

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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| IN RE:<br><br>QWEST COMMUNICATIONS<br>INTERNATIONAL, INC., AND<br>CENTURYTEL, INC. | DOCKET NO. SPU-2010-0006 |
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**ORDER APPROVING SETTLEMENT AGREEMENTS, GRANTING MOTIONS TO  
WITHDRAW, AND ALLOWING PROPOSED REORGANIZATION**

(Issued November 19, 2010)

**I. BACKGROUND**

**A. Procedural History**

On May 25, 2010, pursuant to Iowa Code § 476.77 and 199 IAC 32, Qwest Communications International, Inc. (Qwest), and CenturyTel, Inc.<sup>1</sup> (CenturyLink) (collectively, Applicants), filed with the Utilities Board (Board) an "Application for Expedited Approval of Reorganization" (Application). Applicants request that the Board approve the indirect transfer of control of Qwest's operating subsidiaries, Qwest Corporation (Qwest Corp), Qwest LD Corp. (QLDC), and Qwest Communications Company, LLC (QCC), to CenturyLink. According to Applicants, the proposed reorganization is a parent-level, stock-for-stock transaction that requires no new financing or refinancing and adds no new debt. Applicants assert the transaction meets the requirements of Iowa Code § 476.77 and 199 IAC 32.4 and that the combined company will have greater resources to provide voice, broadband,

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<sup>1</sup> Applicants state that CenturyTel, Inc., changed its name to CenturyLink, Inc., on May 20, 2010.

and other advanced communications services to Iowa customers. The proceeding for review of the proposal was identified as Docket No. SPU-2010-0006.

CenturyLink is a publicly-traded holding company with incumbent local exchange operations in 33 states, including Iowa. Its headquarters are in Monroe, Louisiana. CenturyLink provides voice and broadband services and serves approximately seven million access lines, 2.2 million broadband subscribers, and over 553,000 video subscribers. Six CenturyLink operating companies provide service in Iowa. CenturyTel of Chester, Inc. (CTC), CenturyTel of Postville, Inc. (CTP), and Embarq Missouri, Inc. (EMI), are incumbent local exchange carriers (ILECs), certificated pursuant to Iowa Code § 476.29, serving a total of approximately 1,500 access lines in Iowa. In addition, CenturyTel Long Distance, LLC, and Embarq Communications, Inc., are registered providers of intrastate interexchange services and CenturyTel Fiber Company II, LLC d/b/a LightCore, provides fiber optic capacity in Iowa and other states to other carriers and to businesses. CTC and CTP also provide interconnection services to competitive local exchange carriers (CLECs) through interconnection agreements approved by the Board. EMI also provides interconnection services to CLECs through numerous interconnection agreements. (Application, p. 5-7.)

Qwest is a publicly-traded holding company headquartered in Denver, Colorado, with incumbent local exchange operations in 14 states<sup>2</sup> and nationwide

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<sup>2</sup> Qwest is an ILEC in Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

competitive local exchange and interexchange operations. Through its operating subsidiaries, Qwest offers a suite of communication services to consumers and businesses, including local, long distance, and high-speed data transmission. Through sales relationships with Verizon Wireless and DIRECTV, Qwest also offers wireless and video services. As a subsidiary of Qwest, the ILEC Qwest Corp serves approximately 10.3 million access lines. Qwest Corp is authorized by the Board pursuant to Iowa Code § 476.29 to provide local exchange services to approximately 691,000 access lines and also provides intrastate interexchange services in Iowa. Qwest Corp provides regulated retail and wholesale services under the jurisdiction of the Board, as well as interconnection services to CLECs through numerous interconnection agreements approved by the Board. QCC provides long distance and competitive local exchange services. QLDC provides resold interexchange services and is the entity formed by Qwest as part of the approval process under Sections 271 and 272 of the Telecommunications Act of 1996 (Act) to provide interLATA services originating in Iowa. (Application, pp. 7-8.)

In April 2010, CenturyLink and Qwest announced an agreement by which a wholly-owned subsidiary of CenturyLink will merge with Qwest, with Qwest becoming a wholly-owned subsidiary of CenturyLink upon close of the transaction. The proposed transaction is a tax-free, stock-for-stock exchange, with the exchange of stock valued at \$10.6 billion. Qwest shareholders will receive 0.1664 shares of CenturyLink stock for each of their Qwest shares. At the consummation of the

transaction, CenturyLink's pre-merger shareholders will own approximately 50.5 percent of the post-merger company and Qwest's pre-merger shareholders will own approximately 49.5 percent of post-merger CenturyLink. (Tr. 4, 7, 9-10.)

According to Applicants, no new debt or refinancing will be required and none of the debt outstanding at the time of the transaction announcement will require refinancing under change of control provisions. CenturyLink will assume approximately \$12 billion in Qwest debt. Qwest will become a wholly-owned, first-tier subsidiary of CenturyLink. There will be no change in corporate structure of the CenturyLink and Qwest operating entities. The Iowa operating subsidiaries of Qwest and CenturyLink will continue as separate IUB-certificated carriers. Immediately upon completion of the transaction, retail and wholesale customers will continue to receive service from the same carrier, at the same rates, terms, and conditions and under the same tariffs, catalogs, price plans, interconnection agreements, and other regulatory obligations as before the transaction. (Application, pp. 4-5, 13; Tr. 29-30, 72-76, 99-106.)

On June 10, 2010, the Board issued an "Order Setting Deadline for Motions to Intervene," requiring interested parties to file motions to intervene within seven days of the date of the order.

On June 11, 2010, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a resistance to Applicants' request for expedited proceedings and a motion asking the Board to extend the time for review of the

transaction by an additional 90 days, as allowed by Iowa Code § 476.77(2).

Consumer Advocate noted that the Application was incomplete (i.e., missing details concerning staffing changes, financial strength, and access to capital) and suggested more time was needed for the Board and Consumer Advocate to receive and evaluate all required information and determine whether the public interest requirement in 199 IAC 32.4(4)"c" is satisfied. Consumer Advocate suggested that extending the time for review would not prejudice Applicants because the transaction is not scheduled to close until 2011.

Also on June 11, 2010, the Communications Workers of America (CWA) filed a motion to intervene in this proceeding.

On June 16, 2010, Applicants responded to Consumer Advocate's motion, resisting the request to extend the time for review. Applicants argued that expeditious approval of the reorganization would promote the public interest by allowing the benefits of the reorganization to be realized as soon as possible.

On June 17, 2010, motions to intervene were filed by 360networks(USA) inc. (360networks); Cox Iowa Telcom, LLC (Cox); MCC Telephony of Iowa, LLC (Mediacom); McLeodUSA Telecommunications Service, Inc. d/b/a PAETEC Business Services, Inc. (PAETEC); Windstream Iowa Communications Inc., Windstream Iowa-Comm, Inc., Windstream IT Comm, LLC, and Windstream Montezuma, Inc. (Windstream Companies); United States Cellular Corporation d/b/a U.S. Cellular

(U.S. Cellular); LISCO; Cedar Falls Utilities (CFU); and Sprint Communications Company, L.P. (Sprint).

Consumer Advocate replied to Applicants' response on June 18, 2010, noting that it was not asking the Board to reject the Application but to allow more time for review of the Application. Further, Consumer Advocate detailed some of its concerns about the level of detail and responsiveness of Applicants' responses to data requests.

On June 24, 2010, PAETEC joined in Consumer Advocate's resistance to the request for expedited proceedings.

On June 24, 2010, the Board issued an "Order Docketing Proposal for Reorganization, Requiring Filing of Information, Extending Deadline for Review, Issuing Notice of Hearing, and Setting Procedural Schedule." The Board noted that its initial review of the Application and accompanying materials revealed that some elements required by the Board's rule at 32.4(2) were missing from the Application. The Board accepted the Application for filing, but required Applicants to file the following information: (1) a statement specifying the expected location of the books and records of the reorganized entity; (2) exhibits with actual balance sheets and showing the capital structures of the companies involved in the transaction; (3) actual stockholder reports for all affected companies; (4) actual stockholder quarterly reports for two quarters prior to the date of filing and subsequent reports as they become available for all affected companies; (5) major credit rating agency reports

for the period beginning May 25, 2008, to date for both CenturyLink and Qwest; and (6) a more detailed cost-benefit analysis, with supporting documentation, describing the projected benefits and costs of reorganizing.

In the June 24, 2010, order, the Board also extended the 90-day deadline for review of the proposed reorganization by an additional 90 days and established a procedural schedule.

On June 25, 2010, Consumer Advocate filed a motion to compel discovery and to modify the procedural schedule. On July 6, 2010, the Board issued an order granting the motion to compel, amending the procedural schedule, and rescheduling the hearing. Also on July 6, 2010, the Board issued an order granting all motions to intervene. Consumer Advocate filed a second motion to compel on August 3, 2010, which the Board granted in an order issued on August 10, 2010.

On August 16, 2010, Applicants and Consumer Advocate filed a "Settlement Agreement and Joint Motion for Approval of Settlement Agreement" (OCA Settlement) explaining that the agreement resolves the issues between Applicants and Consumer Advocate in this proceeding. Applicants indicate they amend their proposal for reorganization to reflect the commitments made in the OCA Settlement regarding post-merger integration and service quality reporting, access to the merged company's records, and charitable contributions.

On September 8, 2010, Applicants filed a motion to strike the direct pre-filed testimony of CFU's witness and Windstream's witness. On September 20, 2010, the

Board issued an order denying the motion to strike, noting that the Board would determine the relevance of any arguments raised by intervenors after hearing all of the evidence and when it makes its decision about the proposed reorganization.

