

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Joint) Application No. C-4280
Application of Qwest)
Communications International,)
Inc., and CenturyLink, Inc. for) GRANTED
Approval of Indirect Transfer of)
Control of Qwest Corporation and)
Qwest Communications Company,)
LLC, and Qwest LD Corp.) Entered: January 4, 2011

APPEARANCES:

For the Joint Applicants:

CenturyLink, Inc.:

Jack Shultz
Harding & Shultz, P.C., L.L.O.
800 Lincoln Square
121 South 13th Street
Lincoln, NE 68501

William E. Hendricks
CenturyLink
805 Broadway Street
Vancouver, WA 98660-3277

Qwest Communications Int'l Inc.:

Jill Vinjamuri-Gettman
Gettman & Mills, LLP
10250 Regency Circle, Suite 200
Omaha, NE 68114

Timothy J. Goodwin
Corporate Counsel
Qwest Corporation
1801 California, Suite 1000
Denver, CO 80202

For the Commission:

Shana Knutson
300 The Atrium Building
1200 N Street
Lincoln, Nebraska 68508

**For the Intervenors Cox
Nebraska Telcom, LLC and
Charter Fiberlink-Nebraska LLC:**

Deonne Bruning
Cox Nebraska Telcom, LLC
2901 Bonacum Drive
Lincoln, NE 68502

K.C. Halm
Brian A. Nixon
Davis Wright Tremaine, LLP
1919 Pennsylvania Ave., N.W.
Suite 800
Washington, D.C. 20006

Michael Moore
Charter Fiberlink-Nebraska, LLC
12405 Powerscourt Dr.
St. Louis, Missouri 63131

**For the Informal Intervenor
Hamilton.net, Inc.:**

Paul Schudel
Woods & Aitken, LLP
301 S. 13th Street
Suite 300
Lincoln, NE 68508

BY THE COMMISSION:

Procedural Disposition:

By Application filed June 4, 2010, Qwest Communications International, Inc. of Denver, Colorado, and CenturyLink, Inc. of Vancouver, Washington (collectively referred to as "Joint Applicants"), seek approval of an indirect transfer of control of Qwest Corporation, Qwest Communications Company, LLC and Qwest LD Corp. Notice of the Application appeared in the Daily Record, Omaha, Nebraska, on June 10, 2010. Petitions of Formal Intervention were filed by Cox Nebraska Telcom, LLC (Cox) and Charter Fiberlink-Nebraska, LLC (Charter) on July 8, 2010, and July 12, 2010, respectively. Those petitions were granted by the Commission on July 27, 2010.

A planning conference was held on August 3, 2010. Timothy Goodwin and Jack Shultz appeared in person for the Joint Applicants and Tre Hendricks appeared via telephone. Deonne Bruning appeared in person for Cox. K.C. Halm and Brian Nixon appeared telephonically for Charter.

It was agreed to by all parties represented that a list of issues would be served on or before August 13, 2010. Prefiled testimony would be filed concurrently and served electronically by all parties and Commission staff on August 27, 2010.

The hearing on this application was held on September 21, 2010, in Lincoln, Nebraska. By stipulation of the parties, the hearing was held in legislative format. Appearances at the hearing were as shown above.

At the conclusion of the hearing, the Joint Applicants requested permission to file post-hearing briefs. The request was granted by the Hearing Officer and post-hearing briefs were submitted by the Joint Applicants, Cox, and Charter.

On December 7, 2010, the Joint Applicants filed a Notice of Stipulation and Settlement Agreement Between Joint Applicants and Cox. On December 9, 2010, Cox filed a Motion seeking to withdraw ("Motion to Withdraw") its petition as a Formal Intervenor. Based on the stipulation and settlement agreement filed by the Joint Applicants and Cox, the Commission finds the Motion to Withdraw should be granted.

