

**STATE OF VERMONT  
PUBLIC UTILITY COMMISSION**

Case No. 21-4060-PET

|                                                                                                                                                                                                                                                                 |  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Petition of Consolidated Communications of Vermont Company, LLC and Consolidated Communications of Northland Company (both d/b/a “Consolidated Communications”) for approval of a Successor (2022-2024) Incentive Regulation Plan, pursuant to 30 V.S.A. § 226b |  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|

**MOTION FOR CONFIDENTIAL TREATMENT  
OF PREFILED EVIDENCE OF THE DEPARTMENT OF PUBLIC SERVICE**

Consolidated Communications of Vermont Company, LLC and Consolidated Communications of Northland Company (both d/b/a “Consolidated Communications” and hereafter “Consolidated”) respectfully submit this Motion to the Public Utility Commission (“Commission”) requesting confidential treatment of select portions of the Prefiled Direct Testimony of the Department of Public Service (the “Department”). In support of this Motion, Consolidated relies on the following incorporated Memorandum of Law, as well as the attached Averment (Attachment A) and Proposed Order (Attachment B).

**MEMORANDUM OF LAW**

**I. Introduction**

On January 21, 2022, the Department will file redacted and confidential copies of Prefiled Direct Testimony in the above-captioned matter. Through this Motion, Consolidated seeks confidential treatment of the nonpublic, confidential information contained in the Department’s Prefiled Direct Testimony. The confidential information is proprietary and competitively sensitive information that consists of data pulled from confidential Consolidated discovery attachments, and other confidential information, including information provided to the

Department by Consolidated during the course of discovery in this proceeding, and subject to the Protective Agreement in this Case, which the Commission approved on December 13, 2021.

## **II. General Standard for Confidential Treatment**

In determining whether to grant confidential treatment, the Commission considers the following:

- (1) Is the matter sought to be protected a trade secret or other confidential research, development, or commercial information that 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?<sup>1</sup>

## **III. Description of the Information Sought to be Protected**

Consolidated seeks confidential treatment of nonpublic, confidential, proprietary, and competitively sensitive information contained in portions of the Prefiled Direct Testimony of Department witnesses August Ankum and Carol Flint.

August Ankum: The Prefiled Direct Testimony of August Ankum contains redactions of confidential and proprietary information related to specific and detailed information about: 1) the total number of Consolidated BLES service subscribers broken down per town; and 2) information showing a comparison of the availability of service alternatives in specific locations where Consolidated has BLES subscribers as broken down by Town.

---

<sup>1</sup> See e.g., *Joint Petition of Consolidated Communications Holding, Inc., Consolidated Communications, Inc., Falcon Merger Sub, Inc., FairPoint Communications, Inc., Telephone Operating Company of Vermont LLC, d/b/a FairPoint Communications, FairPoint Vermont, Inc., d/b/a FairPoint Communications, UI Long Distance, Inc., and Enhanced Communications of Northern New England, Inc., for approval of a transfer of control by merger, pursuant to 30 V.S.A. §§ 107, 108, 109, 231(a), and 311*, Case No. 8881, at 2 (Vt. Pub. Serv. Bd. May 4, 2017 Protective Order for Confidential Treatment of Evidence); *Petition of the Vermont Department of Public Service for an investigation into the service quality provided by Consolidated Communications of Vermont Company LLC doing business as Consolidated Communications*, Case No. 18-3231-PET, at 3 (Vt. Pub. Util. Comm’n August 22, 2019 Protective Order for Confidential Treatment of Evidence).

Carol Flint: The Prefiled Direct Testimony of Carol Flint contains redactions of confidential and proprietary information related to specific and detailed information about: 1) two CAPI complaints from households that reported emergencies; and 2) the number of Consolidated telephone service lines in 2018-2021.

#### **IV. The Need for Confidential Treatment**

The Prefiled Direct Department Testimony for which Consolidated seeks confidential treatment involves nonpublic, confidential, and proprietary information including: 1) details of how many and in what specific towns Consolidated has BLES subscribers, 2) details of Consolidated's total number of telephone service lines from 2018-2021, and 3) specific non-public customer complaint information. This information should be granted confidential treatment because it is propriety and competitively sensitive and not otherwise publicly available. Public disclosure of the information would cause cognizable harm to Consolidated's business, and place Consolidated at an unfair disadvantage by allowing competitors and other third parties to compete or negotiate more directly and effectively with Consolidated.

