

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the matter of,

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 Corp.

Docket No. UT-100820

CROSS ANSWERING TESTIMONY

OF

TIMOTHY J GATES

Integra Telecom of Washington, Inc., Electric Lightwave, Inc., Advanced TelCom, Inc., and United Communications, Inc. d/b/a Unicom (collectively “Integra”); tw telecom of washington llc; Covad Communications Company; Level 3 Communications, LLC; McLeodUSA Telecommunications Services, Inc., d/b/a PAETEC Business Services; Charter Fiberlink WA-CCVII, LLC; and Cbeyond Communications LLC

PUBLIC VERSION

CONFIDENTIAL AND HIGHLY CONFIDENTIAL DATA HAS BEEN REDACTED

November 1, 2010

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Exhibits

Exhibit__TJG-15 – Systems flow diagram (Confidential)

Exhibit__TJG-16 – Excerpt from Qwest’s online Product Catalog called “Pre-Ordering Overview” containing a Qwest table reflecting how Qwest back-end service order processing (“SOP”) systems process CLEC orders differently depending on Qwest Region (Central, East, or West)

Exhibit__TJG-17 – Matrix Comparing CenturyLink’s and Qwest’s LSR Submission OSS Functionality

Exhibit__TJG-18 – CenturyLink Discovery Responses Regarding OSS Pre-Order Functions and Order Types

Exhibit__TJG-19 – CMP August 14 and August 16, 2001 CMP Redesign Meeting Minute Excerpts

1 **I. INTRODUCTION AND PURPOSE**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Timothy J Gates. My business address is QSI Consulting, 10451 Gooseberry
4 Court, Trinity, Florida 34655.

5 **Q. ARE YOU THE SAME TIMOTHY GATES WHO FILED RESPONSIVE**
6 **TESTIMONY IN THIS PROCEEDING ON SEPTEMBER 27, 2010?**

7 A. Yes.

8 **Q. ON WHOSE BEHALF ARE YOU FILING THIS RESPONSIVE TESTIMONY?**

9 A. My testimony is being filed on behalf of a number of CLECs: Integra Telecom of
10 Washington, Inc., Electric Lightwave, Inc., Advanced TelCom, Inc., and United
11 Communications, Inc. d/b/a Unicom (collectively "Integra"); tw telecom of washington
12 llc; Covad Communications Company; Level 3 Communications, LLC; McLeodUSA
13 Telecommunications Services, Inc., d/b/a PAETEC Business Services; Charter Fiberlink
14 WA-CCVII, LLC; and Cbeyond Communications LLC (collectively referred to in my
15 testimony as "Joint CLECs").

16 **Q. WHAT IS THE PURPOSE OF YOUR CROSS ANSWERING TESTIMONY?**

17 A. The purpose of my cross answering testimony is to respond to the September 27th
18 testimony of the following Washington Utilities and Transportation Commission Staff

1 (“WUTC Staff” or “Staff”) members: Rick Applegate,¹ Kristen Russell,² Mark Vasconi,³
2 and Robert Williamson.⁴

3 **II. THE JOINT CLECS’ PROPOSED CONDITIONS ARE THE BEST OPTIONS**
4 **FOR ADDRESSING MERGER-RELATED HARMS TO THE PUBLIC**
5 **INTEREST**

6 **Q. DO YOU HAVE ANY GENERAL COMMENTS ABOUT WUTC STAFF’S**
7 **TESTIMONY?**

8 A. Yes. WUTC Staff states that the proposed transaction should not be approved because
9 the Joint Applicants “have not adequately addressed risks to Washington customers that
10 may result from the Transaction.”⁵ However, WUTC Staff states that, “the Commission
11 could approve the transaction if the Applicants agree to conditions that reduce the risks
12 that...are inherent in this Transaction.”⁶ Joint CLECs agree with WUTC Staff that the
13 proposed transaction should not be approved unless meaningful conditions are placed on
14 any approval to reduce the risks of the transaction and avoid public interest harms.

15 WUTC Staff proposes 45 conditions that it believes are necessary to reduce the risks of
16 the transaction and with which, according to WUTC Staff, the Joint Applicants should

¹ Testimony of Rick Applegate, WUTC Staff, Docket No. UT-100820, September 27, 2010 (“Staff Exhibit__(RTA-1T)”).

² Testimony of Kristen Russell, WUTC Staff, Docket No. UT-100820, September 27, 2010 (“Staff Exhibit__(KMR-1T)”).

³ Testimony of Mark Vasconi, WUTC Staff, Docket No. UT-100820, September 27, 2010 (“Staff Exhibit__(MJV-1T)”).

⁴ Testimony of Robert Williamson, WUTC Staff, Docket No. UT-100820, September 27, 2010 (“Staff Exhibit__(RTW-1T)”).

⁵ Staff Exhibit__(MJV-1T) at p. 2, lines 4-7.

⁶ Staff Exhibit__(MJV-1T) at p. 2, lines 17-19.

1 agree before the proposed transaction is approved (see, Exhibit No.__(MJV-6), Staff
2 Conditions List). While there is a small degree of overlap between WUTC Staff's
3 proposed conditions and the Joint CLECs' proposed conditions (Exhibit__(TJG-9)),
4 WUTC Staff's proposed conditions do not go far enough in addressing the risks and
5 related harm to Washington CLECs, and their end user customers, posed by the proposed
6 transaction.

7 **Q. PLEASE COMMENT ON THE OVERLAP BETWEEN WUTC STAFF'S**
8 **PROPOSED CONDITIONS AND JOINT CLECS' PROPOSED CONDITIONS?**

9 A. There are three areas of overlap. First, WUTC Staff proposed Condition 5⁷ is similar to
10 Joint CLECs' proposed Condition 3,⁸ in that they are both designed to hold wholesale
11 customers of Qwest and CenturyLink⁹ harmless for increases in overall management
12 costs resulting from the proposed transaction. Second, WUTC Staff proposed Condition
13 6,¹⁰ which is similar to Joint CLECs' proposed Condition 2.¹¹ Both of these conditions
14 are designed to ensure that the Merged Company does not recover one-time transfer, re-
15 branding and other transaction-related costs from wholesale customers (and in the case of

⁷ Exhibit__(MJV-6) at p. 2 ("CenturyLink ILECs and Qwest must hold retail and wholesale customers harmless for increases in overall management costs that result from the transaction.")

⁸ Exhibit__(TJG-9) at p. 2("The Merged Company will not recover, or seek to recover, through wholesale service rates or other fees paid by CLECs, and will hold wholesale customers harmless for, any increases in overall management costs that result from the transaction, including those incurred by the Operating Companies.")

⁹ WUTC Staff proposed Condition 5 applies to both retail and wholesale customers. Joint CLECs' proposed Condition 3 applies to wholesale customers (i.e., CLECs). Joint CLECs' do not object to a condition applying to both retail and wholesale customers.

¹⁰ Exhibit__(MJV-6) at p. 6.

¹¹ Exhibit__(TJG-9) at p. 2.

1 Staff's proposed condition, retail customers as well). While there are minor wording
2 differences between WUTC Staff's and Joint CLECs' proposed conditions in these two
3 examples, it appears that they share the same objectives. I continue to recommend Joint
4 CLECs' proposed Conditions 2 and 3, though I also support WUTC Staff's proposed
5 Conditions 5 and 6 to the extent they overlap with Joint CLECs' proposed Conditions 2
6 and 3.

7 The third area of overlap is with respect to Operations Support Systems ("OSS"). WUTC
8 Staff proposes Conditions 33 through 38¹² which apply to Operations Support Systems
9 ("OSS") and Joint CLECs' proposed Conditions 16 through 20¹³ also apply to OSS. I
10 agree with certain aspects of the WUTC Staff's proposed OSS conditions, such as the
11 minimum three year "quiet period."¹⁴ However, Staff's proposed OSS conditions do not
12 go far enough in addressing merger-related harm impacting CLECs and their end user
13 customers. I describe some of the key missing components below, which are addressed
14 in the Joint CLECs' proposed OSS conditions.

15 **Q. BESIDES OSS INTEGRATION, ARE THERE OTHER AREAS WHERE**
16 **STAFF'S PROPOSED CONDITIONS DO NOT GO FAR ENOUGH IN**
17 **ADDRESSING HARM TO CLECS AND THEIR END USER CUSTOMERS?**

¹² Exhibit__(MJV-6) at pp. 6-7.

¹³ Exhibit__(TJG-9) at p. 9.

¹⁴ Staff Exhibit__(RTW-1T) at p. 21, lines 2-3. See also, Staff Exhibit__(MJV-6) at p. 7, Condition 34.

1 A. Yes. None of the following Joint CLECs' concerns are addressed by Staff's proposed
2 conditions: (i) maintaining Qwest's performance assurance plans ("PAPs") or
3 Performance Indicators ("PIDs") (Joint CLEC Condition 4 and subparts); (ii) maintaining
4 wholesale service quality in CenturyLink legacy territory (Joint CLEC Condition 5 and
5 subparts); (iii) maintaining wholesale services and wholesale service rates (Joint CLEC
6 Conditions 1, 6 and subparts, 7 and subparts, 8, 9, 10, 12, 14, 24 and subparts); (iv)
7 maintaining existing service intervals for interconnection agreements that are either silent
8 on an interval or refer to Qwest's website or Service Interval Guide (Joint CLEC
9 Condition 11); (v) maintaining Qwest's Bell Operating Company ("BOC") obligations
10 (Joint CLEC Condition 13); (vi) maintaining Qwest's CMP and CMP Document terms
11 (Joint CLEC Condition 17); (vii) establishing enforceable commitments to ensure
12 compliance with specific laws and regulations in Qwest's territory (Joint CLEC
13 Conditions 21, 22, 23, 25, 26, 27, and 28); (viii) maintaining and making available to
14 wholesale customers up-to-date escalation information, contact lists and account manager
15 information (Joint CLEC Condition 15); (ix) allowing the Washington Commission to
16 adopt merger conditions or commitments from other states or at the FCC (Joint CLEC
17 Condition 29); or (x) allowing disputes about merger conditions to be brought to the state
18 commission for resolution (Joint CLEC Condition 30). Dr. Ankum and I described the
19 Joint CLECs' concerns regarding each of these issues and why all of the Joint CLECs'
20 proposed conditions are needed to address merger-related harms to the public interest.

1 **A. *The Joint CLECs' proposed OSS conditions should be adopted.***

2 **Q. MR. WILLIAMSON STATES THAT "THERE IS NO WAY TO KNOW**
3 **WHETHER THE COMPANY WILL MIGRATE FROM, OR TO, EITHER**
4 **QWEST'S OR CENTURYLINK'S LEGACY SYSTEMS."¹⁵ PLEASE RESPOND.**

5 A. I agree that the Joint Applicants' post-merger OSS integration plans are largely unknown.
6 However, as I explained at pages 40-43 of my responsive testimony, the Joint Applicants
7 have provided information in discovery which strongly suggests that CenturyLink will
8 modify or replace *Qwest's* existing CLEC-facing OSS interface that handles Local
9 Service Requests ("LSRs"), *i.e.*, IMA, after the merger close date. Because the Joint
10 Applicants' have stated that the proposed transactions will not involve any "new" OSS
11 systems (*i.e.*, systems not currently in use by either Qwest or CenturyLink),¹⁶ it is logical
12 to conclude that Joint Applicants plan to ultimately replace Qwest's IMA OSS interface
13 with CenturyLink's OSS that handles LSRs, EASE. This is a serious concern for CLECs
14 because all indications are that it would lead to deterioration in the access to Qwest's
15 OSS and significant expense: the replacement OSS will not have been third-party tested

¹⁵ Staff Exhibit__(RTW-1T) at p. 14, lines 15-16.

¹⁶ See, e.g., Rebuttal Testimony of Jeff Glover on behalf of CenturyLink, Iowa Docket No. SPU-2010-006, August 26, 2010, at p. 19 ("Those acquirers had business plans that included spending significant funds to develop new systems, which will not be required in the CenturyLink-Qwest combination, at least, in terms of creating and testing new software systems.") See also, Iowa Rebuttal Testimony of Max Phillips on behalf of Qwest Communications International, Inc., Iowa Docket No. SPU-2010-0006, August 26, 2010, p. 3, footnote 4 ("in ILEC transactions where there has not been the need to create new OSS – as is the case with the proposed Transaction...")

