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WC 08-238

JENNER & BLOCK

November 25, 2008

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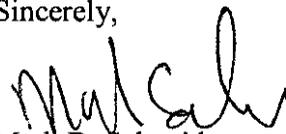
Re: Application to Transfer of Control of Domestic Authorizations Held by Embarq Corporation to CenturyTel, Inc. Under Section 214 of the Communications Act

Dear Sir or Madam:

Enclosed please find an original and 5 copies of an application seeking Commission consent, pursuant to Section 214 of the Communications Act of 1934 and Section 63.04 of the Commission's Rules, to transfer control of domestic authorizations held by Embarq Corporation to CenturyTel, Inc. Also enclosed please find a completed FCC Form 159 with a check in the amount of \$965.00 for the prescribed filing fee. Streamlined processing is requested pursuant to Section 63.03 of the rules.

Please stamp and return the extra copy in the enclosed, self-addressed envelope. Should you have any questions concerning this application, please contact the undersigned. Thank you very much for your assistance.

Sincerely,



Mark D. Schneider  
Counsel for Embarq Corporation

MDS:dea  
Enclosures

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READ INSTRUCTIONS CAREFULLY  
BEFORE PROCEEDING

FEDERAL COMMUNICATIONS COMMISSION  
REMITTANCE ADVICE  
FORM 159

Approved by OMB  
3060-0589  
Page No. 1 of 2

(1) LOCKBOX # <b>979091</b>		SPECIAL USE ONLY	
		FCC USE ONLY	
<b>SECTION A - PAYER INFORMATION</b>			
(2) PAYER NAME (if paying by credit card enter name exactly as it appears on the card) <b>Jenner &amp; Block LLP</b>		(3) TOTAL AMOUNT PAID (U.S. Dollars and cents) <b>\$965.00</b>	
(4) STREET ADDRESS LINE NO. 1 <b>c/o Mark D. Schneider</b>			
(5) STREET ADDRESS LINE NO. 2 <b>1099 New York Avenue NW Suite 900</b>			
(6) CITY <b>Washinaton</b>		(7) STATE <b>DC</b>	(8) ZIP CODE <b>20001 4412</b>
(9) DAYTIME TELEPHONE NUMBER (include area code) <b>(202) 639-6005</b>		(10) COUNTRY CODE (if not in U.S.A.)	
<b>FCC REGISTRATION NUMBER (FRN) REQUIRED</b>			
(11) PAYER (FRN)		(12) FCC USE ONLY	
<b>IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C) COMPLETE SECTION BELOW FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET</b>			
(13) APPLICANT NAME <b>Embarq Corporation</b>			
(14) STREET ADDRESS LINE NO. 1 <b>5454 W. 110th Street</b>			
(15) STREET ADDRESS LINE NO. 2			
(16) CITY <b>Overland Park</b>		(17) STATE <b>KS</b>	(18) ZIP CODE <b>66211 1204</b>
(19) DAYTIME TELEPHONE NUMBER (include area code)		(20) COUNTRY CODE (if not in U.S.A.)	
<b>FCC REGISTRATION NUMBER (FRN) REQUIRED</b>			
(21) APPLICANT (FRN) <b>0014791164</b>		(22) FCC USE ONLY	
<b>COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET</b>			
(23A) CALL SIGN/OTHER ID	(24A) PAYMENT TYPE CODE <b>CUT</b>	(25A) QUANTITY <b>1</b>	
(26A) FEE DUE FOR (PTC) <b>\$965.00</b>	(27A) TOTAL FEE <b>\$965.00</b>	FCC USE ONLY	
(28A) FCC CODE 1		(29A) FCC CODE 2	
(23B) CALL SIGN/OTHER ID	(24B) PAYMENT TYPE CODE	(25B) QUANTITY	
(26B) FEE DUE FOR (PTC)	(27B) TOTAL FEE	FCC USE ONLY	
(28B) FCC CODE 1		(29B) FCC CODE 2	
<b>SECTION D - CERTIFICATION</b>			
<b>CERTIFICATION STATEMENT</b>			
I, _____, certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief.			
SIGNATURE _____		DATE _____	
<b>SECTION E - CREDIT CARD PAYMENT INFORMATION</b>			
MASTERCARD _____ VISA _____ AMEX _____ DISCOVER _____			
ACCOUNT NUMBER _____		EXPIRATION DATE _____	
I hereby authorize the FCC to charge my credit card for the service(s)/authorization herein described.			
SIGNATURE _____		DATE _____	

