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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

KRISTIN K. MAYES - CHAIRMAN
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

NOV 10 P 12: 01
AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE JOINT NOTICE AND)	DOCKET NOS. T-01051B-10-0194
APPLICATION OF QWEST CORPORATION,)	T-02811B-10-0194
QWEST COMMUNICATIONS COMPANY, LLC,)	T-04190A-10-0194
QWEST LD CORP., EMBARQ)	T-20443A-10-0194
COMMUNICATIONS, INC. D/B/A CENTURY)	T-03555A-10-0194
LINK COMMUNICATIONS, EMBARQ)	T-03902A-10-0194
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.)	

Arizona Corporation Commission

DOCKETED

NOV 10 2010

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NOTICE OF FILING DIRECT TESTIMONY

Level 3 Communications, LLC, McLeodUSA Telecommunications Services, Inc. d/b/a PAETEC Business Services, and tw telecom of arizona llc hereby give notice that they are filing the attached Surrebuttal Testimony of Timothy J. Gates. The confidential and highly confidential version of the Surrebuttal Testimony is being provided to the parties who have executed an Exhibit A and B to the protective order in this docket.

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...

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RESPECTFULLY SUBMITTED this 10th day of November 2010.

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BEFORE THE ARIZONA CORPORATION COMMISSION

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GARY PIERCE, Commissioner
SANDRA KENNEDY, Commissioner
PAUL NEWMAN, Commissioner
BOB STUMP, Commissioner

JOINT NOTICE AND APPLICATION OF)	
QWEST CORPORATION, QWEST)	
COMMUNICATIONS COMPANY, LLC,)	
QWEST LD CORP., EMBARQ)	Docket No. T-01051B-10-0194
COMMUNICATIONS, INC. D/B/A)	Docket No. T-02811B-10-0194
CENTURYLINK COMMUNICATIONS,)	Docket No. T-04190A-10-0194
EMBARQ PAYPHONE SERVICES, INC.)	Docket No. T-20443A-10-0194
D/B/A CENTURYLINK, AND CENTURYTEL)	Docket No. T-03555A-10-0194
SOLUTIONS, LLC FOR APPROVAL OF THE)	Docket No. T-03902A-10-0194
PROPOSED MERGER OF THEIR PARENT)	
CORPORATIONS QWEST)	
COMMUNICATIONS INTERNATIONAL INC.)	
AND CENTURYTEL, INC.)	

SURREBUTTAL TESTIMONY

OF

TIMOTHY J GATES

ON BEHALF OF

tw telecom of arizona llc; Level 3 Communications, LLC; and
McLeodUSA Telecommunications Services, Inc. d/b/a PAETEC Business Services

PUBLIC VERSION

HIGHLY SENSITIVE AND CONFIDENTIAL TRADE SECRET, HIGHLY CONFIDENTIAL
AND CONFIDENTIAL INFORMATION HAS BEEN REDACTED

November 10, 2010

TABLE OF CONTENTS

I.	INTRODUCTION AND PURPOSE	1
II.	THE JOINT APPLICANTS' ATTEMPTS TO DEFLECT JOINT CLEC CONCERNS ABOUT MERGER-RELATED HARM ARE UNPERSUASIVE.	6
	A. Joint Applicants' attempts to trivialize the Joint CLECs' concerns is not indicative of a true commitment to maintaining and providing high quality service to their CLEC wholesale customers.	6
	B. CenturyLink's description of its prior integration efforts glosses over problems and merger-related harms.	9
	1. CenturyLink's integration of Embarq in North Carolina and Ohio	9
	2. CenturyLink's integration of Wisconsin exchanges	34
	C. Joint Applicants' attempts to distinguish the proposed transaction from recent troubled mergers relies upon distinctions without differences.	41
	D. The continued lack of details about the Joint Applicants' integration plans creates significant uncertainty.	49
	E. The recent conduct of the Joint Applicants demonstrates that the Merged Company will be more difficult to work with if the proposed transaction is approved.	54
III.	THE JOINT CLECS' PROPOSED CONDITIONS SHOULD BE ADOPTED	55
	A. Joint Applicants' claim broadly that Joint CLEC proposed conditions are unnecessary but provides no basis for rejecting them.	57
	B. Increased economies of scale of the Merged Company should benefit competition.	72
	C. The objective of the Joint CLEC proposed conditions is to offset harm related to the proposed transaction, not to undermine the Joint Applicants' ability to compete.	75
	D. The "Defined Time Period" is merger-specific and is an important component of offsetting merger-related harm in some conditions.	80
	E. Joint Applicants' criticisms of the Joint CLEC proposed conditions should be rejected and the conditions adopted.	82
	1. Conditions 4 and 11	82
	2. Condition 13	97
	3. Condition 15	102
	4. Conditions 17 and 18	104
	5. Conditions 16, 19 and 20	110
	6. Conditions 21, 23, 26 and 27	131
	7. Condition 24	133
	8. Condition 28	139
	9. Condition 29	141
	10. Condition 30	143

EXHIBITS

Exhibit TG-11 – Systems flow diagram.

Exhibit TG-12 – Excerpt from Qwest’s online Product Catalog called “Pre-Ordering Overview” containing a Qwest table reflecting how Qwest back-end service order processing (“SOP”) systems process CLEC orders differently depending on Qwest Region (Central, East, or West).

Exhibit TG-13 – Issues Matrix summarizing Joint Applicants’ Position Statements and Joint CLECs’ Position Statements for each issue presented by the Joint CLEC list of recommended conditions for resolution in this matter.

Exhibit TG-14 – Excerpt from the FCC *Local Competition Order*.

Exhibit TG-15 – Excerpt from the FCC *Qwest 9-State 271 Order*.

Exhibit TG-16 – Matrix Comparing CenturyLink’s and Qwest’s LSR Submission OSS Functionality

Exhibit TG-17 – CenturyLink Discovery Responses Regarding OSS Pre-Order Functions and Order Types

Exhibit TG-18 – CMP August 14 and August 16, 2001, CMP Redesign Meeting Minute Excerpts

Exhibit TG-19 – Hart-Scott-Rodino (“HSR”) documents.

1 **I. INTRODUCTION AND PURPOSE**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Timothy J Gates. My business address is QSI Consulting, 10451 Gooseberry
4 Court, Trinity, Florida 34655.

5 **Q. ARE YOU THE SAME TIMOTHY GATES WHO FILED DIRECT TESTIMONY**
6 **IN THIS PROCEEDING ON SEPTEMBER 27, 2010?**

7 A. Yes.

8 **Q. ON WHOSE BEHALF ARE YOU FILING THIS SURREBUTTAL TESTIMONY?**

9 A. My testimony is being filed on behalf of a number of CLECs: tw telecom of arizona llc;
10 Level 3 Communications, LLC; and McLeodUSA Telecommunications Services, Inc.
11 d/b/a PAETEC Business Services (collectively referred to in my testimony as "Joint
12 CLECs").

13 **Q. PLEASE EXPLAIN THE PURPOSE OF YOUR TESTIMONY.**

14 A. The purpose of my testimony is to respond to the rebuttal testimony of CenturyLink and
15 Qwest (collectively referred to in my testimony as "Joint Applicants"), which was filed
16 on October 27, 2010. Specifically, I will respond to the rebuttal testimony of the
17 following CenturyLink witnesses: Jeffrey Glover,¹ Michael Hunsucker,² Kristin

¹ 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, Arizona Docket Nos. T-01051B-10-0194 et al., October 27, 2010 ("Glover Rebuttal").

1 McMillan,³ and Todd Schafer.⁴ I will also respond to the rebuttal testimony of the
2 following Qwest witnesses: Robert Brigham,⁵ James Campbell,⁶ Karen Stewart,⁷ and
3 Michael Williams.⁸

4 **Q. DO YOU HAVE ANY PRELIMINARY COMMENTS ABOUT THE JOINT**
5 **APPLICANTS' REBUTTAL TESTIMONY?**

6 A. The Joint Applicants have gone to great lengths in their rebuttal testimony to disagree
7 with the conditions proposed by the Joint CLECs (including misstating what the
8 conditions actually say). The Joint Applicants refuse *all* conditions, even though the
9 proposed conditions by Joint CLECs and by, in part, Commission Staff provide the
10 certainty needed by wholesale customers in their wholesale customer relationship with
11 the Joint Applicants during the post-merger integration process, reflect what the Joint

² Rebuttal Testimony of Michael Hunsucker on behalf of Embarq Communications, Inc. d/b/a CenturyLink Communications, Embarq Payphone Services, Inc. d/b/a CenturyLink, and CenturyTel Solutions, LLC, Arizona Docket Nos. T-01051B-10-0194 et al., October 27, 2010 ("Hunsucker Rebuttal").

³ 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, Arizona Docket Nos. T-01051B-10-0194 et al., October 27, 2010 ("McMillan Rebuttal").

⁴ 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, Arizona Docket Nos. T-01051B-10-0194 et al., October 27, 2010 ("Schafer Rebuttal").

⁵ Rebuttal Testimony of Robert Brigham on behalf of Qwest Corporation, Qwest Communications Company, LLC, and Qwest LD Corp., Arizona Docket Nos. T-01051B-10-0194 et al., October 27, 2010 ("Brigham Rebuttal").

⁶ Rebuttal Testimony of James Campbell on behalf of Qwest Corporation, Qwest Communications Company, LLC, and Qwest LD Corp., Arizona Docket Nos. T-01051B-10-0194 et al., October 27, 2010 ("Campbell Rebuttal").

⁷ Rebuttal Testimony of Karen Stewart on behalf of Qwest Corporation, Qwest Communications Company, LLC, and Qwest LD Corp., Arizona Docket Nos. T-01051B-10-0194 et al., October 27, 2010 ("Stewart Rebuttal").

⁸ Rebuttal Testimony of Michael Williams on behalf of Qwest Corporation, Qwest Communications Company, LLC, and Qwest LD Corp., Arizona Docket Nos. T-01051B-10-0194 et al., October 27, 2010 ("Williams Rebuttal").

1 Applicants say they will do if the proposed transaction is approved (albeit without any
2 commitments), and reflect conditions that have been approved by the Federal
3 Communications Commission (“FCC”) and state commissions in the past. The Joint
4 Applicants’ across-the-board rejection of the Joint CLECs’ proposed conditions stands in
5 stark contrast to the Joint Applicants’ claims that they are “commit[ed] to providing
6 quality wholesale services”⁹ and “value[] CLECs and recognize[] them as extremely
7 important...”¹⁰ If the Joint Applicants truly valued CLECs as important customers, it is
8 logical to conclude that they would be willing to work with CLECs to address concerns
9 and ensure that the transition caused by the proposed transaction runs as smoothly as
10 possible for their valued customers.

11 At the same time, Joint Applicants’ rebuttal testimony further supports the Joint CLECs’
12 concerns about merger-related harm. Not only do the Joint Applicants provide no
13 additional useful details about their post-merger plans to overcome the severe uncertainty
14 caused by the proposed transaction, they also describe service-impacting problems that
15 have occurred during CenturyLink’s systems integration effort related to the merger with
16 Embarq – problems that could be devastating to wholesale and retail customers if they
17 occurred in Qwest’s region. This only heightens the systems integrations concerns I
18 discussed in my direct testimony, particularly when CenturyLink now refers to systems

⁹ Hunsucker Rebuttal at p. 9, line 18 – p. 10, line 1; p. 27, lines 3-4.

¹⁰ Williams Rebuttal at p. 21, lines 16-17.

1 integration following a merger as “necessary”¹¹ and problems that arise during those
2 integration efforts as “inevitabl[e].”¹²

3 In an apparent recognition of the lack of facts for their claims that the proposed
4 transaction is in the public interest, the Joint Applicants claim that the Joint CLECs’
5 positions are unfounded and paint the Joint CLECs as seeking unfair advantages. These
6 claims cannot be supported given the evidence that Dr. Ankum and I provided in our
7 direct testimony. They ignore, among other things, the data provided about
8 CenturyLink’s wholesale service quality performance following the Embarq merger,¹³ the
9 examples provided about the differences in functionalities between Qwest’s Operations
10 Support Systems (“OSS”) and CenturyLink’s OSS,¹⁴ the data comparing the size of the
11 existing wholesale operations of Qwest and CenturyLink,¹⁵ and the data in Dr. Ankum’s
12 Exhibits AA-3 and AA-4 which demonstrate (through information collected during the
13 discovery process) that significant uncertainty surrounds the proposed transaction and
14 alleged benefits have not been substantiated by Joint Applicants. The Joint Applicants
15 also erroneously claim that the Joint CLECs are seeking unfair competitive advantages
16 and a *cut* of the expected synergy savings. That is not accurate. A fair reading of the
17 testimony shows that the Joint CLECs seek to avoid deterioration in the quality of

¹¹ Schafer Rebuttal at p. 9, lines 8-10.

¹² Schafer Rebuttal at p. 8, lines 22-23.

¹³ Direct Testimony of Timothy Gates, Arizona Docket Nos. T-01051B-10-0194, September 27, 2010 (“Gates Direct”) at pp. 81-82 (confidential version).

¹⁴ Gates Direct at pp. 56-57.

¹⁵ Gates Direct at pp. 24-26 (confidential version).

1 Qwest's wholesale services and products, wholesale systems, and wholesale support, as
2 well as deterioration in their opportunity to compete with Qwest and CenturyLink – each
3 which would result in harms to the public interest.

4 It appears that the Joint Applicants have forgotten that they are the companies asking for
5 approval of the proposed transaction, and that it is their responsibility to provide
6 information to demonstrate that the proposed transaction is in the public interest. Joint
7 Applicants have not provided such information in this proceeding, and as a result, the
8 proposed transaction should be denied. If the Arizona Commission is inclined to approve
9 the proposed transaction despite the uncertainties, lessons learned from other mergers,
10 and likely harms that would result, then the Commission should adopt the conditions
11 proposed by Joint CLECs, as well as any additional conditions, such as retail conditions,
12 that the Commission determines are needed to permit a finding that the proposed
13 transaction is in the public interest. The Joint CLEC conditions are designed to address
14 the harms to CLECs, their end users, and competition that would occur from this
15 particular transaction. Adopting conditions to protect and foster competition is a
16 reasonable alternative to merger denial, as it allows the Commission to render a decision
17 approving the merger on an expedited basis (as requested by Joint Applicants), which
18 allows the Joint Applicants to move forward with the transaction, while affording CLECs
19 a degree of certainty to plan their business going forward, and providing CLECs and their
20 customers some degree of protection to avoid or offset merger-related harms.

1 **Q. DO YOU HAVE ANY PRELIMINARY COMMENTS ABOUT ACC STAFF'S**
2 **TESTIMONY?**

3 A. Yes. ACC Staff proposes 47 conditions, including conditions related to “regulatory” and
4 “wholesale operations.” I agree with ACC Staff that conditions are needed before the
5 proposed transaction can be found to be in the public interest. A number of Staff’s
6 proposed conditions are complementary to the Joint CLECs’ proposed conditions and I
7 will identify some of those below.

8 **II. THE JOINT APPLICANTS’ ATTEMPTS TO DEFLECT JOINT CLEC**
9 **CONCERNS ABOUT MERGER-RELATED HARM ARE UNPERSUASIVE.**

10 A. *Joint Applicants’ attempts to trivialize the Joint CLECs’ concerns is not*
11 *indicative of a true commitment to maintaining and providing high quality*
12 *service to their CLEC wholesale customers.*

13 **Q. JOINT APPLICANTS HAVE TESTIFIED THAT CLECS’ STATED CONCERNS**
14 **ABOUT “WHOLESALE SERVICE PERFORMANCE ARE IRRELEVANT TO**
15 **THIS MERGER PROCEEDING”¹⁶ AND “RAISED MERELY TO BE A**
16 **DISTRACTION.”¹⁷ DOES THIS HEIGHTEN YOUR CONCERNS ABOUT**
17 **MERGER-RELATED HARM TO CLECS AND COMPETITION?**

¹⁶ Williams Rebuttal at p. 2, lines 13-15 and p. 4, line 12.

¹⁷ Hunsucker Rebuttal at p. 49, lines 8-9. See also, Rebuttal Testimony of Robert Brigham, Minnesota Docket No. P-421, et al./PA-10-456, September 13, 2010, at p. 25, lines 7-9 (“The competitive issues raised by the CLECs in this proceeding represent nothing more than ‘noise’ that is designed to distract the Commission from the real issue in this case...”)

1 A. Yes. These statements demonstrate a complete disregard of the Joint Applicants'
2 wholesale customers who have spent a great deal of time, effort and expense intervening
3 in these merger review proceedings to voice their legitimate concerns to the Commission.

4 In addition, these statements call into question CenturyLink's claims that: (i)
5 CenturyLink is committed to providing quality wholesale services,¹⁸ (ii) wholesale
6 customers are a top priority for CenturyLink and will remain so post-merger,¹⁹ (iii)
7 "[b]oth CenturyLink and Qwest take very seriously their wholesale provisioning
8 obligations and opportunities"²⁰ and (iv) "serving wholesale customers is important to
9 each company and is crucial to the future of the combined company."²¹ This rhetoric,
10 which is designed to secure approval of the transaction, is belied by the Joint Applicants'
11 refusal to provide facts or to consider the reasonable conditions of the Joint CLECs.

12 It is simply not good business for a service provider to belittle its customers' concerns as
13 "irrelevant," "merely...a distraction" and "noise." In other industries with competitive
14 markets, that type of attitude would likely lead to failure (as customers would leave that
15 service provider for other service providers that value customers' opinions and concerns).
16 For example, if customers of McDonald's raised concerns about long waiting times in the
17 drive-thru because of a reduction in employees, and McDonald's dismissed these
18 concerns as "irrelevant" or "noise," the chances are good that customers would *vote with*

¹⁸ Hunsucker Rebuttal at p. 6, lines 10-11 and p. 9, lines 7-8.

¹⁹ Hunsucker Rebuttal at p. 9, lines 9-10; p. 10, lines 2-3; p. 27, lines 4-5 and lines 19-20.

²⁰ Hunsucker Rebuttal at p. 31, lines 17-18 and p. 56, lines 14-15.

²¹ Hunsucker Rebuttal at p. 56, lines 18-20.

1 *their feet* and go to Arby's or Hardees instead. Unfortunately, the CLECs do not have the
2 same option when it comes to the products and services they purchase from Qwest, and
3 the need to exchange traffic to maintain the efficient operation of the Public Switched
4 Telephone Network ("PSTN").²²

5 **Q. DO THE JOINT APPLICANTS ALSO DISMISS CONCERNS RAISED ABOUT**
6 **RETAIL SERVICE QUALITY?**

7 A. Yes. Mr. Williams states: "statements about retail service quality...are irrelevant to this
8 merger proceeding..."²³ The Joint Applicants' claim that the service quality provided by
9 the combined company to both wholesale and retail customers post-closing is "irrelevant"
10 to determining whether the proposed transaction is in the public interest demonstrates
11 how narrow and self-serving the Joint Applicants' view of the "public interest" is.
12 Contrary to Joint Applicants' claims, the service quality that the combined company will
13 provide to customers if the proposed transaction is approved is paramount to this
14 proceeding, and meaningful, enforceable commitments are needed before the merger is
15 approved so that service quality does not deteriorate post-merger.

²² Mr. Williams states at pages 21-22 of his Rebuttal Testimony: "Qwest values CLECs, and recognizes them as extremely important in helping to keep customers on Qwest's wireline network." The dismissive statements made by Joint Applicants about the Joint CLECs' proposed conditions are not indicative of a service provider that "values" its customers. Mr. Williams fails to mention in his Arizona testimony that Qwest competes with CLECs in local retail markets, and has economic incentives to serve an end user customer with its retail services rather than permit a CLEC wholesale customer to serve that end user customer using Qwest's wholesale services – a point that Mr. Williams acknowledged at the Minnesota hearing. (Q. "And would you also agree with me that given a choice between providing retail service to a customer on the one hand, or on the other hand providing a CLEC with wholesale service to serve the same customer, Qwest would rather be providing the retail service? A. That's why we compete. We compete for retail customers, I agree to that." Minnesota Docket No. P-421, et al./PA-10-456, Hearing Transcript Volume 2A (public) at p. 92 (Williams)).

²³ Williams Rebuttal at p. 2, lines 13-15.

1 **B. *CenturyLink's description of its prior integration efforts glosses over problems***
2 ***and merger-related harms.***

3 **1. CenturyLink's integration of Embarq in North Carolina and Ohio**

4 **Q. DOES CENTURYLINK'S QWEST'S OWN TESTIMONY SUPPORT THE JOINT**
5 **CLECS' CONCERNS ABOUT MERGER-RELATED HARM AND THE NEED**
6 **FOR JOINT CLECS' CONDITIONS IF THE PROPOSED TRANSACTION IS**
7 **APPROVED?**

8 A. Yes. The same day I filed my direct testimony (September 27, 2010), the
9 Communications Workers of America ("CWA") filed the direct testimony of Jasper
10 Gurganus,²⁴ which described problems CenturyLink was experiencing during its
11 integration of Embarq in North Carolina and Ohio. CenturyLink filed the rebuttal
12 testimony of Todd Schafer on October 27, 2010, to respond to Mr. Gurganus' testimony.
13 In his rebuttal testimony, CenturyLink witness Mr. Schafer acknowledged the problems
14 discussed by Mr. Gurganus. Mr. Schafer's acknowledgement of these integration
15 problems was surprising because he referred to the ongoing Embarq integration in his
16 direct testimony as running "smooth and successful"²⁵ and because CenturyLink failed to
17 disclose information about these problems in discovery responses in a timely fashion
18 despite being specifically asked for it.

²⁴ Pre-Filed Direct Testimony of Jasper Gurganus on behalf of CWA, Arizona Docket Nos. T-01051B-10-0194, et. al., September 27, 2010 ("Gurganus Direct").

²⁵ Schafer Direct at p. 6, lines 10-11.

1 **Q. DID CENTURYLINK HAVE AN OBLIGATION TO PROVIDE THIS EVIDENCE**
2 **EARLIER?**

3 A. Yes. On July 7, 2010, Integra served discovery requests upon Joint Applicants in which
4 Integra referenced the direct testimony of Mr. Schafer regarding integration efforts
5 related to CenturyTel's acquisition of Embarq and Mr. Schafer's claims that they have
6 been successful, and asked CenturyLink to: (1) Describe in detail the integration efforts
7 undertaken by the company for CenturyTel's acquisition and specifically to answer
8 fourteen sub-questions, including "Description of problems the company experienced (or
9 is experiencing) during integration;²⁶ and (2) Provide a detailed description of these
10 conversions, including "how the company determined that the integration efforts 'have
11 been successful.'"²⁷ As part of its information requests on July 7, 2010, Integra included
12 an instruction stating that the information requests are intended to be continuing in nature
13 and indicating that the respondents should supplement the responses promptly.²⁸
14 CenturyLink responded to these Integra Information Requests on July 21, 2010, and
15 CenturyLink supplemented its responses on August 30, 2010.

16 In its initial and supplemental responses, CenturyLink stated that the integrations were
17 proceeding as planned, without disclosing any of the problems that CenturyLink has
18 acknowledged only after CWA brought them to light in testimony. CenturyLink
19 represented that the conversion to CenturyLink's retail end user billing system is

²⁶ Integra Arizona Information Request No. 41 to Joint Applicants (July 7, 2010).

²⁷ Integra Arizona Information Request No. 42 to Joint Applicants (July 7, 2010).

²⁸ Integra Arizona Information Requests to Joint Applicants (July 7, 2010) at p. 2.

1 proceeding as planned “without customer disruption.”²⁹ CenturyLink’s affirmative
2 statement appears inconsistent with Mr. Schafer’s rebuttal testimony that the problems
3 encountered in North Carolina have caused CenturyLink “to produce lower service level
4 metrics than desired since conversion.”³⁰

5 While continuing to pursue expedited treatment of this matter, CenturyLink has allowed
6 the months in which these problems could have been investigated – i.e., between
7 CenturyLink’s July 21, 2010, non-responsive discovery answer and CenturyLink’s
8 admissions in its October 27, 2010, rebuttal testimony – to lapse without disclosing this
9 requested relevant information. Further, there are numerous unanswered questions
10 associated with CenturyLink’s tardy explanation of these problems, such as (i) what
11 “devices” were not loaded correctly,³¹ (ii) what “outside plant records” were impacted by
12 the data inconsistency,³² (iii) why the data inconsistency was not revealed in data
13 validation efforts, (iv) why the data inconsistency was not revealed in quality assurance
14 testing, and (v) other information needed to help determine whether similar problems are
15 likely to occur in this merger and, if so, what may be done to avoid them. With top
16 executives at Qwest expected to receive multi-millions of dollars upon closing³³ and

²⁹ CenturyLink’s Response to Integra Arizona Information Request No. 41 (July 21, 2010).

³⁰ Schafer Rebuttal at p. 10, lines 16-18.

³¹ Schafer Rebuttal at p. 8, lines 7-8.

³² Schafer Rebuttal at p. 8, lines 4-7.

³³ See, e.g., Windfall for Qwest top execs, by Andy Vuong, *The Denver Post*, 7/18/2010. http://www.denverpost.com/search/ci_15536725. The article notes: “Seven top executives at Qwest stand to reap more than *\$110 million in cash and stock* from the Denver-based company’s proposed merger with CenturyLink, according to a new regulatory filing.” (Emphasis added.)

1 CenturyLink estimating over \$600 million in synergy savings if the transaction is
2 approved, it is clear why Qwest and CenturyLink are in a hurry. However, it becomes
3 less and less clear what public interest may be served by not inquiring into and
4 adequately investigating these problems, particularly when CenturyLink delayed proper
5 investigation into these issues by not disclosing required information in discovery.

6 **Q. PLEASE BRIEFLY DESCRIBE THE INTEGRATION-RELATED PROBLEMS**
7 **CWA AND CENTURYLINK HAVE REPORTED.**

8 A. Mr. Schafer states that, during the conversion in North Carolina to CenturyLink billing
9 and operational systems, outside plant records and “devices” were loaded incorrectly,
10 which led to the problems discussed by the CWA.³⁴ CenturyLink has also attributed
11 these problems to “differences between the old and new systems”³⁵ and a “lack of
12 familiarity with the new systems...”³⁶ Some of the problems that the CWA described in
13 its testimony include:

- 14 • “workers...being dispatched to incorrect locations for service”³⁷
15 • “workers reported being dispatched for service with insufficient or incorrect
16 information”³⁸
17 • longer out of service periods and longer delays in initiating service³⁹
18 • differing and confusing software that dispatches/assigns technicians⁴⁰

³⁴ Schafer Rebuttal at p. 8, lines 4-9.

³⁵ Rebuttal Testimony of Duane Ring, Minnesota PUC Docket No. P-421, et al./PA-10-456, September 13, 2010 (“Ring Minnesota Rebuttal Testimony”), at p. 2, lines 21-22.

³⁶ Ring Minnesota Rebuttal Testimony at p. 3, lines 5-6.

³⁷ Gurganus Direct at p. 5, lines 3-4.

³⁸ Gurganus Direct at p. 5, lines 13-14.

³⁹ Gurganus Direct at p. 5, lines 7-10.

- 1 • “the systems do not appear to be interconnected or coordinated”⁴¹
- 2 • negative impacts on work flow⁴²
- 3 • “inefficiencies in the new systems”⁴³
- 4 • “insufficient training and resources”⁴⁴ and
- 5 • consumer frustration about installation and service appointments not being met
- 6 and long hold times.⁴⁵

7 **Q. HAS CENTURYLINK ADMITTED THAT THESE PROBLEMS HAVE LED TO**
8 **SERVICE QUALITY DETERIORATION?**

9 A. Yes. Mr. Schafer states that these problems have “caused CenturyLink to produce lower
10 service level metrics than desired since conversion.”⁴⁶ In fact, according to a service
11 quality report from the North Carolina Utilities Commission, CenturyLink has failed to
12 meet the service quality standards for Business Office Answer Time, Repair Service
13 Answer Time and Out-of-Service Troubles Cleared within 24 hours.⁴⁷ CenturyLink was
14 asked about the service quality deterioration in North Carolina under cross-examination
15 at the hearing in the Minnesota merger review proceeding:

⁴⁰ Gurganus Direct at pp. 5-6.

⁴¹ Gurganus Direct at p. 6, lines 16-17.

⁴² Gurganus Direct at pp. 7-8.

⁴³ Gurganus Direct at p. 8, line 8. *See also*, Gurganus Direct at p. 9 (“I also received a report that the new CenturyLink systems are so inefficient (improper orders, bad tickets, delays from being on hold while calling in for information that should have been included on the work orders) that tasks that should take a tech one hour to complete are taking as long as three hours...some of the new systems require a lot of manual override.”)

⁴⁴ Gurganus Direct at p. 4, line 14.

⁴⁵ Gurganus Direct at p. 10.

⁴⁶ Schafer Rebuttal at p. 10, lines 16-18.

⁴⁷ North Carolina Utilities Commission Service Quality Report, for period July 1, 2009 through June 30, 2010. Available at:

<http://www.ncuc.commerce.state.nc.us/consumer/svcqlty.pdf>

- 1 Q. First, in your opening remarks you mentioned the situation in
2 North Carolina, you did not mention your compliance with the
3 service quality standards of the North Carolina Utilities
4 Commission, are you familiar with that?
- 5 A. I am not directly familiar with those.
- 6 Q. All right. Would you accept that there are service quality
7 standards in that state for telephone service?
- 8 A. I would assume there are.
- 9 Q. And I'm looking here at a service quality report that's available on
10 that commission's website covering the period July 1, 2009
11 through June 30, 2010. And would you accept that it shows that
12 your operating companies in North Carolina are out of compliance
13 with the business office answer time standard?
- 14 A. If that's what it says.
- 15 Q. And also that they're out of compliance with the repair service
16 answer time standard?
- 17 A. If that's what it says.
- 18 Q. And also with the out-of-service troubles cleared within 24 hours,
19 would you accept that also?
- 20 A. If that's what it says.
- 21 Q. All right. And just to be clear, your operating companies in that
22 state are Carolina Telephone and Telegraph and also Central
23 Telephone Company, correct?
- 24 A. Correct.
- 25 Q. Now, let's try to put the North Carolina conversion into a little
26 perspective. You serve just under a million access lines in North
27 Carolina, don't you?
- 28 A. It's right around a million.⁴⁸

29 It is clear that the problems encountered by CenturyLink in North Carolina when
30 integrating Embarq have resulted in service quality deterioration that has negatively

⁴⁸ Minnesota Docket No. P-421, et al./PA-10-456, Hearing Transcript, Volume 2A (Public) at pp. 65-66 (Duane Ring).

1 impacted customers. And given that CenturyLink serves about one million access lines
2 in North Carolina, the problems must be widespread.

3 **Q. WHAT SHOULD THE COMMISSION TAKE FROM THE TESTIMONY ABOUT**
4 **INTEGRATION PROBLEMS IN NORTH CAROLINA?**

5 A. This testimony is additional evidence that reinforces the Joint CLECs' concerns related to
6 CenturyLink's integration of Qwest if the proposed transaction is approved. This
7 testimony also undermines the Joint Applicants' attempts to dismiss the Joint CLECs'
8 concerns and conditions.

9 **Q. PLEASE EXPLAIN HOW MR. SCHAFER'S TESTIMONY UNDERMINES THE**
10 **JOINT APPLICANTS' ATTEMPTS TO DISMISS THE CLEC CONCERNS AND**
11 **CONDITIONS?**

12 A. CenturyLink testified in its direct testimony that "CenturyLink is confident that...the
13 execution of this integration [of Qwest] will be as smooth and successful as the Embarq
14 integration and others have been in the past."⁴⁹ CenturyLink also testified in its direct
15 testimony that there are no "potential harms that could result from the [Qwest] merger."⁵⁰
16 However, in rebuttal testimony, Mr. Schafer testifies that the types of problems
17 experienced in North Carolina are to be expected with every merger; he states: "With any
18 integration of large, complex systems, some issues are expected to arise..."⁵¹ He goes

⁴⁹ Schafer Direct at p. 6, lines 8-11.

⁵⁰ McMillan Direct at p. 16, lines 3-6.

⁵¹ Schafer Rebuttal at p. 7, lines 17-18.

1 even further, stating that “every system conversion or integration inevitably is going to
2 have some issues.”⁵² Despite claiming in its direct testimony that there are no potential
3 harms that could result from the proposed transaction, CenturyLink now states that
4 problems are “inevitabl[e]” in every merger (and has admitted that these types of
5 problems led to service quality deterioration in North Carolina).

6 **Q. DOES MR. SCHAFER’S TESTIMONY UNDERMINE THE JOINT**
7 **APPLICANTS’ ATTEMPTS TO DISMISS CLEC CONCERNS IN OTHER**
8 **WAYS?**

9 A. Yes. As explained above, CenturyLink has stated that “differences between the old
10 systems and new systems” and “lack of familiarity with the new systems” have led to
11 integration problems and service quality deterioration in North Carolina. However, in
12 responding to my concerns about post-merger OSS integration, Mr. Hunsucker states:
13 “Mr. Gates’ speculation that § 271 compliant systems might just ‘disappear’ is
14 nonsense.”⁵³ Despite Mr. Hunsucker’s assertion, the testimony about the problems in
15 North Carolina shows that Embarq system functionality did just “disappear.” Mr.
16 Gurganus testified that:

17 Prior to the merger between Embarq and CenturyLink, if a concentrator
18 went down, the business office would issue an outage ticket that would
19 alert people throughout the system that there is a known outage in a
20 specific area. That meant when customers called to report the outage, the
21 customer service representatives would be able to tell them the company
22 knew about the outage, that it was being worked on, and even an estimated

⁵² Schafer Rebuttal at p. 8, lines 22-23.

⁵³ Hunsucker Rebuttal at p. 16, lines 8-9.

1 [REDACTED]

2 [REDACTED] END HIGHLY CONFIDENTIAL***]⁵⁶

3 Q. HAVE JOINT APPLICANTS INDICATED THAT QWEST'S EXISTING OSS
4 WILL CHANGE POST-MERGER?

5 A. Yes. Discovery responses that CenturyLink and Qwest submitted in response to Integra's
6 third set of discovery in Arizona indicate that at least Qwest's CLEC-facing OSS
7 interface for Local Service Requests ("LSRs") will be modified or replaced if the
8 proposed transaction is approved.⁵⁷ This particular OSS interface is used to place orders
9 for most unbundled network elements used by CLECs to provide local service.
10 Specifically, CenturyLink states: "...after the systems of the [merged] company have
11 been consolidated after the merger, the company intends to support a [unified ordering
12 model] UOM⁵⁸ interface for LSRs."⁵⁹ At the same time, Qwest states that, "IMA is not

⁵⁶ See also CenturyLink's Responses to Arizona Corporation Commission Staff's Seventh Set of Data Requests to CenturyLink, ACC Docket Nos. T-01051B-10-0194 et al., at 9 (dated Aug. 13, 2010) (response to Arizona Corporation Commission Staff Data Request 7.15 by Mark Harper, Director of Regulatory Operations and Policy for CenturyLink) (stating that "CenturyLink anticipates improved wholesale customer service over time through the consolidation of OSS and billing systems and sales and account management teams").

⁵⁷ I made this same point in my direct testimony at pp. 39-40 using public discovery responses from Minnesota. Since that time, Joint Applicants have provided the same discovery responses in Arizona. I reiterate my point here with the Arizona-specific data request responses.

⁵⁸ Unified Ordering Model ("UOM") Guidelines Document, established by the Ordering and Billing Forum ("OBF"), are described as follows: "The Unified Ordering Model (UOM) describes a complete set of system documentation using an end-to-end structured methodology. The scope of UOM encompasses business requirements, analysis, design and implementation." <http://www.atis.org/obf/UOMASRsumm.asp>

⁵⁹ CenturyLink Response to Integra Arizona Data Request No. 3-9. Integra asked CenturyLink: "Please indicate whether, after all of the systems of the Merged Company have been consolidated, the interface that the Merged Company will provide will support a UOM interface for LSRs." CenturyLink provided a supplemental response to Integra Data Request No. 3-9 stating: "CenturyLink clarifies that no decisions have been made regarding the potential consolidation of systems after the merger." CenturyLink's "clarification" does nothing to alleviate the concerns and potential public interest harms related to systems integration, and only adds to the uncertainty.

1 UOM compliant...”⁶⁰ These responses necessarily mean that the interface Qwest
2 currently uses to process CLEC LSRs (Interconnect Mediated Access or “IMA”) will no
3 longer be available in its present form. CenturyLink will either replace it or modify it.
4 Given that CenturyLink states that its OSS is UOM compliant,⁶¹ the chances are likely
5 that CenturyLink would replace Qwest’s OSS with CenturyLink’s legacy OSS.

6 **[***BEGIN HIGHLY CONFIDENTIAL** [REDACTED]

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED] **END HIGHLY CONFIDENTIAL***]**

16 **Q. IS THERE INFORMATION WHICH SHOWS THAT INTEGRATING**
17 **CENTURYLINK’S SYSTEMS INTO QWEST’S REGION WOULD REDUCE**
18 **THE FUNCTIONALITY AND EFFICIENCY OF QWEST’S SYSTEMS?**

⁶⁰ Qwest Response to Integra Arizona Data Request No. 3-11, dated September 24, 2010. Integra asked Qwest: “Is the interface that Qwest currently uses to process LSRs for CLECs a UOM interface. If so...” Qwest also indicated in its response: “IMA has its own XML Gateway and does accept XML files for LSR order submission...IMA only offers a customer GUI written in java or the custom XML interface mentioned above.”

⁶¹ “I mean, our system is also UOM compliant, universal ordering module compliant, now.” Minnesota Docket P-421 et al./PA-10-456, Hearing Transcript Volume 2B (public) at p. 149 (Hunsucker).

1 A. Yes. There is ample information in this regard. I have attached to my testimony Exhibit
2 TG-16 a matrix which compares the functionality of CenturyLink and Qwest OSS for
3 handling Local Service Requests (“LSRs”). This exhibit, which is based on the discovery
4 responses provided by CenturyLink and Qwest (attached as Exhibit TG-17), shows that
5 there are numerous functionalities and order types related to LSRs that are available from
6 Qwest’s OSS but are not available from CenturyLink’s OSS. Some of these examples
7 include, for the pre-order functions, Raw Loop Data Validation and Loop Qualification
8 (for ISDN, ADSL, and commercial broadband services). Each of these have a “no” in the
9 CenturyLink EASE column for which there is a “yes” in the Qwest IMA column in
10 Exhibit TG-16. This is an important difference between EASE, which does not have this
11 pre-order functionality, and Qwest’s IMA, which does. Qwest’s Raw Loop Data and
12 Loop Qualification pre-order tool helps CLECs to determine the likelihood of being able
13 to provide an end user with xDSL service *before the CLEC* places an order for the
14 customer. This process allows a CLEC to review loop make-up information when trying
15 to determine what service may best meet the customer’s needs before the LSR process
16 even starts. I also discussed some differences between the functionalities of the two
17 companies’ OSS in my direct testimony.⁶²

18 Furthermore, [***BEGIN CONFIDENTIAL [REDACTED]

19 [REDACTED]

20 [REDACTED]

⁶² Gates Direct at pp. 56-57.

1 **Q. MR. SCHAFER STATES THAT THE PROBLEMS EXPERIENCED DURING**
2 **THE INTEGRATION OF EMBARQ IN NORTH CAROLINA ARE**
3 **MANAGEABLE AND SHOULD NOT RECUR.⁶⁹ PLEASE RESPOND.**

4 A. Mr. Schafer's testimony in this regard appears to be another attempt by CenturyLink to
5 gloss over the integration problems it has encountered and the potential harm facing
6 CLECs and their end user customers in Qwest's region if the proposed transaction is
7 approved. On October 1, 2010 (about three weeks before Mr. Schafer's rebuttal
8 testimony), CWA witness Mr. Gurganus submitted pre-filed surrebuttal testimony in the
9 Minnesota merger review proceeding which provided updated information about
10 CenturyLink's integration problems. The CWA witness said:

11 The Leaders in Ohio, where Embarq systems were converted to
12 CenturyLink systems beginning in October of 2009, responded that they
13 still were not back to the level of efficiency they had before the cutover.
14 That is to say, even after a year, they are still experiencing so-called
15 transition problems. In particular, they report continued problems with
16 missing or incomplete order information so that they must ask the
17 customers what they ordered and hope that they have the necessary
18 equipment on hand to complete the order.

19 One tech in Ohio described arriving at an attorney's office this week with
20 an incomplete order. When the tech asked the customer what services and
21 equipment they wanted, the customer berated him, saying he spent three
22 hours on the phone trying to place the order and he wasn't going to spend
23 anymore time repeating himself.⁷⁰

⁶⁹ Schafer Rebuttal at p. 8, lines 13-17.

⁷⁰ Pre-Filed Surrebuttal Testimony of Jasper Gurganus on behalf of the Communications Workers of America (CWA), Minnesota Docket No. P-421, et al./PA-10-456, October 1, 2010 ("Gurganus Minnesota Surrebuttal Testimony"), at p. 2, lines 5-17. Available at: <https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={DC87A4D2-0C00-417A-8A4E-01B408BE6CE9}&documentTitle=201010-55078-01>

1 The CWA also provided an update on the integration problems in North Carolina: “our
2 North Carolina techs report that nothing has really improved.”⁷¹ The CWA reports that
3 problems are still occurring regarding “missing or incomplete information on orders[,]”
4 “techs in North Carolina are struggling to complete orders on time[,]” and “employees
5 are still working overtime trying to complete tasks.”⁷²

6 **Q. HAS CENTURYLINK PROVIDED ANY INFORMATION TO SHOW THAT IT**
7 **COULD MANAGE OR AVOID SIMILAR INTEGRATION PROBLEMS IN**
8 **QWEST’S REGION?**

9 A. No. What Mr. Schafer fails to mention is that a problem that may be manageable in
10 North Carolina may not be manageable in Arizona. Since CenturyLink has served
11 primarily rural areas, it has no experience with the volumes and types of orders,
12 complexity of systems, etc. that it will have to manage in Qwest’s BOC territory if the
13 proposed transaction is approved. There is no evidence that CenturyLink could manage
14 problems that may arise during its efforts to integrate Qwest if the proposed transaction is
15 approved. And because Qwest has significantly larger wholesale operations in Arizona
16 (and elsewhere)⁷³ than does CenturyLink, the risk to wholesale customers is higher with

⁷¹ Gurganus Minnesota Surrebuttal Testimony at pp. 2-3.

⁷² Gurganus Minnesota Surrebuttal Testimony at p. 3, lines 6-10.

⁷³ Gates Direct at pp. 24-26. At page 14 of his rebuttal testimony, Mr. Hunsucker suggests that scale and experience of CenturyLink’s wholesale operations “compares quite well” to Qwest’s wholesale operations. As support, he point to: (1) “almost two thousand active CLEC agreements,” (2) about 1 million ASRs and LSRs CenturyLink is expected to process in 2010, (3) “a CLEC performance assurance plan in Nevada that is substantially similar to Qwest’s Arizona Performance Assurance Plan” and (4) 271 services purchased from CenturyLink. However, Mr. Hunsucker makes no attempt to compare: CenturyLink’s and Qwest’s CLEC agreements; the volume of each company’s ASR/LSR volumes; CenturyLink’s performance assurance plan to

1 the proposed transaction. Problems in loading outside plant records is just one out of
2 many problems that could occur if CenturyLink attempted to replace Qwest's OSS with
3 CenturyLink's OSS post-merger. Mr. Schafer describes a root cause of the problems
4 with the Embarq North Carolina conversion as:

5 some of the outside plant records were loaded incorrectly. The way in
6 which plant was constructed in the legacy Embarq areas was not
7 consistent between areas and not consistent with the legacy CenturyTel
8 areas. As a result, records for some of the devices initially did not load
9 correctly in the conversion. This led to certain problems that one of the
10 CWA witnesses cited in testimony.⁷⁴

11 Data inconsistencies are not uncommon in legacy systems. As reported by Liberty
12 Consulting in its FairPoint Post-Cutover Status Report on April 1, 2009, in regards to the
13 FairPoint conversion:

14 data problems have affected a large number of accounts. These
15 unexpected problems have included such issues and incorrect data
16 mapping and misinterpretation of Verizon data, and have had a major
17 impact on such critical function as loop qualification, validation of
18 customer addresses, assignment of telephone numbers, and identification
19 of serving wire centers for customers.⁷⁵

20 CenturyLink and Qwest have provided no evidence that such data inconsistencies, and
21 the resulting conversion problems, are any less likely with the proposed transaction with
22 Qwest. To the contrary, there is ample evidence that data within Qwest's systems and

Qwest's performance assurance plans; or the types, volumes, or rates of 271 services offered by each company. Mr. Hunsucker's claim that CenturyLink "compares quite well" does not square with the facts I provided at pages 24-26 of my direct testimony showing that Qwest's wholesale operations are much larger than CenturyLink's, both in Arizona and company-wide.

⁷⁴ Schafer Rebuttal at p. 8, lines 5-9.

⁷⁵ Available at:

<http://www.puc.nh.gov/telecom/Filings/FairPoint/Post-Cutover/FairPoint%20Post-Cutover%20Status%20Report%2004-01-09.pdf>

1 processes varies by region and thus such inconsistencies and related data integrity
2 conversion issues are likely to occur in any Qwest-CenturyLink integration. At least
3 some of the Qwest regional differences stem from the legacy companies of Mountain
4 Bell (now known as Qwest Central Region), Pacific Northwestern Bell (now known as
5 Qwest West Region), and Northwestern Bell (now known as Qwest Eastern Region) that
6 later became part of US West, and then Qwest. Therefore, this transaction presents not
7 only the risk of data inconsistencies between CenturyLink legacy areas and Qwest legacy
8 areas, but also between and among each of the legacy Qwest Regions and each of the
9 legacy CenturyLink areas. Evidence of regional differences include, for example, Qwest
10 implementing system business rules that vary by Qwest Region;⁷⁶ Qwest periodically
11 sending notices to CLECs indicating that it is unable to process orders in one or more
12 (but not all) of the three Qwest Regions;⁷⁷ and Qwest implementing a change request to

⁷⁶ See Local Service Ordering Guide (LSOG), at <http://www.qwest.com/wholesale/clecs/lsoq.html> (with links to forms which identify Qwest Regional Differences). For example, for Exchange Company Circuit ID (ECCKT), the Qwest LSOG (on page 24 of the Loop Services form and on page 24 of the Loop Service With Number Portability form) requires CLECs to use different formats for circuit identification depending on the Qwest Region. In fact, the last two alpha characters of the ECCKT indicate which Qwest Region (with MS being Central, PN being Western, and NW being Eastern). Another example reflects differences in Qwest's Service Order Processor (SOP) by Region. In the Qwest LSOG (on page 20 of Pending Service Order Notification Form), Qwest informs CLECs of action taken by Qwest differently depending on regional SOP. For Eastern and Western Qwest Regions, Qwest provides an action code ("R") to CLECs to show that, for existing information, Qwest has "recapped" that information on the PSON sent to CLEC. For the Central Region, the same information is provided by not populating the action code. The Qwest back-end systems (SOP) handle the Qwest Regions differently, so the information is presented to CLECs differently. There are dozens of such regional differences noted in the Qwest LSOG.

