


**COMMENT FORM FOR: SUSIE ALLEN, CHERIE MOOMAW, & MS. MARCHAND - ID# 25213**

Consumer Information	
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Organization Company	CONFEDERATED TRIBES OF THE COLVILLE RESERVATION AND;THE AFFILIATED TRIBES OF NORTHWEST INDIANS
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Comment Information		
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Public Involvement Lead	John Cupp	
Duplicate Comment	<input type="radio"/> Yes <input type="radio"/> No	
Description	Members of these organizations attended and testified at the January 5 public comment hearing, and provided the attached written comments.	
Attachments	 CCT and ATNI Comments on Qwest-CenturyLink Merger (2623123_1).PDF	

Issue Information	
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Company	Centurylink Communications
Filing	100820
Staff	Mark Vasconi

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Complaint ID	

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Follow-Up Staff	Other Follow-Up Staff
Follow-Up Complete	<input type="radio"/> Yes <input type="radio"/> No

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**In the Matter of the Joint Application of**

**DOCKET UT-100820**

**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.**

**COMMENTS OF THE CONFEDERATED TRIBES  
OF THE COLVILLE RESERVATION**

**and**

**THE AFFILIATED TRIBES OF NORTHWEST INDIANS**

**January 3, 2011**

## I. INTRODUCTION

The Confederated Tribes of the Colville Reservation ("Colville Tribes") respectfully provides these comments on the proposed merger between CenturyLink, Inc. ("CenturyLink") and Qwest Communications International, Inc. ("Qwest"). The Affiliated Tribes of Northwest Indians ("ATNI") joins the Colville Tribes in these comments in their entirety.

The Colville Tribes is aware that on December 23, 2010, the parties filed a proposed settlement agreement ("Settlement") with the Washington Utilities and Transportation Commission ("WUTC" or the "Commission") where, among other things, the parties agree to 28 conditions. Although the Colville Tribes believes that the agreed-to compromise conditions are an improvement to the merger as initially proposed, the Colville Tribes remains concerned that the agreed-to conditions do not adequately address the unique service delivery and other issues faced by the Colville Tribes and other Indian tribes in Washington State.

**The Colville Tribes and ATNI do not believe that the proposed Settlement is in the public interest and object to the Commission's approval of the Settlement and the merger in absence of further changes or Commission-imposed conditions.** Specifically, the parties should amend the Settlement, or the Commission should impose conditions, as the case may be, to incorporate the following changes:

- (1) add the Colville Reservation communities of Keller (an unserved area) and Inchelium (an underserved area) to the five communities identified in agreed-to Condition 14 for which CenturyLink will enable broadband, and consult with the Colville Tribes in the design, engineering and build out;
- (2) require CenturyLink to establish a Tribal-Liaison office to provide Indian tribes with a direct point of contact for quality of service issues, inquiries, or other matters that arise within tribal lands that are dependant on or otherwise implicate CenturyLink's operations;
- (3) establish a training program available to Indian tribes to enable tribal personnel to service and makes repairs to CenturyLink and legacy switches and infrastructure;
- (4) undertake promotional and educational activities, at CenturyLink's sole expense, to inform residents on the Colville Reservation and other tribal lands in Washington State of the Enhanced Lifeline and Link-Up Assistance programs available for tribal members and
- (5) require CenturyLink to report to the Commission on areas served by CenturyLink within Indian lands

### **III. THE COLVILLE RESERVATION, BROADBAND AVAILABILITY, AND CONCERNS WITH CENTURYLINK AND QWEST**

#### **A. Colville Reservation Demographics and Broadband Availability**

The Colville Reservation is located in a rural isolated area in north-central Washington. The Colville Reservation is bounded on the west by the Okanogan River and on the south and east by the Columbia River, and the Reservation encompasses parts of both Okanogan and Ferry counties. The Colville Reservation encompasses approximately 2,100 square miles and has a population density of 3.6 persons per square mile. By comparison, the Colville Reservation is slightly larger than the State of Delaware.

The Colville Reservation is divided into four districts: Omak, Nespelem, Keller and Inchelium. The community of Inchelium, located in the northeast portion of the Colville Reservation, is 86 road miles from Spokane, Washington—the nearest population center of over 20,000 residents. While many federal agencies define rural communities as those with populations of 50,000 or less, the entire Colville Reservation has less than 10,000 people. CenturyLink provides some DSL and telephone service to the Inchelium. CenturyLink provides only telephone service to Nespelem and Keller. Qwest provides some DSL and telephone service to the Omak and Coulee Dam communities.

