

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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IN THE MATTER OF CenturyLink QC's	)	REGULATORY DIVISION
Service Quality and Its Response to Notice	)	
of Commission Action in Docket N2014.3.38,	)	DOCKET NO. D2014.11.91
Including Petition for Waiver of Admin. R.	)	
Mont. 38.5.337197)(b)	)	
	)	
IN THE MATTER OF the Request of Staff of	)	
the Montana Public Service Commission for	)	
CenturyLink Service Quality Information	)	DOCKET NO. N2014.4.38

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CENTURYLINK  
MOTION FOR A PROTECTIVE ORDER

1.

Qwest Corporation d/b/a CenturyLink QC ("CenturyLink QC"), by and through counsel undersigned, submits this *Motion for Protective Order* to the Montana Public Service Commission ("MPSC"). The motion is filed pursuant to A.R.M. §§ 38.2.5001 through 38.2.5030, for the protection of certain information CenturyLink QC plans to submit in response to the following data requests propounded by the Public Service Commission's Staff in this docket:

1. PSC-002(a) requesting 2013 and 2014 Leadership Scorecard reports for the three exchanges: Cascade; Wibaux and Wolf Creek.
2. PSC-003(d) regarding the location of each analog carrier system in an ERSI Shape File or other GSI format and the number of customers served by each system.
3. PSC-003(e) regarding a list of repeat OOS trouble reports in the Montana CenturyLink QC network for 2013 and 2014 and, if multiple OOS trouble

reports for any customer location have been taken anytime between Jan. 1, 2013 and November 1, 2014, a list of each report together for the same location in the same format specified for the reporting of individual OOS > 24 Hours trouble reports in the Commission August 26, 2014 NCA in Docket No. N2014.4.38.

4. PSC-006(b) regarding the trouble report rate by wire center by month for the period March, 2014 to November, 2014.

CenturyLink QC requests a Standard Protective Order issued pursuant to ARM § 38.2.5014 to protect trade secrets contained in those responses. The Motion is supported by the Affidavit of Robert Brigham, Regulatory Operations Director for CenturyLink ("Brigham Affidavit"), filed herewith as Attachment A.

2.

The person to be contacted regarding this motion is Mr. William E. Hendricks at [Tre.Hendricks@CenturyLink.com](mailto:Tre.Hendricks@CenturyLink.com) or (541) 387-9439 or mobile (541) 400-8421.

3.

CenturyLink QC seeks protection for information in response to discovery in the case, which includes PSC-002 through PSC-006 ("Information"), as described in paragraph 4 of Attachment A. The Information is competitively sensitive in that it contains exchange specific service quality information similar to that for which the Commission has previously granted protection. The Information also includes detailed network information, specifications, and location information that could be used by thieves or saboteurs to steal from or harm CenturyLink QC's network. The Information includes data that competitors could use to gain an unfair advantage in these exchanges.

4.

The following discussion establishes a complete and specific legal and factual basis for issuing the requested protective order. The discussion is supported by the

Affidavit of Mr. Brigham who is qualified to provide testimony on the subject matter of this motion.

5.

The legal basis for CenturyLink QC's Motion for Protective Order is that the Information is trade secret. Montana adopted and employs the Uniform Trade Secret Act (hereafter the "Act"). See §§ 40-14-401, *et seq.*, MCA.

6.

The Administrative Rules enacted by the MPSC to implement the Act identify six elements for establishing *prima facie* that Information may be protected as trade secret. ARM § 38-2-5007(4)(b).

(i) prior to requesting a protective order, the provider has considered that the commission is a public agency and that there is a constitutional presumption of access to documents and information in the commission's possession;

(ii) the claimed trade secret material is information;

(iii) the information is secret;

(iv) the secret information is subject to efforts reasonable under the circumstances to maintain its secrecy;

(v) the secret information is not readily ascertainable by proper means; and

(vi) the information derives independent economic value from its secrecy, or that competitive advantage is derived from its secrecy.

7.

CenturyLink QC understands and has fully considered the constitutional presumption in favor of public access to Information filed in MPSC proceedings.

8.

