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March 21, 2011

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VIA ELECTRONIC FILING

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

Re: *Petition of Puerto Rico Telephone Company, Inc. and Puerto Rico Telephone Larga Distancia, Inc. For Waiver of Section 64.1903 of the Commission's Rules, WC Docket No. 10-52*

REDACTED—FOR PUBLIC INSPECTION

Dear Ms. Dortch:

On March 18, 2011, in connection with the above-referenced proceeding, Priscilla Delgado and the undersigned of Wiley Rein LLP, counsel to Puerto Rico Telephone Company, Inc. ("PRT"), met with Lisa Gelb, Associate Bureau Chief, Wireline Competition Bureau; William Kehoe, Senior Counsel, Competition Policy Division; William Dever, Division Chief, Competition Policy Division; Claudia Pabo, Special Advisor, Wireline Competition Bureau; Pam Megna, Senior Economist, Wireline Competition Bureau; and Gregory Kwan, Attorney, Competition Policy Division, Wireline Competition Bureau.

During this meeting, we discussed the local and long distance services provided by PRT in Puerto Rico and the data the Company expects to present to the Commission to demonstrate that PRT is nondominant in the provision of in-region, interexchange services. We also provided Commission Staff with the following: (i) written summary of PRT's subscribers and revenues from 2003 through 2009, a redacted copy of which is attached as Exhibit A; and (ii) written response to the requests for information regarding PRT's local and long distance services during the relevant time period that were made at our meeting on February 3, 2011, a redacted copy of which is attached as Exhibit B.

Marlene H. Dortch
March 21, 2011
Page 2

Pursuant to Section 0.459(a) of the Commission's rules and the Protective Order entered in this proceeding,¹ PRT requests confidential treatment of Exhibits A and B because they contain proprietary commercial and financial information that is routinely withheld from public disclosure. Under Section 0.459 of the Commission's rules, parties who submit confidential information to the Commission may file a request that the FCC not disclose the information to the public. If that information is withholdable by the agency pursuant to an exemption of the Freedom of Information Act ("FOIA"),² the Commission's rules require that the information remain confidential unless the Commission identifies a "compelling public interest in disclosure."³

In this case, information in Exhibits A and B fits into Exemption 4 of FOIA, which exempts "commercial or financial information obtained from a person" that is "confidential" from public disclosure under FOIA.⁴ Where the information is provided to the Government voluntarily, as is the case here, Exemption 4 protects as confidential any commercial or financial information that is "of a kind that would not customarily be released to the public by the person from whom it was obtained."⁵

¹ 47 C.F.R. § 0.459(a); *Petition of Puerto Rico Telephone Company, Inc. and Puerto Rico Telephone Larga Distancia, Inc. For Waiver of Section 64.1903 of the Commission's Rules*, WC Docket No. 10-52, DA 11-514, Protective Order (rel. March 17, 2011).

² 5 U.S.C. § 522(b)(4).

³ Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, Report and Order, 13 FCC Rcd 24816 ¶ 8 (1998) ("*Confidential Treatment Order*"). Before authorizing release of information, the Commission "'insists upon a showing that the information is a necessary link in a chain of evidence' that will resolve an issue before the Commission." *Id.* (quoting *Classical Radio for Connecticut, Inc.*, 69 FCC Rcd 1517, 1520 n.4 (1978)).

⁴ 5 U.S.C. § 552(b)(4).

⁵ *Critical Mass Energy Project v. Nuclear Regulatory Comm'n*, 975 F.2d 871, 879 (D.C. Cir. 1992) ("*Critical Mass*"); see also *Confidential Treatment Order*, 13 FCC Rcd 24816 ¶ 4.



Marlene H. Dortch
March 21, 2011
Page 3

Here, Exhibit A and B contain detailed commercial information regarding the number of PRT's subscribers and the amount of PRT's revenues by type of service, which is commercially sensitive information customarily not released to the public, and therefore falls under FOIA Exemption 4. The information for which PRT is seeking confidential treatment would be extremely beneficial to PRT's actual and potential competitors, of which there are many in Puerto Rico. PRT would therefore suffer substantial competitive harm if the confidential commercial and financial information contained in Exhibits A and B were released to the public. Furthermore, Commission precedent has found this type of information to be competitively sensitive and withholdable under Exemption 4.⁶

For all the foregoing reasons, PRT requests that the Commission withhold from public disclosure the proprietary commercial and financial information contained in Exhibits A and B. Pursuant to 47 C.F.R. § 1.1206, please include this ex parte filing in the above-referenced docket.

