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March 16, 2011

By Electronic Filing

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

Re: Ex Parte; WC Docket No. 10-110

Dear Ms. Dortch:

On March 10, CenturyLink and Qwest (the “Applicants”) provided the Commission with a set of merger commitments in attempt to facilitate approval of the transaction. Much of the proposed commitments submitted by CenturyLink merely relate to the expansion of its business and to the promotion and advertisement of its products and services.¹ In other words, many of the commitments are somewhat self serving. What is lacking in the proposed commitments is the sufficient protection and promotion of competition. The Commission should not approve the merger until such commitments are in place.

In terms of commitments regarding wholesale operations, the Applicants have offered the Commission a few –but not all - of the commitments that were made as a result of pressure from state commissions. Indeed, one of the few expansions of previous commitments that resulted from state proceedings – the extension of ICAs in the CenturyLink territory - is potentially nullified with an exemption for any ICA already extended by the *CenturyTel-Embarq Order*. Also, while CenturyLink has agreed to a third party facilitator for the coordinated testing of any successor OSS as a result of the merger proceeding in Minnesota, this condition was not included in its filing with the FCC.² As the primary enforcer of 271 obligations – which includes OSS - the FCC should not accept less than the states have accepted.

¹ Letter of Karen Brinkman, Counsel for CenturyLink, Inc., to Marlene Dortch, Secretary of FCC, Attachment A, pp. 1-5, dated March 9, 2011.

² See Final Order, *In the Matter of the Joint Application of Qwest Communications International Inc. and CenturyLink, Inc.*, Before the Washington State Utilities and Transportation Commission, Docket UT-100820, p. 65, n. 298 (March 14, 2011)(“Washington State Final Merger Order”).

Moreover, as with prior mergers, the Commission should consider the pricing and terms and conditions of wholesale services - not just retail services - when performing its public interest analyst. As COMPTTEL has previously expressed, there are certain issues that the Commission cannot rely on the state Commissions to address. In particular, consistent with Commission precedent involving the acquisition of an RBOC in its entirety, the Applicants should be required to provide the Commission with a commitment to offer price cap rates for special access services in areas where Phase II pricing flexibility has been granted. This is especially the case since Qwest's special access rates, even as compared to the other RBOCs, are particularly inflated.³

COMPTTEL and its members have also proposed conditions that would allow for the Applicants' wholesale customers to share in the synergies the merged entity will experience, and avoid unnecessary transaction costs, through the use of region-wide contracts. For example, the merged entity should provide carriers the ability to enter into company-wide interconnection agreements and the ability to port interconnection agreements across state lines. As the Washington State Utilities and Transportation Commission has stated, "the issue of cross-state porting of ICAs is a federal matter better left to the FCC for resolution."⁴ Likewise, the merged entity should allow for the restructuring of special access term and volume agreements to allow aggregation of commitments on a footprint-wide basis with a reasonable revenue/volume commitment cap of 75%. Because the term/volume plans currently operate on a state basis for commitments in CenturyLink region, Sprint (one of COMPTTEL's member companies) has to track 19 individual commitments for Sprint Communications LD and Sprint PCS. Finally, before granting the merger, the Commission should ensure that the Applicants make a firm commitment to support and abide by Commission precedent, including the Commission's switched access benchmarking rules and filed tariff requirements.

Unless and until the Applicants' ensure these type of public interest benefits, the merger should not be approved.

Respectfully Submitted,

/s/ Karen Reidy

³ AT&T, Qwest, and Verizon rates of return for 2007 were 138%, 175%, and 62%, respectively. See COMPTTEL Letter to Marlene Dortch, WC Docket 05-25, p. 5 (dated May 18, 2009). A comparison of special access rates in the Qwest region to the rates of analogous UNEs found special access rates to be drastically higher. Declaration of Don Eben, Petition for Modification of McLeodUSA Telecommunications Services, Inc., *In the Matter of Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Omaha Metropolitan Statistical Area*, WC Docket No. 04-223, ¶ 8-13 (dated Jul. 23, 2007).

⁴ *Washington State Final Merger Order* at. 86, ¶163 (March 14, 2011).

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