

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1484

In the Matter of)	Docket No. UM 1484
CENTURYLINK, INC.)	MOTION OF SPRINT NEXTEL
Application for Approval of Merger between)	CORPORATION TO COMPEL FULL
CenturyTel, Inc. and Qwest Communications)	RESPONSES TO DATA REQUESTS
International, Inc.)	
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A. MOTION TO COMPEL

Pursuant to OAR 860-013-0031 and OAR 860-014-0070(3), Sprint Nextel Corporation ("Sprint") hereby respectfully moves to compel responses by Qwest Communications International, Inc. ("QC" or "Qwest") and CenturyTel, Inc. ("CenturyLink") to data requests ("DRs") numbers 5, 13, 14 and 41 propounded by Sprint in this proceeding. The data requests which are the subject of this motion are attached hereto as Appendix A. In general, these requests seek information relevant to the competitive impact of a QC and CenturyLink merger including synergy information. Given that intervenor testimony is due on August 25, 2010, Sprint requests expedited consideration pursuant to OAR 860-013-0050.

**B. CERTIFICATION OF CONFERENCE WITH OPPOSING COUNSEL TO
RESOLVE DISPUTES PURSUANT TO OAR 860-014-0070(3)**

Sprint has made a good-faith effort to resolve these matters informally by conferring with counsel CenturyLink and QC on August 4, 2010 in a telephonic exchange. Thereafter,

on August 5, 2012 Sprint circulated a memo recapping the results of the discovery conference, which resulted in some compromises in what Sprint was requesting and in what QC and CenturyLink agreed to provide. The parties exchanged subsequent email exchanges in the following days in an attempt to narrow the disputes further but issues remain with respect to four data requests, DRs 5, 13, 14, and 41, which Sprint needs responses to in order to complete its analysis and prepare its testimony for this docket. However, Sprint has not received responses to various other DRs promised by QC and CenturyLink as a result of the attempts to narrow the disputes. These include responses to DRs 3, 6, 12, 17, 24, 27, 28, 29, 32-36, 44 and 47. Sprint reserves its rights to bring an additional motion to compel on the above-identified DRs if no responses are forthcoming or the responses are unsatisfactory.

C. ARGUMENT

1. BACKGROUND.

Sprint is certificated as a competitive local exchange carrier (“CLEC”) and an interexchange carrier (“IXC”) by the Commission and currently provides local, intraexchange and interexchange telecommunications services in the State of Oregon. Sprint’s wireless affiliates are licensed by the Federal communications Commission (“FCC”) and provide wireless telecommunications services in Oregon. In its capacities as a CLEC, IXC and wireless carrier, Sprint is a customer of, and a competitor to, QC and CenturyLink.

On May 24, 2010, QC and CenturyLink and their respective subsidiaries and affiliates filed a joint application for expedited approval with the Commission of the indirect transfer of control of QC’s operating subsidiaries, Qwest Corporation, Qwest LD Corp. and Qwest Communications Company, LLC to CenturyLink. Sprint was allowed to intervene in this matter on June 28, 2010.

To provide telecommunications services to its customers in Oregon, Sprint purchases services from both QC and CenturyLink pursuant to interconnection agreements and tariffs. The telecommunications services Sprint offers in Oregon also compete with the Qwest and CenturyLink service offerings. Thus, whether the merger of QC¹ and CenturyLink is approved by the Commission as being in the public interest will affect Sprint both as a customer and competitor of the companies.