1 like Qwest's OSS,¹⁷ the replacement OSS will not have handled Qwest's commercial
2 volumes,¹⁸ electronic flow-through will be negatively impacted,¹⁹ OSS functionality will
3 be lost,²⁰ and all of the back-office systems built by CLECs to interface with Qwest's
4 IMA would need to be re-developed.²¹

5 **Q. IS IT REASONABLE TO EXPECT THE JOINT APPLICANTS TO HAVE**
6 **PROVIDED THEIR POST-MERGER PLANS REGARDING SYSTEMS**
7 **INTEGRATION BY NOW?**

8 A. Yes. When compared to CenturyLink's acquisition of Embarq, CenturyLink had already
9 provided to the Washington Commission specific systems integration plans at this point
10 in the merger review process. CenturyTel and Embarq announced their merger in
11 October 2008, and in March 2009 (five months later), they stated that they would migrate
12 Embarq to CenturyLink's legacy Ensemble system,²² as well as utilize CenturyTel's SAP

¹⁷ CenturyLink Response to Integra Washington Data Request 18 ("...CenturyLink has not conducted third-party testing of its systems..."); See also, Exhibit__(TJG-3), describing the third-party testing of Qwest's OSS.

¹⁸ Since CenturyLink and Qwest use different OSS today, CenturyLink's legacy systems have not previously handled the actual commercial volumes in Qwest's BOC regions. (See, Responsive Testimony of Timothy Gates on behalf of Joint CLECs, Washington Docket No. UT-100820, September 27, 2010 ("Joint CLECs Exhibit__(TJG-1T)") at pp. 48-52).

¹⁹ See, discussion of Exhibit__(TJG-15) below.

²⁰ Exhibit__(TJG-1T) at pp. 58-60.

²¹ Exhibit__(TJG-1T) at pp. 54-57.

²² "As evidence of progress since our initial filing and in response to Dr. Roycroft's testimony, I note the following: we now plan that Embarq's operations will migrate to CenturyTel's Ensemble billing and customer care system. CenturyTel's Ensemble back-office software (the product of an investment of over \$200 million) is a highly-centralized and flexible system that integrates and automates customer care and other provisioning services in a cost-effective manner." Rebuttal Testimony of G. Clay Bailey on behalf of CenturyTel, Inc., Washington UTC Docket No. UT-082119, March 18, 2009. Available at:

<http://webcache.googleusercontent.com/search?q=cache:SZWIm2byAOMJ:wutc.wa.gov/rms2.nsf/177d98baa5918c7388256a550064a61e/34a43dc9c6ee474b8825757d007a668b!OpenDocument+centurytel+embarq+will+utilize+Ensemble&cd=8&hl=en&ct=clnk&gl=us>

1 (Systems, Applications, and Products) accounting system, and utilize Embarq's EASE
2 (Embarq Administration and Service Order Exchange) system for LSRs and ASRs.²³ It
3 has now been over six months since CenturyLink and Qwest announced the proposed
4 transaction,²⁴ but the Applicants have provided no detail about its integration plans
5 similar to that which was provided around this same point in time during the review of
6 the Embarq/CenturyTel merger. The minimal amount of information that Joint
7 Applicants have provided about post-merger systems integration plans affirms the Joint
8 CLECs' concerns and the need for Joint CLECs' conditions.

9 **Q. PLEASE DISCUSS SOME OF THE INFORMATION PROVIDED BY JOINT**
10 **APPLICANTS THAT SUPPORTS THE CLECS' CONCERNS ABOUT POST-**
11 **MERGER OSS INTEGRATION AND THE NEED FOR JOINT CLECS'**
12 **PROPOSED OSS CONDITIONS.**

13 A. **[***BEGIN HIGHLY CONFIDENTIAL** [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED] **END HIGHLY CONFIDENTIAL***]** As discussed above,

²³ *Id.*

²⁴ Exhibit__(TJG-9), "Merger Announcement Date" refers to April 21, 2010.

1 information provided by Joint Applicants suggests that Qwest's IMA may be replaced.

2 Despite these plans, [***BEGIN HIGHLY CONFIDENTIAL [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 END HIGHLY CONFIDENTIAL***]

10 In addition, [***BEGIN HIGHLY CONFIDENTIAL [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED] END HIGHLY CONFIDENTIAL***]

9 **Q. YOU MENTIONED ABOVE THAT OSS FUNCTIONALITY WOULD BE LOST**
10 **IF CENTURYLINK DECIDED TO REPLACE QWEST’S IMA OSS (FOR**
11 **HANDLING LSRS) WITH CENTURYLINK’S EASE OSS. PLEASE**
12 **ELABORATE.**

13 A. There are serious concerns that pre-ordering functionality currently available through
14 Qwest’s existing OSS will be lost if CenturyLink attempts to replace Qwest’s OSS with
15 CenturyLink’s OSS. Qwest’s website states:

16 Performing Pre-Ordering activities allows you to validate details (e.g.,
17 end-user account information, facility and service availability, addresses,
18 loop qualifications) *prior to* submitting service requests and *avoids*
19 *unnecessary errors and/or delays of your request.*²⁵

²⁵ <http://www.qwest.com/wholesale/clecs/preordering.html> (emphasis added).

1 In contrast, because CenturyLink's OSS does not provide CLECs the opportunity to
2 perform these functions as a pre-order function or before submitting an LSR, use of
3 CenturyLink's OSS is more likely to result in unnecessary errors and delays.

4 For example, for the pre-order functions of Raw Loop Data Validation and Loop
5 Qualification (for ISDN, ADSL, and commercial broadband services), each of these have
6 a "no" in the CenturyLink EASE column for which there is a "yes" in the Qwest IMA
7 column in Exhibit__(TJG-17). This is an important difference between EASE, which
8 does not have this pre-order functionality, and Qwest's IMA, which does. Qwest's Raw
9 Loop Data and Loop Qualification pre-order tool helps CLECs to determine the
10 likelihood of being able to provide an end user with xDSL service *before the CLEC*
11 places an order for the customer. This process allows a CLEC to review loop make-up
12 information when trying to determine what service may best meet the customer's needs
13 before the LSR process even starts.

14 **Q. YOU SAID THAT EASE DOES NOT HAVE THE LOOP QUALIFICATION PRE-**
15 **ORDER FUNCTIONALITY. DID CENTURYLINK MAKE THAT CLEAR IN**
16 **ITS DISCOVERY RESPONSES?**

17 A. CenturyLink attempted to qualify its "no" response for this pre-order function. As shown
18 in Exhibit__(TJG-18), when asked if CenturyLink currently provides the loop
19 qualification pre-order function with EASE, CenturyLink said "No – not as part of the

1 pre-order function...” CenturyLink then added “...this function is provided in pre-
2 qualification as part of the LSR process within EASE.”²⁶

3 **Q. DOES CENTURLINK’S QUALIFYING LANGUAGE MEAN THAT EASE HAS**
4 **THE SAME PRE-ORDER FUNCTIONALITY AS QWEST IMA AND, IF NOT,**
5 **WHAT IS THE DIFFERENCE IN HOW A CLEC OBTAINS LOOP**
6 **QUALIFICATION INFORMATION IN EASE AND IMA?**

7 A. No. The key difference is that, with Qwest IMA, the CLEC has *access* to the information
8 *before* ordering (*i.e.*, *pre-order*). With EASE, the CLEC has to *submit an order to obtain*
9 the information. This delays delivery of service to the customer and requires a CLEC to
10 submit an additional LSR (one LSR for the “pre-qualification” and another for the
11 circuit) for a single customer request. The process for CenturyLink EASE²⁷ requires a
12 CLEC to submit an LSR to determine if the loop qualifies and whether it requires
13 conditioning. This is one example of a significant difference in the functionality between
14 IMA and EASE regarding loop qualification. The difference translates to a delay in
15 delivery of service to the customer because the CLEC must submit two orders (LSRs),
16 with a 2-day interval after the first order before the second order can be submitted.

17 **Q. ARE THERE OTHER CRITICAL FUNCTIONS THAT COULD LEAD TO**
18 **ERRORS OR DELAYS?**

²⁶ Exhibit__(TJG-18) at p. 2.

²⁷ See the EASE VFO Local Service Requests Order Entry Job aide at:
http://ease.centurylink.com/Document/CLEC_Prequal_Training_job_aid.doc

1 A. Yes. In addition to loop qualification, the inability to validate Channel Facility
2 Assignments (“CFAs”) and Network Channel (“NC”)/Network Channel Interface
3 (“NCI”) codes before placing an order are both examples of this. Both of these pre-order
4 functions were identified by CenturyLink as not available when ordering via LSR from
5 CenturyLink in discovery responses.²⁸ Both of these pre-order functions are available
6 when ordering via LSR from Qwest.²⁹ Both are important aspects of the “pre-ordering”³⁰
7 phase of OSS. A CFA³¹ is, generally speaking, an address (defined by a number or code)
8 that identifies for carriers a specific point of access or connection to the network.³²
9 Before a CLEC places an order, the CLEC needs to validate whether a CFA is available
10 or in use. If it is available, a CLEC may submit an order using that CFA. If it is in use,
11 the CLEC needs to request a different CFA when placing an order. If a CLEC cannot
12 validate the CFA in advance, it must first submit an order and find out only after placing
13 the order (and paying any fees associated with that order and waiting for any interval
14 associated with this process) whether the CFA is in use. If the CFA is in use, a delay
15 results because the CLEC must then re-submit an LSR using a different CFA to find out

²⁸ Exhibit__(TJG-17) and Exhibit__(TJG-18).

²⁹ <http://www.qwest.com/wholesale/clecs/preordering.html>

³⁰ The FCC defines OSS to include five functions: (1) pre-ordering, (2) ordering, (3) provisioning, (4) maintenance and repair, and (5) billing. See *In the Matter of Application by Qwest Communications International, Inc. for Authorization To Provide In-Region, InterLATA Services in the States of Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming*, Memorandum Opinion and Order, WC Docket No. 02-314, FCC 02-332, December 23, 2002 (“Qwest 9-State 271 Order”) and specifically ¶¶ 516-528; see also 47 C.F.R. §51.313(c) & §51.319(g). In the context of a BOC’s 271 responsibilities, the FCC has described each of these five functions as “critical.” FCC Bell Atlantic 271 Order at ¶ 81.

³¹ A CFA is sometimes referred to as a “channel,” “connecting,” or “circuit” facility assignment.

³² “Connecting Facility Assignment allows a CLEC to query for and obtain a list of valid and available CFAs and channel assignment records.” See:
http://www.qwest.com/disclosures/netdisclosure409/26/Chapter05_.pdf

1 if that CFA is available. In the aggregate, this is both inefficient and costly for
2 competitors. Moreover, there is absolutely no good reason that this Commission should
3 allow the Joint Applicants to go backwards in OSS functionality to the detriment of
4 competition in Washington.

5 Similarly, a CLEC needs the ability to validate NC/NCI code combinations. Industry
6 standard codes, known as NC and NCI codes, are used in ordering to distinguish among
7 products.³³ An ILEC, such as Qwest, may accept LSRs for only certain combinations of
8 NC and NCI codes. The NC/NCI code pre-order function allows a CLEC to validate that
9 a particular NC/NCI code combination will be accepted by the ILEC for ordering the
10 desired service. Without this validation capability, errors may result such as delivery of
11 the wrong service, and delays may result such as when the ILEC later rejects an NC/NCI
12 code combination as invalid.

13 Pre-ordering functionality, such as CFA and NC/NCI code validation, is important. In
14 reviewing Qwest's compliance with its 271 obligations, the FCC said:

15 [P]re-ordering includes gathering and verifying the information necessary
16 to place a new service order. Given that pre-ordering represents the first
17 exposure that a prospective customer has to a competing carrier, inferior
18 access to the incumbent's OSS may render the competing carrier less
19 efficient or responsive than the incumbent. *The applicable standard is*
20 *whether the BOC provides access to its OSS that allows competitors to*
21 *perform pre-ordering functions in substantially the same time and*
22 *manner as the BOC's retail operations. For those pre-order functions*

³³ See, Joint CLEC Initial Comments, Exhibit__(BJJ-2) at pp. 43-49 for a discussion of NCI codes.

1 *that lack a retail analogue, the BOC must provide access that affords an*
2 *efficient competitor a meaningful opportunity to compete.*³⁴

3 Joint CLECs' recommended Conditions 16 and 19 assure that, in the Qwest ILEC
4 territory after the Closing Date, the Merged Company will provide at least the types and
5 level of data, information, and assistance and at least the same data and *functionality* as
6 provided by Qwest prior to the merger filing date. Even if the Merged Company suggests
7 that the information is available to a CLEC, such as loop qualification information that
8 requires an additional LSR and a two-day delay, if the Merged Company is allowed to
9 integrate, migrate, or consolidate to OSS with less functionality – such as the reduced
10 pre-ordering functionality of EASE reflected in Exhibit__(TJG-17) – then the Merged
11 Company may argue that it is not discriminating because its retail operations also have
12 reduced functionality. This would turn the clock back to pre-271 days in terms of
13 wholesale support, while the Merged Company still maintains the benefits of its
14 interLATA 271 authority. CenturyLink's OSS currently used for its retail and wholesale
15 operations have not had to meet the 271 requirements that the Qwest OSS have met.³⁵
16 The Joint CLECs' recommended conditions, including Conditions 16 and 19, help
17 prevent backsliding in this regard.

