

LATHAM & WATKINS LLP

September 29, 2010

EX PARTE VIA ECFS

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

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Re: *Applications Filed by Qwest Communications International Inc. and CenturyTel, Inc. d/b/a/ CenturyLink for Consent to Transfer of Control*, WC Docket No. 10-110

Dear Ms. Dortch:

This is to inform you that on September 28, 2010, CenturyLink, Inc. (“CenturyLink”) and Qwest Communications International Inc. (“Qwest”) along with their outside counsel met with Commission staff regarding the above-captioned proceeding. Bill Cheek, Maxine Moreau, and David Bartlett attended on behalf of CenturyLink. Karen Brinkmann and Alexander Maltas of Latham & Watkins attended as counsel to CenturyLink. Melissa Newman attended on behalf of Qwest. Jon Nuechterlein of WilmerHale attended as counsel to Qwest. Nick Alexander, Carol Simpson, and Don Stockdale attended the meeting on behalf of the Commission.

CenturyLink and Qwest noted at the outset that they recently entered into a comprehensive settlement agreement in Iowa with all of the wholesale intervenors in that state. A copy of the Iowa settlement is attached to this letter. The Iowa settlement resolved all of the CLEC intervenors’ concerns regarding the combined company’s Operations Support Systems (OSS), Change Management Process (CMP), interconnection agreements (ICAs), and performance metrics. As a result, the CLEC intervenors support approval of the CenturyLink-Qwest merger by the Iowa Utilities Board.

CenturyLink explained that the types of issues raised in the recent CLEC *ex partes* in this docket, including the purported concerns cited in an *ex parte* filing of September 24, 2010, were negotiated and resolved among the parties in the Iowa proceeding, as embodied in the companies’ voluntary commitments in the recent Iowa settlement. The CLEC *ex partes* focus on the merging parties’ respective OSS and express uncertainty about the availability of those systems after closing. The terms contained in the Iowa settlement can serve as a model for satisfying those concerns. Specifically:

- The CLECs raise concerns about the possibility of changes to OSS in Qwest areas, and specifically questioned the “continued viability of Qwest’s wholesale

OSS” following the merger.¹ In the Iowa settlement, the parties agreed not to discontinue Qwest’s OSS for a minimum of 24 months after closing, to utilize the CMP if the Qwest OSS is changed, and to give at least 6 months’ notice if the Qwest OSS is retired, thereby resolving the concerns of the CLECs in Iowa.

- The CLECs raise concerns about possible changes to the CMP in Qwest service areas.² In the Iowa settlement, the parties committed to keeping Qwest’s CMP in place for at least 36 months post closing.
- The CLECs fear discontinuance of Qwest ICAs, and specifically allege (citing no facts whatsoever) that “CenturyLink appears to want to discontinue Qwest ICAs wherever possible.”³ Nothing of the kind has been suggested by CenturyLink. In fact, the Iowa settlement provides for a tiered extension of all Qwest ICAs for up to 36 months, depending on how long the existing agreement has been in place or expired, and depending upon whether TRRO-compliant terms are contained in the ICAs.
- The CLECs raise concerns about CenturyLink continuing Qwest’s performance metrics.⁴ The Iowa settlement extends the Qwest Performance Assurance Plan for at least 36 months after closing.

The Iowa settlement thus addresses and resolves the same major categories of concerns as raised by the CLECs in their recent *ex parte* filings. CenturyLink and Qwest are committed to working with their wholesale customers, and through the Iowa settlement, they have demonstrated their willingness to engage in good faith negotiation and to provide reasonable assurances to their wholesale customers. CenturyLink and Qwest are confident that they can reach amicable resolution with any CLECs who are similarly interested in negotiation, as opposed to simply seeking to hold up the transaction. CenturyLink noted to the Commission staff that it has made several attempts to set up meetings with Integra, and that Integra has postponed meeting with CenturyLink for several weeks, even while it has filed multiple *ex partes* with this Commission. CenturyLink remains open and willing to sit down with Integra and other CLECs if they are prepared to engage in a meaningful discussion of these matters and resolve them to the benefit of consumers.⁵

¹ See CBeyond, Integra Telecom, Socket Telecom and tw telecom Presentation, at 1, attached to September 24, 2010 *ex parte*.

² *Id.* at 2.

³ *Id.* at 3-4.

⁴ *Id.* at 5.

⁵ CenturyLink and Qwest do acknowledge one inadvertent error in their Reply Comments. The statement that tw telecom lacked an EASE account is incorrect; the Reply Comments should have referred to Time Warner Cable rather than tw telecom.

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CenturyLink next discussed its integration activities, both in its ongoing integration of Embarq and in its planned integration of Qwest. CenturyLink explained that it has devoted extensive resources to the integration of Embarq, which is progressing on or ahead of schedule. CenturyLink noted that it intends to take the appropriate amount of time to ensure proper completion of the Embarq integration, and thus has no intention of needlessly hastening its integration of Qwest.