**The material is Information.** The material for which protection is sought is comprised of knowledge, data and facts collected and recorded by, or at the direction of CenturyLink QC, which will be provided in response to discovery. As such, the material is Information as that term is defined by law. ARM § 38-2-5001(3).

9.

**The Information is secret.** CenturyLink QC does not share the Information for which protection is sought with other parties and maintains the information secretly. Brigham Aff. ¶ 3. Moreover, the Commission has traditionally deemed similar information as confidential when CenturyLink QC has provided it.

10.

**Reasonable efforts are used to maintain secrecy.** CenturyLink QC protects the secrecy of the Information with a security protocol that ensures the Information is not inadvertently disclosed or disseminated. The Information is maintained electronically on a secure network. Access to the Information is also password protected. Only employees and managers with a direct need to know are authorized to access the Information. In addition, all hard copies and drafts of the Information are marked as confidential and destroyed when no longer needed. Brigham Aff. ¶ 3.

11.

**The data is not readily ascertainable by proper means.** The Information for which protection is sought is collected and tabulated by CenturyLink QC directly. Brigham Aff ¶ 3.

12.

**The Information derives independent economic value or a competitive advantage is derived from its secrecy.** If the Information is not protected, CenturyLink QC's business competitors could use it to prioritize their marketing efforts and

efficiently target specific customers or groups of customers in specific areas. Brigham Aff. ¶ 6, 8, 9 & 11.

13.

**Argument.** CenturyLink QC respectfully requests that the Commission treat the Information as confidential because it is either competitively sensitive, could be used to harm CenturyLink QC's network and Montana consumers, or both. CenturyLink QC acknowledges that the Commission does not generally provide confidential treatment for information that is maintained on a statewide basis. CenturyLink QC therefore is requesting confidential treatment in this Motion only for information provided at the *exchange* level, for which the Commission traditionally provides confidential treatment.

The Commission has granted protection of service quality metric performance data by wire center. *See* Docket No. N2014.4.38, Order No. 7345 (May 20, 2014) and Docket No. D2014.11.91, Order No. 7345a (November 24, 2014). Similarly, the Commission has granted protection of information that contained line and living unit data by wire center. *See* Docket No. D2013.11.78, Order No. 7324 (January 22, 2014). CenturyLink QC requests similar protection in this Motion and offers the following justification for granting confidential treatment for certain of its responses to the Staff data requests:

1. PSC-002(a) requesting 2013 and 2014 Leadership Scorecard reports for the three exchanges: Cascade; Wibaux and Wolf Creek.

As noted in the Brigham Affidavit, Confidential Attachments PSC-002(a) A, B and C contain detailed operational metrics for Cascade, Wibaux, and Wolf Creek exchanges for 2013 and 2014. These operational metrics would be extremely useful for a competitor to determine where to offer competitive services, or where not to do so. For example, a competitor could, based on provisioning and repair commitments met, avoid areas where CenturyLink QC is performing extremely well and target areas where it is not. A competitor could also use CenturyLink QC's service quality

performance in its advertising. Because CenturyLink QC has no access to the service quality performance of its competitors and potential competitors, their possession of this confidential information about CenturyLink QC would give them an asymmetrical advantage in their marketing against CenturyLink QC. The Commission should not, through public disclosure of confidential information, favor or disfavor any competitor.

Similar information has been treated as confidential by the Commission. *See* Order Nos. 7345 and 7345a. The Commission held that outage information should be protected as confidential “because such information would allow a competitor to target specific customers.” Order 7345a, at ¶ 24. The 2013 and 2014 Leadership Scorecard reports include wire center specific information that is even more detailed and sensitive than the information for which the Commission approved confidential treatment in Order No. 7345 and 7345a.

Because CenturyLink QC keeps the information in the reports as confidential, as set forth in the Commission’s rules, it would create an unfair competitive advantage for a competitor to have ready access to it. Allowing public access to the information in the Leadership Scorecard reports would cause substantial and irreparable harm to CenturyLink QC. And the Commission has approved confidential treatment of similar information. CenturyLink QC therefore urges the Commission treat the Leadership Scorecard report provided in response to PSC-003(a) Attachments A, B, and C as confidential.