⁷⁷ See, e.g., Qwest Systems Notification Event Ticket Number: 4697877 (Aug. 14, 2010), stating: "**Description of Trouble:** IMA pre-order function 'Validate Address' was not available in the Eastern region; **Business Impact:** You may have received an error when attempting this Pre-Order function. Your LSR could have been submitted but may have to be manually processed resulting in delayed FOC's (Firm Order Confirmations)." <http://systemevents.qwestapps.com/notices/1433>. The same problem occurred in 2007, but for the Qwest Central Region. See Event Ticket Number 3171819 (Sept. 25, 2007), available at <http://systemevents.qwestapps.com/notices/775>. See, e.g., Qwest Systems Notification Event Ticket Number:

1 access Customer Service Records for VoIP first in the Central and Eastern Qwest
2 Regions and later in the West Region, because of complexities unique to the Qwest West
3 Region.⁷⁸ Attached to my testimony as Exhibit TG-12 is an excerpt from Qwest's online
4 Product Catalog called "Pre-Ordering Overview." Exhibit TG-12 contains a Qwest table
5 that describes how customer ("CUS") codes "may change during the bill posting process
6 after a Completion Notice ("CN") is issued. The changes to the CUS Code are based
7 upon service order activity, product, and region."⁷⁹ The table contains a complex
8 description that reflects how Qwest's back-end service order processing ("SOP") systems
9 process CLEC orders differently depending on the Qwest Region (Central, East, or
10 West).

11 **Q. ARE THERE OTHER REASONS TO QUESTION CENTURYLINK'S CLAIM**
12 **THAT THE PROBLEMS IT ENCOUNTERS DURING INTEGRATION ARE**
13 **"MANAGEABLE"?**

4697877 (Aug. 14, 2010), stating: "**Description of Trouble:** IMA pre-order function 'Validate Address' was not available in the Eastern region; **Business Impact:** You may have received an error when attempting this Pre-Order function. Your LSR could have been submitted but may have to be manually processed resulting in delayed FOC's (Firm Order Confirmations)." <http://systemevents.qwestapps.com/notices/1433>. The same problem occurred in 2007, but for the Qwest Central Region. See Event Ticket Number 3171819 (Sept. 25, 2007), available at <http://systemevents.qwestapps.com/notices/775>.

⁷⁸ See Qwest CR # SCR042108-01, Qwest May 5, 2009, CMP Meeting Minutes, stating: "Mark Coyne-Qwest said that this CR deployed on 4/20/09 with the IMA 25.0 Release. Mark reminded everyone that partial CSRs for VOIP DID numbers will not be available in the Western Region until 6/22/09. Mark said this was communicated on the original release notice and will be sending out a subsequent notice later this week." See http://www.qwest.com/wholesale/cmp/archive/CR_SCR042108-01.html.

⁷⁹ <http://www.qwest.com/wholesale/clecs/preordering.html>.

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[REDACTED]

[REDACTED] END HIGHLY CONFIDENTIAL***]

Q. THE INTEGRATION PROBLEMS CENTURYLINK ENCOUNTERED IN NORTH CAROLINA AND OHIO INCLUDED INCORRECT DATA MAPPING, DISPATCH INEFFICIENCIES, AND RECORDS BEING LOADED INTO SYSTEMS INCORRECTLY. HAVE JOINT APPLICANTS PROVIDED ADDITIONAL INFORMATION WHICH SHOWS THAT THESE SAME PROBLEMS COULD OCCUR DURING AN INTEGRATION OF QWEST?

A. [*BEGIN HIGHLY CONFIDENTIAL [REDACTED]**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] END HIGHLY CONFIDENTIAL***]

The integration problems CenturyLink has encountered in North Carolina negatively

1 impacted dispatch efficiency and service delivery.⁸⁴ In other words, [***BEGIN
2 HIGHLY CONFIDENTIAL [REDACTED] END HIGHLY
3 CONFIDENTIAL***] were applied in North Carolina, service quality deteriorated.⁸⁵

4 Likewise, [***BEGIN HIGHLY CONFIDENTIAL [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED] END HIGHLY CONFIDENTIAL***] CenturyLink
10 replaced legacy Embarq systems with legacy CenturyTel systems with less functionality
11 [***BEGIN HIGHLY CONFIDENTIAL [REDACTED]
12 [REDACTED] END
13 HIGHLY CONFIDENTIAL***]; data about outside plant records were not mapped
14 correctly [***BEGIN HIGHLY CONFIDENTIAL [REDACTED]
15 [REDACTED] END HIGHLY CONFIDENTIAL***]; data was
16 misinterpreted and not loaded correctly [***BEGIN HIGHLY CONFIDENTIAL [REDACTED]
17 [REDACTED] END
18 HIGHLY CONFIDENTIAL***]; a deterioration in service quality occurred

⁸⁴ See, e.g., Gurganus Direct at pp. 8-10.

⁸⁵ Schafer Rebuttal at p. 10, lines 16-18 (“The problems encountered in North Carolina on top of the heavy seasonal summer load caused CenturyLink to produce lower service level metrics than desired since conversion.”)

1 [***BEGIN HIGHLY CONFIDENTIAL [REDACTED]

2 [REDACTED]
3 [REDACTED]
4 [REDACTED] END HIGHLY CONFIDENTIAL***] service-impacting
5 problems can and do occur.

6 Q. MR. SCHAFFER CLAIMS THAT THE INTEGRATION PROBLEMS
7 ENCOUNTERED DURING THE INTEGRATION OF EMBARQ ARE
8 IRRELEVANT TO THE PROPOSED TRANSACTION BECAUSE THERE ARE
9 NO LEGACY EMBARQ TERRITORIES IN ARIZONA.⁸⁶ PLEASE RESPOND.

10 A. Mr. Schafer's claim is a red herring. Integration problems are not unique to transactions
11 involving Embarq as Mr. Schafer suggests, as evidenced by the Hawaiian Telcom,
12 FairPoint, and Frontier transactions discussed in the Joint CLECs' direct testimony.
13 Indeed, Mr. Schafer says: "*every* system conversion or integration *inevitably* is going to
14 have some issues."⁸⁷

15 Because CenturyLink will be making post-merger integration decisions on a company-
16 wide (as opposed to a state-wide) basis, whether there are legacy CenturyLink exchanges
17 in a state or not has no bearing on the changes that CenturyLink will make post-merger.
18 For example, if CenturyLink were to decide to replace Qwest's CLEC-facing OSS
19 interface that handles LSRs (IMA) with CenturyLink's CLEC-facing OSS interface that

⁸⁶ Schafer Rebuttal at p. 8, lines 17-18.

⁸⁷ Schafer Rebuttal at p. 8, lines 22-23. (emphasis added)

1 handles LSRs (EASE), that change would likely be implemented in Qwest's 14-state
2 region (not just those states where there are legacy CenturyLink exchanges) and the
3 CLECs in Arizona would be significantly impacted even though there are no legacy
4 CenturyLink exchanges in Arizona.

5 **Q. MR. SCHAFFER STATES THAT CENTURYLINK CHOSE TO INTEGRATE**
6 **EMBARQ ON A PHASED BASIS INSTEAD OF A "FLASH CUT" OF ALL**
7 **EMBARQ CUSTOMERS AT ONCE TO MINIMIZE SYSTEM-WIDE**
8 **PROBLEMS AND MITIGATE POSSIBLE NEGATIVE IMPACTS ON**
9 **CUSTOMERS AND EMPLOYEES.⁸⁸ HAS THIS BEEN SUCCESSFUL IN**
10 **AVOIDING ALL PROBLEMS?**

11 A. No, as evidenced by Mr. Schaffer's own rebuttal testimony. Despite integrating Embarq
12 on a "phased basis" rather than a "flash cut," CenturyLink has still encountered service-
13 impacting problems. And even if a phased approach decreases problems for states that
14 are converted in later phases,⁸⁹ this provides little comfort for those states that are
15 converted in early phases and will serve as the test cases.

16 **Q. ARE THERE OTHER REASONS WHY CENTURYLINK'S RELIANCE ON A**
17 **PHASED APPROACH DOES NOT ALLEVIATE YOUR CONCERNS?**

⁸⁸ Schaffer Rebuttal at pp. 9-10. See also, McMillan Rebuttal at p. 12.

⁸⁹ "CenturyLink takes what was learned from each previous market conversion and applies that learning to future conversions." Schaffer Rebuttal at p. 9, lines 22-23.

1 A. Yes. CenturyLink's "phased" approach means that CLECs will be forced to
2 accommodate the phase-in on a state-by-state basis, which will require CLECs operating
3 in multiple Qwest states to themselves use different platforms to interact with
4 CenturyLink depending on the state.

5 Furthermore, CenturyLink has provided no details regarding its "go/no go criteria," or in
6 other words, the criteria for determining if the conversion should move ahead as
7 scheduled or should be delayed until issues such as data validation efforts or testing can
8 take place. The fact that the Embarq North Carolina conversion experienced the
9 problems Mr. Schafer discusses calls into question what CenturyLink's "go/no go
10 criteria" is and what testing is taking place prior to conversion. The fact that
11 CenturyLink did not provide adequate training to its employees on using new systems is
12 apparently also not adequately accounted for in the "go/no go" decision.

13 **2. CenturyLink's integration of Wisconsin exchanges**

14 **Q. ARE THERE ANY OTHER EXAMPLES OF CENTURYLINK GLOSSING OVER**
15 **PREVIOUS INTEGRATION EXPERIENCES?**

16 A. Yes. CenturyLink points to exchanges it has acquired from a BOC, Verizon,⁹⁰ to
17 demonstrate that there have been "successful transactions combining ILEC operations –

⁹⁰ In the Minnesota merger review proceeding, CenturyLink pointed to exchanges acquired from both Verizon and Ameritech to "demonstrate that CenturyLink has in fact integrated operations and personnel in exchanges previously managed by BOCs." Rebuttal Testimony of John Jones, Minnesota Docket No. P-421, et al./PA-10-456, September 13, 2010 at p. 23. In Arizona, however, CenturyLink mentions only the acquisitions of Verizon exchanges and omits the discussion of the acquisition of Ameritech exchanges. As will be discussed below, a number of problems arose after CenturyTel's acquisition of Ameritech's exchanges in Wisconsin, including a

1 involving...properties sold by Regional Bell Operating Companies ('RBOCs'), and
2 combinations of RBOCs..."⁹¹ Mr. Glover states: "CenturyLink successfully has acquired
3 and integrated Verizon-owned properties that totaled nearly 2 million access lines in
4 Wisconsin, Missouri, Arkansas, and Alabama since the year 2000..."⁹²

5 **Q. IS IT FAIR TO ASSUME THAT THESE PRIOR TRANSACTIONS GAVE**
6 **CENTURYLINK THE *BOC EXPERIENCE* OR PROVIDED CENTURYLINK**
7 **WITH THE TYPE OF EXPERIENCE IT NEEDS TO SUCCESSFULLY**
8 **INTEGRATE QWEST'S BOC OPERATIONS, AS MR. GLOVER SEEMS TO**
9 **SUGGEST?**

10 A. No. These acquisitions involved primarily rural exchanges, which are not representative
11 of all the exchanges CenturyLink would acquire in the proposed transaction. For
12 example, for the exchanges CenturyTel acquired from Verizon in Arkansas, Missouri and
13 Wisconsin in 2000, the exchanges in Arkansas had an average of 2,179 lines per
14 exchange, the exchanges in Missouri had an average of 1,187 lines per exchange, and the
15 exchanges in Wisconsin had an average of 1,679 lines per exchange.⁹³ In its 10-K
16 describing these acquisitions, CenturyTel stated that it "conducts its telephone operations
17 in rural, suburban and small urban communities..." and that "[c]ompetition...has thus far

price increase on competitive providers that violated state statute. CenturyLink excluded the discussion of its acquisition of Ameritech exchanges in Wisconsin from its merger testimony in Arizona.

⁹¹ Glover Rebuttal at p. 32, lines 11-13. See *also*, Schafer Rebuttal at p. 2, lines 17-19.

⁹² Glover Rebuttal at p. 32, lines 15-17.

⁹³ CenturyLink's 10-K for year-ending 2000 states: "the Company purchased approximately 231,000 telephone access lines...comprising 106 exchanges throughout Arkansas...purchased approximately 127,000 telephone access lines...comprising 107 exchanges throughout Missouri...purchased approximately 70,500 telephone access lines...comprising 42 exchanges throughout Wisconsin..."

1 affected large urban areas to a greater extent than rural, suburban and small urban areas
2 such as those in which the Company's operations are located." Regarding the
3 acquisitions of Verizon exchanges in Missouri and Alabama in 2002 CenturyLink
4 described them as "predominantly rural markets."⁹⁴

5 The sizes of the exchanges involved in these prior acquisitions are much smaller than
6 some of the exchanges CenturyLink would acquire under the proposed transaction. For
7 example, there are 32,735 network access lines in the Chandler-Main Arizona exchange
8 (CHNDAZMA).⁹⁵ This means that Qwest's Chandler-Main exchange is between 15
9 times and 27 times the size of the exchanges acquired from Verizon (measured in line
10 counts). Other Qwest exchanges in Arizona are similar to the Chandler-Main exchange,
11 containing access lines substantially in excess of the number of access lines in the
12 exchanges that CenturyLink acquired from Verizon.⁹⁶

13 The exchanges that CenturyTel acquired from Verizon were, by CenturyTel's own
14 words, rural markets that did not provide CenturyLink with a similar experience as a
15 BOC, which also operates in large, densely populated exchanges. Nor does the
16 integration of these primarily rural properties give CenturyLink a similar experience as
17 would occur in an attempt to integrate Qwest. That Mr. Glover would even suggest that

⁹⁴ CenturyTel 10-K, YE 12/31/02.

⁹⁵ http://www.qwest.com/cgi-bin/iconn/iconn_centraloffice.pl

⁹⁶ For example, Qwest's Superstition West exchange (SPRSAZWE) has 36,183 network access lines, Tucson North exchange (TCSNAZNO) has 32,785 network access lines, Rincon exchange (TCSNAZRN) has 31,718 network access lines, and McClintock exchange (TEMPAZMC) has 26,779 network access lines. See, http://www.qwest.com/cgi-bin/iconn/iconn_centraloffice.pl

1 these previous transactions somehow give CenturyLink the experience it needs to
2 integrate an entire BOC raises questions about how seriously CenturyLink is taking its
3 BOC obligations.

4 **Q. CENTURYLINK HAS MADE NUMEROUS CLAIMS ABOUT ITS ABILITY TO**
5 **“SUCCESSFULLY” INTEGRATE COMPANIES AND MAINTAIN THE**
6 **“STATUE QUO” POST-MERGER.⁹⁷ DOES PAST EXPERIENCE CALL THESE**
7 **CLAIMS INTO QUESTION?**

8 A. Yes. After acquiring exchanges in Wisconsin, CenturyTel raised rates, and did so
9 without Commission approval and in violation of Wisconsin statutes.⁹⁸

10 **Q. PLEASE ELABORATE ON THE CENTURYTEL RATE INCREASES**
11 **FOLLOWING THE ACQUISITION OF WISCONSIN EXCHANGES.**

12 A. After CenturyTel acquired 19 exchanges in Wisconsin, it raised rates for local services
13 and access services.

14 Regarding CenturyLink’s access rate increase, the Wisconsin Commission found that
15 CenturyTel “increased its access rates on December 1, 1998, *without a hearing and*
16 *Commission approval*, and that such action was a violation of Wis. Stat. §
17 196.20(2m).”⁹⁹ The Wisconsin Commission ordered CenturyTel to issue refunds, but it

⁹⁷ Glover Rebuttal at p. 26, line 11; p. 32, line 15; Hunsucker Rebuttal at p. 4, lines 13-14; p. 33, lines 2-3; p. 34, lines 1-2.

⁹⁸ These price increases apparently occurred in the exchanges that CenturyTel acquired from Ameritech in 1998.

⁹⁹ Wisconsin Public Service Commission Docket No. 2815-TI-101, Final Decision, April 18, 2001. http://psc.wi.gov/apps35/ERF_view/viewdoc.aspx?docid=3117 (emphasis added)

1 took complaints from competitive carriers to initiate an investigation of the increases, and
2 about two years of litigation. It took CenturyTel about two and one-half years from the
3 time of its unauthorized and unilateral rate increases to make refunds to affected
4 competitive carriers.

5 Regarding local rates, after acquiring the Wisconsin exchanges, CenturyTel sought
6 interim price increases for local and access services pending the approval of permanent
7 price increases. After conducting a rate-of-return rate case, the Wisconsin Commission
8 found that CenturyTel's interim rates were too high and required rate decreases from the
9 interim level as well as refunds to CenturyTel's customers.¹⁰⁰ The Wisconsin
10 Commission also concluded that CenturyTel "has charged rates that are not in
11 compliance with its tariffs" and required an audit of CenturyTel's billing system.¹⁰¹

12 **Q. SHOULD THIS PAST EXPERIENCE FROM WISCONSIN GIVE THE**
13 **ARIZONA COMMISSION PAUSE WITH REGARD TO THE PROPOSED**
14 **TRANSACTION?**

15 A. Yes. These are examples of merger-related harm. Rates were increased after the merger,
16 and more specifically, rates were raised on competitive carriers without a hearing,
17 without commission approval and in violation of state statutes. Furthermore, competitive
18 carriers had to expend considerable time and resources filing a complaint with the

¹⁰⁰ Wisconsin Public Service Commission Docket No. 2815-TR-103, Final Decision, October 31, 2001.
http://psc.wi.gov/apps35/ERF_view/viewdoc.aspx?docid=3812

¹⁰¹ Wisconsin Public Service Commission Docket No. 2815-TR-103, Final Decision, October 31, 2001.
http://psc.wi.gov/apps35/ERF_view/viewdoc.aspx?docid=3812

1 Commission, litigating the complaint, and waiting for more than two years to get refunds
2 for the unilateral rate increases CenturyTel had instituted.

3 Moreover, the existing protections in Wisconsin (which included the authority of the
4 Wisconsin Commission, state statutes, the federal Act and applicable rules) did not
5 prevent CenturyTel from unilaterally raising rates for competitive carriers, from charging
6 rates not in compliance with its tariffs, or from attempting to charge higher rates than
7 allowed after a thorough rate investigation.

8 **Q. HAVE YOU REVIEWED INFORMATION THAT SUGGESTS THAT QWEST**
9 **MAY HAVE A MORE DIFFICULT TIME COMPLYING WITH APPLICABLE**
10 **LAWS AND RULES POST-MERGER?**

11 A. **[***BEGIN HIGHLY CONFIDENTIAL** [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 **END HIGHLY CONFIDENTIAL ***]** This, in turn, could put more
18 burden and cost on CLECs and the Arizona Commission to monitor and track Qwest's
19 compliance post-merger.

1 Q. HAVE YOU REVIEWED INFORMATION WHICH SUGGESTS THAT
2 CENTURYLINK MAY ATTEMPT TO RAISE RATES ON COMPETITIVE
3 CARRIERS MUCH LIKE IN THE EXAMPLE FROM WISCONSIN?

4 A. [***BEGIN HIGHLY SENSITIVE AND CONFIDENTIAL TRADE SECRET
5 INFORMATION SUBJECT TO ADDITIONAL PROTECTION [REDACTED]

6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 [REDACTED] END HIGHLY SENSITIVE AND CONFIDENTIAL TRADE SECRET
21 INFORMATION SUBJECT TO ADDITIONAL PROTECTION***]

1 C. *Joint Applicants' attempts to distinguish the proposed transaction from recent*
2 *troubled mergers relies upon distinctions without differences.*

3 Q. MR. GLOVER STATES THAT YOU AND OTHERS "FAIL TO ANALYZE
4 WITH APPROPRIATE DILIGENCE OR PRESENT FACTS REGARDING
5 WHETHER SIMILAR PROBLEMS" THAT OCCURRED IN RECENT
6 MERGERS INVOLVING ILECS "ARE LIKELY IN THE INSTANT
7 TRANSACTION."¹⁰² IS THIS TRUE?

8 A. No. One only needs to read Section V of my direct testimony, including Exhibits TG-6
9 and TG-7, and to review Dr. Ankum's Exhibit AA-2 to see that this claim is inaccurate.
10 Ample analysis and facts were provided that show that the same types of problems that
11 occurred in the Hawaiian Telcom and FairPoint transactions could occur after the
12 proposed transaction. The fact that the Joint Applicants have failed to provide critical
13 information about their post-merger OSS integration plans makes it impossible to
14 precisely analyze post-merger impacts on CLECs; yet, that is not a failing of the CLECs,
15 as Mr. Glover suggests. There can be no question that the CLECs made best attempts to
16 analyze the Merged Company's plans with regard to systems integration during the
17 discovery process, and CenturyLink repeatedly stated that plans could not be provided
18 until after the proposed transaction was approved.¹⁰³

¹⁰² Glover Rebuttal at p. 31, lines 11-12.

¹⁰³ Exhibit AA-3 to the Direct Testimony of Dr. Ankum.

1 Furthermore, the information regarding problems during the ongoing conversion of
2 Embarq to CenturyLink OSS in North Carolina and Ohio confirms that the problems that
3 occurred in recent mergers are likely in the instant transaction. As I discussed earlier,
4 data in the three Qwest Regions (East, West, Central) contain inconsistencies, and
5 CenturyLink cannot show that data in any or all of these three Qwest regions are
6 consistent with the legacy CenturyTel areas. For example, Qwest and CenturyLink
7 provided no evidence that outside plant was constructed over time consistently in all
8 three Qwest Regions or consistent with the CenturyLink areas. Just as some of the
9 outside plant records were loaded incorrectly in the Embarq-CenturyTel integration
10 because the way in which plant was constructed in the legacy Embarq areas was not
11 consistent between areas and not consistent with the legacy CenturyTel areas,¹⁰⁴ the
12 outside plant records may be loaded incorrectly in this transaction due to the way in
13 which the plant was constructed, or other differences, in each of the three Qwest regions,
14 and due to differences from the CenturyLink areas. The identical problem may occur for
15 the same reason, and additional data integrity problems may occur because of the
16 regional differences among the Qwest West, Qwest East, and Qwest Central Regions.

17 **Q. IS THERE OTHER INFORMATION THAT UNDERMINES THE JOINT**
18 **APPLICANTS' CLAIM THAT RECENT, TROUBLED MERGERS INVOLVING**
19 **ILECS ARE IRRELEVANT TO THE PROPOSED TRANSACTION?**

¹⁰⁴ Schafer Rebuttal at p. 8.

1 A. [***BEGIN HIGHLY CONFIDENTIAL [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED] END HIGHLY
13 CONFIDENTIAL***]

14 Q. CENTURYLINK STATES THAT THE HAWAIIAN TELCOM AND FAIRPOINT
15 TRANSACTIONS ARE DISTINGUISHABLE FROM THE PROPOSED
16 TRANSACTION BECAUSE THOSE OTHER TRANSACTIONS INVOLVED
17 CREATING ENTIRELY NEW OSS AND A "FLASH CUT."¹⁰⁵ ARE THESE
18 RELEVANT DISTINCTIONS?

¹⁰⁵ Glover Rebuttal at p. 33, lines 6-8 and p. 37, lines 9-10. *See also*, Schafer Rebuttal at p. 4, lines 11-12 ("provides CenturyLink the ability to operate using dual systems for as long as management believes is prudent.").

1 A. No. First of all, the Joint Applicants have not provided critical details about their post-
2 merger systems integration plans, so the claim that the proposed transaction will not
3 involve any new OSS and will be conducted in a phased fashion is not supported by any
4 facts or any enforceable commitments. And when CenturyLink's claim about not
5 creating new OSS was tested under cross-examination at the hearing in the Minnesota
6 merger review proceeding, it became clear that this claim is mere speculation on the Joint
7 Applicants' part:

8 A. Okay. Let me break it down. To the extent that we move away
9 from a Qwest system – that's the first part of the hypothetical –
10 that our only other choice is then a legacy CenturyTel system?

11 Q. No, not your only other choice. That is your present intention?

12 A. That is our present intention, would be to use one system or the
13 other, or we still have the capability of modifying one or the other
14 or, you know, perhaps creating a new system.

15 Q. But the preference – just to be clear, the preference would be to
16 have a single system for both the CenturyLink legacy companies
17 and the Qwest legacy companies, correct?

18 A. Yes.

19 Q. Now, you say that you will largely involve the use of existing
20 systems. In what ways will the integration of Qwest not involve
21 the use of existing systems?

22 A. We – you know, at this point we're not far enough into the
23 integration process to know if there could be another system. It is
24 our intent to largely use them. That can mean any – that can mean
25 we absolutely use them all the time.

26 Q. And so I take it – I take it what you're saying is you don't know
27 whether you might replace a Qwest system with a brand new
28 system?

1 A. We don't know what system we're going to use in any situation at
2 this point.¹⁰⁶

3 What is a fact, however, is that Qwest and CenturyLink use entirely different OSS and
4 back-office systems today. Therefore, even if CenturyLink does not create entirely
5 "new" OSS and instead decides to integrate CenturyLink's legacy systems into Qwest's
6 BOC territory after the merger closes, those systems would be entirely new to the Qwest
7 region exchanges, and system development would be required. CenturyLink's legacy
8 systems have not been developed or tested for use in Qwest's BOC territory (where
9 volumes are higher and automated flow through is a higher priority) any more than any
10 entirely new OSS that may be available. The same types of problems could occur in
11 Qwest's region from integrating legacy CenturyLink systems as could occur from
12 integrating entirely new OSS.

13 Further, CenturyLink's attempts to integrate Embarq systems in North Carolina did not
14 include any new systems or "flash cuts" – yet, service-impacting problems still occurred.
15 Regarding its "conversion methodology," CenturyLink has said that [***BEGIN

16 **CONFIDENTIAL** [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]

¹⁰⁶ Minnesota Docket No. P-421/et al./PA-10-456, Hearing Transcript Volume 2B (public) at pp. 33-34 (Hunsucker).

1 [REDACTED] **END CONFIDENTIAL***]** As CenturyLink begins to convert lines in
2 Embarq states that contain major markets such as Las Vegas, Tallahassee and Orlando, it
3 can be anticipated that the complexity of the integration and potential for what
4 CenturyLink calls “inevitabl[e]” problems will increase as well.

5 **Q. DO YOU AGREE WITH CENTURLINK’S ATTEMPT TO DISTINGUISH**
6 **RECENT PROBLEMATIC MERGERS FROM THE PROPOSED**
7 **TRANSACTION BASED ON A “FLASH CUT”?**

8 A. No. The claim that the Hawaiian Telcom and FairPoint transactions involved a “flash
9 cut” is misleading. After the Hawaiian Telcom and FairPoint transactions closed, the
10 new company remained on Verizon’s OSS for 9 to 12 months under a transition services
11 agreement. If CenturyLink intends to continue to utilize Qwest systems post-merger and
12 migrate to new systems at a later date (12 months after,¹⁰⁷ for example), the situation in
13 Qwest’s region would be virtually the same as in the prior mergers (except that
14 CenturyLink would not have to pay Qwest for using its OSS through a transaction
15 services agreement). In the case of Hawaiian Telcom and FairPoint, Verizon was
16 contractually obligated to maintain their systems during the transition services agreement.
17 In this case, however, CenturyLink is asking the Commission and CLECs to trust
18 (without any commitment) that CenturyLink will retain certain systems as well as
19 knowledgeable Qwest systems and process personnel post-merger. When CenturyLink’s
20 claim about other transactions requiring a “flash cut” to new OSS was tested under cross-

¹⁰⁷ Gates Direct at p. 120, citing Declaration of William Cheek, WC Docket No. 10-110, July 27, 2010.

1 examination during the hearing in the Minnesota merger review proceeding, it became
2 clear that CenturyLink's claim was inaccurate and unsupported:

3 Q. And on lines 1 through 3 you say that FairPoint and Hawaiian
4 Telcom had to operate under new systems and processes on day
5 one after the acquisition closed. That's not accurate, is it?

6 A. I believe that they implemented the systems on day one, but I do
7 think they had some burn-in period before it was fully turned over
8 to them.

9 Q. What's the basis of your information about those two transitions?

10 A. It was information that was provided to me by my staff.

11 Q. Okay. In fact, didn't both companies use Verizon's operating
12 systems for many months after closing?

13 A. You know, I don't recall.¹⁰⁸

14 It is also important to note what CenturyLink considers to be a "flash cut." CenturyLink
15 refers to a "flash cut" as integrating/converting a company's entire service territory or
16 customer base for all states at once, as opposed to a "phased" approach which
17 integrates/converts certain markets in a staggered fashion by state (a state-by-state
18 approach).¹⁰⁹ In the case of Hawaiian Telcom, there was only one state involved –
19 Hawaii – which means that there was no need for a "phased" state-by-state approach.
20 The FairPoint transactions discussed in my direct testimony involved three relatively
21 small states – Maine, New Hampshire and Vermont – which shows that a "phased"
22 approach like that being used for the Embarq integration would likely not have avoided
23 or limited FairPoint's problems that occurred after its acquisitions. Likewise, the Joint

¹⁰⁸ Minnesota Docket P-421, et al./PA-10-456, Hearing Transcript Volume 2B at pp. 136-137 (Hunsucker).

¹⁰⁹ Schafer Rebuttal at pp. 9-10.

1 Applicants' claim that problems will not occur under its "phase-in" is contradicted by the
2 problems experienced in Frontier's integration of Verizon exchanges in West Virginia.
3 As I discussed in my direct testimony,¹¹⁰ those problems were significant and they
4 involved a single state integration – not what CenturyLink describes as a "flash cut" (i.e.,
5 multi-state) integration.

6 **Q. WAS INDEPENDENT THIRD-PARTY SYSTEMS TESTING REQUIRED IN**
7 **THESE OTHER PROBLEMATIC TRANSACTIONS IN AN ATTEMPT TO**
8 **MAKE SURE THAT SYSTEMS WOULD WORK PROPERLY POST-**
9 **INTEGRATION?**

10 A. No. Although systems testing was required,¹¹¹ this testing was not conducted by an
11 independent third-party at commercial volumes. Therefore, the testing was not sufficient
12 to avoid the systems meltdowns that subsequently occurred. The independent third-party
13 testing requirement recommended by Joint CLECs' Condition 19(b) is needed to avoid a
14 similar customer-affecting meltdown in Arizona.

¹¹⁰ Gates Direct at pp. 100-107.

¹¹¹ Gates Direct at p. 95.

1 **D. *The continued lack of details about the Joint Applicants' integration plans***
2 ***creates significant uncertainty.***

3 **Q. MR. HUNSUCKER STATES THAT IT IS UNREASONABLE TO EXPECT THE**
4 **JOINT APPLICANTS TO HAVE INTEGRATION PLANS AT THIS POINT.¹¹² IS**
5 **THIS AN UNREASONABLE EXPECTATION?**

6 A. No. When compared to CenturyLink's acquisition of Embarq, CenturyLink had specific
7 integration plans available at this point in the merger review process. CenturyTel and
8 Embarq announced their merger in October 2008, and in March 2009 (five months later),
9 they stated that they would migrate Embarq to CenturyLink's legacy Ensemble system,¹¹³
10 as well as utilize CenturyTel's SAP (Systems, Applications, and Products) accounting
11 system, and utilize Embarq's EASE system for LSRs and ASRs.¹¹⁴ It has now been over
12 six months since CenturyLink and Qwest announced the proposed transaction,¹¹⁵ but the
13 Joint Applicants have provided no detail about its integration plans similar to that which
14 was provided around this same point in time during the review of the Embarq/CenturyTel
15 merger.

¹¹² Hunsucker Rebuttal at p. 17, lines 1-8. See also, Schafer Rebuttal at p. 5, lines 14-17.

¹¹³ "As evidence of progress since our initial filing and in response to Dr. Roycroft's testimony, I note the following: we now plan that Embarq's operations will migrate to CenturyTel's Ensemble billing and customer care system. CenturyTel's Ensemble back-office software (the product of an investment of over \$200 million) is a highly-centralized and flexible system that integrates and automates customer care and other provisioning services in a cost-effective manner." Rebuttal Testimony of G. Clay Bailey on behalf of CenturyTel, Inc., Washington UTC Docket No. UT-082119, March 18, 2009. Available at: <http://webcache.googleusercontent.com/search?q=cache:SZWIm2byAOMJ:wutc.wa.gov/rms2.nsf/177d98baa5918c7388256a550064a61e/34a43dc9c6ee474b8825757d007a668b!OpenDocument+centurytel+embarq+will+utilize+Ensemble&cd=8&hl=en&ct=clnk&gl=us>

¹¹⁴ *Id.*

¹¹⁵ Exhibit TG-8, "Merger Announcement Date" refers to April 21, 2010.

1 **Q. ARE THERE OTHER REASONS WHY IT IS REASONABLE TO EXPECT THE**
2 **JOINT APPLICANTS TO HAVE INTEGRATION PLANS AVAILABLE FOR**
3 **REVIEW AT THIS POINT?**

4 A. Yes. The Joint Applicants' claim that it is unreasonable to expect them to have
5 integration plans at this point is inconsistent with the Joint Applicants' push to expedite
6 completion of the proposed transaction. Qwest has said that the Joint Applicants are
7 seeking expedited approval of the proposed transaction so that they can "more quickly
8 integrate the companies in order to bring the benefits...to consumer, business, wholesale
9 customers, and shareholders sooner."¹¹⁶ It makes little sense to expedite approval of the
10 proposed transaction and not also expedite the integration planning process that
11 CenturyLink expects to produce the claimed benefits of the transaction. The Arizona
12 Commission should investigate whether integration planning work is being performed
13 and decisions being made that the Joint Applicants are not divulging in the merger review
14 proceedings.

15 **Q. ACC STAFF STATES THAT "CENTURYLINK...GOES INTO CONSIDERABLE**
16 **DETAIL EXPLAINING THE COMPANY'S 'GO-TO-MARKET' MODEL."¹¹⁷**
17 **DO YOU AGREE?**

¹¹⁶ Direct Testimony of James Campbell, Arizona Docket No. T-01051B-10-0194, May 24, 2010 ("Campbell Direct"), at p. 7, lines 13-15.

¹¹⁷ Direct Testimony of Pamela Genung, Arizona Docket No. T-01051B-10-0194, October 13, 2010, at p. 7, lines 20-21.

1 A. While CenturyLink discussed its “Go-to-Market” model in its direct testimony, I disagree
2 that CenturyLink provided “considerable detail” on the model. In fact, when
3 CenturyLink was asked to provide detail about the model in discovery, CenturyLink
4 objected.¹¹⁸

5 **Q. HAS CENTURYLINK PROVIDED ADDITIONAL DETAIL ABOUT ITS GO-TO-**
6 **MARKET MODEL SINCE YOU FILED YOUR DIRECT TESTIMONY?**

7 A. **[***BEGIN HIGHLY CONFIDENTIAL** [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED] **END HIGHLY CONFIDENTIAL***]** As I discussed

11 in my direct testimony (at page 63), CenturyLink has stated that “direct response
12 marketing efforts” is one part of its “Go-to-Market” model. However, when Integra
13 asked CenturyLink about what was included in these “direct response marketing efforts”
14 to determine whether these new tactics, if/when they are incorporated into Qwest’s
15 region, would result in merger-related harm to competition, CenturyLink objected to the
16 question.¹¹⁹ The Joint CLECs’ concerns in this regard are warranted, particularly in light
17 of the recent examples (i.e., since Merger Announcement) of inappropriate marketing
18 activity that has occurred between Qwest representatives and CLEC end users

¹¹⁸ Gates Direct at pp. 61-63.

¹¹⁹ CenturyLink response to Integra Arizona Data Request No. 131.

1 customers.¹²⁰ I also discussed CenturyLink's waiver of the one-day porting requirement
2 as an example of merger-related activities taking precedence over maintaining
3 compliance with existing obligations, and explained that conditions (such as Condition 22
4 and subparts related to complying with number porting obligations) are needed.¹²¹

5 **[***BEGIN HIGHLY SENSITIVE AND CONFIDENTIAL TRADE SECRET**
6 **INFORMATION SUBJECT TO ADDITIONAL PROTECTION** [REDACTED]

7 [REDACTED]
8 [REDACTED]
9 [REDACTED] **END HIGHLY SENSITIVE AND**
10 **CONFIDENTIAL TRADE SECRET INFORMATION SUBJECT TO**
11 **ADDITIONAL PROTECTION***]**

12 **[***BEGIN HIGHLY CONFIDENTIAL** [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED] **END HIGHLY CONFIDENTIAL***]**

16 **[***BEGIN HIGHLY SENSITIVE AND CONFIDENTIAL TRADE SECRET**
17 **INFORMATION SUBJECT TO ADDITIONAL PROTECTION** [REDACTED]

18 [REDACTED]
19 [REDACTED]

¹²⁰ Gates Direct at pp. 144-145.

¹²¹ Gates Direct at pp. 76-77, 159-161 and footnote 283.

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED] END HIGHLY
17 SENSITIVE AND CONFIDENTIAL TRADE SECRET INFORMATION
18 SUBJECT TO ADDITIONAL PROTECTION***]

1 **E. *The recent conduct of the Joint Applicants demonstrates that the Merged***
2 ***Company will be more difficult to work with if the proposed transaction is***
3 ***approved.***

4 **Q. YOU DISCUSSED IN YOUR DIRECT TESTIMONY CIRCUMSTANCES**
5 **REGARDING THE JOINT APPLICANTS REFUSING TO STREAMLINE THE**
6 **DISCOVERY PROCESS. DID CENTURYLINK RESPOND TO THIS**
7 **EXAMPLE?**

8 A. Yes. In my direct testimony (pages 69-74), I described the circumstances of the Joint
9 Applicants refusing to streamline the discovery process and the additional costs imposed
10 on CLECs. I explained that one of my CLEC clients and Qwest had previously used a
11 similar streamlined discovery approach at Qwest's urging, and the Joint Applicants'
12 refusal to do so here is a sign that the Merged Company would be more difficult to work
13 with than Qwest. Mr. Hunsucker takes issue with this example; he says this example
14 "has nothing to do with any speculative *harm* that could be caused by the integration of
15 CenturyLink's and Qwest's operations."¹²²

16 **Q. IS MR. HUNSUCKER CORRECT?**

17 A. No. It is perfectly reasonable to analyze conduct of the Joint Applicants since
18 announcement of the merger as an indication of how the Merged Company may operate
19 post-merger. This is particularly true in this instance where the Joint Applicants refused
20 to participate in a streamlined discovery process that Qwest previously participated in

¹²² Hunsucker Rebuttal at p. 70, lines 18-20. (emphasis in original)

1 with (and actually proposed to) CLECs. The early indications are that the Merged
2 Company could be more difficult to work with than Qwest, and the CLECs can expect
3 their transaction costs to increase. These are examples of merger-related harms.

4 **Q. IS THERE OTHER INFORMATION THAT VALIDATES YOUR CONCERN**
5 **ABOUT THE MERGED COMPANY BEING MORE DIFFICULT TO WORK**
6 **WITH THAN QWEST AND DRIVING UP CLECS' COSTS?**

7 A. [***BEGIN HIGHLY CONFIDENTIAL ██████████
8 ██████████
9 ██████████
10 ██████████
11 ██████████
12 ██████████
13 ██████████
14 ██████████
15 ██████████ END HIGHLY CONFIDENTIAL***]

16 **III. THE JOINT CLECS' PROPOSED CONDITIONS SHOULD BE ADOPTED**

17 **Q. HAVE THE JOINT APPLICANTS AGREED TO ANY OF THE JOINT CLECS'**
18 **PROPOSED CONDITIONS?**

19 A. No. The Joint Applicants did not identify a single Joint CLEC proposed condition that
20 was acceptable to them. The Joint CLECs' conditions provide the certainty needed by

1 wholesale customers (customers Joint Applicants proclaim to value) in their wholesale
2 customer relationship with Qwest and CenturyLink during the post-merger integration
3 process and require that the Merged Company comply with applicable laws, regulations
4 and obligations. Yet, the Joint Applicants go to great lengths to make Joint CLEC
5 conditions appear unreasonable, and in numerous instances, misconstrue the Joint CLEC
6 conditions in the process.

7 **Q. HOW IS THIS SECTION OF YOUR TESTIMONY ORGANIZED?**

8 A. I will first address the Joint Applicants' more general criticisms of the Joint CLECs'
9 proposed conditions, and then address the specific concerns raised about individual Joint
10 CLEC proposed conditions. I have attached an Issues Matrix as Exhibit TG-13 to my
11 testimony that summarizes Joint Applicants' Position Statements (directly quoted from
12 Joint Applicants' discovery responses) and Joint CLECs' Position Statements for each
13 issue presented by the Joint CLEC list of recommended conditions (Exhibit TG-8) for
14 resolution in this matter.¹²³

¹²³ In Minnesota, the Joint Applicants provided Position Statements for each condition in response to discovery by the Minnesota Department of Commerce (DOC). Joint CLECs, in turn, responded with Position Statements of their own. By asking each party to summarize their positions, the Minnesota DOC has assisted the parties in creating an issues list for the issues raised by Joint CLECs through their list of recommended conditions. Since the Joint CLECs' proposed conditions in Minnesota are the same as in Arizona, I believe the issues list that was developed in Minnesota is also informative for Arizona, and have therefore, submitted it as Exhibit TG-13. Because the parties have referred to the Joint CLEC conditions throughout the testimony by the number assigned in Exhibit TG-8, the Issues Matrix is organized in the same manner, for ease of reference to the corresponding condition.

1 **A. *Joint Applicants' claim broadly that Joint CLEC proposed conditions are***
2 ***unnecessary but provides no basis for rejecting them.***

3 **Q. MR. SCHAFER STATES THAT CLECS' CONCERNS ARE NOT JUSTIFIED**
4 **BECAUSE "THE CENTURYLINK/QWEST MERGER WILL ALLOW**
5 **CONTINUOUS OPERATION OF THE SEPARATE ARIZONA OPERATING**
6 **COMPANIES..."¹²⁴ PLEASE RESPOND.**

7 A. I explained in my direct testimony (at pages 22-23) why Qwest's argument is wrong.
8 Separate entities on an organizational chart or not, the fact is that Qwest will be "owned
9 and controlled by CenturyLink"¹²⁵ if the proposed transaction is approved. This means
10 that CenturyLink will be *calling the shots* for Qwest post-merger. Mr. Schafer's
11 testimony ignores this obvious fact. Mr. Schafer also ignores the fact that in the absence
12 of enforceable commitments, CenturyLink's plans may change at any time post-merger.
13 Mr. Schafer's testimony shows that the Merged Company may not operate Qwest and
14 CenturyLink as separate operating entities post-merger (or for any certain time period).
15 The key phrase in his statement – "*will allow*" – shows that CenturyLink either does not
16 have any definitive plans in this regard or are not divulging those in the merger review
17 proceedings.

18 **Q. CENTURYLINK ARGUES THAT CONDITIONS ARE NOT NEEDED BECAUSE**
19 **"THERE ARE NO IMMEDIATE CHANGES POST-MERGER."¹²⁶ WHAT**

¹²⁴ Schafer Rebuttal at p. 7, lines 11-12.

¹²⁵ Gates Direct at p. 22, quoting McMillan Direct at p. 5, lines 23-25.

¹²⁶ Hunsucker Rebuttal at p. 33, line 20.

1 REASON DOES CENTURYLINK GIVE FOR REFUSING TO AGREE TO
2 CONDITIONS THAT MAINTAIN THE STATUS QUO IN SPITE OF
3 CENTURYLINK'S CLAIM THAT IT IS PLANNING TO MAINTAIN THE
4 "STATUS QUO?"¹²⁷

5 A. Mr. Hunsucker claims that "[e]ach and every condition places a cost on CenturyLink."¹²⁸
6 He also claims that the Joint CLECs' proposed conditions are intended to "increase
7 CLEC profitability through terms CLECs are unlikely to gain under the current
8 regulatory reviews and processes."¹²⁹ Mr. Hunsucker has also claimed: "[i]f the
9 Commission were to grant concessions under these [i.e., the Joint CLECs' proposed]
10 conditions, the concessions would only serve to increase CLECs' profits by pushing
11 CLECs' costs of doing business onto CenturyLink or otherwise hobbling CenturyLink's
12 ability to compete fairly."¹³⁰

13 Q. DO YOU AGREE THAT MAINTAINING THE "STATUS QUO" AND
14 REQUIRING COMPLIANCE WITH EXISTING LAWS INCREASES
15 CENTURYLINK'S COSTS AND CLECS' PROFITS?

16 A. No, that claim is absurd to say the least. Maintaining the status quo means to maintain
17 things as they are. If the status quo is maintained – such that for the Defined Time Period
18 CLECs in Qwest territory may use the OSS, CMP, ICAs, *etc.*, that they use today –

¹²⁷ Hunsucker Rebuttal at p. 4, lines 13-14; p. 34, lines 1-2.

¹²⁸ Hunsucker Rebuttal at p. 66, line 2.

¹²⁹ Hunsucker Rebuttal at p. 65, lines 14-17.

¹³⁰ Rebuttal Testimony of Michael Hunsucker, Minnesota Docket No. P-421 et al./PA-10-456, at p. 16, lines 19-20.

1 CLECs' costs and expenses remain the same. There is no change. Therefore, there are
2 no CLEC costs to "push" to CenturyLink. On the other hand, if CenturyLink is not
3 required through conditions to maintain the "status quo" for a set period of time,
4 CenturyLink has many opportunities to "push" costs to its CLEC competitors to benefit
5 itself at the CLECs' expense. For example, by requiring CLECs to perform more manual
6 steps, CenturyLink may push work to CLECs that currently is performed automatically or
7 by Qwest personnel and may also result in increased service delivery errors or delay that
8 further drive up CLEC costs.

9 If Joint Applicants are, as they claim, complying with existing laws today, then requiring
10 them to continue to comply with the law requires no change. Mr. Hunsucker, in claiming
11 that each and every condition places a cost on CenturyLink, does not explain the source
12 of these costs for conditions requiring legal compliance, unless CenturyLink must take
13 steps to bring itself into legal compliance. Given that CenturyLink denies it is out of
14 compliance, then there are no such steps to take, and no costs associated with these
15 conditions.

16 In fact, the entire thrust of Mr. Hunsucker's testimony in this respect is troubling. If
17 satisfying commitments that simply maintain the "status quo" (*i.e.*, obligating
18 CenturyLink to retain existing service levels provided by Qwest, existing OSS, existing
19 wholesale staffing, etc.) will impose "costs" on CenturyLink, then the only logical

1 conclusion from that claim is that CenturyLink intends not to satisfy those commitments
2 post-merger if the proposed transaction is approved.

3 **Q. MR. HUNSUCKER POINTS TO SEVERAL REASONS WHY CENTURYLINK**
4 **ASSERTS THE JOINT CLEC CONDITIONS ARE UNNECESSARY. WHAT**
5 **ARE THESE REASONS AND WHAT ARE YOUR RESPONSES?**

6 **A.** At pages 4-5 of his Rebuttal Testimony, Mr. Hunsucker points to three reasons why
7 CenturyLink believes the Joint CLEC proposed conditions are unnecessary:

- 8 1. "First, the existing Qwest ILEC operating entity, including wholesale
9 operations, will stay in place post-merger, so the relationships between Qwest
10 and the CLECs will remain status quo and there will be none of the impacts
11 that CLECs might encounter with completely new incumbent entities and
12 completely new Operations Support Systems ('OSS')."¹³¹
- 13 2. "CLECs have significant legal protections in place today" including "the
14 provisions and obligations of the federal Telecommunications Act...federal
15 and State orders, interconnection agreements ('ICAs'), tariffs, and Qwest's §
16 271 protections, Performance Assurance Plans ('QPAP'), and Change
17 Management Process ('CMP') commitments."¹³²
- 18 3. "CLECs will benefit from the merger without imposition of their requested
19 conditions."¹³³

20 I addressed the first reason in my direct testimony (pages 22-23) and again above. As I
21 indicated, CenturyLink plainly ignores the fact that Qwest will be owned and controlled
22 by a new entity post-merger. I also explain in my direct testimony (pages 110, 118-120,

¹³¹ Hunsucker Rebuttal at p. 4, lines 12-16. *See also*, Hunsucker Rebuttal at p. 17, lines 13-15 ("Wholesale customers in CenturyLink areas and in Qwest areas will not face immediate changes in their existing systems interfaces and existing OSS arrangements will not be disrupted."); and Hunsucker Rebuttal at p. 58, lines 4-6 ("Wholesale customers in CenturyLink areas and in Qwest areas will not face immediate changes in their existing systems interfaces and existing OSS arrangements will not be disrupted.")

