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November 16, 2010

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

Re: UM-1484

Dear Ms. Nichols Anglin:

Attached for filing please find an original and one (1) copy of Qwest's and Centurylink's Motion to Strike Certain Portions of Supplemental Testimony of Timothy J. Gates as Improper Surrebuttal Testimony.

Please note **expedited consideration** is being requested.

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

Sincerely,

A handwritten signature in cursive script that reads "Carla".

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 AND CENTURYLINK'S
MOTION TO STRIKE CERTAIN
PORTIONS OF SUPPLEMENTAL
TESTIMONY OF TIMOTHY J. GATES
AS IMPROPER SURREBUTTAL
TESTIMONY**

**EXPEDITED CONSIDERATION
REQUESTED**

INTRODUCTION AND SUMMARY

Qwest Communications International, Inc. ("Qwest") and CenturyLink, Inc. ("CenturyLink") (collectively "Joint Movants") hereby respectfully move to strike certain portions of the Supplemental Testimony of Timothy J. Gates that the remaining "Joint CLECs"¹ filed on November 12, 2010. The grounds for this motion is that such testimony is improper "surrebuttal" testimony, and is not testimony regarding the so-called Hart-Scott-Rodino ("HSR") documents that the Joint Movants provided after August 24, 2010, as Administrative Law Judge Allan Arlow ruled on October 15, 2010, and clarified on November 4, 2010. Rather, Mr. Gates' "supplemental" testimony that the Joint Movants move to strike is really "surrebuttal" testimony similar in substance to surrebuttal testimony that these same parties, and this same witness, filed on October 14, 2010 in the proceeding before the Utah Public Service Commission ("Utah Commission"). However, unlike this Commission, the Utah Commission had allowed the Joint CLECs to file surrebuttal testimony (not tied to HSR issues) in its initial procedural schedule. There is, however, no surrebuttal contemplated in this proceeding, and the supplemental testimony that the Commission allowed the Joint CLECs to file on November 12, 2010 is limited

¹ The remaining "Joint CLECs" are tw telecom of oregon, llc, Covad Communications Company, Level 3 Communications, LLC and Charter Fiberlink Or-CCVII, LLC. The "Joint CLECs" previously included Integra, but the Joint Movants settled with Integra on November 6, 2010, and the Joint Movants filed that settlement with the Commission on November 9, 2010.

solely to HSR issues. The pertinent portions of Mr. Gates' supplemental testimony that the Joint Movants move to strike are as follows: (1) page 5, line 13 through page 9, line 8, (2) page 9, line 9 through page 13, line 2, and (3) page 24, line 15 to page 31, line 16.

REQUEST FOR EXPEDITED CONSIDERATION

The Joint Movants also request expedited consideration of this motion, especially given the November 19, 2010 date for the Joint Movants' supplemental response testimony. The Joint Movants suggest that the Joint CLECs respond within 48 hours, no later than 3:00 p.m. on Thursday, November 18, 2010, and further respectfully request that the Commission rule by 12:00 noon on Friday, November 19, 2010. A ruling by 12:00 noon on November 19, 2010 would aid the Commission because if the Commission grants the motion, in whole or in part, the Joint Movants will have an opportunity to modify their supplemental response testimony by close of business that day to address only the CLEC HSR testimony that is still at issue.

PERTINENT PROCEDURAL BACKGROUND

The pertinent procedural background is as follows:

On June 10, 2010, this Commission set a procedural schedule for this proceeding. That schedule provided for CLEC testimony on August 24, 2010. This Commission did not schedule any "surrebuttal" testimony after the Joint Movants' filing of their rebuttal testimony (on September 21, 2010). Other states considering the subject merger transaction, however, such as Utah, did allow for surrebuttal. (See Attachment A, Utah PSC June 17, 2010 Scheduling Order.)

On August 24, 2010, the CLECs filed about 475 pages of testimony in this proceeding, including 195 pages in Mr. Gates' direct testimony. In Utah, Mr. Gates filed virtually identical direct testimony (196 pages) six days later, on August 30, 2010. Thereafter, pursuant to the Utah Commission's June 17, 2010 scheduling order, Mr. Gates filed 154 pages of surrebuttal testimony on October 14, 2010 in response to Qwest and CenturyLink rebuttal testimony.

In the meantime, on October 12, 2010, the Joint CLECs filed virtually identical motions to amend the schedules in both the Oregon and Utah proceedings, and thus sought to delay the hearings in each of those proceedings.² The grounds for both motions were based on the same core set of facts- an allegation that the Joint Movants had not produced certain HSR documents until early October, and thus, that the CLECs needed to file additional testimony on these issues.³ The Joint Movants opposed those motions on October 14th (Oregon) and October 20th (Utah).

On October 14, 2010 (the Thursday before the scheduled hearing), this Commission held a hearing on the CLECs' motion to delay, and on Friday, October 15, 2010, it ruled the hearing would be delayed until December 1-2, 2010. The Commission also ruled that the CLECs could file supplemental testimony on November 12, 2010. The Commission later clarified on November 4, 2010 that any such supplemental testimony would be limited to matters arising from the HSR documents that the Joint Movants provided after August 24, 2010.

In the meantime, on October 20, 2010, the Utah Commission held a hearing on the Joint CLECs' motion to delay there. That Commission denied the motion to delay the October 26-27 hearing. However, it did grant additional testimony (for October 28, 2010 and November 2, 2010) and an additional half-day of hearing (on November 4, 2010) on the HSR issues, as well as on issues pertaining to the Joint Movants' settlement with the Utah Division of Public Utilities ("DPU"), which functions like Staff here in Oregon.⁴ The evidentiary hearing took place as

² The Oregon hearing had been originally scheduled for October 20-21, 2010, and the Joint CLECs proposed delaying the hearing until December 1-2, 2010. The Utah hearing had been originally scheduled for October 26-27, 2010, and the Joint CLECs proposed delaying the hearing until December 6-7, 2010.

³ The Joint CLECs did so despite that the vast majority (almost 90 percent) of the documents had been produced to them by the Joint Movants in another state (Washington) by August 23, 2010, and thus had been made available to be seen by both the CLECs' witness, Mr. Gates, and their counsel here. The Joint CLECs also filed their motion despite that the few remaining disputed documents (no more than about a dozen) were made available to them, including Mr. Gates' and the CLECs' trial counsel, as early as October 1, 2010 in the Minnesota proceeding. Although these documents could not be "used" in this Oregon proceeding *at that time*, once the Joint Movants agreed, on or about October 7, 2010, to produce all remaining HSR documents, the pertinent witness, Mr. Gates (who, of course had knowledge and possession of these documents), could "use" the documents in Oregon.

⁴ The Joint Movants reached settlement with the Utah DPU on October 14, 2010, and filed the settlement with the Utah Commission that same day. However, on October 18, 2010, the Joint CLECs amended their motion to

scheduled on October 26-27, 2010, and the CLECs and Mr. Gates then filed another 98 pages of supplemental testimony on both the HSR and DPU settlement issues on October 28, 2010.⁵

Finally, on November 12, 2010, and pursuant to the Commission's October 15th and November 4th rulings, the Joint CLECs and Mr. Gates filed 34 pages of supplemental testimony in this proceeding. However, much of Mr. Gates' supplemental testimony is *not tied* to the HSR documents produced after August 24, 2010, as the Commission required. Rather, much of the supplemental testimony is nothing more than *surrebuttal* testimony, and is very similar in substance to the October 14, 2010 surrebuttal testimony that the Joint CLECs and Mr. Gates filed in Utah.⁶ In essence, the Joint CLECs and Mr. Gates have attempted to use this Commission's October 15th and November 4th rulings as a basis to launch into what would have been their surrebuttal testimony (has this Commission permitted such testimony, as the Utah Commission had done), but without any real connections to the HSR issues that were the sole reason they were given an opportunity to file supplemental testimony. This is improper, and thus the Joint Movants respectfully request that the Commission strike the pertinent portions of the testimony.

