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November 23, 2021

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Joint Application of The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink; CenturyTel Broadband Services, LLC; Connect Holding LLC; and Lumen Technologies, Inc. for All Approvals of a General Rule Transfer of Control and Registration of Securities; Docket Nos. A-2021-3028668; A-2021-3028669

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Motion for Protective Order of the United Telephone Company of Pennsylvania, LLC, CenturyTel Broadband Services, LLC, Connect Holding LLC, and Lumen Technologies, Inc. ("Joint Applicants") with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

Sarah C. Stoner

Sarah C. Stoner

SCS/lww
Enclosure

cc: Hon. Marta Guhl w/enc. (mguhl@pa.gov)
Athena Delvillar w/enc. (sdelvillar@pa.gov)
Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the Joint Applicants' Motion for Protective Order upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via First Class Mail and/or Email

Barrett Sheridan, Esq.
Office of Consumer Advocate
5th Floor, Forum Place
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bsheridan@paoca.org

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Dated: November 23, 2021

Sarah C. Stoner
Sarah C. Stoner, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Application of The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink; CenturyTel Broadband Services, LLC; Connect Holding LLC; and Lumen Technologies, Inc. for All Approvals of a General Rule Transfer of Control and Registration of Securities

Docket No. A-2021-3028668
Docket No. A-2021-3028669

MOTION FOR PROTECTIVE ORDER

Pursuant to 52 Pa. Code Sections 5.362 and 5.365, Joint Applicants – The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink (“United Telephone”); CenturyTel Broadband Services, LLC (“CTBS”) (collectively “Acquired Pennsylvania Companies”); Connect Holding LLC (“Connect Holding”), an affiliate of Apollo Global Management, Inc. and its subsidiaries (“Apollo”); and Lumen Technologies, Inc. (“Lumen”) (all entities collectively, “Joint Applicants”) , by and through their counsel, hereby request issuance of the attached proposed Protective Order in the above-captioned proceeding. In support, Joint Applicants aver as follows:

1. On September 22, 2021, Joint Applicants filed the above-captioned Joint Application seeking all approvals under the Pennsylvania Public Utility Code for the Transfer of Control and Registration of Securities, as more fully addressed in that Joint Application.
2. On October 25, 2021, the Office of Consumer Advocate (“OCA”) filed a Protest and Public Statement.
3. On October 25, 2021, the Office of Small Business Advocate (“OSBA”) filed a Protest, Notice of Intervention and Public Statement.
4. The above-captioned matter has been assigned to Administrative Law Judge Marta Guhl.
5. On November 1, 2021, a Hearing Notice was issued scheduling the Initial Call-In Telephonic Prehearing Conference on November 12, 2021 at 10:00 a.m. with Administrative Law Judge Marta Guhl.

6. The Commission's rules and regulations encourage informal agreements regarding discovery processes. 52 Pa. Code § 5.322. The Commission's rules and regulations also provide that a party "shall initiate discovery as early in the proceedings as reasonably possible." 52 Pa. Code § 5.331(b). Moreover, "the right to discovery commences when a complaint, protest or other adverse pleading is filed..." *Id.*
7. In anticipation of discovery and litigation in this matter, the Joint Applicants request entry of the attached proposed Protective Order.
8. The Joint Applicants aver that the attached proposed Protective Order is necessary to protect confidential and highly confidential data produced in the course of discovery and during litigation in this matter.
9. The attached Protective Order is substantively similar to Protective Orders approved for use in other transactions and cases before the Pennsylvania Public Utility Commission.
10. The Joint Applicants have consulted with OCA and OSBA and neither party has expressed an objection to the granting of the Motion or the entry of the attached Protective Order.

WHEREFORE, Joint Applicants respectfully request that the Presiding Officer enter the Protective Order, attached hereto as Appendix 1.

Respectfully submitted,

Sarah C. Stoner

Sarah C. Stoner, Esquire
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Tel.: 717-237-6026
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Dated: November 23, 2021

Counsel for the Joint Applicants

Appendix 1

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Application of The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink; CenturyTel Broadband Services, LLC; Connect Holding LLC; and Lumen Technologies, Inc. for All Approvals of a General Rule Transfer of Control and Registration of Securities

Docket No. A-2021-3028668
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PROTECTIVE ORDER

This Protective Order is hereby established for use in this proceeding pursuant to 52 Pa. Code §§ 5.362(a) and 5.365 to enable the parties to preserve and maintain the confidentiality of certain documents and information which are due to be produced or otherwise made available through discovery in the above-captioned case. Upon agreement by the parties, **IT IS HEREBY ORDERED** that:

1. Pursuant to 52 Pa. Code §§ 5.362(a) and 5.365, with respect to all materials and information identified at Paragraphs 2 and 3 of this Protective Order which are filed with the Pennsylvania Public Utility Commission (“Commission”), disclosed in discovery both prior to and after entry of this Protective Order whether such disclosure was purposeful or inadvertent, or otherwise presented during these proceedings, all persons now and hereafter granted access to the materials and information identified in Paragraphs 2 and 3 of this Protective Order shall use and disclose such information only in accordance with this Order.

