

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

**QWEST COMMUNICATIONS INTERNATIONAL, )  
INC. AND CENTURYTEL, INC., D/B/A )  
CENTURLINK, APPLICATION FOR )      **WC Docket No. 10-110**  
TRANSFER OF CONTROL UNDER SECTION )  
214 OF THE COMMUNICATIONS ACT, )  
AS AMENDED )**

**REPLY COMMENTS OF THE  
INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE**

To the Commission:

The Independent Telephone & Telecommunications Alliance (ITTA) hereby submits these reply comments in the above-captioned proceeding. ITTA supports the joint application filed by Qwest Communications International, Inc. (Qwest), and CenturyTel, Inc., d/b/a CenturyLink (collectively, Applicants) and urges the Commission to approve the application on a streamlined basis without conditions.

ITTA is an alliance of mid-size telephone companies.<sup>1</sup> ITTA members provide a broad range of high-quality wireline and wireless voice, data, Internet, and video services to 23 million customers in 44 states. ITTA members primarily serve rural and small markets, and Qwest and CenturyLink properties are similarly characterized by low population densities and high costs that are endemic to rural areas. The combination of the companies, however, will increase efficiencies without burdening or imposing adverse impacts on end-user customers or competitors.

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<sup>1</sup> ITTA members include the Applicants.

**I. THE PROPOSED TRANSACTION IS PART OF A TREND THAT HAS DELIVERED SIGNIFICANT BENEFITS TO CONSUMERS**

ITTA has frequently advocated market-based policies that enable providers to meet consumer demands efficiently and effectively. Over the past decade, large, mid-size, and small telecommunications companies have combined in order to achieve economic synergies through mergers and acquisitions. The ability of providers to execute these types of market-based reactions is consistent with the deregulatory intent of the Communications Act of 1934, as amended. Moreover, the instant transaction has obtained approval to proceed from the U.S. Department of Justice. Against this backdrop, the Commission should approve the Application on a streamlined basis and without conditions.

The Commission has previously approved a range of transactions both larger and smaller than this one. Between 1997 and 1999, the Commission reviewed and approved merger proposals offered by SBC and Ameritech<sup>2</sup> and Bell Atlantic and NYNEX;<sup>3</sup> between 2000 and 2001, Commission-approved mergers included Bell Atlantic and GTE,<sup>4</sup> and USWest and Qwest;<sup>5</sup> between 2005 and 2006, the Commission approved

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<sup>2</sup> *Applications of Ameritech Corp. and SBC Communications, Inc. Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95 and 10*, CC Docket No. 98-141, Memorandum Opinion and Order, 14 FCC Red 14712 (1999). ;

<sup>3</sup> *Applications of NYNEX Corporation, Transferor, and Bell Atlantic Corporation, Transferee, for Consent to Transfer Control of NYNEX Corporation and its Subsidiaries: Memorandum Opinion and Order*, File No. NSD-L-96-10, 12 FCC Red 19985 (1997).

<sup>4</sup> *Application of GTE Corporation, Transferer, and Bell Atlantic Corporation, Transferee, for Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a*

mergers between AT&T and BellSouth.<sup>6</sup> During those periods, the Commission also approved acquisitions involving mid-size carriers, including TDS and Chorus<sup>7</sup> and Citizens and Frontier.<sup>8</sup> More recently, the Commission approved transactions involving CenturyTel and Embarq,<sup>9</sup> and Windstream and Iowa.<sup>10</sup> And, the Commission has approved the acquisition of small rural carriers by various holding companies.<sup>11</sup>

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*Submarine Cable Landing License: Memorandum Opinion and Order*, CC Docket No. 98-184, 15 FCC Rcd 14032 (2000).

<sup>5</sup> *Qwest Communications International Inc. and US West, Inc., Applications for Transfer of Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License: Memorandum Opinion and Order*, CC Docket No. 99-272, 15 FCC Rcd 53276 (2000).

<sup>6</sup> *AT&T Inc. and BellSouth Corporation, Application for Transfer of Control*, WC Docket No. 06-74, Memorandum Opinion and Order, 22 FCC Rcd 5662 (2006).

<sup>7</sup> *See Joint Application of Telephone and Data Systems, Inc. and Chorus Communications, Ltd. for Authority to Transfer Control of Commission Licenses and Authorizations Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 22, 63, and 90 of the Commission's Rules: Memorandum Opinion and Order*, CC Docket No. 01-73, ITC-T/C-20010307-00128, ITC-T/C-20010307-00129, ULS File Nos. 0000352422, 0000352426, *et al.*, DA 01-1914 (2001) (TDS/Chorus).

<sup>8</sup> *See Joint Applications of Global Crossing Ltd. and Citizens Communications Company for Authority to Transfer Control of Corporations Holding Commission Licenses and Authorizations Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 20, 22, 63, 78, 90, and 101 of the Commission's Rules: Memorandum Opinion and Order*, File Nos. ITC-T/C-20000828-00530, CCB Pol No. 00-1, 20001005 AD-09, 0000209675, *et al.*, DA 01-961 (2001) (Citizens/Frontier).

<sup>9</sup> *See Applications filed for the Transfer of Control of Embarq Corporation to CenturyTel, Inc.: Memorandum Opinion and Order*, WC Docket No. 08-238, FCC 09-54 (2009).

<sup>10</sup> *See* "Notice of Non-Streamlined Domestic Section 214 Application Granted," WC Docket No. 10-7, Public Notice DA 10-877 (May 17, 2010).

