

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION**

In the Matter of,

Joint Application of Qwest Communications  
International Inc. and CenturyTel, Inc. for  
Approval of Indirect Transfer of Control of  
Qwest Corporation, Qwest Communications  
Company LLC, and Qwest LD Corp.

Docket No. UT-100820

**RESPONSIVE TESTIMONY**

**OF**

**BILLY H. PRUITT**

**CHARTER FIBERLINK WA-CCVII, LLC**

**September 27, 2010**

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**Exhibits**

Exhibit No. BHP-2 – CenturyLink Response to Charter Information Request No. 4

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Exhibit No. BHP-4 – CenturyLink Response to Charter Information Request No. 25

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Exhibit No. BHP-8 – CenturyLink Response to Charter Information Request No. 36

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Exhibit No. BHP-10 – CenturyLink Response to Charter Information Request No. 44;  
Attachment Charter-44

Exhibit No. BHP-11 – CenturyLink Response to Charter Information Request No. 45;  
Attachment Charter-45

Exhibit No. BHP-12 – Qwest Response to Charter Information Request No. 17

Exhibit No. BHP-13 – Qwest Response to Charter Information Request No. 21

1 **I. INTRODUCTION**

2  
3 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

4 A. My name is Bill Pruitt. My business address is 12405 Powerscourt Drive, St.  
5 Louis, Missouri, 63131. I am filing this testimony on behalf of Charter Fiberlink  
6 WA-CCVII, LLC.

7 **Q. BY WHOM ARE YOU EMPLOYED, AND WHAT IS YOUR POSITION**  
8 **WITHIN THE COMPANY?**

9  
10 A. I am Manager of Interconnection Services, at Charter Communications, Inc., and  
11 provide support to its subsidiary, Charter Fiberlink WA-CCVII, LLC, an  
12 intervener in this case (collectively “Charter”).

13 **Q. WHAT ARE YOUR DUTIES AS THE MANAGER OF**  
14 **INTERCONNECTION SERVICES?**

15  
16 A. I am required to provide regulatory policy and contract expertise in support of  
17 Charter’s voice service (i.e., telephone) business initiatives. In this role, I  
18 participate in interconnection agreement (“ICA”) negotiations for the provision of  
19 network interconnection, traffic exchange, and related wholesale arrangements;  
20 help resolve ICA implementation and maintenance issues; and, manage the  
21 internal coordination efforts required to negotiate and implement ICAs and related  
22 wholesale arrangements.

23 **Q. DO YOUR RESPONSIBILITIES ALSO INCLUDE IMPLEMENTATION**  
24 **AND MANAGEMENT OF ICAS AND RELATED WHOLESALE**  
25 **ARRANGEMENTS WITH CENTURYLINK AND QWEST?**

26  
27 A. Yes. I am actively involved in the day to day work of managing the wholesale  
28 arrangements we have with both CenturyLink and Qwest. In addition, I have

1           been involved in both informal and formal disputes, including several ICA  
2           arbitration and complaint proceedings, with both companies. As you know, in  
3           addition to network interconnection and traffic exchange issues, ICAs also govern  
4           many other wholesale arrangements between Charter and the incumbent local  
5           exchange carriers (“ILECs”) it competes with. Therefore, I am very familiar with  
6           the wholesale policies and procedures that CenturyLink and Qwest apply to  
7           Charter through the interconnection agreements we have in place.

8           **Q.   WHAT IS THE RELATIONSHIP BETWEEN YOUR EMPLOYER, CHARTER COMMUNICATIONS, AND CHARTER FIBERLINK WA-CCVII, LLC, THE INTERVENER IN THIS DOCKET?**

9  
10  
11  
12           A.   Charter Communications, Inc. is a national MSO that provides cable television  
13           and broadband internet services in various parts of the United States, including  
14           parts of Washington. The Charter Fiberlink companies, of which Charter  
15           Fiberlink WA-CCVII, LLC is one, are wholly-owned subsidiaries of Charter  
16           Communications, Inc. that provide facilities-based local exchange services and  
17           resold interexchange services to customers using facilities and services obtained  
18           from the Charter Communications cable television companies. The Charter  
19           Fiberlink companies provide voice communications services to more than 1.6  
20           million residential and small business customers. For the sake of brevity, I refer  
21           to Charter Communications, Inc. and the Charter Fiberlink companies,  
22           specifically including Charter Fiberlink WA-CCVII, LLC, which provides local  
23           exchange services in Washington, as “Charter” throughout my testimony.

1 **Q. PLEASE DESCRIBE YOUR RELEVANT WORK EXPERIENCE AND**  
2 **EDUCATION.**

3  
4 A. I joined Southwestern Bell Telephone Company in 1968 as a Teletype and Data  
5 Repair Technician, and then served as a Central Office Repair Technician until  
6 1970. Between 1970 and 1972 I served in the US Army. Upon my return to  
7 Southwestern Bell in 1972, I was assigned as a Switching Technician and, over  
8 time, served in many different outside plant and central office technical positions  
9 I obtained a Bachelor of Arts in Political Science degree from St. Louis  
10 University in 1981. In 1983, I was appointed a Manager in the Access Services  
11 group where I performed detailed costs studies and developed rates for multiple  
12 switching technologies required to provide switched access services. In 1986, I  
13 obtained a Master of Business Administration degree from Webster University. I  
14 was also promoted to the position of Area Manager Rates and Cost Studies in  
15 1986, and managed a work group responsible for switched access cost studies,  
16 rate development and associated filings with state and federal regulatory agencies.  
17 In 1990, I was appointed Area Manager Regional Sales where I developed and  
18 presented competitive proposals for complex network services and served as the  
19 Division's regulatory liaison. I retired from Southwestern Bell in December,  
20 1998.

21 In September, 1999, I accepted a position as a Senior Engineer with the Sprint  
22 PCS Carrier and Wholesale Interconnection Management group. In this  
23 assignment I was a lead negotiator responsible for negotiating interconnection  
24 agreements between Sprint PCS and other telecommunications carriers. I was

1 also responsible for providing expert witness testimony on behalf of Sprint PCS in  
2 ICA arbitrations before state regulatory commissions.

3 In March, 2003, I was assigned to Sprint's Access Management organization  
4 where I provided regulatory policy and contract expertise in support of Sprint  
5 Communications Company L.P.'s long distance, competitive local and Sprint PCS  
6 wireless initiatives. I was subsequently assigned to the Sprint Business Solutions  
7 organization where I provided general enterprise support regarding the  
8 development and delivery of products and services to Sprint's wholesale  
9 customers, and negotiated contracts with both local exchange carriers ("LECs")  
10 and alternate access vendors for services and facilities required in the Sprint  
11 network. Throughout this time, I also continued to provide negotiation and  
12 contract support to the various Sprint teams that negotiated interconnection  
13 agreements with other carriers, as well as providing expert witness testimony  
14 when required.

15 In the performance of my responsibilities at Sprint, I was required to understand  
16 and implement Sprint's rights and obligations on a day-to-day basis arising under:  
17 (i) the Communications Act of 1934 as amended by the Telecommunications Act  
18 of 1996 ("the Act"); (ii) the Federal Communications Commission ("FCC") rules  
19 implementing the Act; and, (iii) federal and state authorities regarding the Act and  
20 FCC rules.

1 In December 2004, I accepted a voluntary buyout from Sprint and opened a  
2 telecommunications consulting practice providing interconnection support  
3 services to telecommunications providers, primarily wireless carriers.

4 Since September 2007, I have been employed by Charter, initially as a contractor  
5 and currently as a full-time employee.

6 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE ANY STATE**  
7 **REGULATORY COMMISSION?**

8  
9 A. Yes, I have previously provided testimony regarding interconnection and related  
10 matters before the Georgia Public Service Commission, the Florida Public Service  
11 Commission, the Iowa Public Utility Board, the Louisiana Public Service  
12 Commission, the Missouri Public Service Commission, the Mississippi Public  
13 Service Commission, the Nebraska Public Service Commission, the Oklahoma  
14 Corporation Commission, and the Tennessee Regulatory Authority. I recently  
15 provided testimony before the Nebraska Public Service Commission in  
16 conjunction with the review of the CenturyLink-Qwest transaction. I will also be  
17 providing testimony before the Public Utility Commission of Oregon and the  
18 Minnesota Public Utilities Commission in connection with the review of the  
19 CenturyLink-Qwest transaction that will occur in each of those states.

20 **II. PURPOSE AND SUMMARY OF TESTIMONY**

21  
22 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

23 A. In my testimony I will discuss certain current CenturyLink wholesale practices  
24 that increase costs and affect Charter's ability to efficiently provide voice services  
25 in competition with CenturyLink. If continued by the post-merger company these



1 practices will make it more costly and difficult for Charter to provide competitive  
2 services to consumers in Washington. In addition, I will discuss the negative  
3 impact that CenturyLink's wholesale policies and procedures have had on  
4 Charter, and the reasons why Charter opposes the approval of CenturyLink's  
5 application for merger with Qwest, unless the Commission imposes certain  
6 quantifiable conditions, with consequences for nonperformance. Further, I will  
7 make some recommendations as to the conditions that the Commission should  
8 impose, if the Commission is so inclined to approve the transfer, to ensure that the  
9 merged entity does not continue these practices in the newly acquired markets,  
10 and that CenturyLink ceases its anticompetitive practices in its current markets.

11 **Q. PLEASE DISCUSS CHARTER'S OPERATIONS AND THE SERVICES IT**  
12 **PROVIDES IN WASHINGTON.**

13  
14 A. Charter Fiberlink WA-CCVII, LLC is a Delaware limited liability company, with  
15 its primary place of business in St. Louis, Missouri. It is authorized by the  
16 Commission to provide local exchange services and intrastate, interexchange  
17 (interLATA and intraLATA toll) and data communications services throughout  
18 the entire state of Washington. Practically speaking, Charter provides competitive  
19 voice services to primarily residential customers in Washington. These services  
20 are provisioned over affiliated cable company networks, which are deployed  
21 largely in the less densely populated areas of the state. Charter also offers certain  
22 business services, however, the bulk of its customers are residential customers.

