

BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

In the Matter of the Joint Application of

QWEST COMMUNICATIONS
INTERNATIONAL INC. AND
CENTURYTEL, INC.

For Approval of Indirect Transfer of Control of
Qwest Corporation, Qwest Communications
Company LLC, and Qwest LD Corp.

Docket No. UT-100820

CLEC'S REPLY IN SUPPORT OF
MOTION TO COMPEL

INTRODUCTION

Joint Applicants maintain that Staff Eyes Only treatment is needed for select documents that are so “extremely sensitive” that they cannot be disclosed to the CLECs’ outside counsel and experts pursuant to this Commission’s protective order. Yet on September 22, Joint Applicants filed motions in the Minnesota merger proceeding in which they agreed to provide copies of these same documents to intervenors’ outside counsel and outside experts. The outside counsel and experts in Minnesota and Washington overlap. Joint Applicants are therefore refusing to do here what they have already offered to do in Minnesota, and their arguments of harm upon disclosure fall flat. This Commission should grant the CLECs’ motion to compel on that basis alone.

Even without the inconsistent position between different jurisdictions, this Commission should grant the motion to compel. Joint Applicants' response sets up an elaborate scheme for designating and redesignating the confidentiality of various Hart-Scott-Rodino (HSR) documents, admitting that some "can now be downgraded to 'Highly Confidential.'" They appear oblivious to what the CLECs have argued and what this Commission has already decided. Joint Applicants are offering a false compromise, agreeing to continue seeking Staff Eyes Only treatment for only a portion of the HSR documents when in fact they have already lost that argument. It is now their obligation to produce documents due and owing under the existing protective order and pursuant to the relevant discovery requests.

ARGUMENT

A. Joint Applicants have already agreed in the Minnesota proceeding to produce the very documents they refuse to produce in the Washington proceeding.

The Minnesota Public Utility Commission's ("Minnesota Commission") Protective Order allows certain in-house personnel to review highly confidential documents.¹ On September 21, the Minnesota Commission granted motions to compel Joint Applicants to produce disputed documents pursuant to the existing Protective Order and a new Supplemental Protective Order, the latter of which grants a heightened trade secret designation but still allows production of such documents to both in-house and outside counsel and experts.² The next day, September 22, Joint Applicants moved for reconsideration of the decision. In that motion, Joint Applicants agreed to produce the majority of documents as ordered, but maintained that some of the documents

¹ Trinchero Decl., ¶¶ 2, 3, Exs. 1, 2.

² *In the Matter of the Joint Petition for Approval of Indirect Transfer of Control of Qwest Operating Companies to CenturyLink*, Order Regarding Motions to Compel Filed by Sprint, Integra, and the Communications Workers of America, and Motion for a Supplemental Protective Order Filed by Joint Petitioners, MPUC Docket No. P-421, et al./PA-10-456 (Sept. 21, 2010) (concluding that HSR documents are relevant and may be produced under both the June 15 Protective Order and the September 21 Supplemental Protective Order); *see also* Trinchero Decl., ¶ 3, Ex. 2.

originally requested to be “Staff Eyes Only” were still “too extraordinarily sensitive to release under the terms of the Supplemental Protective Order,” and therefore would be produced only “to the outside counsels and outside experts of the Interveners.”³ Those documents include HSR document numbers 10, 23, 33, 35, and 36 (in unredacted form) and numbers 4, 9, 13, 15, 16, and 37 (in redacted form).⁴ Thus, Joint Applicants have offered to provide copies of these same HSR documents to outside counsel and experts in Minnesota, but continue to refuse to produce these same HSR documents to outside counsel and experts, many of whom are the same persons, in this case.

This disclosure to outside counsel and experts is exactly what the CLECs seek in this proceeding. Despite their new position in Minnesota, Joint Applicants filed their response in this proceeding six days later, insisting that the CLECs’ outside counsel may not have copies of HSR documents 10, 23, 33, 35, and 36, among others.⁵ These are the very same documents that Joint Applicants have offered to provide to outside counsel and experts in Minnesota. The position is unsustainable. The CLECs’ outside counsel and experts in Minnesota and Washington overlap one another.⁶ The documents are the same in both states. There is no reason that disclosure is appropriate in Minnesota but exceedingly harmful to Joint Applicants in Washington. Moreover, the very offer to provide copies to outside counsel and experts in Minnesota obliterates whatever secrecy Joint Applicants were trying to maintain. Joint Applicants must produce all HSR documents to CLECs pursuant to this Commission’s protective order.

³ Trinchero Decl., ¶ 4, Ex. 3, pp. 3-4.

⁴ *Id.* at p. 4.

⁵ Qwest’s and CenturyLink’s Answer to Joint CLECs’ Motion to Compel, ¶¶ 9-10.

⁶ Trinchero Decl., ¶ 5.

B. Joint Applicants owe documents in response to pending discovery requests.

This Commission's August 3 Order concluded that the CLECs should not be deprived of the HSR documents and also declined Joint Applicants' offer of an *in camera* review.⁷ Ignoring that Order, Joint Applicants again seek "an *in camera* review of the SEO HSR documents," as if such an SEO category exists. It does not exist, as directly decided in this Commission's August 3 Order. The fact that Joint Applicants still "believe that they have offered a reasonable way to proceed" and believe that "there is still the issue of the extremely sensitive nature of the documents" is irrelevant, because those issues were decided nearly two months ago.

Minds may differ as to whether the disputed documents are relevant and whether they are hyper-confidential. Joint Applicants' response belies that point. After strenuously objecting to production of the HSR documents because of their categorical extreme sensitivity, Joint Applicants now admit that *some* of the HSR documents "can now be downgraded" to (a) Highly Confidential with limited redactions or (b) Highly Confidential with no redactions, while others will (c) remain "Staff Eyes Only."⁸ In other words, there are shades of gray in the sensitivity of the information. Joint Applicants cannot unilaterally decide what is too confidential to produce, particularly in light of this Commission's previous conclusions. Joint Applicants must produce all documents due and owing pursuant to pending discovery requests. This is especially true given the Joint Applicants' offer to provide copies of the very same "Staff Eyes Only" documents to outside counsel and experts in the Minnesota proceeding.

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⁷ *In the Matter of the Joint Application of Qwest Communications International, Inc. and CenturyTel, Inc.*, Docket UT-100820, Order 08, ¶¶ 5, 20-25 (Aug. 3, 2010) (hereinafter, "Order 08").

⁸ Qwest's and CenturyLink's Answer to Joint CLECs' Motion to Compel, ¶¶ 9-10.

CONCLUSION

More than eight weeks after this Commission denied Joint Applicants' request for supplemental protection, Joint Applicants continue to withhold documents and to argue that copies of certain documents will not be produced to outside counsel and experts. At the same time, Joint Applicants have agreed to produce these same documents to many of the same outside counsel and experts in the Minnesota proceeding. Joint Applicants' arguments are untenable. This Commission should grant the CLECs' motion to compel production of documents.

Respectfully submitted this 1st day of October, 2010.

DAVIS WRIGHT TREMAINE LLP

By: 

MARK TRINCHERO, OSB #883221

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Of Attorneys for Joint CLECs

BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

In the Matter of the Joint Application of

QWEST COMMUNICATIONS
INTERNATIONAL INC. AND
CENTURYTEL, INC.

For Approval of Indirect Transfer of Control of
Qwest Corporation, Qwest Communications
Company LLC, and Qwest LD Corp.

