

Docket	:	A.22-11-001 et al
Exhibit Number	:	CA-X-05
Commissioner	:	Darcie L. Houck
Administrative Law Judge	:	Patricia Miles and David Van Dyken



PUBLIC ADVOCATES OFFICE



PUBLIC ADVOCATES OFFICE
California Public Utilities Commission

February 2, 2023
FTC/KTC Response to Cal Advocates Data Request (DR) 01 - Email cover, Armstrong Declaration, Response

- PUBLIC -

San Francisco, California
June 4, 2023

Chen, Carolyn

From: Maile Kim <maile@brblawgroup.com>
Sent: Thursday, February 2, 2023 2:34 PM
To: Ye, Bixia; Chen, Carolyn; Tey, Joshua
Cc: Patrick Rosvall; Sarah Banola; Sean Beatty; Chelsie Liberty; Darren Lee
Subject: [EXTERNAL] RE: A.22-11-001/A.22-11-002 Foresthill/Kerman Response to Cal Advocates Supplemental Response Data Request 01
Attachments: FTC-KTC Supplemental Response to DR 1.pdf; Armstrong Declaration FTC-KTC Supplemental Response DR 1.pdf; PAO 1.8 (Outage Details-Updated) [CONFIDENTIAL].xlsm; PAO 1.10 (KTC-Service Order Response) [CONFIDENTIAL].xlsm; PAO 1.10 (FTC-Service Order Response) [CONFIDENTIAL].xlsm; PAO 1.16 (FTC and KTC Trouble Tickets 2019-2022) [CONFIDENTIAL].zip

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Carolyn, Joshua, Bixia, good afternoon. Attached are the supplemental responses and attachments of Foresthill Telephone Co. and Kerman Telephone Co. to Cal Advocates' Data Request 1, Questions 1-8, 1-9, 1-10, and 1-16, as discussed at the meet and confer last month. The confidentiality designations therein are supported by the attached confidentiality declaration of Rhonda Armstrong, the Vice President of Administrative Services and the General Manager of Foresthill and Kerman.

Thank you for your attention to this matter and please direct all questions to Mr. Patrick Rosvall. Have a good rest of your day.

Best,
Maile

From: Maile Kim
Sent: Monday, November 28, 2022 3:59 PM
To: Ye, Bixia <bixia.ye@cpuc.ca.gov>; Chen, Carolyn <carolyn.chen@cpuc.ca.gov>; Tey, Joshua <joshua.tey@cpuc.ca.gov>
Cc: Patrick Rosvall <patrick@brblawgroup.com>; Sarah Banola <sarah@brblawgroup.com>; Sean Beatty <sean@brblawgroup.com>; Chelsie Liberty <chelsie@brblawgroup.com>; Darren Lee <darren@brblawgroup.com>
Subject: A.22-11-001/A.22-11-002 Foresthill/Kerman Response to Cal Advocates Data Request 01

All, good afternoon. Attached are the responses and corresponding attachments of Foresthill Telephone Co. and Kerman Telephone Co. to Cal Advocates' Data Request 1. The confidentiality designations therein are supported by the attached confidentiality declaration of Rhonda Armstrong, the Vice President of Administrative Services and the General Manager of Foresthill and Kerman.

Thank you for your attention to this matter and please direct all follow-up questions to Mr. Patrick Rosvall. Have a good rest of your day.

Best,
MAILE KIM (they, them, theirs) | Legal Assistant
BRB Law LLP
maile@brblawgroup.com
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**Foresthill Telephone Co. (U 1009 C) General Rate Case Application (A.22-11-001)
and Kerman Telephone Co. (U 1012 C) General Rate Case Application (A.22-11-002)
Declaration Supporting Confidential Treatment of Portions of Supplemental Response to the
Public Advocates Office Data Request 01**

February 2, 2023

I, Rhonda Armstrong, hereby declare:

1. I am the Vice President of Administrative Services and the General Manager of Foresthill Telephone Co. ("FTC") and Kerman Telephone Co. ("KTC") (together, "Applicants") and I submit this declaration on behalf of these companies and their Internet Service Provider ("ISP") affiliate, Audeamus, LLC ("Audeamus"). If called as a witness, I could and would competently testify as to the matters addressed in my declaration from my own personal knowledge, except as to any matters that I state upon information and belief, and, as to those matters, I am informed and believe them to be true.