On September 17, 2010, Applicants, Consumer Advocate, and certain intervening CLECs filed a joint statement of issues pursuant to the Board's rule at 199 IAC 32.9(3).

On September 21, 2010, Windstream filed a motion to withdraw its intervention, explaining that after intervening in this proceeding, it continued to discuss with Applicants issues about the proposed reorganization of concern to Windstream. Windstream stated it anticipated a mutually-acceptable resolution of those issues. The Board granted Windstream's motion to withdraw in an order issued on September 24, 2010.

A hearing in this matter convened on September 27, 2010. Prior to the start of the hearing, Applicants and counsel for the intervening CLECs notified the Board that they had entered into a settlement agreement. Counsel for the intervening CLECs indicated that in light of the settlement, none of the intervening CLECs would participate in the hearing. Counsel for the intervening CLECs asked to be excused from the hearing. Counsel provided a paper copy of the "Joint Motion for Approval of Settlement Agreement and Certain Intervenors' Motion to Be Excused from the Hearing," which was identified as Hearing Exhibit 1 and was filed electronically later on September 27, 2010. On September 28, 2010, Applicants, Cox, Mediacom,



PAETEC, Sprint, 360Networks, US Cellular, and LISCO filed an "Amended Joint Motion for Approval of Settlement Agreement and CLEC Intervenors' Motion to Withdraw" (CLEC Settlement). The CLEC Settlement notes that because the intervening CLECs did not participate in the hearing, their prefiled testimony was not admitted into evidence at the hearing but remains part of the administrative record before the Board.

Certain motions were disposed of at hearing. After announcing the CLEC Settlement, Applicants noted that CFU was not a party to the settlement agreement, given the divergent interests of the intervening parties. (Tr. 8.) Applicants moved that the Board waive its requirement that the parties hold a settlement conference. The Board's rule at 199 IAC 7.18(2) requires a settlement conference where a proposed settlement is not supported by all parties. The Board granted the motion. (Tr. 342.)

Post-hearing briefs were filed on October 14, 2010, by Applicants and CFU. Consumer Advocate filed a statement indicating it relied on the opening statement it gave at hearing.

On October 21, 2010, CWA filed a motion to withdraw its intervention. CWA explains that after intervening in this proceeding, it engaged in settlement discussions with Applicants and entered into a settlement agreement with Applicants resolving its issues in this docket. The Board finds that CWA's request is reasonable and will grant the motion to withdraw.

**B. Broadband Investment**

On October 13, 2010, the Board issued an "Order Proposing to Take Official Notice and Requiring Filing," seeking Applicants' response to the Board's questions about the effect in Iowa of a proposed settlement agreement between the Minnesota Department of Commerce and the applicants in a Minnesota proceeding (the Minnesota Stipulation) pursuant to which the Applicants commit to invest \$50 million in broadband infrastructure in Minnesota over a five-year period. In the October 13 order, the Board expressed its concern that Applicants' commitment to make minimum investments in other states could adversely affect the availability of funds for similar investments in Iowa. The Board asked the Applicants to make a filing which either explained why this should not be a concern for the Board or offered binding commitments that respond to the concern.

Applicants filed a response on October 19, 2010. The Board discussed Applicants' response in an "Order Granting Motion to Accept Late Filing, Proposing to Take Official Notice, and Requiring Filing" issued on October 19. Applicants indicated they are committed to broadband investment in Iowa wherever such investment makes economic sense. Applicants stated they will not make commitments in other states that could impair their ability to make necessary broadband infrastructure investments in Iowa. Further, Applicants offered to meet with the Board annually for three years following the merger to "disclose and discuss Applicants' progress in deploying broadband and other advanced services in Iowa."

Applicants contrasted the status of Qwest's broadband investment in Minnesota with Qwest's broadband deployment in Iowa. Applicants noted that 19 Qwest exchanges in Minnesota do not yet have any broadband services, while broadband has been deployed in every Qwest exchange in Iowa since 2006, in return for retail rate deregulation, pursuant to Iowa Code § 476.1D.

In the October 19 order, the Board also noted that on October 15, 2010, an article in the TR State NewsWire about the status of the review of the proposed merger in other states reported that in an interview that day, CenturyLink's vice-president for state government affairs, "said that the company ... is willing to make a similar commitment in Iowa if necessary." The article also quoted the officer as saying that the company would show the Board "that our capital expenditures in Iowa will be significant ... Iowa is an important state and we will demonstrate that Qwest has been investing there." The article noted that CenturyLink agreed to invest \$25 million in broadband in Utah during the next five years, among other commitments. In the October 19 order, the Board proposed to take notice of the TR State NewsWire article pursuant to Iowa Code § 17A.14(4).

The Board concluded that Applicants' October 19<sup>th</sup> response did not provide the Board with any information or commitment that was not already in the record. The Board acknowledged Applicants' offer to meet with the Board following the merger to disclose and discuss the merged company's progress in deploying broadband in Iowa, but explained that such meetings would not be useful without

more specific information from the Applicants about current and planned broadband investment in Iowa to provide a benchmark against which future investments can be measured.

The Board also stated that while Applicants are correct that the broadband landscape in Minnesota is different than Iowa's with respect to unserved exchanges, the Minnesota Stipulation also covers "underserved" exchanges, defined as areas in which Qwest's broadband offering is limited to a speed of 1.5 MB per second or lower. The Board stated that it is likely there are Qwest exchanges in Iowa that would fit in that category and would benefit from a broadband investment commitment.

The Board concluded that the Applicants' response did not fully address the Board's concerns and required Applicants to file another response. The Board directed Applicants to provide, at a minimum, information about what Qwest has already spent to deploy broadband in Iowa and the Applicants' plans for broadband investment in Iowa over the next five years, including in unserved parts of exchanges and underserved areas. The Board also asked Applicants to consider whether they were willing to make a binding commitment to those plans.

Applicants filed a response on October 21, 2010. Applicants stated that to resolve the Board's concerns and affirm the Applicants' commitment to invest in broadband infrastructure in Iowa, they "commit to invest \$25 million in broadband infrastructure in Iowa over a five year period beginning January 1, 2011." Applicants

assert this commitment is comparable and proportional to those made in other states, including Minnesota and Utah. Applicants explained the funds will be used primarily to increase broadband speeds, given that Qwest has already deployed broadband in every Iowa exchange.

The Board discussed Applicants' October 21 response in an "Order Requiring Filing" issued on October 26, 2010. The Board explained that while Applicants had made a specific commitment to broadband investment, they did not provide any information about Qwest's previous broadband investment or any other basis to evaluate the commitment. The Board required Applicants to make another filing providing information about what Qwest has invested in broadband infrastructure in its Iowa exchanges in each of the last five years and an explanation of Applicants' assertion that the Iowa commitment is comparable to commitments made in other states.

Applicants filed the required information on October 29, 2010. Applicants attached to their response an exhibit containing information about what Qwest has spent on broadband infrastructure in its Iowa exchanges in each of the last five years. Applicants filed a separate request for confidential treatment of the information contained in their exhibit. The Board will issue a separate order responding to that request.

Applicants emphasize that the commitment to invest \$25 million in broadband infrastructure in Iowa over the next five years is a "minimum commitment and

guarantee, not a maximum." Applicants restate their position that the merger will improve Applicants' financial position, increasing Applicants' ability to invest in broadband. Applicants also characterize the broadband commitment as an additional concession which would not have been made without the merger proceeding. Based on line counts in other states, Applicants assert that the Iowa commitment is comparable to commitments in other states. Applicants also indicate they are willing to commit that between 15 and 25 percent of the \$25 million commitment would be invested in unserved (an area that has no wireline broadband service) or underserved areas (an area with wireline broadband service download speeds of up to 1.5 Mbps).

**C. OCA Settlement**

In the OCA Settlement, Applicants state that they amend their proposal for reorganization to reflect the following agreed-upon commitments:

1. Notice of closing and integration plans and implementation.

Applicants, or, collectively, the post-merger Company (Company), will notify the Board and Consumer Advocate of the closing of the transaction within ten days of the closing. After the closing, the Company will submit timely reports to the Board at least quarterly, with copies provided to Consumer Advocate, showing integration plans as they are developed and describing the scheduling of systems conversions which may affect Iowa customers, including business office and trouble reporting call centers,

maintenance systems that monitor central office and transport equipment, engineering systems, outside plant record systems, billing systems, and wholesale Operational Support Systems (OSS).

2. Service quality reporting. Applicants state they commit to working with Consumer Advocate and Board staff to develop new service quality reporting formats based on the formats which were developed in the merger proceeding identified as Docket No. SPU-99-27,<sup>3</sup> revised to reflect current circumstances. The purpose of such reports is to enable the Board to monitor whether service quality is preserved as Iowa operations are integrated. The parties state they will strive to develop new reporting formats which are simple, internally consistent, not unreasonably burdensome, relevant, and which support the monitoring of trouble reports, repairs, provisioning, held orders, or other appropriate service quality measures. The parties state that the reporting formats are subject to Board approval after Consumer Advocate comments on the formats. Upon closing of the transaction and for three years after closing, Company will submit quarterly service quality reports with monthly data using the new formats. If the new formats have not been approved by the Board as of the closing of the transaction, the Company will use the format developed after the merger in Docket No. SPU-99-27.

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<sup>3</sup> On March 17, 2000, the Board issued an "Order Approving Settlement and Terminating Docket" in Docket No. SPU-99-27, which involved the proposed merger of Qwest and US West, Inc.

