

**EXHIBIT BJJ-45 TO THE
DIRECT TESTIMONY OF
BONNIE J. JOHNSON
ON BEHALF OF
INTEGRA TELECOM**



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June 6, 2011

Burl W. Haar
Minnesota Public Utilities Commission
350 Metro Square Building
121 Seventh Place East
St. Paul, MN 55101-2147

Via E-filing

RE: Joint Integra, PAETEC, tw telecom, POPP, TDSM, and Velocity request for review of Qwest/CenturyLink compliance with Commission's Order from Docket No. P-421, et al./PA-10-456

Dear Dr. Haar:

Eschelon Telecom of Minnesota, Inc. d/b/a Integra Telecom and Integra Telecom of Minnesota (together "Integra"); McLeodUSA Telecommunications Services L.L.C. d/b/a PAETEC Business Services ("PAETEC"); tw telecom of minnesota llc ("tw telecom"); Popp.com, Inc. ("POPP"), US Link, Inc., d/b/a TDS Metrocom, LLC ("TDSM"), and Velocity Telephone, Inc. ("Velocity") (collectively "Joint CLECs") ask that you investigate the compliance of Qwest/CenturyLink (the "Merged Company") with the Commission's decision in the Qwest/CenturyLink merger docket and settlement agreements from the merger proceeding (Docket No. P-421, et al./PA-10-456) and, in particular, the provisions relating to Operational Support Systems ("OSS").

In the Commission's March 31, 2011 order in the merger proceeding ("Order"), the Commission approved the transfer of control of Qwest's operating companies to CenturyLink subject to the conditions set forth in the Order and the terms of various settlement agreements, including settlement agreements between Qwest and CenturyLink (the "Joint Applicants") and Integra (Order, page 27, Ordering Paragraph 1); between the Joint Applicants and tw (Order, page 27, Ordering Paragraph 1); and between Joint Applicants and certain CLECs including PAETEC, TDSM, Popp.com, and Velocity (Order, pages 27-28, Ordering Paragraph 1) (Joint CLEC Merger Agreement). The ALJ and Commission found that these agreements provide safeguards for competition in Minnesota (Order, page 25) and that they are in the public interest (Order, page 26). Under the Joint CLEC Merger Agreement, the CLEC parties opted in to the Integra settlement agreement, with certain additional conditions.¹ The Joint CLEC Merger Agreement states, with respect to Operational Support Systems ("OSS") and certain other terms, that the settlement agreement "applies throughout the Qwest ILEC 14-state territory," which includes Minnesota. On March 18, 2011, the Federal Communications Commission ("FCC")

¹ The Joint CLEC Merger Agreement states as follows: "Joint CLECs have elected to opt-into the terms of the November 6, 2010 Integra Settlement. Joint CLECs agree that the terms set forth in the Integra Settlement, together with the following clarifications, modification or additional terms, resolves the issues raised by the Joint CLECs in Minnesota." Joint CLEC Merger Agreement, pp. 1-2.

issued an order in WC Docket No. 10-110 in which the FCC accepted certain unilateral commitments made by CenturyLink as conditions of approval (paragraph 20). The Integra settlement agreement, the Joint CLEC Merger Agreement, and the CenturyLink commitments to the FCC all contain merger conditions relating to OSS and wholesale service and support. [See Attachment A to this letter containing the Joint CLEC Merger Agreement and excerpts from the Integra agreements and the FCC order, as well as excerpts from agreements with the Minnesota Department of Commerce (“DOC”) and Colorado Commission Staff.]

