



Oregon

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December 8, 2010

Via Electronic Filing and U.S. Mail

OREGON PUBLIC UTILITY COMMISSION
ATTENTION: FILING CENTER
PO BOX 2148
SALEM OR 97308-2148

**RE: Docket No. UM 1484 - In the Matter of CENTURYLINK, INC.
Application for Approval of Merger between CenturyTel, Inc. and Qwest
Communications International, Inc**

Enclosed for electronic filing in the above-captioned docket is the Public
Utility Commission Staff's Supplemental Testimony.

/s/ Kay Barnes

Kay Barnes

Regulatory Operations Division

Filing on Behalf of Public Utility Commission Staff

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c: UM 1484 Service List (parties)

**PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1484

**STAFF SUPPLEMENTAL TESTIMONY OF
MICHAEL DOUGHERTY**

**In the Matter of
CENTURLINK, INC.
Application for Approval of Merger between
CenturyTel, Inc. and Qwest Communications
International, Inc.**

December 8, 2010

CASE: UM 1484
WITNESS: Michael Dougherty

**PUBLIC UTILITY COMMISSION
OF
OREGON**

STAFF EXHIBIT 700

**Staff Testimony in Support of Imposition of
Broadband Trouble Report Complaint Reporting
and Most Favored State Conditions**

December 8, 2010

1 **Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS**
2 **ADDRESS.**

3 A. My name is Michael Dougherty. I am the Program Manager for the Corporate
4 Analysis and Water Regulation Section of the Public Utility Commission of
5 Oregon (Commission). My business address is 550 Capitol Street NE, Suite
6 215, Salem, Oregon 97301-2551.

7 **Q. ARE YOU THE SAME MICHAEL DOUGHERTY WHO HAS PREVIOUSLY**
8 **FILED TESTIMONY, AND ACCOMPANYING EXHIBITS, IN THIS**
9 **PROCEEDING?**

10 A. Yes, I am.

11 **Q. WHAT IS THE PURPOSE OF THIS SUPPLEMENTAL TESTIMONY?**

12 A. CenturyLink, Inc. (CenturyLink), Qwest Communications International, Inc.
13 (Qwest), the Staff of the Public Utility Commission of Oregon (Staff), and the
14 Citizens' Utility Board of Oregon (CUB) (together the Parties) have entered into
15 a Stipulation that results in a transaction that meets the public interest standard
16 the Commission employs under ORS 759.375 and ORS 759.380, with one
17 proviso; the Parties acknowledged that there are two remaining disputed
18 issues. The Stipulation has been entered into the record and the parties intend
19 to file Joint Supporting Testimony for the Stipulation on December 8, 2010.
20 Per the terms of the Stipulation, the parties reserved the right to advocate for,
21 or object to, the imposition of trouble report complaint (TRC) reporting for
22 broadband services and the imposition what is commonly referred to as a
23 "Most Favored States" (MFS) condition. On behalf of Staff, I urge the
24

1 Commission to include a broadband TRC reporting condition and an MFS
2 condition in any order issued approving the Application filed in this proceeding
3 by CenturyLink.

4 **Q. PLEASE SET FORTH THE BROADBAND TRC REPORTING CONDITION**
5 **THAT STAFF RECOMMENDS THE COMMISSION MANDATE IN THIS**
6 **PROCEEDING.**

7 A. In Staff/100, Dougherty/49, I included the following recommended condition
8 concerning broadband trouble report complaint reporting:

9 14. Given that the Commission is approving the transaction based in part on the
10 increased availability of broadband, CenturyLink is directed to provide the
11 following reporting requirements:

- 12
- 13 a. Not less than 90 days following the first anniversary of the close of the
14 transaction, and for the four subsequent annual periods, CenturyLink
15 shall provide the following reports on the preceding twelve-month
16 period, regarding the provision of DSL service in Oregon:
 - 17
 - 18 b. By month, the numbers of initial and verified trouble report complaint
19 (TRC) data.
 - 20
 - 21 c. The types and duration of TRCs.
 - 22
 - 23 d. A brief caption as to the cause of each TRC. (TRCs may be grouped
24 into categories for administrative reporting simplicity.)
 - 25

26 The filing must thoroughly document what information CenturyLink collects in
27 the form of customer complaints about DSL service on the number, types,
28 and causes of trouble that impinge on CenturyLink's provisions of DSL
29 service in Oregon.

30

31 CenturyLink must also file a report with the Commission not less than 90 days
32 following the first anniversary of the close of the transaction, and for the four
33 subsequent annual periods, the following:

- 34
- 35 a. By customer class, wire center, by month, the number of DSL
36 subscriptions.
 - 37

- 1 b. By customer class, wire center, by month, the number of requested
2 DSL subscriptions.

3
4 **Q. WHY DO YOU CONTINUE TO RECOMMEND THAT THE COMMISSION**
5 **MANDATE THIS, OR A SIMILAR, BROADBAND TRC REPORTING**
6 **CONDITION?**

- 7 A. In Commission Order 10-067 (UM 1431), dated February 24, 2010, the
8 Commission imposed a similar condition on the indirect transfer of control of
9 Verizon Communications Inc. (Verizon) properties in Oregon to Frontier
10 Communications Corporation (Frontier). The Commission stated on page 16 of
11 the order:

12 We also note our addition of new Condition 57, that we will
13 require Frontier to submit detailed reports with respect to
14 broadband service quality and customer complaints
15 regarding service quality and availability.

