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 1

 2 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

 3 COMMISSION

 4

 5 In the Matter of the Joint ) DOCKET UT-100820

 Application of )

 6 ) VOLUME V

 QWEST COMMUNICATIONS )

 7 INTERNATIONAL, INC., and ) PAGES 603 - 642

 CENTURYTEL, INC. )

 8 )

 For Approval of Indirect )

 9 Transfer of Control of Qwest )

 Corporation, Qwest )

10 Communications Company, LLC, )

 and Qwest LD Corp. )

11 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

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13 A Public Comment Hearing in the above matter was held on

14 January 5, 2011, at 5:30 p.m., at 1300 South Evergreen Park

15 Drive Southwest, Olympia, Washington, before Administrative Law

16 Judge MARQUERITE FRIENDLANDER.

17

18 The parties were present as follows:

19

20 WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, by

 JENNIFER CAMERON-RULKOWSKI, Assistant Attorney General, P.O.

21 Box 40128, Olympia, Washington, 98504. Telephone number is

 (360) 664-1186.

22

 PUBLIC COUNSEL, by SIMON J. FITCH, Senior Assistant

23 Attorney General, 800 Fifth Avenue, Suite 2000, Seattle,

 Washington, 98104. Telephone number is (260) 389-2055.

24

25 REPORTED BY: LESLEY E. KAY, CCR 3244

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 1 QWEST COMMUNICATIONS INTERNATIONAL, by LISA A. ANDERL,

 Associate General Counsel, 1600 Seventh Avenue, Room 3206,

 2 Seattle, Washington, 98191. Telephone number is (206)

 345-1574.

 3

 JOINT CLECS XO COMMUNICATIONS, COVAD, TW TELECOME OF

 4 WASHINGTON, MCLEOD TELECOMMUNICATIONS d/b/a PAETEC, CHARTER

 FIBERLINK and PAC-WEST TELECOMM, by MARK TRINCHERO, Attorney at

 5 Law, Davis, Wright, Tremaine, 1300 Southwest Fifth Avenue,

 Suite 2300, Portland, Oregon, 97201. Telephone number is (530)

 6 241-2300.

 7 SPRINT/T-MOBILE, by JUDITH A. ENDEJAN and KENNETH

 SHIFMAN, Attorneys at Law, Graham & Dunn, PC, 2801 Alaskan Way,

 8 Suite 300, Seattle, Washington, 98121. Telephone number is

 (206) 340-9694.

 9

 LEVEL 3, 360NETWORKS & CBEYOND, by ARTHUR BUTLER,

10 Attorney at Law, Ater Wynne, 601 Union Street, Suite 1501,

 Seattle, Washington, 98101. Telephone number is (206)

11 623-4711.

12 DEPARTMENT OF DEFENSE & FEDERAL EXECUTIVE AGENCIES, by

 STEPHEN MELNIKOFF, General Attorney, Office of the Judge

13 Advocate General, 901 North Stuart Street, Suite 700,

 Arlington, Virginia, 22203. Telephone number is (703)

14 696-1643.

15 INTEGRA, by TED GILLIAM, Attorney at Law, 1201

 Northeast Lloyd Boulevard, Suite 500, Portland, Oregon, 97232.

16 Telephone number is (503) 453-8000.

17 CENTURYLINK, by CALVIN K. SIMSHAW, Attorney at Law,

 805 Broadway, Vancouver, Washington, 98660. Telephone number

18 is (360) 905-5958.

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 1 P R O C E E D I N G S

 2 JUDGE FRIEDLANDER: Good evening. It's a little after

 3 5:30 on Wednesday, January 5th, 2011. This is the time and

 4 place set for public comment hearing in Docket UT-100820, the

 5 joint application of Qwest Communications International, Inc.,

 6 and CenturyTel, Inc., for approval of an Indirect Transfer of

 7 Control of Qwest Corporation, Qwest Communications Company,

 8 LLC, and Qwest LD Corp. I'm Marguerite Friedlander, the

 9 Administrative Law Judge, presiding over this matter for the

10 Commission. With me tonight are Chairman Jeffrey Goltz,

11 Commissioner Patrick Oshie and Commissioner Philip Jones.

12 Just a little bit about why we're here tonight: We're

13 here so that we can hear your comments on the proposed merger

14 on Qwest and CenturyLink. The court reporter will be recording

15 your comments so, please, be sure to speak slowly and clearly.

16 We have some people, I believe, who are appearing over the

17 conference bridge. I don't know if they intend to provide any

18 kind of oral comments but we will get to them if they are of

19 the mind to.

20 Each of the parties, I believe, most of them have

21 representatives here tonight. I know that they're

22 representatives from the applicant, and we do have

23 Mr. ffitch -- if you would indicate your presence here.

24 MR. FFITCH: Good evening, Your Honor. Simon ffitch

25 from the Public Counsel Office.

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 1 JUDGE FRIEDLANDER: We also have a member of our

 2 Commission staff, Ms. Cameron-Rulkowski.

 3 MS. RULKOWSKI: I'm Jennifer Cameron-Rulkowski,

 4 Assistant Attorney General assigned to represent the Commission

 5 staff in this matter.

 6 JUDGE FRIEDLANDER: Thank you.

 7 We have Mr. John Cupp who you probably saw with a

 8 sign-in sheet.

 9 Mr. Cupp, if you would stand up.

10 Thanks.

11 He also can help with any consumer questions you may

12 have because, if you've appeared at these hearings before --

13 you might know this, if you haven't -- the Commissioners and I,

14 it's inappropriate for us to talk to you about these matters

15 because we are the tribunal, though, there's another member --

16 I don't know what that would be called. But, anyway, we're the

17 decision-makers so it would be inappropriate for us to discuss

18 the matter with you, whereas Mr. Cupp is with our staff's

19 consumer protection section and he could probably help you if

20 you had some questions about the proceeding.

21 Typically, the Commission treats witness' comments as

22 testimony so I'll be swearing in anybody who would like to give

23 us comments today.

24 When I call your name, if you would go ahead and come

25 up with one of the seats here with a microphone, tell us your

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 1 name, especially if I mispronounced it, and where you're from

 2 and, also, if you're a customer with one of the companies,

 3 either Qwest or CenturyLink, and then we will go ahead and hear

 4 from you.

