



CenturyLink™

805 Broadway, 8th Floor
Vancouver, WA 98660

October 14, 2010

Oregon Public Utility Commission
Attn: Filing Center
550 Capitol Street NE, Ste 215
Salem, OR 97301-2551

RE: UM-1484 CenturyLink/Qwest Merger – Response to Joint CLECs
Motion to Compel.

Dear Commission:

Enclosed please find an original and three copies of CenturyLink and Qwest's Response to Joint CLECs Motion to Compel.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

William E. Hendricks

cc: Attached Service List

Phone: 360-905-5949
Fax: 360-905-5953

BEFORE THE PUBLIC UTILITY COMMISSION OF

OREGON

UM 1484

In the Matter of)
CENTURYTEL, INC.) CENTURLINK AND QWEST
Application for an Order to Approve the) RESPONSE TO THE JOINT CLECs'
Indirect Transfer of Control of QWEST) MOTION TO COMPEL
CORPORATION)
_____)

RESPONSE TO MOTION TO COMPEL

Pursuant to OAR 860-013-0050, applicant CenturyLink, Inc. ("CenturyLink") and intervenor Qwest Communications International, Inc. ("Qwest") (collectively "the Joint Respondents") hereby respond to the Motion to Compel that the "Joint CLECs" filed on October 11, 2010.¹

First, the "facts" asserted by Joint CLECs are false. CenturyLink has re-examined its responses to Joint CLEC discovery requests JC 166 through 189 first on October 5, 2010 when supplemental responses were provided (see Ex. 5 to Joint CLEC Motion to Compel) and again now with this Response to the Motion to Compel. Specifically, CenturyLink had the employees confirm that they diligently searched for potentially

¹ The Joint CLECs are the following intervenors: XO Communications Services, Inc., tw telecom of oregon, llc, Integra Telecom of Oregon, Inc., Integra Telecom of Oregon, Inc., Advanced TelCom, Inc., Electric Lightwave, LLC, Eschelon Telecom of Oregon, Inc., Oregon Telecom Inc., and United Telecommunications Inc. d/b/a Unicom, Covad Communications Company, PriorityOne Telecom, Inc., and Charter Fiberlink OR-CCVII, LLC.

responsive documents in their possession and control. CenturyLink stands by the completeness and accuracy of responses given as evidenced by the Affidavits attached to this Response as Exhibits 1 and 2. This alone should moot the Joint CLEC Motion to Compel. Second, even if CenturyLink possibly missed a document, to grant the Motion, the Commission would have to find that Joint Applicant's objections to the Data Requests are not well taken. Joint CLECs have provided no evidence, argument or authority that would support such a finding.

I. THE RESPONSES TO THE DISPUTED DATA REQUESTS ARE COMPLETE AND ACCURATE

Joint Applicants are mindful of their obligation to search for records in any case where discovery may be taken and both companies take that obligation seriously. Joint CLECs claim to have conducted an exhaustive analysis of the "facts" of this discovery dispute which they conclude can only lead to the conclusion that CenturyLink is either indolent or up to something nefarious. Although it is not entirely clear which specific data request Joint CLECs are seeking to compel answers to, they make much of an e-mail from DSET to Mike Norton at CenturyLink that CenturyLink did not produce in response to Request Nos. JC 169 and 170.

As noted by the Joint CLECs, a similar dispute regarding virtually the same discovery requests is currently underway in Minnesota. Attached to this Response as Exhibits 1 and 2 are affidavits from the CenturyLink employees responsible for the disputed discovery responses. These affidavits were prepared for the Minnesota

proceeding but address the same disputed discovery requests as they are the same in both Minnesota and Oregon but are numbered differently. Joint CLECs provided a chart which cross references the Oregon Requests with the Minnesota requests on page 2 of Exhibit 3 to the Motion to Compel.

Rather than just dismiss Joint CLECs discovery concerns, CenturyLink went back to the employees responsible for the answers to the disputed Requests. As is apparent from Mr. Norton's Affidavit attached as Exhibit 1, the e-mail in question came from a sales person at DSET. Mr. Norton's sworn statement verifies he has searched his records again and cannot find the e-mail in question nor any responses he might have made to it. Given that Mr. Norton receives literally hundreds of e-mails a day from sales people, he may well have deleted it without reading it. He goes on to provide his recollection of a conversation with the DSET salesman which is entirely consistent with the responses given to the discovery requests in dispute. Joint CLECs have only provided contrary information from a third party, not CenturyLink itself. Given Joint CLECs' theory of what happened between the DSET salesman and Mr. Norton, DSET should also have e-mail responses from Mr. Norton confirming CenturyLink's change of position. If such documentation exists, Joint CLECs should produce it.

