

October 2, 2017

*Via Electronic Filing*

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

**Re: Application for Experimental License**

**REQUEST FOR CONFIDENTIAL TREATMENT**

CenturyTel Broadband Services, LLC, a wholly owned subsidiary of CenturyLink, Inc. (collectively, “CenturyLink”), by counsel, hereby respectfully seeks confidential treatment pursuant to the Freedom of Information Act (“FOIA”) and section 0.459 of the Commission’s rules<sup>1</sup> for the exhibit that accompanies its application for a new experimental license (the “Exhibit”). As explained more fully below, the Exhibit contains highly sensitive and confidential information, the public disclosure of which would have a significant and material adverse effect on the company.

The Commission’s rules specify that, with the requisite showing that “the materials contain trade secrets or privileged or confidential commercial, financial or technical data,” the materials in question shall be afforded confidential treatment and not be made available for public inspection.<sup>2</sup> The Exhibit falls squarely within this definition. Pursuant to Section 0.459(b) of the Commission’s rules, CenturyLink provides the following detailed explanation for this request for confidential treatment:

*1. Identification of the specific information for which confidential treatment is sought.*

In its experimental license application, CenturyLink seeks a license to conduct fixed testing in the 3.54 GHz to 3.70 GHz frequency band. The testing seeks to understand the viability of new technologies in this band that may be useful in providing fixed broadband services. CenturyLink seeks confidential treatment for the Exhibit on the basis that it contains confidential commercial information, technical data and trade secrets concerning CenturyLink services under development and related testing processes, all of which CenturyLink customarily guards from public disclosure.

*2. Identification of the Commission proceeding in which the information was submitted or description of the circumstances giving rise to the submission.*

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<sup>1</sup> 5 U.S.C. § 552, et seq.; 47 C.F.R. § 0.459.

<sup>2</sup> 47 C.F.R. § 0.457(d)(2).

The material is being submitted in order to apply for an experimental license so that CenturyLink can test enhancements and innovations for the broadband services it offers to the public.

*3. Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.*

The Exhibit contains highly confidential commercial information, technical data and trades secrets, the release of which would cause substantial harm to CenturyLink by revealing to competitors non-public information about CenturyLink services under development and related testing processes. This information is not ordinarily made public by industry participants.

*4. Explanation of the degree to which the information concerns a service that is subject to competition.*

The information relates to testing that CenturyLink seeks authorization to conduct so that it may improve its broadband offerings. The broadband industry is fiercely competitive. Innovations and enhancements to broadband services can have an effect on the standing of a competitor such as CenturyLink. Because the information in the Exhibit relates to potential innovations and improvements in broadband services, release of the Exhibit would provide CenturyLink's competitors with non-public information which could be used to disadvantage CenturyLink in the marketplace.

*5. Explanation of how disclosure of the information could result in substantial competitive harm.*

An analysis of FOIA Exemption 4 demonstrates how disclosure of the information in the Exhibit could result in substantial competitive harm. FOIA Exemption 4 requires a federal agency to withhold from public disclosure confidential or privileged commercial and financial information of a person unless there is an overriding public interest requiring disclosure. The Commission has a longstanding policy of protecting confidential commercial information under FOIA Exemption 4.

As noted above, release of the information in the Exhibit would reveal key technological information that competitors could use to revise their strategies and business plans, to the detriment of CenturyLink's competitive position and that of its equipment manufacturers. CenturyLink's competitive position would thereby be impaired.

Furthermore, Commission precedent has clearly found that competitively sensitive information may be withheld under Exemption 4.<sup>3</sup> Specifically, the Commission has recognized

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<sup>3</sup> See, e.g., *Pacific Bell Telephone Company Petition for Pricing Flexibility for Special Access and Dedicated Transport Services*, CCB/CPD No. 00-23, DA 00-2618 (2000) (supporting confidentiality for collocation data); *Local Exchange Carrier's Rates, Terms and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access*

that the disclosure of confidential business information that provides competitors insight into a company's costs, pricing plans, market strategies, and customer identities can generate competitive harm.<sup>6</sup> The Exhibit contains such information. The protective procedures the Commission and other governmental agencies have established recognize the need to keep such information confidential to the maximum extent possible, and the Commission has provided the assurance that it is "sensitive to ensuring that the fulfillment of its regulatory responsibilities does not result in the unnecessary disclosure of information that might put its regulatees at a competitive disadvantage."<sup>4</sup>

*6. Identification of any measures taken by the submitting party to prevent unauthorized disclosure.*

CenturyLink makes available information on its products under development and its testing processes solely on a "need to know" basis to the extent necessary to the operation of its business. For instance, company practice directs employees not to disclose such information outside of the company and to restrict its disclosure internally. CenturyLink has entered into non-disclosure agreements with manufacturers providing CenturyLink with proposed equipment for testing, which require parties to the agreements to protect the confidentiality of information contained in the Exhibit.

*7. Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.*

The information in the Exhibit is not publicly available. As noted above, the manufacturers with which CenturyLink is working in connection with this testing have access to the information in the Exhibit but are subject to non-disclosure agreements.

*8. Justification of the period during which the submitting party asserts that material should be available for public disclosure.*

In light of the sensitive nature of the information contained therein, the Commission should not make the Exhibit available for public inspection at any point. Even if and when the systems are ultimately made commercially available, the Exhibit reveals non-public and confidential information concerning CenturyLink's product testing processes.

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*and Switched Transport; Southwestern Bell Telephone Company*, 13 FCC Rcd 13615 (1998) (keeping administrative operating expenses confidential because it would provide insight into business strategies); *AT&T/McCaw Merger Applications*, 9 FCC Rcd 2610 (1994) (keeping confidential accounting records showing account balance information); *NAACP Legal Defense Fund on Request for Inspection of Records*, 45 RR 2d 1705 (1979) (keeping confidential records that contained employee salary information); *Mercury PCS II, LLC (Request for Inspection of Records) Omnipoint Corporation (Request for Confidential Treatment of Documents)*, FCC 00-241 (2000) (keeping confidential marketing plans and strategy information).

<sup>4</sup> *Confidential Information Order* at ¶ 8.

*9. Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.*

CenturyLink intends to exercise careful control over the systems and devices to be tested to prevent any risk that such material could be identified or evaluated by a member of the public or a competitor.

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This request for confidential treatment should not be construed as a waiver of any other protection from disclosure or confidential treatment accorded by law. Please contact the undersigned at (202) 662-5143 if you should have any questions concerning this filing.

Respectfully submitted,

/s/ Ani Gevorkian  
Ani Gevorkian  
*Counsel to CenturyLink*