2. The Public Advocates Office of the California Public Utilities Commission ("Cal Advocates") issued Data Request 01 ("DR 1") to FTC and KTC in connection with their respective rate case applications. FTC and KTC submitted their responses to DR 1 on November 28, 2022, subject to various objections and clarifications. During January 2023, FTC and KTC and Cal Advocates met and conferred to discuss disputes and areas for clarification regarding DR 1, focusing on Questions 1-8, 1-9, 1-10, 1-11, and 1-16. Based on these discussions and a further examination of their responses, FTC and KTC are offering supplemental responses providing additional material as to Questions 1-8, 1-9, 1-10, and 1-16 ("Supplemental Response to DR 1"). I hereby submit this declaration, according to the rules set forth in Commission General Order ("G.O.") 66-D, to support the confidential treatment of the competitively-sensitive materials furnished by FTC and KTC as part of their Supplemental Response to DR 1.

3. I have reviewed the Supplemental Response to DR 1, and I am familiar with narrative materials and additional documents supplied by each of the Applicants. FTC and KTC have identified the data supplied with Questions 1-8, 1-10, and 1-16 as confidential, which is indicated by specific markings on those pages or parts of pages that present confidential material, in compliance with G.O. 66-D, Section 3.2(b). I have conferred with the appropriate FTC or KTC personnel to confirm the nature of certain documents, as necessary to accurately assess their nature and determine their proprietary and confidential status. From my review of these materials, and with corroborating information provided by my colleagues, I can confirm that the documents FTC and KTC have marked as

confidential present legitimate confidentiality concerns. Separately, the legal points and authorities supporting confidentiality are presented in FTC's and KTC's Supplemental Response to DR 1. *See* Pub. Util. Code § 583; G.O. 66-D; Civ. Code § 3426.1(d); Cal. Evid. Code § 1060; Gov. Code §§ 7927.705 (incorporating restrictions on disclosure imposed by state or federal law), 7922.000 (CPRA balancing test).

4. FTC and KTC are providing confidential, competitively sensitive, and proprietary information in the documents responsive to questions DR 1-8 and DR 1-10, and DR 1-16, as follows:

- a. The file named "PAO 1.8 (Outage Details-Updated) [CONFIDENTIAL]" contains detailed information about the network outages on FTC's and KTC's networks over a period of several years. It includes granular data about when each outage occurred, when service was restored, how many customers may have been impacted, and associated descriptions of circumstances and causes. Further information has been added to the previously-circulated spreadsheet responding to Question 1-8 to include a discussion of preventative measures to reduce the likelihood of repeat outages. These data constitute a "compilation" of information that derives significant value from being known to the public and from not being disclosed to Applicants' current and potential competitors, which FTC and KTC have devoted significant resources to produce and protect.
- b. The files identified as "PAO 1.10 (FTC-Service Order Response) [CONFIDENTIAL]" and "PAO 1.10 (KTC-Service Order Response) [CONFIDENTIAL]" constitute trade secrets because they represent a "compilation" and a "pattern" regarding demand for Audeamus' non-regulated broadband services, and this information derives economic value from not being known to the public. If disclosed, these data would provide useful information to Audeamus' current or potential competitors regarding Audeamus' subscription trends in FTC's and KTC's respective service territories.
- c. The zip file named "PAO 1.16 (FTC and KTC Trouble Tickets 2019-2022) [CONFIDENTIAL]" contains information qualifying as trade secrets because it contains granular information about the specific network-related problems that FTC's, KTC's, and/or Audeamus' customer experience in connection with the functionality of FTC's broadband-capable network. These data derive economic

value from not being known to the public. Again, if disclosed, these data would provide useful information to current or potential competitors of FTC, KTC, and/or Audeamus regarding the extent, nature, resolution, and duration of problems that customer experience in using FTC's and/or KTC's broadband-capable networks.

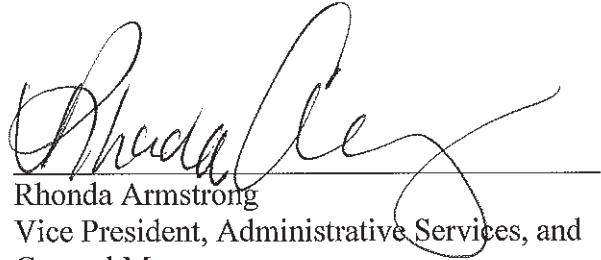
5. These files constitute trade secrets of FTC, KTC, and Audeamus, respectively.