Description of the Transaction:

According to the Joint Application, "the transaction combines two leading communications companies . . . together with complementary networks and operating footprints."¹ CenturyLink is a publicly traded Louisiana corporation with headquarters at 100 CenturyLink Drive, Monroe, Louisiana.² CenturyLink is a leading provider of high-quality voice and broadband services over its advanced communications networks to consumers and businesses in 33 states. CenturyLink serves approximately 7 million access lines nationwide, 2.2 million broadband subscribers and over 553,000 video subscribers.³

CenturyLink is an incumbent local exchange provider in Nebraska doing business as United Telephone Company of the West ("United"). CenturyLink serves approximately 17,500 access lines and provides interexchange services in Nebraska.⁴ CenturyLink doing business as United provides regulated retail and wholesale services under the jurisdiction of the Commission. It also has interconnection agreements with competitive local exchange carriers (CLECs). CenturyLink's subsidiaries ECI and LightCore are also authorized by the Commission to provide telecommunications services in Nebraska.⁵

Qwest Communications International, Inc. (QCII) is a publicly traded Delaware corporation with headquarters at 1801 California Street, Denver, Colorado.⁶ QCII through its operating subsidiaries offers communications services to consumers and businesses throughout the state including local, long distance, high-speed data and video services. As a subsidiary of QCII, Qwest Corporation provides incumbent local exchange services in 14 states, serving approximately 10.3 million local access lines. Qwest Corporation is authorized by the Commission to provide local exchange services serving approximately 235,000 access lines as well as intrastate long distance services in Nebraska. Qwest Corporation also provides wholesale services under the jurisdiction of the Commission. It has numerous interconnection agreements with CLECs approved by the Commission. Qwest Corporation is also certificated as a competitive local exchange provider outside its Nebraska incumbent local territory. Qwest Communications Corporation

¹ See *Application for Expedited Approval of Indirect Transfer of Control* (June 4, 2010) received as Exhibit 1 at 2 ("Application").

² *Application* at 7.

³ *Application* at 8.

⁴ *Application* at 9.

⁵ *Id.*

⁶ *Id.*

(QCC) is authorized by the Commission to provide long distance and competitive local exchange services.

Qwest and CenturyLink are both eligible telecommunications carriers (ETCs) designated by the Commission to receive federal high-cost support and they are both recipients of Nebraska universal service fund support in the high-cost and Telehealth programs.

Approval of the merger application would create the largest provider of telecommunications services in Nebraska. If approved, the merged company will be the third largest incumbent local exchange carrier in the country serving over 17 million access lines.⁷ According to the Joint Applicants, the transaction will result in a combined enterprise that can achieve greater economies of scale and scope than the two companies operating independently.⁸ The Joint Applicants state approval of the transaction will enable the combined company to become stronger while not decreasing "competition materially in these markets."⁹

Summary of the Hearing Testimony

The Joint Applicants supported the record through the testimony of three witnesses. Ms. Edie Ortega and Mr. Guy Miller represented CenturyLink. Mr. Rex Fisher represented Qwest. All three witnesses were paneled to respond to questions from Commissioners and staff.

According to Ms. Ortega, the combined entity will be stronger financially, and therefore more able to introduce new products and services to consumers.¹⁰ Ms. Ortega informed the Commission that post-acquisition, Nebraska will be included in the Midwest Region along with Illinois, Wisconsin, Iowa, Minnesota and North and South Dakota.¹¹

Mr. Fisher testified that the Nebraska consumers will see a number of benefits from the transaction. First, the companies will not incur new debt which, according to Mr. Fisher will strengthen the combined entity in relation to other large competitive telecommunications providers. Second, both companies have a commitment to broadband services. Third, the combined entity has a mixture of rural and urban customers. Fourth, CenturyLink's regional go-to-market model will respond better to unique geographic markets. Finally, according to Mr.

⁷ Application at 16.

⁸ See Application at 17.

⁹ Application at 16.

¹⁰ Hearing Transcript ("TR") 10:10-11.

¹¹ TR 10:24 through 11:6.