¹³² Hunsucker Rebuttal at pp. 4-5.

¹³³ Hunsucker Rebuttal at p. 5, lines 6-7.

1 and 142-143) and again elsewhere in this testimony that CenturyLink's claims about "no
2 immediate changes" and "status quo" for wholesale customers post-merger are hollow
3 promises that are not supported by the facts presented in this case or enforceable
4 conditions/commitments. After all, if CenturyLink intended to make no changes and
5 maintain the status quo for a predetermined period of time, there would be no reason for
6 CenturyLink to reject conditions documenting that fact. CenturyLink is clearly reserving
7 to itself a right to make changes, including immediate changes.

8 **Q. WHAT IS YOUR RESPONSE TO CENTURYLINK'S CLAIM THAT CLEC**
9 **CONDITIONS ARE UNNECESSARY BECAUSE PROTECTIONS ARE**
10 **ALREADY IN PLACE?**

11 A. In the example above regarding CenturyTel's acquisition of Wisconsin exchanges, the
12 protections that were in place – including state statutes, the federal Act, and applicable
13 rules – did not prevent CenturyTel from increasing rates it charged to competitive carriers
14 without a hearing and in violation of statute. The Joint CLEC conditions are designed to
15 ensure that adherence to applicable obligations are not undermined during CenturyLink's
16 difficult task of integrating a company much larger than either CenturyTel or Embarq,
17 while at the same time attempting to complete the integration of Embarq.

18 Furthermore, the FCC and state commissions have time and again found that merger
19 conditions are necessary in order to avoid or offset harm related to a merger involving
20 incumbent LECs or BOCs. In each of those instances, the FCC and state commissions

1 have routinely rejected the notion that existing state and federal rules and regulations and
2 applicable ICAs are sufficient by themselves to address potential harms to the public
3 interest resulting from a merger involving an ILEC or BOC.

4 **Q. DO YOU HAVE ADDITIONAL CONCERNS ASSOCIATED WITH RELYING**
5 **ON POST-CLOSING ENFORCEMENT OF LAW AND INTERCONNECTION**
6 **AGREEMENT TERMS AND CONDITIONS?**

7 A. Yes, relying on what would amount to ad hoc enforcement of the federal
8 Telecommunications Act, state law, or individual ICAs could easily result in different
9 CLECs operating in different environments. That is, if one CLEC successfully brings a
10 complaint action, it may get relief, and other CLECs would not get the same relief.
11 Qwest has previously claimed that an individual CLEC should not be permitted to bring a
12 complaint when other CLECs may be affected. The public interest consideration should
13 compel the Commission to adopt conditions that will protect the competitive environment
14 by ensuring that all competitors are operating under these same critical conditions.

15 **Q. WILL CLECS BENEFIT FROM THE PROPOSED TRANSACTION WITHOUT**
16 **IMPOSITION OF THEIR REQUESTED CONDTIONS, AS MR. HUNSUCKER**
17 **CLAIMS?**

18 A, No. Dr. Ankum explained at pages 60-67 of his direct testimony (and Exhibit AA-4) that
19 the Joint Applicants had not identified a single benefit that would accrue to CLECs. Mr.
20 Hunsucker attempts to buttress the Joint Applicants' claim in this regard in his rebuttal

1 testimony, stating: “[a] financially stronger company promotes stability and thus furthers
2 the goal of having a solid and resilient provider of quality wholesale services to CLECs
3 and other carriers.”¹³⁴ Again, this statement does not identify a benefit to CLECs; Mr.
4 Hunsucker does not explain how a financially stronger Merged Company with a larger,
5 more interconnected footprint, translates into benefits for CLECs. The Joint Applicants
6 have not agreed to reflect the Merged Company’s increased efficiencies in its
7 relationships with its wholesale customers or even to maintain the products, services or
8 rates that CLECs purchase from Qwest today. Further, Qwest’s current wholesale
9 operations are much larger than CenturyLink’s wholesale operations, and Mr. Hunsucker
10 failed to provide a single benefit or “best practice” that CenturyLink’s wholesale
11 operations have to offer.

12 **Q. HAS CENTURYLINK PREVIOUSLY INDICATED THAT A FINANCIALLY**
13 **STRONGER MERGED ENTITY COULD WORK AGAINST CLECS INSTEAD**
14 **OF IN THEIR BEST INTEREST?**

15 A. Yes. In the Arizona Joint Application, the Joint Applicants state: “One of the
16 Transaction’s key benefits is the resulting financial condition of the combined company.
17 *A financially stronger company can continue to...compete against...and CLECs...*”¹³⁵

¹³⁴ Hunsucker Rebuttal at p. 5, lines 7-9.

¹³⁵ Joint Notice and Application for Expedited Approval of Proposed Merger, May 13, 2010 (“Arizona Joint Application”), at p. 14, ¶ 28 (emphasis added).

1 **Q. CENTURYLINK POINTS TO STATES WHERE THE APPROVAL PROCESS IS**
2 **NOW FAVORABLY CONCLUDED.¹³⁶ WERE THE REVIEWS OF THE**
3 **PROPOSED TRANSACTION IN THOSE OTHER STATES COMPARABLE TO**
4 **THE REVIEW BEING CONDUCTED IN ARIZONA?**

5 A. No. Ms. McMillan lists the following states in her rebuttal testimony: California, Hawaii,
6 Louisiana, Maryland, Mississippi, Georgia, Virginia, West Virginia, New York and Ohio,
7 Pennsylvania, as well as the District of Columbia. None of the jurisdictions listed by
8 CenturyLink are states in which Qwest operates as a BOC or ILEC. Further,
9 CenturyLink is not an ILEC in Hawaii, Maryland, West Virginia, New York, or the
10 District of Columbia. There are significant public interest concerns surrounding a
11 proposed acquisition of an BOC or ILEC that do not apply to a transaction involving the
12 acquisition of a non-ILEC telecommunications company.

13 The states in which CenturyLink (but not Qwest) is an ILEC – California, Georgia, Ohio,
14 Louisiana, Mississippi, Virginia, and Pennsylvania – are distinguishable from Arizona in
15 terms of process, standard of review and level of intervention. For example, in California
16 (where CenturyLink owns 100 access lines¹³⁷), the proposed transaction was filed via an
17 Advice Letter on May 14, 2010, and deemed approved one month later (on June 14,
18 2010).¹³⁸ This Advice Letter was processed by the Telecommunications Division and
19 apparently not evaluated by the California Commission under any type of public interest

¹³⁶ McMillan Rebuttal at p. 9.

¹³⁷ http://www.centurylinkqwestmerger.com/downloads/centurylink_statebystate/centurylink-california.pdf

¹³⁸ <http://www.centurylinkqwestmerger.com/index.php?page=regulatory-information>

1 standard.¹³⁹ CenturyLink filed for approval in Georgia on May 25, 2010, and the Georgia
2 Commission closed the docket two months later on July 28, 2010, via a one-page letter
3 from the Director of Telecommunications to Qwest's counsel.¹⁴⁰ Likewise, the Ohio
4 Public Utilities Commission closed the merger review docket via a one page "Case Status
5 Form" one month after it was filed. The Mississippi Commission order indicates that
6 "[n]o party moved to intervene" in the merger review proceeding in that state.¹⁴¹ In
7 Pennsylvania, there was no intervention from CLECs.¹⁴² Louisiana (where
8 CenturyLink's headquarters is currently located and where the Merged Company's
9 headquarters will reside) issued an order of non-opposition three months after approval
10 was sought. In that order, the Louisiana Public Service Commission explained that there
11 was only one intervener Louisiana Cable & Telecommunications Association (LCTA) in
12 the case (after Cox withdrew) and that the issue was addressed at the Staff level rather
13 than being assigned to the Commission's Administrative Hearings Division.¹⁴³ The order
14 states: "Based on the comments received from the Applicants...and the lack of comments
15 filed by the lone Intervenor, the LCTA, Staff recommended that the Commission...issue
16 its non-opposition to the transaction as proposed, with the standard language placed on all

¹³⁹ Memo from Telecommunications Division PAL Coordinator to Telecommunications Carrier Filing Advice Letter regarding Status of Advice Letter 172, effective date June 14, 2010 ("The Telecommunications Division of the California Public Utilities Commission has processed your recent Advice Letter (AL) filing and is returning an AL status certificate for your records.")

¹⁴⁰ Letter from Leon Bowles, Director of Telecommunications for the Georgia Public Service Commission to Terri Lyndall, regarding docket numbers 6543, 10664, 5043, and 6094, dated July 28, 2010. *See also*, <http://www.centurylinkqwestmerger.com/index.php?page=regulatory-information>

¹⁴¹ Mississippi Public Service Commission Docket No. 2010-UA-218, Order, September 14, 2010.

¹⁴² Pennsylvania PUC Docket No. A-2010-2176733, Recommended Decision at p. 3.

¹⁴³ Louisiana Public Service Commission, Docket No. u-31379, Order Number U-31379, September 17, 2010, at p. 1.

1 statements of non-opposition...”¹⁴⁴ Notably, the Louisiana Commission entered its order
2 of non-opposition based on the following condition:

3 The Applicants shall provide notice to the LPSC of any condition imposed
4 upon the merger, or agreed to in other jurisdictions, for the Commission’s
5 review and possible adoption if deemed in the public interest.

6 The Joint Applicants have rejected Joint CLECs’ proposed Condition 29,¹⁴⁵ stating that it
7 is “neither necessary nor appropriate for this transaction”¹⁴⁶ and “unreasonable”¹⁴⁷ and
8 “restricts the incentive for both parties to negotiate state-specific terms...”¹⁴⁸ However,
9 CenturyLink’s home state of Louisiana has imposed a very similar condition on the
10 merger that would allow the state commission to adopt conditions for the merger after the
11 decision permitting the proposed transaction has been entered.

12 **Q. IN RESPONSE TO ACC STAFF’S PROPOSED CONDITIONS, CENTURYLINK**
13 **SAYS THAT “CENTURYLINK AND QWEST ENTITIES HAVE REACHED**
14 **SETTLEMENTS WITH CERTAIN PARTIES IN SUPPORT OF THE PROPOSED**
15 **TRANSACTION IN SOME OF THE QWEST ILEC STATES” AND THOSE**
16 **SETTLEMENTS “CONTAIN A LIMITED NUMBER OF CONDITIONS.”**¹⁴⁹

¹⁴⁴ Louisiana Public Service Commission, Docket No. u-31379, Order Number U-31379, September 17, 2010, at p. 2.

¹⁴⁵ Condition 29 states: “All Conditions herein may be expanded or modified as a result of regulatory decisions concerning the proposed transaction in other states, including decisions based upon settlements, that impose conditions or commitments related to the transaction. CenturyLink agrees that the state commission of any state may adopt any commitments or conditions from other states or the FCC that are adopted after the final order in that state.” Exhibit TG-8 at p. 12.

¹⁴⁶ Hunsucker Rebuttal at p. 68, line 8.

¹⁴⁷ Hunsucker Rebuttal at p. 68, line 21.

¹⁴⁸ Hunsucker Rebuttal at p. 69, lines 16-17.

¹⁴⁹ McMillan Rebuttal at p. 17, lines 6-19.

1 **DOES THIS MEAN THAT ACC STAFF'S OR JOINT CLECS' PROPOSED**
2 **CONDITIONS ARE UNNECESSARY?**

3 A. No. CenturyLink mentions a settlement it reached in Iowa with the CLEC interveners in
4 that case. It is my understanding that on November 4, 2010, the Iowa Board approved
5 the proposed transaction subject, in part, to this settlement. The Iowa settlement
6 expressly states, however, that conditions in Iowa are unique and contains terms
7 expressly precluding its use in any other jurisdiction as an indication of any party's
8 position on the conditions necessary to satisfy or adequately address CLEC concerns with
9 the proposed transaction.¹⁵⁰ Due to certain legal limitations in Iowa, the CLECs had little
10 choice but to accept a settlement that did not address, or addresses inadequately, the
11 numerous problems that must be addressed in order for the proposed transaction to be
12 consistent with the public interest.

13 **Q. WHAT CONDITIONS ARE NOT INCLUDED IN THE IOWA SETTLEMENT?**

14 A. The Iowa Settlement does not require that the Merged Company provide at least the same
15 level of wholesale service quality as legacy Qwest or subject the Merged Company to
16 remedy payments for merger-related service quality deterioration, or require that the
17 Merged Company provide CLECs with conditioned copper loops in compliance with
18 applicable interconnection agreements as well as state and federal law, just to name a
19 few. As a review of that settlement shows, the resolved issues are limited.

¹⁵⁰ PAETEC's Motion to Enforce Settlement Before the Iowa Utilities Board, Docket No. SPU-2010-0006, dated October 1, 2010, is attached as Exhibit Joint CLECs 2SP.2. PAETEC's Reply In Support of Its Motion to Enforce Settlement, Docket No. SPU-2010-0006, dated October 6, 2010.

1 **Q. PLEASE DESCRIBE THE MINNESOTA AND UTAH SETTLEMENTS.**

2 A. The proposed settlements in Utah and Minnesota discussed by CenturyLink fare no
3 better. I recently submitted extensive testimony describing the many shortcomings of the
4 Joint Applicants' proposed settlement with the Minnesota Department of Commerce in
5 the Minnesota merger review docket,¹⁵¹ as well as the Joint Applicants' proposed
6 settlement with the Utah Division of Public Utilities in the Utah merger review docket.¹⁵²
7 Not only do the settlements with the Minnesota DOC and Utah DPU fall well short of
8 addressing the potential harm to CLECs, their end user customers and competition from
9 the proposed transaction, but CLECs were excluded from the negotiations that led up to
10 these proposed settlements despite the CLECs specifically asking to be involved in such
11 negotiations.

12 Since the Joint Applicants filed their rebuttal testimony in Arizona, Joint Applicants have
13 also reached a settlement with Integra Telecom.

14 **Q. PLEASE DESCRIBE THE SETTLEMENT BETWEEN JOINT APPLICANTS**
15 **AND INTEGRA.**

16 A. This settlement addresses some of the issues that are important to Integra in its wholesale
17 relationship with Qwest. Indeed, the focal point of the settlement is the expansive line

¹⁵¹ Supplemental Surrebuttal Testimony of Timothy Gates, Minnesota Public Utilities Commission Docket No. P-421, et al./PA-10-456, October 18, 2010. Available at:
<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPopup&documentId={0DDE9EA3-0AF3-4E45-8CBC-E3ED35345571}&documentTitle=201010-55584-01>

¹⁵² Supplemental Testimony of Timothy Gates, Utah Public Service Commission Docket No. 10-049-16, Exhibit Joint CLECs 2SP, October 28, 2010. Available at:
<http://www.psc.utah.gov/utilities/telecom/telecomindx/2010/1004916indx.html>

1 conditioning amendment. (Attachment A to the Joint Applicants/Integra Settlement) But
2 the settlement does not address some of the issues adequately from the perspective of
3 other CLECs. Further the settlement addresses only about half of the conditions I am
4 proposing in Exhibit TG-8. It is interesting to note that although Joint Applicants secured
5 the participation of all CLEC, cable and wireless intervenors from the Iowa merger
6 review proceeding in the Iowa agreement, this time Joint Applicants negotiated with one
7 CLEC and crafted a settlement designed to meet the needs of one particular CLEC.
8 Clearly, Joint Applicants should not be permitted to designate winners and losers by
9 negotiating terms that meet a particular business plan but be unwilling to meet the public
10 interest in a broader competitive market.

11 **Q. DOES THE INTEGRA SETTLEMENT PROVIDE AN EXAMPLE OF A**
12 **PRIVATE INTEREST AGREEMENT?**

13 A. Yes. Based on Integra's business plan, some conditions or length of certain conditions
14 may have less importance to Integra, not only because of different business plans but
15 because it may have less invested in its own internal system development such that
16 moving to a different or modified OSS by CenturyLink will have less impact than would
17 be the case on other CLECs.

18 The Integra settlement addresses issues from one CLEC's perspective, and cannot be
19 relied upon to provide assurances that the broader public interest has been adequately
20 protected. While the Integra settlement is better than having no conditions in place, the

1 Commission's public interest imperative to protect local telecommunications competition
2 from potential merger-related harm requires reliance on the parties and record in this
3 proceeding. The Joint CLECs have provided ample evidence demonstrating that the
4 proposed transaction should be rejected, or in the alternative, approved only if subject to
5 all of the conditions listed in Exhibit TG-8.

6 **Q. IF THE SETTLEMENTS DO NOT COVER ALL OF THE CONDITIONS YOU**
7 **BELIEVE ARE NEEDED TO ADDRESS THE MERGER-RELATED HARMS**
8 **POSED BY THE PROPOSED TRANSACTION, WHY, IN YOUR VIEW, ARE**
9 **THESE SETTLEMENTS OCCURRING?**

10 A. The proposed transaction has required CLECs to expend enormous amounts of time and
11 money intervening in the numerous state and FCC dockets reviewing the merger. While
12 Joint Applicants should be able to recoup the costs they incur during the merger review
13 process from the \$650 million in annual synergy savings they expect to achieve post-
14 merger, there is no similar means by which CLECs can recoup the costs they have
15 incurred to participate in the merger review proceedings. These are resources that could
16 instead be used for network investment, introduction of new innovative services, or other
17 initiatives to benefit end user customers. Further, the Joint Applicants have increased
18 these costs on CLECs by refusing to engage in a more efficient discovery process,¹⁵³
19 requesting expedited approval without expedited decision-making on key issues,
20 aggressively litigating discovery disputes on the same documents on a state-by-state

¹⁵³ Gates Direct at pp. 69-74 and Exhibit TG-4.

1 basis, and excluding CLECs from certain settlement negotiations that could have been
2 conducted more efficiently on a multi-party basis. In light of these challenges, some
3 parties may have decided to secure conditions that are particularly important to them and
4 that fit their particular business plans and operations (even though the conditions do not
5 cover the entire set of conditions the larger CLEC community proposes).

6 **Q. JOINT APPLICANTS REPEATEDLY STATE THAT CENTURYLINK HAS NO**
7 **LEGACY ILEC TERRITORIES IN ARIZONA. DOES THIS MEAN THAT**
8 **SOME OF THE JOINT CLECS' PROPOSED CONDITIONS SHOULD BE**
9 **REJECTED?**

10 A. No. As I discussed at page 116 of my direct testimony, both CenturyLink and the Joint
11 CLECs are participating in proceedings like this one in multiple states in Qwest territory.
12 Using the same recommended conditions list for the Joint CLECs across these states
13 helps avoid confusion and offers consistency when addressing these issues, which
14 introduces at least some efficiencies. For example, the Joint Applicants do not have to
15 compare lists state-to-state for differences and modify all of their responses accordingly.
16 Also, there is no downside to including conditions that apply to legacy CenturyLink
17 ILEC territories in the conditions adopted in Arizona because they will not require the
18 Merged Company to do anything.

1 **B. Increased economies of scale of the Merged Company should benefit**
2 **competition.**

3 **Q. CENTURYLINK TAKES ISSUE WITH THE STATEMENT IN YOUR DIRECT**
4 **TESTIMONY THAT CLECS SHOULD SHARE IN THE INCREASED**
5 **ECONOMIES OF THE ILEC. CENTURYLINK CLAIMS THAT YOU**
6 **“SELECTIVELY” QUOTED FROM PARAGRAPH 11 OF THE FCC’S LOCAL**
7 **COMPETITION ORDER.¹⁵⁴ IS THIS AN ACCURATE CHARACTERIZATION**
8 **OF YOUR TESTIMONY?**

9 **A. No. To prove that I did not mischaracterize what the FCC said at paragraph 11 of the**
10 **Local Competition Order, I have attached the entire paragraph 11 as Exhibit TG-14 to my**
11 **testimony.**

12 The Joint Applicants have identified increases in economies of scale for the Merged
13 Company as a merger-related benefit.¹⁵⁵ The Joint Applicants have also stated that this
14 increase in economies of scale would result in efficiencies and lower per-unit costs for
15 the Merged Company.¹⁵⁶ The purpose of the reference to the *Local Competition Order* at
16 ¶ 11 in my direct testimony is to explain that one of the cornerstones of the 1996 Act is
17 that competitive LECs should share in the economies of the ILEC so as to overcome the
18 “significant economic impediments to efficient entry into the monopolized local

¹⁵⁴ Glover Rebuttal at p. 28, footnote 52.

¹⁵⁵ Campbell Direct at pp. 13 and 24.

¹⁵⁶ CenturyLink states: “greater economies of scale result in lower overhead costs per customer, or per access line” and “increased product availability and decreased per unit cost for a given service...” CenturyLink Response to Colorado Office of Consumer Counsel Data Request #1-15(a) and (b).

1 market[.]” As such, if the Merged Company is able to achieve significant increased
2 economies of scale due to the merger and those economies are not shared with the
3 CLECs, then the economic impediments to efficient entry into the local market have been
4 raised (e.g., the Merged Company enjoys a cost advantage over its competitors). This is
5 a direct impact of the proposed transaction.

6 CenturyLink’s claim that “[n]owhere does the FCC’s Order suggest that there should be a
7 sharing of economic benefits resulting from a merger”¹⁵⁷ entirely misses the point. The
8 FCC said that “economies of density, connectivity, and scale...have been viewed as
9 creating a natural monopoly[.]” and, as a result, required these economies to be shared
10 with CLECs. This requirement exists independent of a merger. My point, however, is
11 that the Joint Applicants have touted significant increases in its economies of scale due to
12 the proposed transaction, and if these efficiencies are not shared with CLECs as the FCC
13 requires, it will further entrench the Merged Company in relation to the very factors that
14 have been viewed as creating a “natural monopoly.” Such a result would be contrary to
15 the public interest, including the public’s interest in robust competition.

16 **Q. CENTURYLINK GOES ON TO CLAIM THAT CLECS WANT TO “SHARE’**
17 **DIRECTLY IN THE COST SAVINGS THAT ARE TO BE REALIZED**
18 **THROUGH THE MERGER”¹⁵⁸ AND REDIRECT “CASH FLOWS TO**

¹⁵⁷ Glover Rebuttal at p. 28, footnote 52.

¹⁵⁸ Glover Rebuttal at p. 30, lines 8-9.

1 **NARROWLY BENEFIT CLECS AND OTHER WHOLESALE CUSTOMERS.”¹⁵⁹**

2 **IS THAT WHAT CLECS ARE SEEKING?**

3 A. No. The Joint Applicants have estimated approximately \$575 million in annual operating
4 expense synergies and \$50 million of annual capital expenditure synergies, for a total of
5 \$625 million in annual operating and capital synergies.¹⁶⁰ The Joint CLECs do not want
6 a cut of that estimated synergy savings, as CenturyLink suggests. The Joint Applicants
7 have not provided one example of a CLEC condition that seeks part of the estimated
8 synergy savings, or any examples of a condition proposed by the Joint CLECs that would
9 prevent Joint Applicants from achieving their estimated synergy savings. If the Joint
10 Applicants were to claim that the Joint CLECs’ proposed conditions prevented the Joint
11 Applicants from achieving their synergy savings, then serious questions would be raised
12 about the Joint Applicants’ integration plans because the Joint CLEC conditions provide
13 the certainty needed by Joint CLECs and their end users during post-merger integration
14 and ensure that the combined company meets its existing obligations while undertaking
15 the difficult task of combining the two companies.

16 Public interest benefits can accrue to the CLECs and competition from the proposed
17 merger without the Merged Company flowing through any of the \$650 million in
18 estimated synergy savings. For example, the increased economies that the Joint
19 Applicants expect from the Merger could be shared with wholesale customers by

¹⁵⁹ Glover Rebuttal at p. 30, lines 1-2.

¹⁶⁰ Glover Direct at p. 13.

1 allowing a requesting carrier to opt into an ICA that is available elsewhere in the Merged
2 Company's larger, more interconnected footprint (Condition 11), or agreeing not to raise
3 wholesale rates given that the Joint Applicants expect lower per-unit costs due to the
4 increased economies of scale¹⁶¹ (Condition 7). The Joint CLECs are not seeking any
5 special advantage or windfall related to the Merged Company's synergy savings as
6 CenturyLink suggests; rather, the Joint CLECs want to make sure that potential merger-
7 related harm to CLECs and their customers is offset or avoided, and that CLECs are not
8 worse off from a competitive standpoint vis-à-vis the larger incumbent LEC if the
9 proposed transaction is approved.

10 *C. The objective of the Joint CLEC proposed conditions is to offset harm related to*
11 *the proposed transaction, not to undermine the Joint Applicants' ability to*
12 *compete.*

13 **Q. MR. HUNSUCKER CLAIMS THAT THE JOINT CLEC CONDITIONS ARE**
14 **DESIGNED TO UNDERMINE THE MERGED COMPANY'S ABILITY TO**
15 **COMPETE. IS THIS TRUE?**

16 **A.** No. Mr. Hunsucker's mischaracterization of my testimony leads him to an incorrect
17 conclusion. Mr. Hunsucker states:

18 A statement made by Mr. Gates shows the CLECs' mindset and purpose
19 that is inconsistent with that which CenturyLink has. Mr. Gates noted that
20 CLECs and the Joint Applicants "are rivals, and...their economic
21 incentive (as profit-maximizing firms) is to undermine – not help – the

¹⁶¹ CenturyLink states: "greater economies of scale result in lower overhead costs per customer, or per access line" and "increased product availability and decreased per unit cost for a given service..." CenturyLink Response to Colorado Office of Consumer Counsel Data Request #1-15(a) and (b).

1 other provider's ability to compete for end user customers..." While I
2 reject Mr. Gates' cynical view of the Joint Applicants' wholesale business
3 practices, I believe his statement reveals the true objective of the CLEC
4 parties. The CLECs are hoping to achieve by their proposed conditions a
5 series of competitive advantages that existing interconnection agreements,
6 commission-approved processes and other accepted practices do not
7 currently provide or apparently not to the degree desired by the CLECs.¹⁶²

8 To show how Mr. Hunsucker takes my testimony out of context, I have provided below
9 the entire paragraph from my testimony with Mr. Hunsucker's selective quote in
10 bold/underlined text:

11 Because of this unusual but unavoidable continuing interaction among
12 providers, for local telecommunications competition to work, competing
13 providers must cooperate behind-the-scenes, even though they **are rivals,**
14 **and** even though **their economic incentive (as profit-maximizing firms)**
15 **is to undermine -- not help -- the other provider's ability to compete**
16 **for end user customers.** As a result, no matter how much retail
17 competition there might be, regulation is needed to make sure that the
18 critical behind-the-scenes cooperation actually occurs. This is the essence
19 and purpose of Sections 251 and 271 of the Act. Because ILECs and
20 BOCs enjoy a significant advantage over CLECs in terms of determining
21 whether the wholesale relationship between them is successful, Sections
22 251 and 271 (and continued enforcement and compliance with those
23 sections) are absolutely critical to ensuring that ILECs and BOCs continue
24 to cooperate with CLECs.¹⁶³

25 Read in proper context, my testimony explains that compliance with and enforcement of
26 Sections 251 and 271 of the Act are critical to ensure that ILECs and BOCs do not
27 exploit their economic incentives to discriminate against competitors who also purchase
28 critical bottleneck elements from them. It is no secret that ILECs/BOCs and CLECs are
29 rivals in the local telecommunications market, and it is also no secret that ILECs/BOCs

¹⁶² Hunsucker Rebuttal at 12.

¹⁶³ Gates Direct at pp. 12-13.

1 and CLECs are profit-maximizing firms that compete for end user customers.¹⁶⁴ The big
2 difference, however, is that ILECs/BOCs have control over critical inputs to the services
3 CLECs offer to end user customers, which gives them the *means* (in addition to the
4 incentive) to undermine the CLECs ability to compete for end user customers.
5 Accordingly, Section 251(c) of the Act applies to *incumbent* local exchange carriers and
6 not competitive local exchange carriers. Likewise, Section 271 of the Act applies to
7 BOCs and not CLECs. Mr. Hunsucker's claim distorts the obvious point of my
8 testimony and ignores this important distinction between ILECs/BOCs and CLECs.

9 **Q. ARE CLECS HOPING TO UNDERMINE THE JOINT APPLICANTS' ABILITY**
10 **TO COMPETE OR ACHIEVE COMPETITIVE ADVANTAGES BY PROPOSING**
11 **CONDITIONS IN CONJUNCTION WITH APPROVAL OF THE PROPOSED**
12 **TRANSACTION?**

13 A. No. Mr. Hunsucker's claim makes no sense. The primary thrust of the Joint CLEC
14 proposed conditions is to ensure that the "existing interconnection agreements,
15 commission-approved processes and other accepted [Qwest] practices" referred to by Mr.
16 Hunsucker are continued if the proposed transaction is approved, and not materially

¹⁶⁴ See, e.g., Minnesota Docket No. P-421, et. al./PA-10-456, Hearing Transcript Volume 2A (public) at p. 92 ("Q. You're also aware that CLECs compete with Qwest to provide retail service to end user customers, correct? A. Yes, they do. Q. And would you also agree with me that given a choice between providing retail service to a customer on the one hand, or on the other hand providing a CLEC with wholesale service to serve that same customer, Qwest would rather be providing the retail service? A. That's why we compete. We compete for retail customers, I agree to that." (Williams)).

1 changed during the time period at which the likelihood of merger-related harm is at its
2 highest – during post-merger integration.¹⁶⁵

3 For instance, Joint CLEC Condition 8 would allow requesting carriers to extend existing
4 interconnection agreements (including evergreen ICAs) for at least the Defined Time
5 Period or the date of expiration, whichever is later.¹⁶⁶ These ICAs have defined the
6 CLECs' wholesale relationships with Qwest for many years (some for about a decade)
7 and have been updated over the years to accommodate changes in laws. They contain
8 approved processes and accepted practices, and parties are familiar with them. Despite
9 these facts, Mr. Hunsucker claims that this condition would “undermine CenturyLink’s
10 ability to compete fairly and may not be the terms the CLECs would obtain in the
11 negotiation and arbitration process...”¹⁶⁷ CLECs cannot achieve “competitive
12 advantages” or impair CenturyLink’s ability to compete fairly by extending the same
13 ICAs because the extension simply maintains what Qwest provides to CLECs today.
14 What’s more, Mr. Hunsucker’s reference to making changes to these accepted processes
15 during the negotiation and arbitration process in order for CenturyLink to “compete
16 fairly” is further evidence that the Merged Company intends to attempt to materially
17 change the existing terms and conditions of ICAs post-merger to the detriment of CLECs

¹⁶⁵ Gates Direct at p. 111, stating that the Joint Applicants expect to achieve estimated synergy savings over a three to five year period.

¹⁶⁶ Exhibit TG-8 at p. 5.

¹⁶⁷ Hunsucker Rebuttal at p. 35, lines 17-19.

1 (particularly when Qwest has been able to compete fairly under the existing ICAs for
2 years).

3 Another example is Joint CLEC proposed condition 17, which requires the Merged
4 Company to maintain the Qwest Change Management Process (“CMP”) after the Closing
5 Date, utilizing the terms and conditions set forth in the CMP Document.¹⁶⁸ The Change
6 Management Process was established during the 271 review process and the CMP
7 Document contains accepted practices. No competitive advantages will be conferred
8 upon CLECs if this condition is adopted because it ensures that the existing process is
9 maintained. Indeed, many CLECs have pointed out over the years that that the existing
10 Qwest CMP process enables Qwest to make changes over the objections of CLECs.
11 There is no legitimate basis for a claim that continuing a process that already favors the
12 ILEC will hamper CenturyLink’s ability to compete in the future. While CenturyLink
13 may not think the Qwest CMP is one-sided enough for its liking, that is not a reasonable
14 basis to eliminate it.

15 **Q. WHAT ARE CLECS HOPING TO ACHIEVE WITH THEIR PROPOSED**
16 **CONDITIONS?**

17 A. The Joint CLECs’ proposed conditions have been carefully and narrowly crafted to
18 address the specific harms raised by the proposed transaction. The overall objective of the
19 conditions is to ensure that the proposed transaction does not harm competitors and

¹⁶⁸ Exhibit TG-8 at p. 8.

1 competition, and ultimately serves the public interest. More specifically, however, these
2 conditions are intended to mitigate the harm that is likely to happen (and has occurred
3 elsewhere) if the proposed transaction is approved as filed, primarily by providing much-
4 needed certainty that CLECs need to continue to operate their businesses and make
5 prudent decisions. These conditions also attempt to ensure that the Merged Company
6 does not use its overwhelming size or resources as the dominant incumbent service
7 provider to the detriment of competitors and the public interest.

8 ***D. The "Defined Time Period" is merger-specific and is an important component***
9 ***of offsetting merger-related harm in some conditions.***

10 **Q. WHAT IS THE "DEFINED TIME PERIOD"?**

11 **A.** I discussed the "Defined Time Period" at pages 111-113 of my direct testimony. This
12 term is defined in the Joint CLEC conditions list (Exhibit TG-8) as follows:

13 "Defined Time Period," when used in this list of conditions, refers to a
14 time period of at least 5-7 years after the Closing Date or, alternatively, a
15 time period that is a minimum of 42 months (*i.e.*, 3.5 years) and continues
16 thereafter until the Applicants are granted Section 10 forbearance from the
17 condition. With respect to agreements, the Defined Time Period applies
18 whether or not the initial or current term of an agreement has expired
19 ("evergreen" status)."

20 **Q. IN REFERRING TO THE "DEFINED TIME PERIOD," MR. HUNSUCKER**
21 **STATES THAT THE "THE CLECS ONCE AGAIN ARGUE THAT CERTAIN**
22 **MERGER CONDITIONS SHOULD LAST AN UNPRECEDENTED SEVEN**

1 **YEARS.”¹⁶⁹ IS THIS A FAIR DESCRIPTION OF THE DEFINED TIME**
2 **PERIOD?**

3 A. No. Mr. Hunsucker ignores relevant portions of the definition of this term (shown
4 above). The definition speaks for itself, but Mr. Hunsucker fails to mention that the
5 Defined Time Period would be 42 months (or 3.5 years) under certain circumstances,
6 which is the same amount of time the AT&T/BellSouth FCC merger conditions
7 applied.¹⁷⁰ He also fails to mention that the definition of Defined Time Period is flexible
8 in that it is designed to provide protections from merger-related harm (based on the Joint
9 Applicants’ own time estimates), while also allowing the Merged Company to terminate
10 the merger conditions subject to the Defined Time Period sooner by demonstrating that
11 the integration effort is running smoothly. This condition, therefore, strikes a balance
12 between the desire of the Joint Applicants to have the proposed transaction approved on
13 an expedited basis (and in the absence of any useful facts about the Merged Company’s
14 integration plans) while providing a certain degree of protection for CLECs and their
15 customers in relation to certain time-sensitive conditions.

¹⁶⁹ Hunsucker Rebuttal at p. 65, lines 1-2. *See also*, Hunsucker Rebuttal at p. 38, lines 3-4 (“The CLECs’ Defined Time Period of up to seven years under which they argue that certain merger conditions should last, is unreasonable and unprecedented.”)

¹⁷⁰ Gates Direct at p. 112, footnote 216.

1 **E. *Joint Applicants' criticisms of the Joint CLEC proposed conditions should be***
2 ***rejected and the conditions adopted.***

3 **1. Conditions 4 and 11**

4 **Q. IN REFERENCE TO CONDITION 4(A), WHICH ADDRESSES QWEST**
5 **PERFORMANCE ASSURANCE PLANS ("PAPS") AND PERFORMANCE**
6 **INDICATORS ("PIDS"), MR. WILLIAMS CLAIMS THAT YOU PROVIDE "NO**
7 **EVIDENCE WHATSOEVER TO SUPPORT" YOUR CLAIM THAT QWEST'S**
8 **PAPS AND PIDS ARE ESSENTIAL TO ENSURE THAT LOCAL MARKETS IN**
9 **QWEST'S REGION REMAIN OPEN TO COMPETITION.¹⁷¹ IS HE CORRECT?**

10 A. No. My testimony addressing PAPs and PIDs provided very detailed support for their
11 importance to keeping markets open to competition. (Gates Direct at pages 44-46). I also
12 provided Exhibit TG-2, which provided a detailed description (with dozens of cites to
13 authority) of the Qwest 271 review process that developed and tested the PAPs and PIDs
14 as well as explained the importance of PAP and PIDs to ensuring that local markets
15 remain open to competition. Rather than rebut the facts provided in my direct testimony,
16 Mr. Williams simply ignores them. As further support regarding the importance of the
17 PAPs and PIDs, the Colorado Commission, when approving the PAP in its state, summed
18 up the importance and significance of the PAP, stating:

19 We regard the CPAP, or Colorado Performance Assurance Plan, *as the*
20 *single most important innovation of this § 271 process.* On a *going-*
21 *forward basis*, the CPAP provides meaningful incentives for Qwest to
22 meet its wholesale unbundling obligations, compensates CLECs for harm

¹⁷¹ Williams Rebuttal at p. 17, lines 4-9.

1 suffered, and provides flexibility to adapt to changing market
2 conditions.¹⁷²

3 The Colorado Commission said that "the CPAP is the *most vital element* in Qwest's
4 application on a *going-forward basis*" and that "the regulatory regime it established will
5 remain *a crucial legacy* of the § 271 process."¹⁷³ Additionally, Liberty Consulting has
6 said:

7 [T]he PAP incentives *continue to be important* in helping ensure that
8 Qwest's performance level does not deteriorate, because Qwest's
9 wholesale services *remain critical* for the CLECs still relying on them.
10 Recent *experiences in Hawaii and northern New England demonstrate*
11 *the severe impact on competitors when an incumbent local company*
12 *fails to provide adequate wholesale performance, despite the best*
13 *intentions and preparations.* The circumstances of those cases are very
14 different from what the CLECs face in Qwest's operating territory.
15 However, they illustrate conditions that can arise in extreme cases without
16 adequate protections. The Qwest PAPs help ensure that the correct
17 incentives are in place to prevent such conditions from occurring.¹⁷⁴

18 Although Liberty Consulting said the circumstances of Hawaii and northern New
19 England were "very different"¹⁷⁵ in June of 2009 when Liberty Consulting wrote its
20 report, those circumstances have changed in the relatively short time since then. Today,
21 Qwest's operating territory is subject to similar circumstances in which a merger, if

¹⁷² Evaluation of the Colorado Public Utilities Commission, filed in *In the Matter of Application by Qwest Communications International, Inc., for Provision Of In-Region, InterLATA Services in Colorado, Idaho, Iowa, Nebraska and North Dakota*, WC Docket No. 02 – 148 at p. 3. (emphasis added)

¹⁷³ *Id.* p. 54 (emphasis added).

¹⁷⁴ Liberty Consulting Analysis of Qwest's Performance Assurance Plans Final Report, Prepared for Regional Oversight Committee (June 30, 2009) ("Liberty June 2009 Final Report") at p. 4, available at <http://www.puc.idaho.gov/internet/cases/tele/QWE/QWET0804/staff/20090817LIBERTY%20FINAL%20REP.ORT.PDF> (emphasis added; footnote omitted).

¹⁷⁵ Liberty June 2009 Final Report at p. 4.

1 approved, will also prompt system consolidation and company integration. The PAP and
2 PIDs are even more essential now than before.

3 **Q. MR. WILLIAMS CLAIMS THAT YOU QUOTE “AN FCC STATEMENT OUT**
4 **OF CONTEXT” TO SUPPORT YOUR CLAIM THAT PAPS AND PIDS ARE**
5 **ESSENTIAL.¹⁷⁶ IS THIS CRITICISM WARRANTED?**

6 **A.** No. To show that Mr. Williams is incorrect, I have reproduced the FCC statement he
7 claims I take out of context below (shown exactly how I quoted it at page 45 of my direct
8 testimony):

9 As set forth below, we find that the performance assurance plans (PAP)
10 that will be in place...provide assurance that the local market will remain
11 open after Qwest receives section 271 authorization in the nine application
12 states...and are likely to provide incentives that are sufficient to foster
13 post-entry checklist compliance.

14 Footnote 78 of my direct testimony shows that I attributed this quote to paragraph 440 of
15 the *Qwest 9-State 271 Order*. To prove that paragraph 440 of the *Qwest 9-State 271*
16 *Order* contains this quote and that I did not take it out of context, I have attached the
17 entire paragraph 440 to my surrebuttal testimony as Exhibit TG-15.

18 Indeed, it is Mr. Williams that takes the FCC's order out of context. Mr. Williams states:

19 the FCC went on to say later in the same quoted paragraph that a
20 performance assurance plan is not a requirement for the authority of a
21 BOC like Qwest...but *merely* that a PAP would be 'probative evidence'
22 that a BOC will continue to meet its Section 271 obligations.¹⁷⁷

¹⁷⁶ Williams Rebuttal at p. 17, line 10.

¹⁷⁷ Williams Rebuttal at p. 18, lines 4-8. (emphasis added) Mr. Williams incorrectly cites to paragraph 453 of the Qwest 9-State 271 Order (Williams Rebuttal at footnote 6).

1 Mr. Williams' use of the word "merely" is an obvious attempt to downplay the emphasis
2 that the FCC has obviously placed on the existence of PAPs to ensure against
3 backsliding. In doing so, Mr. Williams ignores footnote 1598 of the Qwest 9-State 271
4 Order (which is in the same paragraph 440 I quoted) which states:

5 We note that in all of the previous applications that the Commission has
6 granted to date, the applicant was subject to an enforcement plan
7 administered by the relevant state commission to protect against
8 backsliding after BOC entry into the long distance market. These
9 mechanisms are administered by the state commissions and derive from
10 authority the states have under state law or under the federal Act. As such,
11 these mechanisms can serve as *critical complements* to the Commission's
12 authority to preserve checklist compliance pursuant to section 271(d)(6).
13 (emphasis added)

14 Mr. William also ignores the importance the Arizona Commission has placed on
15 performance assurance plans to prevent against backsliding after a grant of 271 authority.
16 The ACC said: "[t]he ACC concluded that an efficient and effective PAP was *necessary*
17 to assure Qwest's future compliance with the market opening measures..."¹⁷⁸ and "[a]
18 Performance Assurance Plan is an important monitoring and enforcement mechanism of
19 ensuring that the BOC will continue to meet its Section 271 obligations after it receives a
20 grant of such authority."¹⁷⁹ Indeed, Mr. Williams' primary point – that Section 271 does
21 not contain an express requirement that a BOC implement a PAP – was obviously
22 considered by the FCC in 2003 when it approved Qwest's 271 authority and by the

¹⁷⁸ Evaluation of the Arizona Corporation Commission, WC Docket No. 03-194, September 24, 2003, at p. 24 (emphasis added).

¹⁷⁹ Decision 64888, Docket No. T-00000A-976-0238 at ¶ 6.

1 Arizona Commission back in 2002-2003 when it approved Qwest's PAP,¹⁸⁰ but they still
2 found Qwest's PAP to be "critical" and "necessary" to ensure future 271 compliance and
3 prevent against backsliding. ACC Staff also apparently believes that maintaining the
4 Qwest PAP and PIDs in Arizona is necessary, as it has proposed in Staff Conditions 6
5 and 21 to require the Merged Company to maintain Qwest's PAP and PIDs post-merger,
6 and in Staff Condition 22 to suspend the docket examining Qwest's proposed changes to
7 its PAP.

8 **Q. MR. WILLIAMS CLAIMS THAT PAPS AND PIDS ARE NO LONGER**
9 **ESSENTIAL BECAUSE "THE MARKET HAS NOT ONLY REMAINED OPEN,**
10 **BUT THAT IT WILL CONTINUE TO BE SO, WITH OR WITHOUT A PAP."¹⁸¹**
11 **IS THERE ANY BASIS FOR THIS STATEMENT?**

12 A. No. Mr. Williams asserts that the wholesale market is robustly open to competition.¹⁸²
13 However, this assertion was rejected by the FCC as recently as four months ago.

14 **Q. PLEASE ELABORATE.**

15 A. In June 2010, the FCC denied Qwest's petition for forbearance in the Phoenix Arizona
16 Metropolitan Statistical Area ("MSA"). In doing so, the FCC said:

17 First, the Commission has long recognized that a vertically integrated firm
18 with market power in one market—here upstream wholesale markets
19 where, as discussed below, Qwest remains dominant—may have the
20 incentive and ability to discriminate against rivals in downstream retail

¹⁸⁰ Decision 64888 at ¶ 4.

¹⁸¹ Williams Rebuttal at p. 18, lines 18-19.

¹⁸² Williams Rebuttal at p. 37, line 19.

1 markets or raise rivals' costs. Second, because Qwest was the sole
2 provider of wholesale facilities and services, there is no reason to expect it
3 to offer such services at "competitive" rates. Rather, assuming that Qwest
4 is profit-maximizing, we would expect it to exploit its monopoly position
5 as a wholesaler and charge supracompetitive rates, especially given that
6 (absent regulation) Qwest may have the incentive to foreclose competitors
7 from the market altogether. Moreover, there is little evidence, either in the
8 record or of which we otherwise are aware, that the BOCs or incumbent
9 LECs have voluntarily offered wholesale services at competitive prices
10 once regulatory requirements governing wholesale prices were eliminated.
11 For example, other than Cox, McLeodUSA was the only other competitor
12 of significant size cited by the Commission in the *Qwest Omaha*
13 *Forbearance Order*. The record indicates that subsequent to the *Qwest*
14 *Omaha Forbearance Order*, Qwest, with one exception, was not spurred
15 to offer McLeodUSA any wholesale alternatives to UNEs that were not
16 already offered prior to the grant of forbearance. Moreover, the record
17 indicates that McLeodUSA has removed most of its employees from the
18 Omaha marketplace, has limited its operations primarily to serving its
19 existing customer base, and has ceased sales of residential and nearly all
20 business services in Omaha. This suggests that McLeodUSA likewise no
21 longer should be considered a significant competitor in the Omaha
22 marketplace. We also note record evidence that Integra, which had been
23 contemplating entry into the Omaha market, abandoned its plans to do so
24 after the Commission issued the *Qwest Omaha Forbearance Order*.¹⁸³

25 The FCC specifically concluded that Qwest had market power in the upstream wholesale
26 market, and this market power provides Qwest the incentive and ability to discriminate
27 against CLECs in downstream retail markets. The Qwest PAPs and PIDs are essential
28 because they attempt to ensure that Qwest does not use its market power over wholesale
29 inputs to discriminate against CLECs in relation to Qwest's own retail operations.

¹⁸³ *In the Matter of Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Phoenix, Arizona Metropolitan Statistical Area*, Memorandum Opinion and Order, WC Docket No. 09-135, FCC 10-113, released June 22, 2010 ("Qwest Phoenix Forbearance Order") at ¶ 34.

1 Q. MR. BRIGHAM REFERS TO “COMPANIES WITH FIBER NETWORKS IN
2 ARIZONA” TO SUPPORT JOINT APPLICANTS’ SUGGESTION THAT THE
3 WHOLESALE MARKET IS COMPETITIVE.¹⁸⁴ HAS MR. BRIGHAM’S CLAIM
4 BEEN REJECTED?

