

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25M-0007T

IN THE MATTER OF THE FILING OF 2024 ANNUAL REPORTS IN ACCORDANCE WITH RULE 4 CCR 723-2-2006 BY CARRIERS HOLDING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY OR A LETTER OF REGISTRATION TO PROVIDE TELECOMMUNICATIONS SERVICES IN THE STATE OF COLORADO, OR REGISTERED TO RESELL INTRASTATE TOLL SERVICES.

INTERIM DECISION WAIVING RESPONSE TIME AND GRANTING MOTIONS FOR CONFIDENTIAL AND HIGHLY CONFIDENTIAL PROTECTION OF INFORMATION

Issued Date: May 12, 2025

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I. STATEMENT

1. On January 2, 2025, the Colorado Public Utilities Commission (“Commission”) opened the above-captioned proceeding as a repository proceeding for the filing of the 2024 annual reports required to be filed by the affected telecom carriers pursuant to Rule 2006 of the Rules Regulating Telecommunications Services and Providers of Telecommunications Services, 4 *Code of Colorado Regulations* (CCR) 723-2 to file 2024 Annual Reports (“Reports”) under Rule 2187(g)(IX) and DR525 Forms (“DR525”) under Rule 2006.

2. On January 22, 2025, the Commission referred this proceeding by minute entry to an Administrative Law Judge (“ALJ”) for the disposition of all pleadings and motions filed.

3. On April 24, 2025, RCLEC, Inc. (“RCLEC”) filed its Motion Requesting Highly Confidential Protection of Information, including supporting exhibits (“RCLEC’s Motion”).

4. On April 29, 2025, AT&T Enterprises, LLC (“AT&T”) and Teleport Communications America, LLC (“Teleport”) each filed a Motion seeking Highly Confidential Protection for Certain Information, including supporting Exhibits (“AT&T’s Motion” and “Teleport’s Motion,” respectively).

5. On April 30, 2025, MCI Communications Services, LLC doing business as Verizon Business Services (“Verizon Business”), MCImetro Access Transmission Services, LLC doing business as Verizon Access Transmission Services (“Verizon Access”), and XO Communications Services, LLC (“XO Communications”) each filed a Motion Requesting Confidential Protection

of Information, including supporting exhibits (“Verizon Business’ Motion,” “Verizon Access’ Motion,” and “XO Communications’ Motion,” respectively).

II. RELEVANT LAW, ANALYSIS, FINDINGS, AND CONCLUSIONS

A. Relevant Law

6. Rule 2006(a) provides that carriers required by the Department of Revenue to file an annual DR525 form (“Report or Form”) must file the same with the Commission on or before May 15 each year.¹

7. Annual reports filed pursuant to Commission rules are presumed to be public records.² But, a party may seek highly confidential designation of a filing that is presumed public by following the procedures in Rule 1101, 4 CCR 723-1.³ The moving party has the burden of proof to establish that a document should receive highly confidential protection.⁴ A motion seeking highly confidential protection must:

- include a detailed description or representative sample of the information for which highly confidential protection is sought;
- state the specific relief requested and the grounds for relief;
- advise all other parties of the request and the subject matter of the information at issue;
- establish that the information for which highly confidential protection is sought is highly confidential, that the protection afforded by the Commission’s rules for confidential information is insufficient to protect the highly confidential information, and that highly confidential protection will afford sufficient protection;
- include a specific form of nondisclosure agreement;

¹ Rule 2006(a), 4 CCR 723-2.

² Rule 1100(b)(I), of the Commission’s Rules of Practice and Procedure, 4 CCR 723-1.

³ See Rules 1101(b) and (c), 4 CCR 723-1.

⁴ Rule 1101(d), 4 CCR 723-1.