Integra’s settlement agreement was filed with this Commission on November 8, 2010. Only two days later, on November 10, 2010, Qwest announced to CLECs that Qwest planned to retire and replace Qwest’s legacy OSS for repair (CEMR/MEDIACC) with a new repair system (MTG) before the end of 2011, even though the Integra settlement agreement (in paragraph 12) requires Qwest to “use and offer” legacy Qwest OSS for a two year period (thirty months per the Joint CLEC Merger Agreement and the CenturyLink commitment to the FCC). When asked in the Change Management Process (“CMP”), Qwest said that Qwest has had the replacement of CEMR/MEDIACC under review since 2008. Therefore, Qwest was fully aware of the potential replacement of CEMR/MEDIACC (and any alleged cause or need for replacing them) at the time Qwest negotiated and signed the merger settlement agreements with Integra and the DOC and advocated their approval to the Commission. Qwest, however, did not raise the issue or receive (from Integra, DOC, or this Commission) any exception to paragraph 12 and subparts of the agreement for repair.² The Joint Applicants also signed the settlement agreements without receiving any exception to paragraphs 2 and 10-11, relating to wholesale service quality and support, even though the Merged Company now appears to be claiming that Qwest knew it may not be able to meet all of those obligations if it does not replace and/or integrate CEMR/MEDIACC. If the latter were true, the Joint Applicants should have informed the Administrative Law Judge (“ALJ”) and the Commission of the situation when advocating approval of the settlement agreements. Instead, Qwest waited until just after the Integra settlement agreement was signed before announcing its plan in CMP, without corresponding notice to the affected commissions. Qwest and CenturyLink advocated approval of the settlement agreement as written, without such exceptions.

Mr. Hunsucker of CenturyLink testified before this Commission that, as to its settlement agreement with the DOC regarding changes to OSS, the Merged Company committed to a “moratorium before we make *any* changes.”³ Furthermore, the ALJ noted in Paragraph 229 of her Report in the Commission’s merger docket that the Joint Petitioners “will have no immediate need to make any alterations to OSS in Qwest areas.”⁴

² Cf. certain billing-specific language in paragraph 12(d) for non-CLEC affecting billing system integration.

³ Transcript Volume 2B, p. 84, lines 10-11 (emphasis added), MPUC Docket No. P-421, et al./PA-10-456.

⁴ Paragraph 229 of the Administrative Law Judge’s Report states in its entirety: “229. The Joint Petitioners contend that the Joint CLECs’ concerns about potential OSS degradation in Qwest service areas are unfounded. They emphasize that CenturyLink is not simply acquiring access lines from Qwest, but instead is acquiring the entire

CEMR and MEDIACC are legacy Qwest OSS. In paragraph 12, Qwest and CenturyLink's settlement agreement with Integra requires the Merged Company to use and offer the legacy Qwest OSS for at least two years, or until July 1, 2013, whichever is later, and thereafter provide a level of wholesale service quality that is not less than that provided by Qwest before the transaction closing date. Paragraph 1A of the Joint CLEC Merger Agreement extends this requirement to at least thirty months, as does CenturyLink's commitment to the FCC. Only after the applicable time period (thirty months) may the Merged Company replace or integrate Qwest systems. Even then, the Merged Company cannot do so per the subparagraphs to paragraph 12 without first establishing a detailed transition plan and following several steps, including providing at least 270 days advance notice to the FCC and affected state commissions before replacing or integrating Qwest OSS systems, following CMP procedures, obtaining sufficient acceptance of the replacement interface by CLECs, obtaining a majority vote of CMP participants, conducting coordinated testing, and providing training and education on any wholesale OSS implemented by the Merged Company.

CenturyLink's commitment to the FCC [in Appendix C, paragraph IV(A)(2)] requires that, regardless of when Qwest OSS are integrated or replaced, the Merged Company must follow certain steps, such as providing at least 180 days advance notice and a plan with this Commission, before Qwest may replace or integrate Qwest OSS.

Qwest has not filed a notice and plan with the Commission. The Merged Company is nonetheless proceeding with its plan to implement and integrate a new repair system by mid-December of this year. The timeline, which the Company posted to its website⁵ (Attachment B to this letter), continues to identify a date of December 12, 2011 for: "Begin Deployment Process"; "System . . . Available to CLECs";⁶ and "Begin Scheduling Migration Dates." This timeline contains no reference to notice to commissions, a majority vote in CMP, a third party facilitator, or other requirements of the merger conditions. In any event, the time periods are too compressed and provide insufficient time to CLECs. Given the Merged Company's announced timeline, time is of the essence.

