

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of

CENTURYLINK, INC.,

Application for Approval of Merger between
CenturyTel, Inc. and Qwest Communications
International, Inc.

Docket No. UM 1484

JOINT CLECS' MOTION TO COMPEL

INTRODUCTION

The Joint CLECs¹ respectfully submit this motion to compel Qwest Communications International, Inc. (“Qwest”) and CenturyLink, Inc. (“CenturyLink”) to produce documents responsive to (1) Joint CLECs’ Fifth Set of Information Requests, Request No. JC-147, which seeks the production of documents filed by CenturyLink and Qwest pursuant to the Hart-Scott-Rodino Act (“HSR Documents”), and (2) the Joint CLECs’ Data Request No. 3, which seeks copies of CenturyLink’s and Qwest’s responses to Staff data request DR 66, to which request, in turn, HSR documents were responsive. CenturyLink and Qwest each responded to the HSR document requests, objecting on the grounds of relevance and confidentiality. In proceedings pending in Arizona and Washington, CenturyLink and Qwest have provided the respective commissions with a general description of at least some of the HSR documents and, based upon

¹ Joint CLECs: XO Communications Services, Inc., tw telecom of oregon, llc, Integra Telecom of Oregon, Inc., Integra Telecom of Oregon, Inc., Advanced TelCom, Inc., Electric Lightwave, LLC, Eschelon Telecom of Oregon, Inc., Oregon Telecom Inc., and United Telecommunications Inc. d/b/a Unicom, Covad Communications Company, PriorityOne Telecom, Inc., & Charter Fiberlink OR-CCVII, LLC.

that general description, it is apparent that certain of the withheld documents are relevant to matters at issue in this case. CenturyLink and Qwest have confirmed that they will not be producing the documents described in those proceedings.² Joint CLECs are left without adequate information. Although Joint CLECs have propounded discovery intended to produce evidence bearing on how the merged company will address a wide variety of issues relating to wholesale service, CenturyLink's responses mostly repeat the mantra "[i]ntegration planning is in the early stages and decisions have not been made at this time"³ and provide nothing in the way of further information. CenturyLink's and Qwest's descriptions of the HSR documents indicate that they concern precisely the type of planning that they have, thus far, denied engaging in.

To the extent that CenturyLink and Qwest have concerns about the confidentiality of those documents, those concerns are fully addressed by the protective order in this case, which is more restrictive than the orders this Commission has traditionally used in previous proceedings⁴ and is, in fact, based largely on the form of order proposed by CenturyLink and Qwest.⁵ That protective order already restricts highly confidential information to outside counsel and consultants who must certify that they will not be involved in competitive decision making involving the sensitive information for two years.⁶ CenturyLink's and Qwest's general and unsupported assertions regarding the potential harm that might result from production of

² Trinchero Decl., ¶ 9.

³ See Trinchero Decl., ¶ 2.

⁴ For example, the Highly Confidential Protective Order for this docket is more restrictive than the Highly Confidential Protective Order No. 09-271, adopted by the Commission in the Verizon Northwest Inc./Frontier Communications Merger, docket UM 1431, as that earlier Order allowed certain in-house personnel to access the disclosed information on a need-to-know basis. See Protective Order No. 10-291, p. 2; see also *In the Matter of Verizon Communications Inc. and Frontier Communications Corporation*, Order No. 09-273, ¶ 6 (July 17, 2009).

⁵ *Protective Order*, Order 10-291, p. 5 (stating that the Commission will adapt "the CenturyLink-proposed Highly Confidential Protective Order language." with some modification, to the Commission's Order).

⁶ *Id.* at App. A, ¶ 7; see also *id.* at App. A, ¶ 10 (allowing for disclosure to other individuals only where necessary and only after the Administrative Law Judge reviews and rules on petitions and objections submitted by the parties).

documents do not outweigh the Joint CLECs' right to discovery of information relevant to the issues in this case, particularly in light of the protection for CenturyLink's and Qwest's confidentiality interests provided by the protective order.

MOTION TO COMPEL

Pursuant to OAR 860-014-0070(3), the Joint CLECs move to compel production of documents responsive to Joint CLECs Fifth Set of Information Requests, Request No. JC-147, which seeks the production of documents filed by CenturyLink and Qwest pursuant to the Hart-Scott-Rodino Act ("HSR Documents").

