

**BEFORE THE
MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

Petition of AirVoice Wireless, LLC for Limited
Designation as an Eligible Telecommunications
Carrier in Massachusetts for the Limited Purpose
of Offering Wireless Lifeline Service to Qualified
Households

D.T.C. 22-2

MOTION FOR PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION

Pursuant to G.L. c. 25C, § 5 and 207 CMR 1.04(5)(e), AirVoice Wireless, LLC ("AirVoice" or the "Company") hereby moves the Department of Telecommunications and Cable ("the Department") to grant this motion to protect from public disclosure certain confidential, competitively sensitive, and proprietary information provided in this proceeding involving AirVoice's Amended Petition for Designation as an Eligible Telecommunications Carrier for the Purpose of Providing Lifeline Service dated October 1, 2024 (the "Amended Petition"). Specifically, AirVoice requests that confidentiality be afforded to Exhibit 9 of the Amended Petition which contains the Company's confidential wireless non-Lifeline customer count (the "Protected Information"). As grounds for this request, the Company states that the Protected Information is confidential, competitively sensitive, and proprietary information and as a result the Department is authorized to protect it from public disclosure in accordance with G.L. c. 25C, § 5.

I. LEGAL STANDARD

Confidential Information may be protected from public disclosure in accordance with Mass. Gen. Laws ch. 25C § 5 which provides in part:

[T]he department 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 department shall protect only so much of the information as is necessary to meet such need.

The Department has previously recognized that certain categories of materials are considered competitively sensitive information and given confidential treatment to corporate financial information of private companies. See *D.T.C. 22-2 Hearing Officer Ruling on Motion for Protective Treatment at 2-3 (June 25, 2024)*.

II. ARGUMENT

The Department has established a three-part standard for determining whether, and to what extent, information submitted by a party in a Department proceeding may be protected from public disclosure under G.L. c. 25C, § 5. First, the information for which protection is sought must constitute the type of information that can be exempted from public disclosure such as trade secrets, confidential or competitively sensitive or other proprietary information. Here, the information in Exhibit 9 of the Amended Petition regarding wireless non-Lifeline customer counts is considered by AirVoice to be confidential, proprietary, and commercially sensitive information directly related to the Company's corporate financial information. As a privately held company, the Protected Information of AirVoice is not otherwise publicly available. The Protected Information is only made available to a limited number of AirVoice personnel, and the Company employs its best efforts to maintain the secrecy of the Protected Information. Disclosure of the Protected Information would place AirVoice and its affiliates at a competitive disadvantage.

Second, the party seeking protective treatment must overcome the statutory presumption that the material is public in nature and "prove" the need for non-disclosure. As stated above the Protected Information is not publicly available and is safeguarded by the Company, and only known to a limited number of employees, due to its confidential nature.

Third and finally, where the need for protective treatment has been established, the Department may limit the time period of the non-disclosure and the Department may only protect the portion of the information as is deemed necessary to meet the established need. AirVoice is not requesting a blanket assertion of confidentiality but rather has limited its request to only Exhibit 9 of the Amended Petition. AirVoice requests that the Protected Information be kept confidential for a minimum period of seven years with the opportunity to renew its request for confidential treatment at the end of the seven-year period based upon a showing of a need for continuing protection.

III. CONCLUSION

WHEREFORE, for the reasons stated herein, AirVoice requests that the Department grant AirVoice's Motion for Protective Treatment of Confidential Information with respect to the Protected Information contained in Exhibit 9 of the Amended Petition for a period of at least seven years with the opportunity to renew the request for confidential treatment upon a showing of need for continuing protection.

Respectfully submitted,

/s/ Geoffrey G. Why

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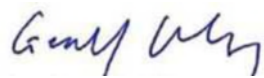
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In the Matter of Air Voice Wireless, LLC's)	
Petition for Limited Designation as an Eligible)	
Telecommunications Carrier in Massachusetts)	D.T.C. 22-2
for the Limited Purpose of Offering Wireless)	
Lifeline Service to Qualified Households)	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the following documents upon all persons in the service list compiled by the Secretary of the Department in this proceeding and all parties of record in accordance with the requirements of 207 CMR 1.05(1) (Department's Procedural Rules).

Dated at Boston, Massachusetts this 2nd day of October, 2024.



Geoffrey Why
Attorney for AirVoice Wireless, LLC



COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 22-2 Service List

Petition of AirVoice Wireless, LLC, d/b/a AirTalk Wireless for Designation as an Eligible Telecommunications Carrier

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