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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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ARIZONA CORPORATION COMMISSION
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IN THE MATTER OF THE JOINT
APPLICATION OF QWEST CORPORATION,
QWEST COMMUNICATIONS COMPANY,
LLC, QWEST LD CORP. dba QWEST LONG
DISTANCE, EMBARQ PAYPHONE
SERVICES, INC. AND CENTURYTEL
SOLUTIONS, LLC FOR APPROVAL OF THE
PROPOSED MERGER OF THEIR PARENT
CORPORATIONS QWEST
COMMUNICATIONS INTERNATIONAL INC.
AND CENTURYTEL, INC.

DOCKET NO. T-01051B-10-0194
T-02811B-10-0194
T-04190A-10-0194
T-20443A-10-0194
T-03555A-10-0194
T-03902A-10-0194

STAFF'S NOTICE OF FILING
SURREBUTTAL TESTIMONY

Staff of the Arizona Corporation Commission ("Staff") hereby files the Surrebuttal Testimony of Armando F. Fimbres, Pamela J. Genung and Gordon Fox of the Utilities Division in the above docket.

RESPECTFULLY SUBMITTED this 10th day of November 2010.

Maureen A. Scott, Senior Staff Counsel
Robin R. Mitchell, Staff Attorney
Bridget Humphrey, Staff Attorney
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007
(602) 542-3402

Original and thirteen (13) copies
of the foregoing filed this
10th day of November 2010 with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

1 Copies of the foregoing mailed this
2 10th day of November 2010 to:

3 Jeffrey W. Crockett
4 Bradley S. Carroll
5 Snell & Wilmer LLP
6 One Arizona Center
7 400 East Van Buren Street
8 Phoenix, Arizona 85004-2202
9 Attorneys for CenturyLink
10 Kevin K. Zarling
11 Senior Counsel, CenturyLink
12 400 West 15th Street, Suite 315
13 Austin, Texas 78701
14 Attorney for CenturyLink
15 Norman G. Curtright
16 David Ziegler
17 Qwest Corporation
18 20 East Thomas Road, 16th Floor
19 Phoenix, Arizona 85012
20 Attorneys for Qwest
21 Michael W. Patten
22 Timothy J. Sabo
23 Roshka, DeWulf & Patten, PLC
24 One Arizona Center
25 400 East Van Buren, Suite 800
26 Phoenix, Arizona 85004
27 Attorneys for Cox Arizona Telcom, LLC,
28 Level 3 Communications, LLC, Paetec
Business Services, Integra Telecom and
Covad Communications Company
Karen L. Clauson
Vice President, Law & Policy
Integra Telecom
6160 Golden Hills Drive
Golden Valley, Minnesota 55416-1020
Gregory Merz
Gray Plant Mooty
500 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402
Gregory L. Rogers
Level 3 Communications, LLC
1025 Eldorado Boulevard
Broomfield, Colorado 80021

Scott J. Rubin, Esq.
333 Oak Lane
Bloomsburg, Pennsylvania 17815

Rogelio Pena
Pena & Associates, LLC
4845 Pearl East Circle, Suite 101
Boulder, Colorado 80301

Daniel W. Pozefsky, Chief Counsel
Residential Utility Consumer Office
1110 West Washington, Suite 220
Phoenix, Arizona 85007

Stephen S. Melnikoff
General Attorney
Regulatory Law Office (JALS-RL)
U.S. Army Litigation Center
901 North Stuart Street, Suite 700
Arlington, Virginia 22203-1837

Nicholas J. Enoch
Jarrett J. Haskovec
Lubin & Enoch, PC
349 North Fourth Avenue
Phoenix, Arizona 85003
Attorneys for Communications Workers of
America and AFL-CIO, CLC

Michel Singer Nelson
360networks (USA) inc.
370 Interlocken Boulevard, Suite 600
Broomfield, Colorado 80021

Penny Stanley
360networks (USA) inc.
370 Interlocken Blvd., Suite 600
Broomfield, Colorado 80021

William A. Haas
Vice President of Public Policy & Regulatory
Paetec Holding Corp.
One Martha's Way
Hiawatha, Iowa 52233

James C. Falvey
Senior Regulatory Counsel
Pac-West Telecomm, Inc.
420 Chinguapin Round Road, Suite 2-I
Annapolis, Maryland 21401

1 Harry Gildea
2 Snavely King Majoros, et al.
3 1111 14th Street, N.W., Suite 300
4 Washington, D.C. 20005

5 Mark A. DiNunzio
6 Cox Arizona Telecom, LLC
7 1550 West Deer Valley Road
8 MV DV3-16, Building C
9 Phoenix, Arizona 85027

10 Katherine K. Mudge, Director
11 State Affairs & ILEC Relations
12 Covad Communications Company
13 7000 North Mopac Expressway
14 Second Floor
15 Austin, Texas 78731

16 Joan S. Burke, Esq.
17 Law Office of Joan S. Burke
18 1650 North First Avenue
19 Phoenix, Arizona 85003

20 John Ilgen
21 Westel, Inc.
22 Vice President of Sales & Marketing
23 9606 North Mopac Expressway
24 Suite 700
25 Austin, Texas 78759

26 Lyndall Nipps
27 tw telecom
28 9665 Granite Ridge Drive, Suite 500
San Diego, California 92123

19
20 Kayla Christino

21
22
23
24
25
26
27
28

BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN K. MAYES
Chairman
GARY PIERCE
Commissioner
PAUL NEWMAN
Commissioner
SANDRA D. KENNEDY
Commissioner
BOB STUMP
Commissioner

IN THE MATTER OF THE JOINT APPLICATION)	DOCKET NOS: T-01051B-10-0194
OF QWEST CORPORATION, QWEST)	T-02811B-10-0194
COMMUNICATIONS COMPANY, LLC,)	T-04190A-10-0194
QWEST LD CORP. DBA QWEST LONG)	T-20443A-10-0194
DISTANCE, EMBARQ COMMUNICATIONS,)	T-03555A-10-0194
INC., EMBARQ PAYPHONE SERVICES, INC.)	T-03902A-10-0194
AND CENTURYTEL SOLUTIONS, LLC FOR)	
APPROVAL OF THE PROPOSED MERGER OF)	
THEIR PARENT CORPORATIONS QWEST)	
COMMUNICATIONS INTERNATIONAL INC.)	
AND CENTURYTEL, INC.)	
_____)	

SURREBUTTAL
TESTIMONY
OF
ARMANDO FIMBRES
PUBLIC UTILITIES ANALYST V
ON BEHALF OF
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

NOVEMBER 10, 2010

TABLE OF CONTENTS

	<u>Page</u>
EXECUTIVE SUMMARY	ii
INTRODUCTION	1
BACKGROUND	1
STAFF'S RESPONSE TO THE REBUTTAL TESTIMONY OF QWEST	1
STAFF CONDITIONS 6, 21, 22, and 23	1
STAFF CONDITION 7	4
STAFF CONDITION 24	4
STAFF CONDITION 28	5
STAFF CONDITION 31	6
STAFF CONDITION 32	7
STAFF CONDITION 33	8
STAFF CONDITION 47	8
STAFF'S RESPONSE TO THE REBUTTAL TESTIMONY OF CENTURYLINK	10
STAFF CONDITION 4	12
STAFF CONDITION 5	13
STAFF CONDITION 6	13
STAFF CONDITION 8	14
STAFF CONDITION 9	15
STAFF CONDITION 10	15
STAFF CONDITION 11	16
STAFF CONDITION 19	16
STAFF CONDITION 20	17
STAFF CONDITION 25	18
STAFF CONDITION 26	19
STAFF CONDITION 27	19
STAFF CONDITION 29	20
STAFF CONDITION 30	20
STAFF CONDITION 46	21
SUMMARY AND CONCLUSIONS	22
ATTACHMENT 1	24
STAFF'S RECOMMENDED CONDITIONS FOR APPROVAL	24

EXECUTIVE SUMMARY

QWEST CORPORATION, QWEST COMMUNICATIONS COMPANY, LLC, QWEST LD CORP. DBA QWEST LONG DISTANCE, EMBARQ COMMUNICATIONS, INC., EMBARQ PAYPHONE SERVICES, INC. AND CENTURYTEL SOLUTIONS, LLC FOR APPROVAL OF THE PROPOSED MERGER OF THEIR PARENT CORPORATIONS QWEST COMMUNICATIONS INTERNATIONAL INC. AND CENTURYTEL, INC DOCKET NOS. T-01051B-10-0194, T-02811B-10-0194, T-04190A-10-0194, T-20443A-10-0194, T-03555A-10-0194, T-03902A-10-0194

As discussed herein and with the exceptions noted below, Staff continues to support the RECOMMENDED CONDITIONS FOR APPROVAL contained in Attachment 1 of Staff's Direct Testimony dated October 13, 2010.

Condition 12: Replaced with the following:

That the Merged Company for a period of three years following merger close shall not file to make changes to its Service Quality Tariff; unless recommended by the Quality of Service Task Force and the Commission.

Condition 17: Replaced with the following:

That the Merged Company, *for a period of 3 years*, (emphasis added) shall give at least 6 months notice of any plans to integrate portions of Qwest's retail support systems with portions of the CenturyLink and/or Embarq systems. If the integration is to be accomplished in phases, 6-month notice shall be given before each separate phase. The Merged Company shall make a filing with the Commission in this Docket detailing the proposed integration, the schedule in which it is to be accomplished and a detailed plan of integration. The Merged Company shall indicate what support system is being replaced and what support system will survive. It shall also discuss any anticipated problems and any problems that occurred with similar integrations in other jurisdictions and how such problems will be mitigated in Arizona. The Merged Company shall be required to demonstrate that the proposed integration, where it affects retail operations, will not result in a degradation of current Qwest retail support systems.

Condition 20: Willing to reconsider this condition if the Merged Company agrees to accept condition 12 from the Minnesota Settlement Agreement.

Condition 31: Withdrawn on the condition that Condition 47(c) is accepted.

Condition 32: Withdrawn on the condition that Condition 30 is accepted.

Condition 38: Replaced with the following:

The Merged Company shall report to the Commission actual synergy savings as opposed to proposed synergy savings resulting from the proposed transaction on an annual basis from the date of merger closing for a period of three years. At a

minimum, the report shall provide the following information: a) costs and projected savings associated with each respective activity on a Merged Company basis; b) consolidation and organizational changes to network operations and staffing levels in Arizona; c) impacts on Arizona operations and customers.

Condition 40: Withdrawn.

Condition 42: Withdrawn. Satisfactorily addressed by Conditions 17 and 20.

Condition 45: Replaced with the following:

That for three years following merger close an Executive Vice President or Chief Financial Officer of the Merged Company shall certify to the Commission annually for three years that all Arizona CenturyLink entities are in compliance with all conditions contained in the Commission's decision in this matter.

Condition 46: Replaced with the following:

That for each of the first three years following merger close, the Merged Company shall *report* (emphasis added) on the Qwest Operating Expense per 1,000 Working Access Lines, Annual Investment per 1,000 Working Access Lines, and Full-Time Equivalent Employees per 1,000 Working Access Lines ratios by Wire Center, calculated on the same basis as the ratios provided by Qwest but averaged for years 2008, 2009 and 2010. Qwest shall provide within 60 days of a Commission decision approving the proposed merger Operating Expense per 1,000 Working Access Lines, Annual Investment per 1,000 Working Access Lines, and Full-Time Equivalent Employees per 1,000 Working Access Lines ratios by Wire Center for the years 2008, 2009 and 2010.

Staff's updated RECOMMENDED CONDITIONS FOR APPROVAL are contained in Attachment 1 to this Surrebuttal Testimony.

1 **INTRODUCTION**

2 **Q. Please state your name, occupation, and business address.**

3 A. My name is Armando Fimbres. I am a Public Utilities Analyst V employed by the
4 Arizona Corporation Commission (“ACC” or “Commission”) in the Utilities Division
5 (“Staff”). My business address is 1200 West Washington Street, Phoenix, Arizona 85007.

6
7 **Q. Have you previously filed testimony in this proceeding?**

8 A. Yes. I filed direct testimony on behalf of Staff on October 13, 2010.
9

10 **BACKGROUND**

11 **Q. What is the purpose of your testimony?**

12 A. Staff’s testimony responds to the Rebuttal Testimony filed by Robert Brigham, Jim
13 Campbell, Karen Anne Stewart and Michael G. Williams, on behalf of Qwest Corporation
14 and affiliates (“Qwest”) and Jeffrey S. Glover, Michael R. Hunsucker, Kristin McMillan
15 and Todd Schafer, on behalf of CenturyLink Communications and affiliates
16 (“CenturyLink”), (together “the Applicants”), respectively, on October 27, 2010. My
17 testimony on behalf of Staff is specific to the Rebuttal Testimony of Qwest and
18 CenturyLink witnesses in response to my direct testimony of October 13, 2010 and Staff’s
19 recommended condition 4-11, 19-33, 46 and 47.
20

21 **STAFF’S RESPONSE TO THE REBUTTAL TESTIMONY OF QWEST**

22 **STAFF CONDITIONS 6, 21, 22, and 23**

23 **Q. Does Qwest Rebuttal Testimony raise any issues with your direct testimony?**

24 A. Yes, Qwest witnesses raise several issues with my direct testimony. I will begin with
25 Qwest’s rebuttal witness Mike Williams who addresses issues relating to Qwest’s
26 wholesale and retail service quality. Ms. Genung will address Mr. Williams’ testimony to

1 the extent it relates to Qwest's retail service quality. I will address issues raised by Mr.
2 Williams relating to Qwest's wholesale service quality. With respect to wholesale service
3 quality, as I noted in my direct testimony, during the Arizona Section 271 process, Qwest
4 and the Competitive Local Exchange Carriers ("CLECs") developed an extensive list of
5 Performance Indicator Definitions ("PIDs") to ensure nondiscriminatory provision of
6 network elements/service to the CLECs. These PIDs then formed the basis for penalty
7 payments under the Qwest Performance Assurance Plan ("QPAP") to CLECs when
8 Qwest's performance fell below required levels. State commissions developed
9 performance assurance plans to ensure future performance by the Bell Operating
10 Company ("BOC") and prevent backsliding by the BOC on their Section 271 obligations.
11 The Federal Communication Commission's ("FCC's") approval of the Section 271
12 applications was in fact conditioned upon this type of plan being in place to assure future
13 performance by the BOC. Thus, it is not optional or within Qwest's discretion whether or
14 not to make this plan available. This requirement is encapsulated in Staff Condition 6.