<sup>11</sup> *See, e.g., Application for Transfer of Control of Cameron Communications, LCC, and its Subsidiaries which Provide Interstate Exchange Access and Interexchange Services in Louisiana and Texas Pursuant to Domestic Blanket Authorizations Under Section 214 of the Communications Act: Application for Streamlined*

The instant transaction should result in an otherwise unavailable opportunity to leverage economies of scale and scope and to not only deliver greater efficiencies to end-users, but to also speed the delivery of broadband and other advanced services. Both Applicants in the instant proceeding have natural incentives to continue their investment and innovation in rural and small urban markets. The proposed merger is a pro-competitive action.

Competition is not a static state of affairs where market share determines whether an industry is “competitive.” Competition is a dynamic process where firms discover new ways to innovate and to compete for customers. Businesses merging in order to gain new competencies are a vital part of the competitive process.<sup>12</sup>

In the instant proceeding, the Applicants have determined that merger of their companies will result in increased efficiencies and opportunities to accelerate deployment of broadband and advanced services as they move forward in a new competitive marketplace. Accordingly, the Commission should reject proposals to impose conditions that will frustrate those objectives.

## **II. THE COMMISSION SHOULD NOT BURDEN THE APPLICANTS WITH UNNECESSARY CONDITIONS**

The proposed combination of the companies will increase the availability of services to both retail and wholesale consumers without harm to consumers or competitors. Therefore, the Commission should reject requests to impose a burdensome

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*Transfer of Control of Domestic Blanket Section 214 Authorizations*, WC Docket No. 10-113 , at pp. 8-13 (filed May 19, 2010) (describing holdings of parent American Broadband Communications)..

<sup>12</sup> Benjamin Powell, “Telecom Mergers are Part of the Competitive Process,” San Jose/Silicon Valley Business Journal (Sep. 13, 2005) (see <http://www.independent.org/newsroom/article.asp?id=1568> (last viewed Jul. 21, 2010)).

laundry list of conditions that merely would serve to hamstring the Applicants and have no justification in this transaction.

By way of example, CompTel requests the Commission to impose interconnection agreement conditions that were introduced in the AT&T/BellSouth proceeding.<sup>13</sup> Cbeyond, et al., seeks extensive conditions relating to, *inter alia*, performance plans, local number portability, and loop conditioning;<sup>14</sup> Sprint Nextel asks for special access price caps and the elimination of Phase II pricing flexibility.<sup>15</sup> The Commission should reject those proposals, particularly those that are based largely upon conditions the Commission imposed when substantially larger carriers, with substantial market overlaps, merged.<sup>16</sup> Proposed conditions based on the Commission's decision in the AT&T/BellSouth proceeding are not applicable to the instant Application. Whereas the AT&T/BellSouth merger contemplated the creation of an entity with nearly 70 million lines, the instant transaction will result in a carrier approximately one-quarter as large. The Applicants have an inconsequential amount of adjacent service areas, with no evident intent to enter each other's service areas that would be squelched by consummation of the transaction. The concerns articulated in regard to other, larger carriers do not apply here.

The Commission should also reject other proposed conditions that are principally unrelated to the merger including conditions related to matters the FCC has taken up in pending rulemaking proceedings. The proposed transaction should not be used as an

<sup>13</sup> *Comments of CompTel* at 5-7 (filed Jul .12, 2010).

<sup>14</sup> *See Comments of Cbeyond, Inc., Integra Telecom, Inc., Socket Telecom, Inc, and tw telecom, Inc.*, at 45-47 (filed Jul. 12, 2010).

<sup>15</sup> *Comments of Sprint Nextel* at 8-10 (filed Jul. 12, 2010).

<sup>16</sup> *See e.g.*, NuVox/Socket at 16, 17, 23.

opportunity to introduce policies intended to provide additional regulatory assistance to business models that have failed to gain traction under existing regulations. The example set by the Commission in the Citizens/Frontier and TDS/Chorus transactions, which were both approved without onerous conditions, is applicable to the instant proceeding. In the TDS/Chorus proceeding, particularly, the Commission distinguished between the possible intent the mid-size carrier may have had in entering the other party's service area from the similar concerns the Commission had in the larger-company Bell Atlantic/NYNEX, SBC/Ameritech, and Bell Atlantic/GTE proceedings.<sup>17</sup>

The instant application does not conjure the concerns that emerged when the large RBOCs moved toward consolidation; neither the combined CenturyLink and Qwest, nor either company individually, wields the type of market power ascribed to the colossuses that were created when the RBOCs merged. Proposals to impose conditions modeled after those large company mergers will impose undue burdens upon the Applicants and their customers, and are wholly unnecessary. By contrast, the proposed merger augurs promise for further fulfillment of the Commission's National broadband goals. As noted by ADTRAN, a supplier of broadband equipment to Tier 1, Tier 2, and Tier 3 carriers, the merged entity will have a National fiber network spanning 175,000 miles.<sup>18</sup> The Commission should avoid actions that would obstruct that achievement or discourage similar future transactions. Unfortunately, however, the types of conditions that some parties have recommended would have the potential effect of deterring other mid-size

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<sup>17</sup> TDS/Chorus at para. 10.

<sup>18</sup> *Comments of CompTel* at 2 (filed Jul. 12, 2010).

carriers from maximizing efficiency and consumer benefits through mergers and acquisitions.

Accordingly, for the reasons stated herein, ITTA supports approval of the Application on a streamlined basis and without conditions.

Respectfully submitted,

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