



Comcast Corporation  
300 New Jersey Avenue, NW  
Suite 700  
Washington, DC 20001

**REDACTED FOR PUBLIC INSPECTION – SUBJECT TO REQUEST FOR  
CONFIDENTIAL TREATMENT PURSUANT TO 47 C.F.R. §§ 0.457 AND 0.459**

June 26, 2019

**VIA ELECTRONIC FILING**

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

Re: Request for Confidential Treatment: Modernizing the FCC Form 477 Data  
Program, WC Docket No. 11-10

Dear Ms. Dortch:

Comcast Corporation (“Comcast”) hereby submits the attached redacted version of its Notice of *Ex Parte* filing regarding its meetings with Federal Communications Commission (“FCC” or “Commission”) staff in the above-referenced docket (the “*Ex Parte*”). A confidential version of the *Ex Parte* has been hand delivered to the Commission today.

Pursuant to Exemption 4 of the Freedom of Information Act (“FOIA”) and FCC rules,<sup>1</sup> Comcast requests confidential treatment for the information in the *Ex Parte*, which contains commercially sensitive information (the “Comcast Information”). The Comcast Information relates to Comcast’s network and deployment of broadband service in the United States and includes company-specific, highly confidential and/or proprietary commercial information, including information protected from disclosure by FOIA Exemption 4<sup>2</sup> and the Commission’s rules protecting information that is not routinely available for public inspection and that would customarily be guarded from competitors.<sup>3</sup>

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<sup>1</sup> 5 U.S.C. § 552(b)(4); 47 C.F.R. §§ 0.457(d) and 0.459; *see also* 18 U.S.C. § 1905 (prohibiting disclosure “to any extent not authorized by law” of “information [that] concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association”).

<sup>2</sup> 5 U.S.C. § 552(b)(4).

<sup>3</sup> 47 C.F.R. §§ 0.457(d) and 0.459.

1. *Identification of the specific information for which confidential treatment is sought.* Comcast requests that the Comcast Information be treated as confidential pursuant to Exemption 4 of FOIA and Sections 0.457(d) and 0.459 of the Commission's rules, which protect confidential commercial and other information not routinely available for public inspection. The Comcast Information concerns a map of Comcast's network and deployment of broadband service. This is company-specific, competitively-sensitive, business confidential and/or proprietary and commercial information concerning Comcast's operations that would not routinely be made available to the public, and has been carefully guarded from competitors. If it were disclosed, Comcast's potential competitors could use it to determine information regarding Comcast's competitive position, operations, and performance, and could use that information to gain a competitive advantage over Comcast.

2. *Identification of the Commission proceeding in which the information was submitted or a description of the circumstance giving rise to the submission.* Comcast is submitting the *Ex Parte* in the FCC's Wireline Competition Bureau Docket No. 11-10.

3. *Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.* The Comcast Information contains company-specific, competitively-sensitive, confidential and/or proprietary, commercial information.<sup>4</sup> This information can be used to determine information about Comcast's operations that is sensitive for competitive and other reasons. This information would not customarily be made available to the public in this form and customarily would be guarded from all others, especially potential competitors, that could use the information to enhance their market position at Comcast's expense.

4. *Explanation of the degree to which the information concerns a service that is subject to competition.* The confidential information at issue relates to Comcast's network and deployment of broadband service, which is subject to vigorous competition from other providers. If the information is not protected, Comcast's competitors and potential competitors will be able to use it to their competitive advantage.

5. *Explanation of how disclosure of the information could result in substantial competitive harm.* Since the Comcast Information generally would not be subject to public inspection and would customarily be guarded from competitors, the Commission's rules recognize that release of the information is likely to produce competitive harm. Disclosure could cause substantial competitive harm, because Comcast's competitors and potential competitors

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<sup>4</sup> The Commission has broadly defined commercial information, stating that "[c]ommercial' is broader than information regarding basic commercial operations, such as sales and profits; it includes information about work performed for the purpose of conducting a business's commercial operations." *Southern Company Request for Waiver of Section 90.629 of the Commission's Rules*, Memorandum Opinion and Order, 14 FCC Rcd 1851, 1860 (1998) (citing *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1290 (D.C. Cir. 1983)).

could assess aspects of Comcast's commercial operations and could use that information to undermine Comcast's competitive position.

6.-7. *Identification of any measures taken by the submitting party to prevent unauthorized disclosure, and identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.* The Comcast Information is not available to the public, and has not otherwise been disclosed previously to the public. Comcast takes precautions to ensure that this information is not released to the general public or obtained by its competitors and potential competitors through other means.