3. Access to records. Applicants agree to make all records equally available to the Board and Consumer Advocate within the State of Iowa. If access to relevant affiliate records is not commercially practical, Applicants agree to reimburse reasonable costs incurred by the Board or Consumer Advocate to access such records outside of Iowa.

4. Charitable contributions. Applicants commit to make charitable contributions in Iowa of at least \$125,000 per year for a period of two years following the closing.

On August 31, 2010, CFU filed comments regarding the OCA Settlement. CFU did not object to any of the commitments made by Applicants as part of the settlement but stated it does not believe the commitments alone sufficiently address intervenors' concerns about the proposed reorganization or warrant the Board's approval of the reorganization. CFU noted that the settlement does not address any of its concerns about the proposed reorganization. CFU stated that the following three additional commitments are necessary to address its concerns about the reorganized entity's willingness to comply with police power requirements with respect to its facilities: (1) the merged company warrants it is able to comply with undergrounding requirements and will devote adequate resources to undergrounding facilities in rights-of-way in Iowa so that, where possible, affected entities, including the merged company, embrace the policy of "dig once"; (2) the merged company's shareholders, not ratepayers or consumers, will bear any additional costs caused by



the merged company's refusal to joint trench or refusal to underground; and (3) the merged company will cooperate with other utilities and service providers in the use of rights-of-way.

At hearing, Consumer Advocate offered an opening statement in support of the OCA Settlement. (Tr. 13-18.) Consumer Advocate stated that after initial difficulties in obtaining details about the expected operational and financial effects of the merger, when it did get the information, it found "no fundamental problems from the perspective of Iowa ratepayers or the Iowa public." (Tr. 14.)

Consumer Advocate identified three factors as important in its analysis of the proposed reorganization: (1) merging with CenturyLink would improve Qwest's financial strength; (2) CenturyLink's extensive history of successful mergers with other telephone companies; and (3) the Board's limited review of the proposed merger (Iowa's reorganization statute allows the Board to review a proposed transaction for possible negative effect on the public, but does not require applicants to prove public benefit, and Iowa has deregulated retail telephone rates). (Tr. 14-15.)

Consumer Advocate acknowledged that merger outcomes are speculative, but stated that its review did not show a likely harm from the merger. (Tr. 16.)

Consumer Advocate also noted that Applicants' inability to conclusively prove that synergies and new service offerings will result from the merger is not a reason to disapprove the transaction. (Tr. 16.) Consumer Advocate explained that the OCA Settlement focuses on its remaining area of concern, e.g., the potential that the scale

and complexity of integrating Qwest into CenturyLink so soon after CenturyLink's acquisition of Embarq<sup>4</sup> will negatively affect service quality in Iowa. (Tr. 16.)

Consumer Advocate stated that the provisions in the OCA Settlement requiring the merged company to notify the Board and Consumer Advocate about conversions affecting consumers and reinstating service quality reporting for a period of three years will give the Board early warning of threats to service quality. (Tr. 17.)

Consumer Advocate noted that while the details of the reporting process have not all been worked out, there will be a role for the Board's staff in developing the reporting formats. (Tr. 17.) Consumer Advocate also mentioned that the number of trouble reports per wire center and how quickly those reports are cleared would be measures subject to the reporting requirements.

Consumer Advocate acknowledged it wants to see the merged company achieve its promise of providing more and faster broadband service and more advanced products in Iowa. Consumer Advocate also identified a concern about Qwest's aging infrastructure in Iowa. However, Consumer Advocate stated that there was no reason to assume necessary investment in infrastructure is less likely if the merger takes place than if it is disapproved; investment in infrastructure may be more likely after the merger owing to the merged company's stronger financial position. (Tr. 18.)

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<sup>4</sup> CenturyLink witness Jeff Glover testified that CenturyLink acquired Embarq on July 1, 2009. (Tr. 110.)

According to Consumer Advocate, the proposed merger's central problem is the risk to service quality, and the OCA Settlement addresses that problem.

Consumer Advocate argues that from the perspective of retail telecommunications consumers in Iowa, the proposed merger is consistent with the public interest and should not be disapproved. (Tr. 18.)

The Board's rule at 199 IAC 7.18 provides, in part, that the Board will not approve a settlement unless it "is reasonable in light of the whole record, consistent with law, and in the public interest." The Board concludes that the OCA Settlement satisfies that standard and will approve the settlement. While the service quality records of Qwest and CenturyLink were not predominant issues in this proceeding, the Board shares some of the concerns identified by Consumer Advocate in its opening statement about the merged company's ability to maintain service quality to Qwest's Iowa customers so soon after CenturyLink's acquisition of Embarq. The OCA Settlement largely alleviates those concerns. The notice and reporting commitments included in the OCA Settlement should give the Board and Consumer Advocate adequate notice of closing, integration plans and their implementation, and system conversions affecting Iowa customers. Further, the three-year commitment to provide service quality reports in a format approved by the Board should help to give the Board sufficient notice of any service quality problems that may develop as a result of the merger. The Board will grant the Applicants' and Consumer Advocate's joint motion to approve the OCA Settlement.

**D. CLEC Settlement**

Applicants, Sprint, PAETEC, Mediacom, Cox, and 360networks joined in the September 28, 2010, amended joint motion for approval of the CLEC Settlement. The motion indicates that LISCO and US Cellular do not object to the settlement and also seek to withdraw their interventions. The parties ask the Board to approve (or not disapprove) the Application consistent with the terms of the OCA Settlement and the terms of the CLEC Settlement, the terms of which provide the following:

- a. Qwest's wholesale OSS will continue for at least 24 months after the merger closes.
- b. Qwest will honor all obligations under existing interconnection agreements and will not change the conditions of any of those agreements for 12 to 36 months depending on the status of the agreement. This provision also addresses the status of agreements in negotiations, opt-in rights, and protection against tariff-based changes.
- c. Qwest will not discontinue the use of the Qwest Performance Assurance Plan (QPAP) for 36 months after the closing date.
- d. Qwest will maintain its current Change Management Process (CMP) for 36 months after the closing date.

e. To the extent any provisions of the Federal Communications Commission's (FCC) order approving the merger are inconsistent with these terms, the FCC's terms will supersede these terms.

The parties state that, to the extent required by law, they will submit for Board approval any amendments to relevant interconnection agreements.

Before the CLEC Settlement was filed, several of the intervening CLECs filed testimony raising concerns about the proposed merger. The CLECs identified several aspects of the merger which the CLECs asserted could negatively affect competitors of the merged company, focusing primarily on concerns about detriment to wholesale services as the companies are merged; uncertainties about which OSS would be used after the merger – Qwest's or CenturyLink's – and the timing of any changes to the OSS; whether the merged company would continue to abide by Qwest's CMP and the QPAP; and the effect of the merger on existing and future interconnection agreements. With respect to the OSS, some of the CLECs expressed a preference for Qwest's fully-automated OSS, which was tested through the Section 271 process.<sup>5</sup> Some of the CLECs reviewed the history and outcome of other mergers in the telecommunications industry, pointing out problems experienced by wholesale carriers affected by those mergers.

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<sup>5</sup> Section 271 of the Telecommunications Act of 1996 includes a checklist of 14 requirements that had to be met by each Bell Operating Company before it could enter the long distance market.

It appears that, to the settling parties, the CLEC Settlement represents a reasonable resolution in this proceeding to the CLECs' most pertinent objections to the proposed merger in light of the circumstances in Iowa. The CLEC Settlement requires that Qwest's OSS remain in place for 24 months after the transaction closes. The settlement also provides that opportunity for discussion will be offered if there are changes to the Qwest OSS. No less than six months' notice will be provided in the event the legacy Qwest OSS is to be retired from use in the current Qwest territories. Affected interconnecting carriers will receive six months' notice before introduction of, change to, or retirement of a CenturyLink OSS. During that notice period, interconnecting carriers will be allowed to test the replacement OSS.

The CLEC Settlement addresses the continuity of the CMP, providing that Qwest will maintain its current CMP for 36 months after the transaction closes. The CLEC Settlement also provides that Qwest will not discontinue the use of the QPAP for 36 months after the transaction closing date. The continuation of the Qwest CMP and QPAP, in their current form and function, for 36 months appears to be acceptable to the intervening CLECs as a means of protecting wholesale carriers from degradation of wholesale service quality.

The CLEC Settlement also puts in place a three-year commitment by the merged company not to seek new tariff rates to establish new wholesale charges for service order processing, directory listings or directory listing storage, nonpublished number charges, local number portability charges, or E911 records transaction or

storage charges. This element of the CLEC Settlement appears to address the concerns of some CLECs that the merged company would impose in Iowa charges and fees CenturyLink has imposed elsewhere and is consistent with the Applicants' position that rates currently charged by Qwest will continue for a reasonable time.

The intervening CLECs also questioned how the proposed merger would affect interconnection agreements between Qwest and interconnecting carriers, including whether existing agreements would continue, whether services provided under existing agreements would continue to be available at the same rates and on the same terms and conditions, and what the merged company's position would be regarding agreements currently being negotiated, i.e., whether an existing interconnection agreement could be used as the basis for negotiating a new agreement. The CLEC Settlement's provision that Qwest Corporation or any successor entity operating in current Qwest territories will honor all obligations under existing interconnection agreements, along with more detailed provisions regarding extension of current agreements and negotiation of successor agreements, appear to be acceptable to the intervening CLECs as a means of resolving their questions in this proceeding about their contractual relationships with the merged entity.

