

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

GALLATIN RIVER COMMUNICATIONS )  
L.L.C. D/B/A CENTURYLINK )

)  
Petition for Arbitration Pursuant to )  
Section 252(b) of the Communications Act )  
of 1934, as amended by the )  
Telecommunications Act of 1996 )  
To Establish the Rates, Terms and )  
Conditions of Interconnection with )  
NTS Services Corp. )

Docket No. 11-0567

**GALLATIN RIVER COMMUNICATIONS L.L.C D/B/A CENTURYLINK'S  
MOTION TO COMPEL**

Gallatin River Communications L.L.C. d/b/a CenturyLink (“CenturyLink”), by its counsel, hereby moves to compel responses to CenturyLink’s Discovery Request Nos. 4, 5, 9, 11 and 12 in its Second Set of Discovery Requests. In support of this motion, CenturyLink states the following:

1. Pursuant to 83 Ill. Adm. Code 200.350, counsel for CenturyLink and NTS conferred by telephone in an effort to resolve the differences they have regarding CenturyLink’s Discovery Request Nos. 4, 5, 9, 11 and 12. Mr. Kris Twomey and Mr. Thomas Dethlefs conferred by telephone on December 16, 2011 in an effort to reach a compromise on discovery. CenturyLink requested supplemental responses from NTS on December 21, 2011 and December 30, 2011 and was assured by NTS that supplemental

responses would be forthcoming. (See Exhibit 1). Consultation and reasonable attempt to resolve differences concerning these requests have failed.

2. This proceeding is an interconnection arbitration conducted pursuant to Section 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §252. At issue in the arbitration are the rates for unbundled DS-0 and DS-1 loops. NTS has taken the position in its testimony that CenturyLink's proposed TELRIC rates should be rejected because of the alleged impact on NTS's business. Specifically, on lines 5 through 9 of his pre-filed testimony, NTS witness FredMiri provides the following testimony:

Q. What would be the impact of [CenturyLink's] charges being applied retroactively and prospectively?

A. It would be catastrophic to NTS's business and likely to any other CLEC operating in a CTL exchange area. The total monthly invoiced amount from CTL to NTS would expand by greater than 100%.

3. To evaluate Mr. Miri's testimony, CenturyLink submitted three discovery requests to NTS. Discovery Request No. 4 asked NTS to produce its AR 13 Reports filed with the Illinois Commerce Commission for the last five years. Discovery Request No. 5 asked NTS to "provide all financial information, work papers, analyses and documents that support the conclusion that the NTS invoice "would expand by greater than 100%." Discovery Request No. 12 asked NTS to "provide, by year for the last 3 years, the total dollars and amounts (eg. Per foot, count of units) of telecommunications investment NTS has made in the state of Illinois." All three of these discovery requests seek information that can be used to evaluate NTS's assertion that its business would be adversely affected by the TELRIC rates for DS-0 and DS-1 loops calculated by CenturyLink. Discovery

Request No. 12 is also appropriate because it seeks information related to Mr. Miri's understanding of NTS's expenses and network costs. In his testimony, he claims to have reviewed other cost studies but presents no facts concerning the geographic areas or cost attributes encompassed by those cost studies. These requests are reasonably calculated to lead to admissible evidence because they are directly tied to specific testimony that NTS will seek to offer as evidence at hearing. NTS erroneously objects to all three requests on the grounds that they "are irrelevant and unlikely to produce evidence useful to this case" Ostensibly because "[t]his case is focused on whether CTL can substantiate its proposed UNE prices." A copy of NTS's responses to CenturyLink's Second Set of Discovery Requests is attached as Exhibit 2.

4. Discovery Requests Nos. 9 and 11 seek to discover Mr. Miri's relationship with NTS. Discovery Request No. 9 requests NTS to "produce the current contract, agreement or arrangement Mr. Miri currently has with NTS." Discovery Request No. 11 requests NTS to "produce copies of Mr. Miri's invoices for services provided to NTS and any records of time spent performing services for NTS." These two requests seek information relevant to evaluating Mr. Miri's stake in the outcome of this case and relevant to evaluating his credibility as a witness. This is standard information that any outside expert is required to disclose in a civil proceeding. NTS erroneously objects to these requests on the grounds that they are "irrelevant and unlikely to produce evidence useful to this case."

WHEREFORE, Gallatin River Communications L.L.C. d/b/a CenturyLink moves that the Commission order NTS to answer fully and completely CenturyLink's Discovery Request Nos. 4, 5, 9, 11 and 12 in its Second Set of Discovery Requests.

