

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

STARION ENERGY INC., *et al.*,¹
Debtors.

Chapter 11

Case No. 18-12608 (MFW)
(Jointly Administered)

Objection Deadline: February 15, 2019 at 4:00 pm (ET)
Hearing Date: February 22, 2019 at 10:30 am (ET)

OFFICE OF THE
COMMISSIONER OF THE
DISTRICT OF DELAWARE

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DISTRICT OF DELAWARE
PUBLIC SERVICE COMMISSION

**NOTICE OF DEBTORS' MOTION FOR PROTECTIVE ORDER TO SEAL DEBTORS'
CUSTOMER LIST**

PLEASE TAKE NOTICE that the debtors and debtors in possession (collectively, the "Debtors") have filed the *Debtors' Motion for Protective Order to Seal Debtors' Customer List*, (the "Motion") with the United States Bankruptcy Court for the District of Delaware (the "Court").

PLEASE TAKE FURTHER NOTICE that if you oppose the Motion or if you want the court to consider your views regarding the Motion, you must file a written response with the Court detailing your objection or response by **February 15, 2019 at 4:00 p.m. (ET)**. You must also serve a copy of your response upon the following:

GELLERT SCALI BUSENKELL & BROWN, LLC

Michael Busenkell, Esq.

Ronald S. Gellert, Esq.

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¹ The Debtors and the last four digits of their respective tax identification numbers are: Starion Energy Inc. (0943); Starion Energy NY Inc. (4319); Starion Energy PA Inc. (1201). The Debtors' corporate headquarters is located at, and the mailing address for each Debtors is, 751 Straits Turnpike, Suite 2000, Middlebury CT 06762, Attn: Alexandra Isaac, Esq.

PLEASE TAKE FURTHER NOTICE that the hearing on the Motion is scheduled for **February 22, 2019 at 10:30 a.m. (ET)** before the Honorable Mary F. Walrath in Courtroom No. 4, 5th Floor, in the United States Bankruptcy Court located at 824 N. Market Street, Wilmington, Delaware 19801.

IF YOU DO NOT TAKE THESE STEPS BY THE DEADLINE, THE COURT MAY DECIDE THAT YOU DO NOT OPPOSE THE RELIEF SOUGHT IN THE MOTION AND MAY GRANT OR OTHERWISE DISPOSE OF THE MOTION BEFORE THE SCHEDULED HEARING DATE.

GELLERT SCALI BUSENKELL & BROWN, LLC

BY: */s/ Sarah M. Ennis*

Dated: January 22, 2019

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Counsel to Debtors and Debtors-in-Possession

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

STARION ENERGY INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 18-12608 (MFW)

(Jointly Administered)

Objection Deadline: February 15, 2019 at 4:00 pm (ET)

Hearing Date: February 22, 2019 at 10:30 am (ET)

MOTION FOR PROTECTIVE ORDER TO SEAL DEBTORS' CUSTOMER LIST

Starion Energy Inc., Starion Energy NY Inc., and Starion Energy PA Inc. (collectively, "Starion" or "Debtors"), hereby seek a protective order with respect to the disclosure of their customer service list ("Motion"). In support thereof, Starion represents as follows:

I. FACTUAL BACKGROUND

1. On November 14, 2018, Starion filed these instant chapter 11 proceedings (the "Chapter 11 Cases").

2. Contemporaneously with the filing of the present Motion, Starion filed *Debtors' Motion for Entry of a Supplemental Order (I) Establishing Deadlines for Consumer Customers Submitting Proofs of Claim, (II) Approving the Form and Manner for Submitting Such Proof of Claim, and (III) Approving Notice Thereof* ("Supplemental Bar Date Motion").

3. The Supplemental Bar Date Motion was filed after Debtors' determined that it would be in the best interest of the estates and all parties in interest to provide notice of

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applicable bar dates to all consumer customers in Debtors' customer database. This Motion concerns those customers relevant to the Supplemental Bar Date Motion.

4. Starion seeks to file under seal the Supplemental Bar Date customer service list. The customer service list includes information such as names, addresses, individual customer utility account numbers, and other personally identifiable and sensitive information that should not be disclosed to the public.

5. In the pending State Court Action before the Superior Court of Massachusetts, Civil Action No. 18-3199H ("State Court Action"), an Order was entered on October 22, 2018 impounding certain exhibits containing individual customer utility account numbers and other sensitive information. *See* Impounding Order attached hereto as "**Exhibit A**". The purpose of the State Court Action impoundment was to secure sensitive and confidential customer information, including some of the same information contained on the customer service list.

