

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

ELECTRONIC INVESTIGATION OF THE)	CASE NO.
PROPOSED POLE ATTACHMENT TARIFFS OF)	2022-00108
INCUMBENT LOCAL EXCHANGE CARRIERS)	

MOTION OF CINCINNATI BELL TELEPHONE COMPANY LLC
d/b/a/ ALTAFIBER FOR CONFIDENTIAL TREATMENT

Cincinnati Bell Telephone Company LLC d/b/a/ altafiber (“altafiber”) hereby moves the Kentucky Public Service Commission ("Commission") pursuant to KRS 61.878(1) and 807 KAR 5:001, Section 13, to grant confidential protection for the documents which are responsive to Item 12 of the Staff’s Second Request for Information to altafiber.

1. Item 12 of the Staff’s Second Request for Information asks altafiber to provide "any current joint use agreements."
2. Altafiber seeks confidential protection for the entirety of each joint use agreement because of the pervasive nature of the confidential business information contained in each document. The joint use agreements contain detailed terms and conditions negotiated between private parties addressing matters such as maintenance, access, risk allocation, and insurance, as well as the applicable rates and fees to be paid by the parties. Moreover, some of the counterparties to altafiber’s pole attachment agreements have informed altafiber that they intend to seek confidential treatment and have specifically requested that altafiber do the same. In light of these facts, and fully consistent with the Commission’s treatment of similar joint use agreements in years past (as described below), altafiber requests that each complete agreement remain unavailable to the general public, as contemplated by 807 KAR 5:001 Section 13(2)(a)(3)b.

3. The Kentucky Open Records Act exempts from disclosure information “records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.” KRS 61.878(1)(c)(1).

4. As noted above, the joint use agreements include detailed terms and rates negotiated between private parties, retained by the parties as confidential business information. If potential users seeking pole attachments outside the tariff had access to the existing joint use agreements, the potential users could use the information to unfairly negotiate terms to the detriment of the contract parties and other users. Likewise, disclosure of the joint use agreements would afford altafiber’s contractors and other parties access to information material to this specific line of business, thereby allowing them to manipulate contract negotiations and bidding processes. If altafiber’s potential counterparties or competitors are privy to detailed information about its acceptable risk tolerances, financial arrangements, or like information about the inner-workings of the company, the advantage they gain is a competitive disadvantage to altafiber. Thus, disclosing the agreements could potentially harm the relationships that altafiber has with existing pole attachment users and could place altafiber at a competitive disadvantage in negotiating future pole attachment agreements.

5. The Commission has previously granted confidential protection to similar agreements between joint users on the grounds described herein. *See In the Matter of Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2014-00371, Order Regarding Request for Confidential Treatment to KIUC’s Initial Request for Information (Ky. PSC Dec. 2, 2015); *In the Matter of Application of Louisville Gas & Electric Company for*

an Adjustment of its Electric Rates, Case No. 2016-00371, Order Regarding Request for Confidential Treatment to AT&T Kentucky's First Request for Information (Ky. PSC Dec. 10, 2018). In those cases, as here, at issue were third-party joint use and pole attachment agreements, and the Commission determined that those agreements should remain under seal in order to avoid an unfair commercial advantage to the utility's counterparties/competitors.

6. The information for which altafiber is seeking confidential treatment is not known outside of altafiber and the contract counterparties, and it is not disseminated within altafiber except to those employees with a legitimate business need to know the information.

7. altafiber requests that each joint use agreement remain confidential until five (5) years after its expiration or termination, as the public disclosure of the proprietary and confidential information contained therein could be used to altafiber's competitive disadvantage through that time.

8. Pursuant to the Commission's March 24, 2020 Order in *in the Matter of Electronic Emergency Docket Related to the Novel Coronavirus COVID-19*, Case No. 2020-00085, one copy of each joint use agreement, marked "CONFIDENTIAL," is submitted concurrently with this motion by email to PSCED@ky.gov with a read receipt. Because confidential treatment is sought for the entirety of these documents pursuant to 807 KAR 5:001, Section 13(2)(a)(3)(b), a redacted copy of each has not been filed or uploaded to the public docket.

9. altafiber will disclose the confidential information, pursuant to a confidentiality agreement, to intervenors with a legitimate interest in this information and as required by the Commission.

WHEREFORE, altafiber respectfully requests that the Commission grant confidential protection for the information responsive to Request 12 of the Staff's Second Request for Information from altafiber.

Dated: June 2, 2022

Respectfully submitted,

/s/ Douglas E. Hart

Douglas E. Hart

1818 Madison Road

Cincinnati, Ohio 45206

(513) 621-6709

dhart@douglasshart.com

*Counsel for Cincinnati Bell Telephone
Company LLC d/b/a altafiber*

CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2022, I electronically filed the foregoing document using the Kentucky Public Service Commission's electronic system for filing, which sent notice of filing to counsel of record.

/s/ Douglas E. Hart _____