

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

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

CENTURYLINK QC
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 data requested in Staff data request PSC-014(c) and Montana Consumer Counsel ("MCC") data requests MCC-018, -024, -028, and -032.

2.

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 Affidavits of Robert Brigham, Regulatory Operations Director for CenturyLink ("Brigham Affidavit"), filed herewith as Attachment A (regarding MCC

data requests) and Attachment B (regarding Staff data request). The Motion seeks protection for the following responses to data requests:

- a. *MCC-018 Confidential Attachment A* includes the number of Full Time Equivalent (“FTE”) network technicians employed by Century Link QC in Montana by wire center as of December 31, 2012, 2013 and 2014.
- b. *MCC-024 Confidential Attachment A* includes information regarding geographically specific Out of Service occurrences in Montana.
- c. *MCC-028 Confidential Attachments A through E* provide a “screenshot” of the CenturyLink Form 477 filings made electronically with the FCC. *Confidential Attachments F through J* provide detailed broadband subscribership data by census tract in Montana, as filed with the FCC as part of the Form 477 filing. *Confidential Attachments K and L* provide detailed voice subscribership data by census tract in Montana as filed with the FCC as part of the Form 477 filing..
- d. *MCC-032 Confidential Attachment A* provides data related to specific cable pair bundles in Montana that have experienced multiple repairs.

2.

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

3.

CenturyLink QC seeks protection for information provided in response to discovery in the case, as outlined above and as described in paragraphs 4 through 10 of Attachment A and paragraphs 4 and 5 of Attachment B (“Information”). The Information is competitively sensitive in that it contains granular, location specific information regarding CenturyLink QC’s network, similar to other location specific information the Commission has traditionally maintained as confidential. The Information includes data that competitors could use to gain an unfair advantage in CenturyLink QC’s Montana serving.

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 Affs. A and B, ¶ 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 paper copies and drafts of the Information are marked as confidential and destroyed when no longer needed. Brigham Affs. A and B, ¶ 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 Affs. A and B, ¶ 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. A, ¶¶ 4 through 10, and Brigham Aff. B, ¶¶ 4 and 5 .

13.

Discussion. CenturyLink QC respectfully requests that the Commission treat the Information as confidential because it contains information that competitors could use to gain an unfair competitive advantage, including information CenturyLink QC has filed with and treated as confidential by the FCC. The Commission has granted protection of similar information, including: 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) and 7388b (February 3, 2015); living unit and share data by wire center, *see* Docket No. D2013.11.78, Order No. 7324 (January 22, 2014); and Docket No. D2014.11.91, Order No. 7388b (February 3, 2015), and information that could compromise network security, D2014.11.91, Order No. 7388g (May 4, 2015). CenturyLink QC requests similar protection in this Motion and offers the following justification for granting confidential treatment for certain of its responses to the MCC and Staff data requests:

1. *MCC-018 Confidential Attachment A* – Full Time Equivalent (“FTE”) network technicians employed by Century Link QC in Montana by wire center as of December 31, 2012, 2013 and 2014.

Possession of the data in this attachment would provide competitors with knowledge of CenturyLink QC's operations that would provide a distinct competitive advantage, allowing competitors to target marketing efforts to identified persons or groups of persons in geographic specific areas of the state. As noted Attachment A, the

Commission has granted confidential protection for nearly identical information. *See* Order No. 7388b, ¶ 30. The Commission stated:

The disbursement of technicians by geographic location could impart information to a competitor about the quality of service in certain wire centers, particularly those wire centers where no technicians are stationed and where it is obvious that geographically long dispatches are required to fix service issues. Information regarding the location of technicians could also raise security issues.

Id. CenturyLink QC therefore respectfully requests confidential treatment for this information.

2. *MCC-024 Confidential Attachment A* – Information regarding geographically specific Out of Service occurrences in Montana

This attachment includes granular, geographic level service quality information for each CenturyLink exchange in Montana. As explained in paragraph 6 of the Brigham Affidavit A, the confidential attachment, this response would “provide competitors, both current and potential, with knowledge of CenturyLink’s network, operations and service quality metrics at a detailed geographic level.” Brigham Aff. A, at ¶ 6. It therefore follows that the 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.” *Id.* CenturyLink QC therefore respectfully requests confidential treatment for this information.

