



Qwest
310 SW Park Ave.
11th Floor
Portland, Oregon 97205
Telephone: 503-242-5420
Facsimile: 503-242-8589
e-mail: carla.butler@qwest.com

Carla M. Butler
Lead Paralegal

November 19, 2010

Via UPS Next Day Delivery

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 five (5) copies of the Highly Confidential version of Qwest's Supplemental Response Testimony of Robert Brigham, along with a certificate of service.

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

Sincerely,

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

Carla M. Butler

Enclosures
cc: Certificate of Service

**BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON
UM 1484**

In the Matter of

Application of CenturyTel, Inc.
for Approval of Indirect Transfer of Control of
Qwest Corporation

**SUPPLEMENTAL RESPONSE TESTIMONY
OF
ROBERT BRIGHAM
QWEST COMMUNICATIONS INTERNATIONAL, INC.**

NOVEMBER 19, 2010

PUBLIC (REDACTED) VERSION

1
2
3
4
5
6
7
8

TABLE OF CONTENTS

I. INTRODUCTION 1

II. RESPONSE TO MR. APPLEBY 2

III. RESPONSE TO MR. GATES..... 13

IV. CONCLUSION 15

1 **I. INTRODUCTION**

2
3 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION**
4 **WITH QWEST.**

5 A. My name is Robert H. Brigham. My business address is 1801 California Street,
6 Denver, Colorado, and I am currently employed by Qwest Corporation (“QC”) as a
7 Staff Director in the Public Policy department.

8
9 **Q. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY IN THIS**
10 **PROCEEDING?**

11 A. Yes. On September 21, 2010, I filed rebuttal testimony in this proceeding.

12
13 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

14 A. The purpose of my testimony is to respond to the Supplemental Responsive
15 testimony presented by Mr. James Appleby on behalf of Sprint Nextel Corporation
16 (“Sprint”) on November 11, 2010. First, I will demonstrate that, counter to the
17 allegations of Mr. Appleby, the combined company will *not* be able to exert
18 “unwarranted” market power after the merger is consummated. Second, I will
19 demonstrate that there is absolutely no justification for Mr. Appleby’s proposal to
20 reduce switched access rates in this proceeding to compensate for the financial
21 benefits the post-merger company hopes to achieve via the merger in the future. I
22 will also briefly address a portion of the Supplemental Responsive testimony
23 presented and Mr. Timothy Gates on behalf of the Joint CLECs¹

24

¹ The remaining “Joint CLECs” (after the CenturyLink/Qwest settlement with Integra) include tw telecom of Oregon, LLC, COVAD Communications Company, Level 3 Communications, LLC and Charter Fiberlink OR-CCVII, LLC.

1 **II. RESPONSE TO MR. APPLEBY**

2
3 **Q. WHAT IS THE MAJOR THRUST OF MR. APPLEBY'S TESTIMONY?**

4 A. Mr. Appleby has reviewed the Hart-Scott-Rodino ("HSR") documents provided by
5 CenturyLink and Qwest in this proceeding. He summarizes the content of these
6 materials, which include internal communications and merger planning documents
7 that in many cases outline the benefits that are anticipated to be achieved through
8 the merger. Based on his review, he concludes the post-merger company will have
9 "significant opportunities to wield market power" due to the combination of
10 networks and the resulting "owner's economics" that the firm will realize.² He also
11 argues that "the combined network will enable significant revenue opportunities
12 such as broadband internet service, internet protocol television and Fiber to the Cell
13 (FTTC)"³ that will allegedly increase the "market power" of the combined
14 company. According to Mr. Appleby, the new documents he has reviewed
15 demonstrate that the "merger will lead to increased market power that could harm
16 the competitive marketplace."⁴

17
18 **Q. IN YOUR VIEW, DO ANY OF THE NEW DOCUMENTS THAT MR.**
19 **APPLEBY HAS REVIEWED SUPPORT THE PROPOSITION THAT THE**
20 **MERGED COMPANY WILL BE ABLE TO EXERCISE MARKET POWER**
21 **THAT WOULD HARM COMPETITION OR THE PUBLIC INTEREST IN**
22 **OREGON?**

² Sprint/4, Appleby/4.

³ *Id.*

⁴ Sprint/4, Appleby/5.

1 A. No. As I demonstrated in my rebuttal testimony to Dr. Frentrup, there is no basis
2 for Sprint’s claim that the post-merger company will have the ability to exercise
3 market power to the detriment of competition and the public interest in Oregon. As
4 described below, nothing in the documents reviewed and described by Mr. Appleby
5 provides any new evidence that would lead to a different conclusion.

6
7 **Q. WHAT IS THE CRITICAL FLAW IN MR. APPLEBY’S “MARKET**
8 **POWER” TESTIMONY?**

9 A. It appears that Mr. Appleby misunderstands the economic concept of “market
10 power.” Throughout his testimony, he cites the benefits that the companies hope to
11 achieve based on completion of the merger, and argues that these benefits, if
12 realized, would result in “unwarranted” market power.⁵ It is certainly true that
13 CenturyLink and Qwest hope to achieve benefits, including increased revenues,
14 network efficiencies and synergies as described in the Joint Petitioners’ testimony
15 and in the “HSR” information cited by Mr. Appleby. However, Mr. Appleby
16 confuses merger benefits with the concept of market power. The fact that the
17 merger may allow for new revenue streams or a reduction in certain costs—the goal
18 of any merger—does not in any way translate into a post-merger company with
19 “unwarranted” market power.

20
21 **Q. DOES MR. APPLEBY DEFINE “MARKET POWER?”**

22 A. No. He simply assumes that if the merger will provide benefits to the new
23 company—such as new revenues or cost savings—then the company will have
24 increased and “unwarranted” market power.

25

⁵ Mr. Appleby refers to the merged firm gaining “unwarranted” market power. Sprint/4, Appleby/5.

1 **Q. PLEASE DEFINE “MARKET POWER.”**

2 A. Market power is generally defined as the ability of a firm to profitably raise prices
3 above *competitive* levels for more than a transitory period of time. The latest
4 Horizontal Merger Guidelines (“HMG”) released by the Department of Justice
5 (“DOJ”) and Federal Trade Commission (“FTC”) state: “A merger enhances
6 market power if it is likely to encourage one or more firms to raise price, reduce
7 output, diminish innovation, or otherwise harm customers as a result of diminished
8 competitive constraints or incentives.”⁶

9

10 **Q. CONSIDERING THE PROPER DEFINITION OF “MARKET POWER,”**
11 **HAS MR. APPLEBY PROVIDED ANY NEW INFORMATION**
12 **DEMONSTRATING THAT THE POST-MERGER COMPANY WOULD BE**
13 **ABLE TO EXERCISE “UNWARRANTED” MARKET POWER?**

14 A. No. Nothing in the new information presented by Mr. Appleby leads to the
15 conclusion that the post-merger company will have increased “market power” based
16 on the concept as properly defined. Just because the new company may be stronger
17 in some respects does not mean that it will have the market power to “raise price,
18 reduce output, diminish innovation, or otherwise harm customers.” The DOJ
19 agrees. As I pointed out in my rebuttal testimony, on July 15, 2010, CenturyLink
20 and Qwest received notification from the DOJ and the Federal Trade Commission
21 (“FTC”) that the merger review received early termination under the Hart-Scott-
22 Rodino Act. Thus, the proposed merger of CenturyLink and Qwest has received
23 clearance from an antitrust perspective,⁷ as the DOJ and FTC have determined that

⁶ Horizontal Merger Guidelines, U.S. Department of Justice and the Federal Trade Commission, Issued August 19, 2010, p. 2.

⁷ See Form 425 filed with the United States Securities and Exchange Commission on July 22, 2010, available at <http://investor.qwest.com/qcii-sec-filings>.

1 there will not be a significant erosion of competition or undue market power
2 resulting from the merger.

3
4 **Q. MR. APPLEBY CLAIMS THE POST-MERGER COMPANY WILL ENJOY**
5 **ADDITIONAL “OWNER’S ECONOMICS” AND THAT THIS WILL LEAD**
6 **TO THE EXERCISE OF “UNWARRANTED” MARKET POWER. PLEASE**
7 **COMMENT.**

8 A. One of the recognized benefits of the merger is that the company will be combining
9 networks and can bring more of the company’s traffic “on net,” thus reducing its
10 dependence on the purchase of services from other vendors.. Mr. Appleby refers to
11 this as realizing “owner’s economics.” While Mr. Appleby cites “new” information
12 to emphasize this merger benefit, the realization of “owner’s economics” is a
13 benefit that was identified by CenturyLink and Qwest when the merger was
14 announced.⁸ In fact, moving services “on-net” is a recognized benefit of virtually
15 all telecommunications mergers. While the post-merger company may save money
16 by self-provisioning additional facilities and avoiding some charges to other
17 providers, Mr. Appleby has provided no evidence that this will provide the post-
18 merger company with additional market power (i.e., the ability to “raise price,
19 reduce output, diminish innovation, or otherwise harm customers”).

20
21 **Q. DO OTHER FIRMS IN THE INDUSTRY SEEK TO TAKE ADVANTAGE**
22 **OF “OWNER’S ECONOMICS?”**

23 A. Yes. All firms in the industry, with the possible exception of pure resellers, enjoy
24 “owner’s economics” to some extent and may move traffic “on-net” in order to

⁸ E.g., Investor Presentation, April 22, 2010, p. 10. See <http://www.centurylinkqwestmerger.com/downloads/presentations/Investor%20Presentation-4-22-10.pdf>.

1 decrease costs or maintain control over facilities. Numerous companies, including
2 Sprint and CLECs, have in many instances built their own facilities rather than
3 purchasing facilities from another provider such as Qwest. Seeking to take
4 advantage of owner's economics is not a remarkable or anti-competitive action, and
5 does not increase the post-merger company's market power. The mere fact that the
6 acquisition of Qwest by CenturyLink may allow the combined company to move
7 more traffic "on-net," thus avoiding some payments to other carriers, provides no
8 justification for Mr. Appleby's claim that the merged company will gain
9 "unwarranted" market power.

10
11 **Q. MR. APPLEBY CLAIMS THAT THE MERGED FIRM WILL ENJOY**
12 **EXCESSIVE MARKET POWER DUE TO ITS ALLEGED "CONTROL OF**
13 **LOCAL ACCESS FACILITIES"⁹ DO YOU AGREE?**

14 A. No. Qwest today, and the combined company in the future, does not have
15 excessive market power based on "control" of local access facilities. First, as
16 I described in my rebuttal testimony, Qwest is subject to Sections 251, 252 and 271
17 of the Telecommunications Act, and must therefore provide unbundled network
18 elements to CLECs at Total Element Long Run Incremental Cost ("TELRIC")-
19 based prices, except where "non-impairment" has been declared based on the
20 FCC's *Triennial Review Remand Order* ("TRRO") criteria. In Oregon, only three
21 wire centers—Portland Capitol, Salem and Eugene—have been declared non-
22 impaired for DS3 loops, and only one wire center—Portland Capitol—has been
23 declared non-impaired for DS1 loops.¹⁰ In these "non-impaired" wire centers,
24 CLECs may still purchase last mile facilities at non-TELRIC-based rates per

⁹ Sprint/4, Appleby/10.

¹⁰ See Qwest Wholesale website at http://www.qwest.com/wholesale/downloads/2010/100111/Non_Impaired_Wire_Center_12_23_09.xls.

