

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

In the Matter of)
)
Application of TAG Mobile, LLC for)
Designation as an Eligible Telecommunications)
Carrier in the State of Massachusetts for the Limited) DTC Case No.
Purpose of Offering Wireless Lifeline and Link-Up)
Service to Qualified Households (Low Income Only))

MOTION FOR PROTECTIVE TREATMENT

TAG Mobile, LLC (“TAG Mobile”) hereby requests that the Massachusetts Department of Telecommunications and Cable (“Department”), pursuant to its authority under G.L. c. 25C, § 5,¹ protect from public disclosure certain information contained in Exhibit C to the above-stated Application filed contemporaneously in this proceeding. An unredacted copy of Exhibit C has been filed with the Department in a sealed envelope marked “Confidential,” and an notation where Exhibit C would appear notes its redaction in the public version of the Application.

In support of this motion, TAG Mobile states the following.

1. Pursuant to G.L. c. 25C, § 5, the Department is granted the discretion to protect from public disclosure and review certain documents and data received by the Department:

Notwithstanding the provisions of clause Twenty-sixth of section seven of chapter four and section ten of chapter sixty-six, the 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

¹ This motion is also filed pursuant to 220 CMR 1.04(5)(e) to the extent applicable.

need. The department shall promulgate procedural rules and regulations consistent with this section as it deems necessary to implement the provisions hereof.

2. The Department applies a three-part standard in its administration of the statute:

“... the party seeking confidential treatment must first show that the information for which protection is sought constitutes ‘trade secrets, confidential, competitively sensitive or other proprietary information.’ G.L. c. 25C, § 5. Second, the party seeking protection must overcome the statutory presumption that all such information is public information by ‘proving’ the need for its non-disclosure. *Id.* 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 id.*”²

3. On July 6, 2011, the Department granted a motion to protect from public disclosure material showing the facilities location, equipment and network structure information of a wireless provider. DTC docket 11-1, *Application of Yourtel America, Inc. for Designation as an Eligible Telecommunications Carrier* (July 6, 2011).

4. Exhibit C to the Application contains information on the network and operations of TAG Mobile. Said information is competitively sensitive the disclosure of which would harm TAG Mobile by assisting its competitors in competing with TAG Mobile by learning the proprietary network and procedures it applies to provide its services.

5. Exhibit C, for which protective treatment is sought (the “Confidential Information”), has been clearly labeled “CONFIDENTIAL” in the sealed copy filed with the Department. All portions of the exhibit containing the Confidential Information have excluded from the publicly filed version of the Application with a notation noting its exclusion.

6. TAG Mobile at all times takes measures to protect the Confidential Information from public disclosure, such measures including but not limited to asserting claims of confidentiality in all regulatory and public proceedings, such as this case, as they arise.

² *TracFone Wireless, Inc., Annual Verification of SafeLink Wireless Lifeline Subscribers, Order on Appeal of Hearing Officer Ruling on Motion for Protective Treatment*, D.T.C. 09-9, March 5, 2010, pp. 3-4.

7. TAG Mobile is a privately held company, and as such has no obligation to make the Confidential Information available to the public. TAG Mobile does not make the Confidential Information routinely available to the general public through any manner, including without limitation, initial and final orders in contested case adjudications, press releases, copies of speeches, pamphlets and educational materials.

8. TAG Mobile is pursuing provision of telecommunications services in other states, and has taken all precautions available to it to prevent the public disclosure of the Confidential Information in proceedings before other utility commissions, regulatory agencies and tribunals.

9. To the best of TAG Mobile's knowledge, neither the Department nor any other State or Federal agency, nor any court of competent jurisdiction has previously made a confidentiality determination relevant to the Confidential Information that in substance denied a claim or request by TAG Mobile for non-disclosure of the Confidential Information to the public.

10. TAG Mobile operates in a highly competitive telecommunications environment. If its Confidential Information were publicly disclosed, it would place TAG Mobile at a competitive disadvantage and would prejudice TAG Mobile's ability to preserve its position as competitive telecommunications service provider.

11. The Affidavit of Frank Del Col, the Chief Executive Officer of TAG Mobile, is annexed hereto supporting TAG Mobile's request for a protective order with respect to the Confidential Information, stating, among other things, that to the best of TAG Mobile's knowledge, information and belief, that the information is not customarily available in the public domain.

12. TAG Mobile requests that the Department issue an order protecting the Confidential Information from public disclosure for not less than seven (7) years, which term is consistent with the holding period of business records for tax reporting purposes.

WHEREFORE, TAG Mobile respectfully requests that the Department issue an order:

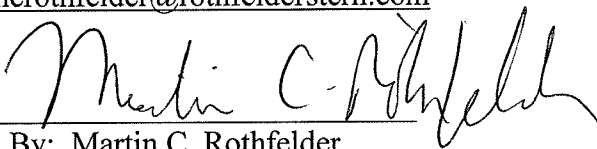
1. Protecting the Confidential Information from public disclosure pursuant to the Department's authority under G.L. c. 25, § 5 for a period of not less than seven (7) years; and
2. Granting such further relief consistent therewith that the Department deems reasonable and just.

Respectfully submitted,

TAG Mobile, LLC
By its attorneys,
Rothfelder Stern, L.L.C.
625 Central Avenue
Westfield, NJ 07090
(908) 301-1211
mrothfelder@rothfelderstern.com

Date:

7/12/11


By: Martin C. Rothfelder

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

I/M/O a Petition by TAG Mobile, LLC ("TAG")
For Designation as an Eligible Telecommunications
Carrier in the State of New Jersey for the
Limited Purpose of Offering Lifeline and
Link-Up Services to Qualified Households

DTC Case No.

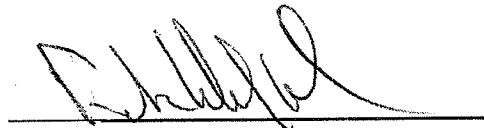
VERIFICATION

STATE OF TEXAS

COUNTY OF Dallas

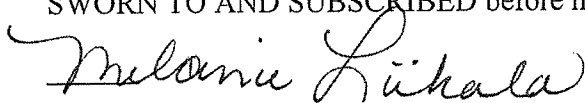
Frank Del Col, being duly sworn, deposes and says that:

PERSONALLY came and appeared before me, the undersigned party in and for the jurisdiction aforesaid, the within named **Frank Del Col**, who after being duly sworn by me stated under oath as follows: that I am the Chief Executive Officer of TAG Mobile, LLC ("TAG Mobile"), a telephone service provider; I have read the Motion for Protection Treatment related to TAG Mobile, LLC's Application for Designation as an Eligible Telecommunications Carrier, am knowledgeable regarding the matters stated therein and believe the factual contents of them to be true to the best of my knowledge and belief.



Frank Del Col

SWORN TO AND SUBSCRIBED before me on this the 6th day of July, 2011.



Notary Public

My Commission Expires:

4-27-2012

