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Via E-mail

Mr. David Danner, Executive Director and Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250

Re: Docket No. UT-111254 – Qwest/CenturyLink Reply Brief

Dear Mr. Danner:

Enclosed are the original and 7 copies of Qwest Corporation and CenturyLink's Reply Brief.

The electronic copy is being provided by e-mail.

Sincerely,

Lisa A. Anderl

Enclosures
cc: All Parties of Record

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 QWEST CORPORATION AND CENTURYLINK'S REPLY BRIEF

Contents

1 Qwest Corporation dba CenturyLink QC ("Qwest" or "legacy Qwest") and CenturyLink, Inc. ("CenturyLink") (collectively "Qwest/CenturyLink") provide the following Reply Brief in this case, in response to issues raised by the Joint CLECs and tw telecom in their opening briefs.

I. Introduction

2 The basic dispute in this case turns on the interpretation of the Settlement Agreements, and whether MEDIACC will continue to be "used" and "offered" for 30 months post-transaction, whether MTG is a "replacement" for MEDIACC, and whether MTG is being "integrated". Naturally, the parties hold differing views on these points, but it is important to remember that there are two Settlement Agreements at issue – the agreement with Staff and Public Counsel, and the Integra Agreement. The relevant terms in each are the same. While the Joint CLECs argue one interpretation, Qwest/CenturyLink and Staff have a different interpretation, and conclude that there is no violation of any of the Settlement Agreements.

3 Joint CLECs also describe and discuss the tw telecom agreement and the Joint CLEC agreement from Minnesota. These agreements are, for purposes of this docket, either duplicative of the Staff and Integra Agreements, or irrelevant, because the additional terms in those agreements (for example, the production testing requirement in the PAETEC agreement) are not yet implicated because the triggering events have not yet occurred.

II. The Commission's Authority to Enforce Settlement Agreements

4 Qwest/CenturyLink agrees that the Commission has authority to enforce the settlement agreements that were filed and approved in this docket. As previously noted, there is potentially a real concern about the Commission enforcing an agreement such as the PAETEC agreement that was not approved in this docket. This is because the Commission may not have the authority to do so, as noted in Staff's opening brief, and also because it would be inequitable for the Commission to enforce an agreement against

Qwest/CenturyLink when Qwest/CenturyLink received, at least in Washington, absolutely nothing in return for its commitments in that agreement.

5 In Washington, PAETEC was adverse to Qwest/CenturyLink in the merger docket, and filed two rounds of briefs (January 14 and 21, 2011) either opposing the merger or recommending additional conditions. Some of those additional conditions were imposed by the Commission. After filing those recommendations, PAETEC took advantage of an agreement reached in Minnesota, but did not withdraw its briefs or recommendations in Washington. Thus, PAETEC did not enter into an agreement in Washington, and arguably has no enforcement rights as to that agreement in this state.

6 The Joint CLEC argument at paragraphs 14-17, claiming that the PAETEC agreement is enforceable by the Commission in Washington as a telecommunications contract, misinterprets Washington law. The provisions in RCW 80.36.150 do not apply to wholesale contracts – rather, that statutory provision states that the Commission is to adopt rules to implement the statute.[1] The Commission's rule on this subject clearly states that only retail contracts must be filed.[2] As such, Joint CLECs' argument on this point fails. Nor is it persuasive that PAETEC's only alternative would be to go to court, while other parties could obtain enforcement relief at the Commission. This may be the case, but it is neither unfair nor anomalous. PAETEC has had the benefit of both opposing the merger, and obtaining the settlement terms, which is something other parties did not do. That PAETEC might have to seek relief in a different forum is the result of PAETEC's own actions. Nevertheless, Qwest/CenturyLink believes this to be essentially a moot point, given that no violation of any agreement has been established in this case.

[1] The commission shall adopt rules that provide for the filing by telecommunications companies on the public record of the essential terms and conditions of every contract for service. RCW 80.36.150(1)
[2] WAC 480-80-142(1)(a).

III. Contract Enforcement Issues

7 At paragraphs 18-20 of their Opening Brief, Joint CLECs discuss basic principles of contract law, and the rules for contract interpretation in Washington. Qwest/CenturyLink does not dispute those principles, but does disagree that any of those principles produces the result that Joint CLECs advocate for.

