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KRISTIN K. MAYES, Chairman
GARY PIERCE
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BOB STUMP

JOINT NOTICE AND APPLICATION OF QWEST CORPORATION, QWEST COMMUNICATIONS COMPANY, LLC, QWEST LD CORP., EMBARQ COMMUNICATIONS, INC. D/B/A/ CENTURY LINK COMMUNICATIONS, EMBARQ PAYPHONE SERVICES, INC. D/B/A/ CENTURYLINK, AND CENTURYTEL SOLUTIONS, LLC FOR APPROVAL OF THE PROPOSED MERGER OF THEIR PARENT CORPORATIONS QWEST COMMUNICATIONS INTERNATIONAL INC. AND CENTURYTEL, INC.

DOCKET NO. T-01051B-10-0194
DOCKET NO. T-02811B-10-0194
DOCKET NO. T-04190A-10-0194
DOCKET NO. T-20443A-10-0194
DOCKET NO. T-03555A-10-0194
DOCKET NO. T-03902A-10-0194

JOINT APPLICANTS' RESPONSE TO MOTION TO COMPEL DISCOVERY

The joint applicants named in the caption above (the "Joint Applicants") respectfully submit their response to the Motion to Compel Discovery (the "Motion") filed by Integra Telecom ("Integra")¹ on September 17, 2010. Integra's Motion specifically seeks the production of a total of 39 documents that CenturyLink provided to the U.S. Department of Justice ("DOJ") and the Federal Trade Commission ("FTC") in compliance with the Hart-Scott-Rodino Anti-

¹ Integra's Motion was joined in by Level 3 Communications, XO Communications Services, Inc., Pac-West Telecomm, Inc., and tw telecom of arizona llc (collectively, the "Joint CLECs")

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1 Trust Improvements Act ("HSR Act").² Hereafter, these documents sought by Integra's Motion
2 will be referred to as the "CTL HSR Documents."

3 Though the Motion restates Integra Request No. 143,³ which seeks all documents filed by
4 the Joint Applicants pursuant to the HSR Act, Integra seeks only to compel production of the
5 CTL HSR Documents. It should be noted that Integra and the Joint CLECs have moved to
6 compel on *only a portion of one* data request, out of more than 180 data requests (not including
7 subparts) that Integra has propounded upon the Joint Applicants. As the Motion points out,
8 specifically at issue is CenturyLink's response and objection to Integra Data Request No. 143.
9 CenturyLink's objection is restated below:
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11 CenturyLink objects to this request insofar as it is not relevant to the subject
12 matter of this action and is not reasonably calculated to lead to the discovery of
13 admissible evidence. The filings prepared by CenturyLink as required by the HSR
14 Act are specifically designed to provide the Department of Justice and the Federal
15 Trade Commission the information that it requires to analyze the merger on a
16 national level addressing specific federal antitrust issues. This is not the proper
17 jurisdiction for such an analysis. In addition, the information requested is highly
18 confidential, commercially sensitive information the release of which, particularly
19 to CenturyLink's competitors such as Integra, would cause irreparable
20 competitive harm to CenturyLink, such that even if the Commission issues a
21 protective order, it would not be sufficient to mitigate the impact.

22 While the Joint Applicants stand upon the merits of CenturyLink's objections, in order to
23 resolve the impasse between the parties, CenturyLink is willing to provide the majority of the
24 requested CTL HSR Documents to Integra and the Joint CLECs, and would be willing to provide
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² See 15 U.S.C. §§ 15-19. The Department of Justice and the Federal Trade Commission have concluded their review of the merger, granting early termination of the waiting period under the Hart-Scott-Rodino Act. See, Federal Register, Vol. 75, No. 152 at pages 47810-47811, published August 9, 2010.

³ Integra Data Request 143 states as follows: "Refer to page 6 of CenturyTel Inc.'s Form S-4, dated June 4, 2010. Provide a copy of the requisite notice, report forms, and any other documents (including supplemental filings) filed by CenturyLink and Qwest under the Hart-Scott-Rodino (HSR) Act with the Department of Justice and the Federal Trade Commission."

1 the remaining CTL HSR Documents if certain additional protections could be put in place to
2 safeguard the confidentiality of these very sensitive documents, as further described below.

3 BACKGROUND

4 The Joint Applicants filed their Joint Notice and Application for Expedited Approval of
5 Proposed Merger on May 13, 2010. On June 17, 2010, the Joint Applicants filed a proposed
6 form of protective order to be entered in this case to govern the disclosure, use and dissemination
7 of confidential information and highly confidential information. On July 27, 2010, the Joint
8 Applicants filed proposed modifications to their proposed form of protective order. On August
9 25, 2010, a protective order was issued in this proceeding.

11 Integra's Data Request No. 143 was included in Integra's second set of data requests,
12 which was served on July 7, 2010. The Joint Applicants provided their responses to Integra's
13 second set of data requests, including the Joint Applicants' relevancy objection to Data Request
14 No. 143, on July 21, 2010.⁴ On September 15, 2010, nearly two months after the Joint
15 Applicants' response and objection to Data Request No. 143, counsel for Integra left a voice mail
16 for CenturyLink's counsel, seeking just a subset of the CTL HSR Documents. CenturyLink
17 responded with a compromise proposal to produce a subset of the CTL HSR Documents.
18 However, Integra rejected the compromise and on September 17, 2010, filed the Motion seeking
19 all of the CTL HSR Documents.
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22 ARGUMENT

23 The standard of review for the Joint Applicant's proposed transaction is provided in
24 A.A.C. R14-2-803(C): "At the conclusion of any hearing, the Commission may reject the

25 ⁴ CenturyLink served Integra with non-confidential supplemental responses to Integra's second set of data requests
26 on August 30, 2010. CenturyLink then served Integra with confidential and highly-confidential supplemental
responses to Integra's second set of data requests on September 13, 2010.

1 proposal if it determines that it would impair the financial status of the public utility, otherwise
2 prevent it from attracting capital at fair and reasonable terms, or impair the ability of the public
3 utility to provide safe, reasonable and adequate service.” Integra fails to explain how any
4 information it believes is contained in the CTL HSR Documents is related to the factors that will
5 guide the Arizona Corporation Commission’s (“Commission”) review in this proceeding. While
6 Integra does cite some concerns that it says entitle it to discovery and, specifically, to discovery
7 of the CTL HSR Documents, these concerns can best be summarized as concerns over whether
8 the post-merger company will be able and willing to meet its obligations to provide UNEs and
9 wholesale services to Integra and the Joint CLECs.⁵ The Motion refers to Integra’s concern that
10 the Joint Applicant’s stated intent to realize \$575 million in forecasted synergies might lead to
11 reduced service to wholesale customers. However, it must be understood that, in context, the
12 wholesale services that Integra and the Joint CLECs are concerned about are FTA Section 251
13 interconnection, UNEs, and resale, and the ordering and provisioning systems that support those
14 Section 251 services. In other words, Integra’s “concerns” and issues in this proceeding do not
15 extend to the post-merger company’s plans for retail markets and services (e.g., mass market
16 consumer services, small business services, enterprise business services, payphone services,
17 switched access services, broadband services, IPTV services, etc.).

