materials be withheld from public inspection under 47 C.F.R. § 0.459. In support of this request and pursuant to 47 C.F.R. § 0.459(b), PointView hereby states as follows:

1. The specific information for which confidential treatment is sought includes PointView’s business plans, technology strategies, experiment parameters, and business objectives in conducting the proposed experiment, as these plans, strategies, parameters and objectives concern the use and implementation of non-FCC-regulated technologies; it also includes information controlled by the Export Control Regulations.⁵
2. This confidential information is being submitted to the Commission to assist in the review of PointView’s application for an experimental license.⁶
3. The confidential information is commercial in character, and it qualifies as a trade secret that is closely guarded from competitors.⁷
4. PointView guards this information from competitors because its disclosure would give them an undue commercial advantage in connection with the development of advanced wireless technologies, which is subject to competition.⁸
5. Disclosure of this information would allow PointView’s competitors to replicate PointView’s methods for developing advanced wireless technologies and “beat” PointView to the market or try to neutralize the advantage conferred on PointView by these methods.⁹
6. PointView takes a number of measures to prevent unauthorized disclosure of this information. These measures include a prohibition on providing any of the information to any person outside PointView, its affiliates and advisors without

⁴ 47 C.F.R. § 0.451(b).

⁵ See 47 C.F.R § 0.459(b)(1).

⁶ See 47 C.F.R § 0.459(b)(2).

⁷ See 47 C.F.R § 0.459(b)(3).

⁸ See 47 C.F.R § 0.459(b)(4).

⁹ See 47 C.F.R § 0.459(b)(5).

adequate confidentiality protection, and the designation of all documents and emails containing any of this information as confidential.¹⁰

7. None of this information is available to the public and there has been no previous disclosure of the information to the public or third parties without appropriate restrictions.¹¹
8. PointView requests that the confidential information be withheld from disclosure for an indefinite period. Because of the competitive nature of PointView's business, disclosure of this information could jeopardize the competitive position of both PointView and any vendor with which it works.¹²
9. Finally, PointView notes that protecting this information from disclosure will not affect the ability of the Commission and local frequency coordinators to identify potential interference issues. Conversely, a denial of its request would impair the Commission's ability to obtain this type of voluntarily disclosed information in the future, hampering review of future applications.¹³ The ability of a government agency to obtain confidential information was the legislative intent for developing exemptions from the Freedom of Information Act.¹⁴ The U.S. Court of Appeals for the D.C. Circuit has recognized a "private interest in preserving the confidentiality of information that is provided to the Government on a voluntary basis."¹⁵

PointView requests that the Commission return this submission if its request for confidentiality is denied.¹⁶ Please contact the undersigned at 202-429-6494 or 202-429-3059 if you have any questions.

¹⁰ See 47 C.F.R. § 0.459(b)(6).

¹¹ See 47 C.F.R. § 0.459(b)(7).

¹² See 47 C.F.R. § 0.459(b)(8).

¹³ See 47 C.F.R. § 0.459(b)(9).

¹⁴ See *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 878 (D.C. Cir. 1992) ("Where, however, the information is provided to the Government voluntarily, the presumption is that [the Government's] interest will be threatened by disclosure as the persons whose confidences have been betrayed will, in all likelihood, refuse further cooperation.").

¹⁵ *Id.* at 879.

¹⁶ See 47 C.F.R. § 0.459(e).

Marlene H. Dortch
April 26, 2018
Page 4

Respectfully submitted,

/s/
Pantelis Michalopoulos
Counsel to PointView Tech LLC