II. RELIEF REQUESTED

6. By this Motion, Starion requests that the Court order, pursuant to Bankruptcy Code section 107 and Bankruptcy Rule 9018, that Starion's Supplemental Bar Date customer service list be sealed.

III. BASIS FOR RELIEF REQUESTED

7. 11 U.S.C. § 107(b)(1) provides a "commercial information" exception to public access of bankruptcy papers. Further, § 107(c)(1) allows, for cause, the protection of an individual's personally identifying information, such as, but not limited to, name, phone number, birthdate, unique electronic identification numbers, taxpayer number, and social security number.

8. "On motion . . . the court may make any order which justice requires (1) to protect . . . commercial information." Fed. R. Bankr. P. 9018.

9. If a document or information meets the standard set forth in section 107(b), “the court is required to protect a requesting interested party and has no discretion to deny the application.” *Video Software Dealers Ass’n v. Orion Pictures Corp. (In re Orion Pictures Corp.)*, 21 F.3d 24, 27 (2d Cir. 1004) (citation omitted).

10. Further, Chapter 27 of the Code of Massachusetts Regulations covers the safeguarding of personal information. The Massachusetts Attorney General has promulgated this regulation to “ensure the security and confidentiality of consumer . . . information in a manner fully consistent with industry standards; to protect against anticipated threats or hazards to the security or integrity of such information; and to protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any resident of the commonwealth.” 940 Mass. Code Regs. 27.01(3) (2018). The regulation “governs the collection, maintenance, and disclosure of ‘personal information,’” *Id.* at 27.01(4), which includes, generally “a person’s first name and last name or first initial and last name,” in addition to a resident’s social security number; driver’s license number; or financial account number, debit card number, or anything else that would permit access to a resident’s financial account. Mass. Gen. Laws Ann. ch. 93H, § 1 (West 2018).

11. Chapter 17 of the Code of Massachusetts Regulations covers the “standards for the protection of personal information of residents of the Commonwealth.” Its purpose is to “insure the security and confidentiality of customer information in a manner fully consistent with industry standards; protect against anticipated threats or hazards to the security or integrity of such information; and protect against unauthorized access to or use of such information that may result in substantial harm or inconvenience to any customer,” and applies to “all persons that own or

license personal information about a resident of the Commonwealth.” 201 Mass. Code Regs.

17.01. Personal information covers the same type of information described above. *Id.* at 17.02.

12. Here, pursuant to Bankruptcy Code sections 107(b) and (c) and Bankruptcy Rule 9018, the Court should authorize and direct Starion to seal the Supplemental Bar Date customer service list because it contains sensitive and confidential customer information. The customer service list constitutes “commercial information” pursuant to section 107(c) and as confidential information under section 107(c) and Bankruptcy Rule 9018, and as such, it must be protected.

13. This Court has held that customer lists constitute commercial information. *See, e.g., In re Nortel Networks, Inc.*, 2010 Bankr. LEXIS 5218, at *10 (Bankr. D. Del. Dec. 1, 2010) (finding that documents “that identify the Debtors’ customer constitute confidential commercial information, and therefore ... may be filed under seal.”). Accordingly, the customer list in this matter should be sealed as it is confidential commercial information pursuant to section 107(b).

14. Similarly, section 107(c) allows the court to protect an individual with respect to “any means of identification” if such information “would create undue risk of identity theft or other unlawful injury to the individual or the individual’s property.” 11 U.S.C. § 107(c)(1). As such, the customer list should be sealed pursuant to section 107(c) because it contains personally identifiable information regarding customers of Debtors, the exposure of which would place the customers at the undue risk of “identity theft or other unlawful injury.”

15. Additionally, Massachusetts law also protects this information, as described above. Many Starion customers are residents of Massachusetts, and the State Court Action has already determined that certain information, such as customer account numbers, are confidential and have already been afforded protection from public disclosure by that court. *See Exhibit A.*

16. Public disclosure of the customer list could have substantial adverse effects on the customers and there is no public interest in revealing this information publicly. Additionally, no party interested in these bankruptcy proceedings will be prejudiced by this information being sealed.

17. If the customer list is not sealed, the public availability of the information contained therein could jeopardize the security of customer accounts and leave customers at risk for privacy violations, identity theft, or other injury.

18. Based on the foregoing, Starion respectfully requests that this Court issue an order sealing its Supplemental Bar Date customer service list.

