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Carla M. Butler
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July 9, 2010

Frances Nichols Anglin
Oregon Public Utility Commission
550 Capitol St., NE
Suite 215
Salem, OR 97301

Re: UM-1484

Dear Ms. Nichols Anglin:

Enclosed for filing in the above entitled matter please find an original and five (5) copies of Qwest's Objections to the Northwest Public Communications Council's Petition to Intervene, along with a certificate of service.

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

Sincerely,

A handwritten signature in black ink that reads "Carla". The signature is written in a cursive, flowing style.

Carla M. Butler

Enclosures
cc: Certificate of Service

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 1484

In the Matter of
CENTURYLINK, INC.
Application for an Order to Approve the
Indirect Transfer of Control of
QWEST CORPORATION

**QWEST'S OBJECTIONS TO THE
NORTHWEST PUBLIC
COMMUNICATIONS COUNCIL'S
PETITION TO INTERVENE**

Qwest Communications International, Inc. ("Qwest") hereby respectfully objects to the untimely petition to intervene of the Northwest Public Communications Council, and its purported members (collectively, "the NPCC"), and respectfully submits that the Commission should deny the NPCC's petition.

REASONS FOR OBJECTIONS

I. THE PETITION IS UNTIMELY

First, the petition is untimely. The application for approval of the transaction was filed on May 24, 2010. Shortly thereafter, the Commission provided broad notice about the proceeding, and on June 3, 2010, it issued a notice of a prehearing conference for June 8, 2010. By the June 8, 2010 conference, no fewer than 13 parties had intervened. The Commission then set a June 22, 2010 intervention deadline, and granted several more interventions on June 22, 2010. NPCC does not provide any reason, much less good cause, for its late petition to intervene. On that basis alone, the Commission should deny the petition.

II. THE NPCC NOT HAVE SUFFICIENT INTEREST IN THE PROCEEDING

More importantly, the NPCC does not have a sufficient interest in the proceeding. See OAR 860-012-0001(2). NPCC does not have a sufficient interest in this proceeding because, by its *own admission*, it intends to raise issues that have nothing to do with the forward-looking focus of the merger transaction of the CenturyLink and Qwest parent companies. Specifically, the NPCC admits it "intends to *raise the outstanding proceedings* before the Commission which

are still unresolved after eleven years [sic] and orders of the Commission which Qwest has not currently satisfied and the *outstanding litigation pending* between [NPCC].” Petition, ¶ 5.

As this Commission is well aware, NPCC and Qwest are engaged in a proceeding that the NPCC filed in 2001 (Docket DR 26/UC 600) in which NPCC alleges that Qwest is liable for millions of dollars of refunds for Public Access Line (“PAL”) charges from some time in the 1990s until 2003. Qwest denies that the NPCC is entitled to any such refunds. Regardless of the merits of the parties’ positions, however, it is clear that Docket DR 26/UC 600 is a *historic* dispute about PAL rates and alleged refunds. This dispute has nothing to do with the *forward-looking* issues that the Commission will be addressing here to determine whether the parent companies’ merger is in the public interest and thus should be approved. While the NPCC may allege large amounts of refunds or damages, neither those amounts, nor the legal, jurisdictional and factual issues in DR 26/UC 600 (or in the NPCC’s *three other court actions* seeking the same relief) have anything to do whatsoever with the issues that the Commission will decide in this proceeding.¹ This is merely another attempt to find another forum for the NPCC to inappropriately attempt to raise PAL refund claims, and the “years of litigation” between the NPCC and Qwest (apparently in both Docket DR 26/UC 600 and the Commission’s long-closed UT 125 rate case docket), and Qwest’s alleged “failure to pay refunds” in violation of Commission orders. The NPCC simply does not have a sufficient interest in this proceeding.