Docket No. UT-100820

DECLARATION OF MARK TRINCHERO
IN SUPPORT OF CLECS' REPLY IN
SUPPORT OF MOTION TO COMPEL

I, Mark Trinchero, declare as follows:

1. I am an attorney for the Joint CLECs, which is composed of Integra Telecom of Washington, Inc., Electric Lightwave, Inc., Advanced TelCom, Inc., United Communications, Inc. d/b/a Unicom (collectively, "Integra"), tw telecom of Washington, LLC, XO Communications Services, Inc., Pac-West Telecomm, Inc., and McLeodUSA Telecommunications Services, Inc., d/b/a PAETEC Business Services. I make this declaration based on personal knowledge, in support of the CLECs' Motion to Compel.

2. Attached as Exhibit 1 is a true copy of the Minnesota Public Utility Commission's June 15, 2010 Protective Order.

3. Attached as Exhibit 2 is a true copy of the Minnesota Public Utility Commission's September 21, 2010 Supplemental Protective Order.

4. Attached as Exhibit 3 is a true copy of Joint Petitioner's 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.

5. There is overlap between the CLECs' outside counsel and experts in the Minnesota proceeding and this proceeding.

I hereby declare that the above statement is true to the best of my knowledge and belief and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

DATED this 1st day of October, 2010.

By: 

MARK TRINCHERO, OSB #883221

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Telephone: (503) 241-2300

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Of Attorneys for Joint CLECs

MICHAEL J. AHERN
Partner
(612) 340-2881
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June 2, 2010

VIA ELECTRONIC FILING

Dr. Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East
Suite 350
St. Paul, MN 55101-2147

Re: In the Matter of the Joint Petition of Qwest Communications International, Inc., Qwest Corporation, Qwest Long Distance Corporation 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 Long Distance Corporation

MPUC Docket No.: P-421, P-6237, P-5095, P-551, P-509, P-563, P-5971, P-6258, P-5732, P6478, P-430/PA-10-456

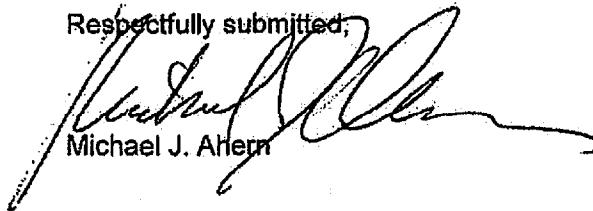
Dear Dr. Haar:

Attached find the amended Protective Order upon which the Joint Petitioners and the Department of Commerce have reached agreement.

Dr. Burl W. Haar
June 2, 2010
Page 2

Please contact the undersigned if further information is needed.

Respectfully submitted,


Michael J. Ahern

MJA/ik

Enclosure

cc: Parties of Record

AFFIDAVIT OF SERVICE BY E-MAIL OR MAIL

STATE OF MINNESOTA)
) ss
COUNTY OF HENNEPIN)

In the Matter of the Joint Petition of Qwest Communications International, Inc., Qwest Corporation, Qwest Long Distance Corporation 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 Long Distance Corporation

MPUC Docket No.: P-421, P-6237, P-5095, P-551, P-509, P-563, P-5971, P-6258, P-5732, P6478, P-430/PA-10-456

Lori A. Kaemmer, being first duly sworn on oath, deposes and states that on the 2nd day of June, 2010, copies of the **Amended Protective Order** was e-filed or mailed by United States Mail first class mail, postage prepaid thereon, to the following:

Dr. Burl W. Haar
Executive Secretary
Minnesota Public Utilities
Commission
121 Seventh Place East
Suite 350
St. Paul, MN 55101

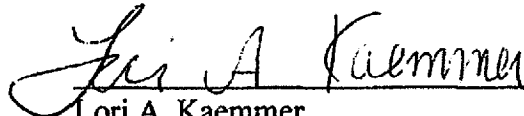
Linda Chavez
Minnesota Department of Commerce
85 Seventh Place East
Suite 500
St. Paul, MN 55101

John Lindell
Office of the Attorney General
900 Bremer Tower
445 Minnesota Street
St. Paul, MN 55101

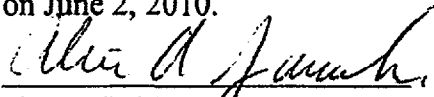
Julia Anderson
Office of the Attorney General
1400 Bremer Tower
445 Minnesota Street
St. Paul, MN 55101

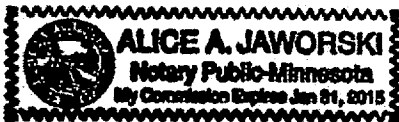
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Gregory Merz, Esq.
Gray Plant Mooty
500 IDS Center
80 South Eighth Street
Minneapolis, MN 55402


Lori A. Kaemmer

Subscribed and sworn to before me
on June 2, 2010.


Notary Public



**STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

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

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

PROTECTIVE ORDER

The purpose of this Protective Order ("Order") is to facilitate the disclosure of documents and information during the course of this proceeding and to protect Trade Secret Information and Highly Sensitive Trade Secret Information. Access to and review of Trade Secret Information and Highly Sensitive Trade Secret Information by parties other than government agencies shall be strictly controlled by the terms of this Order. The parties other than government agencies are herein referred to as parties, persons or entities.

The government agencies with access to Trade Secret Information and Highly Sensitive Trade Secret Information, which include the Minnesota Public Utilities Commission (“Commission”); the Office of the Attorney General (“OAG”); the Minnesota Department of Commerce (“DOC”); the Office of the Attorney General-Residential and Small Business Utilities Division (“OAG-RUD”); the Office of Administrative Hearings (“OAH”); the Minnesota Department of Administration, Office of Enterprise Technology; and the Minnesota State Historical Society, are subject to various laws and rules, including the Minnesota Government Data Practices Act (“MGDPA”), the records retention requirements of Minn. Stat. §§ 138.163-138.226, as well as agency specific rules and procedures, including the Commission’s September 1, 1999, Revised Procedures for Handling Trade Secret and Privileged Data (“Commission’s Procedures”).

During the proceeding in this matter, parties may file, request and use trade secret information as defined by Minnesota Statutes Chapter 13.01 et seq.

PROTECTIVE ORDER

1. (a) Trade Secret Information. All documents, data, studies and other materials furnished pursuant to any requests for information, subpoenas or other modes of discovery (formal or informal), and including depositions, and other requests for information, that are claimed to be proprietary or confidential (herein referred to as “Trade Secret Information”), shall be so marked by the providing party by stamping the same with a “NONPUBLIC DOCUMENT – CONTAINS TRADE SECRET DATA” designation. In addition, all notes or other materials that refer to, derive from, or otherwise contain parts of the Trade Secret Information will be marked by the receiving party as Trade Secret Information. Any Trade Secret Information received in photographic, digital or electronic

formats shall be identified as protected by the producing party by means appropriate to the medium and shall be handled by the recipient in a manner suitable to protect its confidentiality.

(b) Use of Trade Secret Information -- Proceedings. All persons who may be entitled to review, or who are afforded access to any Trade Secret Information by reason of this Order shall neither use nor disclose the Trade Secret Information for purposes of business or competition, or any purpose other than the purpose of preparation for and conduct of proceedings in the above-captioned docket and all subsequent appeals (“Proceedings”), and shall keep the Trade Secret Information secure as confidential or proprietary information and in accordance with the purposes, intent and requirements of this Order.

(c) Persons Entitled to Review. Each party that receives Trade Secret Information pursuant to this Order must limit access to such Trade Secret Information to (1) attorneys employed or retained by the party in the Proceedings and the attorneys’ staff; (2) experts, consultants and advisors who need access to the material to assist the party in the Proceedings; (3) only those employees of the party who are directly involved in these Proceedings, provided that no such employee is engaged in the sale or marketing of that party’s products or services.

(d) Nondisclosure Agreement. Any party, person, or entity that receives Trade Secret Information pursuant to this Order shall not disclose such Trade Secret Information to any person, except persons who are described in section 1(c) above and who have signed a nondisclosure agreement in the form which is attached hereto and incorporated

herein as Exhibit "A." Court reporters shall also be required to sign an Exhibit "A" and comply with the terms of this Order.