8 The intent of the parties, as evidenced by the language in the agreement, is critical to the interpretation of a contract.[3] Equally critical are the objective manifestations of that intent, including statements made by the parties prior to its effectiveness. On this issue, Joint CLECs ignore the fact that Staff is a party to an agreement that contains identical language to the Integra Agreement, and Staff's interpretation is consistent with that of Qwest/CenturyLink in terms of whether a breach of the agreement has occurred. The Commission's interpretation of the language prior to Commission approval is also important – in Order 14 in the merger docket the Commission noted that a duration of two years "would provide ample time to retain Qwest's OSS" (Order 14, ¶ 116), but adopted the 30-month commitment that had already been agreed to. Thus, for example, the Commission recognized that the 270-day process could work so that the replacement or retirement of a system could take place concurrently with the expiration of the 270 days, and the legacy Qwest OSS would not need to be retained beyond that requirement.

9 Furthermore, extrinsic evidence regarding the context in which the agreement was made shows that the issues in merger docket were primarily concerns about CenturyLink retiring or replacing legacy Qwest systems with legacy CenturyLink systems.

10 Finally, giving ordinary meaning to the relevant terms of the agreement, and giving effect to all provisions produces an interpretation of the agreement that is consistent with the Staff and Qwest/CenturyLink position.

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[3] *Hearst Communications, Inc. v. Seattle Times Co.*, 154 Wn.2d 493, 115 P.3d 262, 266, n.9 (2005).

IV. Qwest/CenturyLink Is In Compliance With the Merger Requirements

A. *Qwest/CenturyLink is in Compliance with the Commission Order*

11 The Joint CLECs argue, in paragraphs 21 and 22 of their Opening Brief, that CenturyLink's implementation of MTG violates the provisions in paragraph 120 of Order 14 in the merger docket. That paragraph contains requirements that CenturyLink must meet "before any replacement OSS is put into actual production." Joint CLECs contend that MTG is a replacement OSS, and that it is available for actual production, without meeting the preconditions in the merger order. In connection with this argument, Joint CLECs state that "there is no dispute that MTG is the replacement for MEDIACC", citing Tr. 241-243, and Tr. 338 – the testimonies of Mr. Hunsucker and Mr. Williamson. This statement is disingenuous at best.

12 As noted above, Joint CLECs' argument goes to the heart of the dispute in this case – whether MTG is a "replacement" for MTG as that term is used in the Settlement Agreement. Mr. Hunsucker's cited testimony indicated that MTG *will be* the replacement system, not that it is the replacement system. This is not a mere argument over semantics – the choice of words reflects the critical difference between what the CLECs want to be the case versus what is in fact the case – that MEDIACC has *not yet* been replaced. Mr. Williamson's testimony in this case also acknowledges that MTG will ultimately replace MEDIACC, but for now it is an optional system while MEDIACC is kept in place. Staff's position in this case supports Qwest/CenturyLink's interpretation of the Commission Order and Settlement Agreements, not the Joint CLECs'.

B. *CenturyLink Will Use MEDIACC for 30 Months*

13 Joint CLEC's next argument, at paragraphs 23-30, is that Qwest/CenturyLink will not "use" MEDIACC for 30 months as required by the merger Settlement Agreements. In order to make this argument, Joint CLECs rely on certain statements made early on in this dispute,

and in states other than Washington. Joint CLECs ignore the sworn testimony in this docket that Qwest/CenturyLink will continue to use MEDIACC for purposes of allowing CLEC customers to maintain a B2B interface for those customers who wish to do so.[4]

14 Thus, Qwest/CenturyLink is not claiming that "use and offer" mean the same thing – they do not. Qwest could be using a system internally but not offering it external customers. In this case, Qwest/CenturyLink will both "use" MEDIACC to enable a few CLECs to electronically bond to Qwest systems, and will also "use" it in connection with the CEMR application, which allows CLECs to have a GUI for repair and maintenance. The fact that Qwest/CenturyLink will also use and offer MTG, on an optional basis, does not mean that it is not using MEDIACC. Nor does it mean that Qwest/CenturyLink has an inadequate incentive to maintain MEDIACC – to the contrary, the merger Settlement Agreements and ongoing obligations under interconnection agreements and the Qwest Performance Assurance Plan ("QPAP") adequately assure such incentive and compliance.[5]

C. *CenturyLink Will Offer MEDIACC for 30 Months*

15 At paragraphs 31-36 of their Opening Brief, Joint CLECs argue that the many risks associated with MEDIACC means that the CLECs did not get the system they bargained for. They take statements made in the merger docket out of context to suggest that CenturyLink was not candid with the Commission. For example, Joint CLECs cite CenturyLink statements that "we have well-established, fully operational and tested systems" and that there is "no immediate need to make any alterations to Qwest's OSS". However, the context in which this testimony was given was that the Joint CLECs were concerned that CenturyLink would replace legacy Qwest systems with legacy CenturyLink systems – this