15
16 My other proposed conditions relating to the QPAP are Conditions 21, 22 and 23. Mr.
17 Williams did not respond to my conditions directly, and I have made no changes to them
18 since I believe that they are still appropriate. Condition 21 requires the existing PIDs and
19 penalty provisions as of the merger filing date remain intact until integration of the
20 Merged Company's wholesale systems affecting Arizona has been completed and there is
21 a sufficient amount of performance data to demonstrate that the integrated Operational
22 Support Systems ("OSS") are functioning smoothly and there has been no decrease in
23 performance levels. Condition 22 provides that the existing docket examining the Liberty
24 Report and Qwest's proposed changes to the QPA shall be suspended pending the
25 completion of the obligations in Staff Condition 21. Condition 22, however, requires that
26 Qwest implement a "technical" change to its QPAP to reflect the conversion of the EDI

1 interface to XML. While this conversion was completed sometime ago, Qwest never
2 changed the EDI metrics to reflect the conversion to XML in Arizona. Qwest has already
3 done this in Colorado, Utah and Montana to the best of Staff's knowledge and
4 implementation of this type of "technical" change should not be delayed any longer.

5
6 Finally, Staff Condition 23 requires the Merged Company to maintain Qwest's post-
7 merger wholesale OSS performance at levels that are at least equal to those provided by
8 Qwest before the merger's closing date. This Staff Condition also puts the Company on
9 notice that any decrease in performance may subject the Company to higher penalty
10 levels. How this would be done has not been determined and would have to be the subject
11 of further examination and proceedings. But the need for Qwest to maintain at least
12 existing levels of OSS performance cannot be understated as the impact of any adverse
13 changes in performance on CLEC business operations in Arizona could be serious.

14
15 Finally, I will briefly respond to Mr. Williams' issue with my statement that the decline in
16 QPAP payments is attributable in large part to the decline in the number of CLECs
17 operating in Arizona. Mr. Williams apparently believes that the decline in QPAP
18 payments by Qwest relates solely to improved performance by Qwest. While Qwest may
19 have certainly improved its performance overall, I do not believe that the whole decline in
20 QPAP payments can be attributed to this factor alone.

21
22 In addition, Mr. Williams and I are comparing apples and oranges at times. For instance,
23 Staff's analysis looked at the decline in the number of CLECs operating in Arizona, while
24 Mr. Williams apparently looked at the decline in CLEC access lines.¹ The two (2) are not
25 the same. Second, Mr. Williams presents a comparison between CLEC lines and QPAP

¹ Rebuttal Testimony Of Michael G. Williams On Behalf Of Qwest Corporation, Qwest Communications Company, LLC, And Qwest LD Corp. October 27, 2010, page 20

1 payments rather than a comparison between OSS order activity and QPAP payments.
2 Again, the two (2) comparisons are not the same.
3

4 While Staff appreciates Mr. Williams' effort to present data on a subject that is very
5 complex, Staff clarified the statement addressed by Mr. Williams by stating in Staff's very
6 next direct testimony sentence "The decline in CLECs is driven by a variety of reasons,
7 such as the elimination of the Unbundled Network Element_Platform ("UNE_P") option
8 by the FCC in December 2004 and the technology shift to Voice over Internet Protocol
9 ("VoIP") which reduces the need for wholesale services." I do not take issue with a
10 suggestion that Qwest PAP performance has improved. What I do take issue with is the
11 suggestion that the QPAP payments have declined solely due to improved performance by
12 Qwest. This simply is not supportable.
13

14 **STAFF CONDITION 7**

15 **Q. Does Qwest discuss its position regarding Staff Condition 7?**

16 A. Yes. Mr. Campbell does not contest Condition 7. Staff does not changes to this
17 condition.
18

19 **STAFF CONDITION 24**

20 **Q. Does Qwest have any concerns with Staff Condition 24?**

21 A. Yes. Condition 24 requires the Merged Company to keep intact the Qwest Change
22 Management Process ("CMP"), which provides a forum for CLEC input into OSS changes
23 by Qwest. I want to initially point out that the CMP process is another process that was
24 adopted as part of the Section 271 process in Arizona. It is a process that is in effect in all
25 of Qwest's 14 state Incumbent Local Exchange Carrier ("ILEC") footprint. It is not a
26 discretionary process in Staff's opinion. Qwest's Section 271 application in Arizona was

1 approved in part because the CMP, a critical component to give CLECs notice of and
2 input into Qwest's OSS, was agreed to by Qwest.

3
4 Ms. Stewart starts by stating that the condition "as written goes beyond the existing
5 requirements of Qwest's CMP (Change Management Process)"² and ends by stating that
6 "this condition is duplicative and unnecessary."³ Staff does not believe that its condition
7 is duplicative and unnecessary. Staff does not believe that it goes beyond existing
8 requirements or that its provisions are in conflict with the existing CMP process. The
9 requested agreement to complete all CLEC change requests in a commercially reasonable
10 timeframe is really something that Qwest should be doing today. Unreasonable delays in
11 acting upon CLEC change requests are not acceptable. Finally, because of concerns
12 expressed to Staff regarding the current process, Staff has also added a provision which
13 would require the Merged Company to meet with the CLECs to see if agreement can be
14 reached on changes that would allow more meaningful input by the CLECs. Staff believes
15 that such a collaborative effort may already be underway. Staff continues to support
16 Condition 24.

17
18 **STAFF CONDITION 28**

19 **Q. What is Qwest's position on Staff Condition 28?**

20 A. Ms. Stewart summarizes her response at page 19 by stating "this proposed condition is
21 simply not necessary, especially given the notice requirements of the CMP." Staff
22 condition 28 requires that "[a]fter the Closing Date of the transaction, the Merged
23 Company shall provide and maintain updated escalation information, contact lists and

² Rebuttal Testimony Of Karen A. Stewart On Behalf Of Qwest Corporation, Qwest Communications Company, LLC, And Qwest LD Corp. October 27, 2010, page 20

³ Rebuttal Testimony Of Karen A. Stewart On Behalf Of Qwest Corporation, Qwest Communications Company, LLC, And Qwest LD Corp. October 27, 2010, page 21

1 account manager information that are in place at least 30 days prior to the transaction
2 close date. For changes to support center location, organizational structure, or contact
3 information, the Merged Company will provide at least 30 days advance written notice to
4 all CLECs and the Commission.” Notice of these types of CLEC businesses impacting
5 changes are absolutely necessary. In addition to written notice, these changes should be
6 posted on the Company’s website and run through the CMP process. Qwest did not
7 provide any compelling reasons in Staff’s opinion why it should not be required to comply
8 with Condition 28. Staff continues to support Condition 28.

9
10 **STAFF CONDITION 31**

11 **Q. Does Qwest discuss its position regarding Staff Condition 31?**

12 A. Yes. Qwest addresses Staff’s Condition 31 indirectly by addressing Level 3’s proposed
13 conditions 2A and 2B. Qwest states at page 42 in Ms. Stewart’s Rebuttal Testimony that
14 the Commission has already clearly ruled on these issues, and the Commission should
15 reject Level 3’s attempt to use proposed Conditions 2A and 2B in a merger proceeding to
16 “back door” a different decision from this Commission. The issue of compensation for
17 Internet Service Provider (“ISP”) bound traffic and VNXX ISP bound traffic in particular,
18 has consumed and continues to consume tremendous resources in Arizona and elsewhere.
19 The issue is a narrow one and one that continues to be the subject of great confusion and
20 uncertainty because of a lack of clarity in current FCC orders as to how this traffic is to be
21 treated. The issue is now the subject of a remand proceeding in Arizona. Staff’s
22 condition 31 was designed to strike a compromise between the parties based upon an
23 agreement with Level 3 that CenturyLink’s affiliate Embarq had entered into in Nevada
24 (according to Level 3). Having reviewed the comments of Qwest and CenturyLink on this
25 issue, Staff believes that the parties should be given maximum flexibility to achieve any
26 sort of compromise on this issue if possible. Therefore, Staff withdraws Condition 31. If

1 the Applicants make the good faith effort requested in Staff Condition 47(c), the objective
2 of Condition 31 will have been achieved. Staff will withdraw Condition 31. Condition
3 47(c) achieves the same objective but gives the post merger company more flexibility to
4 resolve the issue which Staff believes is appropriate.

5
6 **STAFF CONDITION 32**

7 **Q. What is Qwest's position on Staff Condition 32?**

8 A. Staff Condition 32 would require the Merged Company to update its Statement of
9 Generally Available Terms and Conditions ("SGAT") with the Triennial Review
10 requirements, to make it available for at least 3 years and to obtain Commission approval
11 prior to its withdrawal. Ms. Stewart presents lengthy disagreement at pages 33-38 of her
12 Rebuttal Testimony with Staff Condition 32 arguing in part that there is an existing docket
13 on this matter and the issues should be resolved in that docket. Staff originally proposed
14 this condition and Condition 30 because of a concern expressed in CLEC testimony that
15 Qwest may be making it difficult for CLECs to negotiate ICAs. Staff also was concerned
16 with the fact that the SGAT was a document developed through collaboration with the
17 CLECs while the Qwest template agreement it is Staff's understanding was unilaterally
18 produced by Qwest.

19
20 Based upon the comments of Qwest and in particular CenturyLink, Staff is willing to
21 withdraw Condition 32 as long as Condition 30 is accepted. Staff's reading of
22 CenturyLink's testimony was that it did not find Condition 30 to be problematic, as long
23 as the Merged Company is not constrained from proposing terms and conditions as well.

24
25 Staff will withdraw Condition 32 on the condition that Staff Condition 30 is accepted.

1 **STAFF CONDITION 33**

2 **Q. Does Qwest discuss its position regarding Staff Condition 33?**

3 A. Yes. Condition 33 provides that the Merged Company will not impose any new or
4 additional charges upon CLECs for functions already undertaken by Qwest without the
5 prior approval of the Commission. Ms. Stewart at pages 12-13 of her Rebuttal Testimony
6 asserts that "Staff is seeking a generic "freeze" on Qwest's ability to have new or
7 additional charges for existing functions without prior Commission approval."
8

9 Ms. Stewart appears to be suggesting that the Company should be able to unilaterally
10 implement or assess new charges in addition to those approved by the Commission for
11 existing functions. In Staff's opinion, Qwest and CenturyLink cannot impose new charges
12 for existing functions where the Commission has already approved the pricing for those
13 functions. Staff recommended Condition 33 following a review of Cox's Direct
14 Testimony⁴ which calls into question policies and practices by CenturyLink outside of
15 Arizona. Condition 33 was recommended by Staff to ensure that there would be no
16 additional charges for existing functions, since such charges would clearly not be
17 appropriate especially where such existing charges were signed off on by the Commission
18 in a generic pricing docket. Qwest has not provided any compelling reason to change
19 Condition 33, and Staff continues to support its adoption.
20

21 **STAFF CONDITION 47**

22 **Q. What other conditions is Qwest opposed to that you are sponsoring?**

23 A. Condition 47 which simply requires that the Company evaluate three existing cases and
24 make a good faith effort to resolve them if possible. Qwest witness Campbell states that
25 Qwest is opposed to Staff Condition 47 because it "requests that Qwest abandon its legal

⁴ Direct Testimony of Kim Howell on Behalf of Cox Arizona Telcom, September 27, 2010

1 rights to pursue certain litigation involving Qwest and the Commission related to previous
2 orders. It is inappropriate for Staff to recommend that the Merged Company abandon its
3 legal rights to appeal as a condition of merger approval.” Mr. Campbell ends by stating
4 “Recommended Condition 47 is both unacceptable and inappropriate.”

5
6 Qwest has clearly misinterpreted Condition 47 in suggesting that it is being required to
7 abandon its legal rights to appeal as a condition of merger approval. This is not the intent.
8 Condition 47 was very carefully crafted to ensure that this was not the case. Staff is
9 suggesting that Qwest must abandon its legal rights in cases in order to obtain merger
10 approval.

11
12 Staff’s recommendation requires only that Qwest “evaluate” existing litigation (3 cases)
13 and make a good faith effort to resolve the cases without further litigation. Two of the
14 cases identified by Staff are currently in the federal courts and the other is before the
15 Commission. The issues involved in these cases are narrow and involve collocation
16 power charges, the CMP process and the compensation for VNXX ISP bound traffic for a
17 limited time period. These cases all involve Qwest’s dealings with the CLECs in Arizona.
18 Staff believes that Qwest and CenturyLink could engender some goodwill with the
19 Commission and the CLECs by attempting to resolve these disputes through negotiation
20 and discussion rather than continuing on the current path of litigation. Importantly,
21 Condition 47 does not require, however, that Qwest settle any of these cases. Even if this
22 Condition were adopted, Qwest and CenturyLink could still decide to pursue litigation if
23 its evaluation and efforts suggested that compromise was unlikely. In other words, Qwest
24 and CenturyLink are not being asked to abandon any legal rights by Staff. Staff continues
25 to support Condition 47.

1 **STAFF'S RESPONSE TO THE REBUTTAL TESTIMONY OF CENTURYLINK**

2 **Q. Does CenturyLink raise any issues with your direct testimony?**

3 A. Yes. CenturyLink witness Jeff Glover takes exception at page 5-6 of his Rebuttal
4 Testimony to Staff's direct testimony regarding the public interest standard for reviewing
5 the proposed merger. Mr. Glover's comments seem to argue that strict legal adherence to
6 the 3 part standard contained in A.A.C. R14-2-803(C) which provides that the
7 Commission may reject the proposal if it determines that it would impair the financial
8 status of the public utility, otherwise prevent it from attracting capital at fair and
9 reasonable terms, or impair the ability of the public utility to provide safe, reasonable and
10 adequate service. I would note first that this is a legal issue which Staff Counsel will
11 address in its briefs. I would like to point out however that the Commission traditionally
12 makes a public interest determination regardless of the basis for its jurisdiction over
13 mergers or acquisitions such as is occurring in this case. I believe that the public interest
14 standard can be tied directly to the standard under the Affiliated Interest Rules referred to
15 by Mr. Glover. The requirement that the utility continue to be able to provide safe,
16 reasonable and adequate service is a very broad standard, and would seem to encompass
17 many public interest type considerations. When Staff's various conditions are considered,
18 many of them are necessary in order for Staff to affirmatively state that the three prong
19 test is met and that the transaction is therefore in the public interest.

20
21 Ms. McMillan suggests as much in her rebuttal testimony explaining at pages 5-6 that she
22 believes satisfactory information responsive to the Affiliated Interest Rules, interpreted by
23 Staff to mean A.A.C. R14-2-803(A), is the standard for determining if the proposed
24 merger is in the public interest. The public interest standard has traditionally been used by
25 the Commission to determine whether mergers should be approved regardless of the
26 asserted basis of Commission jurisdiction. I disagree with Ms. McMillan to the extent she

1 suggests that the Commission can find that this standard is met without the Staff's
2 recommended conditions.