18 **Q. DOES THE COMPARISON SHOWN IN THE MATRIX IN EXHIBIT__(TJG-17)**
19 **CONTAIN ADDITIONAL LIMITATIONS OF THE CENTURYLINK OSS?**

³⁴ Qwest 9-State 271 Order at ¶38 (footnotes omitted, emphasis added).

³⁵ Exhibit__(TJG-1T) at p. 36.

1 A. Yes. In Data Request No. 170, Integra asked CenturyLink which of a list of 38 different
2 Qwest order types (products) CenturyLink currently provides with EASE. Of the 38
3 Qwest order types identified, CenturyLink responded YES to fifteen (15), and NO³⁶ to
4 fifteen (15). CenturyLink's response to eight (8) was: "CenturyLink is unclear what
5 service or product is being described in this question,"³⁷ which suggests that CenturyLink
6 does not offer it as it does not recognize it. Even if the three interim number portability
7 order types are removed, and one assumes that the answer is yes for the eight about
8 which CenturyLink is unclear, there are twelve types of services for which a CLEC
9 cannot use EASE to submit a LSR. Those twelve order types, as shown in
10 Exhibit__(TJG-17), are: (1) Resale Frame Relay; (2) Unbundled Analog Line Side
11 Switch Port; (3) Unbundled Analog Line Side Switch Port ISDN BRI Capable; (4)
12 Unbundled Analog DID/PBX Trunk Port; (5) Unbundled DS1 DID/PBX Trunk or Trunk
13 Port Facility; (6) UNEP ISDN BRI; (7) UNE-P PRI ISDN Facility; (8) UNE-P PRI ISDN
14 Trunk; (9) Line Split UNEP POTS; (10) Line Spilt UNEP PBX Design Trunk; (11) Split
15 UNEP Centrex 21 and (12) Unbundled Loop Split.³⁸ The twelve order types listed are a
16 best case scenario, the actual number may be higher.

17 **Q. HAVE THE JOINT APPLICANTS PROVIDED OTHER INFORMATION THAT**
18 **SUBSTANTIATES THE JOINT CLECS' CONCERNS ABOUT POST-MERGER**

³⁶ For twelve of the responses CenturyLink said it did not offer the product or service and three related to Interim Number Portability which CenturyLink said it did not allow.

³⁷ Exhibit__(TJG-17), middle column entitled CenturyLink.

³⁸ See also, Exhibit__TJG-18 at pp. 7-9.

1 **OSS INTEGRATION AND THE NEED FOR JOINT CLECS' OSS**
2 **CONDITIONS?**

3 A. **Yes. [***BEGIN HIGHLY CONFIDENTIAL [REDACTED]**
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
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14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED] **END HIGHLY CONFIDENTIAL***]**

24 **Q. DO STAFF'S PROPOSED CONDITIONS RELATED TO OSS (CONDITIONS 33**
25 **THROUGH 38) ADEQUATELY ADDRESS THESE OSS-RELATED RISKS?**

1 A. No. There are a number of areas where Staff’s proposed OSS conditions do not
2 adequately address risks posed by the proposed transaction. First, Staff’s OSS conditions
3 focus on a distinction between “retail” and “wholesale” OSS (see, WUTC Staff
4 Conditions 33 and 34), which is not clear and may lead to future disputes. Second,
5 Staff’s proposed OSS conditions also do not require third-party testing for systems
6 that may replace Qwest’s existing OSS that have been through extensive third-party
7 testing. Third, Staff’s proposed 180 days advance notice in Condition 35 is insufficient
8 and different than Qwest’s Change Management Process (“CMP”). Fourth, Staff’s
9 proposed conditions do not require the Merged Company to maintain Qwest’s Change
10 Management Process (“CMP”) or the types and level of data, information or assistance
11 that Qwest made available concerning OSS as of the Merger Filing Date. Joint CLECs’
12 proposed conditions account for each of these issues and should be adopted (see, Joint
13 CLECs’ proposed Conditions 16, 17, 19 and subparts, 20).

14 **Q. PLEASE EXPLAIN WHY STAFF’S DISTINCTION BETWEEN “RETAIL” AND**
15 **“WHOLESALE OSS” IS UNCLEAR AND COULD LEAD TO FUTURE**
16 **DISPUTES.**

17 A. Staff’s proposed OSS conditions distinguish between “retail OSS” and “wholesale OSS”
18 and require a three year “quiet period”³⁹ for wholesale OSS (“where no transition from
19 the Qwest wholesale OSS will occur”) but no “quiet period” for retail OSS. See, WUTC
20 Staff proposed Conditions 33 and 34. Mr. Williamson discusses retail and wholesale

³⁹ Staff Exhibit__(RTW-1T) at p. 21, lines 2-3.

1 OSS at page 6 of his testimony. Unfortunately, it is not clear what Staff or CenturyLink
2 consider to be OSS, or more specifically “wholesale OSS.” This ambiguity, which would
3 exist under Staff’s proposed Condition 34, leads to business uncertainty. For example,
4 CenturyLink provided [***BEGIN CONFIDENTIAL ██████████
5 ██████████
6 ██████████ END CONFIDENTIAL***] This diagram is provided as
7 Confidential Exhibit__(TJG-15). [***BEGIN CONFIDENTIAL ██████████
8 ██████████
9 ██████████ END CONFIDENTIAL***] As I explained at page 34 of my responsive
10 testimony, the FCC defines OSS to include five functions: (1) pre-ordering, (2) ordering,
11 (3) provisioning, (4) maintenance and repair, and (5) billing.⁴⁰ OSS also includes all of
12 the computer systems, data maintained in those systems, and personnel that an ILEC uses
13 to perform internal functions necessary for these five functions.⁴¹ The FCC also requires
14 an adequate CMP to handle changes to the OSS systems.⁴² Based on my reading of the

⁴⁰ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, First Report and Order, CC Docket Nos. 96-98, 95-185, 11 FCC Rcd 15499 (1996) (“Local Competition Order”), specifically at ¶¶516-528. See also, Qwest 9-State 271 Order at ¶¶ 33-34 & footnote 83 to ¶34, which states: “Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York, 15 FCC Rcd 3953, 3989 at ¶ 82 (1999) (Bell Atlantic New York Order), *aff’d*, *AT&T Corp. v. FCC*, 220 F.3d 607 (D.C. Cir. 2000). **The Commission [FCC] has defined OSS as the various systems, databases, and personnel used by incumbent LECs to provide service to their customers.** See *Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Texas*, Memorandum Opinion and Order, 15 FCC Rcd 18354, 18396-97, ¶ 92 (2000) (*SWBT Texas Order*)” (emphasis added). See also, 47 C.F.R. §51.313(c) and §51.319(g).

⁴¹ Local Competition Order at ¶¶ 517-18 (emphasis added).

⁴² Qwest 9-State 271 Order at ¶ 33. See also, 47 C.F.R. §51.319(g).

1 FCC's definition of OSS – which includes billing functions as well as the computer
2 systems, databases and personnel used to perform the internal functions necessary to
3 support billing – [***BEGIN CONFIDENTIAL [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED] END CONFIDENTIAL***]

7 Furthermore, some functions are performed through CLEC-facing OSS (such as when a
8 CLEC places an order using an ILEC interface) and others are via back-end or back-
9 office OSS (such as a billing system, changes to which may impact CLECs even though
10 CLECs do not input information directly into the system). Data integrity is a key issue in
11 any merger-initiated OSS migration or conversion. As the experiences in other mergers
12 have shown, merger-related changes to systems and migration of data from one system to
13 another (including back-end systems) can result in significant retail and wholesale
14 customer impacting problems. It is unclear whether all of these systems and the data
15 maintained in these systems are included in the term “wholesale OSS” as used in Staff’s
16 proposed condition.

17 **Q. PLEASE ELABORATE ON WHY THIRD-PARTY TESTING SHOULD BE**
18 **REQUIRED FOR ANY SYSTEM THAT REPLACES A QWEST OSS SYSTEM**
19 **THAT HAS BEEN THIRD-PARTY TESTED.**

1 A. The FCC has previously concluded that the most probative evidence that OSS functions
2 are operationally ready is actual commercial usage. CenturyLink has offered no evidence
3 that its legacy OSS (or any OSS other than Qwest's existing OSS) is capable of handling
4 the actual commercial usage volumes in Qwest's legacy territory. Without this actual
5 commercial usage experience, the second-best option is independent, third-party testing.

6 The FCC said:

7 The most probative evidence that OSS functions are operationally ready is
8 actual commercial usage. Absent sufficient and reliable data on
9 commercial usage, the Commission will consider the results of carrier-to-
10 carrier testing, independent third-party testing, and internal testing in
11 assessing the commercial readiness of a BOC's OSS. Although the
12 Commission does not require OSS testing, a persuasive test will provide
13 us with an objective means by which to evaluate a BOC's OSS readiness
14 where there is little to no evidence of commercial usage, or may otherwise
15 strengthen an application where the BOC's evidence of actual commercial
16 usage is weak or is otherwise challenged by competitors. *The*
17 *persuasiveness of a third-party review, however, is dependent upon the*
18 *qualifications, experience and independence of the third party and the*
19 *conditions and scope of the review itself. If the review is limited in scope*
20 *or depth or is not independent and blind, the Commission will give it*
21 *minimal weight.*⁴³

22 Internal OSS testing that is not independent and blind is inferior to a truly independent
23 third-party test in determining a BOC's OSS commercial readiness. Though CenturyLink
24 claims that it extensively tests its own OSS, it has admitted that this testing does not
25 involve third-party testing. This means that CenturyLink's OSS testing is not
26 independent or blind, and would therefore, be a step backwards for Qwest OSS that has
27 undergone years of extensive and verifiable third-party testing as well as years of actual

⁴³ Qwest 9-State 271 Order, Appendix K "Statutory Requirements" at p. K-16 (emphasis added).

1 commercial usage. The FCC has found that independent, third-party testing is crucial for
2 determining the commercial readiness of a BOC's OSS (at least when no actual
3 commercial usage experience is available) and the Commission should require third-party
4 testing to determine the commercial readiness of any system that will replace a Qwest
5 system that has been third-party tested.

6 **Q. YOU EXPLAINED ABOVE AND AT PAGES 40-42 OF YOUR RESPONSIVE**
7 **TESTIMONY THAT CENTURYLINK MAY MODIFY OR REPLACE QWEST'S**
8 **IMA OSS INTERFACE WHICH HANDLES CLEC LOCAL SERVICE**
9 **REQUESTS. IF CENTURYLINK DECIDED TO REPLACE IMA WITH**
10 **CENTURYLINK'S EASE OSS, WOULD THAT REQUIRE THIRD-PARTY**
11 **TESTING UNDER JOINT CLECS' CONDITION 19(B)?**

12 A. Yes. Qwest's IMA was subject to third-party testing. Since the third-party testing was
13 conducted, IMA-EDI has been transitioned to IMA-XML, but as Qwest Change Request
14 ("CR") #SCR121305-01⁴⁴ (regarding the change from IMA-EDI to IMA-XML)
15 indicates, the Business Process Layer ("BPL") did not change in the transition to XML;
16 the change only involved how information is passed and how the connection is made.⁴⁵
17 In other words, the functionality of the interface did not change. This is much different
18 from changing systems, as when CenturyLink changed from CenturyTel's IRES to

⁴⁴ Available at: http://www.qwest.com/wholesale/cmp/archive/CR_SCR121305-01.html

⁴⁵ For example, Qwest-prepared CMP meeting minutes from a 1/25/06 Ad Hoc CMP Meeting which state: "Comcast - said that it would helpful if Qwest could provide a document on the order flow. Connie Winston - Qwest said that the flow is not changing and that with EDI all validation is the BPL. Connie said that layer will enforce the same business rules with XML." *Id.*

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[REDACTED]

[REDACTED]

END CONFIDENTIAL*]** As I explained at page 50 of my responsive testimony, Access Care is CenturyLink’s trouble reporting process, which involves the wholesale customer calling into Special Service Operations and CenturyLink manually recording the information on a trouble ticket. I explained at pages 58-60 of my responsive testimony that this manual intervention, which is shown as *****BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL***],** decreases efficiency due to the lack of automation and electronic flow through and increases the possibility for human error. *****BEGIN CONFIDENTIAL [REDACTED]**

[REDACTED]

1 [REDACTED]
2 [REDACTED] **END CONFIDENTIAL***]**

3 This increased risk of human error is a key reason why the FCC, when evaluating a
4 BOC's 271 capabilities, evaluates the amount of electronic flow through offered by the
5 BOC. Generally, the more orders that flow through electronically, the less manual
6 intervention that is necessary. The FCC has looked at order flow through as a potential
7 indicator of a wide range problems that underlie a determination of whether a BOC
8 provides nondiscriminatory access to its OSS.⁴⁸ The FCC has concluded that, to meet a
9 BOC's ongoing 271 obligations, the BOC must show that its OSS are capable of flowing
10 through orders in a manner that affords competing carriers a meaningful opportunity to
11 compete and its OSS are capable of flowing through orders in substantially the same time
12 and manner as for retail orders.⁴⁹ Also important to the analysis of whether a BOC is
13 providing access to ordering functions in a nondiscriminatory manner is the BOC's
14 ability to return timely order confirmation and reject notices, accurately process
15 manually-handled orders, and scale its system.⁵⁰

16 Despite the significance of flow through, CenturyLink has indicated that it *does not even*
17 *track* the number of orders that flow through systems without manual intervention.⁵¹ In

⁴⁸ Qwest 9-State 271 Order at ¶ 85.