FEDERAL COMMUNICATIONS COMMISSION REMITTANCE ADVICE (CONTINUATION SHEET) FORM 159-C		SPECIAL USE
Page No <u>2</u> of <u>2</u>		FCC USE ONLY
USE THIS SECTION ONLY FOR EACH ADDITIONAL APPLICANT SECTION BB - ADDITIONAL APPLICANT INFORMATION		
(13) APPLICANT NAME <b>CenturyTel, Inc.</b>		
(14) STREET ADDRESS LINE NO. 1 <b>100 CenturyTel Drive</b>		
(15) STREET ADDRESS LINE NO. 2		
(16) CITY <b>Monroe</b>	(17) STATE <b>LA</b>	(18) ZIP CODE <b>71211</b>
(19) DAYTIME TELEPHONE NUMBER (include area code) <b>(318) 388-9000</b>	(20) COUNTRY CODE (if not in U.S.A.)	
FCC REGISTRATION NUMBER (FRN) REQUIRED		
(21) APPLICANT (FRN) <b>0003740651</b>	(22) FCC USE ONLY	
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(23B) CALL SIGN/OTHER ID	(24B) PAYMENT TYPE CODE	(25B) QUANTITY
(26B) FEE DUE FOR (PTC)	(27B) TOTAL FEE	FCC USE ONLY
(28B) FCC CODE 1	(29B) FCC CODE 2	
(23C) CALL SIGN/OTHER ID	(24C) PAYMENT TYPE CODE	(25C) QUANTITY
(26C) FEE DUE FOR (PTC)	(27C) TOTAL FEE	FCC USE ONLY
(28C) FCC CODE 1	(29C) FCC CODE 2	
(23D) CALL SIGN/OTHER ID	(24D) PAYMENT TYPE CODE	(25D) QUANTITY
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(28D) FCC CODE 1	(29D) FCC CODE 2	
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(26E) FEE DUE FOR (PTC)	(27E) TOTAL FEE	FCC USE ONLY
(28E) FCC CODE 1	(29E) FCC CODE 2	
(23F) CALL SIGN/OTHER ID	(24F) PAYMENT TYPE CODE	(25F) QUANTITY
(26F) FEE DUE FOR (PTC)	(27F) TOTAL FEE	FCC USE ONLY
(28F) FCC CODE 1	(29F) FCC CODE 2	

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
EMBARQ CORPORATION,	)	
Transferor,	)	
	)	
and	)	WC Docket No. _____
	)	
CENTURYTEL, INC.	)	
Transferee.	)	
	)	
Application for Transfer of Control of	)	
Domestic Authorizations Under Section 214	)	
of the Communications Act, as Amended	)	

**APPLICATION FOR CONSENT TO TRANSFER OF CONTROL**

Pursuant to Section 214 of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 214, and Section 63.04 of the Commission's rules, 47 C.F.R. § 63.04, CenturyTel, Inc. ("CenturyTel") and Embarq Corporation ("Embarq") hereby request Commission consent to transfer control of domestic Section 214 authorizations held by Embarq and its subsidiaries to CenturyTel.<sup>1</sup> Grant of Commission consent to transfer control of these authorizations will permit consummation of a stock-for-stock transaction that has been approved by the Boards of Directors of CenturyTel and Embarq.<sup>2</sup>

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<sup>1</sup> CenturyTel and Embarq are collectively referred to herein as the "Applicants." A list of CenturyTel and Embarq subsidiaries holding domestic Section 214 authority are provided as Exhibits 1 and 2 to this application.

<sup>2</sup> The Applicants have concurrently filed separate applications requesting consent to transfer control of international Section 214 authorizations and wireless radio licenses held by Embarq and its subsidiaries.

## I. INTRODUCTION

This transaction combines two leading communications companies with customer-focused, industry-leading capabilities, each of which is committed to providing excellent communications services to its primarily rural and small city markets. The transaction will provide the combined entity with greater financial and operational resources to expand its network facilities and continue to improve and diversify service to customers.

Information concerning this transaction and the parties involved is offered below.

### A. The Parties

*CenturyTel.* CenturyTel, Inc. is a Louisiana corporation headquartered in Monroe, Louisiana, and its shares are publicly traded on the New York Stock Exchange. CenturyTel is a holding company that conducts its business operations principally through subsidiaries offering communications, high-speed internet, and entertainment services in small-to-mid-size cities through its copper and fiber networks. As of September 30, 2008, CenturyTel operates in 25 states, providing local exchange services over roughly 2.0 million telephone access lines and high-speed internet connections to approximately 630,000 subscribers.<sup>3</sup> CenturyTel's expansive product offerings also include long distances services, cable television services, satellite television services, Internet Protocol Television (IPTV) service, and wireless services. In certain local and regional markets, CenturyTel also provides telecommunications services as a competitive local exchange carrier, security monitoring, and other communications, and business information services. In addition, CenturyTel runs a state-of-the-art fiber system, which provides wholesale and retail fiber-based transport services to customers in the central United

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<sup>3</sup> These states are: Alabama, Arkansas, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Tennessee, Texas, Washington, Wisconsin, and Wyoming.

States. CenturyTel strives to maintain customer relationships by, among other things, maintaining a local presence in the communities it serves.

*Embarq.* Embarq Corporation is a Delaware corporation headquartered in Overland Park, Kansas, and its shares are publicly traded on the New York Stock Exchange. Embarq is a holding company that conducts its business operations principally through subsidiaries offering a complete suite of communications services. As of September 30, 2008, Embarq has ILEC operations in 18 states, providing local exchange services over nearly 5.9 million telephone access lines and broadband service to 1.4 million subscribers.<sup>4</sup> For consumers, Embarq offers an innovative portfolio of services that includes reliable local and long distance home phone service, high-speed internet access, and satellite video from DISH Network. For businesses, Embarq has a comprehensive range of flexible and integrated services designed to help businesses of all sizes be more productive and communicate with their customers. This service portfolio includes local voice and data services, long distance services, Business Class High Speed Internet services, satellite video services from DIRECTV, enhanced data network services, voice and data communication equipment, and managed network services. In addition, through its subsidiary Embarq Payphone Services, Inc., Embarq offers pay phone services in various parts of the United States.

