

FILE

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March 27, 2012

VIA FEDERAL EXPRESS

Ms. Renee Jenkins
Chief, Docketing Division
The Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43215-3793

**Re: In the Matter of the Application of Cincinnati Bell Telephone Company LLC
to Revise Its Lifeline Recovery Surcharge and Report Associated Annual
Expense and Revenue Data, Case No. 11-1339-TP-ATA**

Dear Ms. Jenkins:

Enclosed please find an original and ten copies of Cincinnati Bell Telephone Company LLC's Motion for Protective Order and a confidential envelope containing three copies of the information that is subject to the Motion for Protective Order. Please file these materials in the above referenced docket.

CBT is separately making an electronic filing with the Commission today of its Application to Revise its Lifeline Recovery Surcharge. The Application contains a redacted public version of the confidential data enclosed herewith.

Please do not hesitate to contact me if there are any questions about the filing.

Very truly yours,



Douglas E. Hart

DEH
Enclosures

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

RECEIVED-DOCKETING DIV

2012 APR 30 PM 1:05

In the Matter of the Application of :
Cincinnati Bell Telephone Company :
LLC to Revise its Lifeline Recovery :
Surcharge and Report Associated Annual : Case No. 11-1339-TP-ATA
Expense and Revenue Data :
:
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PUCO

**MOTION OF CINCINNATI BELL TELEPHONE COMPANY LLC
FOR A PROTECTIVE ORDER**

Cincinnati Bell Telephone Company LLC ("CBT"), the applicant in this proceeding, moves for a protective order, pursuant to Commission Rule 4901-1-24(D), keeping confidential the proprietary information used to support its Application in this case. The reasons for this motion are detailed in the attached Memorandum in Support. In accordance with Commission Rule 4901-1-24(D), three unredacted copies of the confidential information which is the subject of this Motion have been filed under seal.

Respectfully submitted,



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dhart@douglasehart.com

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	:	
Cincinnati Bell Telephone Company	:	
LLC to Revise its Lifeline Recovery	:	11
Surcharge and Report Associated Annual	:	Case No. 12 -1339-TP-ATA
Expense and Revenue Data	:	
	:	

MEMORANDUM IN SUPPORT OF MOTION FOR PROTECTIVE ORDER

Contemporaneous with the filing of this Motion for Protective Order, CBT is filing its required annual report regarding its Lifeline Recovery Surcharge, as well as an application to adjust the rate downward effective May 1, 2012. The annual report and the calculation of the adjusted Lifeline Recovery Surcharge contain proprietary information of CBT for which it seeks protection from public disclosure.

Division (D) of Rule 4901-1-24 provides that the Commission or certain designated employees may issue an order which is necessary to protect the confidentiality of information contained in documents filed with the Commission's Docketing Division to the extent that state or federal law prohibits the release of the information and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code. As set forth herein, the information described below represents confidential business information and, therefore, should be protected from disclosure.

In its annual report for the period ended April 30, 2012 and in its calculation in support of its application for a Lifeline Recovery Surcharge adjustment, CBT is providing confidential information regarding the number of customers receiving Lifeline service in each of its exchanges and the resulting revenue losses attributable to Lifeline discounts. This data was necessary to report on past results and to calculate the Lifeline Recovery Surcharge adjustment.

This data is highly confidential and proprietary to CBT. Specific information of this nature is generally protected from disclosure in Commission proceedings.

The need to protect the designated information from public disclosure is clear and there is compelling legal authority supporting the requested protective order. While the Commission has often expressed its preference for open proceedings, the Commission also long ago recognized its statutory obligations with regard to trade secrets:

The Commission is of the opinion that the “public records” statute must also be read *in pari material* with Section 1333.31, Revised Code (“trade secrets” statute). The latter statute must be interpreted as evincing the recognition, on the part of the General Assembly, of the value of trade secret information.

In re General Telephone Co., Case No. 91-383-TP-AIR (Entry, Feb. 17, 1982). Likewise, the Commission has facilitated the protection of trade secrets in its rules. Ohio Admin. Code § 4901-1-24(A)(7).

The definition of a “trade secret” is set forth in the Uniform Trade Secrets Act:

“Trade secret” means information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement, or any business information or plans, financial information, or listing of names, addresses, or telephone numbers, that satisfies both of the following:

- (1) It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.
- (2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Revised Code § 1333.61(D). This definition clearly reflects the state policy in favor of the protection of trade secrets such as the information which is the subject of this motion.

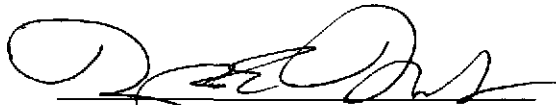
In 1996, the General Assembly amended Revised Code §§ 4901.12 and 4905.07 in order to facilitate the protection of trade secrets in the Commission’s possession. By referencing

Revised Code § 149.43, the Commission-specific statutes now incorporate the provision of that statute that excepts from the definition of “public record” records the release of which is prohibited by state or federal law. Revised Code § 149.43(A)(1).

State law prohibits the release of information meeting the definition of a trade secret. Revised Code §§ 1333.61(D), 1333.62. The protection of trade secret information as requested herein will not impair the Commission’s regulatory responsibilities. The Commission and its Staff will have full access to the information in order to review the calculations used in the application. Intervenors may obtain access to the information by signing a protective order limiting their use of the information to purposes of preparing this case and prohibiting the public disclosure of the confidential information. No purpose of Title 49 would be served by the public disclosure of the information.

For these reasons, CBT requests that the Commission enter a protective order, allowing CBT to file the proprietary data supporting its application in this matter under seal, affording the maximum confidentiality protection available.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Douglas E. Hart', is written over a horizontal line.

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