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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Annual Filing)
Requirements for 2013 Pertaining to the)
Provisioning of High Cost Universal)
Service.)

Case No. 13-1115-TP-COI

MOTION FOR PROTECTIVE ORDER OF
THE CHILlicothe TELEPHONE COMPANY

The Chillicothe Telephone Company (CTC), pursuant to Rule 4901-1-24(D) of the Ohio Administrative Code ("O.A.C."), moves for a protective order to preserve the confidential and proprietary nature of certain financial information included with CTC's Federal Communications Commission's (FCC) Form 481 – Carrier Annual Report.

The reasons underlying this motion are detailed in the attached Memorandum in Support. Consistent with the requirements of the rule cited above, three (3) unredacted copies of the documents for which confidential protection is requested are presented under seal.

Respectfully submitted,

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

By Entry dated May 31, 2013, the Public Utilities Commission of Ohio (“PUCO” or “Commission”) directed all eligible telecommunication carriers to file a copy of their responses to the FCC’s May 16, 2013 Order in WC Docket No. 10-90, *In the Matter of the Connect America Fund*, regarding the filing of certain information to 47 C.F.R. §54.313, with the Commission. By subsequent Entry issued on June 27, 2013, the PUCO directed that all other responses to 47 C.F.R. §54.313 be filed with the Commission, consistent with the FCC’s future established time frame.

CTC requests that the information designated as confidential – Financial Report 3005a, 3005b, and 3005c of FCC Form 481 – be protected from public disclosure. The information for which protection is sought is an operating report that includes CTC’s balance sheet, income statement, and cash flow statement. If that information was released to the public, it would harm CTC and its competitive position by providing to its competitors confidential and proprietary information.

Rule 4901-1-24(D) of the Ohio Administrative Code provides that the Commission or certain designated employees may issue an order that 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.

The criteria for what should be kept confidential by the Commission is well

established, and the Commission also long ago recognized its statutory obligation to protect 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.

R.C. § 1333.61(D).

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 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. The 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); OhioBell 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 7, 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), delineated factors to be considered in recognizing a trade secret:

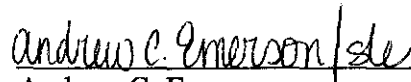
- (1) The extent to which the information is known outside the business,
- (2) the extent to which it is known to those inside the business, i.e., by the employees,
- (3) the precautions taken by the holder of the trade secret to guard the secrecy of the information,
- (4) the savings effected and the 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 Financial Report 3005a, 3005b, and 3005c of FCC Form 481 that CTC seeks to keep confidential, it is clear that a protective order should be granted. The Financial Report sets forth the financial statements, including balance sheet, income statement, and cash flow statement, for CTC, which CTC deems and treats as confidential. CTC has policies and procedures in place to maintain and keep this information private and out of the public domain. Knowledge by a competitor of such financial information would do great harm to CTC's competitive position in the marketplace. Additionally, public disclosure of this information is not likely to assist the Commission in carrying out its duties under applicable

rules. Thus, CTC's Financial Report 3005a, 3005b, and 3005c of FCC Form 481 should be kept under seal.

WHEREFORE, for the above reasons CTC requests that the Commission grant its motion for a protective order to maintain Financial Report 3005a, 3005b, and 3005c of FCC Form 481 under seal.

Respectfully submitted,


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