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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Digital)
Connections, Inc. dba Digital Connections of) Case No. 14-390-TP-ACE
Ohio, Inc. for a Certificate of Public)
Convenience and Necessity.)

MOTION FOR PROTECTIVE ORDER

Pursuant to Rule 4901-1-24(D), Ohio Administrative Code ("O.A.C."), Digital Connections, Inc. dba Digital Connections of Ohio, Inc. ("Digital Connections") hereby moves for a protective order to keep confidential, and not offer as part of the public record, Exhibit 9 to its application for a Certificate of Public Convenience and Necessity. The reasons underlying this motion are set forth in the attached Memorandum in Support. Consistent with the requirements of Rule 4901-1-24(D), O.A.C., three unredacted copies of the exhibits are submitted herewith under seal.

Respectfully Submitted,



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MEMORANDUM IN SUPPORT

Digital Connections, Inc. dba Digital Connections of Ohio, Inc. ("Digital Connections") hereby respectfully requests that confidential treatment be given to the information attached to its application for a Certificate of Public Convenience and Necessity, which it has designated as confidential. The information for which protection from public disclosure is sought concerns financial statements. Such information constitutes confidential trade secrets and if released to the public would harm Digital Connections by providing its competitors with proprietary information.

Rule 4901-1-24(D), Ohio Administrative Code, ("O.A.C."), provides that the Commission or certain designated Commission employees "may issue any order which is necessary to protect the confidentiality of information contained in the 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 nondisclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code." In recognizing the need for competitive telecommunications service providers subject to certification under Rule 4901:1-6-08, O.A.C., and the need to provide the Commission with the necessary information for the Commission to satisfy its obligations under Rule 4901:1-6-08, O.A.C., the PUCO rules authorize it to grant confidentiality to competitively sensitive

information provided by competitive telecommunications service providers. Rule 4901-1-24(D).

O.A.C.

Section 1333.61(D), Revised Code, defines “trade secret” as follows:

‘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.

Moreover, the Ohio Supreme Court has delineated factors to be considered in analyzing a trade secret claim:

- (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.

State ex. rel. The Plain Dealer v. Ohio Dept. of Ins. (1997), 80 Ohio St.3d 513, 524-525.

The Commission has recognized the need to protect trade secrets from public disclosure consistent with its other statutory obligations:

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.

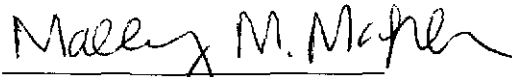
In re General Telephone Co., Case No. 81-383-TP-AIR, Entry (February 17, 1982). In numerous other proceedings, the Commission has carried out its obligation to protect the trade secret status of information from other regulated entities. *See, e.g., Elyria Tel. Co.*, Case No. 89-965-TP-AEC, Finding and Order (September 21, 1989); *Ohio Bell Tel. Co.*, Case No. 89-718-TP-ATA, Finding and Order (May 31, 1989); *Columbia Gas of Ohio, Inc.*, Case No. 90-17-GA-GCR, Entry (August 17, 1990).

The Commission should exercise its obligation to protect trade secrets here as Digital Connections' financial information submitted in Exhibit 9 is competitively sensitive information and constitutes confidential and proprietary business information, as well as a trade secret, and therefore, should be protected from public disclosure. The information for which Digital Connections seeks protection is private information that has never appeared in the public record, is not generally known by the public or its employees, and is held in confidence in the normal course of business. Any public dissemination of such information or any portion thereof would harm Digital Connections, and could provide an undue advantage to its competitors. Additionally, the non-disclosure of the information that is the subject of this Motion will not impair the purposes of Title 49 of the Revised Code, as the Commission and its Staff will have full access to the information.

For the reasons stated herein, the financial information provided in Exhibit 9 to Digital Connections' certification application satisfies the definition of a trade secret. As such, state law prohibits the release of the information. Section 1333.61(D) and 1333.62, Revised Code.

WHEREFORE, Digital Connections respectfully requests that the Commission grant its motion for a protective order and to maintain Exhibit 9 to its certification application under seal, for the period prescribed by the PUCO's rules.

Respectfully Submitted,



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