Disclosure could inform targeted marketing, financial, operational, and investment strategies on the part of FTC's KTC's, and Audeamus' competitors. The result would be unfair competition, distortions in the market, and ultimately, harm to consumers. I am informed and believe that FTC, KTC, and Audeamus consistently handle this information in a manner that maintains confidentiality; that all three entities take reasonable measures to protect against disclosure of this information; and that our policies and practices include limiting access to this information to only those employees who must have access to fulfill their job duties. The information has been marked confidential and is being voluntarily provided with the expectation that it will receive the necessary protections afforded to trade secrets. *See* Gov. Code § 7927.705; Evid. Code § 1060; Civ. Code § 3426.1(d).

6. Preservation of the confidentiality of these materials in proceedings at the Commission is consistent with the public interest. The damage to the market that would result from the disclosure of FTC's, KTC's and/or Audeamus' data could skew the competitive market and negatively impact consumers. Further, I am not aware of any material public benefit to be gained by disclosure of this information. The balance of equities therefore weighs heavily in favor of maintaining the confidentiality of the information designated by FTC and KTC. *See* Gov. Code § 7922.000 (CPRA balancing test).

7. For these reasons, I believe it is appropriate to maintain the confidentiality of the information marked as confidential by FTC and KTC. *See* Pub. Util. Code, § 583; G.O. 66-D; Gov. Code §§ 7927.705, 7922.000; Evid. Code § 1060; Civ. Code § 3426.1(d).

Dated this 2nd day of February, 2023 at Kerman, California.



Rhonda Armstrong
Vice President, Administrative Services, and
General Manager
Foresthill Telephone Co.
Kerman Telephone Co.

A.22-11-001 (Foresthill GRC) and A.22-11-002 (Kerman GRC)
Supplemental Response of Foresthill Telephone Co. and Kerman Telephone Co.
to the Public Advocates Office's Data Request 01 ("DR 2"),
Questions 1-8, 1-9, 1-10, 1-16

February 2, 2023

The Public Advocates Office (“Cal Advocates”) issued substantively identical data requests to Foresthill Telephone Co. (“FTC”) and Kerman Telephone Co. (“KTC”) (together, the “Applicants”) in their respective rate case applications, proceedings that have now been formally consolidated. FTC and KTC offered responses to DR 1 on November 28, 2022, and provided various responsive documents and narrative materials, subject to certain objections, reservations, and clarifications. In January 2023, FTC and KTC engaged in meet and confer discussions with Cal Advocates regarding several of these questions. Based on those conversations, related correspondence between the parties, and a further examination of the questions presented, FTC and KTC offer this Supplemental Response to DR 1, providing additional information relative to Questions 1-8, 1-9, 1-10, and 1-16. Like the original responses, these supplemental responses are provided subject to the same general objections, preliminary statement, and specific objections presented in connection with the original responses. The prior objections, clarifications, and responses offered on November 28, 2022 are incorporated herein by reference and are neither waived nor altered, despite the supplemental materials provided. For ease of reference, the prior responses and specific objections are restated in connection with each supplemental response provided below.

FTC and KTC note that the supplemental responses are accompanied by several spreadsheets, each of which contains information that is confidential, proprietary, and competitively sensitive to FTC, KTC, and/or their Internet Service Provider (“ISP”) affiliate, Audeamus. These documents are provided subject to the protections of Public Utilities Code Section 583, General Order (“G.O.”) 66-D, and applicable provisions of the California Public Records Act (“CPRA”) and other provisions of law supporting confidential treatment of these materials. The spreadsheets provided in response to Questions 1-8, 1-10, and 1-16 contain granular service outage information, service order data reflecting customer demand for non-regulated broadband services, and network-related trouble reports reflecting customer reports of problems with their use of FTC’s and/or KTC’s broadband-capable networks. These data are competitively sensitive and would facilitate unfair competition if disclosed; they constitute trade secrets because they represent a “compilation” and a “pattern” regarding the condition, functionality, and operation of FTC’s and KTC’s network, as well as the patterns reflecting customer subscription to Audeamus’ broadband services. The companies have taken reasonable steps to preserve the confidentiality of the information and protect it from public disclosure. *See* Evid. Code § 1060; Civ. Code § 3426.1(d); Gov. Code § 7927.705 (incorporating other protections afforded by California law into the CPRA). If these data were available to FTC’s, KTC’s, and/or Audeamus’ current or potential competitors, they could be used to facilitate unfair competition through the development of targeted marketing campaigns, build-out plans, operational strategies, or other responses from these competitors that would not otherwise be possible without access to the granular demand information provided herewith.

