

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

In re Rehabilitation Center of Allison, Iowa	Docket No. FCU-2012-0019
In re Complaint of UnityPoint Clinic Family Medicine at Huxley, f/k/a Huxley Family Physicians,	Docket No. FCU-2013-0004
In re Complaint of Hancock County Health Systems,	Docket No. FCU-2013-0005
In re Complaints of Helen Adolphson and Charlotte Skallerup, and	Docket No. FCU-2013-0006
In re Complaint of Douglas Pals	Docket No. FCU-2013-0009
In re Complaint of Sutherland Mercy Medical Clinic	Docket No. FCU-2014-0007

**QWEST COMMUNICATIONS COMPANY D/B/A CENTURYLINK QCC'S
MOTION FOR CONFIDENTIALITY**

Qwest Communications Company, a Delaware limited liability company doing business as CenturyLink QCC¹ (“CenturyLink”) pursuant to Iowa Code §§ 22.7(3) and (6) and Board Rule 199-1.9(5)a(1) and (3), respectfully requests that the confidential data provided in response to the ordering clause number six in the Proposed Decision and Order Making Recommendation to Board (“Proposed Decision”) issued July 28,

¹ During the pendency of this proceeding, Qwest Communications Company LLC d/b/a CenturyLink QCC underwent an internal reorganization approved by the Iowa Utilities Board in SPU-2014-0002 and subsequently received approval of a name change to CenturyLink Communications, LLC in SPU-2014-0008.

2016 be granted confidential treatment by the Iowa Utilities Board (“Board”). The Confidential data provided by CenturyLink, as well as a public version has been filed pursuant to the board’s rules, redacting the confidential material. In support of its motion, CenturyLink states as follows:

1. The response contains Iowa-specific data filed with the Federal Communications Commission (“FCC”) related to call completion statistics in Iowa territories. This data is competitively sensitive and is protected from disclosure by CenturyLink as it could be used by competitors to their competitive advantage. It has also been filed and accepted under the FCC’s confidential treatment provisions.
2. The affidavit of Mr. Wayne Johnson, State Regulatory Affairs Director for CenturyLink, is attached to this Motion as Exhibit A and supports the facts as stated in this Motion for Confidential Treatment.
3. Iowa law protects from public disclosure “[t]rade secrets which are recognized and protected by law,” as well as “[r]eports to governmental agencies which, if released, would give advantage to competitors and serve no public purpose.” Iowa Code §§ 22.7(3) and (6). Iowa Code § 550.2(4) defines “trade secret” to mean:

“information, including but not limited to a formula, pattern, compilation, program, device, method, technique, or process that . . . [d]erives independent economic value, actual or potential, from not being generally know to, and not being readily ascertainable by proper means by a person able to obtain economic value from its disclosure or use . . . [and] [i]s the subject of efforts that are reasonable under the circumstances to maintain its secrecy.”

The Iowa Supreme Court has given § 550.2(4) a broad reading and has found that business information in many forms may also fall within the definition of a trade secret. *Economy Roofing & Insulating Co. v. Zumaris*, 538 N.W.2d 641, 646-47 (Iowa 1995) (acknowledging the Court’s broad interpretation of the kinds of information that can

legally constitute trade secrets). *See also, EFCO Corp. v. Symons Corp.*, 219 F.3d 734, 741 (8th Cir. 2000) (holding that research, development, pricing, cost or marketing data fall within the definition of trade secret within the meaning of Iowa law); and *US West Communications, Inc. v. Office of Consumer Advocate*, 498 N.W.2d 711, 714 (Iowa 1993) (stating that “[b]usiness information may also fall within the definition of a trade secret”).

4. CenturyLink is acting in conformance with Iowa statutes and rules for confidential treatment of information and has authorized the provision of the confidential data to any requested, affected party upon such party’s entering into a protective agreement.

WHEREFORE, CenturyLink respectfully requests that the Board enter an order granting this Motion for Confidential Treatment and directing that the portions of the exhibits filed by CenturyLink as “confidential” and filed under seal be withheld from public inspection pursuant to Iowa Code §§ 22.7(3) and (6) and 199-1.9(5)a(1) and (3), Iowa Administrative Code.

Dated: September 7, 2016

Respectfully submitted,

By:

/s/ Becky Owenson Kilpatrick (Admitted Pro Hac Vice)

/s/ Chuck Steese

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AFFIDAVIT

STATE OF IOWA)
) SS:
COUNTY OF POLK)

Wayne M. Johnson, being first duly sworn on an oath, states as follows:

1. That he is employed by Qwest Corporation d/b/a CenturyLink QC ("CenturyLink") as State Regulatory Affairs Director, and has a business address of 925 High Street, 9 S of 9, Des Moines, Iowa 50309. In his employment by CenturyLink, he is familiar with the exhibits supporting the Motion for Confidential Treatment in this docket.
2. The material that is subject to CenturyLink's Motion for Confidential Treatment was provided in response to ordering clause number six of the Proposed Decision and Order Making Recommendation to Board issued July 28, 2016.
3. I have read the request for confidential treatment and the statements therein are true and correct to the best of my knowledge, information, or belief. The material described above constitutes trade secrets as it contains competitively sensitive data.
4. The Board, Office of Consumer Advocate and Staff can review the information, and only the representatives of other parties intervening in this case that sign a Protective Agreement may have access to this information.

Further affiant sayeth not.

/s/ Wayne M. Johnson

Subscribed and sworn to before me this 7th day of September, 2016.

___/s/ Jaramiah R. Duncan_____

Jaramiah R. Duncan
Notary Public in and for
the State of Iowa

My Commission Expires March 22, 2018.