3
4 **Q. Does CenturyLink raise any other issues with your direct testimony?**

5 A. Yes. Ms. McMillan at page 17 corrects a statement I made in my direct testimony
6 regarding the status of proceedings in other states. She is correct that while many of
7 Staff's proposed conditions parallel those proposed in other states, most of those states
8 have not made final determinations with respect to the merger conditions that will be
9 adopted. My reference to conditions "adopted" in other states was inadvertent and I agree
10 with Ms. McMillan that instead of the word "adopted" I should have used the word
11 "proposed".

12
13 **Q. Does CenturyLink raise any other issues with your direct testimony?**

14 A. Yes. Mr. Schafer at page 5 of his rebuttal testimony devotes several paragraphs
15 responding to Staff's concerns about "the lack of details that CenturyLink has provided
16 with regard to its implementation plans with Qwest." Mr. Schafer spent considerable
17 effort explaining how CenturyLink has "goals", how a comprehensive review of all
18 systems is "very complex and time consuming", how many decisions cannot be made
19 "pre-merger, and how Qwest and CenturyLink are applying a "disciplined method" to
20 integration planning.

21
22 Staff does not take issue with the Applicants on the above points. Nonetheless, it is
23 difficult to find that the criteria for approval are met including the public interest standard
24 when there is a lack of information concerning so many important aspects of this
25 transaction. It is for this reason that Staff has offered many conditions which if adopted
26 will provide some definition and detail in important areas which in Staff's opinion directly

1 impact the Applicants ability to provide safe, reasonable and adequate service and to
2 ensure that the public interest is met. These findings cannot be made by the mere
3 expression of goals, objectives, and good intentions. Absent details that would lend more
4 substance to the goals, objectives and good intentions of the proposed transaction, Staff
5 has proposed conditions which make up for this lack of information in many cases.
6

7 **STAFF CONDITION 4**

8 **Q. What other conditions does CenturyLink take issue with?**

9 A. Yes. At page 18 of her rebuttal testimony, Ms. McMillan objects to Staff Condition 4
10 which parallels a condition proposed by some of the other state staffs. It allows a party to
11 bring conditions adopted in other states and the FCC back to the Commission for possible
12 consideration of adoption by the Commission. Ms. McMillan states that “CenturyLink
13 strongly objects” offering as her initial reason that “Any individual state conditions that
14 may be imposed on the proposed Transaction should be based on state-specific approval
15 standards, facts, circumstances and regulations.” Ms. McMillan adds that the condition
16 augurs an “unfeasible” scenario for importing and incorporating records from other states;
17 that the condition would “burden the resources” of the Commission; the condition
18 represents a “latent, future unplanned expense”; the condition could “negatively impact
19 integration efforts”; that the condition could “set back the delivery of specific plans” by
20 the Applicants; and, that there is “no justification for needlessly prolonging” the process
21 with this condition.
22

23 Staff clarifies that Condition 4 really simply states rights that parties already have under
24 Arizona law. Under A.R.S. Section 40-252, any party may seek amendment of a
25 Commission order. However, in that event, Qwest/CenturyLink would be entitled to a

1 hearing and at that time any specific facts could be presented why such conditions would
2 not be appropriate in Arizona.

3
4 **STAFF CONDITION 5**

5 **Q. Does CenturyLink discuss its position regarding Staff Condition 5?**

6 A. Yes. Ms. McMillan at page 19 of her Rebuttal Testimony states that upon merger close,
7 the legacy Qwest ILEC will continue to be classified as a BOC pursuant to federal law and
8 remain subject to requirements applicable to BOCs including the “competitive checklist”
9 set forth in section 271(c)(2)(B) of the 1996 Act and therefore there is no need to include a
10 state specific condition. Apparently most state staffs in the Qwest ILEC region disagree,
11 as almost all of the state staffs have recommended that this condition be included as a
12 condition of merger approval. Staff believes the condition is appropriate and should be
13 retained.

14
15 **STAFF CONDITION 6**

16 **Q. Does CenturyLink have other objections to Staff’s conditions?**

17 A. Yes. Mr. Hunsucker at page 21 of his Rebuttal Testimony suggests that Staff Condition 6
18 is not necessary. Condition 6 states that the Merged Company shall continue to comply
19 with all Section 271 obligations adopted by this Commission and the FCC, including all
20 Qwest Performance Assurance Plan (“QPAP”) and Performance Indicator Definition
21 (“PID”) obligations, until it is released of those obligations by the FCC and this
22 Commission, as appropriate. Mr. Hunsucker states that post merger the Company intends
23 to adhere to the terms of existing regulatory and contractual requirements and plans
24 inclusive of those regulations and contracts, inclusive of any time-bound terms. If that is
25 the case, the Company should have no problem with Staff Condition 6 which provides for
26 no more than is required by current law. Mr. Hunsucker makes reference to “artificial

1 extension of a plan” saying that it could constrain Qwest from proposing an overall
2 improvement that would benefit wholesale customers. Mr. Hunsucker’s concerns are
3 unwarranted; as Condition 6 does not require any artificial extension of any plan. Staff
4 believes Condition 6 merely reaffirms Qwest’s obligations under current law.

5 Staff continues to support Condition 6.
6

7 **STAFF CONDITION 8**

8 **Q. Does CenturyLink discuss its position regarding Staff Condition 8?**

9 A. Yes. Mr. Glover at page 20 of his Rebuttal Testimony simply states that Staff Condition 8
10 is unnecessary. Staff Condition 20 requires the post-merger company to maintain its books
11 and records in accordance with the Uniform System of Accounts and to provide the
12 Commission financial data on a separated intrastate basis for as long as required by the
13 Commission. Mr. Glover states that CenturyLink has complied with and intends to
14 comply with all applicable rules and regulations regarding its books and records.
15

16 Staff believes that this condition continues to be important especially given changes that
17 continue to occur at the federal level in this area. It is difficult to keep up with the number
18 of forbearance petitions that are filed with and granted by the FCC. Staff Condition 8
19 merely assures that the Commission will have the information it needs to make decisions
20 until it determines that it no longer needs the information.
21

22 Staff continues to support Condition 8.

1 **STAFF CONDITION 9**

2 **Q. What is CenturyLink's position on Staff Condition 9?**

3 A. CenturyLink opposes it. Staff Condition 9 requires the Merged Company to notify the
4 Commission of any proposed internal reorganization (merger) of the ILEC operating
5 companies of CenturyTel, Embarq and/or Qwest. CenturyLink must also file an
6 application pursuant to applicable statutes and A.A.C. R14-2-801 et seq. for Commission
7 approval before any such merger occurs. Ms. McMillan at pages 20-21 of her Rebuttal
8 Testimony states that Staff Condition 9 should be rejected because (1) Qwest will be the
9 only post-merger ILEC operating in Arizona and (2) consolidation is not likely to occur.
10 She also states that to the extent consolidation does occur, the post-merger company will
11 comply with all existing statutes and regulations. Staff continues to support Condition 9
12 because Qwest may ultimately argue that any merger of the various ILEC operating
13 companies would relieve it of its 271 obligations. Because of the potential impact of this
14 type of internal reorganization, Staff believes that Condition 9 is necessary. Staff
15 continues to support Condition 9.

16
17 **STAFF CONDITION 10**

18 **Q. Does CenturyLink discuss its position regarding Staff Condition 10?**

19 A. Yes. Mr. Glover at page 20 of his Rebuttal Testimony does not appear to object to Staff
20 Condition 10 which requires the Merged Company to provide to the Commission access to
21 its books and records and those of its subsidiaries, in a form acceptable to the
22 Commission, to the extent deemed necessary by the Commission to ensure the provision
23 of service at just and reasonable rates in the future. Mr. Glover states that "CenturyLink
24 will continue to abide by all current rules and regulations regarding access to books and
25 records, as well as all Qwest and CenturyLink agreements that remain in force as of
26 closing."

1 **STAFF CONDITION 11**

2 **Q. What is CenturyLink's position on Staff Condition 11?**

3 A. Ms. McMillan ends her Rebuttal Testimony at pages 21-22 by stating that "This merger
4 proceeding is not the proper forum to force the cancellation of a certificated right." Staff
5 disagrees. CenturyTel Solutions has statewide CLEC authority while QCC's CC&N has
6 limited authority within QC's service areas. QCC's CC&N only allows for the provision
7 of local exchange service to business accounts with four (4) access lines or above within
8 the ILEC service territories of QC. QCC is not allowed to provide local exchange
9 residence service within QC's service areas. Outside of QC's ILEC areas, QCC has no
10 restrictions for residence or business. Without the conditions within QC's ILEC areas,
11 Staff believes that a CLEC, such as QCC, could migrate customers from an affiliate ILEC,
12 such as QC, and thereby impact the regulated rate base and potentially the service quality
13 that could be economically provided to ILEC end-user customers. CenturyTel Solutions
14 CC&N is clearly in conflict with the QCC CC&N. Allowing a post-merger company to
15 have certificated entities whose CC&Ns are in conflict is not in the public interest.
16 However, if CenturyLink is willing to accept the same restrictions that apply to QCC's
17 CC&N, Staff is willing to withdraw its condition requiring cancellation of CenturyTel
18 Solutions' CC&N. Staff continues to support Condition 11.

19
20 **STAFF CONDITION 19**

21 **Q. Does CenturyLink have a concern regarding Staff Condition 19?**

22 A. Yes. Staff Condition 19 is very similar to conditions proposed by state commission staffs
23 in other states and request that the Merged Company for a period of three years following
24 merger close keep intact pre-merger OSSs that support wholesale services in Arizona,
25 unless the Merged Company obtains Commission approval to make changes prior to that
26 time. Most of the conditions similar to this offered by other state staffs contained a

1 blanket prohibition. Staff believed that some discretion should be given the post-merger
2 Company in this regard and thus added the clause “unless the Merged Company obtains
3 Commission approval to make changes prior to that time.” Mr. Hunsucker at page 23 of
4 his Rebuttal Testimony states that “Three years is unreasonably long if changing the
5 Qwest OSS system is in the best interest of the Company and its customers, as determined
6 by thorough review, and if such change is undertaken in compliance with ICAs and
7 applicable requirements, including notice.” Staff Condition 19 ends with “unless the
8 Merged Company obtains Commission approval to make changes prior to that time.” As
9 Mr. Hunsucker on page 23 also states that “CenturyLink plans to operate both the
10 CenturyLink and the Qwest OSS systems for 12 months, in the very least.” In addition, in
11 a recent Settlement Agreement with in Minnesota provides that the Merged Company will
12 use legacy Qwest OSS for at least two years or until July 1, 2013, whichever is later. So,
13 we are really talking about an additional year, and the Company can seek Commission
14 approval to make those changes. Staff believes the condition to be reasonable. Staff
15 continues to support Condition 19.
16

17 **STAFF CONDITION 20**

18 **Q. What is CenturyLink’s position on Staff Condition 20?**

19 A. Mr. Hunsucker at page 22 of his Rebuttal Testimony responds to what he calls an onerous
20 notice requirement pertaining to the integration of Qwest’s OSS with CenturyLink’s OSS.
21 Staff would first note that this is one of the major issues in this case. Staff would also note
22 that this condition is similar to that proposed by other state commission staffs. The notice
23 and information provided as a result of this condition is different from that provided
24 through the CMP. However, to the extent that the Company is willing to adopt a
25 requirement contained in settlements in other jurisdictions, Staff would be willing to

1 modify some of the requirements of this condition if the Merged Company would be
2 willing to accept condition 12 from the Minnesota Settlement Agreement.

3
4 **STAFF CONDITION 25**

5 **Q. Does CenturyLink discuss its position regarding Staff Condition 25?**

6 A. Yes. Mr. Hunsucker at page 25 of his Rebuttal Testimony states that Staff Condition 25 is
7 not appropriate. This condition requires the Merged Company to for three years following
8 merger close, allow requesting carriers to extend existing interconnection agreements,
9 pending the negotiation of newly negotiated agreements. Mr. Hunsucker states that it is
10 not appropriate for a merger process to be used to mandate an extension that would not be
11 required under federal law. In addition Mr. Hunsucker states that Staff has not
12 demonstrated that there is a need for an artificial extension of the ICA terms. Staff notes
13 that Joint CLEC Condition 7 was very similar but referenced a time frame that could be
14 3.5-7 years. Staff's Condition 25 is much simpler and shorter in time frame. Staff also
15 notes that the Joint CLEC direct testimony of Dr. August Ankum at page 78 references a
16 similar provision and voluntary commitment to the FCC by AT&T and BellSouth in their
17 merger. Dr. Ankum also explains that a similar condition was adopted by the Illinois
18 Commerce Commission, the Public Utilities Commission of Ohio and the Oregon Public
19 Utilities Commission in the Frontier acquisition of Verizon properties in 2009. Staff
20 continues to support Condition 25. Its proposed condition is not out of line with similar
21 conditions imposed by other regulatory agencies for mergers of large telecommunications
22 companies. The Merged Company appears to have agreed to the 36 month timeframe in
23 at least one other settlement agreement in another state. (See Minnesota Settlement
24 Agreement page 4.)

1 **STAFF CONDITION 26**

2 **Q. Does CenturyLink discuss its position regarding Staff Condition 26?**

3 A. Yes. Mr. Hunsucker responds to Staff Condition 26 at page 26 of his Rebuttal Testimony.
4 Staff Condition 26 requires the post merger Company to continue to make available
5 Qwest's wholesale intrastate service offerings available to competitive carriers as of the
6 merger filing date for two years after the close of the merger unless discontinuation was
7 approved by the Commission. While Mr. Hunsucker opposes this Staff condition, he
8 offers no compelling reasons for Staff to change its opinion. Staff continues to support
9 Condition 26.

10

11 **STAFF CONDITION 27**

12 **Q. Does CenturyLink discuss its position regarding Staff Condition 27?**

13 A. Yes. Staff Condition 27 requires that the Merged Company ensure that wholesale and
14 CLEC support centers are sufficiently staffed with adequately trained personnel dedicated
15 exclusively to wholesale operations and provide a level of service comparable to that
16 provided to the Qwest service areas prior to the merger. Mr. Hunsucker states at page 27
17 of his Rebuttal Testimony that Staff Condition 27 is not necessary because the provision
18 of quality service to wholesale customers is a priority and will remain so after the merger
19 closing. Mr. Hunsucker also interprets Condition 27 as being too vague. Staff believes
20 that Condition 27 continues to be necessary in that it requires a level of service
21 comparable to that provided to the Qwest service areas prior to the merger. There is
22 nothing vague about this condition nor does it eliminate any discretion on the part of the
23 Company. Staff continues to support Condition 27.

