

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Joint Application of )  
Frontier Communications Corporation, )  
New Communications Holdings, Inc., and ) Case No. 09-454-TP-ACO  
Verizon Communications Inc. for Consent )  
and Approval of a Change in Control. )

ENTRY

The attorney examiner finds:

- (1) On May 29, 2009, Frontier Communications Corporation, New Communications Holdings, Inc., and Verizon Communications Inc. (the applicants) filed a joint application, pursuant to Section 4905.402, Revised Code, seeking approval of a change in ownership.
- (2) On October 14, 2009, the applicants, along with the Office of the Ohio Consumers' Counsel, International Brotherhood of Electrical Workers, Local 986, Communications Workers of America, Cincinnati Bell Extended Territories LLC, Comcast Phone of Ohio, LLC, and Level 3 Communications, LLC (the intervenors), jointly filed a motion for protective order to protect certain confidential information contained in the testimony filed by the intervenors. In support of the motion, the parties state that, pursuant to discovery and subject to protective agreements, the applicants provided to the intervenors confidential and proprietary information which the applicants regard as trade secrets.

Although the intervenors seek to protect the information, they do not concede that the information meets the standard for trade secrets or that it merits protection. The intervenors state that they retain the right under the protective agreements to initiate the process for the Commission to decide whether the information should be protected.

- (3) On November 4, 2009, the applicants filed a motion for protective order. By their motion, the applicants seek to protect confidential information contained within the rebuttal testimony of Timothy McCallion for Verizon and Daniel McCarthy and Kim Czack for Frontier. The applicants regard

the information as proprietary and confidential, constituting trade secrets under Ohio law. In particular, the applicants contend that the information meets the standards for protection under Section 1333.61, Revised Code. The applicants have filed the confidential versions of the testimony under seal while concurrently filing redacted versions in the public record.

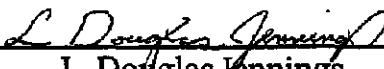
- (4) On November 16, 2009, the applicants filed a motion for protective order to protect the contents of the Verizon Software License Agreement (SLA). The applicants have filed the SLA upon request of the Commission's staff. The applicants explain that the SLA is an unexecuted, negotiated agreement that includes the terms by which Verizon will sublicense its proprietary software to Frontier. Verizon regards the SLA as highly sensitive, confidential information. Accordingly, the applicants have filed the SLA under seal pursuant to Rule 4901-1-24(D), Ohio Administrative Code (O.A.C.). The applicants contend that the SLA contains trade secrets and that it meets the criteria of Section 1333.61(D), Revised Code.
- (5) The motions for protective order should be granted. Rule 4901-1-24(D), O.A.C., states in pertinent part that "[u]pon motion of any party...with regard to the filing of a document...an attorney examiner may issue any order which is necessary to protect the confidentiality of information contained in the document...." Upon review of the material, the attorney examiner finds, among other sensitive data, information that appears to reveal matters relating to the number of service orders, the number of customers, the number of port orders, broadband services, and projected capital investment. Because the information appears that it would be of value to competitors, the attorney examiner finds that the information should be protected as trade secret information.

It is, therefore,

ORDERED, That, in accordance with Finding (5), the motions for protective order filed on October 14, 2009, November 4, 2009, and November 16, 2009, are granted and, in accordance with Rule 4901-1-24(F), O.A.C., shall remain in effect for a period of 18 months from the date of this entry. It is, further,

ORDERED, That a copy of this entry be served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
By: L. Douglas Jennings  
Attorney Examiner

gaf  
vrm

Entered in the Journal

NOV 24 2009



Renee J. Jenkins  
Secretary