[4] Exhibit RA-1T, page 27.
[5] Exhibit RTW-1T, page 22.

testimony responded to that concern and assured the CLECs that legacy CenturyLink systems would not be replacing legacy Qwest systems during the promised 24/30 month period.[6]

16 Based on the statements regarding risks associated with MEDIACC, the CLECs conclude that Qwest/CenturyLink is not "offering" MEDIACC as it committed to. They further argue that Qwest/CenturyLink inflates the level of risk and uncertainty when discussing the issue with business and operational personnel, and minimizes it when talking to regulators, essentially complaining that Qwest/CenturyLink cannot have it both ways.

17 Qwest/CenturyLink addressed this issue in its opening brief.[7] Importantly, whatever risk there is does not change the fact that MEDIACC and CEMR perform and are used by CLECs for exactly the same functions in exactly the same way as before the merger, and CenturyLink has committed to take the steps necessary to maintain MEDIACC's availability for the entire 30-month settlement period. The third party testing of MEDIACC being performed in Minnesota (but which necessarily covers all states, because MEDIACC is offered the same in every state) will confirm that MEDIACC will function properly even in the event of a failure. CenturyLink continues to "offer" MEDIACC, and offering MTG does not change that fact.

18 Thus, it is the Joint CLECs who wish to "have it both ways" – they inflate the stated level of risk to near crisis when asking for relief, yet testify that MEDIACC is stable, and that they have no plans or intent to migrate to MTG early if Qwest/CenturyLink is allowed to implement it.[8] The claims that Qwest/CenturyLink is not "offering" MEDIACC are simply a thinly veiled attempt to convert this proceeding from an enforcement action – where no violation has been established – to one seeking monetary damages, even though no harmful event has occurred.

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[6] See, for example, the Commission's description of the CLECs' concerns at paragraphs 109 and 11 of Order 14 in Docket No. UT-100820 (concerns about EASE replacing Qwest's OSS, and paragraph 112 (concerns about CenturyLink deciding "to adopt all or portions of its OSS for use in Qwest territory".)
[7] Qwest/CenturyLink Opening Brief, ¶¶ 17-19.
[8] Id. at ¶¶ 27-30.

D. *CenturyLink Has Not Replaced MEDIACC*

19 At paragraphs 37-45 of their Opening Brief, Joint CLECs argue that CenturyLink has violated various other provisions of the Settlement Agreements, including those provisions that require joint testing, provision of historical data regarding "transaction volumes", a vote of the users, use of a third party facilitator, etc. All of these arguments are predicated on the Joint CLECs' earlier contention that MEDIACC has already been "replaced". As discussed above, and as Staff agrees, this predicate is incorrect. MTG has been added to the wholesale OSS that are available to CLECs, but has not (yet) replaced MEDIACC. Qwest/CenturyLink has committed to comply with the testing and other provisions, including submission of a report to the Commission and the CLEC vote, prior to ceasing to use or offer MEDIACC, and before retiring or replacing MEDIACC with MTG.[9]

20 Further, Joint CLECs raise unnecessary and premature questions about the replacement process and the Settlement Agreements, in an attempt to counter the Staff and Qwest/CenturyLink interpretation of the Agreement. For example, at paragraph 45, they ask whether "the transaction volumes [are] for the replacement system or the legacy system? Or both?" They also wonder how the requirement for a vote will work if some CLECs are using MEDIACC and some are using MTG. First, Qwest/CenturyLink has committed to following all of the required and agreed-upon procedures prior to replacing or retiring MEDIACC – that includes voting, required testing procedures and timing requirements. MEDIACC will not be retired or replaced until 2013, however, so any dispute on this point is speculative, academic, and not ripe for review. There may never be a live dispute about these issues; there is no need to tackle them now. Under the plain language of the agreement, the voting and testing procedures do not apply upon the introduction of an additional OSS, but only

[9] Exhibits RA-12 and RA-14.

when an existing legacy Qwest system is no longer used or offered, or is retired, replaced, or integrated with CenturyLink systems.