5 A. Yes. Mr. Brigham says: “[s]everal fiber providers operating in the Phoenix area
6 specifically market services to carriers as an alternative to Qwest.”¹⁸⁵ Again, Qwest
7 ignores the FCC’s recent Qwest Phoenix Forbearance Order. The FCC said:

8 The record indicates that Cox offers some wholesale services in the
9 Phoenix MSA. Cox’s non-cable plant facilities are not widely deployed,
10 however, and it apparently provides little, if any, wholesale service over
11 its cable plant, which is deployed primarily in residential areas. The other
12 potential wholesale suppliers Qwest cites...likewise have comparatively
13 few networks facilities in the Phoenix MSA and rely primarily upon
14 Qwest’s facilities to provide services. In addition, the record does not
15 reveal significant fixed wireless wholesale service offerings in the Phoenix
16 MSA.¹⁸⁶

17 The FCC also found that “Evidence that present competitors have deployed limited
18 amounts of fiber in a larger geographic area does not support a conclusion that those
19 providers readily could offer wholesale services on a particular route, or that a potential
20 entrant economically could deploy its own fiber on a particular route in a timely manner
21 in response to a small but significant and nontransitory increase in the price of wholesale

¹⁸⁴ Brigham Rebuttal at p. 28.

¹⁸⁵ Brigham Rebuttal at p. 28, lines 9-11.

¹⁸⁶ Qwest Phoenix Forbearance Order at ¶ 69.

1 transport services.”¹⁸⁷ Mr. Brigham is attempting to rehash arguments that were rejected
2 by the FCC just four months ago.¹⁸⁸

3 **Q. IS THERE OTHER INFORMATION THAT SUPPORTS THE NEED FOR JOINT**
4 **CLEC CONDITION 4(A) – TO MAINTAIN QWEST’S PAP AND PIDS FOR AT**
5 **LEAST FIVE YEARS AND REQUIRE AN ADDITIONAL PAP (APAP)?**

6 A. **[***BEGIN HIGHLY CONFIDENTIAL** [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]

¹⁸⁷ Qwest Phoenix Forbearance Order at ¶ 78.

¹⁸⁸ Mr. Brigham also claims: “Mr. Gates’ competitive ‘market share’ analysis is erroneous because he misquotes the FCC’s *Local Competition Report*.” Brigham Rebuttal at p. 14, lines 3-4. However, I did not misquote the FCC’s *Local Competition Report*. Footnote 11 to my direct testimony states that Table 11 of the FCC’s *Local Competition Report* shows non-ILEC share of total end-user switched access lines and VoIP subscriptions to be 28% (or, conversely, ILEC share to be “more than 70 percent of the market.” Gates Direct at p. 16, line 9) Table 11 to the FCC’s *Local Competition Report*, in fact, shows non-ILEC share of total end-user switched access lines and VoIP subscriptions nationwide to be 28%, which is consistent with my testimony. Though Mr. Brigham apparently objects to me using the nationwide number instead of the Arizona-specific market share number for non-ILEC share of total end-user switched access lines and VoIP subscriptions (which is 40% compared to 28% nationwide), it is incorrect to say that I misquoted the FCC’s *Local Competition Report* and that my analysis is erroneous. I did not attribute the 28% in my direct testimony to Arizona, and the nationwide number was appropriate because that portion of my testimony discusses the market power and control that ILECs and BOCs possess over their local markets more generally. Moreover, the difference between the 72% market share ILECs possess nationwide and 60% market share they possess in Arizona does not change my analysis or opinion, particularly when ILEC/BOC control over wholesale bottleneck elements is taken into account. See, Gates Direct at p. 16, line 9 – p. 17, line 11 (immediately following the discussion of the ILEC market share).

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END

HIGHLY CONFIDENTIAL*]** Given that Qwest has already moved to reduce or eliminate PAPs in some states and Joint Applicants have rejected the Joint CLECs' proposed condition related to wholesale service quality in CenturyLink's legacy territory (condition 5 and subparts), it is logical to conclude that CenturyLink's reference to

[*BEGIN HIGHLY CONFIDENTIAL** [REDACTED]

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Qwest's existing PAP and PIDs should be maintained to ensure that Qwest does not backslide on its 271 obligations and the APAP should be adopted to provide a degree of protection for CLECs and their end users from a deterioration in wholesale service quality due to the merger.

Q. MS. STEWART STATES THAT CONDITION 11 IS A "BROAD BRUSH RESTRICTION ON INSTALLATION INTERVALS WITHOUT ANY FACTUAL SUPPORT."¹⁸⁹ IS THIS A FAIR CHARACTERIZATION OF CONDITION 11?

A. No. First, the condition applies to ICAs that are either silent as to an interval or refer to Qwest's website or Standard Interval Guide ("SIG"), and second, it states that these intervals will be no longer than the interval in Qwest's SIG as of the Merger Filing Date. Therefore, it is targeted to apply to intervals that the Merged Company may attempt to lengthen unilaterally, and it simply ensures that the Merged Company will not increase these intervals from those in Qwest's SIG at the time the Joint Applicants announced the proposed transaction. Qwest found these intervals acceptable prior to the proposed transaction (as evidenced by the fact that they were in Qwest's SIG on the Merger Filing

¹⁸⁹ Stewart Rebuttal at p. 13, lines 19-20.

1 Date¹⁹⁰), and any attempt by the Merged Company to increase these intervals after the
2 announcement of the merger would be a harm to CLECs resulting directly from the
3 merger.

4 **Q. HAVE YOU PROVIDED FACTUAL SUPPORT FOR CONDITION 11?**

5 A. Yes. Please refer to pages 130-132 of my direct testimony, where I explained the
6 importance of service intervals to competition, as well as the fact that Qwest has in the
7 past attempted to leave service intervals out of ICAs so that they can be lengthened
8 unilaterally.

9 **Q. MR. HUNSUCKER STATES THAT “CLEC PROVISIONING INTERVALS**
10 **REFLECT RETAIL PROVISIONING INTERVALS FOR THE SAME OR LIKE**
11 **SERVICES BECAUSE FEDERAL LAW REQUIRES A CARRIER TO TREAT**
12 **ALL CUSTOMERS AT PARITY.”¹⁹¹ DOES HIS TESTIMONY VALIDATE THE**
13 **CONCERN UNDERLYING CONDITION 11?**

14 A. Yes. Nondiscrimination is an important requirement of Sections 251 and 271 of the Act.
15 The nondiscrimination requirement, however, does not mean, as Mr. Hunsucker’s
16 testimony suggests, that CenturyLink may lengthen a wholesale interval post-closing by
17 lengthening its retail interval and then arguing the wholesale interval must be the same.

¹⁹⁰ “Merger Filing Date” is defined in Exhibit TG-8 and “refers to May 10, 2010, which is the date on which Qwest and CenturyLink made their merger filing with the FCC.”

¹⁹¹ Hunsucker Rebuttal at p. 66, lines 11-12.

1 **Q. ARE THERE REASONS WHY WHOLESALE INTERVALS SHOULD NOT BE**
2 **LENGTHENED TO MATCH A RETAIL INTERVAL?**

3 A. Yes. An interval for a wholesale customer (*e.g.*, a CLEC) establishes the due date upon
4 which Qwest will deliver the service to the CLEC. For unbundled network element
5 ("UNE") loops, there is still more work that the CLEC needs to do after Qwest delivers
6 the UNE loop to make service work for the CLEC's end user customer.¹⁹² Accordingly,
7 in these instances, the CLEC needs to receive the UNE loop in sufficient time to perform
8 the additional work required and still be able to deliver retail services to end user
9 customers in the same time frame as the ILEC. If the ILEC wholesale and retail intervals
10 are the same in these instances, the ILEC would always have an advantage by being able
11 to deliver services to retail end user customers more quickly than its competitors.

12 One example of this is DS1 UNE loops (1-8 lines): Qwest's wholesale interval in the SIG
13 for Arizona and other states is 5 days, compared to a 9 day Qwest retail interval. Qwest
14 does not perform the end user retail functions for a wholesale service. Qwest has the full
15 nine days of the interval to prepare for service provisioning on the due date for its End
16 User Customers. CLECs receive the loop from Qwest on Day 5 and then are allowed
17 time to perform the additional work a CLEC needs to do to make the service operate for
18 CLEC's end user customer.

¹⁹² See, *e.g.*, Hrg. Ex. Q-2 (Qwest Albersheim Rebuttal), p. 5, lines 8-11, *In re. Complaint of Eschelon Telecom of Arizona, Inc. Against Qwest Corporation*, ACC Docket No. T-01051B-06-0257, T-03406A-06-0257 (Jan. 30, 2007) (Ms. Albersheim testified that the Arizona Commission has found, given that the interval for retail customers is nine days, a five-day interval for CLEC DS1 capable loop orders is appropriate).

1 **Q. HAVE ANY OTHER STATE COMMISSIONS PREVIOUSLY REJECTED**
2 **ATTEMPTS TO LENGTHEN WHOLESALE INTERVALS BY LENGTHENING**
3 **RETAIL INTERVALS AND THEN ARGUING THAT THE WHOLESALE**
4 **INTERVAL SHOULD BE THE SAME?**

5 A. Yes. This argument was rejected during the 271 proceedings. When Qwest previously
6 tried to move from a 5-day to a 9-day loop interval by simultaneously lengthening the
7 interval for its retail customers, the Minnesota Public Utilities Commission rejected
8 Qwest's argument and found that the 5-day loop interval allowed competitors a
9 meaningful opportunity to compete.¹⁹³ The Minnesota Commission found that Qwest
10 cannot make intervals "unreasonable by lengthening the intervals for provision of retail
11 service."¹⁹⁴

12 **Q. HAVE ANY OTHER STATE COMMISSIONS RECOGNIZED THE**
13 **POTENTIALLY HARMFUL EFFECTS OF QWEST LENGTHENING**
14 **PROVISIONING INTERVALS?**

15 A. Yes. The Washington Commission recognized this in the context of its review of
16 Qwest's request for Section 271 authorization. In that case, Qwest proposed an interval
17 for DS1 loops that was longer than the interval that the Washington Commission had
18 established when it approved US WEST's merger with Qwest, and the Washington

¹⁹³ Findings of Fact, Conclusions of Law and Recommendations, *In the Matter of a Commission Investigation into Qwest's Compliance with Section 271(c)(2)(B) of the Telecommunications Act of 1996; Checklist Items 1,2,4,5,6,11,13, and 14*, Docket No. P-421/CI-01-1371 (Sept. 16, 2003) ("MN ALJ 271 Order") at ¶125.

¹⁹⁴ *Id.*

1 Commission directed that the proposed interval be reduced to that which the Commission
2 had previously approved.¹⁹⁵ In another proceeding, the Washington Commission found it
3 appropriate to include an interval in an ICA to protect both ILEC and CLECs “from
4 unnecessary delay and gamesmanship.”¹⁹⁶ Condition 11 only applies in situations when
5 the ICA is silent on an interval or refers to Qwest’s website or SIG – *i.e.*, situations when
6 the specific interval is not spelled out in the ICA – and would provide protection from the
7 “unnecessary delay and gamesmanship” discussed by the Washington Commission.

8 **Q. IS CONDITION 11 INDICATIVE OF CLECS “WANT[ING] PRIORITY FOR**
9 **THEIR NEEDS OVER THOSE OF CENTURYLINK’S END USER**
10 **SUBSCRIBERS AND WHOLESALE CUSTOMERS” AS MR. HUNSUCKER**
11 **CLAIMS?**¹⁹⁷

12 A. No. The opposite is true. If the ILEC wholesale and retail intervals are the same in the
13 instances described above, the ILEC would always have an advantage by being able to
14 deliver services to retail end user customers more quickly than its competitors. In some
15 cases there is work that CLECs need to perform after the wholesale interval in order to

¹⁹⁵ Twentieth Supplemental Order, Initial Order (Workshop Four): Checklist Item No. 4; Emerging Services, General Terms and Conditions, Public Interest, Track A, and Section 272, *In the Matter of the Investigation into US WEST COMMUNICATIONS, INC.’s Compliance with Section 271 of the Telecommunications Act of 1996 and In the Matter of US WEST COMMUNICATIONS INC.’s Statement of Generally Available Terms Pursuant to Section 252(f) of the Telecommunications Act of 1996*. Washington Docket Nos. UT-003022 and UT-003040 (November 14, 2001) (“WA 271 Order”) at ¶ 125.

¹⁹⁶ *In the Matter of the Petition for Arbitration of an Amendment to Interconnection Agreements of Verizon Northwest Inc. with Competitive Local Exchange Carriers and Commercial Mobile Radio Service Providers in Washington Pursuant to 47 U.S.C. Section 252(b) and the Triennial Review Order*, Docket No. UT-043013, Order No. 18, September 22, 2005, at ¶ 114.

¹⁹⁷ Hunsucker Rebuttal at p. 66, lines 12-14. See also, Stewart Rebuttal at p. 14 (“CLECs’ desire to control this key component of the Qwest provisioning process...”)

1 deliver their services to end user customers. Condition 11 is not about CLECs wanting
2 priority of their needs, but rather attempting to ensure that the proposed transaction does
3 not harm their meaningful opportunity to compete. When competition is harmed, end
4 user customers and the public interest are harmed.

5 Moreover, Mr. Hunsucker asserts that the company “*cannot change existing*
6 *provisioning intervals* for its separate operating subsidiaries without significant process
7 or systems improvements.”¹⁹⁸ According to CenturyLink, the company neither *will* nor
8 *can* change intervals, but still CenturyLink refuses to agree to a condition indicating it
9 will not change intervals. There is no rational basis for this position, particularly coming
10 from a company that is before the Commission to gain approval to receive all the claimed
11 benefits of this merger and on an expedited schedule. Agreeing to reasonable conditions
12 would expedite the proceedings considerably. Mr. Hunsucker identifies himself as being
13 in charge of ICA negotiations with CLECs.¹⁹⁹ If CenturyLink takes similar positions in
14 negotiations – *e.g.*, not agreeing to do something it otherwise planned to do – CLECs
15 have little hope of resolving issues with CenturyLink by negotiation, and this does not
16 bode well for the future.

17 Condition 11 does not require anything of the Merged Company that the Joint Applicants
18 have not already stated will take place post-merger, but it transforms the Joint
19 Applicants’ paper promises into an enforceable commitment. Notably, Mr. Hunsucker

¹⁹⁸ Hunsucker Rebuttal at p. 66, lines 18-19.

¹⁹⁹ Hunsucker Rebuttal at p. 1, lines 13-15.

1 states: "I note that the CLECs have demonstrated no harm to Arizona or Arizona
2 customers resulting from the continuation of the existing provisioning intervals."²⁰⁰
3 What Mr. Hunsucker fails to mention is that Condition 11 is proposed to accomplish just
4 that – *i.e.*, to continue existing provisioning intervals for CLECs with ICAs which are
5 silent on intervals or reference Qwest's SIG for intervals.

6 **2. Condition 13**

7 **Q. CENTURLINK STATES THAT CONDITION 13 REGARDING BOC STATUS**
8 **AND SECTION 271 OBLIGATIONS IS UNNECESSARY BECAUSE BOC**
9 **ISSUES ARE "AN FCC MATTER."²⁰¹ DOES THIS CLAIM ELIMINATE THE**
10 **NEED FOR JOINT CLEC PROPOSED CONDITION 13?**

11 **A.** No. Joint CLEC proposed Condition 13 states:

12 13. In the legacy Qwest ILEC territory, the Merged Company shall be
13 classified as a Bell Operating Company ("BOC"), pursuant to Section
14 3(4)(A)-(B) of the Communications Act and shall be subject to all
15 requirements applicable to BOCs, including but not limited to the
16 "competitive checklist" set forth in Section 271(c)(2)(B) and the
17 obligation to ensure there is no backsliding, and the nondiscrimination
18 requirements of Section 272(e) of the Communications Act.

19 Condition 13 states that Qwest will continue to be a BOC in the legacy Qwest ILEC
20 territories and subject to existing BOC obligations post-merger. This merger condition is
21 particularly important to the proposed transaction because this is the first time a non-
22 BOC ILEC has attempted to acquire an entire BOC and all the obligations that go along

²⁰⁰ Hunsucker Rebuttal at p. 66, lines 20-21.

²⁰¹ McMillan Rebuttal at p. 26, line 6.

1 with it. ACC Staff also sees the merit in such a merger condition as evidenced by ACC
2 Staff Condition 5.²⁰²

3 There can be no question that Qwest will be a BOC in the legacy Qwest ILEC territories
4 post-merger and must maintain ongoing compliance with the Section 271 competitive
5 checklist in order for Qwest to provide and continue providing long-distance service.²⁰³

6 In its Order approving Qwest's 271 authority in Arizona, the FCC said:

7 Section 271(d)(6) of the Act requires Qwest to continue to satisfy the
8 "conditions required for . . . approval" of its section 271 application after
9 the Commission approves its application...²⁰⁴

10 CenturyLink's claims that BOC issues are an "FCC matter" which should be of no
11 concern to state commissions, ignores the long, established history of state commission
12 involvement and interest in Qwest's BOC obligations under the federal Act. As
13 explained in Exhibit TG-2, the state commissions throughout Qwest's 14-state BOC
14 territory played a crucial role in testing and improving Qwest's OSS and CMP, and
15 determining the extent to which Qwest had met the requirements of the 271 14-point
16 checklist. Qwest's CMP was reviewed by the Arizona Commission in association with
17 Qwest's request for 271 authority. When the FCC reviewed Qwest's 271 application, the
18 FCC relied heavily on the extensive work completed by the Arizona Commission²⁰⁵ and

²⁰² Direct Testimony of Pamela Genung, Attachment 1, Condition 5.

²⁰³ *In the Matter of Application by Qwest Communications International Inc. for Authorization to Provide In-Region, InterLATA Services in Arizona*, Memorandum Opinion and Order, WC Docket No. 03-194, FCC 03-309, December 3, 2003 ("Qwest Arizona 271 Order"), at ¶¶ 4, 6, 58, 60.

²⁰⁴ Qwest Arizona 271 Order at ¶ 58.

²⁰⁵ Qwest Arizona 271 Order at ¶4.

1 upon the Arizona Commission's commitment to oversee Qwest's ongoing compliance
2 going forward to ensure that local markets remain open in Arizona.²⁰⁶ The FCC said:

3 2. This Order marks the culmination of years of extraordinary work by the
4 state commissions. We take this opportunity here, in the Commission's
5 last section 271 application, to commend all the state commissions for
6 their work in this area since passage of the 1996 Act. Today, we are
7 reviewing a Bell operating company's (BOC's) performance that has been
8 shaped and refined by the Arizona Corporation Commission (Arizona
9 Commission). The Arizona Commission and its staff performed an
10 exhaustive review of Qwest's compliance with its section 271 obligations
11 spanning four years and resulting in several dozen orders. Their efforts
12 facilitated "an almost complete transformation of Qwest's systems and
13 processes from one that was not conducive to local competition to one that
14 . . . will foster local competition." In addition to supervising its own third-
15 party test of Qwest's operations support systems (OSS), the Arizona
16 Commission oversaw the development of a comprehensive set of
17 performance measurements known as performance indicator definitions
18 (PIDs), reexamined Qwest's wholesale pricing, rewrote Qwest's
19 Statement of Generally Available Terms and Conditions (SGAT), and
20 opened enforcement dockets to review issues concerning agreements
21 between Qwest and certain competitors that were not filed as
22 interconnection agreements with the Arizona Commission for its approval.
23 Moreover, the Arizona Commission developed and adopted its own
24 Performance Assurance Plan (PAP) to ensure that Qwest will continue to
25 adhere to its performance obligations after it receives section 271
26 authority.

27 3. The Arizona Commission's outstanding work in conjunction with
28 Qwest's extensive efforts has resulted in competitive entry in
29 Arizona....We are confident that the Arizona Commission's and Qwest's
30 hard work to open the local exchange market in Arizona to competition
31 will benefit consumers by making increased competition in all
32 telecommunications service markets possible in this state. Finally, we are
33 also confident that the Arizona Commission will be vigilant in ensuring
34 that Qwest continues to meet its statutory obligations.²⁰⁷

²⁰⁶ Qwest Arizona 271 Order at ¶¶25, 58-60.

²⁰⁷ Qwest Arizona 271 Order at ¶¶ 2-3.

1 Also, regarding the role of the Arizona commission in monitoring Qwest's continued
2 compliance with Section 271 obligations, the FCC said:

3 Working in concert with the Arizona Commission, we intend to monitor
4 closely Qwest's post-approval compliance for Arizona to ensure that
5 Qwest does not "cease[] to meet any of the conditions required for [section
6 271] approval... We are confident that cooperative state and federal
7 oversight and enforcement can address any backsliding that may arise with
8 respect to Qwest's entry into the long distance market in Arizona."²⁰⁸

9 In sum, Qwest must continue to satisfy the conditions required for 271 approval, and the
10 state commissions play an important oversight and enforcement role to address any
11 Qwest backsliding. This is particularly relevant to the proposed transaction because
12 CenturyLink – a non-BOC ILEC which lacks experience with Section 271 obligations –
13 will own and control Qwest²⁰⁹ if the proposed transaction is approved.

14 **Q. MS. MCMILLAN STATES THAT "THE CENTURYLINK ARIZONA**
15 **OPERATIONS ARE NOT BOC PROPERTIES, AND WILL NOT BECOME**
16 **BOCS AFTER THE MERGER..."²¹⁰ ARE THE CLECS PROPOSING TO**
17 **CHANGE THE BOC STATUS OF ANY OPERATING COMPANY?**

18 **A.** No. Both Ms. McMillan²¹¹ and Mr. Hunsucker²¹² mischaracterize Condition 13 by
19 suggesting it would change the BOC status of the Merged Company's operating

²⁰⁸ Qwest Arizona 271 Order at ¶¶ 25, 59-60.

²⁰⁹ McMillan Direct at p. 5, lines 23-25 ("At closing, Qwest will become a direct, wholly-owned subsidiary of CenturyLink and all Qwest subsidiaries, including QC, will be indirectly owned and controlled by CenturyLink...")

²¹⁰ McMillan Rebuttal at p. 26, lines 10-12.

²¹¹ McMillan Rebuttal at p. 26, lines 10-12.

1 companies. However, Joint CLECs' proposed Condition 13 begins with the words: "[i]n
2 the legacy Qwest ILEC territory..." which means that the Merged Company would be
3 classified as a BOC only in the legacy Qwest ILEC territory where Qwest is a BOC
4 today, and not for any CenturyLink operations. As Mr. Hunsucker has testified, "the
5 legacy Qwest territories will continue to have 271 obligations"²¹³ and there is no good
6 reason for Joint Applicants to object to Joint CLECs' proposed Condition 13.

7 **Q. IS THERE OTHER INFORMATION THAT SUPPORTS THE NEED FOR JOINT**
8 **CLECS' PROPOSED CONDITION 13?**

9 **A. [***BEGIN HIGHLY CONFIDENTIAL** [REDACTED]

10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 [REDACTED] **END HIGHLY CONFIDENTIAL***]** This

18 statement is also concerning because CenturyLink, which has no experience as a BOC

²¹² Hunsucker Rebuttal at p. 67 ("Q. Can the Merged Company be classified as a BOC as the CLECs demand in Condition 13? A. No...")

²¹³ Hunsucker Supplemental Direct Testimony in the Oregon merger docket, Docket No. UM 1484 at p. 12, lines 18-19 (June 22, 2010).

1 make to this information in the normal course of business; these provisions could not
2 have addressed (or even considered) the magnitude of changes that would take place if
3 Qwest was acquired by a different company and the wholesale operations of Qwest were
4 integrated with the wholesale operations of another company. Undoubtedly, the merger
5 will create many changes in personnel, which makes ready access to up-to-date
6 information particularly important. Problems of the scale and type that occurred with the
7 Hawaiian Telcom and FairPoint transactions, if they occur, will only be compounded if it
8 is not already known whom to contact and how to escalate such issues. Condition 15 is
9 designed to address harm related to the proposed transaction.

10 As explained in my direct testimony, Qwest has in the past made unilateral changes
11 through CMP against the objections of CLECs.²¹⁵ Therefore, the existing CMP
12 provisions cited by Joint Applicants could be changed post-merger against the objections
13 of CLECs. The fact that the Joint Applicants have refused to adopt Joint CLEC proposed
14 Condition 17, which requires the Merged Company to maintain Qwest's CMP using the
15 terms and conditions of the CMP Document, calls into serious question whether the Joint
16 Applicants intend to continue Qwest's CMP post-merger. Ms. Stewart made a similar
17 claim about CMP and the ICAs with respect to OSS-related conditions, and I address this
18 claim further in my discussion below of Conditions 16, 19, and 20.

²¹⁵ Gates Direct at p. 131.

1 In addition, Mr. Hunsucker's claim that Condition 15 would "modify negotiated
2 agreements that are already in place"²¹⁶ is not supported by any actual examples or other
3 evidence. Mr. Hunsucker's testimony is also contrary to the language of Condition 15
4 itself, which expressly provides that "the information and notice provided shall be
5 consistent with the terms of applicable interconnection agreements."

6 **4. Conditions 17 and 18**

7 **Q. CENTURYLINK DISAGREES WITH JOINT CLECS' CONDITIONS 17 AND 18.**
8 **WHAT ARE THOSE CONDITIONS?**

9 A. Joint CLECs' proposed Conditions 17 and 18 are shown below:²¹⁷

10 17. After the Closing Date, the Merged Company will maintain the Qwest
11 Change Management Process ("CMP"), utilizing the terms and conditions
12 set forth in the CMP Document, including those terms and conditions
13 governing changes to the CMP Document. The Merged Company will
14 dedicate the resources needed to complete pending CLEC change requests
15 in a commercially reasonable time frame.

16 18. The Merged Company shall ensure that the legacy Qwest Wholesale
17 and CLEC support centers are sufficiently staffed, relative to wholesale
18 order volumes, by adequately trained personnel dedicated exclusively to
19 wholesale operations so as to provide a level of service that is equal to or
20 superior to that which was provided by Qwest prior to the Merger Filing
21 Date and to ensure the protection of CLEC information from being used
22 for the Merged Company's retail operations or marketing purposes of any
23 kind. The Merged Company will employ people who are dedicated to the
24 task of meeting the needs of CLECs and other wholesale customers. The
25 total number of the Merged Company's employees dedicated to
26 supporting wholesale services for CLEC customers will be no fewer than
27 the number of such employees (including agents and contractors)

²¹⁶ Hunsucker Rebuttal at p. 55, lines 15-16.

²¹⁷ Exhibit TG-8 at p. 8.

1 employed by legacy Qwest and legacy CenturyLink as of the Merger
2 Filing Date, unless the Merged Company obtains a ruling from the
3 applicable regulatory body that wholesale order volumes materially
4 decline or other circumstances warrant corresponding employee
5 reductions.

6 ACC Staff's Condition 24 is similar to Joint CLECs' Condition 17, and ACC Staff's
7 Condition 27 is similar (and complementary) to Joint CLECs' Condition 18.²¹⁸

8 **Q. HAS CENTURYLINK FAIRLY DESCRIBED JOINT CLECS' PROPOSED**
9 **CONDITION 17 RELATING TO CMP AND CONDITION 18 RELATING TO**
10 **WHOLESALE SUPPORT?**

11 A. No. Mr. Hunsucker claims that Joint CLECs' Conditions 17 and 18 would prevent the
12 Merged Company from "reduc[ing] its costs through attrition of employees whose
13 functions have been automated or are redundant" and require the Merged Company to
14 "retain some legacy processes rather than determine if the processes can be automated or
15 improved to benefit both the company and the CLECs."²¹⁹ Mr. Hunsucker also refers to
16 these conditions as CLECs attempting to "dictate the number of wholesale employees on
17 the CenturyLink payroll and...dictate certain processes."²²⁰ However, Joint CLECs'
18 proposed Condition 17 simply maintains the Qwest CMP process, using the terms and
19 conditions in the existing CMP Document. The Joint Applicants' claim that this
20 condition attempts to "dictate certain processes" makes no sense given that this process

²¹⁸ Direct Testimony of Pamela Genung, Attachment 1, Conditions 24 and 27.

²¹⁹ Hunsucker Rebuttal at p. 67, lines 16-20.

²²⁰ Hunsucker Rebuttal at p. 67, lines 12-16.

1 already exists and that the Joint Applicants have proclaimed their intent to maintain
2 Qwest's CMP post-merger.²²¹

3 **Q. ARE CLECS DICTATING THE NUMBER OF WHOLESALE EMPLOYEES ON**
4 **THE CENTURLINK PAYROLL UNDER CONDITION 18, AS MR.**
5 **HUNSUCKER CLAIMS?**

6 A. No. A fair reading of Condition 18 shows that wholesale volumes or other circumstances
7 warranting employee reductions will dictate the number of CenturyLink/Qwest wholesale
8 employees post-merger – not CLECs. Under Condition 18, the Merged Company has the
9 opportunity to demonstrate to the state commission that conditions warrant further
10 headcount reductions in wholesale operations. It would be the Merged Company and the
11 state commission determining whether such conditions exist under Condition 18, not
12 CLECs.

13 **Q. JOINT APPLICANTS STATE THAT QWEST HAS BEEN REDUCING**
14 **HEADCOUNT AT THE SAME TIME AS IT HAS BEEN INCREASING**
15 **EFFICIENCY AND REDUCING QWEST QPAP PENALTY PAYMENTS.²²²**
16 **DOES THIS MEAN THAT CONDITIONS 17 AND 18 ARE INAPPROPRIATE,**
17 **AS MR. HUNSUCKER CLAIMS?**

18 A. No. Qwest's prior performance is not indicative of how the Merged Company will
19 operate if the proposed transaction is approved as filed. The control of Qwest's

²²¹ Hunsucker Rebuttal at p. 24, lines 4-6.

²²² Hunsucker Rebuttal at pp. 67-68.

1 wholesale operations will be taken over by CenturyLink – a company that has a
2 substantially smaller legacy wholesale operations than Qwest (due to CenturyLink
3 primarily serving rural areas in the past), and has no experience with Qwest’s systems,
4 processes or BOC obligations. As the Joint Applicants have explained, Qwest’s
5 headcount – including headcount dedicated to wholesale customers – has been decreasing
6 in recent years.²²³ There is no evidence that CenturyLink fully understands or appreciates
7 the resources that will be needed in Qwest’s legacy territory post-merger to sufficiently
8 handle the significantly larger volumes than it is accustomed to handling – particularly at
9 a time when it is attempting to integrate a company that is double its current size and
10 complete the integration of Embarq. And Qwest’s prior performance was not during a
11 time when Qwest was pursuing merger-related synergy savings through the integration of
12 systems, platforms and personnel. Therefore, Qwest’s prior performance is not a reliable
13 indicator concerning the merger-related harms Conditions 17 and 18 are designed to
14 address.

15 **Q. IS THE JOINT APPLICANTS’ RELIANCE ON QWEST’S PRIOR QPAP**
16 **PAYMENTS SIMILARLY FLAWED?**

17 A. Yes. The QPAP payments Qwest has made between the years 2004 and 2009²²⁴ has
18 nothing to do with the proposed transaction, which was announced in April 2010. Again,
19 Qwest’s wholesale operations will be under the control of CenturyLink if the proposed

²²³ Hunsucker Rebuttal at pp. 67-68 (“Qwest witness Bob Brigham also notes that Qwest has been reducing its headcount in wholesale operations even as the company has grown more effective...”)

²²⁴ Williams Rebuttal at pp. 19-20.

1 transaction is approved, and that new management has not had to deal with a BOC's
2 wholesale service quality performance reporting or associated penalty payments. Indeed,
3 CenturyLink has no track record of compliance with and implementation of such
4 wholesale performance assurance provisions. Mr. Hunsucker states that CenturyLink has
5 a CLEC performance assurance plan in just one legacy CenturyLink market.²²⁵ Further,
6 Qwest was not pursuing merger-related synergy savings or integrating the wholesale
7 operations of another company between 2004 and 2009. A more relevant reference point
8 about how a CenturyLink acquisition can impact wholesale service quality is the service
9 quality reports CenturyLink has been providing under the FCC's Embarq/CenturyTel
10 merger conditions. I discussed these data at pages 81-82 of my direct testimony
11 (Confidential version).

12 **Q. MR. HUNSUCKER CLAIMS THAT CONDITIONS 17 AND 18 ARE AN**
13 **ATTEMPT TO MAKE IT MORE DIFFICULT FOR THE MERGED COMPANY**
14 **TO COMPETE.²²⁶ WHAT IS YOUR RESPONSE?**

15 A. Mr. Hunsucker's logic is flawed, that is unless he means that it will be more difficult for
16 CenturyLink to compete if CenturyLink cannot create synergies for itself at the expense
17 of its CLEC competitors. Certainly, it would be easier for CenturyLink to compete if it
18 could disadvantage its competitors by making changes to its systems, process and

²²⁵ Hunsucker Rebuttal at p. 14, lines 7-8.

²²⁶ Hunsucker Rebuttal at p. 68, lines 2-4.

1 products that have a “major effect on existing CLEC operating procedures”²²⁷ without
2 using the CMP procedures continued by Condition 17 and if it could
3 “eliminat[e]...duplicate functions”²²⁸ with no requirement to maintain wholesale services
4 at existing performance levels (Condition 18). In the Arizona Joint Application, Joint
5 Applicants state: “A financially stronger company can continue to...compete
6 against...CLECs...”²²⁹ Conditions 17 and 18 are needed to help ensure that the stronger
7 company with a larger footprint, and substantially greater bargaining power, does not
8 create synergies for itself at the expense of its CLEC competitors.

9 Condition 17 maintains the existing Qwest CMP and CMP Document and Condition 18
10 maintains the level of wholesale support that CLECs receive from Qwest today. The
11 existence of the Qwest CMP and the current level of support for wholesale services have
12 not impeded Qwest’s ability to compete with CLECs to date, and there is no reason to
13 believe that maintaining Qwest’s CMP and current level of wholesale support would
14 impede Qwest’s ability to compete with CLECs post-merger.

²²⁷ CMP Document, §5.45. CMP Document available at:
<http://www.qwest.com/wholesale/cmp/>

²²⁸ Joint Applicants’ FCC Joint Application, WC Docket No. 10-110 at p. 21.

²²⁹ Arizona Joint Application at p. 14, ¶ 28.

1 **5. Conditions 16, 19 and 20**

2 **Q. HAVE YOU REVIEWED MR. HUNSUCKER'S STATED CONCERNS ABOUT**
3 **CONDITIONS 16, 19 (AND SUBPARTS) AND 20 RELATING TO OSS?**²³⁰

4 A. Yes. The concerns Mr. Hunsucker asserts about the OSS-related conditions include the
5 following:

- 6 • they "change the legal obligations or voluntary agreements"²³¹
- 7 • "[t]here is no reason to assume that [Joint Applicants] will suddenly abandon their
8 responsibilities following the close of this Transaction"²³²
- 9 • "any changes will occur only after a thorough and methodical
10 review...coordinate[d]...in advance through the CMP"²³³
- 11 • the Merged Company expects to operate Qwest's OSS for at least 12 months post-
12 merger²³⁴
- 13 • CLEC statements that "CenturyLink OSS is inferior to the Qwest OSS" are not
14 supported.²³⁵

15 **Q. WHAT ARE YOUR RESPONSES TO THESE CRITICISMS?**

16 A. First, Mr. Hunsucker does not, and cannot, explain how the requirements of Conditions
17 16 and 19 to maintain the existing OSS, including associated support (e.g., types and
18 level of data, online information, industry notices, etc.), that Qwest provides CLECs

²³⁰ OSS include manual, computerized, and automated systems, together with associated business processes and the up-to-date data maintained in those systems. *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, First Report and Order, CC Docket Nos. 96-98, 95-185, 11 FCC Rcd 15499 (1996) ("Local Competition Order") at ¶¶517-18.

²³¹ Hunsucker Rebuttal at p. 56, lines 16-18.

²³² Hunsucker Rebuttal at p. 57, lines 1-2.

²³³ Hunsucker Rebuttal at p. 57, lines 7-12.

²³⁴ Hunsucker Rebuttal at p. 57, line 17.

²³⁵ Hunsucker Rebuttal at p. 58, lines 10-11.

1 today will somehow change its legal obligations or voluntary agreements. It is pursuant
2 to those legal obligations and agreements that Qwest provides OSS today. ACC Staff
3 apparently recognizes this fact as evidenced by its proposed Condition 29, which is
4 similar to Joint CLECs' proposed Condition 16.

5 Second, Mr. Hunsucker's claim that CenturyLink will not "abandon" its responsibilities
6 ignores that CenturyLink has never had the same BOC obligations that it will have going
7 forward in legacy Qwest territory. CenturyLink cannot give up what it has not had. This
8 concern is at the heart of these OSS conditions. It is precisely because CenturyLink has
9 not had these BOC obligations and has not undergone the extensive 271 review
10 completed by Qwest that these conditions are necessary.

11 Third, CenturyLink's claims about making changes after a "methodical review" are
12 addressed in my direct testimony (at pages 121-122 and 135-136) and I will not repeat
13 those arguments here. Although CenturyLink claims that changes will be coordinated in
14 advance through CMP, Joint Applicants have refused to provide a commitment in this
15 regard by adopting Joint CLEC proposed Condition 17.

16 Fourth, I also explained in my direct testimony (at pages 120-121) why CenturyLink's
17 statement that it is "expected" to operate Qwest's OSS for at least 12 months following
18 merger approval is insufficient to avoid merger-related harm to CLECs. ACC Staff
19 appears to agree on this point because Staff Condition 19, similar to Joint CLECs'

1 Condition 19, requires the Merged Company to keep in tact pre-merger OSS that support
2 wholesale services in Arizona “for a period of three years” following the merger.²³⁶

3 **Q. WHAT IS YOUR RESPONSE TO MR. HUNSUCKER’S ASSERTION THAT**
4 **CLECS “DO NOT SUPPORT THEIR CLAIM” THAT CENTURYLINK OSS IS**
5 **INFERIOR TO THE QWEST OSS?²³⁷**

6 A. Mr. Hunsucker’s assertion is false. I discussed above Exhibits TG-16 and TG-17 which
7 show numerous examples of functionalities and order types that are available from
8 Qwest’s OSS but not CenturyLink’s OSS. I also provided some examples in my direct
9 testimony.²³⁸ CWA also describes systems features and functionalities that were
10 previously available in legacy Embarq territory in North Carolina that are no longer
11 available after CenturyLink’s system integration efforts.²³⁹

12 Furthermore, the Joint Applicants ignore my direct testimony stating that the existing
13 Qwest OSS is “preferred by carriers that use both of the merging companies’
14 systems...”²⁴⁰ There could hardly be a better source of information related to the
15 capabilities of Qwest’s and CenturyLink’s wholesale OSS than competitive carriers who

²³⁶ Joint CLECs’ Condition 19 states in part: “In legacy Qwest ILEC territory, after the Closing Date, the Merged Company will use and offer to wholesale customers the legacy Qwest Operational Support Systems (OSS) for *at least* three years...” (emphasis added)

²³⁷ Hunsucker Rebuttal at p. 58, lines 10-11.

²³⁸ Gates Direct, at 35, 56-57, 125-126 & Exhibit TG-5. CenturyLink has also indicated that CenturyLink’s “EASE as currently implemented by CenturyLink does not prepopulate information in the LSR.” CenturyLink’s supplemental responses to Integra Data Request No. 3-18 (October 6, 2010). This functionality is available with Qwest’s OSS.

²³⁹ Gurganus Direct at pp. 5-6 and 8-9.

²⁴⁰ Gates Direct at p. 125, lines 16-17.

1 currently use both companies' OSS. In the opinion of those carriers – i.e., CenturyLink's
2 future customers if the merger is approved – Qwest's OSS is preferred and should be
3 used as the Merged Company's OSS platform going forward. If CenturyLink
4 "recognizes the value of its wholesale customers,"²⁴¹ it would take this strongly
5 expressed preference into account and provide its customers with the measure of business
6 certainty they need to continue to provide quality services to their end user customers.

7 **Q. REGARDING CONDITION 19 (AND SUBPARTS), THE JOINT APPLICANTS**
8 **STATE THAT YOUR SUGGESTION THAT THERE IS A "SEPARATE**
9 **DISTINCT SECTION 271 CHECKLIST REQUIREMENT, SPECIFICALLY FOR**
10 **OSS" IS INCORRECT.²⁴² PLEASE RESPOND.**

11 A. At page 34 of my direct testimony, I state: "Nondiscriminatory access to OSS is also
12 required under the Section 271 14-point competitive checklist applicable to BOCs."

13 Consistent with this, the FCC states:

14 Under checklist item 2, a BOC must demonstrate that it provides
15 nondiscriminatory access to the five OSS functions: (1) pre-ordering; (2)
16 ordering; (3) provisioning; (4) maintenance and repair; and (5) billing. In
17 addition, a BOC must show that it provides nondiscriminatory access to
18 UNEs and that it has an adequate CMP in place to accommodate changes
19 made to its systems.²⁴³

20 The Joint Applicants suggestion that there is not a separate requirement under Section
21 271 of the Act applicable to OSS is wrong. While both sections 251 and 271 require

²⁴¹ Hunsucker Rebuttal at p. 6, line 12.

²⁴² Stewart Rebuttal at p. 22, lines 19-24. See *also*, Hunsucker Rebuttal at p. 15, lines 12-15.

²⁴³ Qwest Arizona 271 Order at ¶ 13.

1 nondiscriminatory access to OSS, Congress and the FCC have a two-prong requirement
2 related to OSS for BOCs (Sections 251 and 271) and a single-prong requirement related
3 to OSS for non-BOC ILECs (Section 251). Accordingly, there is an OSS requirement
4 under Section 271 that applies to BOCs that does not apply to non-BOC ILECs; BOCs
5 must not only satisfy Section 251 but also must demonstrate and maintain ongoing
6 Section 271 compliance in order to provide and continue providing long distance
7 services.

8 **Q. DOES THIS MEAN THAT IF CENTURYLINK'S OSS IS SUBJECT TO THE**
9 **SECTION 251 REQUIREMENT THAT IT ALSO SATISFIES THE 271**
10 **REQUIREMENT THAT APPLIES TO BOCS?**

11 A. No. The Joint Applicants' implication that CenturyLink's OSS is 271 compliant simply
12 because it has operated under Section 251 is incorrect. Certainly the state commissions,
13 the FCC and the Regional Oversight Committee would not have performed three years
14 worth of testing on Qwest's OSS during the 271 review process if operating under
15 Section 251 was all that was required. Until just recently, CenturyTel's legacy OSS
16 consisted largely of manual processes instead of automated systems. CenturyTel can
17 hardly claim that replacing Qwest's automated OSS systems with these manual processes
18 would have met Qwest's obligations as a BOC under Section 271 – yet, according to
19 CenturyLink, these manual processes met legacy CenturyTel's obligations under Section
20 251. Assuming for the sake of argument that CenturyLink is currently integrating more
21 automated systems in legacy CenturyLink territory, these systems have been designed for

1 CenturyLink (and for CenturyLink's – not Qwest's – volumes). And even if (assuming
2 for the sake of argument) that this OSS satisfies *CenturyLink's* obligations under Section
3 251 of the Act, this says nothing about whether this OSS would satisfy *Qwest's*
4 obligations under Section 271 of the Act.

5 **Q. MR. HUNSUCKER STATES THAT "THERE IS NO EVIDENCE THAT**
6 **[CENTURLINK'S] SYSTEMS DO NOT MEET THE REQUIREMENTS OF**
7 **THE TELECOM ACT."²⁴⁴ PLEASE RESPOND.**

8 A. This appears to be a vague suggestion that CenturyLink's OSS would satisfy Qwest's
9 requirements under Sections 251 and 271 if the Merged Company decided to replace
10 Qwest's OSS with CenturyLink's OSS. However, and this is critical, there is absolutely
11 no evidence regarding CenturyLink's legacy OSS being able to be used in Qwest's
12 legacy territory. Instead of providing any details about the Joint Applicants' post-merger
13 OSS plans so that systems experts can explore the viability of the plan and potential
14 impact, the Joint Applicants blame others for not providing evidence that can be provided
15 only by the Joint Applicants. This is an effort to place the burden on CLECs when, as the
16 petitioning parties, the Joint Applicants bear the burden in this case.

17 Moreover, evidence in the record calls into question the ability of CenturyLink's OSS to
18 meet the requirements of the Act in Qwest's legacy territory. The largely manual nature
19 of CenturyTel's legacy OSS would not meet the requirements of the Act in Qwest's

²⁴⁴ Hunsucker Rebuttal at pp. 15-16.

1 legacy territory. CenturyTel's legacy OSS did not even pass muster in the non-BOC
2 CenturyTel-Embarq merger, in which the FCC required that wholesale OSS be provided
3 through Embarq's systems.²⁴⁵ A manually-intensive OSS cannot efficiently process the
4 volume and types of wholesale orders experienced in Qwest's BOC territory, particularly
5 since Qwest has reduced headcount in recent years. I have also described functionalities
6 that are available through Qwest's OSS that are not available through CenturyLink's
7 OSS.²⁴⁶ My point is that there is ample (and mounting) evidence which calls into
8 question the ability of CenturyLink's OSS to be integrated in Qwest's BOC territory
9 without a decrease in functionality or service quality.

10 It is objectionable that Mr. Hunsucker would criticize a lack of evidence about the ability
11 of the Merged Company's OSS to provide nondiscriminatory access in Qwest's territory,
12 post-merger, when the Joint Applicants have failed to provide critical information about
13 its plans for systems integration, and particularly about OSS integration, post-merger.
14 The absence of such information makes it even more critical to adopt CLEC Condition 19
15 (and subparts). This condition protects wholesale customers, end user customers, and
16 competition from the significant risk caused by the Joint Applicants' currently-undefined
17 OSS integration plans, while at the same time providing the Merged Company the ability
18 to modify its OSS after three years in a similar way to how Qwest's OSS was determined

²⁴⁵ *In the Matter of Applications Filed for the Transfer of Control of Embarq Corporation to CenturyTel, Inc.*
Memorandum Opinion and Order, WC Docket No. 08-238, FCC 09-54, June 25, 2009 ("CenturyTel-Embarq
Merger Order"), Appendix C, p. 28.

²⁴⁶ Gates Direct at pp. 56-57.

1 to be acceptable under Section 271 of the Act. This strikes a reasonable balance between
2 protecting the wholesale competitive market from harm and allowing the Merged
3 Company to pursue integration efficiencies.

4 **Q. MS. STEWART CRITICIZES THE THIRD-PARTY TESTING REQUIREMENT**
5 **OF CONDITION 19(B). SHE SAYS THAT THIRD PARTY TESTING IS NOT**
6 **REQUIRED BY THE ACT.²⁴⁷ DOES THIS TELL THE WHOLE STORY?**

7 A. No. As described in detail in my Exhibit TG-2, Qwest's OSS underwent extensive third-
8 party testing during the 271 review process. The fact that there is no explicit mention of
9 independent third party testing in the Act did not prevent regulators from requiring third
10 party testing then, and it should not prevent it now. Third party testing is a mechanism
11 used to determine compliance with the Act's requirements. This set a "bar" of sorts for
12 these OSS systems in relation to needed functionality and their ability to handle
13 commercial volumes in Qwest's territory. Joint CLEC proposed Condition 19(b) requires
14 that third-party testing be conducted "[f]or any Qwest system that was subject to third
15 party testing (e.g., as part of a Section 271 process)..." In other words, Condition 19(b)
16 would ensure that if the Merged Company replaces a system that was originally subject to
17 third-party testing, the replacement system would undergo similar third-party testing. If
18 the Merged Company is allowed to replace Qwest systems that have been third-party
19 tested with systems that have not undergone similar third-party testing, the "bar" would
20 be effectively lowered for these systems as a result of the merger. The Joint Applicants

²⁴⁷ Stewart Rebuttal at p. 23.

1 should not undermine all of the work that was conducted to test Qwest's OSS systems
2 because they want to merge.

