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March 15, 2011

VIA ELECTRONIC FILING

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Notice of Ex Parte Communication

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:

On March 15, 2011, Catherine Bohigian Cablevision Systems Corporation, Justin Lilley of TeleMedia Policy Corp., and the undersigned met with Angela Kronenberg, Wireline Legal Advisor to Commissioner Clyburn; Margaret McCarthy, Policy Advisor, Wireline to Commissioner Copps; Brad Gillen, Legal Advisor-Wireline Issues to Commissioner Baker; and Christine Kurth, Policy Director & Wireline Counsel to Commissioner McDowell regarding the above-captioned proceeding. Mr. Lilley also spoke by telephone regarding the proceeding to Zac Katz, Legal Advisor for Wireline Communications to Chairman Genachowski. The substance of the conversations with the Commission staff is summarized below. We also provided Ms. Kronenberg and Ms. McCarthy with copies of Cablevision's March 2 Ex Parte in this proceeding.

Cablevision and Bresnan Communications LLC (collectively, "Cablevision") have reviewed the recent letter filed by Qwest Communications International Inc. and CenturyTel, Inc. (collectively, the "Applicants") proposing certain commitments ("Merger Commitments") to "facilitate FCC approval of the transaction."[1/] Cablevision has also reviewed the Settlement

[1/] *See* Letter from Karen Brinkmann and Alexander Maltas, Latham & Watkins LLP, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-110 (March 9, 2011), Attachment A ("Merger Commitments").

Agreements between the Applicants and Integra Telecom, Inc. ("Integra")[2/] and the Applicants and several competitive carriers (collectively "Joint CLECs").[3/]

While the Merger Commitments are a step in the right direction, these commitments fall short of ensuring competitive choice on a level playing field. Cablevision respectfully urges the Commission to complete these commitments by addressing several critical matters that remain outstanding.

First, as a threshold matter, the Commission should clarify that the merged entity, including all CenturyLink entities, may not invoke either of the section 251(f) exemptions for rural and small carriers. The Applicants appear to have accepted this condition as part of the Integra Settlement,[4/] but the Merger Commitments provide only that "CenturyLink will not assert that any of its rural telephone companies are exempt from Section 251(c) obligations *pursuant to section 251(f)(1)* of the Communications Act, as amended."[5/] On its face section 251(f)(2) of the Communications Act is inapplicable to the merged entity, which will clearly have, "at the holding company level," two percent or more of the subscriber lines installed in the aggregate nationwide.[6/] Nonetheless, the fact that the Applicants expressly disclaimed the rural exemption under both 251(f) sections in the Integra and Joint CLEC settlements but not in the Merger Commitments could create uncertainty regarding the scope of the Applicants' section 251(f) Merger Commitments. To remove any potential uncertainty, the Commission should clarify that the merged entity, including all CenturyLink entities, may not invoke any section 251(f) exemption.

[2/] Integra Settlement Agreement, attached to Letter of Karen Brinkmann, Counsel, CenturyLink, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-110 (Nov. 8, 2010).

[3/] *See I/M/O Joint Petition for Approval of Indirect Transfer of Control of Qwest Operating Companies to Century to CenturyLink*, MN PUC Docket No. P-421, et.al., PA-10-456, Letter from Michael J. Ahearn to Burl Haar, Executive Secretary, Minnesota Public Utilities Commission (March 4, 2011) (attaching the Settlement Agreement between the Joint Petitioners and the Joint CLECs), *available at* https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=eDocketsResult&userType=public#{C91D08E6-F783-4B1B-B6B0-C25B16377374.

[4/] Integra Settlement Agreement ¶ 6 ("CenturyLink and all of its incumbent local exchange carrier ("ILEC") affiliates will comply with 47 U.S.C. Sections 251 and 252. In the legacy Qwest ILEC service territory, the Merged Company will not seek to avoid any of its obligations on the grounds that Qwest Corporation is exempt from any of the obligations pursuant to Section 251(f)(1) or Section 251(f)(2) of the Communications Act.").

[5/] Merger Commitments ¶ IV.K (emphasis added).

[6/] *See* 47 C.F.R. § 51.403. The merged entity will be the third largest ILEC in the country with a combined 17 million access lines.