#### **B. The Transaction**

Embarq, CenturyTel, and Cajun Acquisition Company (“CAC”) entered into an Agreement and Plan of Merger (“Merger Agreement”) as of October 26, 2008. CAC, a Delaware corporation, is a direct wholly-owned subsidiary of CenturyTel created to effectuate

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<sup>4</sup> These states are: Florida, Indiana, Kansas, Minnesota, Missouri, Nebraska, Nevada, New Jersey, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington, and Wyoming. A list of Embarq’s subsidiary ILECs and the states in which they operate is provided as Exhibit 3 to this application.

this transaction. Under the terms of the transaction, Embarq and CAC will merge, with Embarq becoming the surviving corporation and CAC ceasing to exist.<sup>5</sup> The transaction will be accomplished through exchanging 1.37 shares of CenturyTel stock for every share of Embarq common stock. CenturyTel plans to refinance certain indebtedness at closing, but no additional debt is contemplated in connection with the merger.

Under the terms of the transaction, Embarq thus will become a direct, wholly-owned subsidiary of CenturyTel. Embarq's operating subsidiaries will remain subsidiaries of Embarq, and CenturyTel's operating subsidiaries will remain subsidiaries of CenturyTel. The pre- and post-transaction corporate structure is illustrated in Exhibit 4.<sup>6</sup>

In short, the transaction contemplates a parent-level transfer of equity. End user customers will continue to receive service from the same local operating company at the same

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<sup>5</sup> Embarq will be the surviving corporation but will adopt the By-Laws and Certificate of Incorporation of CAC.

<sup>6</sup> As of the closing, the stockholders of pre-transaction Embarq are expected to own approximately 66% of post-transaction CenturyTel, and the shareholders of pre-transaction CenturyTel are expected to own approximately 34% of post-transaction CenturyTel. The post-transaction CenturyTel Board will be composed of eight CenturyTel-selected directors and seven Embarq-selected directors. Under Commission precedent, this will not constitute a substantial change of control of CenturyTel. *See, e.g., In re Applications Filed for the Transfer of Certain Spectrum Licenses and Section 214 Authorizations in the States of Maine, New Hampshire, and Vermont from Verizon Communications Inc. and its Subsidiaries to FairPoint Communications, Inc.*, Memorandum Opinion and Order, 23 FCC Rcd 514, ¶ 8 n.20 (2008) (FairPoint properties not subjected to change of control analysis where pre-transaction FairPoint shareholders were to own only 40% of the post-transaction FairPoint, but were to nominate five of the nine directors of the new board); *In re Applications of Metromedia, Inc. for Consent to the Transfer of Corporate Control from John W. Kluge (De Facto Control) to John W. Kluge (De Jure Control)*, Memorandum Opinion and Order, 98 F.C.C.2d 300, ¶ 9 (1984) (a substantial transfer did not occur where 50% of a corporation's stock was transferred but de facto control did not change). In the event that the Commission concludes that this transaction does constitute a substantial change of control of CenturyTel, the Applicants respectfully request that the Commission consent to the transfer of control of all domestic Section 214 authorizations held by both companies to the post-transaction CenturyTel, so as not to delay approval of the transaction. The list of CenturyTel subsidiaries with domestic 214 authority is attached at Exhibit 2.

rates, terms, and conditions the day after the transaction closes as immediately prior to the transaction.

## **II. PUBLIC INTEREST STATEMENT**

The proposed transaction is in the public interest because it will provide benefits to consumers of both companies without any countervailing harms. It combines two leading broadband-focused communications companies with strong customer-centric histories.

CenturyTel has a rich history in local telecommunications service and a proven track record for customer service and provisioning high-quality telecommunications and advanced services.

CenturyTel serves customers in predominantly rural and small-to-mid-size city service areas. Its primary role has been as a communications provider focused on providing superior telecommunications, broadband, and other advanced services in its existing certificated areas.

Since its separation from Sprint Nextel Corp. ("Sprint"), Embarq has delivered on its promise to serve the public interest by adopting a single-minded focus of becoming the preferred hometown communications company in the local service areas in which it operates. Though its name has changed, Embarq has a rich history of providing communications services to local communities that dates back more than a hundred years, and since its separation from Sprint it has strengthened its local community roots.

Thus, the merger will bring together two companies whose businesses are built upon serving local customers in predominantly rural areas and smaller markets and creating a variety of products and services that more directly address the preferences of those customers. For the reasons set forth below, the Applicants respectfully request that the Commission, pursuant to Sections 310(d) and 214 of the Communications Act of 1934, as amended, find "the public

interest, convenience and necessity will be served” by the proposed transaction, and consent to the transfer of control of Embarq’s FCC authorizations to CenturyTel.

**A. CenturyTel Is Qualified to Control These Authorizations**

Before evaluating the public interest benefits of the transaction, the Commission must determine as a threshold matter whether CenturyTel has the requisite qualifications to control the authorizations at issue. *See* 47 U.S.C. § 310(d). The Commission has repeatedly concluded that CenturyTel is qualified under the Commissions Act to control such authorizations,<sup>7</sup> and the Commission should do so again here. Indeed, CenturyTel has a long history of successful acquisitions.