3 **Q. PLEASE ELABORATE ON THE ROLE OF INDEPENDENT, THIRD-PARTY**
4 **TESTING FOR TESTING OSS COMMERCIAL READINESS.**

5 A. The FCC has previously concluded that the most probative evidence that OSS functions
6 are operationally ready is actual commercial usage. To date, there is no evidence that
7 CenturyLink's legacy OSS is capable of handling the actual commercial usage that it
8 would be required to handle in Qwest's legacy territory if the proposed transaction is
9 approved. Without this actual commercial usage experience, the second-best option is
10 independent, third-party testing. The FCC said:

11 The most probative evidence that OSS functions are operationally ready is
12 actual commercial usage. Absent sufficient and reliable data on
13 commercial usage, the Commission will consider the results of carrier-to-
14 carrier testing, independent third-party testing, and internal testing in
15 assessing the commercial readiness of a BOC's OSS. Although the
16 Commission does not require OSS testing, a persuasive test will provide
17 us with an objective means by which to evaluate a BOC's OSS readiness
18 where there is little to no evidence of commercial usage, or may otherwise
19 strengthen an application where the BOC's evidence of actual commercial
20 usage is weak or is otherwise challenged by competitors. *The*
21 *persuasiveness of a third-party review, however, is dependent upon the*
22 *qualifications, experience and independence of the third party and the*
23 *conditions and scope of the review itself. If the review is limited in scope*
24 *or depth or is not independent and blind, the Commission will give it*
25 *minimal weight.*²⁴⁸

²⁴⁸ Qwest 9 State 271 Order, Appendix K "Statutory Requirements" at p. K-16 (emphasis added).

1 Internal OSS testing that is not independent and blind is inferior to a truly independent
2 third-party test in determining a BOC's OSS commercial readiness. Though CenturyLink
3 claims that it extensively tests its own OSS, it has admitted that this testing does not
4 involve third-party testing.²⁴⁹ This means that CenturyLink's OSS testing is not
5 independent or blind, and would therefore, be a step backwards for Qwest OSS that has
6 undergone years of extensive and verifiable third-party testing. CenturyLink has
7 specifically said that it does not intend to engage in third-party testing post-merger for
8 any replacement OSS that replaces an existing Qwest OSS.²⁵⁰

9 **Q. MS. STEWART STATES: "MR. GATES PROVIDES NO EVIDENCE, BUT**
10 **RATHER MERELY SPECULATES, THAT AN EXISTING INTERFACE THAT**
11 **IS CURRENTLY HANDLING COMMERCIAL VOLUMES, SUCH AS**
12 **CENTURYLINK'S OSS DOES TODAY, CANNOT BE MODIFIED AND**
13 **ADAPTED TO FUNCTION AS WELL AS (OR BETTER THAN) AN EXISTING**
14 **INTERFACE."²⁵¹ IS THIS A VALID CRITICISM?**

15 **A.** No. Joint Applicants again attempt to reverse the burden of proof. It is the Joint
16 Applicants that have provided insufficient evidence to show that an existing interface is
17 handling commercial volumes today or that it could or should be modified to do so.
18 Though Ms. Stewart does not clearly identify what "existing interface" would be

²⁴⁹ Gates Direct at pp. 122-123.

²⁵⁰ Minnesota Docket P-421, et al./PA-10-456, Hearing Transcript Volume 2B (public) at pp. 88-89 ("Q. No. Is it your – should you migrate the Qwest properties onto the CenturyLink OSS, would you engage in third-party testing before that went live? A. We would not engage in third-party testing." (Hunsucker))

²⁵¹ Stewart Rebuttal at p. 24, lines 3-6.

1 replaced, presumably she is talking about replacing an existing *Qwest* interface with an
2 existing CenturyLink interface. This is an unfair criticism given that, according to the
3 Joint Applicants, no such evidence exists. As explained in the FCC excerpt above,
4 whether or not an OSS can handle commercial volumes is best determined through
5 commercial usage, and if no commercial usage exists, then third-party testing should be
6 undertaken. There is no commercial usage data of CenturyLink's OSS handling
7 commercial volumes in Qwest's region because the two companies use different OSS
8 today. And there is no testing results (third-party or otherwise) showing the extent to
9 which CenturyLink's legacy OSS could or could not handle Qwest's commercial
10 volumes. The Joint Applicants have elected to not even attempt to meet their burden in
11 this respect. That is why Condition 19(b) is critical: it would ensure that after at least
12 three years, if the Merged Company decides to replace an existing OSS interface that has
13 been third-party tested, verifiable and independent evidence would be collected and
14 evaluated to determine whether the replacement interface could handle legacy Qwest's
15 commercial volumes.

16 **Q. MS. STEWART STATES THAT THE SYSTEMS AND PROCESSES THAT**
17 **WERE THIRD PARTY TESTED MORE THAN EIGHT YEARS AGO ARE NOT**
18 **THE SAME SYSTEMS AND PROCESSES BEING UTILIZED IN THE QWEST**
19 **TERRITORY TODAY.²⁵² PLEASE RESPOND.**

²⁵² Stewart Rebuttal at p. 24.

1 A. Qwest's IMA was subject to third-party testing. Ms. Stewart suggests that because IMA-
2 EDI was transitioned to IMA-XML, the OSS that was third-party tested has changed and
3 would not require third-party testing under Condition 19. That is incorrect. Qwest
4 Change Request ("CR") #SCR121305-01²⁵³ (regarding the change from IMA-EDI to
5 IMA-XML) indicates that the Business Process Layer ("BPL") did not change in the
6 transition to XML and indicates that the CR just changes how information is passed and
7 how the connection is made.²⁵⁴ In other words, the functionality did not change. This is
8 different from changing systems, as when CenturyLink changed from CenturyTel's IRES
9 to Embarq's EASE, and CLECs lost the previously available functionality of the system
10 populating a CLEC's LSR with information (e.g., the end-user's customer address from
11 the pre-order validation form).²⁵⁵ It is also different from changing from Qwest's IMA-
12 XML to CenturyLink's EASE system, which has different functionality. For example,
13 CenturyLink has indicated that EASE does not have pre-order functions that Qwest IMA
14 has. These pre-order functions include Meet Point Query Validation, Raw Loop Data
15 Validation, Telephone Number Reservation, Loop Qualification, and Appointment
16 Scheduling.²⁵⁶

²⁵³ Available at: http://www.qwest.com/wholesale/cmp/archive/CR_SCR121305-01.html

²⁵⁴ For example, Qwest-prepared CMP meeting minutes from a 1/25/06 Ad Hoc CMP Meeting which state: "Comcast - said that it would helpful if Qwest could provide a document on the order flow. Connie Winston - Qwest said that the flow is not changing and that with EDI all validation is the BPL. Connie said that layer will enforce the same business rules with XML." *Id.*

²⁵⁵ Exhibit TG-5 at p. 30.

²⁵⁶ Exhibits TG-16 and TG-17.

1 The very fact that Joint Applicants are suggesting that the Merged Company should be
2 allowed to replace Qwest's existing IMA-XML OSS interface with CenturyLink's EASE,
3 without independent third-party testing, suggests that CenturyLink intends to move away
4 from Qwest's OSS (IMA-XML, in this example) and to do so without such third-party
5 testing. This testimony further supports the need for Joint CLEC proposed Condition 19
6 (and subparts) to avoid merger-related harm.

7 **Q. MS. STEWART CLAIMS THAT PROTECTIONS ARE ALREADY IN PLACE**
8 **BECAUSE CHANGES TO QWEST OSS WOULD BE HANDLED THROUGH**
9 **CMP AND SUBJECT TO ICAS.²⁵⁷ DOES THIS OBIVIATE THE NEED FOR**
10 **CONDITION 19(B)?**

11 A. No. The Joint Applicants have refused to adopt Joint CLEC proposed Condition 17 that
12 would assure the Qwest CMP and CMP Document are maintained, and have refused to
13 adopt Joint CLEC proposed Condition 8 that would allow existing ICAs to be extended.
14 If the Joint Applicants are going to rely on the existing Qwest CMP and ICAs as the basis
15 for its claim that sufficient protections already exist, then it seems logical that the Joint
16 Applicants would agree to Joint CLEC proposed conditions 8 and 17 and commit to
17 leaving the existing CMP and ICAs in place post-merger. To date, the Joint Applicants
18 have rejected all of the Joint CLEC proposed conditions.

²⁵⁷ Stewart Rebuttal at p. 25.

1 In any event, CMP and the ICAs alone are not enough to prevent merger-related harm
2 due to replacement of independent third-party tested systems with systems that have not
3 been third-party tested.

4 **Q. ARE THERE REASONS WHY MAINTAINING QWEST'S CMP IS NOT**
5 **ENOUGH BY ITSELF?**

6 A. Yes. Whether CMP is used may depend, for example, on how the ILEC interprets the
7 CMP Document and on how the ILEC interprets what may affect CLECs. Exhibit TG-18
8 to my testimony is a true and correct copy of pages from minutes of a meeting of working
9 sessions of the CMP "Re-design" team.²⁵⁸ The CMP Re-design was a process that
10 occurred in conjunction with Qwest's request for 271 approval. Through CMP Re-
11 design, changes were made to Qwest's CMP (formerly known as Co-Provider Industry
12 Change Management Process or "CICMP"). In CMP Re-Design, CLECs raised concerns
13 about ILEC changes to retail and back-end systems that may affect CLECs.²⁵⁹ In
14 response, Qwest said that "CLECs will be notified on Retail driven changes that impact
15 CLEC interfaces."²⁶⁰ In addition, the following footnote was added to every page of the
16 CMP Document:

17 Throughout this document, OSS interfaces are defined as existing or new
18 gateways (including application-to-application interfaces and Graphical

²⁵⁸ CMP Re-Design Final Meeting Minutes (8/14/01 & 8/16/01), also available at
http://www.qwest.com/wholesale/downloads/2001/010831/CMP_Redesign_Aug_14_16_Mtg_Minutes_FINAL.doc

²⁵⁹ Exhibit TG-18 at pp. 14-15.

²⁶⁰ Exhibit TG-18 at pp. 14-15. See also Completed Action Item 95, available at:
http://www.qwest.com/wholesale/downloads/2002/021015/CLOSED-CMP_RedesignCoreTeamIssuesActionItemsLog-Rev10-09-02.doc

1 User Interfaces), connectivity and system functions *that support or affect*
2 the pre-order, order, provisioning, maintenance and repair, and billing
3 capabilities for local services (local exchange services) provided by
4 CLECs to their end users.²⁶¹

5 In addition, the CMP Document states, for change requests (“CRs”) requesting changes
6 to systems and products/processes: “Qwest will not deny a CR solely on the basis that
7 the CR involves a change to back-end systems.”²⁶² At this time, it is not known how
8 CenturyLink will interpret the CMP Document and how CenturyLink will interpret what
9 may affect CLECs.

10 **Q. ARE THERE PROCEDURES IN QWEST’S CMP DOCUMENT THAT ADDRESS**
11 **THE INTRODUCTION AND RETIREMENT OF AN EXISTING OSS**
12 **INTERFACE AND, IF SO, WHY DO YOU SAY THEY ARE NOT ENOUGH BY**
13 **THEMSELVES?**

14 **A.** Section 7.0 of the CMP Document addresses “Introduction of a new OSS interface” and
15 Section 9.0 addresses “Retirement of an existing OSS interface.”²⁶³ An OSS migration or
16 integration involves significant back-end systems²⁶⁴ work, as well as potential changes to
17 CLEC-facing interfaces. If a change to a back-end system is not intended to impact

²⁶¹ (CMP Document), footnote on pages 1-113 (emphasis added). A second footnote on each page states: “Throughout this document, the term “include(s)” and “including” mean “including, but not limited to.” CMP Document available at: <http://www.qwest.com/wholesale/cmp/>

²⁶² CMP Document §5.1.4 (Systems Change Request Origination Process) and §5.3 (CLEC Originated Product/Process Change Request Process) (same sentence in both sections).

²⁶³ CMP Document, available at <http://www.qwest.com/wholesale/cmp/>

²⁶⁴ Unlike EASE or IMA (CLEC-facing interfaces with which CLECs interact for pre-ordering and ordering), billing systems are back-end systems that CLECs do not interact with directly but, when changes to the billing system occur, the changes may also impact CLECs and their customers.

1 CLECs, the change may not be handled in CMP. But, as the experiences in other
2 mergers have shown, merger-related changes to back-end systems and migration of data
3 from one back-end system to another can result in significant retail and wholesale
4 customer impacting problems.

5 While the CMP Document has tools to address introduction and retirement of OSS
6 interfaces, as well as periodic modification of OSS, those procedures are suited for the
7 types of systems modifications for which it has been used over the years, and not for the
8 type of major migration of data that would occur if CenturyLink integrated its legacy
9 OSS into Qwest's territory. Qwest maintains extensive data in its systems, including
10 customer-identifying information, retail and wholesale customer account information,
11 billing and repair records, telephone number assignments, identification of serving wire
12 centers for customers, network information regarding the design and configuration of the
13 network, and information indicating where and how CLECs connect with Qwest's
14 network, and so forth. Changes to, or misinterpretation of, data has the potential to
15 impact 911 response, the routing of local and long distance calls, billing, directory
16 listings, dispatching of technicians during service outages, and other customer services.

17 Data integrity is, therefore, a key issue in merger-initiated OSS migrations or
18 conversions, as I discuss below and in my earlier discussion of the Embarq North
19 Carolina conversion (in which data mapping errors were at the heart of many problems).

20 No other acquisition of this magnitude involving Qwest, much less of an entire BOC by a

1 non-BOC incumbent LEC, has occurred during the history of Qwest CMP. If
2 CenturyLink integrates its legacy OSS into Qwest's territory or makes significant
3 changes to Qwest's OSS, a *combination* of maintaining OSS for a defined time period
4 for a measure of stability during company upheaval, ensuring readiness and a smooth
5 transition afterward through oversight and third party testing, and notifying and involving
6 CLECs through CMP will be required. Together, Joint CLECs' recommended conditions
7 work to address all of these needs.

8 **Q. ARE THERE OTHER CONCERNS ABOUT CMP IF CENTURYLINK DECIDES**
9 **TO OVERHAUL QWEST'S EXISTING OSS OR INTEGRATE ITS LEGACY**
10 **OSS INTO QWEST'S TERRITORY?**

11 A. Yes. CMP is designed to address change requests introduced by Qwest as well as
12 submitted by CLECs. If the CMP is jammed up due to CenturyLink's decision to replace
13 Qwest's existing OSS, the backlog of CLEC-requested change requests would quickly
14 grow, leading to significant delay for systems enhancements that CLECs desire, or
15 blockage of CLEC-initiated change requests altogether. This would undermine the
16 purpose of the CMP and harm CLEC access to Qwest's OSS.

17 **Q. ARE THERE EXAMPLES THAT SUGGEST THAT THE USUAL CHANNELS**
18 **MIGHT GET OVERLOADED?**

1 A. Yes. In the case of the recent FairPoint systems cutover, over 800 “issues” (or problems)
2 have been raised since February 2009, many of which are major issues.²⁶⁵ And there are
3 still significant problems as CRC Communications of Maine, Inc., explained to the New
4 Hampshire Public Utilities Commission:

5 CLECs continue to experience significant problems with wholesale
6 provisioning and billing issues despite the fact that more than 15 months
7 have passed since the cutover from Verizon’s back office systems...The
8 record before the Commission is quite clear - there are still significant
9 problems with basic systems functionality that need to be
10 remediated...the Liberty List of Continuing CLEC Issues - contains over
11 109 issues that *currently* impact CLECs and their customers.²⁶⁶

12 All of these problems have occurred despite the fact that FairPoint is utilizing its
13 Wholesale User Forum “Change Management” process.²⁶⁷ CLECs have also conducted
14 weekly and bi-weekly meetings with FairPoint to attempt to resolve problems:

15 Unfortunately, despite all of the hard work on both sides of the table and
16 the fact that FairPoint has acknowledged the validity of our concerns and
17 claims, its personnel are severely limited by FairPoint’s internal billing
18 systems and are unable to permanently correct the underlying problems
19 with the software that generate the erroneous bills. FairPoint’s inability to
20 make permanent fixes or to get long-standing issues addressed causes
21 frustration for both FairPoint and CRC because it means that the same
22 billing errors reoccur month after month, generating a continued need for
23 our bi-weekly meetings and significant manual work by both sides.²⁶⁸

²⁶⁵ FairPoint’s log of issues is available at:

http://www.fairpoint.com/wholesale/customer_resources/change_management.jsp

²⁶⁶ Post Hearing Brief of CRC Communications of Maine, Inc., New Hampshire PUC Docket No. DT-10-025, at pp. 2-3.

²⁶⁷ http://www.fairpoint.com/wholesale/customer_resources/change_management.jsp (“OSS Interface Change Management”).

²⁶⁸ Testimony of Ed Tisdale on behalf of CRC Communications of Maine, Inc., New Hampshire PUC Docket No. DT 10-025, April 19, 2010, at p. 3.

1 It is clear that FairPoint's use of its change management process to implement its OSS
2 cutover, as well as additional frequent meetings, have not been successful in avoiding
3 hundreds of problems, some of which are continuing.

4 To put FairPoint's problems in perspective, I have compared FairPoint's log of incidents
5 (or problems) to Qwest's CMP log for systems change requests.²⁶⁹ Since 2003, Qwest
6 has had 780 systems change requests, compared to 818 "incidents" logged by FairPoint
7 since February 2009. In other words, FairPoint has logged more systems problems
8 (things that are broken) in the last year and one-half than systems change requests (where
9 Qwest or a CLEC is introducing a systems modification) submitted in Qwest's CMP in
10 the past seven years.

11 **Q. DID FAIRPOINT PROVIDE ANY ASSURANCES PRIOR TO THE APPROVAL**
12 **OF ITS MERGER WITH VERIZON THAT ITS EXISTING PROCESSES WERE**
13 **SUFFICIENT TO ADDRESS THE OSS CHANGES THAT WOULD TAKE**
14 **PLACE POST-MERGER?**

15 **A.** Yes. FairPoint testified as follows in May 2007:²⁷⁰

16 "Our intention is to collaborate with carriers and make the transition to
17 FairPoint as smooth and seamless as reasonably possible."

18 CenturyLink testifies in this case:²⁷¹

19 "the Transaction will be seamless to customers."

²⁶⁹ http://www.qwest.com/wholesale/cmp/archive/crnumber_system_index.html

²⁷⁰ Direct Testimony of Michael Haga on behalf of FairPoint Communications, Inc., New Hampshire PUC Docket No. DT 07-11, March 23, 2007, at p. 16.

²⁷¹ McMillan Direct at p. 7, line 11.

1 FairPoint's prediction about a "seamless" transition certainly proved inaccurate, and there
2 is no reason to believe that CenturyLink's claim will be any more accurate.

3 **Q. ARE THERE ANY OTHER REASONS WHY CMP IS NOT ENOUGH BY**
4 **ITSELF TO PREVENT MERGER-RELATED HARMS RELATED TO POST-**
5 **MERGER SYSTEMS INTEGRATION?**

6 A. Yes. Ambiguity leads to business uncertainty. Operations Support Systems or "OSS"
7 are of critical importance, and yet it is unclear what CenturyLink considers to be OSS.
8 As shown on Confidential Exhibit TG-11, [***BEGIN CONFIDENTIAL ██████████
9 ██████████
10 ██████████ END CONFIDENTIAL***] As I explained at pages 32-33 of my direct
11 testimony, the FCC defines OSS to include five functions: (1) pre-ordering, (2) ordering,
12 (3) provisioning, (4) maintenance and repair, and (5) billing.²⁷² OSS also includes all of
13 the computer systems, data maintained in those systems, and personnel that an ILEC uses
14 to perform internal functions necessary for these five functions.²⁷³ The FCC also requires
15 an adequate CMP to handle changes to the OSS systems.²⁷⁴ Based on my reading of the

²⁷² Local Competition Order at ¶¶516-528. See also, Qwest 9 State 271 Order at ¶¶ 33-34 & footnote 83 to ¶34, which states: "Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York, 15 FCC Rcd 3953, 3989 at ¶ 82 (1999) (Bell Atlantic New York Order), *aff'd*, AT&T Corp. v. FCC, 220 F.3d 607 (D.C. Cir. 2000). **The Commission [FCC] has defined OSS as the various systems, databases, and personnel used by incumbent LECs to provide service to their customers.** See Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Texas, Memorandum Opinion and Order, 15 FCC Rcd 18354, 18396-97, ¶ 92 (2000) (SWBT Texas Order)" (emphasis added). See also, 47 C.F.R. §51.313(c) and §51.319(g).

²⁷³ Local Competition Order at ¶¶ 517-18 (emphasis added).

²⁷⁴ Qwest 9 State 271 Order at ¶¶ 33-34. See also, 47 C.F.R. §51.319(g).

1 6. **Conditions 21, 23, 26 and 27**

2 **Q. REGARDING JOINT CLEC CONDITIONS 21, 23, 26 (AND SUBPARTS) AND 27**
3 **RELATED TO COMPLIANCE WITH APPLICABLE LAW AND AGREEMENT**
4 **TERMS, MR. HUNSUCKER STATES: "IF THE CONDITIONS REQUESTED**
5 **STOPPED AT COMPLIANCE WITH APPLICABLE LAW AND AGREEMENT**
6 **TERMS, THEN THE CONDITIONS WOULD BE ACCEPTABLE FOR**
7 **CENTURYLINK" BUT THEY DO "MUCH MORE THAN [REQUEST]**
8 **COMPLIANCE WITH APPLICABLE LAW AND AGREEMENT TERMS."²⁷⁶ IS**
9 **HE CORRECT?**

10 **A. No. To demonstrate that these conditions do not expand obligations beyond what is**
11 **required today, I have provided the conditions in their entirety below:**

12 21. The Merged Company will process orders in compliance with federal and
13 state law, as well as the terms of applicable interconnection agreements.

14 23. The Merged Company will provide nondiscriminatory access to directory
15 listings and directory assistance in compliance with federal and state law.
16 Specifically, the Merged Company will be responsible for ensuring that all
17 directory listings submitted by CLECs for inclusion in directory assistance or
18 listings databases are properly incorporated into such databases (whether such
19 databases are maintained by the Merged Company or a third party vendor).
20 Further the Merged Company will ensure that CLECs' subscriber listings are
21 accessible to any requesting person on the same terms and conditions that the
22 Merged Company's subscriber listings are available to any requesting person.

23 26. After the Closing Date, the Merged Company will engineer and maintain its
24 network in compliance with federal and state law, as well as the terms of
25 applicable interconnection agreements. Resources will not be diverted to merger-
26 related activities at the expense of maintaining the Merged Company's network.
27
28

²⁷⁶ Hunsucker Rebuttal at p. 46.

- 1 a. The Merged Company shall not engineer the transmission capabilities
2 of its network in a manner, or engage in any policy, practice, or procedure,
3 that disrupts or degrades access to the local loop.
4 b. The Merged Company will retire copper in compliance with federal and
5 state law, as well as the terms of applicable interconnection agreements
6 and as required by a change of law.
7 c. The Merged Company will not engineer or maintain the network
8 (including routing of traffic) in a manner that results in the application of
9 higher rates for traffic or inefficiencies for wholesale customers.

10
11 27. The Merged Company will provide conditioned copper loops in compliance
12 with federal and state law and at rates approved by the applicable state
13 commission. Line conditioning is the removal from a copper loop of any device
14 that could diminish the capability of the loop to deliver xDSL. Such devices
15 include bridge taps, load coils, low pass filters, and range extenders. Insofar as it
16 is technically feasible, the Merged Company shall test and report troubles for all
17 the features, functions and capabilities of conditioned copper lines, and may not
18 restrict its testing to voice transmission only. If the Merged Company seeks to
19 change rates approved by a state commission for conditioning, the Merged
20 Company will provide conditioned copper loops in compliance with the relevant
21 law at the current commission approved rates unless and until a different rate is
22 approved.

23 All of these conditions expressly refer to applicable law and ICAs, and Mr. Hunsucker
24 did not provide a single example of a “more expansive”²⁷⁷ obligation that is required by
25 them. For example, on its face, Condition 21 requires “compliance with federal and state
26 law, as well as the terms of applicable interconnection agreements,” but Mr. Hunsucker
27 does not explain why it is not therefore “acceptable for CenturyLink.”²⁷⁸ The same is
28 true of the other conditions, which mirror language from the law. Condition 26(a), for
29 example, reflects C.F.R. § 51.319(A)(8), which states: “An incumbent LEC shall not

²⁷⁷ Hunsucker Rebuttal at p. 47, line 7.

²⁷⁸ Hunsucker Rebuttal at p. 46, lines 12.

1 engineer the transmission capabilities of its network in a manner, or engage in any policy,
2 practice, or procedure, that disrupts or degrades access to the local loop.”

3 **7. Condition 24**

4 **Q. MR. HUNSUCKER OPPOSES CONDITION 24 RELATING TO SURCHARGES**
5 **AND OTHER FEES.²⁷⁹ WHAT IS CONDITION 24?**

6 **A.** Condition 24 applies to the anticompetitive practices and policies that CenturyLink has
7 engaged in its serving territories. The language of Condition 24 is as follows:

8 After the Closing Date, The Merged Company shall not assess any fees,
9 charges, surcharges or other assessments upon CLECs for activities that arise
10 during the subscriber acquisition and migration process other than any fees,
11 charges, surcharges or other assessments that were approved by the
12 applicable commission and charged by Qwest in the legacy Qwest ILEC
13 territory before the Closing Date. This condition prohibits the Merged
14 Company from charging fees, charges, surcharges or other assessments,
15 including:

16 (a) Service order charges assessed upon CLECs submitting local service
17 requests (“LSRs”) for number porting;

18 (b) Access or “use” fees or charges assessed upon CLECs that connect a
19 competitor’s own self-provisioned loop, or last mile facility, to the
20 customer side of the Merged Company’s network interface device
21 (“NID”) enclosure or box; and,

22 (c) “Storage” or other related fees, rents or service order charges assessed
23 upon a CLECs’ subscriber directory listings information submitted to the
24 Merged Company for publication in a directory listing or inclusion in a
25 directory assistance database.

²⁷⁹ Hunsucker Rebuttal at pp. 49-54.

1 **Q. PLEASE RESPOND TO MR. HUNSUCKER’S TESTIMONY REGARDING**
2 **CONDITION 24.**

3 A. Mr. Hunsucker incorrectly suggests that the anticompetitive practices that are
4 prohibited by Condition 24 are a “distraction” and that CLECs are simply trying to
5 litigate issues in the merger that are best resolved in arbitrations.²⁸⁰ He ignores,
6 however, that these charges are not currently imposed by Qwest. Condition 24 is
7 meant to prevent CenturyLink from importing these “worst practices” into the
8 Qwest region should the transaction be approved.

9 **Q. AT PAGES 52-54 OF HIS REBUTTAL TESTIMONY, MR. HUNSUCKER**
10 **ARGUES THAT CENTURYLINK SHOULD BE ALLOWED TO IMPOSE**
11 **SERVICE ORDER CHARGES FOR LNP ACTIVITIES. IS HE CORRECT?**

12 A. No. Mr. Hunsucker’s statements are not supported by the FCC’s orders on cost recovery
13 for LNP. I provided the references to the FCC’s rules in my direct testimony at pages
14 167-169.

15 **Q. DOES QWEST CHARGE CLECS FOR LNP ONLY ORDERS?**

16 A. No.

17 **Q. DO THE FCC ORDERS SPECIFICALLY PRECLUDE CARRIERS FROM**
18 **IMPOSING LNP COSTS ON OTHER CARRIERS?**

²⁸⁰ Hunsucker Rebuttal at 49.

1 A. Yes. In its Third Report and Order, the FCC concluded that Section 251(e)(2) of the Act
2 requires ILECs to bear the costs to meet the obligations imposed by Section 251(b)(2) on
3 a competitively-neutral basis. In so holding, the FCC determined that the costs of
4 establishing number portability include: (1) costs associated with the creation of the
5 regional databases to support number portability; (2) costs associated with the initial
6 upgrading of the public switched telephone network; and (3) “ongoing costs of providing
7 number portability, such as the costs involved in transferring a telephone number to
8 another carrier...”²⁸¹

9 In explaining the basis for its decision, the FCC has made several statements concerning
10 the proper way to distinguish carrier-specific costs directly related to providing number
11 portability (which must be recovered through end user charges), from those carrier-
12 specific costs that are not directly related to providing number portability (which can be
13 recovered via other means). For example, the FCC has defined costs directly related to
14 providing number portability in the following manner:

15 we conclude that the costs of establishing number portability include not
16 just the costs associated with the creation of the regional databases and
17 initial physical upgrading of the public switched telephone network for the
18 provision of number portability, *but also the continuing costs necessary*
19 *to provide number portability.*²⁸²

20 The FCC also explained that the costs of number portability include:

²⁸¹ *Telephone Number Portability*, Third Report and Order (the “Cost Recovery Order”), 13 FCC Rcd 11701 (1998) at ¶ 38.

²⁸² *Id.* at ¶ 8 (emphasis added).

1 the costs that a carrier incurs to make it possible to transfer a telephone
2 number to another carrier.²⁸³

3 Based upon this, and other statements, the FCC concluded that “carrier-specific costs
4 directly related to providing number portability are limited to costs carriers incur
5 specifically in the provision of number portability services, *such as ... the porting of*
6 *telephone numbers from one carrier to another.*”²⁸⁴

7 **Q. SO WHEN THE FCC USES THE TERM “PORTING OF TELEPHONE**
8 **NUMBERS FROM ONE CARRIER TO ANOTHER,” IT SPECIFICALLY**
9 **INCLUDES THE COSTS ASSOCIATED WITH TRANSMITTING AND**
10 **RECEIVING PORT REQUESTS (VIA THE LSR FORM)?**

11 A. Yes. In paragraph 14 of the Cost Classification Order, the FCC specifically explained
12 that when it used the phrase “porting telephone numbers from one carrier to another” in
13 the definition of carrier-specific costs directly related to number porting, it intended to
14 refer to certain systems used to transmit local routing number information, and to the *act*
15 *of* “transmitting porting orders between carriers.”²⁸⁵ This statement tells us that the FCC
16 expected that carriers would incur “ongoing costs” associated with porting telephone
17 numbers to other carriers, and that such costs included the costs associated with
18 “transmitting porting orders” between carriers.

²⁸³ *Id.* at ¶ 36.

²⁸⁴ *Id.* at ¶ 72. (emphasis added)

²⁸⁵ Cost Classification Order, 13 FCC Rcd 24995 at ¶ 14.

1 **Q. DID THE FCC CONTEMPLATE THAT CARRIERS MAY INCUR**
2 **ADDITIONAL COSTS IN FULFILLING THEIR LNP OBLIGATIONS?**

3 A. Yes. The FCC specifically contemplated that its cost classification decisions would
4 “cause some carriers, including small and rural LECs, to incur costs that they would not
5 ordinarily have incurred in providing telecommunications service.”²⁸⁶ The FCC made
6 this decision because it is required, by Section 252(e)(2), to establish cost distribution and
7 recovery rules in a manner that is “competitively neutral.”

8 **Q. HAS THE FCC EXPLAINED WHETHER RECOVERING COSTS FROM**
9 **OTHER CARRIERS IS CONSISTENT WITH THE COMPETITIVE**
10 **NEUTRALITY PRINCIPLE?**

11 A. Yes, the FCC has made it clear that recovery of costs through other carriers would *not* be
12 consistent with the principles of competitive neutrality. For example, the FCC explained
13 that if the Commission did not use a competitive neutrality standard, or only used that
14 standard for the distribution (but not recovery) of costs, then “carriers could effectively
15 undo this competitively neutral distribution by recovering from other carriers.”²⁸⁷ That is
16 why the FCC reaffirmed this finding in its *2002 Reconsideration Order*, when it ruled
17 that carriers “*may not recover number portability costs from other carriers through*

²⁸⁶ Cost Recovery Order at ¶ 73.

²⁸⁷ *Id.* at ¶ 39.

1 *interconnection charges.*²⁸⁸ The FCC was very clear that assessing number porting
2 charges on other carriers is not competitively neutral.

3 **Q. MR. HUNSUCKER ALSO ARGUES THAT SOME CABLE-BASED CLECS ARE**
4 **USING THE NID AS A UNE. IS THIS CORRECT?**

5 A. No. Mr. Hunsucker is correct that NIDs are UNEs, but cable CLECs who have their own
6 last-mile facilities do not need or use a NID UNE (i.e., the cross connect device
7 connecting the ILEC's network wire with the customer's inside wire). These CLECs
8 normally connect to the consumers inside wire within the premises and, in very limited
9 circumstances, they need to connect to the inside wire within the customer's side of the
10 NID enclosure. This is not "use" of the NID. In that situation, the CLEC does not use
11 the cross-connect feature (i.e., the actual NID within the enclosure), does not use the
12 grounding, the testing functionality, or the posts associated with the NID. As such, the
13 NID is not used.

14 **Q. DOES QWEST CHARGE CARRIERS FOR ACCESSING THE CUSTOMER**
15 **SIDE OF THE NID ENCLOSURE AS YOU DESCRIBED ABOVE?**

16 A. No. To the best of my knowledge, only the legacy CenturyTel companies and
17 Windstream attempt to charge for this activity. The other ILECs, including AT&T,
18 Verizon and Qwest do not. Since these NID costs are already recovered by the ILEC in

²⁸⁸ *In the Matter of Telephone Number Portability*, Memorandum Opinion and Order on Reconsideration and Order on Application for Review, 17 FCC Rcd 2578, ¶ 62 (2002) ("2002 Cost Recovery Reconsideration Order") at ¶ 7 (emphasis added).

1 local rates, and there is no cost associated with the connection that occurs within the NID
2 enclosure, there is no cost-basis for such a charge.

3 **Q. DOES MR. HUNSUCKER ADDRESS THE THIRD ASPECT OF CONDITION 24,**
4 **REGARDING STORAGE CHARGES FOR DIRECTORY LISTINGS?**

5 A. He makes vague references to the issue, but doesn't address it specifically. I address the
6 directory listing storage and maintenance ("DLSM") charge that the legacy Embarq
7 companies have proposed at pages 65 to 66 of my direct testimony. This is another
8 example of an anticompetitive charge that CenturyLink attempts to impose in its legacy
9 ILEC territories that is specifically prohibited by the FCC's rules. Specifically,
10 CenturyLink does not impose them on its own customers or CLECs who purchase UNEs
11 or engage in resale. As such, the rates are discriminatory, have no demonstrable basis in
12 cost, and are anticompetitive. To the best of my knowledge, all states (except Indiana)
13 that have addressed this charge have rejected it.

14 **Q. DOES QWEST IMPOSE THE DLSM CHARGE IN ITS TERRITORY?**

15 A. No. Again, Condition 24 is meant to prevent CenturyLink from implementing this
16 "worst practice" throughout its larger service territory post-merger.

17 **8. Condition 28**

18 **Q. WHAT IS CONDITION 28?**

19 A. Condition 28 applies to a single point of interconnection ("SPOI"):

1 28. At CLEC's option, the Merged Company will interconnect with CLEC at a
2 single point of interconnection per LATA, regardless of whether the Merged
3 Company provides service in such LATA via multiple operating company
4 affiliates or a single operating company.

5 **Q. REGARDING JOINT CLECS' CONDITION 28 – SINGLE POINT OF**
6 **INTERCONNECTION (“POI”) PER LATA – MR. HUNSUCKER STATES THAT**
7 **“NO MERGER CONDITION IS NEEDED OR APPLICABLE FOR**
8 **ARIZONA.”²⁸⁹ IS CONDITION 28 NEEDED DESPITE THE FACT THAT**
9 **THERE ARE NO LEGACY CENTURYLINK ILEC EXCHANGES IN**
10 **ARIZONA?**

11 **A.** Yes. The language of Condition 28 states that it applies “regardless of whether the
12 Merged Company provides service in such LATA via multiple operating company
13 affiliates or a single operating company.” Therefore, Condition 28 was designed to apply
14 to situations like in Arizona where there are no legacy CenturyLink ILEC exchanges.
15 And, if the Merged Company decides to change the organization structure of any of the
16 operating entities in Arizona post-merger, CLECs would be able to continue to
17 interconnect with the Merged Company at a single point per LATA.

18 CenturyLink has long maintained that it is not required to allow a single POI in its legacy
19 territory because it is not a BOC, and even recently referred to a single POI as
20 “technically infeasible” and a “superior” form of interconnection.²⁹⁰ At the same time,

²⁸⁹ Hunsucker Rebuttal at p. 55, lines 4-5.

²⁹⁰ Rebuttal Testimony of Michael Hunsucker, Minnesota Docket No. P-421, et al./PA-10-456, September 13, 2010, at pp. 37-38.

1 CenturyLink has rejected Joint CLECs' proposed Conditions 13 (which would make
2 clear that the Merged Company will remain a BOC and subject to BOC obligations in
3 Qwest's legacy territory post-merger) and 28 (which would allow CLECs to, at their
4 option, to establish a single POI per LATA with the Merged Company even when there is
5 a single operating entity in the LATA). CenturyLink's prior refusal to allow CLECs to
6 establish a single POI per LATA in legacy CenturyLink territory coupled with
7 CenturyLink's refusal to adopt reasonable conditions that would help ensure that CLECs
8 can continue to interconnect at a single POI in Qwest legacy territory shows that
9 Condition 28 is warranted.

10 **9. Condition 29**

11 **Q. HAVE YOU REVIEWED CENTURYLINK'S CONCERNS ABOUT CONDITION**
12 **29?**

13 A. Yes. CenturyLink alleges a number of concerns about Condition 29, including: "neither
14 necessary nor appropriate for this transaction";²⁹¹ not all conditions are universally
15 applicable;²⁹² there are "myriad of different circumstances and considerations";²⁹³ and
16 "restricts the incentive for both parties to negotiate state-specific terms in Arizona and
17 elsewhere".²⁹⁴

²⁹¹ Hunsucker Rebuttal at p. 68, line 8.

²⁹² Hunsucker Rebuttal at p. 68, lines 11-15.

²⁹³ Hunsucker Rebuttal at p. 69, lines 4-5. See *also*, McMillan Rebuttal at p. 18.

²⁹⁴ Hunsucker Rebuttal at p. 69, lines 16-17.

1 **Q. WHAT ARE YOUR RESPONSES TO THESE CONCERNS?**

2 **A. CenturyLink reads too much into Condition 29. Condition 29 states:**

3 All Conditions herein *may be* expanded or modified as a result of
4 regulatory decisions concerning the proposed transaction in other states,
5 including decisions based upon settlements, that impose conditions or
6 commitments related to the transaction. CenturyLink agrees that the state
7 commission of any state *may adopt* any commitments or conditions from
8 other states or the FCC that are adopted after the final order in that state.

9 Contrary to CenturyLink's attempt to make it appear as if this condition would require
10 every single merger condition adopted by the FCC and other state commissions to be
11 implemented here in Arizona, a fair reading of Condition 29 shows that whether or not to
12 expand or modify the conditions in Arizona based on conditions adopted by other
13 regulatory commissions is left up to the Arizona Commission – *i.e.*, there is not automatic
14 or universal applicability as Mr. Hunsucker suggests. Accordingly, any differences in
15 circumstances or considerations would be taken into account. The Joint Applicants have
16 requested expedited approval of the proposed transaction, and this condition allows the
17 Arizona Commission to review the proposed transaction in an expedited fashion as
18 requested by Joint Applicants, while ensuring that public interest benefits that may arise
19 for stakeholders as a result of conditions agreed to by Joint Applicants in other
20 jurisdictions (proceedings that may not be progressing as quickly as the Arizona merger
21 review proceeding) can also be brought to Arizona. While CenturyLink claims that such
22 a condition would restrict incentives to negotiate state-specific terms in Arizona and
23 elsewhere, it provides no reason why any public interest benefits related to the merger

1 should not be realized by stakeholders in Arizona just because another state commission
2 established a longer procedural schedule.

3 To CenturyLink's claim that this condition is not appropriate for this transaction, I would
4 note that a similar condition was adopted in Oregon for the CenturyTel/Embarq merger
5 as well as the Verizon/Frontier merger.²⁹⁵ In addition, the Louisiana Commission
6 attached a similar to condition to its decision on CenturyLink's proposed acquisition of
7 Qwest.²⁹⁶ ACC Staff also sees the merit of such a condition as evidenced by ACC Staff
8 Condition 4.²⁹⁷

9 **10. Condition 30**

10 **Q. CENTURYLINK STATES THAT CONDITION 30²⁹⁸ IS UNNECESSARY**
11 **BECAUSE ICAS CONTAIN LANGUAGE ALLOWING A PARTY TO SEEK**
12 **RESOLUTION OF DISPUTES BEFORE THE COMMISSION.²⁹⁹ DOES THIS**
13 **OBVIATE THE NEED FOR CONDITION 30?**

14 **A. No. Condition 30 states:**

15 **30. In the event a dispute arises between the parties with respect to any of**
16 **the pre-closing and post-closing conditions herein, either party may seek**

²⁹⁵ Exhibit TG-9 at p. 12.

²⁹⁶ Louisiana Public Service Commission, Docket No. u-31379, Order Number U-31379, September 17, 2010, at p. 2.

²⁹⁷ Direct Testimony of Pamela Genung, Attachment 1, Condition 4.

²⁹⁸ Condition 30 states: "In the event a dispute arises between the parties with respect to any of the pre-closing and post-closing conditions herein, either party may seek resolution of the dispute by filing a petition with the state commission at any time. Alternative dispute resolution provisions in an interconnection agreement shall not prevent any party from filing a petition with the state commission at any time." See Exhibit TG-8 at p. 12.

²⁹⁹ Hunsucker Rebuttal at p. 70.

1 resolution of the dispute by filing a petition with the state commission at
2 any time. Alternative dispute resolution provisions in an interconnection
3 agreement shall not prevent any party from filing a petition with the state
4 commission at any time.

5 Condition 30 applies specifically to disputes that may arise “with respect to any of the
6 pre-closing and post-closing conditions” resulting from the proposed transaction.
7 Condition 30 provides that these disputes can be taken to the state commission for
8 resolution. While Joint Applicants suggest that this ability already exists, Condition 30
9 removes any doubt, which will help streamline disputes about merger conditions if they
10 arise. If customer-impacting problems of the types experienced in other mergers occur
11 due to issues relating to compliance with a merger condition, for example, parties should
12 be able to bring those issues to the Commission expeditiously, without having to first
13 litigate their right to take such disputes to the Commission. The last sentence of
14 Condition 30 deals with this need for expeditious handling of merger condition related
15 disputes, by providing that alternative dispute resolution provisions in an ICA shall not
16 prevent either party to the agreement from filing a petition with the state commission at
17 any time. If, for example, end user customers are experiencing service outages due to
18 non-compliance with a merger condition, parties will not be delayed from filing with the
19 Commission by an ICA provision that otherwise first requires AAA arbitration or some
20 lengthy negotiation period.

21 **Q. ARE THERE OTHER REASONS WHY CENTURYLINK’S CRITICISMS**
22 **ABOUT CONDITION 30 SHOULD BE REJECTED?**

1 A. Yes. Other mergers have been subject to a substantially similar merger condition.³⁰⁰
2 Other state commissions have found that a specific merger condition relating to disputes
3 specifically about merger conditions (much like Joint CLEC proposed Condition 30) was
4 in the public interest.³⁰¹

5 Also, as explained at page 185 of my direct testimony, many of the Joint CLEC
6 conditions apply for a limited time period following the merger, so it is important to have
7 a clear, efficient process for addressing disputes related to merger conditions at the
8 outset. Otherwise, any disputes about the proper venue could drag out compliance for so
9 long that these merger conditions are essentially rendered useless due to expiration.

10 **Q. WOULD JOINT CLECS' PROPOSED CONDITION 30 RESULT IN**
11 **FRIVOLOUS DISPUTES AS CENTURYLINK HAS PREVIOUSLY**
12 **CLAIMED?³⁰²**

13 A. No. To my knowledge, the other state commissions that have approved mergers subject
14 to a similar condition have not found that this condition wastes their resources.
15 Moreover, this Commission is fully able to address frivolous or wasteful complaints in
16 this area, just as it would address any other frivolous or wasteful complaint. Given that a
17 party bringing a frivolous or wasteful complaint risks those consequences, as well as
18 expends time and money to raise an issue, the probability that a frivolous complaint

³⁰⁰ Exhibit TG-9 at p. 12.

³⁰¹ Exhibit TG-9 at p. 12.

³⁰² Rebuttal Testimony of John Jones, Minnesota Docket No. P-421 et al./PA-10-456, September 13, 2010, at p. 26, lines 12-14 ("encourage frivolous or duplicative dispute resolution processes that potentially waste the resources of the companies or the Commission").

1 would be brought, and the Commission's ability to address it if brought, must be weighed
2 against the merger-related harm that would occur if violations of merger-related
3 conditions are occurring after the Merged Company has received the benefit of this
4 Commission's approval of the merger, if approved. The Commission's ability to enforce
5 its orders, and the public interest in preventing merger-related harm, outweighs the
6 claimed risk of frivolous complaints.

7 **Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

8 **A.** Yes, it does.

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN MAYES, Chairman
GARY PIERCE, Commissioner
SANDRA KENNEDY, Commissioner
PAUL NEWMAN, Commissioner
BOB STUMP, Commissioner

JOINT NOTICE AND APPLICATION OF)	
QWEST CORPORATION, QWEST)	
COMMUNICATIONS COMPANY, LLC,)	
QWEST LD CORP., EMBARQ)	Docket No. T-01051B-10-0194
COMMUNICATIONS, INC. D/B/A)	Docket No. T-02811B-10-0194
CENTURYLINK COMMUNICATIONS,)	Docket No. T-04190A-10-0194
EMBARQ PAYPHONE SERVICES, INC.)	Docket No. T-20443A-10-0194
D/B/A CENTURYLINK, AND CENTURYTEL)	Docket No. T-03555A-10-0194
SOLUTIONS, LLC FOR APPROVAL OF THE)	Docket No. T-03902A-10-0194
PROPOSED MERGER OF THEIR PARENT)	
CORPORATIONS QWEST)	
COMMUNICATIONS INTERNATIONAL INC.)	
AND CENTURYTEL, INC.)	

EXHIBIT TG-11

PUBLIC VERSION

Exhibit TG-11 is CenturyLink's Attachment Integra 22c.2,
which CenturyLink has marked as confidential.

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN MAYES, Chairman
GARY PIERCE, Commissioner
SANDRA KENNEDY, Commissioner
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PROPOSED MERGER OF THEIR PARENT)	
CORPORATIONS QWEST)	
COMMUNICATIONS INTERNATIONAL INC.)	
AND CENTURYTEL, INC.)	

EXHIBIT TG-12

EXCERPT FROM QWEST PRE-ORDERING OVERVIEW PCAT

"The CUS Code is assigned based upon the order activity associated with an account. The table below describes how CUS Codes may change during the bill posting process after a Completion Notice (CN) is issued. The changes to the CUS Code are based upon service order activity, product, and region as described in the table below.

You can determine what service order activity was assigned to your LSR by reviewing the number assigned to the order located on the FOC. The first character of this number denotes the service order activity referenced in the table below. For example, an order number beginning with "N" identifies a New Service connect request.