23  
24

1 **Q. WHAT IS CHARTER'S EXPERIENCE WITH CENTURYLINK?**

2 A. Charter competes with CenturyLink (i.e., the former Embarq) in several different  
3 areas of Washington and seven other states;<sup>1</sup> it also competes with the former  
4 CenturyTel affiliates in four states.<sup>2</sup> In addition, Charter also obtains  
5 interconnection with, and related wholesale facilities from, CenturyLink to  
6 provide service to customers in a number of CenturyLink service territories.  
7 Thus, as a wholesale customer of and direct competitor to CenturyLink, Charter's  
8 experience demonstrates that CenturyLink's wholesale practices increase the costs  
9 of acquiring and migrating customers from CenturyLink.

10 **Q. WHAT IS CHARTER'S EXPERIENCE WITH QWEST?**

11 A. Similar to our relationship with CenturyLink, Charter both competes with Qwest  
12 for residential and business customers, and also relies upon wholesale  
13 arrangements and interconnection from Qwest in order to provision service in  
14 four states.<sup>3</sup> However, Qwest does not employ the wholesale practices that  
15 CenturyLink employs, which I discuss in this testimony. Because Qwest does not  
16 employ these practices which increase Charter's (and other carriers') costs of  
17 competing, we believe that as between the two merging companies' wholesale  
18 practices, Qwest's practices are preferred and should be used by the post-merger  
19 company.

20

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<sup>1</sup> Minnesota, Missouri, Nebraska, North Carolina, Oregon, Tennessee, Virginia and Washington.

<sup>2</sup> Alabama, Missouri, Texas and Wisconsin.

<sup>3</sup> Minnesota, Oregon, Nebraska and Washington.

1 **Q. ARE THERE DISTINCTIONS BETWEEN CHARTER’S AND OTHER**  
2 **INTERVENERS’ EXPERIENCE WITH CENTURYLINK?**

3  
4 A. My testimony addresses Charter’s experience with obtaining wholesale inputs  
5 from CenturyLink while also competing with CenturyLink for the provision of  
6 voice services to primarily residential customers. Charter’s experience is distinct  
7 from other interveners in this proceeding in that most of them primarily provide  
8 business, or enterprise, services in competition with CenturyLink. Further,  
9 Charter offers a unique perspective as it has extensive experience dealing with  
10 CenturyLink’s wholesale practices since Charter has competed in CenturyLink  
11 service territories in the Midwest and Southeast for years. Finally, because  
12 Charter is a facilities-based competitor, it does not use Unbundled Network  
13 Elements (“UNEs”), or resale services. Therefore, this testimony will not address  
14 CenturyLink or Qwest wholesale practices as they relate to unbundling, service  
15 performance measures, collocation, or other issues of concern to many of the  
16 other interveners in this proceeding.

17 **Q. PLEASE SUMMARIZE THE SCOPE OF YOUR TESTIMONY,**  
18 **INCLUDING YOUR CONCLUSIONS AND RECOMMENDATIONS.**

19  
20 A. In this testimony, I focus on several specific CenturyLink wholesale practices that  
21 affect Charter when competing with CenturyLink not only in Washington, but  
22 throughout its footprint, and the negative impact those anticompetitive practices  
23 have had on Charter. Specifically, I will describe (i) the costs imposed upon  
24 competitors when acquiring and migrating customers from CenturyLink; (ii) how

1 CenturyLink continues to use the rural exemption contained in Section 251(f)<sup>4</sup> to  
2 avoid obligations under Section 251 and thereby thwart competition; and, (iii) our  
3 concerns with CenturyLink’s operational support systems. To address these  
4 concerns, I also discuss conditions that the Commission should impose upon the  
5 post-merger company in the event that it approves the proposed transaction. In  
6 particular, I explain that the Commission should condition approval of the  
7 proposed merger upon a commitment from the post-merger company to adopt  
8 Qwest’s wholesale practices related to the customer acquisition and migration  
9 process; and, to waive any statutory right it may have to operate (or for any of its  
10 subsidiaries or affiliates to operate) as a rural company exempt from Section  
11 251(c) obligations.

12 **Q. HOW DOES YOUR TESTIMONY INFORM THE COMMISSION’S**  
13 **ANALYSIS OF THIS TRANSACTION?**

14  
15 A. As I understand it, the Commission will review the proposed transaction under a  
16 public interest analysis that will include a consideration of whether the proposed  
17 transaction will harm competition in Washington. We know that if CenturyLink  
18 combines with Qwest, the post-merger company will be the largest provider of  
19 telecommunications services in Washington serving approximately 1,700,000  
20 access lines.<sup>5</sup> In addition, based on Charter’s experience with CenturyLink in  
21 other states it is evident that CenturyLink has certain wholesale practices and  
22 policies that negatively impact competition. If the proposed transaction is  
23 approved and the post-merger company becomes the dominant provider in

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<sup>4</sup> 47 U.S.C. § 251(f).

<sup>5</sup> See Direct Testimony of Mark S. Reynolds at Page 11, Lines 6-10.

1 Washington, it is likely that these improper wholesale practices will be extended  
2 and applied to all CenturyLink service territories (including those newly acquired  
3 territories resulting from the merger). Thus, my testimony highlights the  
4 significant harms that the proposed transaction could have on competition in  
5 Washington if approved without enforceable and quantifiable conditions.

6 **III. CERTAIN CENTURYLINK WHOLESALE PRACTICES INCREASE**  
7 **CHARTER'S COSTS AND HINDER COMPETITION**

8  
9 **A. CenturyLink's Anticompetitive Wholesale Surcharges Must Be Discontinued**

10  
11 **Q. PLEASE DISCUSS THE CENTURYLINK WHOLESALE PRACTICES**  
12 **THAT CONCERN CHARTER.**

13  
14 A. There are several different surcharges that CenturyLink imposes upon Charter  
15 when it "wins" a new customer from CenturyLink. These surcharges are imposed  
16 at different points in the process of acquiring and migrating new customers.  
17 Collectively, they increase Charter's operational costs, and make it more  
18 expensive and difficult to provide competitive services to residential customers  
19 that are located in CenturyLink's service territories.

20 **Q. PLEASE EXPLAIN.**

21  
22 A. CenturyLink assesses interconnection-based charges upon Charter when Charter  
23 "wins" a new customer and takes the following action: (1) accesses the customer  
24 side of a NID enclosure in order to connect its network to the customer's inside  
25 wire; (2) submits a request to CenturyLink to port a telephone number to  
26 Charter's network; and (3) submits a directory listing/directory assistance listing

1 to CenturyLink. This section of my testimony will discuss each of these charges  
2 in turn.

3 *I. CenturyLink's Assessment of Interconnection-based Charges on*  
4 *Competitors' Requests to Port Telephone Numbers*

5  
6 **Q. PLEASE DESCRIBE NUMBER PORTING AND ITS ROLE IN**  
7 **PROVIDING COMPETITIVE SERVICES.**

8  
9 A. Number portability, or “porting,” is the term used to describe a telephone  
10 customer’s ability to maintain his or her existing telephone number when the  
11 customer changes providers. Porting occurs where the two telephone companies  
12 work together, at the customer’s request, to transfer the telephone number from  
13 the “old” service provider to the “new” service provider. The process ensures that  
14 customers can transition from their old provider to their new provider, without  
15 having to change their telephone number. Naturally, porting can and does go both  
16 ways – to and from the incumbent.

17 **Q. WHY IS NUMBER PORTING IMPORTANT TO CONSUMERS?**

18 A. Number Porting is important because consumers want to retain their existing  
19 telephone numbers when switching providers. Retaining your telephone number  
20 is important for several reasons: consumers don’t want to have to alert their  
21 friends and family of new telephone numbers, and change billing statements,  
22 stationery, business cards, and other items every time they switch telephone  
23 providers. For these reasons (and others), number porting is very important to  
24 customers, and competition. Indeed, without number portability consumers may

1 choose not to change their providers because of the impact on their personal and  
2 business lives.

3 **Q. WHY IS NUMBER PORTING IMPORTANT TO COMPETITORS?**

4 A. As noted, getting customers to change providers can be difficult. The customer  
5 inertia for a new service is difficult to overcome in the first place, but without  
6 number portability consumers may not even consider an alternative provider.  
7 Even though providers like Charter now offer competitive alternatives by  
8 competing vigorously on rates, terms and conditions, experience shows that when  
9 number portability is constrained or limited, competition will be hampered. The  
10 inconvenience of losing a telephone number that is associated with the consumer  
11 is simply too great. Therefore, all of the competitors' efforts to compete with  
12 incumbents are dismissed if the customer can't port their telephone number.

13 **Q. WHAT CENTURYLINK WHOLESALE POLICIES AND PRACTICES**  
14 **AFFECT NUMBER PORTING?**

15  
16 A. CenturyLink (i.e., CenturyTel affiliates) assesses a surcharge upon Charter at the  
17 initial stage of the process,<sup>6</sup> when Charter conveys the customer's request to port  
18 their telephone number from CenturyLink to Charter's network. It is clear that  
19 these charges would not arise but for the fact that Charter is competing with  
20 CenturyLink, and actively porting numbers (and customers) away from  
21 CenturyLink's network.<sup>7</sup>

22

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<sup>6</sup> See CenturyLink Discovery Responses Nos. 25 & 26. Exhibits No. BHP-4 and BHP-5.

<sup>7</sup> *Id.*

1 **Q. HOW DOES CENTURYLINK'S PRACTICE OF ASSESSING A**  
2 **SURCHARGE ON NUMBER PORTING AFFECT CHARTER'S ABILITY**  
3 **TO COMPETE?**

4  
5 A. CenturyLink's current practice of assessing a surcharge on number porting  
6 increases Charter's operational and administrative costs of acquiring and  
7 migrating new customers from CenturyLink. Operationally, these surcharges  
8 make it more costly for Charter to "win" new CenturyLink customers, than the  
9 customers of other carriers that do not impose a similar surcharge for number  
10 porting. Thus, there is an economic disincentive to competing for CenturyLink  
11 customers. In this way, CenturyLink's practices have the effect of hampering  
12 Charter's efforts to provide competitive services to consumers in states where the  
13 two companies compete.

