



Information would provide competitors with an unfair commercial advantage and by providing them with information on Cricket Wireless's subscriber lines and valuable potential competitive market opportunity information for customers in the service area.

The Kentucky Open Records Act exempts certain information from public disclosure requirements of the Act, including confidential and/or proprietary information, the disclosure of which would permit an unfair commercial advantage to competitors. KRS 61.878(1)(c)1. To qualify for the commercial information exemption and, therefore, keep the information confidential, a party must establish that the disclosure of the commercial information would permit an unfair advantage to competitors and the parties seeking confidentiality if openly discussed. KRS 61.878(1)(c)1; 807 KAR 5:001 §13. The Commission has taken the position that the statute and rules require the party to demonstrate actual competition and the likelihood of competitive injury if the information is disclosed.

The Confidential Information for which Cricket Wireless seeks confidentiality contains confidential subscriber line information and potential market opportunity information. This Confidential Information is commercially sensitive information that Cricket Wireless's competitors could use it for their commercial advantage. Public disclosure of the identified Confidential Information would provide competitors that provide services similar to that of Cricket Wireless with an unfair competitive advantage, i.e., giving them the ability to target Cricket Wireless's customers in the service area.

The Commission should also grant confidential treatment to the Confidential Information for the following reasons:

- (1) The Confidential Information for which Cricket Wireless is requesting confidential treatment is not generally known outside of Cricket Wireless;

(2) The Confidential Information is not disseminated within Cricket Wireless and is known only by those of Cricket Wireless's employees who have a legitimate business need to know and act upon the information;

(3) Cricket Wireless seeks to preserve the confidentiality of this Confidential Information through appropriate means, including the maintenance of appropriate security at its offices; and

(4) By granting Cricket Wireless's petition, there would be no damage to any public interest.

For the forgoing reasons, the Commission should grant Cricket Wireless's request for confidential treatment of the identified Confidential Information.

Respectfully submitted,

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### **FILING NOTICE AND CERTIFICATE**

The undersigned hereby certifies that the foregoing is a true and accurate copy of the same document being filed in paper medium with the Commission within two business days; that the electronic filing was transmitted to the Commission on August 18, 2016; and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

/s/ Cheryl R. Winn