

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE ANNUAL FILING
REQUIREMENTS FOR 2016 PERTAINING TO
THE PROVISIONING OF LIFELINE
UNIVERSAL SERVICE.

CASE NO. 16-1116-TP-COI

ENTRY

Entered in the Journal on December 19, 2017

{¶ 1} Pursuant to the attorney examiner Entry of May 11, 2016, all eligible telecommunications carriers (ETCs), to the extent applicable, were directed to file with the Federal Communications Commission (FCC) a report by July 1, 2016, consistent with 47 C.F.R. 54.422. Additionally, all ETCs were directed docket in this case all responses provided to the FCC.

{¶ 2} Beginning on June 14, 2016, through September 28, 2016, ETCs filed information consistent with the Entry of May 11, 2016. A number of responding companies submitted redacted filings accompanied by motions for protective treatment.

{¶ 3} On June 14, 2016, Chillicothe Telephone Company (Chillicothe) filed a motion for a protective in order to preserve the confidential and proprietary nature of certain financial information included with its FCC Form 481 and the 5-Year Build-out Progress Report. Specifically, Chillicothe requests that Financial Report 3005a, 3005b, 3005c be protected from public disclosure. Chillicothe submits that its competitive position could be harmed if this information was released to the public.

{¶ 4} On June 28, 2016, Arthur Mutual Telephone Company, Ayersville Telephone Company, Bascom Mutual Telephone Company, Benton Ridge Telephone Company, Buckland Telephone Company, Champaign Telephone Company, Columbus Grove Telephone Company, Conneaut Telephone Company dba GreatWave Communications, Farmers Mutual Telephone Company, Fort Jennings Telephone Company, Germantown Independent Telephone Company, Glandorf Telephone Company, Kalida Telephone Company, Inc., McClure Telephone Company, Middle

Point Home Telephone Company, New Knoxville Telephone Company, Orwell Telephone Company, Ottoville Mutual Telephone Company, Pattersonville Telephone Company, Ridgeville Telephone Company, Sherwood Mutual Telephone Association, Sycamore Telephone Company, Telephone Service Company, Vaughnsville Telephone Company, Wabash Mutual Telephone Company, Windstream Ohio, Inc., and Windstream Western Reserve, Inc., (collectively, "LECs") filed a joint motion seeking protective treatment of certain portions of the respective FCC Form 481 filings. The information includes financial and operational information filed confidentially with the FCC as part of each company's respective FCC Form 481 filing and local rate floor data filing. The financial information includes all or part of each company's respective financial statements. The operational information includes five-year broadband facility build-out plans, loop count, pricing strategies, and service quality issues. In support of the joint motion, LECs submit that the information constitutes each of their confidential trade secret information and that disclosure of the information will impair the LECs' ability to respond to competitive opportunities in the marketplace, and would provide competitors with an unfair competitive advantage.

{¶ 5} On June 29, 2016, Nova Telephone Company (Nova) filed a motion for a protective order regarding its finances and operations which Nova has filed with the FCC under seal. According to Nova, the financial material contains its financial statements, including balance sheet, income statement, and statement of cash flows. The operational material contains Nova's "Five-Year Build-out Progress Report," which discloses money spent in specific areas, customer numbers, detailed maps locating equipment, and Nova's service capability. In support of its motion, Nova states that the subject material provides information which Nova considers as proprietary trade secrets which are maintained as confidential by the company.

{¶ 6} On June 30, 2016, Arcadia Telephone Company, Continental of Ohio, Little Miami Communications, Oakwood Telephone Company, and Vanlue Telephone

Company each filed a motion for a protective order to protect the confidentiality and prohibit the disclosure of confidential information contained in its respective FCC Form 481. In support of their motions, the companies state that the information is competitively sensitive and highly proprietary business and financial information constituting a trade secret. The companies assert that public disclosure of the information will jeopardize their business positions and their ability to compete.