Pursuant to OAR 860-014-0070(3), the Joint CLECs move to compel production of documents responsive to Joint CLECs' Data Requests No. 3, which in turn seeks the production of documents filed by CenturyLink and Qwest in response to Staff Request DR 66.

CERTIFICATION OF GOOD FAITH EFFORT TO RESOLVE DISCOVERY DISPUTE

The Joint CLECs made a good-faith effort to resolve these matters informally by conferring in a series of telephone calls and email correspondence with counsel for both CenturyLink and Qwest on or about September 15-17, but the parties were unable to resolve the dispute that is the subject of this motion. OAR 60-014-0070(3).

BACKGROUND FACTS

At issue in this motion are Joint Applicants' responses to Joint CLECs' Fifth Set of Information Requests, Request No. JC-147, which provides as follows:

JC-147. Refer to page 6 of CenturyTel Inc.'s Form S-4, dated June 4, 2010. Provide a copy of the requisite notice, report forms, and any other documents (including supplemental filings) filed by CenturyLink or Qwest under the Hart-Scott-Rodino (HSR) Act with the Department of Justice and the Federal Trade Commission.

CenturyLink Objections:

CenturyLink objects to this request insofar as it is not relevant to the subject matter of this action and is not reasonably calculated to lead to the discovery of admissible evidence. The filings prepared by CenturyLink as required by the HSR Act are specifically designed to provide the Department of Justice and the Federal Trade Commission the information that it requires to analyze the merger on a national level addressing specific federal antitrust issues. This is not the proper jurisdiction for such an analysis. In addition, the information requested is highly confidential, commercially sensitive information the release of which, particularly to CenturyLink's competitors such as Joint CLECs, would cause irreparable competitive harm to CenturyLink, the impact of which would not be mitigated by the terms of the Protective Order.⁷

Qwest Objections:

Qwest objects to this request insofar as it is not relevant to the subject matter of this action and is not reasonably calculated to lead to the discovery of admissible evidence. The filings prepared by Qwest as required by the HSR Act are specifically designed to provide the Department of Justice and the Federal Trade Commission the information that it requires to analyze the merger on a national level addressing specific federal antitrust issues under the Clayton Act. This is not the proper jurisdiction for such an analysis. In addition, the information requested is highly confidential, commercially sensitive information the release of which, particularly to Qwest's competitors such as Integra, would cause irreparable competitive harm to Qwest, the impact of which would not be mitigated by the terms of the Protective Order.⁸

Also at issue is Joint CLECs Data Request No. 3, in response to which CenturyLink and Qwest have failed to provide the Joint CLECs with all HSR information requested by Staff. That Joint CLEC data request stated:

Please provide copies of Applicants' responses to Commission Staff data requests: DR 66-68.⁹

In DR 66, Staff requested the following:

Following up on CenturyLink and Qwest's responses to Staff Data Request No 2, please provide all documents and presentations

⁷ Trincherro Decl., ¶ 3, Ex. 1.

⁸ Trincherro Decl., ¶ 4, Ex. 2.

⁹ Trincherro Decl., ¶ 5, Ex. 3.

presented to the Board of Directors of both companies concerning the financial and operational aspects of the merger. Please include:

a. For CenturyLink's financial advisors: Barclays Capital, Evercore Partners, and J.P. Morgan Securities Inc., please provide, in electronic spreadsheet format with formula and cell references intact, the supporting work papers of the materials presented to the Board of Directors that resulted in the approval of the merger between CenturyLink and Qwest.

b. For Qwest's financial advisors Lazard, Deutsche Bank, Morgan Stanley & Co. Incorporated and Perella Weinberg Partners LP, please provide, in electronic spreadsheet format with formula and cell references intact, the supporting working papers of the materials presented to the Board of Directors that resulted in the approval of the merger between CenturyLink and Qwest.¹⁰

The Joint CLECs have not received the bulk of the requested documents. CenturyLink and Qwest have provided some documents to Staff that are responsive to the Staff and Joint CLECs' document requests but have simultaneously refused to produce all responsive documents to the Joint CLECs and Staff. It is the Joint CLECs' understanding that CenturyLink intends to produce some additional documents on or about September 22, 2010, but Joint Applicants have confirmed that neither CenturyLink and Qwest will produce all relevant documents and, specifically, that they will not produce HSR documents that they have withheld from CLECs in the Washington proceeding, which documents are described below.¹¹ Joint CLECs therefore move to compel only those documents that CenturyLink and Qwest continue to refuse to produce.