- include an affidavit containing the names of all persons with access to the information and the period of time for which the information should remain subject to highly confidential protection; and
- include an exhibit, filed in accordance with the procedures established in Rule 1101(a), containing the information for which highly confidential protection is requested, or alternatively, show why providing the subject information would be overly burdensome, impractical, or too sensitive for disclosure.⁵

8. Rule 1101(a) requires a party submitting information claimed to be highly confidential to include a statement on the first page of document containing information claimed to be highly confidential that says, “NOTICE OF CONFIDENTIALITY: A PORTION OF THIS DOCUMENT HAS BEEN FILED UNDER SEAL.”⁶ The first page must also list each document filed under seal, each page number of each document on which highly confidential information is contained, and must include a description of the nature of the information claimed to be highly confidential.⁷ The rule also requires a publicly-available filing that excludes information claimed to be confidential or highly confidential. Essentially, the rule limits the scope of information not available for public inspection to that claimed to require protection as confidential or highly confidential information.⁸

9. Under Rule 1101(h), a party seeking highly confidential protection must also file an unredacted version of the document for which it seeks protection under seal.⁹

B. Findings, Analysis, and Conclusions

10. Because this is an administrative proceeding (and not an adjudicative one), the ALJ waives the response time to the Motions.¹⁰

⁵ Rule 1101(b)(I) to (VII), 4 CCR 723-1.

⁶ Rule 1101(a)(I), 4 CCR 723-1.

⁷ *Id.*

⁸ *Id.*

⁹ *See* Rule 1101(h), 4 CCR 723-1.

¹⁰ *See* Rules 1200, 1307, and 1401(b) of the Commission’s Rules of Practice and Procedure, 4 CCR 723-1.

1. RCLEC, Inc.'s Motion Requesting Highly Confidential Protection of Information

11. RCLEC's Motion seeks highly confidential protection for RCLEC's gross revenues in Colorado as reported in its Reports (its DR525 Form). As grounds, RCLEC states that the Form contains highly proprietary and confidential commercial information, the disclosure of which to competitors or potential competitors would be detrimental to RCLEC.¹¹ RCLEC asserts that it considers information regarding revenues proprietary, confidential, and non-public financial, commercial, and business information, not subject to public inspection or public availability.¹²

12. RCLEC's Exhibit B, Affidavit of Rachel Petty, states that it derives independent value from the unavailability of its network and financial information, and therefore closely guards its information to ensure it does not become publicly disclosed.¹³ RCLEC states that it takes reasonable steps to protect the information from disclosure through internal employee policies, digital and physical security, and by filing the documents under seal, that RCLEC derives economic value from maintaining its information secret, and that public disclosure of RCLEC's revenue and expense information would have adverse competitive consequences for RCLEC.¹⁴

13. RCLEC states that the Commission's Rules presume that the Form, once filed with the Commission, is available for public inspection by any person at any reasonable time and that, if a party believes that the information should not be open for public inspection, the party may file a motion requesting highly confidential protection.¹⁵

14. Finally, RCLEC states that the confidential information being provided is for the use of the Commission and the Office of Utility Consumer Advocate ("UCA") in exercising its

¹¹ RCLEC's Motion at 1.

¹² *Id.*

¹³ RCLEC's Exhibit B at 1.

¹⁴ *Id.* at 1-2.

¹⁵ RCLEC's Motion at 1-2 citing Rule 1100(n)(I) and 1101(b), 4 CCR 723-1.

governmental functions.¹⁶ RCLEC requests that an order for confidential protection permit only the Commission, the UCA, and their respective staff, access to the proprietary and confidential information.¹⁷

15. With this Motion, RCLEC submitted Exhibit A Nondisclosure agreement, an affidavit identifying those who have access to the highly confidential information and asks that highly confidential protection be afforded for as long as the Commission maintains the Reports, and the information RCLEC requests to be protected. RCLEC also filed a public version of its 2024 Annual Report.

16. The ALJ finds that RCLEC's Motion demonstrates extraordinary circumstances providing sufficient grounds to afford highly confidential protection for the specified information.¹⁸ Based upon good cause shown, RCLEC's Motion will be granted.