**B. The Merger Benefits the Public Interest**

**1. The Merger Will Result in a Combined Enterprise Which Is More Efficient and Better Positioned to Meet Consumer Needs**

The communications industry is rapidly evolving in response to developments in competition, technology, new customer preferences, and the maturation and convergence of different communications services platforms. Successful adaptation to this evolution is critical to maintaining the economic resources necessary to provide excellent communications services to consumers at affordable rates.

The proposed transaction will result in a combined enterprise that can achieve greater economies of scale and scope than could the two companies operating independently. This, in turn, will enhance the combined firm’s ability to respond rapidly to customer preferences in

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<sup>7</sup> *See, e.g.,* Public Notice, *In re Application for Transfer of Control of Madison River Communications Corp. and Madison River Telephone Company, LLC to CenturyTel, Inc.*, DA 07-744, 22 FCC Rcd 3584 (WCB Feb. 20, 2007) (granting CenturyTel’s acquisition of Madison River Communications Corp. and Madison River Telephone Company, LLC, including their domestic Section 214 authorizations and 164,000 access lines). Further, the Commission has previously concluded that CenturyTel is qualified by repeatedly granting CenturyTel licenses and authorizations to provide domestic and international communications services.

providing a full portfolio of quality, advanced communications services. As detailed below, the merger will create important efficiency enhancements, improve the telecommunications services available to consumers, make the combined firm a stronger competitor, and help ensure the future financial stability of the combined enterprise.

*Significant Synergy Opportunities.* The transaction is expected to generate synergies of approximately \$400 million annually within the first three years of operation.<sup>8</sup> Key drivers of these synergies include reduction of corporate overhead, elimination of duplicate functions, realization of enhanced revenue opportunities, and achievement of increased operational efficiencies through the adoption of best practices and capabilities from each company.<sup>9</sup> Consumers will benefit from these efficiencies in the form of improved services at competitive prices. The Commission has previously recognized the important public benefits of similar merger-specific efficiency gains.<sup>10</sup>

*Advanced Services Speedily Deployed to More Customers.* In addition to benefiting from the significant cost saving synergies, consumers will also benefit from more rapid deployment of advanced services, including IPTV and next-generation broadband-based services. CenturyTel has invested heavily to successfully roll out IPTV services in two test markets (La Crosse, Wisconsin and Columbia, Missouri) with the intention and capability to offer these services in

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<sup>8</sup> Ewing Decl. ¶ 2.

<sup>9</sup> *Id.*

<sup>10</sup> See, e.g., *In re Applications of Nextel Communications, Inc. and Sprint Corp. for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 20 FCC Rcd 13,967, ¶ 140 (2005) (recognizing the “merger specific efficiencies in information technology, billing, customer care, sales and marketing systems”).

additional markets in the near future.<sup>11</sup> Specifically, CenturyTel has developed centralized headend facilities and operational capabilities and has forged the necessary relationships with content providers to enable CenturyTel to deploy IPTV services in additional markets.<sup>12</sup> Embarq, on the other hand, has not yet made such progress in its deployment of IPTV and, absent a combination with CenturyTel, is unlikely to make IPTV services available to significant numbers of consumers in the near term. While the significant investment required to deploy IPTV services in a given market requires individual, market-level analysis, this transaction would allow the Applicants to use CenturyTel's substantial investments to deploy IPTV services to current Embarq customers more quickly than is otherwise likely to be the case.<sup>13</sup>

CenturyTel and Embarq are leading rural broadband providers. The combined entity will enjoy an enhanced ability to deploy next-generation broadband services. In addition to other scale and scope efficiencies, by combining Embarq's existing network with CenturyTel's backbone network, including its fiber transport lines, the Applicants will be able to realize greater "transport" economies of scale. The combined network will place more Embarq and CenturyTel customers within economically feasible reach of the backbone network accommodating next-generation broadband applications.<sup>14</sup> This means that more customers in more areas should have an opportunity to receive next-generation broadband network services as a result of this transaction.

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<sup>11</sup> Ewing Decl. ¶ 3.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* ¶ 4.

<sup>14</sup> *Id.* ¶ 5.

Furthermore, consumers will benefit in numerous ways from the shared resources of the two companies and the adoption of best practices. For example, CenturyTel has acquired 700 MHz radio spectrum licenses that would be available to the combined company for offering enhanced wireless broadband and voice services.<sup>15</sup> By the same token, Embarq is more advanced in bringing to market IP (internet protocol) products for business customers.<sup>16</sup> In short, the combined company will be able to offer consumers a better array of services than either CenturyTel or Embarq could offer on its own.

*Benefits to Rural Consumers.* With its inherited expertise in serving predominantly smaller, rural areas, the new entity will deliver modern, advanced communications services to areas that are not the focus of larger communications companies. The combination of two mid-sized local wireline providers with investment grade ratings, solid financial fundamentals, and adequate access to capital will position the combined enterprise to capitalize on the collective knowledge of local customers' needs and to deliver innovative product offerings to these rural and smaller markets. Customers will benefit through their ability to subscribe to existing and future services. The post-merger CenturyTel will benefit through its improved ability to retain and attract customers whose needs are satisfied by its enhanced offerings, service quality, and customer care. The public interest will be served by the transaction because the new company will bring to bear the combined resources of CenturyTel and Embarq to focus on delivering a full portfolio of communications services targeted to meet the needs of customers in predominantly rural and smaller markets.