CenturyLink and Qwest continue their attempts to avoid their discovery obligations despite multiple state commissions' repeated rejections of further protection for HSR documents. For example, after this Commission's July 30 Order granting a Highly Confidential Protective

¹⁰ Trincherro Decl., ¶ 5, Ex. 4.

¹¹ Trincherro Decl., ¶ 9; *see* Trincherro Decl., ¶ 8, Ex. 7 (attaching descriptions of documents withheld in Washington).

Order, CenturyLink sought *in camera* inspection of HSR documents as part of its “Staff Eyes Only” request in the Qwest/CenturyLink Merger Docket pending in Arizona. Arizona’s Commission roundly rejected the motion, finding no need for “this new and highly restrictive designation” and noting that SEO status could prevent the intervenors “from participating in the proceeding in a meaningful manner.”¹² Washington’s Commission based its denial of SEO designation on multiple grounds, including that such protection “has the potential to deprive the intervenors of any meaningful participation in the Commission’s decision in this docket.”¹³

The same concern is present here: that the Joint CLECs will be unable to meaningfully participate in the proceeding without access to relevant documents. As part of the Arizona and Washington filings, CenturyLink provided a very general, very brief description of the documents for which it was seeking special “Staff Eyes Only” protection.¹⁴ It is the Joint CLECs’ understanding that the listed documents were included as part of CenturyLink’s filing under the Hart-Scott-Rodino Act and would, therefore, be responsive to Joint CLECs’ Request No. JC-147 and to Staff’s Data Request 66, copies of which the CLECs have requested pursuant to Joint CLECs’ Data Request No. 3. Further, it is apparent from the general descriptions provided that a number of these documents are potentially relevant to the wholesale issues that are of greatest concern to Joint CLECs in this matter.¹⁵ These documents include the following:

HSR #	Title	Description
13	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

¹² Trincherro, Decl., ¶ 6, Ex. 5.

¹³ Trincherro Decl., ¶ 7, Ex. 6.

¹⁴ CenturyLink and Qwest have sought SEO protection in Washington, Arizona, Utah, and Colorado. The request has been denied in Washington, Arizona, and Utah, and was granted on an interim basis in Colorado with respect to specifically identified documents.

¹⁵ Trincherro Decl., ¶ 8, Ex. 7.

15	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
24	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	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	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
37	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.
9		Redaction of certain pages (19, 27, 35) purportedly containing highly confidential and competitively sensitive projections of revenue from specific products and market segments for the period 2010 through 2013

In addition to CenturyLink's submitted list, Qwest provided an even more vague description of withheld information.¹⁶ The Joint CLECs are unable to determine which of the listed documents may be relevant, and therefore request all documents to be produced. Yet even

¹⁶ Trincherro Decl., ¶ 8, Ex. 7.

from these extremely imprecise descriptions, it appears that at least the following documents may be highly relevant:

HSR #	Description
4c-39	CenturyLink document – contains detailed information concerning CenturyLink business plans, strategies, and performance.
4c-42	CenturyLink document – contains detailed information concerning CenturyLink operations plans, strategies, and performance.
4c-44	CenturyLink document – contains detailed information concerning all aspects of CenturyLink business plans, strategies, and performance.
4c-46	CenturyLink document – contains detailed information concerning CenturyLink strategies and plans.
4c-48	CenturyLink document – contains detailed information regarding networks, equipment, business and marketing strategies regarding IPTV (video over internet protocol).
4c-53	CenturyLink document – contains detailed information regarding CenturyLink operations, performance, and strategies.
4c-82	CenturyLink document containing detailed information regarding CenturyLink marketing and sales strategies.

ARGUMENT

I. The Requested Documents Fall Easily Within the Broad Scope Of Permissible Discovery

Oregon law provides for a broad scope of discovery. *Oregon Orchards v. Ins. CO. of N.A.*, 239 Or 192, 198, 397 P2d 74 (1964) (noting the trend to require production of documents in order to determine relevancy, rather than denying as irrelevant before disclosing the documents). The applicable rules generally permit discovery pursuant to the Oregon Rules of

Civil Procedure,¹⁷ which in turn allow discovery of “any matter, not privileged, which is relevant to the claim or defense of the party seeking discovery or to the claim or defense of any other party.... It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.” ORCP 36 B(1). “Relevant evidence” is in turn defined to mean “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” ORS 40.150. The documents sought by this motion meet the liberal standard for discovery.