2. AT&T Enterprises, LLC's Motion seeking Highly Confidential Protection for Certain Information

17. AT&T's Motion seeks highly confidential protection for AT&T's gross revenues in Colorado as reported in its Reports. As grounds, AT&T states that this information is valuable, competitively sensitive, proprietary in nature, and a trade secret.¹⁹ AT&T asserts that under Colorado law, a trade secret includes confidential business or financial information or other information relating to any business or profession which is secret and of value, and that the owner of the information must have taken measures to prevent the secret from becoming available to persons other than those selected by the owner for access.²⁰ AT&T argues that state-specific gross revenues are "trade secret" information, for which it has historically sought and obtained

¹⁶ RCLEC's Motion at 2.

¹⁷ *Id.*

¹⁸ *See infra*, ¶¶ 11-15.

¹⁹ AT&T's Motion at 2.

²⁰ *Id.*, citing § 7-74-102(4), C.R.S.

protections against public disclosure.²¹ Indeed, AT&T points out that going back to 2013, it has sought and received similar protection from the Commission.²² In addition, the Federal Communications Commission has consistently agreed that such information is confidential, holding that revenue information is the kind of “competitively sensitive material subject to withholding” and is not appropriate for public disclosure.²³

18. AT&T argues that confidential protection is insufficient, because the Commission’s Rules presume that annual reports are available for public inspection and provide that a claim of confidentiality does not overcome this presumption of public availability.²⁴ AT&T states that it has provided a copy of the Motion to Commission Staff and the Office of the Consumer Counsel and is unaware of any other interested party that should be advised of its Motion.²⁵

19. With its Motion, AT&T submitted a proposed form of nondisclosure agreement²⁶, and affidavit identifying those who have access to the highly confidential information and asks that highly confidential protection be afforded as long as the Commission maintains the Reports²⁷, and the information AT&T requests to be protected.²⁸

20. The ALJ finds that AT&T’s Motion demonstrates extraordinary circumstances providing sufficient grounds to afford highly confidential protection for the specified information.²⁹ Based upon good cause shown, AT&T’s Motion will be granted.

²¹ *Id.*

²² *Id.*, fn.1.

²³ *Id.* at 1, citing In the Matter of Consumer Law Group, 28 FCC Rcd. 684, 685, ¶ 3 (2013).

²⁴ *Id.* at 2-3, citing Rule 1100(n)(I) and 1101(c), 4 CCR 723-1.

²⁵ *Id.* The ALJ notes that the Office of Consumer Counsel’s (the OCC) name was changed to the Office of the Utility Consumer Advocate (the UCA) in 2022. As such, the ALJ construes AT&T’s reference to the OCC to be a reference to the UCA.

²⁶ *Id.* at 6-7.

²⁷ *Id.* at 8-9.

²⁸ *Id.* at 10-14. These Reports were attached to the Motion and filed as individual filings in both confidential and public versions.

²⁹ *See infra*, ¶¶ 11-15.

3. Teleport Communications America, LLC's Motion seeking Highly Confidential Protection for Certain Information

21. Teleport's Motion seeks highly confidential protection for Teleport's gross revenues in Colorado as reported in its Reports. As grounds, Teleport states that this information is valuable, competitively sensitive, proprietary in nature, and a trade secret.³⁰ Teleport asserts that under Colorado law, a trade secret includes confidential business or financial information or other information relating to any business or profession which is secret and of value, and that the owner of the information must have taken measures to prevent the secret from becoming available to persons other than those selected by the owner for access.³¹ Teleport argues that state-specific gross revenues are "trade secret" information, for which it has historically sought and obtained protections against public disclosure.³² Indeed, Teleport points out that going back to 2013, it has sought and received similar protection from the Commission.³³ In addition, the Federal Communications Commission has consistently agreed that such information is confidential, holding that revenue information is the kind of "competitively sensitive material subject to withholding" and is not appropriate for public disclosure.³⁴

22. Teleport argues that confidential protection is insufficient, because the Commission's Rules presume that annual reports are available for public inspection and provide that a claim of confidentiality does not overcome this presumption of public availability.³⁵ Teleport states that it has provided a copy of the Motion to Commission Staff and the Office of the

³⁰ Teleport's Motion at 2.

³¹ *Id.*, citing § 7-74-102(4), C.R.S.

