

**EarthLink, LLC v Charter Communications
Operating, LLC**

2025 NY Slip Op 35002(U)

December 21, 2025

Supreme Court, New York County

Docket Number: Index No. 654332/2020

Judge: Andrea Masley

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

-----X

EarthLink, LLC,

Plaintiff,

- v -

Charter Communications Operating, LLC,

Defendant.

INDEX NO. 654332/2020

MOTION DATE --

MOTION SEQ. NO. 037

ORDER - SEALING

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The following e-filed documents, listed by NYSCEF document number (Motion 037) 1295, 1296, 1297, 1298, 1299, 1300, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315, 1316, 1317, 1318, 1319, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1327, 1328, 1329, 1330, 1349, 1350, 1351, 1352, 1353, 1354, 1355, 1356, 1357, 1358, 1359, 1360

were read on this motion to/for SEAL.

In motion sequence 037, defendant Charter Communications Operating, LLC (Charter) moves pursuant to the Uniform Rules of the New York State Trial Courts (22 NYCRR) § 216.1 to seal/redact the following documents (see NYSCEF Doc. No. [NYSCEF] 1329, Amended Order to Show Cause):

1. Charter’s Memorandum of Law (MOL) (NYSCEF 1293¹);
2. Demonstrative PowerPoint (NYSCEF 1252, 1300);
3. January 8, 2018 Email Correspondence (NYSCEF 1253, 1301);
4. Spreadsheet (NYSCEF 1254, 1302);
5. Spreadsheet (NYSCEF 1255, 1303);
6. Spreadsheet (NYSCEF 1256, 1304);
7. Spreadsheet (NYSCEF 1257, 1305);
8. December 7, 2018 Email from Martha Jenkins (NYSCEF 1258, 1306);

¹ Proposed redactions are filed under seal at NYSCEF 1294 and 1299.
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9. Spreadsheet (NYSCEF 1259, 1307);
10. July 30, 2019 Email from Zachary Remming (NYSCEF 1260, 1308);
11. Spreadsheet (NYSCEF 1261, 1309);
12. June 3, 2019 to September 10, 2019 Email Chain (NYSCEF 1262, 1310);
13. Spreadsheet (NYSCEF 1263, 1311);
14. July 9, 2020 Email from Zachary Remming (NYSCEF 1264, 1312);
15. Spreadsheet (NYSCEF 1265, 1313);
16. June 27, 2025 Letter (NYSCEF 1270, 1314);
17. September 9, 2025 Deposition Transcript (NYSCEF 1279², 1315³);
18. Declaration of John C. Jarosz (NYSCEF 1281, 1316);
19. May 28, 2025 Email from Olga Karasik (NYSCEF 1282, 1317);
20. Spreadsheet (NYSCEF 1283, 1318);
21. Spreadsheet (NYSCEF 1284, 1319);
22. Spreadsheet (NYSCEF 1285, 1320);
23. Spreadsheet (NYSCEF 1286, 1321);
24. Spreadsheet (NYSCEF 1287, 1322);
25. Spreadsheet (NYSCEF 1288, 1323);
26. Spreadsheet (NYSCEF 1289, 1324);
27. Screenshot from June 27, 2025 Snowflake Production (NYSCEF 1290, 1325);
28. Screenshot from June 27, 2025 Snowflake Production (NYSCEF 1291, 1326);
29. Screenshot from June 27, 2025 Snowflake Production (NYSCEF 1292, 1327).

² Filed under seal with proposed redactions.

³ Filed under seal with proposed redactions.

Specifically, Charter argues that good cause exists to seal/redact because the documents (i) contain proprietary and sensitive business information related to Charter's service subscribers, and (ii) were designated or contain information that EarthLink designated as 'confidential' or 'highly confidential' pursuant to the Stipulation and Order for the Production and Exchange of Confidential Information (NYSCEF 169, Confidentiality Stipulation). Earthlink agrees with Charter that good cause exist to seal/redact the documents. There is no indication that the press or public have an interest in this matter.