Respectfully submitted,

January 10, 2012



Mr. Thomas M. Dethlefs (#6193590)

CenturyLink

1801 California St, 10<sup>th</sup> Floor

Denver, CO 80202

(303) 992-5791

(303) 296-3132 (FAX)

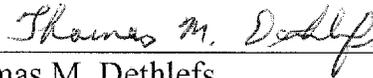
[Thomas.Dethlefs@CenturyLink.com](mailto:Thomas.Dethlefs@CenturyLink.com)

Counsel for GALLATIN RIVER  
COMMUNICATIONS L.L.C. D/B/A  
CENTURYLINK

## CERTIFICATE OF SERVICE

The undersigned attorney for Gallatin River Communications L.L.C. d/b/a CenturyLink hereby certifies that he caused copies of the attached Gallatin River Communications L.L.C. d/b/a CenturyLink's Motion to Compel to be served on each of the persons listed below in the manner indicated:

syoder@icc.illinois.gov  
miarmon@icc.illinois.gov  
mlannon@icc.illinois.gov  
mcnamara.evans@gmail.com  
jolivero@iccillinois.gov  
kris@lokt.net  
jzolnierOvicc.illinois.gov



---

Thomas M. Dethlefs

Counsel for Gallatin River Communications L.L.C.  
d/b/a CenturyLink

**Dethlefs, Thomas**

---

**From:** Kristopher Twomey [kris@lokt.net]  
**Sent:** Thursday, January 05, 2012 12:36 PM  
**To:** Dethlefs, Thomas  
**Subject:** RE: Discovery Requests

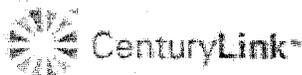
Will have them to you by COB on Monday.

Kris  
202.681.1850

-----Original Message-----

**From:** Dethlefs, Thomas [mailto:thomas.dethlefs@CenturyLink.com]  
**Sent:** Friday, December 30, 2011 11:42 AM  
**To:** Kristopher Twomey  
**Subject:** RE: Discovery Requests

Kris, we have still not received the supplemental responses. When will they be provided?



**Tom Dethlefs**  
Regulatory Law  
1801 California St, 10th Floor  
Denver, Colorado 80202  
[Thomas.Dethlefs@CenturyLink.com](mailto:Thomas.Dethlefs@CenturyLink.com)  
(w) 303-992-5791  
(fax) 303-296-3132

---

**From:** Kristopher Twomey [mailto:kris@lokt.net]  
**Sent:** Wednesday, December 21, 2011 12:15 PM  
**To:** Dethlefs, Thomas  
**Subject:** RE: Discovery Requests

There will be a supplement provided along the lines that we discussed last week. Expect it will be tomorrow, at least a partial supplement then with a full supplement following shortly thereafter.

Kris  
202.681.1850

-----Original Message-----

**From:** Dethlefs, Thomas [mailto:thomas.dethlefs@CenturyLink.com]  
**Sent:** Wednesday, December 21, 2011 1:28 PM  
**To:** Kristopher Twomey  
**Subject:** Discovery Requests

Kris, do you have an answer as to whether NTS will be supplementing its responses to the CenturyLink discovery requests we discussed on Friday?



**Tom Dethlefs**  
Regulatory Law  
1801 California St, 10th Floor  
Denver, Colorado 80202  
[Thomas.Dethlefs@CenturyLink.com](mailto:Thomas.Dethlefs@CenturyLink.com)  
(w) 303-992-5791  
(fax) 303-296-3132

---

This communication is the property of CenturyLink and may contain confidential or privileged information. Unauthorized use of this communication is strictly prohibited and may be unlawful. If you have received this communication in error, please immediately notify the sender by reply e-mail and destroy all copies of the communication and any attachments.

---

This communication is the property of CenturyLink and may contain confidential or privileged information. Unauthorized use of this communication is strictly prohibited and may be unlawful. If you have received this communication in error, please immediately notify the sender by reply e-mail and destroy all copies of the communication and any attachments.

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

GALLATIN RIVER COMMUNICATIONS )  
L.L.C. D/B/A CENTURYLINK

Petition for Arbitration Pursuant to  
Section 252 of the Communications Act  
of 1934, as amended by the  
Telecommunications Act of 1996  
To Establish the Rates, Terms and  
Conditions of Interconnection with  
NTS Services Corp.

Docket No. 11-0567

NTS SERVICES CORP.'S OBJECTIONS AND ANSWERS TO THE SECOND  
SET OF CENTURYLINK'S DISCOVERY REQUESTS

NTS Services Corp. ("NTS"), by its attorneys, responds to the second set of  
CenturyLink's discovery requests as follows.

GENERAL OBJECTIONS

NTS makes the following general objections to CenturyLink's Data Requests.  
Unless otherwise specified, each of the following General Objections is continuing, and  
is incorporated into the response to each Interrogatory propounded by CenturyLink as if  
fully set forth therein. The assertion of the same, similar or additional objections in any  
specific response does not waive NTS' general objections set forth below.

1. NTS objects to the instructions provided by CenturyLink to the extent  
such instructions impose obligations different or greater than set forth in the applicable  
procedural and discovery rules.