³² *Id.*

³³ *Id.*, fn.1.

³⁴ *Id.* at 1, citing In the Matter of Consumer Law Group, 28 FCC Rcd. 684, 685, ¶ 3 (2013).

³⁵ *Id.* at 2-3, citing Rule 1100(n)(I) and 1101(c), 4 CCR 723-1.

Consumer Counsel and is unaware of any other interested party that should be advised of its Motion.³⁶

23. With its Motion, Teleport submitted a proposed form of nondisclosure agreement³⁷, and affidavit identifying those who have access to the highly confidential information and asks that highly confidential protection be afforded as long as the Commission maintains the Reports³⁸, and the information Teleport requests to be protected.³⁹

24. The ALJ finds that Teleport's Motion demonstrates extraordinary circumstances providing sufficient grounds to afford highly confidential protection for the specified information.⁴⁰ Based upon good cause shown, Teleport's Motion will be granted.

4. MCI Communications Services, LLC doing business as Verizon Business Services Motion Requesting Confidential Protection of Information

25. Verizon Business' Motion seeks confidential protection for Verizon Business' gross operating revenues in Colorado as reported in its 2024 Reports. As grounds, Verizon Business states that this information contains highly proprietary and confidential commercial information, the disclosure of which to competitors, or potential competitors, would be detrimental to Verizon Business.⁴¹ Verizon Business asserts that information regarding revenues proprietary, confidential, and non-public financial, commercial and business information, not subject to public inspection or public availability.⁴²

³⁶ *Id.* The ALJ notes that the Office of Consumer Counsel's (the OCC) name was changed to the Office of the Utility Consumer Advocate (the UCA) in 2022. As such, the ALJ construes Teleport's reference to the OCC to be a reference to the UCA.

³⁷ *Id.* at 6-7.

³⁸ *Id.* at 8-9.

³⁹ *Id.* at 10-14. These Reports were attached to the Motion and filed as individual filings in both confidential and public versions.

⁴⁰ *See infra*, ¶¶ 11-15.

⁴¹ Verizon Business' Motion at 1.

⁴² *Id.*

26. Verizon Business' Exhibit B Affidavit of Carey R. Gagnon states that it derives independent economic value from the unavailability of its network and financial information, therefore closely guards its information to ensure it does not become publicly disclosed.⁴³ Verizon Business states that it takes reasonable steps to protect the information from disclosure through internal employee policies, digital and physical security, and by filing these documents under seal and derives economic value from maintaining its information secret, and the public disclosure of Verizon Access' revenue and expense information would have adverse competitive consequences for Verizon Access.⁴⁴ Verizon Business further states that release of this information to the public would cause unfair economic damage and substantially harm Verizon Business' ability to compete in this competitive market.⁴⁵

27. Verizon Business states that the Commission's Rules presume that the Form, once filed with the Commission, is available for public inspection by any person at any reasonable time and that, if a party believes that the information should not be open for public inspection, the party may file a motion requesting highly confidential protection.

28. Finally, Verizon Business states that the confidential information being provided is for the use of the Commission and UCA in exercising its governmental functions.⁴⁶ Verizon Business requests that an order for confidential protection permit only the Commission, UCA, and their respective staff, access to the proprietary and confidential information.⁴⁷

29. With the Motion, Verizon Business submitted Exhibit A Nondisclosure agreement

⁴³ Verizon Business' Exhibit B at 2.

⁴⁴ *Id.* at 2-3.

⁴⁵ *Id.* at 3.

⁴⁶ Verizon Business' Motion at 1-2 citing Rule 1100(n)(I) and 1101(b), 4 CCR 723-1.

⁴⁷ *Id.*

(Verizon Business' Exhibit A), an affidavit identifying those who have access to the confidential information and asks that confidential protection be afforded for as long as the Commission maintains the Reports ("Verizon Business' Exhibit B"), and the information Verizon Business requests to be protected ("Verizon Business' Exhibit C"). Verizon Business also filed a public version of its 2024 Annual Report.

