BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Q Link Wireless for Designation as an Eligible Telecommunications Carrier for the Limited Purpose of Offering Lifeline Service to Qualifying Households.	)))))	Case No. 12-481-TP-UNC

ENTRY

The Commission finds:

(1) On January 30, 2012, as amended on April 17, 2012, Q Link Wireless, LLC (Q Link) filed an application seeking designation as an eligible telecommunications carrier for the limited purpose of offering Lifeline service to qualifying households.

(2) Also on January 30, 2012, as amended on April 17, 2012, Q Link filed a motion for a protective order. In its motion, Q Link seeks protection of specific facilities information submitted as Exhibit N to its application. In support of its motion, Q Link states that it is a privately held limited liability company and that its facilities information is not part of the public record in any jurisdiction. Further, Q Link asserts that its facilities information constitutes a trade secret under Ohio law and that disclosure of such information will allow competitors to obtain sensitive information regarding its assets, facilities, operations, and business plans.

(3) Section 4905.07, Revised Code, provides that all facts and information in the possession of the Commission shall be public, except as provided in Section 149.43, Revised Code, and as consistent with the purposes of Title 49 of the Revised Code. Section 149.43, Revised Code, specifies that the term "public records" excludes information which, under state or federal law, may not be released. The Ohio Supreme Court has clarified that the "state or federal law" exemption is intended to cover trade secrets. *State ex rel. Besser v. Ohio State* (2000), 89 Ohio St.3d 396, 399.

(4) Similarly, Rule 4901-1-24, Ohio Administrative Code, allows the Commission to issue an order to protect the confidentiality of information contained in a filed document, "to the extent that state

or federal law prohibits release of the information, including where the information is deemed . . . to constitute a trade secret under Ohio law, and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code."

(5) Ohio law defines a trade secret as "information . . . 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.

(6) The Commission has reviewed the information included in Q Link's motion for protective order, as well as the assertions set forth in the supportive memorandum. Applying the requirements that the information have independent economic value and be the subject of reasonable efforts to maintain its secrecy pursuant to Section 1333.61(D), Revised Code, as well as the six-factor test set forth by the Ohio Supreme Court,[1] the Commission finds that the information contained in Exhibit N contains trade secret information. Its release is, therefore, prohibited under state law. The Commission also finds that nondisclosure of this information is not inconsistent with the purposes of Title 49 of the Revised Code. Finally, the Commission concludes that this document could not be reasonably redacted to remove the confidential information contained therein. Therefore, the Commission finds that Q Link's motion for protective order is reasonable with regard to Exhibit N, and is hereby granted.

(7) On February 21, 2012, Q Link filed a notice to withdraw its application.

(8) In light of Q Link's notification, this matter should be dismissed.

It is, therefore,

ORDERED, That the motion for a protective order be granted, pursuant to Finding (6). It is, further,

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[1] See *State ex-rel. the Plain Dealer v. Ohio Dept. of Ins.* (1997), 80 Ohio St.3d 513, 524-525.

ORDERED, That the application be dismissed in accordance with Finding (8). 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

Todd A. Snitchler, Chairman

Steven D. Lesser

Andre T. Porter

Cheryl L. Roberto

Lynn Slaby

JSA/dah

Entered in the Journal

APR 25 2012

Barcy F. McNeal

Barcy F. McNeal
Secretary