1 **STAFF CONDITION 29**

2 **Q. Does CenturyLink discuss its position regarding Staff Condition 29?**

3 A. Yes. Mr. Hunsucker at pages 28-29 of his Rebuttal Testimony states that this condition is
4 unnecessary. Condition 29 requires the Merged Company to continue to make available
5 to each wholesale carrier in Arizona the types of information that Qwest made available as
6 of the Merger Filing Date concerning wholesale OSS functions and wholesale business
7 practices and procedures, including information provided via the wholesale web site,
8 notices, industry letters, the change management process, and databases/tools. Mr.
9 Hunsucker states that CenturyLink pledges to give its CLEC customers ample and
10 adequate notice of any future changes in compliance with all rules and terms of their
11 interconnection agreements and accepted business practices. Staff believes that more than
12 a pledge is required and is not convinced that Condition 29 is not necessary. Staff
13 continues to support Condition 29.

14
15 **STAFF CONDITION 30**

16 **Q. Does CenturyLink discuss its position regarding Staff Condition 30?**

17 A. Yes. Mr. Hunsucker at page 29 of his Rebuttal Testimony responds to Staff Condition 30
18 by stating that “a CLEC has the right to propose terms from any existing ICA, or any other
19 terms, that it wishes to use.” Staff Condition 30 would allow a requesting competitive
20 provider to use any approved Interconnection Agreement (“ICA”) in Arizona, as the basis
21 for negotiating a replacement ICA. Mr. Hunsucker notes that “federal law does not
22 contemplate the ILEC being constrained before the fact from utilizing the same right
23 under law to propose the terms it believes are most appropriate.” Staff did not intend to
24 place any constraint on the Merged Company from proposing terms that it believes are
25 appropriate as well.

1 Staff is willing to withdraw Condition 32 relating to the SGAT, as long as CenturyLink
2 accepts Staff's Condition 30.

3
4 **STAFF CONDITION 46**

5 **Q. Does CenturyLink discuss its position regarding Staff Condition 46?**

6 A. Yes. Mr. Glover states his objections to Staff Condition 46 at pages 24-25 of his Rebuttal
7 Testimony. Condition 46 imposes some reporting obligations on the post-merger
8 Company which will give the Commission some important comparative information in
9 which to assess the impacts of the merger in Arizona. Mr. Glover's objections are four-
10 fold. Condition 46 is (1) unnecessary, (2) potentially harmful, (3) not as important as
11 service metrics and (4) attempts micromanagement.

12
13 Condition 46 is designed to offer insight into the merger's impact upon expense,
14 investment and employee ratios and to ensure that these remain within reasonable ranges
15 post-merger and that and CenturyLink's synergy and product development plans, such as
16 IPTV, do not result in the extraordinary diversion or reduction of ILEC resources.

17
18 Staff is willing to limit this reporting to the first three years following merger close. In
19 this regard, Staff is replacing the first sentence of Condition 46 with the following:

20
21 "That for each of the first three years following merger close, the Merged Company
22 shall *report* (emphasis added) the Qwest Operating Expense per 1,000 Working
23 Access Lines, Annual Investment per 1,000 Working Access Lines, and Full-Time
24 Equivalent Employees per 1,000 Working Access Lines ratios by Wire Center,
25 calculated on the same basis as the ratios provided by Qwest but averaged for years
26 2008, 2009 and 2010."

27
28 Further, substituting a reporting requirement for key ratios in place of a requirement that
29 Qwest "maintain or improve" key ratios removes the micromanagement concern by

1 CenturyLink while providing key information which, combined with service quality
2 results, still affords the Commission the basis on which to evaluate post-merger
3 performance. Staff supports the Condition 46, as revised.
4

5 **SUMMARY AND CONCLUSIONS**

6 **Q. Please summarize Staff's modifications to the recommendations included in its**
7 **October 13, 2010 direct testimony?**

8 A. Yes. As discussed in the Surrebuttal Testimony of Staff Witness Pamela Genung, Gordon
9 Fox and my own, the following revisions are recommended to Staff's RECOMMENDED
10 CONDITIONS FOR APPROVAL contained in Attachment 1 of Staff's October 13, 2010
11 Direct Testimony.

12 Condition 12: Replaced with the following:

13
14 That the Merged Company for a period of three years following merger close shall not
15 file to make changes to its Service Quality Tariff; unless recommended by the Quality
16 of Service Task Force and the Commission.
17

18 Condition 17: Replaced with the following:

19
20 That the Merged Company, *for a period of 3 years*, (emphasis added) shall give at
21 least 6 months notice of any plans to integrate portions of Qwest's retail support
22 systems with portions of the CenturyLink and/or Embarq systems. If the integration is
23 to be accomplished in phases, 6-month notice shall be given before each separate
24 phase. The Merged Company shall make a filing with the Commission in this Docket
25 detailing the proposed integration, the schedule in which it is to be accomplished and a
26 detailed plan of integration. The Merged Company shall indicate what support system
27 is being replaced and what support system will survive. It shall also discuss any
28 anticipated problems and any problems that occurred with similar integrations in other
29 jurisdictions and how such problems will be mitigated in Arizona. The Merged
30 Company shall be required to demonstrate that the proposed integration, where it
31 affects retail operations, will not result in a degradation of current Qwest retail support
32 systems.
33

34 Condition 20: Willing to reconsider this condition if the Merged Company agrees to
35 accept condition 12 from the Minnesota Settlement Agreement.
36

37 Condition 31: Withdrawn on the condition that Condition 47(c) is accepted.

1 Condition 32: Withdrawn on the condition that Condition 30 is accepted.
2

3 Condition 38: Replaced with the following:
4

5 The Merged Company shall report to the Commission actual synergy savings as
6 opposed to proposed synergy savings resulting from the proposed transaction on an
7 annual basis from the date of merger closing for a period of three years. At a
8 minimum, the report shall provide the following information: a) costs and projected
9 savings associated with each respective activity on a Merged Company basis; b)
10 consolidation and organizational changes to network operations and staffing levels in
11 Arizona; c) impacts on Arizona operations and customers.
12

13 Condition 40: Withdrawn.

14 Condition 42: Withdrawn. Satisfactorily addressed by Conditions 17 and 20.

15 Condition 45: Replaced with the following:
16

17 That for three years following merger close an Executive Vice President or Chief
18 Financial Officer of the Merged Company shall certify to the Commission annually for
19 three years that all Arizona CenturyLink entities are in compliance with all conditions
20 contained in the Commission's decision in this matter.
21

22 Condition 46: Replaced with the following:
23

24 That for each of the first three years following merger close, the Merged Company
25 shall *report* (emphasis added) on the Qwest Operating Expense per 1,000 Working
26 Access Lines, Annual Investment per 1,000 Working Access Lines, and Full-Time
27 Equivalent Employees per 1,000 Working Access Lines ratios by Wire Center,
28 calculated on the same basis as the ratios provided by Qwest but averaged for years
29 2008, 2009 and 2010. Qwest shall provide within 60 days of a Commission decision
30 approving the proposed merger Operating Expense per 1,000 Working Access Lines,
31 Annual Investment per 1,000 Working Access Lines, and Full-Time Equivalent
32 Employees per 1,000 Working Access Lines ratios by Wire Center for the years 2008,
33 2009 and 2010.
34

35 Staff's updated RECOMMENDED CONDITIONS FOR APPROVAL are contained in
36 Attachment 1 to this Surrebuttal Testimony.
37

38 **Q. Does this conclude your direct testimony?**

39 **A. Yes, it does.**

1 ATTACHMENT 1

2
3 STAFF'S RECOMMENDED CONDITIONS FOR APPROVAL
4

5 MERGER COSTS

- 6 1. That CenturyLink and Qwest Corporation ("the Merged Company") shall not recover, or
7 seek to recover, through wholesale service rates or other fees paid by Competitive Local
8 Exchange Carriers ("CLECs") or through Arizona end-user retail rates, and will hold both
9 wholesale and retail customers harmless for, one-time transfer, branding, or any merger or
10 transaction-related costs.
- 11 2. That the Merged Company shall provide the Arizona Corporation Commission
12 ("Commission") with access to all books of account, all documents, data, and records that
13 pertain to the proposed merger.
- 14 3. That the Commission reserves the right to review, for reasonableness, all financial aspects
15 of this transaction at any time and in any rate proceeding or earnings review, regardless of
16 the form of regulation.

17 REGULATORY

- 18 4. That even after merger approval by the Commission, any party may bring conditions
19 adopted in other states and the Federal Communications Commission ("FCC") back to the
20 Commission for review and possible adoption in Arizona. The Commission will consider
21 such requests, allowing for a hearing if requested.
- 22 5. After merger close, the legacy Qwest Incumbent Local Exchange Company ("ILEC")
23 territory shall continue to be classified as a Bell Operating Company ("BOC"), pursuant to
24 Section 3(4)(A)-(B) of the Communications Act and shall be subject to all requirements
25 applicable to BOCs, including but not limited to the "competitive checklist" set forth in
26 Section 271(c)(2)(B) of the Act.
- 27 6. REPLACED WITH THE FOLLOWING: That *CenturyLink agrees* (emphasis added) the
28 Merged Company shall continue to comply with all Section 271 obligations adopted by this
29 Commission and the FCC, including all Qwest Performance Assurance Plan ("QPAP") and
30 Performance Indicator Definition ("PID") obligations, until it is released of those
31 obligations by the FCC and this Commission, as appropriate.
- 32 7. That the Merged Company shall continue to comply with all *relevant* (emphasis added)
33 prior Commission orders and decisions, unless the Commission specifically finds in an
34 order that they are no longer applicable.

- 1 8. That the Merged Company shall agree to maintain its books and records in accordance with
2 the FCC's Universal System of Accounts ("*USOA*") (emphasis added) and to provide the
3 Commission with financial data on a separated intrastate basis for as long as required by the
4 Commission.
- 5 9. That the Merged Company *agrees to* (emphasis added) notify the Commission of any plans
6 to merge the ILEC operating companies of CenturyTel, Embarq and/or Qwest at least one
7 year before any proposed internal reorganization. *The Merged Company* (emphasis added)
8 agrees to file an application pursuant to applicable statutes and A.A.C. R14-2-801 et seq. for
9 Commission approval before any such merger occurs.
- 10 10. That the Merged Company (including any affiliates and subsidiaries) shall provide to the
11 Commission access to its books and records and those of its subsidiaries, in a form
12 acceptable to the Commission, to the extent deemed necessary by the Commission to ensure
13 the provision of service at just and reasonable rates in the future.

14 **RETAIL OPERATIONS**

- 15 11. That within 90 days following merger close, CenturyTel Solutions file for cancellation of its
16 CLEC Certificate of Convenience & Necessity ("CC&N") granted by Decision No. 63638.
- 17 12. REPLACED WITH THE FOLLOWING: That the Merged Company for a period of three
18 years following merger close shall not file to make changes to its Service Quality Tariff;
19 unless recommended by the *Quality of Service* (emphasis added) Task Force *and* (emphasis
20 added) the Commission.
- 21 13. That the Merged Company for a period of three years following merger close shall not file
22 to obtain funds from the Arizona Universal Service Fund ("AUSF").
- 23 14. That the Merged Company shall maintain or improve its pre-merger complaint status in the
24 Qwest Arizona service areas.
- 25 15. That the Merged Company shall ensure that Retail support centers are sufficiently staffed
26 with adequately trained personnel who will provide a level of service comparable to that
27 provided in the Qwest service areas prior to the merger. If the Merged Company (within
28 three years following the date the transaction closes) plans to make any rearrangements of
29 major network components (such as business office and trouble reporting call centers,
30 Network Operations Control Centers, E911 systems, access and local tandems), 90 days
31 before such changes, the Merged Company will provide Staff with a rearrangement plan
32 discussing the changes to be made and their timeframes.
- 33 16. That no Commission-regulated intrastate retail service currently offered by Qwest will be
34 discontinued for a period of at least one year following the Closing Date, except as approved
35 by the Commission.
- 36 17. That the Merged Company, *for a period of 3 years*, (emphasis added) shall give at least 6
37 months notice of any plans to integrate portions of Qwest's retail support systems with

1 portions of the CenturyLink and/or Embarq systems. If the integration is to be
2 accomplished in phases, 6-month notice shall be given before each separate phase. The
3 Merged Company shall make a filing with the Commission in this Docket detailing the
4 proposed integration, the schedule in which it is to be accomplished and a detailed plan of
5 integration. The Merged Company shall indicate what support system is being replaced and
6 what support system will survive. It shall also discuss any anticipated problems and any
7 problems that occurred with similar integrations in other jurisdictions and how such
8 problems will be mitigated in Arizona. The Merged Company shall be required to
9 demonstrate that the proposed integration, where it affects retail operations, will not result in
10 a degradation of current Qwest retail support systems.

11 18. That the Merged Company shall provide the Commission with an Internet Protocol
12 Television ("IPTV") and Broadband deployment plan within six months of a decision in this
13 matter for Commission consideration.

14 **WHOLESALE OPERATIONS**

15 19. That the Merged Company shall for a period of three years following merger close keep
16 intact pre-merger Operational Support Systems ("OSSs") that support wholesale services in
17 Arizona, unless the Merged Company obtains Commission approval to make changes prior
18 to that time.

19 20. REPLACED WITH THE FOLLOWING: That the Merged Company shall give at least 6
20 months notice to the Commission and CLECs of any plans to integrate portions of Qwest's
21 wholesale OSSs with portions of the CenturyLink and/or Embarq OSS. If the integration is
22 to be accomplished in phases, 6-month notice should be given before each separate phase.
23 The Merged Company shall make a filing with the commission in this Docket explaining the
24 proposed integration, a schedule for its implementation and a detailed plan of integration.
25 The Merged Company shall indicate what support system is being replaced and what
26 support system will survive. This notice required by this condition is intended to be
27 separate from any notice required through the CMP. The Merged Company shall coordinate
28 any transition with the CLECs. The Company shall make the replacement OSS and testing
29 environment available for testing by the CLEC at no charge.

30 21. That following merger close, the Merged Company shall continue to comply with the
31 provisions of the QPAP (including the existing PIDs and penalty provisions) that are in
32 effect as of the merger filing date until such time as the integration of the Merged
33 Company's wholesale systems affecting Arizona has been completed and until there is at
34 least one year of performance data under the integrated systems and such performance data
35 demonstrates that there has been no increase in penalties under the QPAP due to the
36 integration of the Merged Company's wholesale systems. Qwest shall continue to comply
37 with all current reporting obligations.