20 That Integra and the Joint CLECs are focused on wholesale interconnection and
21 integration issues is also demonstrated by Integra’s recitation in its Motion of the other data
22 requests that Integra has propounded.⁶ A primary theme of the Motion is Integra’s apparent
23 disbelief that decisions have not yet been made concerning details relating to integration of
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⁵ Motion at 5, line 17, to p. 6, line 1.

26 ⁶ Motion at 6-7.

1 systems and processes associated with provisioning wholesale services to CLECs. Integra's
2 Motion discusses data requests directed at 19 detailed aspects of systems and process integration
3 that Integra inquired about in some of its 183 non-HSR-related data requests directed to Joint
4 Applicants.⁷ Integra seems dismayed that decisions have not yet been made concerning these
5 detailed aspects of systems and process integration despite the fact that the transaction has not
6 yet closed and will not close for months yet.⁸ Instead, Integra speculates that the decisions have
7 in fact been made and are hidden somewhere within the CTL HSR Documents. This is an
8 amazing leap in logic, especially given that the CTL HSR Documents were prepared before the
9 merger agreement was even signed.

11 **A. Documents produced under the Hart-Scott-Rodino Act are generally not relevant to**
12 **this proceeding.**

13 The FTC and DOJ require the CTL HSR Documents in order to perform their statutorily-
14 required task of reviewing the merger on a national level for any specific federal antitrust
15 violations, primarily under the Clayton Act. *See* 15 U.S.C. §§ 15-19. This includes a review for
16 price discrimination; exclusive dealings or "tying"; a substantial reduction in national
17 competition; and a review of directors. *See id.* The HSR Act only requires that pre-merger
18 notification HSR documents be filed for mergers that are, among other things, valued at a
19 minimum of \$50 million, and only by and from persons with certain net and total assets, because
20 the HSR Act was designed to cover mergers that affect the national economy. *See* 15 U.S.C.
21 § 18(a); Mattox v. Federal Trade Commission, 752 F.2d 116, 122 (5th Cir. 1985). The FTC and
22 DOJ have completed their analysis of the CTL HSR Documents and determined that the
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25 ⁷ *Id.*

26 ⁸ Joint Applicants have explained repeatedly in responses to data requests that in the transaction CenturyLink will be acquiring all of Qwest's systems and processes intact and, therefore, no systems or process conversion need take place before or at closing. Instead, system and process conversions can take place post-merger at a prudent pace.

1 proposed merger does not require any further anti-trust review.⁹ The CTL HSR Documents,
2 therefore, have already served their required purpose.

3 In contrast, the Commission's statutorily-mandated task is to examine if the merger is
4 consistent with the affiliated interests rules *in Arizona* which, as explained above, requires it to
5 determine whether the transaction would impair the financial status of the public utility,
6 otherwise prevent it from attracting capital at fair and reasonable terms, or impair the ability of
7 the public utility to provide safe, reasonable and adequate service. By referring to "public
8 utility," the Commission's standard of review applies to Arizona operating entities, namely the
9 Joint Applicants. The federal agencies and the Commission, therefore, are obligated to examine
10 two different subject matters, operate under two distinct jurisdictions, and have two distinct areas
11 of expertise in merger review.

12
13 The CTL HSR Documents were specifically collected to provide to the FTC and DOJ
14 information to assist in its examination of the merger for federal antitrust law violations. The
15 CTL HSR Documents do not generally provide any analysis or information that is specific to
16 Arizona, nor could such information be accurately deduced from them. They are not, therefore,
17 relevant to this proceeding. Such information relevant to the local telecommunications
18 marketplace, if it exists in the CTL HSR Documents, is not responsive to the Commission's
19 standard of review, and would only come from a fishing expedition on behalf of Integra and the
20 Joint CLECs through highly sensitive materials for information that could be more directly
21 obtained from other sources. Because the CTL HSR Documents are not relevant to the
22 Commission's own merger-review responsibility, but do contain heightened confidential
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26 ⁹ See Federal Register, Vol. 75, No. 152, *supra*.

1 commercial and financial information and analysis that could cause significant irreparable harm
2 to CenturyLink if they were to be released to competitors and potential adversaries, the harm of
3 disclosing the CTL HSR Documents would far outweigh any benefit of producing them, even
4 under a protective order. Nevertheless, CenturyLink previously made good faith offers to
5 compromise, and as described below, CenturyLink would be willing to produce a majority of the
6 CTL HSR Documents if it would resolve the discovery impasse.
7

8 ***B. CenturyLink is willing to produce a majority of the CTL HSR Documents.***

9 The Administrative Law Judge ("ALJ") is well aware of CenturyLink's concerns about
10 disclosing highly competitively sensitive information to its competitors which have intervened in
11 this proceeding. The Joint Applicants' pleadings in connection with their proposed
12 modifications to their proposed form of protective order, the subsequent submission of a subset
13 of CTL HSR Documents for *in camera* review, and the oral argument on the form of protective
14 order, make clear the sensitivity with which CenturyLink views the disclosure of certain CTL
15 HSR Documents. The documents submitted for *in camera* review were only *the most sensitive*
16 of the CTL HSR Documents for which the Joint Applicants were seeking a special treatment of
17 "Staff Eyes Only" ("SEO") disclosure. The majority of CTL HSR Documents produced by
18 CenturyLink for compliance with the HSR Act are still irrelevant to this proceeding, and are still
19 competitively sensitive even if CenturyLink did not originally view them as SEO-type
20 documents. However, in balancing Integra's insistence on discovery with the protections
21 afforded by the Protective Order, CenturyLink is willing to produce 30 of the CTL HSR
22 Documents under a Highly Confidential designation. In addition, four of the remaining nine
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1 CTL HSR Documents¹⁰ would be produced with minimal redactions, even though the documents
2 are irrelevant and, based upon the competitive sensitivity of the information, even though the
3 disclosure of the documents presents a significant risk of competitive harm to CenturyLink. For
4 this redacted information, as well as for the remaining five CTL HSR Documents, CenturyLink
5 continues to object to production of the information because the information is not relevant to the
6 proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. The
7 content of the remaining documents is described further below.

9 In determining relevancy it is appropriate to balance the benefit of disclosure to the
10 requesting party with the risk of harm to the disclosing party. The Commission's deliberations
11 are generally conducted in accordance with the Rules of Evidence applied in the courts in
12 Arizona.¹¹ The Commission must determine whether evidence, even if relevant, should be
13 excluded from disclosure because "its probative value is substantially outweighed by the danger
14 of unfair prejudice, confusion of the issues, ... or by considerations of undue delay, waste of
15 time, or needless presentation of cumulative evidence."¹² This doctrine is not limited to
16 situations in which there is a possibility that the evidence would be prejudicial at trial—it also
17 applies for evidence that risks violations of confidentiality and trade secrets.¹³ Although a
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20 ¹⁰ When the Joint Applicants filed to modify their form of proposed protective order, CenturyLink considered 12
21 documents to be so competitively sensitive as to be subject to a Staff Eyes Only designation (and one additional
22 document was proposed to have certain pages redacted as SEO), as demonstrated by the list of "SEO" documents
23 that was filed on August 11, 2020, when the Joint Applicants submitted SEO documents for *in camera* review. Of
24 those original 13 "SEO" HSR documents, the one with redactions has been completely classified as Highly
25 Confidential, three others have been completely classified as Highly Confidential, and for 4 such documents
26 CenturyLink proposes only limited redactions as a result of relevancy objections.