14 **Q. HAS THE ASSESSMENT OF THESE CHARGES INCREASED**  
15 **CHARTER'S ADMINISTRATIVE COSTS?**

16  
17 A. Yes. Charter has been forced to commit significant time and expense to the  
18 process of reviewing, reconciling, and disputing each CenturyLink invoice with  
19 these charges. Keep in mind that this review, reconciliation (and if necessary  
20 disputing) occurs on a monthly basis.

21 **Q. PLEASE EXPLAIN.**

22 A. Charter's personnel responsible for reviewing carrier invoices are forced to sort  
23 through CenturyLink's invoices and identify improper charges and other billing  
24 errors. Once these errors are identified, those persons are then responsible for  
25 submitting specific bill disputes with CenturyLink. The disputed charges are then  
26 short-paid, and are entered into CenturyLink's dispute portal. Charter is then



1 responsible for periodically checking CenturyLink's dispute portal to ensure that  
2 there were no notifications sent by CenturyLink to inform Charter that the dispute  
3 has been acknowledged, or processed for invoice credit or denial. And Charter,  
4 on a monthly basis, analyzes the total open disputes entered into its dispute  
5 tracking database and then creates an entry for the estimated amount of reserve  
6 related to the CenturyLink disputes. Charter's administrative costs associated  
7 with its review of CenturyTel's invoices would be reduced significantly if  
8 CenturyLink did not assess charges for number porting.

9 **Q. HAS CHARTER INCURRED ADDITIONAL OPERATIONAL COSTS AS**  
10 **A RESULT OF THESE CHARGES?**

11  
12 A. Yes. When the amount of unpaid bills escalates as a result of billing disputes,  
13 such disputes are likely to become significant matters of concern between the  
14 parties. In the past, CenturyLink has billed porting charges that were not  
15 authorized by the parties' interconnection agreement ("ICA") and Charter has  
16 disputed them. That, in turn, led to significant operational, and eventually legal,  
17 disputes between Charter and CenturyLink in Missouri, for example. During  
18 these disputes, CenturyLink threatened to stop porting telephone numbers unless  
19 its surcharges were paid. Charter eventually retained legal counsel to litigate a  
20 resolution before the Missouri Public Service Commission. That litigation, and  
21 the attendant legal costs, would not have occurred had CenturyLink not assessed  
22 these improper charges.

23

1 **Q. WHAT IS CENTURYLINK’S RATIONALE FOR ASSESSING THESE**  
2 **SURCHARGES?**

3  
4 A. CenturyLink asserts that these surcharges are simply generic “service order”  
5 charges that arise as a result of the costs of providing a service to Charter. The  
6 problem with this rationale is that CenturyLink is not providing a service to  
7 Charter. Instead, CenturyLink is porting a telephone number to Charter,  
8 consistent with its legal obligations under federal law, just as Charter does for  
9 CenturyLink (without charge).

10 **Q. PLEASE EXPLAIN.**

11  
12 A. CenturyLink has argued in the past that these charges are simply generic service  
13 order charges that are assessed upon any request for services submitted to it, and  
14 therefore have nothing to do with number porting. The problem with that  
15 argument is that Charter is not requesting a service from CenturyLink, but is  
16 instead submitting a porting request on behalf of the customer that wishes to port  
17 its number (pursuant to its rights under federal law). Obviously Charter cannot  
18 port the number on its own, but instead must engage CenturyLink to fulfill the  
19 customer’s port request. Clearly, these charges would not be assessed “but for”  
20 the fact that a number needs to be ported from CenturyLink to Charter.  
21 CenturyLink has acknowledged this fact in response to discovery, when it  
22 admitted that these charges only arise when Charter submits a porting request.<sup>8</sup>  
23 As a result, these charges clearly constitute a surcharge on the act of porting a  
24 number, and cannot be labeled simply as a generic service charge.

---

<sup>8</sup> See CenturyLink Discovery Responses Nos. 25 & 26. Exhibits No. BHP-4 and BHP-5.

1 **Q. ARE YOU ASKING THE COMMISSION TO RESOLVE DISPUTES**  
2 **BETWEEN CHARTER AND CENTURYLINK IN WASHINGTON?**

3  
4 A. No. My point is intended to demonstrate that CenturyLink's current  
5 anticompetitive wholesale practices have a detrimental affect on Charter, and any  
6 other competitors that are assessed such charges. If those policies are imposed  
7 upon all competitors once CenturyLink assumes control of Qwest, that would  
8 undoubtedly have an adverse impact on competition in Washington.

9 **Q. PLEASE EXPLAIN.**

10 A. I expect that CenturyLink will try to minimize Charter's experience with  
11 CenturyLink's anticompetitive wholesale surcharges by simply arguing that it was  
12 an individualized dispute between the parties, not worthy of review in this  
13 proceeding. But collectively, these surcharges are evidence of a concerted policy  
14 or practice that CenturyLink engages in with competitors. Charter is asking the  
15 Commission to recognize that an expansion of CenturyLink's anticompetitive  
16 policies throughout the entire state of Washington would be a significant problem  
17 for Charter and other competitors. QSI witnesses Mr. Gates and Dr. Ankum  
18 explain how the Commission can mitigate these harms by imposing enforceable  
19 conditions on the post-merger company that requires the use of certain Qwest  
20 wholesale policies and practices instead of CenturyLink's.

21 **Q. DOES QWEST ASSESS THESE TYPES OF CHARGES UPON**  
22 **CHARTER?**

23  
24 A. No, Qwest does not assess any number porting or service order charges upon  
25 Charter when it submits a request to port a telephone number away from Qwest

1 during the customer acquisition process. Again, Charter doesn't charge Qwest  
2 either for number portability. Although Qwest assesses certain service order  
3 charges upon requests for facilities (i.e. UNE loops), it does not assess a separate,  
4 stand-alone charge when only number porting is requested.<sup>9</sup>

5 **Q. HAS THIS COMMISSION CONSIDERED THE POTENTIAL**  
6 **APPLICATION OF SERVICE ORDER CHARGES ON ALL**  
7 **COMPETITORS IN WASHINGTON?**

8  
9 A. I do not know of any Commission decision that has considered the potential  
10 application of these charges on all competitors in Washington.

11 **Q. QWEST'S WITNESS, MR. REYNOLDS, TESTIFIED THAT THE**  
12 **PROPOSED TRANSACTION WILL NOT ADVERSELY AFFECT**  
13 **WHOLESALE CUSTOMERS OR COMPETITION. DO YOU AGREE?**

14  
15 A. No. Although Ms. Pepler testifies that the proposed transaction will not  
16 adversely impact wholesale customers or competitors, it does not appear that she  
17 considered the potential impact of CenturyLink policies on competitors. For  
18 example, when Charter asked CenturyLink whether Qwest (after the merger) will  
19 adopt a wholesale policy that results in the assessment of service order charges for  
20 processing number porting requests CenturyLink responded that the companies  
21 "have not yet discussed specific policies for the combined company."<sup>10</sup> While it  
22 may be true that CenturyLink and Qwest haven't yet considered specific policies  
23 for the combined post-merger company, it is a convenient answer that attempts to  
24 defer scrutiny of the consequences of the proposed transaction until after it has  
25 been approved.

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<sup>9</sup> See Qwest Discovery Responses Nos. 17 & 21. Exhibits No. BHP-12 and No. BHP-13.

<sup>10</sup> See CenturyLink Discovery Response No. 18. Exhibit No. BHP-3.

1 **Q. WHAT IS YOUR RECOMMENDATION WITH RESPECT TO THIS**  
2 **ISSUE?**

3  
4 A. In my view, the imposition of a number porting surcharge upon competitive  
5 carriers like Charter is improper. Given the problems identified here I would  
6 recommend that the Commission deny the application for approval of this  
7 transfer. However, if the Commission is inclined to approve the transfer, it should  
8 do so with appropriate conditions to ensure that these types of improper wholesale  
9 surcharges are not applied to the entire Qwest territory in Washington. Thus, as a  
10 condition of approval, the Commission should adopt Condition No. 24(a) as set  
11 forth in Mr. Gates testimony, to ensure that CenturyLink's practice of imposing  
12 these surcharges is not a component of the post-merger company's wholesale  
13 policies, and direct the post-merger company to adopt Qwest's practice for  
14 processing number porting requests without charge. This approach ensures that  
15 competitors are not needlessly burdened with additional costs arising from  
16 questionable assessments.

17 **2. *CenturyLink's Assessment of Interconnection-based Charges for***  
18 ***Competitors' Access to Customer Side of NID Enclosures***

19  
20 **Q. WHAT IS CHARTER'S CONCERN WITH CENTURYLINK'S**  
21 **ASSESSMENT OF A NID "USE" OR ACCESS SURCHARGE?**

22  
23 A. In providing competitive voice services to residential customers, Charter will use  
24 its affiliate's existing hybrid fiber-coaxial networks to deploy voice services (i.e.,  
25 telephone service) to the customer. When initiating that service, Charter must be  
26 able to connect its network directly to the customer's inside wire. That  
27 connection is normally established via a direct connection between the Charter

1 cable affiliate's last mile facility (analogous to a telephone company "local  
2 loop"), and the customer's inside wire at the point of entry, or other location  
3 within the premises where the inside wire is accessible.

4 Under certain, limited, circumstances Charter may need to access the customer's  
5 inside wire via the customer side of the network interface device, or ("NID")  
6 enclosure. In those circumstances, CenturyLink (i.e., CenturyTel affiliates) has  
7 attempted to assess "use" or access fees upon Charter. CenturyLink's assessment  
8 of those charges upon Charter is problematic because Charter is not "using" the  
9 NID (i.e., the cross-connect device that connects the ILEC's network to the  
10 customer's inside wire), and CenturyLink does not incur any costs for the limited  
11 access afforded to Charter. Nevertheless, CenturyLink has attempted to assess  
12 such a charge in every instance, which has in turn lead to serious disputes and  
13 litigation between the companies.

14 **Q. WHAT IS A NETWORK INTERFACE DEVICE?**

15 A. For the issues relevant in this case, NIDs are typically small gray boxes, about the  
16 size of a shoe-box, placed on the side of single family dwellings. A NID  
17 enclosure generally contains two compartments. One compartment is generally  
18 referred to as the "network side" of the NID. The other compartment is generally  
19 referred to as the "customer side" of the NID. (A picture of a typical residential  
20 NID is set forth below.)



