

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 support of the Petition, Consolidated is submitting prefiled direct testimony of three (3) witnesses, including Consolidated’s Chief Financial Officer, Mr. Steven Childers. Submitted with this Motion are originals and six (6) copies each of the Confidential version of Mr.

Childers' prefiled direct testimony and a confidential attachment to that testimony entitled Attachment SLC-2.

3. Consolidated seeks protective treatment for only a limited portion of Mr. Childers' prefiled direct testimony, (*i.e.* figures appearing on pages 11 and 12) as well as all of the financial information contained in "Attachment SLC-2". In the unredacted/confidential copies of Mr. Childers' prefiled direct testimony, the precise information which Consolidated seeks to protect from public disclosure has been designated with the word "CONFIDENTIAL" and with brackets and shading. The financial information which Consolidated seeks to protect from public disclosure in Attachment SLC-2 has been shaded.

4. The above-referenced confidential information consists of pro forma historical and projected revenues for the combined FairPoint/Consolidated company. It 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").

5. 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." *Vivant 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.*

6. Consolidated meets the above-stated test. The information it seeks to protect is private, competitively sensitive financial information which Consolidated does not publicly disclose. Consolidated is engaged in an intensely competitive industry. Disclosure of this sensitive financial 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. Therefore, 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.

7. 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.

WHEREFORE, Consolidated respectfully requests that this honorable Commission:

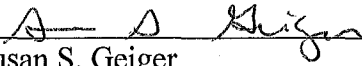
A. Issue an appropriate order that exempts from public disclosure and otherwise protects the confidentiality of the information designated confidential that is contained in the unredacted copies of Mr. Childers' Prefiled Direct Testimony and Attachment SLC-2; and

B. Grant such additional relief as it deems appropriate.

Respectfully submitted,
Consolidated Communications Holdings, Inc.

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

Date: January 17, 2017



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Certificate of Service

I hereby certify that on this 17th day of January, 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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