¹¹ A.A.C. R 14-3-109(K).

¹² Ariz. R. Evid. 403; cf. *English-Clark v. City of Tucson*, 142 Ariz. 522, 526, 690 P.2d 1235, 1239 (App. 1984)
("The balancing process under Rule 403 ... is left to the trial judge, who must determine whether the probativeness
of the offered evidence is substantially outweighed by its unfair prejudice, confusion of issues, etc.").

¹³ *Mo. Pub. Serv. Comm'n v. Mo. Pipeline Co.*, Case No. GC 2006-0378, 2006 WL 3733309, at *2 (Mo.P.S.C.
2006) ("In deciding whether a party should be allowed to discover certain information, the court, or administrative

1 protective order can mitigate the risk of disclosure, the risk of disclosure (even inadvertently)
2 still exists and can be a factor in judging the relevancy of requested information. The risk of
3 competitive harm to CenturyLink from disclosure of irrelevant HSR information is significant.
4 As the August 24 Procedural Order recognized, the decision on the protective order did not
5 foreclose arguments about “relevance and/or discoverability.” As discussed below, and as an *in*
6 *camera* inspection will reveal, the limited number of CTL HSR Documents remaining that
7 Integra seeks to compel production of are not relevant and should not be produced in discovery.

9 **C. *The Remaining CTL HSR Documents Withheld Or Redacted Under CenturyLink's***
10 ***Proposed Resolution.***

11 Under CenturyLink’s proposed resolution of the Integra’s Motion, as described above,
12 five CTL HSR Documents would be withheld in their entirety and four others would be redacted.
13 Because these CTL HSR Documents were previously submitted for *in camera* review, the ALJ
14 can review the specific documents in detail, and CenturyLink will reference the documents using
15 the previously filed index and description of “SEO” documents.¹⁴

16 **1. CTL HSR Document #10 - - Broadband Marketing and Strategy.**

17 This two-page document is an analysis of market share, trends and marketing strategy for
18 broadband services in legacy CenturyTel and legacy Embarq territories. Broadband deployment
19 is not an area over which the Commission has jurisdiction, nor is it directly implicated by the
20 merger review criteria in A.A.C. R14-2-803(C). In addition, broadband market share

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22 agency, must weigh ‘the probative value of the evidence against the dangers to the opposing party of unfair
23 prejudice, confusion of the issues, undue delay, waste of time, cumulateness, or violations of confidentiality.’”);
24 *YMCA of the Rockies v. Pub. Serv. Co. of Colo.*, Case No. 05F167G, R0608951, 2005 WL 1994293 (Colo. P.U.C.
25 2005) (requiring the Colorado PUC to analyze the probative value of evidence, even though the Colorado
26 Commission, similar to Arizona, is not strictly bound by the technical rules of evidence); *In re Qwest Corp.*, Order
No. 03-533, 2003 WL 24038510 (Or. P.U.C. 2003) (applying the probative value versus unfair prejudice balancing
test and analyzing the limit on disclosure of trade secrets in the context of a motion to compel a data response).

¹⁴ CenturyLink’s Notice of Submittal of “Staff Eyes Only” Confidential Documents for In-Camera Review, filed
August 11, 2010.

1 information is not at all related to the type of wholesale and interconnection issues that Integra
2 and the other CLECs have raised in this proceeding. However, such information is obviously
3 extremely competitively sensitive insofar as it reveals CenturyLink's actual broadband market
4 share and market share of new broadband customers in specific geographic markets. Moreover,
5 there is no Arizona-specific data in this document. None of the geographic markets analyzed
6 are in Arizona. Consequently, this document is not relevant to this proceeding, and its highly
7 confidential and competitively sensitive nature weighs heavily in favor of sustaining
8 CenturyLink's relevancy objection.
9

10 **2. CTL HSR Document #23 - - IPTV Qwest Market Business Case Sensitivities.**

11 CTL HSR Document #23 contains financial assumptions and projected market rollout
12 information for IPTV in various Qwest markets. Similar to CTL HSR Document #10, this
13 document involves an analysis of a service that is classified for legal and regulatory purposes as
14 cable service under *Title VI of the Communications Act of 1934* (as revised). The Commission
15 does not have jurisdiction over cable services. The document includes information on key
16 assumptions regarding capital expenditures, average revenue per customer, marketing costs,
17 network upgrade costs, and market-specific revenue projections. This type of information
18 related to business case scenarios for a possible rollout of a non-telecom, non-public utility
19 service is not information that is relevant to the issues that have been raised by Integra and the
20 other Joint CLECs in this proceeding, but such information is very competitively sensitive.
21 Furthermore, much of the information is either multi-state in nature or in most instances relates
22 to states other than Arizona. Consequently, this document is not relevant to this proceeding, and
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1 its highly confidential and competitively sensitive nature weighs heavily in favor of sustaining
2 CenturyLink's relevancy objection.

3 **3. CTL HSR Document #33 - - Proprietary Market Research Data.**

4 CTL HSR Document #33 contains extensive (over 200 pages) of market research survey
5 data commissioned by CenturyLink and contains proprietary, highly confidential and
6 competitively sensitive market data research regarding potential product offerings and customer
7 preferences in various product and geographic markets. Substantively, this market research data
8 focuses on customer preferences for retail voice, Internet and video services that are not relevant
9 to the wholesale interconnection and integration issues that Integra and the Joint CLECs have
10 raised. Neither does this "customer preference" market research data relate to the merger review
11 criteria in A.A.C. R14-2-803(C). The data is multi-state in nature, and where specific
12 geographic markets are mentioned they are primarily outside of Arizona (*see e.g.*, pages 15, 60,
13 80). Consequently, this document is not relevant to this proceeding, and its highly confidential
14 and competitively sensitive nature weighs heavily in favor of sustaining CenturyLink's relevancy
15 objection.
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18 **4. CTL HSR Document #35 - - IPTV Market Study and Financial Projections.**

19 Just like CTL HSR Document #23 discussed above, CTL HSR Document #35 deals with
20 IPTV, a *Title VI* service (cable service) over which the Commission has no jurisdiction and
21 which is not related to the wholesale interconnection and integration issues raised by Integra and
22 the Joint CLECs. CTL HSR Document #35 was provided to Qwest during the due diligence
23 process and contains highly confidential and competitively sensitive market projections and
24 financial data regarding CenturyLink's IPTV offerings. The information is multi-state in nature,
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1 and is limited to CenturyLink's existing territory, so it does not include any Arizona-specific
2 data. Consequently, this document is not relevant to this proceeding, and its highly confidential
3 and competitively sensitive nature weighs heavily in favor of sustaining CenturyLink's relevancy
4 objection.