8. *Justification of the period during which the submitting party asserts that the material should not be available for public disclosure.* Comcast requests that the Comcast Information be treated as confidential indefinitely, as it is not possible to determine at this time any date certain by which the information could be disclosed without risk of harm.

9. *Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.* Where disclosure is likely to impair the government's ability to obtain necessary information in the future, it is appropriate to grant confidential treatment to that information.<sup>5</sup> Failure to accord confidential treatment to this information is likely to dissuade providers from voluntarily submitting such information in the future, thus depriving the FCC of information necessary to evaluate facts and market conditions relevant to its jurisdiction.

If a request for disclosure occurs, please provide sufficient advance notice to the undersigned prior to any such disclosure to allow Comcast to pursue appropriate remedies to preserve the confidentiality of the information.

If you have any questions or require further information regarding this request, please do not hesitate to contact me.

Respectfully submitted,

/s/ Beth Choroser

Beth Choroser

Vice President

Regulatory Affairs

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<sup>5</sup> See *National Parks and Conservation Ass'n. v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974); see also *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 878 (D.C. Cir. 1992) (*en banc*) (recognizing the importance of protecting information that "for whatever reason, 'would customarily not be released to the public by the person from whom it was obtained'" (citation omitted)).

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Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Notice of *Ex Parte*: Modernizing the FCC Form 477 Data Program, WC Docket  
No. 11-10

Dear Ms. Dortch:

On June 24, 2019, the undersigned of Comcast Corporation (“Comcast”), along with Emily Daniels of Lawler, Metzger, Keeney & Logan, LLC, outside counsel to Comcast, met with Kris Monteith, Kirk Burgee, Steven Rosenberg, Justin Faulb, and Jesse Jachman of the Wireline Competition Bureau and Giulia McHenry, Kenneth Lynch, Ying Ke, and Suzanne Mendez of the Office of Economics and Analytics.

During the meeting, Comcast’s representatives suggested that the Commission’s work in this proceeding should be aimed at balancing the three primary considerations in collecting deployment data: granularity, accuracy, and timeliness. Toward those ends, Comcast reiterated its support for NCTA’s proposal to reform the Form 477 reporting system by: (1) requiring that providers report broadband availability by submitting polygon shapefiles that represent the geographic areas where a provider offers service; and then (2) incorporating crowdsourcing to supplement the FCC’s review of Form 477 filings.<sup>1</sup> Comcast then explained the basis for its view that NCTA’s proposed approach would achieve the best balance among the three relevant factors.

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<sup>1</sup> Letter from Steven F. Morris, NCTA, to Marlene H. Dortch, FCC Secretary, WC Docket No. 11-10 (Feb. 28, 2019) (“NCTA Proposal”).

Comcast indicated that the submission of polygon shapefiles would significantly increase the accuracy of the reported data because polygon shapefiles are more closely tied to a provider's actual service area than census blocks. For example, Comcast circulated the polygon shapefile at Attachment A to illustrate that these types of submissions accurately reflect coverage in partially served census blocks that may not be depicted correctly in the current broadband map.<sup>2</sup> Polygon shapefiles also would identify as served the many locations to which a service provider could provide service within 7 to 10 business days. As NCTA has indicated, "any revision to the reporting requirements should make clear that areas where a provider can respond to a request for service in a standard installation interval without special construction charges should be reported as served."<sup>3</sup>

Comcast's representatives further stated that a mapping approach based on polygons of service availability can be implemented more quickly than an address-based approach.<sup>4</sup> Notably, polygon areas can be generated using sources that providers regularly update in the ordinary course of business (*e.g.*, network maps, homes passed data). Moreover, the fact that polygon shapefiles have been used for mapping broadband deployment in other contexts by federal and state agencies suggests that this approach similarly should be technically feasible for purposes of FCC Form 477 submissions.<sup>5</sup> As a result, Comcast anticipates that updated broadband maps based on polygon shapefiles can be created in time to determine the areas eligible for the Rural Digital Opportunities Fund.

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<sup>2</sup> In the shapefile, census block boundaries are reflected using red lines. Comcast's service area is shaded in green.

<sup>3</sup> Letter from Steven F. Morris, NCTA, to Marlene H. Dortch, FCC Secretary, WC Docket Nos. 11-10 and 19-126, at 2 (June 13, 2019) (further indicating that "this definition should include areas where it may be necessary for a provider to extend a drop from the network to the home or business (*e.g.*, for a home that has not previously purchased service from the provider), but not for locations where the network itself must be extended at the customer's expense") ("NCTA June Letter").

<sup>4</sup> *See, e.g.*, Letter from Beth Choroser, Comcast Corporation, to Marlene H. Dortch, FCC Secretary, WC Docket No. 11-10 (Nov. 28, 2018) (outlining the practical difficulties associated with an address-based approach).