E. *MTG is Not a Replacement System at this Point and MTG Service Quality is Not at Issue in this Complaint*

21 At paragraphs 46-48 of their Opening Brief, Joint CLECs argue that Qwest/CenturyLink is obligated to provide wholesale service quality that is "not less than" that provided by Qwest before the merger, and that the replacement system must provide "functionally equivalent" support etc. They argue that because PAETEC has built a direct interface with MEDIACC via CMIP, the MTG interface cannot, by definition, meet this requirement because PAETEC does not have an XML interface and therefore cannot accomplish the same level of e-bonding as it does via MEDIACC.

22 However, this argument, as others, rests on the false premise that MEDIACC is not available, or that MTG is a required interface prior to the 30 month timeframe. As discussed above, neither is true –PAETEC and others will be able to use MEDIACC in exactly the same way as before the merger until the 30-month period ends. Thus, this dispute is also unripe and premature. Furthermore, if this interpretation of the agreement were correct, it would mean that Qwest/CenturyLink could never replace MEDIACC, because such a replacement would necessarily mean that the CMIP interface would no longer work. Such an absurd result reveals the flaw in Joint CLECs' reasoning: the settlement agreements expressly contemplate that OSS may change. A difference is not necessarily inferior quality. In fact – and this question is not yet ripe – the MTG system provides superior quality precisely because it no longer uses the outdated CMIP standard.[10]

23 PAETEC agrees. PAETEC understands that it could, under the merger settlement agreements, be required to migrate to MTG, or choose to use CEMR. Thus, this "service

[10] As discussed below, PAETEC no longer seeks the CMIP solution.

quality" argument is a red herring. The functional equivalency of MTG can and will be evaluated during the replacement/retirement steps that will be taken prior to the end of the 30 month period, but is not an issue at this point.

F. *There Has Been No Integration of MTG*

24 At paragraphs 49-51 of their Opening Brief, Joint CLECs argue that MTG has been "integrated" with legacy Qwest systems. This argument conflicts with the Joint CLEC definition of "integrate" as meaning "to make into a whole bringing parts together: unify 'or' to join (e.g parts) together: unite." (Opening Brief, paragraph 49). Joint CLECs ignore this definition by claiming that MTG must have been "joined" with (as in "connected" with, not "unified" with) the legacy Qwest systems, and that this violates the provisions of the Settlement Agreements. This is contrary to the plain language of the contract. The CLEC definitions of "integrate", (as well as the Qwest/CenturyLink definitions) which use the words "unify" and "unite" clearly mean that two systems are brought together and a single system is the result. This is far different from the current situation, where MEDIACC and MTG co-exist, and both are connected to CEMR, but neither has been "integrated".

25 Moreover, Joint CLECs' argument makes no sense in the context of the Settlement Agreement, which was to resolve the Qwest/CenturyLink merger application. The term "integrate" has and had a specific meaning in the context of that merger case – it means the combining or joining of legacy Qwest and legacy CenturyLink systems. Joint CLECs' definition ignores this important context by claiming that "integration" means that a legacy Qwest system works with other legacy Qwest systems.

26 Finally, it is important to remember the context and placement of the word "integrate," as well as the words "retire" and "replace" within the Settlement Agreement itself. Prior to the 30-month period, Qwest/CenturyLink's obligation is limited to continuing to "use and offer" legacy Qwest OSS to the settling CLECs. As long as Qwest/CenturyLink continues to use

and offer MEDIACC, it has met its obligations. The obligations regarding "integration" would apply only after the 30-month period, if MEDIACC were somehow integrated with existing legacy CenturyLink systems. The whole of the agreement, its plain language, and context all confirm that Joint CLECs' attempt to redefine "integrate" into something no party ever intended it would mean must be rejected.

V. Qwest/CenturyLink's OSS is Not Discriminatory

27 At paragraphs 52-58, Joint CLECs argue, as Qwest/CenturyLink anticipated in its Opening Brief, that Qwest/CenturyLink discriminates in favor of its retail customers. This is incorrect as a matter of fact and law.

28 In 2002, the Commission considered how to make a determination as to whether an ILEC's OSS met the requirements of Section 271 of the Telecom Act, including non-discriminatory access. In its 39th Supplemental Order in Docket Nos. UT-003022 and UT-003040 (July 1, 2002), the Commission described the FCC standard:

> The FCC uses a two-step method to determine whether a BOC has met the nondiscrimination standard for each OSS function. First, the FCC looks to "whether the BOC has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and whether the BOC is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them." Second, the FCC evaluates "whether the OSS functions that the BOC has deployed are operationally ready, as a practical matter."[11]

29 Thus, the non-discrimination standard requires OSS access and OSS functionality. In this regard, it is undisputed in this case that Qwest/CenturyLink provides access to its repair and maintenance OSS via CEMR and MEDIACC, and that the access has been stable and in compliance with the QPAP thresholds. No complaints have been raised about functionality. Thus, the OSS is being offered in a non-discriminatory manner.