5 **5. CTL HSR Document #36 - - Consumer Sales Strategy.**

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7 CTL HSR Document #36 provides details about CenturyLink's consumer markets sales
8 strategies, which is highly competitively sensitive information and is not relevant to the
9 wholesale interconnection and integration issues raised by Integra and the Joint CLECs (most of
10 which do not even provide residential/consumer services), and which is not relevant to an
11 analysis of the adequacy of telecommunications services provided. There are also a few pages
12 that describe CenturyLink's enterprise market sales organization's structure and market
13 segmentation (service to CLECs is not included in the Enterprise market space), and this
14 information is equally irrelevant to the issues raised by Integra and the Joint CLECs.
15 Consequently, this document is not relevant to the CLECs' concerns, or to the standard of review
16 in this proceeding, and its highly confidential and competitively sensitive nature weighs heavily
17 in favor of sustaining CenturyLink's relevancy objection.
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19 **6. CTL HSR Document #4, Redacted Pages 9, 10, 11¹⁵ - - Churn Data.**

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21 CTL HSR Document #4 is a report containing highly confidential and competitively
22 sensitive retail customer data broken down by customer segment with churn data provided by
23 product purchased. The report also discusses marketing and retention strategies as well as
24 trending data for active Qwest customers. Although CenturyLink believes that none of the
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¹⁵ Pages titled: "Monthly Account Churn Rate by Product Set," "Customer HSI Subs Account Churn Feb 2010,"
and "Monthly Account Churn Rate by Segment."

1 information in the document is relevant to the issues in this proceeding, as further demonstration
2 of CenturyLink's willingness to compromise on this discovery dispute, CenturyLink is willing to
3 produce all but three pages of this document. These three pages contain churn data related to
4 retail customers, broken down by retail customer segment and retail product segment (e.g., voice
5 only, bundled voice and Internet access, etc.) and are in no way relevant to the wholesale
6 interconnection and integration issues raised by Integra and Joint CLECs. Notably, the churn
7 information does not discuss service quality. Further, this information is not Arizona-specific.
8 Consequently, these three redacted pages are not relevant to the CLEC's concerns or to the
9 standard of review in this proceeding, and their highly confidential and competitively sensitive
10 nature weighs heavily in favor of sustaining CenturyLink's relevancy objection.

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12 7. **CTL HSR Document #13, Redacted Pages 7, 8, 9 - - Cell Site and Inmate**
13 **Payphone Data.**

14 CTL HSR Document #13 is titled "Wholesale Overview," but none of the wholesale
15 services or market segments reviewed in the document are relevant to the issues raised by Integra
16 and the Joint CLECs. Although Century Link believes that none of the information in the
17 document is relevant to the issues in this proceeding, as further demonstration of CenturyLink's
18 willingness to compromise on this discovery dispute, CenturyLink would be willing to limit its
19 objection to only three pages that: 1) provide information on the number of wireless carrier cell
20 sites served by CenturyLink, and how many sites are served by fiber, broken down by
21 CenturyLink operating region (there is no data for Arizona); 2) additional data on wireless carrier
22 cell sites being served, the number of sites that CenturyLink has proposed to serve, and estimates
23 of the total market opportunity, again by region (again, there is no data for Arizona), and with
24 specific carrier-customer site-specific information; and 3) state-specific revenue information in
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1 the inmate (prison) payphone market (again, there is no data for Arizona). All of this
2 information is extremely competitively sensitive and is clearly unrelated to matters at issue in
3 this proceeding. Consequently, these three redacted pages are not relevant to the concerns
4 expressed by Integra or the Joint CLECs or to the standard of review in this proceeding, and their
5 highly confidential and competitively sensitive nature weighs heavily in favor of sustaining
6 CenturyLink's relevancy objection.
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8 **8. CTL HSR Document #15, Redacted Pages 8, 10, 13, 14, 15, 16, 17, 18, 20, 21,**
9 **23, 30, 35, 42, 43, 44, 45, 46, 47.**

10 The title of CTL HSR Document #15 is "2010 – 2013 Long Range Plan Review," which
11 on its face signifies the extreme competitive sensitivity of the information. Once again,
12 CenturyLink contends that none of the information in this document is relevant to the issues
13 raised by Integra and the Joint CLECs. Nevertheless, CenturyLink would agree to compromise
14 and produce the majority of the document's 47 pages, withholding only 19 pages.

15 It would be too unwieldy to describe the contents of each of the 19 pages, but
16 CenturyLink will provide a few samples to demonstrate that the redacted information is not
17 relevant: system-wide consumer (mass market) average revenue per unit for voice, Internet, and
18 IPTV services (p. 8); system-wide trends in Internet subscribership and related business
19 assumptions (p. 10); system-wide revenue trends and projections for IPTV, as well as IPTV
20 market penetration trends and projections (pp. 14-15); system-wide Enterprise business market
21 segment revenue trends and projections broken down by product segment (p. 21); system-wide
22 Wholesale market revenue assumptions, by product group and focused on switched access (this
23 does not include any § 251 interconnection or reciprocal compensation products or revenues)
24 (p. 23); 2010 and 2013 revenue projections for standalone CenturyLink (*i.e.*, pre-merger) broken
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1 down by product segment (p. 35); and pages that provide CenturyLink system-wide data on
2 consumer mass market revenue projections through 2013; access line trends and projections
3 (including churn and revenue data) through 2013; trends and projections for DSL Internet Access
4 (including churn and revenue data) through 2013; trends and projections for Direct Broadcast
5 Satellite video service (including churn and revenue data) through 2013; trends and projections
6 for Enterprise business market revenues broken down by product segment through 2013; and
7 trends and projections for Wholesale market revenues by product segment through 2013 (pp. 42-
8 47).

9
10 None of this data is Arizona-specific, and none of it is relevant to the wholesale
11 interconnection and integration issues raised by Integra and the Joint CLECs. Nearly all of this
12 data concerns products and markets that should be of absolutely no concern to the CLECs, and
13 even the Wholesale revenue data is not relevant to the CLECs' concerns regarding
14 CenturyLink's expertise in interconnection and Operational Support Systems. Consequently,
15 these 19 redacted pages are not relevant to this proceeding, and their highly confidential and
16 competitively sensitive nature weighs heavily in favor of sustaining CenturyLink's relevancy
17 objection.

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19 9. CTL HSR Document #16, Redacted Pages 23,¹⁶ 24, 30, 32, 33, 34, 35, 36, 37,
20 38, 39, 40, 43, 46.

21 The title of CTL HSR Document #16 is "Operations Overview," and it contains highly
22 confidential and competitively sensitive market specific data regarding CenturyLink's operating
23 models and marketing plans in the Consumer, Mass Market, and Enterprise markets. Highly
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25 ¹⁶ Because CTL HSR Document #16 that was submitted for *in camera* review does not contain page numbers, the
26 first redacted page (23) can serve as a landmark for identifying all the pages that CenturyLink objects to providing.
The first page to be redacted (23) is titled "Market Approach—Consumer & Mass Market."