1 Section 271 of the Telecommunications Act. In addition, switched access and
2 special access services are available from Qwest at just and reasonable rates in all
3 areas.¹¹ Further, as described in my rebuttal testimony, there are numerous non-
4 ILEC options available to Sprint and other carriers to obtain last-mile access in
5 Oregon.¹² As Mr. Appleby himself acknowledges in his merger-related testimony
6 in other states: “The monopoly era is over and carriers are competing with the
7 ILECs for local services.”¹³

8
9 **Q. DOES MR. APPLEBY CLAIM THAT THE POTENTIAL POST-MERGER**
10 **PROVISION OF BROADBAND SERVICES AND IPTV SERVICES WILL**
11 **INCREASE THE POST-MERGER COMPANY’S MARKET POWER TO**
12 **UNACCEPTABLE LEVELS?**

13 A. Yes. Mr. Appleby notes that “additional non-voice services will help the merged
14 firm compete in the market,”¹⁴ and he claims that somehow the provision of these
15 services will increase the firm’s market power to the detriment of customers and the
16 overall market. This claim is erroneous for several reasons. First, no reasonable
17 argument can be made that Qwest or CenturyLink has significant market power in
18 the broadband or video market today, given that DSL broadband connections—like
19 those offered by CenturyLink and Qwest—represented less than 30% of broadband

¹¹ Intrastate switched access rates are regulated by the Oregon Commission and are contained in state tariffs, while interstate switched access rates are regulated by the FCC and contained in federal tariffs. DS1 intrastate special access rates are regulated in Oregon and are contained in QC Private Line Transport Services Tariff No. 31; DS3 intrastate special access rates are not price-regulated and are contained in the Oregon QC Private Line Transport Services Catalog.

¹² Qwest/3, Brigham/27-28.

¹³ Supplemental Responsive Testimony of James A. Appleby, Before the Washington Utilities and Transportation Commission, Docket No. UT-100820, November 1, 2010, p. 10.

¹⁴ Sprint/4, Appleby/13.

1 connections in Oregon as of June 2009,¹⁵ and that the companies have virtually no
2 facilities-based presence in the video market in the state.¹⁶ Second, customers will
3 certainly not be harmed if the merged company dedicates additional financial
4 resources to expanding its Fiber to the Node (“FTTN”) network in order to facilitate
5 offering broadband or IPTV services to additional customers. Consumers in
6 Oregon would clearly benefit if the post-merger company were better able to
7 compete with cable companies such as Comcast in the broadband and video
8 markets, and the large providers such as AT&T and Verizon in the wireless
9 broadband market.

10
11 Mr. Appleby argues that the merged company is not “solely a provider of local
12 service” but is instead becoming a broadband provider—as if this represents new
13 information that CenturyLink and Qwest would disagree with.¹⁷ However, Qwest
14 has been marketing itself as a “broadband company” for the past several years, and
15 clearly sees the future success of the company as tied to providing broadband
16 services. I am not sure what point Mr. Appleby is making, but if his point is that
17 the future company will be focused on broadband services or applications such as
18 IPTV, I agree with him. Given the highly competitive broadband market in Oregon
19 today, Mr. Appleby cannot reasonably claim that the company’s broadband-based
20 focus will in any way provide the post-merger company with excessive market
21 power.

¹⁵ *Internet Access Services Status as of June 30, 2009*, Industry Analysis and Technology Division, Wireline Competition Bureau, September 2010, Table 14. As of June 30, 2009, the FCC reported 367,000 ADSL connections, 531,000 cable modem connections and 413,000 mobile broadband connections out of a total of 1.4 million connections (at least 200 kbps in one direction) in Oregon.

¹⁶ Qwest does resell DirecTV service, but does not provide any facilities-based video service.

¹⁷ Sprint/4, Appleby/15.

1 **Q. MR. APPLEBY CLAIMS THE POST MERGER COMPANY MAY**
2 **REALIZE HIGHER REVENUES, HIGHER AVERAGE REVENUE PER**
3 **UNIT (“ARPU”) AND GREATER PROFIT MARGINS, AND THAT THIS**
4 **INCREASES ITS MARKET POWER. PLEASE COMMENT.**

5 A. CenturyLink and Qwest certainly hope that the merger will provide the financial
6 benefits Mr. Appleby describes, as this is the primary basis for the merger.
7 Obviously, the parties would not have moved forward with the merger unless they
8 saw future benefits such as those described in the documents provided to Mr.
9 Appleby. If these goals are realized, the company will be financially healthier, and
10 will be better able to provide the new and innovative services customers demand.
11 This is in the public interest.

12
13 However, if the merged company meets its financial goals and improves its
14 revenues, ARPU and profit margins, this does not mean that it will have
15 “unwarranted” market power as alleged by Mr. Appleby. Contrary to Mr.
16 Appleby’s theory, there is no basis to assume a company that improves its financial
17 standing can exert market power in a manner that is detrimental to customers or the
18 public interest—especially when it operates in an intensely competitive industry
19 such as telecommunications.

20
21 **Q. DOES MR. APPLEBY ARGUE THAT THE COMMISSION SHOULD**
22 **REDUCE SWITCHED ACCESS CHARGES IN THIS PROCEEDING?**

23 A. Yes. Mr. Appleby claims that since the merged company projects it will be able to
24 collect more revenue based on its combined network, it should be required to
25 reduce its access charges in this proceeding.¹⁸

¹⁸ Sprint/4, Appleby/11, 18.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Q. IS THERE ANY JUSTIFICATION FOR MR. APPLEBY'S PROPOSAL?

A. No. Mr. Appleby's reasoning is flawed on several levels. First, as discussed in my rebuttal testimony and the rebuttal of other CenturyLink and Qwest witnesses, there is no basis for requiring the merged company to share any financial gains with other providers such as Sprint. Shareholders are risking their capital in the two companies, and they should receive the financial rewards or losses that would be incurred based on the Transaction. Second, the company should not be forced to reduce its access revenues to compensate for the future increases in revenues that the company hopes to attain. Mr. Appleby essentially makes a "revenue requirement" argument, recommending that the Commission impose reductions in current revenues that would offset projected (but not guaranteed) future increases in revenue streams. This is completely inappropriate to say the least, since the Qwest subsidiary is and will be regulated under an AFOR. Even if the company were rate-of-return regulated, there would be no justification for reducing current revenues based on projected future earnings.

Furthermore, as described in my rebuttal testimony, the Administrative Law Judge has determined that switched access rates are not an issue to be addressed in this proceeding:

Historically, this issue has been addressed and was resolved many years ago by the requirement that ILECs place their competitive operations in fully separated subsidiaries with separate management, technical and financial staffs and operations, so that the access charges which they pay to their ILEC affiliate will have the same economic impact upon their operations as they would to an unaffiliated CLEC competitor. Evidence regarding the amount of these special and interstate access charges that the Applicants' ILECs charge each others' CLEC affiliates is therefore not "reasonably calculated to lead to

1 the discovery of evidence relevant to the issues involved in the pending
2 proceeding.¹⁹

3 In addition, Mr. John Reynolds, on behalf of Staff, testifies that it is not appropriate
4 to address access charge, intercarrier compensation or universal service issues in
5 this docket.²⁰ He explains that “[r]educing CenturyLink’s access rates at this time
6 is likely to have serious undesirable consequences,”²¹ which he describes in his
7 testimony.

8

9 **Q. MR. APPLEBY DISCUSSES FIBER TO THE CELL SITE (“FTTC”), AND**
10 **CLAIMS THAT “THE MERGED FIRM CAN USE ITS NEAR MONOPOLY**
11 **MARKET SHARE OF LOCAL ACCESS FACILITIES TO CONTINUE TO**
12 **DOMINATE THE WIRELESS BACKHAUL MARKET INTO THE**
13 **FUTURE.”²² PLEASE RESPOND.**

14 **A.** Mr. Appleby’s characterization of the wireless backhaul market is erroneous; this
15 market is highly-competitive today and will continue to be so in the future. Mr.
16 Appleby is correct that the demand for wireless backhaul bandwidth is increasing
17 rapidly, as customers utilize more “smartphone” wireless broadband applications.
18 However, he is wrong when he states that wireless carriers will rely solely on
19 special access provided by ILECs for these connections. As described in my
20 rebuttal testimony, Qwest and other providers are negotiating commercial
21 agreements with wireless providers to *build* fiber backhaul facilities *that are not in*
22 *place today*. In each case, the provision of the facilities is based on freely-
23 negotiated contracts—not special access or other tariffs. Since the facilities are not

¹⁹ Docket UM 1484, ALJ Ruling, *Motion Dismissed as Moot in Part and Denied in Part* (September 7, 2010), p. 4.

²⁰ Staff/300, Reynolds/13.

²¹ Staff/300, Reynolds/11.

²² Sprint/4, Appleby/19-20.

1 in place today, each competitive bidder must seek a contract that would gain the
2 business, but would allow for recovery of the significant capital expenditure over a
3 period of the contract. Qwest or any provider must risk capital to deploy these
4 facilities. The company is hopeful that the additional financial strength of the
5 combined company will provide the resources for additional builds to meet
6 burgeoning wireless broadband demand. The negotiation of FTTC contracts
7 provides a vivid example of how competitive markets work.

8
9 Contrary to the claims of Mr. Appleby, numerous companies are competing to
10 provision fiber wireless backhaul facilities in Qwest's territory. On October 26,
11 2010, Qwest filed an *ex parte* presentation with the FCC that describes the nature of
12 this highly-competitive market. I am attaching, as Exhibit Qwest/7 a redacted copy
13 of this *ex parte* presentation and the Declaration of Beth A. Halvorson, which
14 describes the competitive wireless backhaul market and the nature of the Requests
15 for Proposals ("RFPs") issued by wireless providers. As noted, wireless providers
16 "are finding numerous providers willing and able to provide these services,
17 including cable providers, CLECs and independent LECs."²³ The Declaration
18 states: "Within Qwest's service area, Cox and tw telecom have won a significant
19 number of fiber backhaul bids for cell sites in Arizona and Minnesota. Qwest has
20 also lost bids to Comcast (Colorado and Minnesota), Iowa Network Services
21 (Iowa), Bresnan (Minnesota), tw telecom (Arizona and Washington), and Cox
22 (Arizona)."²⁴ The information in this *ex parte* demonstrates that the wireless
23 backhaul market is far different than as described by Mr. Appleby.

²³ *In the Matter of Special Access Rates for Price Cap Local Exchange Carriers*, FCC WC Docket No. 05-25; *In the Matter of AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, RM-1 0593 - Ex Parte of Qwest, October 26, 2010, Declaration of Beth A. Halvorson, p. 2.

²⁴ Sprint/4, Appleby/5.