2. THE INFORMATION SPRINT SEEKS IS RELEVANT TO THE COMMISSION'S PUBLIC INTEREST DETERMINATION.

The Commission, in making its public interest determinations in approving a change of control transaction, should consider the impact on competition at the wholesale and retail level, including whether the transaction might distort or impair the development of competition. To determine this impact on competition, parties like Sprint need to develop a factual record on issues such as competitive harm and possible benefits. For instance, the Commission may find that to cure the harm to competition posed by the merger it will require the companies to reduce access rates to spur competition as the FCC and this Commission continually have stressed. Access rates and revenues directly impact competition at the wholesale and retail level and are therefore squarely relevant to this investigation. While QC and CenturyLink may not want access charges to be considered in the context of this merger approval, they are relevant in reviewing the merger. Information regarding access revenues is relevant to determine whether and to what degree access savings by and between CenturyLink

¹ See, In the Matter of United Telephone Company of the Northwest d/b/a/ Embarq Application for Authority to Sell a Building Located in Hood River, Order No. 08-617, Docket No. UP 247 (2008). See also, In the Matter of United Telephone Company of the Northwest, d/b/a/ Sprint Application for Approval of the Sale of a Building Located in Hood River, Oregon, Order No. 02-466; Docket No. UP 195 (2006).

and QC should be shared with access customers like Sprint. Nonetheless, QC and CenturyLink have refused to provide complete responses to Sprint data requests on this topic.

3. DATA REQUEST NO. 5.

In this request, Sprint seeks revenues for various services provided over the networks operated by QC and CenturyLink in Oregon. Sprint agreed to narrow its request such that QC and CenturyLink not be required to provide revenue numbers for specific services. But Sprint is still interested in obtaining information on total revenues produced by QC and CenturyLink networks in the state. As discussed above, such information is relevant to the Commission's broad public interest determinations that include examining the impact on competition at the wholesale and retail levels. DR 5 asks for total revenues and QC and CenturyLink agreed to provide only intrastate revenue. Limiting Sprint's analysis to only intrastate revenues does not allow for a complete analysis of the competitive impact of the merger, as both CenturyLink and QC provide multiple services over the same network used for interstate and intrastate service. Moreover, access to total revenues will allow the Commission to determine the overall impact that any access reductions may have on the future combined companies. Therefore, total revenues including interstate revenues from Oregon services are relevant to a determination of the competitive impact of the merger and they should be produced.

4. DATE REQUESTS 13 AND 14.

These data requests seek interstate switched access charges and total special access charges for QC and CenturyLink imposed upon each of the affiliated IXC that will be part of the proposed merger. These entities maintain their objections to providing access charge information. Yet, this information is relevant and likely to lead to admissible evidence regarding the impact on competition at the wholesale and retail level. Responses to these

requests should be required because they will allow Sprint to demonstrate the amount of

access charge savings that the merged company will retain when access charge payments become intracompany payments rather than payments from QC entities to CenturyLink entities and vice versa. Any access savings can impact competition as QC and CenturyLink will be able to utilize the savings to develop and market competitive alternatives in the marketplace with which carriers like Sprint must compete. Moreover, an answer to this request will give specific insight into the calculation of synergies resulting from the transaction in Oregon.

The fact that the Commission does not regulate interstate switched access charges and special access charges is not material to the consideration of the proposed merger's impact on competition as a whole in Oregon. Knowledge of the entire scope of savings of the Oregon affiliates of QC and CenturyLink will inform the Commission's competitive analysis. Savings that QC and CenturyLink generate from services the Commission does not regulate still have an impact on the merged company's ability to impact competition in areas the Commission does regulate and will provide insight into synergy calculations. Given the Commission's broad public interest standard, the requests seeking interstate switched access charges and special access charges imposed upon the QC and CenturyLink affiliates must be compelled.

5. DATE REQUEST 41.

This request seeks the number of local access lines and total revenues from those lines that Qwest and its affiliates have in CenturyLink territories in Oregon. Qwest provided a limited response to #41 designated as "confidential." The confidential response puts access line and territory limitations on the investigation Qwest did to determine if it served customers within the CenturyLink ILEC territory in Oregon. This limitation unnecessarily limits Qwest's response as no such limitations were placed in DR 41. Sprint believes that

Qwest should undertake the necessary investigation in the context of discovery to determine if it serves customers in CenturyLink territory, and if so, it should provide how many access lines and the revenues from those access lines without putting limitations on Qwest's investigation. It is not unduly burdensome for an entity to identify the number of access lines it has in a particular state and the revenues from those lines. Such records are routinely kept. This request is relevant as it will be helpful in determining the merger's impact on actual competition in the state. If the merger is approved, actual or potential Qwest competitive entry into CenturyLink territories and actual or potential CenturyLink competitive entry into Qwest territory will disappear. The two parties will not be helpful in constraining prices and promoting competition in the other's territory. Revenue and customer counts for the competitive ventures of Qwest and CenturyLink are crucial in analyzing the merger's impact upon competition in Oregon. For the reasons previously expressed, this response is relevant and should be provided in order to develop testimony to inform the Commission of the full competitive impact of the proposed merger.