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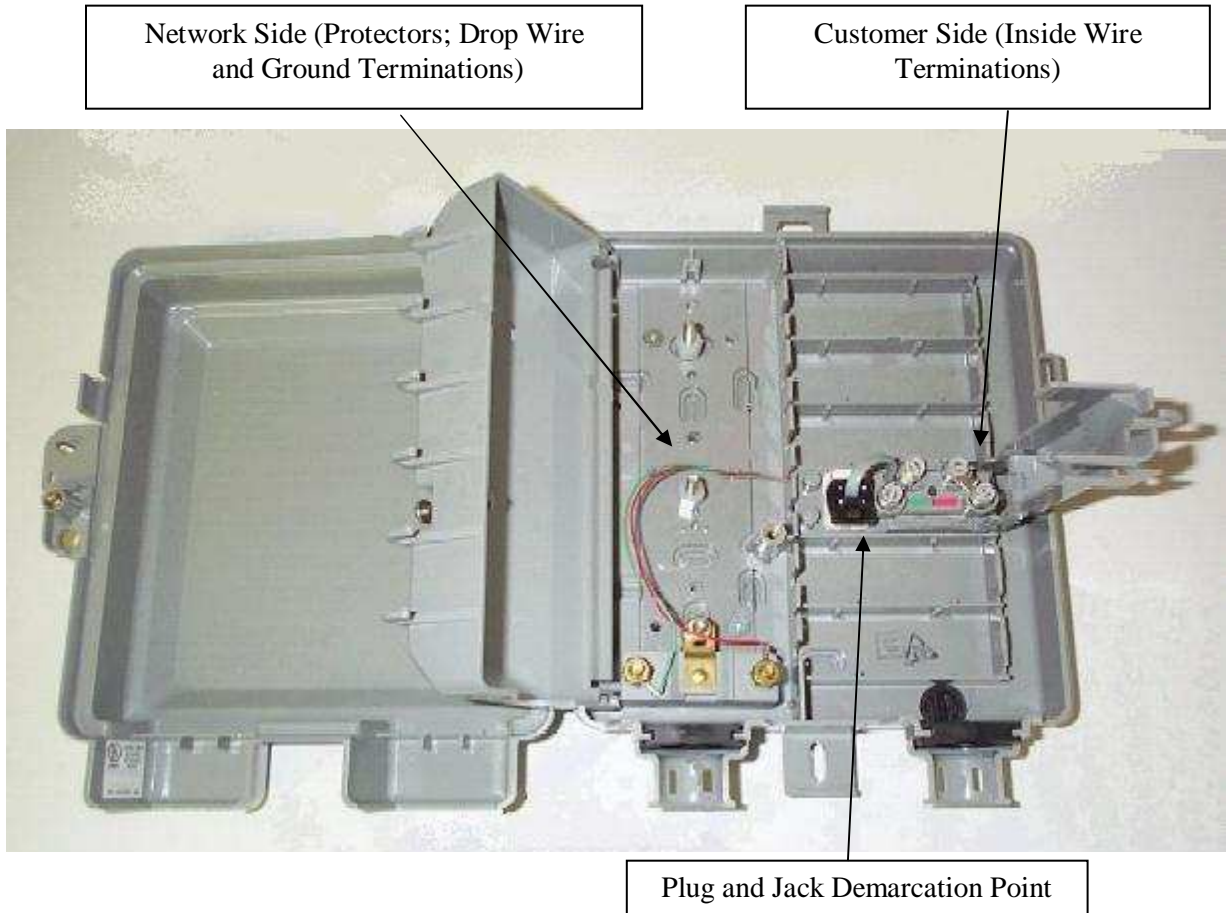
**Q. PLEASE EXPLAIN THE BASIC USE OF THE NID.**

A. A traditional telephone carrier such as CenturyLink, connects its copper loop serving the residence into the “network side” of the NID enclosure which is inaccessible to the customer. The NID enclosure also contains a compartment, the “customer side,” that is fully accessible to the customer/premises owner. In that compartment, the customer’s inside wire is connected to a short telephone cord, which, in turn, is plugged into an RJ11 standard telephone jack. The RJ11 jack is connected to a cross-connect device, i.e., the actual NID, which connects (on the other network side of the NID enclosure) to the ILEC’s local loop.

**Q. CAN YOU ILLUSTRATE THIS EXAMPLE?**

1 A. Yes. A simple diagram identifying the customer side and the Telco/network side  
2 of the NID enclosure is provided below.

3 **Diagram 1: “Network” and “Customer” Sides of NID**



8 **Q. WHAT FUNCTIONALITY IS PROVIDED ON THE NETWORK SIDE OF**  
9 **THE NID?**

10

11 A. As noted, a traditional telephone carrier or ILEC such as CenturyLink connects its  
12 copper loop serving the residence into the network side of the NID enclosure,  
13 which typically contains important electrical grounding capability (called the  
14 “protector”) and often contains loop testing circuitry as well. These parts of the  
15 NID enclosure are sealed off from customer access.



1 **Q. WHAT FUNCTIONALITY IS PROVIDED ON THE CUSTOMER SIDE OF**  
2 **THE NID?**

3  
4 A. The customer side of the NID enclosure is fully accessible to the  
5 customer/premises owner. The customer side of the NID enclosure generally  
6 contains a standard telephone jack for each line serving the home.<sup>11</sup> The customer  
7 side of the NID enclosure also has copper posts to which wiring from inside the  
8 house is connected. A short telephone cord, with a standard telephone plug at the  
9 end (i.e., the RJ11 connector), runs from the copper posts serving a line in the  
10 home and plugs into the jack. By plugging and unplugging this telephone cord,  
11 the customer can connect and disconnect his premises wire from the carrier's  
12 loop.

13 **Q. DOES CHARTER ALWAYS NEED TO ACCESS THE CUSTOMER SIDE**  
14 **OF THE NID ENCLOSURE TO PROVISION ITS OWN SERVICE?**

15  
16 A. No. As noted above, Charter generally accesses the customer's inside wire via  
17 the customer side of the NID enclosure only in limited situations. In those  
18 situations CenturyLink has attempted to assess "use" or access fees upon Charter.

19 **Q. WHY DOESN'T CHARTER SIMPLY CONNECT TO THE INSIDE WIRE**  
20 **WITHIN THE CUSTOMER'S PREMISES TO AVOID THIS SITUATION?**

21  
22 A. In most cases, Charter does connect to the customer's inside wire within the  
23 customer's premises. However, in certain limited cases, Charter must connect its  
24 facilities at the customer side of the NID enclosure to begin providing service.

25 **Q. PLEASE EXPLAIN.**

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<sup>11</sup> A typical single-family home might have a NID capable of handling two to four lines; different NIDs are capable of handling different number of lines. The basic arrangement described in this testimony, however, is the same for each line.

1 A. When the customer's inside wire is not accessible at some point within the  
2 residence and the NID enclosure blocks or covers the customer inside wire at the  
3 point of entry, or if the inside wires are too short inside the customer side of the  
4 enclosure, the only other way to connect to the customer's inside wire is at the  
5 customer side of the NID enclosure. In that situation, Charter merely disconnects  
6 the customer's inside wire from the CenturyLink loop inside the NID enclosure  
7 (i.e., disconnects the customer's wire from the cross-connect device on the  
8 customer's side of the NID by unplugging it from the RJ11 connector), and  
9 connects its own last mile facility to the inside wire within the customer side of  
10 the enclosure. Once this connection is established through the customer side of  
11 the NID enclosure, Charter can provide service.

12 **Q. DOES THIS CONNECTION TO THE CUSTOMER'S INSIDE WIRE AT**  
13 **THE CUSTOMER SIDE OF THE NID ENCLOSURE HAPPEN**  
14 **FREQUENTLY?**

15  
16 A. No, infrequently, Charter's Vice President of Technical Operations recently  
17 testified that this problem only occurs in approximately ten percent of all Charter  
18 installations in CenturyLink territory.<sup>12</sup>

19 **Q. WHY IS THAT A PROBLEM?**

20 A. In Charter's experience, CenturyLink's NID box is often placed directly over the  
21 location where the customer's inside wire leaves the premise. Or, in some cases,  
22 the inside wire is contained in a conduit that enters the CenturyLink NID box. In  
23 either case, the NID enclosure literally covers the location where the inside wire

---

<sup>12</sup> See *Petition of Charter Fiberlink, LLC for Arbitration of an Interconnection Agreement Between the CenturyTel Non-Rural Telephone Companies of Wisconsin and Charter Fiberlink, LLC*, Arbitration Award at 14, Docket 5-MA-148, 149 (Wisc. PSC 2009).

1 becomes available for access. As an Arbitration Panel of the Wisconsin Public  
2 Service Commission recently found, CenturyLink’s NID enclosure is placed at  
3 the “only point where the wires congregated and insufficient wiring is accessible  
4 to [permit Charter to] make a direct connection to the end user.”<sup>13</sup>

5 **Q. WHAT IS CHARTER’S PRACTICE WHEN THE CENTURYLINK NID**  
6 **ENCLOSURE DOES NOT BLOCK ACCESS TO THE CUSTOMER’S**  
7 **INSIDE WIRE?**

8  
9 A. When the CenturyLink NID enclosure does not block access to the customer’s  
10 inside wire, Charter connects its last mile facility directly to the customer’s inside  
11 wire, generally within the customer’s premises. Thus, in the vast majority of  
12 installations, Charter does not connect to the inside wire at the customer’s side of  
13 the NID enclosure.

14 **Q. DOES CENTURYLINK ASSESS A CHARGE WHEN CHARTER MAKES**  
15 **CONNECTIONS AT THE CUSTOMER SIDE OF THE NID**  
16 **ENCLOSURE?**

17  
18 A. Yes. Although this practice of connecting to the inside wire on the customer side  
19 of the NID enclosure occurs only in limited circumstances, CenturyLink attempts  
20 to impose “access” fees on Charter when it makes such connections through the  
21 NID enclosure. In other words, CenturyLink attempts to charge Charter for every  
22 new customer installation that occurs on the customer side of the CenturyLink  
23 NID enclosures – what amounts to a new customer surcharge imposed upon  
24 Charter. These charges consist of a nonrecurring service order charge and a  
25 monthly recurring charge.

