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

Re: **Transmittal No. 325, Request for Confidential Treatment**

Dear Ms. Dortch:

Pursuant to the Commission's rules related to the Freedom of Information Act, 47 C.F.R. §§ 0.457 and 0.459, the Verizon Telephone Companies ("Verizon") hereby submits this request for confidential treatment of certain cost support and demand data filed in conjunction with Transmittal No. 325, which introduces Verizon Infospeed Premium Digital Subscriber Line Service. The information for which protection is requested has been redacted and marked as "proprietary." Verizon requests that the material marked as proprietary be withheld from public release except to persons who execute the Commission's standard protective agreement. *See Implementation of Section 402(b)(1)(A) of the Telecommunications Act of 1996*, 12 FCC Rcd 2170 (1997) ("Tariff Streamlining Order").

The attached document for which confidential treatment is being requested contains commercially sensitive cost and demand information relating to Verizon's costs of providing broadband services and its anticipated demand for these services. These data constitute "trade secrets and commercial or financial information" that are "confidential" and exempt from disclosure under the Exemption 4 of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b)(4). Verizon submits the following information as required by section 0.459(b) of the Commission's rules in support of its request.

(1) Identification of the specific information for which confidential treatment is sought.

Verizon requests that the information marked as “proprietary” in the attached redacted versions of the Transmittal No. 325 be treated as confidential information under Exemption 4 of the Freedom of Information Act. These data include cost and demand data for Verizon's provision of broadband DSL services.

(2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstance giving rise to the submission.

This information was submitted by Verizon as part of the cost support for Verizon's Transmittal No. 325 to introduce Verizon Infospeed Premium Digital Subscriber Line Service.

(3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.

The information for which Verizon seeks confidential treatment consists of data concerning the costs that Verizon incurs to provide premium DSL service and the demand that it anticipates for this service. This is commercially sensitive information that telecommunications carriers normally keep confidential. Verizon keeps these data confidential and does not voluntarily disclose the information outside the company unless compelled by law or subject to nondisclosure agreements.

(4) Explanation of the degree to which the information concerns a service that is subject to competition.

The information concerns Verizon's deployment and provision of broadband services over its local loop plant. The broadband market is growing rapidly and is highly competitive, with numerous providers competing for market share through alternative platforms. Verizon Infospeed Premium Digital Subscriber Line Service is subject to competition from both competitive local exchange carriers who offer broadband services over their own facilities as well as Verizon's and from other providers of broadband services to residential and business customers, including cable companies, satellite companies, and wireless carriers. Broadband providers seek to offer customers the best combination of price and quality of service and seek to obtain any advantage that is available over their competitors.

(5) Explanation of how disclosure of the information could result in substantial competitive harm.

Disclosure of these data would subject Verizon to substantial competitive harm. Disclosure of these data would give competitors insight into Verizon's supplier costs for

DSL service and provide them an insight into Verizon's ability to respond to competitive challenges. The demand data reveal Verizon's anticipated success in marketing premium DSL services. This information would aid competitors in assessing the attractiveness of offering similar services in the Verizon service areas. Disclosure of Verizon's cost and demand data would put Verizon at a disadvantage because it lacks similar information about its competitors. The fact that Verizon's competitors treat this information as highly confidential demonstrates the competitive harm that Verizon would suffer if this information were made public.

(6) Identification of any measures taken by the submitting party to prevent unauthorized disclosure, and

(7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.

This information is kept confidential within Verizon and is not ordinarily disclosed to persons outside the company. This information is restricted within the company to persons with a need to know. Company practices instruct employees not to disclose this information unless required to do so by competent authority. When such information is disclosed in regulatory proceedings voluntarily or by order of the commission, it is accompanied by requests for confidential treatment.

(8) Justification of the period during which the submitting party asserts that material should not be available for public disclosure.

The material must be kept confidential for an indefinite period. Confidential treatment must be accorded for as long as the information would provide a basis for competitors to assess the financial condition and marketing plans for long distance services. Verizon cannot determine at this time any date by which the information would become "stale" for these purposes.

(9) Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.

Under applicable Commission and court rulings, this material should be kept confidential and should not be disclosed to the public. Exemption 4 of the Freedom of Information Act shields information from public disclosure that is (1) commercial or financial in nature; (2) obtained from a person outside the government; and (3) privileged or confidential. *See Washington Post Co. v. U.S. Department of Health and Human Services*, 690 F.2d 252 (D.C. Cir. 1982). The attached information clearly meets the first two elements of that test. With respect to the third element of the above test, the Court found in *National Parks and Conservation Ass'n v. Morton*, 498 F. 2d 765, 770 (D.C. Cir. 1974) that information is considered "confidential" if disclosure is likely to (1) impair the government's ability to obtain necessary information in the future, or (2)

disclosure is likely to harm substantially the competitive position of the person from whom the information was obtained.

The Commission has recognized that competitive harm can result from the disclosure of confidential business information that gives competitors insight into a company's costs, pricing plans, market strategies, and customer identities. *See, e.g., Pan American Satellite Corp.*, 4 FCC Rcd 4586 (1989).

Protective Order Requested

Pursuant to the *Tariff Streamlining Order*, the Commission should permit disclosure of the unredacted information to persons, other than a Commission employee working directly on the matter, only if those persons sign the Commission's standard protective agreement. In addition, please provide me sufficient advance notice prior to any public disclosure to allow Verizon to pursue appropriate remedies to preserve the confidentiality of the information.

Sincerely

Joseph DiBella

Attachments