 5 Please stick around after you comment in case the

 6 Bench has any questions for you.

 7 At this point, if Chairman would like to speak.

 8 CHAIRMAN GOLTZ: I want to welcome all of you who have

 9 come here tonight to make public comments and those who called

10 in from the bridge line. In addition to the public comments we

11 receive tonight, we also receive comments either by letter or

12 by e-mail or our website. I believe so far we received about

13 80, or slightly over 80, comments from members of the public

14 and all of those will be taken into consideration as well. I

15 think that avenue for comments is available until when?

16 Mr. Cupp, do you know?

17 MR. CUPP: January 7th.

18 CHAIRMAN GOLTZ: So, for two more days. So, if any of

19 you want to give comments tonight, think of something else you

20 want to add, it's still possible to do it in the next couple of

21 days. That's the way I am, I always think of something I

22 should have said.

23 A little bit about these public comment hearings:

24 Today we had the first day of the formal hearing and the room

25 was more crowded than it is now. We must have had ten or

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 1 11 lawyers up here for the various parties, a lot of their

 2 witnesses, and there's binder after binder full of written

 3 testimony that we're considering and, basically, that parties

 4 are cross-examined and the Commissioners ask questions of the

 5 parties on various, sometimes very detailed, points about the

 6 details of this merger. All of those are very important

 7 things. If you want to come by tomorrow and listen to it, we

 8 have another hearing date tomorrow. That's important.

 9 This gives us a different perspective. These public

10 comment hearing give us a different perspective, and, no

11 offense to the attorneys and parties in the room, but it's a

12 welcome one, I might add. Sometimes when you're dealing with

13 accounting testimony or reams and reams of detailed contractual

14 arrangements that we're being asked to analyze, sometimes it's

15 the plain ratepayer perspective on how it plays out in the real

16 world which is a really important perspective. I look forward

17 to getting that. I know, from talking with some of my

18 predecessors and from my own personal experience, these are

19 important and meaningful and they have made differences in the

20 past.

21 With that, I'll turn it over to Judge Friedlander who

22 can orchestrate the rest of the evening.

23 JUDGE FRIEDLANDER: Thank you.

24 At this time if I could have an indication from those

25 on the conference bridge if there's anyone who would like to

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 1 give oral comments tonight.

 2 I don't hear anybody, but before we adjourn for the

 3 night I'll ask again.

 4 From the sign-in sheet that I was given by Mr. Cupp I

 5 believe there's one consumer -- and I hope I pronounce this

 6 right -- is it "M. Fry?"

 7 MR. FRAY: Fray.

 8 JUDGE FRIEDLANDER: If you want to go ahead and come

 9 on up to the chair and you can remain standing because I'll go

10 ahead and swear you in.

11

12 MATT FRAY, having been duly sworn to tell the truth,

13 the whole truth and nothing but the truth, testified on his

14 oath as follows:

15

16 JUDGE FRIEDLANDER: You can be seated.

17 MR. FRAY: My name is Matt Fray. I am a former Qwest

18 consumer and now a CenturyLink customer. I live in

19 Mason County, Washington. I have, really, two questions

20 tonight: One is, the problem that I have had with my service

21 provider for the last six months, how can they think and the

22 State of Washington, especially Qwest, if they can't take care

23 of one person's problem within a six-month period of time how

24 can they consider handling a Qwest Communications buy-out?

25 Now, let me get to the reason I'm saying that. In July of this

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 1 last year of 2010, I added a line to my service address --

 2 MR. FFITCH: Your Honor -- I'm sorry -- I want to

 3 interrupt Mr. Fray for a moment. I had a conversation with him

 4 beforehand and I believe he has a written document to offer to

 5 the Bench to help explain what his testimony and I'd advised

 6 the Bench of that. It might be helpful.

 7 JUDGE FRIEDLANDER: If you want to come up here and

 8 bring some copies, if you have them.

 9 I had a clarification question: When you reference

10 problems with your service are you talking about residential or

11 business?

12 MR. FRAY: Residential.

13 JUDGE FRIEDLANDER: Thank you.

14 MR. FRAY: Back in July when I added a second line to

15 the residence address that I had had CenturyLink service with

16 for two-and-a-half years, I get my first bill and it was

17 sky-high. But then I noticed something that just didn't make

18 sense to me. I live in Mason County. I don't live in Grays

19 Harbor County. My zip code is a problem for CenturyLink.

20 Because of my zip code, which is 98541 in Grays Harbor County,

21 we have that zip code also in Mason County. I was getting

22 taxed for both Mason County 911, Grays Harbor County 911. I

23 was getting taxed from Mason County sales tax and Grays Harbor

24 County sales tax. Every month I called, explained the problem,

25 was assured that it would be taken care of. "Thank you very

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 1 much." Well, it never got taken care of. So, back in November

 2 I called Utilities Commission, and I said, "When this first

 3 happened I called you folks and I was told by you to call

 4 CenturyLink and work it out with CenturyLink," which I did, I

 5 thought, but every month double taxed, wrong County taxed. So,

 6 finally, I got a hold of somebody there at the Commission and

 7 she said that she would look into this for me. Well, I get a

 8 letter from the Commission on December 9th that said that a

 9 review of CenturyLink's records -- wait a minute. "I'm

10 responding to the complaint. You stated that CenturyLink was

11 deducting taxes for both Grays Harbor and Mason Counties. A

12 review of CenturyLink's records show that through an error the

13 company was deducting Mason County sales tax and 911 taxes

14 since July 24th, 2010." Now, they've got me moved back into

15 Grays Harbor County. I haven't moved. I'm still in Mason

16 County. There's a lot of people with CenturyLink telephone

17 numbers with 98541 zip code that live in Mason County.

18 So, that's why after I got this letter and called --

19 no. I got a call from CenturyLink which was recorded. They

20 said that somebody had changed something on my account, whether

21 it was billing, whatever, and if I had any questions to please

22 call a telephone number. Now, this was a recorded call, after

23 it got done with its spiel, it hung up. So, I dialed the

24 number that it told me to call if I had any questions. It also

25 was recorded, put in your ten digit telephone number, then you

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 1 get a recording. "If you agree to share your information,

 2 press one. If you don't agree to share your information press

 3 two." You either push one or two. I pushed two. I didn't

 4 want to share my information. I wanted to talk to them about

 5 the problem but that wasn't what I got. So, I pushed two.