26

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<sup>13</sup> *Id.* at 12 (citing Tr. 320).

1 **Q. WHY DOES CENTURYLINK ASSESS THIS CHARGE?**

2 A. CenturyLink’s rationale for this “use” or access surcharge is that Charter is  
3 “using” the NID in a manner akin to the use of a UNE.<sup>14</sup>

4 **Q. IS THAT CORRECT – DOES CHARTER USE THE NID AS A UNE?**

5 A. No. That assertion ignores the facts surrounding Charter’s limited access to the  
6 NID enclosure. For example, in Section 252 arbitration proceedings in Missouri  
7 and Texas, CenturyLink could not show that Charter’s activities associated with  
8 opening the NID enclosure, disconnecting the CenturyLink wire, and connecting  
9 the Charter wire to the customer’s inside wire results in additional costs to  
10 CenturyLink. Since CenturyLink incurs no costs or technical obligations when  
11 Charter unplugs the customer’s inside wire from the short cross connect (i.e., the  
12 NID) between the network side and the customer side of the NID enclosure, no  
13 charge is appropriate. In fact, once the end user has been transferred to Charter,  
14 CenturyLink no longer has any engineering and service obligations to that  
15 customer.<sup>15</sup>

16 In addition, Charter is not choosing to use a NID as a UNE because any “use” it  
17 makes of the NID is involuntary. State commissions in Missouri and Wisconsin  
18 reached the same conclusion.<sup>16</sup> That is precisely why the Wisconsin PSC

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<sup>14</sup> CenturyLink relies upon this UNE rationale even where the NID enclosure is owned by a CenturyLink operating company that operates as a rural company. Thus, in those circumstances, CenturyLink simultaneously avoids the obligations of Section 251(c) while at the same time attempts to avail itself of the right to charge for UNEs under Section 251(c)(3).

<sup>15</sup> CenturyLink acknowledged that it has not conducted any formal or informal cost studies concerning any recurring or nonrecurring cost of the NID enclosure in Washington. CenturyLink Response to Discovery Request No. 4. See Exhibit No. BHP-2.

<sup>16</sup> *Petition of Charter Fiberlink-Missouri, LLC for Arbitration of Interconnection Rates, Terms, Conditions, And Related Arrangements with the CenturyTel of Missouri, LLC Pursuant to 47 U.S.C. § 252(b), Case No.*

1 Arbitration Panel *rejected* CenturyLink’s characterization that any use of a NID  
2 constitutes use as a UNE requiring UNE compensation.<sup>17</sup> Put simply, the record  
3 in that case revealed that Charter’s limited connections to the customer’s inside  
4 wiring on the customer side of the NID is: (1) limited, and (2) involuntary; and,  
5 for that reason, does not constitute the use of a UNE or require compensation.

6 **Q. BUT DOESN’T THE CENTURYLINK NID PROVIDE SOME FUNCTION**  
7 **THAT BENEFITS CHARTER?**

8  
9 A. No. There is no actual functionality provided by the NID itself, it is simply a  
10 passive cross-connect device. Charter’s connection does not constitute “use” of  
11 the NID and differs in all material respects from the way that a UNE-based CLEC  
12 leasing an unbundled loop from the ILEC uses the NID. A UNE-based CLEC  
13 orders a connection to the customer’s premises through the ILEC’s NID, i.e., the  
14 cross-connect device. In other words, the UNE-based CLEC would order a  
15 connection to the customer’s premises by using the ILEC’s network facility (i.e.,  
16 the UNE copper loop), attached to the customer’s premises, and the cross-connect  
17 device (i.e., the NID) which is attached on one end to the ILEC’s copper wire and  
18 on the other end to the customer’s inside wire. In contrast, Charter does not use  
19 the actual cross connect device in any case that it is required to connect its  
20 telephone wire to the customer’s inside wire within the customer-side of the NID  
21 enclosure. There is, therefore, no “use” of the NID by Charter.

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*TO-2009-0037*, Report Arbitrator’s Report at 19 (MO PSC 2009); *Petition of Charter Fiberlink, LLC for Arbitration of an Interconnection Agreement Between the CenturyTel Non-Rural Telephone Companies of Wisconsin and Charter Fiberlink, LLC*, Arbitration Award, Docket 5-MA-148, 149 (Wisc. PSC 2009), affirmed Order Determining Disputed Issues Regarding Arbitration Award at 8, 2010 Wis. PUC LEXIS 131 (Wisc. PSC 2010).

<sup>17</sup> *Id.*

1 **Q. ARE THERE ANY OTHER PROBLEMS WITH CENTURYLINK'S**  
2 **RATIONALE FOR ASSESSING A CHARGE WHEN CHARTER**  
3 **ACCESSES THE CUSTOMER SIDE OF THE NID ENCLOSURE?**

4  
5 A. Yes. I believe that CenturyLink rarely, if ever, actually removes a NID enclosure  
6 from a customer premise after the customer has been ported to a competitor.  
7 Instead, it simply leaves the NID attached to the former customer's dwelling.  
8 Thus, when Charter accesses the customer side of the NID, there are no  
9 engineering activities that CenturyLink undertakes which would justify the  
10 assessment of a charge upon Charter. CenturyLink has explained in other states  
11 that it leaves the NID on a former customer's premise because it hopes to win that  
12 former customer back from Charter, or hopes that if the home sells, that the new  
13 owner will want service from CenturyLink.

14 **Q. DOES QWEST ASSESS SIMILAR NID ACCESS OR "USE"**  
15 **SURCHARGES?**

16  
17 A. No, Qwest does not assess these types of NID access surcharges. The  
18 Charter/Qwest ICAs do not expressly address the practice but Qwest has not  
19 objected to the practice I have described here. According to their wholesale  
20 services guidelines, they will provide a "stand alone" NID to a requesting carrier,  
21 and there is apparently some cost associated with ordering a stand alone NID as a  
22 UNE. But that is very different from the circumstances described above, where  
23 Charter seeks limited access to the customer side of a CenturyLink NID enclosure  
24 simply to connect to the customer's inside wire when that is the only feasible  
25 option.

26

1 **Q. DOES EMBARQ ASSESS SIMILAR NID ACCESS OR “USE”**  
2 **SURCHARGES?**

3  
4 A. No. Charter’s recently-negotiated ICA with Embarq Washington contains the  
5 following language which specifically precludes the assessment of any charges  
6 related to Charter’s access to the customer side of the NID:

7  
8 76.1.5 Where a New Provider uses the existing inside wiring of an  
9 end user that is connected to an Old Provider's NID, the New  
10 Provider shall be responsible for isolating its network from the Old  
11 Provider's network, and the following protocols shall apply:

12  
13 *(a) A New Provider shall not be required to submit a*  
14 *request to the Old Provider for purposes of isolating an*  
15 *end user's inside wiring from the Old Provider's network*  
16 *in accordance with this Section. The Old provider shall*  
17 *not charge the New Provider for access to the Old*  
18 *Provider's NID for the purpose of isolating the Old*  
19 *Provider's network from the inside wiring of an end user*  
20 *that is changing service to a New Provider.*

21  
22 (b) When a New Provider disconnects an end user's inside  
23 wiring from an Old Provider's NID, then to the greatest  
24 extent possible, the New Provider shall do so in a manner  
25 that will allow such inside wiring to be reconnected in the  
26 future to the Old Provider's NID. Wherever possible, the  
27 New Provider shall disconnect only the tip and ring leads of  
28 such inside wires. The New Provider shall not disturb or  
29 disconnect any wiring (*i.e.*, aerial and/or buried drop and  
30 ground wiring) in the Old Provider's NID, other than the  
31 inside wiring in accordance with this Agreement and shall  
32 not cause any short circuits on the Old Provider's network  
33 as a result of disconnecting inside wires from a NID.

34  
35 (c) When inside wires that are disconnected from a NID are  
36 secured by capping or using a multiple terminating  
37 scotchloc (or other protective device), such devices may be  
38 situated inside the Old Provider's NID by a New Provider,  
39 if such location is consistent with preserving the ability to  
40 reconnect such wires with the Old Provider's NID.  
41

1 (d) If the Old Provider's NID is of an older type (sometimes  
2 referred to as a "protector") that does not allow access to  
3 the end user side of the NID, the New Provider shall access  
4 the network side of the Old Provider's NID to disconnect  
5 the inside wire(s) from the binding post or punch down  
6 blocks of the Old Provider's NID, and shall secure and/or  
7 connect to such disconnected wires by coiling and capping  
8 the same or using a multiple terminating scotchloc or other  
9 protective device located in the Old Provider's NID.

10  
11 ***(e) If the Old Provider's NID is of the type which does***  
12 ***provide for access to the end user side of the NID, the***  
13 ***New Provider shall access the end user side of the Old***  
14 ***Provider's NID and shall isolate the end user's inside***  
15 ***wiring from the Old Provider's network using one of the***  
16 ***following methods:***

17  
18 (i) When the Old Provider's NID has an RJ11 cord  
19 and RJ11 test jack on the end user's side of the NID,  
20 the New Provider may leave the inside wire  
21 connected to the binding posts or punch down  
22 blocks on the Old Provider's NID, in which event  
23 the New Provider must disconnect the RJ-11 cord  
24 from the RJ11 test jack to achieve isolation of the  
25 Old Provider's network. Under such circumstances,  
26 it is not necessary for the New Provider's NID to be  
27 directly connected the Old Provider's NID.

28  
29 (ii) The New Provider may disconnect the inside  
30 wires from the binding posts or punch down blocks  
31 located on the end user's side of the Old Provider's  
32 N ID and such inside wires may be secured by  
33 capping or using a multiple terminating scotchloc  
34 (or other protective device) without reconnecting  
35 such inside wiring to the New Provider's NID.

