

DT 99-088

CREATIVE TELECOM SOLUTIONS, INC.

Petition for Authority to Provide
Local Telecommunications Services

Order Granting Motion for
Confidential Treatment

O R D E R N O. 23,276

August 2, 1999

On June 11, 1999, Creative Telecom Solutions, Inc. (CTS 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 June 29, 1999 the Commission issued Order Nisi No. 23,248, effective July 29, 1999, approving CTS's petition for authority to provide intrastate local exchange telecommunications services in the service territory of Bell Atlantic subject, inter alia, to the requirements of N.H. Admin Rule Puc 1304.03.

On June 11, 1999 CTS also filed, in support of its petition, a current financial balance sheet and a *pro forma* statement of the petitioner together with a Motion for Confidential Treatment. The financial balance sheet includes a statement of the Company's current assets, including a description of fixed assets and equipment, a statement of its income and its liabilities together with a projections for its upcoming fiscal year (together, the Information). The Motion for

Confidential Treatment asserts that the Information qualifies under the "confidential, commercial or financial information" exemptions from disclosure pursuant to RSA 91-A:5, IV and Puc 204.06 and that the Information qualifies as a trade secret pursuant to RSA 350-B.

In its motion CTS also avers that: (1) CTS does not publicly disclose the Information and that it takes all reasonable measures to prevent dissemination of the Information in the regular course of business; (2) that disclosure of the Information would provide no general benefit to the public and would place CTS at a material disadvantage with respect to its competitors; and (3) that CTS has invested resources in providing telecommunications services in a competitive marketplace that CTS would be at a competitive disadvantage if forced to disclose 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.

The Commission has reviewed the Information and determined that there will be no apparent significant benefit to the public at this time 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 CTS 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).

The petitioner alleges in its motion that the Information is a "trade secret" pursuant to RSA 350-B. While we are prepared to find that the motion sets forth a basis for concluding that the Information, if disclosed, would likely, pursuant to Puc 204.06(c)(1), create a competitive disadvantage for the Petitioner, we do not conclude that the Information "[d]erives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use", as required by the definition of trade secret provided in RSA 350-B:1,IV(a). While the

Information may constitute sensitive financial information for CTS, CTS has not shown in its motion either that the Information derives independent economic value from non-disclosure or that its competitors could obtain economic value from its disclosure or use. While we do grant CTS its requested relief in finding that the Information meets the test of Puc 204.06, we do not find that the Information constitutes a trade secret pursuant to RSA 350-B.

The motion indicates that the Commission Staff and Office of Consumer Advocate take no position on the motion.

Based upon the foregoing, it is hereby

ORDERED, that CTS'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.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Claire D. DiCicco
Assistant Secretary