February 3, 2014

VIA ELECTRONIC MAIL

Records Access Officer
Donna Giliberto
New York State Department of Public Service
Three Empire State Plaza
Albany, New York 12223-1350

RE: Petition of Time Warner Cable Information Services (New York), LLC for Waivers of Certain Commission Regulations Pertaining to Partial Payments, Directory Distribution, Timing for Suspension or Termination of Service, and a Partial Waiver of Service Quality Reporting Requirements
Case 13-C-0193

Request for Trade Secret Protection by Time Warner Cable Information Services (New York), LLC

Dear Ms. Giliberto:

Pursuant to 16 N.Y.C.R.R. § 6-1.3 (2012) and Sections 87(2) and 89(5) of the New York State Public Officers Law (“POL”), Time Warner Cable Information Services (New York), LLC (“TWCIS(NY)”) hereby requests trade secret status for the enclosed service quality data report (the “Confidential Report”). A copy of this request, without the Confidential Report, is being provided to the Secretary of the Commission.

The Confidential Report includes commercially sensitive information relative to TWCIS(NY)’s performance for customer service centers and provides TWCIS(NY)’s service quality information by node, and on a monthly basis, as required by 16 N.Y.C.R.R. Part 603 (2012).

Analysis

The Confidential Report warrants protection because such report qualifies as a trade secret pursuant to the Commission’s regulations and is exempt from disclosure under the Freedom of Information Law, POL §§84, 86. POL Section 87(2)(d) states in relevant part that agencies may deny access to records that “are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and
which if disclosed would cause substantial injury to the competitive position of the subject enterprise.”

The Commission defines a trade secret as “any formula, pattern, device or compilation of information which is used in one’s business, and which provides an opportunity to obtain an advantage over competitors who do not know or use it.” 16 N.Y.C.R.R Section 6-1.3(a). In determining whether information should be considered for confidential treatment, the Commission’s regulations under 16 N.Y.C.R.R. § 6-1.3(b)(2) set forth six non-exclusive factors:

1. the extent to which disclosure would cause unfair economic or competitive damage;
2. the extent to which the information is known by others;
3. the value of the information to the possessor of the data and its competitors;
4. the difficulty and cost of developing the information;
5. the difficulty of recreating the data without permission; and
6. whether the data is otherwise exempted by law from disclosure.

TWCIS(NY) submits that the Confidential Report satisfies this standard because: i) the Report is very valuable and, if disclosed, would cause TWCIS(NY) to suffer economic and competitive harm; ii) the Report would provide the TWCIS(NY)’s competitors an unfair economic or competitive advantage; and iii) the Report is not publicly available and could not practicably be duplicated without TWCIS(NY)’s consent.

First, disclosure of the Confidential Report would cause TWCIS(NY) to suffer economic and competitive harm. The Confidential Report includes detailed, node by node information, as opposed to aggregated data. The Report not only reflects a significant investment of TWCIS(NY)’s time and effort, it can also be used by the Company’s competitors to obtain a highly disaggregated level of information that implicitly sets forth important aspects of TWCIS(NY)’s improvement and investment plans. Therefore, public disclosure of the Reports would possibly cause economic harm to TWCIS(NY) and its customers. Moreover, the information included in the Confidential Report would be of significant competitive value to the Company’s competitors, since it would be relevant to the Company’s ability to respond to and to initiate price reductions.

Second, the Confidential Report is not generally available to the public nor does it constitute the type of information that competitors make available to each other in the normal course of business. The Confidential Report could not be replicated without consent from TWCIS(NY). Therefore, disclosure of the Report confers a competitive advantage to the businesses competing with TWCIS(NY).

Third, all of the information included in the Confidential Report can be used to support detailed analyses, on a very granular level, of TWCIS(NY)’s cost of doing business. Such information could not be developed independently by the Company’s competitors, and any estimates developed through publicly available or data from third-party sources would be expensive and burdensome to assemble, and less accurate than the data provided in the Confidential Report.
Conclusion

For the foregoing reasons, public disclosure of the Confidential Report would subject TWCIS(NY) to significant economic and competitive harm according to Commission’s regulations and the POL and must be protected from disclosure. To protect the confidentiality of the documents, Time Warner Cable Information Services (New York), LLC respectfully requests that the Trade Secret Information be maintained in Department of Public Service’s (“DPS”) confidential files and be provided only to interested members of the Commission and DPS Staff, and not otherwise be disclosed or made available.

Respectfully submitted,

[Signature]

Ekin Senlet

Counsel for Time Warner Cable Information Services (New York), LLC

Enclosures: Confidential Report

cc: Secretary (without enclosures via electronic mail)
Brian Ossias (without enclosures via electronic mail)
Julie Laine (with enclosures via electronic mail)
Vincent Paladini (with enclosures via electronic mail)

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