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January 21, 2011

By Electronic Filing

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

Re: Ex Parte Notice; WC Docket Nos. 10-110

Dear Ms. Dortch:

Pursuant to Commission rules, COMPTEL hereby gives notice that on January, 21, 2011 Jerry James and the undersigned from COMPTEL, Bill Haas from PAETEC, Jerry Watts from Earthlink, Norina Moy from Sprint, Mike Hazzard from Arent Fox on behalf of Pac-West, and Eric Branfman from Bingham McCutchen met with Zac Katz of the Chairman's Office, Sharon Gillett, Bill Dever, Christi Shewman and Alex Johns of the Commission's Wireline Competition Bureau.

In the meeting the parties discussed the pending merger between CenturyLink and Qwest (applicants), in particular the modification and additions to the agreement the applicants reached with Integra that are necessary to ensure the merger is in the public interest. Attached are the documents the parties discussed and provided.

As the Commission has repeatedly found, the Applicants bear the burden of proof, by a preponderance of evidence, that the proposed transaction, on balance, serves the public interest in order to obtain merger approval.<sup>1</sup> Conditions must do more than remedy potential harms, there must be affirmative benefits, which include the preservation *and enhancement of competition*.<sup>2</sup> As the Commission recently found in the

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<sup>1</sup> *Comcast/NBC Merger Order*, FCC 11-4, MB Docket No. 10-56 at ¶ 22

<sup>2</sup> *Id* at ¶¶ 6, 23, 24. ["In addition to . . . conditions which are designed to remedy potential harms, we also look to the affirmative benefits of the proposed transaction, both those inherent in combination as well as voluntary commitments made by the Applicants in order to ensure that this transaction is in the public interest" . . . The "public interest evaluation necessarily encompasses the broad aims of the Communications Act, which include, among other things, a deeply rooted preference for preserving and enhancing competition in relevant markets. . . . For example, the Commission considers whether a transaction will

Comcast/NBC merger “alleged benefits are inherently difficult to quantify” but “Applicants’ voluntary commitments are the most easily measureable impacts.” Thus, it is important for the Commission to ensure that there are commitments or conditions in place that ensure that consumers and competition benefit from this merger.

Much of the changes proposed by COMPTTEL are merely intended to ensure compliance with existing obligations, such as ensuring the OSS in legacy Qwest territory meets the standard required by Section 271 of the Act, or mitigating the harm due to the expanded geographic footprint resulting from the merger. The Commission, however, must go beyond ensuring compliance and eliminating harm from the merger, it must ensure that consumers – such as retail and wholesale purchasers of special access – and competition itself *benefit* from the merger. The Commission has historically considered conditions and commitments that reduce transaction costs for competitors and agreements on the rates the applicants will charge for certain services in evaluating if the merger serves the public interest.

Sincerely,  
/s/ Karen Reidy

cc: Zac Katz  
Sharon Gillett  
Bill Dever  
Christi Shewman  
Alex Johns

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enhance, rather than merely preserve, existing competition, and often takes a more expansive view of potential and future competition in analyzing that issue.”