Based upon the fact that the CLECs entered into this agreement, the Board concludes that the CLEC Settlement adequately resolves the CLECs' concerns in this proceeding under Iowa law regarding post-merger operational support for wholesale services and contractual relations with the merged utility. It appears that

the CLEC Settlement will promote some degree of stability in relations between the merged company and its competitors. The Board finds that the CLEC Settlement is reasonable in light of the record in this proceeding and is in the public interest. The Board will grant the joint motion for approval of the CLEC Settlement.

## II. STATUTORY FACTORS

Iowa Code § 476.77(3) lists the following factors that the Board may consider in its review of a proposal for reorganization:

- a. Whether the Board will have reasonable access to books, records, documents, and other information relating to the public utility or any of its affiliates.
- b. Whether the public utility's ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure, is impaired.
- c. Whether the ability of the public utility to provide safe, reasonable, and adequate service is impaired.
- d. Whether ratepayers are detrimentally affected.
- e. Whether the public interest is detrimentally affected.

In previous reorganization proceedings, the Board has stated that these standards for review indicate that some of the important issues for the Board's consideration are the effect of the reorganization on the utility's ability to attract capital, on the utility's ratepayers, and on the public interest generally. (See, for example, *In re: GTE Midwest Incorporated and Iowa Telecommunications Services, Inc.*, Docket No. SPU-99-29, "Order Terminating Docket, Granting Waiver,



Designating as Eligible Telecommunications Carrier, and Permitting Adoption of Price Plan," April 13, 2000.) The Board will discuss each of these factors separately.

### **Access to Books and Records**

CenturyLink testified that the Board will have reasonable access to books, records, documents, and other information relating to Qwest and CenturyLink Iowa regulated entities and any affiliates. (Tr. 103.) The books and records of the merged company will be located at CenturyLink's headquarters in Monroe, Louisiana. Any records required by the Board's rules will be maintained in Des Moines and will be available to the Board for examination during normal business hours. Applicants testified they will seek the Board's authorization before any transfer of such records out of Iowa. (Applicants' Post-hearing Brief, p. 3; Tr. 120-21.)

No intervenor testified on this topic. However, the OCA Settlement addresses the question of Board and Consumer Advocate access to the books and records of the merged company, stating in Section C of the agreement that

Applicants agree to make all records equally available to both the Board and the OCA pursuant to IAC 199-31.2 within the State of Iowa. If access to relevant records of affiliates in Iowa is not commercially practical, Applicants agree to reimburse any reasonable costs incurred by the OCA or the Board and its employees or contractors in accessing such records outside the State.

At hearing, Applicants clarified how requests for access to out-of-state corporate records would be handled. (Tr. 265-66.)

There is no requirement that the merged company's books and records be maintained within Iowa as long as the company provides access to them. Applicants appear to have met the requirements of Iowa Code § 476.77(3)"a." Applicants' testimony and the OCA Settlement support the Board's conclusion that it will continue to have reasonable access to the books and records of the public utility and its affiliates.

### **Ability to Attract Capital**

Applicants assert that the merged company's expected ability to attract capital on reasonable terms is a key advantage of this transaction. Applicants explain that the transaction will create no new debt since it is an all-stock transaction and there will be increased financial resources after the merger to use for debt reduction and ongoing capital investment. CenturyLink witness Glover testified that the merged company will have solid coverage ratios, sufficient liquidity, and a manageable debt maturity schedule, all of which support investment grade characteristics. (Tr. 99-100.) Mr. Glover also testified that the "combined company's balance sheet will be stronger than Qwest's balance sheet on a standalone basis." (Tr. 113.) Also, it is forecasted there will be \$3.4 billion in free cash flow before synergies. After accounting for synergies, free cash flow is projected to be \$3.8 billion. According to CenturyLink, rating agencies view the merger favorably and since the announcement regarding the proposed merger, stock prices have been increasing. (Tr. 273-76.)

As indicated in its opening statement at hearing, Consumer Advocate believes that Qwest will be financially stronger after the merger since its higher debt levels will be blended with CenturyLink's lower debt levels. (Tr. 14.) This expectation is supported by the fact that financial rating agencies have placed Qwest on a credit watch with a potential upgrade in its credit ratings because of the proposed merger. Although the merged CenturyLink will be financially weaker than it would be on a standalone basis, there are many more Iowa Qwest customers than Iowa CenturyLink customers; thus, Consumer Advocate concludes that Iowa will be better off after Qwest's resources are merged with CenturyLink's. (Tr. 14.)

This factor highlights many of the positive aspects of the proposed reorganization in Iowa. Historically, Qwest has had a significant amount of debt in its capital structure. In recent years it has been Qwest's intention to reduce its debt levels. As of first quarter 2010, the debt level has been reduced by \$1.5 billion and by first quarter of 2011 Qwest plans to reduce its debt by \$3.5 billion. According to CenturyLink witness Glover, this merger will help with this debt reduction program. (Tr. 114.)

The evidence in this proceeding supports a conclusion that Qwest will be better off financially after the merger than on a standalone basis. After the proposed merger was announced, the credit rating agencies placed Qwest on a credit watch with positive implications. Currently Qwest has a non-investment grade rating of Ba2

and BB by Moody's and Standard & Poor's, respectively, while CenturyLink has an investment grade credit rating by all major credit rating agencies. (Tr. 115.)

The testimony and exhibits that CenturyLink witness Glover filed on July 7, 2010, show that Qwest's debt-to-total capital will improve significantly after the merger. As of March 31, 2010, Qwest's balance sheet included about \$11.5 billion in debt and approximately \$1.1 billion in shareholders' deficit. Looking at the pro forma combined data, the total long-term debt of the combined company is projected to be \$19.5 billion while the shareholders' equity will be approximately \$20 billion. According to the Board's calculations, this is equivalent to a 49.47 percent debt ratio. Therefore, it is reasonable to anticipate that Qwest's financial risk will be reduced after the merger. Further, the financial metric used by credit rating agencies of net debt-to-earnings before interest, taxes, depreciation, and amortization (EBITDA) will improve for Qwest. It will go from 2.7 times net debt-to-EBITDA to 2.4 times. (Tr. 273.)

The Board concludes that the merged company will maintain the ability to attract capital on reasonable terms. The merged company is expected to have among the strongest balance sheets in the industry and its pro forma net debt-to-EBITDA ratio compares favorably to other major ILECs in the industry. Applicants testified that the merger is forecasted to result in \$625 million in annual synergies and that they expect to have \$2.1 billion in cash flow (after accounting for costs to run the business and for synergies) to reduce debt and invest in the business. The merged

company's pro forma dividend payout ratio of 45.1 percent will be conservative compared to the industry. Further, although the rating agencies will not determine final ratings of the combined company until after the transaction closes, it should have financial ratios and metrics consistent with those of investment-grade rated telecommunications companies. (Tr. 107-08, 112-14, 117.)

CenturyLink testified that in the event its credit rating suffers as a result of the merger, its management is committed to regaining an investment grade rating. (Tr. 115-16.) The company's testimony demonstrates how CenturyLink's debt level increased in previous acquisitions and then was reduced over time. For instance, between the time period 1997 and 2007, the debt-to-total capital went from 67 percent to 47 percent. (Tr. 110-11.)

The Board finds additional support for its conclusion that the merger will not impair the utility's ability to attract capital on reasonable terms in statements by the credit rating agencies and a Merrill Lynch report. According to Merrill Lynch, as CenturyLink becomes the third largest wireline company in the United States, it will benefit from negotiating clout and cost synergies. (Exhibit JG-3, p. 3.) In analyzing the effects of the merger, Moody's stated that

if realized, the synergies from the merger could offset the expected decline in cash flows over the rating horizon caused by access-line erosion and slowing broadband growth. In addition, enhanced operating scale and strong free cash flow generation affords the Company the ability to spend capital to improve its competitive position and develop product offerings, such as wireless services and IPTV.

(Application Exhibit E, Part 2, citing Moody's, April 23, 2010.)

Moody's also stated that while

the acquisition of Qwest significantly increases CenturyTel's exposure to more competitive urban/suburban markets (about 80% of Qwest's access lines are in five metropolitan markets), the enhanced scale of the Company, combined with the addition of Qwest's national state-of-the-art fiber optic network, is expected to generate meaningful expense and capital efficiencies, especially those related to transport costs, network expansion and new product development. The new company should be able to capitalize on growth in enterprise services revenues, especially as the economy rebounds and given Qwest's selection as one of three carriers competing for the U.S. Government's Network contract. The combined company is expected to generate significant free cash flow, especially after anticipated synergies. The rating also reflects CenturyTel management's commitment to an investment grade rating and its historically balanced use of free cash flow between debt reduction and shareholder returns.

(Application Exhibit E, Part 2, citing Moody's, April 23, 2010.)

Considering the testimony regarding the availability of \$2.1 billion of free cash flow after synergies for use in reducing debt and investing in the system, the Board concludes that Qwest's financial health is likely to improve after the merger.

Regarding the effects of the merger on CenturyLink, the Board relies on CenturyLink's testimony that if there is a split rating where one or more agencies downgrades CenturyLink's rating, management has a history of reducing debt levels after an acquisition and a strong commitment to returning to an investment grade

rating. The Board concludes that the proposed reorganization will not impair Qwest's ability to attract capital on reasonable terms.

**Safe, Reasonable, and Adequate Service**

CenturyLink testified it has demonstrated it is able to acquire and successfully integrate companies by combining operational systems and practices, while continuing to provide high quality service to customers. According to CenturyLink, its phased billing system conversion has enabled the recently-acquired Embarq customers to convert to CenturyLink's state-of-the art customer service and billing system with no degradation of the customer experience. CenturyLink also states the transaction with Qwest will enable it to continue to provide high quality service to rural and urban areas of Iowa while enhancing its managerial and technical capabilities. (Application p. 17.)