2. NTS objects to these Data Requests to the extent that they are not reasonably calculated to lead to the discovery of admissible evidence and are not relevant to the subject matter of this proceeding.

3. NTS objects to each and every Data Request to the extent that it purports to seek information about matters outside of the State of Illinois.

4. NTS objects to each and every Data Request to the extent it purports to seek information or documents that are protected from disclosure by the attorney-client privilege, attorney work product doctrine or other privilege.

5. NTS objects to each and every Data Request to the extent CenturyLink seeks information or documents that are confidential, proprietary, and/or trade secret information protected from disclosure.

6. NTS objects to each and every Data Request to the extent that it purports to require disclosure of information or documents that are not available to NTS or that are equally or more readily available to CenturyLink than obtaining the information or documents from NTS.

7. NTS objects to these Data Requests to the extent that they are unduly burdensome, expensive, oppressive, or excessively time consuming as written.

8. NTS objects to these Data Requests to the extent they seek information that is already in the possession of CenturyLink or already in the public record before the Illinois Commerce ("Commission"), or elsewhere.

9. NTS objects to these Data Requests that seek to obtain "all" documents to the extent that such a Data Request is overbroad and unduly burdensome and seeks

information that is neither relevant nor material to the subject matter of this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

10. NTS objects to these Data Requests to the extent that they seek to impose an obligation on NTS to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this proceeding on the grounds that such requests are overly broad, unduly burdensome and oppressive.

11. NTS objects to these requests to the extent that they are vague, ambiguous, overly broad, imprecise, or utilize terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these requests.

12. NTS responses will provide, subject to any applicable objections, all of the information obtained by NTS after a reasonable and diligent search conducted in connection with these requests. NTS shall conduct a search of those files that are reasonably expected to contain the requested information. To the extent that the Data Requests purport to require more, NTS objects on the grounds that compliance would impose an undue burden or expense.

13. The objections contained herein are not intended nor should they be construed to waive NTS right to other discovery involving or relating to the subject matter of these Data Requests, responses or documents produced in response hereto.

14. NTS agreement to respond partially or to these Data Requests should not be construed to mean that any documents or information responsive to the Data Request exist.

## SECOND SET OF DISCOVERY REQUESTS

1. Refer to Page 3 of NTS' s Response to Petition for Arbitration and to unnumbered page 8 unnumbered line 10 of the Direct Testimony of Fred Miri. Please cite to the FCC rules and the ICC rules that state the TELRIC standard for costs is based upon the existing network,

Response: NTS objects to this request on the basis that it asks for legal conclusions. Moreover, the FCC rules regarding TELRIC, court determinations of TELRIC rules, and the ICC's application of those rules speak for themselves.

2. Refer to Page 3 of NTS' s Response to Petition for Arbitration and to unnumbered page 7 unnumbered line 8 of the Direct Testimony of Fred Miri. Please provide all documents relied upon to support the statement that the CenturyLink ACF's are "...much higher than I have seen and developed in other cost studies."

Response: No documents exist that are responsive to this request. Mr. Miri is simply stating his opinion that recently developed studies and models for other rural companies that he has reviewed casts doubt on the data used by CTL in developing its model.

3. Refer to Page 4 of NTS' s Response to Petition for Arbitration and to unnumbered page 6 approximately unnumbered line 7 of the Direct Testimony of Fred Miri. Please provide all financial information, work papers, analyses and documents that support the conclusion that the true-up NTS agreed to would be "catastrophic" for NTS.

Response: NTS objects to this request on the grounds that it is irrelevant and unlikely to produce evidence useful to this case. No documents exist that are responsive to this request. Mr. Miri is stating an opinion making an obvious conclusion for any business— if input costs increase by over 100% for a company, and do not increase for its primary competitor, that would damage a business' competitive position.

4. Refer to Page 4 of NTS's Response to Petition for Arbitration and to unnumbered page 6 approximately unnumbered line 7 of the Direct Testimony of Fred Miri. Please provide the most recent 5 year of NTS's AR 13 Report to the Illinois Commerce Commission.

Response: NTS objects to this request on the grounds that it is irrelevant and unlikely to produce evidence useful to this case. This case is focused on whether CTL can substantiate its proposed UNE prices.

5. Refer to Page 4 of NTS's Response to Petition for Arbitration and to unnumbered page 6 approximately unnumbered line 9 of the Direct Testimony of Fred Miri. Please provide all financial information, work papers, analyses and documents that support the conclusion that the NTS invoice "would expand by greater than 100%".

Response: NTS objects to this request on the grounds that it is irrelevant and unlikely to produce evidence useful to this case. This case is focused on whether CTL can substantiate its proposed line prices.