Service Order Activity and Product	Region	How CUS Code is determined during bill posting process?	Exception(s)
C order (Conversion) activity All products	Eastern	Last 3 digits of the AN located on the CN, then incremented by 1. Example: CN shows AN as "xxx-xxx-xxxx-123; CSR CUS Code would be 124.	If during the bill posting process a past due account is found with the same TN and CUS Code, the already incremented CUS Code will be incremented again by 1. Example: CN shows AN as "xxx-xxx-xxxx-123; CSR CUS Code would be 125.
C order (Conversion) activity All products	Central and Western	Last 3 digits of the AN located on the CN. Example: CN shows AN as "xxx-xxx-xxxx-123; CSR CUS Code would be 123.	If during the bill posting process a past due account is found with the same TN and CUS Code, the CUS Code will be incremented by 100. Example: CN shows AN as "xxx-xxx-xxxx-123; CSR CUS Code would be 223.
N order (New Service or Conversion) activity All products, except Unbundled Loop	Eastern	Last 3 digits of the N order number located on the FOC notice. Example: FOC shows N order number "N12345678"; CN shows AN as "xxx-xxx-xxxx-678; CSR CUS Code would be 678.	If during the bill posting process a past due account is found with the same TN and CUS Code, the CUS Code will be incremented by 1. Example: CN shows AN as "xxx-xxx-xxxx-678; CSR CUS Code would be 679.
N order (New Service) activity Unbundled Loop	Eastern	Last 3 digits of the AN located on the CN, then incremented by 1. Example: CN shows AN as "xxx-xxx-xxxx-123; CSR CUS Code would be 124.	If during the bill posting process a past due account is found with the same TN and CUS Code, the already incremented CUS Code will be incremented again by 1. Example: CN shows AN as "xxx-xxx-xxxx-123; CSR CUS Code would be 125.
N order (New Service or Conversion) activity	Western and Central	Last 3 digits of the AN located on the CN. Example: CN shows AN as "xxx-xxx-xxxx-123; CSR CUS	If during the bill posting process a past due account is found with the same TN and CUS Code, the CUS Code will be incremented by 100.

All products		Code would be 123.	Example: CN shows AN as "xxx-xxx-xxxx-123; CSR CUS Code would be 223.
T&F orders (To & From) activity All products	Eastern	Last 3 digits of the AN located on the CN, then incremented by 1. Example: CN shows AN as "xxx-xxx-xxxx-123; CSR CUS Code would be 124.	If during the bill posting process a past due account is found with the same TN and CUS Code, the already incremented CUS Code will be incremented again by 1. Example: CN shows AN as "xxx-xxx-xxxx-123; CSR CUS Code would be 125.
T&F orders (To & From) activity All products	Central	Last 3 digits of the AN located on the CN, then incremented by 100. Example: CN shows AN as "xxx-xxx-xxxx-123; CSR CUS Code would be 223.	If during the bill posting process a past due account is found with the same TN and CUS Code, the already incremented CUS Code will be incremented again by 1. Example: CN shows AN as "xxx-xxx-xxxx-123; CSR CUS Code would be 224.
T&F orders (To & From) activity All products	Western	Last 3 digits of the AN located on the CN. Example: CN shows AN as "xxx-xxx-xxxx-123; CSR CUS Code would be 123.	If the T order is delayed due to lack of facilities for two billing cycles beyond the posted F order, the T order must be changed to a N order. In this situation, the CUS Code changes to the last 3 digits of the N order. Example: N order number is "N12345678"; CN shows AN as "xxx-xxx-xxxx-678; CSR CUS Code would be 678
C order Main Account Telephone Number (Billing Telephone Number) Change All products	Eastern	Last 3 digits of the AN located on the CN, then incremented by 1. Example: CN shows AN as "xxx-xxx-xxxx-123; CSR CUS Code would be 124.	If during the bill posting process a past due account is found with the same TN and CUS Code, the already incremented CUS Code will be incremented again by 1. Example: CN shows AN as "xxx-xxx-xxxx-123; CSR CUS Code would be 125.
C order Main Account Telephone Number (Billing Telephone Number) Change All products	Western/Central	Last 3 digits of the AN located on the CN. Example: CN shows AN as "xxx-xxx-xxxx-123; CSR CUS Code would be 123.	Not applicable."

From: Qwest Pre-Ordering Overview PCAT, available at
<http://www.qwest.com/wholesale/clecs/preordering.html>

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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SOLUTIONS, LLC FOR APPROVAL OF THE)	Docket No. T-03902A-10-0194
PROPOSED MERGER OF THEIR PARENT)	
CORPORATIONS QWEST)	
COMMUNICATIONS INTERNATIONAL INC.)	
AND CENTURYTEL, INC.)	

EXHIBIT TG-13

CENTURYLINK-QWEST PROPOSED MERGER ISSUES MATRIX

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
1	Discontinue Services	#1. Any wholesale service offered to competitive carriers at any time between the Merger Filing Date ³ up to and including the Closing Date ⁴ will be made available and will not be discontinued for at least the Defined Time Period, ⁵ except as approved by the Commission.	"CLECs propose several rate associated conditions that are improper and are not legitimate merger concerns. The time period is unreasonable." CLQ Att. 45, p. 20, Row 2.	The withdrawal of wholesale services would signal a move toward the Merged Company impeding competition, and in turn, result in a merger-related harm. Certainty and consistency for wholesale service availability is critical to offset the uncertainty resulting from the merger. A CLEC and its customers being served by that service would be harmed if they are forced off of a service previously available to them before the merger. Interestingly, CLQ refers to this as a "rate-associated" condition, even though this condition deals with <i>availability</i> of the service and separate conditions (e.g., condition #7) deal with rates. If CLQ views withdrawal of a service as a means to force CLECs into a higher-priced service, then that would make this a rate-associated condition in CLQ's view. In contrast, if the Merged Company has a

¹ The list of conditions is subject to change. Joint CLECs reserve their right to expand or modify the proposed conditions as needed. The conditions are grouped generally by subject matter. All of the conditions are important and no inference regarding priority should be made based on the numbering of the conditions, which is for ease of reference only.

² The CenturyLink/Qwest positions are quoted directly from Attachment DOC 45 to CenturyLink's and Qwest's Responses to the Minnesota Department of Commerce's Information Request Number 45 (September 14, 2010) [referred to as "CLQ Att. 45"]. If the information in a row of CLQ Att. 45 continues on to the next page, the next row on the continuation page is Row Number 1 for that page, for purposes of the citations provided.

³ "Merger Filing Date," when used in the Joint CLEC list of conditions, refers to May 10, 2010, which is the date on which Qwest and CenturyLink made their merger filing with the FCC.

⁴ "Closing Date," when used in the Joint CLEC list of conditions, refers to the closing date of the transaction for which the Applicants have sought approval from the Federal Communications Commission (FCC) and state commissions (the "transaction").

⁵ "Defined Time Period," when used in the Joint CLEC list of conditions, refers to a time period of at least 5-7 years after the Closing Date or, alternatively, a time period that is a minimum of 42 months (*i.e.*, 3.5 years) and continues thereafter until the Applicants are granted Section 10 forbearance from the condition. With respect to agreements, the Defined Time Period applies whether or not the initial or current term of an agreement has expired ("evergreen" status). [Note that, in CLQ Att. 45, the Applicants paraphrase this definition to include only the first portion (at least 5-7 years), without acknowledging the alternative portion (minimum 3.5 years, until forbearance). See, e.g., CLQ Att. 45, p. 20, Row 2.]

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
2	Transaction-related costs	#2. The Merged Company ⁶ will not recover, or seek to recover, through wholesale service rates or other fees paid by CLECs, and will hold wholesale customers harmless for, one-time transfer, branding, or any other transaction-related costs. For purposes of this condition, "transaction-related costs" shall be construed broadly and, for example, shall not be limited in time to costs incurred only through the Closing Date.	"CLECs propose several rate associated conditions that are improper and are not legitimate merger concerns. The time period is unreasonable. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, pp. 20-21.	legitimate basis for discontinuing service, the condition as written allows the Merged Company to discontinue it with Commission approval. See QSI Ankum Direct, §VII(A), pp. 63-82. Wholesale customers should not have to pay for any of the costs of the merger and CenturyLink merging the two companies. This is especially true as CenturyLink claims that it will save \$650 million associated with the merger. CLQ does not explain how a condition expressly related to transaction-related costs is not a "legitimate merger concern." But for the merger, these costs would not occur. See QSI Ankum Direct, §VII(B), pp. 82-87.
3	Overall management costs	#3. The Merged Company will not recover, or seek to recover, through wholesale service rates or other fees paid by CLECs, and will hold wholesale customers harmless for, any increases in overall management costs that result from the transaction, including those incurred by the Operating Companies.	"CLECs propose several rate associated conditions that are improper and are not legitimate merger concerns. The time period is unreasonable. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 21, Row 1.	When asked whether CenturyLink would seek to recover through wholesale rates or fees paid by CLECs "overall management costs," CenturyLink said it would use forward-looking cost studies to develop UNE rates – rates that would include the Merged Company's management cost structure post-merger. CenturyLink's response ignores the principle recognized in numerous previous mergers that wholesale customers should not have to pay for any of the costs of the merger. As in Row 2 above, CLQ does not explain how a condition that expressly refers to costs that result from the transaction "are not a legitimate merger concern," and but for the merger, these costs would not

⁶ "Merged Company," when used in the Joint CLEC list of conditions, refers to the post-merger company (CenturyLink and its Operating Companies, collectively, after the Closing Date).

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
4	Service Quality – Qwest ILEC Territory	<p>#4. In the legacy Qwest ILEC territory, the Merged Company shall comply with all wholesale performance requirements and associated remedy or penalty regimes for all wholesale services, including those set forth in regulations, tariffs, interconnection agreements, and Commercial⁷ agreements applicable to legacy Qwest as of the Merger Filing Date. The Merged Company shall continue to provide to CLECs at least the reports of wholesale performance metrics that legacy Qwest made available, or was required to make available, to CLECs as of the Merger Filing Date. The Merged Company shall also provide these reports to state commission staff or the FCC, when requested.</p> <p>The state commission and/or the FCC may determine that additional remedies are required, if the remedies described in this condition do not result in the required wholesale service quality performance or if the Merged Company violates the merger conditions.</p>	<p>"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements and tariffs. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 5, Row 2.</p>	<p>occur. See QSI Ankum Direct, §VII(B), pp. 82-87.</p> <p>There are many reasons to expect wholesale service quality performance in the legacy Qwest territory to deteriorate significantly as a result of the proposed transaction, such as pressure to achieve projected synergies; pressure to increase retail market share; an increased incentive and opportunity to degrade wholesale service due to an increased footprint; and a smaller number of benchmark incumbent LECs remaining post-transaction. Condition 4 is critical to helping ensure that wholesale service quality is not degraded post-merger as a result of these factors. Although CLQ's Position states, in the present tense, that the "merged company complies," the merged company does not yet exist. It has no track record of compliance.</p> <p>The last sentence of condition #4 refers to additional remedies that may be imposed (i.e., not only an Additional PAP, which is described in condition #(a)). CLQ addresses only the Additional PAP and not additional remedies in its Position. CLQ does not appear, therefore, to dispute that regulators may determine additional remedies may be needed if the Merged Company violates the merger conditions.</p> <p>See QSI Gates Direct (public), §VI(B),</p>

⁷ "Commercial" agreements include but are not limited to wholesale metro Ethernet agreements, OCN (SONET) agreements, Local Services Platform (e.g., QLSP) agreements, Dark Fiber agreements, Broadband for Resale agreements, and line sharing agreements.

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct]	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ² current plan." CLQ Att. 45, p. 4-5.	Joint CLEC Position pp. 126-131.
4a	Service Quality – Qwest ILEC Territory – UNEs (PID/PAP)	<p>#4(a). No Qwest Performance Indicator Definition (PID) or Performance Assurance Plan (PAP) that is offered, or provided via contract or Commission approved plan, as of the Merger Filing Date ("Current PAP") will be reduced, eliminated, or withdrawn for at least five years after the Closing Date and will be available to all requesting CLECs until the Merged Company obtains approval from the applicable state commission, after the minimum 5-year period, to reduce, eliminate, or withdraw it.</p>	<p>"The additional performance assurance plan (APAP) is not needed, inappropriate, and unreasonable. The MPAP is sufficient to provide performance monitoring post merger and will ensure that wholesale customers are not discriminated against in favor of retail customer. Such discrimination will be part of the existing MPAP and penalties will be applied consistent with the current plan." CLQ Att. 45, pp. 3-4.</p>	<p>Although CLQ indicates that the PAP is sufficient, CLQ does not actually commit to keeping the PAP in place for any specific period of time. The current PIDs and PAPs are the best available way to identify and root out wholesale service quality degradation – they rely on trusted statistical methods as well as business rules and data that were extensively tested during the 271 approval process. The five year time period corresponds with the Applicants' own synergy savings time horizon, which is the time during which the risk of merger-related wholesale service quality degradation is greatly amplified. The critical nature of maintaining wholesale service quality post-merger is also reflected in the requirement for the Merged Company to obtain approval for reducing or eliminating the PIDs or PAP.</p>
	Additional PAP (APAP)	<p>For at least the Defined Time Period, in the legacy Qwest ILEC territory, the Merged Company shall meet or exceed the average wholesale performance provided by Qwest to each CLEC for one year prior to the Merger Filing Date for each PID, product, and disaggregation. If the Merged Company fails to provide wholesale performance as described in the preceding sentence, the Merged Company will also make remedy payments to each affected CLEC in an amount as would be calculated using the methodology (e.g., modified Z</p>	<p><i>Note:</i> In CLQ Att. 45, p. 5, Row 1, CenturyLink and Qwest paraphrase the Integra Direct Testimony of Mr. Denney (which can be found at p. 9, line 3 – p. 10, line 2). The Applicants list the identical language, quoted above, as their Position in response to Mr. Denney's testimony, as well as in response to the language of the condition itself (#4a).</p>	<p>To provide proper signals to the Merged Company and to discourage it from paying current PAP remedies as a cost of doing business, this condition would require the Merged Company to pay an additional remedy payment for merger-related service quality degradation (Additional PAP or APAP). The APAP does not replace the Minnesota PAP, but works in addition to the existing PAP. The purpose of the proposed APAP is to compare the current level of Qwest's wholesale performance to CLECs with a</p>

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹ test, critical Z values, and escalation payments) in the Current PAP, for each missed occurrence when comparing performance post- and pre- Closing Date ("Additional PAP").	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
				<p>past level of wholesale performance to CLECs, rather than compare wholesale and retail performance. A plan such as the APAP would help to assure that wholesale performance does not deteriorate post merger. The PAP, which was not developed to identify merger-related harm, would not capture deteriorating performance, if the merged company's performance deteriorated for both wholesale and retail services simultaneously or if wholesale performance deteriorated, but remained above the minimum benchmarks. The APAP uses the same methodology but is tailored to the purpose of measuring merger-related performance issues.</p>
4b	<p>Service Quality – Qwest ILEC Territory – Special Access</p>	<p>#4(b). In the legacy Qwest ILEC territory, for at least the Defined Time Period, the Merged Company will meet or exceed the average monthly performance provided by Qwest to each CLEC for one year prior to the Merger Filing Date for each metric contained in the CLEC-specific monthly special access performance reports that Qwest provides, or was required to provide, to CLECs as of the Merger Filing Date. For each month that the Merged Company fails to meet Qwest's average monthly performance for any of these metrics, the Merged Company will make remedy payments (calculated on a basis to</p>	<p>"Conditions on special access are not appropriate for a merger proceeding. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 28, Row 1.</p>	<p>See QSI Gates Direct (public), §VI(B), pp. 126-131; see also Integra Denney Direct, pp. 9-15 & Exhibit DD-1.</p> <p>The FCC pointed to the lack of options for wholesale customers as a reason for denying Qwest's forbearance petition. This market power not only extends to wholesale services such as UNEs, interconnection and collocation required of ILECs pursuant to Section 251(c) of the Act, but also to other wholesale services provided by the ILECs, such as special access, as evidenced by the supracompetitive rates ILECs are currently charging for special access in areas where they have received special access pricing flexibility. The fact is that ILECs and BOCs continue to be</p>

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct]¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45]²	Joint CLEC Position
5	Service Quality – CL ILEC Territory	<p>be determined by the state commission or FCC) on a per-month, per-metric basis to each affected CLEC.</p> <p>#5. For at least the Defined Time Period, in the legacy CenturyLink ILEC territory, the Merged Company shall comply with all wholesale performance requirements and associated remedy or penalty regimes for all wholesale services, including those set forth in regulations, tariffs, interconnection agreements, and Commercial agreements applicable to legacy CenturyLink as of the Merger Filing Date. The Merged Company shall continue to provide to CLECs at least the reports of wholesale performance metrics that legacy CenturyLink made available, or was required to make available, to CLECs as of the Merger Filing Date. The Merged Company shall also provide these reports to state commission staff or the FCC, when requested. The state commission and/or the FCC may determine that additional remedies are required, if the remedies described in this condition do not result in the required wholesale service quality performance or if the Merged Company violates the merger conditions.</p>	<p>"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements and tariffs. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 5, Row 2.</p>	<p>entrenched incumbents in their local territories and the competition in those spaces is fragile and depends largely on use of incumbent facilities for its very existence. See QSI Gates Direct (public), §VI(B), pp. 18 & 126-131.</p> <p>The many reasons to expect wholesale service quality performance to deteriorate significantly as a result of the proposed transaction described in Row 4 above also apply in legacy CenturyLink territory. Condition 5 is needed to ensure that the Merged Company adheres to quality performance standards and submits reports on that performance throughout its footprint. This condition provides public interest benefits by tracking and identifying service quality issues and helping to prevent or eliminate discriminatory conduct in all areas of the Merged Company's territory. See QSI Gates Direct (public), §VI(B), pp. 126-131.</p>
5a	Service Quality – CL ILEC Territory –	<p>#5(a). The Merged Company shall provide to CLECs the reports of wholesale special access performance metrics that Qwest provides, or was required to provide, to CLECs as of the Merger Filing Date. The</p>	<p>"CenturyLink complies with all reporting requirements that currently exist. However, CenturyLink will not agree to expanding the reporting</p>	<p>As indicated in Row 4(b) above, ILEC market power not only extends to other wholesale services but also to special access and, as indicated in Row 5, the many reasons to expect wholesale service</p>

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
	Special Access – Additional PAP (APAP)	Merged Company shall also provide these reports to the Commission staff, when requested. Beginning 12 months after the Closing Date, the requirements set forth in condition 4(b) shall apply to the Merged Company in the legacy CenturyLink ILEC territory, thereby requiring the Merged Company's average monthly performance in providing special access services in the legacy CenturyLink ILEC territory to meet or exceed the Merged Company's average monthly performance for each CLEC in the legacy Qwest ILEC territory for one year prior to the Merger Filing Date.	requirements for the Qwest operating companies to the CenturyLink operating companies. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, pp. 28-29.	quality performance to deteriorate significantly as a result of the proposed transaction apply in legacy CenturyLink territory. Therefore, this condition would require the Merged Company to pay a remedy payment for merger-related service quality degradation (Additional PAP or APAP) in all areas of the Merged Company's territory. See QSI Gates Direct (public), §VI(B), pp. 126-131.
6	Wholesale Agreements – Assume, Without Document Execution	#6. As of the Closing Date, the Merged Company will assume or take assignment of all obligations under Qwest's interconnection agreements, interstate tariffs (including the Annual Incentive contract tariff), and intrastate tariffs, Commercial agreements, and other existing arrangements with wholesale customers ("Assumed Agreements"). The Merged Company will assume or take assignment of all obligations under Qwest alternative form of regulation plans. The Merged Company shall not require wholesale customers to execute any documents(s) to effectuate the Merged Company's assumption or taking assignment of these obligations.	"This condition is unnecessary given the structure of this transaction. The transaction involves a complete acquisition of Qwest, including all of its existing obligations under law and contracts. The post merger Qwest affiliate will continue to be the provider of service to CLECs under the terms of their current contracts. CLQ Att. 45, p. 13, Row 1 & p. 18, Row 4. The Defined Time Period is unreasonable. CLECs with existing ICAs have voluntarily negotiated and agreed to the terms, including the length, in those agreements. CLECs should not be allowed to unilaterally extend the agreement for a lengthy period of time." CLQ Att. 45, p. 13, Row 1.	Condition 6 (exclusive of subparts) requires the Merged Company to take assignment of the Assumed Agreements without requiring wholesale customers to execute any documents to effectuate the assumption. CLQ's Position states that the legacy Qwest entity "will continue to be the provider of service" but CenturyLink does not commit to any specified time period for this to continue. CenturyLink also does not commit to <i>not</i> requiring such document execution (regardless of whether the obligations are considered continuing or assumed). If it will impose no such requirement, then CenturyLink should have no objection to this condition. While it may appear self-evident that, if an obligation continues or is assumed, the ILEC will not request further document execution, that was not the result in the Verizon-Frontier case. Despite a merger condition that Frontier

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct]	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45]	Joint CLEC Position
6a	<p>Wholesale Agreements</p> <p>– Opt in & Not Terminate</p>	<p>#6(a). The Merged Company shall make available to requesting carriers and shall not terminate or change the rates, terms or conditions of any Assumed Agreements during the unexpired term of any Assumed Agreement or for at least the Defined Time Period, whichever occurs later, unless requested by the non-ILEC party, or required by a change of law.</p>	<p>"This condition is unnecessary given the structure of this transaction. The transaction involves a complete acquisition of Qwest, including all of its existing obligations under law and contracts. The post merger Qwest affiliate will continue to be the provider of service to CLECs under the terms of their current contracts.</p> <p>The Defined Time Period is unreasonable. CLECs with existing ICAs have voluntarily negotiated and agreed to the terms, including the length, in those agreements. CLECs should not be allowed to unilaterally extend the agreement</p>	<p>assume wholesale agreements and not terminate or change their terms, Frontier sent a letter and Adoption Agreement which effectively attempted to impose amendment of the wholesale agreement to reflect certain Frontier processes. See Integra May 13, 2010 Ex Parte FCC WC Dkt. No. 09-95. Condition 6 will help avoid the uncertainty, delay, and disputes associated with such a situation.</p> <p>As the term "Defined Time Period" is used in condition 6(a) but not (6), see the next row for a discussion of the Defined Time Period.</p> <p>See QSI Ankum Direct, §VII(A), pp. 63-82.</p> <p>Wholesale customers need certainty with regard to the elements and services they purchase from Qwest (or the Merged Company) for business planning purposes, and based on the transaction as filed, there is no such certainty. CLECs cannot simply go elsewhere for the wholesale services they need from Qwest and CenturyLink both now and post-merger. Without the recommended conditions, Joint CLECs oppose the merger. While CLQ refers to alleged unilateral conduct with respect to extending wholesale agreements, it is CLQ that is "unilaterally" imposing upon its wholesale customers CLQ's desire to merge to achieve synergies for itself. This is a change in circumstance that must</p>

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct]¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45]² for a lengthy period of time." CLQ Att. 45, p. 13, Row 1.	Joint CLEC Position
				<p>be taken into account and evaluated for potential harm to CLECs, end user customers, and competition. CLECs have built their business plans significantly around the availability of the products provided under wholesale agreements and the specific terms set forth in those agreements. Retail customers in turn receive competitive services based on CLEC access to these wholesale services from Qwest under these agreements. Based on the post-merger risks and incentives discussed throughout Dr. Ankum's testimony, there is a great risk that, without Condition 6, CenturyLink (as the acquiring company) will not assume or will terminate the obligations of Qwest's agreements, including Commercial Agreements, or will materially change them in a way that would be detrimental to CLECs and competition. This would result in extensive disruption to CLECs and their customers who rely on those products. Condition 6 at least minimizes the uncertainty and risk associated with the merger for a defined time.</p> <p>The Defined Time Period is reasonable, as it reflects the time period during which the merged company, by its own projections, will be making changes that create synergies for itself while creating uncertainty for CLECs and their customers. Also, just as CenturyLink has substantially under-estimated the time for</p>

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
6b	Wholesale Agreements - Commercial - CL ILEC Territory	#6(b). In the legacy CenturyLink ILEC territory, the Merged Company will offer Commercial agreements (including those offered pursuant to condition 7), at prices no higher, and for time periods no shorter, than those offered in the legacy Qwest ILEC territory.	"This condition assumes that the cost of providing the underlying commercial services are the same in CenturyLink territories as in Qwest territories. This is an incorrect assumption and could place CenturyLink in the position of providing services below cost. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, pp. 16-17.	changes previously (QSI Gates Direct, pp. 79-80), CenturyLink may also be under-estimating the time period here. See QSI Ankum Direct, §VII(A), pp. 63-82. CenturyLink cannot reasonably claim significant cost savings (\$650 million) across the merged company while also claiming that its costs are and will remain higher. CenturyLink provides no evidence at all for its claim of providing services below cost. While it says that this "could" happen, CLQ has been otherwise critical of any discussion of what "could" happen post merger. See, e.g., Qwest Brigham Direct, p. 4, lines 5-10. CenturyLink does not currently make similar products to those of Qwest available under commercial agreements (e.g., dark fiber, line sharing), although it may offer them through grandparented ⁸ contracts that are not commercially available to other CLECs. CenturyLink is the acquiring company in this merger. The fact that CenturyLink does not currently make these products commercially available further increases the risk to CLECs and their customers that these products will be withdrawn or the terms of their availability materially changed as a result of the merger. See QSI Ankum Direct, §VII(A), pp. 63-82
7	Rate	#7. Rates charged by legacy CenturyLink	"CLECs propose several rate	Wholesale rates should, if anything,

⁸ The Qwest-Eschelon and Qwest-Integra Minnesota ICAs (as well as the ICAs listed in Exhibit BJJ-9) in Section 4.0 (Definitions) include the following definition: "'Grandparent(ed)(ing)' shall have the same meaning as 'grandfather(ed)(ing)' as used in FCC and Commission orders and Qwest and CLEC Tariffs."

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	Century Link/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
	<p>Stability – Tandem transit, special access, tariff, commercial, ICA/UNE</p>	<p>and rates charged by legacy Qwest (including those described in condition 6) for tandem transit service, any interstate special access tariffed or non-tariffed and Commercial offerings, any intrastate wholesale tariffed offering, and any service for which prices are set pursuant to Sections 252(c)(2) and Section 252(d) of the Communications Act shall not be increased for at least the Defined Time Period. The Merged Company will not create any new rate elements or charges for distinct facilities or functionalities that are already provided under rates as of the Closing Date.</p>	<p>associated conditions that are improper and are not legitimate merger concerns. The time period is unreasonable.” CLQ Att. 45, p. 21, Row 2.</p>	<p>decrease after the merger. Because the company’s overall cost structure should decrease to the extent synergy savings are achieved post-merger, wholesale rates – which would be based on the cost structure of the Merged Company – should decrease as well. However, at this point, CLECs are not seeking rate reductions, but instead taking the conservative position that these rates should not increase for at least the Defined Time Period. This provides a degree of protection for captive wholesale customers that the Merged Company will not seek to increase their rates (or create new rate elements) during the Merged Company’s pursuit of synergies and revenue enhancements. See QSI Ankum Direct, §VII(B), pp. 82-87.</p>
7a	<p>Rate Stability – Term and volume & individualized pricing</p>	<p>#7(a). The Merged Company shall continue to offer any term and volume discount plans offered as of the Merger Announcement Date,⁹ for at least the Defined Time Period, without any changes to the rates, terms, or conditions of such plans. The Merged Company will honor any existing contracts for services on an individualized term pricing plan arrangement for the duration of the contracted term.</p>	<p>“CLECs propose several rate associated conditions that are improper and are not legitimate merger concerns. The time period is unreasonable.” CLQ Att. 45, p. 21, Row 2.</p>	<p>Regarding the time period, see row 6a above. Certainty and consistency for wholesale service rates is critical to offset the uncertainty resulting from the merger. The Joint Petitioners have stated (Petition, p. 11) that “[o]ne of the Transaction’s key benefits is the resulting financial condition of the combined company” and a “financially stronger company can... compete against cable telephony providers, wireless carriers, VoIP offerings, and CLECs...” It is most profitable for the Applicants to boost</p>

⁹ “Merger Announcement Date,” when used in the Joint CLEC list of conditions, refers to April 21, 2010, which is the date on which Qwest and CenturyLink entered into their merger agreement.

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
7b	Rate Stability – Tandem transit, ICA/UNE – CL ILEC Territory	#7(b). In the legacy CenturyLink territory, the Merged Company will comply with its statutory obligations pursuant to Section 251(c), and will provide tandem transit services to CLECs in interconnection agreements established pursuant to Sections 251 and 252, at rates no greater than any cost-based rate approved by the state commission for the Qwest ILEC territories, or current tandem transit rate, whichever is lower.	"This condition assumes that the cost of providing of providing [sic] 251 services and tandem transit services are the same in CenturyLink territories as in Qwest territories. This is an incorrect assumption and could place CenturyLink in the position of providing services below cost in violation of the pricing provisions of the Telecom Act. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 24, Row 2.	revenues at the expense of their competitors. As the example on pages 85-86 of QSI Anikum Direct shows, Joint Petitioners have taken steps after the Merger Announcement Date and before the Closing Date to raise barriers to entry and enhance revenues at the expense of wholesale customers, either in terms of degraded services or higher rates. That is why it is important to provide protections for the time period between the Merger Announcement Date and Closing Date as well as for the Defined Time Period. See QSI Anikum Direct, §VII(B), pp. 82-87. Regarding the time period, see row 6a above. CenturyLink cannot reasonably claim significant cost savings (\$650 million) across the merged company while also claiming that its costs are and will remain higher. CenturyLink provides no evidence at all for its claim of providing services below cost. While it says that this "could" happen, CLQ has been otherwise critical of any discussion of what "could" happen post merger. See, e.g., Qwest Brigham Direct, p. 4, lines 5-10. Wholesale rates should, if anything, decrease after the merger because the company's overall cost structure should decrease to the extent synergy savings are achieved post-merger. See QSI Anikum Direct, §VII(B), pp. 82-87
8	Wholesale Agreements	#8. The Merged Company will allow requesting carriers to extend existing	"This condition is unnecessary given the structure of this	While many of the ICAs under which Qwest and CLECs have been operating

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
	<p>Extend ICAs</p>	<p>interconnection agreements, whether or not the initial or current term has expired or is in "evergreen" status, for at least the Defined Time Period or the date of expiration in the agreement, whichever is later.</p>	<p>transaction. The transaction involves a complete acquisition of Qwest, including all of its existing obligations under law and contracts. The post merger Qwest affiliate will continue to be the provider of service to CLECs under the terms of their current contracts. The Defined Time Period is unreasonable. CLECs with existing ICAs have voluntarily negotiated and agreed to the terms, including the length, in those agreements. CLECs should not be allowed to unilaterally extend the agreement for a lengthy period of time." CLQ Att. 45, p. 13, Row 2 (referring to the Position in <i>id.</i> p. 13, Row1).</p>	<p>for years are in "evergreen" status, meaning generally that the ICAs are in effect but may be terminated upon notice, CenturyLink has made no commitment as to any time period for which it will retain and not terminate these ICAs. The experience of Integra and Eschelon with the lengthy negotiation and arbitration process, which is described by Mr. Denney (pp. 15-26), sheds light on the length of time protections from merger-related harm need to remain in place. The Qwest ICAs have been updated regularly over time through multiple contract amendments. Each carrier's respective network configuration (trunking, collocation arrangements, points of interconnection, traffic exchange, etc.) and operating processes are based on those terms and conditions. CenturyLink seeks to deprive competitors of the benefit of their investment in time and resources to develop and maintain ICAs and processes in compliance with those ICAs in the legacy Qwest region.</p> <p>See QSI Ankum Direct, §VII(A), pp. 63-82; see also Integra Denney Direct, pp. 15-26. Generally, and specifically regarding unilateral conduct and the time period, see row 6a above.</p>
9	<p>Wholesale Agreements - Negotiation of ICAs</p>	<p>#9. The Merged Company shall allow a requesting competitive carrier to use its pre-existing interconnection agreement, including agreements entered into with Qwest, as the basis for negotiating a new</p>	<p>"This condition is not needed, inappropriate and unreasonable. CenturyLink does not oppose amending a current ICA rather than negotiate a new agreement.</p>	<p>CLQ's Position ignores the fact that the Qwest ICAs have been updated regularly over time through multiple contract amendments, including amendments to reflect changes in law (e.g., TRO/TRRO).</p>

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
		<p>replacement interconnection agreement. If Qwest and a requesting competitive carrier are in negotiations for a replacement interconnection agreement before the Closing Date, the Merged Company will allow the requesting carrier to continue to use the negotiations draft upon which negotiations prior to the Closing Date have been conducted as the basis for negotiating a replacement interconnection agreement. In the latter situation (ongoing negotiations), after the Closing Date, the Merged Company will not substitute a negotiations template interconnection agreement proposal of any legacy CenturyLink operating company for the negotiations proposals made before the Closing Date by legacy Qwest.</p>	<p>However the current agreement should not include terms that are demonstrably out of date. Any renegotiation must consider changes of law, updating of processes and capabilities that make the relationship function more smoothly, and competitive industry issues and conditions that did not exist at the time the initial agreement was negotiated." CLQ Att. 45, pp. 14-15.</p>	<p>CLQ has pointed to no pre-existing Qwest ICA that does not contain provisions governing changes in law. To the contrary, all of the CLEC ICAs referenced in Exhibit BJJ-9 have change in law provisions. (See BJJ-4, §2.2, p. 125.) Qwest's SGATs were reviewed during the 271 approval process and some of these terms were incorporated into CLEC ICAs. In contrast, none of CenturyLink's ICA terms were reviewed under a 271 approval process, but instead, are currently in the process of being developed. Condition 9 addresses the document that will be used as the <i>basis for negotiation of a new agreement</i>. If a term in a pre-existing ICA is in fact "demonstrably" in need of change, the carrier seeking a change will be able to demonstrate <i>to the Commission</i> in a Section 252 arbitration that a change is needed. The ILEC should not be allowed to unilaterally make that determination. To the extent that the Merged Company suggests it may operate under existing ICAs for 12 months after the Closing Date, this plan offers little comfort to carriers, like Eschelon, that have spent years negotiating and arbitrating with the ILEC to obtain an ICA. Assuming the current pace of negotiations and arbitrations, one year is insufficient time to complete negotiations much less obtain an arbitrated resolution of remaining impasse issues. And, if the Merged Company insists upon negotiations based</p>

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
10	Wholesale Agreements - Opt-in of ICAs - CL ILEC Territory	#10. In the legacy CenturyLink ILEC territory, the Merged Company will permit a requesting carrier to opt into any interconnection agreement to which Qwest is a party in the same state, including agreements in evergreen status. If there is no Qwest ILEC in a state, the Merged Company will permit a requesting carrier to opt into any interconnection agreement to which Qwest is a party in any state in which Qwest is an ILEC. Agreements subject to the opt-in rights described in this condition will apply in full, without modification and subject to the other conditions set forth herein. To the extent that the Merged Company seeks to modify agreements subject to the opt-in rights described in this condition, the Merged Company will permit the opt-in and the agreement shall become effective, subject to the Merged Company's right to subsequently seek from the applicable state commission an order modifying the agreement. The state commission may require modification of the agreement to the extent that the commission determines	"Agreements are entered into between specific legal entities and such terms cannot be involuntarily imposed on a non-signatory third party legal entity. The CenturyLink and Qwest ICAs were negotiated with the consideration of the particular networks and facilities of each company. Even after the merger the Qwest and CenturyLink operating companies will continued [sic] to be operated as separate legal entities. This condition would allow CLECs to opt into interconnection agreements from states other than Minnesota that would not be subject to the Commission rules/guidelines for ICAs in Minnesota. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 15, Row 1.	on a new or revised template after the Closing Date, not only will the amount of time needed to obtain an effective ICA be extended but also literally years of effort and extensive use of resources will be lost. See QSI Ankum Direct, §VII(A), pp. 63-82; see also Integra Denney Direct, pp. 15-26. The FCC previously adopted a similar condition in conjunction with the AT&T/BellSouth merger, which required AT&T/BellSouth to make available to any CLEC any ICA (negotiated or arbitrated) to which a AT&T/BellSouth ILEC is a party in any state within the AT&T 22-state footprint, subject to state-specific pricing and technical feasibility. Notably, the CLEC-proposed condition permits the state commission to modify the ICA before opt in if the Merged Company demonstrates technical infeasibility or if the TELRIC-based prices in the ICA are inconsistent with the TELRIC-based prices in the state in question. Therefore, if as CLQ claims in its Position, the particular network or facilities of an operating entity make a provision technically infeasible, the Merged Company will be able to obtain modification of the ICA in that respect. See QSI Ankum Direct, §VII(A), pp. 63-82.

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
10a	Wholesale Agreements - Opt-in of ICAs NA to approved rural carrier	that the Merged Company has established that (1) it is not Technically Feasible ¹⁰ for the Merged Company to comply with one or more provisions of the agreement or (2) the price(s) set forth in the agreement are inconsistent with TELRIC-based prices in the state in question. More consistency in interconnection agreement offerings will provide more consistency for wholesale customers dealing with CenturyLink in multiple states, and will enable the industry to rely on interconnection agreement terms from the pre-closing entity that both has been through Section 271 approval proceedings and has the greater volume of CLEC wholesale business.	"Agreements are entered into specific legal entities and such terms cannot be involuntarily imposed on a non-signatory third party legal entity. The CenturyLink and Qwest ICAs were negotiated with the consideration of the particular networks and facilities of each company. Even after the merger the Qwest and CenturyLink operating companies will continued	CLQ's Position does not comment upon Condition 10(a)'s clarification that CenturyLink ILEC territory, as used in Condition 10, excludes any CenturyLink ILEC for which a state commission has granted it a rural exemption. It appears, therefore, that CenturyLink does not object to subpart (a) of Condition 10. Regarding the remainder of CLQ's Position, see the previous row above. See QSI Ankum Direct, §VII(A), pp. 63-82.

¹⁰ "Technically Feasible," when used in the Joint CLEC list of conditions, has the meaning set forth here (which is the same as the definition in the Qwest ICA negotiations template). Interconnection, access to Unbundled Network Elements, Collocation, and other methods of achieving Interconnection or access to Unbundled Network Elements at a point in the network shall be deemed Technically Feasible absent technical or operational concerns that prevent the fulfillment of a request by a Telecommunications Carrier for such Interconnection, access, or methods. A determination of Technical Feasibility does not include consideration of economic, accounting, Billing, space, or site concerns, except that space and site concerns may be considered in circumstances where there is no possibility of expanding the space available. The fact that an incumbent LEC must modify its facilities or equipment to respond to such request does not determine whether satisfying such request is Technically Feasible. An incumbent LEC that claims that it cannot satisfy such request because of adverse network reliability impacts must prove to the Commission by clear and convincing evidence that such Interconnection, access, or methods would result in specific and significant adverse network reliability impacts.

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
			<p>[sic] to be operated as separate legal entities. This condition would allow CLECs to opt into interconnection agreements from states other than Minnesota that would not be subject to the Commission rules/guidelines for ICAs in Minnesota. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 15, Row 1.</p>	
10 b	<p>Wholesale Agreements – Opt-in of ICAs – Regulator may terminate rural status in future</p>	<p>#10(b). Nothing in this condition precludes a regulatory body from determining that any operating company of the Merged Company, which as of the Merger Closing Date operates under a Section 251(f) exemption or a 251(f)(2) suspension or modification, must cease to do so. In the event that such a ruling is made, this condition would then apply to the applicable operating company as well.</p>	<p>"The CenturyLink companies that are considered rural telephone companies should continue to have that designation post merger. The Act provides the appropriate process for any CLEC to seek to remove CenturyLink's rural exemption and a merger proceeding is not the appropriate forum to seek changes to the process." CLQ Att. 45, pp. 25-26.</p>	<p>CLQ's Position recognizes that the Act provides a process for removal of CenturyLink's rural exemption. Therefore, CLQ appears to agree that nothing precludes a regulatory body from determining that any operating company of the Merged Company which operates under a rural carrier must cease to do so. Without the rural exemption, Condition 10 would apply.</p>
10 b fn	<p>Rural Status (See #12)</p>	<p>Footnote to #10(b): Charter Fiberlink further proposes as a condition of approval of this transaction that any operating company affiliates of CenturyLink or Qwest that currently operate under a Section 251(f) exemption or waiver relinquish and surrender such legal rights upon the Closing Date.</p>	<p>"The CenturyLink companies that are considered rural telephone companies should continue to have that designation post merger. The Act provides the appropriate process for any CLEC to seek to remove CenturyLink's rural exemption and a merger proceeding is not the appropriate forum to seek changes to the process." CLQ Att. 45, pp. 25-26. <i>Note:</i> In CLQ Att. 45, p. 26, Row 2, CenturyLink and Qwest</p>	<p>Charter Position: This condition was recently applied in the Frontier-Verizon transfer. Despite controlling over 7 million access lines following its merger with Embarq, CenturyLink continues to assert the protections of a so-called "rural" telephone company in Minnesota. It does so by organizing itself into dozens of small operating companies. The size, resources and combined territory of the post-merger company should be recognized, as the company is poised to become the third largest ILEC in the nation. An ILEC with a national footprint</p>

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
11	Wholesale Agreements - ICAs - Intervals	#11. To the extent that an interconnection agreement is silent as to an interval for the provision of a product, service or functionality or refers to Qwest's website or Service Interval Guide (SIG), the applicable interval, after the Closing Date, shall be no longer than the interval in Qwest's SIG as of the Merger Filing Date.	paraphrase the Charter Direct Testimony of Mr. Pruitt (which can be found at p. 35, lines 7-8). The Applicants list the following language as their Position in response to Mr. Pruitt's testimony: "CenturyLink does not use the rural exemption to increase costs to CLECs. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 26, Row 2. "CLEC provisioning intervals reflect retail provisioning intervals as federal law requires carriers to treat all customers the same. Legacy intervals are inherent in the legacy processes and systems." CLQ Att. 45, p. 1, Row 1.	that exceeds the line count of every other carrier in the nation (except for AT&T and Verizon) should not be permitted to continue to operate separate legal entities in each state as a means of protecting "rural" carrier status. The experience of Joint CLEC coalition members in Wisconsin, and several other mid-west states, demonstrates that CenturyLink uses its "rural" status to increase Charter's operational costs. See Charter Pruitt Direct, pp. 35-41. CLQ's Position suggests that CenturyLink may lengthen a wholesale interval post-closing by lengthening its retail interval and then arguing the wholesale interval must be the same. This ILEC argument was rejected during the 271 proceedings. When Qwest previously tried to move from a 5-day to a 9-day loop interval by simultaneously lengthening the interval for its retail customers, the Minnesota Commission rejected Qwest's argument and found that the 5-day loop interval allowed competitors a meaningful opportunity to compete. The Minnesota Commission found that Qwest cannot make intervals "unreasonable by lengthening the intervals for provision of retail service." ¹¹ CLQ refers to "legacy intervals" but makes no commitment not to lengthen them post-closing. Customers that CLECs are trying to win or maintain

¹¹ Findings of Fact, Conclusions of Law and Recommendations, *In the Matter of a Commission Investigation into Qwest's Compliance with Section 271(c)(2)(B) of the Telecommunications Act of 1996; Checklist Items 1,2,4,5,6,11,13, and 14*, Docket No. P-421/CI-01-1371 (Sept. 16, 2003) ("MN ALJ 271 Order"), ¶125.

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
12	Rural Status—Going Forward	#12. The Merged Company will not seek to avoid any of the obligations of CenturyLink under the Assumed Agreements on the grounds that CenturyLink is not an incumbent local exchange carrier ("ILEC") under the Communications Act. The Merged Company will waive its right to seek the exemption for rural telephone companies	"CenturyLink and Qwest comply with ILEC obligations under the Act. This proceeding is not the proper forum to submit the required documentation and conduct the necessary reviews for a determination on rural exemption. This condition is not needed, inappropriate and unreasonable."	have no way of distinguishing whether the CLEC or its underlying wholesale provider is responsible for an untimely installation or repair. Especially during the turbulent post-merger transition period, therefore, not lengthening service intervals is essential. Qwest has opposed inclusion of service intervals in ICAs and has previously changed service intervals unilaterally in CMP over CLEC protest; neither ICAs nor CMP therefore assure continuance of current intervals post-merger. CLQ's need to realize \$650 million in synergies may prompt it to save money by lengthening intervals for both its own and CLEC customers. Lengthening intervals is not in the public interest. The longer the interval, the longer customers must wait to receive service and to take advantage of competitive options. In such a scenario, the adverse effect is more easily sustained by the historically dominant local provider—the ILEC—than by the CLEC trying to win over or retain customers. CLQ's See QSI Gates Direct (public), §VI(B), pp. 126-131.
				To a very large extent, most CLECs' business plans rest on continued meaningful access to ILECs' wholesale products and services. CenturyLink has expressly reserved its right in ICA proceedings to seek a rural exemption to many unbundling and interconnection obligations pursuant to 47 U.S.C. § 251(f). CLECs in the Applicants'

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹ under Section 251(f)(1) and its right to seek suspensions and modifications for rural carriers under Section 251(f)(2) of the Communications Act.	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ² CLQ Att. 45, p. 25, Row 2.	Joint CLEC Position
13	BOC Status & 271 – Qwest ILEC Territory	#13. In the legacy Qwest ILEC territory, the Merged Company shall be classified as a Bell Operating Company ("BOC"), pursuant to Section 3(4)(A)-(B) of the Communications Act and shall be subject to all requirements applicable to BOCs, including but not limited to the "competitive checklist" set forth in Section 271(c)(2)(B) and the obligation to ensure there is no backsliding, and the nondiscrimination requirements of Section 272(e) of the Communications Act.	"Qwest Corporation, as a successor to U S West, is a BOC and will remain a BOC. The legacy CenturyLink ILECs are not BOCs and will not become BOCs after the transaction closing." CLQ Att. 45, pp. 18-19.	proposed combined service area cannot remain competitive in an environment of near-complete uncertainty regarding their continued access to essential wholesale products and services. If the proposed acquisition is approved, it must be conditioned so that it does not produce such an environment. CLQ's Position states that this docket is not the proper forum to submit a request for review of an exemption, but Condition 12 requires no such review in this docket. Condition 12 precludes CLQ from submitting a request for an exemption in any proceeding going forward. See QSI Ankum Direct, §VII(A), pp. 63-82. Qwest has seven years experience doing business under the Act's obligations for a BOC; as a non-BOC, CenturyLink approaches the proposed merger without such BOC experience. CLECs in legacy Qwest territory should not suffer any erosion in Qwest's commitment to, or ability to implement, its BOC obligations because Qwest chose to be acquired by a non-BOC. CLQ's mere statements that the merger will take place on the parent level, or that Qwest will remain a BOC, do not answer this concern. The merger must be conditioned upon continuance of the post-merger entity in legacy Qwest territory as a BOC, subject to all BOC obligations, without backsliding in its compliance with 271 obligations. See QSI Gates Direct (public), §VI(D), pp. 148-188.