Approximately ten years ago, CenturyLink invested \$250 million in a new system to upgrade CenturyLink's financial and billing systems. (Tr. 92, 284.) CenturyLink contends its conversion of Embarq's customers has been successful. When problems have occurred, they have been addressed quickly. (Tr. 277-80.) CenturyLink's conversion for Iowa would not commence until the five Embarq conversions and several other Qwest state conversions are completed. CenturyLink stated it has learned from each conversion and the process has improved each time it transitions to the new system. (Tr. 281.)

Qwest has 1,592 employees in Iowa, while CenturyLink employs only six in Iowa. (Tr. 33.) Qwest has two call centers in Iowa, employing approximately 200 to 250 people in Sioux City and approximately 200 to 250 people in Des Moines. (Tr. 244.) While CenturyLink presently uses nationwide call centers, its long-term objective is to use more neighborhood call centers. (Tr. 303-04.)

With respect to the effect of the merger on Qwest jobs in Iowa and whether any job losses resulting from the merger will affect the merged company's ability to provide safe, reasonable, and adequate service, Qwest testified the merger is expected to generate synergies, "including the reduction in corporate overhead, elimination of duplicate functions and other operational efficiencies. There will likely be job reductions in the company as a whole, although it is too early to determine where or how many." (Tr. 31.) Qwest witness Phillips testified at hearing that the reorganization in Iowa is different than in other states where there is a larger corporate staff presence, noting that the "majority of jobs in Iowa are customer-facing, and to the extent those customers are still there, I'm pretty confident that those jobs will be there to help serve the needs of those customers." (Tr. 248-49.) Phillips emphasized that in Iowa, Qwest does not "have any large staff functions. It is mostly customer-facing jobs." (Tr. 252.)

CenturyLink stated it is difficult to assess synergies on a state-by-state basis but noted that a lot of the synergies are derived from "putting long distance and off-net traffic on net." (Tr. 253.) CenturyLink testified it was too early to assess whether



changes would be made to Qwest's current staffing levels for customer service operations in Iowa. (Tr. 295-96.) CenturyLink emphasized that customer service is "one of the key building blocks" of its organization and employees will still be needed to provide that service. (Tr. 295.) CenturyLink testified that until it gets a better idea of the growth of the business and where line losses will be and what might be done to change trends, there are no plans to change the number of technicians currently employed by Qwest in Iowa. (Tr. 295.)

Testimony from CenturyLink demonstrates that in previous mergers, the company has taken an active approach to resolving potential problems when converting customers to the merged operations. The process for converting Iowa customers would not be immediate, but would take place after remaining Embargo conversions are completed and after several other Qwest state conversions are completed. It is worth noting that Consumer Advocate's concerns about how CenturyLink integrates the customers of companies it acquires and about how the merger will affect service quality appear to have been resolved through the OCA Settlement. As the Board explained in its earlier discussion regarding the OCA Settlement, the service quality reporting requirement is expected to provide protection against degradation of service quality for Qwest's Iowa customers.

It also appears that any job losses that would result from the merger would be tied to eliminating duplicative positions, most of which appear at this time to be at the corporate level. Thus, the job losses that can be reasonably expected as resulting

from the merger are not likely to directly affect the provision of safe, reasonable, and adequate service to Iowa customers.

One potentially positive feature of the reorganization as it affects the provision of safe, reasonable, and adequate service is the stated plan of CenturyLink to use more neighborhood call centers as opposed to nationwide call centers. (Tr. 304.) Since there are no CenturyLink call centers in Iowa, and because customer service appears to be important to CenturyLink's operational plan, it is reasonable to expect that CenturyLink would not make immediate staffing reductions in the Iowa call centers.

Qwest's recent service quality record was not made an issue in this proceeding. Any specific concerns Consumer Advocate might have had about Qwest's record and whether quality of service would erode as a result of the merger (as may have been evident in discovery requests) appear to have been resolved in the settlement process, and thus are not a factor for the Board to weigh in its decision on the proposed merger.

In assessing the ability of the merged company to provide safe, adequate, and reasonable service, the Board relies on Consumer Advocate's statement that while it was initially "skeptical about the ability of CenturyLink to integrate the management processes and complex business support systems of Qwest without negative impacts on customer service" its concerns are "allayed in part by the apparently long history of CenturyLink mergers with other telephone companies. . . . We looked for

evidence of integration problems from the Embarq combination, but found none."

(Tr. 14-15.) Consumer Advocate appears to endorse the "slow and methodical pace at which CenturyLink is absorbing and integrating its acquired Embarq operations."

(Tr. 15.)

Based on those assurances and the integration and service quality reporting provisions in the OCA Settlement, the Board concludes that the proposed merger will not negatively affect the provision of safe, reasonable, and adequate service to Iowa customers. The Board notes that CFU has objected to the proposed merger for reasons that could be described as relating to the ability of the merged company to provide safe, reasonable, and adequate service. The Board will address CFU's objections in its discussion of the public interest.

### **Ratepayer Interest**

Applicants stated that upon completion of the transaction, all corporate entities affected by the merger will remain subject to the same price regulation structure, service quality and performance obligations, tariffing requirements, and other applicable Board orders, rules, and regulations as they are now. Applicants also stated that there will be no change in services or rates as a result of the transaction, and the affected companies will continue to provide local exchange service and to offer long distance service subject to the same rules, regulations, and applicable tariffs or price lists as they do now. Likewise, Applicants explained that the terms and prices for existing wholesale services under existing access tariffs will be unchanged

and the merger will have no effect on the terms of any existing interconnection agreements or on any obligations under the laws governing interconnection.

(Application pp. 13-14.)

Qwest witness Phillips stated that the transaction will be transparent to customers and all of Qwest's current regulatory and customer obligations will be met on a going-forward basis. (Tr. 26.) Mr. Phillips also stated that the post-merger company will provide services to retail customers in Iowa under the same tariffs, catalogs, and rate schedules as Qwest provided those services prior to the merger. (Tr. 32.)

Mr. Phillips also testified that the merger would not affect Qwest's wholesale agreements with other carriers. All prices, terms, and conditions of the agreements will remain in effect until such time as they are renegotiated or expire by their own terms. CLECs and interexchange carriers will continue to receive wholesale services from the post-merger company at the rates, terms, and conditions that are contained in current interconnection agreements and applicable tariffs. (Tr. 32.)

According to Qwest, the merger will allow the combined entity to better compete nationally with the larger, well-capitalized players in the market such as AT&T, Verizon, and Comcast, and locally in the Iowa market against Mediacom and others. The improved competitive positioning benefits customers by giving them more choices for their communication needs. (Tr. 49.)

CenturyLink's position is that it will be able to acquire and integrate Qwest's operations without harming customers and that the transaction will be virtually seamless to Qwest and CenturyLink Iowa customers. (Tr. 109.) CenturyLink states that immediately after the transaction, customers will continue to receive the same full range of high quality products and services at the same rates and terms and under the same conditions as they did immediately before the close of the transaction. Any subsequent service, term, or price changes will be made, just as they are now, in accordance with applicable rules and laws, including required notices. (Tr. 75-76.)

CenturyLink explained its operational model is focused on equipping and empowering employees at the local level to meet the needs of customers in their respective markets. According to CenturyLink, its management team has proven itself capable of acquiring, integrating, and improving levels of customer service following a transaction. In previous acquisitions or mergers, the company has been able to improve the range of services offered to customers and to slow the loss of access lines. (Tr. 109-10.) CenturyLink witness Ring testified that upon the completion of the Embarq transaction, CenturyLink implemented its proven "go-to-market" service delivery model, which included five regions and 22 market clusters in 33 states where the company operates. Under that model, a regional president oversees each of the five regions, and a general manager and various operational managers are assigned to each of the market clusters. The model involves a more

decentralized local structure, with a leaner and more efficient central corporate operation. According to Applicants, placement of a significant percentage of leadership in the field creates a clear local focus, which drives operations and places service decision-making closer to the customer. CenturyLink asserts this organizational structure, together with CenturyLink's integrated retail customer care and billing systems, promotes more accountability to the customer. CenturyLink anticipates that this service delivery model will be incorporated into areas of Qwest's operational structure upon completion of the transaction and after an evaluation of Qwest's structure. (Tr. 93-94.)

According to CenturyLink, the key benefit of the transaction will come from building on each company's operational and network strengths to result in a company with a national presence with local depth. The combination creates a company that will be well-positioned to lead deployment of advanced services as well as successfully manage the challenging and rapidly changing telecommunications environment. (Tr. 95-96.)

In their post-hearing brief, Applicants assert the merger will have no detrimental impact on ratepayers. Applicants state they are not seeking any rate increases in connection with the proposed transaction. (Applicants' Post-hearing Brief, p. 5.) Applicants also argue that the OCA Settlement assures that the Board will have the ability to monitor and address service quality problems should they arise post-merger, giving an additional layer of protection for ratepayers. With respect to

the CLEC Settlement, the Applicants contend that agreement resolves the issues and concerns raised by wholesale ratepayers and assures the Board that the merger will not adversely impact wholesale ratepayers. (Applicants' Post-hearing Brief, pp. 5-6.)

In response to a question at hearing about whether the Board should be concerned about the possibility of Qwest's intrastate rates increasing, CenturyLink testified that there are no plans to change any of the rates in the state for carriers or for customers. (Tr. 246.)

