

STATE OF NEW HAMPSHIRE
Before the
PUBLIC UTILITIES COMMISSION

LIGHTOWER FIBER NETWORKS —
LICENSES BY NOTIFICATION PURSUANT TO RSA 371:17-b

CRS _____

Motion for Confidential Treatment

Lightower Fiber Networks I, LLC and Lightower Fiber Networks II, LLC (collectively, “Lightower”) seek confidential treatment pursuant to RSA 95-A:5, IV for the lists of facility crossings attached to the accompanying notification. Specifically, these are:

- Lightower Water Body Crossings
- Lightower River Crossings
- Lightower Land Crossings
- Lightower Railroad Crossings

The Commission has found that utilities have a privacy interest in network maps and has granted them confidential treatment. *In re New Hampshire Regulated Utilities — October 2011 Snow Storm*, Order Granting Requests for Confidential Treatment, Order No. 25,457 at 8 (Jan. 18, 2013) (system circuit maps contain sensitive commercial information that warrants protection); *In re Union Telephone Company — Petition for Approval of an Alternative Form of Regulation*, DT 11-024, Order on Petition and Motion for Confidential Treatment, Order No. 25,235 at 17-19 (June 15, 2011) (carrier has developed its facilities to benefit its business and competitive harm could befall it should the extent and capabilities of its facilities be revealed in such an explicit manner as on detailed network maps).

As set forth below, the detailed information contained in the accompanying lists would provide competitors with at least as much information about the locations of Lightower's facilities as the network maps that the Commission previously has found worthy of protection. Lightower's lists should be protected as well.

Discussion

In determining whether to grant confidential treatment to information submitted to the Commission, the Commission employs a three-step test:

The New Hampshire Supreme Court and the Commission apply a three-step balancing test to determine whether a document, or the information contained within it, falls within the category of "confidential, commercial, or financial information" under RSA 91-A:5, IV. Under that test, the Commission first inquires whether the information involves a privacy interest and then asks if there is a public interest in disclosure. Finally, the Commission balances those competing interests and decides whether disclosure is appropriate. Disclosure should inform the public of the conduct and activities of its government; if the information does not serve that purpose, disclosure is not warranted.

In re Pennichuck East Utility, Inc. — Petition for Authority to Issue Long Term Debt, DW 14-321, Order *Nisi* Approving Long Term Debt and Granting Motion for Confidential Treatment, Order No. 25,758, at 5 (January 21, 2015) (internal citations omitted).

The first factor, whether a privacy interest exists, is satisfied in this case. Lightower has a strong privacy interest in protecting the lists showing numerous specific and precise locations of its facilities throughout the State of New Hampshire. These lists were compiled specially for this filing, and have not been used for any other purpose. They have not been disclosed outside the company. Only a handful of company personnel and counsel who are responsible for this filing have seen or have access to these lists. Compilation of these lists took significant time and effort and the use of sophisticated computer mapping software and data.

Like the network maps that the Commission has found deserving of protection from disclosure, Lightower's lists present specific and detailed information concerning the locations of numerous Lightower transmission cables and other facilities. The precise latitude and longitude information contained in the lists would enable competitors (or malefactors) to learn the locations of Lightower's facilities with pinpoint accuracy. Further, the lists comprehensively compile in one place this precise, highly granular information concerning Lightower facilities throughout the state. Disclosure of the lists would present comprehensive and valuable information about Lightower's facilities deployment to its competitors on a silver platter. Armed with this information, competitors would have a far easier time crafting tailored responses to Lightower's offerings, with resulting competitive harm to Lightower.

The detailed and comprehensive information on Lightower's lists is not publicly available. While Lightower does have a network map on its website, that map presents a satellite's-eye view of the area from Maine to Virginia, and only presents information as to the cities in which Lightower has a presence and the general routes of its transmission facilities among those cities. The map includes nothing like the precise latitude and longitude coordinates of specific facilities that is contained in the four lists, and would not allow a competitor to pinpoint the locations of particular Lightower facilities.

Step two of the analysis requires the Commission to assess whether there is a public interest in disclosure of the materials. There is no public interest to be served by disclosure of the lists. The objective of the disclosure statute is to allow citizens to understand "the conduct and activities of its government." *In re Pennichuck East Utility*, Order No. 25,758, at 5. Nothing about the workings of the government may be learned from disclosure of the information here. These lists are being filed pursuant to RSA 371:17-b. That statute provides that upon a filing of such lists, "no

further inquiries or investigations by the commission shall be undertaken.” Therefore, there are no governmental activities to observe, and citizens will learn nothing about the workings of the government if this information were released. “Disclosure should inform the public of the conduct and activities of its government; if the information does not serve that purpose, disclosure is not warranted.” *Pennichuck East Utility*, at 5; *Unitil Corp. and Northern Utilities, Inc.*, Order No. 25,014, 94 NH PUC 484, 486 (2009).

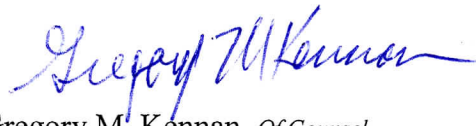
Even if there were some modicum of benefit to the public from the disclosure of this information (which there is not), any such benefit would be far outweighed by the competitive harm to Lighttower from the release of this comprehensive list containing precise geographic locations of numerous facilities in the state. Under the Commission’s balancing test, the scales tip clearly on the side of treating this information as confidential.

Conclusion

For the foregoing reasons, the Commission should grant confidential treatment to the lists attached to the accompanying notification.

June 1, 2015

Respectfully Submitted,



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