Sincerely yours,

/s/ Bennett L. Ross
Bennett L. Ross

cc: Lisa Gelb
William A. Kehoe III
William Dever
Claudia Pabo
Pam Megna
Gregory Kwan

Enclosures

⁶ See, e.g., *Center for Public Integrity v. FCC*, 515 F. Supp. 2d 167 (D.D.C. 2007).

EXHIBIT A

PUERTO RICO TELEPHONE SUBSCRIBERS BY SERVICE

| <u>Service</u> | <u>2003</u> | <u>2004</u> | <u>2005</u> | <u>2006</u> | <u>2007</u> | <u>2008</u> | <u>2009</u> | <u>2003-2009</u> <u>% Change</u> |
|---------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------------------------------|
| Residential Voice | | | | | | | | |
| Business Voice | | | | | | | | |
| Long Distance – Intra Island | | | | | | | | |
| Long Distance – Off Island | | | | | | | | |
| Private Lines | | Redacted | | | | | | Redacted |
| Packet Switching | | | | | | | | |
| ATM | | | | | | | | |
| IP VPN | | | | | | | | |
| Ethernet | | | | | | | | |
| Frame Relay | | | | | | | | |
| ISDN -- BRI | | | | | | | | |
| ISDN -- PRI | | | | | | | | |

PUERTO RICO TELEPHONE REVENUES BY SERVICE
(Dollars in thousands)

| <u>Service</u> | <u>2003</u> | <u>2004</u> | <u>2005</u> | <u>2006</u> | <u>2007</u> | <u>2008</u> | <u>2009</u> | <u>2003-2009</u> <u>% Change</u> |
|----------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------------------------------|
| Residential Voice | | | | | | | | |
| Business Voice | | | | | | | | |
| Long Distance -- Intra Island | | | | | | | | |
| Long distance -- Off Island | | | | | | | | |
| Private Lines | | Redacted | | | | | | |
| Packet Switching | | | | | | | | |
| ATM | | | | | | | | |
| IP VPN | | | | | | | | |
| Ethernet | | | | | | | | |
| Frame Relay | | | | | | | | |
| ISDN -- BRI | | | | | | | | |
| ISDN -- PRI | | | | | | | | |

EXHIBIT B

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Petition of Puerto Rico Telephone Company,) WC Docket No. 10-52
Inc. and Puerto Rico Telephone Larga)
Distancia, Inc. For Waiver of Section 64.1903)
of the Commission's Rules)
)
)

**PUERTO RICO TELEPHONE COMPANY, INC.'S
RESPONSES TO STAFF'S INFORMATION REQUESTS**

Puerto Rico Telephone Company, Inc. ("PRT") respectfully submits its responses to the information requested by Commission Staff during a meeting on February 3, 2011 regarding PRT's revenue and subscriber data.

REQUEST NO. 1: *For the period 2003-2009, provide a breakdown of the Long Distance - Intra Island and Long Distance Off Island subscribers and revenues between residence and business customers.*

RESPONSE: PRT does not track in the normal course of business long distance revenues by type of subscriber and thus does not have readily available the requested revenue information. PRT also does not have readily available the breakdown of subscribers by residence and business customers for each of the years in question, although the requested subscriber information is available for the following years:

| <u>Service/Subscriber</u> | <u>2003</u> | <u>2007</u> | <u>2008</u> | <u>2009</u> |
|--|-------------|-------------|-------------|-------------|
| Long Distance Intra Island – Residential | | Redacted | | |
| Long Distance Intra Island – Business | | | | |
| Long Distance Intra Island – Coin | | | | |
| Long Distance Intra Island – Total | Redacted | | Redacted | |

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| <u>Service/Customer</u> | <u>2003</u> | <u>2007</u> | <u>2008</u> | <u>2009</u> |
|--|-------------|-------------|-------------|-------------|
| Long Distance Off Island - Residential | | | Redacted | |
| Long Distance Off Island – Business | Redacted | | | |
| Long Distance Off Island - Coin | | | | |
| Long Distance Off Island - Total | | | Redacted | |

Please note that the subscriber data above reflect subscribers served by both PRT and Puerto Rico Telephone Larga Distancia, Inc. (“PRTLTD”) and include subscribers served by PRTLTD as a competing local exchange carrier and subscribers purchasing both circuit switched and IP based long distance services.