D. CONCLUSION

The Commission has recognized that “[d]iscovery is a right afforded to parties in a legal proceeding by our rules and by the Oregon Rules of Civil Procedure, which we follow except where our rules differ.” *Re PGE*, OPUC Docket No. UE 102, Order No. 98-294 at 3 (July 16, 1998); *see* OAR § 860-011-0000(3). ORCP 36B(1) allows broad discovery of information “regarding any matter, not privileged, which is relevant to the claim or defense of the party seeking discovery” The Oregon courts and the Commission have interpreted this provision to mean that the information sought need not be admissible itself, as long as it is reasonably calculated to lead to the discovery of admissible evidence. *Baker v. English*, 324

261, Order No. 91-958 at 5 (July 31, 1991). In addition, when the courts have limited the scope of discovery, restrictions typically have been directed at the use of, rather than the acquisition of, the information sought. *Vaughan v. Taylor*, 79 Or. App. 359, 365 (1986). The Commission rules do not impose any additional limitations on the scope of discoverable information. OAR §§ 860-014-0070, 860-011-0000(3).

The data requests at issue in this motion (numbers 5, 13, 14 and 41) clearly satisfy the broad standard for discovery and this motion should be granted. Sprint reserves its rights to bring an additional motion to compel DRs 3, 6, 12, 17, 24, 27, 28, 29, 32-36, 44 and 47 if no responses are forthcoming or the responses are unsatisfactory.

RESPECTFULLY SUBMITTED this 16th day of August, 2010.

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APPENDIX A

Oregon
UM - 1484
Sprint Nextel 1-05

INTERVENOR: Sprint Nextel

REQUEST NO: 05

Please provide the total revenues generated per legal filing entity for the years ending 12-31-08 and 12-31-09 and the most recently available month-end for YTD 2010 within the state. In addition please respond to the following revenue questions:

- a. For each ILEC or ILEC affiliate provide total revenue for broadband Internet access (include the underlying transport, e.g., DSL and the ISP service) for the years ending 12-31-08 and 12-31-09 and the most recently available month-end for YTD 2010 within the state.
- b. For each ILEC or ILEC affiliate provide total revenue for wireless service for the years ending 12-31-08 and 12-31-09 and the most recently available month-end for YTD 2010 within the state.
- c. For each ILEC or ILEC affiliate provide total revenue for long distance service for the years ending 12-31-08 and 12-31-09 and the most recently available month-end for YTD 2010 within the state.
- d. For each ILEC or ILEC affiliate provide total revenue for any products or services provided outside the ILEC serving territory for the years ending 12-31-08 and 12-31-09 and the most recently available month-end for YTD 2010 within the state.
- e. For each ILEC or ILEC affiliate provide total revenue for video entertainment, cable television, video satellite dish or comparable service for the years ending 12-31-08 and 12-31-09 and the most recently available month-end for YTD 2010 within the state.
- f. For each ILEC or ILEC affiliate provide total revenue for residential and business customer premises equipment for the years ending 12-31-08 and 12-31-09 and the most recently available month-end for YTD 2010 within the state.
- g. For each ILEC or ILEC affiliate provide total revenue for other services such as maintenance contracts, consulting services, security services or comparable services for the years ending 12-31-08 and 12-31-09 and the most recently available month-end for YTD 2010 within the state.
- h. For each ILEC or ILEC affiliate provide total revenue for LAN, WAN or other comparable private network service for the years ending 12-31-08 and 12-31-09 and the most recently available month-end for YTD 2010 within the state.