⁴⁹ Qwest 9-State 271 Order at ¶ 106.

⁵⁰ Qwest 9-State 271 Order at ¶¶ 85 & 106.

⁵¹ CenturyLink response to Integra Washington Data Request 25(f).

1 contrast, Qwest “routinely provides” flow through information on its website.⁵² The FCC
2 said that it expects “flow through rates will *improve* over time.”⁵³ Any deterioration in
3 flow through in Qwest’s region [***BEGIN CONFIDENTIAL ██████████
4 ██████████ END CONFIDENTIAL***] would reflect serious merger-related
5 harm, as well as backsliding with respect to the Company’s BOC obligations.
6 Furthermore, third-party testing would be particularly important in this instance because
7 an increase in manual intervention and decrease in electronic flow through for Qwest’s
8 OSS would have significant negative impacts on the OSS’ ability to handle the actual
9 commercial volumes in Qwest’s territory.

10 **Q. DO YOU HAVE CONCERNS WITH STAFF PROPOSED CONDITION 35,**
11 **REQUIRING “...180 DAYS OF ADVANCED NOTICE OF ANY WHOLESALE**
12 **OSS TRANSITIONS FROM QWEST’S SYSTEMS...”?**

13 A. Yes. Staff proposed Condition 35 (which requires 180 days of advanced notice of any
14 wholesale OSS transitions from Qwest’s systems and requires CenturyLink to
15 “coordinate the transition with affected CLECs”) in combination with the lack of a Staff
16 proposed condition requiring CenturyLink to maintain Qwest’s CMP causes uncertainty
17 about what changes to systems CenturyLink will and will not take to CMP. This is
18 particularly true as the CMP Document which governs Qwest CMP procedures provides
19 for a time period during normal circumstances, absent an acquisition of this magnitude

⁵² Qwest response to Integra Washington Data Request 25(g).

⁵³ Qwest 9 State 271 Order at ¶ 111 (emphasis added).

1 involving Qwest, of at least 270 calendar days -- **9 months** -- for both introduction of a
2 new OSS interface and retirement of an existing OSS interface for **initial steps** (such as
3 hosting design and development meetings when introducing an interface and sharing the
4 retirement plans when retiring an interface).⁵⁴ In contrast, WUTC Staff proposed
5 Condition 35 appears to anticipate that all steps, including any needed CLEC
6 modifications to prepare for the ILEC changes and any testing occur **during** a six month
7 (“180 days”) period. In other words, as written, Staff’s proposed condition does not
8 appear to be 180 days **advance** notification, but instead 180 days from notice to go-live in
9 production with live customers.

10 **Q. DO STAFF’S OSS CONDITIONS REQUIRE THE MERGED COMPANY TO**
11 **MAINTAIN QWEST’S CHANGE MANAGEMENT PROCESS (“CMP”)?**

12 A. No. This is a shortcoming that should be rectified by adopting the Joint CLECs’
13 proposed conditions (see, Joint CLEC Condition 17).

14 **Q. ARE THERE REASONS WHY MAINTAINING QWEST’S CMP IS NOT**
15 **ENOUGH BY ITSELF?**

16 A. Yes. If a change to a back-end system is not intended to impact CLECs, the change may
17 not be handled in CMP. Whether CMP is used may depend, for example, on how the
18 ILEC interprets the CMP Document and on how the ILEC interprets what may affect
19 CLECs. Exhibit__(TJG-19) to my testimony is a true and correct copy of pages from

⁵⁴ CMP Document, §7.1 (Exhibit__(BJJ-26), p. 55) & §9.1 (Exhibit__(BJJ-26), p. 69).

1 minutes of a meeting of working sessions of the CMP “Re-design” team.⁵⁵ The CMP Re-
2 design was a process that occurred in conjunction with Qwest’s request for 271 approval.
3 Through CMP Re-design, changes were made to Qwest’s CMP (formerly known as Co-
4 Provider Industry Change Management Process or “CICMP”). In CMP Re-Design,
5 CLECs raised concerns about ILEC changes to retail and back-end systems that may
6 affect CLECs.⁵⁶ In response, Qwest said that “CLECs will be notified on Retail driven
7 changes that impact CLEC interfaces.”⁵⁷ In addition, the following footnote was added
8 to every page of the CMP Document:

9 Throughout this document, OSS interfaces are defined as existing or new
10 gateways (including application-to-application interfaces and Graphical
11 User Interfaces), connectivity and system functions *that support or affect*
12 the pre-order, order, provisioning, maintenance and repair, and billing
13 capabilities for local services (local exchange services) provided by
14 CLECs to their end users.⁵⁸

15 In addition, the CMP Document states, for change requests (“CRs”) requesting changes
16 to systems and products/processes: “Qwest will not deny a CR solely on the basis that
17 the CR involves a change to back-end systems.”⁵⁹ At this time, it is not known how

⁵⁵ CMP Re-Design Final Meeting Minutes (8/14/01 & 8/16/01), also available at http://www.qwest.com/wholesale/downloads/2001/010831/CMP_Redesign_Aug_14_16_Mtg_Minutes_FINAL.doc

⁵⁶ Exhibit__(TJG-19) at pp. 14-15.

⁵⁷ Exhibit__(TJG-19) at pp. 14-15. See also Completed Action Item 95, available at: http://www.qwest.com/wholesale/downloads/2002/021015/CLOSED-CMP_RedesignCoreTeamIssuesActionItemsLog-Rev10-09-02.doc

⁵⁸ Exhibit__(BJJ-26) (CMP Document), footnote on pages 1-113 (emphasis added). A second footnote on each page states: “Throughout this document, the term “include(s)” and “including” mean “including, but not limited to.” *Id.*

⁵⁹ Exhibit__(BJJ-26) §5.1.4 (Systems Change Request Origination Process) and §5.3 (CLEC Originated Product/Process Change Request Process) (same sentence in both sections).

1 CenturyLink will interpret the CMP Document and how CenturyLink will interpret what
2 may affect CLECs.

3 **Q. ARE THERE OTHER REASONS WHY MAINTAINING QWEST’S CMP IS NOT**
4 **ENOUGH BY ITSELF?**

5 A. Yes. While the CMP Document has tools to address introduction and retirement of OSS
6 interfaces, as well as periodic modification of OSS, those procedures are suited for the
7 types of systems modifications for which it has been used over the years, and not for the
8 type of major migration of data that would occur if CenturyLink integrated its legacy
9 OSS into Qwest’s territory.

10 Section 7.0 of the CMP Document addresses “Introduction of a new OSS interface” and
11 Section 9.0 addresses “Retirement of an existing OSS interface.”⁶⁰ An OSS migration or
12 integration involves significant back-end systems⁶¹ work, as well as potential changes to
13 CLEC-facing interfaces. If a change to a back-end system is not intended to impact
14 CLECs, the change may not be handled in CMP. However, as the experiences in other
15 mergers have shown, merger-related changes to back-end systems and migration of data
16 from one back-end system to another can result in significant retail and wholesale
17 customer-impacting problems. Qwest maintains extensive data in its systems, including
18 customer-identifying information, retail and wholesale customer account information,

⁶⁰ Exhibit__(BJJ-26).

⁶¹ Unlike EASE or IMA (CLEC-facing interfaces in that CLECs interact with them for pre-ordering and ordering), billing systems are back-end systems that CLECs do not interact with directly but, when changes to the billing system occur, the changes may also impact CLECs and their customers.

1 billing and repair records, telephone number assignments, identification of serving wire
2 centers for customers, network information regarding the design and configuration of the
3 network, and information indicating where and how CLECs connect with Qwest's
4 network, and so forth. Changes to, or misinterpretation of, data has the potential to
5 impact 911 response, the routing of local and long distance calls, billing, directory
6 listings, dispatching of technicians during service outages, and other customer services.

7 Data integrity is, therefore, a key issue in merger-initiated OSS migrations or
8 conversions, as I discuss below in relation to the Embarq North Carolina conversion (in
9 which data mapping errors were at the heart of many problems). No other acquisition of
10 this magnitude involving Qwest, much less of an entire BOC by a non-BOC incumbent
11 LEC, has occurred during the history of Qwest CMP. If CenturyLink integrates its
12 legacy OSS into Qwest's territory or makes significant changes to Qwest's OSS, a
13 *combination* of maintaining OSS for a defined time period for a measure of stability
14 during company upheaval, ensuring readiness and a smooth transition afterward through
15 oversight and third party testing, and notifying and involving CLECs through CMP will
16 be required. Together, Joint CLECs' recommended conditions are designed to address all
17 of these needs, and to mitigate the very real competitive harms that are likely to result
18 without such conditions.

19 **Q. ARE THERE OTHER CONCERNS THAT SUPPORT ADOPTING THE JOINT**
20 **CLECS' OSS CONDITIONS?**

1 A. Yes. CMP is designed to address change requests introduced by Qwest as well as
2 submitted by CLECs. If Qwest's CMP is not maintained post-merger, it would
3 negatively impact CLECs' ability to pursue OSS changes that they need. In addition, if
4 the CMP is jammed up due to CenturyLink's decision to replace Qwest's existing OSS,
5 the backlog of CLEC-requested change requests would quickly grow, leading to
6 significant delay for systems enhancements that CLECs desire, or blockage of CLEC-
7 initiated change requests altogether. This would undermine the purpose of the CMP and
8 harm CLEC access to Qwest's OSS.

9 **Q. IS THERE AN EXAMPLE THAT SUGGESTS THAT THE USUAL CHANNELS**
10 **MIGHT GET OVERLOADED?**

11 A. Yes. In the case of the recent FairPoint systems cutover, over 800 "issues" (or problems)
12 have been raised since February 2009, many of which are major issues.⁶² And there are
13 still significant problems as CRC Communications of Maine, Inc., explained to the New
14 Hampshire Public Utilities Commission:

15 CLECs continue to experience significant problems with wholesale
16 provisioning and billing issues despite the fact that more than 15 months
17 have passed since the cutover from Verizon's back office systems...The
18 record before the Commission is quite clear - there are still significant
19 problems with basic systems functionality that need to be
20 remediated...the Liberty List of Continuing CLEC Issues - contains over
21 109 issues that *currently* impact CLECs and their customers.⁶³

⁶² FairPoint's log of issues is available at:
http://www.fairpoint.com/wholesale/customer_resources/change_management.jsp

⁶³ Post Hearing Brief of CRC Communications of Maine, Inc., New Hampshire PUC Docket No. DT-10-025, at pp. 2-3.

1 All of these problems have occurred despite the fact that FairPoint is utilizing its
2 Wholesale User Forum “Change Management” process.⁶⁴ CLECs have also conducted
3 weekly and bi-weekly meetings with FairPoint to attempt to resolve problems:

4 Unfortunately, despite all of the hard work on both sides of the table and
5 the fact that FairPoint has acknowledged the validity of our concerns and
6 claims, its personnel are severely limited by FairPoint’s internal billing
7 systems and are unable to permanently correct the underlying problems
8 with the software that generate the erroneous bills. FairPoint’s inability to
9 make permanent fixes or to get long-standing issues addressed causes
10 frustration for both FairPoint and CRC because it means that the same
11 billing errors reoccur month after month, generating a continued need for
12 our bi-weekly meetings and significant manual work by both sides.⁶⁵

13 It is clear that FairPoint’s use of its change management process to implement its OSS
14 cutover, as well as additional frequent meetings, have not been successful in avoiding
15 hundreds of problems, some of which are continuing.