3. *MCC-028 Confidential Attachments A through E* – Information from CenturyLink Form 477 filings protected as confidential by the FCC

This attachment includes a “screenshot” of the CenturyLink Form 477 filings made electronically with the FCC. This shows information regarding actual broadband deployment speeds and the types of customers served. It also shows voice grade equivalent lines that are provided on a wholesale basis to other providers via UNE-P, UNE-Loop and Resale, as well as the technology (e.g., copper, fiber) used to provide

voice service. See Brigham Aff. A, at ¶ 7. The FCC protects this information for *all* carriers that submitted it as confidential. The reason it is competitively sensitive is that it contains information that would allow CenturyLink QC's competitors to target specific *types* of customers. In addition, it would be patently unfair and a competitive advantage for CenturyLink QC's competitors to have access to this information while CenturyLink QC does not have the same access. CenturyLink QC therefore respectfully requests confidential treatment for this information.

4. *MCC-028 Confidential Attachments F through J* – Detailed broadband subscribership data by census tract in Montana as provided with the FCC Form 477

This attachment includes the number of CenturyLink QC broadband connections by speed tier for every census tract in Montana for different time periods. As explained by Mr. Brigham:

This report includes granular, census tract-specific data showing not only where CenturyLink has upgraded its HSI [High Speed Internet] capability, but also how many customers it serves in each census tract. 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. Knowledge of this data would allow a potential competitor to more effectively compete with CenturyLink for broadband customers, and to target specific areas for expansion or upgrade of facilities. The Information in Attachments F through J contains granular census tract-specific data about CenturyLink's broadband customers to which competitors do not have access. Since CenturyLink does not have such geographic knowledge of its competitors' broadband subscriber base, acquisition of this data would provide competitors with a significant competitive advantage.

Brigham Aff. A, at ¶ 8. CenturyLink QC therefore respectfully requests confidential treatment for this information.

5. *MCC-028 Confidential Attachments K and L* – Detailed voice subscribership data by census tract in Montana as provided with the FCC Form 477

This attachment contains the number of CenturyLink QC voice connections for every census tract in Montana for different time periods. Like Attachments F through J, this information would be highly useful to CenturyLink QC's competitors. As explained by Mr. Brigham:

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. Knowledge of this data would allow a potential competitor to more effectively compete with CenturyLink for voice customers, and to target specific areas for expansion or upgrade of facilities. The Information in Attachments K and L contains granular census tract-specific data about CenturyLink's voice subscribers to which competitors do not have access. Since CenturyLink does not have such geographic knowledge of its competitors' voice subscriber base, acquisition of this data would provide competitors with a significant competitive advantage.

Brigham Aff. A, at ¶ 9. CenturyLink QC therefore respectfully requests confidential treatment for this information.

6. *MCC-032Confidential Attachment A* – Data related to specific cable pair bundles in Montana that have experienced multiple repairs

As described by Mr. Brigham, this data is *extremely granular* and is more granular than the service quality data the Commission ruled to be confidential in Order 7388d. It includes specific cable and terminal location data, including the terminal address, along with repair data for each cable. Brigham Aff. A, at ¶ 10. In addition to being competitively sensitive, public disclosure of this information could present a potential security risk for CenturyLink QC and its customers. *Id.* CenturyLink QC therefore respectfully requests confidential treatment for this information.

1. *PSC -014(c)* – Monthly trouble report data for the Wibaux wire center for December 2014 and year to date 2015

As explained by Mr. Brigham, this information is competitively sensitive and has been protected by the Commission recently:

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, such as Wibaux, based on detailed knowledge of CenturyLink's performance.

Brigham Aff. B, at ¶ 5, *see also* Order Nos. 7388d, 7345 and 7345a. CenturyLink QC therefore respectfully requests confidential treatment 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 Commission to issue a Standard Protective Order pursuant to ARM § 38.2.5014 covering CenturyLink QC's responses to in Staff data request PSC-014(c) and Montana Consumer Counsel ("MCC") data requests MCC-018, -024, -028, and -032.

15.

CenturyLink QC personnel are available to discuss the 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 13th day of May 2015.

GOUGH, SHANAHAN, JOHNSON & WATERMAN, PLLP

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

Attachments:

Attachment A: Affidavit of Robert Brigham – Responses to MCC data requests

Attachment B: Affidavit of Robert Brigham – Response to PSC data request

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing were served on May 13, 2015, electronically and by us mail, addressed as follows:

Kate Whitney, Administrator
Utility Division
Montana Public Service Commission
1701 Prospect Avenue, P.O. Box 202601
Helena, MT 59620-2601
kwhitnev@mt.gov

Geoff Feiss, General Manager
Montana Telecomm Association
208 North Montana Avenue,
Suite 105
Helena MT 59601
gfeiss@telecomassn.org

Phil Grate, Director Montana
Regulatory and Legislative Affairs
1600 7th Avenue, 15th Floor
Seattle WA 98191
phil.grate@centurylink.com

