

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Verizon North Inc.	:	R-00061914
2007 Price Change Opportunity Filing	:	P-00001854F1000
Office of Small Business Advocate	:	
	:	
v.	:	R-00061914C0001
	:	
Verizon North Inc.	:	

**ORDER GRANTING PETITION  
FOR PROTECTIVE ORDER**

**DOCUMENT  
FOLDER**

I. INTRODUCTION

On February 26, 2007, Verizon North Inc. (Verizon North or the Company) filed a Petition for a Protective Order (Petition), pursuant to 52 Pa. Code §5.423, with an accompanying proposed Protective Order. The proposed Protective Order provided for two levels of confidentiality, depending upon the characterization of the material by Verizon North. Material which was designated as "Proprietary Information" would be made available to a party's counsel and that party's expert(s), under the usual confidentiality protections. However, material which was designated as "Highly Confidential" would generally be made available only to the party's counsel, and a written request would be required for a party to provide the material to its experts. There was specific language, however, to permit non-lawyer experts of the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), and the Office of Trial Staff (OTS) to receive the material upon signing the usual confidentiality agreement.

Verizon North filed the Petition to provide for the protection of competitively sensitive information which may need to be filed with the Commission, produced in discovery, or otherwise introduced into the record of this proceeding. Verizon North asserted that it would be substantially harmed if competitively sensitive material were to be provided without

restriction, because it then would be publicly available to actual or potential competitors and could result in unfair economic or competitive damage to Verizon North. The Company further asserted that it would only use the "Highly Confidential" designation where the higher level of protection was necessary to avoid severe and extreme prejudice, and the proposed Protective Order defined and limited the use of that designation.

All parties to this proceeding have accepted the Protective Order proposed by Verizon North.

## II. DISCUSSION

Commission regulations at 52 Pa. Code §5.362(7) provide that, upon motion of a party, the presiding officer may issue protective orders to prohibit disclosure of trade secrets and other confidential information. Protective Orders to protect this type of information are to be issued pursuant to 52 Pa. Code §5.423.

Under 52 Pa. Code §5.423, a presiding officer may issue a Protective Order to limit or prohibit disclosure of confidential information where the potential harm to a party would be substantial and outweighs the public's interest in having access to the confidential information. In applying this standard, the relevant factors to be considered include the extent to which disclosure would cause unfair economic or competitive advantage, the extent to which the information may already be known by others, the potential value of such information to the party and the party's competitors and trade partners, the degree of difficulty and cost in developing the information, and other relevant statutes or regulations. 52 Pa. Code §5.423(a)(1)-(5).

In addition, 52 Pa. Code §5.423(e) authorizes more restrictive rules in protective orders where a greater restriction is necessary to avoid severe and extreme prejudice. Verizon North's proposed Protective Order includes more restrictive rules for material which is designated as "Highly Confidential."

In its Petition, Verizon North asserted that, based upon its experience in previous PCO proceedings, the parties have sought in discovery and/or used in their testimony and pleadings, information such as detailed breakdowns of Verizon North unit counts, revenues by product category or product line, cost studies and take rates. This is information which Verizon North alleged is not known by others outside Verizon North and would cause Verizon North unfair economic or competitive damage if the information was disclosed to competitors. Verizon North further asserted that competitors could then use this information to gain a competitive advantage in the marketplace, and Verizon North is not privy to the same details about its competitors' businesses.

In addition, Verizon North contended that litigation of this matter would be substantially facilitated by the adoption, at the earliest possible time, of a protective order to govern the treatment of proprietary data. It asserted that its proposed Protective Order would protect all proprietary materials from disclosure to the public or to employees of competitors of producing parties who could use proprietary information to harm Verizon North competitively. Verizon North further indicated that the text of its proposed Protective Order was identical to that which was recently entered in the Verizon Pennsylvania Inc. 2007 PCO proceeding at Docket No. R-00061915. It indicated that the proposed Protective Order contained language to permit non-lawyer experts of the OCA, OSBA, and OTS to receive "Highly Confidential" information upon signing the usual confidentiality agreement. It further asserted that the "Highly Confidential" designation would be used only where a higher level of protection was needed to avoid severe and extreme prejudice, and that parties retained the right to challenge the "Highly Confidential" designation.

No other party has challenged the assertions made by Verizon North in its Petition concerning its need to protect "Proprietary" or "Highly Confidential" material. Also, all parties have agreed that the Protective Order entered in the Verizon Pennsylvania Inc. 2007 PCO proceeding, at Docket No. R-00061915, should be applicable to the Verizon North 2007 PCO proceeding.

Accordingly, I conclude that Verizon North has demonstrated that potential harm from disclosure of proprietary information would be substantial and outweighs the public's interest in free and open access to this information. In addition, Verizon North has established the need for a more restrictive "Highly Confidential" level of protection to avoid "severe and extreme prejudice" with respect to certain highly sensitive material. Verizon North's proposed Protective Order is identical to that which was entered recently in the Verizon Pennsylvania, Inc. 2007 PCO proceeding at Docket No. R-00061915, and all parties have agreed to the use of this language.

### III. ORDERING PARAGRAPHS

THEREFORE,

IT IS ORDERED:

1. That the Petition for a Protective Order, filed by Verizon North Inc., is granted to the extent consistent with this Order.
2. That the Protective Order, in the form agreed to by the parties, will be issued today.

Date: February 28, 2007

Kandace F. Melillo  
Kandace F. Melillo  
Administrative Law Judge