

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
Glandorf Telephone Company, Inc. for a) Case No. 08-701-TP-WVR
"Me Too" Edge-Out-Waiver.)

ENTRY

The attorney examiner finds:

- (1) In accordance with the attorney examiner Entry of June 24, 2008, Glandorf Telephone Company, Inc.'s (Glandorf) motion for a protective order regarding proprietary information filed as Tab 1 of Glandorf's June 11, 2008, application in this proceeding (Application) was granted for a period of 18 months.
- (2) By Entry of December 9, 2009, the request of Glandorf to extend the protective order was granted for a period of 18 months.
- (3) By Entry of October 30, 2012, the request of Glandorf to further extend the protective order was granted for a period of 18 months.
- (4) Pursuant to its motion of February 24, 2014, Glandorf seeks to further extend the protective order for an unspecified period of time. In support of its request, Glandorf explains that the relevant information consists of confidential billing system modification information necessary to comply with the Commission's edge-out access rate reduction requirements. Glandorf submits that the information continues to be competitively sensitive trade secret information and that public disclosure would impair its ability to compete in the marketplace.

Glandorf asserts that the designated information requires continued protection because it constitutes a trade secret pursuant to R.C. 1333.61(D). Glandorf contends that protection of trade secret information from public disclosure is consistent with the purposes of R.C. Title 49, inasmuch as the Commission and its Staff have access to the information and, as in this case, the parties may have access under an appropriate protective agreement.

- (5) R.C. 4905.07 provides that all facts and information in the possession of the Commission shall be public, except as provided in R.C. 149.43, and as consistent with the purposes of R.C. Title 49. R.C. 149.43 specifies that the term “public records” exclude information that 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*, 89 Ohio St.3d 396, 399, 732 N.E.2d 373 (2000).
- (6) Similarly, Ohio Adm.Code 4901-1-24 allows an attorney examiner 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.”
- (7) 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.” R.C. 1333.61(D).
- (8) Based on a review of the arguments presented and 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 protective orders previously issued pursuant to the attorney examiner Entry of December 9, 2009, should not be extended at this time. In reaching this decision, the attorney examiner finds that Glandorf has simply reiterated the same arguments set forth in its prior motions and has failed to specifically demonstrate the specific current need for the continued protective treatment of the information that is

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).

the subject of the motion. Further, the attorney examiner notes that the information actually pertains to a 2008 quote from a contractor identifying the amount of time and related cost that was required to implement billing system changes in order to isolate the edge-out traffic and apply a different access rate. *See* Application (June 11, 2008), at Tab 1.

- (9) Accordingly, seven days from the date of this Entry, the docketing division is directed to release Tab 1 of the Application.

It is, therefore,

ORDERED, That the motion to extend protective treatment be denied in accordance with Finding (8). It is, further,

ORDERED, That, seven days from the date of this Entry, the Commission's docketing division release Tab 1 of the Application. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/ Jay S. Agranoff

By: Jay S. Agranoff
Attorney Examiner

jrj/vrm

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in

Case No(s). 08-0701-TP-WVR

Summary: Attorney Examiner Entry denying the request to extend the protective order that was previously approved; electronically filed by Vesta R Miller on behalf of Jay S. Agranoff, Attorney Examiner, Public Utilities Commission of Ohio