The Joint CLECs rely on Qwest to provide interconnection and related wholesale products and services that they use to serve their customers. In order to investigate facts relevant to its concerns with the proposed merger, the Joint CLECs propounded extensive discovery, including a number of requests seeking information regarding CenturyLink’s post-merger plans relating to wholesale services. For the majority of the questions regarding CenturyLink’s plans relating to wholesale services, however, CenturyLink provided the boilerplate response that, although it did “not anticipate immediate changes,” “[i]ntegration planning is in the early stages and decisions have not been made at this time.” Examples of requests to which CenturyLink provided this, or a similarly noncommittal, response include requests concerning CenturyLink’s post-merger plans relating to:

- Locations and hours of operation of departments processing Access Service Requests and Local Service Requests (Joint CLECs’ Fifth Set of Information Requests, Request No. JC-32);

¹⁷ OAR 860-011-0000 (providing that the “Oregon Rules of Civil Procedure shall govern in all cases except as modified by these rules, by order of the Commission, or by ruling of the ALJ”); *see also* OAR 860-014-0070 (providing for data requests to be used in discovery, without any restriction on the scope of discovery pursuant to the Oregon Rules of Civil Procedure).

- Changes in Qwest legacy systems regarding repair commitments (Joint CLECs' Fifth Set of Information Requests, Request No. JC-35);
- Changes in Qwest legacy trouble reporting systems (Joint CLECs' Fifth Set of Information Requests, Request No. JC-36);
- Locations and planned hours of operation of departments processing trouble reports for wholesale service Joint CLECs' Fifth Set of Information Requests, Request No. JC-37);
- Billing platforms (Joint CLECs' Fifth Set of Information Requests, Request No. JC-38b);
- Qwest wholesale performance plans (Joint CLECs' Fifth Set of Information Requests, Request No. JC-65);
- Changes to Qwest's performance measurement requirements (Joint CLECs' Fifth Set of Information Requests, Request No. JC-66);
- Changes to Firm Order Commitment dates (Joint CLECs' Fifth Set of Information Requests, Request No. JC-68);
- Staffing at Qwest wholesale and CLEC support centers (Joint CLECs' Fifth Set of Information Requests, Request No. JC-71);
- Measures to ensure the protection of CLEC customer information from being used in CenturyLink's retail operation (Joint CLECs' Fifth Set of Information Requests, Request No. JC-72);
- Availability of up-to-date escalation information, contact information, and account manager information (Joint CLECs' Fifth Set of Information Requests, Request No. JC-75);
- Changes to Qwest's Standard Interval Guide (Joint CLECs' Fifth Set of Information Requests, Request No. JC-86 and JC-87);
- Changes to Qwest's Product Catalogs ("PCATs") (Joint CLECs' Fifth Set of Information Requests, Request No. JC-95);
- Changes to Qwest's collocation application or collocation procedures (Joint CLECs' Fifth Set of Information Requests, Request No. JC-112);
- Extending existing interconnection agreements in Qwest legacy territory (Joint CLECs' Fifth Set of Information Requests, Request No. JC-121);

- Modifications to Qwest’s Change Management Process (Joint CLECs’ Fifth Set of Information Requests, Request No. JC-122);
- Headcount reductions in support centers/staff servicing CLEC customers in Qwest legacy territory (Joint CLECs’ Fifth Set of Information Requests, Request No. JC-140);
- Moving functions currently supporting CLEC wholesale customers in Qwest legacy territory to new location (Joint CLECs’ Fifth Set of Information Requests, Request No. JC-141).

Anticipating that there might be some areas where CenturyLink had not completed its decision making, Joint CLECs also asked CenturyLink to describe its process and procedures for making and implementing integration decisions, anticipated timelines, and any existing preliminary plans. CenturyLink responded to this question, too, with its standard response that “System integration plans for the proposed transaction with Qwest have not been fully developed.” (Joint CLECs’ Fifth Set of Information Requests, Request No. JC-55). In other words, CenturyLink would have Joint CLECs believe that it has no plans for the future, and is unable to even say when such planning will begin, when it will be completed, or what it will involve.