1
2 **III. RESPONSE TO MR. GATES**
3


4 **Q. WILL YOU ADDRESS EACH OF MR. GATES' CLAIMS REGARDING**
5 **THE HSR DOCUMENTS HE HAS REVIEWED?**

6 A. No. As described in the Supplemental Response testimony of Mr. Michael
7 Hunsucker, Mr. Gates makes numerous allegations and accusations based on his
8 review of the HSR documents provided by Qwest and CenturyLink. However, in
9 many cases he offers erroneous assertions based on a few select words from those
10 documents that he then takes completely out of context. While the bulk of these
11 claims are addressed in Mr. Hunsucker's testimony, I will address one specific
12 erroneous assertion made by Mr. Gates regarding a "network manager" call that
13 occurred on April 23, 2010 (provided in Attachment 4(c)-5 of Qwest's HSR filing).
14

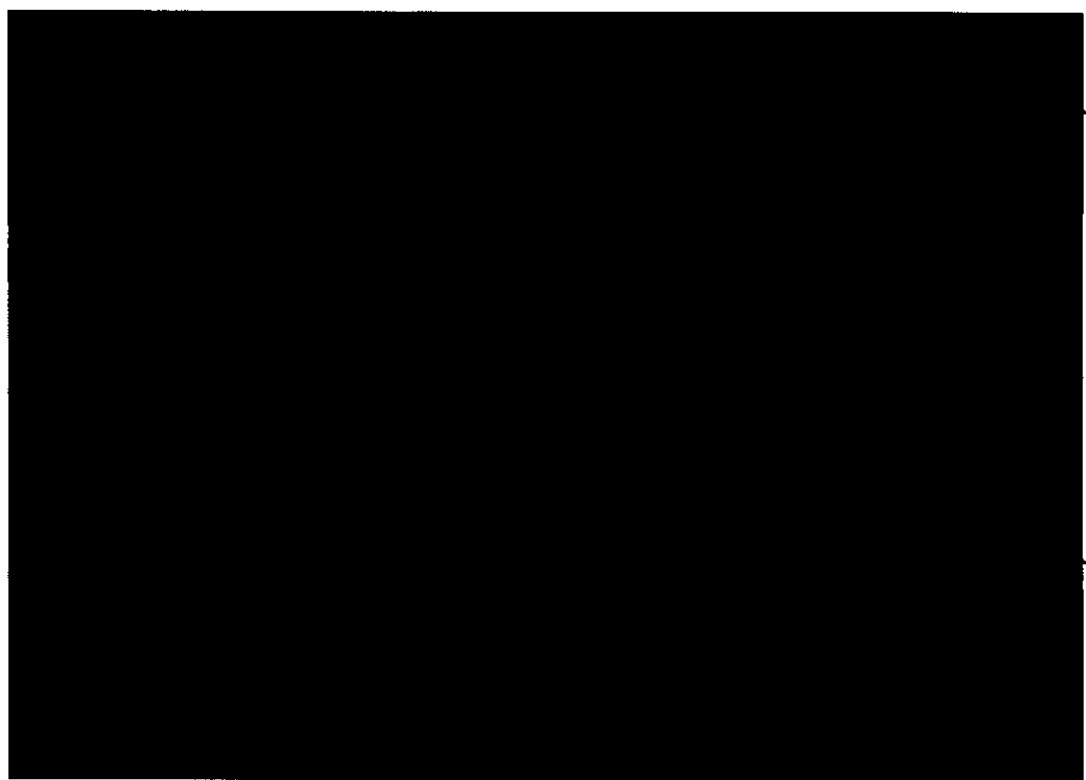
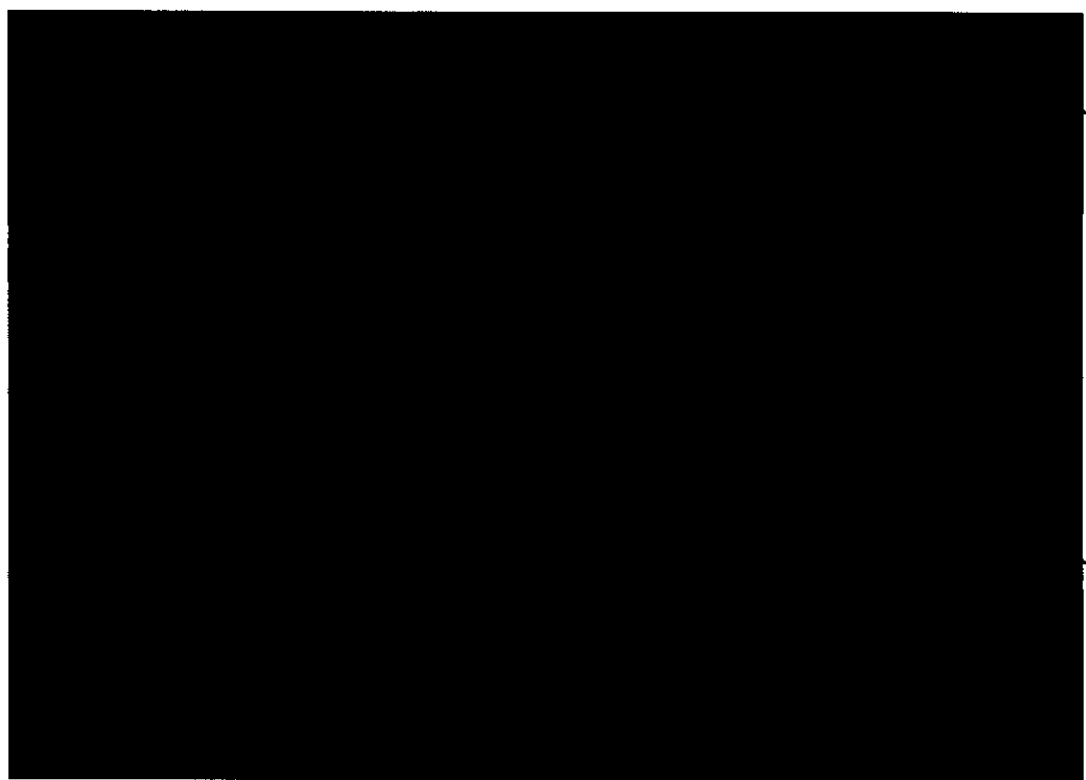
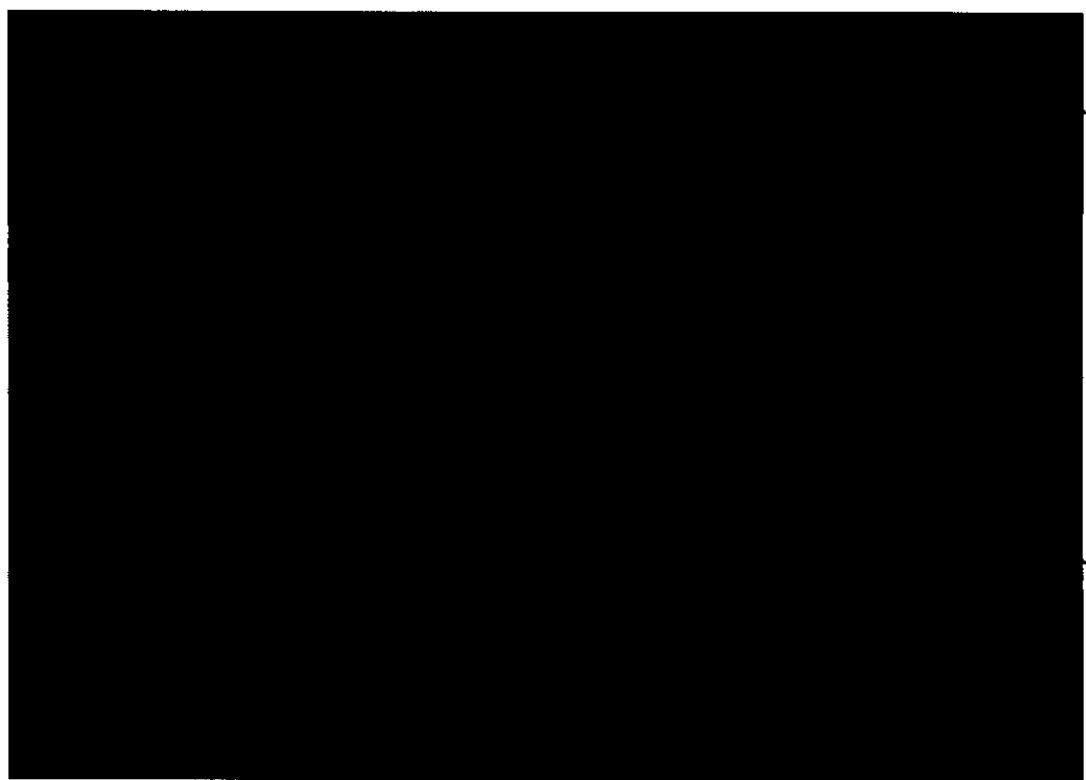
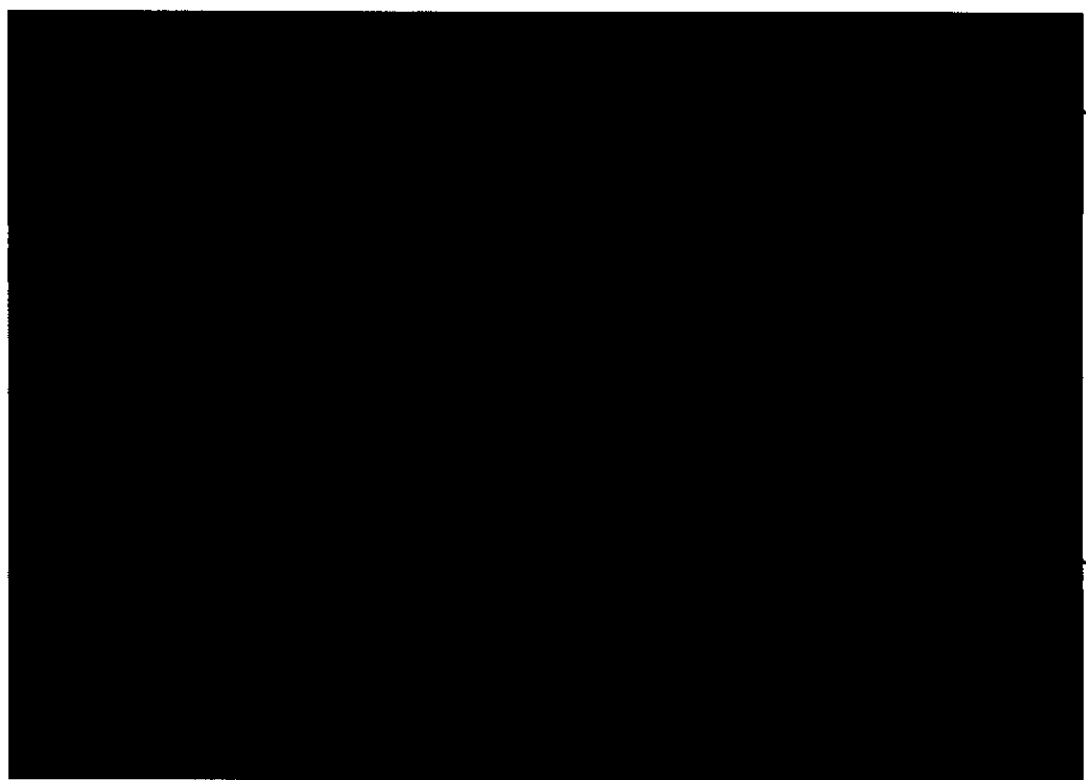
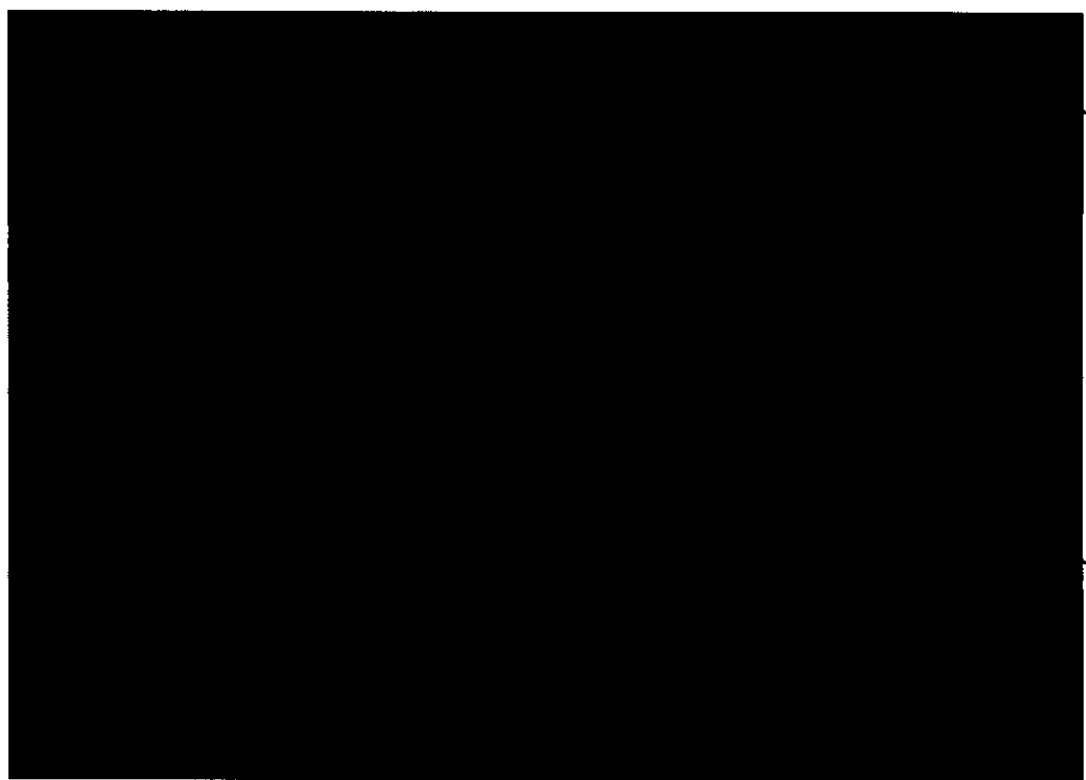
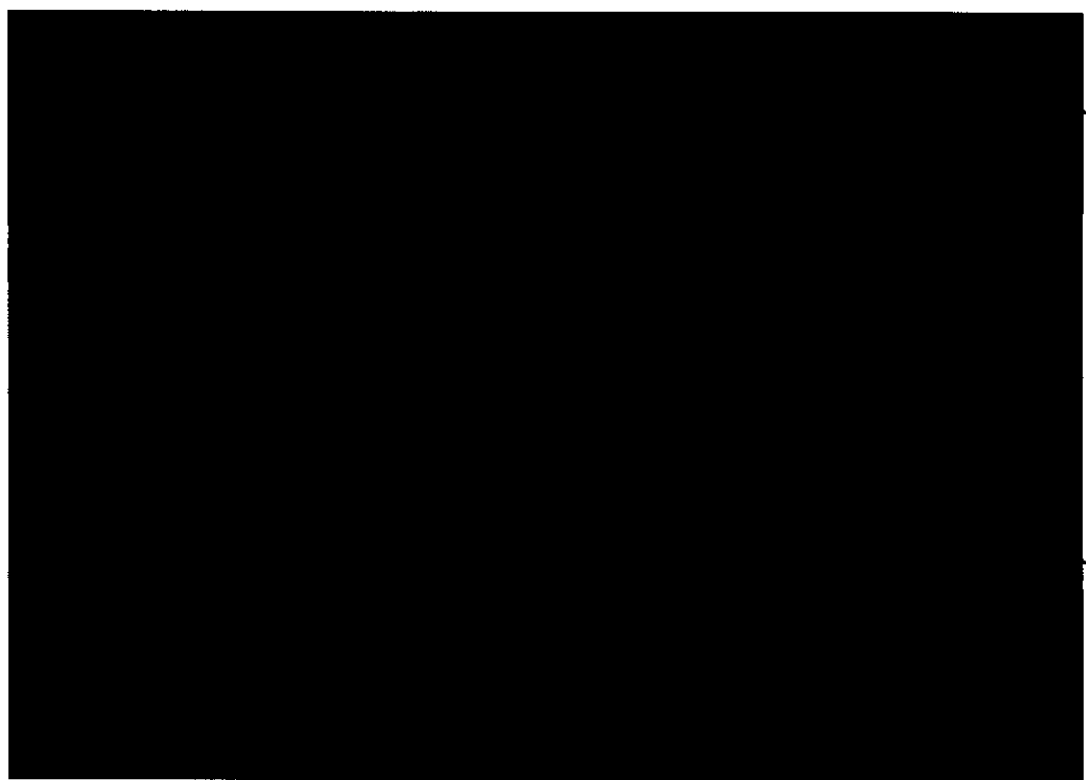
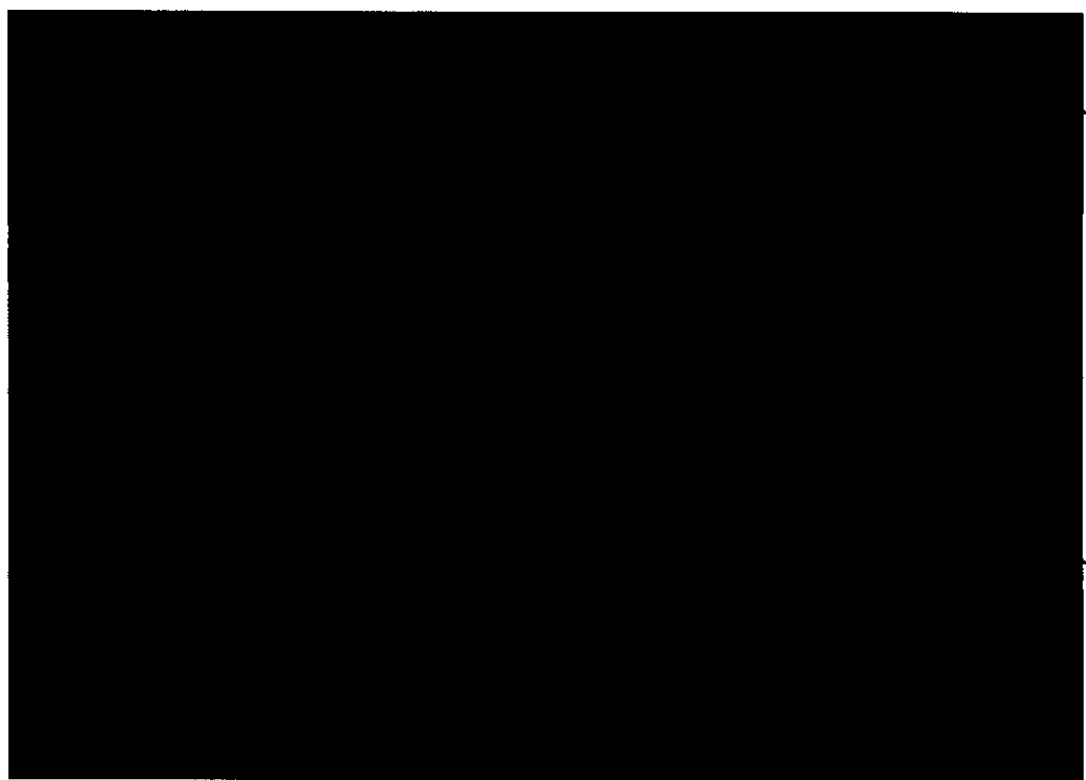
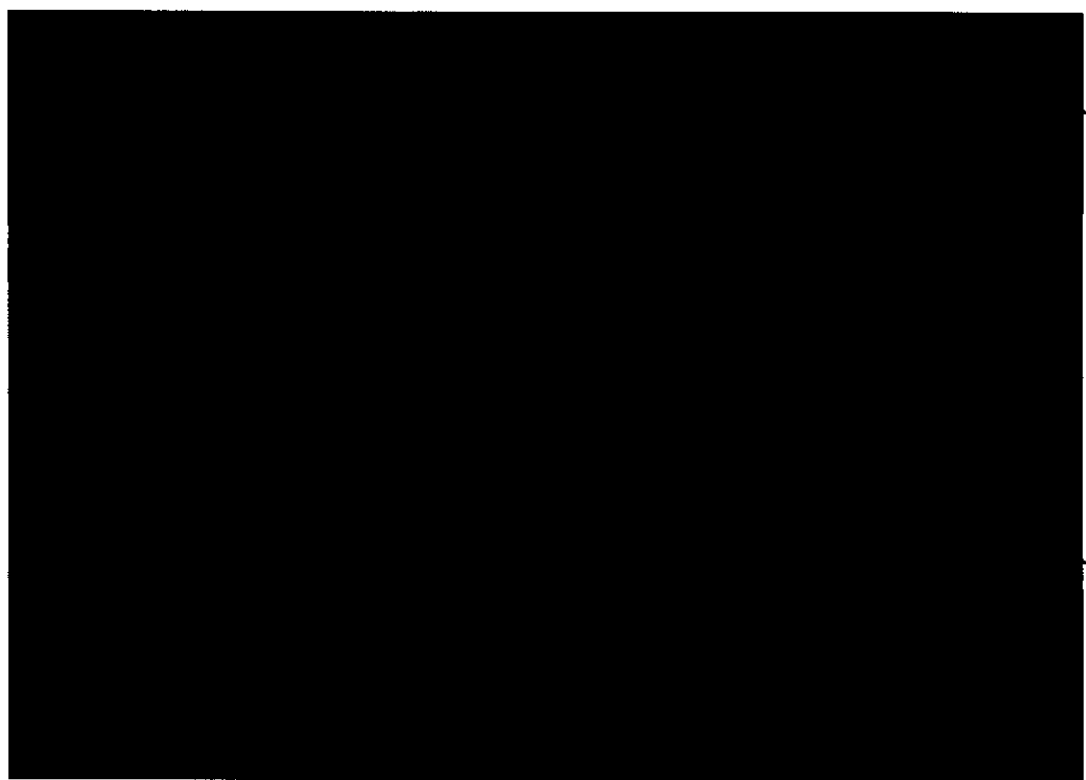
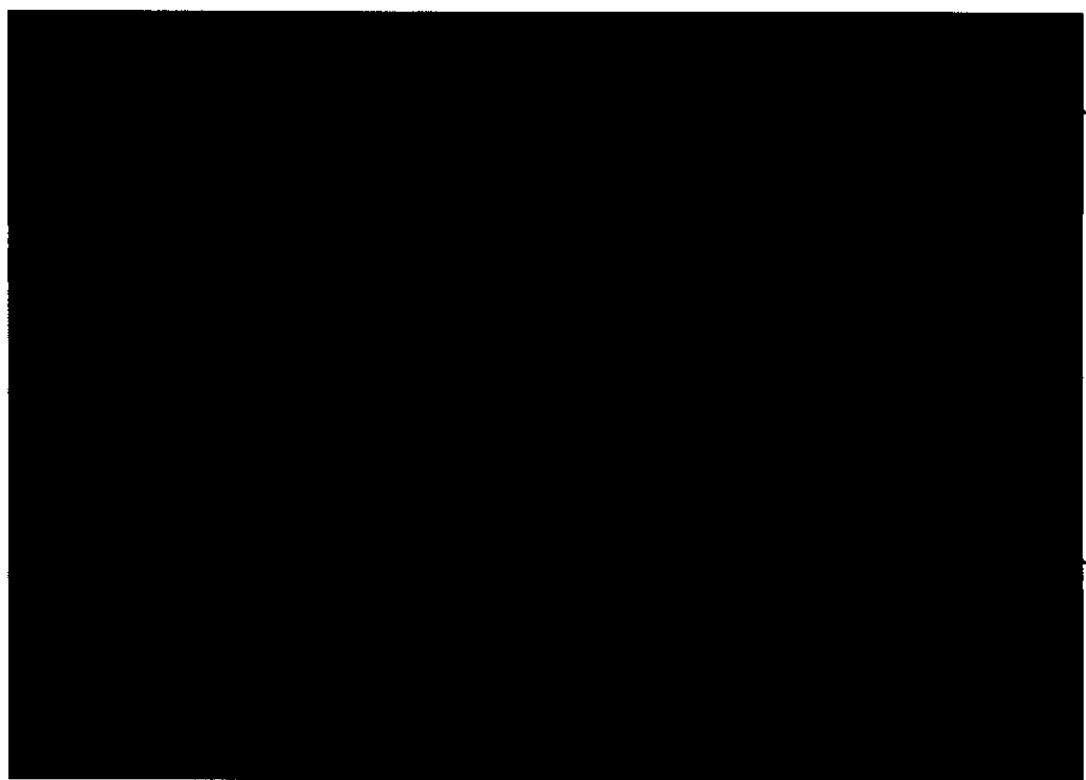
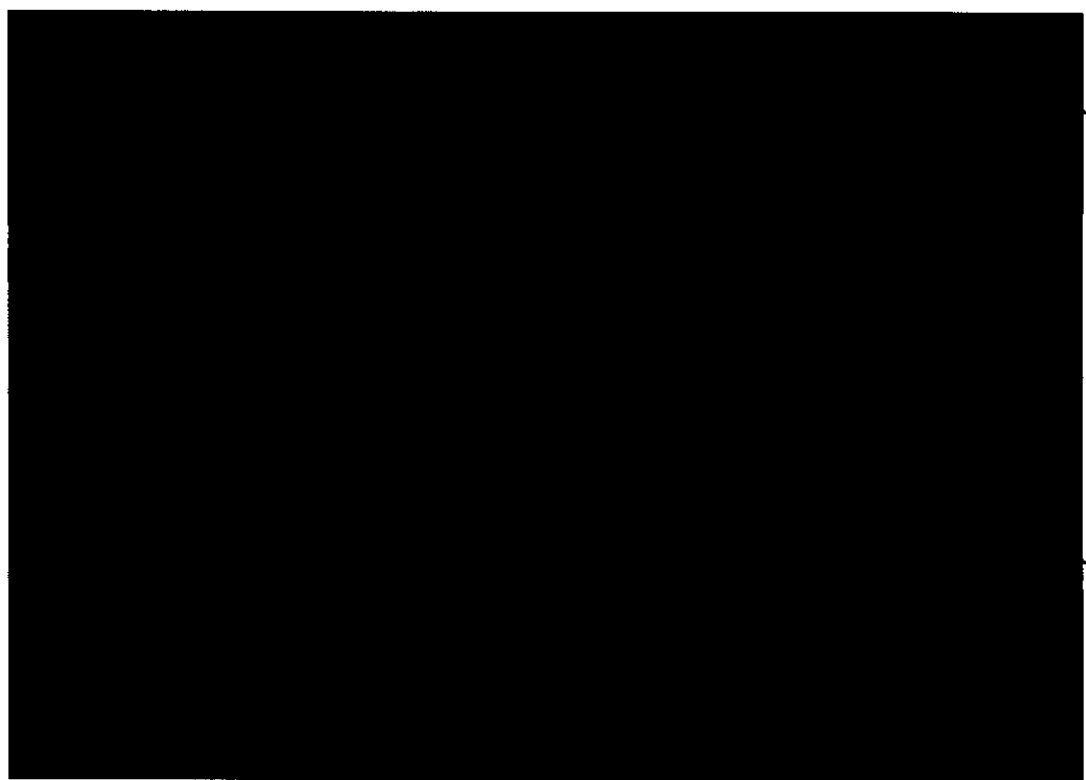
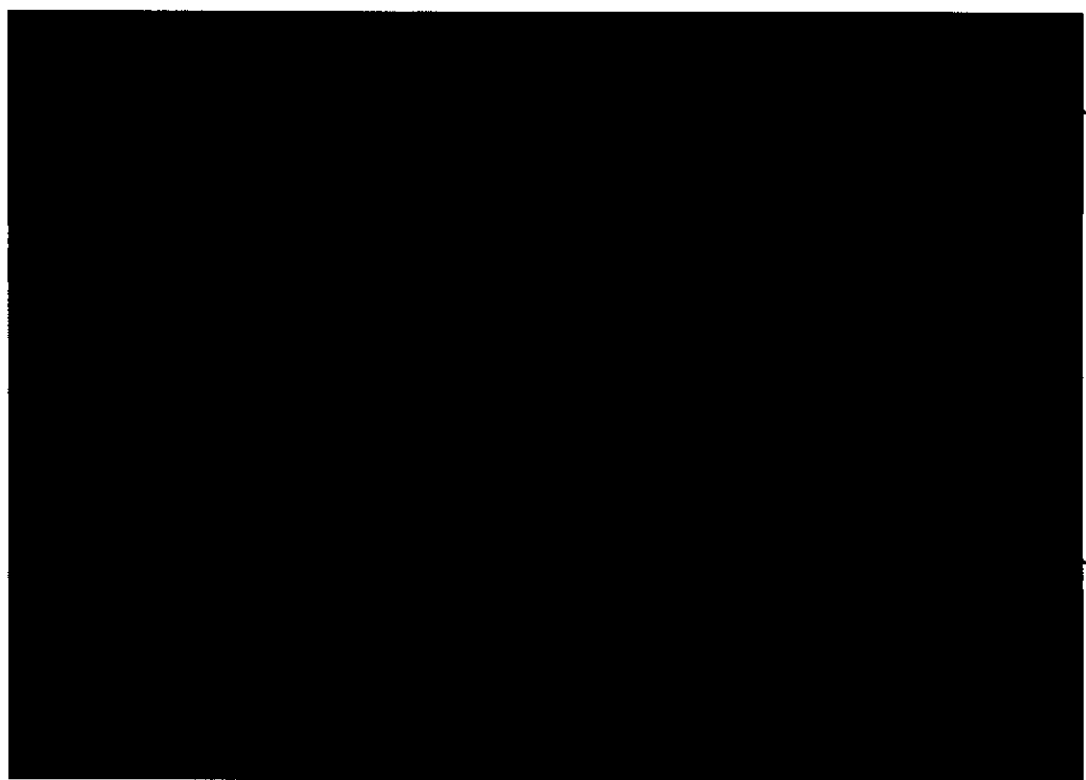
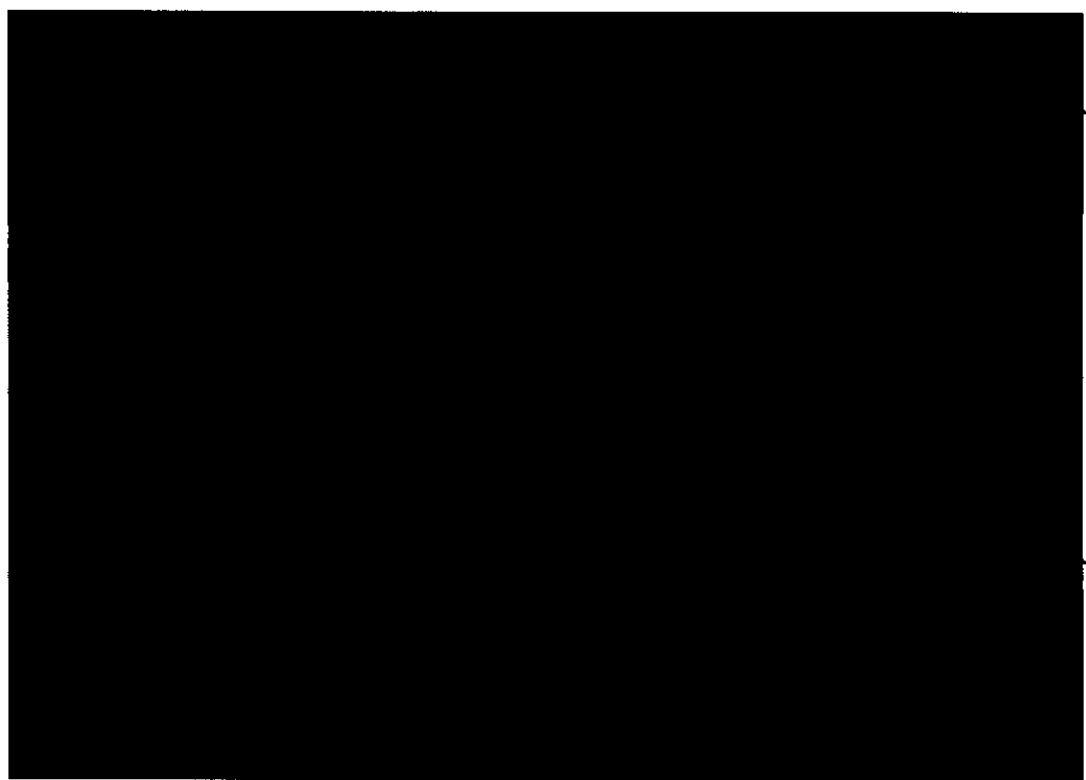
15 **Q. PLEASE DESCRIBE HOW MR. GATES HAS MISREPRESENTED THIS**
16 **HSR INFORMATION TO DERIVE AN ERRONEOUS CONCLUSION**
17 **REGARDING THE POST-MERGER COMPANY'S OPERATIONAL**
18 **SUPPORT SYSTEMS ("OSS").**