The nondisclosure agreement (Exhibit "A") shall require the person(s) to whom disclosure is to be made to read a copy of this Protective Order and to certify in writing that they have reviewed the same and have consented to be bound by its terms. The agreement shall contain the signatory's full name, employer, job title and job description, business address and the name of the party with whom the signatory is associated. Such agreement shall be delivered to counsel for the providing party before disclosure is made, and if no objection thereto is registered to the Commission within three (3) business days, then disclosure shall follow. An attorney who makes Trade Secret Information available to any person listed in subsection (c) above shall be responsible for having each such person execute an original of Exhibit "A" and a copy of all such signed Exhibit "A"s shall be circulated to all other counsel of record promptly after execution.

(e) Notes. Limited notes regarding Trade Secret Information may be taken by counsel and experts for the express purpose of preparing pleadings, cross-examinations, briefs, motions and argument in connection with this proceeding, or in the case of persons designated in paragraph 1(c) of this Protective Order, to prepare for participation in this proceeding. Such notes shall then be treated as Trade Secret Information for purposes of this Order, and shall be destroyed after the final settlement or conclusion of the Proceedings in accordance with subsection 2(b) below. All notes, to the extent they contain Trade Secret Information and are protected by the attorney-client privilege or the work product doctrine, shall be destroyed after the final settlement or conclusion of the Proceedings. The party

destroying such Trade Secret Information shall advise the providing party of that fact within a reasonable time from the date of destruction.

2. Government Agencies. The government agencies are not subject to the terms of this Protective Order except, while this matter is pending before the Commission or the OAH, government agencies are subject to this paragraph 2.

(a) Definition of Trade Secret Information. “Trade Secret Information” and Highly Sensitive Trade Secret Information shall be limited to “trade secret information” as defined at Minn. Stat. § 13.37, subd. 1(b). This definition applies to both government agencies and parties.

(b) Conflicts. To the extent this Protective Order conflicts with or omits a matter otherwise required by either the MGDPA or Commission Procedures, the requirements of the MGDPA or Commission Procedures shall control. Any provision of this Protective Order not consistent with this paragraph 2 shall be of no effect with respect to the government agencies. All data including Trade Secret Information and Highly Sensitive Trade Secret Information, including pleadings, exhibits, documents, transcripts, statements, evidence and other data relating to this matter shall be made available to government agencies, despite any provision of this Protective Order to the contrary. This paragraph 2 (b) applies to government agencies, parties, court reporters and all other non-parties.

(c) Experts. A government agency may not provide Trade Secret Information or Highly Sensitive Trade Secret Information to outside experts providing assistance on this matter until the outside experts have signed Exhibit A or Exhibit B, as appropriate. Said experts shall comply with the terms of this Protective Order except where contrary to the requirements of the MGDPA or Commission Procedures.

(d) Challenges to Designations. The Commission or any Administrative Law Judge to whom this matter is assigned, upon a request by or to any party or government agency, and ten (10) days prior notice or such period as is determined by the Commission or Administrative Law Judge, may hold a hearing *in camera* and remove a designation upon a showing that the data is appropriately classified as public data.

(e) Verbal Disclosure. Trade Secret Information and Highly Sensitive Trade Secret Information may be verbally disclosed by government agencies during depositions or hearings in this matter upon prior notice to and agreement of the disclosing party or authorization by the Commission or Administrative Law Judge. Any such disclosure does not change the classification of the data and it remains subject to the limitations imposed by the MGDPA.

(f) Transcripts. Each disclosing party or government agency, during a deposition or hearing, may request that portions of depositions or hearing transcripts be treated as Trade Secret Information or Highly Sensitive Trade Information for up to three business days after the transcript is made available to the disclosing party and, unless otherwise ordered by the Commission or an Administrative Law Judge, the parties shall treat the data, and the court reporter shall mark those portions of transcript, as “NON-PUBLIC DOCUMENT -TRADE SECRET INFORMATION [HIGHLY SENSITIVE TRADE SECRET INFORMATION]” consistent with the Commission’s Procedures. After the three business day period, the marked transcripts shall become public data unless the disclosing party identifies portions as Trade Secret Information or Highly Sensitive Trade Secret Information.

3. Highly Sensitive Trade Secret Information: Any person, whether a party or non-party, may designate certain competitively sensitive Trade Secret Information as “Highly Sensitive Trade Secret Information” (herein referred to as “Highly Sensitive Trade Secret Information”) if it determines in good faith that it would be competitively disadvantaged by the disclosure of such information to its competitors. Highly Sensitive Trade Secret Information includes, but is not limited to, documents, pleadings, briefs and appropriate portions of deposition transcripts, which contain information regarding the market share of, number of access lines served by, or number of customers receiving a specified type of service from a particular provider or other information that relates to a particular provider’s network facility location detail, revenues, costs, and marketing, business planning or business strategies.

Parties must scrutinize carefully responsive documents and information and limit their designations as Highly Sensitive Trade Secret Information to information that truly might impose a serious business risk if disseminated without the heightened protections provided in this section. The first page and individual pages of a document determined in good faith to include Highly Sensitive Trade Secret Information must be marked by a stamp that reads:

“NON-PUBLIC DOCUMENT-HIGHLY SENSITIVE TRADE SECRET
INFORMATION—USE RESTRICTED PER PROTECTIVE ORDER IN DOCKET
NO. 10-456”

Placing a “Highly Sensitive Trade Secret Information” stamp on the first page of a document indicates only that one or more pages contain Highly Sensitive Trade Secret Information and will not serve to protect the entire contents of a multi-page document. Each page that contains Highly Sensitive Trade Secret Information must be marked separately to indicate Highly Sensitive Trade Secret Information, even where that information has been redacted.

The un-redacted versions of each page containing Highly Sensitive Trade Secret Information, and provided under seal, should be submitted on paper distinct in color from non-confidential information and “Trade Secret Information” described in section 1 of this Protective Order.

Parties seeking disclosure of Highly Sensitive Trade Secret Information must designate the person(s) to whom they would like the Highly Sensitive Trade Secret Information disclosed in advance of disclosure by the providing party. Such designation may occur through the submission of Exhibit “B” of the nondisclosure agreement identified in section 1(d). Parties seeking disclosure of Highly Sensitive Trade Secret Information shall not designate more than (1) a reasonable number of in-house attorneys who have direct responsibility for matters relating to Highly Sensitive Trade Secret Information; (2) three in-house experts; and (3) a reasonable number of outside counsel and outside experts to review materials marked as “NON-PUBLIC DOCUMENT-HIGHLY SENSITIVE TRADE SECRET INFORMATION – USE RESTRICTED PER PROTECTIVE ORDER IN DOCKET NO. 10-456.” The Exhibit “B” also shall describe in detail the job duties or responsibilities of the person being designated to see Highly Sensitive Trade Secret Information and the person’s role in the proceeding. Highly Sensitive Trade Secret Information may not be disclosed to persons engaged in strategic or competitive decision making for any party, including, but not limited to, the sale or marketing or pricing of products or services on behalf of any party.

Any party providing either Trade Secret Information or Highly Sensitive Trade Secret Information may object to the designation of any individual as a person who may review Trade Secret Information and/or Highly Sensitive Trade Secret Information. Such objection shall be made in writing to counsel submitting the challenged individual’s Exhibit “A” or

“B” within three (3) business days after receiving the challenged individual’s signed Exhibit “A” or “B.” Any such objection must demonstrate good cause to exclude the challenged individual from the review of the Trade Secret Information or Highly Sensitive Trade Secret Information. Written response to any objection shall be made within three (3) business days after receipt of an objection. If, after receiving a written response to a party’s objection, the objecting party still objects to disclosure of either Trade Secret Information or Highly Sensitive Trade Secret Information to the challenged individual, the Commission or Administrative Law Judge shall determine whether Trade Secret Information or Highly Sensitive Trade Secret Information must be disclosed to the challenged individual.