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
14	UNE Stability – Wire Centers & Forbearance	#14. For at least the Defined Time Period, the Merged Company will not seek to reclassify as "non-impaired" any wire centers for purposes of Section 251 of the Communications Act, nor will the Merged Company file any new petition under Section 10 of the Communications Act seeking forbearance from any Section 251 or 271 obligation or dominant carrier regulation in any wire center.	"FCC rules provide the requirements for impaired/non-impaired designations. Non-impaired designations require petitions to the Commission, a Commission review, and Commission finding. This proceeding does nothing to change this process and CenturyLink and Qwest should not be required to forego their legal rights. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 19, Row 1.	The Merged Company's CLEC customers/competitors are likely to be affected every hour of every day as the Merged Company struggles to meld its systems and processes while wringing hundreds of millions of dollars of savings out of operations. During this transition period, the competitive status quo should be maintained where practicable. A temporary moratorium on wire center impairment proceedings and forbearance petitions will mitigate the destabilizing effect of the merger, and will also allow all parties to absorb the FCC's new analytical methods and competitive philosophy expressed in its recent decision denying Qwest's Phoenix forbearance petition. See QSI Anikum Direct, §VII(A), pp. 63-82.
15	Wholesale Support – Contacts, Escalations, Centers, Organizational Structure	#15. The Merged Company shall provide to wholesale carriers, and maintain and make available to wholesale carriers on a going-forward basis, up-to-date escalation information, contact lists, and account manager information at least 30 days prior to the Closing Date. For changes to support center location, organizational structure, or contact information, the Merged Company will provide at least 30 days advance written notice to wholesale carriers. For other changes, the Merged Company will provide reasonable advanced notice of the changes. The information and notice provided shall be consistent with the terms of applicable interconnection agreements.	"CenturyLink and Qwest provide and will provide carriers with up-to-date escalation information, contract lists and account manager information. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 12, Row 1.	While many significant facts about the effects of the merger remain unknown as the Applicants have not provided that information, one thing the Applicants have made clear is that their wholesale customers (and, thus, CLECs' end user customers) will experience change. The marked changes likely to occur post-merger will drive the need for swift, sure, and pinpointed communications between the companies. Because escalation procedures allow for escalation up through organizations, the organizational structure must be known to not delay escalation to the next level and to help ensure accountability. The projected merger synergies will result in part from

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
16	Wholesale Support – Data, Information, Assistance, Notice, Tools	#16. The Merged Company will make available to each wholesale carrier the types and level of data, information, and assistance that Qwest made available as of the Merger Filing Date concerning wholesale Operational Support Systems functions and wholesale business practices and procedures, including information provided via the wholesale web site (which Qwest sometimes refers to as its Product Catalog or "PCAT"), notices, industry letters, the change management process, and databases/tools (loop qualification tools, loop make-up tool, raw loop data tool, ICONN database, etc.).	"The merger will not change any of the rights or obligations of any party. Qwest and CenturyLink comply with their OSS obligations and the CLECs will not be harmed. Serving wholesale customers is important to both companies and is crucial to the future of the merged company. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 6, Row 1.	headcount reductions ("reduced corporate overhead" and "elimination of duplicate functions" ¹²), resulting in the Merged Companies' liaisons being stretched further while taking on new roles and territories. The merger must be premised on a condition requiring specified notice conditions for changes to contact lists, account managers, organizational structure, and other critical information. See QSI Gates Direct (public), §VI(C), pp. 132-148.
				The Applicants have stated definitively that their CLEC customers will experience change as the Merged Company effects efficiencies, but have not revealed any detail regarding that change. Continued meaningful access to Qwest OSS systems, processes, databases, tools, and personnel is vital to the continued viability of CLECs in Qwest's legacy territory. Qwest's current OSS systems and manual processes are the product of repeated, stringent, military-type testing held in the context of Qwest's pursuit of its much-desired 271 long distance authorization. CLECs need at least the current level of access to these systems and tools. CLQ's Position states generically that "the merger will not change any of the rights or obligations of any party" and that "CLECs will not be harmed," but notably absent from these statements is any assurance specific to

¹² Applicants' FCC Joint Application, p. 21.

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
17	CMP (Change Management Process)	#17. After the Closing Date, the Merged Company will maintain the Qwest Change Management Process ("CMP"), utilizing the terms and conditions set forth in the CMP Document, including those terms and conditions governing changes to the CMP Document. The Merged Company will dedicate the resources needed to complete pending CLEC change requests in a commercially reasonable time frame.	"This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 10, Row 2.	OSS systems and processes post-merger. CLQ seems to be saying that CLECs' rights, such as a right to dispute harmful changes, will remain the same. A right to sue after the fact is little comfort when CLECs' customers, and thus CLECs' reputations, are adversely impacted by the merger and resultant customer-impacting outages and problems of the type experienced in the Fairpoint, Hawaiian Telcom, and Frontier situations. See QSI Gates Direct (public), §VI(C), pp. 88-106 & 132-148. When the FCC reviewed Qwest's 271 application, the FCC relied on the state commissions to oversee Qwest's ongoing compliance with CMP going forward to ensure that local markets remain open. ¹³ CMP procedures thus are designed to foster availability and nondiscriminatory implementation of Section 251 rights that advance opening those markets and keeping them open. There is express recognition in the Qwest CMP Document (§5.45), which was developed as part of the 271 process, that product, process, and systems changes may impact CLECs, and in many cases the ILEC's changes have a "major effect on existing CLEC operating procedures." Although CMP as implemented by Qwest is not perfect, it is tested, documented, includes an escalation process, and provides a means for CLEC participation in Qwest's proposed CLEC-

¹³ E.g., Memorandum Opinion and Order, *In the Matter of Application by Qwest Communications International Inc. for Authorization to Provide In-Region, InterLATA Services in Arizona*, FCC WC Docket No. 03-194, Rel. Dec. 3, 2003 ["FCC Arizona 271 Order"], ¶¶3-4, 25, 58-60.

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
18	Wholesale Support – Staffing & Training	#18. The Merged Company shall ensure that the legacy Qwest Wholesale and CLEC support centers are sufficiently staffed, relative to wholesale order volumes, by adequately trained personnel dedicated exclusively to wholesale operations so as to provide a level of service that is equal to or superior to that which was provided by Qwest prior to the Merger Filing Date and to ensure the protection of CLEC information from being used for the Merged Company's retail operations or marketing purposes of any kind. The Merged Company will employ people who are dedicated to the task of meeting the needs of CLECs and other wholesale customers. The total number of the Merged Company's employees dedicated to supporting wholesale services for CLEC customers will be no fewer than the number of such employees (including agents and	"This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 12, Row 2.	impacting system and process changes. In contrast, Embarq's CLEC Issue Resolution Process consists of a forum and CLEC/ILEC relations meeting that are twice-yearly and annual, respectively. CenturyLink has no CMP process, but uses instead a one-way notification process that may take place after a change has occurred. Particularly as CenturyLink has attempted to characterize its processes as sufficient to meet the CMP requirement, the merger creates a material risk of harm. See QSI Gates Direct (public), §VI(C), pp. 132-148.
				With regard to post-merger support of its wholesale customers, the Applicants have stated that unspecified changes will occur due to integration and that their pursuit of synergy savings will result in reductions in personnel. A reduction in experienced wholesale support personnel will invariably result in degradation to the Merged Company's vital support systems, and to less oversight over key customer data. Particularly in light of CLECs' recent experience with Qwest's inappropriate use of customer data and inappropriate practices (e.g., Exhibit B.JJ-18), it is clear that the Merged Company must commit in writing to properly training and supporting dedicated wholesale support personnel, and to maintaining such employees at the levels maintained by the Joint Applicants as of the Merger Filing Date. See QSI Gates Direct (public), §VI(C), pp. 132-148.

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹ contractors) employed by legacy Qwest and legacy CenturyLink as of the Merger Filing Date, unless the Merged Company obtains a ruling from the applicable regulatory body that wholesale order volumes materially decline or other circumstances warrant corresponding employee reductions.	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
19	OSS	#19. In legacy Qwest ILEC territory, after the Closing Date, the Merged Company will use and offer to wholesale customers the legacy Qwest Operational Support Systems (OSS) for at least three years and provide at least the same level of wholesale service quality, including support, data, functionality, performance, and electronic bonding, provided by Qwest prior to the Merger Filing Date. After the minimum three-year period, the Merged Company will not replace or integrate Qwest systems without first complying with the following procedures:	"The merger will not change any of the rights or obligations of any party. Qwest and CenturyLink comply with their OSS obligations and the CLECs will not be harmed. Serving wholesale customers is important to both companies and is crucial to the future of the merged company. Any changes to the current Qwest OSS remains subject to the CMP and CenturyLink reserves its rights to make changes per the terms of the Change Management Process (CMP) Document. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 6, Rows 2 & 3 (same Position for both rows).	Recent CLQ discovery responses have confirmed that, despite CLQ's indications that it has not made post-merger OSS decisions, CenturyLink has decided that it will consolidate OSS, including but not limited to billing systems, and that it either will not retain or will modify Qwest IMA for Local Service Requests, as discussed in the surrebuttal of Mr. Gates. If the transaction is approved, systems integration is inevitable. Therefore, customers and competition need protections from harm resulting from those changes, such as the harm experienced in the Fairpoint, Hawaiian Telecom, and Frontier situations. The FCC has found that nondiscriminatory access to OSS is crucial to competition. Qwest has described its OSS as the lifeblood of Qwest's wholesale operation. The FCC largely premised its public interest findings in the 271 dockets on documented means to prevent backsliding from OSS standards. The Joint Applicants have stated that, while CLECs should expect change to the Merged Company's OSS, no decisions have been made regarding post-merger OSS

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct]'	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45]'	Joint CLEC Position
19a	OSS – Plan before replacing or integrating	#19(a). The Merged Company will prepare and submit a detailed plan to the Wireline Competition Bureau of the FCC and the state commission of any affected state before replacing or integrating Qwest system(s). The Merged Company's plan will describe the system to be replaced or integrated, the surviving system, and why the change is being made. The plan will describe steps to be taken to ensure data integrity is maintained. The plan will describe CenturyLink's previous	"The merger will not change any of the rights or obligations of any party. Qwest and CenturyLink comply with their OSS obligations and the CLECs will not be harmed. Serving wholesale customers is important to both companies and is crucial to the future of the merged company. CenturyLink complies with all applicable rules and laws regarding OSS. Any changes to the current Qwest OSS remains subject	systems, staffing, or location. The Joint Applicants state that it may operate both Companies' OSS systems for at least 12 months, but even if that is the case, 12 months is inadequate particularly with no plan in place and no promise of testing before replacing tested systems. Faced with a certain integration combined with the remaining profound uncertainties, CLECs must have a written commitment that the Merged Company will use and offer Qwest's OSS for at least three years, at the same level of quality as provided by Qwest prior to the merger, and that the Merged Company will not replace or integrate Qwest's systems without first complying with the subparts to Condition 19. Without those subparts, the three-year period would need to be substantially longer. With the subparts, a plan would be in place to help ensure a smooth transition when the inevitable integration takes place. See QSI Gates Direct (public), §VI(A), pp. 88-106 & 116-124. In the Verizon-Frontier merger, the FCC's conditions include a provision that requires Frontier to prepare and submit a detailed OSS integration plan to the FCC and any affected state before certain systems transitions (FCC 10-87, Appendix C, pp. 32-33). As part of this process, Frontier must describe the system to be replaced, the surviving OSS, and why the change is being made; describe Frontier's previous experience with integrating OSS in other jurisdictions,

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		<p>experience with replacing or integrating systems in other jurisdictions, specifying any problems that occurred during that process and what has been done to prevent those problems in the planned transition for the affected states. The Merged Company's plan will also identify planned contingency actions in the event that the Merged Company encounters any significant problems with the planned transition. The plan submitted by the Merged Company will be prepared by information technology professionals, retained at the Merged Company's expense, with substantial experience and knowledge regarding legacy CenturyLink and legacy Qwest systems processes and requirements. Interested carriers will have the opportunity to comment on the Merged Company's plan.</p>	<p>to the CMP and CenturyLink reserves its rights to make changes per the terms of the Change Management Process (CMP) Document. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, pp. 7-8.</p>	<p>specify any problems that occurred in that process and what has been done to avert those problems in the planned transition for the affected states; and identify planned contingency actions in the event that the company encounters a difficulty. The plan must be prepared by information technology professionals with detailed experience and knowledge regarding the systems integration process and requirements. Frontier must submit the OSS integration plan to the regulators no less than 180 days prior to the proposed system transition date. All of these terms are reasonable and necessary to help avoid merger-related harm. See QSI Gates Direct (public), §VI(A), pp. 116-124.</p>
19b	<p>OSS – Third party testing before replacing</p>	<p>#19(b). For any Qwest system that was subject to third party testing (e.g., as part of a Section 271 process), robust, transparent third party testing will be conducted for the replacement system to ensure that it provides the needed functionality and can appropriately handle existing and continuing wholesale services in commercial volumes. The types and extent of testing conducted during the Qwest Section 271 proceedings will provide guidance as to the types and extent of testing needed for the replacement systems. The Merged Company will not limit CLEC use of, or retire, the existing system until after third party testing has</p>	<p>"The merger will not change any of the rights or obligations of any party. Qwest and CenturyLink comply with their OSS obligations and the CLECs will not be harmed. Serving wholesale customers is important to both companies and is crucial to the future of the merged company. CenturyLink complies with all applicable rules and laws regarding OSS. Any changes to the current Qwest OSS remains subject to the CMP and CenturyLink reserves its rights to make changes per the terms of the Change Management Process (CMP)</p>	<p>In addition to the type of plan adopted in the Verizon-Frontier merger as discussed in the previous row above (FCC 10-87, Appendix C, pp. 32-33), protections are needed which recognize that Qwest is not only an ILEC but also a Bell Operating Company ("BOC") with additional, explicit Section 271 obligations. In the 271 proceeding, Qwest's OSS underwent three years of rigorous third-party testing, leading to the discovery and resolution of hundreds of problem areas, before it could be judged adequate. CenturyLink's OSS has never undergone third-party testing. Before any replacement or restructuring of Qwest's OSS can take place, the</p>

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19c	OSS – Coordinated testing	#19(c). Before implementation of any replacement or to be integrated system, the Merged Company will allow for coordinated testing with CLECs, including a stable testing environment that mirrors production and, when applicable, controlled production testing. The Merged Company will provide the wholesale carriers training and education on any wholesale OSS implemented by the Merged Company without charge to the wholesale carrier.	"The merger will not change any of the rights or obligations of any party. Qwest and CenturyLink comply with their OSS obligations and the CLECs will not be harmed. Serving wholesale customers is important to both companies and is crucial to the future of the merged company. CenturyLink complies with all applicable rules and laws regarding OSS and will allow coordinated testing with CLECs." CLQ Att. 45, pp. 8-9.	CLQ's Position asserts that CLQ values its wholesale customers and states that it will allow coordinated testing with CLECs. CLQ does not explain, however, why it will not therefore accommodate its valued customers by entering into an enforceable commitment to allow coordinated testing for a defined period of time to allow its customers much needed certainty. CLQ also does not explain why it does not commit to not charging wholesale customers for training and education that would not be needed but for the merger and resultant systems changes. During the lengthy third-party OSS testing conducted in Qwest's 271 proceeding, it became apparent that testing must be coordinated with the affected parties, CLECs, to ensure functionality in real-life, production volumes. Before any replacement or restructuring of Qwest's OSS can take place, the planned system must undergo the same level of coordinated testing. Further, CLECs must be trained, without charge, on any revised OSS system. See QSI Gates Direct (public), §VI(A), pp. 116-124.
20	OSS –	#20. In the legacy CenturyLink ILEC territory, as soon as reasonably possible,	"Post merger CenturyLink is committed to having industry	Qwest's OSS underwent three years of rigorous, transparent, third-party testing

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	CL ILEC territory	The Merged Company will use the wholesale pre-ordering, quoting, ordering, provisioning, and maintenance and repair functionalities (including electronic bonding) of the legacy Qwest territory to provide interconnection, Unbundled Network Elements, and special access services in the legacy CenturyLink ILEC territory. Specifically, in the legacy CenturyLink ILEC territory, the Merged Company will use the legacy Qwest IMA (GUI and XML), CORA, DLIS, CEMR, MEDIAC, Q.pricer, and Qwest Control systems for those services and functionalities for which Qwest provides wholesale services through these systems as of the Merger Filing Date.	leading OSS. Whether CenturyLink chooses an existing OSS or selects a new system should be resolved through a refined analysis and the need to respond to marketplace conditions. A CLEC that serves primarily in a part of the country where Qwest does not offer ILEC service may prefer CenturyLink's OSS. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 9, Row 1.	including CLEC participation; CenturyLink's OSS has not undergone any third-party testing. A CLEC that has conducted business using both Qwest's and CenturyLink's OSS in their respective territories has testified that Qwest's OSS is superior to CenturyLink's OSS. No such CLEC has testified that, as CLQ suggests, it prefers CenturyLink's OSS to that of Qwest's OSS. In any event, it is not as though CLECs will be able to elect which system to use in which legacy territory, now that CenturyLink has confirmed that consolidation of OSS is inevitable (as discussed in row 19 above). If CLQ were going to consider the preferences of its wholesale customers, it would consider the expressed preference of all of the Joint CLECs for Qwest's OSS and commit to using Qwest's OSS for the long term. CenturyLink should commit to implementing Qwest's OSS throughout the footprint created by the merger as soon as practicable. Best practices will require the Merged Company's use of Qwest's tested and proven OSS systems throughout CLQ's legacy territories. See QSI Gates Direct (public), §VI(A), pp. 116-126.
21	Compliance - Order processing	#21. The Merged Company will process orders in compliance with federal and state law, as well as the terms of applicable interconnection agreements.	"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements. CLECS should not be permitted to add new obligations and unilaterally	The FCC adopted this as an enforceable condition in the Embarq-CenturyTel merger because of the potential for increased anti-competitive conduct of the combined company and the potential for problems spreading to CenturyTel's

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
			impose conditions that are more expansive than those required by the law or contractual terms. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 1, Row 2.	newly-acquired territory. QSI Gates Direct (public) p. 159, lines 7-12. By its very terms, this condition is no more expansive than required by law. Since CenturyLink has promised to meet this condition (QSI Gates Direct (public) p. 156, lines 5-8), it is worrisome that CLQ now states in its Position that it is inappropriate and unreasonable. See QSI Gates Direct (public), §VI(D), pp. 148-188.
22	Compliance - Number portability	#22. The Merged Company will provide number portability in compliance with federal and state law, as well as the terms of applicable interconnection agreements.	"CenturyLink and Qwest currently comply with the FCC's Order on one day porting and will continue to do so post merger. CenturyLink has received a waiver until February 2011 consistent with the FCC's Order on one day porting. After the waiver expires, CenturyLink will provide one day porting consistent with the FCC Order." CLQ Att. 45, p. 11, Row 2.	In discovery, CenturyLink said it will "provide number portability in compliance with federal and state law, as well as the terms of applicable interconnection agreements." QSI Gates Direct (public) 156, lines 5-8. A discovery response, however, is not an enforceable condition. The fact that CenturyLink attributed its recent waiver request of the one-day porting requirement to the ongoing integration efforts related to the Embarq merger shows that an enforceable condition is needed to ensure that the integration of the Qwest merger does not similarly impact the Merged Company's ability to meet number porting requirements. QSI Gates Direct (public) pp. 148-188.
22a	Compliance - Number portability - E911 unlock	#22(a). When a number is ported from the Merged Company, E-911 records will be unlocked at the time of porting. Trouble reports involving locked E-911 records will be addressed within 24 hours.	"CenturyLink and Qwest currently comply with the FCC's Order on one day porting and will continue to do so post merger. CenturyLink has received a waiver until February 2011 consistent with the FCC's Order on one day porting.	CLECs expended the resources to raise and address the important issue of unlocking E-911 records with Qwest via CMP commencing nine years ago. Naturally, after reading the concerns raised by CLECs in the Embarq-CenturyTel merger on this issue, CLECs

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				<p>are concerned about going backward to pre-271 workshop days such that the record updating process and the accuracy of records will suffer as a result of this acquisition. Condition 22(a) is needed to address this concern and avoid backsliding. In discovery, CenturyLink asserted compliance with the law but also said it has not evaluated or reached any conclusions regarding the issues of when CenturyLink will unlock E911 records or address trouble reports related to unlocking E911 records. The uncertainty caused by CenturyLink's vacillation on this issue makes Condition 22 that much more important. The FCC adopted an identical condition in conjunction with the Embarq-CenturyTel merger, in response to the concerns identified by wholesale customers. The Merged Company should have no problem abiding by condition 22(a) given that CenturyLink said in discovery that "within legacy service areas E911 records are being unlocked at the time of porting in accordance with the FCC's merger condition." QSI Gates Direct (public) p. 156, lines 8-10. See QSI Gates Direct (public), §VI(D), pp. 148-188.</p>
22 b	<p>Compliance – Number portability – Pass Code</p>	<p>#22(b). The Merged Company will not assign any pass code, password or Personal Identification Number (PIN) to retail customer accounts in a manner that will prevent or delay a change in local service providers. The Merged Company will require only pass codes that an end user</p>	<p>"CenturyLink and Qwest complies [sic] with all state and federal regulations regarding passcodes, passwords, or PIN numbers on retail customer accounts. This condition is not needed, inappropriate and unreasonable."</p>	<p>In ¶25 of the CenturyTel-Embarq Merger Order, the FCC summarized allegations that CenturyTel engaged in anti-competitive practices with regard to local number portability, including practices relating to use of a subscriber's Personal Identification Number (PIN) in a manner</p>

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		customer requests for the purpose of limiting or preventing activity and changes to their account. The Merged Company will not require that a new local service provider provide, on a service request, a password or PIN that the end user customer uses or used to access its account information on-line [including Customer Proprietary Network Information (CPNI)].	CLQ Att. 45, p. 10, Row 3.	that in effect forced many customers to contact CenturyTel to retrieve the PIN before being able to port their number to a new provider. This contact then gave CenturyTel personnel an opportunity to try to retain the customer. Given this background, Condition 22(b) is appropriate and reasonable to avoid merger-related harm. CenturyLink and Qwest have indicated that their current policies regarding pass codes/PINs would not be disrupted by this condition and that the number of ports that can be processed are not currently limited. QSI Gates Direct (public) p. 156, line 10, 157, lines 1-2. They also claim that they comply with "all state and federal regulations" governing this issue. This confirms that Condition 22(b) is reasonable and appropriate. See QSI Gates Direct (public), §VI(D), pp. 148-188.
22c	Compliance - Number portability - Number of ports	#22(c). The Merged Company shall not limit the number of ports that can be processed.	"CenturyLink and Qwest do not routinely limit the number of ports that can be processed, however, CLEC requests for a large number of port requests may be subject to a timeframe agreed to by the company and the CLEC. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, pp. 11-12.	CenturyLink and Qwest already claim that they do not limit the number of ports that can be processed but in their Position state that a limit may be imposed if a "large number" of requests are made. Artificially limiting the number of ports that may be submitted in a particular time period is anticompetitive and disruptive to the competitive process. The porting process should be largely if not completely automated, so limits on the number of ports are not necessary. This condition, as adopted by the FCC in the CenturyTel-Embarq order, states that the companies will not limit the number of

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
23	Compliance - DL & DA	#23. The Merged Company will provide nondiscriminatory access to directory listings and directory assistance in compliance with federal and state law. Specifically, the Merged Company will be responsible for ensuring that all directory listings submitted by CLECs for inclusion in directory assistance or listings databases are properly incorporated into such databases (whether such databases are maintained by the Merged Company or a third party vendor). Further the Merged Company will ensure that CLECs' subscriber listings are accessible to any requesting person on the same terms and conditions that the Merged Company's subscriber listings are available to any requesting person.	"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements. The proposed condition may require the establishment of terms and conditions that are not covered by applicable law. CLECs should not be permitted to add new obligations and unilaterally impose conditions that are more expansive than those required by the law or contractual terms." CLQ Att. 45, p. 25, Row 1.	ports that can be processed and does not contain any exception for a large number of port requests (see FCC 09-54, App. C, p. 28). QSI Gates Direct (public) p.157, lines 1-2, note 266 & pp. 148-188. CLQ identifies no aspect of Condition 23 that is "not covered" by the law, but its allegation of "new" or "more expansive" terms suggests that there is some aspect of Condition 23 which CLQ intends to challenge and with which it does not intend to comply. It is incumbent on CLQ to identify any such argument so that it can be addressed. In any event, Condition 23 expressly requires compliance with the law and therefore is not more expansive than the law. Indeed, the nondiscrimination principles set forth in Condition 23 are taken directly from Section 251 and applicable FCC orders. Condition 23 is necessary as an enforceable condition to this merger because CenturyLink refuses to ensure that competitor's subscribers have the same access to DA and DL databases as CenturyLink provides to its own customers, as required by federal and state law. Directory services provided by competitors will be degraded if CenturyLink, or its vendor, fails to properly maintain these databases in a manner that ensures nondiscriminatory access. See QSI Gates Direct (public), §VI(D), p. 166, line 15- p.167, line 1 & pp. 162-167.
24	Rate	#24. After the Closing Date, the Merged	"These issues are associated with	Condition 24 is necessary to ensure

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct]'	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45]'	Joint CLEC Position
	Stability – Surcharges	Company shall not assess any fees, charges, surcharges or other assessments upon CLECs for activities that arise during the subscriber acquisition and migration process other than any fees, charges, surcharges or other assessments that were approved by the applicable commission and charged by Qwest in the legacy Qwest ILEC territory before the Closing Date. This condition prohibits the Merged Company from charging fees, charges, surcharges or other assessments, including:	prior and ongoing billing and/or interconnection agreement between Qwest/CenturyLink and CLECs. These are not legitimate merger concerns and are misplaced in this proceeding. In addition, these issues have been arbitrated in other state venues and the rates at issues [sic] are contained in the interconnection agreements approved by the MN Commission. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 22, Row 1.	continuity of operations and wholesale rate stability for Joint CLECs currently competing with Qwest. If imposed, this condition would ensure that new subscriber acquisition surcharges are not assessed upon competitors operating in the Qwest service territories. Joint CLECs are not asking the Commission to revisit prior or ongoing billing or interconnection disputes. These surcharges are not contained in Qwest agreements approved by the Minnesota Commission. The prohibition of new subscriber acquisition surcharges is consistent with applicable law since the FCC has ruled that such charges are prohibited by federal law. Specifically, in a 2002 Number Portability Cost Reconsideration Order, the FCC ruled that ILECs may not recover any number portability costs through interconnection charges or add-ons to interconnection charges to their carrier "customers," nor may they recover carrier-specific costs through interconnection charges to other carriers when no number portability functionality is provided. QSI Gates Direct (public) p. 170. The FCC's directive clearly prohibits interconnection-based surcharges on number porting, like those imposed by CenturyLink. See QSI Gates Direct (public), §VI(D), pp. 167-172.
24a	Rate Stability –	#24(a). Service order charges assessed upon CLECs submitting local service requests ("LSRs") for number porting;	"These issues are associated with prior and ongoing billing and/or interconnection agreement between	Condition 24(a) is necessary to ensure that new subscriber acquisition surcharges are not assessed upon

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct]¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45]²	Joint CLEC Position
	Local Number Portability (LNP) order charges		<p>Qwest/CenturyLink and CLECs. These are not legitimate merger concerns and are misplaced in this proceeding. In addition, these issues have been arbitrated in other state venues and the rates at issues [sic] are contained in the interconnection agreements approved by the MN Commission. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 22, Row 1.</p> <p><i>Note:</i> In CLQ Att. 45, p. 22, Row 2, CenturyLink and Qwest attempt to paraphrase the Charter Direct Testimony of Mr. Pruitt (which Qwest claims can be found at p. 10). The Applicants list the following language as their Position in response to Mr. Pruitt's testimony, instead of the Position quoted above regarding the condition itself (#24a):</p> <p>"These issues have been arbitrated in other state venues and the rates at issues [sic] are contained in the interconnection agreements approved by the MN Commission. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, pp 22-23.</p>	<p>competitors operating in the Qwest service territories in the form of service order charges assessed upon CLECs submitting LSRs for number porting. Joint CLECs are not asking the Commission to revisit prior or ongoing billing or interconnection disputes. These surcharges are not contained in Qwest agreements approved by the Minnesota Commission. The prohibition of new subscriber acquisition surcharges is also consistent with applicable law. In several orders implementing Section 251(e) (2) of the Act, the FCC held that carriers are required to recover their costs of implementing LNP through tariffed end-user charges. In these orders, the FCC determined that ILECs may recover through end-user charges their carrier-specific costs directly related to providing number portability. The FCC concluded that this framework for cost recovery (from end users rather than other carriers) best serves the statutory goal of competitive neutrality. The prohibition on such charges is codified at 47 C.F.R. § 52.33. The Commission needs to protect the public interest and prevent merger-related harm to competitors and thus competition by ensuring that the combined company abides by its obligations under the law. Such merger conditions are adopted to ensure that the combined company will not follow its</p>

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
24 b	Rate Stability – Access fees/ Network Interface Device (NID)	#24(b). Access or "use" fees or charges assessed upon CLECs that connect a competitor's own self-provisioned loop, or last mile facility, to the customer side of the Merged Company's network interface device ("NID") enclosure or box; and	"These issues are associated with prior and ongoing billing and/or interconnection agreement between Qwest/CenturyLink and CLECs. These are not legitimate merger concerns and are misplaced in this proceeding. In addition, these issues have been arbitrated in other state venues and the rates at issues [sic] are contained in the interconnection agreements approved by the MN Commission. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 22, Row 1.	increased incentive to engage in anti-competitive conduct or spread existing worst practices throughout its larger service territory post-merger. QSI Gates Direct (public) pp. 150-155 & 167-172. Condition 24(b) is necessary to ensure continuity of operations and wholesale rate stability for Joint CLECs currently competing with Qwest. If imposed, this condition would ensure that new subscriber acquisition surcharges are not assessed upon competitors operating in the Qwest service territories in the form of fees assessed upon CLECs that connect a competitor's self-provisioned loop to the customer side of the Merged Company's NID enclosure or box. Joint CLECs are not asking the Commission to revisit prior or ongoing billing or interconnection disputes. These surcharges are not contained in Qwest agreements approved by the Minnesota Commission. Further, with respect to these surcharges, CenturyLink incurs no costs or technical obligations when a CLEC unplugs the short cross connect between the network side and the customer side of the NID enclosure. In addition, a CLEC's limited use of the customer side of the NID enclosure to connect its network to the customer's inside wire generally only arises in limited circumstances, usually when CenturyLink has installed an

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
24c	Rate Stability – Storage fees - DL	#24(c). "Storage" or other related fees, rents or service order charges assessed upon a CLECs' subscriber directory listings information submitted to the Merged Company for publication in a directory listing or inclusion in a directory assistance database.	"These issues have been arbitrated in other state venues and the rates at issues [sic] are contained in the interconnection agreements approved by the MN Commission. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 23, Row 1.	enclosure on the customer's premises in a way that blocks any reasonable access to the customer's inside wire. QSI Gates Direct (public) pp. 68-69 & pp. 148-188. Condition 24(c) is necessary to ensure continuity of operations and wholesale rate stability for Joint CLECs currently competing with Qwest. If imposed, this condition would ensure that new subscriber acquisition surcharges are not assessed upon competitors operating in the Qwest service territories in the for of fees assessed upon a CLECs' subscriber directory listings information submitted to the Merged Company for publication in a directory listing or inclusion in a directory assistance database. Joint CLECs are not asking the Commission to revisit prior or ongoing billing or interconnection disputes. These surcharges are not contained in Qwest agreements approved by the Minnesota Commission. Notably, Embarq has imposed fees that were contrary to its statutory obligation to provide nondiscriminatory access to directory listing functions as required by 47 U.S.C. § 251(b)(3); 47 C.F.R. § 51.217 (a) and (b). Embarq sought to impose the charge only on facilities-based competitors that utilize their own-last mile facilities as opposed to the unbundled loops and services of Embarq. The Washington Commission, for

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
25	Compliance - Routine Network Modifications	#25. The Merged Company will provide routine network modifications in compliance with federal and state law, as well as the terms of applicable interconnection agreements.	"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 1, Row 3.	example, found this practice to be unreasonable and contrary to federal law. [Arbitrator's Report and Decision, Docket No. U-083025, January 13, 2009, at pp. 11-12]. QSI Gates Direct (public) p. 66, lines 4-23 & pp. 168-175. In discovery, CenturyLink has said that, "in all service areas post merger, CenturyLink will continue to provide routine network modifications in compliance with federal and state laws and with applicable terms in interconnection agreements." As CenturyLink agrees to do this, and it is required by law, the condition is appropriate and reasonable. It is worrisome that CenturyLink considers an obligation to comply with federal and state laws and interconnection agreements to be inappropriate and unreasonable. See QSI Gates Direct (public), § VI(D), pp. 172-176.
26	Compliance - Engineer & Maintain Network	#26. After the Closing Date, the Merged Company will engineer and maintain its network in compliance with federal and state law, as well as the terms of applicable interconnection agreements. Resources will not be diverted to merger-related activities at the expense of maintaining the Merged Company's network.	"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements. The proposed condition may require the establishment of terms and conditions that are not covered by applicable law. CLECs should not be permitted to add new obligations and unilaterally impose conditions that are more expansive than those required by the law or contractual terms. This condition is not needed, inappropriate and unreasonable."	CenturyLink has repeatedly represented that it will continue to invest in its network post-merger and that it is fully capable of allocating resources to both maintain current operations and to conduct merger-related activities post-merger. See, e.g., Minnesota Petition at p. 3 ("It will provide the combined company with greater financial resources and access to capital enabling it to invest in networks...") and p. 13 ("CenturyLink has a demonstrated ability to acquire and successfully integrate companies, and to combine systems and practices, while

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct]'	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ² CLQ Att. 45, pp. 1-2.	Joint CLEC Position
26a	Compliance – Disrupt or Degrade Loop Access	#26(a). The Merged Company shall not engineer the transmission capabilities of its network in a manner, or engage in any policy, practice, or procedure, that disrupts or degrades access to the local loop.	"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements. The proposed condition may require the establishment of terms and conditions that are not covered by applicable law. CLECs should not be permitted to add new obligations and unilaterally impose conditions that are more expansive than those required by the law or contractual terms. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 2, Row 1.	Condition 26a is consistent with 47 C.F.R. § 51.319(A) (8) which states: "An incumbent LEC shall not engineer the transmission capabilities of its network in a manner, or engage in any policy, practice, or procedure, that disrupts or degrades access to the local loop." QSI Gates Direct (public) p. 175, lines 11-15. QSI Gates Direct (public) p. 176, lines 3-8. See QSI Gates Direct (public), § VI(D), pp. 150-155 & 172-176.
26b	Copper Retirement	#26(b). The Merged Company will retire copper in compliance with federal and state law, as well as the terms of applicable interconnection agreements and as required	"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements."	continuing to provide high-quality service to customers"). Failure to maintain adequate investment and maintenance in the Merged Company network would degrade the network for the Merged Company, the PSTN and for CLECs, to the detriment of end user customers. This is a harm that should be avoided. A condition that requires legal compliance is a reasonable, even a minimal, way to attempt to avoid such harm. This condition is also needed to prevent inappropriate diversion of resources to merger-related activities that would normally be directed to the network. See QSI Gates Direct (public), § VI(D), pp. 150-155 & 172-176. In discovery, CenturyLink has represented that it will comply with all applicable state and federal laws and rules and ICAs in relation to copper retirement.

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct]' by a change of law.	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45]' The proposed condition may require the establishment of terms and conditions that are not covered by applicable law. CLECs should not be permitted to add new obligations and unilaterally impose conditions that are more expansive than those required by the law or contractual terms. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, pp. 2-3.	Joint CLEC Position By its terms this condition does not "add new obligations" or impose "more expansive" conditions than required by law or contract, as it expressly requires compliance with the law. It is of concern that CenturyLink considers complying with the law to be a new obligation that is unreasonable. See QSI Gates Direct (public), §VI(D), pp. 150-176.
26c	Rate Stability – Engineer & Maintain Network	#26(c). The Merged Company will not engineer or maintain the network (including routing of traffic) in a manner that results in the application of higher rates for traffic or inefficiencies for wholesale customers.	"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements. The proposed condition may require the establishment of terms and conditions that are not covered by applicable law. CLECs should not be permitted to add new obligations and unilaterally impose conditions that are more expansive than those required by the law or contractual terms. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 2, Row 1.	CenturyLink cannot reasonably claim significant cost savings (\$650 million) across the merged company while also claiming that it may engineer its network in an inefficient manner or in a manner that results in higher rates for wholesale customers. Such inefficiencies and higher rates are not in the public interest and would constitute merger-related harm. The requirement to not engineer or maintain the network in a manner that results in inefficiencies is consistent with 47 C.F.R. § 51.319(A) (8)), which states: "An incumbent LEC shall not engineer the transmission capabilities of its network in a manner, or engage in any policy, practice, or procedure, that disrupts or degrades access to the local loop." QSI Gates Direct (public) p. 175, lines 11-15 & pp. 150-176.
27	Compliance – Conditioned Copper Loops	#27. The Merged Company will provide conditioned copper loops in compliance with federal and state law and at rates approved by the applicable state commission. Line conditioning is the	"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements. The proposed condition may require	In Condition 27, the first sentence simply requires compliance with the law. The second sentence reflects the definition of line conditioning in 47 C.F.R. §51.319(a)(1)(iii)(A). The third sentence

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
	(xDSL)	<p>removal from a copper loop of any device that could diminish the capability of the loop to deliver xDSL. Such devices include bridge taps, load coils, low pass filters, and range extenders. Insofar as it is technically feasible, the Merged Company shall test and report troubles for all the features, functions and capabilities of conditioned copper lines, and may not restrict its testing to voice transmission only. If the Merged Company seeks to change rates approved by a state commission for conditioning, the Merged Company will provide conditioned copper loops in compliance with the relevant law at the current commission-approved rates unless and until a different rate is approved.</p>	<p>the establishment of terms and conditions that are not covered by applicable law. CLECs should not be permitted to add new obligations and unilaterally impose conditions that are more expansive than those required by the law or contractual terms. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 3, Row 1.</p>	<p>reflects the requirements of 47 C.F.R. §51.319(a)(1)(iii)(C). The final sentence recognizes that, in each state in Qwest's territory, the Commission has already established rates (either non-recurring charges or recovery via recurring charges) for line conditioning and therefore the Merged Company must either charge that rate or seek state commission approval to charge a different rate. That the condition so closely follows the language of the law shows that it does not add new obligations and it is not more expansive than the law. A review of the Legal Authority Compared to Qwest Position Matrix (Exhibit BJJ-2) demonstrates that there is substantial evidence warranting a concern that the ILEC is already improperly inhibiting CLECs' provision of advanced services using conditioned copper loops throughout Qwest's legacy territory. This result is directly contrary to the public interests reflected in the national broadband plan. Qwest is inhibiting CLECs' ability to provide broadband services to small and medium sized customers. Due to the proposed merger, CenturyLink has an increased incentive and opportunity to adopt these practices due to an increased footprint and the desire to boost revenues at the expense of its competitors. The importance of using copper to provide advanced services is apparent, however, in the FCC's conclusion that CLECs are impaired without access to unbundled xDSL-</p>

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
28	Inter-connection – Single Point of Inter-connection (POI)	#28. At CLEC's option, the Merged Company will interconnect with CLEC at a single point of interconnection per LATA, regardless of whether the Merged Company provides service in such LATA via multiple operating company affiliates or a single operating company.	"The FCC's decision in the Southwestern Bell 271 Order does not apply to non-RBOCs such as CenturyLink. The order does not require the transport of traffic between separate legal entities and noncontiguous service territories." CLQ Att. 45, p. 30, Rows 2 & 3 (pp. 30-31).	capable stand-alone copper loops. As explained by the FCC's SBC-Ameritech merger order (¶ 196), a merger of this sort will increase the Merged Company's incentive and ability to discriminate against its competitors with respect to the provision of advanced services. See QSI Gates Direct (public), §VI(D), p. 176-177, line 14 & pp. 152-182; see also Exhibits BJJ-1 through BJJ-16 to Integra Johnson Direct. Section 251(c) of the Act requires all ILECs – not only BOCs – to provide interconnection "at any technically feasible point within the carrier's network" and "that is at least equal in quality to that provided by the local exchange carrier to itself or any subsidiary, affiliate, or any other party to which the carrier provides interconnection." So, the fact that CenturyLink is an ILEC and Qwest is both an ILEC and a BOC should have no bearing on whether CLECs should be permitted to interconnect with the Merged Company at a single POI per LATA. The goal of the Act was to open local markets to competition for all ILECs, not just the BOCs. QSI Gates Direct (public), p. 183, lines 9-18 & pp. 148-188; QSI Ankum Direct, §VII(A), pp. 63-82.
29	Most Favored State/Nation	#29. All Conditions herein may be expanded or modified as a result of regulatory decisions concerning the proposed transaction in other states, including decisions based upon	"Terms or conditions addressing a state's public interest concerns are a result of negotiations, considerations and tradeoffs unique to that state. Bringing in other terms	CLQ does not identify a single state-specific condition or concern. CLQ also does not acknowledge that the conditions listed in Exhibit 8 to the QSI testimony of Mr. Gates have been submitted by QSI in

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
		<p>settlements, that impose conditions or commitments related to the transaction. CenturyLink agrees that the state commission of any state may adopt any commitments or conditions from other states or the FCC that are adopted after the final order in that state.</p>	<p>under an MFN provision moots the prior negotiation and the context under which items were discussed. Trade-offs made by the Commission and the Company that result in satisfying the public interest should not be subsequently unraveled by importing a condition from a different state. Individual state conditions often flow from individual state specific facts, circumstances and regulations. As a result, there will almost always be uncertainty as to whether and how a condition of approval in one state will be applicable to another. State conditions typically are particularized to address a state specific need. Due to the differences in each state, a condition or commitment in one state may not translate easily or hardly at all into a condition for another state." CLQ Att. 45, pp. 26-27.</p>	<p>at least 8 states in Qwest territory, without state-specific variation. These conditions are needed in every state to protect the public interest and prevent merger-related harm. Condition 29 will provide a degree of consistency and spread "best practices" across the Merged Company's service territory, while at the same time likely lowering the Merged Company's cost of post-merger compliance activities. A similar condition was adopted by the Oregon Commission in the Frontier-Verizon merger proceeding. By its terms, Condition 29 provides that a state commission must act to "adopt" conditions from another state or the FCC, and CLQ has provided no evidence that this Commission would act to adopt a condition that was inapplicable in this state. QSI Gates Direct (public), pp.187-188.</p>
30	Dispute resolution	<p>#30. In the event a dispute arises between the parties with respect to any of the pre-closing and post-closing conditions herein, either party may seek resolution of the dispute by filing a petition with the state commission at any time. Alternative dispute resolution provisions in an interconnection agreement shall not prevent any party from filing a petition with the state commission at any time.</p>	<p>"Every Minnesota interconnection agreement already contains language allowing a party to seek resolution of disputes before (be Commission at any time. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 19, Row 2.</p>	<p>Merger conditions were not in place at the time that existing agreements were entered into. Condition 30 addresses resolution of disputes relating to merger conditions. It is important that the CLECs have a way to quickly and efficiently resolve disputes related to merger condition compliance. Otherwise, the Merged Company could just drag out disputes until some of the conditions expire or could avoid compliance with</p>

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct] ¹	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45] ²	Joint CLEC Position
				this Commission's merger order for a long period of time, while imposing significant costs upon its competitors. See QSI Gates Direct (public), §VI(D), p. 188.

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN MAYES, Chairman
GARY PIERCE, Commissioner
SANDRA KENNEDY, Commissioner
PAUL NEWMAN, Commissioner
BOB STUMP, Commissioner

JOINT NOTICE AND APPLICATION OF)	
QWEST CORPORATION, QWEST)	
COMMUNICATIONS COMPANY, LLC,)	
QWEST LD CORP., EMBARQ)	Docket No. T-01051B-10-0194
COMMUNICATIONS, INC. D/B/A)	Docket No. T-02811B-10-0194
CENTURYLINK COMMUNICATIONS,)	Docket No. T-04190A-10-0194
EMBARQ PAYPHONE SERVICES, INC.)	Docket No. T-20443A-10-0194
D/B/A CENTURYLINK, AND CENTURYTEL)	Docket No. T-03555A-10-0194
SOLUTIONS, LLC FOR APPROVAL OF THE)	Docket No. T-03902A-10-0194
PROPOSED MERGER OF THEIR PARENT)	
CORPORATIONS QWEST)	
COMMUNICATIONS INTERNATIONAL INC.)	
AND CENTURYTEL, INC.)	

EXHIBIT TG-14

Federal Communications Commission

96-325

FCC 96-325

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
Implementation of the Local Competition) CC Docket No. 96-98
Provisions in the Telecommunications Act)
of 1996)
)
Interconnection between Local Exchange) CC Docket No. 95-185
Carriers and Commercial Mobile Radio)
Service Providers)
)

FIRST REPORT AND ORDER

Adopted: August 1, 1996

Released: August 8, 1996

By the Commission: Chairman Hundt and Commissioners Quello, Ness, and Chong issuing separate statements.

Table of Contents

I. INTRODUCTION, OVERVIEW, AND EXECUTIVE SUMMARY	1
A. The Telecommunications Act of 1996 - A New Direction	1
B. The Competition Trilogy: Section 251, Universal Service Reform and Access Charge Reform	6
C. Economic Barriers	10
D. Operational Barriers	16
E. Transition	21
F. Executive Summary	24
II. SCOPE OF THE COMMISSION'S RULES	41
A. Advantages and Disadvantages of National Rules	44
B. Suggested Approaches for FCC Rules	63

place. Completion of the trilogy, coupled with the reduction in burdensome and inefficient regulation we have undertaken pursuant to other provisions of the 1996 Act, will unleash marketplace forces that will fuel economic growth. Until then, incumbents and new entrants must undergo a transition process toward fully competitive markets. We will, however, act quickly to complete the three essential rulemakings. We intend to issue a notice of proposed rulemaking in 1996 and to complete the access charge reform proceeding concurrently with the statutory deadline established for the section 254 rulemaking. This timetable will ensure that actions taken by the Joint Board in November and this Commission by not later than May 1997 in the universal service reform proceeding will be coordinated with the access reform docket.

C. Economic Barriers

10. As we pointed out in our Notice of Proposed Rulemaking in this docket³, the removal of statutory and regulatory barriers to entry into the local exchange and exchange access markets, while a necessary precondition to competition, is not sufficient to ensure that competition will supplant monopolies. An incumbent LEC's existing infrastructure enables it to serve new customers at a much lower incremental cost than a facilities-based entrant that must install its own switches, trunking and loops to serve its customers.⁴ Furthermore, absent interconnection between the incumbent LEC and the entrant, the customer of the entrant would be unable to complete calls to subscribers served by the incumbent LEC's network. Because an incumbent LEC currently serves virtually all subscribers in its local serving area,⁵ an incumbent LEC has little economic incentive to assist new entrants in their efforts to secure a greater share of that market. An incumbent LEC also has the ability to act on its incentive to discourage entry and robust competition by not interconnecting its network with the new entrant's network or by insisting on supracompetitive prices or other unreasonable conditions for terminating calls from the entrant's customers to the incumbent LEC's subscribers.

11. Congress addressed these problems in the 1996 Act by mandating that the most significant economic impediments to efficient entry into the monopolized local market must be removed. The incumbent LECs have economies of density, connectivity, and scale; traditionally, these have been viewed as creating a natural monopoly. As we pointed out in our NPRM, the local competition provisions of the Act require that these economies be shared with entrants. We believe they should be shared in a way that permits the incumbent LECs to maintain operating efficiency to further fair competition, and to enable the entrants to share the economic benefits of that efficiency in the form of

³ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996* Docket No. 96-98, Notice of Proposed Rulemaking, FCC 96-182 (rel. Apr. 19, 1996), 61 Fed. Reg. 18311 (Apr. 25, 1996) (NPRM).

⁴ See NPRM at para. 6.

⁵ See NPRM at n.13.

cost-based prices.⁶ Congress also recognized that the transition to competition presents special considerations in markets served by smaller telephone companies, especially in rural areas.⁷ We are mindful of these considerations, and know that they will be taken into account by state commissions as well.

