



COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 22-2

August 13, 2025

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

Hearing Officer Ruling **Motion for Protective Treatment**

I. INTRODUCTION AND PROCEDURAL HISTORY

In this Order, the Department of Telecommunications and Cable (“Department”) grants in part, and denies in part, AirVoice Wireless, LLC’s (“AirVoice”) *Motion for Protective Treatment of Confidential Information* filed on May 13, 2025 (“Motion for Protective Treatment”).

II. MOTION FOR PROTECTION FROM PUBLIC DISCLOSURE

AirVoice seeks protective treatment for certain responses to the Department’s third set of information requests. *See Petition of AirVoice Wireless, LLC, d/b/a AirTalk Wireless for Designation as an Eligible Telecommunications Carrier (ETC), D.T.C. 22-2, Third Set of Information Requests by the Department of Telecommunications and Cable to AirVoice Wireless, LLC* (February 13, 2025). AirVoice specifically requests confidentiality for Exhibit 3-6, which contains consumer complaint information, and Exhibits 3-32 and 3-48, which contain financial information such as a profit and loss statement, balance sheet, and tax returns.

The Department, pursuant to M.G.L. c. 25C, § 5, may protect from public disclosure trade secrets or confidential, competitively sensitive or other proprietary information provided during the course of proceedings. For the reasons discussed below, the Department determines that AirVoice (i) has not established sufficient grounds to afford protection from public disclosure for Exhibit 3-6 and (ii) has established sufficient grounds to afford protection from public disclosure for Exhibit 3-32 and Exhibit 3-48.

A. Standard

All documents and data received by the Department are generally considered public records and, therefore, are to be made available for public review under a general statutory mandate. *See* M.G.L. c. 66, § 10; M.G.L. c. 4, § 7(26). “Public records” include “all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose unless such materials or data fall within [certain enumerated] exemptions.” M.G.L. c. 4, § 7(26). Materials that are “specifically, or by necessary implication exempted from disclosure by statute” are excluded from the definition of “public records.” M.G.L. c. 4, § 7(26)(a).

The Department is permitted to “protect from public disclosure trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter.” M.G.L. c. 25C, § 5. In applying this exception, there is 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.” *Id.*

M.G.L. c. 25C, § 5 provides a three-part standard 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. First, the information for which protection is sought must constitute “trade secrets, confidential, competitively sensitive or other proprietary information.” Second, the party seeking protection must overcome the statutory presumption that all such information is public by “proving” the need for its non-disclosure. *See* M.G.L. c. 66, § 10. Third, even where a party proves such need, the Department may protect only so much of that information as is necessary to meet the established need and may limit the term or length of time such protection will be in effect. *See Investigation by the Department of Telecommunications & Energy on its own Motion into the Appropriate Regulatory Plan to Succeed Price Cap Regulation for Verizon New England, Inc. d/b/a Verizon Massachusetts’ Intrastate Retail Telecommunications Services in the Commonwealth of Massachusetts*, D.T.E. 01-31 Phase I, *Hearing Officer Ruling on Verizon Massachusetts’ Motions for Confidential Treatment* at 2-3 (August 29, 2001) (citing M.G.L. c. 25, § 5D, the prior applicable standard, which contains the same language as present-day M.G.L. c. 25C, § 5).

B. Motion for Protective Treatment

AirVoice contends that the information contained in Exhibits 3-6, 3-32, and 3-48 for which it seeks protection constitutes the type of information that can be protected from public disclosure – namely, that it is confidential, competitively sensitive, and proprietary. AirVoice further contends that, as a private company, the information is not otherwise publicly available,

that the information is made available only to a limited number of AirVoice personnel, and that the company employs its best efforts to maintain the secrecy of the information. *See* Motion for Protective Treatment at 1-2. As such, AirVoice asserts that disclosure of the information would place AirVoice and its affiliates at a competitive disadvantage. *Id.* at 2. AirVoice notes that it has limited its request for protective treatment and that it requests the information be confidential for a minimum of seven (7) years with the opportunity to renew its request for additional protection based upon a showing of a need for continuing protection. *Id.* at 3.

