COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 24-3 August 21, 2025

Petition of Verizon New England Inc. for Reclassification as a Non-Dominant Telecommunications Carrier

Hearing Officer Ruling on Verizon's Motion for Confidential Treatment

I. INTRODUCTION AND PROCEDURAL HISTORY

In this Ruling, the Department of Telecommunications and Cable ("Department") grants Verizon New England Inc.'s ("Verizon") motion for confidential treatment filed on May 23, 2025.

II. MOTION FOR CONFIDENTIAL TREATMENT

Verizon seeks protective treatment for Exhibits 1 and 4 of *Verizon's Objections and Responses to the Department's Second Set of Information Requests*. *See Petition of Verizon New England Inc. for Reclassification as a Non-Dominant Telecommunications Carrier,* D.T.C. 24-3, *Motion of Verizon New England Inc. For Confidential Treatment* at page 1 (May 23, 2025) ("Motion for Confidential Treatment").

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 Verizon has established sufficient grounds to afford protection to the data contained in Exhibits 1 and 4 from public disclosure.

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." *Id.* § 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. 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 (Aug. 29, 2001) (citing M.G.L. c. 25, § 5D, the prior applicable standard, which contains the same language as M.G.L. c. 25C, §5).

B. Analysis

i. Exhibit 1

Exhibit 1 contains "the number of customers by wire center that have voluntarily transitioned to Voice Connect since 2020." *See Motion for Confidential Treatment* at 1; *see also* Exhibit 1. As to the first prong of the Department's standard, the Department has previously recognized the competitively sensitive nature of information similar to the information contained in Exhibit 1. *See Petition of Starlink Services, LLC for Designation as an Eligible Telecommunications Carrier,* D.T.C. 21-1, *Order Approving Petition* at 5 (June 7, 2021) ("Starlink Order") (finding that subscriber counts for certain companies, particularly if the information is not otherwise publicly available, is competitively sensitive). The information in Exhibit 1 provides the number of subscribers that have transitioned from one service to another and may be treated similarly to how the Department has historically protected subscriber counts. The Department accepts Verizon's assertion that the data is not publicly available and that it "has

not disclosed it outside of the company." *See Motion for Confidential Treatment* at 3. Accordingly, the Department finds that the information in Exhibit 1 could be considered competitively sensitive to Verizon.

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. Verizon asserts that "[k]nowledge of the market share of Verizon's different products and how successful those products are at the state level and at the wire center level would confer a valuable business advantage on Verizon's competitors in implementing their own marketing plans and deciding how and where to invest their resources as they continue to try to take customers from Verizon." *See Motion for Confidential Treatment* at 3. The Department accepts Verizon's assertion that this information could potentially result in some level of competitive harm and, as the Department has historically considered similar information competitively sensitive, the Department finds that Verizon has satisfied its burden under this second prong.

As to the third prong, protection should be afforded only to the extent needed. Verizon commits to providing a "Protective Agreement" to any parties allowed to intervene in the proceeding and will provide the data in Exhibit 1 to such party once the agreement is executed. *Id.* at 4. As the request is narrowly tailored to the information in Exhibit 1 and permits the provision of data through the use of the Protective Agreement, the Department finds that Verizon has satisfied its burden under this third prong. The Department, however, does not hold that the information needs to be protected indefinitely. Therefore, the Department grants confidentiality

for a period of seven years. Verizon can request continued confidentiality at that time, if it deems it necessary.

ii. Exhibit 4

Exhibit 4 contains "examples and explanations of the most recent special construction requests Verizon has received from its customers." *See Motion for Confidential Treatment* at 1; *see also* Exhibit 4. As to the first prong of the Department's standard, the Department has previously recognized the competitively sensitive nature of information similar to the information contained in Exhibit 4. *See 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 Motions for Confidential Treatment* (July 17, 2024) (granting confidentiality for pole attachment deployment and infrastructure plans). The information in Exhibit 4 provides examples of special construction requests from Verizon customers and may be treated similarly to how the Department has historically protected pole infrastructure data. The Department accepts Verizon's assertion that the data is not publicly available and that it "has not disclosed it outside of the company." *See Motion for Confidential Treatment* at 3. Accordingly, the Department finds that the information in Exhibit 4 could be considered competitively sensitive to Verizon.

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*. Verizon asserts that "[i]f this information were publicly disclosed, it would confer a valuable business advantage on Verizon's competitors seeking to compete for Verizon's customers." *See Motion for*

Confidential Treatment at 3. Verizon does not describe how revealing such information would provide an advantage to competitors. However, as the Department has historically considered such information competitively sensitive, the Department finds that Verizon has satisfied its burden under this second prong.

As to the third prong, protection should be afforded only to the extent needed. Verizon commits to providing a "Protective Agreement" to any parties allowed to intervene in the proceeding and will provide the data contained in Exhibit 4 to such party once the agreement is executed. *Id.* at 4. As the request is narrowly tailored to the information in Exhibit 4 and permits the provision of data through the Protective Agreement, the Department finds that Verizon has satisfied its burden under this third prong. Accordingly, the Department grants confidentiality for the data contained in Exhibit 4 indefinitely.[1]

III. ORDER

It is hereby

ORDERED: The Department GRANTS Verizon's Motion for Confidential Treatment, subject to the seven-year limitation and other terms established above, with respect to Exhibit 1; and

FURTHER ORDERED: The Department GRANTS Verizon's Motion for Confidential Treatment, subject to the other terms established above, with respect to Exhibit 4.

/s/ Alan Gill

Alan Gill
Hearing Officer

[1] Verizon states that the information included in Exhibit 4 is considered "customer proprietary network information" and that Verizon is required to treat such information confidentially under 47 U.S.C. § 222(c)(1). *Id.* at 3. The Department does not take a position on the applicability of 47 U.S.C. § 222 to Exhibit 4, as the Department grants the Motion for Confidential Treatment on other grounds, as explained in this Ruling.

NOTICE OF RIGHT TO 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 Ruling to the Commissioner by filing a written appeal with supporting documentation within five (5) days of this Ruling. A copy of this Ruling must accompany any appeal. A written response to any appeal must be filed within two (2) days of the appeal.