Dennis R. Lopach, PC
4 Carriage Lane
Helena MT 59691
Dennis.lopach@gmail.com

Monica Tranel, Esq.
Montana Consumer Counsel
PO Box 201703
111 North Last Chance Gulch,
Suite 1B
Helena MT 59620-1703
mtranel@mt.gov

James Holbrook
IBEW Local 206
110 N. Warrant St, Ste. 2
Helena, MT 59601
James@ibew.org

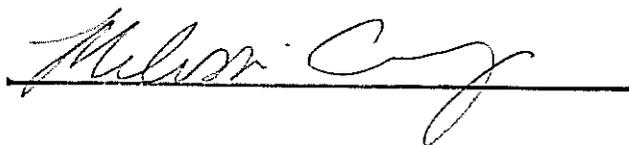
Robert A. Nelson
Montana Consumer Counsel
PO Box 201703
111 North Last Chance Gulch,
Suite 1B
Helena MT 59620-1703
rnelson@mt.gov

Adrienne Kernaghan
2808 Old US Highway 91
Cascade, MT 59421
akernaghan@gmail.com

Jason Williams, Esq.
Sr. Vice President and G. Counsel
Blackfoot Telephone Cooperative
1221 North Russell Street
Missoula MT 58808
jwilliams@blackfoot.com

Dr. Robert Loube
Rolka, Loube and Saltzer Assoc.
10601 Cavalier DR
Silver Spring, MD 20901
bobloube@earthlink.net

William C. Ballard
Locationage
413 St. Lawrence Dr.
Silver Spring, MD 20901
Bill.ballard@locationage.com



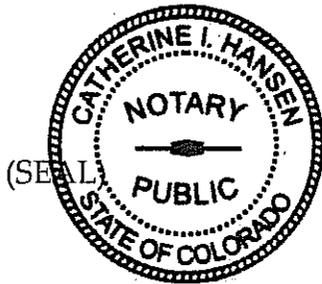
Information is password protected. Only those with a direct need to know are authorized to access the Information. Any hard copies of the Information are marked as confidential and destroyed after use.

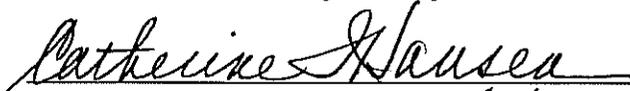
4. The Information described in the accompanying *Motion for a Protective Order* consists of data requested in Staff Data Requests PSC-014(c). The Information requested in this data request contains trade secrets about CenturyLink QC's operations to which the general public and CenturyLink QC's current *and potential* competitors do not have access.
5. PSC-014(c) requests monthly trouble report data for the Wibaux wire center for December 2014 and year to date 2015. This granular, geographic level service quality information 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, such as Wibaux, based on detailed knowledge of CenturyLink's performance.
6. As described in the attached Motion, the Commission previously granted protection of service quality metric performance data by wire center. Most recently, Order 7388d determined that service quality data (including trouble report data) at the wire center level shall be treated as confidential (as requested by the Staff in PSC-006(b)). The Commission made the same determination in Orders 7345 and 7345a.
7. 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.
8. 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 consists of trade secrets that may be protected from public disclosure under the law.

Dated: May 12, 2015


Robert Brigham

SUBSCRIBED AND SWORN TO, before me, this 12th day of May, 2015.




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

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 paper copies of the Information are marked as confidential and destroyed after use.

4. Information described in the accompanying *Motion for Protective Order* consists of data provided in response to the second set of data requests from the Montana Consumer Counsel ("MCC"). The confidential data is included in the following attachments and exhibits:
 - a. *MCC-018 Confidential Attachment A* includes the number of Full Time Equivalent ("FTE") network technicians employed by Century Link QC in Montana by wire center as of December 31 for 2012, 2013 and 2014.
 - b. *MCC-024 Confidential Attachment A* includes information regarding specific Out of Service occurrences in Montana.
 - c. *MCC-028 Confidential Attachments A through E* provide a "screenshot" of the CenturyLink Form 477 filings made electronically with the FCC. *Confidential Attachments F through J* provide detailed broadband subscribership data by census tract in Montana, as filed with the FCC as part of the Form 477 filing. *Confidential Attachments K and L* provide detailed voice subscribership data by census tract in Montana as filed with the FCC as part of the Form 477 filing.
 - d. *MCC-032 Confidential Attachment A* provides data related to specific cable pair bundles in Montana that have experienced multiple repairs.

The Information provided in response to 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--do not have access. I will describe the data provided in each of the responses to these data requests below.