These data also qualify for protection under the CPRA “balancing test” in Government Code Section 7922.000, which shields data from disclosure where potential harm to the public from disclosure outweighs the public interest in releasing the information. *See Gov. Code § 7922.000; International Federation of Professional and Technical Engineers, Local 21, AFL-CIO v. Superior Court*, 42 Cal.4th 319, 329 (2007). The “public interest” balancing test is appropriately employed to protect competitive information of a regulated entity from disclosure because a strong public interest exists in encouraging vigorous competition for the benefit of consumers. *See Morlife, Inc. v. Perry*, 56 Cal.App.4th 1514, 1520 (1997) (“Yet also fundamental to the preservation of our free market economic system is the concomitant right to have the ingenuity and industry one invests in the success of the business or occupation protected from the gratuitous use of that ‘sweat-of-the-brow’ by others.”); *see also Knevelbaard Dairies v. Kraft Foods, Inc.*, 232 F.3d 979, 988 (9th Cir. 2000) (recognizing the preservation of competition as “vital to the public interest.”). Here, the balance of equities strongly militates in favor of preserving the confidentiality of the information. If released, the competitively-sensitive information would confer competitive advantages on the companies’ competitors, whereas FTC, KTC, Audeamus would not have parallel access to those competitors’ data. These informational disparities, if fostered through the regulatory process, could result in distortions of the competitive market, which would ultimately harm consumers. No countervailing interest exists or has been asserted.

1-8 Aside from Network Outage Reporting System (NORS) reports provided as part of General Order 133-D compliance, please provide all detailed records of service outages of Foresthill’s traditional voice service for years 2016, 2017, 2018, 2019, 2020, 2021, and 2022. Please indicate each service outage using Microsoft Excel format:

- a. Type of service (Voice, broadband, other)
- b. Number of customers affected
- c. Type of customers affected: residential, small business, or large business
- d. Incident Date
- e. Incident Time
- f. Duration of outage in hours and minutes
- g. Outage restoration time
- h. Location of outage
- i. Equipment failed
- j. Description of the Cause
- k. Description of the Root causes
- l. Description of the incident
- m. Methods used to restore service

Specific Objection: Applicants object to this question to the extent that it seeks to expand the scope of the service quality metrics imposed pursuant to G.O. 133-D, which do not include the level of detail requested in this question. Moreover, Applicants object to this question insofar as it seeks information for 2016-2018 periods that pre-date the 2019 test year used in FTC’s most recent rate case.

Response: Neither FTC nor KTC track the information requested in this question, nor are they required to do so. Nevertheless, Applicants have conducted a reasonable inquiry in response to this data request, and have identified responsive information, which is provided in the attachment identified as “PAO 1.8

(Outage Details) [CONFIDENTIAL].” This document does not include all of the elements requested by this question because not all of the information requested is reasonably available.

