

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
Central Telecom Long Distance, Inc. to)
Provide Competitive Interexchange) Case No. 14-236-TP-ACE
Telecommunications Services in the State)
of Ohio.)

ENTRY

The attorney examiner finds:

- (1) On March 11, 2014, the applicant, Central Telecom Long Distance, Inc. (Central Telecom), filed a certification application in this case seeking to provide competitive interexchange telecommunications services in the state of Ohio. On that same day, Central Telecom filed a motion for a protective order, pursuant to Ohio Adm.Code 4901-1-24(D), requesting that Exhibit C, filed in unredacted form under seal as part of its certification application, be kept under seal.
- (2) In support of its motion for a protective order, Central Telecom explains that Exhibit C to its certification application, which sets forth the applicant's recent financial statements, contains competitively sensitive and highly proprietary business financial information that is not generally known or available to the general public. Therefore, Central Telecom requests that the information found in this exhibit be treated as confidential.
- (3) 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" 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*, 89 Ohio St. 3d 396, 399, 732 N.E.2d 373 (2000).
- (4) 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.”

- (5) Ohio law defines a trade secret as “information * * * that satisfies both of the following: (a) 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. (b) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” R.C. 1333.61(D).
- (6) The attorney examiner has examined the information covered by Central Telecom’s motion for a protective order, as well as the assertions set forth in the supportive memoranda. 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 information contained in Exhibit C of Central Telecom’s March 11, 2014, certification application constitutes trade secret information. Release of this information is, therefore, prohibited under state law. The attorney examiner also finds that nondisclosure of this information is not inconsistent with the purposes of R.C. Title 49. Finally, the attorney examiner concludes that these documents could not be reasonably redacted to remove the confidential information contained therein. Accordingly, the attorney examiner finds that Central Telecom’s motion for a protective order is reasonable and should be granted such that, unless and until specifically ordered otherwise, public disclosure of the information filed under seal in this case, on March 11, 2014, shall occur for the first time on the date 18 months from the date of the issuance of this protective order. Until that date, the docketing division should maintain, under seal, Exhibit C, filed under seal in this case on March 11, 2014.

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).

- (7) In the event that Central Telecom should desire to seek continued protective treatment for this information beyond this 18-month period, it must make application for such continued protection in compliance with Ohio Adm.Code 4901-1-24(F), which, among other things, requires a party wishing to extend a protective order to file an appropriate motion at least 45 days in advance of the expiration date of the protective order. If no such motion to extend confidential treatment is timely filed, the Commission may, after the 18-month period expires, release the information which is the subject matter of this protective order, without prior notice to Central Telecom.

It is, therefore,

ORDERED, That the motion for protective order filed by Central Telecom be granted in accordance with Finding (6), with regard to the information contained in Exhibit C of Central Telecom's March 11, 2014, certification application. It is, further,

ORDERED, That the Commission's docketing division maintain, under seal, unredacted Exhibit C of Central Telecom's certification application, which was filed under seal on March 11, 2014, for a period of 18 months from the date of this protective order. It is, further,

ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Daniel Fullin

By: Daniel E. Fullin
Attorney Examiner

JRJ/sc

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in

Case No(s). 14-0236-TP-ACE

Summary: Attorney Examiner Entry granting motion for protective order. - electronically filed by Sandra Coffey on behalf of Daniel Fullin, Attorney Examiner, Public Utilities Commission of Ohio