REQUEST NO. 2: *For the period 2003-2009, provide a breakdown of those customers who selected PRT or PRTLTD as their preferred carrier for long distance – intra island or long distance - off island and also purchased local exchange services from PRT.*

RESPONSE: PRT does not maintain historical PIC or LPIC data in the normal course of business and thus is unable to provide the requested information for the relevant time period. However, in reviewing current PIC and LPIC data, PRT has identified Redacted subscribers who purchase intra-island long distance services but not local exchange service from PRT and Redacted subscribers who purchase off-island long distance services but not local exchange service from PRT as of March 2011.

REQUEST NO. 3: *For the period 2003-2009, provide a breakdown of the data services (private line, packet switching, ATM, IP, VPN, Ethernet, frame relay, ISDN-BRI and ISDN-PRI) between services tariffed at the federal level and the local level. Also, is there any way to determine whether data services are purchased by carriers versus end user customers?*

RESPONSE: The following information reflects those data services tariffed at the federal and local level during the relevant time period.

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Tariffed at Federal Level

| | <u>2003</u> | <u>2004</u> | <u>2005</u> | <u>2006</u> | <u>2007</u> | <u>2008</u> | <u>2009</u> |
|------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Private Line | Yes |
| Packet Switching | No |
| ATM | No |
| IP VPN | No |
| Ethernet | No | No | Yes | Yes | Yes | Yes | Yes |
| Frame Relay | Yes |
| ISDN-BRI | No | No | No | No | No | Yes | Yes |
| ISDN-PRI | No | No | No | No | No | Yes | Yes |

Tariffed at Local Level

| | <u>2003</u> | <u>2004</u> | <u>2005</u> | <u>2006</u> | <u>2007</u> | <u>2008</u> | <u>2009</u> |
|------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Private Line | Yes |
| Packet Switching | Yes |
| ATM | Yes |
| IP VPN | No |
| Ethernet | No | No | Yes | Yes | Yes | Yes | Yes |
| Frame Relay | Yes |
| ISDN-BRI | Yes |
| ISDN-PRI | Yes |

The data services referenced above are available to both carriers and end users, and PRT is unable to distinguish the revenues or subscribers associated with those specific services purchased by carriers as opposed to end users. For some services, such as Frame Relay, the rates in the federal tariff and the local tariff are the same, which makes it very difficult to isolate revenues and the number of subscribers by jurisdiction.

REQUEST NO. 4: *For the period 2003-2009, provide the revenues and subscribers for each long distance service offered by PRT and/or PRTLTD, either on a standalone basis or as part of a bundle.*

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RESPONSE: The following information is responsive to this request:

| | 2009 | | 2008 | | 2007 | | 2006 | 2005 |
|---|-------------|-------------------|-------------|-------------------|-------------|-------------------|-------------------|-------------------|
| | Subscribers | Revenues (000) | Subscribers | Revenues (000) | Subscribers | Revenues (000) | Revenues (000) | Revenues (000) |
| Intra Island DDD Stand Alone (Buckets of Minutes) | | Redacted | | | | Redacted | | |
| Intra Island DDD Stand Alone (per minute) | | | | Redacted | | | | |
| Bundled Intra Island LD, Local and Vertical Services (Buckets of Minutes) | | Redacted | | | | Redacted | | |
| Bundled Intra Island LD, Local, Vertical Services and Internet (Buckets of Minutes) | | Redacted | | | | Redacted | | |
| Bundled Intra Island LD with Local (Buckets of Minutes) | | Redacted | | | | | | |
| Others | | | | | | Redacted | | |
| Domestic Toll | | Redacted | | | | | | |
| | | | | | | | | |
| Off Island Stand Alone LD (Buckets of Minutes) | | Redacted | | | | Redacted | | |
| Off Island Stand Alone LD (per Minute) | | | | Redacted | | | | |
| Bundled Off Island LD, Local, Vertical Services and Internet (Buckets of Minutes) | | Redacted | | | | Redacted | | |
| Bundled Off Island LD and Local (Buckets of Minutes) | | Redacted | | | | Redacted | | |
| Others | | | | | | | | |