36  
37 (iii) ***The New Provider may disconnect the inside***  
38 ***wires from the binding posts or punch down***  
39 ***blocks located on the end user's side of the Old***  
40 ***Provider's NID and connect such inside wiring to***  
41 ***the New Provider's NID or network wiring using a***  
42 ***multiple terminating scotchloc (or other protective***  
43 ***device), cross connect or similar arrangement***  
44 ***located in the Old Provider's NID.***



1  
2 *(f) If the Old Provider's NID is a "Universal" model*  
3 *made by Corning ("U-NID") or has a similar module*  
4 *design or functionality, then the New Service Provider*  
5 *shall disconnect the inside wiring which is terminated at*  
6 *each insulation displacement connection (IDC) port on*  
7 *the end user's side of the Old Provider's NID. The New*  
8 *Provider shall secure and/or connect to such disconnected*  
9 *wires by coiling and capping the same or using a multiple*  
10 *terminating scotchloc (or other protective device) located*  
11 *in the Old Provider's NID.*<sup>18</sup>  
12

13 It is clear that the Qwest and Embarq standard on this issue is that carriers are not  
14 required to submit a request or an order, or to pay a charge, to access the customer  
15 side of the NID and connect to the customer's inside wiring within the NID  
16 housing when necessary.

17 **Q. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION ON**  
18 **THIS ISSUE?**

19  
20 A. In my view, the imposition of a so-called NID "use" surcharge upon facilities  
21 based competitors like Charter is improper. Given the problems identified here I  
22 would recommend that the Commission deny the application for approval of this  
23 transfer. However, if the Commission is inclined to approve the transfer, it should  
24 do so with appropriate conditions to ensure that these types of improper wholesale  
25 surcharges are not applied to the entire Qwest territory in Washington. Therefore,  
26 as a condition of approval, the Commission should adopt Condition No. 24(b) as  
27 set forth in Mr. Gates testimony, to ensure that CenturyLink's practice of  
28 imposing these surcharges is not a component of the post-merger company's  
29 wholesale policies. In addition, the Commission should order the post-merger

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<sup>18</sup> See Washington Utilities and Transportation Commission Docket No. UT-103012 (emphasis added).

1 company to continue Qwest’s wholesale policies and practice related to NID  
2 enclosure access by competitors like Charter, post-merger.

3 **3. CenturyLink’s Assessment of Interconnection-based “Storage” Fees for**  
4 **Competitors’ Directory Assistance and Listing Records**

5  
6 **Q. DOES CENTURYLINK ASSESS OTHER CHARGES THAT YOU ARE**  
7 **CONCERNED WITH?**

8  
9 A. Yes. The other wholesale charge that Charter has concerns with is imposed by  
10 CenturyLink’s affiliate, Embarq. As Mr. Gates explains, Embarq imposes upon  
11 certain competitors a “directory storage” charge. Like other competitors, Charter  
12 is forced to include this charge in its ICA with Embarq as a condition of  
13 interconnection and traffic exchange with Embarq. The directory storage charge  
14 in the Charter-Embarq Washington ICA is a *monthly recurring charge* of \$0.40  
15 per record that is assessed upon each customer listing Charter submits to Embarq.

16 **Q. PLEASE EXPLAIN.**

17 A. A “directory listing” is an end-user’s name, phone number, and address that are  
18 grouped together and published in a directory, such as a telephone book, or  
19 included in a directory assistance database, such as that used to retrieve  
20 information when a customer dials “411.”<sup>19</sup> When Charter obtains a new  
21 customer, it will often submit an electronic “Directory Service Request” (or DSR)  
22 to Embarq. The DSR includes the relevant customer information – name,  
23 address, and telephone number. Embarq uses the information in the DSR to

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<sup>19</sup> See *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Provision of Directory Listing Information under the Telecommunications Act of 1934 [sic], As Amended, Third Report and Order, Second Order on Reconsideration, and Notice of Proposed Rulemaking, 14 FCC Rcd. 15550 ¶ 160 (1999) (“SLI/DA Order”).*

1 populate its directory databases, which include Charter’s customer listings, and  
2 the customer listings of Embarq and other competitors. It is this listing  
3 information that Embarq then uses as a pretext for assessing a “storage” charge on  
4 its competitors.

5 **Q. WHY IS A “STORAGE” FEE FOR THIS DIRECTORY LISTING**  
6 **INFORMATION PROBLEMATIC?**

7  
8 A. It is problematic because Embarq is not “storing” information for competitors.  
9 Instead, Embarq is incorporating customer listing information into a database that  
10 is then used, by Embarq, to provide directory assistance and other services to its  
11 customers and other entities. Embarq benefits from the submission of this listing  
12 information by its competitors, and therefore does not have a basis for imposing a  
13 “storage” fee, much less a monthly fee, per listing, that is exorbitant.

14 **Q. HOW DOES EMBARQ BENEFIT FROM RECEIPT OF DIRECTORY**  
15 **INFORMATION?**

16  
17 A. Because these databases contain directory listing information of Embarq, Charter,  
18 and all other competitors’ customers, they represent a database of all (or nearly  
19 all) voice customers in any particular market. That database is therefore very  
20 valuable to directory publishers. In fact, it is a practice in the industry for third-  
21 party directory publishers, exercising rights under federal law, to purchase access  
22 to these types of directory databases. I assume that Embarq has arrangements  
23 with such publishers.

24 **Q. ARE YOU ALSO CONCERNED WITH EMBARQ’S PRACTICE OF**  
25 **CHARGING DIRECTORY PUBLISHERS?**  
26

1 A. No. Directory publishers like Donnelley generally pay the FCC-approved rate of  
2 \$0.04 per listing (and \$0.06 for updated listings) for each listing.<sup>20</sup> That practice  
3 appears to be consistent with industry practice. My concern is that Embarq is  
4 attempting to generate additional revenue by imposing these storage charges upon  
5 competitors, and thereby gaining revenue from both “sides” of the directory  
6 database process. Embarq’s policy is to charge facilities-based competitors a  
7 “storage” charge for each customer listing submitted by a competitor on the “front  
8 end,” and Embarq likely also charges directory publishers on the “back end” for  
9 the compilation of all listings.

10 **Q. HAS EMBARQ EVER PROVIDED ANY DATA TO DEMONSTRATE**  
11 **THESE RATES ARE COST-JUSTIFIED?**

12  
13 A. No, to my knowledge, Embarq has never provided cost-justification for its  
14 monthly directory storage fees. It is reasonable to assume that any such costs  
15 which Embarq may incur to include such listings in its database have already been  
16 recovered by the sale of competitors’ listings to directory publishers and directory  
17 assistance vendors.

18 **Q. HAS CHARTER ATTEMPTED TO OBTAIN ADDITIONAL**  
19 **INFORMATION REGARDING THESE PRACTICES?**

20  
21 A. Yes. In light of Charter’s concerns with these practices, Charter asked both  
22 Qwest and CenturyLink basic questions about their respective directory services  
23 practices. Specifically, we asked them to identify the vendors they use for  
24 directory assistance and directory listing service to end user customers and

---

<sup>20</sup> *SLI/DA Order* at ¶ 78.

1 wholesale customers, and to provide copies of their agreements with these  
2 vendors. But CenturyLink refused to answer these discovery requests.<sup>21</sup>

3 **Q. WHY DO YOU THINK CENTURYLINK REFUSED TO PROVIDE THIS**  
4 **INFORMATION?**

5  
6 A. It is unclear to me why they have refused to provide this information. Certainly,  
7 one implication is that they don't want Charter or the Commission to look closely  
8 at how they provision wholesale and retail directory services in Washington, or at  
9 whether such charges are just, reasonable and non-discriminatory.

10 **Q. IF THESE CHARGES ARE SUCH A PROBLEM, WHY HAVEN'T**  
11 **OTHER COMPETITORS RAISED THESE CONCERNS?**

12  
13 A. Cable voice facilities-based competitors have raised these concerns. As Mr.  
14 Gates explains, Comcast prevailed in several state commission decisions finding  
15 that these surcharges are impermissible. Based upon my review of these state  
16 commission decisions in Washington, Pennsylvania, and Texas, it appears that  
17 Embarq does not assess the charge upon its own customers. Nor does it appear  
18 that Embarq assesses these charges upon other competitors that purchase  
19 Embarq's last-mile access facilities (i.e., UNE-based and resale CLECs).

20 **Q. WHAT IMPACT DOES THIS CHARGE HAVE ON CENTURYLINK**  
21 **COMPETITORS?**

22  
23 A. This directory storage charge increases a competitor's costs of providing service  
24 in the CenturyLink (Embarq) Washington footprint. Because competitors are  
25 forced to pay a monthly recurring charge for every directory listing that they  
26 submit to CenturyLink (Embarq), that increases the cost of service for every

---

<sup>21</sup> See CenturyLink Discovery Responses Nos. 34-36. Exhibits No. BHP-6, No. BHP-7 and No. BHP-8.

1 competitor's customer that chooses to have their listing information published in  
2 directories.

3 **Q. DOES CHARTER PAY A DIRECTORY "STORAGE" CHARGE TO**  
4 **QWEST IN WASHINGTON?**

5  
6 A. No, like the other wholesale practices discussed herein, Qwest does not engage in  
7 the practice of assessing "storage" charges on competitors' directory listing  
8 information. For that reason Qwest's practice in this regard must be viewed as  
9 the preferred practice, in that competitors are not needlessly burdened with  
10 additional costs arising from questionable and anticompetitive assessments. In  
11 contrast, CenturyLink's practice must be recognized as the "worst" practice of the  
12 two. In review of this transaction, the Commission must carefully consider these  
13 practices, and direct the post-merger company to abandon the anticompetitive  
14 worst practices of CenturyLink in favor of the preferred practices of Qwest.

15 **Q. WHAT IS YOUR RECOMMENDATION ON THIS ISSUE?**

16 A. In my view, the imposition of a directory storage charge upon facilities based  
17 competitors (but not on other UNE-based competitors, or Embarq's own  
18 customers) is unfair and discriminatory. Imposing charges on one type of  
19 competitor, but not others, undermines competition generally. Given the  
20 problems identified here I would recommend that the Commission deny the  
21 application for approval of this transfer.

22 However, if the Commission is inclined to approve the transfer, it should do so  
23 with appropriate conditions to ensure that these types of improper wholesale  
24 charges are not applied to the entire Qwest territory in Washington. Therefore, as

1 a condition of approval, the Commission should adopt Condition No. 24. as set  
2 forth in Mr. Gates testimony, to ensure that CenturyLink (Embarq's) practice of  
3 imposing discriminatory, and unsupported, charges upon competitors is not a  
4 component of the post-merger company's wholesale policies.