ARGUMENT

I. THE COMMISSION SHOULD STRIKE CERTAIN PORTIONS OF MR. GATES' SUPPLEMENTAL TESTIMONY THAT IS NOT RELATED TO HSR ISSUES

A. The Commission should strike page 5, line 13 through page 9, line 8

The first portion of Mr. Gates' supplemental testimony that the Commission should strike is from page 5, line 13 through page 9, line 8. That discussion deals generally with "systems integration." However, other than a brief mention of a partial sentence from one page of a

delay to request that they be allowed additional testimony regarding their objections to the settlement with the DPU. Thus, at the October 20th hearing, the full Utah Commission considered both the HSR and settlement issues in its consideration of the CLECs' motion, and denied the motion to delay the hearing, but permitted additional process.

⁵ The Joint Movants filed their supplemental response testimony on November 2, 2010, and a half-day hearing on the HSR and DPU settlement issues took place on November 4, 2010. The evidence in the Utah proceeding has now been closed, with a post-hearing brief due in early December.

⁶ To be clear, the October 14th surrebuttal testimony was not related to the October 28, 2010 supplemental testimony on HSR and DPU settlement issues that the Utah Commission later granted on October 20, 2010.

voluminous HSR document (which Mr. Gates does not attach), it is merely advocacy similar in substance to Mr. Gates' Utah advocacy about post-merger integration efforts. These four pages of discussion are very similar in substance to his Utah surrebuttal testimony at pages 25 through 31.⁷ (See Attachment B, consisting of pertinent pages (cover page, table of contents page and pages 13-31 and 38-45) of Mr. Gates' October 14, 2010 public surrebuttal testimony in Utah PSC Docket No. 10-049-16.)

B. The Commission should strike page 9, line 9 through page 13, line 2

The second portion of Mr. Gates' supplemental testimony that the Commission should strike is from page 9, line 9 through page 13, line 2. There is not a comparable section to this testimony in the Utah surrebuttal, other than a few portions that are interspersed throughout the Utah testimony. However, this discussion, regarding Qwest OSS and CenturyLink OSS, and with references to CenturyLink and Qwest websites, discovery responses and FCC Section 271 orders, has absolutely *nothing to do with HSR issues*. Indeed, Mr. Gates does not even try to pretend that it does. There is simply nothing in these pages that Mr. Gates could not have included in his 195-page direct testimony. Thus, the Commission should strike these portions.

C. The Commission should strike page 24, line 15 through page 31, line 16

Finally, the final portion of Mr. Gates' supplemental testimony that the Commission should strike is from page 24, line 15 through page 31, line 16. This discussion deals with "integration problems [in North Carolina] encountered by CenturyLink during its integration of

⁷ To Mr. Gates' credit, he did not merely "copy and paste" his Utah "systems integration" advocacy for his supplemental testimony here, unlike most of his earlier testimony, which is virtually identical to his Utah testimony six days later. Nevertheless, a comparison of pages 5 through 9 here, and 25 through 31 of the Utah surrebuttal, will show that the two testimonies are very similar, and more importantly, *not tied to any HSR issues*, despite Mr. Gates grabbing a partial sentence from one unattached HSR document to buttress his attempt to tie it to HSR issues. For example, both testimonies have references to (1) Arizona data requests (compare footnote 6 of page 6 of the Oregon testimony v. footnote 63 of page 26 of the Utah surrebuttal (Attachment B)), (2) the Unified Operating Model ("UOM") Guidelines Document (compare footnote 7 on page 7 of the Oregon testimony v. footnote 67 of page 28 of the Utah surrebuttal (Attachment B)) and (3) certain CLEC data request responses (compare footnote 9 of page 7 of Oregon v. footnote 69 of page 28 of the Utah surrebuttal (Attachment B)). More importantly, none of this testimony relates to anything in HSR documents, which is why Mr. Gates was able to make these arguments in Utah earlier.

Embarq,” and how such problems allegedly “illustrate[s] harms that can be expected during CenturyLink’s integration of Qwest.” There are references to, and discussion of, testimony in September by the Communications Workers of America (“CWA”) in Minnesota,⁸ and recent (October 6, 2010) hearing testimony of a CenturyLink witness in Minnesota (although Mr. Gates does not attach the transcript). These seven pages of testimony are similar in substance to pages 13 through 25 and 38 45 of the Utah surrebuttal (Attachment B) regarding CenturyLink’s description of its prior integration efforts, and Mr. Gates’ allegation that such description allegedly glosses over problems and merger-related harms.⁹ Moreover, other than two passing references to two HSR documents on page 30, line 7-14,¹⁰ there is no mention of any other HSR documents, much less any discussion. Again, this discussion is clearly surrebuttal testimony on systems and integration issues, and cannot fairly be said to relate to any HSR issues or HSR documents. Accordingly, the Joint Movants respectfully submit that the Commission should strike these portions as well.

⁸ The Joint Movants have settled with the CWA in Minnesota and elsewhere, and the CWA now supports the merger transaction based on that settlement.

Moreover, the Joint Movants note that Mr. Gates’ testimony regarding CWA testimony and North Carolina is essentially hearsay upon hearsay upon hearsay. This is especially so given that Mr. Gates testifies about what *another witness* testified, in *another proceeding*, based on matters that are *not even in the CWA’s witness’s personal knowledge*, much less Mr. Gates’ personal knowledge (but rather, was based on purported comments by unnamed CWA members in North Carolina (and Ohio)). (The CWA witness never even identified the CWA members who purportedly made the comments that he testified to.) And Mr. Gates even fails to attach the pertinent transcript pages of such testimony, as well as other citations to purported evidence.

⁹ These similarities include references to a CWA witness’ prefiled testimony in Minnesota and Arizona, and testimony of a CenturyLink witness (Duane Ring) in Minnesota, as well as certain identical quotes (compare, e.g., pages 26-27 of the Oregon testimony and pages 20-21 of the Utah surrebuttal (Attachment B)) and allegations of “flip flops” by CenturyLink.

¹⁰ Even then, Mr. Gates does not attach one of the two documents he refers to (Attachment 4(c)-60), or even the page he cites to (page 23). And the *only* HSR document that Mr. Gates does attach (Attachment 4(c)-42, Exhibit Joint CLECs/22), which he references at page 30, line 9, includes only three pages. The exhibit merely consists of the cover page of an “operations overview” on April 1, 2010, a four-bullet agenda that includes the item “Integration Approach,” and a page that has bullet-point slides dealing with “Integration Approach” (i.e., operating model, market plans, people and synergy plans). There is nothing about this exhibit that is even remotely tied to the integration issues in North Carolina that Mr. Gates discusses at pages 26 through 31 of his supplemental testimony.

II. THE COMMISSION SHOULD GRANT EXPEDITED CONSIDERATION

Finally, the Joint Movants respectfully request that, for judicial and administrative economy, the Commission should rule on this motion on an expedited basis, if at all possible. This is especially so because of the very short time period (five business days) between the Joint CLECs' November 12th supplemental testimony and the Joint Movants' November 19, 2010 response. As stated above, the Joint Movants suggest that the Joint CLECs respond within 48 hours, no later than 3:00 p.m. on Thursday, November 18, 2010, and further, respectfully request that the Commission rule by 12:00 noon on Friday, November 19, 2010. A ruling by 12:00 noon on November 19, 2010 would aid the Commission and judicial and administrative economy because if the Commission grants the motion, in whole or in part, the Joint Movants will have an opportunity to modify their supplemental response testimony as appropriate by close of business that day to address only the CLEC HSR testimony that is still at issue. The Joint Movants also note that they have promptly filed this motion on the afternoon of the second business day after receiving the supplemental testimony. Further, if the Commission is unable, or not inclined, to grant expedited consideration, the Joint Movants will file their response testimony to all CLEC supplemental testimony in the normal course on Friday, November 19, 2010, and will then request that at a minimum, the Commission rule on this motion at a later date but prior to the commencement of the evidentiary hearing on December 1, 2010.

