



April 3, 2017

REQUEST FOR CONFIDENTIAL TREATMENT

Filed Electronically

Anthony Serafini
Chief, Experimental Licensing Branch
Office of Engineering and Technology
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: **SW Networks LLC Application for Experimental License,
File No. 0125-EX-CN-2017**

Dear Mr. Serafini:

SW Networks LLC ("SW"), by its counsel and pursuant to Sections 0.457 and 0.459 of the Commission's rules, 47 C.F.R. §§ 0.457, 0.459, respectfully requests confidential treatment of information contained in SW's above-referenced FCC Form 442 application for a new experimental license (the "Application"). In support of this request, and pursuant to Section 0.459(b) of the rules, SW provides the following information.

1. Identification of the specific information for which confidential treatment is sought – § 0.459(b)(1): SW seeks confidential treatment of the Attachment to SW's Application, which contains confidential and proprietary information regarding the scope and purpose of its proposed experimentation.

2. Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission – § 0.459(b)(2): The information in the Attachment has been submitted voluntarily in connection with SW's application for an experimental license, File No. 0125-EX-CN-2017 (March 21, 2017).

3. Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged – § 0.459(b)(3): The information for which SW seeks confidential treatment contains commercially sensitive information regarding the scope and purpose of SW's planned experimentation "which would customarily be guarded from competitors." *See, e.g., James A. Kay, Jr.*, 17 FCC Rcd 1834 (2002). Disclosure of this information to competitors of SW and other third parties would be competitively harmful. Accordingly, public disclosure of the confidential information could materially impair SW's business.

4. ***Explanation of the degree to which the information concerns a service that is subject to competition – § 0.459(b)(4):*** As the Commission is aware, there is substantial competition in the wireless industry generally; competition among both service providers and equipment manufacturers is increasing across all radiofrequency bands and, in particular, within the bands that are the subject of SW's Application. *See Use of Spectrum Bands Above 24 GHz for Mobile Radio Services*, GN Docket No. 14-177, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 8014 (2016). Because SW seeks to test new and innovative equipment and services, it has a strong interest in protecting from disclosure proprietary information concerning its potential future products and service offerings. Moreover, SW's private business and operations "would customarily be protected from competitors." 47 C.F.R. §§ 0.459(a)(4), 0.457(d)(2).

5. ***Explanation of how disclosure of the information could result in substantial competitive harm – § 0.459(b)(5):*** Disclosure of the information would reveal confidential trade secrets, technical information, and business information, resulting in disruption of SW's vendor and customer relationships in the highly competitive markets for communications equipment and services.

6. ***Identification of any measures taken by the applicant to prevent unauthorized disclosure – § 0.459(b)(6):*** See response to item 7 below.

7. ***Identification of whether the Information is available to the public and the extent of any previous disclosure of the information to third parties – § 0.459(b)(7):*** SW has not made the information in the Attachment available to the public or to any third parties, does not routinely disclose such commercially sensitive information to the public or to third parties, and has established procedures to protect such information internally. Disclosure has been strictly limited to SW employees, counsel, contractors, and agents of SW who have a specific need to review and analyze proprietary information related to the proposed experimentation requested by the Application. SW has voluntarily provided the information with the expectation that it will be treated confidentially in accordance with the Commission's rules. *See Critical Mass Energy Project v. Nuclear Regulatory Energy Comm'n*, 975 F.2d 871, 879 (D.C. Cir. 1992) (commercial information provided on a voluntary basis "is 'confidential' for the purposes of Exemption 4 if it is of a kind that would customarily not be released to the public by the person from whom it was obtained.").

8. ***Justification of the period during which the submitting party asserts that material should not be available for public disclosure – § 0.459(b)(8):*** SW requests that the Attachment remain confidential during the period for which experimental authority is requested, and thereafter until such time as SW expressly notifies the Commission confidential treatment is no longer required.

9. ***Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted:*** The information for which confidential treatment is requested falls within Exemption 4 of the Freedom of Information Act ("FOIA"), which provides a statutory basis for withholding from public inspection "matters that are trade secrets and commercial or financial information obtained from a person and privileged or confidential." 47 U.S.C. § 552(b)(4).



For all of the foregoing reasons, SW requests that the Commission withhold the Attachment to the Application from public inspection. Consistent with 47 C.F.R. 0.459(d)(1), SW requests notification if release of the information subject to this request is requested pursuant to the FOIA or otherwise, so that SW may have an opportunity to respond to any such request.

Respectfully submitted,

/s/ E. Ashton Johnston

E. Ashton Johnston

Counsel to SW Networks LLC