Applicants note that the information provided in response to this question is competitively sensitive, confidential, and proprietary data pertaining to FTC’s and KTC’s networks. The responsive data is protected under California law as a trade secret and pursuant to the CPRA “balancing test,” which confirms the applicability of the confidentiality protections under Public Utilities Code Section 583 and G.O. 66-D. Pub. Util. Code § 583, G.O. 66-D; Gov. Code § 6254(k) (incorporating “records, the disclosure of which is exempted or prohibited pursuant to federal or state law,” into the restrictions on public disclosure authorized by the CPRA). Detailed information regarding outages experienced on FTC’s and KTC’s networks constitute trade secrets because they represent a “compilation” and a “pattern” regarding the condition of FTC’s and KTC’s networks, and the companies have taken reasonable steps to preserve the confidentiality of the information and protect it from public disclosure. *See* Evid. Code § 1060; Civ. Code § 3426.1(d). If these data were available to FTC’s or KTC’s current or potential competitors, it could be used to facilitate unfair competition through the development of marketing plans, operational strategies, further build-out initiatives or other responses from these competitors that would not otherwise be possible without access to the granular outage information provided herewith. For similar reasons, the outage information is subject to protection pursuant to the CPRA “balancing test,” which shields data from disclosure where potential harm to the public from disclosure outweighs the public interest in releasing the information. Pub. Util. Code § 6255; *International Federation of Professional and Technical Engineers, Local 21, AFL-CIO v. Superior Court*, 42 Cal.4th 319, 329 (2007). The Section 6255(a) “public interest” balancing test is appropriately employed to protect competitive information of a regulated entity from disclosure because a strong public interest exists in encouraging vigorous competition for the benefit of consumers. *See Morlife, Inc. v. Perry*, 56 Cal.App.4th 1514, 1520 (1997) (“Yet also fundamental to the preservation of our free market economic system is the concomitant right to have the ingenuity and industry one invests in the success of the business or occupation protected from the gratuitous use of that “sweat-of-the-brow” by others.”); *see also Knevelbaard Dairies v. Kraft Foods, Inc.*, 232 F.3d 979, 988 (9th Cir. 2000) (recognizing the preservation of competition as “vital to the public interest.”). Here, the balance of equities strongly militates in favor of preserving the confidentiality of the information. If released, the outage information regarding FTC’s and KTC’s networks would confer competitive advantages on the companies’ competitors, whereas FTC and KTC would not have parallel access to those competitors’ data. These informational disparities, if fostered through the regulatory process, could result in distortions of the competitive market, which would ultimately harm consumers. There is no countervailing public interest in disclosure that could overcome these public harms. A strong legal and factual foundation exists to maintain these data as confidential, and the Public Advocates Office and the Commission should hold them as confidential in its files.

Supplemental Response: Subject to and without waiving the objections presented with the original response, FTC and KTC have reviewed their original response to Question 1-8 and the associated document identified as “PAO 1.8 (Outage Details) [CONFIDENTIAL].” FTC and KTC hereby confirm that the spreadsheet already addresses each of the subparts of the Question 1-8 to the extent that responsive information exists. In addition, as explained more fully in the supplemental response to

Question 1-9, to the best of FTC's and KTC's knowledge, the information reflected in this attachment is applicable to both voice and broadband outages. Neither FTC nor KTC is aware of a broadband-specific outage unrelated to the companies' broadband-capable networks, so the document is responsive to both Question 1-8 and Question 1-9. Accordingly, FTC and KTC have provided an updated version of the spreadsheet labeled as "PAO 1.8 (Outage Details-Updated) [CONFIDENTIAL]," which addresses sub-part (m) of Question 1-9 pertaining to preventative measures to mitigate recurrence of the issue.

FTC and KTC note that the information provided in PAO 1.8 (Outage Details-Updated) [CONFIDENTIAL] is confidential and subject to protection as trade secrets. This spreadsheet contains granular information regarding the nature, timing, duration, cause, resolution, impact, technical issues, and response to outages. These data would be highly valuable to current and potential competitors of FTC and KTC, who could use the data to target specific marketing plans, operational designs, or build-out strategies to compete against FTC and KTC. These materials are "compilations" or "patterns" that derive economic value from not being known to the public and FTC and KTC have taken reasonable efforts to preserve their confidentiality. *See* Pub. Util. Code § 583; G.O. 66-D; Civ. Code § 3426.1(d); Cal. Evid. Code § 1060; Gov. Code §§ 7927.705 (incorporating restrictions on disclosure imposed by state or federal law). For similar reasons, these data should be held as confidential under the public interest balancing test in the CPRA because the disclosure of these data could distort the competitive market, and no other countervailing public interests in disclosure exist. Gov. Code § 7922.000.

1-9 Provide the number of service outages for Your broadband services for the years 2016, 2017, 2018, 2019, 2020, 2021, and 2022 in a spreadsheet format using Microsoft Excel format. For each Service Outage, please indicate:

- a. Number of customers affected**
- b. Type of customers affected: residential, small business, or large business**
- c. Incident Date**
- d. Incident Time**
- e. Duration of outage in hours and minutes**
- f. Outage restoration time g. Location of outage**
- h. Equipment failed**
- i. Description of the Cause**
- j. Description of the Root causes k. Description of the incident**
- l. Methods used to restore service**
- m. Steps taken to prevent the outage from re-occurring**