Copies of Highly Sensitive Trade Secret Information may be provided to the in-house attorneys, in-house consultants, outside counsel and outside experts who have signed Exhibit “B.”

Persons authorized to review the Highly Sensitive Trade Secret Information will maintain the documents and any notes reflecting their contents in a secure location to which only designated counsel and experts have access. No additional copies will be made, except for use during hearings and then such disclosure and copies shall be subject to the provisions of Section 6. Any testimony or exhibits prepared that reflect Highly Sensitive Trade Secret Information must be maintained in the secure location until removed to the hearing room for production under seal. Unless specifically addressed in this section, all other sections of this Protective Order applicable to Trade Secret Information also apply to Highly Sensitive Trade Secret Information.

4. Small Company. Notwithstanding anything to the contrary in this Order, persons authorized to review Trade Secret Information and Highly Sensitive Trade Secret

Information on behalf of a company with less than 5,000 employees shall be limited to the following: (1) the company's counsel or, if not represented by counsel, a member of the company's senior management; (2) the company's employees and witnesses; and (3) independent consultants acting under the direction of the company's counsel or senior management and directly engaged in either of these proceeding. Such persons **do not** include individuals primarily involved in marketing activities for the company, unless the party producing the information, upon request, gives prior written authorization for that person to review the Trade Secret Information or Highly Sensitive Trade Secret Information. If the producing party refuses to give such written authorization, the company may, for good cause shown, request an order from the Commission or Administrative Law Judge allowing that person to review the Trade Secret Information or Highly Sensitive Trade Secret Information. The producing party shall be given the opportunity to respond to the company's request before an order is issued.

5. **Objections to Admissibility.** The furnishing of any document, data, study or other materials pursuant to this Protective Order shall in no way limit the right of the providing party to object to its relevance or admissibility in proceedings before this Commission or the Administrative Law Judge.

6. **Challenge to Confidentiality.** This Order establishes a procedure for the expeditious handling of information that a party claims is Trade Secret Information or Highly Sensitive Trade Secret Information. It shall not be construed as an agreement or ruling on the confidentiality of any document. Any party may challenge the characterization of any information, document, data or study claimed by the providing party to be confidential in the following manner:

- (a) A party seeking to challenge the confidentiality of any materials pursuant to this Order shall first contact counsel for the providing party and attempt to resolve any differences by stipulation;
- (b) In the event that the parties cannot agree as to the character of the information challenged, any party challenging the confidentiality shall do so by appropriate pleading. This pleading shall:
 - (1) Designate the document, transcript or other material challenged in a manner that will specifically isolate the challenged material from other material claimed as confidential; and
 - (2) State with specificity the grounds upon which the documents, transcript or other material are deemed to be non-confidential by the challenging party.
- (c) A ruling on the confidentiality of the challenged information, document, data or study shall be made by the Commission or Administrative Law Judge after proceedings in camera, which shall be conducted under circumstances such that only those persons duly authorized hereunder to have access to such confidential materials shall be present. This hearing shall commence no earlier than five (5) business days after service on the providing party of the pleading required by subsection 5(b) above.
- (d) The trade secret portions of the record of said in camera hearing shall be marked "NON-PUBLIC DOCUMENT-HIGHLY SENSITIVE TRADE SECRET INFORMATION – USE RESTRICTED PER PROTECTIVE ORDER IN DOCKET NO. 10-456".
- (e) In the event that the Commission or Administrative Law Judge should rule that any information, document, data or study should be removed from the restrictions imposed by this Order, no party shall disclose such information, document, data or study or use it in the public record for five (5) business days unless authorized by the providing party to do so. The provisions of this subsection are intended to enable the providing party to seek a stay or other relief from an order removing the restriction of this Order from materials claimed by the providing party to be confidential.

7. (a) Receipt into Evidence. Provision is hereby made for receipt into

evidence in this proceeding materials claimed to be confidential in the following manner:

- (1) Prior to the use of or substantive reference to any Trade Secret Information or Highly Sensitive Trade Secret Information, the parties

intending to use such Information shall make that intention known to the providing party.

- (2) The requesting party and the providing party shall make a good-faith effort to reach an agreement so the Information can be used in a manner which will not reveal its confidential or proprietary nature.
- (3) If such efforts fail, the providing party shall separately identify which portions, if any, of the documents to be offered or referenced shall be placed in a sealed record.
- (4) Only one (1) copy of the documents designated by the providing party to be placed in a sealed record shall be made.
- (5) The copy of the documents to be placed in the sealed record shall be tendered by counsel for the providing party.

(b) In Camera Hearing. Any Trade Secret Information or Highly Sensitive Trade Secret Information that must be orally disclosed to be placed in the sealed record in this Proceeding shall be offered in an in camera hearing, attended only by persons authorized to have access to the information. Similarly, any cross-examination on or substantive reference to Trade Secret Information or Highly Sensitive Trade Secret Information (or that portion of the record containing Trade Secret Information or Highly Sensitive Trade Secret Information or references thereto) shall be received in an in camera hearing, and shall be marked and treated as provided herein.

(c) Return. Unless otherwise ordered, Trade Secret Information and Highly Sensitive Trade Secret Information, including transcripts of any depositions to which a claim of confidentiality is made, shall remain under seal, shall continue to be subject to the protective requirements of this Order, and shall, at the providing party's discretion, be returned to counsel for the providing party, or destroyed by the receiving party, within thirty (30) days after final settlement or conclusion of the Proceedings. If the providing party

elects to have Trade Secret Information or Highly Sensitive Trade Secret Information destroyed rather than returned, counsel for the receiving party shall verify in writing that the material has in fact been destroyed.

8. Use in Pleadings. Where references to Trade Secret Information or Highly Sensitive Trade Secret Information in the sealed record or with the providing party is required in pleadings, briefs, arguments or motions (except as provided in section 5), it shall be by citation of title or exhibit number or some other description that will not disclose the substantive Trade Secret Information or Highly Sensitive Trade Secret Information contained therein. Any use of or substantive references to Trade Secret Information or Highly Sensitive Trade Secret Information shall be placed in a separate, sealed "Nonpublic" copy of the pleading, brief argument or motion and submitted to the Commission or OAH pursuant to the terms of the Commission's Procedures. This separate, sealed "Nonpublic" copy shall be served only on counsel of record and parties of record (one copy each) who have signed the nondisclosure agreement set forth in Exhibit "A" or "B." All of the restrictions afforded by this Order apply to materials prepared and distributed under this section.

9. Summary of Record. The providing party shall prepare a written Statement Justifying Identification of the Data as Trade Secret Information or Highly Sensitive Trade Secret Information, in conformance with Commission Procedures, to be placed on the public record.

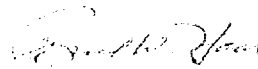
10. Application. The provisions of this Order are specifically intended to apply to all data, documents, studies, and other material designated as Trade Secret Information or Highly Sensitive Trade Secret Information by any party to Docket No. 10-456”.

11. Treatment Prior to Commission Approval. Parties that sign this Order before Commission approval agree to be bound by its terms as a matter of contract prior to approval by the Commission.

12. Inadvertent Disclosure. No party shall have waived its right to designate any documents, data, information, studies, or other materials as Trade Secret Information by inadvertent disclosure, provided the disclosing party thereafter gives written notice to the recipient(s) of such information that it should have been designated as Trade Secret Information. From and after receipt of such notice, the previously disclosed information subsequently identified as Trade Secret Information shall be treated as Trade Secret Information for purposes of this Protective Order.