CONCLUSION

Accordingly, the Joint Movants respectfully submit the Commission should (1) grant expedited consideration of this motion, and (2) strike the following portions of the Joint CLECs' and Mr. Gates' November 12, 2010 supplemental testimony: (a) page 5, line 13 through page 9, line 8, (b) page 9, line 9 through page 13, line 2, and (c) page 24, line 15 to page 31, line 16. These portions of the supplemental testimony are not related or tied to HSR issues or HSR documents, and are merely the Joint CLECs' and Mr. Gates' attempts to file "surrebuttal"

testimony on systems and other issues, as they were allowed to do in Utah (but not in Oregon), under the guise of "HSR issues."

DATED: November 16, 2010

Respectfully submitted,

CENTURYLINK

QWEST



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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

| | | |
|--|---|-----------------------------|
| In the Matter of the Joint Application of |) | |
| Qwest Communications International, Inc., |) | <u>DOCKET NO. 10-049-16</u> |
| and CenturyTel, Inc., for Approval of Indirect |) | |
| Transfer of Control of Qwest Corporation, |) | <u>SCHEDULING ORDER AND</u> |
| Qwest Communications Company LLC, and |) | <u>NOTICE OF HEARING</u> |
| Qwest LD Corp |) | |

Issued: June 17, 2010

By the Commission:

The Commission held a duly noticed scheduling conference on Wednesday, June 9, 2010.

Pursuant to the comments and suggestions of the parties, the following scheduling order is

hereby set as the scheduling order in this docket:

| Item | Deadline |
|---|---|
| Petitions to Intervene | Thursday, July 15, 2010 |
| Division of Public Utilities, Office of Consumer Services, and Intervenor Direct Testimony | Monday, August 30, 2010 |
| Rebuttal Testimony of All Parties to August 30, 2010 Testimony | Thursday, September 30, 2010 |
| Surrebuttal Testimony of All Parties to September 30, 2010 Testimony | Thursday, October 14, 2010 |
| Issues Matrix | Monday, October 25, 2010 |
| Public Witness Hearing | Tuesday, October 26, 2010, at 5:00 p.m., Fourth Floor Hearing Room 403, Heber M. Wells State Office Building, 160 East 300 South, Salt Lake City, Utah |
| Evidentiary Hearings | Tuesday, October 26, 2010, and Wednesday, October 27, at 9:00 a.m., Fourth Floor Hearing Room 403, Heber M. Wells State Office Building, 160 East 300 South, Salt Lake City, Utah, before the Commissioners of the Public Service Commission |

Discovery turn-around is 14 days through August 30, 2010, 10 days from August 31, 2010, through September 30, 2010, and 7 days from October 1, 2010 through the hearings.

The parties shall file electronic and paper copies of all filings, electronic copies to be submitted to the Commission and distributed to the parties by 4:00 p.m. on the due date.

Individuals wishing to participate by telephone should contact the Public Service Commission two days in advance by calling (801) 530-6716 or call toll-free 1-866-PSC-UTAH (1-866-772-8824). Participants attending by telephone should then call the Public Service Commission **five minutes prior** to the conference to ensure participation.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during any proceeding should notify Julie Orchard, Commission Secretary, at 160 East 300 South, Salt Lake City, Utah 84111, (801) 530-6716, at least three working days prior to the hearing.

Dated at Salt Lake City, Utah, this 16 day of June, 2010.

/s/ Julie Orchard
Commission Secretary
G# 67194

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Joint Application of Qwest Communications
International, Inc. and CenturyTel, Inc. for
Approval of Indirect Transfer of Control of
Qwest Corporation, Qwest Communications
Company, LLC, and Qwest LD Corporation

DOCKET NO. 10-049-16

SURREBUTTAL TESTIMONY OF

TIMOTHY J GATES

ON BEHALF OF

tw telecom of utah llc; McLeodUSA Telecommunications Services, Inc., d/b/a PAETEC
Business Services; Integra Telecom of Utah, Inc., Electric Lightwave, LLC, and Eschelon
Telecom of Utah, Inc.; and Level 3 Communications, LLC

Exhibit Joint CLECs 2SR

PUBLIC VERSION

CONFIDENTIAL AND HIGHLY CONFIDENTIAL DATA HAS BEEN REDACTED

October 14, 2010

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1 declines, there would be no protections for CLECs and their customers against
2 deterioration in wholesale service quality. This, in part, is why the Commission
3 should adopt condition 4.a. regarding the additional performance assurance plan
4 ("APAP").²⁵ The APAP would compare the merged company's post merger
5 monthly performance with the performance that existed in the twelve months
6 prior to the merger filing date. In the event of deterioration in retail service
7 quality, the APAP would capture service deterioration that is not captured under
8 the current PAP's parity provisions but which needs to be captured to measure
9 and help remedy merger-related service deterioration.

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

12 **Q. HAS ADDITIONAL EVIDENCE BEEN COLLECTED SINCE YOU FILED**
13 **YOUR DIRECT TESTIMONY THAT FURTHER DEMONSTRATES**
14 **THAT THE JOINT CLECS' CONCERNS ABOUT MERGER-RELATED**
15 **HARM ARE RELEVANT AND CONDITIONS ARE NEEDED IF THE**
16 **PROPOSED TRANSACTION IS APPROVED?**

17 **A. Yes.**

18 **Q PLEASE ELABORATE.**

²⁵ See, Exhibit Joint CLECs 2 (Gates Direct) at pp. 131-134 and Exhibit Integra 1 (Denney Direct) at pp. 6-14.

1 A. On August 19, 2010, the Communications Workers of America (“CWA”) filed
2 the Direct Testimony of Jasper Gurganus in the Minnesota PUC proceeding
3 reviewing the proposed transaction (Minnesota Docket No. P-421, et al./PA-10-
4 456),²⁶ which describes problems CenturyLink experienced during its integration
5 of Embarq in North Carolina. It is worth noting that CWA members are the
6 employees who are actually performing the integration activities. CenturyLink
7 filed the Rebuttal Testimony of Duane Ring on September 13, 2010, in the
8 Minnesota proceeding to respond to Mr. Gurganus’ testimony. In his Rebuttal
9 Testimony, CenturyLink witness Mr. Ring acknowledged the problems discussed
10 by Mr. Gurganus. CenturyLink’s acknowledgement of these integration problems
11 was surprising given that CenturyLink has referred to the ongoing Embarq
12 integration as running “smooth and successful.”²⁷ Another reason this was
13 surprising was that Joint CLECs have raised concerns about CenturyLink’s
14 integration of Qwest in each state proceeding in which they are involved– with
15 some of those concerns being very similar to the types of problems CenturyLink
16 has experienced in North Carolina. However, until the CWA brought forward its
17 evidence (evidence to which only CWA and CenturyLink would have reasonable

²⁶ Pre-Filed Direct Testimony of Jasper Gurganus on behalf of CWA, Minnesota Docket No. P-421, et al./PA-10-456, August 19, 2010. Available at: <https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={3BAC3216-79EA-4367-B0FD-2C44F6DFDF17}&documentTitle=20108-53661-01>

²⁷ See, e.g., Ferkin Rebuttal at p. 15, lines 28-29.

1 access), CenturyLink failed to mention any problems regarding its integration of
2 Embarq until its Rebuttal Testimony in the Minnesota proceeding.²⁸

3 **Q. DID CENTURYLINK MENTION ANY INTEGRATION PROBLEMS IN**
4 **ITS TESTIMONY HERE IN UTAH?**

5 A. No. Apparently because the CWA did not file testimony in this merger review
6 proceeding, CenturyLink chose not to inform the Utah Commission about the
7 problems it has experienced – and continues to experience – while integrating
8 Embarq. Instead, the Joint Applicants have chosen to characterize the Joint
9 CLECs' concerns as "irrelevant" and "noise" in Utah while submitting testimony
10 in another state which shows that the Joint CLECs concerns are warranted.