Specific Objection: Applicants object to this request on the grounds that it seeks information regarding non-regulated services provided by Audeamus. The broadband Internet access service that Audeamus provides is not regulated by the Commission, and Audeamus is not a party to this rate case. In requesting service order information related to these non-regulated operations, this question exceeds the Commission's lawful authority under federal and state law. *See Restoring Internet Freedom Order*, FCC 17-166 at ¶ 199; *see also* Pub. Util. Code §§ 216, 233, 234 (confirming statutory limitations of Commission authority to public utilities); Cal. Const., art. XII, §§ 3, 6 (confirming constitutional limitations on Commission authority restricting its jurisdiction to public utilities). Applicants further object to this question as an improper attempt to expand the scope of the Commission's General Order

(“G.O.”) 133-D to broadband services. *See* G.O. 133-D §§ 3.3, 3.4 (addressing “customer trouble reports” and “out of service repair intervals” for regulated telephone company operations). By its terms, and as a matter of law based on the limitations of the Commission’s jurisdiction, G.O. 133-D is limited to “public utility telephone corporations” and the “local exchange telephone service based on TDM” that they provide. *See* G.O. 133-D §§ 1.1(a), 1.2, 2.1. Applicants note that in a separate, pending rulemaking, the Commission is currently examining the potential expansion of G.O. 133-D to broadband service. *See* R.22-03-016. The question of whether to apply G.O. 133-D metrics to broadband has been designated for examination in Phase 2 of the proceeding, and Applicants object to this question as an improper attempt to prejudge the results of that ongoing Commission inquiry. *See* R.22-03-016 at 17 (designating broadband service quality issues for Phase 2); *see also* R.22-03-016, *Scoping Ruling* (July 22, 2022) at 3 (confirming examination of whether to “adopt service quality metrics and standards and reporting requirements applicable to broadband Internet service” in Phase 2). For similar reasons, Applicants object to this question on the grounds that it seeks irrelevant information that is beyond the scope of reasonable discovery. In addition, Applicants object to this question insofar as it seeks information for 2016-2018 periods that pre-date the 2019 test year used in FTC’s most recent rate case.

Response: This question is subject to valid jurisdictional, scoping, and relevance objections and Cal Advocates improperly seeks information from an entity that is not a party to this proceeding. Therefore, no response is lawfully required.

Supplemental Response: Subject to and without waiving the objections presented with the original response, FTC and KTC hereby confirm that all available information responsive to Question 1-9 is already included in the spreadsheet provided in response to Question 1-8. Based on information available to FTC and KTC, the outages of which they are aware have pertained to issues or limitations on their networks affecting the functionalities of the networks in delivering voice and broadband services; there are no separate broadband-specific outages that would be responsive to this question, so FTC and KTC direct Cal Advocates to “PAO 1.8 (Outage Details-Updated) [CONFIDENTIAL],” described above.

1-10 Please provide the total number of California service orders received for new broadband service as listed below for years 2016, 2017, 2018, 2019, 2020, 2021, and 2022 in Microsoft Excel format:

- a. Total number of service orders received**
- b. Total number of service orders completed (i.e. commitments met)**
- c. Total number of incomplete service orders.**
- d. Provide a detailed explanation for incomplete service orders.**

Specific Objection: Applicants object to this request on the grounds that it seeks information regarding non-regulated services provided by Audeamus. The broadband Internet access service that Audeamus provides is not regulated by the Commission, and Audeamus is not a party to this rate case. In requesting service order information related to these non-regulated operations, this question exceeds the Commission’s lawful authority under federal and state law. *See Restoring Internet Freedom Order*, FCC 17-166 at ¶ 199; *see also* Pub. Util. Code §§ 216, 233, 234 (confirming statutory limitations of Commission authority to public utilities); Cal. Const., art. XII, §§ 3, 6 (confirming constitutional

