

DT 99-079

2ND CENTURY COMMUNICATIONS, INC.

**Petition for Authority to Provide
Local Telecommunications Services**

**Order Granting Motion for
Confidential Treatment**

O R D E R N O. 23,275

August 2, 1999

On May 26, 1999, 2nd Century Communications, Inc. (2nd Century or Company) filed with the New Hampshire Public Utilities Commission (Commission) a petition for authority to provide switched and non-switched local exchange telecommunications services, pursuant to RSA 374:22-g.

On May 28, 1999 2nd Century, in support of its petition, filed with the Commission its current Financial Statement together with a Motion for Confidentiality pursuant to N.H. Admin. Rule Puc 204.06 regarding the Information.

Pursuant to Puc 204.05(b), documents submitted to the Commission or Commission Staff accompanied by a motion for confidentiality are protected as provided in Puc 204.06(d) until the Commission rules on the Motion for Confidential Treatment.

On June 29, 1999 the Commission issued Order Nisi No. 23,247, effective July 29, 1999, granting 2nd Century authority to provide switched and non-switched local exchange telecommunications services within New Hampshire.

2nd Century's Financial Statement includes the

Company's most recent audited balance sheet, an audited statement of operations, and an audited cash flow statement (collectively, the Information). The Information includes operating expenses and losses and cash flows on operating activities, investing activities and financing activities.

In its Motion for Confidentiality, 2nd Century asserts: (1) that disclosure of the Information could provide its competitors information about its financial condition and its confidential business plan; (2) that it will be better able to compete in the marketplace without disclosure; (3) that the marketplace will benefit from the Company's participation; (4) that the Company maintains the secrecy of the Information and does not disclose it to others; and (5) that it is a private, closely held corporation. The Company asserts that the Information constitutes competitively sensitive information, the release of which would cause harm to the Company's business interest, that is, within the "confidential, commercial or financial information" exemptions from disclosure set forth in RSA 91-A:5, IV and Puc 204.06.

The Commission has reviewed the Information and determined that there is no significant benefit to the public by requiring disclosure of the private financial information at issue, and non-disclosure will avoid likely harm to the petitioner by preserving its sensitive financial information.

We find that the Information provided in the filing

contains confidential information that meets the requirements of Puc 204.06 (b) and (c). Based on the company's representations, under the balancing test we have applied in prior cases, e.g., Re New England Telephone Company (Auditel), 80 NHPUC 437 (1995); Re Bell Atlantic, DE 97-171 (SGAT) Order No. 22,851 (February 17, 1998); Re EnergyNorth Natural Gas, Inc., Order No. 22,859 (February 24, 1998), we find that the benefits to 2nd Century of non-disclosure in this case outweigh the benefits to the public of disclosure. The Confidential Information should be exempt from public disclosure pursuant to RSA 91-A:5, IV and Puc 204.06 (1998).

Based upon the foregoing, it is hereby

ORDERED, that 2nd Century's Motion for Confidential Treatment is GRANTED; and it is

FURTHER ORDERED, that this Order is subject to the ongoing rights of the Commission, on its own motion or on the motion of Staff, any party or any other member of the public, to reconsider this Order in light of RSA 91-A, should circumstances so warrant.

By order of the Public Utilities Commission of New Hampshire this second day of August, 1999.

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Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Claire D. DiCicco
Assistant Secretary