

PROPRIETARY INFORMATION – CONFIDENTIAL TREATMENT SOUGHT

**BEFORE THE
NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

_____)	
In the Matter of)	
)	
Petition for Investigation into the Regulatory)	Docket No. DT 09-044
Status of IP Enabled Voice)	
Telecommunications Service)	
_____)	

TWC DIGITAL PHONE LLC MOTION FOR CONFIDENTIAL TREATMENT

TWC Digital Phone LLC (“TWCDP”), on behalf of itself and its affiliates, hereby requests confidential treatment, pursuant to N.H. Code of Administrative Rules Puc 203.08 and R.S.A. 91-A:5(IV), of certain information provided by TWCDP in response to the NHTA First Set of Data Requests in the above-captioned proceeding. Specifically, TWCDP seeks confidential treatment of information concerning the manufacturers and model numbers of the IP-compatible customer premises equipment (“CPE”), also referred to as an embedded multimedia terminal adapter (“eMTA”), used in connection with TWCDP’s Cable VoIP Service. The specific information for which TWCDP seeks confidential treatment is contained in the attached supplemental data request response, which is marked proprietary and confidential.

In support of this Motion, TWCDP states the following:

1. On July 31, 2009, the Commission initiated an investigation into the regulatory status of the Cable VoIP Services provided by TWCDP and others, and requested specific information from TWCDP concerning the Cable VoIP Services it offers in New Hampshire (the “NHTA First Set of Data Requests”).

2. TWCDP submitted General Objections to the NHTA First Set of Data Requests on August 10, 2009, pursuant to Puc 203.09(g), and responded to those requests on August 21, 2009 (“Response”).

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3. Request No. Staff 1-5 sought information regarding the IP-compatible CPE used in connection with TWCDP's Cable VoIP Services; Staff Request 1-8 sought similar information, and specifically asked TWCDP to identify the manufacturers and typical model numbers of the eMTAs used in connection with TWCDP's Cable VoIP Services.

4. TWCDP consolidated its responses to these data requests, stating in response to Staff Request 1-5 that information concerning the manufacturers and model numbers of the eMTAs constitutes confidential business information. TWCDP nonetheless agreed to provide this information upon the issuance of a proper protective order. In the interest of cooperating with the Commission's investigation, TWCDP hereby submits that information pursuant to this request for confidential treatment.

5. N.H. Code of Administrative Rules Puc 203.08 provides that the Commission shall, upon motion, "issue a protective order providing for the confidential treatment of one or more documents upon a finding that the document or documents are entitled to such treatment pursuant to R.S.A 91-A:5, or other applicable law based upon the information submitted pursuant to [Puc 203.08(b)]." Puc 203.08(b) requires the movant to submit or describe the documents or information for which confidentiality is sought, refer to the statutory or common law basis for confidentiality, and describe the harm that would result from disclosure.

6. Pursuant to R.S.A. 91-A:5(IV), "records pertaining to . . . confidential, commercial, or financial information" are exempt from public disclosure.

7. TWCDP has a good faith basis for seeking confidential treatment of this information. Public disclosure of the manufacturers and model numbers of the eMTAs used with its Cable VoIP Services would have an irreversible and detrimental effect on TWCDP's ability to negotiate and compete in the provision of such services in New Hampshire. Manufacturers of eMTAs may be reluctant or unwilling to participate in future negotiations with TWCDP without

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reassurance that their identity and/or the terms of any contract or negotiation (including model numbers) would remain confidential. Likewise, disclosure would enable TWCDP's competitors, which include both VoIP providers and traditional carriers, to learn sensitive commercial information that relates to TWCDP's pricing and business operations.

8. TWCDP's request for confidential treatment of the information described herein is consistent with New Hampshire's Right-to-Know law, R.S.A. 91-A. Although that statute generally provides open access to records in the possession, custody, or control of the state government, and promotes "[o]penness in the conduct of public business," it expressly recognizes that confidentiality is to be accorded in some circumstances to protect private interests. In this case, the competitive harms that disclosure would likely cause for TWCDP outweighs the public interest in making such information publicly available. Indeed, information concerning the manufacturers and model numbers of the CPE used with TWCDP's Cable VoIP Services is of no apparent relevance to the Commission's investigation of the regulatory status of such services. Accordingly, there is no value to public disclosure. The Commission has granted requests for confidential treatment in similar circumstances. *See, e.g., EnergyNorth Natural Gas, Inc. d/b/a National Grid NH*, Order No. 24,963 (Apr. 30, 2009) (finding that disclosure of information relating to pricing, supply, and demand would "reveal the internal business decisions" of the movant); *Granite State Electric Company*, Order No. 24,764 (June 22, 2007) (finding that "the public's interest in review of the financial, commercially sensitive information" was not "sufficient to outweigh the interest that [the movant had] in maintaining confidentiality of such information").

WHEREFORE, TWCDP respectfully requests that the Commission grant this motion and issue a protective order treating as confidential the supplemental data request response attached hereto. In accordance with Puc 203.08(g)-(h), the information should, at a minimum, be marked

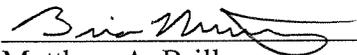
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as confidential, maintained within the Commission's offices in a secure location, and not be subject to public disclosure.

Respectfully submitted,

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