 6 They said, "Thank you. We'll not share your information and

 7 further purchases" or whatever. Okay. This happened twice. I

 8 have a recording of that because they are recorded messages. I

 9 didn't have to ask anybody's permission. I do have a recording

10 of that. Then I get a telephone call from the Commission

11 stating that on -- let's see -- it was Monday -- that she had

12 received a call or talked to somebody from CenturyLink saying

13 my problem had been handled again and that they were closing

14 the investigation again. I said, "Please don't close the

15 investigation. I haven't got my bill yet."

16 COMMISSIONER GOLTZ: Or refund.

17 MR. FRAY: Or refund.

18 The bill was made up on the 24th of December. That

19 was the 3rd of January. Well, I got it today. I got the bill

20 today and it is, so far that I've seen it, correct. But I told

21 her, "Please don't close it until I get my paper bill to see if

22 it's correct this time." Well, I also talked to the president

23 of our association which has been wrongly taxed the same way

24 that I have --

25 JUDGE FRIEDLANDER: I'm sorry to interrupt. What

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 1 association is that?

 2 MR. FRAY: Lake Arrowhead Community Club Association

 3 in Mason County.

 4 JUDGE FRIEDLANDER: Thank you.

 5 MR. FRAY: That's what's circled on the map there.

 6 So, he said he got the same phone call today that

 7 CenturyLink said that it had been taken care of and he was

 8 going to go try to get down tonight, and, I guess, he couldn't

 9 make it.

10 My question is: How can, with one person, six months

11 it took to straighten it out and then when they mess with your

12 account you don't get to talk to somebody, they give you a

13 telephone call, tell you that somebody has messed with your

14 account but the number they give you, customer service is

15 not -- there's a lot of Qwest customers in the State of

16 Washington and --

17 JUDGE FRIEDLANDER: You had been with Qwest

18 previously. Was it six months ago you switched to --

19 MR. FRAY: Two-and-a-half years ago.

20 JUDGE FRIEDLANDER: Two-and-a-half years ago you

21 switched to CenturyLink?

22 MR. FRAY: Yes.

23 JUDGE FRIEDLANDER: Does that conclude your comments

24 for today?

25 MR. FRAY: My question that I'm putting before the

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 1 panel, really, after all this is, how can this go through if

 2 they can't take care of one person, it takes six months for

 3 customer service or billing, or whatever, to take care of one

 4 person's tax problem when they're based in Louisiana and so

 5 many Qwest people here can talk to and go to a Qwest place

 6 here?

 7 Thank you.

 8 COMMISSIONER GOLTZ: Thank you very much.

 9 There is, among the volumes of binders of testimony

10 here that we're going through, there is testimony from

11 Mr. Cupp, for example, on consumer protection issues analogous,

12 it's the big picture and data and, so, that is a factor that is

13 before us and that we will be taking into account as we proceed

14 through this.

15 MR. FRAY: May I add one more thing?

16 JUDGE FRIEDLANDER: Sure.

17 MR. FRAY: On my bill that I received today it says

18 "adjustments, $5 credit, customer satisfaction credit."

19 COMMISSIONER GOLTZ: How much was that?

20 MR. FRAY: $5. Customer satisfaction credit.

21 COMMISSIONER GOLTZ: Thank you.

22 I want to thank our consumer protection staff for

23 finally helping and getting this resolved. Thank you very

24 much.

25 JUDGE FRIEDLANDER: Thank you.

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 1 That is the only person I have signed up for comments.

 2 Is there anyone on the conference bridge at this time

 3 who would like to make a comment to the Commission?

 4 Hearing nothing, I want to thank you all for

 5 attending. I appreciate your time and your comments. And, as

 6 always, we place a great importance on the comments that we

 7 receive at public comment hearings and I want you to know that.

 8 If there is nothing else we are adjourned. Thank you.

 9 MS. MERCHAND: Hello. This is Ann Merchand with the

10 Colville Tribe. I thought there was a representative there

11 that were going to be speaking.

12 JUDGE FRIEDLANDER: I don't have anyone listed on our

13 sign-in sheet so, apparently, the in-person rep didn't show up.

14 Mr. Cupp, is there anyone downstairs?

15 MR. CUPP: I will check.

16 JUDGE FRIEDLANDER: Could you say your name again?

17 MS. MARCHAND: Ann Marchand.

18 JUDGE FRIEDLANDER: I think Mr. Cupp, our consumer

19 protection representative, is going to go downstairs to see if

20 there is anyone physically present in the lobby waiting to come

21 upstairs but at this time we don't have anyone.

22 Would you like to make a public statement to the

23 Commission?

24 MS. MARCHAND: Well, yes, if the tribal leaders aren't

25 there to do that. I spent time with individuals preparing the

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 1 information for them to go over in this.

 2 JUDGE FRIEDLANDER: Mr. Cupp is indicating there is no

 3 one waiting downstairs so if you would like to proceed I can

 4 swear you in at this time.

 5

 6 ANN MARCHAND, having been duly sworn to tell the

 7 truth, the whole truth and nothing but the truth, testified on

 8 her oath as follows:

 9

10 JUDGE FRIEDLANDER: Thank you. You can proceed.

11 MS. MARCHAND: My name is Ann Marchand with the

12 Colville Federated Tribe with the information technology

13 division for the Colville Tribe.

14 JUDGE FRIEDLANDER: Could you go ahead and please

15 speak slowly and clearly and maybe spell your last name for us?

16 MS. MARCHAND: M-A-R-C-H-A-N-D.

17 JUDGE FRIEDLANDER: Thank you.

18 MS. MARCHAND: Well, we're on the Colville Indian

19 Reservation comprised of one point four million acres of Ferry

20 County and Okanogan County, approximately half of which is

21 CenturyLink area and half of which is Qwest territory. We have

22 filed for broadband grant opportunities because we're lacking

23 in broadband capability here because of the lack of the two

24 incumbent covenants' ability or desires to upgrade facilities

25 here. The tribe is basically taken upon itself to connect its

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 1 own governmental operations spanning over one point four

 2 million acres, like I said, and it's trouble enterprises and

 3 even some residents to get adequate enough service for voice

 4 and data communication via a very, very costly T-1

 5 infrastructure purchase through either one of these two ILEC.