{¶ 7} On June 30, 2016, Minford Telephone Company (Minford), filed a motion for a protective order in order to protect the confidentiality of certain information contained in its FCC Form 481. Specifically, confidential treatment is sought for the “Five Year Service Quality Improvement Plan-Progress Report,” the “Universal Service Support Summary,” and financial information contained within the FCC’s Form 481. In support of its request, Minford states that the material includes competitively sensitive and highly proprietary business information comprising trade secrets and that public disclosure of the information will jeopardize its business position and its ability to compete.

{¶ 8} On June 30, 2016, AT&T Ohio filed a motion for protective treatment for specific information included in its FCC Form 481. In support of its motion, AT&T Ohio states that the information represents confidential business information and includes the service outage data reported on the Service Outage Voice Reporting Data Collection Form filed confidentially with the FCC.

{¶ 9} On June 30, 2016, CenturyTel of Ohio, Inc., dba CenturyLink and United Telephone Company of Ohio dba CenturyLink (jointly, CenturyLink) filed a motion for protective treatment to protect information contained in its FCC Form 481 filing. The information for which protective treatment is sought pertains to (a) broadband pricing information, (b) Connect America Fund (CAF) II capital expense data, and (c) outage information filed confidentially with the FCC. CenturyLink contends that this information is a trade secret and is deserving of protection inasmuch as public disclosure

of this information will provide competitors with information that they can use to analyze CenturyLink's operations and target areas for market entry or market strategies targeted to specific geographic areas.

{¶ 10} On August 2, 2016, Frontier North, Inc. and Frontier Communications of Michigan, Inc. (Frontier) jointly filed a motion for a protective order to protect the confidentiality and prohibit the disclosure of confidential information contained in its FCC Form 481. According to Frontier, the confidential information pertains to voice outage information, unfulfilled broadband service request information, and publicly unavailable information related to broadband pricing filed confidentially with the FCC. Frontier contends that public disclosure of this information would unfairly benefit its competitors.

{¶ 11} The attorney examiner has reviewed the arguments presented, and the information included in the motions for protective treatment. Applying the requirements that the information have independent economic value and be the subject of reasonable efforts to maintain its secrecy pursuant to R. C. 1333.61(D), as well as the six-factor test set forth by the Ohio Supreme Court,¹ the attorney examiner finds that the subject operational and financial information constitutes trade secret information. Its release is, therefore, prohibited under state law. The attorney examiner also finds that nondisclosure of this information is not inconsistent with the purposes of Title 49 of the Revised Code. Finally, the attorney examiner concludes that these documents could not be reasonably redacted to remove the confidential information contained therein. Therefore, the attorney examiner determines that the motions for protective treatment should be granted due to the proprietary nature of the relevant information. The protective orders should be granted for a period of twenty-four months from the date of this Entry.

¹ See *State ex rel. The Plain Dealer v. Ohio Dept. of Ins.*, 80 Ohio St.3d 513, 524-525, 687 N.E.2d 661 (1997).

{¶ 12} Although a party may, pursuant to Ohio Adm.Code 4901-1-24, seek an extension of a protective order, the requesting entity must demonstrate the need for the specific time frame requested. Following the end of the aforementioned two-year period, the Companies are directed to perform an evaluation in order to determine whether the protected information continues to require protective treatment.

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That the motions for protective treatment be granted and the docketing division maintain the designated information under seal in accordance with Paragraph 11. It is, further,

{¶ 15} ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Jay Agranoff

By: Jay S. Agranoff
Attorney Examiner

JRJ/sc

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Case No(s). 16-1116-TP-COI

Summary: Attorney Examiner Entry granting motions for protective treatment and the docketing division is to maintain the designated information under seal in accordance with Paragraph 11. - electronically filed by Sandra Coffey on behalf of Jay Agranoff, Attorney Examiner, Public Utilities Commission of Ohio