

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DT 12-____

PETITION OF COMCAST OF MAINE/NEW HAMPSHIRE, INC. et al.
FOR LICENSE TO CROSS OVER PUBLIC WATERS

ASSENTED-TO MOTION FOR PROTECTIVE ORDER
AND CONFIDENTIAL TREATMENT

NOW COME Comcast of Maine/New Hampshire, Inc. and its affiliates, Comcast of Connecticut/Georgia/Massachusetts/New Hampshire/New York/North Carolina/Virginia/Vermont, LLC, Comcast of Massachusetts/New Hampshire, LLC and Comcast of New Hampshire, Inc. (“Comcast”), by and through their undersigned attorneys, and, pursuant to RSA 91-A:5, IV and N.H. Admin. Rule Puc 203.08(b), respectfully move 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, Comcast states as follows:

1. Comcast is filing contemporaneously with this Motion, a Petition for License to Cross Over Public Waters (“the Petition”) which seeks a general license for Comcast’s existing facilities that cross over certain New Hampshire public water bodies. For each water crossing that is the subject of the Petition, Comcast has provided four documents: 1) a cover page; 2) a document entitled “Precision Valley Communications Comcast NH

Waterways Survey” (“the survey document”); 3) a map of the crossing location; and 4) a photograph of the water crossing.

2. Comcast seeks protective treatment for only a limited portion of each survey document, i.e., information contained under the heading “Detailed Description of Plant Structure.” The precise information which Comcast seeks to protect has been designated with brackets in the unredacted copies of the survey documents that are submitted herewith in a box marked “confidential.” Comcast also seeks to protect the same information contained in a flash drive that has been submitted in compliance with the Commission’s electronic filing requirements. This flash drive is contained in an envelope marked “confidential.”

3. The above-referenced confidential information in each survey document is sensitive confidential and commercial information that Comcast does not routinely disclose to anyone outside of its corporate organization or its authorized representatives. Moreover, other communications companies do not share this type of information about their facilities when working with Comcast and others on joint construction projects. 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”).

4. 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 the analysis articulated in *Lambert v. Belknap County Convention*, 157 N.H. 375(2008) and *Lamy v. N.H. Public Utilities Commission*, 152 N.H. 106 (2005). Under this analysis the Commission first determines “whether the information is confidential, commercial or financial information, ‘and whether disclosure would

constitute an invasion of privacy.” *Unitil Energy Systems, Inc.*, DE 10-055, Order No. 25,214 (April 26, 2011), p. 35. If a privacy interest is implicated, the Commission then balances the asserted private confidential, commercial or financial interest against the public’s interest in disclosure in order to determine if disclosure would inform the public of the government’s conduct. *Id.* If it does not, then “disclosure is not warranted.” *Id.*

5. Comcast meets this test as the information it seeks to protect is clearly commercial and confidential. This information is used in a commercial enterprise and is safeguarded for security and competitive purposes. Disclosure of information concerning the type of facilities that exist at hundreds of specific locations in New Hampshire could compromise the security of Comcast’s network. Given that the facilities described in the confidential information are used by Comcast in an intensely competitive industry, it would be an invasion of Comcast’s privacy and competitively harmful to Comcast if its competitors were able to obtain access to specific information about the types of facilities that are located within significant portions of Comcast’s New Hampshire footprint. Moreover, Comcast’s competitors routinely safeguard this type of information about their systems when working with Comcast on joint construction projects. Because such disclosure will not inform the public of the government’s conduct, the information should be protected.

6. Comcast 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. Comcast requests that the protective order also extend to any discovery, testimony, argument or briefing relative to the confidential information.

7. The undersigned has contacted Staff Attorney Lynn Fabrizio who has assented to the relief sought herein.

WHEREFORE, Comcast respectfully requests that this honorable Commission:

A. Issue an appropriate order that exempts from public disclosure and otherwise protects the confidentiality of the information designated confidential that is contained in the unredacted survey documents and flash drive submitted herewith; and

B. Grant such additional relief as it deems appropriate.

Respectfully submitted,
Comcast of Maine/New Hampshire, Inc.
et al.

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

Date: February 29, 2012

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Certificate of Service

I hereby certify that on this 29th day of February, 2012, a copy of the foregoing Motion was served electronically upon the Office of Consumer Advocate and Attorney Lynn Fabrizio.

Susan S. Geiger

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