Fisher, the combined entity will have the knowledge and experience which will serve customers better than the companies would have operating independently.¹²

Mr. Guy Miller testified that wholesale provisioning is already governed by a comprehensive array of existing regulations, laws and contracts.¹³ He stated the transaction itself will not change any of the rights or obligations of any party.¹⁴ Mr. Miller stated that changes can be expected over time but only after a methodical review by the combined entity of its systems and processes.¹⁵ All existing interconnection agreement terms will remain in force post-merger and will be governed by the terms negotiated and approved by the Commission according to Mr. Miller. Mr. Miller addressed the CenturyLink service charges raised by Cox and Charter stating that the proper forum to address such concerns is through negotiation or arbitration of an agreement.¹⁶

Commissioners questioned the witnesses and expressed concerns related to the proposed transaction. The questions were posed to the panel of witnesses presented by the Joint Applicants.

Commissioner Boyle requested clarification on the planned organizational structure after the transaction was closed.¹⁷ She questioned the witness on proposed changes to back-office operations and the timeframe to be used by the merged entity in porting numbers to competitive carriers.¹⁸ Commissioner Boyle expressed concerns that the merger would result in wholesale service quality degradation. She asked whether the best practices employed by Qwest and stemming from the Commission's 271 approval process would be used by the combined entity in post-merger operations. Commissioner Boyle expressed concern that the Joint Applicants' witnesses were unable to answer certain questions regarding post-merger practices which were raised by Commissioners and staff prior to and at the hearing.¹⁹

Commissioner Vap questioned the Joint Applicants about the delivery of broadband to areas beyond the city limits.²⁰ He also questioned the CenturyLink witness about the ability of

¹² TR 66:19 through 68:11.

¹³ TR 34:21-24.

¹⁴ TR 35:3-7.

¹⁵ TR 37:18-23.

¹⁶ TR 44:15-17.

¹⁷ TR 16:17-19.

¹⁸ TR 17:17-19

¹⁹ TR 116:7-16.

²⁰ TR 23:10-19.

CenturyLink to comport with the Commission's rules regarding service outage reporting, about network reliability and about service in the Valentine exchange.²¹ Commissioner Vap expressed an interest in obtaining commitments from the merged entity to deploy broadband into currently underserved areas and to improve the service in the Valentine exchange. The CenturyLink witness responded that there was a commitment to working with the Commission to solve the problems that are unique to rural Nebraska geography.²²

Commissioner Schram questioned the witnesses about the integration of retail and wholesale billing systems.²³ He asked the Joint Applicants to provide the Commission with information regarding the number of service technicians located in Nebraska and asked whether the Joint Applicants would employ sufficient numbers of staff to ensure a prompt level of service to consumers.²⁴ Commissioner Schram also expressed concerns about proper notice to customers prior to billing changes.²⁵ Commissioner Schram questioned the witnesses about their statements that the proposed transaction would benefit consumers. Commissioner Schram asked for specific examples of how the transaction would create efficiencies or benefit consumers.²⁶

Commissioner Landis questioned the witnesses regarding the Qwest Performance Assurance Plan (QPAP) and the effect of the merger on interconnection agreements.²⁷ Commissioner Landis also questioned the witnesses regarding the surcharges imposed on competitive carriers.²⁸

A number of Commissioners expressed concerns regarding the surcharges imposed by CenturyLink on competitive carriers and whether the post-merger entity would impose those same surcharges on competitive carriers in the current Qwest territory.

Mr. Dan Molliconi submitted a pre-filed statement on behalf of Hamilton.net, Inc. (Hamilton.net) which is a broadband Internet service provider. Hamilton.net was a Qwest customer that had been involved in a billing dispute.²⁹ This dispute had

²¹ TR 20:12-15.

²² TR 24:22-25.

²³ TR 29:22-25; 30:19-22.

²⁴ TR 25:19-21; 26:7-9.

²⁵ TR 30:18-22.

²⁶ TR 48:23-25; 49:1-2.

²⁷ TR 60:8-13.

²⁸ TR 52:1 through 57:4.

