

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 18-0491

Joint petition of Champlain Broadband, LLC, City of Burlington d/b/a Burlington Telecom, and Blue Water Holdings LLC for approvals, pursuant to 30 V.S.A. §109, 231, 504, 47 U.S.C. §214(e), and Section 438(c)(1) of the City of Burlington Charter	
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DEPARTMENT OF PUBLIC SERVICE’S RESPONSE TO MOTION FOR CONFIDENTIAL TREATMENT OF SELECTED PREFILED EXHIBITS OF CHAMPLAIN BROADBAND LLC

On February 26, 2018, Champlain Broadband LLC (“Champlain”) filed a motion for confidential treatment of two exhibits that were filed with the February 26, 2018 prefiled direct testimony of Gesumino Agostino. Specifically, Champlain seeks confidential treatment of the exhibits marked Exhibit Champlain-GA-2 and Exhibit Champlain GA-3. The Department of Public Service (the “Department”) does not oppose Champlain’s motion.

When reviewing a request for confidential treatment of testimony, exhibits, or information in cases regarding telecommunications and cable providers, the Public Utility Commission (the “Commission”) has traditionally considered the following factors:

- (1) Is the matter sought to be protected a trade secret or other confidential research, development, or commercial information which should be protected?
- (2) Would disclosure of such information cause a cognizable harm sufficient to warrant a protective order?
- (3) Has the party seeking protection shown “good cause” for invoking the Commission's protection?¹

¹ *Joint petition of Consolidated Communications and FairPoint for approval of transfer of control by merger*, Docket 8881, Order of 5/4/18 at 2 (citing *Entergy Docket*, Order of 3/29/02 at 2).

The Commission will allow for confidential treatment where “the motion and supporting averment or averments to ensure that the moving party has presented a *prima facie* case for keeping the document or information under seal.”²

Champlain seeks confidential treatment of exhibits which detail both historical financial information that is not currently subject to public inspection and planning documents that include detailed financial information and business strategies for Burlington Telecom for the next eleven years. The Department has reviewed these documents and agrees with Champlain that they meet the Commission’s standard for confidential treatment. Burlington Telecom provides telecommunications, cable television, and internet access services within the City of Burlington, an area where comparable services are provided by numerous competitors. The Department recognizes that making these documents publically available could cause cognizable harm to Champlain because they could be used by Burlington Telecom’s competitors to gain a business advantage. The Department also concurs that Mr. Agostino’s testimony sufficiently describes the content of the exhibits to allow for the public to understand the purpose of the documents. Accordingly, the Department does not believe that it is necessary for Champlain to file redacted copies of the exhibits that disclose any non-confidential information included in the exhibit. Indeed, the overwhelming majority of the information contained in both exhibits appears to merit confidential treatment, and it likely would be impractical or beneficial for the public for Champlain to file redacted versions of the exhibits.

² *Id.*

The Department contends that Champlain has made a *prima facie* showing that Exhibit Champlain-GA-2 and Exhibit Champlain GA-3 warrant confidential treatment. Accordingly, the Department does not oppose Champlain's motion for confidential treatment of these exhibits.

Dated at Montpelier, Vermont, this 29th day of March, 2018.

Vermont Department of Public Service

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