The lack of any detail regarding the most basic aspects of how the post-merger Qwest will service wholesale customers is very concerning. The upshot of CenturyLink’s discovery responses is that virtually every aspect of the Joint CLECs’ relationship with Qwest is up in the air as a result of the merger. Although CenturyLink repeatedly states that no immediate changes are anticipated, CenturyLink’s response to Request No. JC-55 suggests that it has not yet done any of the analysis and planning that would be necessary for it to make such an assertion. These responses do nothing to allay the concern of Joint CLECs and other CLECs that the post-merger pursuit of “synergies” will result in a deterioration of wholesale service availability and quality.

Seen in the context of these inadequate responses, the Joint CLECs’ need for documents being sought by this motion is clear. Based upon CenturyLink’s description, two of the

documents (13 and 15) concern, at least in part, CenturyLink's plans relating to wholesale markets. Three other documents (25, 33 and 9) relating to potential product offerings and opportunities in unspecified "market segments." To the extent wholesale is one of the markets, such information is obviously relevant. However, even if these documents do not refer to the wholesale market, this omission may be relevant to whether CenturyLink view wholesale customers as an opportunity to be cultivated or a burden to be reduced, if not eliminated. Another document concerns CenturyLink's staffing and sales approach regarding Enterprise Business marketing (Document 37). Again, it is unclear whether this would include wholesale customers, but, even if it does not, the document may help to illuminate, by that omission, CenturyLink's plans for the wholesale market. Finally, one document concerns the impact on CenturyLink revenues of intrastate access reductions (Document 24). This document is relevant to CLEC concerns about financial pressures on the merged company and the potential impact of these pressures on wholesale services.

Because Qwest's chart providing descriptions of withheld documents is so vague, the Joint CLECs are unable to articulate precisely how each document would be relevant. However, the Joint CLECs believe that these documents may have relevance similar to that of the CenturyLink documents described above, and, therefore, ask this Commission to order their production so that the CLECs may meaningfully participate in this proceeding with respect to all relevant information.

II. The Protective Order That Is In Place Is Sufficient To Fully Address CenturyLink's Purported Confidentiality Concerns

In addition to its relevance objections, CenturyLink has also objected to producing the HSR documents on the ground that these documents contain "highly confidential, commercially sensitive information." This Commission has already provided adequate protection for these

documents by issuing the existing Highly Confidential Protective Order. The potential for harm to the Joint CLECs from withholding the documents outweighs any risk to CenturyLink and Qwest from disclosing them pursuant to the protective order. This reasoning is wholly consistent with that of other jurisdictions considering discovery disputes on the basis of confidentiality. When a party seeks to avoid or limit discovery based on a claim of confidentiality, the courts follow a balancing approach that weighs the harm from disclosure of the allegedly confidential information against the requesting party's need for the information. *See Arenson v. Whitehall Convalescent and Nursing Home, Inc.*, 161 F.R.D. 355, 358 (N.D. Ill. 1995); *Kaiser Aluminum & Chemical Corp. v. Phosphate Engineering and Construction, Inc.*, 153 F.R.D. 686, 688 (M.D. Fla. 1994). A claim of harm resulting from disclosure must be based on specific evidence that shows a clearly defined, specific, and substantial harm to the party seeking protection. *Sprinturf, Inc. v. Southwest Recreational Industries, Inc.*, 216 F.R.D. 320, 322 (E.D. Pa. 2003); *see also The Traveler's Insurance Co. v. The Allied-Signal, Inc. Master Pension Trust*, 145 F.R.D. 17 (D. Conn. 1992)(“A demonstration of good cause [to preserve confidentiality of a document] embodies a showing (1) that the documents in question truly are confidential and (2) that disclosures of the documents would cause a “clearly defined and very serious injury.”) “Broad allegations of harm, ‘unsubstantiated by specific examples or articulated reasoning,’ do not meet the requisite level of specificity to show ‘good cause.’” *Sprinturf*, 216 F.R.D. at 322 (citations omitted); *see also Traveler's*, 145 F.R.D. at 17 (denying motion for protective order based on general assertion of prejudice).

The issue here is not whether the documents sought should be publicly disclosed; the issue is whether the protections that are already available are adequate. A protective order has been entered in this docket that provides for protection for documents designated as

“Confidential” and an additional level of protection for “Highly Confidential” documents. Documents identified as “Highly Confidential” are permitted to be available only to outside counsel and consultants who must file a certification with the Commission attesting that he or she will not be involved in competitive decision making related to the Highly Confidential information for a two-year period.¹⁸

The form of protective order adopted in this case by the Commission provides even more robust protection than the standard protective order used in previous dockets. It includes much of the language that CenturyLink itself proposed. CenturyLink’s burden here is to show specific evidence of the potential for serious injury. There is no basis, much less specific evidence, on which to conclude that this protective order is insufficient here. Generalized allegations of potential harm cannot overcome the clear relevance of the documents sought by this motion.