16 To put FairPoint’s problems in perspective, I have compared FairPoint’s log of incidents
17 (or problems) to Qwest’s CMP log for systems change requests.⁶⁶ Since 2003, Qwest has
18 had 780 systems change requests, compared to 818 “incidents” logged by FairPoint since
19 February 2009. In other words, FairPoint has logged more systems problems (things that
20 are broken) in the last year and one-half than systems change requests (where Qwest or a
21 CLEC is introducing a systems modification) submitted in Qwest’s CMP in the past

⁶⁴ http://www.fairpoint.com/wholesale/customer_resources/change_management.jsp (“OSS Interface Change Management”).

⁶⁵ Testimony of Ed Tisdale on behalf of CRC Communications of Maine, Inc., New Hampshire PUC Docket No. DT 10-025, April 19, 2010, at p. 3.

⁶⁶ http://www.qwest.com/wholesale/cmp/archive/crnumber_system_index.html

1 seven years. These facts provide further support for the Joint CLECs' proposed
2 conditions that comprehensively address the severe harm facing wholesale customers
3 related to post-merger OSS integration.

4 *B. Problems encountered during CenturyLink's integration of Embarq*
5 *provide further support for Joint CLECs' proposed conditions.*

6 **Q. MR. WILLIAMSON DISCUSSES CENTURYLINK'S TESTIMONY ON THE**
7 **PROGRESS OF CENTURYLINK'S INTEGRATION OF EMBARQ.⁶⁷ HAS**
8 **CENTURYLINK BEEN CANDID IN WASHINGTON ABOUT ITS ONGOING**
9 **INTEGRATION OF EMBARQ?**

10 A. No. Despite CenturyLink's testimony in this proceeding that the Embarq integration is
11 running "smooth and successful,"⁶⁸ it came to light in the Minnesota merger review
12 proceeding that CenturyLink has encountered significant problems during its integration
13 of Embarq in North Carolina and Ohio. In response to testimony filed by the
14 Communications Workers of America ("CWA") on August 19, 2010, in the Minnesota
15 merger review proceeding, CenturyLink filed the rebuttal testimony of Duane Ring,
16 which acknowledged experiencing integration problems in North Carolina and admitted
17 that the problems have caused CenturyLink "to produce lower service level metrics than

⁶⁷ Staff Exhibit__(RTW-1T) at p. 12.

⁶⁸ CenturyLink Exhibit__(TS-1T) at p. 7, lines 1-2.

1 desired since conversion.”⁶⁹ Or, in other words, these integration problems have caused
2 service quality to deteriorate.

3 **Q. DID CENTURYLINK HAVE AN OBLIGATION TO PROVIDE THIS EVIDENCE**
4 **IN THIS PROCEEDING?**

5 A. Yes. On June 30, 2010, Integra served discovery requests upon Joint Applicants in which
6 Integra referenced the direct testimony of CenturyLink witness Mr. Schafer regarding
7 integration efforts undertaken by the company in CenturyTel’s acquisition of Embarq,
8 and Mr. Schafer’s claims that the integration had been successful, and asked CenturyLink
9 to: (1) Describe in detail the integration efforts undertaken by the company for
10 CenturyTel’s acquisition and specifically to answer fourteen sub-questions, including
11 “Description of problems the company experienced (or is experiencing) during
12 integration;”⁷⁰ and (2) Provide a detailed description of these conversions, including “how
13 the company determined that the integration efforts ‘have been successful.’”⁷¹ As part of
14 its information requests on June 30, 2010, Integra included an instruction stating that the
15 information requests are intended to be continuing in nature and indicating that the
16 respondents should supplement the responses promptly.⁷² CenturyLink responded to

⁶⁹ Rebuttal Testimony of Duane Ring on behalf of CenturyLink, Inc., Minnesota Public Utilities Commission Docket No. P-421 et. al./PA-10-456, September 13, 2010 (“Ring Minnesota Rebuttal Testimony”) at p. 5, lines 16-18. Available at: <https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPop&documentId={A48DAA86-7AD1-4E97-84AB-69E1D1DEACCE}&documentTitle=20109-54401-01>

⁷⁰ Integra Washington Data Request 41 to Joint Applicants (June 30, 2010).

⁷¹ Integra Washington Data Request 42 to Joint Applicants (June 30, 2010).

⁷² Integra Washington Data Requests to Joint Applicants (June 30, 2010) at p. 2.

1 these Integra Data Requests on July 16, 2010, CenturyLink supplemented its responses
2 on August 9, 2010, and CenturyLink provided a second supplemental response on
3 October 28, 2010.

4 In its initial and supplemental responses, CenturyLink stated that the integration
5 processes were proceeding as planned, without disclosing any of the problems that
6 CenturyLink acknowledged in sworn testimony in Minnesota, and in its recent response
7 to WUTC Staff Data Request 151 and Second Supplemental Response to Integra Data
8 Request 41. CenturyLink represented that the conversion to CenturyLink's retail end
9 user billing system is proceeding as planned "without customer disruption."⁷³
10 CenturyLink's affirmative statement directly contradicts the problems described in its
11 Minnesota testimony. In Minnesota, CenturyLink stated that the problems encountered
12 in North Carolina have caused CenturyLink "to produce lower service level metrics than
13 desired since conversion,"⁷⁴ – an important point that CenturyLink omitted from its
14 response to WUTC Staff Data Request 151 and Second Supplemental Response to
15 Integra Data Request 41.

16 With top executives at Qwest expected to receive multi-millions of dollars upon closing⁷⁵
17 and CenturyLink estimating over \$600 million in synergy savings if the transaction is

⁷³ CenturyLink's Response to Integra Washington Data Request 41 (July 16, 2010).

⁷⁴ Ring Minnesota Rebuttal Testimony at p. 5, lines 16-18.

⁷⁵ 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 approved, it is clear why Qwest and CenturyLink are in a hurry to secure merger
2 approval. However, it becomes less and less clear which interests may be served by not
3 inquiring into and adequately investigating these problems, particularly when
4 CenturyLink delayed proper investigation into these issues by not disclosing required
5 information in discovery.

6 **Q. PLEASE BRIEFLY DESCRIBE THE INTEGRATION-RELATED PROBLEMS**
7 **THAT HAVE OCCURRED DURING CENTURYLINK'S INTEGRATION OF**
8 **EMBARQ.**

9 A. CenturyLink and CWA described these problems in their Minnesota testimony.
10 CenturyLink also briefly described some of these problems in its response to WUTC
11 Staff Data Request 151 and Second Supplemental Response to Integra Data Request 41.
12 CenturyLink explained that during the conversion in North Carolina to CenturyLink
13 billing and operational systems, outside plant records were loaded incorrectly.⁷⁶
14 CenturyLink said that the “way in which plant was constructed in the legacy Embarq
15 areas was not consistent between areas and not consistent with the legacy CenturyTel
16 area.”⁷⁷ CenturyLink also explained that a number of problems were caused by
17 differences between the old and new systems⁷⁸ and “lack of familiarity with the new

⁷⁶ Ring Minnesota Rebuttal Testimony at p. 2, lines 6-12. See also, CenturyLink response to WUTC Staff Data Request No. 151.

⁷⁷ CenturyLink response to WUTC Staff Data Request No. 151.

⁷⁸ Ring Minnesota Rebuttal Testimony at p. 2, lines 21-22.

1 systems.”⁷⁹ The problems discussed by CWA include: “workers...being dispatched to
2 incorrect locations for service”;⁸⁰ “workers reported being dispatched for service with
3 insufficient or incorrect information”;⁸¹ longer out of service periods and longer delays in
4 initiating service;⁸² differing and confusing software that dispatches/assigns
5 technicians;⁸³ “the systems do not appear to be interconnected or coordinated”;⁸⁴ negative
6 impacts on work flow;⁸⁵ “inefficiencies in the new systems”;⁸⁶ and consumer frustration
7 about installation and service appointments not being met and long hold times.⁸⁷ CWA
8 also described “insufficient training or resources - provided to former Embarq employees
9 about the new systems”⁸⁸ and loss of system functionality:

10 Prior to the merger between Embarq and CenturyLink, if a concentrator
11 went down, the business office would issue an outage ticket that would
12 alert people throughout the system that there is a known outage in a
13 specific area. That meant when customers called to report the outage, the
14 customer service representatives would be able to tell them the company
15 knew about the outage, that it was being worked on, and even an estimated

⁷⁹ Ring Minnesota Rebuttal Testimony at p. 3.

⁸⁰ Pre-Filed Direct Testimony of Jasper Gurganus on behalf of the Communications Workers of America (CWA), Minnesota Public Utilities Commission Docket No. P-421, et. al./PA-10-456, August 19, 2010 (“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>

⁸¹ Gurganus Minnesota Direct Testimony at p. 5, lines 6-7.

⁸² Gurganus Minnesota Direct Testimony at pp. 4-5.

⁸³ Gurganus Minnesota Direct Testimony at p. 5.

⁸⁴ Gurganus Minnesota Direct Testimony at p. 6, lines 8-12.

⁸⁵ Gurganus Minnesota Direct Testimony at p. 7.

⁸⁶ 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.”)

⁸⁷ Gurganus Minnesota Direct Testimony at p. 10.

⁸⁸ Gurganus Minnesota Direct Testimony at p. 4, lines 4-9.

1 time the service would be restored. Under the new system, the business
2 office can take a trouble report, but it is not issued as an outage report, so
3 our customers cannot be told that we may already be working on the
4 problem or when their service might be restored.⁸⁹

5 The problems described by CWA are particularly informative because they are based on
6 information gathered from CenturyLink employees who are performing the integration
7 work in North Carolina and Ohio. In other words, the problems reported by CWA are
8 based on “hands on” experience.

9 **Q. CENTURYLINK SUGGESTS IN ITS RESPONSE TO WUTC STAFF DATA**
10 **REQUEST 151 AND SECOND SUPPLEMENTAL RESPONSE TO INTEGRA**
11 **DATA REQUEST 41 THAT THESE WERE MINOR PROBLEMS WHICH HAVE**
12 **BEEN LARGELY TAKEN CARE OF. IS CENTURYLINK’S RESPONSE**
13 **CONSISTENT WITH OTHER INFORMATION YOU HAVE REVIEWED?**

14 **A.** No. On October 1, 2010 – just over two weeks before CenturyLink’s response to WUTC
15 Data Request 151 – CWA submitted surrebuttal testimony in the Minnesota merger
16 review proceeding which explained that the integration problems are not limited just to
17 North Carolina, but are also occurring in Ohio:

18 The Leaders in Ohio, where Embarq systems were converted to
19 CenturyLink systems beginning in October of 2009, responded that they
20 still were not back to the level of efficiency they had before the cutover.
21 That is to say, even after a year, they are still experiencing so-called
22 transition problems. In particular, they report continued problems with
23 missing or incomplete order information so that they must ask the
24 customers what they ordered and hope that they have the necessary
25 equipment on hand to complete the order.

⁸⁹ Gurganus Minnesota Direct Testimony at p. 8, lines 13-22.

1 One tech in Ohio described arriving at an attorney's office this week with
2 an incomplete order. When the tech asked the customer what services and
3 equipment they wanted, the customer berated him, saying he spent three
4 hours on the phone trying to place the order and he wasn't going to spend
5 any more time repeating himself."⁹⁰

6 Despite WUTC Staff Data Request No. 151 asking CenturyLink to "explain in detail *any*
7 operational problems that have been encountered arising from CenturyLink's integration
8 of Embarq,"⁹¹ CenturyLink's response discusses only "minor" problems in North
9 Carolina and entirely ignores the problems CWA members are reporting in Ohio.

10 CWA also provided an update on the integration problems in North Carolina: "our North
11 Carolina techs report that nothing has really improved."⁹² He reports that problems are
12 still occurring regarding "missing or incomplete information on orders[,] "techs in North
13 Carolina are struggling to complete orders on time" and "employees are still working
14 overtime trying to complete tasks."⁹³ None of this information was provided in
15 CenturyLink's response to WUTC Staff Data Request No. 151.

16 **Q. THE SERVICE-IMPACTING PROBLEMS REPORTED IN NORTH CAROLINA**
17 **INVOLVED INCORRECT DATA MAPPING, DISPATCH INEFFICIENCIES,**
18 **AND RECORDS BEING LOADED INTO SYSTEMS INCORRECTLY. HAVE**

⁹⁰ 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>

⁹¹ Emphasis added.

⁹² Gurganus Minnesota Surrebuttal Testimony at pp. 2-3.

⁹³ Gurganus Minnesota Surrebuttal Testimony at p. 3, lines 6-10.