Consumer Advocate's perspective on how the merger might affect service quality has already been discussed. With respect to the merger's effect on ratepayers more generally, Consumer Advocate stated that once it obtained the detailed information needed to understand and evaluate the expected operational and financial impacts of the proposed merger, recognizing that future outcomes of proposed mergers are impossible to predict with accuracy, it found no fundamental problems from the perspective of Iowa ratepayers for the Iowa public. (Tr. 13-14.)

The Board has reviewed the testimony from the Applicants regarding the effect of the proposed reorganization on ratepayers. Applicants have testified that no rate increases are planned, that existing tariffs will remain in place, that wholesale agreements will remain in effect, and retail customers will continue to have a choice of competing service providers, among other things. In light of that testimony, and the commitments made in both the OCA Settlement and the CLEC Settlement, the

Board concludes that ratepayers will not be detrimentally affected as a result of the merger.

## **PUBLIC INTEREST**

### **A. Applicants' position**

Generally, Applicants maintain that the merger satisfies the requirement that the merger not be detrimental to the public interest. Applicants offer a wide-ranging list of reasons for how the merger will favorably affect the public interest. Under this factor, they state that service to customers will be unchanged and retail end user and wholesale customers will continue to receive service from the same carrier. The post-merger regulated companies will continue to comply with existing regulatory requirements in Iowa. The post-merger company will honor all existing collective bargaining agreements for the duration of those agreements. (Tr. 30-32.)

Service will continue under the existing tariffs, catalogs, and rate schedules. Any price changes will follow the existing procedures for modifying retail rates. Regarding existing wholesale agreements, Applicants contend that there will be no impact. All prices, terms, and conditions will remain in effect until they expire or are renegotiated. Qwest's Iowa access tariff will remain in effect. (Tr. 31-33.)

Applicants assert that the reorganization will result in economies of scale and scope. The merged company should benefit from greater purchasing power. The two networks are complementary in Iowa, as Qwest serves many of the larger urban areas while CenturyLink serves a small, rural portion of northeast Iowa. The



combined company will be financially stronger and more stable than either company on its own. Because of the increased size and scope of the combined company, there will be a more strategic focus on offering a full portfolio of quality, advanced communications services. The merger of CenturyLink's regional operating model and targeted marketing focus with Qwest's network and position in the business, government, and wholesale markets will make the market in Iowa more competitive. (Tr. 33-36.)

According to Applicants, because the networks are generally adjacent to or in close proximity to each other, the merged company should be able to readily implement operating efficiencies and infrastructure improvements. Network capacity will be optimized allowing for the deployment of additional bandwidth-intensive services. Partnering with satellite TV and wireless providers will become easier. The combined company's footprint will be more balanced between urban and rural. (Tr. 35-36.)

Applicants contend that the combined company will have an enhanced ability to compete in the national telecommunications market because of its larger size and improved access to financial resources. The merged company will be better able to adapt to market changes and compete with other large national providers such as AT&T and Verizon, intramodal and intermodal competitors within Iowa, cable companies, and wireless companies. (Tr. 37-46.) Further, the level of competition

within Iowa will not be reduced as the service area boundaries of the two companies do not overlap in Iowa. (Tr. 38.)

Applicants raised the issue of broadband deployment as a factor, asserting that the merged company will be positioned to continue the deployment of broadband in Iowa. (Application, p. 10; Tr. 39-43.) Applicants claim that the reorganization will allow for broadband at higher speeds for more customers. There will be more advanced services brought to the rural areas that are in CenturyLink's market. (Tr. 46-47.) CenturyLink testified it has expanded its fiber network to connect markets in the western United States to the East coast. It has deployed IPTV in former Embarq markets and is moving forward to set up IPTV in other locations. CenturyLink also continues to deploy broadband and increase broadband speeds in unserved areas. CenturyLink has introduced new products such as "Pure" DSL and "triple play" in the former Embarq markets that were not a significant focus for the former Embarq. (Tr. 92-93.) CenturyLink notes it has expanded DSL in small towns previously served by Embarq. (Tr. 298.)

Applicants contend that business customers will benefit from the combination of Qwest's national fiber-optic network and data centers with CenturyLink's core fiber network. The additional financial resources will allow the merged company to continue to serve the wholesale market as valued customers. (Tr. 46-48.)

CenturyLink testified it has grown in part due to a number of acquisitions. According to CenturyLink, integration efforts after each transaction have been

successful and were completed within established parameters and time frames. The company's key goal is to minimize customer confusion and disruptions. (Tr. 89-91.)

CenturyLink explains that it will implement its "go-to-market" concept across the Qwest service territories. This concept promotes a more decentralized local structure with company leadership being in the field and where decisions are made closer to the customer. Customer service call centers will be matched with the regions. CenturyLink suggests this approach will work well in both urban and rural areas. (Tr. 93-95.) CenturyLink claims its management team has been stable for more than a decade and has seen many acquisitions while still improving levels of customer service. (Tr. 109-10.)

**B. Consumer Advocate's position**

Consumer Advocate stated it found no fundamental problems from the perspective of Iowa ratepayers or the Iowa public. As already discussed in this order, Consumer Advocate noted three factors which stood out in its analysis of the effect of the merger on ratepayers and the public. First, the financial condition of the combined company will be stronger than the stand-alone Qwest. (Tr. 14.) Second, Consumer Advocate did not find any evidence of integration problems in the Embarq acquisition. (Tr. 14-15.) And third, while acknowledging that merger outcomes are speculative, Consumer Advocate stated its review of the proposed reorganization did not reveal any expected public detriment. (Tr. 15-16.) Consumer Advocate's remaining concern about the ability of CenturyLink to successfully integrate Qwest so

soon after the Embarq acquisition was addressed by the OCA Settlement's reporting requirements. Consumer Advocate concluded that the proposed merger should be approved as being consistent with the public interest from the perspective of Iowa retail telecommunications customers in Iowa. (Tr. 16-18.)

**C. Cedar Falls Utilities' intervention**

CFU's participation in this proceeding was based on its recent experience with Qwest in joint trenching and undergrounding initiatives, pursuant to which CFU has sought to cooperate with other utilities and bury utility facilities underground. CFU explained that its experience with several recent severe weather events led it to conclude that placing utility facilities underground would improve safety and reliability of service. CFU asserts that costs will be minimized if other utilities cooperate in this endeavor. (Tr. 352-56.)

According to CFU, it previously had a cooperative relationship with Qwest regarding the joint use of poles and joint trenching and that relationship reduced the costs to CFU and other participating utilities, increased public safety, was less disruptive to customers and the utility, and allowed for fair and efficient competition. (Tr. 356-57, 366-72.) Now, however, CFU asserts that Qwest is uncooperative regarding undergrounding initiatives. Qwest opposed a draft undergrounding ordinance proposed by the City of Cedar Falls in October 2009. Qwest terminated the parties' Joint Trenching Agreement in February of 2010, effective 365 days later. Qwest has also refused to joint trench with CFU in some areas. (Tr. 358-59.)

According to CFU, it is harmed by Qwest's refusal to joint trench. There are increased costs to the utility, to the taxpayers in maintaining right-of-way, and to homeowners who would have easements for both overhead and underground systems. (Tr. 359-60.) CFU further claims that public safety is affected by Qwest's refusal to joint trench. Communications could be affected in future emergency situations. The costs normally covered by Qwest in the joint trenching projects will now be borne by ratepayers and the general public. Qwest's costs would also increase if it trenches in the future. (Tr. 360-61.) CFU testified at hearing that a "dig once" policy is a good thing for consumers because it allows four conduits to go in a trench at one time, saving time and money. (Tr. 367.) CFU testified that the City of Cedar Falls undergrounding ordinance was adopted on September 13, 2010. (Tr. 362.)

In its post-hearing brief, CFU indicates it does not object to any of the settlement agreements filed in this case, but requests that three additional commitments be required of the Applicants. According to CFU, imposing the following three conditions on the merger will help to ensure the provision of safe, reasonable, and adequate service and will promote the public interest:

1. The merged company warrants that it is able to comply with undergrounding requirements, and agrees to devote adequate resources to undergrounding facilities in rights-of-way in Iowa.
2. That merged company's shareholders, and not ratepayers or consumers, will bear any additional costs

caused by the merged company's refusal to joint trench, or its refusal to underground; and

3. That the merged company shall cooperate with other utilities and service providers in use of the rights-of-way.

(CFU Post-hearing brief, p. 3.)

CFU disputes the three main legal arguments raised by the Applicants in prior filings to oppose CFU's intervention and proposed conditions. In response to Applicants' argument that CFU is attempting to have the Board take action that would contravene the lower court decision in *City of Okoboji v. US West, Inc.*<sup>6</sup>, CFU argues that *Okoboji* found that cities had a right to order undergrounding, and that an ordinance requiring undergrounding was not preempted by either federal or state law. CFU does not ask the Board to require the reorganized entity to comply with ordinances which are unlawful, but argues it is important to ensure that the company can comply with requirements that may be imposed on it under Iowa law. (CFU Post-hearing brief, p. 4.)

Second, Applicants have argued that the Board and the Iowa Supreme Court have already rejected the second proposed condition, relying on *City of Coralville v. Iowa Utilities Board.*<sup>7</sup> CFU's position is that *Coralville* suggests that matters pertaining to recovery of costs through rates can be addressed by the Board, and CFU's witness provides support for doing so in the context of a reorganization. (CFU Post-hearing brief, p. 5.)