2. PSC-003(d) regarding the location of each analog carrier system in an ERSI Shape File or other GSI format and the number of customers served by each system.

In response to this discovery request CenturyLink QC provides a number of maps that depict, in varying degrees of detail, the location of the analog carrier systems in its serving territory. As explained in the Brigham Affidavit, CenturyLink QC is seeking protection for only the most detailed portions of the response. Specifically,

CenturyLink QC wishes to provide maps in shape files (PSC-003d, Attachment C) that show the precise locations of the analog carrier systems in Montana. Public disclosure of these maps could compromise the security of CenturyLink QC's network. Mr.

Brigham explains:

If disclosed, this detailed information could increase the risk of network disruption and service failures because other parties could use the precise location data to target specific equipment in the CenturyLink network for vandalism, theft or sabotage. This would increase the risk that Montana telephone service customers would experience a disruption of their service.

Brigham Aff. ¶ 8. The Commission has agreed that "knowledge of specific locations of certain network equipment could be used to identify weaknesses in CenturyLink QC's network. Thus, the information could be used to compromise the security of CenturyLink QC's network." Order No. 7345a, at ¶24. The Commission approved CenturyLink QC's request in Order No. 7345a.

In addition, although there may be areas in which CenturyLink QC maintains analog carrier systems where there are currently few or no competitors for voice service, such areas are still a part of the competitive landscape. There are existing and emerging technologies utilized by CenturyLink QC's competitors, including satellite and other wireless technologies, that either are available now or could be in the future.

Because this information is kept as confidential by CenturyLink QC as set forth in the Commission's rules, it could compromise the security of CenturyLink QC's network and would create an unfair competitive advantage for a competitor to have ready access to it. Allowing public access to the shape files showing analog carrier system locations would cause substantial and irreparable harm to CenturyLink QC. CenturyLink QC therefore requests that the Commission grant confidential protection for PSC-003(d), Attachment B.

3. PSC-003(e) regarding a list of repeat OOS trouble reports in the Montana CenturyLink QC network for 2013 and 2014 and, if multiple OOS trouble reports for any customer location have been taken anytime between Jan. 1, 2013 and November 1, 2014, a list of each report together for the same location in the same format specified for the reporting of individual OOS > 24 Hours trouble reports in the Commission August 26, 2014 NCA in Docket No. N2014.4.38.

As noted above, the Commission has already granted protection for service outage information in Order Nos. 7345 and 7345a. The information contained in CenturyLink QC's response to PSC-003(e) contains data regarding the same service quality metrics, also by exchange. CenturyLink QC therefore requests that the Commission grant confidential protection for this information.

4. PSC-006(b) regarding the trouble report rate by wire center by month for the period March, 2014 to November, 2014.

As noted above, the Commission has already granted protection for service outage information in Order Nos. 7345 and 7345a. The information contained in CenturyLink QC's response to PSC-003(e) contains data regarding the same service quality metrics, also by exchange. CenturyLink QC therefore requests that the Commission grant confidential protection for this information.

14.

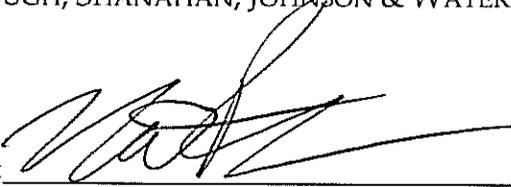
**Requested Relief.** For the reasons discussed in this Motion and the accompanying Affidavit of Robert Brigham, CenturyLink QC respectfully asks the MPSC to issue a Standard Protective Order pursuant to ARM § 38.2.5014 covering the Information described in Paragraphs 5, 8, 9 and 11 of Attachment A. *See Brigham Aff.*

15.

CenturyLink QC personnel are available to discuss with MPSC Staff any specific materials referred to in this Motion if Staff has questions regarding the material or the basis for the assertion of trade secret status.

DATED this 26<sup>th</sup> day of January 2015.

