

June 17, 2019

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Attention: Wireline Competition Bureau

**RE: Cincinnati Bell Telephone and Hawaiian Telcom
Request for Confidential Treatment of Demand Data**

In support of Transmittal Nos. 923 and 140 respectively being filed on a streamlined basis on 15 days' notice under Section 204(a)(3) of the Communications Act.

Dear Ms. Dortch:

Today, the Cincinnati Bell Telephone Company LLC (CBT) and Hawaiian Telcom are submitting their 2019 Annual Access filing for Tariff FCC No 35, Access Services under Transmittal Nos. 923 and 140 respectively, which is being filed on 15 days' notice pursuant to the Commission's Tariff Streamlining Order.¹ Because of the competitively sensitive nature of the information, CBT and Hawaiian Telcom have redacted certain projected line count data at the exchange level used in the ARC Spreadsheet. In addition, CBT and Hawaiian Telcom have also redacted the True-up Spreadsheet associated with Transmittal Nos. 923 and 140. 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 Order and the rules adopted thereunder, CBT and Hawaiian Telcom are 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 thereof. 47 C.F.R. §§ 0.457, 0.459; 5 U.S.C. § 552(b)(4).

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.

¹ *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").

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); and Altrio 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 CBT and Hawaiian Telcom seek confidential treatment is competitively sensitive particularized demand data, which, if made available to competitors and alternative providers, would provide such entities with valuable information regarding CBT's and Hawaiian Telcom's customer base in particular exchanges within a state. CBT also has the same concerns with the Access Reduction spreadsheet and the True-up Spreadsheet. CBT and Hawaiian Telcom consider this information at this level of detail of services and location valuable to competitors. The only previous times that CBT and Hawaiian Telcom have filed this type of detailed data with the Commission (with its 2012, 2013, 2014, 2015, 2016, 2017 and 2018 Annual Access filings), CBT and Hawaiian Telcom also did so pursuant to a request for confidential treatment. This information would assist competitors in targeting their marketing efforts to the areas with the largest concentrations of customers. CBT and Hawaiian Telcom are subject to actual and potential competition with respect to all of its services. The demand data provides a roadmap detailing the level of success CBT and Hawaiian Telcom are experiencing with specific types of services in particular geographic areas. If competitors are able to gain an unfair advantage by obtaining such a detailed picture of CBT's and Hawaiian Telcom's strategies and successes, they may be able to anticipate CBT's and Hawaiian Telcom's strategic initiatives in a targeted way.

For these reasons, CBT and Hawaiian Telcom respectfully request that the Commission grant confidential treatment to certain exchange level detail end user demand information as well as Access Reduction demand and Price out data, submitted in support of Transmittal Nos. 923 and 140, 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, CBT and Hawaiian Telcom 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 Michael E. Bishop, Senior Manager, Switched Services & Regulatory, via facsimile on (513) 421-1367 or by hand-delivery to 221 E Fourth Street, §Cincinnati, OH 45202.

Very truly yours,



Douglas E. Hart