12. The Act contemplates three paths of entry into the local market -- the construction of new networks, the use of unbundled elements of the incumbent's network, and resale. The 1996 Act requires us to implement rules that eliminate statutory and regulatory barriers and remove economic impediments to each. We anticipate that some new entrants will follow multiple paths of entry as market conditions and access to capital permit. Some may enter by relying at first entirely on resale of the incumbent's services and then gradually deploying their own facilities. This strategy was employed successfully by MCI and Sprint in the interexchange market during the 1970's and 1980's. Others may use a combination of entry strategies simultaneously -- whether in the same geographic market or in different ones. Some competitors may use unbundled network elements in combination with their own facilities to serve densely populated sections of an incumbent LEC's service territory, while using resold services to reach customers in less densely populated areas. Still other new entrants may pursue a single entry strategy that does not vary by geographic region or over time. Section 251 neither explicitly nor implicitly expresses a preference for one particular entry strategy. Moreover, given the likelihood that entrants will combine or alter entry strategies over time, an attempt to indicate such a preference in our section 251 rules may have unintended and undesirable results. Rather, our obligation in this proceeding is to establish rules that will ensure that all pro-competitive entry strategies may be explored. As to success or failure, we look to the market, not to regulation, for the answer.

13. We note that an entrant, such as a cable company, that constructs its own network will not necessarily need the services or facilities of an incumbent LEC to enable its own subscribers to communicate with each other. A firm adopting this entry strategy, however, still will need an agreement with the incumbent LEC to enable the entrant's customers to place calls to and receive calls from the incumbent LEC's subscribers.⁸ Sections 251(b)(5) and (c)(2) require incumbent LECs to enter into such agreements on just, reasonable, and nondiscriminatory terms and to transport and terminate traffic originating on another carrier's network under reciprocal compensation arrangements. In this item, we adopt rules for states to apply in implementing these mandates of section 251 in their arbitration of interconnection disputes, as well as their review of such arbitrated arrangements, or a BOC's statement of generally available terms. We believe that our rules will assist the states in carrying out their

⁶ See NPRM at paras. 10-12.

⁷ 47 U.S.C. § 251(f).

⁸ See *infra*, Section IV.A.

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN MAYES, Chairman
GARY PIERCE, Commissioner
SANDRA KENNEDY, Commissioner
PAUL NEWMAN, Commissioner
BOB STUMP, Commissioner

JOINT NOTICE AND APPLICATION OF)	
QWEST CORPORATION, QWEST)	
COMMUNICATIONS COMPANY, LLC,)	
QWEST LD CORP., EMBARQ)	Docket No. T-01051B-10-0194
COMMUNICATIONS, INC. D/B/A)	Docket No. T-02811B-10-0194
CENTURYLINK COMMUNICATIONS,)	Docket No. T-04190A-10-0194
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D/B/A CENTURYLINK, AND CENTURYTEL)	Docket No. T-03555A-10-0194
SOLUTIONS, LLC FOR APPROVAL OF THE)	Docket No. T-03902A-10-0194
PROPOSED MERGER OF THEIR PARENT)	
CORPORATIONS QWEST)	
COMMUNICATIONS INTERNATIONAL INC.)	
AND CENTURYTEL, INC.)	

EXHIBIT TG-15

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Application by Qwest Communications)
International, Inc. for Authorization To)
Provide In-Region, InterLATA Services in the) WC Docket No. 02 - 314
States of Colorado, Idaho, Iowa, Montana,)
Nebraska, North Dakota, Utah, Washington)
and Wyoming)
)

MEMORANDUM OPINION AND ORDER

Adopted: December 20, 2002

Released: December 23, 2002

By the Commission: Commissioner Copps issuing a statement; Commissioner Adelstein not participating.

TABLE OF CONTENTS

	Paragraph
I. INTRODUCTION.....	1
II. BACKGROUND	7
A. DEPARTMENT OF JUSTICE EVALUATION.....	16
B. PRIMARY ISSUES IN DISPUTE	17
III. COMPLIANCE WITH SECTION 271(c)(1)(A).....	20
IV. PRIMARY CHECKLIST ISSUE IN DISPUTE	33
A. CHECKLIST ITEM 2 – UNBUNDLED NETWORK ELEMENTS	33
1. OSS	34
2. Pricing of Unbundled Network Elements.....	172
V. OTHER CHECKLIST ITEMS	312
A. CHECKLIST ITEM 1 – INTERCONNECTION	312
B. CHECKLIST ITEM 4 – UNBUNDLED LOCAL LOOPS	335
C. CHECKLIST ITEM 5 – UNBUNDLED LOCAL TRANSPORT	350
D. CHECKLIST ITEM 6 – UNBUNDLED LOCAL SWITCHING	357
E. CHECKLIST ITEM 7 – 911/E911 ACCESS & DIRECTORY ASSISTANCE/OPERATOR SVCS ...	363
1. 911 and E911 Access	363
2. Directory Assistance / Operator Services	364

rebalancing should involve all LECs in Montana to address the alleged price squeeze.¹⁵⁹³ The Montana Consumer Counsel asserts that the Montana Commission is empowered by state law to regulate toll rates and access charge rates, and that commission should do so independent of a section 271 application review.¹⁵⁹⁴

439. We find that the price squeeze allegation raised by the Montana Commission does not relate to the openness of the local telecommunications market to competition within the scope of section 271 of the Act. Therefore, we do not deny Qwest's section 271 application for failure to comply with the public interest on this basis. While we encourage states to establish cost-based intrastate access rates, we agree with Qwest and the Montana Consumer Counsel that their establishment is not a precondition to section 271 approval.¹⁵⁹⁵ We do not have jurisdiction to set intrastate intraLATA access charges or intrastate long distance toll rates, and our review of these rates in a section 271 application is limited to their role in any potential wholesale UNE rate/retail rate price squeeze.¹⁵⁹⁶ Jurisdiction to set intraLATA, intrastate toll rates and access charge rates rests solely with the Montana Commission. The price squeeze alleged by the Montana Commission is in the intrastate intraLATA toll market, where Qwest already is authorized to provide service. Denying Qwest's section 271 application would not address the alleged price squeeze in the intrastate intraLATA toll market. Accordingly, this alleged price squeeze, and any potential violation of state regulations by Qwest's failure to file a revenue requirements and rate design case, are within the Montana Commission's authority and ability to address, and are more appropriately addressed by that commission.

B. Assurance of Future Compliance

440. As set forth below, we find that the performance assurance plans (PAP) that will be in place in the nine states provide assurance that the local market will remain open after Qwest receives section 271 authorization in the nine application states. We find that these plans fall within a zone of reasonableness and are likely to provide incentives that are sufficient to foster post-entry checklist compliance. In prior orders, the Commission has explained that one factor it may consider as part of its public interest analysis is whether a BOC would have adequate incentives to continue to satisfy the requirements of section 271 after entering the long distance market.¹⁵⁹⁷ Although it is not a requirement for section 271 authority that a BOC be subject to such performance assurance mechanisms, the Commission previously has stated that the existence of a satisfactory performance monitoring and enforcement mechanism would be

¹⁵⁹³ Qwest III Thompson/Freeberg Reply Decl. at paras. 19-20 (citing Commissioner Rowe's dissenting statement in the Montana Commission Qwest III Comments).

¹⁵⁹⁴ Montana Consumer Counsel Qwest III Reply at 2; Montana Consumer Counsel Qwest II Reply at 2-4.

¹⁵⁹⁵ See Qwest II Application at 191-92; Qwest Aug. 15 Pricing *Ex Parte* Letter at 18. See also Montana Consumer Counsel Qwest II Reply at 2-3.

¹⁵⁹⁶ See para. 436, *supra* (discussing our review of intrastate toll rates and access charges in the local market price squeeze analysis).

¹⁵⁹⁷ See, e.g., *Verizon Pennsylvania Order*, 16 FCC Rcd at 17487-88, para. 127.

probative evidence that the BOC will continue to meet its section 271 obligations after a grant of such authority.¹⁵⁹⁸ The nine state PAPs, in combination with the respective commission's active oversight of its PAP, and these commissions' stated intent to undertake comprehensive reviews to determine whether modifications are necessary, provide additional assurance the local market in the five application states will remain open.¹⁵⁹⁹

441. In prior section 271 orders, the Commission has generally reviewed plans modeled after either the New York or the Texas plans.¹⁶⁰⁰ However, the Commission has also approved plans that are not modeled on either of those two plans.¹⁶⁰¹ In this case, the Colorado PAP was designed principally by a Special Master for the Colorado Commission with input from Qwest and other parties.¹⁶⁰² The Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming PAPs, on the other hand, were developed in a multi-state review

¹⁵⁹⁸ *Ameritech Michigan Order*, 12 FCC Rcd at 20748-50, paras. 393-398. We note that in all of the previous applications that the Commission has granted to date, the applicant was subject to an enforcement plan administered by the relevant state commission to protect against backsliding after BOC entry into the long-distance market. These mechanisms are generally administered by state commissions and derive from authority the states have under state law or under the federal Act. As such, these mechanisms can serve as critical complements to the Commission's authority to preserve checklist compliance pursuant to section 271(d)(6).

¹⁵⁹⁹ The Wyoming Commission did not endorse the Wyoming PAP because of what it deemed to be several shortcomings in the PAP. As discussed later in this section, we find that the shortcomings identified by the Wyoming Commission do not diminish the assurances provided by the Wyoming PAP. Qwest II Application, App. E, Qwest Performance Assurance Plans, Tab 1, Montana Performance Assurance Plan at 22-25 (Montana PAP), Qwest II Application, App. E, Tab 2, Utah Performance Assurance Plan at 19-20 (Utah PAP), Qwest II Application, App. E, Tab 3, Washington Performance Assurance Plan at 19-20 (Washington PAP); Qwest II Application, App. E, Tab 4, Wyoming Performance Assurance Plan at 19-20 (Wyoming PAP); Qwest I Application, Appendix E, Qwest Performance Assurance Plans, Tab 1, Colorado Performance Assurance Plan at 22-25 (Colorado PAP); Qwest I Application, App. E, Qwest Performance Assurance Plans, Tab 2, Idaho Performance Assurance Plan at 14, 19-20 (Idaho PAP); Qwest I Application, App. E, Qwest Performance Assurance Plans, Tab 3, Iowa Performance Assurance Plan at 14, 19-20 (Iowa PAP); Qwest I Application, App. E, Qwest Performance Assurance Plans, Tab 4, Nebraska Performance Assurance Plan at 14, 19-20 (Nebraska PAP); Qwest I Application, App., Qwest Performance Assurance Plans, Vol 1 Tab 5, North Dakota Performance Assurance Plan at 15, 21-22 (North Dakota PAP); Colorado Commission Qwest I Comments at 59; Colorado Commission Qwest I Reply at 48; Idaho Commission Qwest I Comments at 13-14; Iowa Board Qwest I Comments at 70; Montana Commission Qwest II Comments at 52-53; Nebraska Commission Qwest I Comments at 5 (citing Nebraska Commission QPAP Decision (<http://www.nol.org/home/NPSC/C-1830APAP04-23-02.PDF>) at 15-16); North Dakota Commission Qwest I Comments, Appendix at 236-39; Washington Commission Qwest II Comments at 29-31; Wyoming Commission Qwest II Comments at 17.

¹⁶⁰⁰ See, e.g., *Verizon Connecticut Order*, 16 FCC Rcd at 14181, para. 76; *Verizon Massachusetts Order*, 16 FCC Rcd at 9120, para. 238; *SWBT Texas Order*, 15 FCC Rcd at 18560, para. 421; *Bell Atlantic New York Order*, 15 FCC Rcd at 4166-67, para. 433.

¹⁶⁰¹ See *Verizon Pennsylvania Order*, 16 FCC Rcd at 17488-89, paras. 128-129.

¹⁶⁰² Qwest I Application App. A, Tab 35, Declaration of Mark S. Reynolds-Colorado (Qwest I Reynolds-Colorado Decl.) at paras. 2-4.

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN MAYES, Chairman
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JOINT NOTICE AND APPLICATION OF)	
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SOLUTIONS, LLC FOR APPROVAL OF THE)	Docket No. T-03902A-10-0194
PROPOSED MERGER OF THEIR PARENT)	
CORPORATIONS QWEST)	
COMMUNICATIONS INTERNATIONAL INC.))	
AND CENTURYTEL, INC.)	

EXHIBIT TG-16

COMPARISON OF CENTURYLINK AND QWEST LOCAL SERVICE REQUEST OSS FUNCTIONALITY

Functionality/Order Type	CenturyLink ¹			Qwest ²		
	EASE-GUI LSR	EASE-EDI LSR	IMA-GUI LSR	IMA-GUI LSR	IMA-XML LSR	IMA-XML LSR
<i>Pre-Order Functions</i>						
Address validation	YES	YES	YES	YES	YES	YES
Channel Facility Assignment (CFA) Validation	NO	NO	YES	YES	YES	YES
Meet Point Query Validation	NO	NO	YES	YES	YES	YES
Network Channel (NC)/Network Channel Interface (NCI) Codes Validation	NO	NO	YES	YES	NO	NO
Raw Loop Data Validation (at least for pre-order functions, services and products that Qwest currently provides)	NO	NO	YES	YES	YES	YES
Billing Account Number (BAN) Validation	YES	YES	YES ³	YES	NO	NO
Customer Service Records (CSR)	YES	YES	YES	YES	YES	YES
Telephone Number(s) (TNs) Reservation	NO	NO	NO	NO	YES	YES
Provide Facility Availability	NO	NO	NO	NO	YES	YES
Provide Service Availability	NO	NO	NO	NO	YES	YES
Loop Qualification for Integrated Services Digital Network (ISDN)	NO	NO	NO	NO	YES	YES
Loop Qualification for Unbundled Asymmetric Digital Subscriber Line (ADSL)	NO	NO	NO	NO	YES	YES
Loop Qualification for Commercial Broadband Services	NO	NO	NO	NO	YES	YES
Appointment Scheduling	NO	NO	NO	NO	YES	YES
<i>Pre-Populate LSR</i>						
Does the system currently pre-populate information in the LSR?	NO	NO	NO	NO	YES	N/A ⁴
<i>Order Types performed</i>						
a. Unbundled Loop	YES	YES	Unknown ⁵	YES	YES	YES
b. Unbundled Feeder Loop	Unknown ⁵	Unknown	Unknown	Unknown	YES	YES

¹ The CenturyLink column is populated based on CenturyLink's responses to Integra's data requests. See Exhibit TG-17.
² The Qwest column is populated based on information obtained on Qwest's external website. See <http://www.qwest.com/wholesale/>.
³ IMA-GUI offers a list of Billing Account Numbers (BANs) for each corporate identifier (known as RSID/ZCID). See IMA User Guide, p. 178 at http://www.qwest.com/wholesale/downloads/2010/100802/IMAUG_280_080210.pdf
⁴ Pre-population of the LSR is a GUI issue, not present in an application-to-application environment (EDI or XML).
⁵ CenturyLink's response for any service populated with Unknown is: "CenturyLink is unclear what service or product is being described in this question."

c.	Unbundled Distribution Loop	Unknown	Unknown	YES	YES
d.	Local Number Portability	YES	YES	YES	YES
e.	Loop with Number Port	YES	YES	YES	YES
f.	Unbundled Distribution Loop with Number Portability	Unknown	Unknown	YES	YES
g.	Interim Number Portability	NO	NO ⁶	YES	YES
h.	Loop with Interim Number Portability	NO	NO	YES	YES
i.	Unbundled Distribution Loop with Interim Number Portability	NO	NO	YES	YES
j.	Directory listing	YES	YES	YES	YES
k.	Resale Private Line	YES	YES	YES	YES
l.	Resale POTS	YES	YES	YES	YES
m.	Resale Public Access Line (PAL)	YES	YES	YES	YES
n.	Resale PBX	YES	YES	YES	YES
o.	Resale ISDN	YES	YES	YES	YES
p.	Resale Designed Trunks	Unknown	Unknown	YES	YES
q.	Resale Frame Relay	NO	NO	YES	YES
r.	Resale DID In Only Trunks	YES	YES	YES	YES
s.	Commercial DSL (Broadband for Resale)	YES	YES	YES	YES
t.	Unbundled Analog Line Side Switch Port	NO	NO	YES	YES
u.	Unbundled Analog Line Side Switch Port ISDN BRI Capable	NO	NO	YES	YES
v.	Unbundled Analog DID/PBX Trunk Port	NO	NO	YES	YES
w.	Unbundled DS1 DID/PBX Trunk or Trunk Port Facility	NO	NO	YES	YES
x.	UNEP ISDN BRI	NO	NO	YES	YES
y.	UNEP POTS	YES	YES	YES	YES
z.	UNEP Centrex	YES	YES	YES	YES
aa.	UNEP Centrex 21	Unknown	Unknown	YES	YES
bb.	UNE-P DSS Facility	Unknown	Unknown	YES	YES
cc.	UNE-P DSS Trunk	Unknown	Unknown	YES	YES
dd.	UNE-P PRI ISDN Facility	NO	NO	YES	YES
ee.	UNE-P PRI ISDN Trunk	NO	NO	YES	YES
ff.	UNE-P PBX DID-In only trunk	YES	YES	YES	YES

⁶ Embarq's website states: "Interim Number Portability Service Interim Number Portability (INP) is provided by EMBARQ only where Local Number Portability (LNP) has not yet been implemented." (See http://embarq.centurylink.com/wholesale/docs/guides/une_guide.pdf)

	Unknown	Unknown	Unknown	YES	YES
gg. UNE-P PBX Design Trunk					
hh. EEL/UNE Combination	YES	YES	YES	YES	YES
ii. Resale Centrex	YES	YES	YES	YES	YES
jj. Line Split UNEP POTS	NO	NO	NO	YES	YES
kk. Line Split UNEP PBX Design Trunk	NO	NO	NO	YES	YES
ll. Split UNEP Centrex 21	NO	NO	NO	YES	YES
mm. Unbundled Loop Split	NO	NO	NO	YES	YES

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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GARY PIERCE, Commissioner
SANDRA KENNEDY, Commissioner
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PROPOSED MERGER OF THEIR PARENT)	
CORPORATIONS QWEST)	
COMMUNICATIONS INTERNATIONAL INC.))	
AND CENTURYTEL, INC.)	

EXHIBIT TG-17

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

JOINT NOTICE AND APPLICATION OF
QWEST CORPORATION, QWEST
COMMUNICATIONS COMPANY, LLC,
QWEST LD CORP., EMBARQ
COMMUNICATIONS, INC., D/B/A
CENTURYLINK COMMUNICATIONS,
EMBARQ PAYPHONE SERVICES, INC.
D/B/A CENTURYLINK, AND
CENTURYTEL SOLUTIONS, LLC FOR
THE 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

**RESPONSES OF CENTURYLINK TO INTEGRA TELECOM'S THIRD SET OF DATA
REQUESTS**

CenturyLink hereby submits its Objections and Responses to Integra Telecom's Third Set
of Data Requests in the above-captioned proceeding, served on CenturyLink on September 14,
2010.

INFORMATION REQUESTS

1. Please identify each vendor (e.g., DSET, Synchronoss) and each service bureau (e.g., Neustar, Telcordia, Accenture) which you have had any communications regarding systems and/or integration plans regarding processing or potential processing of ASRs after the Closing Date and, for each such communication:
 - a. Provide all documents, including but not limited to all emails, that evidence, refer or relate to such communications;
 - b. State the date of each such communications;

1 13. Which of the following pre-order functions does CenturyLink currently provide
2 with EASE? For each subpart below, state whether the order type is available for ASRs, LSRs,
3 or both and whether the interface is application to application, GUI, or both. To the extent you
4 are unclear about the service or product being described, please see Qwest's PCAT and ICAs
5 regarding these items:

- 6 a. Address validation
7 b. Channel Facility Assignment (CFA) Validation
8 c. Meet Point Query Validation
9 d. Network Channel (NC)/ Network Channel Interface (NCI) Codes Validation
10 e. Raw Loop Data Validation at least for service and products that Qwest provides
11 f. Billing Account Number (BAN) Validation
12 g. Customer Service Records (CSR)
13 h. Telephone Number(s) (TNs) Reservation
14 i. Provide Facility Availability
15 j. Provide Service Availability
16 k. Loop Qualification for Integrated Services Digital Network (ISDN)
17 l. Loop Qualification for Unbundled Asymmetric Digital Subscriber Line (ADSL)
18 m. Loop Qualification for Commercial Broadband Services
19 n. Appointment Scheduling

20 Objections: CenturyLink objects to this request because it is vague, ambiguous and imprecise
21 in that it fails to provide a clear explanation of the services or products described.

22 Response: Subject to and without waiving its objections, CenturyLink provides the
23 following response:

- 24 a. Address validation - Yes
25 b. Channel Facility Assignment (CFA) Validation - Yes
26 c. Meet Point Query Validation - No, not at this time.
27 d. Network Channel (NC)/ Network Channel Interface (NCI) Codes
28 Validation - Yes
 e. Raw Loop Data Validation at least for service and products that Qwest
 provides - No, not as part of the pre-order function. This function is
 provided in pre-qualification as part of the LSR process within EASE.
 f. Billing Account Number (BAN) Validation - Yes
 g. Customer Service Records (CSR) - Yes

- 1 h. Telephone Number(s) (TNs) Reservation - No, not as part of the pre-
- 2 order function. However this function is available in EASE.
- 3 i. Provide Facility Availability - No. We validate if an address is valid in
- 4 preorder. Availability is determined upon submission of a firm order.
- 5 j. Provide Service Availability - Yes, not as part of the pre-order function.
- 6 k. Loop Qualification for Integrated Services Digital Network (ISDN) -No,
- 7 not as part of the pre-order function. This function is provided in pre-
- 8 qualification as part of the LSR process within EASE.
- 9 l. Loop Qualification for Unbundled Asymmetric Digital Subscriber Line
- 10 (ADSL) - No, not as part of the pre-order function. This function is
- 11 provided in pre-qualification as part of the LSR process within EASE.
- 12 m. Loop Qualification for Commercial Broadband Services - No, not as part
- 13 of the pre-order function. This function is provided in pre-qualification
- 14 as part of the LSR process within EASE.
- 15 n. Appointment Scheduling - No, not as part of the pre-order function. A
- 16 firm order has to be submitted before an appointment can be scheduled.

17 Prepared by: Melissa Cloz, Director Wholesale Operations, CenturyLink

- 18 14. Which of the following order types does CenturyLink provide using EASE? If an
- 19 order type cannot be performed in EASE then please provide information regarding how a CLEC
- 20 places that order type such as via facsimile or via e-mail. For each subpart below, state whether
- 21 the order type is available for ASRs, LSRs, or both and whether the interface is application to
- 22 application, GUI, or both. To the extent you are unclear about the service or product being
- 23 described, please see Qwest's PCAT and ICAs regarding these items.
- 24 a. Unbundled Loop
 - 25 b. Unbundled Subloop:
 - 26 i. Unbundled Feeder Loop
 - 27 ii. Unbundled Distribution Loop
 - 28 d. Local Number Portability
 - e. Loop with Number Port
 - f. Unbundled Distribution Loop with Number Portability
 - j. Directory listing
 - k. Resale Private Line
 - l. Resale POTS
 - m. Resale Public Access Line (PAL)
 - n. Resale PBX

- 1 o. Resale ISDN
- 2 p. Resale Designed Trunks
- 3 q. Resale Frame Relay
- 4 r. Resale DID In Only Trunks
- 5 s. Commercial DSL (Broadband for Resale)
- 6 t. Unbundled Analog Line Side Switch Port
- 7 u. Unbundled Analog Line Side Switch Port ISDN BRI Capable
- 8 v. Unbundled Analog DID/PBX Trunk Port
- 9
- 10 w. Unbundled DS1 DID/PBX Trunk or Trunk Port Facility
- 11 x. UNEP ISDN BRI
- 12 y. UNEP POTS
- 13 z. UNEP Centrex
- 14 aa. UNEP Centrex 21
- 15 bb. UNE-P DSS Facility
- 16 cc. UNE-P DSS Trunk
- 17 dd. UNE-P PRI ISDN Facility
- 18 ee. UNE-P PRI ISDN Trunk
- 19 ff. UNE-P PBX DID In-Only Trunk
- 20 gg. UNE-P PBX Design Trunk
- 21 hh. BEL/UNE Combination
- 22

23 **Objections:** CenturyLink objects to this request because it is vague, ambiguous and
24 imprecise in that it fails to provide a clear explanation of the services or
25 products described.

26 **Response:** Subject to and without waiving its objections, CenturyLink provides the
27 following response: EASE supports all wholesale order types that are in the
28 CenturyLink portfolio. The guides to CenturyLink products and processes can
be found at its website by following the instructions below:

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www.centurylink.com

Click on Wholesale in the upper right

In the green box to the right, click on CLEC Services

Under Guides & Demos, Click on Products & Process

Prepared by: Melissa Closz, Director Wholesale Operations, CenturyLink

15. For any of the above for which CenturyLink's answer is that it does not have a current offering:

- a. Does CenturyLink have any plans to offer the order type after the closing date?
- b. Does the availability of the order type depend on the system that will be used after the consolidation of the systems?

Objections: CenturyLink objects to this request because it is vague, ambiguous and imprecise in that it fails to specifically identify what is referenced by the offerings "above."

Response: Subject to and without waiving its objections, CenturyLink assumes that Integra is referring to IR No. 14 and provides the following response: There will be no immediate changes to the available CenturyLink order types after the closing of the merger. No decisions have been made regarding the systems the combined company will use going forward.

Prepared by: Melissa Closz, Director Wholesale Operations, CenturyLink

16. Does CenturyLink or the system called EASE currently impose volume or other limitations that require a CLEC to submit a manual LSR via facsimile or via e-mail for an order type typically accepted by the EASE system? For example, the EASE System may normally process a Number Port order type but it may not allow the CLEC to submit a range of DIDs on a single order in EASE and therefore requires a CLEC to manually submit that Number Port order. If any orders are treated as a project, please describe the criteria for the project (e.g., number of numbers requiring project handling) and state whether orders treated as a project are submitted via EASE or manually. In either case, is any aspect of the processing of the order is manual?

Objections: CenturyLink objects to this request because it is vague, ambiguous, overbroad and imprecise.

Response: Subject to and without waiving its objections, CenturyLink provides the following response: CenturyLink does not impose a volume limit on the number of orders placed through the EASE system. Large orders of several hundred numbers are typically treated as a project. All projects can be submitted electronically through EASE. There are no requirements to submit a manual order for a project.

Prepared by: Melissa Closz, Director Wholesale Operations, CenturyLink

1 17. During LSR processing, when one or more errors occur, please describe the
2 EASE validation process and specifically indicate whether, when multiple errors occur, does
3 EASE present back to the CLEC user all identified errors at one time, or, if not, in what sequence
and on what timing are the errors presented back to the CLEC user?

4 a. Is this information communicated to CLEC as an upfront edit before LSR
5 acceptance? If not, please describe how it is processed and presented to CLEC?

6 **Objections:** CenturyLink objects to this request because it is vague, ambiguous, overly
7 broad, unduly burdensome and excessively time consuming as written and, as
8 such, is not relevant or likely to lead to the discovery of admissible evidence in
this proceeding.

9 **Response:** Subject to and without waiving its objections, CenturyLink provides the
10 following response: The user has the ability to validate the order in two
11 different ways. First, the user may validate the entire order at any time during
12 the order entry process. Second, the user can validate when the order is
completed and submitted for processing, at which time the entire LSR will be
validated and all errors identified. The user may also execute an address
validation within the order, separate from the overall order validation.

13 The edits are processed and presented to the user prior to order acceptance.

14 **Prepared by:** Melissa Closz, Director Wholesale Operations, CenturyLink

15 18. Does the system called EASE as currently implemented by CenturyLink,
16 prepopulate information in the LSR?

17 **Response:** This functionality is on the EASE/LSR development roadmap and is currently
18 being evaluated.

19 **Prepared by:** Melissa Closz, Director Wholesale Operations, CenturyLink

20 19. If not, is this functionality currently being evaluated and, if so, identify any dates
21 or timeframes being evaluated. Please provide any documents, including any EASE LSR
development roadmaps referring to such evaluation of prepopulation of the LSR.

22 **Objections:** CenturyLink objects to this request because it is vague, ambiguous and
23 imprecise in that it fails to identify what is referenced by "this functionality."

24 **Response:** Subject to and without waiving its objections, CenturyLink assumes that
25 Integra intends to reference the functionality described in IR-18 and provides
26 the following response: This functionality is on the EASE/LSR development
roadmap and is currently being evaluated.

27 **Prepared by:** Melissa Closz, Director Wholesale Operations, CenturyLink

28

**MINNESOTA PUBLIC UTILITIES COMMISSION
DOCKET NO. P-421 et al./PA-10-456
INTEGRA'S THIRD SET OF INFORMATION REQUESTS
CENTURYLINK'S RESPONSES**

13. Which of the following pre-order functions does CenturyLink currently provide with EASE? For each subpart below, state whether the order type is available for ASRs, LSRs, or both and whether the interface is application to application, GUI, or both. To the extent you are unclear about the service or product being described, please see Qwest's PCAT and ICAs regarding these items:

- a. Address validation
- b. Channel Facility Assignment (CFA) Validation
- c. Meet Point Query Validation
- d. Network Channel (NC)/ Network Channel Interface (NCI) Codes Validation
- e. Raw Loop Data Validation at least for service and products that Qwest provides
- f. Billing Account Number (BAN) Validation
- g. Customer Service Records (CSR)
- h. Telephone Number(s) (TNs) Reservation
- i. Provide Facility Availability
- j. Provide Service Availability
- k. Loop Qualification for Integrated Services Digital Network (ISDN)
- l. Loop Qualification for Unbundled Asymmetric Digital Subscriber Line (ADSL)
- m. Loop Qualification for Commercial Broadband Services
- n. Appointment Scheduling

CenturyLink Objections:

CenturyLink objects to this request because it is vague, ambiguous and imprecise in that it fails to provide a clear explanation of the services or products described.

CenturyLink's Response:

Subject to and without waiving its objections, CenturyLink provides the following response:

- a. Address validation - Yes
- b. Channel Facility Assignment (CFA) Validation - Yes
- c. Meet Point Query Validation - No, not at this time
- d. Network Channel (NC)/ Network Channel Interface (NCI) Codes Validation - Yes
- e. Raw Loop Data Validation at least for service and products that Qwest provides - No, not as part of the pre-order function. This function is provided in pre-qualification as part of the LSR process within EASE.
- f. Billing Account Number (BAN) Validation - Yes

MINNESOTA PUBLIC UTILITIES COMMISSION
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- g. Customer Service Records (CSR) - Yes
- h. Telephone Number(s) (TNs) Reservation – No, not as part of the pre-order function. However this function is available in EASE.
- i. Provide Facility Availability – No. We validate if an address is valid in preorder. Availability is determined upon submission of a firm order.
- j. Provide Service Availability – Yes, not as part of the pre-order function.
- k. Loop Qualification for Integrated Services Digital Network (ISDN) – No, not as part of the pre-order function. This function is provided in pre-qualification as part of the LSR process within EASE.
- l. Loop Qualification for Unbundled Asymmetric Digital Subscriber Line (ADSL) – No, not as part of the pre-order function. This function is provided in pre-qualification as part of the LSR process within EASE.
- m. Loop Qualification for Commercial Broadband Services – No, not as part of the pre-order function. This function is provided in pre-qualification as part of the LSR process within EASE.
- n. Appointment Scheduling – No, not as part of the pre-order function. A firm order has to be submitted before an appointment can be scheduled.

CenturyLink Supplemental Response:

For the following pre-order functions that CenturyLink provides with EASE, the following response provides whether the order type is available for ASRs and LSRs and whether the interface is application to application or GUI:

- a. Address validation – Available for both ASR and LSR and the interface is both GUI and application-to-application.
- b. Channel Facility Assignment (CFA) Validation – Available for ASR and is under development for LSR. GUI and application to application interfaces are available for ASRs and will be available for LSRs.
- d. Network Channel (NC)/ Network Channel Interface (NCI) Codes Validation – No. Codes may be validated via online reference tables outside of the process to populate an ASR or LSR.
- f. Billing Account Number (BAN) Validation – Available for both ASR and LSR and the interface is both GUI and application-to-application
- g. Customer Service Records (CSR) – Available for LSR and the interface is both GUI and application to application
- j. Provide Service Availability – No, not as part of the pre-order function, but is available as part of the order process.

Sponsor: Melissa Cloz, Director Wholesale Operations

**BEFORE THE MONTANA PUBLIC SERVICE COMMISSION
DOCKET NO. D2010-6.65
CENTURYLINK RESPONSES TO
INTEGRA'S FIRST SET OF INFORMATION REQUESTS
NOS. 1 THROUGH 168**

162. Which of the following order types can be performed in EASE? If an order type cannot be performed in EASE then please provide information regarding how a CLBC places that order type such as via facsimile or via e-mail.
- a. Unbundled Loop
 - b. Unbundled Feeder Loop
 - c. Unbundled Distribution Loop
 - d. Local Number Portability
 - e. Loop with Number Port
 - f. Unbundled Distribution Loop with Number Portability
 - g. Interim Number Portability
 - h. Loop with Interim Number Portability
 - i. Unbundled Distribution Loop with Interim Number Portability
 - j. Directory listing
 - k. Resale Private Line
 - l. Resale POTS
 - m. Resale Public Access Line (PAL)
 - n. Resale PBX
 - o. Resale ISDN
 - p. Resale Designed Trunks
 - q. Resale Frame Relay
 - r. Resale DID In Only Trunks
 - s. Commercial DSL (Broadband for Resale)
 - t. Unbundled Analog Line Side Switch Port
 - u. Unbundled Analog Line Side Switch Port ISDN BRI Capable
 - v. Unbundled Analog DID/PBX Trunk Port
 - w. Unbundled DS1 DID/PBX Trunk or Trunk Port Facility
 - x. UNEP ISDN BRI
 - y. UNEP POTS
 - z. UNEP Centrex
 - aa. UNEP Centrex 21
 - bb. UNE-P DSS Facility
 - cc. UNE-P DSS Trunk
 - dd. UNE-P PRI ISDN Facility
 - ee. UNE-P PRI ISDN Trunk
 - ff. UNE-P PBX DID In-Only Trunk
 - gg. UNE-P PBX Design Trunk
 - hh. BEL/UNE Combination

**BEFORE THE MONTANA PUBLIC SERVICE COMMISSION
DOCKET NO. D2010-5.55
CENTURYLINK RESPONSES TO
INTEGRA'S FIRST SET OF INFORMATION REQUESTS
NOS. 1 THROUGH 168**

- ii. Resale Centrex
- jj. Line Split UNEP POTS
- kk. Line Split UNEP PBX Designed Trunk
- ll. Split UNEP Centrex 21
- mm. Unbundled Loop Split

CenturyLink Response:

- a. Unbundled Loop - Yes
- b. Unbundled Feeder Loop - CenturyLink is unclear what service or product is being described in this question.
- c. Unbundled Distribution Loop - CenturyLink is unclear what service or product is being described in this question.
- d. Local Number Portability - Yes
- e. Loop with Number Port - Yes
- f. Unbundled Distribution Loop with Number Portability - CenturyLink is unclear what service or product is being described in this question.
- g. Interim Number Portability - No we do not allow Interim Number Portability-must be LNP.
- h. Loop with Interim Number Portability - No we do not allow Interim Number Portability-must be LNP.
- i. Unbundled Distribution Loop with Interim Number Portability - No, we do not allow Interim Number Portability-must be LNP.
- j. Directory listing - Yes
- k. Resale Private Line - Yes
- l. Resale POTS - Yes
- m. Resale Public Access Line (PAL) - Yes
- n. Resale PBX - Yes
- o. Resale ISDN - Yes
- p. Resale Designed Trunks - CenturyLink is unclear what service or product is being described in this question.
- q. Resale Frame Relay - Not a current offering.
- r. Resale DID In Only Trunks - Yes
- s. Commercial DSL (Broadband for Resale) - Yes
- t. Unbundled Analog Line Side Switch Port - No, not a current offering
- u. Unbundled Analog Line Side Switch Port ISDN ERI Capable - No, not a current offering.
- v. Unbundled Analog DID/PBX Trunk Port - No, not a current offering.
- w. Unbundled DS1 DID/PBX Trunk or Trunk Port Facility - No, not a current offering.

**BEFORE THE MONTANA PUBLIC SERVICE COMMISSION
DOCKET NO. D2010-5.55
CENTURYLINK RESPONSES TO
INTEGRA'S FIRST SET OF INFORMATION REQUESTS
NOS. 1 THROUGH 168**

- x. UNEP ISDN BRI - No, not an offering.
- y. UNEP POTS - Yes
- z. UNEP Centrex - Yes
- aa. UNEP Centrex 21 - CenturyLink is unclear what service or product is being described in this question.
- bb. UNE-P DSS Facility - CenturyLink is unclear what service or product is being described in this question.
- cc. UNE-P DSS Trunk - CenturyLink is unclear what service or product is being described in this question.
- dd. UNE-P PRI ISDN Facility - No, not an offering.
- ee. UNE-P PRI ISDN Trunk - No, not an offering.
- ff. UNE-P PBX DID In-Only Trunk - Yes
- gg. UNE-P PBX Design Trunk - CenturyLink is unclear what service or product is being described in this question.
- hh. EEL/UNE Combination - Yes
- ii. Resale Centrex - Yes
- jj. Line Split UNEP POTS - No, we do not offer Line Splitting.
- kk. Line Split UNEP PBX Designed Trunk - No, we do not offer Line Splitting.
- ll. Split UNEP Centrex 21 - No, we do not offer Line Splitting.
- mm. Unbundled Loop Split - No, we do not offer Line Splitting.

Sponsor: Melissa Closz, Director Wholesale Operations

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN MAYES, Chairman
GARY PIERCE, Commissioner
SANDRA KENNEDY, Commissioner
PAUL NEWMAN, Commissioner
BOB STUMP, Commissioner

JOINT NOTICE AND APPLICATION OF)	
QWEST CORPORATION, QWEST)	
COMMUNICATIONS COMPANY, LLC,)	
QWEST LD CORP., EMBARQ)	Docket No. T-01051B-10-0194
COMMUNICATIONS, INC. D/B/A)	Docket No. T-02811B-10-0194
CENTURYLINK COMMUNICATIONS,)	Docket No. T-04190A-10-0194
EMBARQ PAYPHONE SERVICES, INC.)	Docket No. T-20443A-10-0194
D/B/A CENTURYLINK, AND CENTURYTEL)	Docket No. T-03555A-10-0194
SOLUTIONS, LLC FOR APPROVAL OF THE)	Docket No. T-03902A-10-0194
PROPOSED MERGER OF THEIR PARENT)	
CORPORATIONS QWEST)	
COMMUNICATIONS INTERNATIONAL INC.))	
AND CENTURYTEL, INC.)	

EXHIBIT TG-18

FINAL MEETING MINUTES

CLEC-Qwest Change Management Process Re-design Tuesday, August 14 and Thursday, August 16, 2001 Working Sessions 1005 17th Street, 1st Floor, Jr. Board Room, Denver, CO Bridgeline: 1-877-847-0304, pass code 7101617#

NOTE: These FINAL meeting minutes were circulated to the CMP Re-design Core Team Members in attendance for their review and comments are noted in *italic* throughout the minutes.

INTRODUCTION

The Core Team (Team) and other participants met August 14th and 16th to continue the effort to improve Qwest's Change Management Process. Following is the write-up of the discussions, action items, and decisions made in the working sessions. The attachments to these meeting minutes are as follow-

ATTACHMENTS

- Attachment 1: Attendance Record
- Attachment 2: Agenda, August 14th and 16th
- Attachment 2a: Updated Agenda, August 16th
- Attachment 3: Core Team Issues and Action Items Log (updated)
- Attachment 4: Qwest's Naming Convention Spreadsheet (revised-Proposal)
- Attachment 5: Notification Process Plan (Proposal)
- Attachment 6: Sample Report (Proposal)
- Attachment 7: Voting Tally Form (Included in 7a)
- Attachment 7a: Procedures for Voting and the Impasse Resolution Process (Draft Proposal)
- Attachment 8: Core Team Members Expectations/Responsibilities (revised)
- Attachment 9: AT&T August 13, 2001 Memorandum
- Attachment 10: Qwest Severity Levels (Informational)
- Attachment 11: Schedule—CMP Re-design Working Sessions (revised)

MEETING MINUTES

The meeting on August 14 began with introductions of the meeting attendees—see Attachment 1 for the Attendance Record. Judy Lee advised attendees of the protocol to state name and company when making a statement. Lee reviewed the two-day agenda (refer to Attachment 2: August 14 and 16 Agenda) and asked for suggestions of changes or modifications. No suggestions were offered. Lee acknowledged the receipt of AT&T's memorandum expressing concern in five areas. Lee asked AT&T and other participants if this discussion can be added to the agenda under "Feedback on August 7-8 Meeting Minutes and Discussion Elements." AT&T and participants agreed. Copies of the meeting materials including AT&T's memorandum and agenda were made available for all attendees. Meeting materials were issued via e-mail to the Core Team and attendees on the conference bridge.

Lee facilitated the discussion on the following Issues and Action Items: (refer to Attachment 3 Issues and Action Items Log)

- Naming Convention
- Notification Process Plan
- Sample Report
- Voting Tally Form

Qwest advised that where a CLEC has a problem and there is no work-around this would be classified as a Severity 2. He further clarified Qwest's internal Severity Levels as:

- Severity 1 – System is down.
- Severity 2 – Significant impact to a functionality that is critical to business and there is no work around.
- Severity 3 - Significant impact to a functionality that is critical to business and a work around is available.
- Severity 4 – All others

Clauson-Eschelon wanted clarification on designation of systems and/or Product & Process. Should the Team address system changes for Product & Process as we address them for Systems? Lee advised that the intent of Change Management is to cover interfaces and functionality. Powers-Eschelon indicated that the Team needs to come back to backend system if we are only addressing interfaces. Thompson-Qwest stated that the Team needs to address functionality and Qwest can commit to making a change to functionality. Clauson-Eschelon stated that during discussion on Scope, it was agreed to that Systems directly or indirect affects CLECs. Schultz-Qwest clarified that the Team didn't come to an agreement on what is included in "directly or indirectly" but agreed to address functions impacted. Clauson-Eschelon stated that the Team can't wait until later to define Types – the Team needs to address functions impacted now. Thompson-Qwest indicated that Qwest can only commit to interfaces, but the functionality issues are tied to interfaces. Powers-Eschelon, questioned whether we only tie types of Application Interfaces. Clauson-Eschelon suggested that the Team define "Application Interfaces" to include functions that directly or indirectly affecting CLECs. Thompson-Qwest agreed to identify functions. Clauson-Eschelon stated that the CLECs need validation of parity – a system release that gets modified by Retail impacts the CLEC. Thompson-Qwest agreed to name functions, but would not address the question on determination of parity. Clauson-Eschelon agreed that Eschelon does not want to name systems, or use parity. Eschelon stated that Verizon uses OSS and Qwest uses Application. Lee advised that an industry guideline for application means gateway to gateway and OSS is general interfaces. Thompson-Qwest agreed to Pre-Order, Ordering, Provisioning, Maintenance & Repair and Billing functions. Clauson-Eschelon felt functions may be appropriate. The Team agreed that a definition for interfaces is needed. CLECs requested a caucus during lunch to develop a definition on "interfaces."

After lunch, Osborne-Miller-AT&T reviewed the CLECs proposed definition of OSS Interfaces.

OSS interfaces include Gateways, connectivity, Qwest's Backend and Legacy system, and Qwest's Retail Systems that affect the Pre-Order, Order, provisioning, maintenance/repair and billing functions provided to CLECs.

Thompson-Qwest does not agree to the backend and legacy systems and Qwest Retail Systems. He could accept the functions provided by the systems in support of Pre-Order, Ordering/Provisioning, Maintenance/Repairs and Billing. Clauson-Eschelon wanted to use systems. Thompson-Qwest advised that system functions are acceptable, but not systems. Gindlesberger-Covad expressed concern if the reference to systems is eliminated. Clauson-Eschelon stated she was comfortable with system functions. Gindlesberger-Covad would accept "systems function" if all other CLECs were in agreement. Clauson-Eschelon requested that there is reference to retail offerings. Thompson-Qwest didn't want to accept this and felt the parity issue should be addressed outside the CMP discussions. Lee stated that the Change Management Process doesn't manage the parity issue, but manages changes to system functionality. Clauson-Eschelon stated that this is for the CLECs to decide. Qwest advised that the testing of parity is outside the CMP. Clauson-Eschelon indicated that there needs to be an automatic way to notice changes to Retail systems because this is a system change that affects CLECs. Thompson-Qwest stated that there are regulatory obligations, new products, etc. that have appropriate notifications. The CMP does not determine if there is parity or not. The CMP addresses a change that may have resulted from Retail functionality changes. Clauson-Eschelon stated that Eschelon doesn't disagree on the above, but believes that CLECs should get notifications on changes Qwest makes to Retail. Thompson-Qwest stated that CLECs will be notified on Retail driven

changes that impact CLEC interfaces. Clauson-Eschelon suggested adding, "as required by law" at the end. [Eschelon COMMENT: it states: "Clauson-Eschelon suggested adding, "as required by law" Actually, Jeff (Thompson) suggested language referring to statutes, etc., and the person on the phone expressed a concern about that language. So, I replied with this language in an attempt to address both of their suggestions]. Schultz-Qwest wanted to change, "includes" to "as defined."

Discussion pursued on language and the following definition was agreed to:

Throughout this document, OSS Interfaces are defined as gateways (including application-to-application and GUI), connectivity, and system functions that support, or affect the pre-order, order/provisioning, maintenance/repair and billing capabilities that are provided to CLECs.

Powers-Eschelon questioned whether a customer-originated change for regulatory changes is automatically placed on the list of changes or not. Thompson-Qwest responded that if it is determined to be a regulatory change, then yes.

Industry Guidelines

Clauson-Eschelon asked if there were any other Industry bodies besides ATIS. Thompson-Qwest advised that there is American National Standards Institute (ANSI). Schultz-Qwest asked Thompson-Qwest if Qwest implements changes before approved by an industry body. Thompson-Qwest advised that Qwest may implement changes before approval by an industry body. The Team agreed to go back individually and ascertain whether there are any additional governing bodies that need to be included.

Qwest Originated Changes

Clauson-Eschelon requested a change from "Interfaces" to "OSS Interfaces" and delete everything after that in the sentence.

CLEC Originated Changes

The Team agreed to change "Interfaces" to "OSS Interfaces" and delete everything after that in the sentence. Schultz-Qwest advised that manual and business process need to be addressed in the "Process" discussions at a later date.

Tracking Change Requests

Lee advised that this was covered in the redline document.

Change Request Initiation Process

Schultz-Qwest requested that in Customer Originated Request, 1st paragraph, and 1st sentence change "via e-mail" to "electronically." She introduced the new process that is being implemented on holding clarification meetings with the originator after receipt of a Change Request. Schultz-Qwest also started the development of flow charts and procedures for handling Change Request. It was agreed that this section will be tabled until the September 5 meeting and Qwest will issue draft procedures by August 28.

Change to Existing Interfaces

The Team agreed to change "Interfaces" in the Title to "Pre-Order and Order Application-to-Application." Thompson-Qwest clarified that an EDI change calls for a CLEC to make a change on their side of the application, therefore there is a need for Qwest to maintain two versions of software. On the other hand, a GUI change does not require a CLEC to make any interface changes; therefore there is not a need for Qwest to maintain two GUI versions. He wanted to limit it to application-to-application, pre-order and order. Thompson-Qwest to incorporate the SGAT language for versioning in the redlined CMP re-design document. Schultz-Qwest advised that a development view will be shared with the CLECs on a quarterly basis at the first monthly meeting. Clauson-Eschelon indicated that the presentation of the quarterly view allows for discussion. Schultz-Qwest asked the CLECs if they wanted a 12-month view. Thompson-Qwest

BEFORE THE ARIZONA CORPORATION COMMISSION

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EXHIBIT TG-19

PUBLIC VERSION

Exhibit TG-19 is highly sensitive
and confidential.