GOUGH, SHANAHAN, JOHNSON & WATERMAN, PLLP

By:   
for Peter G. Scott, Attorneys for CenturyLink QC

**Attachments:**

Attachment A: Affidavit of Robert Brigham

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing were served on January 26, 2015, in the manner shown and addressed as follows:

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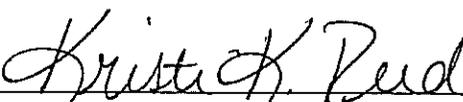
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Employee of Gough Shanahan Johnson and Waterman PLLP



proper means, is maintained electronically on a secure network. Access to the Information is password protected. Only those with a direct need to know are authorized to access the Information. Any hard copies of the Information are marked as confidential and destroyed after use.

4. The Information described in the accompanying *Motion for a Protective Order* consists of data requested in the following Staff Data Requests:

- PSC-002(a)
- PSC-003(d)
- PSC-003(e)
- PSC-006(b)

The Information requested in these data requests represents trade secret data about CenturyLink QC's operations to which the general public—including CenturyLink QC's current *and potential* competitors—does not have access. I will describe the data requested in each of these data requests below.

5. PSC-002(a) reads as follows:

Please provide all Leadership Scorecard reports for the Cascade, Wibaux, and Wolf Creek exchanges for 2013 and 2014.

*PSC-002(a) Confidential Attachment A* provides the requested Leadership Scorecard report for the Cascade exchange. *PSC-002(a) Confidential Attachment B* provides the requested Leadership Scorecard report for the Wolf Creek exchange. *PSC-002(a) Confidential Attachment C* provides the requested Leadership Scorecard report for the Wolf Creek exchange. CenturyLink QC seeks protection from disclosure of these three Leadership Scorecard reports because they contain very detailed operational metrics for each exchange. Specifically, the reports show the following data for each of the three exchanges:

- % Provisioning Commitments Met
- % Repair Commitments Met
- Report Rate (3-5, 7-9)
- Report Rate (01-13)
- Delayed Service Orders Primary > 30 Days
- Total POTS Pending Facilities
- Total POTS Pending Facilities (Past Due)
- % 30 Day Repeat Repairs

- % OOS < 24 Hours
- POTS Consumer MTTR
- Total DS Pending Facilities
- % Failure Frequency (Company DS1, FGF, UNB\_DS1)
- Provisioning Orders
- Dispatched Prov Missed Commitments – Adjusted
- Dispatched Provisioning Orders – Adjusted; Repair Missed Commitments
- Repair Tickets; 30 Day Repeated Repairs
- Inward Line Orders (Small Bus and Consumer)
- OOS Cleared >= 24 Hours
- Out of Service Repair Tickets
- Provisioning Company Misses: Qualified CF
- POTS Dispatched Orders
- In-Effect Circuits; In-Effect Circuits (DSO, DS1, and ISDN\_B only)
- Access Lines (DS1, FGF, UNB\_DS1)
- Trouble Tickets (Company DS1, FGF, UNB\_DS1)

Thus, the reports provide extremely granular detail regarding CenturyLink's service quality and performance in each exchange.

6. CenturyLink protects its Leadership Scorecard reports from public disclosure because these reports contain highly detailed operational information for each exchange that is trade secret. The telecommunications industry in Montana is highly competitive and other service providers aggressively market their products and services in competition with CenturyLink throughout the state, and in these wire centers. Possession of the data described in paragraph 5 above would provide competitors, both current and potential, with knowledge of CenturyLink's network, operations and service quality metrics at a detailed geographic level. This information would provide these competitors with a distinct competitive advantage, allowing competitors to target marketing efforts to identified persons or groups of persons in identified geographic areas of the state, based on detailed knowledge of CenturyLink's performance.
7. As described in the attached Motion, the Commission previously granted protection of service quality metric performance data by wire center in Order 7345 in Docket N2014.4.38 (May 20, 2014) and in Order 7345a in Dockets D2014.11.91 and N2014.4.38 (November 24, 2014). The data in the Leadership Scorecard contains the same service quality metrics data by wire center that the Commission previously determined to be protected.
8. PSC-003(d) reads as follows:

Please provide the location of each analog carrier system in an ERSI Shape File or other GSI format, and the number of customers served by each system.

Please also provide a map showing the location of each analog carrier system.