13. This Protective Order shall continue in force and effect after these dockets are closed.

Dated this 15th day of June, 2010.





**STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

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

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 "A"
NONDISCLOSURE AGREEMENT - TRADE SECRET INFORMATION**

I have read the foregoing Protective Order dated June 15, 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 "NONPUBLIC DOCUMENT – CONTAINS TRADE SECRET DATA" under the terms of said Protective Order, or any copies or extracts of information derived thereof, which have been disclosed to me. I further agree to 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 Protective Order.

Name

Employer

Job Title and Job Description

Business Address

Party

Signature

Date

**STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

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

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 "B"
NON-DISCLOSURE AGREEMENT - HIGHLY SENSITIVE TRADE SECRET
INFORMATION**

I have read the foregoing Protective Order dated June 15, 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 "NONPUBLIC DOCUMENT – CONTAINS HIGHLY SENSITIVE TRADE SECRET INFORMATION – USE RESTRICTED PER PROTECTIVE ORDER IN DOCKET NO. 10-456" under the terms of said 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 Protective Order.

Name

Employer

Job Title and Job Description

Business Address

Party

Signature

Date

STATE OF MINNESOTA)
)SS
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

I, Margie DeLaHunt, being first duly sworn, deposes and says:

That on the 15th day of June, 2010 she served the attached
PROTECTIVE ORDER.

MNPUC Docket Number: P-421, et al./PA-10-456

- XX By depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid
- XX By personal service
- XX By inter-office mail

to all persons at the addresses indicated below or on the attached list:

Commissioners
Carol Casebolt
Peter Brown
Eric Witte
Marcia Johnson
Kate Kahlert
Kevin O'Grady
Mark Oberlander
Marc Fournier
Mary Swoboda
DOC Docketing
AG - PUC
Julia Anderson - OAG
John Lindell - OAG

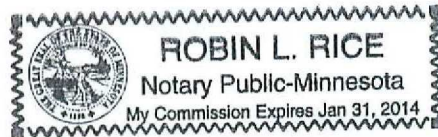
Margie DeLaHunt

Subscribed and sworn to before me,

a notary public, this 15th day of

June, 2010

Robin L. Rice
Notary Public



First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Michael	Ahern	ahern.michael@dorsey.com	Dorsey & Whitney, LLP	Suite 1500 50 South Sixth Street Minneapolis, MN 554021498	Paper Service	No	OFF_SL_10-456_Official
Julia	Anderson	Julia.Anderson@state.mn.us	Office of the Attorney General-DOC	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_10-456_Official
Linda	Chavez	linda.chavez@state.mn.us	Department of Commerce	85 7th Place E Ste 500 Saint Paul, MN 55101-2198	Electronic Service	Yes	OFF_SL_10-456_Official
Cathy	Chucas	cathy.chucas@embarq.com	Embarq Minnesota, Inc.	30 E 7th St Ste 1630 St. Paul, MN 55101	Electronic Service	No	OFF_SL_10-456_Official
Gregg M.	Corwin	gcorwin@gcorwin.com	Gregg M. Corwin & Associate Law Office, P.C.	1660 S. Highway 100, Ste 508E St. Louis Park, MN 55416-1534	Paper Service	No	OFF_SL_10-456_Official
Burt W.	Haar	burl.haar@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_10-456_Official
JoAnn	Hanson	joann.hanson@qwest.com	Qwest Corporation	Room 2200 200 South Fifth Street Minneapolis, MN 55402	Electronic Service	No	OFF_SL_10-456_Official
John	Lindell	agorud.ecf@state.mn.us	Office of the Attorney General-RUD	900 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_10-456_Official
Dan	Lipschultz	lipschultz@moss-barnett.com	Moss & Barnett	4800 Wells Fargo Center 90 South Seventh Street Minneapolis, MN 55402	Paper Service	No	OFF_SL_10-456_Official
susan S.	Masterton	N/A	CenturyLink	315 S. Calhoun St., Ste 500 Tallahassee, FL 32301	Paper Service	No	OFF_SL_10-456_Official

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Gregory	Merz	greg.merz@gpmilaw.com	Gray, Plant, Moody	500 IDS Center 80 South Eighth Street Minneapolis, MN 55402	Paper Service	No	OFF_SL_10-456_Official
Barbara L.	Neilson		Office of Administrative Hearings	PO Box 64620 St. Paul, MN 551640620	Paper Service	No	OFF_SL_10-456_Official
Cristina	Parra Herrera	cparraherrera@gcorwin.com	Gregg M. Corwin & Associate Law Office, P.C.	1660 S. Hwy. 100, Suite 508E St. Louis Park, MN 55416	Electronic Service	No	OFF_SL_10-456_Official
Scott J.	Rubin	N/A		333 Oak Lane Bloomsburg, PA 17815	Paper Service	No	OFF_SL_10-456_Official
Jason	Topp	jason.topp@qwest.com	Qwest Corporation	200 S 5th St Ste 2200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_10-456_Official

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

**SUPPLEMENTAL PROTECTIVE
ORDER**

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.

The purpose of this Supplemental Protective Order (“Supplemental Order”) is to facilitate the disclosure of certain documents and information required by the Order of the Administrative Law Judge issued on September 21, 2010, regarding the Motions to Compel filed by Integra Telecom (“Integra”) and the Communications Workers of America (“CWA”). In that Order, the Administrative Law Judge determined that the Small Company exception set forth in Section 4 of the Protective Order previously issued by the Public Utilities Commission in this matter on June 15, 2010, should be modified to afford additional protection to certain highly sensitive trade secret information to be produced in response to the CWA and Integra Information Requests.

The June 15, 2010, Protective Order remains in effect and continues to govern disclosure of all information apart from the information required to be produced in response to the September 21, 2010, Order on the Motions to Compel filed by the CWA

and Integra that is designated as “Highly Sensitive Trade Secret Information Subject to Additional Protection.” In addition, all provisions of the June 15, 2010, Protective Order remain in effect and continue to govern disclosure of information required to be produced in response to the Motions to Compel filed by the CWA and Integra that is designated as “Trade Secret Information” or “Highly Sensitive Trade Secret Information.”

This Supplemental Order is limited in applicability to certain information required to be disclosed in the September 21, 2010, Order on the Motions to Compel filed by the CWA and Integra. The Parties may agree to handle information produced under other Information Requests in accordance with this Supplemental Protective Order.

**SUPPLEMENTAL PROVISIONS APPLICABLE TO CERTAIN INFORMATION
PRODUCED IN ACCORDANCE WITH SEPTEMBER 21, 2010, ORDER REGARDING
MOTIONS TO COMPEL FILED BY INTEGRA AND CWA**

As determined in the September 21, 2010, Order regarding the Motions to Compel, certain information that is to be produced by Joint Petitioners in response to Integra Information Request 143 and CWA Information Requests 1 through 6, 15, and 24, shall be afforded additional protection from disclosure. The Joint Petitioners shall designate such information as “Highly Sensitive Trade Secret Information Subject to Additional Protection.” 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-USE
RESTRICTED PER THE SUPPLEMENTAL PROTECTIVE ORDER IN
DOCKET NO. 10-456”

Placing a “Highly Sensitive Trade Secret Information Subject to Additional Protection” 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” 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” must be marked separately to indicate “Highly Sensitive Trade Secret Information Subject to Additional Protection,” even where that information has been redacted. The un-redacted versions of each page containing “Highly Sensitive Trade Secret Information Subject to Additional Protection” 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. **Documents designated “Highly Sensitive Trade Secret Information Subject to Additional Protection” shall not be efiled or emailed.**

Parties seeking disclosure of “Highly Sensitive Trade Secret Information Subject to Additional Protection” must designate the person(s) to whom they would like the “Highly Sensitive Trade Secret Information Subject to Additional Protection” disclosed in

advance of disclosure by the providing party. Such designation may occur through the submission of Exhibit "C" of this Supplemental Protective Order. The Exhibit "C" 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" and the person's role in the proceeding.