11 **Q. DID CENTURYLINK HAVE AN OBLIGATION TO PROVIDE THIS**
12 **EVIDENCE IN UTAH?**

13 A. Yes. On July 1, 2010, Integra served discovery requests upon Joint Applicants in
14 which Integra referenced the Direct Testimony of Mr. Ferkin regarding
15 integration efforts undertaken by the company for CenturyTel's acquisition of
16 Embarq and Mr. Ferkin's claims that they have been successful, and asked
17 CenturyLink to: (1) "Describe in detail the integration efforts undertaken by the
18 company for CenturyTel's acquisition of Embarq" and specifically to answer
19 fourteen sub-questions, including "Description of problems the company

²⁸ For example, Joint Applicants filed their Rebuttal Testimony in the Iowa merger review proceeding on August 26, 2010, and did not mention any integration problems. Moreover, Joint Applicants failed to mention these problems in their September 30, 2010, Rebuttal Testimony filed here in Utah.

1 experienced (or is experiencing) during integration;²⁹ and (2) Provide a detailed
2 description of these conversions, including “how the company determined that the
3 integration efforts ‘have been successful.’”³⁰ As part of its information requests on
4 July 1, 2010, Integra included an instruction stating that the information requests
5 are intended to be continuing in nature and indicating that the respondents should
6 supplement the responses promptly.³¹ CenturyLink responded to these Integra
7 Information Requests on July 20, 2010.

8 In response, CenturyLink stated that the integrations were proceeding as planned,
9 without disclosing any of the problems that CenturyLink has acknowledged only
10 after CWA brought them to light in testimony. In both responses, CenturyLink
11 represented that the conversion to CenturyLink’s retail end user billing system is
12 proceeding as planned “without customer disruption.”³² CenturyLink’s
13 affirmative statement appears inconsistent with the problems described in the
14 Minnesota Testimony of CWA witness Mr. Gurganus, as well as CenturyLink’s
15 own recent testimony that the problems encountered in North Carolina have
16 caused CenturyLink “to produce lower service level metrics than desired since
17 conversion.”³³ While continuing to pursue expedited treatment of this matter and

²⁹ Integra Utah Information Request Number 41(j) to Joint Applicants.

³⁰ Integra Utah Information Request Number 42 to Joint Applicants.

³¹ Integra Utah Information Requests to Joint Applicants. p. 2.

³² CenturyLink’s Response to Integra Utah Data Request #41.

³³ Ring Minnesota Rebuttal Testimony, at p. 5, lines 16-18. Available at:
<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={A48DAA86-7AD1-4E97-84AB-69E1D1DEACCE}&documentTitle=20109-54401-01>

1 continuing to oppose scheduling adjustments in light of discovery issues,
2 CenturyLink has allowed the time during which these problems could have been
3 investigated – i.e., between CenturyLink’s July 20, 2010, non-responsive
4 discovery answer and CenturyLink’s admissions in its September 13, 2010,
5 Minnesota Rebuttal Testimony – to lapse without disclosing this requested
6 relevant information.

7 With top executives at Qwest expected to receive multi-millions of dollars upon
8 closing³⁴ and CenturyLink estimating over \$600 million in synergy savings if the
9 transaction is approved, it is clear why Qwest and CenturyLink are in a hurry.
10 However, it becomes less and less clear what public interest may be served by not
11 inquiring into and adequately investigating these problems, particularly when
12 CenturyLink delayed proper investigation into these issues by not disclosing
13 required information in discovery.

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

16 A. CenturyLink witness Mr. Ring states that, during the conversion in North
17 Carolina to CenturyLink billing and operational systems, outside plant records
18 were loaded incorrectly, which caused the problems described in CWA’s

³⁴ 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 testimony.³⁵ Some of the problems that the CWA described in its testimony
2 include: “workers...being dispatched to incorrect locations for service”;³⁶
3 “workers reported being dispatched for service with insufficient or incorrect
4 information”;³⁷ longer out of service periods and longer delays in initiating
5 service;³⁸ differing and confusing software that dispatches/assigns technicians;³⁹
6 “the systems do not appear to be interconnected or coordinated”;⁴⁰ negative
7 impacts on work flow;⁴¹ “inefficiencies in the new systems”;⁴² and consumer
8 frustration about installation and service appointments not being met and long
9 hold times.⁴³

10 **Q. DID CENTURYLINK ACKNOWLEDGE THAT THESE PROBLEMS**
11 **HAVE NEGATIVELY IMPACTED SERVICE QUALITY?**

³⁵ Ring Minnesota Rebuttal Testimony at p. 2, lines 6-12. Available at:
<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={A48DAA86-7AD1-4E97-84AB-69E1D1DEACCE}&documentTitle=20109-54401-01>

³⁶ Gurganus Minnesota Direct Testimony at p. 4, lines 19-20. Available at:
<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={3BAC3216-79EA-4367-B0FD-2C44F6DFDF17}&documentTitle=20108-53661-01>

³⁷ Gurganus Minnesota Direct Testimony at p. 5, lines 6-7. Available at:
<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={3BAC3216-79EA-4367-B0FD-2C44F6DFDF17}&documentTitle=20108-53661-01>

³⁸ Gurganus Minnesota Direct Testimony at pp. 4-5.

³⁹ Gurganus Minnesota Direct Testimony at p. 5.

⁴⁰ Gurganus Minnesota Direct Testimony at p. 6, lines 8-12.

⁴¹ Gurganus Minnesota Direct Testimony at p. 7.

⁴² Gurganus Minnesota Direct Testimony at p. 8, line 3. *See also*, Gurganus Minnesota Direct Testimony 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.”)

⁴³ Gurganus Minnesota Direct Testimony at p. 10.

1 A. Yes. In Mr. Ring's Rebuttal Testimony in Minnesota, he acknowledges the
2 existence of problems during CenturyLink's integration of Embarq in North
3 Carolina. Importantly, he states that these problems have "caused CenturyLink to
4 produce lower service level metrics than desired since conversion",⁴⁴ or in other
5 words, these integration problems have caused service quality to suffer. When Mr.
6 Ring refers to "service level metrics," I presume he is referring to the monthly
7 service quality metrics CenturyLink is required to report for the two Embarq
8 operating companies, Carolina Telephone and Telegraph Company and Central
9 Telephone Company, as required by North Carolina Docket P-100, Sub 99A.
10 These service quality metrics report CenturyLink's performance related to
11 servicing residential and business customers. If the integration problems have
12 resulted in less than desired service metrics, the problems must be widespread
13 given that CenturyLink serves about one million access lines in North Carolina.

