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July 30, 2018

Via Web Portal

Mr. Mark L. Johnson
Executive Director and Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, Washington 98504-7250

**Re: Docket No.: A-130355
Procedural Rules Rulemaking Chapter 480-07 WAC,
Sections 160 and 420**

Dear Mr. Johnson:

This response is provided on behalf of the following CenturyLink telecommunications companies in Washington (individually and collectively, "CenturyLink"):

Qwest Corporation d/b/a CenturyLink QC;
United Telephone Company of the Northwest d/b/a CenturyLink;
CenturyTel of Washington, Inc. d/b/a CenturyLink;
CenturyTel of Inter Island, Inc. d/b/a CenturyLink; and
CenturyTel of Cowiche, Inc. d/b/a CenturyLink.

CenturyLink has approximately 2,100 employees in Washington, which includes companies in addition to those listed here. My contact information is in the letterhead above and I am the companies' contact person for purposes of this docket.

CenturyLink appreciates the opportunity to respond pursuant to the Commission's July 3, 2018 Notice seeking responses to the small business economic impact statement (SBEIS) questionnaire. In response to the questions listed in the notice, CenturyLink states:

1. The proposed revisions to WAC 480-07-160, and by association, those to WAC 480-07-420, have a cost impact on the CenturyLink companies.
2. The revisions from the current rule to the draft proposed rules likely impose significant *additional* costs on the CenturyLink companies.
3. The cost impact is that it will require many more staff hours to comply with the new, complex confidentiality designation and marking requirements.
4. CenturyLink's analysis of the additional costs is as follows:

Current confidentiality designations.

Under the current rules, there are essentially two different confidentiality designations – Confidential Pursuant to Protective Order, or Confidential Pursuant to WAC 480-07-160.¹

In adjudicative proceedings where confidential information will be provided, the Commission enters a protective order. Thereafter, nothing could be simpler – if there is non-public, competitively or commercially sensitive information, or other information warranting a confidentiality designation – it is labeled Confidential Pursuant to Protective Order. All of CenturyLink's staff who prepare documents for filing in adjudicative proceedings are aware of this protocol and are trained to comply with it.

Conversely, in all other instances where confidential information is provided, it is Confidential Pursuant to WAC 480-07-160. Again, all of CenturyLink's staff who prepare documents for filing outside of adjudicative proceedings are aware of this protocol and are trained to comply with it.

The individuals in the business who own the information generally communicate to those filing the information whether it is confidential or not, and it is subject to legal review to ensure that the claim of confidentiality is well-founded and supportable. At that point, the process is left in the hands of legal secretaries or paralegals to accomplish the marking, redacting, and filing. The process is time-consuming, especially on long documents with multiple pieces of confidential information, but it is manageable.

¹ For purposes of simplicity, and because the issue does not arise often with the CenturyLink companies, I will omit the "Highly Confidential" designation, which only occurs under a protective order.

Confidentiality designations under the proposed rule.

The current rule is just over five pages long and contains 2302 words. The new rule is nearly half again as long, at 3241 words, and seems infinitely more complex.

The new rule adds a category of information called “Exempt”. This is information that is claimed to be exempt from public disclosure under the Public Records Act (PRA). This information would, in the past, simply have been designated as Confidential pursuant to either a protective order or the rule. Now, it must be separately identified and separately labeled, not to mention requiring potentially detailed legal analysis and justification for the designation. See, subsection (4)(a) of the new rule.

With this new category, the possible designations increase from two to four, in a way that makes designating, marking, and filing more complex and fraught with possibilities for error and confusion. Now, documents filed in an adjudicative proceeding must be labeled either “Exempt under the Protective Order” or “Confidential Pursuant to the Protective Order”, or both, as opposed to the simple designation under the current rule. Documents filed outside of an adjudicative proceeding are also subject to dual labeling as either “Exempt under the WAC” or “Confidential Pursuant to the WAC”.

Indeed, it is difficult to imagine Exempt information not also being Confidential. This, coupled with the requirements in subsection (7) regarding marking and separating out different types of protected information, will make training and compliance exponentially more time consuming and complex.

We estimate that determining the proper designation and preparing the justification necessary will add at least 5-10 minutes per piece of confidential information, and up to 30 minutes or more in some cases. Again, that is not the total – that is per piece of confidential information.

Administrative staff time to comply with subsection (7) regarding multiple designations will likely take an additional 3-5 minutes per piece of confidential information. In a long filing, with potentially dozens of pieces of confidential information, the added time for attorneys and staff will be measured in hours, not minutes.

The requirement under subsection (8) to submit multiple redacted versions adds complexity as well and doubles or triples the additional administrative burden of filing only one redacted version.

All of this additional time is an additional cost to the companies, with little to no demonstrated benefit.

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CenturyLink appreciates that the Commission will consider this information, and respectfully requests that the Commission also consider returning to the status and process under the current version.

Sincerely,

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