Legal Standard

"Under New York law, 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] [citations omitted].) The public's right to access is, however, not absolute, and under certain circumstances, "public inspection of court records has been limited by numerous statutes." (*Id.* at 349.) For example, § 216.1(a) of the Uniform Rules for Trial Courts, empowers courts to seal documents only upon a written finding of good cause. It provides:

"Except where otherwise provided by statute or rule, a court shall not enter an order in any action or proceeding sealing the court records, whether in whole or in part, except upon a written finding of good cause, which shall specify the grounds thereof. In determining whether good cause has been shown, the court shall consider the interests of the public as well as of the parties. Where it appears necessary or desirable, the court may prescribe appropriate notice and opportunity to be heard." (Uniform Rules for Trial Cts [22 NYCRR] § 216.1 [a].)

The "party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access" to the documents.

(*Mosallem*, 76 AD3d at 349 [citations omitted].) Good cause must "rest on a sound basis or legitimate need to take judicial action." (*Danco Lab Ltd. v Chemical Works of*

Gedeon Richter, Ltd., 274 AD2d 1, 8 [1st Dept 2000] [internal quotation marks and citation omitted].)

Discussion

Charter's Proprietary and Sensitive Business Information

Charter seeks to seal/redact NYSCEF 1254, 1255, 1256, 1257, 1259, 1261, 1263, 1265, 1279, 1284, 1285, 1286, 1287, 1293, 1294, 1299, 1302, 1303, 1304, 1305, 1307, 1309, 1311, 1313, 1315, 1319, 1320, 1321, and 1322 on the ground that these documents contain sensitive and propriety business information that would undermine Charter's competitive advantage if made publicly available. (See NYSCEF 1297, Proposed Sealing Chart.) Courts have sealed records where the disclosure of documents "could threaten a business's competitive advantage." (*Mosallem*, 76 AD3d at 350-351 [citations omitted].) Similarly, courts have recognized a compelling interest in sealing records that contain "proprietary financial information because disclosure could harm the private corporation's competitive standing." (*Mancheski v Gabrielli Group Capital Partners*, 39 AD3d 499, 502 [2d Dept 2007] [citation omitted].) Here, the proposed redactions/sealings are warranted to protect Charter from competitive harm, especially since there is no public interest in these documents. (See *Mosallem*, 76 AD3d at 350-351; *Mancheski*, 39 AD3d at 502.) Accordingly, NYSCEF 1254, 1255, 1256, 1257, 1259, 1261, 1263, 1265, 1279, 1284, 1285, 1286, 1287, 1294, 1299, 1302, 1303, 1304, 1305, 1307, 1309, 1311, 1313, 1315, 1319, 1320, 1321, and 1322 shall remain sealed.

Documents Produced Pursuant to ESI Stipulation

Further, Charter seeks to seal NYSCEF 1252, 1253, 1258, 1260, 1262, 1264, 1270, 1281, 1282, 1283, 1288, 1289, 1290, 1291, 1292, 1300, 1301, 1306, 1308, 1310,

1312, 1314, 1316, 1317, 1318, 1323, 1324, 1325, 1326, and 1327 on the ground that these documents contain information that EarthLink has designated as ‘confidential’ or ‘highly confidential’ pursuant to the Confidentiality Stipulation. (See NYSCEF 1297, Proposed Sealing Chart.)