30. Based on the above, Verizon Business' Motion and Exhibits, the ALJ finds that the Motion provides sufficient grounds to afford confidential protection for the specified information.⁴⁸ Based upon good cause shows, Verizon Business' Motion will be granted.

5. MCImetro Access Transmission Services, LLC doing business as Verizon Access Transmission Services Motion Requesting Confidential Protection of Information

31. Verizon Access' Motion seeks confidential protection for Verizon Access' gross operating revenues in Colorado as reported in its 2024 Reports. As grounds, Verizon Access states that the Form contains highly proprietary and confidential commercial information, the disclosure of which to competitors or potential competitors would be detrimental to Verizon Access.⁴⁹ Verizon Access asserts that it considers information regarding revenues proprietary, confidential, and non-public financial, commercial, and business information, not subject to public inspection or public availability.⁵⁰

32. Verizon Access' Exhibit B Affidavit, of Carey R. Gagnon, states that it derives independent economic value from the unavailability of its network and financial information, and therefore closely guards its information to ensure it does not become publicly disclosed.⁵¹ Verizon Access states that it takes reasonable steps to protect the information from disclosure through

⁴⁸ See *infra*, ¶¶ 25-29.

⁴⁹ Verizon Access' Motion at 1.

⁵⁰ *Id.*

⁵¹ Verizon Access' Exhibit B at 2.

internal employee policies, digital and physical security, and by filing the documents under seal, and derives economic value from maintaining its information secret, and the public disclosure of Verizon Access' revenue and expense information would have adverse competitive consequences for Verizon Access.⁵² Verizon Access further states that release of this information to the public would cause unfair economic damage and substantially harm Verizon Access' ability to compete in this competitive market.⁵³

33. Verizon Access states that the Commission's Rules presume that the Form, once filed with the Commission, is available for public inspection by any person at any reasonable time and that, if a party believes that the information should not be open for public inspection, the party may file a motion requesting highly confidential protection.⁵⁴

34. Finally, Verizon Access states that the confidential information being provided is for the use of the Commission and UCA in exercising its governmental functions.⁵⁵ Verizon Access requests that an order for confidential protection permit only the Commission, the UCA, and their respective staff, access to the proprietary and confidential information.

35. With the Motion, Verizon Access submitted Exhibit A Nondisclosure agreement, an affidavit identifying those who have access to the highly confidential information and asks that highly confidential protection be afforded for as long as the Commission maintains the Reports, and the information Verizon Access requests to be protected. Verizon Access also filed a public version of its 2024 Annual Report.

⁵² *Id.* at 2-3.

⁵³ *Id.* at 3.

⁵⁴ Verizon Access' Motion at 1-2 citing Rule 1100(n)(I) and 1101(b), 4 CCR 723-1.

⁵⁵ *Id.* at 2.

36. The ALJ finds that Verizon Access' Motion demonstrates extraordinary circumstances providing sufficient grounds to afford highly confidential protection for the specified information.⁵⁶ Based upon good cause shown, Verizon Access' Motion will be granted.

6. XO Communications, LLC's Motion Requesting Confidential Protection of Information

37. XO Communications' Motion seeks confidential protection for XO Communications' gross operating revenues in Colorado as reported in its 2024 Reports. As grounds, XO Communications states that the Form contains highly proprietary and confidential commercial information, the disclosure of which to competitors or potential competitors would be detrimental to XO Communications.⁵⁷ XO Communications asserts that it considers information regarding revenues proprietary, confidential, and non-public financial, commercial, and business information, not subject to public inspection or public availability.⁵⁸

38. XO Communications' Exhibit B, Affidavit of Carey R. Gagnon, states that it derives independent economic value from the unavailability of its network and financial information, and therefore closely guards its information to ensure it does not become publicly disclosed.⁵⁹ XO Communication states that it takes reasonable steps to protect the information from disclosure through internal employee policies, digital and physical security, and by filing the documents under seal, and derives economic value from maintaining its information secret, and the public disclosure of XO Communications' revenue and expense information would have adverse competitive consequences for XO Communications.⁶⁰ XO Communications further states

⁵⁶ See *infra*, ¶¶ 11-15.