[11] 39th Supplemental Order, ¶ 102, internal citations omitted.

30 In the 2002 case, the Commission went on to conclude, after evaluating third party test reports for both CEMR and MEDIACC, that "Qwest has met the requirements of Checklist Item No. 2 by providing OSS functions in a nondiscriminatory manner, in the same time and manner as it provides to its retail customers and in a manner that allows competitors a meaningful opportunity to compete." Further, that "Qwest's performance assurance plan, or QPAP, as filed on June 25, 2002, should provide adequate assurance that the local market in Washington state will remain open to competition if the FCC were to grant an application by Qwest for section 271 authority."[12]

31 The Commission also considered a claim of discrimination in a 2006 case filed by McLeodUSA (now PAETEC) regarding Qwest's rate structure for access to its DC power plant. In that case, as here, the differences between the "wholesale" access and "retail" functionality was largely structural – Qwest did not collocate its own equipment in central offices and therefore had different DC power needs than McLeod; Qwest/CenturyLink does not need mediated access to its own OSS.

32 In considering the DC power issue, the Commission stated that it has "long held that a utility may charge different rates for the same service if it is reasonable to do so." The Commission observed that "Qwest does not 'collocate' equipment, hence its imputed rates for DC power may reasonably differ from the rates it charges CLECs under negotiated interconnection agreements." Recognizing that "non-discriminatory" does not have to mean "identical", the Commission held that "[t]he fact that Qwest does not impute to itself the same costs for DC power that it charges McLeod does not of itself constitute improper discrimination."[13]

33 Qwest/CenturyLink does not need systems to interface with its own repair systems. MEDIACC, CEMR, and MTG are each examples of "mediated access" for CLECs that

[12] Id at ¶¶ 376-377.
[13] Docket No. UT-063014, Order 04, ¶ 24 (February 16, 2007).

require CLECs to use a separate system to interface with or talk to Qwest/CenturyLink systems. Joint CLEC witnesses agreed that the FCC and this Commission have ruled that mediated access to repair systems is appropriate.[14] Thus, there is no comparable system to MEDIACC for Qwest's retail operations. Qwest/CenturyLink does not use MEDIACC and no Qwest retail customers use MEDIACC.[15] There are innumerable differences between Qwest/CenturyLink's own repair systems and an *interface* to those systems because the interface is designed to accomplish a different task. Therefore, the fact that the interface MEDIACC is designed differently and has different capabilities than Qwest/CenturyLink's own repair systems is not evidence of discrimination. Indeed, Qwest/CenturyLink's retail repair systems serve both retail and wholesale customers, so the capabilities of those systems do benefit wholesale customers like Joint CLECs.

VI. Remedies Are Not Warranted

34 Paragraphs of the Joint CLECs' brief 59-71 address the relief requested. As noted in the Qwest/CenturyLink Opening Brief, the evidence in this case shows overwhelmingly that Qwest/CenturyLink is in compliance with the Agreement and that no violation has occurred. In the absence of any violation, there is no basis upon which to impose any remedies.

A. *There is No Need to Update MEDIACC*

35 Joint CLECs propose to "Update MEDIACC" at paragraphs 59-63 of their opening brief. However, this "proposal" consists mainly of criticizing Qwest for not following through with the initial Change Request to implement MTG (then called CTG) in 2008. Joint CLECs do not describe what actions should or could be taken to "update" MEDIACC, so it is impossible to respond to this proposal. However, Qwest/CenturyLink has already testified

[14] Tr. 195:1-14.
[15] Exhibit RA-1T, pp. 12-13.

that any update to MEDIACC would be as expensive as implementing MTG, and would still leave the company with the outdated CMIP protocol as opposed to the current XML. Ultimately, this is a request that Qwest/CenturyLink find a way to ensure the operational stability of MEDIACC, and Qwest/CenturyLink is committed to doing so.

36 Qwest/CenturyLink has committed to maintain MEDIACC and has failover and disaster recovery plans in place.[16] Integra and the other CLECs have the opportunity for input and can vote to prevent the retirement of MEDIACC, as provided in the Agreement, when that proposal is formally presented in 2012 and evaluated during 2013.

37 Further, as requested by the CLECs, MTG has automatic failover capability; MEDIACC has failover capability but that capability is manual.[17] Devoting resources to indefinitely maintain MEDIACC would prevent Qwest/CenturyLink from offering newer technologies and capabilities to CLECs.