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<sup>6</sup> *City of Okoboji v. US West, Inc.*, Case No. 03301 LACV020548 (Dickinson), Nov. 14, 2001.

<sup>7</sup> *City of Coralville v. Iowa Utilities Board*, 750 N.W.2d 523 (Iowa 2008).

Finally, CFU notes that Applicants have argued that the Board lacks jurisdiction to impose the conditions CFU requests because the Board does not regulate pole attachments. CFU states that its requested conditions relate more to "dig once policies," an area in which the Board has expressed an interest in the Board's Notice of Inquiry regarding the National Broadband Plan, Docket No. NOI-2010-0002. (CFU Post-hearing brief, p. 5.)

CFU argues that its testimony shows that Qwest's actions would increase costs to both Qwest and its competitors, reduce competition, and create reliability issues, all of which go directly to the factors the Board should consider in connection with the proposed reorganization.

Applicants first resisted CFU's intervention and later resisted the admission of CFU's testimony, stating that the underground trenching issue raised by CFU is a dispute between Qwest and CFU in the city of Cedar Falls and is not relevant to this merger proceeding. Qwest witness Phillips states the Board should not address any disagreement that may exist between CFU and Qwest. The issue of underground trenching is not relevant to this type of proceeding. (Tr. 67-68.)

During the hearing, the Board asked Qwest witness Phillips about Qwest's position on burying its facilities. Mr. Phillips responded that when it makes sense to do so, Qwest participates with other utilities in joint trenching, but that Qwest does not have a strategy that all facilities should be, or need to be, underground. Phillips

further explained that Qwest believes it to be a detriment to both the corporation and ratepayers to arbitrarily bury all overhead facilities. (Tr. 260.)

Also during the hearing, the Board asked CenturyLink witnesses about that company's position regarding burying facilities and joint trenching policies and practices. CenturyLink witness Ring stated that CenturyLink has voluntarily agreed to joint trench in most of the states in which it operates, when it makes sense economically. Ring also testified that where there are ordinances requiring underground burying, CenturyLink will comply with the law. (Tr. 286.)

In their post-hearing brief, Applicants argue that CFU's concerns relate to issues between Qwest and CFU that arose before and independently of the merger. Applicants assert that CFU's testimony confirms that Qwest opposed the draft undergrounding ordinance and terminated the Joint Trenching Agreement with CFU months before the proposed merger was announced. (Applicants' Post-hearing Brief, p. 7.) Applicants assert that CFU has failed to demonstrate that the merger will have a detrimental effect on the public interest. Instead, Applicants argue that CFU asks the Board to settle a contract dispute, which is inappropriate in connection with an application for reorganization. CFU's concerns regarding undergrounding and joint trenching have been and will be resolved through municipal ordinances, court litigation as in the *City of Okoboji* and the *City of Coralville* cases, or legislation. (Applicants' Post-hearing Brief, pp. 9-10.)



CenturyLink confirmed at hearing that it has and will continue to cooperate with other utilities and service providers to the extent required by law and by the Board's rules and orders in matters of the use of right of way. (Tr. 286-88.)

**D. Discussion**

Iowa Code § 476.77(1) provides that a reorganization shall not take place if the Board disapproves. Section 476.77(1) also requires applicants proposing a reorganization to file supporting testimony and evidence to establish that the proposed reorganization is not contrary to the interests of the utility's ratepayers and the public interest. The Board's rules at 199 IAC 32.4(4)"c" require applicants proposing a reorganization to provide an analysis of the effect of the reorganization on the public interest, defined as "the interest of the public at large, separate and distinct from the interest of the public utility's ratepayers." The rule also requires the analysis of the effect on the public interest to "include a discussion of the reorganization's impact on the economy of the state and the communities where the utility is located."

In previous decisions involving proposed reorganizations, the Board has explained that when it examines the public interest, it looks at issues which are broader than the interest of ratepayers alone and considers the impact of the reorganization on the state and its citizens. For example, when the Board considered Interstate Power and Light Company's proposed sale of its interest in the Duane Arnold Energy Center in Docket No. SPU-05-15, the Board noted that it "is often

difficult to separate ratepayer from the broader public interest.”<sup>8</sup> In that case, the Board considered the economic benefits associated with the plant, the effect on the workforce, and annual spending in the region resulting from the plant’s presence, among other factors in its examination of whether the sale would detrimentally affect the public interest.

In a case where the Board evaluated MidAmerican Energy Company’s proposal to become a transmission-owning member of a regional transmission organization, the Board explained that the Board considers the impact of a proposed reorganization on the state as a whole and noted that ratepayer interest and public interest arguments overlap and arguments related to ratepayer interest also often affect the public interest.<sup>9</sup>

In the recent proceeding in which the Board reviewed the proposed merger of Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom, and Windstream Corporation, Docket No. SPU-2009-0010, the applicants argued that the reorganization was in the public interest because the acquiring company would maintain a strong local presence in the service area, no changes would be made that would impair customer service, a call center in Newton would be expanded, and economies of scale achieved by the merger would allow for further broadband deployment. In concluding that that public interest would not be detrimentally

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<sup>8</sup> *In Re: Interstate Power and Light Company and FPL Energy Duane Arnold, LLC*, Docket No. SPU-05-15, “Order,” issued November 30, 2005, p. 46.

<sup>9</sup> *In Re: MidAmerican Energy Company*, Docket No. SPU-2009-0003, “Order Terminating Docket,” issued July 27, 2009, p. 11.

affected by the proposed reorganization, the Board acknowledged there were some unknowns about the merger, including the exact number of employees who would lose their jobs, but found there were other factors mitigating against those unknown outcomes:

The Board sees Windstream's plans for severance packages, the potential for expanding the Iowa Telecom call center, and Iowa Telecom's continued efforts to secure federal funding for broadband infrastructure projects as factors mitigating against those unknowns. Further, the Board agrees with Applicants that positive outcomes from the reorganization are likely. Increased economies of scale may make Iowa Telecom more financially stable. Customers can anticipate more product offerings, stable prices, and maintenance of service quality standards.<sup>10</sup>

As explained in these prior decisions, the public interest factor is a broad standard which overlaps into the other four statutory factors that the Board may consider when evaluating a proposed reorganization. Clearly, the public interest factor reaches issues that may not fall within the Board's traditional regulatory focus.

In considering whether the public interest would be detrimentally affected by this merger, the Board has reviewed testimony from the Applicants, Consumer Advocate, and CFU on a wide range of issues, along with the two settlement agreements. In their prefiled direct testimony, the CLECs raised several public interest concerns relating to their interest as competitors of the merged company. In

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<sup>10</sup> *In Re: Windstream Corporation and Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom*, Docket No. SPU-2009-0006, "Order Canceling Hearing and Terminating Docket," issued April 30, 2010, p. 25.

light of the commitments made in the CLEC Settlement, and because the CLECs now seek to withdraw from the proceeding, it appears that the CLECs are satisfied with the resolution of any wholesale issues that arguably affect the public interest, at least with respect to this proceeding.

With respect to whether the merger would detrimentally affect the public interest when considered from the perspective of consumers, the Board concludes that the OCA Settlement adequately resolves any of its concerns about the possible negative effects of the merger on service quality. The OCA Settlement should give the Board notice of milestones associated with the merger and the integration of the two companies and a role in determining the service quality issues to be addressed in the service quality reports. The reporting requirement will be in place long enough for the Board to monitor the effect of the merger on service quality. Applicants' commitments in the OCA Settlement support Applicants' assertion that they are careful and methodical when integrating systems to minimize errors, disruption, and confusion to customers.

After the merger, retail customers will receive the same full range of products and services at the same prices, terms, and conditions. Customers of the merged company's rural service territories may expect to see more advanced services. (Tr. 46.) Qwest's Iowa access tariff will remain in effect. (Tr. 31-33.) CenturyLink has no plans to change any of the rates in the state for carriers or customers. (Tr. 245-46.)

It is reasonable to expect that the combined entity can achieve greater economies of scale and scope than the two companies operating independently. (Tr. 33-37.) With respect to the synergies associated with the merger, CenturyLink explained at hearing that many of the synergies will result from putting "off-net" traffic in the legacy CenturyLink markets onto the Qwest long-haul network. (Tr. 252-53.) The Board anticipates that this will mean that, when possible, off-net traffic (broadband and long distance) for both CenturyLink and Qwest will be placed on either CenturyLink's or Qwest's legacy facilities in each other's service areas to reduce or eliminate costs associated with purchasing transport functions from other unaffiliated carriers.

The Board also anticipates that the application of CenturyLink's go-to-market model in Iowa will benefit Iowa customers. This approach appears to allow the local market to be responsive to deployment of products, services, marketing, and investment decisions. CenturyLink has received positive responses in former Embarq markets for deploying broadband services in areas that were unserved and underserved.

The Board's rules at 199 IAC 32.4(4)"c" require the analysis of the effect on the public interest to include the impact of the reorganization on the economy of the state and communities where the utility is located. Potential job loss due to a reorganization plays a large role in analyzing the impact on the state's economy. The Applicants did not give specific information regarding how many employees will be

affected by job cuts and there was no specific reference to severance packages that would be offered. However, Qwest stated that "both companies have a culture of treating employees fairly, and this will be the culture of the combined company." (Tr. 31.)

