

**CONFIDENTIAL TREATMENT OF FCC FORM 325 DATA**

<b>Paper Form 325 Section</b>	<b>Electronic Form 325 Section</b>	<b>Section Description</b>	<b>Confidentiality Granted?</b>
II.2.a	I.3	Number of system subscribers	No <sup>1</sup>
II.2.b	I.4	Number of potential subscribers (homes passed)	No <sup>2</sup>
II.2.c	I.8.b	Number of cable modem subscribers	Yes <sup>3</sup>
II.2.d	I.8.a	Number of telephony subscribers	Yes <sup>4</sup>
II.3.a	I.8.c	Number of leased cable modems	Yes <sup>5</sup>
II.3.b	I.10, I.10.a-c	Total number of leased set-top boxes	No <sup>6</sup>

<sup>1</sup> The FCC found that the information is “sufficiently available or can be deduced from other sources such that disclosure in this forum is unlikely to result in substantial competitive injury.” *Comcast Cable Communications, Inc. Request for Confidentiality of Information Submitted on Forms 325 for the Year 2003*, Order, 19 FCC Rcd 12165, ¶ 9 (2004) (“*Comcast Confidentiality Order*”); *Altrio Communications, Inc. Request for Confidentiality of Information Submitted on Forms 325 for the Year 2003*, Order, 19 FCC Rcd 12176, ¶ 7 (2004) (“*Altrio Confidentiality Order*”). Specifically, information with respect to the total number of subscribers” is published by industry sources with sufficient accuracy.” *Comcast Confidentiality Order* at ¶ 9.

<sup>2</sup> The FCC found that the information is “sufficiently available or can be deduced from other sources such that disclosure in this forum is unlikely to result in substantial competitive injury.” Specifically, “[a] reasonable estimate of homes passed... can be calculated from various public sources, including industry publications and general population statistics.” *Cox Communications, Inc. Request for Confidentiality of Information Submitted on Forms 325 for the Year 2003*, Order, 19 FCC Rcd 12160, ¶ 9 (2004) (“*Cox Confidentiality Order*”); *Comcast Confidentiality Order* at ¶ 9; *Time Warner Cable Request for Confidentiality of Information Submitted on Forms 325 for the Year 2003*, Order, 19 FCC Rcd 12170, ¶ 8 (2004) (“*Time Warner Confidentiality Order*”); *Altrio Confidentiality Order* at ¶ 7.

<sup>3</sup> Consistent with the FCC’s decision not to publish data relating to the number of Internet or telephony subscribers reported on FCC Form 477, it does not release the same type of data collected on FCC Form 325. *Cox Confidentiality Order* at ¶ 8; *Comcast Confidentiality Order* at ¶ 8; *Time Warner Confidentiality Order* at ¶ 7; *Altrio Confidentiality Order* at ¶ 6. For the same reasons, the FCC extended confidential treatment of such data to Adelphia Communications Corporation and Charter Communications when requested. *See Request for Confidentiality for Information Submitted on Forms 325 for the Year 2004*, Order, DA 06-547, ¶¶ 9-10 (rel. Mar. 8, 2006) (“*2006 Form 325 Confidentiality Order*”).

<sup>4</sup> *See id.*

<sup>5</sup> Previously, the FCC denied confidential treatment to data concerning leased cable modems to certain parties that did not demonstrate that the information was of sufficient commercial value to cause competitive harm if released. *Cox Confidentiality Order* at ¶ 11; *Comcast Confidentiality Order* at ¶ 13; *Time Warner Confidentiality Order* at ¶ 10; *Altrio Confidentiality Order* at ¶ 8. The FCC later reversed its decision, however, determining that disclosure of such data effectively reveals the total number of cable modem subscribers, which is data that receives confidential treatment when submitted in response to item II.2.c of Form 325. *Cox Communications, Inc. Request for Confidentiality for Information Submitted on Forms 325 for the Year 2003*, Order, DA 06-546, ¶ 8 (rel. Mar. 8, 2006) (“*Cox Reconsideration Order*”); *see also 2006 Form 325 Confidentiality Order* at ¶ 12.

Paper Form 325 Section	Electronic Form 325 Section	Section Description	Confidentiality Granted?
II.4.	I.5	Length of coaxial cable plant	Yes <sup>7</sup>
II.4.b	I.6	Length of fiber optic cable plant	Yes <sup>8</sup>
II.4.c	I.7, I.7.a	Number of fiber optic nodes and average number of subscribers per node	Yes <sup>9</sup>
II.4.d	I.9, I.9.a-b	Cluster information	No <sup>10</sup>
III.1	II.3-4	Upstream spectrum	Yes <sup>11</sup>
Remainder of III	II.1-2, II.5-8, II.8.a-b	Other technical configuration data	No <sup>12</sup>
IV	Programming Channel Entry Page (Section III)	Channel line-up data	No <sup>13</sup>

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<sup>6</sup> The parties requesting confidential treatment did not demonstrate that the information was of sufficient commercial value to cause competitive harm if released. *Cox Confidentiality Order* at ¶ 11; *Comcast Confidentiality Order* at ¶ 13; *Time Warner Confidentiality Order* at ¶ 10; *Allrio Confidentiality Order* at ¶ 8; *2006 Form 325 Confidentiality Order* at ¶¶ 9-10.

<sup>7</sup> Disclosure of the data would reveal information regarding system operating capacity and whether the provider would incur high marginal costs to add subscribers, harming its competitive position. *Comcast Confidentiality Order* at ¶ 12; *Time Warner Confidentiality Order* at ¶ 9; *Allrio Confidentiality Order* at ¶ 9; *see also 2006 Form 325 Confidentiality Order* at ¶¶ 6, 9-10.

<sup>8</sup> Disclosure of the data would reveal information regarding system operating capacity and whether the provider would incur high marginal costs to add subscribers, harming its competitive position. *Cox Confidentiality Order* at ¶ 10; *Comcast Confidentiality Order* at ¶ 12; *Time Warner Confidentiality Order* at ¶ 9; *Allrio Confidentiality Order* at ¶ 9; *see also 2006 Form 325 Confidentiality Order* at ¶¶ 9-10.

<sup>9</sup> *See id.*

<sup>10</sup> The FCC did not provide any reasoning for denying confidential treatment to cluster information. *See Comcast Confidentiality Order*.

<sup>11</sup> Previously, the FCC denied confidential treatment to data concerning upstream capacity, concluding that such information could reasonably be deduced from alternative publicly available sources. *Cox Confidentiality Order* at ¶ 9; *Comcast Confidentiality Order* at ¶ 10; *Time Warner Confidentiality Order* at ¶ 8. The FCC reversed its decision on reconsideration, finding that such information was indeed competitively sensitive. *Cox Reconsideration Order* at ¶ 8; *see also 2006 Form 325 Confidentiality Order* at ¶ 12.

<sup>12</sup> Because the technical configuration data could reasonably be deduced from alternative publicly available sources, the FCC determined that it should not receive confidential treatment. *Cox Confidentiality Order* at ¶ 9; *Comcast Confidentiality Order* at ¶ 10; *Time Warner Confidentiality Order* at ¶ 8; *see also 2006 Form 325 Confidentiality Order* at ¶¶ 9-10.

<sup>13</sup> The FCC denied confidential treatment because such information is required to be publicly available pursuant to Section 76.1709 of the FCC's rules. *See Comcast Confidentiality Order* at ¶ 11; *2006 Form 325 Confidentiality Order* at ¶¶ 9-10.