CenturyLink also explained that it has both unmatched experience and adequate resources to integrate Qwest's operations after closing. CenturyLink stated that it had recently announced a number of significant personnel decisions for the combined company, including the naming of Qwest's current Vice President of Customer Service Operations as post-merger CenturyLink's Vice President-Wholesale Operations, and the naming of Qwest's current Vice President of Product Management as post-merger CenturyLink's Vice President-Product and Marketing. These personnel decisions ensure that key Qwest executives will remain with the combined company in charge of wholesale operations and product. The applicants are continuing to work through their normal integration planning process to complete the teams who will ensure continuity of services for wholesale as well as retail customers.

Please contact me if you have any questions.

Sincerely,

/s/

Karen Brinkmann
Alexander Maltas
LATHAM & WATKINS LLP

Counsel for CenturyLink, Inc.

cc: Nick Alexander
Carol Simpson
Don Stockdale

STATE OF IOWA
DEPARTMENT OF COMMERCE
IOWA UTILITIES BOARD

FILED WITH
Executive Secretary
September 27, 2010
IOWA UTILITIES BOARD

IN RE: QWEST COMMUNICATIONS INT’L, INC. AND CENTURYTEL, INC.	DOCKET NO. SPU-2010-0006
Joint Motion for Approval of Settlement Agreement And Certain Intervenors’ Motion to be Excused from the Hearing	

Applicants Qwest Communications International Inc. and CenturyLink, Inc., formerly CenturyTel, Inc., and their subsidiaries and any post-merger successors (“Applicants” or, collectively post-merger, “Company”); and Sprint, PAETEC, MCC Telephony/MediaCom, Cox, and 360Networks, Inc. (collectively the “CLEC Intervenors”)¹, agree to the following terms and conditions of settlement:

Purpose. This Settlement Agreement has been prepared and executed for the purpose of resolving issues between Applicants and the CLEC Intervenors in this docket. The parties agree that the schedule, the governing law, and the market conditions in Iowa are unique. The agreement is applicable in this docket only, except to the extent necessary to implement the agreement in relevant future proceedings in accordance with its terms. The Parties agree that with this Settlement Agreement and the provisions agreed to by the Parties for Iowa summarized below, the proposed merger between Qwest and CenturyLink is consistent with

¹ LISCO and US Cellular represent that they do not object to the settlement and counsel for those entities will promptly file withdrawals of their interventions.

and not contrary to the public interest within the meaning of Iowa Code § 476.77. At the same time, however, the Parties recognize and agree that this settlement resolves only the Iowa proceedings, and the Parties to this agreement are not restrained from presenting any position, view or agreement in any other jurisdiction reviewing the merger transaction and further agree that they shall not use this agreement in any other proceeding as evidence of any other Party's position in that proceeding.

Request for Approval. The Parties agree and move the Board to approve or in the alternative not disapprove the Application for Expedited Approval of Reorganization filed by Qwest and CenturyLink consistent with the terms and conditions of the previous settlement between Joint Applicants and the OCA and the following terms and conditions agreed to by Joint Applicants and the CLEC Intervenors:²

- a. Qwest Corporation (or any successor entity) will not discontinue their wholesale Operations Support Systems (OSS) for a minimum of 24 months, post transaction closing. In the event that any Qwest OSS is subsequently changed or retired, Qwest Corporation will utilize the terms and conditions set forth in the Change Management Process (CMP) and consistent with the CMP condition below, but in no event shall there be less than 6 months notice of the retirement of the legacy Qwest OSS from current Qwest territories. In the event that any CenturyLink OSS is introduced, changed or retired, CenturyLink will provide 6

² The Parties also jointly request and stipulate that the testimony proffered by the Intervenor CLECs shall not be admitted into evidence, but the Parties agree to provide any testimony or evidence deemed necessary by the Board to evaluate or support the proposed settlement.

months advance notification to the affected interconnecting carriers. During that 6 month notice period (or earlier upon agreement of the parties) established for retiring a Qwest or CenturyLink OSS, any interconnected CLEC³ or CMRS provider shall be permitted to test the proposed replacement OSS, and CenturyLink shall cooperate with such testing at no charge to the testing carrier, including but not limited to, making available a testing environment.

b. Qwest Corporation (or any successor entity operating in current Qwest territories) will honor all obligations under its existing interconnection agreements.

i. Extension. Qwest Corporation will not terminate or change the conditions of any CLEC or CMRS interconnection agreement, with the exception of changes of law, unless requested or agreed to by the interconnecting CLEC or CMRS provider, or in the event of default or other triggering event expressly contemplated by the terms of the agreement, for a period of:

1. 36 months from the Closing Date for any CLEC or CMRS interconnection agreement that is not expired as of the Closing Date of the transaction and for any CLEC or CMRS interconnection

³ As used throughout the Parties' Agreement, "CLEC" shall also include non-incumbent carriers operating in Iowa under an Order in Lieu of Certificate from the Iowa Board (e.g., the Order in Lieu of Certificate issued 3/3/06 in Docket SPU-05-21).

agreement that has been expired less than 3 years as of the Closing Date of the transaction;