6. Refer to unnumbered page 7 approximately unnumbered line 20 of the Direct Testimony of Fred Miri. Please provide the price and corroborating proof of same for purchasing 1000 feet of cable or fiber "...walking into a Graybar store..."

Response: NTS objects to this request on the grounds that it is irrelevant and unlikely to produce evidence useful to this case. This case is focused on whether CTL can substantiate its proposed UNE prices. The terms "purchasing a 1000 feet of cable and walking into a GrayBar store" were meant to point out that anyone can go and get a price, but it doesn't mean that that price would be the best price or one that was appropriate for a TELRIC study.

7. Refer to unnumbered page 8 approximately unnumbered line 3 of the Direct Testimony of Fred Miri. Please state whether Mr. Miri's assertions that "...invest dent for poles could not be explained, but we understand that many of the poles are jointly owned with the power company" and "a review of the maintenance records might reveal that the power company is responsible for maintaining and replacing them" are based upon any documented support. If so, please produce these documents that provide proof of power company ownership and maintenance and replacement responsibility. Further, please explain why any CenturyLink contractual obligation to pay the power company to lease pole space on power-company owned poles constitutes an "investment that [can] not be explained."

Response: There are no documents responsive to this request. Moreover, all potentially responsive documents are in the custody and control of CTL. This once more relates to CTL's study simply showing large investments that were never explained. Mr. Miri's testimony never mentioned CTL having to pay a power company to lease poles. Mr. Miri simply questioned if there was joint ownership in poles with another entity. If that fact is true (as it was in the past) is that being taken into account or are the investment numbers for poles being used to totally build out the network with new CTL owned poles totally ignoring any current or future joint ownership arrangement? No where has CTL ever explained why millions of dollars are being invested in poles that may currently be or in the future may be jointly owned with another entity. NTS does acknowledge that CTL is claiming some revenue from pole leases.

8. Please describe in full Mr. Fred Miri's history, both financial and business, with NTS and Gallatin River.

Response: NTS objects to this request on the grounds that it is irrelevant and unlikely to produce evidence useful to this case. This case is focused on whether CTL can substantiate its proposed UNE prices.

Notwithstanding these objections, NTS provides the following information. Mr. Miri's initial contact with NTS was in 2000 when he assisted NTS with its initial ICA with Gallatin River Communications ("GRC"). Mr. Miri was hired by GRC's parent company Madison River Communications in 2002 and worked in North Carolina and Louisiana until 2004. Mr. Miri was assigned as President of GRC in 2004. He left Gallatin River in September of 2007 — a few months after CTL closed on the purchase of Madison River. Mr. Miri was paid his bonus and agreed to a non-compete for one year when he left to care for his ailing parents. Mr. Miri returned to CTL under contract for the first half of 2008. For the remainder of 2008, Mr. Miri worked on various non-competitive assignments through the consulting firm of LECG (Law and Economics Consulting Group). Those assignments in no way competed with any CTL interests. In fact, one involved an insurance company and a company in England. The others were a Western cellular provider, and a co-op building in Texas. Mr. Miri also provided some cost model work for a mid-size ILEC in 2010. Mr. Miri's initial work with NTS in 2009 involved developing sales compensation guidelines. Other work later in the year and in 2010 involved a very limited involvement with NTS's ongoing attempts to resolve some operational issues it had with CTL related to chronic installation and repair problems.

Mr. Miri also agreed to participate in some of the conference calls with CTL related to negotiating a new interconnection agreement with CTL mostly in 2031.

9. Please produce the current contract, agreement or arrangement Mr. Miri currently has with NTS.

Response: NTS objects to this request on the grounds that it is irrelevant and unlikely to produce evidence useful to this case. This case is focused on whether CTL can substantiate its proposed UNE prices.

10. Please produce all historical contracts, agreements, or arrangements Mr. Miri has had with NTS.

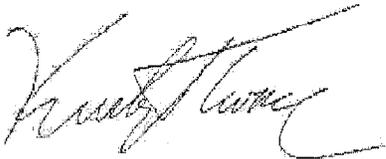
Response: NTS objects to this request on the grounds that it is irrelevant and unlikely to produce evidence useful to this case. This case is focused on whether CTL can substantiate its proposed UNE prices.

11. Please produce copies of Mr. Miri's invoices for services provided to NTS and any records of time spent performing services for NTS.

Response: NTS objects to this request on the grounds that it is irrelevant and unlikely to produce evidence useful to this case. This case is focused on whether CTL can substantiate its proposed UNE prices.

12. Please provide, by year for the last 3 years, the total dollars and amounts (e.g. per foot, count of units) of telecommunications investment NTS has made in the state of Illinois.

Response: NTS objects to this request on the grounds that it is irrelevant and unlikely to produce evidence useful to this case. This case is focused on whether CTL can substantiate its proposed UNE prices.



---

Kristopher E. Twomey  
Counsel to NTS Services Corp.