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May 1, 2024

Submitted by:

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Molly Magnis

Records Access Officer

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Re: Case 22-C-0593 -- Joint Petition of Margaretville Telephone Co., Inc. and the Margaretville Telephone Co., Inc. Employee Stock Ownership Plan for Authority Under New York Public Service Law Sections 100, 101 and 106 to Transfer More than a Ten Percent (10%) Interest and to Accomplish the Proposed Transactions Described Herein

REQUEST FOR CONFIDENTIAL TREATMENT

Dear Ms. Magnis:

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On behalf of the Margaretville Telephone Co., Inc. (the “Petitioner”), Harter Secrest & Emery LLP. Petitioner hereby requests, pursuant to Public Officers Law Section 87(2) (“Section 87(2)”) and 16 NYCRR Section 6-1.3 (“Section 6-1.3”), trade secret protection and confidential treatment for a portion of the information contained in the attached information, which is responsive to conditions number 19 and 25 in the Order in the above referenced case (the “Confidential Information”). A copy of this request along with the redacted version of the supplemental Response is being simultaneously filed with the Secretary to the New York Public Service Commission. The Confidential Information qualifies for trade secret protection and confidential treatment for the reasons set forth below.

Section 87(2)(d) provides, in relevant part, that the Commission “may deny access to records or portions thereof 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.” According to *Matter of Verizon New York Inc. v. New York Public Service Commission*,¹ trade secrets and disclosure of confidential commercial information causing “substantial competitive injury” are two separate exemptions under Section 87(2)(d).

I. Trade Secret

Under Section 6-1.3(a), a “trade secret” is defined 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.” Under Section 6-1.3(b)(2), factors to be considered in determining whether information constitutes a “trade secret” include, among other things, the following:

- the extent to which the disclosure would cause unfair economic or competitive damage;

¹ 137 A.D.3d 66, 70 (App. Div. 3d, 2016).

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- the extent to which the information is known by others and can involve similar activities;
- the worth or value of the information to the person and the person's competitors;
- the degree of difficulty and cost of developing the information; and
- the ease or difficulty associated with obtaining or duplicating the information by others without the person's consent.

The Confidential Information that was redacted from the Responses discloses the Petitioner's financial and cost information. Disclosure of this information would cause substantial injury to the competitive position of, and unfair economic and competitive damage to, the Petitioner because it would reveal important business and financial information to competitors about the business and competitive abilities of the Petitioner. Specifically, the Confidential Information includes information relative to Petitioner's employees and customer facing jobs. The Confidential Information has significant worth to Petitioner and its competitors. Disclosure of this type of information to the public is prohibited, and trade secret status should be granted, so as to ensure that competitive balance among utility providers will be maintained.

II. Substantial Competitive Injury

Section 87(2)(d) protects from disclosure records "which if disclosed would cause substantial injury to the competitive position of the subject enterprise." The Confidential Information is critical to Petitioner's business and its competitive position. Any disclosure of the Confidential Information would cause substantial injury to Petitioner by disclosing strategic information relative to Petitioner's service capabilities and financial position to Petitioner's competitors, thus granting such competitors an advantage. This information would not be otherwise publicly available from another source - and it is not available from Petitioner's competitors - but for this filing with the Commission.

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If you have any questions or require further information, please contact me.

Very truly yours,
Harter Secrest & Emery LLP

A handwritten signature in blue ink, appearing to read "eel 72", is positioned above the printed name of the signatory.

Edward H. Townsend