²⁹ TR 132:23-25.

been ongoing for over two years.³⁰ Mr. Molliconi stated that recently Qwest had been more responsive and had been trying to resolve the issues.³¹ Mr. Molliconi stated that Hamilton.net was concerned that if another company became involved that the progress made would either be lost or the issues would become more complicated.³²

Ms. Kim Howell testified regarding the concerns Cox had with this transaction. Her main concern was the wholesale operating system used by the successor entity. Cox had had a relatively good experience with Qwest's operating systems, due in large part to the 271 oversight process.³³ However, Cox experienced significant problems with CenturyTel's OSS systems in the Nevada market.³⁴ Ms. Howell stated that it would hinder competition in the Nebraska market if the successor entity moved to CenturyTel's system.³⁵ In addition, CenturyTel was slow to execute any solutions in response to these operational issues.³⁶ She stated that CenturyTel's system was very antiquated compared to the Qwest system.³⁷

Mr. Timothy Gates testified for Charter. Charter gave four recommendations for the Commission to consider as conditions to the proposed merger. Mr. Gates stated that Charter asks only that the Commission maintain the status quo with respect to Qwest and prevent CenturyLink from importing anti-competitive activities and policies into the Qwest region.³⁸ Charter requested that Qwest be required to maintain its current OSS system and back-office systems for at least three years or less if CenturyLink can show through third-party testing that its system is at least as good and is section 271 compliant.³⁹ Mr. Gates testified that section 271 compliance did not go away in 2002 after three years, thousands of hours of meetings, and many millions of dollars of work. Second, Charter requested that interconnection agreements be extended for at least three years to ensure certainty in the marketplace.⁴⁰ Third, Charter requested the Commission add a condition to ensure that the merged company does not degrade service below the level that Qwest provides today.⁴¹ Finally, Charter recommended that the

³⁰ See *id.*

³¹ TR 133:1-4.

³² TR 133:12-16.

³³ TR 139:16-19.

³⁴ TR 140:3-14.

³⁵ TR 140:6-8.

³⁶ TR 142:4-6.

³⁷ TR 142:24-25.

³⁸ TR 151:5-9.

³⁹ TR 153:7-13.

⁴⁰ TR 153:20-22.

⁴¹ TR 155:14-17.

Commission prohibit the charges that CenturyTel imposes and that Qwest does not currently assess for service orders, access to the Network Interface Device (NID), and for directory listing storage.⁴²

Mr. Bill Pruitt, a Manager of Interconnection and Disputes for Charter testified in relation to Charter's concerns with the proposed merger. He stated that CenturyLink's anti-competitive policies may be extended to the legacy Qwest territories which will make it more difficult to offer competitive services.⁴³ He recommended that the Commission require the successor entity to keep the Qwest wholesale practices and adopt reasonable OSS transition policies.⁴⁴

No one from the general public offered any statements either in support or against the proposed transaction.

O P I N I O N A N D F I N D I N G S

Jurisdiction

A number of other state utility commissions and federal administrative agencies are currently reviewing or have reviewed the proposed transaction. All of the decisions released thus far have been approvals of the proposed merger.

Because the Joint Applicants state that the stock for stock transaction will impact only the holding companies which have subsidiaries providing telecommunications services in Nebraska that are subject to the Commission's jurisdiction, we have been asked to determine that we have no jurisdiction over the proposed transaction or to approve it with conditions.

Neb. Rev. Stat. § 75-146 states in pertinent part that "No common carrier other than a railroad shall consolidate its stock, property, franchise, or earnings, in whole or in part, with any other competing common carrier without permission of the commission...." The Commission's Telecommunications Rules and Regulations also provide that,

002.26A No valid sale, assignment or transfer of one or more exchanges can be affected by transfer of the physical properties or the assignment of stock resulting in a change in controlling interest until a joint

⁴² TR 161:6-15.

⁴³ TR 167:18-23.

⁴⁴ TR 172:16-21.

application requesting such change is approved by the Commission and a certificate of public convenience and necessity or permit as a contract carrier has been issued to the new owner.

002.26B No two or more exchange carriers operating as a common carrier shall consolidate their properties, or any part thereof involving an exchange, into a single carrier, nor shall one or more exchange carriers acquire the whole or any part of the properties of another exchange carrier by the purchase of stock, securities or by lease or in any like manner without first filing an application with and receiving from the Commission a certificate of convenience and necessity."