1 **JOINT APPLICANTS PROVIDED INFORMATION WHICH SHOWS THAT**
2 **THESE PROBLEMS COULD OCCUR DURING AN INTEGRATION OF**
3 **QWEST?**

4 A. Yes. [***BEGIN HIGHLY CONFIDENTIAL [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] END

17 **HIGHLY CONFIDENTIAL***]** were employed in North Carolina, service quality
18 deteriorated.⁹⁴

⁹⁴ Ring Minnesota Rebuttal Testimony at p. 5, lines 16-18 (“The problems encountered in North Carolina on top of the heavy seasonal summer load have caused CenturyLink to produce lower service level metrics than desired since conversion.”)

1 Likewise, *****BEGIN HIGHLY CONFIDENTIAL** [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 **END HIGHLY CONFIDENTIAL***]** Based on the conversion problems
8 reported in North Carolina, CenturyLink replaced legacy Embarq systems with legacy
9 CenturyTel systems with less functionality *****BEGIN HIGHLY CONFIDENTIAL**
10 [REDACTED]
11 **END HIGHLY CONFIDENTIAL***]**; data about outside plant records
12 were not mapped correctly *****BEGIN HIGHLY CONFIDENTIAL** [REDACTED]
13 [REDACTED] **END HIGHLY**
14 **CONFIDENTIAL***]**; data was misinterpreted and not loaded correctly *****BEGIN**
15 **HIGHLY CONFIDENTIAL** [REDACTED]
16 [REDACTED] **END HIGHLY CONFIDENTIAL***]**; a deterioration in
17 service quality occurred *****BEGIN HIGHLY CONFIDENTIAL** [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED] **END HIGHLY**
21 **CONFIDENTIAL***]** service-impacting problems can and do occur.

1 Q. THE CWA'S RECENT UPDATE ON CENTURYLINK'S INTEGRATION
2 PROBLEMS INDICATES THAT EMPLOYEES WERE STILL WORKING
3 OVERTIME TRYING TO ADDRESS THE PROBLEMS. HAVE THE JOINT
4 APPLICANTS PROVIDED ANY INFORMATION TO EXPLAIN THAT
5 SIMILAR PROBLEMS IN QWEST'S REGION COULD BE ADDRESSED BY
6 FORCING EMPLOYEES TO WORK LONGER HOURS?

7 A. No. In fact, [***BEGIN HIGHLY CONFIDENTIAL [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED] END HIGHLY CONFIDENTIAL***]

11 This is in addition to the [***BEGIN CONFIDENTIAL [REDACTED]
12 [REDACTED]
13 [REDACTED] END CONFIDENTIAL***] See, Confidential Exhibit__(TJG-1T) at pp.
14 147-148. In addition, the [***BEGIN HIGHLY CONFIDENTIAL [REDACTED]

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED] END HIGHLY CONFIDENTIAL***]

6 **Q. CENTURLINK'S RESPONSE TO WUTC DATA REQUEST NO. 151 AND**
7 **SECOND SUPPLEMENTAL RESPONSE TO INTEGRA DATA REQUEST 41**
8 **INDICATE THAT CENTURLINK IS LEARNING FROM THESE PROBLEMS**
9 **AND TAKING PROACTIVE STEPS SO THAT THEY DO NOT HAPPEN IN**
10 **FUTURE CONVERSIONS. DOES THIS OBIATE THE NEED FOR THE**
11 **JOINT CLECS' PROPOSED OSS CONDITIONS?**

12 A. Absolutely not. Problems in loading outside plant records is just one out of many
13 problems that could occur if CenturyLink attempted to replace Qwest's OSS with
14 CenturyLink's OSS post-merger. CenturyLink described a cause of the problems with
15 the Embarq North Carolina conversion as:

16 some of the outside plant records were loaded incorrectly to the service
17 provisioning system (called MARTENS). The way in which plant was
18 constructed in the legacy Embarq areas was not consistent between areas
19 and not consistent with the legacy CenturyTel areas. As a result, records
20 for some of the devices initially did not load correctly in the conversion
21 and in some cases, technicians needed to contact centralized work groups
22 and take additional steps to get information necessary to complete
23 assigned service orders and trouble tickets.⁹⁵

⁹⁵ CenturyLink response to WUTC Data Request No. 151.

1 Data inconsistencies are not uncommon in legacy systems. As reported by Liberty
2 Consulting in its FairPoint Post-Cutover Status Report on April 1, 2009, in regards to the
3 FairPoint conversion:

4 data problems have affected a large number of accounts. These
5 unexpected problems have included such issues and incorrect data
6 mapping and misinterpretation of Verizon data, and have had a major
7 impact on such critical function as loop qualification, validation of
8 customer addresses, assignment of telephone numbers, and identification
9 of serving wire centers for customers.⁹⁶

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

⁹⁶ FairPoint Post-Cutover Status Report, The Liberty Consulting Group, April 1, 2009, at p. 8. Available at: <http://www.puc.state.nh.us/Telecom/Filings/FairPoint/Post-Cutover/FairPoint%20Post-Cutover%20Status%20Report%2004-01-09.pdf>

1 implementing system business rules that vary by Qwest Region;⁹⁷ Qwest periodically
2 sending notices to CLECs indicating that it is unable to process orders in one or more
3 (but not all) of the three Qwest Regions;⁹⁸ and Qwest implementing a change request to
4 access Customer Service Records for VoIP first in the Central and Eastern Qwest
5 Regions and later in the West Region, because of complexities unique to the Qwest West
6 Region.⁹⁹ Attached to my testimony as Exhibit__(TJG-16) is an excerpt from Qwest's
7 online Product Catalog called "Pre-Ordering Overview." Exhibit__(TJG-16) contains a

⁹⁷ See Local Service Ordering Guide (LSOG), at <http://www.qwest.com/wholesale/clecs/lsog.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 Pending Service Order Notice (PSO) 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.

⁹⁸ 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>.

⁹⁹ 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 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.

1 Qwest table that describes how customer (“CUS”) codes “may change during the bill
2 posting process after a Completion Notice (“CN”) is issued. The changes to the CUS
3 Code are based upon service order activity, product, and region.”¹⁰⁰ The table contains a
4 complex description that reflects how Qwest’s back-end service order processing
5 (“SOP”) systems process CLEC orders differently depending on the Qwest Region
6 (Central, East, or West).

7 **Q. IS THERE ANOTHER REASON WHY CENTURLINK’S STATEMENT THAT**
8 **IT IS LEARNING FROM ITS PROBLEMS DOES NOT PROVIDE YOU**
9 **COMFORT ABOUT A POTENTIAL INTEGRATION OF QWEST?**

10 A. Yes. Even if a phased approach decreases problems for states that are converted in later
11 phases,¹⁰¹ this provides little comfort for those states that are converted in early phases
12 and will serve as the test cases. This also means that CLECs will be forced to
13 accommodate the phase-in on a state-by-state basis, which will require CLECs operating
14 in multiple Qwest states to themselves use different platforms to interact with
15 CenturyLink depending on the state. Additionally, CenturyLink has provided no details
16 regarding its “go/no-go criteria,” or in other words, the criteria for determining if the
17 conversion should move ahead as scheduled or should be delayed until issues such as
18 data validation efforts or testing can take place. The fact that the Embarq North Carolina

¹⁰⁰ <http://www.qwest.com/wholesale/clecs/preordering.html>.

¹⁰¹ See, e.g., CenturyLink’s Response to WUTC Staff Data Request 151 (“In proactively implementing these additional steps, CenturyLink is confident that it will minimize potential problems in future conversions.”) See also, Ring Minnesota Rebuttal Testimony (“CenturyLink takes what was learned from each previous market conversion and applies those learnings to future conversions.”)

1 conversion experienced problems calls into question what CenturyLink’s “go/no-go
2 criteria” is and what testing is taking place prior to conversion. The fact that
3 CenturyLink did not provide adequate training to North Carolina employees on using
4 new systems is apparently also not adequately accounted for in the “go/no-go” decision.

5 *C. Problems encountered after recent mergers involving ILECs provide*
6 *further support for Joint CLECs’ proposed conditions.*

7 **Q. MR. WILLIAMSON NOTES THAT THE PROPOSED TRANSACTION IS**
8 **DIFFERENT FROM THE VERIZON/CARLYLE GROUP AND**
9 **VERION/FAIRPOINT TRANSACTIONS BECAUSE THE OTHER**
10 **TRANSACTIONS INVOLVED THE DEVELOPMENT OF NEW OSS AND THEN**
11 **A “SLASH CUT” TO THOSE NEW SYSTEMS.¹⁰² DOES THIS LESSEN THE**
12 **RISK RELATED TO POST-MERGER OSS INTEGRATION?**

13 A. No. There was no “slash cut” to new systems involved in CenturyLink’s integration of
14 Embarq in North Carolina, but service quality was negatively impacted. Notably, North
15 Carolina and Ohio are the first states in the phased conversion of Embarq and significant
16 problems have arisen. As CenturyLink begins to convert lines in Embarq states that
17 contain major markets such as Las Vegas, Tallahassee and Orlando, I anticipate that the
18 complexity of the integration and potential for what CenturyLink calls “inevitabl[e]”
19 problems will increase as well.

¹⁰² Staff Exhibit__(RTW-1T) at p 16, lines 18-20.

1 In addition, the claim that the Verizon/Carlyle Group and Verizon/FairPoint transactions
2 involved a “slash cut” is not accurate. In both of these transactions, the new company
3 remained on Verizon’s OSS for 9 to 12 months after transaction closing under a transition
4 services agreement. If CenturyLink intends to continue to utilize Qwest systems post-
5 merger and migrate to new systems after 12 months, for example¹⁰³, the situation in
6 Qwest’s region would be virtually the same as in the prior mergers (except that
7 CenturyLink would not have to pay Qwest for using its OSS through a transaction
8 services agreement). In the case of the Verizon/Carlyle Group and Verizon/FairPoint
9 transactions, Verizon was contractually obligated to maintain systems during the
10 transition services agreement. In this case, however, Joint Applicants want CLECs and
11 the Commission to trust that they will retain sufficient and knowledgeable Qwest systems
12 and process personnel during the conversion, without any enforceable commitment to do
13 so.

14 **Q. DO THE PROBLEMS CENTURYLINK HAS ENCOUNTERED DURING THE**
15 **EMBARQ INTEGRATION, AND THE PROBLEMS INVOLVED IN RECENT**
16 **MERGERS INVOLVING ILECS, SUPPORT THE NEED FOR JOINT CLECS’**
17 **PROPOSED OSS CONDITIONS?**

18 A. Yes. These examples show that problems can and do occur when integrating systems and
19 processes. In fact, CenturyLink testified in Minnesota: “[a]s with any integration of

¹⁰³ Joint CLECs Exhibit__(TJG-1T) at pp. 124-125, discussing the Declaration of William E. Cheek in Support of Reply Comments of CenturyLink, Inc. and Qwest Communications International, Inc., WC Docket No. 10-110, July 27, 2010.

1 large, complex systems, there are may be [sic] some issues that arise”¹⁰⁴ and “every
2 system conversion or integration inevitably is going to have some issues.”¹⁰⁵ In its
3 response to WUTC Data Request No. 151 and Second Supplemental Response to Integra
4 Data Request 41, CenturyLink said: “[w]ith the integration of large, complex systems,
5 some issues are expected to arise...” If the proposed transaction is approved, it will be
6 the first time ever that a BOC will be acquired by a non-BOC ILEC. And the non-BOC
7 ILEC in this case has to date operated primarily in rural areas with largely manual OSS.
8 As Staff notes: “the potential harm to Washington customers exceeds that which was
9 associated with other recent transactions.”¹⁰⁶ The Joint CLECs’ proposed conditions are
10 designed to mitigate the potential harms to Washington customers posed by the proposed
11 transaction, and attempt to ensure that the “inevitabl[e]” problems CenturyLink discusses
12 do not result in deterioration to wholesale service quality or the CLECs’ meaningful
13 opportunity to compete.

14 **III. PUBLIC INTEREST HARMS ADDRESSED BY JOINT CLECS’ PROPOSED**
15 **CONDITIONS BUT NOT WUTC STAFF PROPOSED CONDITIONS**

16 ***A. Wholesale rate stability***

17 **Q. DO STAFF’S PROPOSED CONDITIONS ADEQUATELY ADDRESS**
18 **WHOLESALE RATE STABILITY POST-MERGER?**

¹⁰⁴ Ring Minnesota Rebuttal Testimony at p. 1, lines 20-23.

¹⁰⁵ Ring Minnesota Rebuttal Testimony at p. 4, lines 3-4.

¹⁰⁶ Staff Exhibit__(MJV-1T) at p. 16, lines 3-5.

1 A. No. While Staff's proposed conditions would prohibit Joint Applicants from recovering
2 transaction-related costs from wholesale customers (WUTC Staff Conditions 5 and 6),
3 Staff's conditions would not prohibit the Merged Company from seeking wholesale rate
4 increases or adding new wholesale rate elements post-merger.