19 A. Mr. Gates provides a quote from the transcript of an internal Qwest "network
20 manager" conference call. Based on this transcript, he alleges that "Qwest
21 personnel" have concluded that CenturyLink's systems do not have the same
22 "capabilities" as Qwest's existing systems, and that CenturyLink is "biased" toward
23 its systems.²⁵ I do not believe these assertions can be fairly extrapolated from these
24 documents.
25

²⁵ Joint CLECs/19, Gates/13-14.

1 First, as the Commission can see, this 15-page document (Qwest HSR document
2 (4(c)-5)) is simply **[BEGIN HIGHLY-CONFIDENTIAL]** 

3 
4 
5 
6 
7 
8 
9 
10 

11 
12 
13 
14 
15 
16 
17 
18 
19 
20 
21 
22 
23 

²⁶ Joint CLECs/19, Gates/14.

²⁷ As noted in Mr. Hunsucker's testimony, in a recently announced settlement with Integra Telecom, CenturyLink agreed that it will use and offer to its wholesale customers the legacy Qwest OSS for at least two years, or until July 1, 2013, whichever is later.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

[REDACTED]

²⁹ [END HIGHLY-CONFIDENTIAL]

Attached as Highly-Confidential Exhibit Qwest/8 are pages 1, 14 and 15 of the April 23, 2010 internal Qwest conference call transcript (HSR document 4(c)-5).

IV. CONCLUSION

Q. WHAT DO YOU CONCLUDE?

A. As I have demonstrated, Mr. Appleby's claims the post-merger company will be able to exert "unwarranted" market power are not well founded. His citation of "new" documents provided by CenturyLink and Qwest do nothing to support his erroneous "market power" thesis. As CenturyLink and Qwest have demonstrated, the combination of the two companies will enhance competition and consumer choice in Oregon, and therefore, the merger is in the public interest.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

²⁸ Joint CLECs/19, Gates/6.