Neb. Admin. Code, Title 291, Ch. 5, sections 002.26A and 002.26B.

The Joint Applicants stated § 75-146 and the Commission's rules only apply to common carriers which are the certificated entities offering the service for a fee in Nebraska intrastate commerce. Historically, the Commission has considered whether applicants are required to file applications seeking approval of proposed mergers and transfers of control on a case-by-case basis, adopting the general position that if the certificated entities or common carriers are not directly affected then it would disclaim jurisdiction. However, the Commission has not resolutely claimed that all transfers or mergers at the holding company level are without Commission scrutiny.

The Commission previously stated that, "[t]ransactions at the holding company level or above do not typically involve a change in the actual ownership or control of the certificated carrier."⁴⁵ While this statement may be true in some cases, it is not the case relative to all holding company directed transactions.⁴⁶

⁴⁵ *In the Matter of the Nebraska Public Service Commission, on its own motion, to conduct an investigation to determine when the Commission has Jurisdiction to Authorize Acquisitions, Mergers, or Other Transfers of Control*, Docket C-1746/PI-19, Clarification Order (March 10, 1998).

⁴⁶ See, e.g., the analysis of the Washington Utilities and Transportation Commission finding that "it is the actual exercise of control and management that matters. . . with respect to the act of "disposing" of control over a public utility, the act of the parent corporation is the act of the subsidiary where the parent has exclusive authority to undertake the act" (internal citations omitted). *In Re Verizon Communications Inc.*, Docket UT-

Based on the particular circumstances in this case, the Commission finds that this transaction will involve a change in the control of a certificated carrier and a partial consolidation of common carrier properties which will have a direct impact on the offering of telecommunications services to the public and to the wholesale telecommunications carriers which rely on these incumbent carriers' networks. According to the information provided by the Joint Applicants, management of the corporate entity controlling the certificated entities will be unified, resulting in synergies and efficiencies in its telecommunications operations. Consolidation of administrative and ordering functions as well as product lines were discussed by the Joint Applicants in support of this transaction. All of the post-merger planning has not been completed; accordingly, the exact nature of how the post-merged entity would operate was not defined. However, it was clear that the proposed transaction will have a direct result on the manner in which the certificated carriers will offer telecommunications services to competitors and the public.

As a result, we find that Nebraska law grants the Commission sufficient jurisdiction and authority to consider the proposed merger and its direct impact on the regulated telecommunications facilities and services in Nebraska; accordingly, we determine whether the proposed merger meets the public interest standards established by the Commission.

The Commission has a significant interest in protecting the public and the state of competition in Nebraska. To that end, the Commission has focused this proceeding on several key issues: service quality, investment in facilities, and preserving the integrity of wholesale operations.

The Joint Applicants stated that Nebraska law did not enable the Commission to reject or impose conditions on company mergers. We disagree. The Commission's rules explicitly provide,

002.26C After a public hearing, if the Commission finds that the proposed transfer, consolidation, acquisition or control be of advantage to persons to whom service is to be rendered and in the *public interest*, it shall thereupon enter an order certifying to that effect, and the applicant or applicants may

thereafter proceed to consolidate, acquire or control in the manner and form specified in said application *except and unless the Commission otherwise provides.*

Neb. Admin. Code, Title 291, Ch. 5, section 002.26C.

While the Commission agrees that it would be rare for it or any other state commission to reject a proposed merger or transfer of control, the Commission's rules require it to make a finding that the transaction serves public interest. The express language in the Commission's rules confers the ability to craft an approval that will ensure a proposed transaction will be advantageous to consumers and in the public interest.

Public Interest Finding

Several concerns were raised in the prefiled testimony, the public testimony, and the post-hearing briefs regarding the manner in which the combination of Qwest companies and CenturyLink companies (referred to herein as the "Merged Entity") would leverage its size or ability to engage in anti-competitive practices. In addition, concerns about presently unknown changes in wholesale and retail operational systems were expressed by the Commissioners and competitors. A number of these initial concerns were addressed subsequently through the voluntary commitments made by the Joint Applicants and the Stipulation and Settlement Agreement entered into by the Joint Applicants and Cox which according to the agreement is available to other carriers in Nebraska.