5 **Q. HAVE JOINT APPLICANTS PROVIDED INFORMATION THAT SUPPORTS**
6 **THE NEED FOR THE JOINT CLECS' PROPOSED WHOLESALE RATE**
7 **STABILITY CONDITIONS (JOINT CLEC CONDITIONS 6 AND SUBPARTS, 7**
8 **AND SUBPARTS AND 24)?**

9 A. Yes. [***BEGIN HIGHLY CONFIDENTIAL [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
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[REDACTED]
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[REDACTED]

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

Q. HAS STAFF PROPOSED CONDITIONS THAT WOULD PROVIDE STABILITY FOR SOME RETAIL RATES?

A. Yes. The WUTC Staff’s proposed conditions show that Staff believes that retail customers – and, in particular customers with fewer competitive choices – need post-merger rate stability.¹⁰⁷ The wholesale customers of Qwest and CenturyLink need the same rate post-merger rate stability that Staff seeks for basic residential and business customers. The FCC recently said that:

because Qwest was the sole provider of wholesale facility and services, there is no reason to expect it to offer such services at ‘competitive rates.’ Rather, assuming that Qwest is profit-maximizing, we would expect it to exploit its monopoly position as a wholesaler and charge supracompetitive rates, especially given that (absent regulation) Qwest may have the incentive to foreclose competitors from the market altogether.¹⁰⁸

Without the Joint CLECs’ proposed conditions, the Merged Company would be expected to exploit its monopoly position as a wholesaler and attempt to charge supracompetitive rates on the wholesale facilities and services for which it is the “sole provider” in order to

¹⁰⁷ Exhibit No.__(MJV-6) at p. 6, Conditions 29, 30, and 31.

¹⁰⁸ *In the Matter of Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Phoenix, Arizona Metropolitan Statistical Area*, Memorandum Opinion and Order, WC Docket No. 09-135, FCC 10-113, June 22, 2010 (“Qwest Arizona Forbearance Order”) at ¶ 34.

1 realize its anticipated merger-related synergies and revenue enhancements. This is
2 corroborated by the [***BEGIN HIGHLY CONFIDENTIAL ██████████
3 ██████████ END
4 HIGHLY CONFIDENTIAL***]

5 *B. Compliance with certain laws and regulations*

6 **Q. IN ADDITION TO WHOLESALE RATE STABILITY, YOU MENTIONED**
7 **ABOVE THAT THE WUTC STAFF CONDITIONS DO NOT ADDRESS POST-**
8 **MERGER COMPLIANCE WITH CERTAIN LAWS AND REGULATIONS. DO**
9 **YOU HAVE AN EXAMPLE THAT INDICATES THAT CONDITIONS**
10 **RELATED TO BOTH WHOLESALE RATE STABILITY AND COMPLIANCE**
11 **ARE WARRANTED?**

12 A, Yes. After CenturyTel acquired 19 exchanges in Wisconsin, it raised rates for local
13 services and access services. The Wisconsin Commission found that CenturyTel
14 “increased its access rates on December 1, 1998, *without a hearing and Commission*
15 *approval*, and that such action was a violation of Wis. Stat. § 196.20(2m)”¹⁰⁹ and ordered
16 CenturyTel to issue refunds. It took complaints from competitive carriers and about two
17 years of litigation for CenturyTel’s unauthorized rate increases to be addressed in a
18 regulatory proceeding.

¹⁰⁹ Wisconsin Public Service Commission Docket No. 2815-TI-101, Final Decision, April 18, 2001.
http://psc.wi.gov/apps35/ERF_view/viewdoc.aspx?docid=3117 (emphasis added)

1 Regarding local rates, after acquiring the Wisconsin exchanges, CenturyTel sought
2 interim price increases for local services pending the approval of permanent price
3 increases. After conducting a rate-of-return rate case, the Wisconsin Commission found
4 that CenturyTel's interim rates were too high and required rate decreases from the interim
5 level as well as refunds to CenturyTel's customers.¹¹⁰ Also, during the Wisconsin
6 Commission's investigation of CenturyTel's rate increase request, it found that
7 CenturyTel "has charged rates that are not in compliance with its tariffs" and required an
8 audit of CenturyTel's billing system.¹¹¹

9 In this example, the following occurred post-transaction: CenturyTel raised wholesale
10 (and retail) rates, CenturyTel raised rates without commission approval and in violation
11 of state statute, CenturyTel raised rates to higher levels than were justified after a
12 thorough review, CenturyTel forced competitors to litigate overcharges for years and wait
13 two years to be compensated for CenturyTel's overcharges, and CenturyTel charged rates
14 that were not in compliance with its tariffs.

15 **Q. MR. APPLGATE STATES THAT "THIS TRANSACTION SHOULD NOT**
16 **AFFECT THE MANNER IN WHICH THE COMMISSION REGULATES**
17 **CENTURLINK ILECS OR QWEST."**¹¹² **DOES THIS MEAN THAT JOINT**

¹¹⁰ Wisconsin Public Service Commission Docket No. 2815-TR-103, Final Decision, October 31, 2001.
http://psc.wi.gov/apps35/ERF_view/viewdoc.aspx?docid=3812

¹¹¹ Wisconsin Public Service Commission Docket No. 2815-TR-103, Final Decision, October 31, 2001.
http://psc.wi.gov/apps35/ERF_view/viewdoc.aspx?docid=3812

¹¹² Staff Exhibit__(RTA-1T) at p. 5, lines 2-4.

1 **CLECS' PROPOSED CONDITIONS REGARDING COMPLIANCE WITH**
2 **CERTAIN LAWS AND REGULATIONS ARE NOT NEEDED?**

3 A. No. Even though existing Washington Commission authority to regulate CenturyLink
4 and Qwest will not be changed by the merger, [***BEGIN HIGHLY

5 **CONFIDENTIAL** [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED] **END HIGHLY**

15 **CONFIDENTIAL***]**

16 *C. Wholesale service quality*

17 **Q. WUTC STAFF'S PROPOSED CONDITIONS DO NOT REQUIRE THE**
18 **MERGED COMPANY TO MAINTAIN QWEST'S PAP AND PIDS. DOES**
19 **STAFF RECOGNIZE THE NEED FOR CONDITIONS RELATED TO SERVICE**
20 **QUALITY?**

1 A. Yes. WUTC Staff proposes eight conditions related to retail service quality.¹¹³ In
2 addition, Staff apparently believes that the incentives must be adjusted to reflect the
3 increased risk of merger-related service quality deterioration. (See, Conditions 21 and
4 27) Staff witness Russell states that “Staff is concerned by the risk of a decline in service
5 quality, due to management’s focus on integration of the two companies rather than on
6 providing good and timely service and repairs to customers.”¹¹⁴ Joint CLECs share this
7 concern and contend that wholesale customers and their end users deserve no less
8 protection. Joint CLECs’ proposed Conditions 4 and 5 are designed to provide the same
9 types of protections to wholesale customers and their end users as provided under Staff’s
10 proposed conditions for Qwest’s and CenturyLink’s end users.

11 **Q. HAVE YOU PREVIOUSLY PROVIDED INFORMATION SHOWING THAT**
12 **THE JOINT CLECS’ CONCERNS ABOUT POST-MERGER WHOLESALE**
13 **SERVICE QUALITY ARE WARRANTED?**

14 A. Yes. At pages 85-86 of my responsive testimony, I provided an analysis of the wholesale
15 service quality data provided by CenturyLink following the Embarq/CenturyTel merger.

16 Those results show the following:

- 17 • *****BEGIN HIGHLY CONFIDENTIAL** [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 • [REDACTED]

¹¹³ Staff Exhibit__(MJV-6) at pp. 5-6, Conditions 21 through 28.

¹¹⁴ Staff Exhibit__(KMR-1T) at p. 13, lines 18-20.

1 [REDACTED]
2 [REDACTED]
3 • [REDACTED]
4 [REDACTED]
5 • [REDACTED]
6 [REDACTED]
7 [REDACTED] END HIGHLY CONFIDENTIAL***]

8 Q. WHY IS IT IMPORTANT FOR THE MERGED COMPANY TO MAINTAIN
9 QWEST'S EXISTING PAP AND PIDS IN WASHINGTON POST-MERGER?

10 A. Maintenance of the PAP and PIDs are absolutely essential to ensure that Qwest does not
11 backslide on its 271 obligations post-merger. As support for the continued importance of
12 the PAP and PIDs, the Colorado Commission summed up the importance and
13 significance of the PAP, stating:

14 We regard the CPAP, or Colorado Performance Assurance Plan, *as the*
15 *single most important innovation of this § 271 process*. On a *going-*
16 *forward basis*, the CPAP provides meaningful incentives for Qwest to
17 meet its wholesale unbundling obligations, compensates CLECs for harm
18 suffered, and provides flexibility to adapt to changing market
19 conditions.¹¹⁵

20 The Colorado Commission said that "the CPAP is the *most vital element* in Qwest's
21 application on a *going-forward basis*" and that "the regulatory regime it established will
22 remain *a crucial legacy* of the § 271 process."¹¹⁶ Additionally, Liberty Consulting has
23 said:

¹¹⁵ Evaluation of the Colorado Public Utilities Commission, filed in *In the Matter of Application by Qwest Communications International, Inc., for Provision Of In-Region, InterLATA Services in Colorado, Idaho, Iowa, Nebraska and North Dakota*, WC Docket No. 02-148, p. 3 (emphasis added).

¹¹⁶ *Id.* p. 54 (emphasis added).

1 [T]he PAP incentives *continue to be important* in helping ensure that
2 Qwest's performance level does not deteriorate, because Qwest's
3 wholesale services *remain critical* for the CLECs still relying on them.
4 Recent *experiences in Hawaii and northern New England demonstrate*
5 *the severe impact on competitors when an incumbent local company*
6 *fails to provide adequate wholesale performance, despite the best*
7 *intentions and preparations.* The circumstances of those cases are very
8 different from what the CLECs face in Qwest's operating territory.
9 However, they illustrate conditions that can arise in extreme cases without
10 adequate protections. The Qwest PAPs help ensure that the correct
11 incentives are in place to prevent such conditions from occurring.¹¹⁷

12 Although Liberty Consulting said the circumstances of Hawaii and northern New
13 England were "very different"¹¹⁸ in June 2009 when Liberty Consulting wrote its report,
14 those circumstances have changed in the relatively short time since then. Today, Qwest's
15 operating territory is subject to similar circumstances in which a merger, if approved, will
16 also prompt system consolidation and company integration. Not to mention Qwest's
17 wholesale operations would be under the control of a new company that has no previous
18 experience with 271 obligations. The PIDs and PAP are even more essential now (than
19 before) to ensure that Qwest does not backslide on its 271 obligations. And, the Joint
20 CLECs' proposed Additional PAP (or "APAP", see Condition 4(a)) is needed to detect
21 and rectify merger-related wholesale service quality deterioration.

22 **Q. HAVE THE JOINT APPLICANTS PROVIDED INFORMATION THAT**
23 **SUBSTANTIATES THE NEED TO NOT ONLY MAINTAIN QWEST'S**

¹¹⁷ Liberty Consulting Analysis of Qwest's Performance Assurance Plans Final Report, Prepared for Regional Oversight Committee (June 30, 2009) ["Liberty June 2009 Final Report"], p. 4, available at <http://www.puc.idaho.gov/internet/cases/tele/QWE/QWET0804/staff/20090817LIBERTY%20FINAL%20REPORT.PDF> (emphasis added; footnote omitted).

¹¹⁸ Liberty June 2009 Final Report at p. 4.

1 **EXISTING PAP AND PIDS TO ENSURE QWEST DOES NOT BACKSLIDE ON**
2 **ITS 271 OBLIGATIONS BUT TO ALSO ADOPT THE APAP TO PROTECT**
3 **AGAINST MERGER-RELATED SERVICE QUALITY DETERIORATION?**

4 A. Yes. *****BEGIN HIGHLY CONFIDENTIAL** [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED] **END**
8 **HIGHLY CONFIDENTIAL***]** Legacy CenturyLink is not subject to self-executing
9 performance assurance plans like Qwest’s PAP (with the possible exception of a
10 performance assurance plan in its single largest CLEC market, Las Vegas, Nevada) and
11 Qwest has already moved to reduce or eliminate PAPs in some states. Therefore, Mr.
12 Cheek’s reference to *****BEGIN HIGHLY CONFIDENTIAL** [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED] **END HIGHLY**
21 **CONFIDENTIAL***]**

1 *D. Qwest's ongoing BOC obligations*

2 **Q. WUTC STAFF'S CONDITIONS DO NOT INCLUDE A CONDITION THAT**
3 **MAINTAINS QWEST'S BOC OBLIGATIONS (JOINT CLEC CONDITION 13).**
4 **WHY IS THIS CONDITION NEEDED?**

5 A. This merger condition is important because this is the first time that a non-BOC ILEC has
6 attempted to acquire an entire BOC and all the obligations that go along with it. As Mr.
7 Williamson notes: "as a Regional Bell Operating Company (RBOC), Qwest comes with
8 much more stringent wholesale responsibilities." In approving Qwest's 271 authority in
9 Washington, the FCC said:

10 Section 271(d)(6) of the Act requires Qwest to continue to satisfy the
11 "conditions required for . . . approval" of its section 271 application after
12 the Commission approves its application...¹¹⁹

13 Accordingly, it is clear that Qwest has a continuing obligation to comply with its 271
14 obligations post-closing if the Commission approves the proposed transaction. Joint
15 CLECs' proposed Condition 13 is needed so that post-merger integration efforts or
16 pursuit of synergy savings do not cause Qwest to backslide on its BOC obligations.

