

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

Investigation by the Department on its Own Motion to Determine whether an Agreement entered into by Verizon New England Inc., d/b/a Verizon Massachusetts is an Interconnection Agreement under 47 U.S.C. § 251 Requiring the Agreement to be filed with the Department for Approval in Accordance with 47 U.S.C. § 252

DTC 13-6

**COMPETITIVE CARRIERS' MOTION FOR CONFIDENTIAL TREATMENT**

1. The Competitive Carriers (CTC Communications Corp. d/b/a EarthLink Business; Lightship Telecom LLC d/b/a EarthLink Business; Choice One Communications of Massachusetts, Inc. d/b/a EarthLink Business; Conversent Communications of Massachusetts, Inc. d/b/a EarthLink Business; EarthLink Business, LLC (formerly New Edge Network, Inc. d/b/a EarthLink Business); Cbeyond Communications, LLC; tw telecom data services llc; Level 3 Communications, LLC; and PAETEC Communications, Inc.) respectfully request that the Department grant confidential treatment to and exempt from public disclosure the Competitive Carriers' responses to Verizon MA's Record Requests VZ-CC 1 through 5 (including subparts), which this motion accompanies. The Record Requests seek and the responses provide information about the same agreements that are the subject of the Competitive Carriers' Motions for Confidential Treatment dated April 28, 2014 and May 6, 2014. The responses constitute or contain proprietary, confidential, and/or competitively sensitive information that is entitled to confidential treatment and protection from public disclosure.

2. Pursuant to G. L. c. 25C, § 5, "the [D]epartment may protect from public disclosure trade secrets, confidential, competitively sensitive or other proprietary information

provided in the course of proceedings conducted pursuant to this chapter.” “A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it.” *J.T. Healy and Son, Inc. v. James Murphy and Son, Inc.*, 357 Mass. 728, 736, 260 N.E.2d 723, 729 (1970) (quoting *Restatement of Torts*, § 757). A leading Massachusetts case cites “six factors of relevant inquiry” in determining trade secret status: (1) the extent to which the information is known outside of the business; (2) the extent to which it is known by employees and others involved in the business; (3) the extent of measures taken by the employer to guard the secrecy of the information; (4) the value of the information to the employer and its competitors; (5) the amount of effort or money expended by the employer in developing the information; and (6) the ease or difficulty with which the information could be properly acquired or duplicated by others. *Jet Spray Cooler, Inc. v. Crampton*, 361 Mass. 835, 282 N.E.2d 921, 925 (1972). The information and/or documents that are the subject of this Motion are entitled to protection under these standards.

3. The information provided by the Competitive Carriers in response to the Record Requests has been compiled from internal sources through the expenditure of time, effort, and in some cases, professional fees and expenses. The information is not publicly available and is known to only a limited number of company personnel and/or attorneys for the respondents. In contrast to incumbent local exchange carriers like Verizon MA, which are required by 47 U.S.C. § 252 to publicly file their interconnection agreements, the parties to the agreements that are the subject of the requests are under no legal obligation to disclose the agreements or information about them. In fact, the agreements discussed in the responses typically contain confidentiality

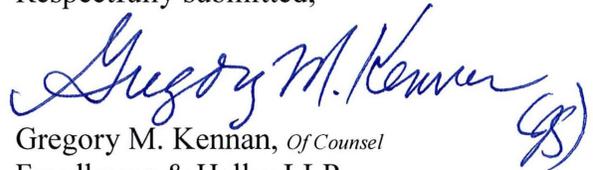
provisions prohibiting disclosure of the existence and contents of the agreement. Disclosure of the Record Request responses could violate the confidentiality provisions of the agreements and affect the rights of the other parties to the agreements, which are not participants or represented in this proceeding. Disclosure of the information also could work competitive harm to the disclosing Competitive Carriers (and to the other parties to the agreements) by revealing product, marketing, operational, and strategic information to their competitors.

4. In sum, the Record Request responses are confidential, competitively sensitive, and proprietary; are not readily available to competitors; and would be of value to such competitors. There is no compelling need for public disclosure of any of this information.

WHEREFORE, the Competitive Carriers respectfully request that the Department afford confidential treatment to the information described above and exclude it from the public record in this case.

May 9, 2014

Respectfully submitted,

A handwritten signature in blue ink that reads "Gregory M. Kennan" with a stylized monogram "GK" to the right.

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