

LATHAM & WATKINS LLP

October 13, 2010

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

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Re: *Applications Filed by Qwest Communications International Inc. and CenturyTel, Inc. d/b/a/ CenturyLink for Consent to Transfer of Control*, WC Docket No. 10-110

Dear Ms. Dortch:

CenturyLink, Inc. (“CenturyLink”) and Qwest Communications International Inc. (“Qwest”) submit this letter in response to recent letters filed by Cbeyond, Integra, and Socket Telecom (the “CLECs”),¹ and by Cox Communications (“Cox”).²

The CLECs, as a preliminary matter, argue that the settlement reached recently between the merging parties and CLECs in Iowa should not serve as a model for future resolution of CLEC concerns, but that argument has no merit. The CLECs’ argument consists primarily of belittling the Iowa Utilities Board’s review process. CenturyLink and Qwest will not dignify such criticisms with a response. Notably, the CLECs do not and cannot dispute that CenturyLink and Qwest reached a mutually agreeable settlement with CLECs in Iowa that resolved many of the same major issues raised by the CLECs before this Commission.

More significantly, CenturyLink and Qwest recently reached another agreement, with the Minnesota Department of Commerce (attached to this letter). This agreement, with a government body, again resolves many of the same major issues raised by the CLECs in this proceeding without imposing the highly burdensome conditions proposed by these CLECs. This agreement demonstrates that a government entity believes that such an agreement is in the public

¹ See Notice of Ex Parte of Cbeyond, Inc., Integra Telecom, Inc., and Socket Telecom, LLC, WC Docket No. 10-110, filed October 7, 2010.

² See Notice of Ex Parte of Cox Communications, WC Docket No. 10-110, filed October 6, 2010.

interest and rejects the concerns raised by the CLECs to this Commission. Thus, the Iowa settlement is far from the outlier that the CLECs portray. Instead the Iowa settlement, along with the Minnesota Department of Commerce agreement, plainly should (and already do) serve as useful models for resolving the issues raised by these CLECs.

The CLECs also argue once again that the Commission should impose several highly burdensome conditions on the merging parties. Specifically the CLECs suggest that the Commission “(1) require that the Merged Company provide at least the same level of wholesale service quality as legacy Qwest or subject the Merged Company to remedy payments for merger-related service quality degradation; (2) require that the Merged Company provide competitive LECs with conditioned copper loops in compliance with applicable interconnection agreements as well as state and federal law; [and] (3) preclude the Merged Company from increasing special access rates or discontinuing special access term and volume discount plans.” CBeyond, et al. Ltr. 10/7/2010, at 2. Such conditions are unreasonable, and entirely unnecessary.

With regard to wholesale service, the parties agreed in Minnesota and Iowa that the merged entity will not attempt to make modifications to existing performance assurance plans in Qwest service areas in those states for a period of three years following the closing. In addition, the parties have represented to this Commission that they will make no changes to their existing operations support systems for at least one year after closing, and have agreed in Minnesota and Iowa to extend that commitment for a second year. Moreover, the parties have repeatedly and publicly committed to giving their wholesale customers not only ample notice of any changes to wholesale operations support systems, but also an opportunity to participate in testing. Penalizing the companies with additional “remedy payments” in this context is inappropriate.

With regard to conditioned copper loops, that proposed condition is not required by any provision of the Communications Act, and the Commission has *never* required such a condition in any comparable merger. Again, to the extent that provisions regarding conditioned copper loops are incorporated in existing interconnection agreements, the companies have publicly stated that they will honor existing agreements.

Finally, the CLECs want the Commission to freeze special access rates, even though any issue they raise about such rates is non-transaction-specific. Special access rates are of course subject to a comprehensive scheme of regulation, and to the extent that CenturyLink and Qwest have flexibility in negotiating the terms of their special access services, that is because the Commission has determined that such flexibility serves the public interest. At bottom, therefore, the CLECs seek only to use this merger as a pretext for obtaining automatic price breaks from the government that they could not obtain for themselves under the negotiations encouraged by the Commission’s existing special access regulation. As we have previously explained, that request is patently inappropriate.

Cox urges the Commission to “collect additional information” regarding CenturyLink’s invocation of the rural exemption from certain interconnection obligations under Section 251 of the Communications Act in certain rural areas. Cox does not contest, however, that CenturyLink has served, and will continue to serve, some of the highest-cost rural areas in the country. And the Communications Act expressly leaves the determination whether a carrier is entitled to rural

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exemption to State commissions, not the FCC. Cox identifies no basis for the Commission to second-guess the States on this issue.

Just as important, CenturyLink has a lengthy and consistent history of negotiating with CLECs when they seek interconnection in rural areas in which the rural exemption applies, and CenturyLink has consistently reached agreements with CLECs seeking interconnection on mutually satisfactory terms. Cox does not identify *a single instance* in which it sought interconnection from CenturyLink and CenturyLink refused to negotiate, nor has Cox identified *a single instance* in which it was unable to reach a satisfactory agreement with CenturyLink. In other words, Cox has posited a purely hypothetical concern with no connection to the facts on the ground.

Please contact me if you have any questions.

Sincerely,

/s/

Karen Brinkmann
LATHAM & WATKINS LLP

Counsel for CenturyLink, Inc.

Enclosure

cc: Nick Alexander
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