C. Exhibit 3-6 (Consumer Complaint Information)

The Department has not previously recognized the competitively sensitive nature of consumer complaint information. *See Application for Designation as an Eligible Telecommunications Carrier in the State of Massachusetts for Limited Purpose of Offering Wireless Lifeline Service to Qualified Households (Low Income Only)*, D.T.C. 13-1, *Order Approving Petition* at 9 (September 28, 2023); *see also 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 Motion for Protective Treatment* at 4 (June 25, 2024). While AirVoice asserts that the disclosure of the information contained within Exhibit 3-6 would place the company at a competitive disadvantage, it provides no rationale to prove the need for non-disclosure. *See* Motion for Protective Treatment at 3. AirVoice merely restates that the information is not otherwise publicly available, is made available only to a limited number of AirVoice personnel, and is safeguarded by the company. *Id.* The Department has long held it will not automatically grant requests for protective treatment, stating that “[c]laims of competitive harm resulting from public disclosure, without further explanation, have never satisfied the Department’s statutory requirement of proof of harm.” *See Starlink Order* at 6. The Department

finds that AirVoice has not provided sufficient explanation as to why its customer complaint information is competitively sensitive nor how such information may cause competitive harm. Accordingly, the Department denies AirVoice's Motion for Protective Treatment for Exhibit 3-6.

D. Exhibits 3-32 and 3-48 (Financial Information)

As to the first prong of the Department's standard, the Department has previously recognized the competitively sensitive nature of corporate financial information. *See, e.g., T-Mobile 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 7 (Aug. 30, 2012); *Petition of Nexus Communications, Inc. for Designation as an Eligible Communications Carrier*, D.T.C. 11-7, *Hearing Officer Ruling on Motion for Protection from Public Disclosure* at 3 (July 3, 2013); *BLC Management d/b/a Angles Communications Solutions Application for Designation as an Eligible Telecommunications Carrier*, D.T.C. 09-2, *Order* at 5-6 (Aug. 23, 2010). In this case, AirVoice has requested confidentiality for its financial statements and tax returns. The Department accepts AirVoice's assertion that the information is not publicly available and is safeguarded by AirVoice and only known to a limited number of employees. *See Motion for Protective Treatment* at 3. Accordingly, the Department finds that the information contained in Exhibits 3-32 and 3-48 is competitively sensitive to AirVoice.

As to the second prong of the Department's standard, the Department has long held it will not automatically grant requests for protective treatment, stating that "[c]laims of competitive harm resulting from public disclosure, without further explanation, have never satisfied the Department's statutory requirement of proof of harm." *See Starlink Order* at 6. The Department accepts AirVoice's assertion that the information is not publicly available. *See Motion for*

Protective Treatment at 3. AirVoice has not offered an explanation for how the release of such information would result in competitive harm. However, as noted above, the Department has recognized the competitively sensitive nature of financial information. Accordingly, the Department finds that the protection of this competitively sensitive information is warranted.

As to the third prong, protection should be afforded only to the extent needed. AirVoice asserts that it has limited its request for confidentiality to specific exhibits and requests that the Department hold the information contained in Exhibits 3-32 and 3-48 confidential for a period of at least seven (7) years with an opportunity to renew its request for confidential treatment at the end of this period upon a showing of need for continued protection. *Id.* at 3. As the request is narrowly tailored, the Department grants confidential treatment for Exhibits 3-32 and 3-48 for a period of seven (7) years and AirVoice may renew its request for confidential treatment at the end of that period with a showing of need for continuing protection. *See 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) (granting confidential treatment of certain information, including financial materials, for a period of seven (7) years and affording the provider an opportunity to renew its request for confidential treatment at the end of the period).

In sum, the Department concludes that AirVoice has satisfied its burden of showing a need for protection from public disclosure under the statute, and the Department grants AirVoice's Motion for Protective Treatment for Exhibits 3-32 and 3-48, subject to the limitations described above.

III. ORDER

It is hereby

ORDERED: The Department hereby DENIES AirVoice's Motion for Protective Treatment with respect to Exhibit 3-6; and

FURTHER ORDERED: The Department hereby GRANTS AirVoice's Motion for Protective Treatment, subject to the seven-year limitation established above, with respect to Exhibit 3-32;

FURTHER ORDERED: The Department hereby GRANTS AirVoice's Motion for Protective Treatment, subject to the seven-year limitation established above, with respect to Exhibit 3-48; and

FURTHER ORDERED: Unless AirVoice properly appeals this Order within five (5) days from the date of issuance of this Order, the Department orders AirVoice to refile a copy of Exhibit 3-6, with no "confidential" markings, no later than ten (10) days following the issuance of this Order.

/s/ Alan Gill

Alan Gill
Hearing Officer

RIGHT OF APPEAL

Under the provisions of M.G.L. c. 30A § 11(8) and 207 C.M.R. 1.00, any aggrieved party may appeal this Order to the Commissioner by filing a written appeal with supporting documentation within five (5) days of this Order. A copy of this Order must accompany any appeal. A written response to any appeal must be filed within two (2) days of the appeal.