

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

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CRC Communications LLC, d/b/a Otelco)	
)	
v.)	D.T.C. 22-4
)	
Massachusetts Electric Company d/b/a)	
National Grid, and Verizon New England Inc.)	
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MOTION OF VERIZON MA FOR CONFIDENTIAL TREATMENT

Verizon New England Inc., d/b/a Verizon Massachusetts (“Verizon MA”) hereby requests that the Department of Telecommunications and Cable (“Department”) protect from public disclosure and provide confidential treatment for Exhibits OTELCO-VZ 1-6 (B-E), OTELCO-VZ 1-7 and OTELCO-VZ 1-20 to Verizon MA’s responses to OTELCO’s First Set of Information Requests to Verizon, filed herewith. In support of this Motion, Verizon MA states that these documents contain confidential, proprietary, competitively sensitive information under Massachusetts law and are therefore entitled to protection from public disclosure. As further grounds for this motion, Verizon MA states the following.

1. M. G. L. c. 25C, § 5, provides in part that:

Notwithstanding clause Twenty sixth of section 7 of chapter 4 and section 10 of chapter 66, 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.

In determining whether certain information qualifies as a “trade secret,”¹ Massachusetts courts have considered the following:

¹ Under Massachusetts law, a trade secret is “anything tangible or electronically kept or stored which constitutes, represents, evidences or records a secret scientific, technical, merchandising, production or management information design, process, procedure, formula, invention or improvement.” Mass. General Laws c. 266, § 30;

- (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, 282 N.E.2d 921, 925 (1972). The protection afforded to trade secrets is widely recognized under both federal and state law. In Board of Trade of Chicago v. Christie Grain & Stock Co., 198 U.S. 236, 250 (1905), the U.S. Supreme Court stated that the board has “the right to keep the work which it had done, or paid for doing, to itself.” Similarly, courts in other jurisdictions have found that “[a] trade secret which is used in one’s business, and which gives one an opportunity to obtain an advantage over competitors who do not know or use it, is private property which could be rendered valueless ... to its owner if disclosure of the information to the public and to one’s competitors were compelled.” Mountain States Telephone and Telegraph Company v. Department of Public Service Regulation, 634 P.2d 181, 184 (1981).

2. The information addressed in this Motion constitutes confidential, competitively sensitive, proprietary information that is entitled to protection under Massachusetts law. Exhibits

see also Mass. General Laws c. 4, § 7. The Massachusetts Supreme Judicial Court (“SJC”), quoting from the Restatement of Torts, § 757, has further stated that “[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 ... It may be a formula treating or preserving material, a pattern for a machine or other device, or a list of customers.” J.T. Healy and Son, Inc. v. James Murphy and Son, Inc., 260 N.E.2d 723, 729 (1970).

OTELCO-VZ 1-6 (B, D and E) and Exhibit OTELCO-VZ 1-20 are training materials and job aids developed by Verizon for use by its Outside Plant Technicians and others in performing work on the pole network and related tasks, and were prepared by Verizon personnel based on their wealth of expertise and experience. The detailed safety and work process descriptions set forth in these documents are highly valuable to Verizon MA to help ensure the proper training and safe and reliable operation of its network. Knowledge of the details of how Verizon MA trains its employees and accomplishes its work would confer a valuable business advantage on Verizon MA's competitors that own outside plant but may not have the expertise of Verizon MA in the safe and efficient maintenance and management of that plant.

3. Exhibit OTELCO-VZ 1-6 (C) sets forth in detail Verizon MA's nondiscriminatory operational policies regarding boxing of Verizon MA's poles and allocation of modification costs to attachers on those poles, again developed by Verizon employees based on their expertise in the functioning, maintenance and management of Verizon MA's network. Knowledge of this information is valuable to Verizon MA to ensure that its policies regarding access to its network comply with applicable law. By the same token, this information would provide Verizon MA's competitors with invaluable advice on how to tailor their own operations to meet the requirements of the law and limit exposure to claims of non-compliance. It would thereby confer a competitive advantage on those competitors.

4. Exhibit OTELCO-VZ 1-7 is a list of all pole climbing accidents on Verizon MA poles in Massachusetts in the last ten years. This information is valuable to Verizon MA for the obvious purpose of managing the health benefits of its employees and also for monitoring the safety of its network and work processes and modifying them as may be appropriate to improve safety. If publicly disclosed, this information would also provide valuable insight to Verizon

MA's competitors into those same matters – the safety of Verizon MA's processes and network and, by extension, Verizon MA's ability to compete for and retain customers.

5. Verizon MA has maintained the confidentiality of the above documents and has not disclosed them outside of the company, and they are not available to Verizon MA's competitors, other than if required to be publicly disclosed in this proceeding.

6. In sum, the information for which Verizon MA seeks protective treatment is confidential, competitively sensitive and proprietary information that is not otherwise available to other carriers, and would be of value to them. There is no compelling need for public disclosure of any of this information. Verizon MA, however, is at risk of suffering competitive disadvantage if this information is made public.

5. Verizon MA is providing a proposed Protective Agreement to the other parties in this proceeding and will serve the documents addressed in this motion on any party upon execution of a mutually acceptable Protective Agreement.

WHEREFORE, Verizon MA respectfully requests that the Department afford the documents submitted herewith confidential treatment and exclude them from the public record in this proceeding.

Respectfully submitted,

VERIZON NEW ENGLAND INC.

By its attorney,



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