17 **Q. DO STATE COMMISSIONS PLAY A VITAL ROLE IN ENSURING THAT**
18 **QWEST COMPLIES (AND CONTINUES TO COMPLY) WITH ITS BOC**
19 **OBLIGATIONS?**

¹¹⁹ Qwest 9-State 271 Order at ¶ 497.

1 A. Yes. There is a long, established history of state commission involvement in and
2 oversight of Qwest's BOC obligations under the federal Act. As explained in
3 Exhibit__TJG-3, the state commissions throughout Qwest's 14-state BOC territory have
4 played a crucial role in testing and improving Qwest's OSS and CMP, and determining
5 the extent to which Qwest had met the requirements of the 271 14-point checklist. The
6 FCC stated as follows in the FCC order approving Qwest's 271 authority in Washington:

7 6. We are confident that the hard work of the state commissions in
8 conjunction with Qwest to ensure that the local exchange markets in
9 Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah,
10 Washington and Wyoming are open to competition will benefit consumers
11 by making increased competition in all telecommunications service
12 markets possible in these states. We are also confident that the state
13 commissions, as they address allegations of past violations of the statute
14 *and consider any future problems that may develop, will continue to*
15 *ensure that Qwest meets its statutory obligations.*¹²⁰

16 It is clear from this excerpt that state commissions are to consider problems that may
17 develop in relation to Qwest complying with its 271 obligations, and to take steps to
18 ensure that Qwest continues to meet those obligations. That is the objective of Joint
19 CLECs' proposed Condition 13.

20 **Q. HAVE THE JOINT APPLICANTS PROVIDED INFORMATION WHICH**
21 **FURTHER SUPPORTS THE NEED FOR JOINT CLECS' PROPOSED**
22 **CONDITION 13?**

¹²⁰ Qwest 9-State 271 Order at ¶ 6. (emphasis added)

1 A. Yes. *****BEGIN HIGHLY CONFIDENTIAL** [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]

10 [REDACTED] **END HIGHLY CONFIDENTIAL***]** This statement is also
11 concerning because CenturyLink, which has no experience as a BOC and has served
12 primarily rural areas that are exempt from full competition, will be in control of
13 establishing the *****BEGIN HIGHLY CONFIDENTIAL** [REDACTED] **END**
14 **HIGHLY CONFIDENTIAL***]** that will permeate the Merged Company's treatment
15 of wholesale customers in Qwest's region going forward.

16 Q. **DID JOINT APPLICANTS PROVIDE INFORMATION THAT INDICATE HOW**
17 **THE MERGED COMPANY'S** *****BEGIN HIGHLY CONFIDENTIAL** [REDACTED]
18 [REDACTED] **END HIGHLY CONFIDENTIAL***]** **MAY DIFFER FROM**
19 **QWEST'S** *****BEGIN HIGHLY CONFIDENTIAL** [REDACTED] **END**
20 **HIGHLY CONFIDENTIAL***]?**

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

2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 END HIGHLY CONFIDENTIAL***]

7 *E. Service intervals*

8 Q. STAFF'S PROPOSED CONDITIONS LIST DOES NOT CONTAIN A
9 CONDITION ADDRESSING INTERVALS. DOES CENTURYLINK'S
10 TESTIMONY IN THE MERGER REVIEW PROCEEDINGS SHOW THAT
11 SUCH A CONDITION IS NEEDED?

12 A. Yes. Joint CLECs have proposed Condition 11 to address intervals.¹²¹ When addressing
13 this condition in Minnesota, CenturyLink witness Mr. Hunsucker stated that, "CLEC
14 provisioning intervals reflect retail provisioning intervals for the same or like services
15 because federal law requires a carrier to treat all customers at parity."¹²² In other words,
16 CenturyLink apparently believes that it should be allowed to lengthen a wholesale

¹²¹ Exhibit__(TJG-9) at p. 7 ("To the extent that an interconnection agreement is silent as to an interval for the provision of a product, service or functionality or refers to Qwest's website or Service Interval Guide (SIG), the applicable interval, after the Closing Date, shall be no longer than the interval in Qwest's SIG as of the Merger Filing Date.")

¹²² Rebuttal Testimony of Michael Hunsucker on behalf of CenturyLink, Inc., Minnesota Public Utilities Commission Docket No. P-421, et. al./PA-10-456, September 13, 2010 ("Hunsucker Minnesota Rebuttal Testimony") at p. 46, lines 10-11. Available at:
<https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=showPoup&documentId={F9B4C96-4DDE-4B84-A93B-62FCE9B31C21}&documentTitle=20109-54407-01>

1 interval, post-closing, by first lengthening the retail interval and then arguing the
2 wholesale interval must be the same.

3 **Q. DO YOU AGREE WITH CENTURYLINK'S SUGGESTION?**

4 A. No. Nondiscrimination is an important requirement of Sections 251 and 271 of the Act,
5 but the nondiscrimination requirement does not mean, as Mr. CenturyLink suggests, that
6 wholesale intervals should be automatically lengthened as a result of a retail interval
7 being lengthened. Mr. Hunsucker's statement is a good example of why Joint CLECs'
8 proposed Condition 11 is necessary to ensure that CenturyLink does not undermine
9 existing wholesale service standards.

10 **Q. ARE THERE REASONS WHY WHOLESALE INTERVALS SHOULD NOT BE**
11 **LENGTHENED TO MATCH A RETAIL INTERVAL?**

12 A. Yes. An interval for a wholesale customer (*e.g.*, a CLEC) establishes the due date upon
13 which Qwest will deliver the service to the CLEC. For unbundled network element
14 ("UNE") loops, for example, there is still more work that the CLEC needs to do after
15 Qwest delivers the UNE loop to make service work for the CLEC's end user customer.¹²³
16 In these instances, the CLEC needs to receive the UNE loop in sufficient time to perform
17 the additional work required and still be able to deliver retail services to end user
18 customers in the same time frame as the ILEC. If the ILEC wholesale and retail intervals

¹²³ See, *e.g.*, Hrg. Ex. Q-2 (Qwest Albersheim Rebuttal), p. 5, lines 8-11, *In re. Complaint of Eschelon Telecom of Arizona, Inc. Against Qwest Corporation*, ACC Docket No. T-01051B-06-0257, T-03406A-06-0257 (Jan. 30, 2007) (Ms. Albersheim testified that the Arizona Commission has found, given that the interval for retail customers is nine days, a five-day interval for CLEC DS1 capable loop orders is appropriate).

1 are the same in these instances, the ILEC would always have an advantage by being able
2 to deliver services to retail end user customers more quickly than its competitors.

3 One example of this is DS1 UNE loops (1-8 lines): Qwest's wholesale interval in the SIG
4 for Washington and other states is 5 days, compared to a 9 day Qwest retail interval.
5 Qwest does not perform the end user retail functions for a wholesale service. Qwest has
6 the full nine days of the interval to prepare for service provisioning on the due date for its
7 end user customers. CLECs receive the loop from Qwest on Day 5 and then are allowed
8 time to perform the additional work a CLEC needs to do to make the service operate for
9 CLEC's end user customer.

10 **Q. HAS THE WASHINGTON COMMISSION RECOGNIZED THE POTENTIALLY**
11 **HARMFUL EFFECTS OF QWEST LENGTHENING PROVISIONING**
12 **INTERVALS?**

13 A. Yes. The Washington Commission recognized this in the context of its review of
14 Qwest's request for Section 271 authorization. In that case, Qwest proposed an interval
15 for DS1 loops that was longer than the interval that the Washington Commission had
16 established when it approved US WEST's merger with Qwest. The Washington
17 Commission directed that the proposed interval be reduced to that which the Commission
18 had previously approved.¹²⁴ In another proceeding, the Washington Commission found it

¹²⁴ Twentieth Supplemental Order, Initial Order (Workshop Four): Checklist Item No. 4; Emerging Services, General Terms and Conditions, Public Interest, Track A, and Section 272, *In the Matter of the Investigation into US WEST COMMUNICATIONS, INC.'s Compliance with Section 271 of the Telecommunications Act of 1996 and In the Matter of US WEST COMMUNICATIONS INC.'s Statement of Generally Available Terms Pursuant*

1 appropriate to include an interval in an ICA to protect both ILEC and CLECs “from
2 unnecessary delay and gamesmanship.”¹²⁵ Joint CLECs’ proposed Condition 11 only
3 applies in situations when the ICA is silent on an interval or refers to Qwest’s website or
4 SIG – *i.e.*, situations when the specific interval is not spelled out in the ICA – and would
5 provide protection from the “unnecessary delay and gamesmanship” discussed by the
6 Washington Commission.

7 **Q. HAS ANOTHER STATE COMMISSION REJECTED ATTEMPTS TO**
8 **LENGTHEN WHOLESALE INTERVALS BY LENGTHENING RETAIL**
9 **INTERVALS AND THEN ARGUING THAT THE WHOLESALE INTERVAL**
10 **SHOULD BE THE SAME?**

11 A. Yes. This argument was rejected during the 271 proceedings. When Qwest previously
12 tried to move from a 5-day to a 9-day loop interval by simultaneously lengthening the
13 interval for its retail customers, the Minnesota Commission rejected Qwest’s argument
14 and found that the 5-day loop interval allowed competitors a meaningful opportunity to

to Section 252(f) of the Telecommunications Act of 1996. Washington Docket Nos. UT-003022 and UT-003040 (November 14, 2001) (“WA 271 Order”) at ¶ 125.

¹²⁵ *In the Matter of the Petition for Arbitration of an Amendment to Interconnection Agreements of Verizon Northwest Inc. with Competitive Local Exchange Carriers and Commercial Mobile Radio Service Providers in Washington Pursuant to 47 U.S.C. Section 252(b) and the Triennial Review Order, Docket No. UT-043013, Order No. 18, September 22, 2005, at ¶ 114.*

1 compete.¹²⁶ The Minnesota Commission found that Qwest cannot make intervals
2 “unreasonable by lengthening the intervals for provision of retail service.”¹²⁷

3 **Q. DO YOU HAVE ANY CONCLUDING REMARKS?**

4 A. Yes. Each of the Joint CLECs’ proposed conditions (Exhibit__(TJG-9)) are critical for
5 addressing harms to competition and the public interest posed by the proposed
6 transaction. While I agree with WUTC Staff that numerous meaningful and enforceable
7 conditions are necessary before the proposed transaction can be considered in the public
8 interest, Staff’s proposed conditions do not go far enough to address the merger-related
9 harms faced by CLECs and their end user customers. Competition for local
10 telecommunications services, and in turn, the public interest, relies heavily on Qwest’s
11 role as a provider of bottleneck elements and services to CLECs. Robust, enforceable
12 merger conditions are necessary so that Qwest does not backslide on its obligations to
13 CLECs or act upon its natural incentive to raise CLECs’ barriers to entry as the combined
14 company pursues merger synergy savings and revenue enhancements. Dr. Ankum and I
15 provided substantial support for the CLECs’ concerns and proposed conditions in our
16 responsive testimony and exhibits, and the information provided in this cross-answering
17 testimony provides more support for our recommendation that the proposed transaction

¹²⁶ Findings of Fact, Conclusions of Law and Recommendations, *In the Matter of a Commission Investigation into Qwest’s Compliance with Section 271(c)(2)(B) of the Telecommunications Act of 1996; Checklist Items 1,2,4,5,6,11,13, and 14*, Docket No. P-421/CI-01-1371 (Sept. 16, 2003) (“MN ALJ 271 Order”) at ¶125.

¹²⁷ MN ALJ 271 Order at ¶125.

1 should be rejected, or approved only subject to *all* of the Joint CLECs' proposed
2 conditions.

3 **Q. DOES THIS CONCLUDE YOUR CROSS-ANSWERING TESTIMONY?**

4 A. Yes, it does.