

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)	Docket No. 16-1085-TP-ACE
eNetworks, LLC to Provide Competitive)	
Telecommunications Services in Ohio)	
)	
)	

**eNETWORKS, LLC’S
MOTION FOR PROTECTIVE ORDER**

eNetworks, LLC (“eNetworks”), by and through its attorneys, and pursuant to Section 4901-1-24(D) of the Commission’s rules moves for a protective order keeping confidential certain designated confidential information set forth in Exhibit C to the Addendum to its Application for Authority to Provide Competitive Telecommunications Services in Ohio. The reasons underlying this motion are detailed in the attached Memorandum in Support. Consistent with the requirements of Section 4901-1-24(D) of the Commission’s rules, an original and two unredacted copies of the confidential information which is the subject of this motion are being hand-filed under seal.

Respectfully submitted:

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ATTORNEYS FOR eNETWORKS, LLC

MEMORANDUM IN SUPPORT

Ohio Admin. Code §4901-1-24(D) provides that the Commission or certain designated employees may issue an order 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. While the Commission has expressed its preference for open proceedings, the Commission also long ago recognized its statutory obligations with regard to 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., Entry, PUCO Case No, 81-383-TP-AIR (Feb. 17, 1982).

Likewise, the Commission has facilitated the protection of trade secrets in its rules. *See, e.g.*, Ohio Admin. Code §4901-1-24(A)(7).

Ohio Rev. Code §1133.61(D) defines "trade secret" as:

[I]nformation including the whole or any portion of 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.

Ohio Rev. Code §1333.61(D). This definition clearly reflects the state policy favoring the protection of trade secrets such as the confidential financial and proprietary information which is the subject of this motion.

eNetworks, LLC (“eNetworks”) respectfully requests that the confidential and proprietary information set forth in Exhibit C attached to the Addendum to its Application for Authority to Provide Competitive Telecommunications Services in Ohio (“Exhibit C”) filed in this docket be protected from public disclosure because it constitutes a trade secret. Exhibit C contains eNetworks’ projected financial statements and the audited financial statements of its affiliate, Essentia, Inc. (“Essentia”), (together, the “Designated Information”). The Designated Information is not available to the public because neither eNetworks nor Essentia is a publicly traded company.

In the ordinary course of eNetworks and Essentia’s business, the Designated Information is deemed confidential, is treated as proprietary and confidential by eNetworks and Essentia’s employees, and is not disclosed to anyone other than as part of a legal proceeding and, even then, only pursuant to a protective order. eNetworks and Essentia do not disclose the Designated Information and make reasonable efforts to maintain its secrecy. For these reasons, the Designated Information falls directly within the definition of “trade secret” or is otherwise entitled to confidential treatment.

In addition, non-disclosure of the Designated Information will not impair the purposes of Title 49. The Commission and its Staff have full access to the Designated Information in order to review the eNetwork’s application, and no purpose of Title 49 would be served by the public disclosure of the Designated Information. Indeed, the Commission’s failure to protect the

Designated Information would negate the protections the Ohio General Assembly has granted to all businesses, including public utilities, through the Uniform Trade Secrets Act.

For the foregoing reasons, eNetworks respectfully requests that the Designated Information be protected from the public disclosure.

Respectfully submitted,

/s/ Richard R. Parsons

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Summary: Motion Motion for Protective Order electronically filed by Mr. Richard R Parsons on behalf of eNetworks, LLC