##### **A. The locations of Consolidated BLES service subscribers**

Public disclosure of specific geographic information, broken down to the individual town level, about where Consolidated BLES customers are located would give competitors an unfair advantage by enabling competitors to use this information to more effectively market their services to Consolidated customers. This type of information is not made publicly available by Consolidated. The Commission has granted confidential protection to similar information that has location specific details about where customers are located and specific service-related matters.<sup>2</sup>

---

<sup>2</sup> See *Petition of the Vermont Department of Public Service for an investigation into the service*

B. Details of total Consolidated telephone service lines

The specific information in Ms. Flint's testimony about the total number of Consolidated telephone service lines in 2018-2021 should be treated confidentially because it is not the type of information that is made publicly available. Disclosure would give competitors an unfair advantage by enabling competitors to use the information to more effectively market their services to Consolidated customers, and to create and employ certain business strategies designed to retain existing customers and attract customers away from Consolidated. Specifically, Consolidated is concerned competitors could use this information in marketing efforts, for example, to inaccurately characterize changes in the number of service lines during this time period as being related to Consolidated's service rather than shifts in customer preferences.

C. Customer complaint information

The specific customer complaint information in Ms. Flint's testimony should be treated confidentially because it is not the type of information that is made publicly available, for example, in Consolidated's regular service quality reports.<sup>3</sup> Rather, this information is far more detailed than a general summary or description of service quality as measured by the metrics in the quarterly reports. Consolidated is concerned about making public information about any specific customer because it aims to ensure customer privacy is protected. As well, Consolidated

---

*quality provided by Consolidated Communications of Vermont Company LLC doing business as Consolidated Communications, Case No. 18-3231-PET, at 3 (Vt. Pub. Util. Comm'n June 6, 2019 Protective Order for Confidential Treatment of Evidence) (concluding that specific references to affected towns and wire centers should be protected as confidential).*

<sup>3</sup> See *Petition of the Vermont Department of Public Service for an investigation into the service quality provided by Consolidated Communications of Vermont Company LLC doing business as Consolidated Communications, Case No. 18-3231-PET, at 5 (Vt. Pub. Util. Comm'n August 22, 2019 Protective Order for Confidential Treatment of Evidence) (finding that "requiring Consolidated to disclose information beyond what is already required for quarterly service quality reports could harm Consolidated's ability to compete in areas where customers have alternative choices")*.

is concerned that competitors would attempt to use this information to Consolidated's detriment by using it in marketing to state that Consolidated has not been responsive to customer service requests. Such information is highly sensitive in the competitive marketplace Consolidated operates in, and disclosure of this information could be detrimental to Consolidated's business.

Further detail regarding the need for confidentiality is set forth in the attached Consolidated Averment.

**V. Good Cause Exists for Invoking the Commission's Protection**

For the above-stated reasons and those set forth in further detail in Consolidated's attached Averment 1 there is good cause for the Commission to issue a Protective Order according confidential treatment to the confidential information described above.

The Commission has previously granted confidential treatment of information in similar circumstances.<sup>4</sup>

Consolidated has and will continue to review the confidential information, and to work with the Department in this regard, to determine whether any of it can be reclassified and will advise the Commission and the parties of the results of its review. To the extent that any party disputes the designation of the redacted passages and exhibits as confidential and Consolidated and the party are unable to resolve the dispute, Consolidated seeks an opportunity to present additional information for the Commission's consideration specific to the disputed redacted passages in connection with this Motion.

---

<sup>4</sup> See *Petition of the Vermont Department of Public Service for an investigation into the service quality provided by Consolidated Communications of Vermont Company LLC doing business as Consolidated Communications*, Case No. 18-3231-PET, at 3 (Vt. Pub. Util. Comm'n June 6, 2019 Protective Order for Confidential Treatment of Evidence).

**VI. Conclusion**

For the above-stated reasons, Consolidated respectfully requests that the Commission issue a Protective Order to accord confidential treatment to certain information in the Department's Prefiled Direct testimony as detailed above.

Dated: January 21, 2022

RESPECTFULLY SUBMITTED,  
CONSOLIDATED COMMUNICATIONS

By: /s/ Debra L. Bouffard  
SHEEHEY FURLONG & BEHM P.C.  
Debra L. Bouffard  
30 Main Street  
P.O. Box 66  
Burlington, VT 05402  
(802) 864-9891  
[dbouffard@sheeheyvt.com](mailto:dbouffard@sheeheyvt.com)