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January 10, 2011

***Via Electronic Delivery***

William T. Lake  
Chief, Media Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Request for Highly Confidential Treatment – *Application of Comcast Corporation, General Electric Company and NBC Universal, Inc. for Consent to Assign Licenses or Transfer Control of Licensees*, MB Dkt. 10-56

Dear Mr. Lake:

EarthLink, Inc. (“EarthLink”), through its undersigned counsel, submits this letter pursuant to the *Second Protective Order*<sup>1</sup> to request enhanced confidential treatment for the information contained in the *ex parte* letter EarthLink is filing today in the above-referenced proceeding. EarthLink is also filing a redacted version of its filing for public inspection.

EarthLink’s filing contains information requested by Commission staff regarding the number of subscribers and territories EarthLink today serves via its limited wholesale agreement with Comcast. This information is similar to materials that have been approved in this proceeding as Highly Confidential Information.<sup>2</sup> Specifically, in the October 1, 2010, letter to Applicants’, Comcast’s detailed customer data and the terms and conditions of Comcast’s video programming and carriage agreements were determined to be eligible for Highly Confidential treatment.<sup>3</sup>

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<sup>1</sup> *Application of Comcast Corporation, General Electric Company and NBC Universal, Inc. for Consent to Assign Licenses or Transfer Control of Licensees*, Second Protective Order, 25 FCC Rcd. 2140, ¶ 3 (2010) (“*Second Protective Order*”).

<sup>2</sup> *Second Protective Order*, ¶ 5 (defining “Highly Confidential Information” as “information contained in Stamped Highly Confidential Documents or derived therefrom that is not otherwise available from public sources, that the Submitting Party has kept strictly confidential, and that, the Submitting Party claims, constitutes some of its most sensitive business data which, if released to competitors, would allow those competitors to gain a significant advantage in the marketplace.”).

<sup>3</sup> Letter from William T. Lake, Chief, Media Bureau, to Michael H. Hammer et al., Counsel for the Applicants, DA 10-1839, at 2-3 (Oct. 1, 2010).

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The data for which EarthLink seeks Highly Confidential treatment constitute EarthLink's sensitive business information, is information that EarthLink typically does not disclose, and is the type of information that the Commission has previously afforded heightened confidential protection.<sup>4</sup> Disclosure of this material to competitors and/or parties with whom EarthLink does business would have a serious negative effect on EarthLink's business and place EarthLink at a significant competitive disadvantage. Accordingly, EarthLink requests that the Commission confirm that the information in EarthLink's January 10, 2011, filing be designated as "Highly Confidential Information" under the *Second Protective Order* and thereby made available solely to Outside Counsel of Record, their employees, and bona fide Outside Consultants and experts who have signed the *Second Protective Order*.

Pursuant to 47 C.F.R. § 0.459(e), EarthLink requests that the Commission return the Highly Confidential version of the filing if the request for enhanced confidential protection under the *Second Protective Order* is denied. Please feel free to contact the undersigned if you have any questions or concerns.

Respectfully submitted,



Jennifer P. Bagg  
*Counsel for EarthLink, Inc.*

cc: Vanessa Lemmé (via hand delivery)

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<sup>4</sup> *See, id.*