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April 13, 2009

Dennis J. Moss, Senior Review Judge
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
Olympia, WA 98504-7250
By Overnight Delivery (FedEx)

Re: Joint Application of Embarq Corporation and
CenturyTel, Inc., for Approval of Transfer of
Control of United Telephone Company of the
Northwest d/b/a Embarq and Embarq
Communications, Inc., Docket No. UT-082119

Dear Judge Moss:

I am in receipt of the Notice Concerning Agenda for Hearing dated April 8, 2009, in the above-referenced proceeding. The Notice addresses questions you and the Commission may have concerning the request of International Brotherhood of Electrical Workers (“IBEW”), Local 89 (“Local 89”) to withdraw from this proceeding. I am responding as counsel for Local 89.

At the beginning of this case, Local 89 decided to intervene to protect the interests of its members who are employed by the Applicants. Local 89 had two primary concerns: (1) the impact of the proposed transaction on the financial condition of its employer; and (2) the impact of the proposed transaction on employment levels, wages, benefits, and other collective bargaining matters. Local 89 recognized that the first issue was one that was uniquely within the jurisdiction of this Commission. Local 89 also recognized that the second issue was outside the scope of issues that the Commission would consider in a merger proceeding. IBEW committed from the outset of this case to restrict its participation to matters that are within the Commission’s jurisdiction.

With the assistance of an independent financial expert, Local 89 conducted extensive discovery concerning financial issues. Through that discovery process, Local 89’s expert received numerous documents, including the Applicants’ confidential financial models and projections. The expert’s review of that information, as well as his review of numerous documents filed by Applicants with the Securities and Exchange Commission, led Local 89 to believe that, while it had some concerns about the financial impact of the transaction, those concerns did not rise to level where Local 89 would need to oppose the transaction solely on financial grounds.

Separately from this proceeding, IBEW and the Communications Workers of America (“CWA”) (which represents some of Applicants’ employees in other states) engaged in negotiations on a national level with the Applicants. Those negotiations were designed to

address collective bargaining issues and to ensure that the Applicants would view their employees as a valuable resource in trying to achieve the goals of the merger.

As the Commission can see from the agreement that was reached between the Applicants and labor unions, the parties have achieved such an agreement. Rather than being contrary to the public interest, as the Commission's Notice implies, the agreement is fully consistent with the public interest. The agreement recognizes some of the challenges the Applicants will face and establishes a process for represented employees to work with the Applicants to enhance the level of service to the public and achieve their other goals. The agreement specifically recognizes the opportunities for new investment and enhanced efficiency, and it establishes a goal of achieving these objectives while minimizing any adverse impacts on existing employees.

In these difficult economic times, nothing could be more consistent with the public interest than having employers and labor unions work together to improve service to the public, make increased investment in critical infrastructure, and do so while preserving well-paying jobs in the communities they serve. Local 89 believes that the national agreement appropriately works toward those objectives and is wholly consistent with the public interest.

As the Notice recognizes, part of the agreement between the Applicants and labor unions is that the labor unions would withdraw from this proceeding and the other proceedings reviewing the proposed transaction. That aspect of the agreement reflects the parties' intention to work together to provide enhanced services to the public. It would not be consistent with the overall intention of the agreement, which recognizes the important role in the future of the companies that is played by the Applicants' skilled workforce, for the unions to continue to oppose the transaction. Rather than being a *quid pro quo* for some monetary benefit or advantage, as the Notice implies, withdrawing from this proceeding is a recognition that the unions and Applicants will be working together to build the new company and enhance service to the public.

Local 89 also takes issue with the implication in the Notice that Local 89 had an obligation to provide a copy of the agreement to the Commission as an attachment to its request to withdraw from this proceeding. As discussed above, the agreement relates primarily to labor relations and collective bargaining issues. Local 89 was cautioned at the outset of this case, and readily agreed, that it should not raise any matters related to collective bargaining or labor relations in this proceeding. Local 89 was not trying to hide something from the Commission; it was simply complying with the procedures set forth at the beginning of this case to keep labor relations matters completely separate from this proceeding.

Finally, Local 89 would note that the Notice errs in equating the interests of a labor union with those of a private, competitive business. As several state utility commissions have recognized, a labor union is not a competitor to its employer and is not subject to the same restrictions that might be applied to competitors in regulatory proceedings. *Application of*

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Washington Gas Light Co., 2007 D.C. PUC LEXIS 246 (“OPEIU argues persuasively ... that a labor union such as OPEIU, representing a utility’s own employees, should not be viewed as a ‘competitor’ of the utility for purposes of discovery”), citing with approval *New England Gas Co.*, 2002 R.I. PUC LEXIS 15 and *Application of Sprint Nextel for Approval of Transfer of Control*, 2006 Mo. PSC LEXIS 218 (“Obviously, CWA is not a competitor of Sprint Nextel.”)

I will be unable to attend the hearing on April 15, 2009, but I hope that this letter has responded to the Commission’s concerns set forth in the Notice.

Electronic copies were filed with the WUTC Records Department on this date.

Sincerely,



Scott J. Rubin

cc: David S. Danner, Secretary and Executive Director (FedEx and email)
All parties (first class mail and email)