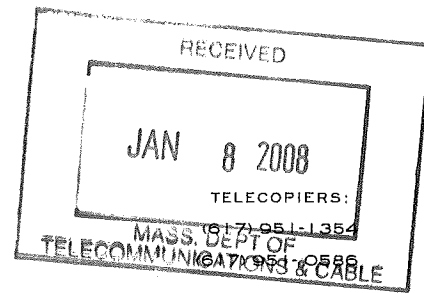


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January 7, 2008

Catrice C. Williams, Secretary
Department of Telecommunications and Cable
One South Station
Boston, MA 02110

Re: D.T.C. 07-5 — Town of Rowe Petition

Dear Secretary Williams:

On behalf of Verizon New England, Inc., d/b/a Verizon Massachusetts (“Verizon MA”), enclosed please find the Motion for Confidential Treatment in the above-referenced proceeding. Also enclosed is a certificate of service.

Thank you for your attention to this matter.

Sincerely,

Robert N. Werlin

Enclosures

cc: Tina Chin, Hearing Officer
Service List

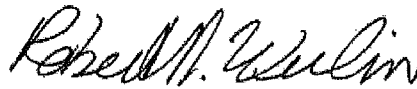
COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

In re: Petition of Town of Rowe)
_____)

D.T.C. 07-5

CERTIFICATE OF SERVICE

I certify that I have this day served the foregoing document upon the Department of Telecommunications and Cable and parties of record in accordance with the requirements of 220 C.M.R. 1.05 (Department's Rules of Practice and Procedures).



Robert N. Werlin, Esq.
Keegan Werlin LLP
265 Franklin Street
Boston, Massachusetts 02110
(617) 951-1400

Dated: January 7, 2008

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

In re: Petition of Town of Rowe

D.T.C. 07-5

MOTION FOR CONFIDENTIAL TREATMENT

Verizon Massachusetts (“Verizon MA”) requests that the Department of Telecommunications and Cable (the “Department”), in accordance with G.L. c. 25C, § 5, grant this Motion to provide confidential treatment of the information that Verizon MA provided in response to the following information requests: Information Request DTC-VZ-2-1, Information Request DTC-VZ-2-10 (Attachment DTC-VZ-2-10), Information Request DTC-VZ-2-20 (Attachment DTC-VZ-2-20(a) and Attachment DTC-VZ-2-20(b)), and Information Request DTC-VZ-2-21 (Attachment DTC-VZ-2-21(a), Attachment DTC-VZ-2-21(b), Attachment DTC-VZ-2-21(c), Attachment DTC-VZ-2-21(d), Attachment DTC-VZ-2-21(e) and Attachment DTC-VZ-2-21(f)). As shown below, the information contained in the documents qualifies as “trade secret” or “confidential, competitively sensitive, proprietary information” under Massachusetts law and is entitled to protection from public disclosure in this proceeding.

ARGUMENT

G.L. c. 25C, § 5 states in relevant part, as follows:

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. 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 [D]epartment shall protect only so much of the information as is necessary to meet such need....

In determining whether certain information qualifies as a "trade secret,"¹

Massachusetts courts have considered the following:

- (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

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." G.L. c. 266, § 30(4); see also G.L. c. 4, § 7. The Supreme Judicial Court, 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..." J.T. Healy and Son, Inc. v. James Murphy and Son, Inc., 260 N.E.2d 723, 729 (1970). Massachusetts courts have frequently indicated that "a trade secret need not be a patentable invention." Jet Spray Cooler, Inc. v. Crampton, 385 N.E.2d 1349, 1355 (1979).

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).

In this case, the response to Information Request DTC-VZ-2-1 and Attachment DTC-VZ-2-10 filed in response to Information Request DTC-VZ-2-10 provides detailed information on a wire-center and town-specific basis. The data reflect, among other things, the total number of lines served and details of individual elements of service quality. These data represent valuable commercial information that competitors could use in the market and disclosure of the competitively sensitive material will undermine Verizon MA's ability to compete with other providers of like services. The benefits of nondisclosure, and associated evidence of harm to Verizon MA, outweigh the benefit of public disclosure in this instance.

