

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of A Complaint By The
Joint CLECs Against the Joint Applicants
Regarding OSS For Maintenance And
Repair

Docket No. UT-111254

REBUTTAL TESTIMONY OF

LYNDALL NIPPS

ON BEHALF OF

tw telecom

December 14, 2011

1 **Q. ARE YOU THE SAME LYNDALL NIPPS WHO FILED DIRECT TESTIMONY**
2 **IN THIS MATTER ON OCTOBER 14, 2011?**

3 A. Yes, I am.

4 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

5 A. In this testimony I will respond to certain claims made by Renee Albersheim and Michael
6 Hunsucker in their respective Answer Testimony filed on October 14, 2011.

7 **Q. IN HER DIRECT TESTIMONY, MS. ALBERSHEIM NOTED THAT TW**
8 **TELECOM USES XML FOR REPAIR WITH BOTH AT&T AND VERIZON.¹**
9 **DO YOU HAVE A RESPONSE TO THAT TESTIMONY?**

10 A. Although that is the case, that does not appear to be relevant to whether the Merged
11 Company should have to comply with the commitments made in the merger settlement
12 agreements. As I discussed in my direct testimony, both CEMR and MEDIACC are
13 currently meeting **tw telecom's** needs.² That **tw telecom** uses an XML interface in areas
14 served by other ILECs does not mean that transitioning to a new interface in Qwest
15 territory will be without substantial cost and effort on the part of **tw telecom**. Pursuant to
16 the settlement agreement, **tw telecom** relied on the Merged Company's commitment that
17 we would not have to implement a new interface for at least 30 months after the merger.

18 **Q. IN MS. ALBERSHEIM'S DIRECT TESTIMONY, SHE ASSERTED THAT**
19 **THERE IS AN INCONSISTENCY BETWEEN TW TELECOM'S DESIRE FOR**
20 **AN E-BONDED INTERFACE IN THE LEGACY EMBARQ AND CENTURYTEL**
21 **TERRITORIES AND ITS DESIRE THAT THE MERGED COMPANY COMPLY**
22 **WITH ITS MERGER COMMITMENTS REGARDING CHANGES TO THE**

¹ Direct Testimony of Renee Albersheim, WA Docket No. UT-111254, p. 11, ll. 6-12.

² Direct Testimony of Lyndall Nipps, WA Docket No. UT-111254, p. 5, l. 21-p. 6, l. 3.

1 **QWEST LEGACY OSS.³ IS TW TELECOM IS TAKING INCONSISTENT**
2 **POSITIONS?**

3 A. No. First, **tw telecom** is concerned that if the Merged Company is able to avoid its
4 merger commitments in this instance, this would call into question whether **tw telecom** is
5 able to rely on any of the other commitments that the Merged Company made in order to
6 get its merger approved.

7 Moreover, **tw telecom** entered into its settlement agreement with the
8 understanding that the Merged Company would not be making the kind of changes to the
9 Qwest legacy OSS that it is now insisting on until at least 30 months following the
10 closing of the merger. It remains important to **tw telecom** to have the benefit of this
11 period of certainty in a critically important area for at least 30 months, particularly in
12 light of other changes, and uncertainty, resulting from the merger. Changing an OSS
13 platform is never a simple matter; it is not something that can be accomplished by simply
14 flipping a switch. Such a change requires careful planning and significant effort on the
15 part of any CLEC; contrary to the Merged Company's rush to implement a whole new
16 interface in February of next year, without any consideration of or regard for the impacts,
17 nor the Merged Company's contractual obligations. In light of the merger commitments
18 regarding OSS, **tw telecom** did not anticipate having to devote resources to the
19 development of a new interface in Qwest's territory so soon after the merger. It's
20 important to understand that **tw telecom** sought to achieve electronic bonding in Embarq
21 legacy territories as a business to business tool to better understand our quality of service
22 levels (for issues such as Mean Time to Repair (MTTR)) months ahead of this egregious

³ Direct Testimony of Renee Albersheim, WA Docket No. UT-111254, p. 21, ll. 4-19.

1 violation of the Merged Company's settlement obligations; and not until after **tw**
2 **telecom** became a participant in these multiple state-level proceedings did leadership at
3 Century Link reach out to us to discuss their company-wide strategies for OSS
4 deployment. To date, **tw telecom** has not received any substantive commitment from
5 CenturyLink/Qwest as a result of our meetings, rather only that they continue to
6 internally deliberate their willingness to assist us. Although **tw telecom** is willing to
7 consider moving to an XML interface in the Qwest territory at the appropriate time, that
8 appropriate time, consistent with the settlement agreement, is not now, less than six
9 months after the merger closed.

10 **Q. MR. HUNSUCKER TESTIFIED THAT CENTURYLINK HAS ACTED IN GOOD**
11 **FAITH.⁴ DO YOU AGREE?**

12 A. No. It is clear that the concerns that the Merged Company now claims make it necessary
13 to implement a replacement for MTG are concerns that the Merged Company has long
14 known about. Even while the Merged Company was representing to CLECs and state
15 commissions that the Qwest systems were fully-operational and would remain in place
16 for at least 30 months after the merger, the Merged Company was well aware that the
17 hardware and software used by the MEDIACC system was no longer being supported by
18 the vendors. **tw telecom** believes that the Merged Company's failure to disclose what it
19 now claims is a risk that MEDIACC will experience a catastrophic and unrecoverable
20 failure cannot be reasonably characterized as acting in good faith. If the Merged
21 Company was aware that it would not be able to meet its merger commitments at the time
22 that it entered into the merger settlement agreements – and the evidence clearly shows

⁴ Direct Testimony of Michael Hunsucker, WA Docket No. UT-111254, p. 13, ll. 8-12.

1 that it was aware – then it was incumbent upon the Merged Company to disclose that fact
2 to the CLECs and state commissions before the merger was approved, not after.

3 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

4 **A. Yes, it does.**

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