

**GSCP VI Edgemarc Holdings, L.L.C. v ETC
Northeast Pipeline, LLC**

2023 NY Slip Op 32204(U)

June 30, 2023

Supreme Court, New York County

Docket Number: Index No. 652906/2019

Judge: Joel M. Cohen

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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GSCP VI EDGEMARC HOLDINGS, L.L.C., GSCP VI
PARALLEL EDGEMARC HOLDINGS, L.L.C., WSEP AND
BRIDGE 2012 EDGEMARC HOLDINGS, L.L.C., EM
HOLDCO LLC,

Plaintiffs,

- v -

ETC NORTHEAST PIPELINE, LLC,

Defendant.

INDEX NO. 652906/2019

MOTION DATE 03/23/2023

MOTION SEQ. NO. 019

**DECISION + ORDER ON
MOTION**

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 019) 357, 358, 359, 360, 361, 365

were read on this motion to SEAL.

Defendant ETC Northeast Pipeline, LLC (“ETC”) moves for an order sealing the papers submitted in support of ETC’s motion for summary judgment (NYSCEF 300 – 354, 356).

Plaintiffs partially object to this motion.¹ For the following reasons, ETC’s motion is granted in part.

Pursuant to § 216.1(a) of the Uniform Rules for Trial Courts, this Court may seal a filing “upon a written finding of good cause, which shall specify the grounds thereof. In determining

¹ Plaintiffs do not object to the sealing of Energy Transfer’s memorandum of law (NYSCEF 356), list of undisputed facts (NYSCEF 354) or Exhibits 1-7, 10-14, 17-32, 34- 39, 42, 44-46 and 48-51 (NYSCEF 302-308, 311-315, 318-333, 335-340, 343, 345-347 and 349- 352) at this time. Plaintiffs only object on the basis that ETC’s proposed Order to Show Cause (NYSCEF 357), which the Court entered (NYSCEF 361), requested sealing of NYSCEF 300, which was not filed under seal and should not be under temporary or permanent seal as it only a notice of motion.

whether good cause has been shown, the court shall consider the interests of the public as well as of the parties” (22 NYCRR § 216.1[a]).

The Appellate Division has emphasized that “there is a broad presumption that the public is entitled to access to judicial proceedings and court records” (*Mosallem v Berenson*, 76 AD3d 345, 348 [1st Dept 2010]). “Since the right [of public access to court proceedings] is of constitutional dimension, any order denying access must be *narrowly tailored to serve compelling objectives*, such as a need for secrecy that outweighs the public's right to access” (*Danco Labs., Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 6 [1st Dept 2000] [emphasis added]; *see also, e.g. Gryphon Dom. VI, LLC v APP Intern. Fin. Co., B.V.*, 28 AD3d 322, 324 [1st Dept 2006]). “Furthermore, because confidentiality is the exception and not the rule, ‘the party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access’” (*Maxim, Inc. v Feifer*, 145 AD3d 516, 517 [1st Dept 2016] [citations omitted]).

The Court has reviewed ETC’s proposed redactions of ETCs’ Memorandum of Law (NYSCEF 356 at 15) and List of Undisputed Material Facts (NYSCEF 354 at ¶¶47, 58) and finds that they comport with the applicable sealing standards as laid out in *Mosallem*, 76 AD3d at 348-50, and its progeny, in that they contain sensitive and confidential information. ETC has proposed and justified targeted redactions that satisfy the requirements of 22 NYCRR § 216.1 (a).

As to the remaining documents, ETC fails to explain why targeted redactions would not adequately protect its interests. The fact that parties have stipulated to sealing documents, or that they have designated the documents during discovery as “Confidential” or “Highly Confidential,” does not, by itself, require granting of the motion (*see, e.g., Maxim*, 145 AD3d at

518; *Gryphon*, 28 AD3d at 324). In view of the admonition that sealing of court records must be “narrowly tailored to serve compelling objectives,” (*Danco*, 274 AD2d at 6), ETC is directed to confer with Plaintiffs, along with any third parties, to narrowly redact any sensitive or confidential information. If, after conferring, any party still believes a document must be sealed in entirety, that party must submit an affirmation explaining the necessity.

Furthermore, ETC needs to adequately identify by NYSCEF document number the documents it is seeking to seal and/or redact. To the extent that ETC is no longer seeking to seal certain documents, ETC is directed to notify the Clerk of the Court to have those document unsealed. ETC is directed to file a copy of such notice on NYSCEF.

Accordingly, it is:

ORDERED that Motion Sequence Number 019 is **GRANTED IN PART**; it is further

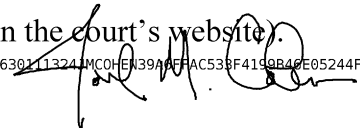
ORDERED that the Clerk of the Court is directed, upon service on him of a copy of this order with notice of entry, to maintain NYSCEF Document Numbers 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, and 356 under seal, so that the document may only be accessible by the parties, their counsel, and authorized court personnel; it is further

ORDERED that Plaintiff shall filed redacted versions of NYSCEF Document Numbers 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, and 356 within twenty (20) days of the date of this Order, consistent with the aforementioned instructions; otherwise the documents will be unsealed; it is further

ORDERED that the Clerk of the Court shall unseal NYSCEF 300, along with any other documents that ETC notifies the Clerk that it should unseal; it is further

ORDERED that nothing in this Order shall be construed as authorizing the sealing or redactions of any documents or evidence to be offered at trial.

ORDERED that service upon the Clerk of the Court shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the “E-Filing” page on the court’s website).


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JOEL M. COHEN, J.S.C.

6/30/2023
DATE

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
	<input type="checkbox"/> GRANTED	<input checked="" type="checkbox"/> GRANTED IN PART
	<input type="checkbox"/> DENIED	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT
		<input type="checkbox"/> REFERENCE