1 confidential market launch data is included in the presentation for upcoming product rollouts.
2 None of the information for these market segments is relevant to the wholesale interconnection
3 and integration concerns raised by Integra and the Joint CLECs. Of the 48 pages included in this
4 document, CenturyLink would be agreeable to compromising and producing 34 pages with a
5 Highly Confidential designation, while withholding 14 pages of information that is both
6 irrelevant and extremely competitively sensitive.
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8 Again, it is not necessary to describe all the pages in detail here because an *in camera*
9 review will permit the ALJ to readily conclude that all of the pages for redaction are irrelevant
10 and should not be produced. For example, the redacted pages include: specifics about
11 CenturyLink's marketing approach to the consumer and mass market segments (p. 23); trends in
12 Internet access (DSL) churn (p. 24); trends in consumer market average revenue per unit (p. 30);
13 and strategic marketing, pricing and product roll out data for IPTV (pp. 32-40). The information
14 is not Arizona-specific, and most of the data concerns non-jurisdictional services which are not
15 implicated by the merger review criteria in A.A.C. R14-2-803(C). The data in the redacted
16 pages is irrelevant to the wholesale interconnection and integration concerns of Integra and the
17 Joint CLECs, or to the standard of review in this proceeding. Their highly confidential and
18 competitively sensitive nature weighs in favor of sustaining CenturyLink's relevancy objection.
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20 **THE JOINT APPLICANTS' ALTERNATIVE PROPOSAL FOR PRODUCTION OF**
21 **THE REMAINING HSR DOCUMENTS**

22 The Joint Applicants have presented a strong case in support of their relevancy objection
23 to producing the remaining CTL HSR Documents and certain pages from other CTL HSR
24 Documents. As Integra and the Joint CLECs are actively involved in other state proceedings
25 where the merger between CenturyLink and Qwest is being reviewed, disputes over access to
26

1 these HSR documents have occurred in various states under various forms of protective orders
2 and with the Joint Applicants having made different compromise proposals to resolve the
3 dispute. To date, no compromise that has been proposed to Integra has been satisfactory. Yet,
4 no state has yet required the Joint Applicants to produce the remaining SEO-type HSR
5 documents with only the minimal level of protection afforded Highly Confidential information
6 by the current Arizona Protective Order.
7

8 Integra filed a motion to compel production of HSR documents in the Minnesota merger
9 review proceeding. In that proceeding, the ALJ ordered the production of the HSR documents.
10 In response to the Joint Applicants' motion for reconsideration, the ALJ in the Minnesota
11 proceeding recently issued a protective order with additional protections that are applicable to
12 the remaining CenturyLink HSR documents (and specific pages) that have been described above.
13 No Qwest HSR documents were at issue in the Minnesota ruling. Copies of the Minnesota
14 orders are attached hereto as Attachments 1 and 2.
15

16 In summary, in Minnesota the ALJ limited protection of these highly sensitive HSR
17 documents to "a reasonable number of outside attorneys; one outside consultant; and one in-
18 house employee who is not now involved, and will not for a period of two years involve himself
19 or herself in strategic or competitive decision making (including, but not limited to, the sale or
20 marketing or pricing of products or services) with respect to which the documents or information
21 may be relevant by or on behalf of any company or business organization that competes, or
22 potentially competes, with the Joint Petitioners." Subject to and without waiving its objection to
23 the production of CTL HSR Documents, CenturyLink would be willing to produce the CTL HSR
24 Documents and specific pages described above under the exact same protections ordered in
25
26

1 Minnesota. Although CenturyLink's relevancy objections are valid and should be sustained,
2 CenturyLink presents this as an alternative proposal as a compromise for the ALJ's
3 consideration.

4 **CONCLUSION**

5 For the reasons discussed herein, the Joint Applicants request that the ALJ sustain the
6 objection to Integra Data Request 143 and order that the relevant documents may be withheld by
7 CenturyLink. Alternatively, if it would resolve the discovery impasse, CenturyLink would be
8 willing to provide 30 out of the 39 CTL HSR Documents at issue, while withholding five of the
9 documents in their entirety and redacting portions of the remaining four documents, as described
10 above. The CTL HSR Documents produced to Integra and the Joint CLECs would be designated
11 as Highly Confidential Documents under the Protective Order in these consolidated dockets, and
12 would be subject to certain additional limitations similar to those recently adopted by the
13 Minnesota and Colorado state commissions, including limitations on the number of persons who
14 may have access to the documents.
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RESPECTFULLY SUBMITTED this 4th day of October, 2010.

SNELL & WILMER L.L.P.

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ORIGINAL and 13 copies filed
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Docket Control
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1 COPY of the foregoing hand-delivered
2 this 4th day of October, 2010, to:

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7 Phoenix, Arizona 85007

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ATTACHMENT 1

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Joint Petition for
Approval of Indirect Transfer of Control of
Qwest Operating Companies to
CenturyLink

**ORDER REGARDING JOINT
PETITIONERS' MOTION FOR
RECONSIDERATION**

On September 22, 2010, the Joint Petitioners filed a Motion for the Administrative Law Judge to Reconsider the September 21, 2010 Order on a Limited Basis or, in the Alternative, to Certify the Motion for a Supplemental Protective Order to the MPUC and a Request for a Stay. On September 27, 2010; Integra Telecom, Sprint, and T-Mobile filed responses in opposition to the Motion to Reconsider or Certify.

On September 28, 2010, the Administrative Law Judge ordered that the limited number of documents at issue in the Motion to Reconsider or Certify be submitted for *in camera* inspection in connection with consideration of the Joint Petitioners' Motion. The Joint Petitioners submitted the documents to the Office of Administrative Hearings late on September 28, 2010.

Based upon the *in camera* inspection and the files, records, and proceedings in this matter, and for the reasons set forth in the Memorandum below, **IT IS HEREBY ORDERED** as follows:

1. The Joint Petitioners' Motion to Reconsider the September 21, 2010, Order on a Limited Basis is **GRANTED IN PART AND DENIED IN PART**, as discussed more fully in the Memorandum below.

2. The Joint Petitioners shall provide the information at issue in this Order to the appropriate parties by 4:30 p.m. on Friday, October 1, 2010 (assuming that recipients have executed Appendix D of the attached Second Supplemental Protective Order by that time).

3. The information produced in response to this Ruling shall be governed by the Protective Order previously entered in this case on June 15, 2010, the Supplemental Protective Order entered on September 21, 2010, and the Second Supplemental Protective Order attached hereto, as appropriate. **The Joint Petitioners**

shall not be required to automatically provide information responsive to this Ruling to all parties.