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| | 2009 | | 2008 | | 2007 | | 2006 | 2005 |
|---|-------------|-------------------|-------------|-------------------|-------------|-------------------|-------------------|-------------------|
| | Subscribers | Revenues (000) | Subscribers | Revenues (000) | Subscribers | Revenues (000) | Revenues (000) | Revenues (000) |
| Off Island Toll | | Redacted | | | | | Redacted | |
| Off-Island International | | | | Redacted | | | | |
| Bundled Intra Island LD and Off Island LD Plans | | Redacted | | | | | Redacted | |

REQUEST NO. 5: *For the period 2003-2009, provide the total number of and associated revenues for collocation arrangements, unbundled loops, unbundled transport, EELs, and interconnection trunks.*

RESPONSE: PRT does not have readily available the requested information for the entire time period in question as information regarding the number of collocation arrangements and unbundled network elements is not tracked in the normal course of business but rather must be manually calculated from the monthly bills of PRT’s wholesale customers. However, the following data reflect the wholesale arrangements that were in service for the current time period and the last two years:

Wholesale Arrangements

| | <u>2009</u> | <u>2010</u> | <u>March 2011</u> |
|-------------------------------|-------------|-------------|-------------------|
| Collocation | 22 | 49 | 50 |
| Unbundled Loops/ Transport | 19,307 | 22,425 | 27,335 |
| Interconnection Trunks | 34,655 | 24,595 | 26,256 |

REQUEST NO. 6: *For the period 2003-2009, provide the amount of reciprocal compensation billed to and billed by PRT/PRTLTD.*

RESPONSE: The information responsive to this request is as follows:

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**Reciprocal Compensation Amounts
Billed to PRT
(\$000)**

| | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 |
|--------------|----------|------|------|------|----------|------|------|
| Total | Redacted | | | | Redacted | | |

**Reciprocal Compensation Amounts
Billed by PRT
(\$000)**

| | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 |
|--------------|----------|------|------|------|----------|------|------|
| Total | Redacted | | | | Redacted | | |

REQUEST NO. 7: *For the period 2003-2009, provide the amount of switched access charges billed to and billed by PRT/PRTLD.*

RESPONSE: The information responsive to this request as is as follows:

**Switched Access Charges
Billed to PRT
(\$000)**

| | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 |
|--------------|----------|------|------|------|----------|------|------|
| Total | Redacted | | | | Redacted | | |

**Switched Access Charges
Billed by PRT¹
(\$000)**

| | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 |
|--------------|----------|------|------|------|----------|------|------|
| Total | Redacted | | | | Redacted | | |

REQUEST NO. 8: *Provide any data about long distance usage and revenues from PRT's wireless affiliate.*

¹ Includes switched access charges billed to PRTLD.

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RESPONSE: The following information is responsive to this request and relates to subscribers, long distance revenues, and long distance minutes of use of Puerto Rico Telephone Company, Inc. d/b/a CLARO.

Total Wireless Subscribers

| | <u>2003</u> | <u>2004</u> | <u>2005</u> | <u>2006</u> | <u>2007</u> | <u>2008</u> | <u>2009</u> |
|-----------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Post Paid | | | | | | | |
| Pre Paid | | | | | | | |
| Total | | Redacted | | | Redacted | | |

**Total Wireless Long Distance Revenues
(\$000)**

| | <u>2003</u> | <u>2004</u> | <u>2005</u> | <u>2006</u> | <u>2007</u> | <u>2008</u> | <u>2009</u> |
|----------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| USA & Virgin Islands | | | | | | | |
| International | | Redacted | | | Redacted | | |
| Total | | | | | | | |

Total Long Distance Minutes of Use

| | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 |
|-------|------|----------|------|------|----------|------|------|
| Total | | Redacted | | | Redacted | | |

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Respectfully submitted,

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March 18, 2011