²⁹ Joint CLECs/19, Gates/13.

Qwest
1801 California Street
10th Floor
Denver, CO 80202
Phone 303-383-6649
Facsimile 303-696-1107
craig.brown@qwest.com

Craig J. Brown
Associate General Counsel



REDACTED – FOR PUBLIC INSPECTION

VIA COURIER

October 26, 2010

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

RE: *In the Matter of Special Access Rates for Price Cap Local Exchange Carriers*, WC Docket No. 05-25; *In the Matter of AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, RM-10593 – *Ex Parte* of Qwest

Dear Ms. Dortch:

Qwest Communications International Inc. is filing the attached *ex parte* and the appended declaration of Beth A. Halvorson in the above-captioned proceedings. Both the *ex parte* and the declaration contain information designated confidential pursuant to the June 8, 2005 Order and Protective Order in WC Docket No. 05-25, 20 FCC Rcd 10160 (2005) (or Protective Order). Qwest also notes that notwithstanding the Protective Order, there is a separate statutory basis for not making this confidential information available for public inspection. 47 C.F.R. §§ 0.457(d), 0.459. Thus, for both WC Docket No. 05-25 and RM-10593, wherein the FCC has not adopted a Protective Order and Qwest is also submitting the *ex parte* and declaration, it seeks confidential treatment pursuant to 47 C.F.R. §§ 0.457(d), 0.459, for which it provides justification in the attached Appendix. Qwest considers the confidential information in the *ex parte* and declaration to be confidential trade secret, commercial information that is “not routinely available for public inspection.” 47 C.F.R. § 0.457(d).

And, because Qwest believes the information designated confidential actually to be highly confidential (which is explained further below and in the Appendix), it has marked each page of the non-redacted versions of the *ex parte* and declaration, pursuant to paragraphs 1 and 6 of the Protective Order, as follows: “**CONFIDENTIAL INFORMATION**”

REDACTED – FOR PUBLIC INSPECTION

(COPYING PROHIBITED) – SUBJECT TO PROTECTIVE ORDER IN WC DOCKET NO. 05-25 before the Federal Communications Commission. Each page of the redacted version of the *ex parte* and declaration is marked “**REDACTED – FOR PUBLIC INSPECTION**”. This cover letter contains no confidential information and is included (with the same text except for the markings) with both the non-redacted and redacted versions of the submission.

The June 8, 2005 Protective Order defines “Confidential Information” (at paragraph 1 of Appendix A attached thereto) as “information contained in Stamped Confidential Documents or derived therefrom that is not otherwise available from publicly available sources[.]” The information that Qwest designates as confidential in the *ex parte* and declaration constitutes “trade secrets” and/or “commercial information” and is otherwise entitled to confidential treatment under Sections 0.457(d), 0.459 and the Protective Order. Disclosure of this type of confidential information would reveal company-sensitive proprietary commercial and financial information.

Although the Protective Order does not contain a provision to classify information as “highly confidential” (as do some other protective orders released by the Commission in similar contexts in other proceedings over the years),¹ Qwest views the information in question to be of extreme sensitivity, and deserving of full protection under Sections 0.457(d) and 0.459. Qwest has therefore marked the confidential version of the *ex parte* and declaration as “**Copying Prohibited**.” This information is of critical importance to Qwest’s ongoing business operations and includes, for example, bid-related information for the provision of fiber to cell sites, discussion of wireless providers’ use of certain Qwest services for backhaul to their cell sites, product marketing data and a figure for the amount of fiber investment by Qwest in 2010. Not withholding from public inspection this information that Qwest designated confidential would risk revealing extremely sensitive company proprietary commercial and financial information.

For the non-redacted version of the submission, Qwest is filing via courier with the Office of the Secretary one copy each in WC Docket No. 05-25 and RM-10593, along with an additional copy to be stamped and returned to the courier. As to the redacted version of the submission, wherein the confidential information has been omitted from the *ex parte* and declaration, Qwest is filing it via the FCC’s Electronic Comment Filing System in WC Docket No. 05-25 and RM-10593. Also, pursuant to paragraphs 3 of the Order and 8.d. of the Protective Order, two copies of the non-redacted version (with confidential information) are to be transmitted to Margaret Dailey (Room 5-A221) or Pamela Arluk (Room 5-A266), Pricing Policy Division, Wireline

¹ *E.g.*, Protective Order in GN Docket Nos. 09-47, 09-51 and 09-137, 24 FCC Rcd 13742, 13744 ¶ 6 (2009).

Marlene H. Dortch
October 26, 2010

Page 3 of 6

REDACTED – FOR PUBLIC INSPECTION

Competition Bureau, Federal Communications Commission at 445 12th Street, S.W.,
Washington, DC 20554.

Please contact me at 303.383.6649 if you have any questions.

/s/ Craig J. Brown

Attachments

Two copies (non-redacted version) to be delivered to:
Margaret Dailey or Pamela Arluk

REDACTED – FOR PUBLIC INSPECTION

APPENDIX

Confidentiality Request and Justification

Qwest requests confidential treatment of its *ex parte* and declaration of Beth A. Halvorson, as filed in WC Docket No. 05-25 and RM-10593 on October 26, 2010, pursuant to the Order and Protective Order (or Protective Order) in WC Docket No. 05-25, released on June 8, 2005, 20 FCC Rcd 10160, as well as pursuant to 47 C.F.R. §§ 0.457(d), 0.459.

47 C.F.R. § 0.457(d)

Qwest has designated certain information contained in the *ex parte* and declaration to be confidential, and proprietary as “trade secrets” and/or “commercial information” and is entitled to confidential treatment under the Protective Order. The Protective Order defines “Confidential Information” (at paragraph 1 of Appendix A attached thereto) as “information contained in Stamped Confidential Documents or derived therefrom that is not otherwise available from publicly available sources[.]” Qwest has marked the information in the *ex parte* and declaration as confidential; not withholding this type of confidential information from public inspection would risk revealing company-sensitive proprietary commercial and financial information. Given the extreme sensitivity of this information, which relates to Qwest’s ongoing business operations and includes, for example, bid-related information for the provision of fiber to cell sites, discussion of wireless providers’ use of certain Qwest services for backhaul to their cell sites, product marketing data and a figure for the amount of fiber investment by Qwest in 2010, Qwest actually considers the information to be highly confidential and thus is designating it **“CONFIDENTIAL INFORMATION (COPYING PROHIBITED) – SUBJECT TO PROTECTIVE ORDER IN WC DOCKET NO. 05-25 before the Federal Communications Commission”** pursuant to paragraphs 1 and 6 of the Protective Order. Not withholding from public inspection this information that Qwest considers highly confidential would risk revealing extremely sensitive company proprietary commercial and financial information.

Qwest also seeks non-disclosure to the public of the information it has designated confidential and believes to be highly confidential under Section 0.457(d). This information is described in the preceding paragraph. Disclosure of this information to the public that Qwest considers highly confidential would risk revealing extremely sensitive company proprietary commercial and financial information. Therefore, in the normal course of Commission practice this information should be considered “Records not routinely available for public inspection.”

47 C.F.R. § 0.459

REDACTED – FOR PUBLIC INSPECTION

Specific information included in the *ex parte* and declaration is also subject to protection under 47 C.F.R. § 0.459, as demonstrated below.

Information for which confidential treatment is sought

Qwest requests that the information contained in the *ex parte* and declaration be withheld from public disclosure under Exemption 4 of the Freedom of Information Act. The information designated confidential and which Qwest considers to be highly confidential is sensitive trade secrets, commercial/financial or other information which Qwest maintains as proprietary and/or confidential and is not normally made available to the public. The release of this information that Qwest considers highly confidential information could have a substantial negative competitive impact on Qwest. Each page of the *ex parte* and declaration (non-redacted version) is marked with the following legend: **“CONFIDENTIAL INFORMATION (COPYING PROHIBITED) – SUBJECT TO PROTECTIVE ORDER IN WC DOCKET NO. 05-25 before the Federal Communications Commission”**.

Commission proceeding in which the information was submitted

The filing is being submitted in *In the Matter of Special Access Rates for Price Cap Local Exchange Carriers*, WC Docket No. 05-25 and *In the Matter of AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, RM-10593.

Degree to which the information in question is commercial or financial, or contains a trade secret or is privileged

The information designated as confidential which Qwest considers highly confidential contains sensitive trade secrets, commercial/financial or other information which Qwest maintains as proprietary and withholds from public inspection. Release of the information could have a substantial negative competitive impact on Qwest.

Degree to which the information concerns a service that is subject to competition; and manner in which disclosure of the information could result in substantial competitive harm

The type of trade secrets or commercial/financial information identified as confidential but which Qwest considers highly confidential relates to Qwest’s ongoing business operations and includes, for example, bid-related information for the provision of fiber to cell sites, discussion of wireless providers’ use of certain Qwest services for backhaul to their cell sites, product marketing data and a figure for the amount of fiber investment by Qwest in 2010. This information, pursuant to paragraphs 1 and 6 of the Protective Order, has been designated **“CONFIDENTIAL INFORMATION (COPYING PROHIBITED) – SUBJECT TO**

REDACTED – FOR PUBLIC INSPECTION

PROTECTIVE ORDER IN WC DOCKET NO. 05-25 before the Federal Communications Commission". This information would generally not be subject to routine public inspection under the Commission's rules (47 C.F.R. § 0.457(d)), which demonstrates that the Commission already anticipates that the release of this kind of information likely would produce competitive harm. Qwest confirms that release of this information would cause it substantial competitive harm by allowing competitors to become aware of extremely sensitive trade secrets, commercial/financial or other confidential information regarding the operation of Qwest's business as it relates to the provision of special access services.

Measures taken by Qwest to prevent unauthorized disclosure; and availability of the information to the public and extent of any previous disclosure of the information to third parties

Qwest has treated and treats the information disclosed in this submission as confidential (copying prohibited) and has protected it from public disclosure to parties outside of the company.

Justification of the period during which Qwest asserts that the material should not be available for public disclosure

Qwest cannot determine at this time any date on which this information should not be considered confidential (copying prohibited), or would become stale for purposes of the current action, except that the information would be handled in conformity with general Qwest records retention policies, absent any continuing legal hold on the data.

Other information that Qwest believes may be useful in assessing whether its request for confidentiality should be granted

Under applicable Commission and court rulings, the information in question should be withheld from public disclosure. Exemption 4 of the Freedom of Information Act shields information that is (1) trade secrets or commercial or financial in nature; (2) obtained from a person outside government; and (3) privileged or confidential. The information in question satisfies this test.

Jonathan Nuechterlein

+1 202 663 6850(t)

+1 202 663 6363(f)

jon.nuechterlein@wilmerhale.com

REDACTED – FOR PUBLIC INSPECTION

October 26, 2010

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *In the Matter of Special Access Rates for Price Cap Local Exchange Carriers, WC Docket No. 05-25; In the Matter of AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services, RM-10593*

Dear Ms. Dortch:

Advocates of re-regulation argue that, if only the Commission forced down the rates for traditional DSN-level special access circuits, it could somehow promote greater wireless broadband deployment by allowing wireless broadband providers to meet their backhaul needs more cheaply.¹ As Qwest has explained, any such regulatory measure would have precisely the opposite effect: it could artificially prolong the industry's reliance on this transitional DSN-level technology on the margin and thereby reduce the strong competition for the provision of much-needed fiber facilities to wireless cell sites.² Qwest submits this letter and the attached Declaration of Beth A. Halvorson, attached as Exh. A, to address this point in greater detail.