4. The eFiling of any document subject to this Order shall be conducted in the manner specified in the Fourth Prehearing Order issued by the Administrative Law Judge on September 24, 2010. The parties should also note:

- The service list in Docket 10-1012 will be limited to State Agency staff and outside counsel.
- The service list in Docket 10-1012 will provide access for outside counsel who have executed both Exhibit C to the Supplemental Protective Order issued on September 21, 2010 (for those documents containing "Highly Sensitive Trade Secret Information Subject to Additional Protection"), and Exhibit D to the Second Supplemental Protective Order that is being issued along with this Order on September 30, 2010 (for those documents discussed in this Order containing "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order").
- The designated outside expert and in-house employee seeking access to the documents identified in the Second Supplemental Protective Order must execute and file Exhibit D.
- Access by outside expert(s) and in-house employee(s) to documents containing "Highly Sensitive Trade Secret Information Subject to Additional Protection" and "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order" shall be solely through counsel, and counsel must ensure that both "Highly Sensitive Trade Secret Information Subject to Additional Protection" under the September 21, 2010, Supplemental Protective Order, and "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order" issued in connection with this Order are made available only to those persons who have executed and filed Exhibit C and, where applicable, Exhibit D.

Date: September 30, 2010

/s/ Barbara L. Neilson
BARBARA L. NEILSON
Administrative Law Judge

MEMORANDUM

In their Motion to Reconsider or Certify, the Joint Petitioners contend that the September 21, 2010, Order issued by the Administrative Law Judge fails to adequately protect a limited number of "extraordinarily sensitive" documents, and seek to have those documents disclosed only to outside counsel and outside experts of the private Intervenor. The documents (or portions of documents) at issue in the Motion are the following:

| Data | Date | Title | Description |
|-------------|-------------|---|---|
| HSR #4 | 3/10/2010 | Feb. 2010 Customer Profile and Churn Trends | Pages 9-11 of report containing retail customer data broken down by customer segment with churn data provided by product purchased, and discussing marketing and retention strategies as well as trending data for active Qwest customers |
| HSR #10 | 3/26/2010 | Due Diligence Response No. 8 | Document provided to Qwest during due diligence process regarding CenturyLink's broadband market share, penetration rates and go-to-market strategy for driving broadband penetration vs. the cable operator |
| HSR #13 | 4/1/2010 | Wholesale Overview | Pages 7-9 of presentation containing carrier proprietary information and other data regarding marketing plans, product development, pending sales, and trends in the Wholesale marketplace |
| HSR #15 | 4/1/2010 | 2010-2013 Long Range Plan Review | Pages 8, 10, 13-18, 20-21, 23, 30, 35, and 42-47 of analysis of CenturyLink's Long Range Plan containing data regarding marketing plans, product development, and trends in the Consumer, Mass Markets, IPTV, Enterprise, and Wholesale markets |

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|------------------------------------|-----------|--|--|
| HSR #16 | 3/23/2010 | Operations Review | 14 pages ¹ of the presentation containing data regarding CenturyLink's operating models and marketing plans in the Consumer, Mass Market, and Enterprise markets; market launch data is included in the presentation for upcoming product rollouts. |
| HSR #23 | 4/15/2010 | IPTV Quartz Review Sensitivities | Presentation containing data relating to the financial assumptions and projected market rollout of IPTV in various markets |
| HSR #33 | 4/21/2010 | 11 Markets Research Presentation | Market research survey commissioned by CenturyLink containing market data research regarding potential product offerings and customer preferences in various markets |
| HSR #35 | 4/1/2010 | Due Diligence Response No. 150 | Document provided to Qwest during due diligence process containing market projections and financial data regarding IPTV offering. |
| HSR #36 | Undated | Consumer Sales Approach | Presentation containing go-to-market plans and information regarding CenturyTel's consumer sales strategy |
| Electronic version of spreadsheets | | Attachment CWA-4 Highly Confidential.xls | Fully enabled copies of computer spreadsheet models projecting future operating and financial prospects for the combined firms (requested in CWA Information Request No. 4) |

Prior to entry of the September 21, 2010, Order, the Joint Petitioners had argued that these and other documents and others should be designated "staff eyes only" and disclosed only to Department of Commerce and Commission staff, upon request. In their Motion to Reconsider or Certify, the Joint Petitioners indicated that they had reviewed all of the documents for which they had requested the most sensitive treatment after the September 21 Order was issued and substantially narrowed the documents and information subject to dispute. They stated that they had produced,

¹ The pages of the presentation are not numbered. Joint Petitioners seek to redact three pages of the Consumer and Mass Market Overview, nine pages of the IPTV and MDU Overview; and two pages of the Enterprise Overview.

pursuant to the September 21 Order, all of the documents that were listed in Attachment 1 to their original Motion for a Supplemental Protective Order and seven of the documents that were listed in Attachment 2. However, in the Motion to Reconsider or Certify, the Joint Petitioners contend that the documents identified above "remain too extraordinarily sensitive" to release under the terms of the Supplemental Protective Order that was issued on September 21.² They maintain that the "potential harm to the Joint Petitioner's ability to fairly compete in the competitive marketplace if this information is disclosed to its competitors simply remains too high, particularly in balance with the Intervener's limited interests to this discrete information in this proceeding."³

In opposing the Joint Petitioners' Motion, Integra contended that the Joint Applicants have not set forth any new reason why the September 21, 2010, Order should be reconsidered, and asserted that they have not adequately explained why they initially proposed that the documents at issue here be designated "staff eyes only" and are now suggesting a less restrictive approach. In addition, Integra argued that the current proposal to limit disclosure of these documents to outside counsel and outside experts would inappropriately limit the ability of its outside counsel to consult with his client. Sprint and T-Mobile emphasized that the only witness they are using to present their case is a Sprint in-house regulatory specialist, and maintained that the proposed restriction to outside counsel and outside witnesses of private parties would prevent Sprint and T-Mobile from fully presenting their position on issues in this proceeding. They also contended that the approach suggested by the Joint Petitioners is at odds with Commission practice and with the Commission's directive that a full evidentiary record should be developed based on the input of all parties. Counsel for the Communication Workers of America (CWA) stated during the telephone conference call on September 23, 2010, and during the motion argument on September 8, 2010, that disclosure of the fully-enabled spreadsheet to be provided in response to CWA Information Request No. 4 will, in any event, be restricted to CWA's outside counsel and outside expert, and will not be shared with CWA's in-house personnel.

After reviewing the arguments of the parties and conducting an *in camera* inspection of the documents at issue, the Administrative Law Judge is persuaded that some additional restrictions should be placed on the disclosure of these materials due to their inclusion of extremely sensitive competitive information relating to market research, marketing strategies, product development, operating models, sales approaches, and other matters. The CWA has agreed to limit disclosure of these materials to its outside counsel and outside expert. However, the other private Interveners have opposed this restriction, and the Administrative Law Judge is not convinced that it is appropriate or reasonable to limit the review of this information solely to the outside counsel and outside experts of those parties. As noted in the September 21 Order, such an approach would prevent outside attorneys and outside experts from consulting with the party that retained them about what, if any, significance the information has in this proceeding, and would hinder their ability to effectively represent

² Motion to Reconsider or Certify at 3.

