

FILE

1001 Technology Dr.
Little Rock, AR 72223

www.alltel.com

alltel
wireless

May 26, 2011

Ms. Renee Jenkins
Secretary
Public Utilities Commission of Ohio
180 E. Broad Street, 11th Floor
Columbus, OH 43215

RE: Case No. 10-2387-TP-COI
Responses to Appendix D of November 3, 2010 Entry


Dear Ms. Jenkins:

Pursuant to Rule 4901-1-24(D) of the Ohio Administrative Code, Ohio RSA #2 Limited Partnership is submitting to you under seal three copies of the responses of Ohio RSA #2 Limited Partnership to Appendix D, items 1-4 which were attached to the November 3, 2010 Entry in this Case. The responses contain confidential and proprietary information, therefore, should not be made a part of the public record. Consistent with Rule 4901-1-24(D) of the Ohio Administrative Code, a public version has been filed and three copies of the confidential version of the responses are being submitted with this letter under seal.

Ohio RSA #2 Limited Partnership hereby requests that the confidentiality of the responses be maintained until the Commission can rule on its motion for a protective order.

Should you have any questions please contact Rohan Ranaraja at (501) 448-1249 or myself at (501) 448-1212.

Sincerely,



Jeffrey Humiston
Ohio RSA #2 Limited Partnership
By its General Partner, Allied Wireless
Communications Corporation

Enclosure

RECEIVED-DOCKETING DIV
2011 MAY 27 AM 10:33
PUCO

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 SK Date Processed MAY 27 2011

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

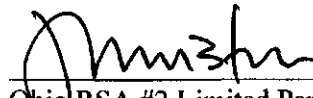
In the Matter of the Commission's)	
Investigation into Intrastate Carrier Access)	Case No. 10-2387-TP-COI
Reform Pursuant to Sub. S.B. 162)	

MOTION FOR PROTECTIVE ORDER

Pursuant to Rule 4901-1-24(D) of the Ohio Administrative Code, Ohio RSA #2 Limited Partnership ("Alltel Wireless") respectfully moves for a protective order to keep its responses to Appendix D of the November 3, 2010 Entry in this matter confidential and not part of the public record. The reasons underlying this motion are detailed in the attached Memorandum in Support. Consistent with the requirements of the above cited Rule, three (3) unredacted copies of the responses are submitted under seal.

WHEREFORE, Alltel Wireless respectfully requests that the Commission grant its motion for a protective order.

Respectfully submitted,



Ohio RSA #2 Limited Partnership

By: Jeffrey Humiston

General Counsel

Allied Wireless Communications Corporation, General Partner

1001 Technology Drive

Little Rock, AR 72223

(501) 448-1212

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

Alltel Wireless requests that its responses to Appendix D be designated as confidential and be protected from public disclosure. The responses to Appendix D contain sensitive financial information including intrastate revenues and subscriber counts as of December 31, 2010. Alltel Wireless does not disclose such information to the public. Such information if released to the public would harm Alltel Wireless by providing its competitors proprietary information that could put Alltel Wireless at a competitive disadvantage.

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 consistent 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 have full access to the information in order to fulfill the Commission's statutory obligations. No purposes 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 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 companies subject to its jurisdiction, the trade secrets statute creates a duty to protect them. New York Tel. Co. v. Pub. Serv. Comm. NY., 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. 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); Columbus Gas of Ohio, Inc., Case No. 90-17-GA-GCR (Entry, August 17, 1990).

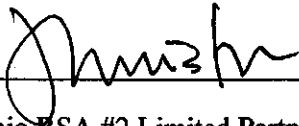
In Pyromatics, Inc. v. Petruziello, 7 Ohio App. 3d 131, 134-135 (Cuyahoga County 1983), the Court of Appeals, citing Koch Engineering Co. v. Faulconer, 210 U.S.P.Q. 854, 861 (Kansas 1980), has delineated factors to be considered in recognizing a trade secret:

(1) The extent of 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 contained in Alltel Wireless' responses to Appendix D, that it seeks to keep confidential and protect, it is clear that a protective order should be granted. In its ordinary course of business, the information contained in Alltel Wireless' responses to Appendix D is not disclosed to the public. Requiring Alltel Wireless to disclose such information to the public could give competitors an advantage and hinder Alltel Wireless' ability to compete. Furthermore, public disclosure of this trade secret information is not likely to assist the Commission.

WHEREFORE, for the reasons stated above, Alltel Wireless requests the Commission to grant its motion for a protective order and to maintain its responses to Appendix D under seal.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J Humiston", is written over a horizontal line.

Ohio RSA #2 Limited Partnership

By: Jeffrey Humiston

General Counsel

Allied Wireless Communications Corporation, General Partner

1001 Technology Drive

Little Rock, AR 72223

(501) 448-1212