Just a few years ago, the nation's wireless networks primarily supported narrowband, voice-centric services that imposed relatively limited demands on backhaul facilities. Today, wireless networks support not only voice, but 3G and emerging 4G broadband services as well, over which end users run enormously bandwidth-hungry data applications such as streaming video. The result has been an exponential increase in the backhaul needs for these wireless

¹ See, e.g., Letter from Gil Strobel, Sprint Nextel, to Marlene Dortch, FCC, WC Docket No. 05-25, Attachment at 4 (Oct. 10, 2007) (claiming that "special access rates . . . deter the deployment of innovative, competitive broadband networks").

² See Comments of Qwest Communications International Inc., WC Docket No. 05-25, at 8, 14-17 (Jan. 19, 2010).

Marlene H. Dortch
October 26, 2010
Page 2

networks.³ Traditional special access services, in the form of copper-based DSn-level circuits, are not a sustainable long term solution to that backhaul challenge. Instead, wireless providers are turning to wireless backhaul and, increasingly, *fiber*-based solutions because of their far greater bandwidth.

The experience in Qwest's fourteen-state region, detailed in the attached declaration, is representative of this nationwide trend. In Qwest's region, wireless providers have approximately [begin confidential] [REDACTED] [end confidential] cell sites (defined here to mean wireless antennas, such that a particular cell tower may support multiple "cell sites"). Exh. A, ¶ 4. Of these sites, wireless providers have issued RFPs for the provision of fiber-optic backhaul facilities to [begin confidential] [REDACTED] [end confidential] of those sites. *Id.*, ¶¶ 2, 6. Remarkably, almost all of those RFPs have been issued just since 2008, *id.*, ¶ 2, when 3G wireless services began exploding in popularity. This trend is widely expected to continue. Indeed, Qwest projects that, by 2016, [begin confidential] [REDACTED] [end confidential] of the total cell sites in its territory will be provisioned with fiber-based backhaul facilities. *Id.*, ¶ 4. These are extraordinary figures, given the relatively small number of cell sites that were provisioned with fiber until very recently, and Qwest's region encompasses some of the most rural areas in the country.

There is also strong competition to provide fiber-based backhaul facilities in response to these RFPs, as Qwest's experience further demonstrates. *Id.*, ¶¶ 6-8. Qwest routinely submits bids in competition with CLECs, cable companies, and fiber wholesalers. Of the RFPs issued for these [begin confidential] [REDACTED] [end confidential] cell sites, Qwest has so far won bids to serve only [begin confidential] [REDACTED] [end confidential] and has lost bids to serve [begin confidential] [REDACTED] [end confidential]. *See id.*, ¶¶ 2, 6. There are not yet winning bidders for the remaining [begin confidential] [REDACTED] [end confidential] cell sites that are the subject of outstanding RFPs. *Id.* Although Qwest hopes to win a substantial number of those bids, it faces formidable obstacles. For example, in addition to the general presence of competitors for these sites, one major wireless provider has imposed a flat 50% limit on the number of bids that can be awarded to any single provider of special access services. *See id.*, ¶ 7.

³ In the Chairman's words: "Mobile data usage is not just growing, it's exploding." Prepared Remarks of Chairman Julius Genachowski, *Mobile Broadband: A 21st Century Plan for U.S. Competitiveness, Innovation and Job Creation*, New America Foundation, Washington, D.C., at 3 (Feb. 24, 2010), http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296490A1.pdf; *see, e.g., Surfing hertz*, *Fin. Times*, Dec. 1, 2009, <http://uk.finance.yahoo.com/news/surfing-hertz-ftimes-96b9286f2ccc.html> (noting exponential increase in wireless traffic).

Marlene H. Dortch
October 26, 2010
Page 3

There are two major reasons why this backhaul marketplace has become so competitive, and they are the same reasons the Commission has taken a deregulatory approach to fiber-based services generally.⁴ *First*, sites with high traffic volumes produce large revenues, and such sites will generally attract multiple bids. *Second*, when a wireless provider decides to make the transition from copper to fiber backhaul facilities, ILECs generally enjoy no cost advantages over their rivals in deploying fiber to that provider's cell sites, even if they already provide backhaul by means of legacy copper facilities. To replace copper with fiber, Qwest must do what any competitive provider must do: it must hire work crews to lay new conduit. *See* Exh. A, ¶ 10 (explaining why it is infeasible to use existing conduit for copper lines in this context). Moreover, even in those cases where *existing* conduit can be used to deploy new fiber—for example, where an ILEC has previously deployed fiber to the same location—an ILEC's rivals

⁴ *See, e.g., In the Matters of Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Its Broadband Services; Petition of BellSouth Corporation for Forbearance Under Section 47 U.S.C. § 160(c) from Title II Computer Inquiry Rules with Respect to its Broadband Services, Memorandum Opinion and Order, 22 FCC Rcd 18705, 18724-25 ¶ 32 (2007)* (“[W]e find, consistent with the Commission’s findings in the *Triennial Review* and the *Triennial Review Remand Orders*, that there is substantial deployment of competitive fiber loops at OCn capacity and that competitive carriers are often able to economically deploy these facilities to large enterprise customers. We further find, consistent with this precedent, that OCn-level facilities produce revenue levels that can justify the high cost of loop construction.”) (footnotes omitted), *aff’d, Ad Hoc Telecomm. Users Comm. v. FCC*, 572 F.3d 903 (D.C. Cir. 2009); *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability, Report and Order, 18 FCC Rcd 16978, 17144 ¶ 276 (2003)* (“[A]s with greenfield deployments, competitive and incumbent LECs largely face the same obstacles in deploying overbuild FTTH loops . . . Both competitive LECs and incumbent LECs must obtain materials, hire the necessary labor force, and construct the fiber transmission facilities. Second, we note that the revenue opportunities associated with deploying any type of FTTH loop are far greater than for services provided over copper loops.”), *aff’d in relevant part and vacated in other respects, United States Telecom Ass’n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004).

REDACTED – FOR PUBLIC INSPECTION

Marlene H. Dortch
October 26, 2010
Page 4

can make use of that conduit on favorable regulated terms.⁵ The result is that ILECs and their rivals face essentially the same costs to deploy fiber backhaul solutions to cell sites, and each provider competes on a level playing field.

Against this backdrop, it would be exceptionally counterproductive to artificially force down the rates for legacy DSn-level circuits. Doing so would not somehow promote wireless broadband deployment because, as the evidence shows, these legacy circuits are rapidly becoming inadequate in most areas to support the backhaul needs associated with broadband wireless services. In fact, lowering the price for these legacy circuits could artificially prolong each wireless provider's reliance on them and, on the margin, delay its upgrades from copper to fiber. Such delays could, in turn, threaten the ability of wireless providers to meet exploding demand for data-intensive wireless applications—and could thus deter them on the margin from offering the more advanced wireless broadband services that could swamp backhaul capacity on these legacy DSn circuits.

In sum, the best way to promote wireless broadband deployment is to let the market do what it does best: choose the most efficient solutions for complex technological problems. Here, that solution consists, for the most part, of fiber-based backhaul solutions, which thrive best in today's largely deregulated competitive environment.

Respectfully submitted,

/s/ Jonathan E. Nuechterlein
Attorney for Qwest Communications
International Inc.

⁵ See 47 U.S.C. § 224(f); First Report & Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499, 16071-74, ¶¶ 1151-58 (1996), *aff'd in part and rev'd in part on other grounds*, *Iowa Utils. Bd. v. FCC*, 525 U.S. 366 (1999).

REDACTED – FOR PUBLIC INSPECTION

Exhibit A

REDACTED – FOR PUBLIC INSPECTION

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Special Access Rates for Price Cap)	WC Docket No. 05-25
Local Exchange Carriers)	
)	
AT&T Corp. Petition for Rulemaking to)	RM-10593
Reform Regulation of Incumbent Local)	
Exchange Carrier Rates for Interstate)	
Special Access Services)	

DECLARATION OF BETH A. HALVORSON

1. My name is Beth A. Halvorson. My business address is 200 S. Fifth Street, Minneapolis, Minnesota, 55402. I am employed by Qwest Corporation as Vice President – Sales in Qwest’s Wholesale Markets organization. In that capacity, I am responsible for Qwest’s negotiations with wireless service providers to provide backhaul services to their cell sites. I have been representing Qwest in transactions with wireless service providers for over ten years, and I have been employed by Qwest and its predecessors for 38 years.
2. As discussed in this declaration, exploding demand for wireless services has dramatically accelerated the transition from copper- to fiber-based backhaul for

wireless cell sites in Qwest's in-region footprint.¹ Since 2008, wireless providers have sought bids to extend fiber backhaul to more than [BEGIN CONFIDENTIAL] [END CONFIDENTIAL] percent of those cell sites, and similar bids for additional cell sites are upcoming in the near future. Thus, wireless providers' use of Qwest's DS1 and DS3s for backhaul to their cell sites is quickly waning in most areas. As they transition to fiber-based backhaul, wireless providers have issued [BEGIN CONFIDENTIAL] [END CONFIDENTIAL] Requests For Proposals (RFP) for the provision of fiber-based backhaul services within Qwest's footprint, and they are finding numerous providers willing and able to provide these services, including cable providers, CLECs and independent LECs.² Indeed, while Qwest has bid for the provision of fiber backhaul to [BEGIN CONFIDENTIAL] [END CONFIDENTIAL] cell sites within its footprint, it has won bids to serve [BEGIN CONFIDENTIAL] [END CONFIDENTIAL] of those sites, lost bids to serve [BEGIN CONFIDENTIAL] [END CONFIDENTIAL], and awaits decisions on the remaining [BEGIN CONFIDENTIAL] [END CONFIDENTIAL]. This strong competition is not surprising, given that these

¹ By "cell site" I mean the location of an individual wireless provider's antennas and equipment on a cell tower or similar structure. Cell towers often host cell sites of multiple wireless providers. Typically each wireless provider separately arranges for its own backhaul services to its cell site.

² And this does not include wireless providers such as Clearwire that are relying heavily on wireless backhaul to meet increasing demands.

REDACTED – FOR PUBLIC INSPECTION

are essentially overbuild projects, for which Qwest has no cost advantage arising from its existing copper-based backhaul services.

Key Facts:

3. 3G and 4G wireless device applications are driving an unprecedented demand for fiber backhaul facilities to cell sites. This demand has created a new direction, drive and business plan for many wholesale providers that are competing for this market. These providers include CLECs, cable TV operators, and providers of microwave and wireless backhaul services.
4. Today, Qwest provides backhaul service to over [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] cell sites within its in-region footprint. Of the total, over [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] cell sites are currently served by copper facilities. The remainder of the cell sites are either served by microwave [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] fiber or copper facilities owned by independent ILECs. By the end of 2010, Qwest estimates that approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] cell sites will be provisioned with fiber, with thousands more under contract. There are about [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] rural sites that because of terrain and distance would be very costly to serve with fiber and most likely will not be provisioned with fiber in the foreseeable future. Qwest estimates that by 2016, [BEGIN CONFIDENTIAL] [REDACTED] [END

REDACTED – FOR PUBLIC INSPECTION

CONFIDENTIAL] of the cell sites in its in-region footprint will be provisioned with fiber.

