STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

| ExteNet Systems, Inc. | : | |
| Petition for Emergency Relief to protect | : | 12-0271 |
| ExteNet’s Annual Report from disclosure | : | |
| for not less than five years in order to protect highly confidential and proprietary treatment. | : | |

ORDER

By the Commission:

In this proceeding, ExteNet Systems, Inc. (“Petitioner”), which holds a Certificate of Service Authority authorizing it to provide competitive telecommunications services, filed the above-referenced petition with the Illinois Commerce Commission (“Commission”). Petitioner therein seeks an order protecting from disclosure, for a period of not less than five years, its Annual Report for 2011. Petitioner filed both a redacted public version, and an unredacted confidential version, of the report.

The Commission Staff did not participate in this docket. No petitions for leave to intervene were filed. No hearings were held in this matter. A proposed order by the Administrative Law Judge was issued. No brief on exceptions was filed.

Section 7(g) of the Freedom of Information Act ("FOIA"), 5 ILCS 140/1 et seq., exempts, from public disclosure:

Trade Secrets and commercial or financial information obtained from a person or business where such trade secrets or information are proprietary, privileged or confidential, or where such disclosure of such trade secrets or information may cause competitive harm.

Petitioner asserts that the information which it seeks to protect is highly confidential financial information, the disclosure of which, to current or potential competitors, would be detrimental to Petitioner. The Petitioner further asserts that the telecommunications industry is highly competitive, particularly the specialized services provided by Petitioner, and that public disclosure of confidential information in the Annual Report must be avoided because of the competitive harm such disclosure would likely cause to Petitioner.
Commission Conclusions, Findings and Ordering Paragraphs

The Commission has considered Petitioner’s explanation of its concerns about the harm that could occur upon public disclosure of the redacted financial information in Petitioner’s Annual Report. Having reviewed the petition, the Commission finds that the redacted information in Petitioner’s 2011 Annual Report falls within the exemption in Section 7(g) of the FOIA; this information will be afforded proprietary treatment and will be exempt from public disclosure and accessible only by the Commission and the Commission Staff for a period of two years from the date of the request.

This two-year period of confidentiality is consistent with recent Commission orders, and no showing has been made to support the five-year period sought by Petitioner. Petitioner represents that “the Commission granted a similar request [by Petitioner] for a five-year seal” in Docket No. 11-0271; however, that representation is incorrect. In Docket No. 11-0271, the Commission denied Petitioner’s request for a protection period of five years. The Commission explained, “All companies that come before the Commission for this protection share ExteNet’s same compulsion for protection. The fact remains that ExteNet provided no compelling reason that five years should be granted instead of two.”

The Commission, having considered the entire record herein, is of the opinion and finds that:

(1) Petitioner holds a Certificate of Service Authority authorizing it to provide competitive telecommunications services pursuant to Article XIII of the Public Utilities Act ("Act"), 220 ILCS 5/1-101 et seq;

(2) the Commission has jurisdiction over Petitioner and the subject matter herein;

(3) the facts recited and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of this order;

(4) the confidential version of Petitioner’s 2011 Annual Report should be exempt from public disclosure under Section 7(g) of the FOIA until April 9, 2014.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the information specified in Finding (4) above is afforded proprietary treatment, is exempt from public disclosure and will be accessible only by the Commission and the Commission Staff until April 9, 2014.
IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this 24th day of October, 2012.

(SIGNED) DOUGLAS P. SCOTT

Chairman