Consistent with Section 3 of the June 15, 2010, Protective Order, Parties seeking disclosure of "Highly Sensitive Trade Secret Information Subject to Additional Protection" shall not designate more than (1) a reasonable number of in-house attorneys who have direct responsibility for matters relating to such information; (2) three in-house experts; and (3) a reasonable number of outside counsel and outside experts to review materials marked as "NON-PUBLIC DOCUMENT-HIGHLY SENSITIVE TRADE SECRET INFORMATION SUBJECT TO ADDITIONAL PROTECTION-USE RESTRICTED PER THE SUPPLEMENTAL PROTECTIVE ORDER IN DOCKET NO. 10-456." Information may not be disclosed to persons engaged in strategic or competitive decision making for any party, including, but not limited to, the sale or marketing or pricing of products or services on behalf of any party.

The "Small Company" exception provided in Section 4 of the June 15, 2010, Protective Order shall be modified as follows with respect to the "Highly Sensitive Trade Secret Information Subject to Additional Protection" produced in response to the September 21, 2010, Order on the Motions to Compel filed by Integra and CWA:

Small Company. Notwithstanding anything to the contrary in this Supplemental Order or in the June 15, 2010, Protective Order, persons authorized to review "Highly Sensitive Trade Secret Information Subject to Additional Protection" on behalf of a company with less than 5,000 employees shall be limited to the following: (1) a reasonable number of in-house attorneys who have direct responsibility for matters relating to Highly Sensitive Trade Secret Information; (2) three non-attorney in-house regulatory personnel; and (3) a reasonable number of outside attorneys and outside consultants. Such persons **do not** include individuals primarily involved in marketing activities for the company, unless the party producing the information, upon request, gives prior written authorization for that person to review the Highly Sensitive Trade Secret Information Subject to Additional Protection. If the producing party refuses to give such written authorization, the company may, for good cause shown, request an order from the Commission or Administrative Law Judge allowing that person to review the "Highly Sensitive Trade Secret Information Subject to Additional Protection." The producing party shall be given the opportunity to respond to the company's request before an order is issued.

Any party providing "Highly Sensitive Trade Secret Information Subject to Additional Protection" may object to the designation of any individual as a person who may review "Highly Sensitive Trade Secret Information Subject to Additional Protection."

Such objection shall be made in writing to counsel submitting the challenged individual's Exhibit "C" within three (3) business days after receiving the challenged individual's signed Exhibit "C." 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." 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" to the challenged individual, the Commission or Administrative Law Judge shall determine whether "Highly Sensitive Trade Secret Information Subject to Additional Protection" must be disclosed to the challenged individual.

Copies of "Highly Sensitive Trade Secret Information Subject to Additional Protection" may be provided to the in-house attorneys, in-house experts, outside counsel, and outside experts who have signed Exhibit "C."

Persons authorized to review the "Highly Sensitive Trade Secret Information Subject to Additional Protection" will maintain the documents and any notes reflecting their contents in a secure location to which only designated counsel and experts have access. No additional copies will be made, except for use during hearings and then such disclosure and copies shall be subject to the provisions of Section 7 of the June 15, 2010, Protective Order. Any testimony or exhibits prepared that reflect "Highly Sensitive Trade Secret Information Subject to Additional Protection" must be maintained in the secure location until removed to the hearing room for production under seal. Unless specifically discussed in this section, all other sections of the June 15, 2010, Protective Order applicable to "Trade Secret" and "Highly Sensitive Trade Secret Information" also apply to "Highly Sensitive Trade Secret Information Subject to Additional Protection."

The designation of any document or information as "Highly Sensitive Trade Secret Information Subject to Additional Protection" may be challenged by motion and the classification of the document or information as "Highly Sensitive Trade Secret Information Subject to Additional Protection" will be considered *in camera* by the Commission or Administrative Law Judge. The party contending that a document or information is "Highly Sensitive Trade Secret Information Subject to Additional Protection" bears the burden of proving that such designation is necessary.'

This Supplemental Protective Order shall continue in force and effect after these dockets are closed.

Date: September 21, 2010

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

STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

David Boyd	Chair
J. Dennis O'Brien	Commissioner
Thomas Pugh	Commissioner
Phyllis Reha	Commissioner
Betsy L. Wergin	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 "C"
**NONDISCLOSURE AGREEMENT FOR "HIGHLY SENSITIVE TRADE SECRET
INFORMATION SUBJECT TO ADDITIONAL PROTECTIONS" PRODUCED IN
ACCORDANCE WITH SEPTEMBER 21, 2010, ORDER REGARDING MOTIONS TO
COMPEL FILED BY INTEGRA AND CWA**

I have read the foregoing Supplemental Protective Order dated September 21, 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-USE RESTRICTED PER THE SUPPLEMENTAL PROTECTIVE ORDER IN DOCKET NO. 10-456" under the terms of said 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 Supplemental Protective Order.

Name

Employer

Job Title and Job Description

Business Address

Party

Signature

Date

MICHAEL J. AHERN
(612) 340-2881
FAX (612) 340-2643
ahern.michael@dorsey.com

September 22, 2010

**VIA ELECTRONIC MAIL AND POSTAL
SERVICE**

Honorable Barbara L. Neilson
Office of Administrative Hearings
P.O. Box 64620
St. Paul, MN 55164-0620

Re: In the Matter of the Joint Petition for Approval of Indirect Transfer of Control of
Qwest Operating Companies to CenturyLink
OAH Docket No. 11-2500-21391-2
MPUC Docket No. P-421, et al./PA-10-456

Dear Judge Neilson:

Enclosed please find Joint Petitioner's Motion for the Administrative Law Judge to Certify the Motion for a Supplemental Protective Order to the MPUC and a Request for a Stay in the above-entitled matter.

Please contact me directly with any questions.

Respectfully submitted,



Michael J. Ahern

MJA/aj

Enclosure

cc: Attached Service List

**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 for Approval of
Indirect Transfer of Control of Qwest operating
Companies to CenturyLink

MPUC Docket No. P-421, P-
6237, P-5059, P-551, P-509, P-
563, P-5971, P-6258, P-5732, P-
6478, P-430/PA-10-456

OAH Docket No. 11-2500-21391-
2

Administrative Law Judge
Barbara J. Neilson

**JOINT PETITIONER'S 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**

INTRODUCTION AND SUMMARY

CenturyLink and Qwest ("Joint Petitioners") hereby move for the Administrative Law Judge to reconsider, on a limited basis as set forth herein, the *Order Regarding Motions to Compel Filed by Sprint, Integra, and the Communications Workers of America, and Motion for a Supplemental Protective Order Filed by the Joint Petitioners* that was released on September 21, 2010 (the "September 21 Order"). In the alternative, the Joint Petitioners request that the Administrative Law Judge certify to the Minnesota Public Utilities Commission ("MPUC") the Motion for a Supplemental Protective Order that was filed by the Joint Petitioners in this docket on August 31, 2010 (the "Motion") as further narrowed herein, pursuant to Minnesota Rules Part 1400.7600.