Moreover, CenturyLink is also providing the Affidavit of Ms. Closz, who is the person at CenturyLink responsible for answering the disputed requests, which describes the diligence she used in formulating her responses. Her sworn statement

specifically states she searched her records, relied on her own recollection and inquired about the recollections and records of her staff who would have interfaced with persons making inquiries of the type described in the Joint CLEC data requests. Ms. Cloz stands by the accuracy of the response and completeness what was produced.

Given the contents of the CenturyLink Affidavits, there is no basis for a Motion to Compel. While it is possible there may be disputed facts, if Joint CLECs believe they have found a “smoking gun” in these disputed facts, it is entirely appropriate to use this information in cross examination at the hearing. However, litigating these disputed facts via motion or using them as the catalyst to delay the proceeding is completely inappropriate.

II. JOINT CLECS HAVE NOT OVERCOME JOINT APPLICANTS’ OBJECTIONS TO THE REQUESTS

Joint Applicants have established through sworn affidavits that CenturyLink was diligent in its search for responsive documents and that no responsive document exist to be provided. But even they had not, Joint CLECs have yet another hurdle to clear before the Commission could grant the Motion to Compel: They need to establish that the objections interposed by Joint Applicant’s to providing the information are not well founded.

The disputed responses and supplemental responses from Joint Applicants are attached as Exhibit 5 to the Motion to Compel. The responses contain a series of objections to each of the requests including jurisdiction, relevance, undue burden,

confidential information of a third party, as well as vague, ambiguous and overly broad requests. Rather than address these objections head on, Joint CLECs make only vague references to the breadth of the Oregon Discovery statutes and rules. The Commission has adopted the Oregon Rules of Civil Procedure (ORCP) via OAR 860-011-000(3). ORCP 36 allows respondents like CenturyLink to make the objections it interposed in this case. Joint CLECs have the burden of coming forward with some argument and legal authority to rebut each of the objections made by Joint Applicants. Joint CLECs have made no attempt to do this. Consequently, the Motion to Compel is per se defective particularly in light of the fact Joint Applicant's are at an impossible disadvantage being unable to predict what arguments Joint CLECs might make in response to the various objections. Given Joint CLECs failure to address the merits of Joint Applicant's objections to the disputed requests, the Motion to Compel should be denied for this reason as well.

CONCLUSION

Joint Applicants have provided sworn statements from the CenturyLink employees responsible for the discovery in dispute. Their statements demonstrate that they employed proper diligence during the collection of discovery and they found nothing in CenturyLink's files that was responsive. CenturyLink stands by its Responses as complete and accurate. Even if the Commission were to find that CenturyLink had been inept or less than forthcoming in conducting its search for

responsive documents, the Commission would still have to address Joint Applicants' objections to the requests before granting the Motion to Compel. Given that Joint CLECs have provided no facts or legal authority to overcome Joint Applicants' objections, the Commission has no valid way to dismiss them. Joint CLECs Motion to Compel should be denied.

DATED: October 14, 2010

CENTURYLINK



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Respectfully submitted,

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STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

David Boyd	Chair
J. Dennis O'Brien	Commissioner
Thomas Pugh	Commissioner
Phyllis Reha	Commissioner
Betsy L. Wergin	Commissioner

In the Matter of the Joint Petition for Approval of
Indirect Transfer of Control of Qwest operating
Companies to CenturyLink

MPUC Docket No. P-421, P-6237, P-5059,
P-551, P-509, P-563, P-5971, P-6258, P-
5732, P-6478, P-430/PA-10-456

OAH Docket No. 11-2500-21391-2

Administrative Law Judge Barbara J.
Neilson

AFFIDAVIT OF MELISSA CLOSZ

STATE OF KANSAS)
County of Johnson)

Melissa Cloz, being first sworn upon oath, deposes and says:

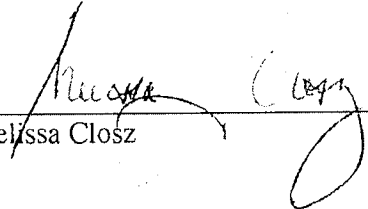
1. I am employed by CenturyLink as Director, Wholesale Operations. My job duties include directing the team that provides order processing and provisioning support, customer care, billing care and dispute management for CenturyLink's Wholesale Markets business unit. I am the same Melissa Cloz who is designated as the Sponsor for Integra's Third Set of Discovery Requests Nos. 1-7, which I understand to be the subject of a Motion to Compel in this proceeding.
2. I used reasonable diligence in gathering the information necessary to provide the identified IR responses, including researching my own records and recollections as well as initiating inquiries regarding the records and recollections of my staff (including Mike

Norton, Manager Client Support and Christina Foo, Wholesale Project Manager), who are responsible for the issues or inquiries related to the requested information.

