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Windstream Request for Confidential Treatment of Data

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20054

Dear Ms. Dortch:

Today, Windstream Communications, LLC (“Windstream”) is submitting its Base Period Revenue Adjustment for Tariff FCC No. 6, Access Services, which is being filed pursuant to the Commission’s Adjustment Order.¹ Because of the competitively sensitive nature of the information, Windstream has redacted certain rates and projected lines at the exchange level data, used in the ARC Spreadsheet, as well as line data list in the Summary Eligible Recovery Worksheet and Eligible Recovery True-Up. In addition, Windstream also has redacted Intrastate and Interstate Demand and both Intrastate and Interstate Price outs as found on the Access Reduction Spreadsheet. Accordingly, pursuant to Sections 0.457 and 0.459 of the Commission’s rules, Exemption 4 of the Freedom of Information Act (“FOIA”), as well as the Tariff Streamlining Order² and the rules adopted hereunder, Windstream is hereby requesting that such demand data be treated as confidential and be made subject to the standard Protective Order and Declaration adopted by the Commission in the Tariff Streamlining Order and published in Appendix B hereof. 47 C.F.R. §§ 0.457, 0.459; U.S.C. § 552(b)(4).

¹ *In the Matter of Connect America Fund, Developing a Unified Intercarrier Compensation Regime, Petition for Waiver of Section 51.917(c) and (d) of the Commission’s Rules*, Order, 32 FCC Rcd. 4119 (2017) (“Adjustment Order”)

² *In the Matter of Implementation of Section 402(b)(1)(A) of the Telecommunications Act of 1996*, Order, 12 FCC Rcd. 2170 (1997) (“Tariff Streamlining Order”)

Under Exemption 4 of the FOIA, commercial or financial information is held to be confidential, and thus entitled to protection, if disclosure of such information would, *inter alia*, be likely to cause substantial harm to the competitive position of the person from whom the information was obtained. See *National Parks and Conservation Ass'n. v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974); and *Critical Mass Energy Project v. NRC*, 830 F.2d 278, 873 (D.C. Cir. 1987). The Commission has consistently held that subscriber data satisfy the requirements of Exemption 4. See, e.g., *Cox Communications, Inc.; Request for Confidentiality for Information Submitted on Forms 325 for the Year 2003*, 19 FCC Rcd. 12160, ¶ 12 (2004); *Comcast Cable Communications, Inc.; Request for Confidentiality for Information Submitted on Forms 325 for the Year 2003*, 19 FCC Rcd. 12165, ¶ 6 (2004); *Time Warner Cable; Request for Confidentiality for Information Submitted on Forms 325 for the Year 2003*, 19 FCC Rcd. 12170, ¶ 5 (2004); *Altirio Communications, Inc.; Request for Confidentiality for Information Submitted on Forms 325 for the Year 2003*, 19 FCC Rcd. 12176, ¶¶ 4-5 (2004).

The information for which Windstream seeks confidential treatment is competitively sensitive particularized rates and demand data which, if made available to competitors and alternative providers, would provide such entities with valuable information regarding Windstream's customer base in particular exchanges within a state. The Access Reduction spreadsheet also has the same concerns. Windstream has not filed this type of level of data, consider this valuable information at the level of services and location. This information would assist competitors in targeting their marketing efforts to the areas with the largest concentrations of customers. Windstream is subject to actual and potential competition with respect to all of its services. The demand data provides a roadmap detailing the level of success Windstream is experiencing with specific types of services in particular geographic areas. If competitors are able to gain an unfair advantage by obtaining such detailed picture of Windstream's strategies and successes, they may be able to anticipate Windstream's strategic initiatives in a targeted way.

For these reasons, Windstream respectfully requests that the Commission grant confidential treatment to certain rates and exchange level detail end user demand information as well as Access Reduction demand Price out data, and that such information be subject to the standard protective order provided for in the Tariff Streamlining Order.

Pursuant to the non-disclosure agreement that provides for review of information granted confidential treatment by interested parties, for the specific purpose of review and comment on the instant transmittal only, Windstream will provide access and review of such information to signatories of such an agreement at the location listed below.

All correspondence and inquiries in connection with this request should be forwarded to Kerry Smith, Staff Manager - Finance, via email at Kerry.Smith@windstream.com.

A handwritten signature in black ink, appearing to read "Cesar Caballero", with a stylized flourish at the end.

Cesar Caballero