The fact that the documents are designated as ‘confidential’ or ‘highly confidential’ pursuant to the Confidentiality Stipulation is not determinative. (See *Eusini v Pioneer Elecs. (USA), Inc.*, 29 AD3d 623, 626 [2d Dept 2006] [holding that the parties’ “designation of the materials as confidential . . . is not controlling on the court’s determination whether there is good cause to seal”]; see also *In re Will of Hofmann*, 284 AD2d 92, 93-94 [1st Dept 2001] “[c]onfidentiality is clearly the exception, not the rule, and the court is always required to make an independent determination of good cause.”.) Moreover, “a party’s reliance on the parties’ confidentiality provision is insufficient to support sealing of a document.” (*Abad v iAero Group Holdco 2 LLC*, 2022 NY Slip Op 32982[U], *4 [Sup Ct, NY County 2022]; see also *Employees Retirement Sys. for the City of Providence v Rohner*, 2025 NY Slip Op 31327[U], *11 [Sup Ct, NY County 2025] “[a] confidentiality agreement entered for purposes of exchanging information does not constitute good cause to seal . . . it demonstrates the steps taken to protect confidential information and can lend support to an argument for redacting.”.) Because the law does not generally recognize good cause for sealing documents, even when they are subject to a confidentiality provision, and Charter has not proposed any redactions nor explained why these documents fall into an exception, Charter has failed to establish good cause.

Accordingly, it is

ORDERED that motion sequence 037 is granted in part as to 1254, 1255, 1256, 1257, 1259, 1261, 1263, 1265, 1279, 1284, 1285, 1286, 1287, 1293, 1294, 1299, 1302, 1303, 1304, 1305, 1307, 1309, 1311, 1313, 1315, 1319, 1320, 1321, and 1322, and denied in part as to NYSCEF 1252, 1253, 1258, 1260, 1262, 1264, 1270, 1281, 1282, 1283, 1288, 1289, 1290, 1291, 1292, 1300, 1301, 1306, 1308, 1310, 1312, 1314, 1316, 1317, 1318, 1323, 1324, 1325, 1326, and 1327; and it is further

ORDERED that the County Clerk, upon service of this order, is directed to seal NYSCEF 1254, 1255, 1256, 1257, 1259, 1261, 1263, 1265, 1279, 1284, 1285, 1286, 1287, 1293, 1294, 1299, 1302, 1303, 1304, 1305, 1307, 1309, 1311, 1313, 1315, 1319, 1320, 1321, and 1322; and it is further

ORDERED that the County Clerk shall restrict access to the sealed documents with access to be granted only to authorized court personnel and designees, the parties and counsel of record in this action, and any representative of a party or of counsel of record upon presentation to the County Clerk of written authorization from counsel; and it is further

ORDERED that the County Clerk is directed to unseal NYSCEF 1293; and it is further

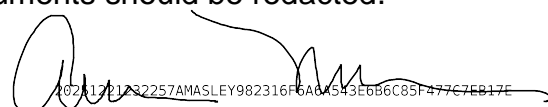
ORDERED that Charter shall serve a copy of this order on the County Clerk in accordance with the procedures set forth in the Protocol on Courthouse County Clerk Procedures for Electronically Filed Cases (accessible at the "E-Filing" page on the court's website at the address www.nycourts.gov/supctmanh); and it is further

ORDERED that if any party seeks to redact identical information in future filings that the court is permitting to be redacted here, that party shall submit a proposed

sealing order to the court (via sfc-part48@nycourts.gov and NYSCEF) instead of filing another seal motion; and it is further

ORDERED that this order does not authorize sealing or redacting for the purposes of trial or other court proceedings on the record, e.g. arguments on motions; and it is further

ORDERED that leave is granted to refile an application within 10 days of the date of this decision to seal portions of documents that contain private, financial, or competitive business information; if further application is not timely made, NYSCEF 1252, 1253, 1258, 1260, 1262, 1264, 1270, 1281, 1282, 1283, 1288, 1289, 1290, 1291, 1292, 1300, 1301, 1306, 1308, 1310, 1312, 1314, 1316, 1317, 1318, 1323, 1324, 1325, 1326, and 1327 will be unsealed. Charter shall comply with Part 48 procedures in this regard and any application shall also be accompanied by an affidavit from a person with knowledge explaining why portions of certain documents should be redacted.⁴



<u>12/21/2025</u> DATE			<u>ANDREA MASLEY, J.S.C.</u>
CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION	
	<input type="checkbox"/> GRANTED	<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

⁴ Counsels' affirmation is insufficient. (See generally NYSCEF 1298, Feder aff.)
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