At the hearing, the Board asked how many persons are currently employed in the Qwest call centers in Sioux City and Des Moines. Mr. Phillips stated that overall, Qwest has approximately 1,600 employees in Iowa and that there are 400 to 500 employees total in those two consumer call centers. The Board also asked whether the Applicants had any insight as to whether the existing reduction of labor forces will accelerate as a result of the merger. According to Qwest, Iowa is different than in other states where Qwest has a larger corporate staff presence. Qwest witness Phillips testified that most of the jobs in Iowa are customer-facing, and to the extent that those customers are still there, he was "pretty confident" that those jobs will continue. Mr. Phillips further stated that the jobs lost in a merger through synergies typically involve duplicate functions, and the Applicants will be trying to eliminate those types of jobs. When asked whether the workforce synergies would more likely affect corporate jobs rather than customer-facing jobs, Mr. Phillips replied that in the immediate future, positions involving duplicate functions will be considered for elimination. (Tr. 243-44, 248-52.)

CWA intervened in this proceeding to represent Qwest employees covered by a collective bargaining agreement establishing the terms and conditions of

employment at Qwest. In its petition to intervene, CWA stated that it is an international labor union that has 1,328 members in Iowa who are employed by Qwest. CWA-represented employees at Qwest in Iowa include workers responsible for building and maintaining telecommunications networks in the state as well as customer service workers who serve as the public interface for Qwest. CWA members provide service to both residential and business customers. CWA did not file any testimony in this proceeding. However, it is significant that CWA filed a motion to withdraw its intervention, explaining it has entered into a settlement agreement with Applicants. Although the details of the settlement were not provided to the Board, the Board finds some reassurance in the fact that CWA has settled any issues it may have about the merger with Applicants. This could mean that CWA is satisfied that significant job losses in Iowa (and elsewhere) will not result from the merger.

The Board believes it is reasonable to expect that merger-related job losses in Iowa will not be as numerous as they may be in other Qwest states. Qwest explained that most Qwest jobs in Iowa are customer facing, not corporate positions, and thus are not likely targets for elimination in pursuit of efficiencies. Job losses for the merged company in Iowa are more likely to come as a result of market forces, not as a result of the merger, so they would occur at Qwest even if the merger were not closed.

Another issue relevant to the Board's evaluation of how the merger will affect the public interest is whether the merged company will be able and committed to furthering broadband deployment in Iowa by building facilities to serve unserved areas and by investing in existing facilities to increase the speed of service already available to Iowa consumers. Throughout this proceeding, the Board has sought to ascertain the degree to which broadband investment in Iowa would be a priority for the merged company. In Applicants' response filed on October 29, they commit to spend no less than \$25 million on broadband in Iowa in the five years following the closing of the transaction. With that specific commitment, the Board is now reasonably assured that that the merged company's investment in broadband infrastructure in Iowa will not be adversely affected by commitments made to date in other states. An investment of \$25 million in broadband over the next five years is less than what Qwest has spent over the past five years, but the \$25 million commitment represents a floor, not a ceiling.

Applicants also committed to meet annually with the Board to discuss and disclose the merged company's progress in deploying broadband and other advanced services in Iowa. The Board will rely on this commitment, but expects the commitment to last for the entire five-year life of the \$25 million broadband investment. Also, for the commitment to meet and discuss progress in broadband deployment to have any meaning, the Board expects that the merged company will provide reasonably detailed reports about such progress for the Board's review in



advance of the annual meetings. Such reports will ensure that the Board can work with the merged company to identify deployment goals and targets for the \$25 million (e.g., building facilities to serve unserved areas or improving speeds for areas already served). The Board will direct its staff to work with the merged company and Consumer Advocate to develop a reporting format and schedule. With these two commitments in place – to spend no less than \$25 million in Iowa over the five years following the transaction and to meet with the Board to discuss broadband investment as the money is being spent -- the Board concludes that broadband investment plans do not give the Board a reason to disapprove the proposed reorganization.

The final issue for discussion is the extent to which CFU's intervention has presented the Board with a reason to disapprove the proposed reorganization. The Board agreed to CFU's request to intervene in this proceeding since it was possible that the issues raised by CFU might relate to the broader public interest standard that the Board considers when evaluating a proposed reorganization. As outlined above, CFU's position is that Qwest has not been cooperative with CFU's joint trenching efforts and initiatives to place utility facilities underground. At hearing, the Board asked CFU's witness Mr. Krieg if CFU had reason to believe that CenturyLink would be less cooperative than Qwest in joint trenching efforts and whether Qwest's lack of cooperation can be attributed to the reorganization. Mr. Krieg testified that he did not know if this was the case. (Tr. 373.)

With respect to the issues raised by CFU, the Board finds that while CFU's participation in this proceeding raised certain issues that could have been relevant to the Board's public interest analysis, CFU failed to demonstrate that its position would be made worse by the merger. Thus, CFU's concerns cannot be said to be related to the merger and do not present a reason for the Board to disapprove the merger.

While the issues raised by CFU generally relate to the public interest, the Board must review those issues as they relate to the proposed merger. Here, the Board does not find a strong enough connection between CFU's concerns about joint trenching and undergrounding initiatives and the proposed merger to warrant either disapproving the merger or imposing conditions.

Imposing the conditions requested by CFU would require the Board to determine the relative merits of the arguments raised by Applicants and CFU regarding the application to their dispute of the relevant case law on joint trenching obligations of utilities, the rights of municipalities to require joint trenching, the merits of burying utility facilities relative to safety and reliability issues, and the issue of how the costs of placing utility facilities underground are borne. The record developed in this proceeding pursuant to Iowa Code § 476.77 is not sufficient for the Board to rule on those questions. Further, general issues relating to dig once policies and joint trenching obligations of utilities in Iowa have been raised as issues of interest to the Board in its inquiry into the National Broadband Plan, Docket No. NOI-2010-0002,

where it is possible they may be more fully considered by the Board and addressed by interested parties.

Finally, the Board observes that while it will not impose the three conditions requested by CFU for reasons explained above, there are assurances from CenturyLink in the record that CenturyLink has cooperated with joint trenching and undergrounding efforts in the past, wants to be a good corporate citizen, and will comply with the law on this issue. (Tr. 286, 292.)

As explained above, the Board finds the public interest will not be detrimentally affected by the merger.

### **III. CONCLUSION**

Based on the testimony and evidence filed pursuant to Iowa Code § 476.77 and 199 IAC 32 and in light of the commitments made in the two settlement agreements and in response to the Board's inquiries regarding broadband investment plans, the Board finds the Applicants have established that the proposed reorganization is not contrary to the interests of ratepayers and the public interest. The Board also finds that the other statutory factors are satisfied. The Board will have reasonable access to the books, records, and documents of Qwest after the reorganization; Qwest's ability to attract capital on reasonable terms and to maintain a reasonable capital structure will not be impaired; and Qwest's ability to provide safe, reasonable, and adequate service will not be impaired. Therefore, the

reorganization proposed by Applicants will be permitted to take place by operation of law.

The Board reaches this conclusion based upon the reorganization proposal submitted by Applicants, as modified by the commitments made in the settlements and in the course of the proceeding. Any material changes to the proposed reorganization may change the basis for the conclusions the Board has reached and may require submission of a revised proposal. Therefore, if there are any material changes to the proposed reorganization prior to final closing of the transaction, Applicants will be required to file those changes with the Board, along with an analysis of the impact of the changes.

The Board will keep this docket open for purposes of receiving the integration and service quality reports discussed in the OCA Settlement.

#### **IV. ORDERING CLAUSES**

##### **IT IS THEREFORE ORDERED:**

1. The "Motion for Leave to Withdraw Intervention" filed in this proceeding on October 21, 2010, by Communications Workers of America is granted.
2. The joint motion for approval of settlement agreement filed in this proceeding on August 16, 2010, by the Consumer Advocate Division of the Department of Justice and Applicants Qwest Communications International, Inc., and CenturyTel, Inc., is granted and the proposed settlement is approved.

3. The joint motion for approval of settlement agreement filed in this proceeding on September 27, 2010, and as amended on September 28, 2010, by Applicants Qwest Communications International, Inc., and CenturyTel, Inc., and 360networks(USA) inc., Cox Iowa Telcom, LLC, MCC Telephony of Iowa, LLC, McLeodUSA Telecommunications Service, Inc. d/b/a PAETEC Business Services, Inc., and Sprint Communications Company, L.P., is granted and the proposed settlement is approved.

4. The motion to withdraw filed in this proceeding on September 28, 2010, by 360networks(USA) inc., Cox Iowa Telcom, LLC, MCC Telephony of Iowa, LLC, McLeodUSA Telecommunications Service, Inc. d/b/a PAETEC Business Services, Inc., and Sprint Communications Company, L.P., United States Cellular Corporation d/b/a U.S. Cellular, and LISCO is granted.

5. The proposed reorganization filed by Qwest Communications International, Inc., and CenturyTel, Inc., on May 25, 2010, as modified by commitments in the approved settlement agreements and in response to Board inquiries as discussed in the body of this order, is not disapproved.

6. Applicants shall promptly file with the Board any material changes to the proposed reorganization that occur prior to final closing of the reorganization. Any filing shall include an analysis of the effect of the changes on each of the factors considered by the Board in this order.

7. Within 30 days of the date of this order, Applicants shall contact John Ridgway, the Board's Telecommunications Section Manager, to discuss progress regarding the development of the service quality reporting formats and to commence discussions regarding the development of a reporting format and schedule for the annual broadband investment reports discussed in the body of this order.

**UTILITIES BOARD**

/s/ Robert B. Berntsen

/s/ Krista K. Tanner

ATTEST:

/s/ Joan Conrad  
Executive Secretary

/s/ Darrell Hanson

Dated at Des Moines, Iowa, this 19<sup>th</sup> day of November 2010.