The Colville Reservation is home to 9,500 residents, which include both tribal members and non-Indians. Of those residents, 3,300 households are at or below the poverty line. More than 30 percent of the communities live in poverty and nearly 65 percent of the working population of the Colville Tribes are unemployed.

#### **B. Broadband Infrastructure and Availability for the Residents of the Colville Reservation**

The Colville Reservation is 20 years behind the general population when it comes to broadband connectivity. Most residents of the Colville Reservation do not have access to terrestrial broadband. The broadband infrastructure that does exist is located primarily in Omak and Coulee Dam, both of which are situated on the borders of the Colville Reservation near non-Indian communities.

The Colville Tribes' lack of terrestrial broadband affects health service, law enforcement, educational capacity, tribal governance, economic development, tourism, homeland security, entrepreneurship, and community quality of life compared to non-isolated urban communities.

As an illustration of the negative impact of the lack of broadband capacity on the Colville Reservation, officials from the Indian Health Service ("IHS") recently approached the Colville Tribes proposing to use the Tribes' health facility in Nespelem as a regional IHS service hub for the northwest region, which would include the four communities on the Colville Reservation, the IHS facilities on the Spokane and Kalispell Reservations, and the urban health clinic in the City of Spokane. Because the incumbent provider, CenturyLink, could not provide the requisite DS-3

#### **IV. COLVILLE TRIBES' CONCERNS WITH THE PROPOSED MERGER AND WITH THE PROPOSED SETTLEMENT**

The Colville Tribes agrees with the overriding concern expressed in testimony by WUTC staff in its September 27, 2010 testimony that "[l]eft entirely to market forces, the company may focus its broadband activity on urban markets and neglect rural markets," which could result in a "widening gap in broadband infrastructure between rural and urban areas served by CenturyLink after the acquisition." (Liu Testimony, at 5, lines 11-15.) As noted in Part III(C), above, CenturyLink and Qwest have a proven track record of providing poor service and neglecting the infrastructure needs of the Colville Reservation that they currently serve. The Colville Tribes has reason to believe that these concerns will only become more apparent if the Settlement is approved in its current form, or the merger is otherwise approved without additional conditions.

The Colville Tribes and ATNI do not believe that the Settlement as proposed is in the public interest. Both the Colville Tribes and ATNI object to the Commission approving the Settlement and the merger unless the parties incorporate the following changes into the Settlement, or the Commission imposes the changes as conditions to the merger.

##### **A. Expand Broadband Commitment to Include the Communities of Keller and Inchelium**

Condition 14 of the proposed Settlement Agreement requires CenturyLink to invest at least \$80 million in retail broadband infrastructure in Washington State over a five year period, of which 33 percent (or \$26.4 million) must be invested in unserved and underserved areas. In addition, CenturyLink must enable broadband in five communities in the state, one of which is Nespelem. Nespelem is one of the four main communities on the Colville Reservation.

Although the Colville Tribes appreciates the efforts of the WUTC staff in securing this commitment from CenturyLink to mitigate concerns about post-merger broadband deployment, the Colville Tribes does not believe that the commitment goes far enough to address the longstanding issues that the Colville Tribes has had with CenturyLink and Qwest's provisions of service on the Colville Reservation.

As noted above, the Colville Tribes is among the largest employers in north central Washington. Thousands of residents depend on the Colville Tribes' governmental services for law enforcement, health, and other essential services, all of which are heavily dependant on broadband. CenturyLink provides DSL service to some residences in Inchelium and provides no broadband service whatsoever to Keller. Health clinics and satellite police stations are located in both communities, and lack of broadband capability impairs the Tribes' ability to provide these essential services.

The Colville Tribes recommends that the parties incorporate the following changes to Condition 14 to incorporate Inchelium and Keller into CenturyLink's investment in unserved and underserved areas:

##### **14. Broadband Commitment**

CenturyLink will file with the Commission, with copies to Commission Staff and Public Counsel, a plan for broadband deployment annually, to begin within 60 days of the anniversary date of the closing of the Transaction and thereafter submitted on the anniversary of the Transaction's closing date, including the number of living units to be enabled or upgraded. In addition, CenturyLink will meet with Commission Staff and Public Counsel to review the annual broadband plan and the annual deployment report.

**B. Establish a Tribal-Liaison Office**

To mitigate ongoing issues that the Colville Tribes (and other Washington State tribes) have experienced with CenturyLink and Qwest services, CenturyLink should establish or be required to establish a Tribal Liaison Office. A Tribal Liaison Office would provide Indian tribes with a direct point of contact to address quality of service issues, inquiries, or other matters that arise within tribal lands that are dependant on or otherwise implicate CenturyLink's operations. The experiences of the Colville Tribes are instructive as to why such an office should be established.