5 **Q. ARE THERE OTHER CONCERNS WITH CENTURYLINK'S**  
6 **WHOLESALE POLICIES?**

7  
8 A. Yes, with respect to certain directory listing and directory assistance functions,  
9 CenturyLink (i.e., CenturyTel) refuses to implement wholesale practices required  
10 under Section 251(b)(3). More specifically, CenturyLink is improperly shifting  
11 its obligations under Section 251(b)(3) of the Act to a third-party vendor by  
12 refusing to contract with Charter (in an interconnection agreement) for certain  
13 basic directory listing and directory assistance functions.

14 **Q. PLEASE EXPLAIN.**

15  
16 A. CenturyLink's use of a third-party vendor to provide directory assistance services  
17 created significant problems for Charter's customers. At one point within the last  
18 several years, CenturyLink customers were not able to obtain Charter customers'  
19 listing information from CenturyLink's directory assistance service. Specifically,  
20 every time that a CenturyLink customer called directory assistance and requested  
21 listing information about a Charter customer, the listing information was not  
22 provided by CenturyLink's vendor and the CenturyLink customer was told that  
23 such information was not available.

1 **Q. WHY DID THIS PROBLEM OCCUR?**

2 A. After some investigation, Charter determined that the problem arose because  
3 CenturyLink had contracted with a third-party vendor to operate its directory  
4 assistance database. That third-party vendor did not have Charter's listings in its  
5 local database and was not querying the correct national database, thereby  
6 excluding Charter customer listing information from 411 search results.

7 **Q. WHAT IMPACT DID THIS HAVE ON CHARTER, AND ITS**  
8 **CUSTOMERS?**

9  
10 A. Charter's customers perceived that the problem was caused by Charter and that its  
11 service was inferior to their former provider – generally, CenturyLink.

12 **Q. HOW DID CHARTER RESOLVE THE PROBLEM?**

13 A. When presented with this information, CenturyLink disclaimed any obligation to  
14 remedy the situation, claiming instead that the practices of its directory assistance  
15 database vendor were not subject to scrutiny from competitors like Charter.  
16 CenturyLink has since claimed it remedied the problem by contracting with a  
17 different third-party directory assistance vendor. However, Charter's concern is  
18 that there is nothing to prevent CenturyLink from changing DA vendors in the  
19 future, which could result in the same problem for competitors' customers.

20 **Q. WHAT IS YOUR RECOMMENDATION ON THIS ISSUE?**

21 A. Here again, as with the other wholesale practices discussed herein, Qwest does  
22 not engage in the wholesale practices outlined above. For that reason, Qwest's  
23 practices in this regard must be viewed as the preferred practice, in that  
24 competitors are not needlessly burdened with additional costs arising from the



1 incumbent's failure to assume their statutory duties with regard to directory  
2 listings. In contrast, CenturyLink's practice must be recognized as the "worst"  
3 practice of the two. In review of this transaction the Commission must carefully  
4 consider these practices, and direct the merged entities to abandon the  
5 anticompetitive worst practices of CenturyLink in favor of the preferred practices  
6 of Qwest.

7 **B. CenturyLink Should Not Be Permitted To Use The Rural Exemption To**  
8 **Increase Competitor's Costs**

9  
10 **Q. DOES CHARTER HAVE CONCERNS WITH CENTURYLINK'S**  
11 **CONTINUED OPERATIONS AS A "RURAL" TELEPHONE COMPANY?**

12  
13 A. Yes. Charter's experience with CenturyLink in Wisconsin, and several other  
14 states, raises significant concerns. In particular, CenturyLink's reliance on its  
15 "rural" company status for many of its operating affiliates effectively increases  
16 operational costs for Charter.

17 **Q. PLEASE EXPLAIN.**

18  
19 A. CenturyLink and Embarq maintain multiple affiliates in Washington (and many  
20 other states in which it operates) that are exempt from certain obligations under  
21 Section 251 of the Act because of their "rural" telephone company status. Despite  
22 controlling over 7 million access lines following its merger with Embarq,  
23 CenturyLink continues to assert the protections of a so-called "rural" telephone  
24 company in Washington. It does so by organizing itself into dozens of small  
25 operating companies. For example, CenturyLink maintains seventeen (17)  
26 operating entities in Wisconsin, nine (9) in Louisiana, seven (7) in Arkansas, five

1 (5) in Missouri and three (3)<sup>22</sup> in Washington. As a result, each of those  
2 companies are exempt from the basic wholesale interconnection rules of Section  
3 251(c) that apply to all other ILECs.

4 **Q. PLEASE PROVIDE AN EXAMPLE OF THE TYPE OF SECTION 251**  
5 **OBLIGATION THESE AFFILIATES AVOID BECAUSE OF THEIR**  
6 **“RURAL” STATUS.**

7  
8 A. CenturyLink argues that its “rural” affiliates are exempt from the obligation to  
9 interconnect with Charter at a single point of interconnection (“POI”) per LATA.  
10 Specifically, they take the position that Charter must establish separate POIs in  
11 each of the affiliates’ territories, even when those affiliates all operate in the  
12 same LATA. This problem is illustrated by the company’s actions in a recently  
13 concluded interconnection arbitration proceeding with Charter in the State of  
14 Wisconsin.

15 **Q. PLEASE EXPLAIN.**

16  
17 A. As noted above, CenturyLink has at least seventeen (17) separate operating  
18 companies in Wisconsin that are organized as independent legal entities. Due to  
19 its expansive service territory and extended hybrid fiber coax IP-based network  
20 in Wisconsin, Charter interconnects with 13 of those companies: 9 that operate  
21 under a “rural” designation, and another 4 that operate as “non-rural”  
22 companies. In the interest of gaining network deployment efficiencies and cost  
23 savings, Charter proposed that the companies utilize a single point of  
24 interconnection (“POI”) per LATA between Charter’s network and the  
25 CenturyLink company networks in Wisconsin. Such an approach would

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<sup>22</sup> See CenturyLink Discovery Response No. 38. Exhibit Charter No. BHP-9.

1 minimize the need for duplicative interconnection facilities, and allow for  
2 efficient use of network resources by aggregating traffic at a single point of  
3 interconnection for the mutual exchange of traffic at such point.

4 **Q. DID THE CENTURYLINK AFFILIATES AGREE TO A SINGLE POINT**  
5 **OF INTERCONNECTION ARRANGEMENT?**

6  
7 A. No. The CenturyLink affiliates (both rural and non-rural) refused to agree to  
8 such an arrangement. Instead, those companies demanded that Charter  
9 establish a separate POI with each of the 13 CenturyLink companies with whom  
10 Charter exchanges traffic in Wisconsin. Although I am not an attorney, I am  
11 familiar with several rulings where the FCC has repeatedly affirmed that Section  
12 251 permits competitors to interconnect via a single POI in a LATA, and that  
13 such arrangements promote competitive entry by reducing competitors'  
14 interconnection costs.

15 **Q. HOW DID CENTURYLINK RESPOND TO CHARTER'S PROPOSAL TO**  
16 **ESTABLISH A SINGLE POI PER LATA IN WISCONSIN?**

17  
18 A. The CenturyLink companies in Wisconsin vigorously opposed the application of  
19 that principle to their interconnection arrangements with Charter. That opposition  
20 arose during contract negotiations in 2007 and 2008. CenturyLink negotiators  
21 refused to acknowledge the inherent efficiencies obtained by a single POI  
22 arrangement. Instead, they argued that because they have no legal obligation to  
23 permit Charter to interconnect via a single POI per LATA, they would not agree  
24 to do so. Ultimately, the CenturyLink companies were forced to aggressively

1 litigate that position in a subsequent Section 252 arbitration proceeding before  
2 the Wisconsin Public Service Commission in 2009.

3 **Q. WHAT IMPACT DID CENTURYLINK'S POSITION HAVE ON**  
4 **CHARTER'S INTERCONNECTION COSTS IN WISCONSIN?**

5  
6 A. CenturyLink's refusal to interconnect via a single POI has forced Charter to  
7 establish up to thirteen (13) separate POIs with each of the separate CenturyLink  
8 operating companies with which it exchanges traffic in Wisconsin. This  
9 obligation exists even though evidence produced during the arbitration proceeding  
10 showed "that CenturyTel's interexchange network would make it technically  
11 feasible to use a single POI to serve the exchanges where [Charter] intends to  
12 compete, even if there are other isolated CenturyTel exchanges."<sup>23</sup>

13 **Q. WHY DID CENTURYLINK OBJECT TO CHARTER'S REQUEST TO**  
14 **ESTABLISH A SINGLE POI PER LATA IN WISCONSIN?**

15  
16 A. CenturyLink claimed that in Wisconsin it does not have facilities provisioned  
17 between the networks of its separate affiliates that could be used to transport  
18 Charter's traffic to the various switches on the CenturyLink affiliate networks within  
19 the same LATA in Wisconsin.

20 **Q. DOES CENTURYLINK HAVE FACILITIES THAT CONNECTS ITS**  
21 **AFFILIATES IN WASHINGTON?**

22  
23 A. It is unclear because CenturyLink refused to provide Charter with any detailed  
24 information when we asked that question.<sup>24</sup> Although CenturyLink would not

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<sup>23</sup> See *Petition of Charter Fiberlink, LLC for Arbitration of an Interconnection Agreement Between the CenturyTel Non-Rural Telephone Companies of Wisconsin and Charter Fiberlink, LLC*, Arbitration Award at 90, Docket 5-MA-148, 149 (Wisc. PSC 2009), *affirmed* Order Determining Disputed Issues Regarding Arbitration Award, 2010 Wis. PUC LEXIS 131 (Wisc. PSC 2010).

<sup>24</sup> See CenturyLink Discovery Response No. 45. Exhibit No. BHP-11.

1 confirm or deny the existence of such facilities, it did provide a map showing the  
2 CenturyLink and Qwest exchanges in Washington.<sup>25</sup> The map appears to show  
3 many current Qwest and CenturyLink (Embarq) exchanges that are contiguous to  
4 one another. Thus, the post-merger company will own all of the exchanges  
5 shown on the network map, many of which appear to be contiguous. Where  
6 contiguous exchanges do exist, it is reasonable to infer that CenturyLink would  
7 provision facilities to connect the networks that serve these exchanges. That  
8 would permit CenturyLink to enjoy greater network efficiencies.