CONCLUSION

For the foregoing reasons, the Joint CLECs respectfully requests that its motion to compel discovery be granted.

DATED this 20th day of September, 2010.

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¹⁸ *Protective Order*, Order 10-291, App. A, ¶ 7.

**CERTIFICATE OF SERVICE
UM 1484**

I hereby certify that the foregoing Joint CLEC's Motion to Compel was served on the following persons on September 20, 2010, by email to all parties and by U.S. Mail to parties who have not waived paper service:

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Dated: September 20, 2010

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CENTURYLINK, INC.,

Application for Approval of Merger between
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DECLARATION OF MARK TRINCHERO
IN SUPPORT OF JOINT CLECS'
MOTION TO COMPEL

I, Mark Trinchero, declare as follows:

1. I am an attorney for the Joint CLECs, which is composed of XO Communications Services, Inc., tw telecom of oregon, llc, Integra Telecom of Oregon, Inc., Integra Telecom of Oregon, Inc., Advanced TelCom, Inc., Electric Lightwave, LLC, Eschelon Telecom of Oregon, Inc., Oregon Telecom Inc., and United Telecommunications Inc. d/b/a Unicom, Covad Communications Company, PriorityOne Telecom, Inc., & Charter Fiberlink OR-CCVII, LLC. I make this declaration based on personal knowledge, in support of the Joint CLECs' Motion to Compel.

2. Attached as Exhibit 1 is a true copy of CenturyLink's Objections to Joint CLECs' Fifth Set of Information Requests, Request No. JC-147.

3. Attached as Exhibit 2 is a true copy of Qwest's Response to Joint CLECs' Fifth Set of Information Requests, Request No. JC-147.

4. Attached as Exhibit 3 is a true copy of the Joint CLECs' Data Requests No. 3 to CenturyLink, requesting copies of responses to Staff Data Request No. 66.

5. Attached as Exhibit 4 is a true copy of Staff Data Request No. 66.
6. Attached as Exhibit 5 is a true copy of the August 23, 2010 Procedural Order issued by the Arizona Corporation Commission in Docket No. T-01051B-10-0194, *ET. AL.*, which Order denies CenturyLink's and Qwest's request to adopt a "Staff Eyes Only" confidentiality designation.
7. Attached as Exhibit 6 is a true copy of the August 3, 2010 Order Denying Joint Applicants' Request to Supplement Protective Order with Creation of Additional Protected Category of Information, issued by the Washington State Utilities and Transportation Commission in Docket No. UT-100820, which Order denies CenturyLink's and Qwest's request to adopt a "Staff Eyes Only" confidentiality designation.
8. Attached as Exhibit 7 is a true copy of correspondence from Qwest's Associate General Counsel, stating that it had filed or would file with the Washington Utilities and Transportation Commission the attached indexes indicating the classification of HSR documents as confidential, highly confidential, or proposed Staff Eyes Only.
9. Counsel for CenturyLink and Qwest confirmed to me, on or about September 15-17, that they will not be producing to Joint CLECs in this proceeding the documents described as being withheld in the Washington and Arizona proceedings and attached herein as Exhibit 7. Counsel for CenturyLink indicated an intent to produce additional documents on or about September 22, 2010, but confirmed that those documents would not include the documents described in Exhibit 7.

*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 20th day of September, 2010.

By: _____
MARK TRINCHERO, OSB #883221
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Telephone: (503) 241-2300
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Of Attorneys for Joint CLECs

**CERTIFICATE OF SERVICE
UM 1484**

I hereby certify that the foregoing Declaration of Mark Trinchero in Support of Joint CLEC's Motion to Compel was served on the following persons on September 20, 2010, by email to all parties and by U.S. Mail to parties who have not waived paper service:

<p>Kelly Mutch PriorityOne Telecommunications Inc. PO Box 758 La Grande, OR 97850-6462 managers@p1tel.com</p>	<p>William E. Hendricks CenturyLink, Inc. 805 Broadway St. Vancouver, WA 98660-3277 tre.hendricks@centurylink.com</p>
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Dated: September 20, 2010

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