

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Petition of Boomerang Wireless, LLC)	
For Limited Designation as a Lifeline-)	
Only Eligible Telecommunications Carrier)	D.T.C. 12-6

**MOTION OF BOOMERANG WIRELESS, LLC FOR
CONFIDENTIAL TREATMENT OF INTERROGATORY RESPONSES**

Pursuant to G.L. c. 25C, § 5, Boomerang Wireless, LLC (“Boomerang” or the “Company”) hereby requests that the Department of Telecommunications and Cable (the “Department”) grant protective treatment to certain confidential and competitively sensitive information submitted as part of Boomerang’s responses to the Department’s July 30, 2024, Interrogatories, filed herewith, specifically Boomerang’s Confidential Exhibits to its Response to Interrogatory DTC-Boomerang-20. That Interrogatory requires Boomerang to provide to the Department profit and loss statements, balance sheets and statements of cash flows (collectively “financial information”) for the preceding five-year period.

Boomerang is producing Confidential Exhibits to the Response that contain the requested financial information except for cash flow statements for 2019 and 2020, which were not provided to Boomerang by its former parent and are therefore unavailable. It seeks to do so under seal, thereby restricting from public disclosure only information that, if made available to the public, would allow Boomerang’s competitors to know valuable non-public information about the Company. Accordingly, for the reasons stated herein, Boomerang requests that the Department grant protective treatment to the Boomerang Confidential Exhibits that contain the Company’s competitively sensitive, non-public financial information over a five-year period.

I. LEGAL STANDARD

Under the well-established standards established by the Department and its predecessor, confidential information may be protected from public disclosure in accordance with G.L. c. 25C, § 5, which states in part that:

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. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be upon the proponent of such protection to prove the need for such protection. Where such a need has been found to exist, the [D]epartment shall protect only so much of the information as is necessary to meet such need.

In interpreting the statute, the Department has applied a three-part test for determining whether, and to what extent, information filed by a party in the course of a Department proceeding may be protected from public disclosure, which test places the burden on the moving party and includes a presumption in favor of disclosure.¹

Thus, the moving party must prove that: (1) the information for which protection is sought constitutes trade secrets, confidential, competitively sensitive or other proprietary information; (2) there is a need to ensure nondisclosure of the information;² and (3) the protection will be limited in terms of duration and the scope of information as is necessary to meet the established need.³

¹ TMobile Northeast LLC Petition for Limited Designation as an Eligible Telecommunications Carrier for Purposes of Low Income Support Only, D.T.C. 12-4, Order at 5-6 (Aug. 30, 2012) (hereinafter “TMobile Order”); Petition of YourTel, Inc. for ETC Designation, Hearing Officer Ruling on Motion for Protection for Public Disclosure, D.T.C. 11-1 at pp. 2-3 (July 6, 2011) (discussing legal standards) (hereinafter “YourTel Order”).

² The Berkshire Gas Company, D.T.E. 01-41, at 16 (2001); see also YourTel Order at pp. 2-3.

³ Petition of AirVoice Wireless, LLC, d/b/a AirTalk Wireless for Designation as an Eligible Telecommunications Carrier (ETC), D.T.C. 22-2, Hearing Officer Ruling on Motion for Protective Treatment at 2-3 (June 25, 2024) (hereinafter “AirVoice Order”); CRC Communications LLC, d/b/a OTELCO v. Massachusetts Electric Company d/b/a National Grid, and Verizon New England Inc., D.T.C. 22-4, Hearing Officer Ruling on OTELCO’s Motion for

II. BASIS FOR CONFIDENTIALITY

The Requests seeks categories of financial information from the Company over a five-year period. The Company is hereby producing the requested information, organized into the following Confidential Exhibits:

Confidential Exhibit 20-A (Balance Sheets 2019 through July 2024)

Confidential Exhibit 20-B (Profit and Loss Statements 2019 through July 2024)

Confidential Exhibit 20-C (Statement of Cash Flows January 2014 through July 2024)

Confidential Exhibit 20-D (Statement of Cash Flows January 2023 through December 2023)

Confidential Exhibit 20-E (Statement of Cash Flows January 2022 through December 2022)

Each of the Confidential Exhibits produced in response to this Request would provide insight into Boomerang's successes in the competitive marketplace. The response provides competitively sensitive, nonpublic information regarding all segments of Boomerang's businesses, the disclosure of which would potentially harm Boomerang in the marketplace. The Department customarily protects non-public financial statement information of these types.⁴ Boomerang hereby certifies that it does not make this information customarily available in the public domain and has taken care to handle this information consistent with its sensitive nature.

Confidential Treatment at 3 (July 17, 2024); The Berkshire Gas Company, D.T.E. 01-41, at 16 (2001) (emphasis added); accord YourTel Order, at pp. 2-3.

⁴ See AirVoice Order, at pp. 2-3; TMobile Order, at p. 7; BLC Management d/b/a Angles Communications Solutions Application for Designation as an Eligible Telecommunications Carrier, D.T.C. 09-2, Order at 5-7 (Aug. 23, 2010).

III. SCOPE OF PROTECTION

Given the confidential and sensitive nature of the information sought to be protected, Boomerang requests a minimum of five (5) years for information disclosed in the Confidential Exhibits to the Responses.⁵ This will maximize chances that the information would become competitively stale by the time it is disclosed. Boomerang hereby reserves the right to request an extension at a later date, if necessary, if it believes that the information remains sensitive beyond the requested five-year period.

IV. CONCLUSION

Accordingly, for the foregoing reasons, Boomerang requests that the Department grant confidential treatment under G.L. c. 25C, § 5 to the Confidential Exhibits to the Responses to Interrogatory DTC-Boomerang-20.

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⁵ See AirVoice Order, at p. 3 (granting confidential treatment of financial information for a period of seven years and affording the provider an opportunity to renew its request for confidential treatment at the end of the period); Petition of TruConnect Communications, Inc. for Limited Designation as a Lifeline-Only Eligible Telecommunications Carrier, D.T.C. 20-2, Order Approving Petition at 6 (August 19, 2021) (same, with respect to financial information and non-Lifeline subscriber counts); YourTel Order, at pp. 5-6 (highlighting five years as a reasonable period of protection for certain competitively sensitive wireless ETC carrier information).