

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
Vodafone US Inc. d/b/a Vodafone)
Americas to Provide Competitive Local) Case No. 14-1546-TP-ACE
Exchange and Interexchange Tele-)
communications Services in Ohio.)

ENTRY

The attorney examiner finds:

- (1) On September 3, 2014, Vodafone US Inc. d/b/a Vodafone Americas (VUSI) filed an application seeking authority to provide competitive local exchange and interexchange telecommunications services in the state of Ohio. On September 30, 2014, VUSI filed a motion for a protective order, pursuant to Ohio Adm.Code 4901-1-24(D), requesting that Exhibit C of its certification application, filed under seal on September 3, 2014, containing the applicant's financial information, be kept under seal.
- (2) In support of its motion for a protective order, VUSI explains that Exhibit C of its certification application contains competitively sensitive and highly proprietary business financial information that is not generally known or available to the general public. Therefore, VSUI 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(D) 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). The Supreme Court of Ohio has established a six-factor test to be used in analyzing a claim that information is a trade secret under that section. *State ex rel. The Plain Dealer v. Ohio Dept. of Ins.*, 80 Ohio St.3d 513, 524-25, 687 N.E.2d 661 (1997).
- (6) Further, Ohio Adm.Code 4901-1-24(D)(1) provides that all documents submitted pursuant to Ohio Adm.Code 4901-1-24(D) should be filed with only such information redacted as is essential to prevent disclosure of the allegedly confidential information.
- (7) The attorney examiner has examined the information covered by the motion for a protective order filed by VSUI, 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 R.C. 1333.61(D), as well as the six-factor test set forth by the Ohio Supreme Court, the attorney examiner finds that the information contained in Exhibit C of VSUI’s certification application constitutes trade secret information. Release of this document 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 this document could not be reasonably redacted to remove the confidential information contained therein. Accordingly, the attorney examiner finds that VSUI’s motion for a protective order is reasonable with regard to the redacted information contained in the aforementioned exhibit and should be granted.

- (8) Confidential treatment shall be afforded for a period ending 24 months from the date of this Entry or until January 20, 2018. Until that date, the Commission's Docketing Division should maintain under seal, Exhibit C of VSUI's certification application, filed on September 3, 2014.
- (9) Ohio Adm.Code 4901-1-24(F) requires a party wishing to extend a protective order to file an appropriate motion at least 45 days in advance of the expiration date. If VSUI wishes to extend this confidential treatment, it should file an appropriate motion at least 45 days in advance of the expiration date. If no such motion to extend confidential treatment is filed, the Commission may release this information without prior notice to VSUI.

It is, therefore,

ORDERED, That, consistent with this Entry, the motion for protective order filed by VSUI be granted, with regard to the information contained in Exhibit C, filed under seal on September 3, 2014, as part of VSUI's certification application. It is, further,

ORDERED, That the Commission's Docketing Division maintain, under seal, the unredacted Exhibit C, filed under seal on September 3, 2014, for a period of 24 months, ending January 20, 2018. 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 E. Fullin

By: Daniel E. Fullin
Attorney Examiner

JRJ/dah

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in

Case No(s). 14-1546-TP-ACE

Summary: Attorney Examiner Entry ordering that, consistent with this Entry, the motion for protective order filed by VSUI be granted, with regard to the information contained in Exhibit C, filed under seal on September 3, 2014, as part of VSUI's certification application; and that the Commission's Docketing Division maintain, under seal, the unredacted Exhibit C, filed under seal on September 3, 2014, for a period of 24 months, ending January 20, 2018 - electronically filed by Debra Hight on behalf of Daniel E. Fullin, Attorney Examiner.