14 **Q. HAS CENTURYLINK DISCUSSED SOME OF THE CAUSES OF THESE**
15 **PROBLEMS?**

16 A. Yes. CenturyLink witness Mr. Ring states that a number of these problems are
17 caused by differences between the old and new systems.⁴⁵ He also points to a

⁴⁴ Ring Minnesota Rebuttal Testimony at p. 5, lines 16-18. Available at:
<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={A48DAA86-7AD1-4E97-84AB-69E1D1DEACCE}&documentTitle=20109-54401-01>

⁴⁵ Ring Minnesota Rebuttal Testimony at p. 2, lines 21-22. Available at:
<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={A48DAA86-7AD1-4E97-84AB-69E1D1DEACCE}&documentTitle=20109-54401-01>

1 “lack of familiarity with the new systems”⁴⁶ as a source of problems. Further,
2 CWA witness Mr. Gurganus describes “insufficient training or resources -
3 provided to former Embarq employees about the new systems.”⁴⁷ Mr. Gurganus
4 also states:

5 Some of the problems might be avoided with adequate training of
6 the workers. For example, one tech I spoke to in Ohio reported that
7 he received training two months before the new systems were in
8 place. There was no other follow up or refresher. Not surprisingly,
9 by the time the systems were available for him to use, he and his
10 co-workers had forgotten most of the information from the training
11 session.⁴⁸

12 **Q. DID THE CWA PROVIDE ADDITIONAL INFORMATION ABOUT THE**
13 **PROBLEMS BEING EXPERIENCED DURING CENTURYLINK’S**
14 **INTEGRATION OF EMBARQ?**

15 A. Yes. On October 1, 2010, CWA witness Mr. Gurganus submitted pre-filed
16 Surrebuttal Testimony in the Minnesota merger review proceeding which
17 provided more information about CenturyLink’s integration problems Mr.
18 Gurganus’ testimony clarified that the integration problems are not limited just to
19 North Carolina, but are also occurring in Ohio:

20 The Leaders in Ohio, where Embarq systems were converted to
21 CenturyLink systems beginning in October of 2009, responded that
22 they still were not back to the level of efficiency they had before

⁴⁶ Ring Minnesota Rebuttal Testimony at p. 3.

⁴⁷ Gurganus Minnesota Direct Testimony at p. 4, lines 4-9. Available at:
<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={3BAC3216-79EA-4367-B0FD-2C44F6DFDF17}&documentTitle=20108-53661-01>

⁴⁸ Gurganus Minnesota Direct Testimony at p. 12, lines 10-15. Available at:
<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={3BAC3216-79EA-4367-B0FD-2C44F6DFDF17}&documentTitle=20108-53661-01>

1 the cutover. That is to say, even after a year, they are still
2 experiencing so-called transition problems. In particular, they
3 report continued problems with missing or incomplete order
4 information so that they must ask the customers what they ordered
5 and hope that they have the necessary equipment on hand to
6 complete the order.

7 One tech in Ohio described arriving at an attorney's office this
8 week with an incomplete order. When the tech asked the customer
9 what services and equipment they wanted, the customer berated
10 him, saying he spent three hours on the phone trying to place the
11 order and he wasn't going to spend anymore time repeating
12 himself."⁴⁹

13 Mr. Gurganus also provided an update on the integration problems in North
14 Carolina in his Minnesota Surrebuttal Testimony. He states that the wait time for
15 techs to get calls answered by service centers has recently improved (likely
16 because of recent hires of new service reps), but otherwise, he states that "our
17 North Carolina techs report that nothing has really improved."⁵⁰ He reports that
18 problems are still occurring regarding "missing or incomplete information on
19 orders[.]" "techs in North Carolina are struggling to complete orders on time[.]"
20 and "employees are still working overtime trying to complete tasks."⁵¹

21 **Q. WHAT SHOULD THE COMMISSION TAKE FROM CENTURYLINK'S**
22 **MINNESOTA REBUTTAL TESTIMONY (AS WELL AS THE CWA**
23 **TESTIMONY TO WHICH CENTURYLINK RESPONDS)?**

⁴⁹ 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>

⁵⁰ Gurganus Minnesota Surrebuttal Testimony at pp. 2-3.

⁵¹ Gurganus Minnesota Surrebuttal Testimony at p. 3, lines 6-10.

1 A. This testimony is additional evidence that reinforces the Joint CLECs' concerns
2 related to CenturyLink's integration of Qwest if the proposed transaction is
3 approved, and undermines the Joint Applicants' attempts to dismiss the Joint
4 CLECs' concerns and conditions.

5 **Q. PLEASE EXPLAIN HOW CENTURYLINK'S TESTIMONY REGARDING**
6 **ITS INTEGRATION PROBLEMS UNDERMINES THE JOINT**
7 **APPLICANTS' ATTEMPTS TO DISMISS THE CLEC CONCERNS AND**
8 **CONDITIONS?**

9 A. CenturyLink testified in its Direct Testimony that "CenturyLink is confident
10 that...the execution of this integration [of Qwest] will be as smooth and
11 successful as the Embarq integration and others have been in the past."⁵²
12 CenturyLink also testified in its Direct Testimony that there are no "potential
13 harms that could result from the [Qwest] merger."⁵³ However, in its Minnesota
14 Rebuttal Testimony, CenturyLink testifies that the types of problems experienced
15 in North Carolina during the integration of Embarq are to be expected with every
16 merger; he states: "[a]s with any integration of large, complex systems, there are
17 may be [sic] some issues that arise."⁵⁴ He goes even further, stating that, "every
18 system conversion or integration *inevitably* is going to have some issues."⁵⁵ In

⁵² Ferkin Direct at p. 15, lines 26-29.

⁵³ Ferkin Direct at p. 12, lines 19-22.

⁵⁴ Ring Minnesota Rebuttal Testimony at p. 1, lines 20-23. Available at:
<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={A48DAA86-7AD1-4E97-84AB-69E1D1DEACCE}&documentTitle=20109-54401-01>

⁵⁵ Ring Minnesota Rebuttal Testimony at p. 4, lines 3-4 (emphasis added).

1 CenturyLink's Direct Testimony in Utah, CenturyLink claimed that there are no
2 potential harms that could result from the proposed transaction, but in its Rebuttal
3 Testimony in Minnesota, it now states that problems are "inevitable" in every
4 merger (and has admitted that these problems led to service quality deterioration).
5 CenturyLink's "flip-flop" should not go unnoticed, particularly when
6 CenturyLink has neither identified the "inevitable" problems that it experienced
7 during other transactions in the past, nor sufficiently addressed the prior
8 CenturyLink integration problems that I discussed in my Direct Testimony.⁵⁶

9 **Q. DOES CENTURYLINK'S MINNESOTA TESTIMONY UNDERMINE**
10 **THE JOINT APPLICANTS' ATTEMPTS TO DISMISS CLEC**
11 **CONCERNS IN OTHER WAYS?**

12 A. Yes. As explained above, CenturyLink states in Minnesota that the causes of the
13 problems experienced in North Carolina include differences between old systems
14 and new systems, and unfamiliarity with the new systems. However, Mr.
15 Hunsucker testifies here in Utah that: "Mr. Gates' speculation that Section 271
16 compliant systems might just 'disappear' is nonsense."⁵⁷ Despite Mr.
17 Hunsucker's unsupported claims about post-merger integration plans, the

⁵⁶ See, e.g., Exhibit Joint CLECs 2 (Gates Direct) at pp. 83-84, discussing integration problems CenturyLink experienced in the past that resulted in a cost overrun of between \$50 million and \$60 million and was delivered over two years later than planned. Surprisingly, CenturyLink claims that this integration effort, which ran tens of millions of dollars over budget and delivered more than two years late, "has been a success story for CenturyLink." CenturyLink Supplemental Response to Integra Minnesota Data Request #38. Given CenturyLink's definition of a "success story," it is difficult to imagine what would have to happen for CenturyLink to deem a systems integration effort as unsuccessful.

⁵⁷ Hunsucker Rebuttal at p. 10, lines 1-2.

1 testimony from Minnesota about the Embarq integration problems in North
2 Carolina shows that Embarq system functionality did just “disappear.” CWA
3 witness Mr. Gurganus testified in Minnesota that:

4 Prior to the merger between Embarq and CenturyLink, if a
5 concentrator went down, the business office would issue an outage
6 ticket that would alert people throughout the system that there is a
7 known outage in a specific area. That meant when customers
8 called to report the outage, the customer service representatives
9 would be able to tell them the company knew about the outage,
10 that it was being worked on, and even an estimated time the
11 service would be restored. Under the new system, the business
12 office can take a trouble report, but it is not issued as an outage
13 report, so our customers cannot be told that we may already be
14 working on the problem or when their service might be restored.⁵⁸

15 A comparison of actual, recent experience in North Carolina to Mr. Hunsucker’s
16 claim suggests that Mr. Hunsucker’s statement is geared more towards securing
17 transaction approval than accurately reflecting what will transpire during post-
18 merger integration.