5. *MCC-018 Confidential Attachment A* provides the number of Full Time Equivalent ("FTE") network technicians employed by CenturyLink QC for each work area in Montana, and the wire centers they serve, as of December 31 for 2012, 2013 and 2014. Possession of this data would provide competitors with knowledge of CenturyLink QC's operations that would provide a distinct competitive advantage, allowing competitors to target marketing efforts to identified persons or groups of persons in identified geographic areas of the state. The Commission

previously determined, in Order No. 7388b, that technician location data is confidential. The Commission stated (paragraph 30): “The disbursement of technicians by geographic location could impart information to a competitor about the quality of service in certain wire centers, particularly those wire centers where no technicians are stationed and where it is obvious that geographically long dispatches are required to fix service issues. Information regarding the location of technicians could also raise security issues.”

6. *MCC-024 Confidential Attachment A.* In this request, the MCC requested “a copy of CenturyLink QC’s response to PSC –003(e) Confidential Attachment (A) to include . . . additional columns along with the original data.” Essentially, the MCC is requesting additional data regarding specific Out of Service (“OOS”) occurrences that were identified in the response to PSC-003(e), Confidential Attachment A. Thus, MCC-024 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. In Order 7388d, the Commission previously granted protection for this level of detailed service quality data as provided in response to PSC-003(e).
7. *MCC-028 Confidential Attachments A through E* provide a “screenshot” of the CenturyLink Form 477 filings made electronically with the FCC. All telecommunications companies file this data with the FCC and the FCC grants confidentiality for all of this data, for all carriers. While the data is statewide in nature, Form 477 Screenshot provides details regarding actual broadband deployment speeds, and the types of customers served. The report also shows voice grade equivalent lines that are provided on a wholesale basis to other providers via UNE-P, UNE-Loop and Resale, as well as the technology (e.g., copper, fiber) used to provide voice service. 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 broadband and voice detail data would provide these competitors with a distinct competitive advantage, allowing competitors to target

marketing efforts to specific types of customers. Importantly, CenturyLink has no means to see this exact same data that is filed with the FCC, using the same form, by its competitors.

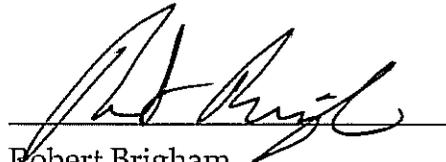
8. *MCC-028 Confidential Attachments F through J* provide detailed broadband subscribership data by census tract in Montana as provided with the FCC Form 477. These reports include the number of CenturyLink broadband connections by speed tier for every census tract in Montana for different time periods. This report includes granular, census tract-specific data showing not only where CenturyLink has upgraded its HSI [High Speed Internet] capability, but also how many customers it serves in each census tract. 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. Knowledge of this data would allow a potential competitor to more effectively compete with CenturyLink for broadband customers, and to target specific areas for expansion or upgrade of facilities. The Information in *Attachments F through J* contains granular census tract-specific data about CenturyLink's broadband customers to which competitors do not have access. Since CenturyLink does not have such geographic knowledge of its competitors' broadband subscriber base, acquisition of this data would provide competitors with a significant competitive advantage.
9. *MCC-028 Confidential Attachments K and L* provide detailed voice subscribership data by census tract in Montana as provided with the FCC Form 477. These reports include the number of CenturyLink voice connections for every census tract in Montana for different time periods. 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. Knowledge of this data would allow a potential competitor to more effectively compete with CenturyLink for voice customers, and to target specific areas for expansion or upgrade of facilities. The Information in *Attachments K and L* contains granular census tract-specific data about CenturyLink's voice subscribers to which competitors do not have access. Since CenturyLink does not have such geographic knowledge of its competitors' voice subscriber base, acquisition of this data would provide competitors with a significant competitive advantage.
10. *MCC-032 Confidential Attachment A* provides data related to specific cable pair bundles that have experienced multiple repairs. This data is extremely granular, and includes specific cable and terminal location data, including the terminal address, along with repair data for each cable. 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. Public disclosure of this data would also lead to a potential security risk, as the location addresses of DA terminals would be disclosed. This data is more granular than the service quality data the Commission ruled to be confidential in Order 7388d.

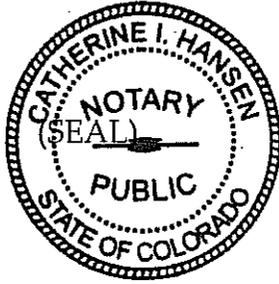
11. To the best of my knowledge the Information for which protection is sought is routinely protected in other state and federal jurisdictions where CenturyLink QC has provided detailed data as described herein.
12. Prior to filing the information, CenturyLink considered the constitutional presumption 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 is trade secrets that may be protected from public disclosure under the law.

///

Dated: May 12, 2015


Robert Brigham

SUBSCRIBED AND SWORN TO, before me, this 12th day of May, 2015.



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