B. *The CMIP Proposal Should be Rejected.*

38 The second proposal offered by the Joint CLECs is to modify MTG so that it uses the outdated CMIP "language" rather than or in addition to XML. Paragraphs 64-70. Again, Joint CLECs fail to describe whether or how this could be done. The CMIP proposal would take months and significant resources to implement, and would benefit only one CLEC – PAETEC for a very limited period of time.[18]

39 Further, on March 30, 2012 PAETEC advised the Colorado Commission that due to its acquisition by Windstream, it had determined that it no longer seeks the ability to interface with MTG via the CMIP protocol. Thus, there is no CLEC in this docket requesting this relief and it should not be considered. Speculation that the creation of a new CMIP interface

[16] Exhibits RA-18T, p. 5, and RTW-3C.
[17] Exhibit DD-5, pp. 5-6.
[18] *Id.*

to MTG would be efficient is just that – speculation – and it is not borne out by the evidence. Nor are there CLECs who have currently requested it.

C. *Qwest/CenturyLink Does Not Oppose Early Development and Testing of MTG But Should Not Bear the Costs.*

40 Finally, at paragraph 71, Joint CLECs get to the real point in this case – they want to be paid to transition to MTG. This is in spite of the fact that they testified to a person that they would not convert to MTG before the end of the 30 month period.[19] Qwest/CenturyLink is going to develop and test MTG before the 30 month period in accordance with the requirements agreed to in the merger commitments. However, any proposal that Qwest/CenturyLink bear the CLEC costs of this early testing and development would be improper. There is no reason for Qwest/CenturyLink to bear PAETEC's (or any other carrier's) costs to voluntarily implement the new system on their end while MEDIACC remains available as agreed. At the end of the settlement period, CLECs may be required to adopt new systems, including but not limited to MTG. When that occurs, all parties will bear their own costs: Qwest/CenturyLink will bear the costs of developing and testing the new systems, and CLECs will bear the costs on their end to incorporate the new systems into their own business operations. Requiring Qwest/CenturyLink to bear CLEC implementation costs would be unprecedented and unwarranted, especially in light of their testimony that they will not implement before the 30 month period.

VII. tw's Brief Does Not Support Any Remedies

41 tw filed a separate brief asking the Commission to enforce the Settlement Agreements, and urging the Commission not to allow its attention to be "deflected" from the real question in this docket. tw speculates that the cross-examination during the hearing was intended to raise questions in the mind of the Commission and the ALJ with regard to why tw is reluctant

[19] Qwest/CenturyLink Opening Brief, ¶¶ 27-30, and transcript references cited therein.

to convert to MTG in legacy Qwest territory, but is eager to do so in legacy Embarq territory. However, tw's assumption is incorrect. Qwest/CenturyLink fully understands that these are separate issues, and did not intend to suggest otherwise. Mr. Nipps' prefiled testimony addressed this issue in response to some Qwest/CenturyLink testimony in Colorado.[20] He introduced potential confusion by stating that tw "has not received any substantive commitment from CenturyLink/*Qwest*"[21], suggesting that Qwest territory was somehow involved in the Embarq discussions. The purpose of the cross-examination was simply to explore and clarify that issue. In any event, tw's witness has agreed that under the current plan for MEDIACC and MTG Qwest/CenturyLink will be in compliance with the Settlement Agreements. Thus, no remedy is warranted.

VIII. Conclusion

42 The question before the Commission is whether the Agreement prevents Qwest/CenturyLink from offering a new optional OSS: MTG. Qwest/CenturyLink has agreed to maintain the existing OSS, MEDIACC, for at least 30 months following the close of the merger, until all the agreed-upon procedures have been satisfactorily completed. The relevant language of the Agreement requires Qwest/CenturyLink to continue to "use and offer" MEDIACC to CLECs during the 30-month period, and Qwest/CenturyLink have agreed to do so. No language, however, prevents Qwest/CenturyLink from introducing a new optional OSS provided it continues to "use and offer" the existing OSS.

43 For the reasons stated herein, and in the Opening Briefs of Qwest/CenturyLink and Commission Staff, the complaint filed by the Joint CLECs should be denied, and no relief granted, other than the Staff recommendations, to which Qwest/CenturyLink have agreed.

[20] Exhibit LN-1T, pages 8-9.
[21] Id., page 9, emphasis added.

Respectfully submitted this 4th day of April, 2012

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