19 Furthermore, CenturyLink testified in the Minnesota proceeding reviewing the
20 proposed transaction that it is “necessary” to integrate Embarq and CenturyTel
21 systems “so that all employees are working off the same platform and using the
22 same processes.”⁵⁹ Though he is talking about the CenturyTel/Embarq merger in
23 this instance, this is the clearest indication yet in Joint Applicants’ testimony that

⁵⁸ Gurganus Minnesota Direct Testimony at p. 8, lines 13-22. Available at:
<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={3BAC3216-79EA-4367-B0FD-2C44F6DFDF17}&documentTitle=20108-53661-01>

⁵⁹ Ring Minnesota Rebuttal Testimony at p. 4.
<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={A48DAA86-7AD1-4E97-84AB-69E1D1DEACCE}&documentTitle=20109-54401-01>

1 CenturyLink will undertake a significant systems integration effort if the proposed
2 transaction is approved.⁶⁰ If CenturyLink views all employees working off the
3 same platform and using the same processes as “necessary,” there is no reason to
4 believe the Merged Company⁶¹ would not undertake such a systems integration
5 effort after acquiring Qwest. As Dr. Ankum and I explained in our Direct
6 Testimony, the Joint Applicants have provided no details about their post-merger
7 systems integration plans. While CenturyLink has indicated that “changes could
8 be expected over time,”⁶² CenturyLink’s testimony in Minnesota is a clear
9 indication that the Joint CLECs’ concerns about post-merger integration impacts
10 are warranted and conditions are necessary.

11 **Q. DID JOINT APPLICANTS RECENTLY INDICATE THAT OSS *WILL***
12 **CHANGE POST-MERGER?**

13 A. Yes. On August 13, 2010, CenturyLink responded to discovery questions from the
14 Arizona Corporation Commission related to OSS integration plans post-merger.
15 CenturyLink stated: “CenturyLink anticipates improved wholesale customer
16 service over time through consolidation of OSS and billing systems and sales and

⁶⁰ CenturyLink also stated in response to a data request from the Arizona Corporation Commission Staff: “CenturyLink anticipates...the consolidation of OSS and billing systems and sales and account management teams.” CenturyLink Response to Arizona Corporation Commission Staff Data Request STF 7.15.

⁶¹ “Merged Company” refers to the post-merger company (CenturyLink and its Operating Companies, collectively, after the Closing Date). See, Exhibit Joint CLECs 2.8

⁶² Hunsucker Rebuttal at p. 33, lines 3-4.

1 account management teams.”⁶³ While no specific details are provided, this is a
2 clear indication that the Merged Company’s OSS will change post-merger. This
3 response was recently confirmed by information the Joint Applicants recently
4 provided in Utah. ***BEGIN HIGHLY CONFIDENTIAL [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED] END

11 HIGHLY CONFIDENTIAL***

12 This point is further supported by the Joint Applicants’ synergies estimate.

13 CenturyLink has estimated ***BEGIN HIGHLY CONFIDENTIAL [REDACTED]

14 [REDACTED] END HIGHLY CONFIDENTIAL*** of the total estimated

15 \$575 million in operational synergy savings to come from ***BEGIN HIGHLY

16 CONFIDENTIAL [REDACTED] END HIGHLY

17 CONFIDENTIAL***.⁶⁴ Given the magnitude of the estimated savings from this

⁶³ CenturyLink 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).

⁶⁴ CenturyLink Response to Integra Utah Data Request #52(a), Highly Confidential Attachment Integra - 52a.

1 item relative to the overall synergy savings estimate, it is highly likely that
2 integration efforts will involve OSS.

3 **Q. HAS CENTURYLINK PROVIDED CONFLICTING INFORMATION IN**
4 **UTAH ABOUT ITS PLANS TO CONSOLIDATE OSS POST-MERGER?**

5 A. Yes. On October 1, 2010, in response to Integra's data requests #162 and #163 in
6 Utah, CenturyLink said: "No decisions have been made regarding the potential
7 consolidation of wholesale OSS systems after the merger."⁶⁵ This response stands
8 in stark contrast to the response CenturyLink provided to the Arizona Corporation
9 Commission Staff and the other more recent information submitted in Utah. This
10 is another example of the Joint Applicants failing to provide forthright
11 information about its post-merger integration plans, and another example of the
12 significant uncertainty facing CLECs with regard to the "lifeblood"⁶⁶ of their
13 relationship with Qwest.

14 **Q. DESPITE CENTURYLINK'S FLIP-FLOP ON THE ISSUE OF OSS**
15 **CONSOLIDATION IN UTAH, DID JOINT APPLICANTS RECENTLY**
16 **INDICATE THAT CENTURYLINK HAS DECIDED TO CHANGE**
17 **QWEST'S EXISTING OSS POST-MERGER?**

18 A. Yes. Recent discovery responses that CenturyLink and Qwest submitted indicate
19 that at least Qwest's CLEC-facing OSS interface for Local Service Requests

⁶⁵ CenturyLink response to Integra Utah Data Requests #162 and #163 (sponsor: Melissa Closz, Director Wholesale Operations for CenturyLink).

⁶⁶ Exhibit Joint CLECs 2 (Gates Direct) at p. 37, lines 6-7, quoting Surrebuttal Testimony of Renee Albersheim, on behalf of Qwest Corp., Utah Docket 07-2263-03, August 10, 2007, at p. 39.

1 (“LSRs”) will be modified or replaced if the proposed transaction is approved.
2 This particular OSS interface is used to place orders for most unbundled network
3 elements used by CLECs to provide local service. Integra asked CenturyLink in
4 Utah and other states to: “Please indicate whether, after all of the systems of the
5 Merged Company have been consolidated, the interface that the Merged
6 Company will provide will support a UOM [Unified Ordering Model] interface
7 for LSRs.”⁶⁷ In response to this question in Minnesota, CenturyLink states:
8 “...after the systems of the [merged] company have been consolidated after the
9 merger, the company intends to support a [unified ordering model] UOM
10 interface for LSRs.”⁶⁸ At the same time, Qwest states that, “IMA is not UOM
11 compliant...”⁶⁹ These responses necessarily mean that the interface Qwest
12 currently uses to process CLEC LSRs (Interconnect Mediated Access or “IMA”)
13 will no longer be available in its present form. CenturyLink will either replace it
14 or modify it. Further, if CenturyLink considers its EASE system to be UOM
15 compliant, then CenturyLink’s response strongly suggests an intention by

⁶⁷ Integra Utah Data Request #163. 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>

⁶⁸ CenturyLink Response to Integra Minnesota Data Request #3-9, dated September 23, 2010. Again, CenturyLink provided a different response to this question in Utah, where CenturyLink states: “No decisions have been made regarding the potential consolidation of wholesale OSS systems after the merger.”

⁶⁹ Qwest Response to Integra Utah Data Request 2-165. *See also*, Qwest Response to Integra Minnesota Data Request #11, dated September 23, 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 custom GUI written in java or the custom XML interface mentioned above.”

