

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

DT 16-872

CONSOLIDATED COMMUNICATIONS HOLDINGS, INC.

and

FAIRPOINT COMMUNICATIONS, INC.

MOTION FOR PROTECTIVE ORDER
AND CONFIDENTIAL TREATMENT

NOW COMES Consolidated Communications Holdings, Inc. (“Consolidated”), by and through its undersigned attorneys, and, pursuant to RSA 91-A:5, IV and N.H. Admin. Rule Puc 203.08(b), respectfully moves the New Hampshire Public Utilities Commission (“the Commission”) to issue a protective order which accords confidential treatment to certain information described below and submitted herewith. In support of this Motion, Consolidated states as follows:

1. On December 29, 2016, Consolidated and FairPoint Communications, Inc. (“FairPoint”) filed a Joint Petition (“the Petition”) in the above-captioned docket requesting findings from the Commission under RSA 374:30, II relative to the transfer of FairPoint’s assets to Consolidated.
2. In accordance with the procedural schedule in this docket, Consolidated’s rebuttal testimony is due May 18, 2017. Consolidated is filing the rebuttal testimony of Michael Shultz, Steven Childers and Gabe Waggoner contemporaneously with the instant Motion.

3. Portions of the rebuttal testimony of Mr. Shultz and Mr. Childers, as well as some of the attachments thereto and an attachment to Mr. Waggoner's rebuttal testimony, contain information that Consolidated deems confidential and seeks to protect from public disclosure. More specifically, that information is included the following unredacted documents which are submitted with this Motion: Confidential Rebuttal Testimony of Michael Shultz, at pages 7, 8, 12 and 20 (due diligence, systems, financial and strategic information); Confidential Rebuttal Attachments MJS-1-A through 1-H (Consolidated Due Diligence questions); Confidential Rebuttal Attachment MJS-2 (Summary of Consolidated Due Diligence by functional area); Confidential Rebuttal Attachment MJS-4 (Consolidated Organizational Chart); Confidential Rebuttal Testimony of Steven Childers, at pages 3, 4, 10, 15, 16 and 17 (financial information); Confidential Rebuttal Attachment SLC -1 (Comparison of Credit Facility Terms); Confidential Rebuttal Attachment SLC-2 (Operating Revenues by state); and Highly Confidential Rebuttal Attachment GW-2 (Consolidated Near Term Integration Projects List).

Because Confidential Rebuttal MJS 1-A contains the same information as a confidential supplemental response to Staff Data Request 1-80 (i.e. Confidential Attachment Staff 1-80-A), Consolidated seeks protective treatment for that document as well.

4. For the reasons discussed below, Consolidated seeks to protect the above-referenced confidential information from public disclosure.

5. The information referenced in paragraph 3 above is competitively sensitive confidential, financial and commercial information that Consolidated does not routinely disclose to anyone outside of its corporate organization or its authorized representatives. As such, the

information is entitled to be protected from public disclosure under RSA 91-A:5, IV. *See also* RSA 350-B (“Uniform Trade Secrets Act”).

6. In determining whether confidential, commercial or financial information within the meaning of RSA 91-A:5, IV is exempt from public disclosure, the Commission employs a “three-step balancing test for determining whether certain documents meet this designation.” *Vivint Solar, Inc.*, DE 15-303, Order No. 25, 859 (Jan. 15, 2016), p. 22. The Commission first determines whether the information in question involves a privacy interest. *Id.*, p. 23. If a privacy interest is implicated, the Commission considers whether the public has an interest in disclosure of the information. *Id.* If so, then the Commission balances the public’s interest in disclosure against the moving party’s privacy interests “to determine whether disclosure is warranted.” *Id.*

7. Consolidated meets the above-stated test. The information it seeks to protect is private, competitively sensitive financial and business information which Consolidated safeguards and does not publicly disclose. Consolidated is engaged in an intensely competitive industry over which the Commission has relatively limited regulatory authority. Disclosure of this sensitive financial and commercial information would be an invasion of Consolidated’s privacy and would be competitively harmful to Consolidated if its competitors were able to obtain access to it. The financial information in question was developed in connection with Consolidated’s decision to acquire FairPoint, a transaction over which the Commission has limited authority. *See* RSA 374:30, II. Moreover, given that there is only one intervenor in this docket, and that said intervenor has signed a confidentiality agreement regarding this information, there is little if any, public interest associated with obtaining this competitively sensitive financial information. Even assuming, *arguendo*, a public interest in disclosure exists,

that interest is outweighed by Consolidated's interest in maintaining the confidentiality of the information. Accordingly, disclosure is not warranted.

8. Consolidated requests that the Commission issue an order protecting the above-described information from public disclosure and prohibiting copying, duplication, dissemination or disclosure of it in any form. Consolidated requests that the protective order also extend to any discovery, testimony, argument or briefing in this docket relative to the confidential information.

9. Consolidated has made a good faith effort to obtain concurrence with the relief sought in these Motions from the other parties and Staff. Counsel for FairPoint concurs, and Counsel for Staff and Labor Intervenors neither object nor concur at this time.

WHEREFORE, Consolidated respectfully requests that this honorable Commission:

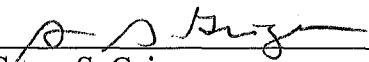
A. Issue an appropriate order that exempts from public disclosure and otherwise protects the confidentiality of the unredacted information listed above and filed herewith; and

B. Grant such additional relief as it deems appropriate.

Respectfully submitted,
Consolidated Communications Holdings, Inc.

By its attorneys,
Orr & Reno, P.A.

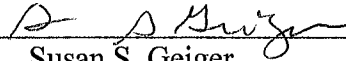
Date: May 18, 2017



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Certificate of Service

I hereby certify that on this 18th day of May, 2017 a copy of the foregoing Motion was served electronically to persons on the Service List in this docket



Susan S. Geiger

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