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<sup>15</sup> *Id.* ¶ 6.

<sup>16</sup> *Id.*

*Financial Strength and Flexibility.* The transaction offers the financial strength and flexibility for the post-transaction CenturyTel to continue providing outstanding service and enhanced offerings to customers, while delivering reasonable returns to shareholders who invest in the company. The post-transaction company is expected to have pro forma revenue in excess of \$8.8 billion. The merger will be completed without adding any incremental debt to the combined company. Based upon these financial attributes, CenturyTel anticipates having post-transaction financial characteristics consistent with those of companies that have been rated “investment grade” by major ratings agencies – characteristics that CenturyTel and Embarq possess pre-transaction. These attributes help insure that CenturyTel will have the fiscal stability to provide consumers consistent quality service, as well as the ability to provide new services demanded by a competitive marketplace.

*A Viable Competitive Alternative for Consumers.* Over the past few years, CenturyTel and Embarq, like many other local providers, have experienced line loss as a result of evolutions in the communications industry, including greater reliance by consumers on wireless services and increased competition from cable companies. Embarq, for example, lost slightly over 6% of its switched access lines annually in 2006 and 2007, and lost 8.6% on a year-over-year basis as of September 30, 2008.<sup>17</sup> Excluding its acquisition of Madison River’s access lines, CenturyTel

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<sup>17</sup> See Embarq Corporation, Quarterly Report (Form 10-Q) (filed on Oct. 30, 2008); Embarq Corporation, Annual Report (Form 10-K) (filed on Feb. 29, 2008). As of September 30, 2008, Embarq has lost 1.5 million access lines out of the 7.4 million lines it serviced on December 31, 2005. This amounts to a loss of approximately 20% of its access lines during the three-year period.

has experienced line loss of roughly 5% to 6% annually since 2006.<sup>18</sup> These losses have resulted in decreased economies of scale.

This merger will benefit consumers by allowing CenturyTel and Embarq to increase their economies of scale over current levels.<sup>19</sup> The two companies combined will serve approximately 8 million access lines, 2 million broadband customers, and approximately 400,000 video subscribers. With its significantly increased scale, the transaction will enhance the competitive strength of the combined company to maintain affordable and high-quality telecommunications services and facilitate deployment of new products and services, including IPTV, broadband, and wireless data offers.

## **2. The Merger Will Not Disrupt Services to Customers**

The proposed transaction will not disrupt services to customers of CenturyTel and Embarq. Under the terms of the Merger Agreement, Embarq's operating subsidiaries will remain subsidiaries of Embarq, and CenturyTel's operating subsidiaries will remain subsidiaries of CenturyTel. Ensuring the continuation of high quality service and customer experience pre- and post-merger is vitally important. CenturyTel and Embarq understand that continuing to meet and anticipate customer needs is a top priority. The transaction will not change the incentives of the combined entity to do so. Accordingly, immediately following consummation of the transaction, end user customers will continue to receive service from the same local operating

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<sup>18</sup> See CenturyTel, Inc., Quarterly Report (Form 10-Q) (filed on Oct. 31, 2008); CenturyTel, Inc., Annual Report (Form 10-K) (filed on Feb. 29, 2008). CenturyTel expects access line loss to be between 5.5% and 6.5% for the full year 2008.

<sup>19</sup> The total number of access lines of the combined entity (based on line counts from the Third Quarter of 2008) will be less than 600,000 greater than the number of lines Embarq served at the beginning of 2006.

company and at the same rates and on the same terms and conditions as immediately prior to the transaction; as such, the transaction will be transparent to the customers.<sup>20</sup>

To that end, the Applicants will continue to employ experienced and dedicated service personnel. The customer service, network, and operations functions that are critical to each company's success today will continue when the transaction is complete, and the post-transaction company will be staffed to ensure that continuity of expertise. The local operations of the Applicants will continue to be managed by employees with extensive knowledge of the local telephone business and with a commitment to meeting the telecommunications needs of the local communities they serve.

Moreover, the customer operations interface of the Applicants will not change as a result of the transaction. Customers will continue to call existing numbers to order new services, report service problems, and inquire about billing or other customer care issues. The Applicants will provide customers notice of the transfer and name change (if any) via bill messages. A sample customer notice will be provided to the Commission in advance of its distribution in accordance with Section 64.1120(e) of the rules. *See* 47 C.F.R. § 64.1120(e).

In sum, immediately after the merger, the Applicants will provide the same high quality local exchange and long distance services that they do today, subject to the same rules and regulations. Finally, this transaction will have no impact on the terms of any existing interconnection agreements or obligations under state and federal laws regarding interconnection.

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<sup>20</sup> In view of the current rapidly changing communications market, any provider, including post-transaction CenturyTel, must constantly review its pricing strategy and product mix to respond appropriately to marketplace demands. Prices and product mixes necessarily will change over time as marketplace, technology, and business demands dictate. The combined entity will make such changes only following full compliance with all applicable rules and laws.

