

**BEFORE THE  
MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

Petition of IM Telecom, LLC	)	
d/b/a Infiniti Mobile for Limited Designation	)	
as an Eligible Telecommunications	)	D.T.C. 23 _____
Carrier in Massachusetts for the Limited Purpose	)	
of Offering Wireless Lifeline Service to	)	
Qualified Households	)	

**MOTION FOR PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION**

Pursuant to Pursuant to G.L. c. 25C, § 5 and 207 CMR 1.04(5)(e), IM Telecom, LLC d/b/a Infiniti Mobile ("INFINITI" or the "Company") hereby moves the Department of Telecommunications and Cable ("the Department") to grant this motion to protect from public disclosure certain confidential, competitively sensitive, and proprietary information provided in the above-referenced proceeding involving INFINITI's Petition for Limited Designation as an Eligible Telecommunications Carrier in Massachusetts (the "Petition"). Specifically, INFINITI requests that confidentiality be afforded to Exhibit 8 which contains copies of the Company's underlying carrier agreements (the "Protected Information"). As grounds for this request, the Company states that the Protected Information is confidential, competitively sensitive, and proprietary information and as a result the Department is authorized to protect it from public disclosure in accordance with G.L. c. 25C, § 5.

**I. LEGAL STANDARD**

Confidential Information may be protected from public disclosure in accordance with Mass. Gen. Laws ch. 25C § 5 which provides in part:

[T]he department may protect from public disclosure trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of

proceedings conducted pursuant to this chapter. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be upon the proponent of such protection to prove the need for such protection. Where such a need has been found to exist, the department shall protect only so much of the information as is necessary to meet such need.

The Department has previously recognized that certain categories of materials are considered competitively sensitive information and given confidential treatment to include corporate financial information of private companies. See *D.T.C. 11-11 Hearing Officer Ruling on Motion for Protective Treatment at 10-11 (November 26, 2012)*.

## **II. ARGUMENT**

The Department has established a three-part standard for determining whether, and to what extent, information submitted by a party in a Department proceeding may be protected from public disclosure under G.L. c. 25C, § 5. First, the information for which protection is sought must constitute the type of information that can be exempted from public disclosure such as trade secrets, confidential or competitively sensitive or other proprietary information. Here, the carrier agreements, are considered by INFINITI to be confidential, proprietary, and commercially sensitive information. As privately held companies, the Protected Information of INFINITI and its affiliates is not otherwise publicly available. The Protected Information is only made available to a limited number of INFINITI personnel, and the Company employs its best efforts to maintain the secrecy of the Protected Information. Disclosure of the Protected Information would place INFINITI and its affiliates at a competitive disadvantage.

Second, the party seeking protective treatment must overcome the statutory presumption that the material is public in nature and “prove” the need for non-disclosure. As stated above the

Protected Information is not publicly available and is safeguarded by the Company, and only known to a limited number of employees, due to its confidential nature.

Third and finally, where the need for protective treatment has been established, the Department may limit the time period of the non-disclosure and the Department may only protect the portion of the information as is deemed necessary to meet the established need. INFINITI is not requesting a blanket assertion of confidentiality but rather has limited its request to Exhibit 8 provided in the Petition. INFINITI requests that the Protected Information be kept confidential for a minimum period of seven years with the opportunity to renew its request for confidential treatment at the end of the seven-year period based upon a showing of a need for continuing protection.

### III. CONCLUSION

WHEREFORE, for the reasons stated herein, INFINITI requests that the Department grant INFINITI's Motion for Protective Treatment of Confidential Information with respect to the Protected Information contained in Exhibit 8 of the Petition for a period of at least seven years with the opportunity to renew the request for confidential treatment upon a showing of need for continuing protection.

Respectfully submitted,

*/s/ Lance J.M. Steinhart*

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*/s/ Marisa Desautel*

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