

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Joint Application of	)	
	)	DOCKET NO. UT-100820
QWEST COMMUNICATIONS	)	
INTERNATIONAL INC. AND	)	JOINT CLEC RESPONSE TO
CENTURYTEL, INC.	)	OBJECTIONS TO PROCEDURAL
	)	SCHEDULE
For Approval of Indirect Transfer of Control of	)	
Qwest Corporation, Qwest Communications	)	
Company LLC, and Qwest LD Corp.	)	

1. Pursuant to the Notice of Opportunity to Respond to Objections to Procedural Schedule, Charter Fiberlink WA-CCVII, LLC, Integra Telecom of Washington, Inc., McLeodUSA Telecommunications Services, Inc. d/b/a PAETEC Business Services, PacWest Telecomm, Inc., tw telecom of washington, llc, and XO Communications Services, Inc. (collectively “Joint CLECs”) provide the following response to the objections filed by (1) Public Counsel and (2) CenturyTel, Inc., and Qwest Communications International, Inc. (collectively “Joint Applicants”). The Joint CLECs recommend that the Commission grant Public Counsel’s motion but deny the Joint Applicants’ objection.
2. Regarding the objection of Public Counsel, the Joint CLECs agree that the Commission should revise the schedule to require the parties to file and exchange cross-examination exhibits on December 29, 2010, rather than on December 6, 2010. Public Counsel correctly explains that identifying and providing cross-examination exhibits within one week of the beginning of the evidentiary hearings is consistent with past Commission practice and facilitates more complete and effective hearing preparation for all parties.

3. Regarding the objections of Joint Applicants, the Joint CLECs do not agree with the Joint Applicants' proposed schedule revisions. As an initial matter, the Joint Applicants have identified no basis on which they would suffer prejudice under the schedule established in Prehearing Conference Order 02. The Joint Applicants' own press release states that they "anticipate closing this transaction in the first half of 2011."<sup>1</sup> Hearing dates in early January 2011 provide ample opportunity for a Commission decision well within the first six months of next year. Indeed, the Commission conducted hearings in its review of the Verizon-Frontier transaction in Docket No. UT-090842 in early February 2010 and issued its final order on April 16, 2010, over two months before that transaction's scheduled closing date of July 1, 2010.

4. Nor is Washington the only state in which regulators are unable or unlikely to issue a decision on the transaction prior to the end of this year. In Minnesota (to which the Joint Applicants refer),<sup>2</sup> the Public Utilities Commission referred the case to the Office of Administrative Hearings ("OAH") with a request for a recommended decision by the Administrative Law Judge ("ALJ") by November 30, 2010, but only if that could be done "consistent with due process, full evidentiary development, and due deliberation."<sup>3</sup> The request is not binding, because the Minnesota commission loses jurisdiction once a case goes to the OAH. The ALJ will establish a schedule at a prehearing conference on July 7 using her own judgment of the time needed to permit full

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<sup>1</sup> Press Release, "CenturyLink and Qwest to Merge" (April 22, 2010) (available at <http://news.qwest.com/centurylinkqwestmerger>).

<sup>2</sup> The Joint Applicants also observe that the regulatory process is complete in California and Hawaii, but they neglect to mention that Qwest Corporation is not an incumbent local exchange carrier ("ILEC") in either of those states, much less a Bell Operating Company and the largest ILEC in the state as is the case in Washington.

<sup>3</sup> Minnesota Notice and Order for Hearing, Docket No. P-421, et al./PA-10-456, at 5 (June 15, 2010).

exploration of the issues. An ALJ recommended decision, moreover, is not the end of the process in Minnesota. The parties are permitted time to file exceptions to the ALJ's recommendations, and the Commission will hear argument on those exceptions and issue a written order. Thus, the Minnesota Commission would not be able to complete its review before year-end even in the unlikely event that the OAH meets the requested November 30, 2010 deadline for a recommended decision.

5. In addition, the Administrative Law Judge in Arizona has established hearing dates during the last two weeks of November, which will not enable the Arizona Corporation Commission to issue a decision by the end of December. Indeed, even if this Commission conducted hearings in mid-November as the Joint Applicants' request, the Commission would not have sufficient time following post-hearing briefing to issue a decision before the close of 2010.

6. The Joint Applicants' proposed hearing dates are also unrealistic. The Joint Applicants cannot seriously believe that the Commission will conduct hearings on Veterans' Day, November 11, 2010, which is a state and federal holiday. November 10 is also an open public meeting day, as well as the date when intervening parties in Arizona must file surrebuttal testimony. The evidentiary hearings in Arizona, moreover, begin on November 15 after a prehearing conference on November 12. Several of the intervening parties in Washington are participating in the Arizona case, including sponsoring the same witnesses in both states who will need to be in Phoenix in mid-November to participate in the Arizona proceedings. Scheduling evidentiary hearings in Washington during that time will impose an undue hardship on those parties, which is all the more unjustified given the Joint Applicants' complete failure to offer any legitimate

reason for, or public interest benefit from, moving the hearings up by less than two months.

7. The Commission, therefore, should grant Public Counsel's motion to reschedule the date for filing cross-examination exhibits to December 29, 2010, but the Commission should deny the Joint Applicants' request to reschedule the hearing dates.

RESPECTFULLY SUBMITTED this 29th day of June 2010.

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