

FILE

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

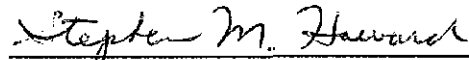
In the Matter of the Commission's )  
Investigation into Continuation of the Ohio ) Case No. 08-439-TP-COL  
Telecommunications Relay Service )

7  
RECEIVED-DECKETING DIV  
2009 JAN 30 PM 5:09  
PUCO

**MOTION FOR PROTECTIVE ORDER**

Pursuant to Rule 4901-1-24(D) of the Ohio Administrative Code, Sprint Communications Company L.P. ("Sprint") respectfully moves for a protective order to maintain the confidentiality of certain price information filed hereunder, and that such information not be made part of the public record. Additional explanation of the reasons supporting this Motion is detailed in the attached Memorandum in Support. Consistent with the requirements of the above cited Rule, ten (10) unredacted copies of the exhibits are submitted under seal.

Respectfully submitted,



Stephen M. Howard (0022421)

David L. Hoeffel (0078752)

Vorys, Sater, Seymour and Pease LLP

52 East Gay Street

P. O. Box 1008

Columbus, Ohio 43216-1008

Telephone: (614) 464-5401

*smhoward@vorys.com*

*dlhoeffel@vorys.com*

Attorneys for

Sprint Communications Company L.P.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
Technician AMK Date Processed 2/2/09

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's	)	
Investigation into Continuation of the Ohio	)	Case No. 08-439-TP-COL
Telecommunications Relay Service.	)	

**MEMORANDUM IN SUPPORT OF  
MOTION FOR PROTECTIVE ORDER**

Sprint Communications Company L.P., Sprint Spectrum L.P. (Sprint") requests that the pricing information submitted herewith be protected from public disclosure.

Rule 4901-1-24(D) of the Ohio Administrative Code provides that the Commission or certain designated employees may issue an order which is necessary to protect the confidentiality of information contained in documents filed with the Commission's Docketing Division to the extent that state or federal law prohibits the release of the information and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code. State law recognizes the need to protect certain types of information which are the subject of this Motion. The non-disclosure of the information will not impair the purposes of Title 49. The Commission and its Staff will have full access to the information in order to fulfill the Commission's statutory obligations. No purpose of Title 49 would be served by the public disclosure of the information.

The need to protect the designated information from public disclosure is clear, and there is compelling legal authority supporting the requested protective order. While the Commission has often expressed its preference for open proceedings, the

Commission also long ago recognized its statutory obligations with regard to trade secrets:

The Commission is of the opinion that the “public records” statute must also be read in pari materia with Section 1333.31, Revised Code (“trade secrets” statute). The latter statute must be interpreted as evincing the recognition, on the part of the General Assembly, of the value of trade secret information.

In re: General Telephone Co., Case No. 81-383-TP-AIR (Entry, February 17, 1982.).

Likewise, the Commission has facilitated the protection of trade secrets in its rules (O.A.C. § 4901-1-24(A)(7)).

The definition of a “trade secret” is set forth in the Uniform Trade Secrets

Act:

“Trade secret” means information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement, or any business information or plans, financial information or listing of names, addresses, or telephone numbers, that satisfies both of the following:

- (1) It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.
- (2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Section 1333.61(D), Revised Code. This definition clearly reflects the state policy favoring the protection of trade secrets such as the pricing information which is the subject of this motion.

Courts of other jurisdictions have held that not only does a public utilities commission have the authority to protect the trade secrets of the companies subject to its

jurisdiction; the trade secrets statute creates a duty to protect them. New York Tel. Co. v. Pub. Serv. Comm. N.Y., 56 N.Y. 2d 213 (1982). Indeed, for the Commission to do otherwise would be to negate the protections the Ohio General Assembly has granted to all businesses, including public utilities, and now the new entrants who will be providing power through the Uniform Trade Secrets Act. This Commission has previously carried out its obligations in this regard in numerous proceedings. See, e.g., Elyria Tel. Co., Case No. 89-965-TP-AEC (Finding and Order, September 21, 1989); Ohio Bell Tel. Co., Case No. 89-718-TP-ATA (Finding and Order, May 31, 1989); Columbia Gas of Ohio, Inc., Case No. 90-17-GA-GCR (Entry, August 17, 1990).

In Pyromatics, Inc. v. Petruziello, 7 Ohio App. 3d 131, 134-135 (Cuyahoga County 1983), the Court of Appeals, citing Koch Engineering Co. v. Faulconer, 210 U.S.P.Q. 854, 861 (Kansas 1980), has delineated factors to be considered in recognizing a trade secret:

- (1) The extent to which the information is known outside the business, (2) the extent to which it is known to those inside the business, i.e., by the employees, (3) the precautions taken by the holder of the trade secret to guard the secrecy of the information, (4) the savings effected and the value to the holder in having the information as against competitors, (5) the amount of effort or money expended in obtaining and developing the information, and (6) the amount of time and expense it would take for others to acquire and duplicate the information.

Applying these factors to the information submitted herewith, it is clear that a protective order should be granted.

Public disclosure of this information is not likely to assist the Commission in carrying out its duties, especially since the Commission staff will have the full ability to review the information. In furtherance of the Commission's policy favoring open

proceedings, Sprint has submitted a non-confidential version of the materials. That filing and its attachments will be fully available for review by the public, and this should eliminate any perceived need to allow public review of the attached information, and Sprint is aware of no other policy goal that would be served by allowing public inspection of the submitted pricing information.

WHEREFORE, for the above reasons, Sprint requests the Commission to grant its motion for a protective order and to maintain the pricing information submitted herewith under seal.

Respectfully submitted,

---

Stephen M. Howard (0022421)  
David L. Hoeffel (0078752)  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street  
P. O. Box 1008  
Columbus, Ohio 43216-1008  
Telephone: (614) 464-5401  
*smhoward@vorys.com*  
*dlhoeffel@vorys.com*

Attorneys for  
Sprint Communications Company L.P.

LIST OF EXHIBITS  
FOR WHICH PROTECTION IS SOUGHT

EXHIBITS

Appendix B, Pricing Information

REASONS JUSTIFYING PROTECTION

The exhibit contains pricing information which is competitively sensitive information. Disclosure would give an undue advantage to competitors and would hinder competition.


**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing Motion for Protective Order and Memorandum in Support of Motion for Protective Order was served upon the following persons by electronic mail this 30th day of January, 2009.

Jon F. Kelly  
Verneda Engram  
150 E. Gay St., Rm. 4-A  
Columbus, OH 43215  
jk2961@att.com

Carolyn S. Flahive  
Thompson Hine  
41 S. High St., Suite 1700  
Columbus, OH 43215-6101  
carolyn.flahive@thompsonhine.com

Benjamin J. Aron  
Attorney, State Regulatory  
Sprint Nextel Corporation  
2001 Edmund Halley Drive  
Reston, Virginia 20191  
Mailstop: VARESP0201-208  
benjamin.aron@sprint.com

  
\_\_\_\_\_  
Stephen M. Howard