Based on the Commission's review of the information presented in the application, the hearing, the briefs, and the voluntary commitments made by the Joint Applicants the Commission finds that the application should be approved with the following conditions:⁴⁷

1. Following the closing of this transaction, for a period of two years, the Joint Applicants will submit quarterly reports to the Commission showing retail and wholesale integration plans and activities.

⁴⁷ We recognize that the Joint Applicants and some entities have entered into settlement agreements which may contain different and additional terms and conditions. Nothing in this Order is intended to limit or supersede the provisions in those settlement agreements. We would expect the Joint Applicants to at minimum meet the conditions in this Order. If a conflict does exist, the stipulating parties shall have the ability to notify the Commission for a modification of this Order to minimize said conflict.

2. Following the closing of this transaction, for a period of two years,⁴⁸ the Joint Applicants' Nebraska certificated entities will record and report the following retail service quality parameters⁴⁹ to the Commission on a quarterly basis:
 - i. Total Network Troubles Reported;
 - ii. Total Access Lines;
 - iii. Percent of Out of Service cleared within 24 hours (Objective is 85 percent or better);
 - iv. Repeat Reports (Objective is less than 15 percent); and
 - v. Percent of Service Order Commitments Met (Objective is 98 percent or better).

The Joint Applicants shall also include information regarding the number of service quality technicians employed in Nebraska on a per subscriber basis. The Commission staff will provide the Joint Applicants with a template report document prior to the submission date of the first quarterly report.

3. The Joint Applicants shall prepare and provide 911 contingency plans within one year of the merger close, including business continuity plans and disaster recovery plans. The Joint Applicants shall evaluate 911 redundancy issues statewide and present the results of the evaluation and solution options to the Commission within twelve months of the merger close.
4. Qwest Corporation (or any successor entity) will not discontinue the Qwest Corporation wholesale Operations Support Systems (OSS) for a period of two (2) years post transaction closing. In the event that any Qwest OSS is subsequently changed or retired, Qwest or its successor will utilize the terms and conditions set forth in the Change Management Process (CMP) and consistent with the CMP condition below, but in no event shall there be less than 6 months notice of the retirement of the legacy Qwest OSS from current Qwest territories. In the event that any

⁴⁸ If the Commission has reasonable cause to be concerned about level of service quality provided, the Commission may, after notice to the post-merger certificated entity, continue to monitor these service quality measurements after the two year period has expired, or request that other remedial actions be taken.

⁴⁹ The retail service quality parameters should be measured on a monthly basis and filed on a quarterly basis. The reports will be kept confidential.

CenturyLink OSS is introduced, changed or retired, CenturyLink will provide 6 months advance notification to the Commission and the affected interconnecting carriers. During that 6 month notice period established for retiring a Qwest or CenturyLink OSS, any interconnected CLEC or Commercial Mobile Radio Service (CMRS) provider shall be permitted to test the proposed replacement OSS, and CenturyLink shall cooperate with such testing at no charge to the testing carrier, including but not limited to, making available a testing environment. The results of the testing performed shall be made available to the Commission.

5. Qwest Corporation (or any successor entity operating in current Qwest territories) shall honor all obligations under its existing interconnection agreements.
 - i. Extension: the Merged Entity will not terminate or change the conditions of any CLEC or CMRS interconnection agreement, with the exception of changes of law, unless requested or agreed to by the interconnecting CLEC or CMRS provider, or in the event of default or other triggering event expressly contemplated by the terms of the agreement, for a period of:
 1. Thirty-six (36) months from the Closing Date for any CLEC or CMRS interconnection agreement that has not expired as of the Closing Date of the transaction and for any CLEC or CMRS interconnection agreement that has been expired less than 3 years as of the Closing Date of the transaction;
 2. Twenty-four (24) months from the Closing Date for any CLEC interconnection agreement that has been expired for more than three (3) years and has been amended to include Qwest's TRRO language and for any other CMRS interconnection agreements; or
 3. Twelve (12) months from the Closing Date for any CLEC interconnection agreement that has been expired for more than three (3) years and not amended to include

Qwest's TRRO language as of the Closing Date of the transaction.