9 **Q. DOES QWEST HAVE RURAL AFFILIATES, OR OTHERWISE SEEK TO**  
10 **AVOID ITS POI OBLIGATIONS, IN WASHINGTON?**

11  
12 A. No, Qwest does not have rural affiliates in Washington. In addition, as with the  
13 other wholesale practices discussed herein, they do not force Charter to  
14 interconnect at multiple POIs per LATA. While Charter has some other concerns  
15 with Qwest interconnection policies, those concerns do not include a refusal to  
16 establish a single POI per LATA. For that reason Qwest's practice in this regard  
17 must be viewed as the preferred practice, in that competitors are not needlessly  
18 burdened with additional costs arising from questionable assessments. In contrast,  
19 CenturyLink's practice must be recognized as the "worst" practice of the two. In  
20 review of this transaction the Commission must carefully consider these practices,  
21 and direct the post-merger company to abandon the anticompetitive worst practices  
22 of CenturyLink in favor of the preferred practices of Qwest.

23

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<sup>25</sup> See CenturyLink Discovery Response No. 44, Attachment Charter-44. Exhibit Charter No. BHP-10.

1 **Q. WHAT IS YOUR RECOMMENDATION ON THIS ISSUE?**

2  
3 A. If CenturyLink’s proposed merger with Qwest is finalized, CenturyLink will be  
4 the third largest ILEC in the country with more than 17 million access lines. Its  
5 operating territory will span 37 states and it will be a Bell Operating Company  
6 in 14 Qwest states. Although Charter has competed successfully in the video,  
7 voice, and broadband marketplaces in numerous states around the country, it  
8 is a much smaller company, serving far fewer than the 17 million access lines  
9 that the combined CenturyLink/Qwest will control. Given both its absolute and  
10 its relative size, it seems appropriate to require CenturyLink to abandon the  
11 protective cloak of its status as a “rural” carrier.<sup>26</sup>

12 As a condition of this transaction, therefore, the Commission should find that  
13 CenturyLink may no longer assert the rural exemption under Section 251 or  
14 the protections from competition that applies solely to a “rural telephone  
15 company” as referenced in section 252 of the Act. This condition was recently  
16 applied in the Frontier-Verizon transfer, where the FCC adopted a condition  
17 that “in the areas transferred from Verizon that are rural telephone companies,”  
18 Frontier will “not assert that it is exempt from Section 251(c) obligations  
19 pursuant to Section 251(f)(1).”<sup>27</sup> This Commission should adopt a similar  
20 condition in this transaction.

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<sup>26</sup> It should qualify neither as a rural carrier under 251(f)(1) nor under 251(f)(2), which applies to carriers with less than 2% of the nation’s customer lines in the aggregate. Although I haven’t attempted to calculate this myself, I expect that CenturyLink will have well in excess of 2% of the nation’s access lines following the merger.

<sup>27</sup> *In the Matter of Applications Filed by Frontier Communications Corporation and Verizon Communications, Inc. for Assignment or Transfer of Control*, WC Docket No. 09-95, FCC 10-87 at 40 (rel. May 21, 2010).

1 **C. CenturyLink’s Operational Support Systems Must Improve Performance**  
2 **and Meet Certain Benchmarks**  
3

4 **Q. ARE THERE CONCERNS WITH CENTURYLINK OSS IN THE POST-**  
5 **MERGER COMPANY?**  
6

7 A. Yes. If there is a degradation of the performance of Qwest’s operational support  
8 systems (“OSS”) as a result of the merger, that could have a significant impact on  
9 a competitor’s ability to efficiently provision competitive services.

10 **Q. PLEASE EXPLAIN.**

11 A. Charter’s vendors utilize the OSS of CenturyLink and Qwest primarily to  
12 facilitate the migration of customers that wish to move away from CenturyLink or  
13 Qwest and begin to subscribe to Charter’s competitive voice services. To make  
14 that migration as seamless and accurate as possible for the customer, Charter’s  
15 vendors must have access to preordering functions, such as timely access to  
16 accurate Customer Service Records (“CSRs”). In addition, Charter’s vendors  
17 must have access to the efficient ordering functions necessary to port the  
18 telephone numbers of customers, and ensure accurate directory listings and E911  
19 services are provided to our customers. Finally, these ordering systems must also  
20 facilitate the provision of certain interconnection facilities Charter orders to allow  
21 it to connect its network with the ILEC’s network.

22 **Q. DOES CHARTER HAVE CONCERNS WITH CENTURYLINK’S**  
23 **CURRENT OSS FUNCTIONALITY?**  
24

25 A. Charter has the same concerns that the FCC articulated recently in reviewing the  
26 merger of CenturyTel and Embarq. In that proceeding the FCC noted the  
27 inadequacy of CenturyTel’s OSS – and its adverse impact on competitive phone

1 offerings. Notably, Embarq’s OSS was viewed as having superior, although not  
2 fully automated, OSS systems. Per recently imposed FCC conditions,  
3 CenturyLink is required to replace legacy CenturyTel’s manual processes with  
4 Embarq’s electronic processes.

5 Thus, at a minimum, the Commission should ensure, as it did in the  
6 CenturyTel/Embarq transaction, that this proposed merger does not result in any  
7 degradation of the acquired company’s (in this case Qwest’s) superior OSS. To  
8 address concerns that Embarq’s wholesale performance might deteriorate  
9 following the merger with CenturyLink, the FCC ordered those companies to  
10 “maintain substantially the service levels that Embarq has provided for wholesale  
11 operations, subject to reasonable and normal allowances for the integration of  
12 CenturyTel and Embarq systems.”<sup>28</sup> The Commission should adopt a similar  
13 condition here by requiring the post-merger company to use Qwest’s OSS  
14 throughout its national footprint.

15 **Q. PRACTICALLY SPEAKING, HOW CAN THE COMMISSION**  
16 **DETERMINE WHETHER CENTURYLINK’S OSS PERFORMANCE**  
17 **MEETS THAT OF THE CURRENT QWEST OSS STANDARDS?**

18  
19 A. In the Embarq merger order the FCC ordered CenturyLink to benchmark  
20 Embarq’s OSS performance for key functions. Similarly, this Commission could  
21 direct that Qwest’s performance for key functions, such as CSR availability, LSR  
22 processing, interconnection trunk ordering and provisioning, and number porting

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<sup>28</sup> *In the Matter of Applications Filed for Transfer of Control of Embarq Corporation to CenturyTel, Inc.*,  
WC Docket No. 08-238, FCC 09-54 at ¶ 31 (rel. June 25, 2009) (“*Embarq/CenturyTel Merger Order*”).



1 functions be benchmarked, and require that Qwest maintain those performance  
2 standards post-merger.

3 **Q. WHAT IF THE POST-MERGER COMPANY DOES NOT MEET THOSE**  
4 **BENCHMARKS?**

5  
6 A. It should be subject to penalties, including the assessment of monetary payments  
7 to competing carriers for compliance failures.

8 **Q. ARE THERE OTHER OSS ISSUES THE COMMISSION SHOULD**  
9 **CONSIDER?**

10  
11 A. Yes, there is the critical issue of integration of the companies' systems. In past  
12 ILEC mergers, including CenturyTel's merger with Embarq, the FCC has  
13 required applicants to integrate their OSS into a single platform over some  
14 transition period. The applicants here have not made clear whether they intend to  
15 operate separate OSS or eventually to combine CenturyLink's and Qwest's  
16 systems. In this case, given the superiority of the Qwest OSS, the Commission  
17 should require CenturyLink to adopt Qwest's OSS within a reasonable time-frame  
18 and to mandate that the post-merger entity continue to use the Qwest OSS as  
19 requested in Condition No. 19, as set forth in Exhibit TJG-9 9 to Tim Gates  
20 testimony.

21 **Q. WHAT IS YOUR RECOMMENDATION ON THIS ISSUE?**

22  
23 A. As I just explained, there are serious concerns with CenturyLink's OSS.  
24 Therefore, if the Commission is so inclined to approve the proposed transaction, I  
25 recommend that as a condition of approval of this transaction the Commission  
26 should benchmark current Qwest OSS performance standards and require the

1 post-merger company to continue to meet those standards in the company’s entire  
2 service territory. In addition, the Commission should condition the merger on the  
3 assurance that CenturyLink’s wholesale order support centers will maintain staff,  
4 hours, and technical capability to enable competitors to be able to process  
5 customer requests to change to their voice service in appropriate intervals and in  
6 adequate volume. Again, this condition should apply throughout the merged  
7 entity’s footprint. Finally, the Commission should require CenturyLink to adopt  
8 Qwest’s OSS within a reasonable time-frame.

9 **IV. RECOMMENDATIONS**

10 **Q. WHAT IS YOUR RECOMMENDATION WITH RESPECT TO THE**  
11 **PENDING TRANSFER APPLICATION IN THIS PROCEEDING?**

12  
13 A. I understand that in reviewing the transaction this Commission must consider the  
14 public’s interest, as well as the impact on competition. With that in mind, I  
15 recommend that in the event that the Commission approves the proposed  
16 transaction, that it adopt the conditions set forth in Mr. Gates’ testimony to ensure  
17 that the proposed transaction does not harm competitors like Charter.  
18 Specifically, the Commission should condition approval of the proposed merger  
19 upon an unequivocal commitment from the post-merger company to discontinue  
20 the practice of assessing surcharges upon competitors: (1) for customer  
21 installations that may occur at the customer side of the NID enclosure when the  
22 actual NID itself is not being used to provide the competitors’ service; (2) for  
23 submitting number porting requests on behalf of customers ; and (3) for the so-  
24 called “storage” of directory listing information. In addition, the Commission

1 should require post-merger company to comply with directory listing and  
2 assistance obligations under federal law. Also, the post-merger company should  
3 relinquish the rural exemption status under Section 251(f) or any other rule or  
4 regulation that applies solely to a “rural telephone company” and fulfill its  
5 obligations under Sections 251(b) and (c). Finally, the Commission should  
6 benchmark current Qwest OSS performance standards and require the post-  
7 merger company to continue to meet those standards in the company’s entire  
8 service territory for the duration set forth in Joint CLEC Condition 19.

9 **V. CONCLUSION**

10 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

11 **A. Yes.**