As described in Part III(C), above, the Colville Tribes has received little cooperation from CenturyLink in obtaining information on CenturyLink's infrastructure on the Colville Reservation. Specifically, the Colville Tribes has discovered 15 to 20 miles of dark fiber on tribal trust lands that the Tribes confirmed was installed by CenturyLink. The Colville Tribes has received little cooperation in obtaining information from CenturyLink regarding this dark fiber. The establishment of a Tribal Liaison Office within CenturyLink would ensure that these and similar inquiries are responded to and given the priority they deserve.

Also, because the Colville Tribes possesses general civil legislative and adjudicative jurisdiction within the boundaries of the Colville Reservation, the Colville Tribes has a direct role in the siting of broadband infrastructure within the Reservation. The Colville Tribes has developed its own strategic plans for expansion of broadband services within the Colville Reservation. A Tribal Liaison Office would facilitate these and other discussions with appropriate CenturyLink officials on how these plans might move forward.

Accordingly, the Colville Tribes recommends that the parties incorporate the following new paragraph c to Condition 16:

- c. For a period of at least five years from the Transaction's close, CenturyLink shall establish a Tribal Liaison Office to address quality of service, strategic planning, or other issues raised by Indian tribal governments within CenturyLink's service area. Within 90 days of the Transaction's close and after consultation with applicable Indian tribes, CenturyLink shall (i) ensure that the Tribal Liaison Office is adequately staffed and operational and (ii) provide the Commission with contact information for the Office and a description of how the Office is organized within CenturyLink's management structure.**

**D. Promote Tribal LifeLine and Link-Up Program Benefits to Residents of Indian Lands**

Condition 26 of the proposed Settlement requires CenturyLink to meet and work collaboratively with Commission Staff, Public Counsel and DSHS to evaluate the current WTAP outreach program to enhance customer awareness and increase participation in the program. Condition 26 also requires CenturyLink ILECs and Qwest to institute a program for the treatment of consumer upheld complaints. The only reference to Indian tribes is in paragraph c, which requires CenturyLink to notify WTAP, Lifeline, and tribal agencies of a name change if and when it occurs.

Residents on Indian lands are eligible for additional benefits under the Tribal Lifeline Assistance program that can enable them to receive basic monthly telephone service at their primary residence for as little as one dollar a month. Notwithstanding the federal law requirement that carriers "publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service," CenturyLink has failed to adequately inform households on the Colville Reservation of these special Lifeline and Link-Up program benefits for residents of Indian lands. See FCC Order 00-208.

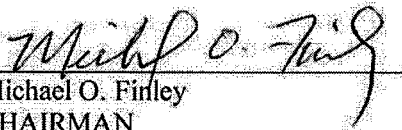
In addition, the Colville Tribes and other tribes have also experienced a number of other problems. For example, in determining eligibility for the general Lifeline and Link-Up programs, ILECs confirm eligibility with the State DSHS offices. If the names of the eligible residents do not appear on the State DSHS lists, the individuals are not contacted about the benefits of the program. The Tribal Lifeline and Link-Up programs, however, recognize Bureau of Indians Affairs' General Assistance, Tribally-Administered Temporary Assistance for Needy Families programs, and other Indian-specific benefit programs, many of which are administered by the tribes themselves. Unless the ILECs affirmatively work with or contact tribes to determine who might be eligible under the Tribal Lifeline and Link-Up eligibility criteria, these residents will not be in a position to take advantage of these programs. Based on the Colville Tribes' experience, whatever actions that CenturyLink and Qwest have taken to promote these programs on the Colville Reservation have not been effective.


The Colville Tribes, therefore, recommends that the parties incorporate the following new paragraph d in Condition 26:


**d. CenturyLink agrees to establish a program, at its sole expense, to promote the Tribal Lifeline and Link-Up Assistance programs specifically for residents on Indian lands. Within 60 days of the Transaction's close, CenturyLink shall consult with WTAP and Indian tribal governments that have Indian lands that are or will be served by CenturyLink to implement this program. This program shall remain in effect for five years after the date of implementation.**

If the parties do not agree to incorporate this provision, the Colville Tribes again requests that the Commission require this or a comparable condition should it approve the proposed merger.

Sincerely,

  
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Michael O. Finley  
CHAIRMAN  
Confederated Tribes of the  
Colville Reservation

  
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Brian Cladoosby  
PRESIDENT, Affiliated Tribes of  
Northwest Indians

  
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Susie Allen  
CO-CHAIR, Energy and Telecommunications  
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