The September 21 Order required that the Joint Petitioners provide responses to Integra-143, CWA-1, CWA-2, CWA-3, CWA-4, CWA-15 and CWA-24 (the “Highly Confidential Documents”) under a Supplemental Protective Order that does not offer Joint Petitioners the level of protection for this information that was requested in the Motion for a Supplemental Protective Order. In the Motion, the Joint Petitioners requested that the most extraordinarily confidential documents be restricted to the Department of Commerce (“DOC”) and MPUC staff, and the greater part of the remainder of the Highly Confidential Documents be restricted to the Intervener’s outside counsel and outside experts. The September 21 Order, however, requires that ALL of the Highly Confidential Documents be produced under a Supplemental Protective Order that allows in-house access to Interveners.

The September 21 Order requires that most of the Highly Confidential Documents be produced by the Joint Petitioners by 4:30 p.m. on Wednesday, September 22, 2010. The Joint Petitioners will substantially comply with the September 21 Order and will produce the great majority of the Highly Confidential Documents to the requesting parties.

What remains is a limited number of extraordinarily sensitive documents that the Joint Petitioners believe are not adequately protected under the September 21 Order. These are now just a small subset of the documents that had originally been requested for DOC and Commission staff eyes only designation. Accordingly, the Joint Petitioners herein request that the Administrative Law Judge reconsider the September 21 Order and provide the additional protection requested herein in a supplemental Order. In the alternative, the Joint Petitioners request that the Administrative Law Judge allow the Joint Petitioner’s Motion for a Supplemental Protective Order, as it is limited herein, to be certified to and decided by the MPUC.

In any event the Joint Petitioners request the Administrative Law Judge issue a stay for the pendency of this Motion proceeding from the required production of documents and information that are the subject of this Motion.

REQUEST FOR RECONSIDERATION

The Joint Petitioners respectfully request that the Administrative Law Judge reconsider on a limited basis the September 21 Order that requires the Joint Petitioners to produce *all* of the Highly Confidential Documents under the Supplemental Protective Order, that allows access to the documents by Intervener in-house personnel. In the effort to comply with the September 21 Order, Joint Petitioners have reviewed all of the documents for which the most sensitive treatment was originally requested and have substantially narrowed the documents and information subject to dispute and this Motion.

The Joint Petitioners will produce, pursuant to the September 21 Order, all of the documents that were listed in Attachment 1 to the Motion for a Supplemental Protective Order which they had requested be limited to Intervener's outside counsel and outside experts only, and that is provided herein as Exhibit A.¹ The Joint Petitioners will also produce seven of the documents, in complete or redacted form, that were listed in Attachment 2 to the Motion for a Supplemental Protective Order which they had requested to be limited to the DOC and the MPUC staff only, and that is provided herein as Exhibit B.²

The Joint Petitioners maintain that a limited number of documents (that had originally been requested to be restricted to DOC and MPUC "staff eyes only") remain too extraordinarily sensitive to release under the terms of the Supplemental Protective Order. The potential harm to the Joint Petitioner's ability to fairly compete in the competitive

¹ The document identified as Hart-Scott-Rodino document 17 is a duplicate of Hart-Scott-Rodino document 16 and as such has been removed from this list and will be treated as Hart-Scott-Rodino document 16 only.

² Due to the timelines involved, the redactions will not be complete by the September 22, 2010 due date, but the Joint Petitioners will provide the redacted documents as soon as they become available.

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. The only documents at issue in this request are: (1) fully enabled copies of computer spreadsheet models projecting future operating and financial prospects for the combined firms in response to CWA-4 (the Joint Petitioners have produced these computer spreadsheet models in final, hard-copy form); (2) the Hart-Scott-Rodino document numbers 10, 23, 33, 35 and 36 as described in Exhibit B; (3) and redacted portions of the Hart-Scott-Rodino document numbers 4,9,13,15,16 and 37.

The Joint Petitioners appreciate the findings of the September 21 Order and are willing to provide these few remaining extraordinarily sensitive documents to the Interveners at this time if they are limited to the outside counsels and outside experts of the Interveners.³ The Joint Petitioners, therefore, urge the Administrative Law Judge to reconsider the protection afforded to these discrete, extraordinarily sensitive documents and issue an additional supplemental protective order that restricts disclosure to the outside counsel and outside experts of the Interveners. In the alternative, the Joint Petitioners request that the Administrative Law Judge certify the Joint Petitioner's Motion, as limited herein, to the MPUC.

ARGUMENT FOR CERTIFICATION OF THE MOTION

Minnesota Rules Part 1400.7600 authorizes the certification of motions from the Office of Administrative Hearings to the agency. The Rule states that “[a]ny party may request that a pending motion or a motion decided adversely to that party by the judge before or during the course of the hearing, other than ruling on the admissibility of evidence or interpretations of parts 1400.5100 to 1400.8400, be certified by the judge to the agency.”⁴

³ The September 21 Order recognizes that all of the Intervener in this case are represented by outside counsel. See September 21 Order at page 26.

⁴ Minn. R. Pt. 1400.7600.

The rule delineates six factors to be considered by the ALJ in making the decision to certify. Three factors weigh heavily in favor of certification of the Motion.⁵ The first factor is “A. whether the motion involves a controlling question of law as to which there is a substantial ground for a difference of opinion.”⁶ As described more fully in the Motion, there is a significant question as to whether the harm to the Joint Petitioners caused by the disclosure of the discovery responses at issue under the terms of the current Protective Order will exceed the value of the information to the Intervener’s limited interest in the documents in this case. This is an issue of first impression for the MPUC, and one that is likely to arise again. Therefore, certification is proper in order for the MPUC to resolve this dispute in this instance.

The second factor applicable to this Motion is “C. whether or not the delay between the ruling and the motion to certify would adversely affect the prevailing party.”⁷ The Interveners are the prevailing party. As the arguments and previous Orders in this docket have shown, it is the Joint Petitioners who have consistently demonstrated a strong interest in seeking a prompt decision on the Joint Petition. In contrast, the Interveners have consistently argued for a longer timeline.⁸ However, the competitive sensitivity of the information which is the subject of this Motion is sufficiently important to the Joint Petitioners that they are willing to accept the inherent delay of this Motion proceeding to enable the MPUC to fully consider the certification of the Motion. It is clear, therefore, that the delay will not adversely affect the Interveners.

⁵ The remaining factors are “B. whether a final determination by the agency on the motion would materially advance the ultimate termination of the hearing;” “E. whether it is necessary to promote the development of the full record and avoid remanding;” or “F. whether the issues are solely within the expertise of the agency.” See Minn. R. P. 1400.7600 (B, E and F). They are not significant factors at issue in this motion.

⁶ Minn. R. Pt. 1400.7600 (A).

⁷ Minn. R. Pt. 1400.7600 (C).

⁸ See, e.g., *Integra’s Comments Regarding the Procedural Schedule*, MPUC Docket No. P-421 et al./PA-10-456 (June 1, 2010); *First Prehearing Order*, MPUC Docket No. P-421 et al./PA-10-456 (July 16, 2010);

The third factor relevant to this motion is “D. whether to wait until after the hearing would render the matter moot and impossible for the agency to reverse or for a reversal to have any meaning.”⁹ This factor weighs significantly in favor of certification of the Motion to the MPUC. As the Joint Petitioners have set forth in the Motion, once their most sensitive confidential competitive information is released to their competitors and adversaries without appropriate protections, the Joint Petitioners will have no adequate redress. If, for example, one of the in-house parties to the confidentially agreement Exhibit C, were to be promoted, transferred or work duties expanded to include (in whole or in part) responsibility for competing with the Joint Applicants---there is no way to “undo” the knowledge that the competitors and potential adversaries will have about the Joint Petitioner’s most sensitive future competitive strategies. This foreseeable, preventable potential harm would be irreparable to the Joint Petitioners.

The application of the Minn. Rule 1400.7600 relevant factors to the Joint Petitioner’s Motion, as limited herein, supports a determination by the Administrative Law Judge to certify the Motion to the MPUC. The certification of the Motion to the MPUC must occur prior to the Joint Petitioners being required to release the documents at issue herein.