limitations on Commission authority restricting its jurisdiction to public utilities). Applicants further object to this question as an improper attempt to expand the scope of the Commission’s General Order (“G.O.”) 133-D to broadband services. *See* G.O. 133-D § 3.2 (addressing “installation commitments” for regulated telephone company operations). By its terms, and as a matter of law based on the limitations of the Commission’s jurisdiction, G.O. 133-D is limited to “public utility telephone corporations” and the “local exchange telephone service based on TDM” that they provide. *See* G.O. 133-D §§ 1.1(a), 1.2, 2.1. Applicants note that in a separate, pending rulemaking, the Commission is currently examining the potential expansion of G.O. 133-D to broadband service. *See* R.22-03-016. The question of whether to apply G.O. 133-D metrics to broadband has been designated for examination in Phase 2 of the proceeding, and Applicants object to this question as an improper attempt to prejudge the results of that ongoing Commission inquiry. *See* R.22-03-016 at 17 (designating broadband service quality issues for Phase 2); *see also* R.22-03-016, *Scoping Ruling* (July 22, 2022) at 3 (confirming examination of whether to “adopt service quality metrics and standards and reporting requirements applicable to broadband Internet service” in Phase 2). For similar reasons, Applicants object to this question on the grounds that it seeks irrelevant information that is beyond the scope of reasonable discovery. In addition, Applicants object to this question insofar as it seeks information for 2016-2018 periods that pre-date the 2019 test year used in FTC’s most recent rate case.

Response: This question is subject to valid jurisdictional, scoping, and relevance objections and Cal Advocates improperly seeks information from an entity that is not a party to this proceeding. Therefore, no response is lawfully required.

Supplemental Response: Subject to and without waiving the objections presented with the original response, FTC and KTC offer supplemental material responsive to Question 1-10. Audeamus’ Internet access services remain non-regulated, and neither the costs nor the revenues associated with this service are appropriate for consideration in connection with the ratemaking issues in this proceeding. Nevertheless, FTC and KTC are producing the number of service orders that Audeamus has received and fulfilled because of the theoretical relevance of these figures in demonstrating the demand for broadband-capable service connections. In providing this supplement, FTC, KTC, and Audeamus do not waive any objections or positions as to other data held by Audeamus, which remain irrelevant and beyond the Commission’s jurisdiction. In addition, FTC, KTC, and Audeamus continue to object to providing these data for periods prior to 2019. 2019 was the test year for FTC, so information prior to that period was within the scope of the prior rate case and not relevant here; for the data in KTC’s service territory, providing this detailed information for expansive historical periods involves significant burdens. KTC should not have to shoulder these burdens without any cost recovery just because its rate case was the earliest case adjudicated under the 2015 rate case plan. The supplemental materials provided in response to Question 1-10 are provided herewith in the documents labeled as “PAO 1.10 (FTC-Service Order Response) [CONFIDENTIAL]” and “PAO 1.10 (KTC-Service Order Response [CONFIDENTIAL].”

FTC and KTC note that the information provided in “PAO 1.10 (FTC-Service Order Response) [CONFIDENTIAL]” and “PAO 1.10 (KTC-Service Order Response [CONFIDENTIAL]” is confidential and subject to protection as trade secrets. This spreadsheet contains annual service order and fulfillment data that reflect demand for non-regulated Internet access services provided by

Audeamus. If disclosed, these data could inform unfair competition from current or potential competitors, who could leverage this “compilation” to more effectively compete against Audeamus. FTC, KTC, and Audeamus consistently treat these data as confidential and have incurred significant costs to compile, protect, and preserve it. *See* Pub. Util. Code § 583; G.O. 66-D; Civ. Code § 3426.1(d); Cal. Evid. Code § 1060; Gov. Code §§ 7927.705. The potential harm from disclosure of the data far outweighs any benefit from its disclosure, and no such benefit has been presented. Gov. Code § 7922.000.

1-16 Please provide the number of trouble tickets You received each month from January 01, 2016, through November 01, 2022 for Your or Your ISP affiliate’s broadband services. The trouble ticket reports should include the following information:

- a. Type of Customer (e.g., residential, small or medium sized business, or whatever designation of customers used).**
- b. Frequency of complaint by the same customer, if the customer has made the same complaint more than once.**
- c. Response time to respond to and address each customer complaint.**
- d. Information regarding the resolution or outcome of each customer complaint.**
- e. Please provide the reports in a Microsoft Excel spreadsheet format.**