III. NPCC’S PARTICIPATION WOULD UNREASONABLY BROADEN THE ISSUES, BURDEN THE RECORD AND UNREASONABLY DELAY THE PROCEEDING

Further, the Commission should deny the petition because the NPCC’s appearance and participation would unreasonably broaden the issues, burden the record and/or unreasonably

¹ As this Commission knows, there is currently pending before Judge Brown Qwest’s motion to dismiss based on a variety of ground, including that the claims before the federal court are the same ones pending in Docket DR 26/UC 600, as well as primary jurisdiction, statute of limitations and other defenses. Qwest intends to file other appropriate motions to dismiss in the second federal court case and the Oregon Court of appeals case.

delay the proceeding. See OAR 860-011-0001(2). Again, this proceeding has to do with the *forward-looking* merger of two telecommunications parent companies, and whether such merger is in the public interest in Oregon. Issues and claims regarding alleged PAL refunds going back to 1996, or about extensive litigation between the NPCC and Qwest in Dockets UT 125 and DR 26/UC 600 going back to 1996 (see Petition, ¶ 4), would undoubtedly unreasonably broaden the issues, burden the record and/or unreasonably delay the proceeding. All that the Commission needs to do is review the extensive record in Docket UT 125 dealing with PAL issues and refunds, as well as the extensive litigation in Docket DR 26/UC 600 (especially since November 2009), to reasonably determine that allowing the NPCC to raise any of these issues here would unreasonably broaden the issues, burden the record and/or unreasonably delay the proceeding.

IV. THE NPCC ALREADY HAS A COMMISSION FORUM FOR ITS CLAIMS

Further still, there is no reason to allow the NPCC to intervene in this proceeding to raise the PAL refund issues it intends to raise here precisely because it *already has a Commission forum* in which to raise them; namely, Docket DR 26/UC 600. Indeed, the NPCC currently has *four* separate fora in which it has attempted to raise these issues. These include a forum-shopping federal court complaint filed in 2009 on the same issues as in Docket DR 26/UC 600 that Judge Anna Brown is handling, a new federal court complaint that the NPCC filed last month that was originally assigned to Judge Ancer Haggerty and which has now been transferred to Judge Brown, and a *fourth* matter that the NPCC recently filed with the Oregon Court of Appeal. There should not be a fifth forum here. This is especially so given the large number of parties in the proceeding and the complex issues (which are limited to merger and public interest issues). This proceeding is not about a party's complaint for refunds or damages for alleged over-payments of PAL charges (admittedly no longer at issue after 2003, seven years ago), or about a party's allegations of Qwest's failure to "satisfy" alleged obligations to such party.

V. **NPCC'S LITIGATION CONDUCT SHOWS INTERVENTION IS NOT PROPER**

Finally, the Commission is well aware of the NPCC's litigation conduct since the Commission lifted its self-imposed stay of proceedings in Docket DR 26/UC 600 in February 2009. Qwest will not recount all of these actions, which the Commission can review from its own docket files. Qwest will only note that the plethora of NPCC filings, both before the Commission in Docket DR 26/UC 600 and in federal court and the Oregon Court of Appeals, especially since November 2009, clearly show that the Commission can reasonably expect the NPCC to attempt to inappropriately leverage this merger proceeding for its own pecuniary and litigation interests, and not for what this merger proceeding is intended for.

CONCLUSION

Accordingly, for all of the reasons set forth above, Qwest respectfully submits that the Commission should *deny* the NPCC's untimely and inappropriate petition to intervene.

DATED: July 9, 2010

QWEST COMMUNICATIONS
INTERNATIONAL, INC.



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CERTIFICATE OF SERVICE

UM 1484

I hereby certify that on the 9th day of July, 2010, I served the foregoing **QWEST'S OBJECTIONS TO THE NORTHWEST PUBLIC COMMUNICATIONS COUNCIL'S PETITION TO INTERVENE** in the above entitled docket on the following persons via U.S. Mail, by mailing a correct copy to them in a sealed envelope, with postage prepaid, addressed to them at their regular office address shown below, and deposited in the U.S. post office at Portland, Oregon.

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DATED this 9th day of July, 2010.

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(w) denotes waiver of paper service
* denotes signed Protective Order