Qwest uses MEDIACC for itself, and the Merged Company plans to use the new repair system (MTG) going forward. In other words, the Merged Company plans to integrate systems,

company. As a result, CenturyLink will acquire Qwest's existing systems, personnel, policies, and processes, and will have no immediate need to make any alterations to OSS in Qwest areas."

⁵ See <http://wholesalecalendar.qwestapps.com/detail/289/2011-03-16>. This link was provided to CLECs in the Merged Company's May 20, 2011 Notification Number SYST.MEDI.05.20.11.F.09159.Followup_Resp_Commnts_MTG. The Notice states that the changes are effective December 12, 2011.

⁶ Integra objects to the Company's description of the new system as "improvements." The Company has not shown that the new system will be equal to, or an improvement when compared to, the existing systems. In fact, when asked in CMP about functionality of the new system, the Company could not even answer the questions, saying it doesn't yet know. If it had developed the requisite detailed plan, it should know.

regardless of whether some or all CLECs do not move to MTG early.⁷ The definition of “OSS” in the CMP Document and the Integra agreement covers back end systems. Additionally, the Merged Company would use its new system to support end user customers, and the Colorado Staff settlement agreement specifically lists systems that support “maintenance and repair” for end users in its definition of OSS (on pages 1-2). Paragraph 5 of the Colorado Staff agreement requires at least 180 days notice of changes or conversions. The OSS in issue are region-wide OSS. Moreover, if the Merged Company moves itself to the new system early (as it has recently suggested), it will have a reduced incentive to properly maintain and support CEMR/MEDIACC. A discriminatory situation may arise in which the Merged Company provides better service and support for itself with a new system than for CLECs under the existing system. While the Merged Company may argue that CLECs are choosing this consequence by not expending the resources to move to a new system before the time period required by the approved settlement agreement, it is not the CLEC’s choice that the Merged Company would act contrary to the merger orders and conditions. CLECs were supposed to have obtained a period of stability after the merger via the settlement agreements during which they should not have to expend time and resources reviewing or moving to different OSS or monitoring OSS changes that could impact them. The Merged Company is supposed to receive sufficient acceptance of the replacement interface *before* replacement or retirement of the existing Qwest OSS Interface. This is true whether the system is replaced for the Merged Company’s own purposes or for some or all CLECs per paragraph 12(c) of the Integra and Merger Joint CLEC settlement agreements.

For months, CLECs have made efforts, including in CMP and via Integra communications with Qwest and CenturyLink executives and attorneys, to resolve the issues and to obtain compliance with the Commission’s Order and CenturyLink’s merger commitments and approved agreements. CenturyLink, however, continues to proceed with its efforts to integrate Qwest’s legacy OSS for repair with a new system by the end of this year.

Commission and DOC staff members may participate in CMP,⁸ and they have tools available to them such as the ability to serve discovery or audit requests that may allow staff to gather information useful to resolving this dispute and ensuring compliance with contracts and Commission rulings. Integra, PAETEC, **tw telecom**, POPP TDSM, and Velocity request the Commission’s assistance in reviewing and obtaining Qwest/CenturyLink compliance with the

⁷ If the system functionality or other aspects of the system are inferior, the Merged Company is not meeting its Merger conditions to provide service and support that is not less than provided by Qwest before the Closing date. One of the key purposes of the subparts to paragraph 12 of the settlement agreements is to ensure that CLECs agree that a new system meets the applicable requirements *before* deployment of the new system. If the new system is deployed earlier for itself and then CLECs later move to it (as the Merged Company has recently suggested), the Merged Company will likely argue that changes at that point are difficult or costly to make, though the system should not have been deployed in advance of the merger agreement steps in the first place. Per its merger commitment to the FCC (paragraph IV(A)(2)), Qwest is supposed to file its “proposed transition plan” with the regulators, not submit notice of work already done.

⁸ The CMP calendar, meeting materials, and call-in information are available at <http://www.qwest.com/wholesale/cmp/teammeetings.html>

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Commission's Order and CenturyLink's merger commitments and approved settlement agreements.

Sincerely,



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