2. The materials subject to this Order are all written, recorded or graphic material, whether produced or created by a party or another person or entity, including but not limited to, correspondence, documents, data, information, studies, methodologies and other materials which a party or an affiliate of a party furnishes in this proceeding pursuant to Commission rules and regulations, discovery procedures or cross-examination or provides

as a courtesy to a party to this proceeding, which are claimed to be of a proprietary or confidential nature and which are designated “PROPRIETARY” (hereinafter collectively referred to as “Proprietary Information”).

3. In addition, the parties may designate extremely sensitive Proprietary Information as “HIGHLY CONFIDENTIAL” (hereinafter referred to as “Highly Confidential” information or materials) and thus secure the additional protections set forth in this Order pertaining to such material. Such “HIGHLY CONFIDENTIAL” information shall be only such Proprietary Information that constitutes or describes the producing party’s marketing plans, including, *inter alia*, costing and pricing aspects thereof, competitive strategies, market share projections, marketing materials that have not yet been used, network deployment, customer-identifying information, or customer prospects for services that are subject to competition.

4. Proprietary Information and Highly Confidential information shall be made available to the Commission and its Staff for use in this proceeding. For purposes of filing, to the extent that Proprietary Information and Highly Confidential information is placed in the Commission’s report folders, such information shall be handled in accordance with routine Commission procedures inasmuch as the report folders are not subject to public disclosure. To the extent that Proprietary Information or Highly Confidential information is placed in the Commission’s testimony or document folders, such information shall be separately bound, conspicuously marked and sealed, and accompanied by a copy of this Order. Public inspection of Proprietary Information and Highly Confidential information shall be permitted only in accordance with this Protective Order.

5. Proprietary Information and Highly Confidential information shall be made available to counsel of record in this proceeding via a data access platform, following execution of a Non-Disclosure Agreement (Appendix A to this Order), pursuant to the following procedures.

a. Proprietary Information. To the extent required for participation in this proceeding, a party’s counsel of record, including in-house counsel and outside counsel who are actively

engaged in this proceeding, including partners, associates, secretaries, paralegals and employees of such counsel may afford access to Proprietary Information made available by another party (“the producing party”) pursuant to the following procedures:

i. To the party’s witness(es) or expert(s) subject to the restrictions that such witness(es) or expert(s) may not hold any of the following positions with any competitor or affiliate of a competitor of the producing party: an officer, board member, significant stockholder, partner, owner (other than owner of stock) or an employee of any competitor or affiliate of a competitor of the producing party where such witness or expert is primarily involved in the pricing, development, and/or marketing of products or services that are offered in competition with those of the producing party; provided, however, that any witness or expert shall not be disqualified on account of being a stockholder, partner, or owner unless his/her interest in the business constitutes a significant potential for violation of the limitations of permissible use of the Proprietary Information. For purposes of this Order, stocks, partnership, or other ownership interest valued at less than \$500,000 and/or constituting less than a 10% interest in a business does not, in itself, establish a significant potential for violation.

ii. No independent expert or consultant participating in this proceeding shall use on behalf of any other client, disclose to any other client or third party, or disclose in any other proceeding or matter, any proprietary, confidential or highly confidential information received as a result of their participation in this proceeding.

b. Highly Confidential Information. A copy of information, data, or other material designated as “Highly Confidential” shall be uploaded to a data access platform accessible to the testifying expert witnesses and to counsel of record, including in-house counsel and outside counsel of the reviewing party who are actively engaged in this proceeding. Highly Confidential information may be provided under the terms of this provision only to such expert witnesses and counsel who meet the qualifications of 5(a)(i) and (ii) above and have executed Appendix A attached to this Protective Order. However, associates, secretaries, paralegals and other such administrative employees may review Highly Confidential materials so long done in conjunction with or pursuant to the request of the expert witness or counsel subject to this subparagraph. Highly Confidential information may only be used or disclosed for purposes of preparing or presenting evidence, testimony, cross examination or argument in this proceeding or for administrative or judicial review, in accordance with the conditions and limitations set forth in this Protective Order. If upon inspection the requesting party disagrees with the designation of any of the material as “Highly Confidential” and the producing party does not revise the designation, that issue may also be submitted orally to the Commission or the Administrative Law Judge for resolution.

c. Counsel for the Office of Consumer Advocate and the Office of Small Business Advocate bound by this Order may share “Proprietary Information” and “Highly Confidential information” with the Consumer Advocate and Small Business Advocate, respectively;

d. No other persons may have access to the Proprietary Information or Highly Confidential information except as

authorized by order of the Commission or of the presiding Administrative Law Judge. No person who may be entitled to receive, or who is afforded access to any Proprietary Information or Highly Confidential information shall use or disclose such information for the purposes of business or competition, or any purpose other than the preparation for and conduct of this proceeding or any administrative or judicial review thereof.