38 22. That Docket No. T-01051B-03-0859, which is currently examining the Liberty Report and
39 Qwest's proposed changes to the QPAP shall be suspended pending the completion of the
40 obligations discussed in Item 21 above. Notwithstanding, given the changeover from EDI

- 1 to XML, the Merged Company shall incorporate XML in place of EDI in any relevant
2 metrics as it has already done in Colorado, Utah and Montana. Any changes to the PIDs or
3 QPAP must be approved by the Commission.
- 4 23. That the Merged Company must maintain Qwest's post-merger wholesale OSS performance
5 at levels that are at least equal to those provided by Qwest before the merger's closing date.
6 The Merged Company should be on notice that any decrease in performance levels may be
7 subject to higher penalty levels.
- 8 24. That the Merged Company shall continue with the Qwest Change Management Process
9 ("CMP"), utilizing the terms and conditions set forth in the Qwest CMP Document,
10 including those terms and conditions governing changes to the CMP Document. The
11 Merged Company shall be required to meet with the CLECs and adopt changes to the CMP
12 process which will allow for meaningful input by the CLECs on any proposed changes. The
13 Merged Company shall agree to complete all CLEC change requests in a commercially
14 reasonable timeframe.
- 15 25. That the Merged Company shall continue to honor all obligations under Qwest's current
16 interconnection agreements, tariffs, and other existing contractual arrangements with
17 CLECs. That for three years following merger close, the Merged Company shall allow
18 requesting carriers to extend existing interconnection agreements, pending the completion of
19 newly negotiated agreements.
- 20 26. That no Qwest wholesale intrastate service offered to competitive carriers as of the merger
21 filing date will be discontinued for two years after closing of the merger, unless approved by
22 the Commission.
- 23 27. That the Merged Company shall ensure that Wholesale and CLEC support centers are
24 sufficiently staffed with adequately trained personnel dedicated exclusively to wholesale
25 operations and will provide a level of service comparable to that provided to the Qwest
26 service areas prior to the merger.
- 27 28. After the Closing Date of the transaction, the Merged Company shall provide and maintain
28 updated escalation information, contact lists and account manager information that are in
29 place at least 30 days prior to the transaction close date. For changes to support center
30 location, organizational structure, or contact information, the Merged Company will provide
31 at least 30 days advance written notice to all CLECs and Commission.
- 32 29. The Merged Company shall continue to make available to each wholesale carrier in Arizona
33 the types of information that Qwest made available as of the Merger Filing Date concerning
34 wholesale OSS functions and wholesale business practices and procedures, including
35 information provided via the wholesale web site, notices, industry letters, the change
36 management process, and databases/tools.
- 37 30. That the Merged Company shall allow a requesting competitive provider to use any
38 approved Interconnection Agreement ("ICA") in Arizona, as the basis for negotiating a
39 replacement ICA.

1 31. WITHDRAWN ON THE CONDITION THAT CONDITION 47(c) IS ACCEPTED: That
2 the Merged Company shall offer an amendment to ICAs which provides for compensation
3 for all ISP-bound traffic (including VNXX traffic) at the rate of \$.0004 per minute. This is
4 consistent with a provision contained in Embarq's (a subsidiary of CenturyLink) ICA with
5 Level 3. The amendment shall only be available to carriers to the extent they agree to
6 resolve any pending disputes before the Commission based upon the same terms and
7 conditions.

8 32. WITHDRAWN ON THE CONDITION THAT CONDITION 30 IS ACCEPTED: That the
9 Merged Company shall be required to update *Qwest's* (emphasis added) Statement of
10 Generally Available Terms and Conditions ("SGAT") on file with the Commission to
11 include the jointly negotiated Triennial Review language included in the most recent
12 Eschelon-Qwest ICA. The Merged Company shall file the revised SGAT within 60 days of
13 merger closing and it shall remain in effect for a period of at least 3 years from the
14 Commission's Order approving the merger in this docket. *CenturyLink* (emphasis added)
15 shall be required to obtain Commission approval prior to its withdrawal of the SGAT.

16 33. That the Merged Company shall not impose any new or additional charges upon CLECs for
17 functions already undertaken by Qwest without the prior approval of the Commission.

18 **FINANCIAL**

19 34. That in the event that equity-to-total capital ratio falls below 40.0 percent for the post-
20 merger CenturyLink, Inc. and/or for any of its Arizona subsidiaries, CenturyLink, Inc.
21 and/or the Arizona subsidiary/subsidiaries affected, should be required to file notice in this
22 Docket providing the reasons why the equity-to-total capital ratio decreased and a plan on
23 how to reach an equity-to-total capital ratio above 40.0 percent.

24 35. That the Merged Company be required to report any of the following events: 1) default on
25 any loan by CenturyLink, Inc. or any of its Arizona subsidiaries; 2) a delisting of
26 CenturyLink from trading in a major trading exchange; and 3) CenturyLink, Inc. or any of
27 its Arizona subsidiaries is rated with a non-investment rate grading by Fitch Ratings,
28 Standard and Poor's or Moody's Investor Services or their successors. That CenturyLink,
29 Inc.'s Arizona subsidiaries effectively utilize their access to the capital markets provided
30 through their parent company as necessary and appropriate to maintain an adequate capital
31 structure and to provide funds for capital and operational needs. CenturyLink shall make its
32 filing with the Commission no later than 30 days subsequent to filing its quarterly report on
33 Form 10-Q or its annual report on Form 10-K with the Securities and Exchange
34 Commission following the event.

35 36. CenturyLink will not seek to recover any acquisition adjustment paid for Qwest.

36 **REPORTING**

37 37. That following merger close the Merged Company shall annually submit a Consumer
38 Benefits Report to Docket Control. The first report shall be submitted no later than April 15,
39 2012, and annually for a period of three years. The Consumer Benefits Report shall include

- 1 in detail any cost savings that have resulted from the Merger and have been passed on to
2 consumers. In addition, this report should include improvement in the Merged Company's
3 complaint level in Arizona; new services, including bundles available to customer;
4 improvement in service quality measures, infrastructure improvements; and expanded
5 broadband coverage.
- 6 38. REPLACED WITH THE FOLLOWING: The Merged Company shall report to the
7 Commission actual synergy savings as opposed to proposed synergy savings resulting from
8 the proposed transaction on an annual basis from the date of merger closing for a period of
9 three years. At a minimum, the report shall provide the following information: a) costs and
10 projected savings associated with each respective activity on a Merged Company basis; b)
11 consolidation and organizational changes to network operations and staffing levels in
12 Arizona; c) impacts on Arizona operations and customers.
- 13 39. That if following merger close the Merged Company chooses to conduct layoffs or facility
14 closings in Arizona that are attributable to the Merger, it shall file a report two months prior
15 to the effective date of the layoffs or closings with Docket Control stating why it is
16 necessary to do so and what efforts the Company is making to re-deploy those individuals
17 elsewhere in the Company. This report shall also state whether any savings associated with
18 facility closings have been re-invested in the Company's Arizona operations, and if not,
19 why. The report shall also state whether any of the efficiencies estimated to result from the
20 Merger ultimately were derived from reductions in or changes to the Company's operations
21 in Arizona. This report shall be filed for one year following merger close or until
22 CenturyLink informs the Commission by filing an affidavit with Docket Control that merger
23 related activities are completed, whichever comes last.
- 24 40. WITHDRAWN: That one year after the merger close, and annually thereafter, the Merged
25 Company shall provide the following; a multi-year strategic plan that identifies the expected
26 remaining life of all host and remote central office switches currently deployed in the Qwest
27 franchise area in Arizona and a proposed replacement plan for the switches, if any, so that
28 the Merged Company will be able to meet Arizona quality of service standards. The plan
29 should contain information regarding the Merged Company's intent to deploy new
30 technology (soft switch, VoIP, etc).
- 31 41. That for three years following merger close, the Merged Company shall include in its annual
32 report filed on April 15th the following additional information on a wire center-specific
33 basis: (a) the number of local exchange subscribers (business and residence) utilizing fixed
34 VoIP technology if offered by the Merged Company; (b) the number of broadband-capable
35 subscriber lines shown by technology (DSL, FTTP and other) and the number of working
36 lines; and (c) total capital expenditures associated with new broadband deployment in the
37 previous calendar year by technology.
- 38 42. WITHDRAWN SATISFACTORILY ADDRESSED BY CONDITIONS 17 AND 20: That
39 for two years following merger close, the Merged Company shall report on a 6 month basis,
40 its integration progress with Embarq, and any problems encountered.

- 1 43. That the Merged Company shall notify the Commission within ten (10) business days of any
2 substantive material changes to the transaction terms and conditions from those set forth in
3 their Application that occur either while the transaction is pending before the Commission
4 or after it has been approved by the Commission.
- 5 44. That the Merged Company shall provide notice of merger closure to the Commission within
6 45 days following the completion of the proposed merger in this transaction.
- 7 45. REPLACED WITH THE FOLLOWING: That for three years following merger close an
8 Executive Vice President or Chief Financial Officer of the Merged Company shall certify to
9 the Commission annually for three years that all Arizona CenturyLink entities are in
10 compliance with all conditions contained in the Commission's decision in this matter.
- 11 46. REPLACED WITH THE FOLLOWING: That for each of the first three years following
12 merger close, the Merged Company shall *report* (emphasis added) on the Qwest Operating
13 Expense per 1,000 Working Access Lines, Annual Investment per 1,000 Working Access
14 Lines, and Full-Time Equivalent Employees per 1,000 Working Access Lines ratios by Wire
15 Center, calculated on the same basis as the ratios provided by Qwest but averaged for years
16 2008, 2009 and 2010. Qwest shall provide within 60 days of a Commission decision
17 approving the proposed merger Operating Expense per 1,000 Working Access Lines,
18 Annual Investment per 1,000 Working Access Lines, and Full-Time Equivalent Employees
19 per 1,000 Working Access Lines ratios by Wire Center for the years 2008, 2009 and 2010.

20 **CONSERVATION OF COMMISSION RESOURCES**

- 21
- 22 47. That the Merged Company shall evaluate existing litigation involving the Commission and
23 make a good faith effort to resolve the issues without further litigation. Following are cases
24 which have entailed significant Commission resources which the Merged Company should
25 include in its evaluation: (a) McLeodUSA v. ACC, Arizona District Case Court Case No.
26 CV07-2145-PHX-HRH; (b) Qwest v. ACC, Arizona District Court Case No. CV08-2374-
27 PHX-JAT; (c) Pac-West/Level 3 VNXX Remand Proceeding ACC (Docket Nos. T-
28 01051B-05-0495, T-03693A-05-0495, T-01051B-05-0415, T-036564A-05-0415).

29

BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN K. MAYES
Chairman
GARY PIERCE
Commissioner
PAUL NEWMAN
Commissioner
SANDRA D. KENNEDY
Commissioner
BOB STUMP
Commissioner

IN THE MATTER OF THE JOINT APPLICATION)	DOCKET NOS: T-01051B-10-0194
OF QWEST CORPORATION, QWEST)	T-02811B-10-0194
COMMUNICATIONS COMPANY, LLC,)	T-04190A-10-0194
QWEST LD CORP. DBA QWEST LONG)	T-20443A-10-0194
DISTANCE, EMBARQ COMMUNICATIONS,)	T-03555A-10-0194
INC., EMBARQ PAYPHONE SERVICES, INC.)	T-03902A-10-0194
AND CENTURYTEL SOLUTIONS, LLC FOR)	
APPROVAL OF THE PROPOSED MERGER OF)	
THEIR PARENT CORPORATIONS QWEST)	
COMMUNICATIONS INTERNATIONAL INC.)	
AND CENTURYTEL, INC.)	
_____)	

SURREBUTTAL

TESTIMONY

OF

PAMELA J. GENUNG

PUBLIC UTILITIES ANALYST V

UTILITIES DIVISION

ARIZONA CORPORATION COMMISSION

NOVEMBER 10, 2010

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
BACKGROUND	1
RETAIL SUPPORT SYSTEMS INTEGRATION ISSUES	1
OTHER RETAIL ISSUES RAISED BY INTERVENORS	2
STAFF'S RESPONSE TO THE REBUTTAL TESTIMONY OF QWEST.....	3
CONDITION 12.....	4
CONDITION 37.....	4
CONDITION 40.....	4
STAFF'S RESPONSE TO THE REBUTTAL TESTIMONY OF CENTURYLINK.....	5
CONDITION 1.....	5
CONDITION 2.....	6
CONDITION 3.....	7
CONDITION 13.....	7
CONDITION 14.....	10
CONDITION 15.....	11
CONDITION 16.....	9
CONDITION 17.....	12
CONDITION 18.....	14
CONDITION 37.....	13
CONDITION 38.....	7
CONDITION 39.....	13
CONDITION 41.....	14
CONDITION 42.....	15
CONDITION 43.....	8
CONDITION 44.....	9
CONDITION 45.....	10
STAFF'S CONCLUSIONS AND RECOMMENDATIONS.....	15

EXECUTIVE SUMMARY

**QWEST CORPORATION, QWEST COMMUNICATIONS COMPANY, LLC, QWEST LD CORP. DBA QWEST LONG DISTANCE, EMBARQ COMMUNICATIONS, INC., EMBARQ PAYPHONE SERVICES, INC. AND CENTURYTEL SOLUTIONS, LLC FOR APPROVAL OF THE PROPOSED MERGER OF THEIR PARENT CORPORATIONS QWEST COMMUNICATIONS INTERNATIONAL INC. AND CENTURYTEL, INC
DOCKET NOS. T-01051B-10-0194, T-02811B-10-0194, T-04190A-10-0194,
T-20443A-10-0194, T-03555A-10-0194, T-03902A-10-0194**

Staff continues to support the Conditions previously submitted in its Direct Testimony with a few exceptions as discussed within the Surrebuttal Testimonies.

This Surrebuttal Testimony discusses the following Staff Conditions:

Merger Costs Conditions 1 – 3
Retail Operations Conditions 12 – 18
Reporting Conditions 37 – 45

As such, Staff Conditions 12, 17, 38, and 45 contain modifications. Staff is recommending withdrawal of Staff Conditions 40 and 42. Staff continues to support and recommends adoption of the remaining Staff Conditions identified above.

Surrebuttal Testimonies of Armando Fimbres and Gordon L. Fox discuss the Staff Conditions not covered in this Surrebuttal Testimony.

1 **INTRODUCTION**

2 **Q. Please state your name, occupation, and business address.**

3 A. My name is Pamela Genung. I am a Public Utilities Analyst V employed by the Arizona
4 Corporation Commission (“ACC” or “Commission”) in the Utilities Division (“Staff”).
5 My business address is 1200 West Washington Street, Phoenix, Arizona 85007.