RESPONSE:

Qwest objects to subparts a-h of this request because they are not reasonably calculated to lead to the discovery of admissible or relevant evidence.

Subject to and without waiving its objections, please see Attachment A.

Respondent: Joyce McDonald, Lead Finance Business Analyst

Oregon

Docket No. UM-1484

Response to Sprint Data Request No. 5

Response Date: July 22, 2010

5. Please provide the total revenues generated per legal filing entity for the years ending 12-31-08 and 12-31-09 and the most recently available month-end for YTD 2010 within the state. In addition please respond to the following revenue questions:
- a. For each ILEC or ILEC affiliate provide total revenue for broadband Internet access (include the underlying transport, e.g., DSL and the ISP service) for the years ending 12-31-08 and 12-31-09 and the most recently available month-end for YTD 2010 within the state.
 - b. For each ILEC or ILEC affiliate provide total revenue for wireless service for the years ending 12-31-08 and 12-31-09 and the most recently available month-end for YTD 2010 within the state.
 - c. For each ILEC or ILEC affiliate provide total revenue for long distance service for the years ending 12-31-08 and 12-31-09 and the most recently available month-end for YTD 2010 within the state.
 - d. For each ILEC or ILEC affiliate provide total revenue for any products or services provided outside the ILEC serving territory for the years ending 12-31-08 and 12-31-09 and the most recently available month-end for YTD 2010 within the state.
 - e. For each ILEC or ILEC affiliate provide total revenue for video entertainment, cable television, video satellite dish or comparable service for the years ending 12-31-08 and 12-31-09 and the most recently available month-end for YTD 2010 within the state.
 - f. For each ILEC or ILEC affiliate provide total revenue for residential and business customer premises equipment for the years ending 12-31-08 and 12-31-09 and the most recently available month-end for YTD 2010 within the state.
 - g. For each ILEC or ILEC affiliate provide total revenue for other services such as maintenance contracts, consulting services, security services or comparable services for the years ending 12-31-08 and 12-31-09 and the most recently available month-end for YTD 2010 within the state.
 - h. For each ILEC or ILEC affiliate provide total revenue for LAN, WAN or other comparable private network service for the years ending 12-31-08 and 12-31-09 and the most recently available month-end for YTD 2010 within the state.

RESPONSE: CenturyLink objects to subparts a, b, c, e, f, g, and h this request because they are not reasonably calculated to lead to the discovery of admissible or relevant

evidence. The products and services indicated in those subparts – broadband, wireless, long distance, video, customer premises equipment, and maintenance services – are not regulated by the Commission, and as such the revenues related to those services and products are not relevant to any issue in this proceeding. For subsection d, CenturyLink objects because the request is overbroad. Only the intrastate revenue for services regulated by the Commission is relevant to the Commission's consideration of this matter. Subject to and without waiving its objections, the 12-31-08 and 12-31-09 intrastate revenues for CenturyTel of Oregon, Inc. d/b/a CenturyLink, CenturyTel of Eastern Oregon, Inc d/b/a CenturyLink, and United Telephone Company of the Northwest d/b/a CenturyLink are included in the companies' annual Commission reports provided in response to Sprint Request 18.

Respondent: John Felz, CenturyLink Director Regulatory Operations

Oregon
UM - 1484
Sprint Nextel 1-013

INTERVENOR: Sprint Nextel

REQUEST NO: 013

Provide the interstate switched access charges for the 2009 calendar year for each ILEC legal entity in the state imposed on each of the affiliated IXCs that will be part of the proposed merger. (e.g., total interstate switched access charges Qwest charged CenturyLink affiliated IXC, total interstate switched access charges CenturyLink charged Qwest affiliated IXC, etc.) Provide the charges separately by IXC and by ILEC legal entity.

