

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

CRC Communications LLC, d/b/a OTELCO,

Complainant,

v.

Massachusetts Electric Company d/b/a National
Grid, and Verizon New England Inc.,

Respondents

D.T.C. 22-4

**MOTION FOR CONFIDENTIAL TREATMENT OF
INITIAL BRIEF OF CRC COMMUNICATIONS LLC, D/B/A OTELCO**

1. CRC Communications LLC, d/b/a OTELCO (“OTELCO”) respectfully requests that the Department of Telecommunications and Cable (“Department”) grant confidential treatment to and exempt from public disclosure the following information and/or document being submitted in the above-captioned proceeding, D.T.C. 22-4 on August 18, 2022:

Initial Brief of CRC Communications LLC d/b/a OTELCO.

Certain information contained in this document constitutes or contains 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.”

Chapter 25C, section 5 establishes a three-part standard for determining whether, and to what extent, the Department may protect information from public disclosure. First, the information for which protection is sought must constitute “trade secrets,

[or] confidential, competitively sensitive or other proprietary information.” *Id.* Second, the party seeking protection must rebut the statutory presumption that all such information is public information by proving the need for its non-disclosure. *Id.*; see also 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 G.L. c. 25C, § 5; *Investig. by the Dep’t of Telecomms. & Energy on its own Mot. Into the Appropriate Regulatory Plan to succeed Price Cap Regulation for Verizon New England, Inc. d/b/a Verizon Mass.’ intrastate retail telecomms. servs. in the Commonw. of Mass.*, D.T.E. 01-31 Phase I, Interlocutory Order (Aug. 29, 2001) at 3 (citing G.L. c. 25, § 5D, the predecessor to G.L. c. 25C, § 5).

Petition of CoxCom, LLC d/b/a Cox Communications New England to establish and adjust the equipment and installation rates for the Town of Holland, D.T.C. 19-6, Hearing Officer Ruling at 2-3 (December 10, 2020).

“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).

3. The information and/or document that is the subject of this Motion is entitled to protection under these standards.

a. Portions of OTELCO's Initial Brief contain information concerning OTELCO's project budgets and costs, which OTELCO regards as confidential, proprietary, and competitively sensitive financial and business operations information, the public disclosure of which could adversely affect OTELCO's business interests and operations and could cause OTELCO competitive harm.

4. In sum, the information and/or document described above is confidential, competitively sensitive, and proprietary; is 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, OTELCO respectfully requests that the Department afford confidential treatment to the information and/or document described above and exclude it from the public record in this case.

August 18, 2022

Respectfully submitted,

_____/s/_____
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Certification

The undersigned is Chief Legal Counsel for Complainant CRC Communications LLC, d/b/a OTELCO. I certify to the best of my knowledge, information, and belief, that the information described in the foregoing Motion for Confidential Treatment is not customarily available in the public domain.

August 18, 2022

/s/
Jamie Hoare, Chief Legal Counsel
CRC Communications LLC, d/b/a OTELCO