

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 18-3231-PET

Petition of the Department of Public Service)
for an Investigation into the Service Quality)
Provided by Telephone Operating Company)
of Vermont, Inc. d/b/a Consolidated)
Communications, Inc.)

DEPARTMENT OF PUBLIC SERVICE
RESPONSE REGARDING MOTION FOR CONFIDENTIAL TREATMENT

On April 25, 2019, Telephone Operating Company of Vermont, LLC d/b/a Consolidated Communications (“Consolidated”) filed a motion for confidential treatment of portions of the Prefiled Direct Testimony and exhibits of the Department of Public Service (“Department”). Consolidated seeks an order from the Public Utility Commission (“Commission”) to protect nonpublic, confidential financial, proprietary, and competitively sensitive information contained in portions of the Prefiled Direct Testimony of Department witnesses Fred Goldstein and Barlow Keener, Scott G. Wheeler, and Carol Flint, as well as Exhibit DPS-CF-2. The Department does not oppose Consolidated’s request.

When reviewing a request for confidential treatment of testimony, exhibits, or information, 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 Investigation into General Order No. 45 Notice filed by Vermont Yankee Nuclear Power Corporation re: proposed sale of Vermont Yankee Nuclear Power Station to Entergy Nuclear Vermont Yankee, LLC, Docket No. 6545 (the

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

Consolidated seeks to protect two types of nonpublic, confidential information: one, “financial information and capital investment planning for Vermont and for Consolidated’s corporate parent more generally;” and two, “Consolidated service quality and staffing details, including specific information about numbers and types of trouble tickets, response times and specific geographic references to impacted towns and identification of wire centers.”

Consolidated explains that the information should be granted confidential treatment because it is proprietary and competitively sensitive.

The Department agrees with Consolidated that full disclosure of the confidential information contained in the Department’s prefiled testimony could impede Consolidated’s ability to effectively and competitively conduct business and that it is subject to the Protective Agreement approved by the Commission on January 30, 2019. The Motion and supporting averments filed by Consolidated set out facts sufficient to establish a *prima facie* case for keeping the financial, service quality and staffing information confidential. Accordingly, the Department does not oppose Consolidated’s request for confidential treatment of the redacted portions of the Department’s prefiled testimony and will treat such information as confidential unless the Commission rules otherwise.

“Entergy Docket”), Order of 3/9/02 at 2.

² *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).

DATED at Montpelier, Vermont this 29th day of April, 2019.

VERMONT DEPARTMENT OF PUBLIC SERVICE

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cc: Service List