⁵⁷ XO Communications' Motion at 1.

⁵⁸ *Id.*

⁵⁹ XO Communications' Exhibit B at 2.

⁶⁰ *Id.* at 2-3.

that release of this information to the public would cause unfair economic damage and substantially harm XO Communications' ability to compete in this competitive market.⁶¹

39. XO Communications states that the Commission's Rules presume that the Form, once filed with the Commission, is available for public inspection by any person at any reasonable time and that, if a party believes that the information should not be open for public inspection, the party may file a motion requesting highly confidential protection.⁶²

40. Finally, XO Communications states that the confidential information being provided is for the use of the Commission and the UCA in exercising its governmental functions.⁶³ XO Communications requests that an order for confidential protection permit only the Commission, the UCA, and their respective staff, access to the proprietary and confidential information.

41. With the Motion, XO Communications submitted Exhibit A Nondisclosure agreement, an affidavit identifying those who have access to the highly confidential information and asks that highly confidential protection be afforded for as long as the Commission maintains the Reports, and the information Verizon Access requests to be protected. XO Communications also filed a public version of its 2024 Annual Report.

42. The ALJ finds that XO Communications' Motion demonstrates extraordinary circumstances providing sufficient grounds to afford highly confidential protection for the specified information.⁶⁴ Based upon good cause shown, XO Communications' Motion will be granted.

⁶¹ *Id.* at 3.

⁶² XO Communications' Motion at 1-2 citing Rule 1100(n)(I) and 1101(b), 4 CCR 723-1.

⁶³ *Id.* at 2.

⁶⁴ *See infra*, ¶¶ 11-15.

III. ORDER

It is Ordered That:

1. Response time to the Motion Requesting Highly Confidential Protection of Information (“RCLEC’s Motion”) filed by RCLEC, Inc. (“RCLEC”) on April 24, 2025, is waived and RCLEC’s Motion is granted.

2. RCLEC’s 2024 unredacted annual reports filed with the Commission shall be treated as highly confidential and shall not be publicly available from the Commission.

3. Response time to the Motion seeking Highly Confidential Protection for Certain Information (“AT&T’s Motion”) filed by AT&T, Enterprises, LLC (“AT&T”) on April 29, 2025, is waived and AT&T’s Motion is granted.

4. AT&T’s 2024 unredacted annual reports filed with the Commission shall be treated as highly confidential and shall not be publicly available from the Commission.

5. Response time to the Motion seeking Highly Confidential Protection for Certain Information (“Teleport’s Motion”) filed by Teleport Communications America, LLC (“Teleport”) on April 29, 2025, is waived and Teleport’s Motion is granted.

6. Teleport’s 2024 unredacted annual reports filed with the Commission shall be treated as highly confidential and shall not be publicly available from the Commission.

7. Response time to the Motion Requesting Confidential Protection of Information (“Verizon Business’ Motion”) filed by MCI Communications Services, LLC doing business as Verizon Business Services (“Verizon Business”) on April 30, 2025, is waived and Verizon Business’ Motion is granted.

8. Verizon Business’ 2024 unredacted annual report filed with the Commission shall be treated as highly confidential and shall not be publicly available from the Commission.

9. Response time to the Motion Requesting Confidential Protection of Information (“Verizon Access’ Motion”) filed by MCImetro Access Transmission Services, LLC doing business as Verizon Access Transmission Services (“Verizon Access”) on April 30, 2025, is waived and Verizon Access’ Motion is granted.

10. Verizon Access’ 2024 unredacted annual reports filed with the Commission shall be treated as highly confidential and shall not be publicly available from the Commission.

11. Response time to the Motion Requesting Confidential Protection of Information (“XO Communications’ Motion”) filed by XO Communications, LLC (“XO Communications”) on April 30, 2025, is waived and XO Communications’ Motion is granted.

12. XO Communications’ 2024 unredacted annual report filed with the Commission shall be treated as confidential and shall not be publicly available from the Commission.

13. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in black ink that reads "Rebecca E. White". The signature is written in a cursive style.

Rebecca E. White,
Director