This clarification would also expressly recognize that the merged entity would not qualify as a rural or a small carrier in either the Qwest or the CenturyLink service territories. The Applicants themselves implicitly acknowledge as much by committing to forgo CenturyLink's rural carrier subsidies in the form of the local switching support ("LSS") and the Interstate Common Line Support ("ICLS").[7/]

Second, the Commission should require the merged entity to exchange traffic at a single point of interconnection ("POI") per LATA at the request of a competitor. As discussed in Cablevision's March 2 Ex Parte,[8/] such a requirement would facilitate the efficient interconnection that the Commission supports and in turn promote competitive offerings to consumers.[9/] The Applicants have already agreed to a single POI per LATA in the Integra and the Joint CLEC Settlements, but only if Qwest interconnects its network with CenturyLink's network.[10/] Presumably the two Applicants are already interconnected in any LATA where they both do business. This obligation should therefore be extended to apply to requests from *any* competing provider, and the Applicants should be required to offer a single POI per LATA in each of their respective legacy service areas that allows competitors to exchange traffic with the merged entity's combined network within that LATA.

Third, the Commission should prohibit the merged entity from imposing any transit charges on competitive providers for local or other intraLATA traffic sent through Qwest to terminate to CenturyLink and *vice versa*. This prohibition would extend the public benefits of the synergies that the Applicants claim would be created by the merger to competitors and ultimately to all customers.

Finally, Cablevision is generally pleased with the Operations Support Systems ("OSS") Replacement offer set forth in the Applicants' Merger Commitments.[11/] The proposed OSS public interest commitment recognizes that CenturyLink's OSS is vastly inferior to Qwest's system. While Cablevision generally supports the proposal to upgrade the CenturyLink system in order to bring the efficiencies and benefits of the merger to the general public and to promote

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[7/] Merger Commitments ¶ V (CenturyLink agreeing to phase-out federal LSS and to submit a plan for its remaining average schedule companies to freeze ICLS on a per-line basis).

[8/] *See* Letter from Howard J. Symons, Mintz Levin, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-110 (March 2, 2011), Attachment at 4 ("*Cablevision/Bresnan March 2 Ex Parte*").

[9/] *Cablevision/Bresnan March 2 Ex Parte*, Attachment at 1-2.

[10/] Under the Joint CLEC Agreement if Qwest interconnects its network with CenturyLink's network, the combined entity will allow interconnection at a single POI per LATA provided that (1) interconnection is technically feasible, (2) there are existing facilities (undefined) in use between the ILEC affiliates, and (3) the ILEC affiliates in the LATA are directly interconnected over these facilities. Joint CLEC Agreement ¶ 2.

[11/] Merger Commitments ¶ IV.A.

competition, effective OSS improvement must include elimination of unreasonable service order charges.

Unlike the Integra and Joint CLEC Settlements, the Merger Commitments do not address elimination of discriminatory service order charges, including customer acquisition charges associated with local number portability and customer service record requests. The Integra Settlement Agreement appears to effectively preclude such charges in the legacy Qwest ILEC serving territory,[12/] but the Commission should also apply this commitment in the legacy CenturyLink territory to conform the merged entity's dealings with all competitors throughout its territory. Absent a service area-wide commitment to eliminate such charges, CenturyLink will have incentive to continue to impose such charges. This result would be inconsistent with the public interest goals of the Commission's merger review.

Pursuant to section 1.1206(b) of the Commission's rules, an electronic copy of this letter is being filed electronically with the Office of the Secretary and served electronically on the Commission staff listed below.

Any questions concerning this submission should be addressed to the undersigned.

Sincerely,

Howard J. Symons

cc: Zac Katz
Margaret McCarthy
Christine Kurth
Angela Kronenberg
Brad Gillen

[12/] Integra Agreement ¶ 4.b ("After the Closing Date, in the legacy Qwest ILEC serving territory, the Merged Company shall not assess any fees, charges, surcharges or other assessments upon CLECs for activities that arise during the subscriber acquisition and migration process other than any fees, charges, surcharges or other assessments that were approved by the applicable commission and charged by Qwest in the legacy Qwest ILEC service territory before the Closing Date, unless Qwest first receives Commission approval.").