The attachments produced by Verizon MA in response to Information Request DTC-VZ-2-20 (Attachment DTC-VZ-2-20(a) and Attachment DTC-VZ-2-20(b)) and Information Request DTC-VZ-2-21 (Attachment DTC-VZ-2-21(a), Attachment DTC-VZ-2-21(b), Attachment DTC-VZ-2-21(c), Attachment DTC-VZ-2-21(d), Attachment DTC-VZ-2-21(e) and Attachment DTC-VZ-2-21(f)) are the proprietary reports referenced in Attachment DTC-VZ-1-7(a) and Attachment DTC-VZ-1-7(b). Attachment DTC-VZ-1-7(a) is a copy of a Method and Procedure manual that explains the Proactive Cable Maintenance Process used throughout Verizon to identify, track, monitor and measure the repair and replacement of outside plant facilities, which the Department

found was proprietary and subject to confidential treatment in this case on December 10, 2007. Similarly, Attachment DTC-VZ-1-7(b) is a copy of the Remote Terminal Routine Maintenance Guidelines, which describes the process for scheduled inspections of remote terminals in order to evaluate trends that provide data that can be evaluated to provide proactive repair or replacement of a remote terminal, which the Department also found was proprietary and subject to confidential treatment on December 10, 2007.

As was the case with the manuals, the reports generated in accordance with the manuals are confidential and proprietary, sensitive trade secrets in accordance with Massachusetts law. The reports are not distributed to people outside of the business, and are provided to company employees only to the extent needed for them to perform their work. The reports are not published elsewhere or publicly available and Verizon MA regularly seeks to prevent dissemination of the information in the ordinary course of its business. For example, access to the documents is available only to Verizon employees on a "need to know" basis.

Verizon has expended considerable time and resources to compile these detailed procedures, instructions and reports. The processes described and the reports that are produced under the proprietary procedures are the result of extensive study and analysis by highly skilled Verizon employees with years of experience. The attachments also have great value to Verizon. The processes and data contained in the documents reflect the development of detailed and critical methods used exclusively within Verizon to measure, evaluate and plan for modifications to Verizon's telecommunications network. The information would also be of great value to other carriers, who would have to expend considerable resources to duplicate the effort needed to prepare the documents.

In short, the attachments contain proprietary information that is not readily available to competitors and other carriers, and would be of value to them. Additionally, competitive disadvantage is likely to occur if the confidential information is made public – solely as a result of regulatory oversight.² The benefits of nondisclosure, and associated evidence of harm to Verizon MA, outweigh the benefit of public disclosure in this instance. Historically, both the Department's predecessors and the telecommunications industry have recognized such information to be proprietary and confidential, and appropriately subject to protection by order and the execution of reasonable nondisclosure agreements. Nothing has changed in terms of law or circumstance that warrants an abandonment of that protection. Given the increasingly competitive telecommunications world, the Department should not now depart from that practice and apply G.L. c. 25C, § 5 to permit competitors to gain access to what is private, commercial information. In balancing the public's "right to know" against the public interest in an effectively functioning competitive marketplace, the Department should continue to protect information that, if made public, would likely create a competitive disadvantage for the party complying with legitimate discovery requests.

In addition, to balance the interests of Verizon MA in protecting the information with those of the Department and the parties, Verizon MA will make the requested information available to the parties in this proceeding, subject to a mutually acceptable nondisclosure agreement.

WHEREFORE, Verizon MA respectfully requests that the Department grant this Motion for confidential treatment of the responses to: Information Request DTC-VZ-2-1,

² If Verizon MA were not a regulated entity, the relevant information would not be available for public inspection.

Information Request DTC-VZ-2-10 (Attachment DTC-VZ-2-10), Information Request DTC-VZ-2-20 (Attachment DTC-VZ-2-20(a) and Attachment DTC-VZ-2-20(b)), and Information Request DTC-VZ-2-21 (Attachment DTC-VZ-2-21(a), Attachment DTC-VZ-2-21(b), Attachment DTC-VZ-2-21(c), Attachment DTC-VZ-2-21(d), Attachment DTC-VZ-2-21(e) and Attachment DTC-VZ-2-21(f)). As demonstrated above, the information is entitled to such protection, and no compelling need exists for public disclosure in this proceeding.

Respectfully submitted,

VERIZON MASSACHUSETTS

By Its Attorneys,



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Dated: January 7, 2008