In response to this data request, CenturyLink provided *PSC-003(d) Attachment A*, which is a map of the entire state of Montana showing the *approximate* location of each CenturyLink QC analog carrier system in Montana. CenturyLink did not seek protection for this information because the location data is not precise. However, CenturyLink is seeking protection from disclosure of *PSC-003(d) Confidential Attachment B* because this attachment contains the detailed shape files for each of the analog carrier systems in the state. The shape files provide very precise location data regarding each carrier system. If disclosed, this detailed information could increase the risk of network disruption and service failures because other parties could use the precise location data to target specific equipment in the CenturyLink network for vandalism, theft or sabotage. This would increase the risk that Montana telephone service customers would experience a disruption of their service. *PSC-003(d) Attachment C* provides the number of customers served by each analog carrier system but does not disclose the location of the systems. In a revised response to PSC-003(d) filed January 23, 2015 CenturyLink is providing *PSC-003(d) Attachment C* on a public basis.

9. PSC-003(e) reads as follows:

Please provide a list of repeat OOS trouble reports in the Montana CenturyLink QC network for 2013 and to date 2014. If multiple OOS trouble reports for any customer location have been taken anytime between Jan. 1, 2013 and November 1, 2014, please list each report together for the same location in the same format specified for the reporting of individual OOS > 24 Hours trouble reports in the Commission August 26, 2014 NCA in Docket No. N2014.4.38.

PSC-003(e) requests granular, geographic level service quality information for each CenturyLink exchange in Montana, and this data is treated as trade secret. The telecommunications industry in Montana is highly competitive and other service providers aggressively market their products and services in competition with CenturyLink throughout the state. Possession of this detailed service quality data would provide competitors, both current and potential, with knowledge of CenturyLink's network, operations and service quality metrics at a detailed geographic level. This information would provide these competitors with a distinct competitive advantage, allowing competitors to target marketing efforts to identified persons or groups of persons in identified geographic areas of the state, based on detailed knowledge of CenturyLink's performance.

10. As described in the attached Motion, the Commission previously granted protection of service quality metric performance data by wire center in Order 7345 in Docket N2014.4.38 (May 20, 2014) and in Order 7345a in Dockets D2014.11.91 and N2014.4.38 (November 24, 2014). The data described in paragraph 9 contains the same service quality metrics data by wire center that the Commission previously determined to be protected.

11. PSC-006(b) reads as follows:

Please provide the trouble report rate by wire center by month for the period March, 2014 to November, 2014.

PSC-006(b) requests granular, geographic level service quality information for each CenturyLink exchange in Montana and this data is treated as trade secret. The telecommunications industry in Montana is highly competitive and other service providers aggressively market their products and services in competition with CenturyLink throughout the state. Possession of this detailed service quality data would provide competitors, both existing and potential, with knowledge of CenturyLink's network, operations and service quality metrics at a detailed geographic level. This information would provide these competitors with a distinct competitive advantage, allowing competitors to target marketing efforts to identified persons or groups of persons in identified geographic areas of the state, based on detailed knowledge of CenturyLink's performance.

12. As described in the attached Motion, the Commission previously granted protection of service quality metric performance data by wire center in Order 7345 in Docket N2014.4.38 (May 20, 2014) and in Order 7345a in Dockets D2014.11.91 and N2014.4.38 (November 24, 2014). The information described in paragraph 11 contains the same service quality metrics data by wire center that the Commission previously determined to be protected.

13. To the best of my knowledge the Information for which protection is sought is routinely protected in other state and federal jurisdictions where CenturyLink QC has provided detailed data as described herein.

14. Prior to filing the information, CenturyLink QC considered the constitutional presumption in favor of disclosing materials provided to the MPSC. Based on my experience and having fully considered the factual and legal bases required for the protection of confidential information, I have, with the assistance of qualified legal counsel, formed a good faith belief that the Information described in the accompanying Motion for a Protective Order are trade secrets that may be

protected from public disclosure under the law.

Dated: January 23, 2015

  
Robert Brigham

SUBSCRIBED AND SWORN TO, before me, this 23rd day of January, 2015.

Catherine Hansen  
Notary Public for the State of Colorado  
Print Name: Catherine I. Hansen  
Residing at: Denver, CO  
My Commission Expires: 7/25/2016

(SEAL)