 6 With that, I'd have to say as both a former telecommunications

 7 technician for the Tribe and a lead technician and into the

 8 interim IT director position that I'm currently holding that we

 9 had a great amount of service issues, primarily on

10 CenturyLink's side more so than Qwest side. Their nearest CO

11 is in Wilbur, which is, approximately, 40 miles from us. We've

12 had instances where they left circuits down in excess of 24

13 hours on up to even 72 hours with the last outage, and we have

14 confirmed with them on numerous times that the issues resided

15 in their circuit, in their infrastructure, that we confirmed

16 beyond a shadow of a doubt that it was not our equipment and

17 this was going to a 24/7 correctional facility. So they had no

18 voice or data services for 72 hours. I find that totally

19 unacceptable, especially with the amount that we compensate

20 these ILEC for these critical circuits. We have an instance of

21 them putting in dark fiber that we also confirmed ourselves

22 that is in going from the town of Inchelium, Washington, to

23 right up to Highway 21 where it just ends. About 15 miles

24 south of that would be the town of Keller, Washington, and this

25 dark fiber has been in this, to my understanding, since 2004.

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 1 That is the only extent that they've gone to upgrade any of

 2 their facilities but it's not doing any good because it's not

 3 connecting our facilities. Like I said, we have our main

 4 agency campus in Nespelem, Washington, which doesn't even have

 5 DSL capabilities or service available for residential nor even

 6 any of the businesses, the main agency campus, and then in each

 7 of the outlying districts in Omak, Okanogan County, Keller,

 8 which is Ferry County, in Chelan, which is Ferry County, and

 9 Nespelem, Okangan County. We have satellite offices, health

10 clinics, tribal police station, EMS, educational facilities,

11 Head Start facilities, day-care facilities, all these

12 governmental services and also some tribal enterprise

13 businesses spanning over all these areas and we have not gotten

14 any feedback with regard to upgrading the facilities. Some of

15 our residents are being told that they cannot get DSL in the

16 area because the current copper facilities are too antiquated.

17 We also have instances of lapped leases. One of their central

18 offices is on trust property within the town of Inchelium,

19 Washington, and the lease is lapsed and we had some requests

20 for information in that they're being non-responded to and that

21 will be dealt with accordingly.

22 We're asking for various conditions to be imposed as

23 part of this settlement and that they include all of our four

24 community within the Colville Indian Reservation upgrading the

25 facilities so that we have adequate broadband capabilities and

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 1 access to our people and to our tribes. We're asking because

 2 of their inability to be responsive to out-of-service issues

 3 that they work with the tribal IT staff which are all --

 4 there's a staff of 22 managing and maintaining a massive

 5 private branch exchange comprised of 17 private brand

 6 systems -- sorry -- I meant voice system on their own to the

 7 desktop. We do the outside cabling all the way into the inside

 8 wiring. All the technicians are Nor-Cal and PXE certified, as

 9 well as we have the equipment. So, when there's an instance or

10 an outage on the reservation that we are asking that they

11 impose training requirements to work with tribal IT staff in

12 order to better expedite these type of out-of-service issues,

13 especially when they're going to critical life safety

14 facilities like our health clinics, tribal police department or

15 correctional facilities, our senior centers, our communicate

16 youth centers. We worked and gone far, extremely hard on our

17 own, with the antiquated facilities that are on this

18 reservation trying to bring in next generation technologies but

19 it is next to impossible with what they have available to us.

20 They have done some minor upgrades within the County of

21 Inchelium to provide DSL to a handful of residences here.

22 I do believe we did manage to file officially our

23 public comment via docket, so, anything that I may be missing

24 because I'm going off the cuff here.

25 JUDGE FRIEDLANDER: This is Judge Friedlander. I

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 1 appreciate your comments. We did receive those comments, the

 2 written comments that were filed -- well, I actually don't

 3 believe they were filed. I believe they were submitted to our

 4 customer protection section.

 5 MS. CAMERON-RULKOWSKI: Yes, Your Honor. I can

 6 confirm that.

 7 JUDGE FRIEDLANDER: Thank you.

 8 I'm not sure but I'm getting an indication that your

 9 representative may be in attendance at this point.

10 MS. MERCHAND: Okay.

11 JUDGE FRIEDLANDER: So, if I can have her step forward

12 for further comment, if she would like.

13 MS. MERCHAND: Yes. That would be great.

14 JUDGE FRIEDLANDER: The Commission regards comment as

15 testimony. I'll be administering the oath and then the court

16 reporter will transcribe what comments you make so we'll have

17 them for further review.

18

19 SUZY ALLEN and SHERI MULA, having been duly sworn to

20 tell the truth, the whole truth, and nothing but the truth,

21 testified on their oath as follows:

22

23 JUDGE FRIEDLANDER: Is it Miss Allen.

24 MS. ALLEN: Yes.

25 JUDGE FRIEDLANDER: If you would like to go ahead and

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 1 give us your comments, that would be great.

 2 MS. ALLEN: Good evening. I'm Suzy Allen,

 3 representative of the Colville Business Council. I'm also

 4 representing the [unintelligible] Tribes of the Pacific

 5 Northwest Indians, which is composed of 26 tribes from

 6 Washington State. Overall, it's 56 tribes from Idaho, Oregon,

 7 Washington and Montana.

 8 Ann gave a very good description of our technical

 9 issues that we have both with Qwest and CenturyLink on our

10 reservation. I confirm everything that she has apprised you

11 of. Ann, thank you, by the way. We got stuck in traffic and

12 hang-ups at the airport rental place.

13 I want to let the Commission know that the Colville

14 Tribe was established in 1872. I give this speech wherever I

15 go, to the F.C.C. back in D.C. We've been established since

16 1872. Where I live is the Inchelium district which is the

17 eastern side of our reservation. On the other side of the

18 Columbia River which is in the south portion of the reservation

19 there's a community called "Dear Meadows." This has been a new

20 baby-boomer housing development going on across from our

21 reservation. It's composed of almost up to 450 to 600 homes

22 now. Like I said, we've been established since 1872. We've

23 never received, as Ann explained -- we have to deal with

24 antiquated copper DSL slow services. That community received

25 fiber in the ground with universal service funds before the

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 1 tribe ever had any upgrades. I'm sure Ann probably apprised

 2 you of on our reservation we have section of buried fiber, dark

 3 fiber, on our reservation going over Cash Creek, which is about

 4 15 miles east to west to Nespelem and that fiber is laying

 5 there dark, not doing anything, not benefiting our people.