MOTION TO STAY SEPTEMBER 21, 2010 ORDER

As discussed, the September 21 Order requires that a majority of the Highly Confidential Documents be produced under the Supplemental Protective Order by Wednesday, September 22, 2010, and the balance by September 24, 2010. The Joint Petitioners hereby request that the Administrative Law Judge stay the September 21 Order requiring production of the limited number of extraordinarily sensitive documents identified above until such time that the ALJ has considered this request to reconsider, or in the alternative, the Motion to Certify, and the MPUC has fully considered the Motion for a

⁹ Minn. R. Pt. 1400.7600 (D).

Supplemental Protective Order, or until the Joint Petitioners have exercised all of their rights to appeal.

Pursuant to Rule 1400.6600, parties are advised that if they wish to contest this Motion, they must file a written response with the Administrative Law Judge and serve copies on all parties within ten working days after receipt.

CONCLUSION

The Joint Petitioners hereby move the Administrative Law Judge to reconsider the treatment under the September 21 Order of a limited number of extraordinarily sensitive documents and restrict their disclosure to the outside counsel and outside experts of the Interveners. In the alternative, the Joint Petitioners request that its Motion for a Supplemental Protective Order be certified, as listed herein, to the Minnesota Public Utilities Commission pursuant to Minnesota Rules Part 1400.7600. Accordingly, the Joint Petitioners respectfully request that the September 21, 2010 Order requiring the production of the limited number of extraordinarily sensitive documents identified above be stayed while the Joint Petitioner's request is under consideration.

Dated this 22nd day of September, 2010.

CENTURYLINK:

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EXHIBIT A

CenturyLink Outside Counsel/Outside Expert Only HSR Documents

#	Date	Title
1	11/11/2009	Qwest Communications Operational Overview – prepared by Qwest
2	2/2010	Customer Household by Segment by State as of February 2010 – prepared by CenturyLink
3	3/10/2010	Project Crown Summary Information – prepared by CenturyLink
5	3/11/2010	Qwest Management Presentation – prepared by Qwest
6	3/18/2010	Queen Crown Compare Household Charts – prepared by CenturyLink
7	3/18/2010	Qwest Consumer Regions Flow Share Summary – prepared by Qwest
8	3/23/2010	Synergies – prepared by Qwest
9	3/23/2010	Long Range Plan (redacted) – prepared by Qwest <ul style="list-style-type: none"> • Pages 19, 27, and 35 “Staff Eyes Only”
11	3/26/2010	Due Diligence Response No. 16 – prepared by CenturyLink
12	3/30/2010	Due Diligence Response No. 49-52 – prepared by CenturyLink
14	4/1/2010	Network Overview – prepared by CenturyLink
17	4/1/2010	Operations Overview – prepared by CenturyLink
18	3/31/2010	E-mail re: Wholesale Issues in Quartz Model – prepared by CenturyLink
19	4/6/2010	Draft Board Presentation dated April 12, 2010 – for use at CenturyLink Board meeting
20	4/10/2010	Updated Project Crystal Board of Directors Materials, dated April 12, 2010
21	4/12/2010	Key Transaction Benefits and Considerations
22	4/12/2010	Review Summary of wholesale revenue trends for Q and C for Line Driven Revenue, Switched Access and Special Access. Considerations – prepared by CenturyLink
26	4/17/2101	Project Crystal Board of Directors Materials dated April 19, 2010- for use at CenturyLink Board Meeting

CenturyLink Outside Counsel/Outside Expert Only HSR Documents

27	4/19/2010	Operations Diligence Update – prepared by CenturyLink
28	4/19/2010	Network Diligence Update – prepared by CenturyLink
29	4/19/2010	Wholesale Diligence Update – prepared by CenturyLink
30	4/19/2010	Regulatory Diligence Update – prepared by CenturyLink
31	4/20/2010	Rating Agency Presentation – prepared by JPMorgan
32	4/21/2010	Project Crystal Fairness Opinion Presentation
34	4/22/2010	Announcement Communications Documents – prepared by CenturyLink
38	6/11/2010	Draft Elevator Speech – prepared by Qwest
39	Date unknown	Qwest Strategy Document – prepared by Qwest

EXHIBIT B

Description of CenturyLink Staff Eyes HSR Only Documents

#	Date	Title	Description
4	3/10/2010	February 2010 Customer Profile and Churn Trends	Report containing highly confidential and competitively sensitive retail customer data broken down by customer segment with churn data provided by product purchased. The report also discusses marketing and retention strategies as well as trending data for active Qwest customers.
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.
13	4/1/2010	Wholesale Overview	Presentation containing highly confidential and competitively sensitive data, including carrier proprietary information, regarding marketing plans, product development, pending sales, and trends in the Wholesale marketplace
15	4/1/2010	2010-2013 Long Range Plan Review	Analysis of CenturyLink's Long Range Plan containing highly confidential, material, non-public information and competitively sensitive data regarding marketing plans, product development, and trends in the Consumer, Mass Markets, IPTV, Enterprise, and Wholesale markets
16	3/23/2010	Operations Review	Presentation containing highly confidential and competitively sensitive market specific data regarding CenturyLink's operating models and marketing plans in the Consumer, Mass Market, and Enterprise markets. Highly confidential market launch data is included in the presentation for upcoming product rollouts.
23	4/15/2010	IPTV Quartz Review Sensitivities	Presentation containing highly confidential and competitively sensitive data regarding the financial assumptions and projected market rollout of IPTV in various markets
24	4/15/2010	Message regarding impact of access rate reductions	E-mail message containing a competitively sensitive internal assessment of impact on CenturyLink revenue from various

			hypothetical intrastate access rate reductions
25	4/16/2010	Message regarding potential product opportunities	E-mail message containing highly confidential and competitively sensitive information regarding possible opportunities for product expansion in Qwest markets
33	4/21/2010	11 Markets Research Presentation	Market research survey commissioned by CenturyLink and containing proprietary, highly confidential and competitively sensitive market data research regarding potential product offerings and customer preferences in various markets
35	4/1/2010	Due Diligence Response No. 150	Document provided to Qwest during due diligence process containing highly confidential and competitively sensitive market projections and financial data regarding IPTV offering.
36	Undated	Consumer Sales Approach	Presentation containing proprietary, highly confidential go-to-market plans and competitively sensitive information regarding CenturyTel's consumer sales strategy
37	6/7/2010	Segmentation: Local and National	Report containing highly confidential and competitively sensitive data regarding CenturyLink's Enterprise Business marketing strategy, including specific metrics specifying the company's staffing and sales approach by product / region/ and revenue generation targets by sales representative.

Redaction Guide		
Document #	Redacted Pages	Description of Redacted Material
9	19, 27, 35	Pages containing highly confidential and competitively sensitive projections of revenue from specific products and market segments for the period 2010 through 2013

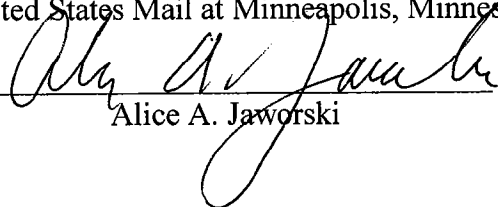
STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

I hereby state that on the 22nd day of September 2010, the attached **Joint Petitioner's Motion for the Administrative Law Judge to Certify the Motion for a Supplemental Protective Order to the MPUC and a Request for a Stay**, was served upon all the parties on the attached service list by electronic filing or by depositing a true and correct copy thereof properly enveloped with postage prepaid in the United States Mail at Minneapolis, Minnesota.

By: 
Alice A. Jaworski

subscribed and sworn to before me this
22nd day of September, 2010


Notary Public



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