### C. The Transaction Poses No Risk of Anticompetitive Harm

The transaction will not harm competition; to the contrary, it will yield tangible public interest benefits. The proposed transaction will result in a small number of adjacent and overlapping exchanges affecting a relatively limited number of access lines. Under established Commission precedent, the adjacencies and overlaps involved in this merger pose no threat of consumer harm.<sup>21</sup> First, these exchanges involve only a tiny fraction of the Applicants' operations and customer base. Out of the 4,341 incumbent local exchanges served by CenturyTel or Embarq, CenturyTel CLEC service areas overlap with only three Embarq ILEC exchanges, and only 54 Embarq ILEC exchanges are adjacent to 59 CenturyTel ILEC exchanges, which is less than 3% of the total exchanges.<sup>22</sup> These adjacencies affect only 281,000 out of the more than 7.3 million customer access lines served by the Applicants (i.e., less than 4% of the access lines).<sup>23</sup> Additionally, an examination of the particular exchanges involved in this merger makes clear that there is no anti-competitive danger. In fact, the adjacencies could be expected to improve operational efficiencies and quality of service as networks and workforces are combined.

*Overlapping Exchanges.* CenturyTel operates CLECs that provide service in three Embarq ILEC markets: the Chaska, Minnesota exchange and the bordering Fayetteville and

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<sup>21</sup> See, e.g., *In re Joint Applications 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*, 16 FCC Rcd 15,293, ¶¶ 8-9 (CCB/WTB 2001) (*TDS and Chorus Order*).

<sup>22</sup> Ewing Decl. ¶ 7; Kepley Decl. ¶ 2.

<sup>23</sup> Ewing Decl. ¶ 7; Kepley Decl. ¶ 2. The 7.3 million access line figure excludes all company official lines and business trunks. Thus, the percentage of access lines affected is even smaller when accounting for all access lines served by the two companies (approximately 8 million).

Rocky Mount, North Carolina exchanges.<sup>24</sup> In these three exchanges, CenturyTel serves only business customers, and, after the merger is completed, a substantial number of competitors will remain in each market.<sup>25</sup> In Chaska – where CenturyTel has 125 business customers – it competes with Level 3, ITC Deltacom, Paetec, Verizon, AT&T, ALEC, and Bandwidth.com, among others.<sup>26</sup> Similarly, in Fayetteville/Rocky Mount – where CenturyTel has only 5 business customers – it competes with XO, Integra, Paetec, and AT&T, among others.<sup>27</sup> The Commission has repeatedly found that anti-competitive risk to business customers is limited because businesses generally have more communications options than residential consumers and are more attractive to CLECs.<sup>28</sup> Such risk is further curtailed when, as here, a significant number of competitors will remain in these areas after the transaction is consummated. Given that there are numerous competitors already in these markets and that CenturyTel serves a tiny share of these

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<sup>24</sup> Ewing Decl. ¶ 8. Embarq serves 9,261 access lines in Chaska, Minnesota; 81,896 access lines in Fayetteville, North Carolina, and 33,279 access lines in Rocky Mount, North Carolina. In addition, there are three Embarq ILECs that border the Chaska exchange: Victoria (1,923 access lines), Cologne (1,527 access lines), and Waconia (3,073 access lines). Besides these three exchanges, none of CenturyTel's CLEC operations are adjacent to Embarq's ILEC markets, and none of Embarq's CLEC operations are adjacent to CenturyTel's ILEC markets. Ewing Decl. ¶ 8 & n.2; Kepley Decl. ¶ 2.

<sup>25</sup> Ewing Decl. ¶ 8.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *See, e.g., In re Application of GTE Corporation, Transferor, 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 Submarine Cable Landing License*, Memorandum Opinion and Order, 15 FCC Rcd 14,032, ¶ 121 (2000).

markets, this transaction falls comfortably within Commission precedent finding no likelihood of public harm.<sup>29</sup>

*Adjacent Exchanges.* Analysis of CenturyTel's and Embarq's adjacent exchanges also demonstrates no likelihood of public harm. These exchanges lie principally in four states: Missouri, Oregon, Washington, and Minnesota, with a handful of additional adjacencies in seven other states.<sup>30</sup> Importantly, prior to the merger the Applicants had no plans to enter into each other's markets in any of these exchanges, or elsewhere.<sup>31</sup> Moreover, nearly all of these exchanges are located in precisely the types of low-density rural and less populated areas the Commission has recognized "are less attractive to new entrants" and, thus, concerns relating to the loss of potential competition are less acute.<sup>32</sup> In fact, the median size of these exchanges is only 1,021 access lines; only five exchanges have 10,000 or more access lines and only thirteen

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<sup>29</sup> See *TDS and Chorus Order*, 16 FCC Rcd at 15,298, ¶ 9. In this Order, the Commission approved a merger of two companies that were actual competitors in the Madison, Wisconsin area. The Commission found that the transaction was not likely to result in anti-competitive harm in large part because a significant number of competitors would remain in the area after the transaction was consummated and because the vast majority of TDS's customers were businesses. See also Public Notice, *Notice of Non-Streamlined Domestic 214 Application Granted*, DA 07-3580, 22 FCC Rcd 15,145 (WCB Aug. 10, 2007) (approving a merger between CT Communications, Inc. and Windstream Corporation involving 7 ILEC-CLEC overlaps and 5 CLEC-CLEC overlaps, including several in higher-density areas).