Specific Objection: Applicants object to this request on the grounds that it seeks information regarding non-regulated services provided by Audeamus. The broadband Internet access service that Audeamus provides is not regulated by the Commission, and Audeamus is not a party to this rate case. In requesting service order information related to these non-regulated operations, this question exceeds the Commission’s lawful authority under federal and state law. *See Restoring Internet Freedom Order*, FCC 17-166 at ¶ 199; see also Pub. Util. Code §§ 216, 233, 234 (confirming statutory limitations of Commission authority to public utilities); Cal. Const., art. XII, §§ 3, 6 (confirming constitutional limitations on Commission authority restricting its jurisdiction to public utilities). Applicants further object to this question as an improper attempt to expand the scope of the Commission’s General Order (“G.O.”) 133-D to broadband services. *See* G.O. 133-D § 3.2 (addressing “installation commitments” for regulated telephone company operations). By its terms, and as a matter of law based on the limitations of the Commission’s jurisdiction, G.O. 133-D is limited to “public utility telephone corporations” and the “local exchange telephone service based on TDM” that they provide. *See* G.O. 133-D §§ 1.1(a), 1.2, 2.1. Applicants note that in a separate, pending rulemaking, the Commission is currently examining the potential expansion of G.O. 133-D to broadband service. *See* R.22-03-016. The question of whether to apply G.O. 133-D metrics to broadband has been designated for examination in Phase 2 of the proceeding, and Applicants object to this question as an improper attempt to prejudge the results of that ongoing Commission inquiry. *See* R.22-03-016 at 17 (designating broadband service quality issues for Phase 2); *see also* R.22-03-016, *Scoping Ruling* (July 22, 2022) at 3 (confirming examination of whether to “adopt service quality metrics and standards and reporting requirements applicable to broadband Internet service” in Phase 2). For similar reasons, Applicants object to this question on the grounds that it seeks irrelevant information that is beyond the scope of reasonable discovery. In addition, Applicants object to this question insofar as it seeks information for 2016-2018 periods that pre-date the 2019 test year used in FTC’s most recent rate case.

Response: This question is subject to valid jurisdictional, scoping, and relevance objections and Cal Advocates improperly seeks information from an entity that is not a party to this proceeding. Therefore, no response is lawfully required.

Supplemental Response: Subject to and without waiving the objections presented with the original response, FTC and KTC offer supplemental material responsive to Question 1-16. Audeamus' Internet access services remain non-regulated, and neither the costs nor the revenues associated with this service are appropriate for consideration in connection with the ratemaking issues in this proceeding. Nevertheless, FTC and KTC are producing broadband-related trouble reports to the extent that they relate to problems with FTC's or KTC's broadband-capable networks. These data are being produced due to the theoretical relevance of this information to whether FTC's and KTC's networks are sufficiently robust to support broadband capabilities that will meet customer demand and comply with federal and state regulatory requirements. The spreadsheets containing the responsive data are identified in a .zip file as "PAO 1.16 (FTC and KTC Trouble Tickets 2019-2022 [CONFIDENTIAL])." In providing this supplement, FTC, KTC, and Audeamus do not waive any objections or positions as to other data held by Audeamus, which remain irrelevant and beyond the Commission's jurisdiction. FTC, KTC, and Audeamus continue to object to producing trouble report data that is unrelated to the telephone companies' networks, and which only reflects the separate operations of the ISP. For example, if a customer receives a defective modem and a trouble report is generated, but FTC and/or KTC's networks are unaffected, the trouble report has no conceivable relevance to this rate case. Therefore, the responsive information provided through this supplement is limited to network-related trouble reports. In addition, FTC and KTC note that the production of these data involved extraordinary burdens, and required FTC and KTC personnel to incur approximately 30-40 hours just to produce the data for one year. FTC and KTC undertook the effort to prepare the data for four years, reflecting the period of 2019 through 2022, but the tremendous burdens associated with this production underscore the valid grounds for objecting to production of the data for other, historical time periods. FTC, KTC, and Audeamus continue to object to providing non-network-related information and information for years prior to FTC's test year of 2019.

The network-related trouble reports provided with supplemental response also constitute trade secrets and are subject to protection under Public Utilities Code Section 583, G.O. 66-D, and corresponding provisions of the CPRA. *See* Pub. Util. Code § 583; G.O. 66-D; Civ. Code § 3426.1(d); Cal. Evid. Code § 1060; Gov. Code §§ 7927.705. These trouble reports reflect a "pattern" and a data "compilation" from which the network vulnerabilities and resolution timeframes can be discerned, and these data would be highly valuable to a current or potential competitor of FTC, KTC, and/or Audeamus. FTC, KTC, and Audeamus have incurred significant resources to prepare and protect these data, which remain confidential in the companies' systems. Disclosure of these materials could facilitate unfair competition, to the detriment of the competitive market and the disadvantage of customers. Therefore, it is also subject to protection under the CPRA balancing test. Gov. Code § 7922.000.