 6 This is depressing for me. I've been in this industry

 7 campaigning for ten years and yet our people have not had the

 8 opportunity to have the terrestrial networking capability on

 9 our reservation for them to be able to have high speed internet

10 which is huge. We have a lot of children that have high school

11 students who drop out of school. Ann explained all of this. I

12 won't go into too much detail about that. But all around us on

13 the borders of our reservation everybody is getting the big

14 pipe to them but it's a near missing us. We applied for the RO

15 monies. We were denied both grant rounds, but we're dredging

16 forward developing a path forward how we can get fiber in on

17 our reservation, but with your help we can do that with making

18 these two providers when they merge to get our system

19 antiquated, their copper systems upgraded for our use on the

20 government side and also to our residents.

21 Council member Sheri Mula may want to add to that.

22 Thank you.

23 JUDGE FRIEDLANDER: Thank you.

24 Ms. Mula, did you want to add any comments?

25 MS. MULA: Briefly.

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 1 Thank you very much. I certainly apologize for us

 2 being so late but circumstances caused it.

 3 I live on the opposite side of the reservation from

 4 Ann, grew up there from where Suzy does. We're one point

 5 three million acres and it takes approximately two-and-a-half

 6 hours to drive the length from my house to her house. We're

 7 quite mountainous. I know these are all written down and Ann

 8 probably shared them with you when she was talking. I just

 9 want to go through the main points that I feel are very

10 important, the health and the homeland security, because Grand

11 Coulee Dam are right next to us on our reservation there.

12 We're bordered by the Columbia River and the Okanogan River so

13 we have the problem of drugs being flown into our reservation.

14 Because of the dams and the homeland security I feel it's just

15 really important that we have good communication. We need it

16 for our law enforcement because of the huge area that they have

17 to cover.

18 I don't know exactly how to say this on education but

19 I feel we're really short-changing our young people because

20 when they go out to the outside world, which they have to do to

21 get their college educations, they're behind before they start.

22 They already have marks or problems to overcome living in small

23 areas and, particularly, on a reservation. It's hard to make

24 friendships and learn, and if you can't be up to speed in the

25 internet world today you're in problems. We definitely need

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 1 them to govern our tribe and economic development, tourism. We

 2 have a beautiful mountainous land there and could make use of

 3 the tourist dollars but, also, other types of economic

 4 development would gladly come there if we had the services that

 5 they could make use of but we don't have them.

 6 I've been in small business myself. I was a

 7 wood-pellet manufacturer. In small business needs the

 8 modern-day broadband and internet.

 9 So, Suzy gave you one example of across the river.

10 I'll give you one more which I like to do because it happens to

11 me. I'm eight miles from Omak, which is one of the larger

12 cities close to us. They're right across the river -- well,

13 part of Omak is called East Omak is on our reservation. But

14 I'm eight miles from Okanogan River to my house and I have to

15 either use dialup, which I use for quite sometime, but being on

16 council I feel it's really important to be connected. So I've

17 had to go to satellite which is quite costly for many of our

18 members when we have a high poverty rate and now our

19 unemployment rate is 65 percent, so, how are people going to be

20 able to pay for those extras like that? But you go eight miles

21 the other side of Omak and they have it. So, what's the

22 difference? And we know it's probably population but we have

23 every right to the modern conveniences that everyone else does.

24 I hope, I truly hope that you will take a good look at

25 the written comments that we have put in it, and I don't feel

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 1 that any of them are unjust, but it'll help to bring us and our

 2 people into the modern times.

 3 Thank you very much.

 4 JUDGE FRIEDLANDER: Thank you.

 5 Are there any questions from the Bench?

 6 MS. MERCHAND: If the tribal leaders there don't mind

 7 me making one more statement I would like to.

 8 JUDGE FRIENDLANDER: Sure. Go ahead.

 9 MS. MERCHAND: Our primary recommendation is that this

10 Commission deny the transaction. We realize that the

11 Commission may find the transaction may be in the best in the

12 public interest but, if so, we're requesting that certain

13 conditions be imposed, and we have supplied those in writing

14 and grouped then into eight categories: One being financial;

15 two, DSL broadband; three, retail service quality; four, retail

16 service and retail rates; five, which is really key to me based

17 on the fact that they don't have on-site technicians to assist

18 with their out-of-service circuits or any problem that may be

19 in their infrastructure, and that's operations support system

20 working with on-site tribal technical people; six, is another

21 one which is of key important, which I think Suzy can speak the

22 most to, the Tribal Lifeline Linkup Program which we -- I know

23 that both carriers are required to outreach to the tribal

24 residents who may be eligible for those low rates, however,

25 that outreach doesn't happen. The tribe has had to take it

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 1 upon itself to make those residents aware and help them with

 2 filing applications and making them understand that they can

 3 access this low cost, even basic telephone service, however,

 4 some of the issues lie in the fact that incumbent carriers

 5 check with the State via offices and the tribe manages their

 6 own type of Medicaid called "TAFNNF," "Temporary Residence for

 7 Needy Families." They access that state database, and we also

 8 have [unintelligible] which qualifies them for those income

 9 phone service, so they need to be checking not with Washington

10 State but with the tribe's program. I'm sure Suzy can expand

11 on that.

12 Our 7th item, the 911 services which we currently have

13 contracted with and worked with Qwest completely on. We spend

14 quite a bit of money going into the upgrades in that and the

15 compliance with the DSL and whatnot, we want to insure there's

16 no issues with regard if and when CenturyLink and Qwest merge.

17 The rate center consolidation was eight and capital investment

18 and maintenance expenditures was our ninth area of condition.

19 But, like they advised, we did put these comments in writing.

20 We wanted to make sure that they were covered and on record.

21 That would be the end of my statement.

22 JUDGE FRIEDLANDER: Thank you.

23 Ms. Allen, did you have anything else?

24 MS. ALLEN: Yes. I would like to add about the

25 Lifeline Linkup Program. What she said is true. They will

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 1 call the State DHA office. I think a way to resolve that is

 2 that we require the carrier to develop a contact list for all

 3 tribal reservations from the programs that people can qualify

 4 for this program, that they have to get a directory of all

 5 tribes, so when they go to check to see if they legally qualify

 6 for the program I think that would help.

