

**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 a Merger Transaction involving the transfer of FairPoint’s assets to Consolidated.
2. In Order No. 26,022 issued May 31, 2017 in the above-captioned docket, the Commission approved a Revised Settlement Agreement which, *inter alia*, requires Consolidated to identify for Commission Staff and Labor Intervenors the key employees associated with FairPoint-NNE’s Wholesale Services Group as of the date of the Merger Transaction closing.

Revised Settlement Agreement (May 25, 2017), Section II, ¶ 4. The Revised Settlement Agreement also requires that such disclosure be made by Consolidated “under confidential protection within 48 hours after the date the Merger Transaction closes.” *Id.*

3. The above-referenced Merger Transaction closing occurred on July 3, 2017. Therefore, in accordance with paragraph 4 of the Revised Settlement Agreement, Consolidated is providing the list of “key employees” of FairPoint-NNE’s Wholesale Services Group to Staff and Labor Intervenors contemporaneously with the filing of the instant Motion.

4. For the reasons discussed below, Consolidated seeks to protect the list of key employees from public disclosure.

5. Section II, ¶ 4 of the Revised Settlement Agreement expressly contemplates that Consolidated’s identification of the key employee list would be made “under confidential protection.” In addition, the names of key employees of FairPoint-NNE’s Wholesale Group pertains to “internal personnel practices” and is competitively sensitive confidential 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.

6. 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.” *Vivint 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.*

7. Consolidated's list of key Wholesale Group employees meets the above-stated test. The information is private, competitively sensitive personnel and commercial information which Consolidated safeguards and does not publicly disclose. Consolidated is engaged in an intensely competitive industry over which the Commission has relatively limited regulatory authority. Disclosure of this information would be an invasion of Consolidated's and its key employees' privacy and would be competitively harmful to Consolidated if its competitors were able to obtain access to it. Moreover, given that the Revised Settlement Agreement explicitly states that the key employee list is to be provided "under confidential protection" and that there is only one intervenor in this docket, there is little if any, public interest associated with obtaining this competitively sensitive information. Even assuming, *arguendo*, a public interest in disclosure exists, that interest is outweighed by Consolidated's and the key employees' interests in maintaining the confidentiality of the information. Accordingly, disclosure is not warranted.

8. 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.

9. In accordance with N.H. Admin. R. Puc 201.04 (b) and (c), redacted and unredacted versions of the above-referenced list of key employees are submitted herewith.

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 unredacted information referenced above and filed herewith; and

B. Grant such additional relief as it deems appropriate.

Respectfully submitted,  
**Consolidated Communications Holdings, Inc.**

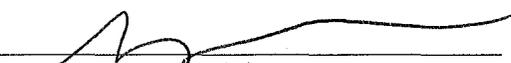
By its attorneys,  
**Orr & Reno, P.A.**

Date: July 5, 2017

  
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Susan S. Geiger  
45 South Main Street  
Concord, NH 03302-3550  
603.223.9154  
[sgeiger@orr-reno.com](mailto:sgeiger@orr-reno.com)

Certificate of Service

I hereby certify that on this 5th day of July, 2017 a copy of the foregoing Motion was served electronically to persons on the Service List in this docket

  
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Susan S. Geiger

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