- ii. Negotiation and Opting-In. Where parties are in negotiations for the initial successor agreement to an agreement covered in para. 5(i)(1) above, the interconnecting CLEC or CMRS provider may, at its option, use its currently existing agreement as the basis for negotiating the initial successor agreement with Qwest Corporation. Unless mutually agreed otherwise the joint applicants shall agree to incorporate the amendments to the existing agreement into the body of the agreement used as the basis for such negotiations of the initial successor agreement. An interconnecting CLEC or CMRS provider may opt-in to an interconnection agreement in its initial term or the extended term provided for in 5(i)(1), if applicable. This provision does not limit any opt-in rights a carrier may have under Section 252(i) or FCC rules or orders. If Qwest Corporation and a requesting CLEC or CMRS provider are in negotiations for a replacement interconnection agreement before the Closing Date, Qwest Corporation will allow the requesting CLEC or CMRS provider to continue to use the negotiation draft upon which the negotiations prior to the Closing Date have been conducted as the basis for negotiating that replacement interconnection agreement.

- iii. Protection Against Tariff-Based Changes. Qwest Corporation (or any successor entity operating in current Qwest territories) may not seek approval for new tariff rates to establish any new wholesale charges for service order processing (including, but not limited to, fees associated with Automated Service Requests (ASRs) and Local Service Requests (LSRs), directory listings or directory listing storage, non-published number changes, local portability charges or E911 records transaction or storage charges for thirty-six (36) months from the Closing Date, unless otherwise required by law or FCC or state regulatory commission decision.

6. Following the Closing Date, Qwest Corporation (or any successor entity operating in current Qwest territories) shall not discontinue the use of the Qwest Performance Assurance Plan (QPAP) in the legacy Qwest territory until after such time as the Merged Entity applies for and receives Commission approval to discontinue such use. In no event shall Qwest or the successor entity apply for discontinuance of the QPAP until thirty-six (36) months after the Closing Date. The Merged Entity may seek modifications of the Qwest QPAP under the terms and conditions outlined in the Qwest QPAP. Qwest Corporation (or any successor entity) shall continue to provide the monthly reports of wholesale performance metrics to Commission staff and to each CLEC as set forth in the QPAP, unless modified under the terms and conditions described in the QPAP.
7. Qwest Corporation (or the successor entity operating in current Qwest territories) shall maintain the current Qwest Change Management Process (CMP) until such time as the Merged Entity applies for and receives Commission approval to discontinue such use. In no event shall Qwest or the successor entity apply for discontinuance of the CMP until 36 months after the Closing Date. Qwest Corporation may modify the CMP consistent with the provisions contained in the CMP Document. Pending CLEC Change Requests shall continue to be processed in a commercially reasonable time frame consistent with the provisions contained in the CMP Document.
8. Investments in Nebraska Infrastructure. The Joint Applicants shall invest no less than \$10 million on network improvements to provide broadband telecommunications services in Nebraska over the next five (5) years. Investments shall occur in areas that are currently underserved or unserved. These investments shall be reported separately and are over and above investments made using Nebraska Universal Service Fund monies which are distributed to the Joint Applicants during this timeframe for the maintenance and provision of supported telecommunications facilities and services. The Merged Entity shall provide the Commission with specific information on broadband investments made including the area, number of customers served, investment dollars spent, and technology purchased. This report shall be filed on an annual basis.

The Commission concludes that, based on the foregoing conditions which are adopted in this Order, the proposed transaction will serve the public interest. The Commission finds the application to be fair and reasonable and in the public interest. The application should be granted with the requirements set forth above.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the above-captioned application shall be and it is hereby granted as provided herein.

IT IS FURTHER ORDERED that the Commission shall retain jurisdiction over this matter to enforce the requirements provided above.

MADE AND ENTERED at Lincoln, Nebraska, this 4th day of January, 2011.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST

Executive Director