 7 In our document that we have filed with you it is

 8 critical and key that tribal liaison office is developed for

 9 tribes to interface with CenturyLink. Consultation with tribes

10 is a huge thing for us. We need to be consulted. The

11 Macau Tribe had advised me that they have very poor customer

12 service with CenturyLink on their reservation. We made inquiry

13 to all the 26 tribes in the northwest but I only heard from the

14 Macau. Our filing was -- this was short. We had only a week

15 to turn around to try to get information from all the tribes.

16 But all the tribes stand behind us. We firmly would like to

17 see consultation, especially when they go to do any upgrades on

18 our lands because, as we stated earlier, we have the issue of

19 the dark fiber. If we can get consultation directly with the

20 carrier, that would be a very big, huge step in this industry,

21 because they've come on to our lands without our permission,

22 without going through our law and order code permitting

23 processes. So, that is very huge for us, otherwise, we

24 wouldn't have known about the dark fiber and we had to send our

25 technicians out to verify that it is there, that they found the

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 1 fiber vault. That's really huge.

 2 Again, consultation with the tribes so we can do

 3 better customer service on our lands and especially for the

 4 Lifeline Linkup Programs. Public safety is huge on our

 5 reservation. We're one point four million acres of mountainous

 6 terrain. By getting the antiquated facilities upgraded --

 7 again, I drive two mountain passes to our tribal headquarters.

 8 That's a 62-mile drive one way to Nespelem. There's no

 9 facilities going over those mountaintops such as fiber. So, if

10 we can get that connection some way to start getting something

11 in the ground for us tribes so we have the 21st century

12 advantages of technology we would really appreciate it. Again,

13 it goes back to consultation. We want to work with

14 CenturyLink, but if they don't open that door, open that

15 window, to help us, partner in any way to get fiber in the

16 ground for the benefit of our tribal members and all across the

17 Washington State tribes, we may never ever meet the 21st

18 century technologies that we so deserve.

19 Thank you.

20 JUDGE FRIEDLANDER: Thank you.

21 MS. MULA: May I add?

22 JUDGE FRIEDLANDER: Sure.

23 MS. MULA: I did mention health. I want to stress the

24 Tele-Meds, that would be a huge help for us. We, the tribe,

25 did build health clinics in two of our districts but our main

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 1 IHS facilities in Nespelem, and they could give help to give

 2 better service if we had broadband and right now -- Suzy is

 3 much more up to date on the different types of wire -- but I'm

 4 told that there was a DS-3 and it wasn't big enough to handle

 5 what they needed to put them into the other clinics. That is a

 6 drawback. Being as large as we are and mountainous, that type

 7 of Tele-Meds would be a huge help to us.

 8 JUDGE FRIEDLANDER: Thank you.

 9 Were there any questions from the Bench?

10 COMMISSIONER GOLTZ: Just a couple things. Thank you

11 for coming all this way. We appreciate that. Thank you for

12 having a backup plan with someone on the bridge line.

13 You mentioned the clinic in Inchelium has inadequate

14 broadband or has zero broadband.

15 MS. ALLAN: In our Keller district which is located

16 inbetween Inchelium and Nespelem they have no broadband. They

17 only have copper. They have a little teleco which is probably

18 not even 200 square feet. Very small. It's the size of an

19 outhouse.

20 COMMISSIONER GOLTZ: Is there a school in Nespelem, as

21 well,

22 MS. ALLAN: Yes.

23 COMMISSIONER GOLTZ: And they have zero broadband?

24 MS. ALLAN: The Nespelem School, because we got a

25 community-connect broadband grant we helped them get connected.

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 1 Before that they were utilizing CenturyLink through a T-1 but

 2 when we got our community-connect broadband grant and got the

 3 pipe to them.

 4 MS. MERCHAND: With reference to the broadband

 5 capabilities and what Sheri is referring to, our main IHS

 6 facility at Inchelium in Okanogan County, which is CenturyLink

 7 territory, Portland area Indian Health Service planned to make

 8 our clinic a centralized hub for various surrounding Indian

 9 Health Service facilities on the Spokane Reservation, the

10 Calistoga Reservation, Indian Health Clinic in Spokane and

11 there were two others, off the top of my head. However, we did

12 not make that happen because CenturyLink was unable to provide

13 DS-3 capable services. They could not do that. They don't

14 have that ability. Their facility cannot handle that. And,

15 just like I said, our main agency campus which handles all of

16 our governmental operations, public safety, emergency response,

17 health care facilities, social services, education, we have all

18 these agencies in each of the outlying districts that I

19 mentioned earlier, same in Keller, which is Ferry County,

20 Chelam, which is Ferry County and Omak, which is Okanogan

21 County. Our governmental services and operations, health and

22 safety, public safety, education, all, like I said, span over

23 that one point four million acres and are very -- the voice and

24 data services are completely reliant upon the costly T-1

25 infrastructure through both of these ILEC.

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 1 COMMISSIONER GOLTZ: I have no other questions. I was

 2 going to say some of the issues that you raised maybe not

 3 resolved or not able to be resolved in the context of this

 4 merger proceeding but they're still issues that might be

 5 ongoing. I'm thinking about the Lifeline Linkup issues that

 6 you have. I hope you feel free at any time to write us or call

 7 us. I was going to say, "Go to the website," but maybe that's

 8 not the right thing to say. But you can write a letter to the

 9 executive director and that will get to us and we'll be happy.

10 That's a formal letter to the Commission.

11 MS. MERCHAND: Thank you ery much.

12 If we did note that within the settlement it was -- I

13 believe Nespelem is mentioned as part of the communities for

14 upgrade. We need all four of those communities to be on that

15 listing as part of the condition.

16 JUDGE FRIEDLANDER: Thank you.

17 Thank you, Ms. Merchand.

18 Commissioner Jones, did you have any questions?

19 COMMISSIONER JONES: Just one question.

20 Thank you for coming all this way, as well.

21 This is Commissioner Jones for Ms. Merchand.

22 It's my understanding that you applied for two grants,

23 two federal grants, one was B Top Grant through NTIA and one an

24 RUS Grant with the U.S.D.A. You were denied for both those

25 grants? Can you give a brief background as to how much you

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 1 were asking for and why you were denied.