RESPONSE:

Qwest objects to this request because it is not reasonably calculated to lead to the discovery of admissible or relevant evidence. As noted in the Application and in CenturyLink's and Qwest's testimony, the proposed transaction will not change the corporate identities of the CenturyLink or Qwest companies that assess access charges, nor the tariffs underlying those charges. This request is simply designed to "fish" for information that might be used in advocating positions on issues that are clearly outside the scope of this proceeding (i.e., adjustments to access charges). Moreover, switched access is an industry-wide issue, and thus it is inappropriate to address switched access for the merging entities alone. Further, any attempt by the merged company to adjust access charges would have to be separately submitted to, and approved by, the Commission. Finally, review of or adjustments to access charges have not been considered proper areas of inquiry in Commission dockets reviewing telecommunications merger/acquisition transactions. See, most recently, the Commission orders in Dockets UM 1416 (CenturyTel/Embarq merger) and UM 1431 (Frontier/Verizon sale), neither of which address or adjust access charges.

Subject to and without waiving these objections, Qwest responds as follows:

Qwest and each of its affiliates pay and receive payment from CenturyLink and each of its affiliates for interstate switched access services pursuant to the tariffs filed by each entity with the Commission.

Respondent: Legal, Qwest

Oregon
Docket No. UM-1484
Response to Sprint Data Request No. 13
Response Date: July 22, 2010

13. Provide the interstate switched access charges for the 2009 calendar year for each ILEC legal entity in the state imposed on each of the affiliated IXCs that will be part of the proposed merger. (e.g., total interstate switched access charges Qwest charged CenturyLink affiliated IXC, total interstate switched access charges CenturyLink charged Qwest affiliated IXC, etc.) Provide the charges separately by IXC and by ILEC legal entity.

OBJECTION:

CenturyLink objects to this request because it is not reasonably calculated to lead to the discovery of admissible evidence and seeks information that is not relevant. As noted in the Application and Applicant's testimony, the proposed transaction will not change the corporate identities of the CenturyLink or Qwest companies assessing access charges nor the tariffs implementing those charges. Any attempt by the Applicants to adjust access charges is appropriate only in a separate proceeding and by Commission approval. Review of, or adjustments to access charges have not been considered proper areas of inquiry in Commission dockets reviewing merger/acquisition transactions. See most recently, Commission orders in UM-1416 (CenturyTel/Embarq) and UM-1431 (Frontier/Verizon), neither of which address or adjust access charges.

RESPONSE:

Subject to and without waiving its objections, CenturyLink states that CenturyLink and each of its affiliates pay and receive payment from Qwest and each of its affiliates for intrastate switched access services pursuant to the tariffs filed by each entity with the Commission.

Respondent: John Felz, CenturyLink Director Regulatory Operations

Oregon
UM - 1484
Sprint Nextel 1-014

INTERVENOR: Sprint Nextel

REQUEST NO: 014

Provide the total special access charges for the 2009 calendar year for each ILEC legal entity in the state imposed on each of the affiliated IXCs that will be part of the proposed merger. (e.g., total intrastate and interstate special access charges Qwest charged CenturyLink affiliated IXC, total intrastate and interstate special access charges CenturyLink charged Qwest affiliated IXC, etc.) Provide the charges separately by IXC and by ILEC legal entity.

RESPONSE:

Qwest objects to this request because it is not reasonably calculated to lead to the discovery of admissible or relevant evidence. As noted in the Application and in CenturyLink's and Qwest's testimony, the proposed transaction will not change the corporate identities of the CenturyLink or Qwest companies that assess access charges, nor the tariffs underlying those charges. This request is simply designed to "fish" for information that might be used in advocating positions on issues that are clearly outside the scope of this proceeding (i.e., adjustments to access charges). Moreover, special access is an industry-wide issue, and thus it is inappropriate to address special access for the merging entities alone. Further, any attempt by the merged company to adjust access charges would have to be separately submitted to, and approved by, the Commission. Finally, review of or adjustments to access charges have not been considered proper areas of inquiry in Commission dockets reviewing telecommunications merger/acquisition transactions. See, most recently, the Commission orders in Dockets UM 1416 (CenturyTel/Embarq merger) and UM 1431 (Frontier/Verizon sale), neither of which address or adjust access charges.