<sup>30</sup> Ewing Decl. ¶ 9; Kepley Decl. ¶ 2. For a list of adjacent exchanges, see Exhibit 5. A map of the CenturyTel and Embarq coverage areas is included as Exhibit 6. Embarq also serves some larger business customers that have branches in CenturyTel exchanges, and Embarq may provide some services to these branches through leased facilities. In addition, Embarq sells and manages certain business customer premise equipment in various places, including in some CenturyTel territories.

<sup>31</sup> Ewing Decl. ¶ 9; Huber Decl. ¶ 2.

<sup>32</sup> See *In re Joint Applications of Global Crossing Ltd. and Citizens Communications Co. 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*, 16 FCC Rcd 8507, ¶ 7 (CCB/IB/CSB/WTB 2001) (*Global Crossing and Citizens Order*).

have 5,000 or more lines.<sup>33</sup> The Commission has uniformly approved transactions like these, involving a limited number of adjacent exchanges affecting a limited number of access lines.<sup>34</sup>

In addition, the combined enterprise will have no anti-competitive effect on the domestic interstate exchange market. CenturyTel and Embarq presently operate as resellers in the long distance market; they have only a small share of the domestic interstate interexchange market, and they are regulated as non-dominant carriers in that market.<sup>35</sup> The Commission has concluded that mergers between non-dominant carriers resulting in a combined firm with less than a ten percent share of the interstate interexchange market are “extremely unlikely [to] result in a public interest harm” and “unlikely to raise public interest concerns.”<sup>36</sup> After the completion of the

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<sup>33</sup> Ewing Decl. ¶ 9. A few of the adjacent exchanges are slightly larger in size, but none of them pose any risk of anti-competitive harm. For example, the largest adjacent exchange is Embarq’s ILEC in Jefferson City, Missouri. Embarq serves 45,489 access lines in that exchange, including 18,945 residential lines and 26,544 business lines. In this exchange, Embarq faces competition from Level 3 Communications, Missouri Network Alliance LLC, Socket Telecom, New Edge Networks, and Granite Telecommunications LLC, among others. Kepley Decl. ¶ 3. CenturyTel, on the other hand, has a small exchange with 2,942 access lines in Ashland, Missouri, a town of around 3,000 people outside of Jefferson City.

<sup>34</sup> See *Global Crossing and Citizens Order*, 16 FCC Rcd 8507 (approving a merger involving 71 adjacent exchanges varying in size from a couple hundred to 300,000 access lines); see also *Global Crossing Ltd. and Citizens Communications Co., Ex Parte Presentation*, CCB Pol. No. 00-1, at 5-6 and Attachment C); Public Notice, *Wireline Competition Bureau Grants Consent for Transfer of Control of Valor Communications Group, Inc. and Its Subsidiaries from Valor Communications Group, Inc. to New Valor, and the Transfer of Control of Alltel Holding Corp. and Its Subsidiaries from Alltel Corporation to New Valor*, DA 06-154, 21 FCC Rcd 516 (WCB Jan. 25, 2006) (approving a transaction between Alltel Corporation and Valor Communications Group involving 39 adjacent exchanges varying in size from 104 to 19,216 access lines).

<sup>35</sup> Ewing Decl. ¶ 10.

<sup>36</sup> *Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, Report and Order, 17 FCC Rcd 5517, ¶ 30 (2002) (*Streamlining Order*) (citing U.S. Dep’t of Justice and Federal Trade Commission Horizontal Merger Guidelines, § 1.51 n.18).

merger, CenturyTel's interexchange telecommunications service market share will remain well below that threshold.

In conclusion, the proposed transaction offers the potential for a combined enterprise that can more efficiently meet the needs of its customers, especially those customers in rural and smaller markets. The transaction will position the new entity as a financially-strong market participant, allowing it to invest in new and existing technologies, networks, and services, which will produce substantial benefits to customers. At the same time, the merger will not interrupt the quality services that CenturyTel and Embarq customers currently receive and presents no danger of anti-competitive harm. Because the public benefits of the transaction greatly outweigh any conceivable harms, the Applicants respectfully request that the Commission consent to the transfer of control of domestic Section 214 authorizations held by Embarq and its subsidiaries to CenturyTel.

### **III. INFORMATION REQUIRED BY SECTION 63.04**

In support of this application and in accordance with Section 63.04 of the Commission's rules, the Applicants provide the following information:

#### **(1) Name, Address, and Telephone Number of Each Applicant**

Transferee: CenturyTel, Inc.  
100 CenturyTel Drive  
Monroe, Louisiana 71211  
Phone: 318-388-9000

Transferor: Embarq Corporation  
5454 W. 110th Street  
Overland Park, KS 66211  
Phone: 913-323-4637

**(2) Government, State, or Territory Under the Laws of Which Each Applicant Is Organized**

CenturyTel, Inc. is a corporation organized under the laws of Louisiana. Embarq Corporation is a corporation organized under the laws of Delaware. A list of Embarq's subsidiary ILECS and the states under which they are organized is located in Exhibit 3 to this application.