 2 MS. MERCHAND: The first grant we actually applied

 3 through B Top only, and we have applied for 275 route fiber

 4 throughout the reservation along key routes, Highway 155,

 5 Highway 21, and Bridge Creak going over into Inchelium over to

 6 the Colville area. Our plans were to interconnect with the

 7 surrounding counties, Grant County, Okanogan County, Ferry

 8 County, and Steven County, which would also have bridged us a

 9 grant in Okanogan on part of knowing into it fiber network,

10 basically making it one of the largest fiber networks in

11 Washington State. Washington State did rank our first

12 application as six in the top ten of their rankings of, I

13 think, 220 applicants. I'm not sure on that. But the total

14 cost on that, again, was 25 point four million for that 144

15 strand fiber throughout the reservation, and we had key buy-ins

16 and possible partnerships knowing that Grant County, Okanogan

17 County, Ferry County and Stevens County.

18 The second grant we changed it up a little bit. The

19 first grant was going to be a middle mile open access network.

20 The second round we changed up and went with a last file open

21 access network where we were going to go to another 285 miles

22 of fiber connect and some directly to houses, 2,500, if I'm not

23 correct, and those figures came out to be 26.4 million,

24 somewhere in that area. I don't have my paperwork in front of

25 me. We were not denied that particular grant. We made it

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 1 through the due diligence phase and all the changes that the

 2 RUS had expected of us said it met their requirements of the

 3 grant, however, they were out of funds at that time.

 4 MS. ALLAN: That was when it came up through the

 5 review process. We had met with U.S.D.A. back in November

 6 because we asked for a follow-up to find out why we weren't

 7 awarded.

 8 COMMISSIONER JONES: Thank you for that.

 9 JUDGE FRIEDLANDER: And thank you --

10 MS. ALLAN: I would like to add, because of our

11 mountainous terrain, it'll cost to get fiber buried over those

12 mountaintops because you have to have the speciality equipment

13 to get it buried, so that drives the cost up, and now with the

14 broadband grant that have been awarded, that's going to drive

15 the cost of getting infrastructure for our tribe. We're

16 looking at other avenues, as I stated earlier to try to get

17 fiber buried on our reservation, but it's going to be at a cost

18 because the fiber is going to go up and then we're worried

19 about it being in stock. So, all that comes with a cost.

20 Thank you.

21 JUDGE FRIEDLANDER: Thank you.

22 Thank you all for your comments today.

23 Ms. Taylor.

24 MS. TAYLOR: I'd be happy to add some information.

25 ///

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 1 MARY TAYLOR, having been duly sworn to tell the truth,

 2 the whole truth and nothing but the truth, testified on her

 3 oath as follows:

 4

 5 JUDGE FRIEDLANDER: You can proceed.

 6 MS. TAYLOR: Good evening, Commissioners. I don't

 7 have answers -- my name is Mary Taylor with CenturyLink -- to

 8 all of the issues that the ladies just raised that testified,

 9 but a couple things I wanted to hit on. Namely, starting with

10 Nespelem, as you know in the settlement agreement, that's one

11 of the communities that we called out as one of the communities

12 that will deploy broadband in. What I did after receiving a

13 letter late yesterday afternoon is I went in to see when that

14 central offices enable will that get us to the campus that they

15 mentioned on the Nespelem and it will. And at campus -- this

16 list is off your website -- I may miss something -- but it'll

17 cover the Indian agency -- these are Colville Indian Agency,

18 the Nespelem Bureau of Indian Affairs, Colville Business

19 Council Trial Offices, Colville Trival Police Service, Colville

20 Convalescent Center, the Colville Housing Authority, Colville

21 Tribe -- I'm sorry -- Senior Center, the Health Services. I'm

22 not sure what Colville Tribal Credit is. There's Colville

23 Tribal Law on that campus, Colville Tribal School District,

24 Colville Tribal Service Corp. and Trading Post Grocery Store.

25 Again, as far as the other communities that have been

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 1 mentioned, those communities, along with all of the others

 2 within the footprint, the combined company footprint will be

 3 evaluated in that 180-day plan. I can't tell you what the

 4 final outcome will be but that's one of the comments we've

 5 agreed to is to go through each exchange and look at those wire

 6 centers to see if the combined network is now, where we

 7 couldn't make it work previously, if the combined networks

 8 allowed us to do that and the Nespelem is an example, although

 9 we don't have all of the engineering records with the limited

10 understanding of the networks that we have now, Nespelem where

11 before it wouldn't work for us, with the Qwest combination,

12 that's a community we can serve. We intend to look at the

13 combined footprint for all of the communities. That's what the

14 180-day report is intended to do.

15 As far as the W tap issue, another element of the

16 settlement agreement is is to work with the staff on outreach

17 efforts. There's also, specifically, as if there's a name

18 change, which is what we did in the Embark settlement, there's

19 notification to the tribal units or tribal agencies but there

20 is a W tap. I don't remember what we called it in the

21 settlement agreement but it's outreach program to work with the

22 protection staff. I think that may alleviate or improve some

23 of the efforts. I know on the CenturyLink side -- I can't

24 speak to it on the Qwest side -- we have a very robust outreach

25 program. It was implemented as a result of some F.C.C.

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 1 activity.

 2 So, again, I want to point out that with the

 3 deployment within the Nespelem central office we will help that

 4 main campus with the 1,300 feet of the central office so those

 5 will be covered.

 6 COMMISSIONER GOLTZ: We may have more questions of

 7 that later when we process it through.

 8 MS. TAYLOR: I wanted the ladies to know.

 9 COMMISSIONER GOLTZ: You can have further

10 conversations with them afterward.

11 MS. TAYLOR: Thank you.

12 JUDGE FRIEDLANDER: Thank you for your comments.

13 I believe we have one other comment. Ms. Brandon.

14 MR. FFITCH: Your Honor, partly for the information of

15 the Colville Tribe representatives' written comment that was

16 sent in will be included in the public comment exhibit and

17 offered for the record along with other written comments that

18 have been provided to the Commission, so it will formerly find

19 its way into the record in that fashion unless the Commission

20 wants to treat it in some other way.

21 JUDGE FRIEDLANDER: I wasn't going to suggest treating

22 it in another way. I was going to reiterate what Mr. Cupp

23 mentioned and that is we've received written comments through

24 the 7th. All of those would be included with the public

25 comment exhibit.

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 1 JENNIFER BRANDON, having been duly sworn to tell the

 2 truth, the whole truth and nothing but the truth, testified on

 3 her oath as follow:

 4

 5 MS. BRANDON: Good evening. Thank you for the

 6 opportunity to comment, and I also apologize for being late.