<sup>5</sup> *See, e.g.*, NCTA June Letter at 2 (describing the use of polygon shapefiles in the Rural Utilities Service's ReConnect Program); NCTA Proposal at 2 (indicating that "several NCTA members recently participated in a voluntary mapping exercise in Kansas that was based on shapefile reporting.").

Respectfully submitted,

/s/ Beth Choroser

Beth Choroser

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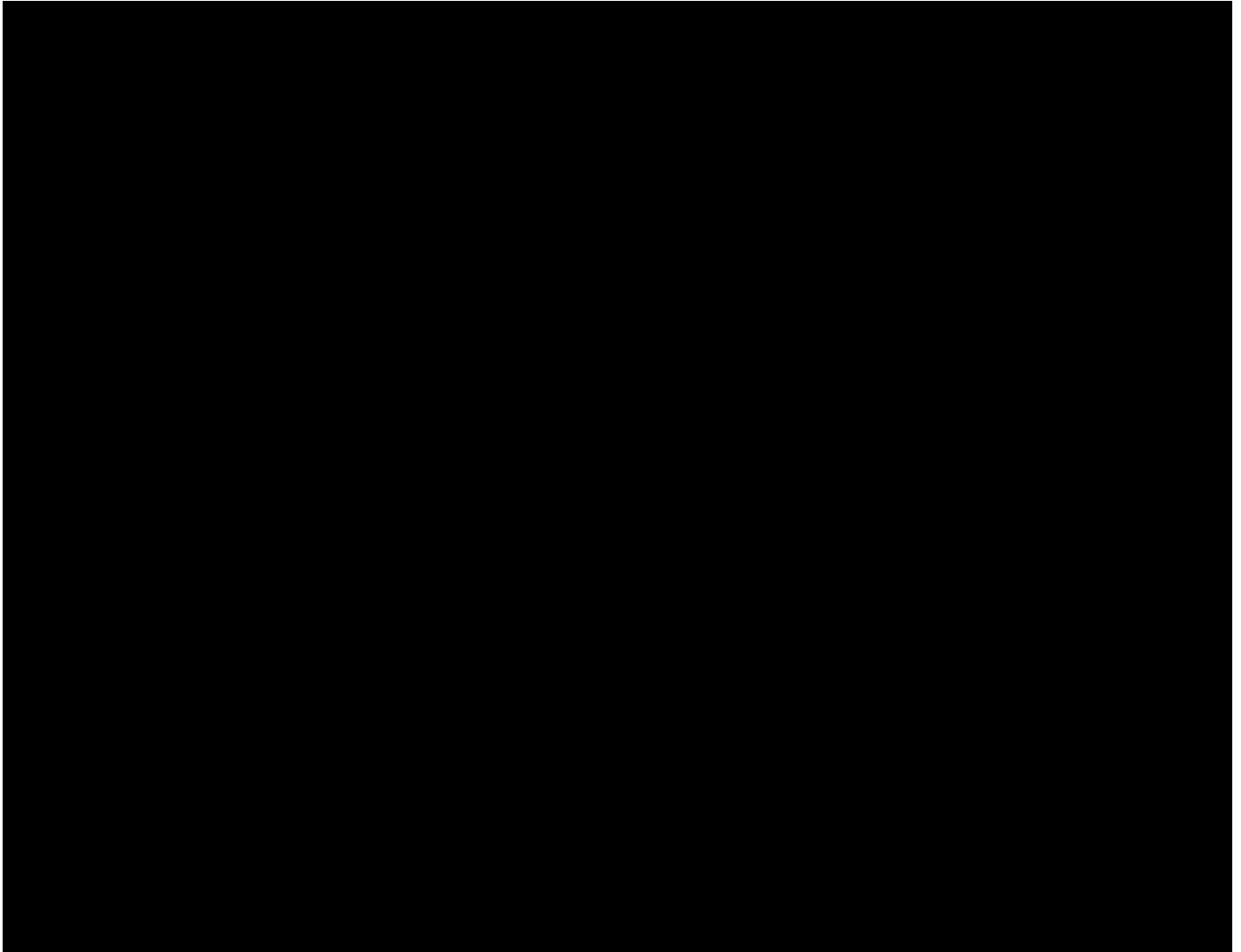
cc: Kris Monteith  
Kirk Burgee  
Steven Rosenberg  
Justin Faulb  
Jesse Jachman  
Giulia McHenry  
Kenneth Lynch  
Ying Ke  
Suzanne Mendez

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**ATTACHMENT A**

**Sample Polygon Shapefile**

**[BEGIN CONFIDENTIAL]**



**[END CONFIDENTIAL]**

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