IV. CONCLUSION

WHEREFORE, Starion respectfully requests that the Court enter an order at its earliest convenience, (i) granting the Motion; (ii) issuing a protective order sealing the Supplemental Bar Date customer service list, (iii) granting such other and further relief as is just and appropriate.

Dated: January 22, 2019
Wilmington, Delaware

GELLERT SCALI BUSENKELL & BROWN, LLC

/s/ Sarah M. Ennis

Michael Busenkell (No. 3933)

Ronald S. Gellert (No. 4259)

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Counsel for Debtors and Debtors-in- Possession

EXHIBIT A

Noting

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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION NO. 18-3199H

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff

v.

STARION ENERGY, INC.;
STARTELDM, LLC;
TELELINK, LLC;
TELESTARS LLC;
F E Z LLC d/b/a SHORETEK;
RUZHDI DAUTI; and
DASHMIR MURTISHI,

Defendants

MASSACHUSETTS ELECTRIC COMPANY
d/b/a NATIONAL GRID; and
NSTAR ELECTRIC COMPANY
d/b/a EVERSOURCE ENERGY,

Trustee-Defendants only

~~PROPOSED~~ WRITTEN FINDINGS PURSUANT TO TRIAL COURT RULE VIII

Pursuant to Trial Court Rule VIII (Uniform Rules on Impoundment Procedure), the Court makes the following findings with respect to the Commonwealth of Massachusetts' (the "Commonwealth") Motion to Impound:

*Notice sent 10.23.18
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The*

1. Exhibit 47 to the Affidavit of Alexander M. Early is a printout of an Excel spreadsheet maintained by a Starion Energy, Inc. employee performing Quality Control. This spreadsheet contains customers' utility account numbers.
2. Exhibit 48 to the Affidavit of Alexander M. Early is a spreadsheet containing selections of Starion Energy, Inc. billing data from other states. This spreadsheet contains customers' utility account numbers.
3. Exhibit A to the Affidavit of Kristen Salera is a compact disc containing four audio recordings. Three of the audio recordings contain customers' utility account numbers. One audio recording does not contain the customer's utility account number.
4. Good cause exists for impounding these exhibits because they contain sensitive utility account information and there is no public interest in revealing this information.
5. Impounding the exhibits will not prejudice any party.
6. Exhibit 47 (Redacted), attached to the Affidavit of Elizabeth A. Anderson, is a version of Exhibit 47 with the utility account numbers redacted. Exhibit 47 (Redacted) will be substituted for Exhibit 47 in the public file.
7. Exhibit 48 (Redacted), attached to the Affidavit of Elizabeth A. Anderson, is a version of Exhibit 48 with utility account numbers redacted. Exhibit 48 (Redacted) will be substituted for Exhibit 48 in the public file.
8. Impoundment of the entirety of Exhibit A is necessary because the audio files are located on a single compact disc and redaction of the audio files is not feasible.
9. The impoundment is entered for the duration of the action. Upon judgment or other termination of this case, the clerk is directed to return the impounded materials to counsel for the Commonwealth..

By the Court,

JDRiccourt
Riccourt, J.
10/22/19

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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STARION ENERGY INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 18-12608 (MFW)

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RE: D.I. _____

**ORDER PURUSANT TO 11 U.S.C. 107(b), 107(c), AND FED. R. BANKR. P. 9018
SEALING DEBTORS' CUSTOMER LIST**

Upon consideration of the *Motion for Protective Order Regarding Debtors' Customer List* (the "Motion") filed by Starion Energy Inc., Starion Energy NY Inc., and Starion Energy PA Inc. ("Starion" or "Debtors"), debtors and debtors in possession in the above-captioned chapter 11 cases; and the Court having held a hearing on the Motion on February 22, 2019 (the "Hearing"); the Court finds and concludes as follows:

A. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2).

B. Venue is proper in this District under 28 U.S.C. §§ 1408 and 1409.

It is hereby ORDERED THAT:

1. For the reasons stated on the record at the Hearing, the Motion is hereby GRANTED as provided herein.

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2. Pursuant to Bankruptcy Code sections 107(b), 107(c) and Bankruptcy Rule 9018, the Court hereby authorizes and directs the Debtors to file under seal an unredacted version of the Supplemental Bar Date Motion customer service list.

3. The Clerk of the Court is directed to file and maintain the unredacted customer list under seal and shall not make it publicly available. The unredacted customer service list shall not be unsealed unless and until permitted by further order of this Court.

4. The Debtors are authorized to take all actions necessary to effectuate the relief granted herein.

5. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.