6
7 **Q. Have you previously submitted testimony in this Proceeding?**

8 A. Yes.
9

10 **BACKGROUND**

11 **Q. What is the purpose of your testimony?**

12 A. I am providing Surrebuttal Testimony on behalf of Commission Staff in response to the
13 Rebuttal Testimonies of Qwest and CenturyLink (the “Joint Applicants”) relative to Staff
14 Conditions 1 – 3 related to the exclusion of Merger Costs; Conditions 12 – 18 related to
15 Retail Operations; and Conditions 37 – 45 related to Reporting. My Testimony responds
16 to the Rebuttal Testimony of Qwest witness Michael G. Williams and CenturyLink
17 witnesses Jeff Glover, Kristin McMillan, and Todd Schafer. Other retail issues raised by
18 intervenors are also briefly discussed.
19

20 **RETAIL SUPPORT SYSTEMS INTEGRATION ISSUES**

21 **Q. Were issues raised by intervenors regarding the integration of retail support systems**
22 **in this Proceeding?**

23 A. Yes, initially the Communications Workers of America (“CWA”) filed testimony¹
24 concerning issues that its members were having with integration of retail support systems
25 in some of the former Embarq services regions that were acquired by CenturyLink.

¹ Direct Testimony of Jasper Gurganus on Behalf of the Communications Workers of America, September 27, 2010.

1 Subsequently, on October 21, 2010, CWA filed for withdrawal of its pre-filed testimony
2 and intervention. The Administrative Law Judge (“ALJ”) granted CWA’s request to
3 withdraw in a Procedural Order, dated October 25, 2010. Therefore, Staff will not be
4 addressing those issues as previously stated in Staff’s Direct Testimony.
5

6 **OTHER RETAIL ISSUES RAISED BY INTERVENORS**

7 **Q. Were there other retail issues raised by intervenors?**

8 A. Yes. The initial testimony of Charles W. King identifies the concern by the Department
9 of Defense and all other Federal Executive Agencies (“DoD/FEA”) that any change in
10 Qwest’s corporate governance be seamless and not degrade retail services, and that
11 CenturyLink be willing and able to offer state-of-the-art retail business services of the
12 nature that DoD/FEA operations require.²
13

14 **Q. Did the DoD/FEA reach a settlement with Qwest/CenturyLink?**

15 A. Yes.
16

17 **Q. What does that settlement provide?**

18 A. Given the schedule, Staff’s has not had time to review the Settlement Agreement in detail
19 as it was not filed until November 5, 2010. In general, Staff understands that it settles
20 many of the contested issues raised by DoD/FEA in its Direct Testimony.
21

22 **Q. Did any of the other intervenors address the impact of the proposed merger on
23 Qwest/CenturyLink operations or any of the conditions you are sponsoring?**

24 A. No, I did not identify any.

² Initial Testimony of Charles W. King on Behalf of The Department of Defense and all other Federal Executive Agencies, September 27, 2010, page 3, lines 1-4.

1 **STAFF'S RESPONSE TO THE REBUTTAL TESTIMONY OF QWEST**

2 **Q. Does Qwest witnesses oppose or comment on any of Staff's proposed Conditions?**

3 A. Yes, Qwest witness, Michael G. Williams, comments on Retail Operations Condition 12
4 and Reporting Conditions 37 and 40.

5
6 **Q. What is Qwest's position regarding Staff Condition 12?**

7 A. Staff's proposed Condition 12 states:

8
9 That the Merged Company for a period of three years following merger
10 close shall not file to make changes to its Service Quality Tariff; unless
11 requested by the Commission or Commission Staff.
12

13 Mr. Williams begins by stating that "Arizona's existing tariffs are more than sufficient to
14 address service quality"³ and further states that "with changes occurring in both the
15 regulatory and operational environments, there is no reason to prevent seeking
16 improvements to such tariffs". The service quality objectives that are currently in place
17 by this Commission have worked well in assessing Qwest's performance in serving
18 Arizona customers and Staff believes that these same requirements should apply to the
19 Merged Company in assessing its performance.

20
21 Given that CenturyLink will be merging the activities of two distinctly different
22 telecommunications companies and will take on the responsibilities of a Bell Operating
23 Company ("BOC"), Staff recommends the institution of the Quality of Service Task
24 Force⁴ as a means by which potential problems that may occur may be addressed. In the
25 event service quality issues arise, the Quality of Service Task Force would provide a
26 forum for discussion and addressing issues.

³ Rebuttal Testimony of Michael G. Williams on Behalf of Qwest Communications Company, LLC And Qwest LD Corp., October 27, 2010, Page 3.

⁴ Staff recommended that the Quality of Service Task Force be reconvened in its filing of October 13, 2010 "In The Matter of Qwest Corporation 's Filing of Renewed Price Regulation Plan", Docket No. T-01051B-03-0454.

1 While Staff continues to support Condition 12, Staff also modifies the language in
2 Condition 12 to read as follows:

3
4 That the Merged Company for a period of three years following merger
5 close shall not file to make changes to its Service Quality Tariff; unless
6 recommended by the Quality of Service Task Force and the Commission.

7 **Q. What is Qwest's position regarding Staff Condition 37?**

8 A. Staff's proposed Condition 37 states:

9
10 That following merger close the Merged Company shall annually submit a
11 Consumer Benefits Report to Docket Control. The first report shall be
12 submitted no later than April 15, 2012, and annually for a period of three
13 years. The Consumer Benefits Report shall include in detail any cost
14 savings that have resulted from the Merger and have been passed on to
15 consumers. In addition, this report should include improvement in the
16 Merged Company's complaint level in Arizona; new services, including
17 bundles available to customer; improvement in service quality measures,
18 infrastructure improvements; and expanded broadband coverage.

19
20 On page 3 of Mr. Williams' Rebuttal Testimony, he makes reference to the annual
21 "Consumer Benefits Report" that includes "improvement in service quality measures".
22 Mr. Williams continues, on page 4, stating "data that is already available through reports
23 to this Commission is far greater than anything that was available during the Qwest/U S
24 West merger". The direct benefits of the proposed merger to Arizona customers were
25 difficult for the Joint Applicants to pinpoint pre-merger. Therefore, Staff believes the
26 information being requested in Condition 37 is reasonable and beneficial to the
27 Commission. Staff continues to support Condition 37.

28
29 **Q. What is Qwest's position regarding Staff Condition 40?**

30 A. Staff's proposed Condition 40 states:

31
32 That one year after the merger close, and annually thereafter, the Merged
33 Company shall provide the following; a multi-year strategic plan that
34 identifies the expected remaining life of all host and remote central office

1 switches currently deployed in the Qwest franchise area in Arizona and a
2 proposed replacement plan for the switches, if any, so that the Merged
3 Company will be able to meet Arizona quality of service standards. The
4 plan should contain information regarding the Merged Company's intent
5 to deploy new technology (soft switch, VoIP, etc).
6

7 Mr. Williams notes, on page 4 of his Rebuttal Testimony, that "Qwest is already able to
8 meet quality of service standards" and that "the strong market forces provide more than
9 adequate incentive to manage switch replacements in a manner that maintains or improves
10 service quality". Upon further consideration of Condition 40, Staff believes that the
11 Conditions related to quality of service are adequate. Therefore, Staff is recommending
12 withdrawal of Condition 40.
13

14 **STAFF'S RESPONSE TO THE REBUTTAL TESTIMONY OF CENTURYLINK**

15 **Q. Do CenturyLink's witnesses oppose or comment on any of Staff's proposed**
16 **Conditions?**

17 A. Yes, CenturyLink witness, Jeff Glover, comments on Merger Cost Conditions 1 – 3,
18 Retail Operations Condition 13, and Reporting Conditions 38, 43, and 46. CenturyLink
19 witness, Kristin McMillan, comments on Retail Operations Condition 16, and Reporting
20 Conditions 37 – 46, more specifically 44. In addition, CenturyLink witness, Todd
21 Schafer, comments on Retail Operations Conditions 14, 15, 17, 18, and Reporting
22 Conditions 37, 39, 41, and 42.
23

24 **Q. What is CenturyLink's position regarding Staff Condition 1 relative to merger costs?**

25 A. Staff's proposed Condition 1 states:

26
27 That CenturyLink and Qwest Corporation ("the Merged Company") shall
28 not recover, or seek to recover, through wholesale service rates or other
29 fees paid by Competitive Local Exchange Carriers ("CLECs") or through
30 Arizona end-user retail rates, and will hold both wholesale and retail
31 customers harmless for, one-time transfer, branding, or any merger or
32 transaction-related costs.

1 Mr. Glover states that “the one-time transaction costs incurred by CenturyLink associated
2 with the merger are recorded at the parent company level and are not allocated to
3 operating subsidiaries”.⁵ CenturyLink believes that “the proper treatment of integration
4 costs should be determined under the applicable laws or regulations, as appropriate, not as
5 a condition to the approval of the transaction”. Staff disagrees. Staff believes Condition 1
6 is necessary as a safeguard to Arizona’s wholesale and retail customers from the potential
7 impact of such costs. Therefore, Staff continues to support Condition 1.

8
9 **Q. What is CenturyLink’s position regarding Staff Condition 2?**

10 A. Staff’s proposed Condition 2 states:

11 That the Merged Company shall provide the Arizona Corporation
12 Commission (“Commission”) with access to all books of account, all
13 documents, data, and records that pertain to the proposed merger.
14

15 CenturyLink objects to the language in Condition 2. Mr. Glover states, on page 19 of his
16 Rebuttal Testimony, that granting access to all documents, data, and records pertaining to
17 the proposed merger is overly broad, potentially intrusive, and could generate costs that
18 would unfairly burden the combined company relative to its competitors. Staff’s intention
19 of Condition 2 is that the Commission have access to all books of account, all documents,
20 data, and records, including that which pertains to the proposed merger, to the extent the
21 Commission needs this information to ensure adequate service at just and reasonable rates.
22 This requirement exists by virtue of Arizona Law to enable the Commission to perform its
23 duties. Therefore, Staff continues to support Condition 2.

⁵ Rebuttal Testimony of Jeff Glover on Behalf of Embarq Communications, Inc. d/b/a/ CenturyLink Communications, Embarq Payphone Services, Inc. d/b/a/ Centurylink, and CenturyTel Solutions, LLC, October 27, 2010, Page 18.

1 **Q. What is CenturyLink's position regarding Staff Condition 3?**

2 A. Staff's proposed Condition 3 states:

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14 **Q. What is CenturyLink's position regarding Staff Condition 13?**

15 A. Staff's proposed Condition 13 states:

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27

28 **Q. What is CenturyLink's position regarding Staff Condition 38?**

29 A. Staff's Condition 38 states:

1 The Merged Company shall report to the Commission synergy savings
2 resulting from the proposed transaction on an annual basis from the date
3 of merger closing. At a minimum, the report shall provide the following
4 information: a) costs and projected savings associated with each
5 respective activity on a Merged Company basis; b) consolidation and
6 organizational changes to network operations and staffing levels in
7 Arizona; c) impacts on Arizona operations and customers.

8
9 CenturyLink believes Condition 38 is unnecessary. Staff believes that the synergy savings
10 information should be available as a function of comparing results versus projected
11 expectations. Without such comparisons, the Merged Company would not have the means
12 of knowing if it had achieved its objectives. Given the size of the Merged Company in
13 Arizona, this should not be overly difficult. Mr. Glover states in his Rebuttal Testimony,
14 at page 23, that the Condition is vague and overly broad. Condition 38, as written, allows
15 the Merged Company flexibility in complying with the Condition.

16
17 While Staff continues to support Condition 38, Staff also modifies the language in
18 Condition 38 to read as follows:

19
20 The Merged Company shall report to the Commission actual synergy
21 savings as opposed to proposed synergy savings resulting from the
22 proposed transaction on an annual basis from the date of merger closing
23 for a period of three years. At a minimum, the report shall provide the
24 following information: a) costs and projected savings associated with
25 each respective activity on a Merged Company basis; b) consolidation and
26 organizational changes to network operations and staffing levels in
27 Arizona; c) impacts on Arizona operations and customers.

28
29 **Q. What is CenturyLink's position regarding Staff Condition 43?**

30 **A. Staff's proposed Condition 43 states:**

31
32 That the Merged Company shall notify the Commission within ten (10)
33 business days of any substantive material changes to the transaction terms
34 and conditions from those set forth in their Application that occur either

1 while the transaction is pending before the Commission or after it has
2 been approved by the Commission.

3
4 In Mr. Glover's Rebuttal Testimony, at page 24, CenturyLink does not appear to oppose
5 Condition 43. CenturyLink simply states that it will notify the Commission if there are
6 any material changes. Staff continues to support Condition 43.

7

8 **Q. Does CenturyLink have a position regarding Staff Condition 16?**

9 A. Staff's proposed Condition 16 states:

10

11 That no Commission-regulated intrastate retail service currently offered
12 by Qwest will be discontinued for a period of at least one year following
13 the Closing Date, except as approved by the Commission.

14

15 Yes, Ms. McMillan states that CenturyLink believes Condition 16 is unnecessary.⁶ Staff
16 believes that Condition 16 is a reasonable precaution given the lack of detailed plans
17 associated with the proposed merger. The timeframe of one year should not be
18 burdensome or costly as the Joint Applicants plan to operate many CenturyLink and
19 Qwest systems separately for twelve months, in the very least. Therefore, Staff continues
20 to support Condition 16.

21

22 **Q. What is CenturyLink's position regarding Staff Condition 44?**

23 A. Staff's proposed Condition 44 states:

24

25 That the Merged Company shall provide notice of merger closure to the
26 Commission within 45 days following the completion of the proposed
27 merger in this transaction.

⁶ Rebuttal Testimony of Kristin McMillan on Behalf of Embarq Communications, Inc. d/b/a/ CenturyLink Communications, Embarq Payphone Services, Inc. d/b/a/ Centurylink, and CenturyTel Solutions, LLC, October 27, 2010, Page 22.

