

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Joint Application of	)	Docket No. UT-100820
QWEST COMMUNICATIONS	)	SPRINT NEXTEL CORPORATION'S
INTERNATIONAL INC. AND	)	MOTION TO CHALLENGE
CENTURYTEL, INC.	)	CLASSIFICATION OF CENTURYLINK
	)	RESPONSE TO SPRINT DATA
For Approval of Indirect Transfer of control of	)	REQUEST NO. 42
Qwest Corporation, Qwest Communications	)	
Company LLC, and Qwest LD Corp.	)	

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TO: WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AND TO: ALL PARTIES ON THE ATTACHED CERTIFICATE OF SERVICE LIST

**I. INTRODUCTION**

*1* On September 10, 2010, this Commission issued Order 09 Granting in Part and Denying in Part Sprint Nextel Corporation's ("Sprint") Motion to Compel Joint Applicants to Respond to Data Requests. Paragraph 28 of Order 09 required CenturyLink "to provide to Sprint the revenues associated with the Ethernet services it provides to customers within Qwest's ILEC service territory in Washington." On Thursday, September 16, 2010, CenturyLink provided a supplemental response but designated the critical revenue information as "highly confidential." The consequence of this designation is to prohibit Sprint's in-house counsel

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and expert from seeing this information, which renders it useless for purposes of analysis or testimony.

- 2 Sprint's counsel contacted counsel for Qwest and CenturyLink and asked that this number be re-designated as confidential thereby allowing Sprint to actually use this number for purposes of its analysis and testimony. CenturyLink's counsel refused to reclassify the number as requested on September 21, 2010. Therefore, Sprint was forced to bring the instant motion.

## **II. ARGUMENT**

- 3 Paragraph 20 of Order 01 in this docket allows Sprint to challenge CenturyLink's classification of the provided number as highly confidential. CenturyLink bears the burden of proving that such a designation is necessary. CenturyLink cannot meet the standard of Order 01 which allows the highly confidential classification only for information for which there is "a highly significant risk of competitive harm to CenturyLink or third parties." Paragraph 12 of Order 01 admonishes the parties to carefully scrutinize provided information and to restrict use of the highly confidential designation only to information that might impose a serious business risk if disseminated without heightened protections.

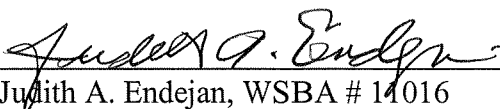
- 4 CenturyLink cannot meet this standard. It contends that service-specific revenue information merits highly confidential treatment, but it fails to explain why it would suffer competitive harm if the information is only subject to confidential protection.

- 5 When Qwest responded to Sprint DR No. 41(virtually the same as DR No. 42 directed to CenturyLink) it initially designated its response as "highly confidential." Thereafter, however, Qwest re-designated it as confidential and provided supplemental responses.

- 6 If Qwest could re-designate the same response from highly confidential to confidential, there is no reason why CenturyLink cannot also do so in its response to the same request. If CenturyLink is allowed to maintain the highly confidential classification, for all practical purposes this Commission's ruling in Order 09 regarding Sprint DR No. 42 will be worthless because Sprint's in-house counsel and experts cannot see the response, which was the product of Sprint's Motion to Compel. Unless this number is re-designated as confidential, Sprint will effectively be denied due process because it cannot use the information which it fought to obtain. A sweeping statement that service-specific revenue information merits highly confidential does not meet the high standard for using the most restrictive category of information.
- 7 CenturyLink cannot prove that it will suffer competitive harm if Sprint uses the number it provided subject to the **confidential** protections available in this case. Therefore, Sprint respectfully requests the Commission to require CenturyLink to re-designate its supplemental response to Sprint Data Request No. 42 as confidential. Sprint also requests a ruling on this request on an expedited basis because of the impending testimony submission deadline.

RESPECTFULLY SUBMITTED this 22<sup>nd</sup> day of September, 2010.

GRAHAM & DUNN PC



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**CERTIFICATE OF SERVICE**  
**Docket No. UT-100820**

I hereby certify that on September 22, 2010, the original and 12 copies of Sprint Nextel Corporation's Motion to Challenge Classification of CenturyLink Response to Sprint Data Request No. 42 were sent by email and Federal Express to:

David S. Danner  
Secretary and Executive Director  
c/o Washington Utilities and Transportation Commission  
Records Department  
1300 S. Evergreen Park Drive SW  
Olympia, WA 98504-7250

I hereby certify that I have this 22<sup>nd</sup> day of September, 2010, served a true and correct copy of Sprint Nextel Corporation's Motion to Challenge Classification upon the parties of record, via E-mail and U.S. Mail as follows:

Arthur A. Butler Ater Wynne LLP 601 Union Street, Suite 1501 Seattle, WA 98101-3981 Tel: 206.623.4711 Tax: 206.467.8406 Email: <a href="mailto:aab@aterwynne.com">aab@aterwynne.com</a>  <b>On behalf of Level 3 Communications, LLC</b>	Greg Rogers Senior Corporate Counsel Level 3 Communications, LLC 1025 El Dorado Boulevard Bloomfield, CO 80021-8869 Tel: 720.888.2512 Fax: 720.888.5134 Email: <a href="mailto:greg.rogers@level3.com">greg.rogers@level3.com</a>  <b>On behalf of Level 3 Communications, LLC</b>
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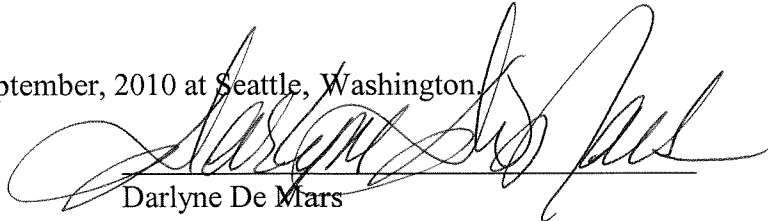
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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 22<sup>nd</sup> day of September, 2010 at Seattle, Washington.



Darlyne De Mars  
Assistant to Judith A. Endejan