Bidding and Construction Processes:

5. Fiber to the cell is requested by wireless providers through the Request for Proposal RFP process. In Qwest's experience, each major customer uses a different procurement process and has different demands for its network design, volume and location. This requires Qwest to prepare individualized rather than standardized bids. In most or nearly all cases, the wireless provider requests bids from multiple competitive fiber providers and may award a portion of its business to more than one vendor to create vendor diversity in its network. For example, one major wireless provider will award a maximum of 50% of its business to any one vendor.
6. Following is a highly confidential table which describes Qwest's bidding experience from 2008 through 2010. It is difficult to track the number of RFPs and bids because most wireless providers schedule their fiber builds in multiple phases. Fiber vendors must bid separately in each phase. However, in some cases a wireless provider may issue an RFP for a specific number of cell sites or a specific location during Phase I, but may choose not to construct to those cell sites during the Phase I, and instead delay the construction for another phase. This means that vendors may have to bid multiple times for the same cell site. In many

REDACTED – FOR PUBLIC INSPECTION

cases, if a vendor does not submit a bid for a particular phase, the wireless provider will not include that vendor in the bidding process in future phases.

Qwest Fiber-to-the-Cell Bids

[BEGIN CONFIDENTIAL]

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

[END CONFIDENTIAL]

7. During the bidding process, the number of bidders varies by state and in many cases is driven by terrain and build-out expense. Within Qwest's service area, Cox and tw telecom have won a significant number of fiber backhaul bids for cell sites in AZ and NM. Qwest has also lost bids to Comcast (CO, MN), Iowa Network Services (IA), Bresnan (MN), tw telecom (AZ, WA) and Cox (AZ). In Tucson, for example, Qwest won only **[BEGIN CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]** of the sites put out for bid by a wireless provider. In addition, one of the largest purchasers of these fiber-based backhaul services limits to 50% of its demand the projects it will award to any single provider.

³ The sum of Cell Sites Covered by Bids Lost and Bids Won does not total to Cell Sites Bid as there are still bids outstanding.

REDACTED – FOR PUBLIC INSPECTION

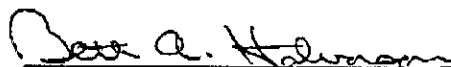
8. Each cell tower can be served by multiple vendors. As an example, if Qwest and Comcast were to both build fiber facilities to a site used by multiple wireless providers (VZ, T-Mobile, Cricket etc.), both Qwest and Comcast could compete for the business of each of the wireless providers.
9. No matter who wins the bid, the construction process is essentially the same for ILECs and non-ILECs alike, and each incurs similar costs. The fiber vendor must trench, lay new conduit and run the fiber to the cell site. Though Qwest may currently provision many of the cell sites with copper facilities, it must follow these same steps to upgrade the sites to fiber. Thus, these projects are essentially overbuild situations.
10. In particular, Qwest generally cannot use existing conduit to run fiber facilities unless the copper facilities are removed. Qwest does not remove copper facilities once the fiber is turned up; therefore, all fiber jobs require Qwest, like any other backhaul provider, to install new conduit, except in the small percentage of cases where Qwest has already deployed fiber to the location. Even in those cases, other providers have access to Qwest's conduit under federal law.
11. In many cases, competitive vendors may have a competitive advantage over Qwest. Many such vendors have much newer networks than Qwest, and their networks are designed using fiber rings in and around major cities. In these instances, competitive vendors can very easily extend a loop from their fiber rings to a cell site, whereas Qwest has to build the entire transport and loop facility to

REDACTED – FOR PUBLIC INSPECTION

serve the same cell site. As a result, in order to compete with these providers, Qwest must spend a massive amount of capital to install fiber facilities. Such facilities must be funded up front with an outlay of cash. Conversely, cost recovery takes place slowly during the life of a contract. Qwest invested [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] on fiber in 2010 alone. Like any other fiber provider, Qwest must make prudent business decisions on where to invest capital and how much to invest.

REDACTED – FOR PUBLIC INSPECTION

I hereby declare that the foregoing is true and correct to the best of my knowledge,
information, and belief.


Beth A. Halvorson

Executed on October 26, 2010

REDACTED - FOR PUBLIC INSPECTION

CERTIFICATE OF SERVICE

UM 1484

I hereby certify that on the 19th day of November, 2010, I served the foregoing QWEST'S SUPPLEMENTAL RESPONSE TESTIMONY OF ROBERT BRIGHAM, 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.

William Sargent (w)
Tillamook county
1134 Main Avenue
Tillamook, OR 97141
wsargent@oregoncoast.com

** Arthur A. Butler (w)
Ater Wynne LLP
601 Union Street, Site 1501
Seattle, WA 98101-3981
aab@aterwynne.com

Joel Paisner
Ater Wynne
601 Union St., Suite 5450
Seattle, WA 98101-2327
jrp@aterwynne.com

William E. Hendricks (w)
Rhonda Kent
CenturyLink
805 Broadway Street
Vancouver, WA 98660-3277
Tre.hendricks@centurylink.com
Rhonda.kent@centurylink.com

Michael Moore (w)
Charter Fiberlink OR-CCVII LLC
12405 Powerscourt Dr.
St Louis, MO 63131
Michael.moore@chartercom.com

**Gordon Feighner (w)
Citizens' Utility Board of OR
610 SW Broadway, Suite 308
Portland, OR 97205
Gordon@oregoncub.org

**Robert Jenks (w)
Citizens' Utility Board of OR
610 SW Broadway, Suite 308
Portland, OR 97205
bob@oregoncub.org

**G. Catriona McCracken (w)
Citizens' Utility Board of OR
610 SW Broadway, Suite 308
Portland, OR 97205
catriona@oergoncub.org

**Raymond Myers (w)
Citizens' Utility Board of OR
610 SW Broadway, Suite 308
Portland, OR 97205
ray@oregoncub.org

Kenneth Schifman (w)
Sprint Communications
6450 Sprint Pkwy
Overland park, KS 66251
Kenneth.schifman@sprint.com

Marsha Spellman
Converge Communications
10425 SW Hawthorne Ln.
Portland, OR 97225
marsha@convergecomm.com

Katherine K. Mudge
Covad Communications Co.
7000 N. Mopac EXPWY
2nd Floor
Austin, TX 78731
kmudge@covad.com

**K.C. Halm (w)
Davis Wright Tremaine
1919 Pennsylvania Ave. NW
2nd floor
Washington DC 20006-3458
kchalm@dwt.com

Diane Browning (w)
Sprint Communications
6450 Sprint Pkwy
Overland park, KS 66251
Diane.c.browning@sprint.com

** Mark Trincherro (w)
Davis Wright Tremaine
1300 SW 5th Ave., Suite 2300
Portland, OR 97201-5682
marktrincherro@dwt.com

**Jason Jones
Department of Justice
1162 Court St., NE
Salem, OR 97301-4096
Jason.w.jones@state.or.us

Edwin Parker (w)
Economic Dev. Alliance
P.O. Box 402
Gleneden Beach, OR 97388
edparker@teleport.com

Karen Clauson (w)
Integra Telecom
6160 Golden Hills Dr.
Golden Valley, MN 55416
klclauson@integratelecom.com

*Greg Rogers (w)
Level 3 Communications, LLC
1025 Eldorado Blvd.
Broomfield, CO 80021
Greg.rogers@level3.com

*Lisa Rackner (w)
McDowell Rackner
520 SW 6th Ave., Suite 830
Portland, OR 97204
lisa@mcd-law.com

Mark Reynolds (w)
Qwest Corporation
1600 7th Ave., Rm. 3206
Seattle, WA 98191
Mark.reynolds3@qwest.com

Adam Haas (w)
WSTC
10425 SW Hawthorne Ln.
Portland, OR 97225
adamhaas@convergecomm.com

Michel Singer Nelson
Penny Stanley
360networks (USA) Inc.
370 Interlocken Blvd.
Suite 600
Broomfield, CO 80021
Penny.stanley@360.net

Frank G. Patrick, Esq.
P.O. Box 121119
Portland, OR 97281
fgplawpc@hotmail.com

John Felz (w)
CenturyLink
5454 W. 110th St.
KSOPKJ0502
Overland Park, KS 66211
John.felz@centurylink.com

**Adam Lowney (w)
McDowell Rackner
520 SW 6th Ave., Suite 830
Portland, OR 97204
adam@mcd-law.com

* Kelly Mutch (w)
PriorityOne Telecommunications
P.O. Box 758
La Grande, OR 97850-6462
managers@p1tel.com

* Lyndall Nipps
TW Telecom of Oregon, LLC
9665 Granite Ridge Dr., Suite 500
San Diego, CA 92123
Lyndall.nipps@twtelecom.com

Rex Knowles
XO Communications Services
7050 Union Park Ave., Suite 400
Midvale, UT 84047
Rex.knowles@xo.com

* Judith Endejan (w)
Graham & Dunn PC
2801 Alaskan Way, Suite 300
Seattle, WA 98121
jendejan@grahamdunn.com

Richard Stevens (w)
Central Telephone, Inc.
1505 S. Grant
P.O. Box 25
Goldendale, WA 98620
rstevens@gorge.net

David Hawker (w)
City of Lincoln City
801 SW Highway 101
Lincoln City, OR 97367
davidh@lincolncity.org

*Wendy McIndoo (w)
McDowell Rackner
520 SW 6th Ave., Suite 830
Portland, OR 97204
wendy@mcd-law.com

**Michael Dougherty
Oregon Public Utility Comm.
P.O. Box 2148
Salem, OR 97308-2148
Michael.dougherty@state.or.us

Barbara Young
United Telephone of the NW
902 Waco St., ORHRA0305
Hood River, OR 97031
Barbara.c.young@centurylink.com

*Kristin Jacobson (w)
Sprint Nextel
201 Mission St., Suite 1500
San Francisco, CA 94105
kristin.l.jacobson@sprint.com

Dave Conn
T-Mobile USA, Inc.
12920 SE 39th St.
Bellevue, WA 98006
Dave.conn@t-mobile.com

**Gregory Merz (w)
Gray Plant Mooty
500 IDS Center
80 S Eighth Street
Minneapolis, MN 55402
Gregory.Merz@Gpmlaw.Com

Douglas R. Holbrook
P.O. Box 2087
Newport, OR 97365
doug@lawbyhs.com

Charles Jones (w)
Communication Connection
15250 SW Science Park Dr.,
Suite B
Portland, OR 97229
charlesjones@cms-nw.com

Wayne Belmont, Esq. (w)
Lincoln County Counsel
225 W. Olive St.
Newport, OR 97365
wbelmont@co.lincoln.or.us

Greg Marshall (w)
NPCC
2373 NW 185th Ave., # 310
Hillsboro, OR 97124
gmarshall@corbantechologies.com

Randy Linderman
Pacific NW Payphone
2373 NW 185th Ave., #300
Hillsboro, OR 97124-7076
rlinderman@gofirestream.com

Edwin B. Parker (w)
Parker Telecommunications
P.O. Box 402
Glenden Beach, OR 97388
edparker@teleport.com

**Bryan Conway
Oregon Public Utility Comm.
P.O. Box 2148
Salem, OR 97308-2148
Bryan.conway@state.or.us

Patrick L. Phipps
QSI Consulting, Inc.
3504 Sundance Drive
Springfield, IL 62711

DATED this 19th day of November, 2010.

QWEST CORPORATION



By: _____
ALEX M. DUARTE, OSB No. 02045
310 SW Park Ave., 11th Flr.
Portland, OR 97205
Telephone: 503-242-5623
Facsimile: 503-242-8589
e-mail: alex.duarte@qwest.com
Attorney for Qwest Corporation

(w) denotes waiver of paper service

* denotes signed Protective Order No. 10-192

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