2. 24 months from the Closing for any CLEC interconnection

agreement that has been expired for more than 3 years and has been amended to include Qwest's TRRO language⁴ and for any other CMRS interconnection agreements; or

3. 12 months from the Closing Date for any CLEC interconnection

agreement that has been expired for more than three years and not amended to include Qwest's TRRO language as of the Closing Date of the transaction.

ii. Negotiation and Opting-In. Where parties are in negotiations for the initial successor agreement to an agreement covered in ¶ 2(b)(i)(1) above, the interconnecting CLEC or CMRS provider may, at its option, use its currently existing agreement as the basis for negotiating the initial successor agreement with Qwest Corporation. Unless mutually agreed otherwise, the parties agree to incorporate the amendments to the existing agreement into the body of the agreement used as the basis for such negotiations of the initial successor agreement. An interconnecting CLEC or CMRS provider may opt-in to an interconnection agreement in its

⁴ Joint Applicants stipulate that their Iowa ICAs with intervenors McLeodUSA/PAETEC, Sprint, Cox and MCC Telephony are "existing" ICAs for purposes of 2(b) and meet the criteria of either 2(b)(i)(1) (Cox, MCC, 360) or 2(b)(i)(2) (McLeod, Sprint).

initial term or the extended term provided for in 2(b)(i)(1), if applicable. This provision does not limit any opt-in rights a carrier may have under Section 252(i) or FCC rules or orders. If Qwest Corporation and a requesting CLEC or CMRS provider are in negotiations for a replacement interconnection agreement before the Closing Date, Qwest Corporation will allow the requesting CLEC or CMRS provider to continue to use the negotiation draft upon which the negotiations prior to the Closing Date have been conducted as the basis for negotiating that replacement interconnection agreement.

iii. Protection Against Tariff-Based Changes. Qwest Corporation agrees that it will not seek approval for new tariff rates to establish any new wholesale charges for service order processing (including, but not limited to, fees associated with ASRs and LSRs), directory listings or directory listing storage, non-published number charges, local number portability charges or E911 records transaction or storage charges for 36 months from the Closing Date, unless otherwise required by law or FCC or state regulatory commission decision.

c. Following the Closing Date, Qwest Corporation shall not discontinue the use of the Qwest Performance Assurance Plan (QPAP) for 36 months after the transaction closing. CenturyLink and Qwest Corporation do not waive the right to seek modifications under the terms and conditions outlined in the Qwest

QPAP. Qwest Corporation shall continue to provide the monthly reports of wholesale performance metrics to Staff and to each CLEC as set forth in the QPAP, unless modified under the terms and conditions outlined in the QPAP.

- d. Qwest Corporation will maintain the current Qwest Corporation Change Management Process (“CMP”) for 36 months after the transaction closing, utilizing the terms and conditions set forth in the CMP Document. CenturyLink and Qwest Corporation do not waive their rights to modify the CMP consistent with the provisions contained in the CMP Document. Pending CLEC Change Requests shall continue to be processed in a commercially reasonable time frame consistent with the provisions contained in the CMP Document.
- e. By virtue of the FCC's jurisdiction, to the extent inconsistent, any terms and conditions applicable to CLECs or CMRS providers contained in the FCC's order approving the merger will automatically be incorporated into and supersede the terms contained in paragraphs 2(a), 2(b), 2(c), and 2(d) herein, except to the extent it is state-specific. Nothing in this agreement shall preclude CLECs and CMRS providers from obtaining in Iowa the benefits of additional FCC conditions not addressed in this agreement.

Reserved Board and OCA authority. Nothing in this agreement is intended to, or has the effect of, precluding OCA or the Board from exercising any authority vested in OCA or the Board for the purpose of securing compliance with any requirements of law or regulation or from otherwise discharging the responsibilities entrusted to them by law.

No waiver. This agreement is intended to relate only to the specific matters referred to in this agreement. No party waives any claim or right which it may otherwise have with respect to any matter not expressly provided for herein.

Binding on parties. This Agreement is made pursuant to Iowa Code § 17A.10 and 199 I.A.C. 7.18 and shall become binding upon the Parties upon its execution, provided, however, that if this Agreement does not become effective pursuant to paragraph 6, or if the proposed merger is not completed, it shall be null and void. To the extent required by law, the Parties shall execute and submit for Board approval any amendments to relevant interconnection agreements.

Effective date. This Agreement shall not become effective unless and until the Board enters an Order approving this Agreement in its entirety without condition or modification. The Parties will consider, but are not bound by, any Board condition or modification.

Conference. If this agreement is not unanimous among the current parties to this docket, the Parties to this agreement will promptly convene at least one settlement conference pursuant to 199 IAC 7.18(2), with notice and opportunity to participate provided to interveners, for the purpose of discussing the settlement proposal. The parties to this agreement shall advise the Board when the conference process has been completed.

In light of the foregoing, the CLEC Intervenors respectfully request that their witnesses be excused from the hearing.

Respectfully submitted this Monday, September 27, 2010.

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