³ *Id.* at 4.

their clients. Moreover, it would interfere with the ability of the private party Intervenor to provide valuable input for the Commission's consideration. The Administrative Law Judge concludes that it is proper to permit some in-house disclosure of the materials to the Intervenor other than CWA, but more narrowly limit the number and role of the in-house personnel permitted to review the materials. It is further determined that these restrictions should apply both to large companies and small companies.

Accordingly, in order to strike an appropriate balance between the Intervenor's interests and the Joint Petitioners' concerns about the competitive sensitivity of these materials, the Administrative Law Judge has determined that it is appropriate to grant the Joint Petitioners' Motion to Reconsider in part and issue a separate protective order which will apply where appropriate to the documents identified above. Accordingly, a Second Supplemental Protective Order Applicable to HSR Documents 4, 10, 13, 15, 16, 23, 33, 35 and 36, and Fully-Enabled Computer Spreadsheet Sought by CWA-4 ("Second Supplemental Protective Order"), is attached hereto. The Second Supplemental Protective Order will govern the information contained in the documents identified above, which shall be designated as "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order." The Second Supplemental Protective Order (1) requires that the CWA limit disclosure of these materials to its outside counsel and outside expert, in accordance with its agreement to do so; and (2) requires that the other Intervenor limit disclosure of these materials to a reasonable number of outside attorneys; one outside consultant; and one in-house employee who is not now involved, and will not for a period of two years involve himself or herself in strategic or competitive decision-making (including, but not limited to, the sale or marketing or pricing of products or services) with respect to which the documents or information may be relevant, by or on behalf of any company or business organization that competes, or potentially competes, with the Joint Petitioners. The latter modification ensures that one in-house representative of private Intervenor other than the CWA will be able to consult with the party's outside expert and outside attorneys while safeguarding the Joint Petitioners' interest in ensuring that the information is not widely disseminated or inappropriately used.⁴

B. L. N.

⁴ Because the Joint Petitioners' Motion for Reconsideration has been granted in part, there is no need to reach the further question of whether the Motion should be certified to the Commission.

ATTACHMENT 2

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Joint Petition of Qwest Communications International, Inc., Qwest Corporation, Qwest LD Corp. and Qwest Communications Company LLC and CenturyTel, Inc., SB44 Acquisition Company, CenturyTel Holdings, Inc., and CenturyTel of the Northwest, Inc., CenturyTel of Minnesota, Inc. d/b/a CenturyLink, CenturyTel of Chester, Inc. d/b/a CenturyLink, CenturyTel of Northwest Wisconsin, LLC d/b/a CenturyLink, CenturyTel Acquisition LLC d/b/a CenturyLink Acquisition, CenturyTel Solutions, LLC d/b/a CenturyLink Solutions, CenturyTel Fiber Company II, LLC d/b/a LightCore, a CenturyLink Company, CenturyTel Long Distance, LLC d/b/a CenturyLink Long Distance, Embarq Corporation, Embarq Minnesota, Inc. d/b/a CenturyLink, and Embarq Communications, Inc. d/b/a CenturyLink Communications for Approval of Indirect Transfer of Control of Qwest Communications International, Inc., Qwest Corporation, Qwest Communications Company, LLC, and Qwest LD Corp.

**SECOND SUPPLEMENTAL
PROTECTIVE ORDER
APPLICABLE TO HSR
DOCUMENTS 4, 10, 13, 15, 16,
23, 33, 35 AND 36, AND THE
FULLY-ENABLED COMPUTER
SPREADSHEET SOUGHT BY
CWA-4**

The purpose of this Second Supplemental Protective Order Applicable to HSR Documents 4, 10, 13, 15, 16, 23, 33, 35 and 36, and the Fully-Enabled Computer Spreadsheet Sought by CWA-4 ("Second Supplemental Order") is to facilitate the disclosure of certain documents and information, as discussed in the Order of the Administrative Law Judge issued on September 30, 2010, regarding the Joint Petitioners' Motion for Reconsideration ("the September 30 Order"). In the September 30 Order, the Administrative Law Judge determined that it was appropriate to grant in part the Joint Petitioners' Motion to Reconsider a prior ruling issued on September 21, 2010, and issue a separate protective order incorporating further restrictions on disclosure with respect to the particular documents at issue in that Order.

The June 15, 2010, Protective Order and September 21, 2010, Supplemental Protective Order remain in effect and continue to govern disclosure of all information

apart from the specific information to be produced under the September 30, 2010, Order that is designated as "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order."

This Second Supplemental Order is limited in applicability to the specific documents identified below. The Parties may agree to handle information produced under other Information Requests in accordance with this Supplemental Protective Order.

SUPPLEMENTAL PROVISIONS APPLICABLE TO HSR DOCUMENTS 4, 10, 13, 15, 16, 23, 33, 35 AND 36, AND THE FULLY-ENABLED COMPUTER SPREADSHEET SOUGHT BY CWA-4

In accordance with the September 30 Order of the Administrative Law Judge, certain information that is to be produced by Joint Petitioners shall be afforded additional protection from disclosure. The following information is covered by this Second Supplemental Protective Order:

| Data | Date | Title | Description |
|-------------|-------------|---|---|
| HSR #4 | 3/10/2010 | Feb. 2010 Customer Profile and Churn Trends | Pages 9-11 of report containing retail customer data broken down by customer segment with churn data provided by product purchased, and discussing marketing and retention strategies as well as trending data for active Qwest customers |
| HSR #10 | 3/26/2010 | Due Diligence Response No. 8 | Document provided to Qwest during due diligence process regarding CenturyLink's broadband market share, penetration rates and go-to-market strategy for driving broadband penetration vs. the cable operator |
| HSR #13 | 4/1/2010 | Wholesale Overview | Pages 7-9 of presentation containing carrier proprietary information and other data regarding marketing plans, product development, pending sales, and trends in the Wholesale marketplace |

| | | | |
|-------------------------------------|-----------|----------------------------------|--|
| HSR #15 | 4/1/2010 | 2010-2013 Long Range Plan Review | Pages 8, 10, 13-18, 20-21, 23, 30, 35, and 42-47 of analysis of CenturyLink's Long Range Plan containing data regarding marketing plans, product development, and trends in the Consumer, Mass Markets, IPTV, Enterprise, and Wholesale markets |
| HSR #16 | 3/23/2010 | Operations Review | 14 pages ¹ of the presentation containing data regarding CenturyLink's operating models and marketing plans in the Consumer, Mass Market, and Enterprise markets; market launch data is included in the presentation for upcoming product rollouts. |
| HSR #23 | 4/15/2010 | IPTV Quartz Review Sensitivities | Presentation containing data relating to the financial assumptions and projected market rollout of IPTV in various markets |
| HSR #33 | 4/21/2010 | 11 Markets Research Presentation | Market research survey commissioned by CenturyLink containing market data research regarding potential product offerings and customer preferences in various markets |
| HSR #35 | 4/1/2010 | Due Diligence Response No. 150 | Document provided to Qwest during due diligence process containing market projections and financial data regarding IPTV offering. |
| HSR #36 | Undated | Consumer Sales Approach | Presentation containing go-to-market plans and information regarding CenturyTel's consumer sales strategy |
| Electronic version of spread-sheets | | | Fully enabled copies of computer spreadsheet models projecting future operating and financial prospects for the combined firms (requested in CWA Information Request No. 4) |

¹ The pages of the presentation are not numbered. Joint Petitioners seek to redact three pages of the Consumer and Mass Market Overview, nine pages of the IPTV and MDU Overview; and two pages of the Enterprise Overview.