1 CenturyLink to use EASE for LSRs, contrary to the recommendation of the Joint
2 CLECs.⁷⁰

3 **Q. HAVE YOU REVIEWED OTHER INFORMATION WHICH SHOWS**
4 **THAT CENTURYLINK INTENDS TO INTEGRATE CENTURYLINK'S**
5 **LEGACY SYSTEMS INTO QWEST'S REGION IF THE PROPOSED**
6 **TRANSACTION IS APPROVED?**

7 **A. Yes. ***BEGIN HIGHLY CONFIDENTIAL** [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED] **END HIGHLY**

⁷⁰ The Joint Applicants have said: (1) they intend for the OSS interface for LSRs of the Merged Company will be UOM-compliant, (2) Qwest's existing OSS interface for handling LSRs is not UOM-compliant, (3) CenturyLink's existing OSS interface for handling LSRs is UOM-compliant, and (4) the post-merger integration will not involve new systems. The only logical conclusion to be drawn from the Joint Applicants' claims is that CenturyLink will attempt to replace Qwest's IMA-XML OSS interface with CenturyLink's EASE OSS interface if the proposed transaction is approved. Regarding the increased functionality of Qwest's OSS versus EASE, *see, e.g.*, Exhibit Integra 2SR.1 to the Surrebuttal Testimony of Ms. Johnson (Exhibit Integra 2SR).

1 **CONFIDENTIAL***** In any event, the Joint Applicants' discovery responses
2 confirm that CenturyLink does not intend to use Qwest IMA as it exists today.
3 Investigation is needed, therefore, into how and when CenturyLink intends to
4 change or replace Qwest's IMA. CenturyLink still has not provided any
5 explanation as to when or how it will implement its plan to, after systems
6 consolidation, support a UOM compliant system.

7 **Q. JOINT APPLICANTS STATE THAT ANY CHANGES TO OSS "WILL**
8 **OCCUR ONLY AFTER A THOROUGH AND METHODICAL REVIEW**
9 **OF BOTH COMPANIES' SYSTEMS AND PROCESSES TO DETERMINE**
10 **THE BEST SYSTEM TO BE USED ON A GOING-FORWARD BASIS**
11 **FROM BOTH A COMBINED COMPANY AND A WHOLESALE**
12 **CUSTOMER PERSPECTIVE."**⁷¹ **DOES THIS PROVIDE ANY**
13 **ASSURANCE THAT CLECS AND THEIR CUSTOMERS WILL NOT BE**
14 **HARMED BY ATTEMPTS TO INTEGRATE SYSTEMS POST-**
15 **TRANSACTION?**

16 **A.** No. I explained in my Direct Testimony why the Joint Applicants' claims about a
17 "methodical review" and taking into account the "wholesale customer
18 perspective" provide no assurances.⁷² Since I submitted my Direct Testimony, I
19 have reviewed additional information that heightens my concerns about
20 CenturyLink making changes to Qwest's OSS and selecting the "best" system to

⁷¹ Hunsucker Rebuttal at p. 33, lines 4-7.

⁷² Exhibit Joint CLECs 2 (Gates Direct) at pp. 122-123, 125-127 and footnotes 229 and 230.

1 be used if the proposed transaction is approved. ***BEGIN HIGHLY

2 **CONFIDENTIAL** [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]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

END CONFIDENTIAL***

Q. REGARDING THE EMBARQ INTEGRATION PROBLEMS IN NORTH CAROLINA, CENTURYLINK HAS STATED THAT THEY ARE MANAGEABLE AND SHOULD NOT RECUR.⁸³ PLEASE RESPOND.

A. What CenturyLink ignores is that a problem that may be manageable in North Carolina may not be manageable in Utah. Since CenturyLink has served primarily rural areas, it has no experience with the volumes and types of orders, complexity of systems, etc. that it will have to manage in Qwest's BOC territory if the proposed transaction is approved. As such, there is no evidence that CenturyLink could manage problems that may arise during its efforts to integrate Qwest if the proposed transaction is approved. And because Qwest has significantly larger wholesale operations in Utah (and elsewhere) than does CenturyLink, the risk to wholesale customers is higher in Utah. Problems in loading outside plant records is just one out of many problems that could occur if CenturyLink attempted to replace Qwest's OSS with CenturyLink's OSS post-merger. CenturyLink describes the root cause of the problems with the Embarq North Carolina conversion as:

some of the outside plant records were loaded incorrectly. The way in which plant was constructed in the legacy Embarq areas was not consistent between areas and not consistent with the legacy

⁸³ Ring Minnesota Rebuttal Testimony at p. 2. Available at: <https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={A48DAA86-7AD1-4E97-84AB-69E1D1DEACCE}&documentTitle=20109-54401-01>

1 CenturyTel areas. As a result, records for some of the devices
2 initially did not load correctly in the conversion. This led to certain
3 problems that Mr. Gurganus cites in his testimony.⁸⁴

4 Data inconsistencies are not uncommon in legacy systems. As reported by
5 Liberty Consulting in its FairPoint Post-Cutover Status Report on April 1, 2009,
6 in regards to the FairPoint conversion: "data problems have affected a large
7 number of accounts. These unexpected problems have included such issues and
8 incorrect data mapping and misinterpretation of Verizon data, and have had a
9 major impact on such critical function as loop qualification, validation of
10 customer addresses, assignment of telephone numbers, and identification of
11 serving wire centers for customers."

12 CenturyLink and Qwest have provided no evidence that such data inconsistencies,
13 and the resulting conversion problems, are any less likely with the proposed
14 transaction with Qwest. To the contrary, there is ample evidence that data within
15 Qwest's systems and processes varies by region and thus such inconsistencies and
16 related data integrity conversion issues are likely to occur in any Qwest-
17 CenturyLink integration. At least some of the Qwest regional differences stem
18 from the legacy companies of Mountain Bell (now known as Qwest Central
19 Region), Pacific Bell (now known as Qwest West Region), and Northwestern Bell
20 (now known as Qwest Eastern Region) that later became part of US West and
21 then Qwest. Therefore, this transaction presents not only the risk of data

⁸⁴ Ring Minnesota Rebuttal Testimony at p. 2, lines 7-12. . Available at:
<https://www.cdockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={A48DAA86-7AD1-4E97-84AB-69E1D1DEACCE}&documentTitle=20109-54401-01>

1 inconsistencies between CenturyLink legacy areas and Qwest legacy areas, but
2 also between and among each of the legacy Qwest Regions. Evidence of regional
3 differences include, for example, Qwest implementing system business rules that
4 vary by Qwest Region;⁸⁵ Qwest periodically sending notices to CLECs indicating
5 that it is unable to process orders in one or more (but not all) of the three Qwest
6 Regions;⁸⁶ and Qwest implementing a change request to access Customer Service
7 Records for VoIP first in the Central and Eastern Qwest Regions and later in the
8 West Region, because of complexities unique to the Qwest West Region.⁸⁷

⁸⁵ See Local Service Ordering Guide (LSOG), at <http://www.qwest.com/wholesale/clecs/lzog.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.

⁸⁶ 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: 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>.

⁸⁷ 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

1 Attached to my testimony as Exhibit Joint CLECs 2SR.4 is an excerpt from
2 Qwest's online Product Catalog called "Pre-Ordering Overview." Exhibit Joint
3 CLECs 2SR.4 contains a Qwest table that describes how customer ("CUS") codes
4 "may change during the bill posting process after a Completion Notice ("CN") is
5 issued. The changes to the CUS Code are based upon service order activity,
6 product, and region."⁸⁸ The table contains a complex description that reflects how
7 Qwest's back-end service order processing ("SOP") systems process CLEC
8 orders differently depending on the Qwest Region (Central, East, or West).

9 Further, I do not know how CenturyLink defines a "manageable" problem,⁸⁹ but
10 given that the problems in North Carolina "produce[d] lower service level metrics
11 than desired since conversion[,]"⁹⁰ CenturyLink did not manage the problems
12 sufficiently to avoid a decrease in service quality. Again, if these types of service
13 quality declines occurred during CenturyLink's attempts to integrate Qwest, the
14 problems would have a more widespread impact on both wholesale and retail
15 customers.

16 Also, CWA witness Mr. Gurganus has testified that "CWA members in Ohio and
17 North Carolina have been placed on mandatory overtime...in North Carolina I&R

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.

⁸⁸ <http://www.qwest.com/wholesale/clecs/preordering.html>.