Subject to and without waiving these objections, Qwest responds as follows:

Qwest and each of its affiliates pay and receive payment from CenturyLink and each of its affiliates for interstate special access services pursuant to the tariffs filed by each entity with the Commission. Qwest's intrastate special access charges can be found in Qwest's Private Line transport Services Catalog, which can be located at:
http://tariffs.qwest.com:8000/idc/groups/public/documents/tariff/htmltoc_or_plt_c.htm

Respondent: Lisa Eckert-Hensley, Director, Qwest

Oregon
Docket No. UM-1484
Response to Sprint Data Request No. 14
Response Date: July 22, 2010

14. Provide the total special access charges for the 2009 calendar year for each ILEC legal entity in the state imposed on each of the affiliated IXCs that will be part of the proposed merger. (e.g., total intrastate and interstate special access charges Qwest charged CenturyLink affiliated IXC, total intrastate and interstate special access charges CenturyLink charged Qwest affiliated IXC, etc.) Provide the charges separately by IXC and by ILEC legal entity.

OBJECTION:

CenturyLink objects to this request because it is not reasonably calculated to lead to the discovery of admissible evidence and seeks information that is not relevant. As noted in the Application and Applicant's testimony, the proposed transaction will not change the corporate identities of the CenturyLink or Qwest companies assessing access charges nor the tariffs implementing those charges. Any attempt by the Applicants to adjust access charges is appropriate only in a separate proceeding and by Commission approval. Review of, or adjustments to access charges have not been considered proper areas of inquiry in Commission dockets reviewing merger/acquisition transactions. See most recently, Commission orders in UM-1416 (CenturyTel/Embarq) and UM-1431 (Frontier/Verizon), neither of which address or adjust access charges.

RESPONSE:

Subject to and without waiving its objections, CenturyLink states that CenturyLink and each of its affiliates pay and receive payment from Qwest and each of its affiliates for intrastate switched access services pursuant to the tariffs filed by each entity with the Commission.

Respondent: John Felz, CenturyLink Director Regulatory Operations

Oregon
UM - 1484
Sprint Nextel 1-041

INTERVENOR: Sprint Nextel

REQUEST NO: 041

List the number of local access lines and total revenues received from those access lines that Qwest and its affiliates have in CenturyLink ILEC territories in the state.

RESPONSE:

Please see Confidential Attachment A.

Respondent: Robert Brigham, Qwest Staff Director Public Policy

WASHINGTON
Docket No. UT-100820
Sprint Set 1, No. 41
Highly Confidential
Attachment A

[HIGHLY CONFIDENTIAL BEGIN

ENDS]

[HIGHLY CONFIDENTIAL

Oregon
Docket No. UM-1484
Response to Sprint Data Request No. 41
Response Date: July 22, 2010

41. List the number of local access lines and total revenues received from those access lines that Qwest and its affiliates have in CenturyLink ILEC territories in the state.

RESPONSE:

Please refer to the answers and objections, if any, of Qwest to this request, which are incorporated herein by reference.

Respondent: Legal

**CERTIFICATE OF SERVICE
UM 1484**

I hereby certify that the Motion of Sprint Nextel Corporation to Compel Full Responses to Data Requests was served on the following persons on August 16, 2010, by email to all parties and by U.S. Mail to the parties who have not waived paper service:

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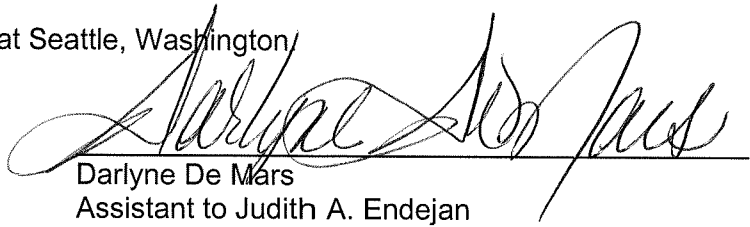
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DATED this 16th day of August, 2010, at Seattle, Washington



Darlyne De Mars
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