 7 We should have met on the highway and taken advantage.

 8 My name is Jennifer Brandon. I'm the executive

 9 director of community Voicemail. We're located in Seattle,

10 Washington, but we provide services to approximately people

11 living in approximately 25 of Washington's counties and an

12 additional 44 cities around the country and in Canada.

13 I'm here on behalf of more than 10,000 Washingtonians

14 who are low income and facing some kind of economic crisis.

15 I'm also here on behalf of approximately 400 human service

16 agencies who may be community-based organizations, what we call

17 "CBO's" or government services organizations as well as

18 libraries, churches, faith-based organizations, tribal support

19 service, et cetera, and, basically, I'm here in the spirit of

20 the new year, I guess, to say that I'm pleased to see that

21 there were conditions applied to the merger, but my view is

22 that they're somewhat wearied, they look like they have been

23 through a weary process and I would like to take the

24 opportunity to use this period to ask for some conditions that

25 are more systemic and less transactional. What I mean by that

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 1 is, that the State and so many of the people living in it are

 2 in crisis and I feel like this is an opportunity to kind of

 3 look at what hasn't worked and to try to make things better and

 4 contribute in a way that they can be better.

 5 I'll go back for just a minute. Community Voicemail

 6 fulfills a safety net. It's a safety net for low income

 7 people. We provide a gap in the State of nation's school. We

 8 can fill a gap in the goal that the State and the nation has as

 9 ensuring telephone services by providing local telephone number

10 and a private voice mailbox, community Voicemail allows our

11 clients to access work, access veterans' benefits, find stable

12 housing, shield from abusive relationships, maintain contact

13 with friends and family. Despite our success in assisting

14 clients in any of these ways we can see a growth in the

15 population of people in need and our typical clients live on

16 less than $600 a month. My concern is that in this case the

17 merger applicants projected that the merger of Qwest and U.S.

18 West will serve the public interest by producing significant

19 affects that will lead to substantial benefits for customers.

20 They state the merger will, quote, "generate $625,000,000 in

21 annual operation and capital synergies," end quote. These

22 synergies won't create new jobs. Where are these people going

23 to go? They're going to be going to the organizations that I

24 represent. These organizations are bursting at the seams and

25 after next weeks session starts I think they'll be bursting

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 1 even more. These are people who have lost their job, are

 2 probably going to lose their health insurance. If basic health

 3 goes away they don't have that option there losing their homes

 4 and they're being told to get in line with organizations who

 5 have also had to lose staff or just say let's do more with

 6 less. I'm not here to paint telephone companies or

 7 corporations as the bad guys, that's too easy, but we're all

 8 hurting and we are all digging really deep. And these

 9 synergies that are expected -- I guess I'll go back to the

10 people who are facing this. They're getting in line. They're

11 going to libraries. They're told to get on line and apply for

12 benefits that may not exist and so many times people who are in

13 crisis have no idea where to turn. These are people who are

14 not used to going to social services so I guess I would -- I

15 think there's a synergy for the companies but there's a cost

16 shift and downstream that's hitting the CBO's and government

17 agencies and families and faith-based organizations.

18 I think that this is an opportunity to look at more

19 than transactional conditions and to think about how are there

20 ways to prevent the cost shifting hurting more the

21 organizations that are designed to be the safety net. These

22 organizations are going as fast as they can. They're going to

23 be seeing more and more people and those people are not

24 necessarily -- they may be customers and benefit from the rate

25 freeze or the promise that rates won't be hiked but they need

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 1 more than that.

 2 Final statement is that while competition may serve

 3 well the Washingtonians with access and who can afford a choice

 4 and telephone communication services, it doesn't extend to our

 5 clients. I've been doing this work for 12 years and when I

 6 tell people what I do and one of the first comments is, "Oh.

 7 You must get support from the telephone companies," and I would

 8 say, "Yeah. That's what everybody says but instead we've been

 9 viewed as competition." Again, that's not to put down the

10 industry, that's to say that around 400 human services agencies

11 are not necessarily having great relations with the telephone

12 company and that just saying we're going to make lifeline

13 outreach better, we've been trying to do that for over

14 ten years. It doesn't work until somebody can figure out how

15 it's profitable and that's how the wireless companies are

16 doing. That's fine. That's absolutely fine. But let's not

17 try to do that anymore. If it's not working let's try

18 something else.

19 I guess I wanted to end my comments just by saying

20 that I appreciate that we're all in hard situations and I'm

21 grateful for this opportunity to give public comments,

22 especially be the voice for so many of these hard working

23 agencies and then the people who come to them and asking

24 CenturyTel, Qwest and the Commission to use this merger as an

25 opportunity to think a little more boldly, more systemically

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 1 and please to involve the community safety net or the

 2 infrastructure that is in place.

 3 Thank you.

 4 JUDGE FRIEDLANDER: Thank you.

 5 Were there any questions from the Bench?

 6 Thank you.

 7 Are there any other persons on the bridge line who

 8 would like to present comments to the Commission today?

 9 It does not appear that there are any other

10 individuals in the hearing room who have not already given

11 comments or who indicated that they didn't want to give

12 comments.

13 At this time I'll thank everyone for showing up and

14 letting us hear your voice.

15 We're adjourned.

16 Thank you.

17 (Conclusion of proceedings.)

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 1 Certificate

 2

 3 I, LESLEY E. KAY, a duly authorized Court Reporter and

 4 Notary Public in and for the State of Washington, residing in

 5 Olympia, do hereby certify;

 6 That the foregoing proceedings were taken before me

 7 and thereafter transcribed by me by means of computer-aided

 8 transcription; that the transcript is a full, true and complete

 9 transcript of said proceedings;

10 That I am not a relative, employee, attorney or

11 counsel of any party to this action, or relative or employee of

12 any such attorney or counsel, and I am not financially

13 interested in the said action or the outcome thereof;

14 That upon completion of signature, if required, the

15 original transcript will be securely sealed and the same served

16 upon the appropriate party.

17 IN WITNESS WHEREOF, I have hereunto set my hand and

18 affixed my official seal this \_\_ day of January, 2011.

19

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22 LESLEY E. KAY

 WA CCR #3244

23 CA CSR #6847

 NV CCR #791

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25