3. Because all of my group's written communications are done electronically, my records search and the records searches of my staff were of these electronic records.
4. My group is aware of and follows CenturyLink's record retention policies which require that documents such as those that were requested by Integra in its IR Nos. 1-3 must be retained as long as legally required or as long as they serve a business purpose.
5. Based on the information I gathered as described above, I answered IRs Nos.1-7 fully and truthfully and to the best of my knowledge and belief.

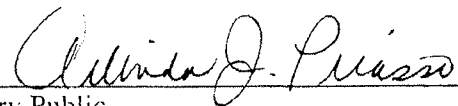
FURTHER AFFIANT SAYETH NAUGHT.

Dated this 14 day of October 2010.

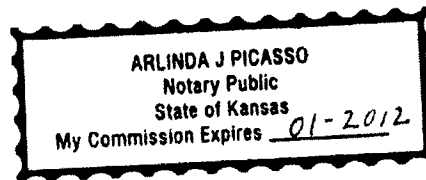


Melissa Closz

Signed and sworn before me this 14 day of October, 2010



Notary Public



**STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

David Boyd
J. Dennis O'Brien
Thomas Pugh
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Betsy L. Wergin

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OAH Docket No. 11-2500-21391-2

Administrative Law Judge Barbara J.
Neilson

AFFIDAVIT OF MIKE NORTON

STATE OF KANSAS)
County of Johnson)

1. Mike Norton, being first sworn upon oath, deposes and says: I am employed by CenturyLink as Manager, Client Support, Wholesale Operations. My job duties include managing the Wholesale unit's operational system needs on behalf of wholesale staff and wholesale customers. In this role, I am the CenturyLink employee responsible for inquires related to electronic bonding, UOM and other technical issues related to interfaces between CenturyLink and its CLEC customers.
2. I have read Integra's Motion to Compel, the Declaration of Stephanie Prull and the e-mail attached to Ms. Prull's Declaration that she represents to be an e-mail sent to me by Jim Seigler, who I know as a salesman for DSET. Although I recall a telephone conversation with Mr. Seigler on or about September 1, 2010, I do not recall ever receiving or reading

the e-mail produced by Ms. Prull and I have been unable to find it in a diligent search of my e-mail records, including an attempt to recover my deleted e-mails.

3. Further, I do not recall ever acknowledging or responding to Mr. Seigler's e-mail and after a diligent search of my e-mail records I have been unable to find any e-mails in which I responded to that communication or otherwise discussed with Mr. Seigler the issues addressed in that communication.
4. The search of my records was done on all e-mails, stored or online, associated with my e-mail account. For the search I used the key words "UOM", "Universal Service Order", "DSET" and Seigler.
5. My recollection of my conversation with Mr. Seigler on or about September 1, 2010 differs from the summary provided in his e-mail. As I recall, the conversation lasted about 15 minutes and the purpose of the call was to discuss CenturyLink's electronic bonding capabilities. We also discussed the status of the CenturyLink methods in use, including Mechanized Specifications for ASR, Universal Order Model (UOM) for ASR and a proprietary batch file (File Transfer Protocol) for LSR, and discussed the UOM capability that CenturyLink is deploying for LSRs. My Seigler inquired about the ongoing use of the EASE application and I indicated that we have not yet had discussions with IT about long term applications or strategies. Mr. Seigler and I had no discussion at all about Qwest customers, nor did Mr. Seigler mention any customers by name. My understanding was that the discussion was intended to focus on electronic bonding capabilities for current CenturyLink customers.


FURTHER AFFIANT SAYETH NAUGHT.

Dated this 14 day of October 2010.

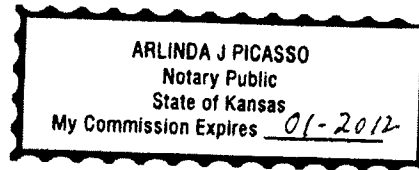


Mike Norton

Signed and sworn before me this 14 day of October, 2010



Notary Public



CERTIFICATE OF SERVICE
UM-1484

I certify that on October 14, 2010, a true and correct copy of CenturyLink and Qwest's Response to Joint CLECs Motion to Compel in Docket UM-1484 was served on the following parties via electronic mail and where paper service is not waived, by U.S. mail:

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Rhonda Kent

W – waived paper service
C – Confidential
HC – Highly Confidential