6. Documents and materials, or parts thereof, that are designated “Proprietary” or “Highly Confidential” (“Designated Material”) shall, unless such designation is removed pursuant to Section 13 of this Protective Order or other final judicial order, be deemed non-public and exempt from disclosure pursuant to Section 102 (“Public Record”) of the Pennsylvania Right-to-Know Law (“RTKL”). 65 P.S. § 67.102. Additionally, it is understood that some of the Designated Material shall be deemed to constitute trade secret or confidential proprietary information within the meaning of Sections 102 and 708(b)(11) or deemed personal identification information under Section 708(b)(6). 65 P.S. §§ 67.102, 67.708(b)(6) and (b)(11). An agency that has notice of this Protective Order, upon receiving a request pursuant to RTKL for disclosure of Designated Material, shall follow the procedures specified in Section 707(b) of RTKL for responding to such a request and protecting the rights of the Designating Party.

7. Prior to making Proprietary Information or Highly Confidential information available to any outside expert or outside witness as provided in numbered Paragraph 5, above, counsel of record shall deliver a copy of this Order to such person and shall receive a written acknowledgment from that person in the form of the Non-Disclosure Agreement attached to this Order as “Appendix A.” Counsel shall promptly deliver to the producing party a copy of the executed Appendix A.

8. A producing party shall designate data or documents as constituting or containing Proprietary Information or Highly Confidential information by affixing an appropriate proprietary stamp or typewritten or printed designation on such data or documents. Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information

or Highly Confidential information, the producing party insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information or Highly Confidential information.

9. Any federal agency which has access to and/or receives copies of the Proprietary Information or Highly Confidential information will consider and treat the Proprietary Information or Highly Confidential information as within the exemption from disclosure provided in the Freedom of Information Act as set forth at 5 U.S.C.A. § 552(b)(4) until such time as the information is found to be non-proprietary.

10. Any state agency which has access to and/or receives copies of the Proprietary Information or Highly Confidential information will consider and treat the Proprietary Information or Highly Confidential information as within the exemption from disclosure provided in the Pennsylvania Right-to-Know Law as set forth at 65 P.S. § 67.708(b) until such time as the information is found to be non-proprietary.

11. Any public reference to Proprietary Information or Highly Confidential information by counsel or persons afforded access thereto shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information or Highly Confidential information to fully understand the reference and not more. The Proprietary Information or Highly Confidential information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

12. Parts of any record in this proceeding containing Proprietary Information or Highly Confidential information, including but not limited to all exhibits, writings, testimony, cross-examination, argument and responses to discovery, and including references thereto, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information or Highly Confidential information is released from the restrictions of this Order, either through the agreement of the parties or pursuant to order of the Administrative Law Judge or the Commission. Unresolved challenges arising under Paragraph 13 below shall be decided on

motion or petition by the presiding officer or the Commission as provided by 52 Pa. Code § 5.365(c)(5). All such challenges will be resolved in conformity with existing rules, regulations, orders, statutes, precedent, etc., to the extent that such guidance is available.

13. Parties affected by the terms of this Order shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information or Highly Confidential information; to question or challenge the admissibility of Proprietary Information or Highly Confidential information; to refuse or object to the production of Proprietary Information or Highly Confidential information on any proper ground, including but not limited to irrelevance, immateriality or undue burden; to seek an order permitting disclosure of Proprietary Information or Highly Confidential information beyond that allowed in this Order; and to seek additional measures of protection of Proprietary Information or Highly Confidential information beyond those provided in this Order. If a challenge is made to the designation of a document or information as Proprietary Information or Highly Confidential information, the party claiming that the information is Proprietary Information or Highly Confidential information retains the burden of demonstrating that the designation is necessary and appropriate.

14. The inadvertent provision of information or the production of documents by any party containing confidential information, information protected from discovery by the attorney-client privilege, work product doctrine or any other applicable privilege, shall not constitute a waiver of such privileges with respect to that information or those or any other documents. In the event that inadvertent production occurs, parties shall delete or return all inadvertently produced documents upon request, shall treat any information contained therein as strictly confidential, and shall not disclose or make use of the contents of such information or documents nor premise any further discovery on information learned therefrom.

15. Upon completion of this proceeding, including any administrative or judicial review, all copies of all documents and other materials, including notes, which contain any Proprietary Information or Highly Confidential information, shall be immediately returned upon request to the party furnishing such Proprietary Information or Highly Confidential information. In the alternative, parties may provide an affidavit of counsel affirming that the materials

containing or reflecting Proprietary Information or Highly Confidential Information have been destroyed.

Date: _____

Marta Guhl
Administrative Law Judge

APPENDIX A TO PROTECTIVE ORDER

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Docket No. A-2021-3028668
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NON-DISCLOSURE AGREEMENT

The undersigned is the _____ of _____ (the retaining party) and hereby acknowledges that he/she does not hold any of the following positions with any competitor or affiliate of a competitor of the producing party (an officer, board member, significant stockholder, partner, owner or an employee) who is primarily involved in the pricing, development, and/or marketing of products or services that are offered in competition with those of the producing party.

The undersigned has read and understands the Protective Order that deals with the treatment of Proprietary Information and Highly Confidential information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Order.

SIGNATURE

PRINT NAME

ADDRESS

DATE

EMPLOYER