1 In Ms. McMillan's Rebuttal Testimony, at page 23, CenturyLink does not appear to
2 oppose Condition 44. Staff continues to support Condition 44.
3

4 **Q. Does Ms. McMillan's comment on any other Staff Conditions?**

5 A. Yes. On pages 23 – 24 of Ms. McMillan's Rebuttal Testimony she notes the "extensive
6 nature of the reporting proposals" set forth in Conditions 37 – 46. Ms. McMillan
7 mentions that CenturyLink witnesses Jeff Glover, Todd Schafer and Qwest witness Jim
8 Campbell will address these remaining Reporting Conditions in their Rebuttal
9 Testimonies.
10

11 Staff's proposed Condition 45 states:

12 That for three years following merger close an Executive Vice President
13 or Chief Financial Officer of the Merged Company shall certify to the
14 Commission every six months that all Arizona CenturyLink entities are in
15 compliance with all conditions in contained in the Commission's decision
16 in this matter.
17

18
19 While Staff continues to support Condition 45, Staff also modifies the language in
20 Condition 45 to read as follows:

21 That for three years following merger close an Executive Vice President
22 or Chief Financial Officer of the Merged Company shall certify to the
23 Commission annually for three years that all Arizona CenturyLink entities
24 are in compliance with all conditions contained in the Commission's
25 decision in this matter.
26

27
28 **Q. Does CenturyLink have a position regarding Staff Condition 14?**

29 A. Staff's proposed Condition 14 states:

30 That the Merged Company shall maintain or improve its pre-merger
31 complaint status in the Qwest Arizona service areas.
32

1 Yes. Mr. Schafer states that CenturyLink believes the Condition is not warranted.⁷ The
2 data that Staff collected from the eleven CenturyLink ILEC states did not show any
3 specific problems with CenturyLink service complaints. Arizona customers have come to
4 expect high quality service standards from Qwest. Staff simply wants to ensure that the
5 Merged Company is going to provide at least the same high quality telecommunications
6 services. Condition 14 is purely precautionary. Staff is suggesting that the Merged
7 Company has the choice to maintain or improve on its service complaint status. At a
8 minimum, Staff believes the Merged Company should maintain the same level as
9 currently provided by Qwest. To accept a lower level of service undermines the public
10 interest benefits of the proposed merger. Staff continues to support Condition 14.

11
12 **Q. What is CenturyLink's position regarding Staff Conditions 15, 17, 37, and 39?**

13 A. Staff's proposed Condition 15 states:

14
15 That the Merged Company shall ensure that Retail support centers are
16 sufficiently staffed with adequately trained personnel who will provide a
17 level of service comparable to that provided in the Qwest service areas
18 prior to the merger. If the Merged Company (within three years following
19 the date the transaction closes) plans to make any rearrangements of major
20 network components (such as business office and trouble reporting call
21 centers, Network Operations Control Centers, E911 systems, access and
22 local tandems), 90 days before such changes, the Merged Company will
23 provide Staff with a rearrangement plan discussing the changes to be made
24 and their timeframes.

25
26 As stated in Mr. Schafer's Rebuttal Testimony, at page 12, CenturyLink does not support
27 these Conditions. Staff believes that retail support centers, retail support systems, and
28 major network components are important factors in the continuation of providing high

⁷ Rebuttal Testimony of Todd Schafer on Behalf of Embarq Communications, Inc. d/b/a/ CenturyLink Communications, Embarq Payphone Services, Inc. d/b/a/ Centurylink, and CenturyTel Solutions, LLC, October 27, 2010, Page 12.

1 quality service to Arizona customers. Highly confidential information⁸ provided by the
2 Joint Applicants detailing the projected synergy savings as a result of the proposed merger
3 suggests to Staff that retail operations could be impacted. Without Condition 15 it is
4 difficult for Staff or the Joint Applicants to support the public interest benefits to end-
5 users. Staff continues to support Condition 15.

6
7 Staff's proposed Condition 17 states:

8
9 That the Merged Company shall give at least 6 months notice of any plans
10 to integrate portions of Qwest's retail support systems with portions of the
11 CenturyLink and/or Embarq systems. If the integration is to be
12 accomplished in phases, 6-month notice shall be given before each
13 separate phase. The Merged Company shall make a filing with the
14 Commission in this Docket detailing the proposed integration, the
15 schedule in which it is to be accomplished and a detailed plan of
16 integration. The Merged Company shall indicate what support system is
17 being replaced and what support system will survive. It shall also discuss
18 any anticipated problems and any problems that occurred with similar
19 integrations in other jurisdictions and how such problems will be mitigated
20 in Arizona. The Merged Company shall be required to demonstrate that
21 the proposed integration, where it affects retail operations, will not result
22 in a degradation of current Qwest retail support systems.
23

24 Changes to the retail support systems could also impact the quality of service currently
25 being provided to Arizona end-user customers. While Staff continues to support
26 Condition 17, Staff also modifies the language in Condition 17 to read as follows:

27
28 That the Merged Company, for a period of three years, shall give at least 6
29 months notice of any plans to integrate portions of Qwest's retail support
30 systems with portions of the CenturyLink and/or Embarq systems. If the
31 integration is to be accomplished in phases, 6-month notice shall be given
32 before each separate phase. The Merged Company shall make a filing
33 with the Commission in this Docket detailing the proposed integration, the
34 schedule in which it is to be accomplished and a detailed plan of
35 integration. The Merged Company shall indicate what support system is
36 being replaced and what support system will survive. It shall also discuss

⁸ Provided in response to Staff Data Request 2.19.

1 any anticipated problems and any problems that occurred with similar
2 integrations in other jurisdictions and how such problems will be mitigated
3 in Arizona. The Merged Company shall be required to demonstrate that
4 the proposed integration, where it affects retail operations, will not result
5 in a degradation of current Qwest retail support systems.

6
7 Staff's proposed Condition 37 states:

8
9 That following merger close the Merged Company shall annually submit a
10 Consumer Benefits Report to Docket Control. The first report shall be
11 submitted no later than April 15, 2012, and annually for a period of three
12 years. The Consumer Benefits Report shall include in detail any cost
13 savings that have resulted from the Merger and have been passed on to
14 consumers. In addition, this report should include improvement in the
15 Merged Company's complaint level in Arizona; new services, including
16 bundles available to customer; improvement in service quality measures,
17 infrastructure improvements; and expanded broadband coverage.

18
19 Staff responded earlier in its Surrebuttal Testimony to comments submitted by Qwest
20 witness, Michael G. Williams, regarding Condition 37. In support of Condition 37, Staff
21 believes that the Commission would be interested in more fully knowing the benefits that
22 the proposed merger brings to the Arizona customers.

23
24 Staff's proposed Condition 39 states:

25
26 That if following merger close the Merged Company chooses to conduct
27 layoffs or facility closings in Arizona that are attributable to the Merger, it
28 shall file a report two months prior to the effective date of the layoffs or
29 closings with Docket Control stating why it is necessary to do so and what
30 efforts the Company is making to re-deploy those individuals elsewhere in
31 the Company. This report shall also state whether any savings associated
32 with facility closings have been re-invested in the Company's Arizona
33 operations, and if not, why. The report shall also state whether any of the
34 efficiencies estimated to result from the Merger ultimately were derived
35 from reductions in or changes to the Company's operations in Arizona.
36 This report shall be filed for one year following merger close or until
37 CenturyLink informs the Commission by filing an affidavit with Docket
38 Control that merger related activities are completed, whichever comes last.

1 Condition 39 is standard and has been applied previously in other merger-related matters.
2 Staff continues to support Condition 39.

3
4 **Q. What is CenturyLink's position regarding Staff Condition 18?**

5 A. Staff's proposed Condition 18 states:

6 That the Merged Company shall provide the Commission with an Internet
7 Protocol Television ("IPTV") and Broadband deployment plan within six
8 months of a decision in this matter for Commission consideration.
9

10
11 Despite the clarifications to Condition 18 identified by Mr. Schafer on page 13 of his
12 Rebuttal Testimony, CenturyLink states that it is willing to update the Commission on its
13 plans, as developed. IPTV and broadband deployment were identified as benefits to the
14 proposed merger. Staff believes it is in the public interest to know when Arizona
15 customers will be receiving those benefits. The Merged Company have made firm
16 broadband deployment plans in other states, but so far, it has not indicated what is
17 commitment is for Arizona. Staff continues to support Condition 18.

18
19 **Q. What is CenturyLink's position regarding Staff Condition 41?**

20 A. Staff's proposed Condition 41 states:

21 That for three years following merger close, the Merged Company shall
22 include in its annual report filed on April 15th the following additional
23 information on a wire center-specific basis: (a) the number of local
24 exchange subscribers (business and residence) utilizing fixed VoIP
25 technology if offered by the Merged Company; (b) the number of
26 broadband-capable subscriber lines shown by technology (DSL, FTTP and
27 other) and the number of working lines; and (c) total capital expenditures
28 associated with new broadband deployment in the previous calendar year
29 by technology.
30

1 As stated in Mr. Schafer's Rebuttal Testimony on page 13, CenturyLink does not believe
2 that Condition 41 is either justified or appropriate as a condition of approval of this
3 transaction. With Qwest being the largest ILEC in Arizona, Staff believes the information
4 requested in Condition 41 would be beneficial to Staff and the Commission in better
5 understanding the state of competition within Arizona. Staff continues to support
6 Condition 41.

7
8 **Q. What is CenturyLink's position regarding Staff Condition 42?**

9 A. Staff's proposed Condition 42 states:

10 That for two years following merger close, the Merged Company shall
11 report on a 6 month basis, its integration progress with Embarq, and any
12 problems encountered.
13
14

15 Mr. Schafer states at page 14 of his Rebuttal Testimony that CenturyLink believes
16 Condition 42 is unnecessary and inappropriate. Further consideration by Staff indicates
17 that the information requested in Condition 42 is similar to that requested in Conditions 17
18 and 20. Therefore, Staff is recommending withdrawal of Condition 42.

19
20 **STAFF'S CONCLUSIONS AND RECOMMENDATIONS**

21 **Q. Please summarize Staff's conclusions and recommendations.**

22 A. Staff concludes that Merger Costs Conditions 1 – 3; Retail Operations Conditions 13 – 16
23 and 18; and Reporting Conditions 37, 39, 41 and 43 – 44 are appropriate and recommends
24 adoption by the Commission. Staff also concludes that Retail Operations Conditions 12
25 and 17, and Reporting Conditions 38 and 45 should be modified. Additionally, Reporting
26 Conditions 40 and 42 should be withdrawn.
27

28 **Q. Does this conclude your surrebuttal testimony?**

29 A. Yes, it does.

BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN K. MAYES
Chairman
GARY PIERCE
Commissioner
PAUL NEWMAN
Commissioner
SANDRA D. KENNEDY
Commissioner
BOB STUMP
Commissioner

JOINT NOTICE AND APPLICATION OF QWEST CORPORATION, QWEST COMMUNICATIONS COMPANY, LLC, QWEST LD CORP., EMBARQ COMMUNICATIONS, INC. D/B/A CENTURY LINK COMMUNICATIONS, EMBARQ PAYPHONE SERVICES, INC. D/B/A CENTURYLINK, AND CENTURYTEL SOLUTIONS, LLC FOR APPROVAL OF THE PROPOSED MERGER OF THEIR PARENT CORPORATIONS QWEST COMMUNICATIONS INTERNATIONAL INC. AND CENTURYTEL, INC.)	DOCKET NOS. T-01051B-10-0194
)	T-02811B-10-0194
)	T-04190A-10-0194
)	T-04190A-10-0194
)	T-03555A-10-0194
)	T-03902A-10-0194

SURREBUTTAL

TESTIMONY

OF

GORDON L. FOX

PUBLIC UTILITIES ANALYST MANAGER

UTILITIES DIVISION

ARIZONA CORPORATION COMMISSION

NOVEMBER 10, 2010

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
RESPONSE TO THE REBUTTAL TESTIMONY OF CENTURYLINK WITNESS MR. GLOVER	2
CONDITION 34	2
CONDITION 35	5
CONDITION 36	7
CONCLUSIONS AND RECOMMENDATIONS	8

ATTACHMENT

Telephone Industry Selected Data	GLF-1
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EXECUTIVE SUMMARY

QWEST CORPORATION, QWEST COMMUNICATIONS COMPANY, LLC, QWEST LD CORP. DBA QWEST LONG DISTANCE, EMBARQ COMMUNICATIONS, INC., EMBARQ PAYPHONE SERVICES, INC. DBA CENTURYLINK AND CENTURYTEL SOLUTIONS, LLC FOR APPROVAL OF THE PROPOSED MERGER OF THEIR PARENT CORPORATIONS QWEST COMMUNICATIONS INTERNATIONAL INC. AND CENTURYTEL, INC

DOCKET NOS. T-01051B-10-0194, T-02811B-10-0194, T-04190A-10-0194, T-20443A-10-0194, T-03555A-10-0194, T-03902A-10-0194

The surrebuttal testimony of Staff witness Gordon L. Fox addresses the following issues:

Response to the Rebuttal Testimony of CenturyLink witness Mr. Jeff Glover regarding Staff proposed Conditions 34, 35 and 36.

Condition 34 – Staff continues to recommend: That in the event that equity-to-total capital ratio falls below 40.0 percent for the post-merger CenturyLink, Inc. and/or for any of its Arizona subsidiaries, CenturyLink, Inc. and/or the Arizona subsidiary/subsidiaries affected, should be required to file notice in this Docket providing the reasons why the equity-to-total capital ratio decreased and a plan on how to reach an equity-to-total capital ratio above 40.0 percent.

Condition 35 – Staff continues to recommend: That the Merged Company be required to report any of the following events: 1) default on any loan by CenturyLink, Inc. or any of its Arizona subsidiaries; 2) a delisting of CenturyLink from trading in a major trading exchange; and 3) CenturyLink, Inc. or any of its Arizona subsidiaries is rated with a non-investment rate grading by Fitch Ratings, Standard and Poor's or Moody's Investor Services or their successors. That CenturyLink, Inc.'s Arizona subsidiaries effectively utilize their access to the capital markets provided through their parent company as necessary and appropriate to maintain an adequate capital structure and to provide funds for capital and operational needs. CenturyLink shall make its filing with the Commission no later than 30 days subsequent to filing its quarterly report on Form 10-Q or its annual report on Form 10-K with the Securities and Exchange Commission following the event.

Condition 36 – Staff continues to recommend: That CenturyLink be prohibited from seeking to recover any acquisition adjustment paid for Qwest.

1 **INTRODUCTION**

2 **Q. Please state your name, occupation, and business address.**

3 A. My name is Gordon L. Fox. I am a Public Utilities Analyst Manager employed by the
4 Arizona Corporation Commission ("Commission") in the Utilities Division ("Staff"). My
5 business address is 1200 West Washington Street, Phoenix, Arizona 85007.

6
7 **Q. Briefly describe your responsibilities as a Public Utilities Analyst Manager.**

8 A. In my capacity as a Public Utilities Analyst Manager, I supervise analysts whose duties
9 include preparation of testimonies to provide the Commission with Staff recommendations
10 regarding rate base, operating income, cost of capital, rate design, securities issuance and
11 other financial regulatory matters.

12
13 **Q. Please describe your educational background and professional experience.**

14 A. I have twenty years of regulatory utility auditing and rate analysis experience (seventeen
15 years at the Commission and three years at RUCO) and four years of experience with a
16 cable TV utility with responsibility for preparing and presenting rate applications before
17 jurisdictional authorities. I have master and bachelor degrees in Accounting, and I have
18 earned the following professional accounting and finance certifications: Certified Public
19 Accountant ("CPA"), Certified Management Accountant ("CMA") and Certified in
20 Financial Management ("CFM").