16
17 Staff believes that because the Commission considered broadband TRC
18 reporting important enough to include in UM 1431, and because of the short
19 time-frame between Order No. 10-067 and this Stipulation, the Commission
20 should also impose a broadband TRC reporting condition on CenturyLink.

21 **Q.PLEASE SET FORTH THE MFS CONDITION THAT STAFF RECOMMENDS**
22 **THE COMMISSION MANDATE IN THIS PROCEEDING.**

- 23 A. In Staff/100, Dougherty/57-58, I included the following recommended condition
24 concerning a MFS clause:

25 57. CenturyLink agrees that the Conditions may be expanded or modified
26 as a result of regulatory decisions in other states and the FCC,
27 including decisions based upon settlements, that impose conditions or
28 commitments related to this merger proposal. CenturyLink agrees that
29 the Commission may adopt any commitments or conditions from other

1 states and the FCC that are adopted after the final order in UM 1484 is
2 issued that are related to addressing harms of this transaction if:
3

4 The commitment or condition does not result in the combined company being
5 required to provide a “net benefit” and either:
6

- 7 i. The Commission or Staff had not previously identified the harm to
8 Oregon ratepayers and such harm is applicable to Oregon; or
9
- 10 ii. The commitments or conditions in a final order of another state and the
11 FCC are more effective at preventing a harm previously identified by
12 the Commission or Staff.
13

14 Should new commitments or conditions meeting the requirements of
15 subsections i. or ii. of this paragraph occur, CenturyLink will commit to the
16 following process to facilitate a prompt decision from the Commission under
17 this section:
18

- 19 a) Within fifteen (15) calendar days after a final order adopting a new
20 condition or stipulation with new or amended commitments by a
21 commission in another state jurisdiction and the FCC, CenturyLink will
22 send a copy of the stipulation and commitment to Oregon Commission
23 Staff and to all parties in UM 1484.
24
- 25 b) CenturyLink will notify the Commission that they have received the last
26 such final order from other states and the FCC adopting new
27 conditions, stipulations or commitments (the “Final Filing”) within fifteen
28 (15) calendar days of receipt and send it to Staff and all UM 1484
29 parties.
30
- 31 c) Within fifteen calendar days after the last such filing from the other
32 states and the FCC (“Final Filing”), any party to this proceeding may
33 file with the Commission its response, including its position as to
34 whether any of the covenants, commitments and conditions from the
35 other jurisdictions (without modification of the language thereof except
36 such non-substantive changes as are necessary to make the
37 commitment or condition applicable to Oregon), meets the two
38 requirements set forth above, and should be adopted in Oregon. Any
39 party filing such a response should serve it upon the UM 1484 parties.
40

1 **Q. WHY DO YOU CONTINUE TO RECOMMEND THAT THE COMMISSION**
2 **MANDATE THIS, OR A SIMILAR, MFS CONDITION?**

3 A. This condition is consistent with the conditions included in the indirect transfer
4 of control of Verizon properties in Oregon to Frontier, UM 1431, and the
5 CenturyTel/Embarq Merger Commission Order No. 09-169 (UM 1416). I note
6 that in this transaction, Staff added the regulatory decisions of the Federal
7 Communications Commission (FCC) to the condition. Additionally, most
8 favored state conditions were also included in the UM 1209 (PacifiCorp/MEHC)
9 and UM 1283 (Cascade Natural Gas/MDU Resources) stipulations.

10 The primary reason for including such a clause in these prior proceedings
11 continues to hold true for the current proceeding, is that the Commission's
12 order may be issued earlier in time than other states which also have
13 proceedings to consider approval of CenturyLink's transaction in their state. As
14 such, the MFS clause allows the Commission to adopt, under certain
15 circumstances delineated in the clause, any commitments or conditions from
16 other states that are adopted after the final order in UM 1484 is issued that are
17 related to addressing any harms of this transaction.

18 For example, Staff and the intervenors, despite their efforts to do so, may
19 have not identified a risk of the transaction that is identified and remedied with
20 a condition in other states. Or, another state may address a risk that was
21 identified in UM 1484 with a better-crafted condition. The MFS clause will
22 allow the Commission, pursuant to the terms of the condition, to impose such

1 other-state conditions after the Commission issues its order approving the
2 transaction in Oregon.

3 Further, as the CUB witness Bob Jenks testified at the UM 1431 hearing held
4 on December 3, 2009, the absence of a MFS clause would give state
5 commissions, including this one, an incentive to not approve the transaction
6 until all other state commissions had “gone first.” Clearly, if all states acted in
7 this manner, the proceedings to approve the transaction would never conclude
8 as each state tried to “outwait” the other states. In this way, the MFS condition
9 may be viewed as the price CenturyLink must pay in order to get an early
10 resolution of its Application in Oregon.

11 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

12 A. Yes.

CERTIFICATE OF SERVICE

UM 1484

I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-001-0180, to the following parties or attorneys of parties.

Dated this 8th day of December, 2010 at Salem, Oregon.



Kay Barnes
Public Utility Commission
Regulatory Operations
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Telephone: (503) 378-5763

UM 1484
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