⁸⁹ Ring Minnesota Rebuttal Testimony at p. 2, line 16. Available at: <https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={A48DAA86-7AD1-4E97-84AB-69E1D1DEACCE}&documentTitle=20109-54401-01>

⁹⁰ Ring Minnesota Rebuttal Testimony at p. 5, lines 16-18.

1 techs have been on mandatory six-day weeks for two months.”⁹¹ So, apparently,
2 one of the ways in which CenturyLink has attempted to “manage” the problems is
3 to force employees to work longer hours. CenturyLink has provided no evidence
4 demonstrating that the workforce in Qwest’s region would be capable of handling
5 problems by working more hours. Indeed, the available evidence shows that the
6 number of Qwest employees (including employees in Qwest’s wholesale
7 operations) has decreased over the past few years.⁹² As explained in my Direct
8 Testimony at page 108, mandatory overtime was also invoked by Frontier in an
9 attempt to resolve its service problems after Frontier declared an “emergency and
10 long-term service difficulty.”⁹³

11 **Q. HAVE YOU REVIEWED NEW INFORMATION THAT RAISES**
12 **FURTHER QUESTIONS ABOUT THE MERGED COMPANY’S ABILITY**
13 **TO “MANAGE” PROBLEMS THAT IMPACT WHOLESALE**
14 **CUSTOMERS DURING INTEGRATION OF QWEST BY FORCING**
15 **EMPLOYEES TO WORK LONGER HOURS?**

⁹¹ Gurganus Minnesota Direct Testimony at p. 11. Available at:
<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={3BAC3216-79EA-4367-B0FD-2C44F6DFDF17}&documentTitle=20108-53661-01>

⁹² See, e.g., Hunsucker Rebuttal at p. 40, line 3 (“Qwest has been reducing its headcount in wholesale operations...”); See also, Brigham Rebuttal at p. 9, lines 7-9 (“This high level of service quality has occurred at the same time that Qwest total headcount has declined from approximately 41,000 in December 2004 to approximately 30,000 in December 2009.”) This equates to a decrease in Qwest headcount of 27% over five years. See also, Exhibit Joint CLECs 2 (Gates Direct) at pp. 147-150.

⁹³ Exhibit Joint CLECs 2 (Gates Direct) at p. 108 and Exhibit Joint CLECs 2.7 (“Frontier claims overtime is needed: Problems force telecom company to work employees up to 70 hours a week.”)

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

12 [REDACTED] **END HIGHLY CONFIDENTIAL*****

13 Q. CENTURYLINK SAYS THAT IT CHOSE TO INTEGRATE EMBARQ ON
14 A PHASED BASIS INSTEAD OF A "FLASH CUT" OF ALL EMBARQ
15 CUSTOMERS AT ONCE TO MINIMIZE SYSTEM-WIDE PROBLEMS
16 AND MITIGATE POSSIBLE NEGATIVE IMPACTS ON CUSTOMERS
17 AND EMPLOYEES.⁹⁴ HAS THIS BEEN SUCCESSFUL IN AVOIDING
18 ALL PROBLEMS?

⁹⁴ Ferkin Rebuttal at p. 11, lines 15-20. *See also*, Ring Minnesota Rebuttal Testimony at p. 5. Available at: <https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={A48DAA86-7AD1-4E97-84AB-69E1D1DEACCE}&documentTitle=20109-54401-01>

1 A. No, as evidenced by CenturyLink's Minnesota Rebuttal Testimony discussing
2 Embarq integration problems in North Carolina. CenturyLink has still
3 experienced problems during its Embarq integration – problems that have led to
4 service quality deterioration, all of which were glossed over in his direct
5 testimony and discovery responses. This is important because one of the
6 overarching themes of CenturyLink's Rebuttal Testimony is that concerns about
7 the Qwest integration are not warranted because there will be no "flash cut" in the
8 sense that all states will be converted at one time.⁹⁵ CenturyLink's Minnesota
9 testimony shows that even with a phased state-by-state approach, material
10 service-impacting problems can and likely will still occur. And even if a phased
11 approach decreases problems for states that are converted in later phases,⁹⁶ this
12 provides little comfort for those states that are converted in early phases and will
13 serve as the test cases. In addition, this means that CLECs will be forced to
14 accommodate the phase-in on a state-by-state basis, which will require CLECs
15 operating in multiple Qwest states to themselves use different platforms to
16 interact with CenturyLink depending on the state. CenturyLink has not provided
17 any plans about the phases it would use to integrate Qwest or where Utah would
18 fit into the phased conversion schedule. Furthermore, CenturyLink has provided
19 no details regarding its "go/no go criteria," or in other words, the criteria for

⁹⁵ See, e.g., Ferkin Rebuttal at p. 41, lines 14-15.

⁹⁶ CenturyLink has said: "CenturyLink takes what was learned from each previous market conversion and applies those learnings to future conversions." Ring Minnesota Rebuttal Testimony at pp. 4-5. Available at:
<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={A48DAA86-7AD1-4E97-84AB-69E1D1DEACCE}&documentTitle=20109-54401-01>

1 determining if the conversion should move ahead as scheduled or should be
2 delayed until issues such as data validation efforts or testing can take place. The
3 fact that the Embarq North Carolina conversion experienced the problems
4 CenturyLink notes calls into question what CenturyLink's "go/no go criteria" is
5 and what testing is taking place prior to conversion. The fact that CenturyLink
6 did not provide adequate training to its employees on using new systems is
7 apparently also not adequately accounted for in the "go/no go" decision.
8 CenturyLink's "go/no go" criteria is very important because once the decision is
9 made to covert to new OSS, it is not generally possible to revert back to the old
10 OSS again.⁹⁷

11 **Q. DO YOU HAVE OTHER EXAMPLES OF CENTURYLINK FAILING TO**
12 **PROVIDE A COMPLETE PICTURE OF ITS INTEGRATION**
13 **EXPERIENCE?**

14 A, Yes. CenturyLink points to exchanges it has acquired from two BOCs – Verizon
15 and Ameritech – to "demonstrate that CenturyLink has in fact integrated
16 operations and personnel in exchanges previously managed by BOCs."⁹⁸ Mr.
17 Ferkin states: "CenturyLink acquired 89,000 lines from Ameritech in 1998, 1.2

⁹⁷ Testimony of a FairPoint executive responsible for Billing and OSS in a New Hampshire Commission proceeding likened the cutover to new OSS to launching the space shuttle: "a good analogy used in Vermont was to compare this to the launching of the space shuttle. You know, you prepare yourself and you're ready to push the button. Once you push that button, you're going...we've got to be that prepared, to be able to push that button and not look back." New Hampshire Docket DT 07-011, Hearing Transcript, Day 1, October 22, 2007, at p. 149 (Haga). Available at: [http://www.puc.nh.gov/Telecom/Filings/DT07-011/Transcript%20of%20hearing%20held%20on%20Oct%2022%202007%20\(25\).pdf](http://www.puc.nh.gov/Telecom/Filings/DT07-011/Transcript%20of%20hearing%20held%20on%20Oct%2022%202007%20(25).pdf)

⁹⁸ Ferkin Rebuttal at p. 46, lines 1-2.

CERTIFICATE OF SERVICE

UM 1484

I hereby certify that on the 16th day of November, 2010, I served the foregoing **QWEST'S AND CENTURYLINK'S MOTION TO STRIKE CERTAIN PORTIONS OF SUPPLEMENTAL TESTIMONY OF TIMOTHY J. GATES AS IMPROPER SURREBUTTAL TESTIMONY - EXPEDITED CONSIDERATION REQUESTED**, in the above entitled docket on the following persons via e-mail, and 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 16th day of November, 2010.

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(w) denotes waiver of paper service

* denotes signed Protective Order No. 10-192

** denotes signed Protective Order Nos. 10-192 and 10-291