The Joint Petitioners shall designate such information as "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order." The first page and individual pages of such documents must be marked with a stamp that reads:

"NON-PUBLIC DOCUMENT-HIGHLY SENSITIVE TRADE SECRET INFORMATION SUBJECT TO ADDITIONAL PROTECTION UNDER SECOND SUPPLEMENTAL PROTECTIVE ORDER-USE RESTRICTED PER THE SECOND SUPPLEMENTAL PROTECTIVE ORDER IN DOCKET NO. 10-456"

Placing a "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order" stamp on the first page of a document indicates only that one or more pages contain "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order" and will not serve to protect the entire contents of a multi-page document. Each page that contains "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order" must be marked separately to indicate "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order," even where that information has been redacted. The un-redacted versions of each page containing "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order" and provided under seal, should be submitted on paper distinct in color from non-confidential information and "Trade Secret Information" or "Highly Sensitive Trade Secret Information" described in Sections 1 and 3 of the June 15, 2010, Protective Order, or "Highly Sensitive Trade Secret Information Subject to Additional Protection" described in the September 21, 2010, Supplemental Protective Order. Documents designated "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order" shall be eFiled in accordance with the procedures described in the September 30 Order and the Fourth Prehearing Order issued on September 24, 2010.

Parties seeking disclosure of "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order" must designate the person(s) to whom they would like the "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order" disclosed in advance of disclosure by the providing party. Such designation may occur through the submission of Exhibit "D" of this Second Supplemental Protective Order. The Exhibit "D" shall also describe in detail the job duties or responsibilities of the person being designated to see the "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order" and the person's role in the proceeding.

Notwithstanding any provision to the contrary in the Protective Order issued on June 15, 2010, or the Supplemental Protective Order issued on September 21, 2010, the following provisions shall govern the disclosure of "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order."

(1) The Communication Workers of America, an Intervenor in this proceeding, shall limit disclosure of materials designated as "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order" to its outside counsel and outside consultant, in accordance with its agreement to do so.

(2) All other private Intervenors in this proceeding, regardless of the size of their workforce, shall limit disclosure of "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order" to (a) a reasonable number of outside attorneys; (b) one outside consultant; and (c) one in-house employee who is not now involved, and will not for a period of two years involve himself or herself in strategic or competitive decision-making (including, but not limited to, the sale or marketing or pricing of products or services) with respect to which the documents or information may be relevant, by or on behalf of any company or business organization that competes, or potentially competes, with the Joint Petitioners.

Any party providing "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order" may object to the designation of any individual as a person who may review "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order." Such objection shall be made in writing to counsel submitting the challenged individual's Exhibit "D" within three (3) business days after receiving the challenged individual's signed Exhibit "D." Any such objection must demonstrate good cause to exclude the challenged individual from the review of the "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order." Written response to any objection shall be made within three (3) business days after receipt of the objection. If, after receiving a written response to a party's objection, the objecting party still objects to disclosure of "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order" to the challenged individual, the Commission or Administrative Law Judge shall determine whether "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order" must be disclosed to the challenged individual.

Copies of "Highly Sensitive Trade Secret Information Subject to Additional Protection under Second Supplemental Protective Order" may be provided to the outside counsel, outside expert, and, where applicable, the in-house employee who have signed Exhibit "D."

STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

David Boyd
J. Dennis O'Brien
Thomas Pugh
Phyllis Reha
Betsy L. Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Joint Petition of Qwest Communications International, Inc., Qwest Corporation, Qwest LD Corp. and Qwest Communications Company LLC and CenturyTel, Inc., SB44 Acquisition Company, CenturyTel Holdings, Inc., and CenturyTel of the Northwest, Inc., CenturyTel of Minnesota, Inc. d/b/a CenturyLink, CenturyTel of Chester, Inc. d/b/a CenturyLink, CenturyTel of Northwest Wisconsin, LLC d/b/a CenturyLink, CenturyTel Acquisition LLC d/b/a CenturyLink Acquisition, CenturyTel Solutions, LLC d/b/a CenturyLink Solutions, CenturyTel Fiber Company II, LLC d/b/a LightCore, a CenturyLink Company, CenturyTel Long Distance, LLC d/b/a CenturyLink Long Distance, Embarq Corporation, Embarq Minnesota, Inc. d/b/a CenturyLink, and Embarq Communications, Inc. d/b/a CenturyLink Communications for Approval of Indirect Transfer of Control of Qwest Communications International, Inc., Qwest Corporation, Qwest Communications Company, LLC, and Qwest LD Corp.

MPUC DOCKET NO.
P-421, P-6237, P-5095,
P-551, P-509, P-563, P-
5971, P-6258, P-5732, P-
6478, P-430/PA-10-456

EXHIBIT "D"
**NONDISCLOSURE AGREEMENT FOR "HIGHLY SENSITIVE TRADE SECRET
INFORMATION SUBJECT TO ADDITIONAL PROTECTION UNDER SECOND
SUPPLEMENTAL PROTECTIVE ORDER" PRODUCED IN ACCORDANCE WITH
SEPTEMBER 30, 2010, ORDER REGARDING JOINT PETITIONERS' MOTION FOR
RECONSIDERATION**

I have read the foregoing Second Supplemental Protective Order Applicable to HSR Documents 4, 10, 13, 15, 16, 23, 33, 35 and 36, and the Fully-Enabled Computer Spreadsheet sought by CWA-4 dated September 30, 2010, in Docket No. 10-456 and understand the terms thereof and agree to be bound by all such terms. Without limiting the generality of the foregoing, I agree not to disclose to any person or entity not

authorized to receive materials designated "NON-PUBLIC DOCUMENT-HIGHLY SENSITIVE TRADE SECRET INFORMATION SUBJECT TO ADDITIONAL PROTECTION UNDER SECOND SUPPLEMENTAL PROTECTIVE ORDER-USE RESTRICTED PER THE SECOND SUPPLEMENTAL PROTECTIVE ORDER IN DOCKET NO. 10-456" under the terms of said Second Supplemental Protective Order, or any copies or extracts of information derived thereof, which have been disclosed to me. I further agree to maintain any such materials in a secure location and use any such materials disclosed to me solely for the purpose of this proceeding and for no other purpose.

I hereby submit myself to the jurisdiction of the Office of Administrative Hearings in Minnesota and the Minnesota Public Utilities Commission for the purpose of enforcing said Second Supplemental Protective Order.

Name

Employer

Job Title and Job Description

Business Address

Party

Signature

Date