**(3) Contact Information**

For CenturyTel, Inc.:

Stacey W. Goff  
Senior Vice President, General Counsel & Corporate Secretary  
CenturyTel, Inc.  
100 CenturyTel Drive  
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Phone: 318-388-9000

with a copy to:

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Phone: 703-838-0115  
Fax: 703-684-3620  
Email: gvogt@vogtlawfirm.com

For Embarq Corporation:

David W. Zesiger  
Senior Vice President, Regulatory Policy and External Affairs  
Embarq Corporation  
5454 W. 110th Street  
Overland Park, Kansas 66211  
Phone: 913-345-7966

with a copy to:

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Jenner & Block LLP  
1099 New York Avenue, N.W.

Suite 900  
Washington, DC 20001-4412  
Phone: 202-639-6005  
Fax: 202-639-6066  
Email: mschneider@jenner.com

**(4) Ten Percent or Greater Interest Holders**

CenturyTel, the transferee, is a publicly traded company. No person or entity currently holds a ten percent or greater interest in CenturyTel, and no person or entity will hold a ten percent or greater interest in CenturyTel after the consummation of the proposed transaction.

Embarq, the transferor, is a publicly traded company. As of the most recent reporting to Embarq, one entity holds a ten percent or greater interest:

Name: Capital Research Global Investors  
Address: 333 South Hope Street, Los Angeles, CA 90074  
Business: Investment Firm  
Citizenship: U.S.A.  
Equity: 10% of outstanding Embarq common stock

**(5) Anti-Drug Abuse Act Certification**

Embarq and CenturyTel hereby certify pursuant to Sections 1.2001 through 1.2003 of the Commission's rules that no party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

**(6) Description of the Transaction**

The proposed transaction is described in Section I.B of the application.

**(7) Description of Geographic Service Area and Services in Each Area**

CenturyTel offers communications, high-speed internet, and entertainment services in small-to-mid-size cities through its broadband and fiber transport networks. As of September 30, 2008, CenturyTel operates in 25 states, providing local exchange services over roughly 2.0

million telephone access lines and high-speed internet connections to approximately 600,000 subscribers.<sup>37</sup>

As of September 30, 2008, Embarq operates, through its ILEC subsidiaries, in 18 states, offering local exchange services over nearly 5.9 million telephone access lines and broadband service to 1.4 million subscribers.<sup>38</sup> Embarq offers a large portfolio of services in these areas, including local and long distance wireline phone service, high-speed internet, and satellite video services from DISH Network.

#### **(8) Eligibility for Streamlined Processing**

The Applicants request streamlined processing. The Commission has adopted a “general rule in which all applications are eligible for streamlined processing.”<sup>39</sup> The transfer at issue in this application presents no “novel questions of fact, law, or policy which cannot be resolved under outstanding precedents and guidelines.”<sup>40</sup> As discussed above, this transfer application involves a parent-level transfer of equity interests, presents no competitive concerns, and is in the public interest. Upon completion of the proposed transaction, the Embarq local operating companies will, at minimum, provide service at substantially the same rates, terms, and conditions as are in effect today. No customer will lose service or be adversely impacted as a result of the proposed transaction. As discussed above, this transfer application falls squarely within Commission precedent. The accompanying international Section 214 application is subject to streamlined processing pursuant to Section 63.12, and the accompanying application to

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<sup>37</sup> For a list of states in which CenturyTel operates, see footnote 4.

<sup>38</sup> For a list of states in which Embarq operates, see footnote 3. Exhibit 3 lists which Embarq subsidiaries operate in each state.

<sup>39</sup> *Streamlining Order*, 17 FCC Rcd at 5535, ¶ 34.

<sup>40</sup> *Id.* ¶ 28.

assign certain wireless authorizations used exclusively to support the wireline operations are subject to the Commission's expedited approval process. Accordingly, streamlined processing is appropriate here.

**(9) Other Related Applications**

As noted above, Embarq's subsidiaries hold international Section 214 authority and various FCC wireless authorizations. The Applicants are concurrently filing applications seeking Commission consent to transfer control of these authorizations.

**(10) Statement of Imminent Business Failure**

Not applicable.

**(11) Separately Filed Waiver Requests**

Not applicable.<sup>41</sup>

**(12) Public Interest Statement**

The public interest benefits from the proposed transaction are described in Section II of the application.

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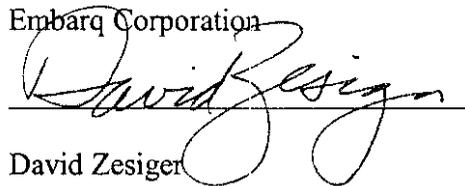
<sup>41</sup> CenturyTel currently expects to convert all of its services to price cap regulation by 2009. The Applicants will notify the Commission if this plan changes and will file a request to waive the "all or nothing" rule, 47 C.F.R. § 61.41(c)(2), if necessary.

V. CONCLUSION

For the foregoing reasons, the Applicants respectfully request that the Commission consent to the transfer of control of domestic Section 214 authorizations held by Embarq and its subsidiaries to CenturyTel in connection with the transaction described in this application.

Respectfully submitted,

Embarq Corporation



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