

DT 99-095

JATO OPERATING TWO CORP.

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

**Order Granting Motion for  
Confidential Treatment**

**O R D E R   N O.   23,284**

**August 16, 1999**

On June 30, 1999, Jato Operating Two Corp. (JATO) 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 30, 1999 JATO also filed, in support of its petition, a certain Exhibit D to its petition consisting of, in part: (1) the unaudited Financial Statements of JATO including a balance sheet and statement of operations; and (2) the Financial Statements of its JATO's parent company, JATO Communications Corp., including an unaudited balance sheet, statement of operations, statement of cash flows and statement of stockholder equity (together, the Information).

JATO also filed on June 30, 1999 a Motion for Leave to File Under Seal and/or a Protective Order relative to the Information (Motion). JATO's Motion asserts that the Information should be protected from public disclosure. While the Motion does not cite to either RSA 91-A or N.H. Admin. Rule Puc 204.04-204.06, it is clear that the Motion seeks protective treatment

pursuant to this statute and rule.

In its Motion JATO avers that: (1) it is a privately held corporation that is not under any obligation to prepare public financial statements; (2) it actively seeks to protect its financial statements from public disclosure; (3) its Financial Statements represent highly confidential and strictly proprietary information, the disclosure of which to the public, including to competitors, would result in direct and immediate harm to the competitive position of JATO; (4) the disclosure of the Information would provide competitors insight into the financial structure of JATO and its financing activities to date; and (5) the Information is private and competitively sensitive, and the direct harm to JATO's competitive position from any such disclosure is real and not speculative.

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 any benefit to the public at this time by requiring disclosure of the financial information at issue is outweighed by the likely harm to the petitioner.

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 JATO 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 Motion does not indicate, as required by Puc 203.03(e), whether JATO has sought or obtained the concurrence of the Commission Staff and Office of Consumer Advocate to the Motion. However, no party has objected to the Motion.

**Based upon the foregoing, it is hereby**

**ORDERED**, that JATO's Motion for Leave to File Under Seal and/or A Protective Order is GRANTED as provided above; 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 sixteenth day of August, 1999.

_____ Douglas L. Patch Chairman	_____ Susan S. Geiger Commissioner	_____ Nancy Brockway Commissioner
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Attested by:

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Thomas B. Getz  
Executive Director and Secretary