

**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	
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**MOTION FOR CONFIDENTIAL TREATMENT
OF PREFILED REBUTTAL TESTIMONY 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 Rebuttal 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 April 14, 2022, the Department filed redacted and confidential copies of Prefiled Rebuttal Testimony in the above-captioned matter. Through this Motion, Consolidated seeks confidential treatment of the nonpublic, confidential information contained in the Department’s Prefiled Rebuttal Testimony of witness August Ankum. 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?¹

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 Rebuttal Testimony of Department witness August Ankum. Specifically, the Prefiled Rebuttal Testimony of August Ankum contains redactions of confidential and proprietary information related to: 1) specific service location information by town; and 2) specific and detailed information about Consolidated’s costs to provide service to its customers.

IV. The Need for Confidential Treatment

The Department’s Prefiled Rebuttal Testimony for which Consolidated seeks confidential treatment involves nonpublic, confidential, and proprietary information including: 1) specific

¹ 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).

service location information by town; and 2) specific and detailed information about Consolidated's costs to provide service to its customers.

A. Specific service locations by town

Public disclosure of specific geographic information, broken down to the individual town level, about where Consolidated 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.²

B. Details regarding Consolidated costs to provide service

The specific information in August Ankum's testimony about Consolidated's costs to provide service is largely based on confidential information contained in Confidential Exhibit CC-SD-4 for which Consolidated has also sought confidential treatment. Confidential Exhibit CC-SD-4 contains confidential Consolidated information regarding its costs to provide voice service in exchanges in the State. This detailed cost information should be treated confidentially because it is not the type of information that is made publicly available. If disclosed, the information would provide the public and competitors with insight into Consolidated's financial and cost information and place Consolidated at a competitive disadvantage. More specifically, Consolidated is concerned that competitors would attempt to use this information to

² 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) (concluding that specific references to affected towns and wire centers should be protected as confidential).

Consolidated's detriment, e.g., by using it to make decisions as to which locations it should target marketing efforts. The detailed cost 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 of this information is set forth in Consolidated Averment No. 1 (Fourth Revised), which is Attachment A to this Motion.

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 to similar customer location specific information.³ As well, the Commission has previously granted confidential treatment to similar financial and cost information.⁴

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.

³ See *id.*

⁴ 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 Aug. 22, 2019 Protective Order for Confidential Treatment of Evidence) (stating that, "information identified [as confidential] in Consolidated's June 12 motion consists of financial information related to Consolidated's services in specific areas and is similar to information that we have previously determined is commercial sensitive.")

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 Rebuttal Testimony of witness August Ankum as detailed above.

Dated: April 15, 2022

RESPECTFULLY SUBMITTED,
CONSOLIDATED COMMUNICATIONS

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