21
22 **Q. Have you previously filed testimony in this case?**

23 A. No. I will be adopting the direct testimony of Staff witness Pedro M. Chaves related to
24 the capitalization of Qwest Corporation ("QC"), Qwest LD Corp. ("QLDC"), and Qwest
25 Communications Company, LLC ("QCC") from the proposed merger between their parent
26 Qwest Communications International Inc. ("QCII") and a yet to be newly created

1 subsidiary of CenturyLink, Inc. (“CenturyLink”)¹ the parent of Embarq Communications,
2 Inc. d/b/a CenturyLink Communications, Embarq Payphone Services, Inc. d/b/a
3 CenturyLink, and CenturyTel Solutions, LLC (collectively “CenturyLink”).
4

5 **Q. What is the scope of your testimony in this case?**

6 A. I present testimony in response to the rebuttal testimony of CenturyLink witness Mr. Jeff
7 Glover regarding Staff proposed Conditions 34, 35 and 36. Staff’s recommended
8 conditions for approval of the transaction are presented as Attachment 1 to the direct
9 testimonies of Staff witnesses Armando Fimbres and Pamela J. Genung.
10

11 **RESPONSE TO THE REBUTTAL TESTIMONY OF CENTURYLINK WITNESS MR.**
12 **GLOVER**

13 **CONDITION 34**

14 **Q. Please reproduce Staff proposed Condition 34 for convenient reference.**

15 A. Staff recommended condition 34 is reproduced below:

16
17 Condition 34. That in the event that equity-to-total capital ratio falls below 40.0
18 percent for the post-merger CenturyLink, Inc. and/or for any of its Arizona
19 subsidiaries, CenturyLink, Inc. and/or the Arizona subsidiary/subsidiaries affected,
20 should be required to file notice in this Docket providing the reasons why the
21 equity-to-total capital ratio decreased and a plan on how to reach an equity-to-total
22 capital ratio above 40.0 percent.
23

24 **Q. Please summarize Mr. Glover’s comments pertaining to Staff Condition 34.**

25 A. CenturyLink objects to Staff’s proposed Condition 34 pertaining to maintaining a 40
26 percent equity-to-total capital ratio noting (1) that this provision is not presently required
27 of Qwest or any other Arizona communications companies; (2) that Staff provided no
28 specific support for the 40 percent equity threshold; and (3) that eight out of the twelve

¹ Formerly known as CenturyTel Inc.

1 common equity ratios for the companies shown in Table 2 of Mr. Chaves' testimony are
2 below 40 percent. Further, he asserts that Condition 34 does not protect against any
3 potential merger-related harm.²
4

5 **Q. What is Staff response to Mr. Glover's comments regarding Staff Condition 34?**

6 A. As stated in Mr. Chaves' direct testimony, "Staff usually considers equity at 40 percent to
7 total capital as the minimum financially prudent capital structure for an investor-owned
8 utility with access to the capital markets."³ Staff has advocated this minimum equity
9 position over the long-term. The Commission recognized the value of maintaining 40
10 percent as a minimum equity position in its November 14, 2005, Decision No. 68310
11 pertaining to Arizona-American Water Company, Inc. as follows:

12
13 IT IS FURTHER ORDERED that Arizona-American Water Company shall
14 file a plan with Docket Control by December 31, 2005 that describes how
15 the Company expects to attain and maintain a capital structure (equity, long-
16 term debt, and short-term debt) with equity representing between 40 and 60
17 percent of total capital.⁴
18

19 Maintaining a sufficient equity-to-total capital ratio provides two readily-apparent
20 benefits. First, equity represents investors' dollars at risk and, accordingly, provides the
21 utility incentive to be more attentive to any impacts to the return and recovery of its equity
22 investment including regulatory oversight. The percentage of equity is more important
23 than the nominal dollars of equity since a large dollar amount can be insignificant or
24 considered as an acceptable loss for a large entity.
25

² CenturyLink, Glover Direct, pp. 21-22.

³ Staff, Chaves Direct, p. 4, lines 9-11.

⁴ Decision No. 68310, p. 15, lines 5-8.

1 Second, and more importantly, a larger equity-to-total capital ratio supports a superior
2 credit rating which, in turn, provides access to reasonably priced capital. Mr. Chaves'
3 direct testimony concluded that improved access to the capital markets is the benefit to
4 QCII's subsidiaries due to the proposed transaction.⁵ While Mr. Glover notes that eight of
5 the twelve common equity ratios for the companies shown in Table 2 of Mr. Chaves'
6 testimony are below 40 percent, more telling is that only five of the twelve companies
7 have an investment grade credit rating, and four of those five companies (AT&T, Inc.,
8 BCE, INC., CenturyTel, Inc., Telephone & Data Systems, Inc., and Verizon
9 Communications) have a common equity ratio between 48 percent and 64 percent.⁶
10 Verizon, with a 29 percent equity ratio, is the only company in this group of five that has
11 an equity ratio less than 40 percent.⁷ In short, telephone companies as a group are not
12 sufficiently funded by equity.

13
14 The benefit of appropriate equity capitalization is also reflected in the AUS Utility Report
15 data (see Schedule GLF-1).⁸ That data shows a clear and substantial positive relationship
16 between the common equity ratio and the percent return on equity. In other words,
17 telephone companies with low equity-to-total capital ratios cannot generate adequate
18 earnings. The AUS Utility Report data shows the 1.6 percent return on equity for General
19 Communications, Inc. as the highest return on equity for any of the eight companies with
20 an equity-to-total capital ratio below 40 percent. By contrast, the returns on equity for the
21 four companies with equity-to-total capital ratios exceeding 40 percent are: AT&T, Inc.,
22 12.6 percent; BCE, INC., 13.7 percent; CenturyTel, Inc., 13.6 percent; Telephone & Data
23 Systems, Inc, 3.5 percent. The AUS Utility Report data show that Standard & Poor's has
24 assigned a BBB- bond rating (the lowest investment grade rating) to Century Tel, Inc.

⁵ Staff, Chaves Direct, p. 6.

⁶ AUS Monthly Utility Report, September 2010 shows the equity ratio range between 54 percent and 64 percent.

⁷ AUS Monthly Utility Report, September 2010 shows the equity ratio for Verizon as 21 percent.

⁸ The remainder of this discussion is based on the AUS Monthly Utility Report, September 2010.

1 (i.e., CenturyLink); accordingly, CenturyLink has little margin for any detriment to its
2 financial parameters for it to maintain an investment grade rating. Since QCII's current
3 bond rating is Ba1 (the highest non-investment rating) by Moody's Investor Services, a
4 single step downgrade to CenturyLink's bond rating would place it at a level equivalent to
5 that of QCII.

6
7 The AUS Utility Report data also show that the telephone companies are dominated,
8 based on revenue, by AT&T, Inc. and Verizon Communications, Inc. While Verizon has
9 only 21 percent equity in its capital structure and an investment grade credit rating, its
10 return on equity is only 1.0 percent. The average equity ratio for these two dominant
11 telephone companies is 40.5 percent (AT&T, 60 percent and Verizon, 21 percent).

12
13 In summary, Staff's recommendation regarding Condition 34 is supported by past
14 Commission action,⁹ Staff experience, and current empirical financial data for the
15 telephone industry.

16
17 **CONDITION 35**

18 **Q. Please reproduce Staff proposed Condition 35 for convenient reference.**

19 **A.** Staff recommended condition 35 is reproduced below:

20
21 Condition 35. That the Merged Company be required to report any of the following
22 events: 1) default on any loan by CenturyLink, Inc. or any of its Arizona
23 subsidiaries; 2) a delisting of CenturyLink from trading in a major trading
24 exchange; and 3) CenturyLink, Inc. or any of its Arizona subsidiaries is rated with a
25 non-investment rate grading by Fitch Ratings, Standard and Poor's or Moody's
26 Investor Services or their successors. That CenturyLink, Inc.'s Arizona subsidiaries
27 effectively utilize their access to the capital markets provided through their parent
28 company as necessary and appropriate to maintain an adequate capital structure and

⁹ See Decision No. 68310, Arizona-American Water Company, Inc. rate case – phase II and Decision No. 62648, GTE California Incorporated sale of assets and transfer of Certificate of Convenience and Necessity to Citizens Utilities Rural Company, Inc.

1 to provide funds for capital and operational needs. CenturyLink shall make its
2 filing with the Commission no later than 30 days subsequent to filing its quarterly
3 report on Form 10-Q or its annual report on Form 10-K with the Securities and
4 Exchange Commission following the event.

5
6 **Q. Please summarize Mr. Glover's comments pertaining to Staff Condition 35.**

7 A. Mr. Glover's response to Condition 35 that requires (1) the merged company to report
8 certain financial events to the Commission and (2) CenturyLink, Inc.'s Arizona
9 subsidiaries to effectively utilize their access to the capital markets provided through their
10 parent company as necessary and appropriate to maintain an adequate capital structure and
11 to provide funds for capital and operational needs is that the condition is "unnecessary"
12 because the specified event would be publicly-available information and that
13 "CenturyLink's current financial strength and historic commitment to maintaining a
14 conservative balance sheet should provide assurance to the Commission and put aside
15 unwarranted concerns and reporting."¹⁰

16
17 **Q. What is Staff response to Mr. Glover's comments regarding Staff Condition 35?**

18 A. As discussed in the response to Condition 34 above, access to reasonably-priced capital is
19 a primary financial benefit resulting from the transaction. Condition 35 would require the
20 merged company to notice the Commission upon occurrence of certain events Staff has
21 identified that have the potential to jeopardize the merged company's access to the capital
22 markets. While Staff agrees with the Company that the specified events would be
23 publicly-available information, the Commission does not have the resources to monitor all
24 publicly-available information pertaining to CenturyLink. Due to the potentially
25 detrimental impact on Arizona customers due to the specified events and the relatively
26 non-burdensome nature of the proposed filings requirements, Staff's proposed filing
27 requirements should be adopted.

¹⁰ CenturyLink, Glover Direct, pp. 22-23.

1 Further, access to the capital market is too significant to simply rely on the Company's
2 current financial strength and historic commitment to maintaining a conservative balance
3 sheet. Circumstances and management objectives are subject to change. Accordingly,
4 Staff's recommendations regarding Condition 35 are sound and should be adopted.
5

6 **CONDITION 36**

7 **Q. Please reproduce Staff proposed Condition 36 for convenient reference.**

8 A. Staff recommended condition 36 is reproduced below:

9
10 Condition 36. CenturyLink will not seek to recover any acquisition adjustment paid
11 for Qwest.
12

13 **Q. Please summarize Mr. Glover's comments pertaining to Staff Condition 36.**

14 A. Mr. Glover's response states:

15
16 CenturyLink objects to the proposed condition, as it is my understanding
17 that the treatment of "any acquisition adjustment" is a ratemaking issue and
18 is not appropriately addressed in a merger review proceeding but instead in
19 a future proceeding based on then applicable laws and regulations.
20

21 **Q. What is Staff's response to Mr. Glover's comments regarding Staff Condition 34?**

22 A. First, the Commission has previously made determinations in merger/acquisition
23 proceedings as to whether recovery of an acquisition adjustment is allowable and
24 established the basis for such recovery.¹¹ CenturyLink has not requested to preserve the
25 opportunity to recover an acquisition adjustment in this proceeding, and it has not
26 proposed a method for determining the basis for the amount of any such recovery.

¹¹ See Decision No. 66028, Tucson Electric Power, Inc. acquisition of Citizens Communications Company's gas and electric utilities and Decision No. 65453, merger of Arizona-American Water Company, Inc.'s parent American Water Works, Inc. with a subsidiary of RWE AG.

1 Second, uncertainty regarding whether and on what basis the amount of any acquisition
2 adjustment will be allowed is detrimental to investors and ratepayers. Uncertainty is
3 perceived negatively by investors. While existing shareholders may find some value in
4 the opportunity for recovery of an acquisition adjustment, both existing shareholders and
5 prospective investors will find anxiety related to the uncertainty of future cash flows.
6 Customers will also experience concern regarding the uncertain impact on rates.
7 Accordingly, Staff concludes that the current proceeding is the appropriate venue for
8 determination of whether any acquisition adjustment is to be recoverable and, if so, the
9 basis for determining the amount of the recovery. Since CenturyLink has not specifically
10 proposed to recover any acquisition adjustment nor has it proposed a basis for determining
11 the amount for potential recovery, Staff cannot recommend recovery of any acquisition
12 adjustment. Accordingly, Staff continues to recommend adoption of Condition 36.

13
14 **CONCLUSIONS AND RECOMMENDATIONS**

15 **Q. Please summarize Staff's conclusions and recommendations.**

16 A. Staff concludes that Conditions 34, 35 and 36 are appropriate and recommends their
17 adoption by the Commission.

18
19 **Q. Does this conclude your surrebuttal testimony?**

20 A. Yes, it does.

Telephone Industry Selected Data

Company	Total Revenue (\$ Million)	% Reg Tel Rev Local ILEC or CLEC	Common Equity Ratio ¹	S&P Bond Rating	Moody's Bond Rating	Return on Common Equity (%)
Alaska Comm. Systems Group	341.3	78	NM	NR	NR	NM
AT&T Inc.	123,170.0	22	60	A ³	A2 ³	12.6
BCE, Inc.	16,341.0	72	54	NR	Baa1 ³	13.7
CenturyTel, Inc. ²	7,275.8	61	55	BBB- ³	NR	13.6
Cincinnati Bell Inc.	1,345.2	56	NM	NR	Ba2	NM
Frontier Communications Corp	2,083.8	82	5	NR	Ba2	NM
General Communication, Inc.	613.1	9	24	NR	B2	1.6
Qwest Communications International	11,944.0	59	NM	NR	Ba1	NM
Telephone & Data Systems, Inc.	4,976.4	16	64	NR	Baa2 ³	3.5
PAETEC Holdings Corp.	1,571.9	79	16	NR	B1	NM
Verizon Communications	108,042.0	41	21	AA- ³	Baa1 ³	1.0
Windstream Corporation	3,253.9	97	9	B+	Ba3	NM
Average		56	34			7.7

Average excluding Companies with a percentage of regulated local ILEC or CLEC revenues of less than 60 percent

¹ Common equity capital for the latest quarter divided by total capital as reported, multiplied by 100. Total capital is equal to the sum of long-term debt, current maturities, short-term debt, preferred stock and common equity for the latest quarter end figures available.

² CenturyTel, Inc. changed its name to CenturyLink, Inc. with shareholder approval on May 20, 2010.

³ Bond rating is investment grade.

Source: AUS Monthly Utility Report, September 2010.