



***Ex Parte* Presentation**

March 27, 2009

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

**Re: *Ex Parte* Presentation
Applications Filed for the Transfer of Control of Embarq Corporation to
CenturyTel Inc., WC Docket No. 08-238;
Petitions for Waiver and Petition for Clarification of Declaratory Order WC
Docket No. 07-244, CC Docket No. 95-116; and
Special Access Rates for Price Cap Local Exchange Carriers,
WC Docket No. 05-25**

Dear Ms. Dortch:

T-Mobile USA, Inc. (“T-Mobile”) urges the Federal Communications Commission to impose the merger conditions on the above-referenced transaction regarding number porting, special access, and interconnection recently proposed by NuVox, Socket, Sprint, DeltaCom, and COMPTel (collectively, “the competitive carriers”), as well as several other conditions discussed below.¹ Without adoption of these conditions, grant of the proposed merger between Embarq Corporation and CenturyTel Inc. would undermine the interests of consumers and competition.

T-Mobile supports the proposed conditions on number porting and further urges that the Commission require the merged entity to shorten its porting interval to one business day. As NuVox recently pointed out, CenturyTel has a history of anticompetitive behavior when it comes to number porting.² And, although Embarq has established an electronic interface for the processing of number porting requests, it has given no indication that it intends to use the interface to bring more speed and efficiency to the porting process absent a Commission mandate. Accordingly, not only should the merged entity be required to use the Embarq electronic number porting systems, but it should be required to actually take advantage of the capabilities of those systems and shorten its porting interval to one business day.

¹ See Notice of *Ex Parte* Presentation, WC Docket No. 08-238 (Feb. 27, 2009).

² See NuVox Comments at 3, 37 and attached declaration of R. Matthew Kohly of Socket at ¶ 34 (Jan. 8, 2009) (asserting that CenturyTel has refused port requests, has delayed ports in order to “verify” that the requests do not constitute location portability, and has imposed arbitrary limits on the number of ports allowed for a customer in a single day).

**T-Mobile USA, Inc.
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Because wireline customers usually have to wait a week or more to port their numbers to new carriers, they often give up trying to switch to a different provider. Carriers opposing FCC action, including CenturyTel and Embarq, have presented no technical or operational barriers to implementing a shorter porting interval, but they do have an incentive to delay number porting—the hope of frustrating customers into staying with them. Requiring a shorter porting timeframe will reduce the opportunity for this kind of anticompetitive mischief and help ensure that consumers of the merged entity are able to reap the benefits CenturyTel and Embarq claim will result from this transaction.

The Commission should ensure that the merger does not further erode competition in the special access market. In a number of areas today, T-Mobile has no choice but to purchase special access facilities from CenturyTel or Embarq in order to serve its customers. At a minimum, adopting the special access conditions proposed by the competitive carriers, which are similar to those approved in the *AT&T/BellSouth Merger Order*,³ would help ensure that the merged entity could not favor itself or its affiliates in the rates, terms, and conditions of special access services or in the provisioning and maintenance of special access circuits. T-Mobile also fully supports the competitive carriers' proposal to cap special access rates at the level in effect as of January 1, 2009 for 48 months after the merger closing date. However, to further protect against discrimination and anticompetitive behavior, T-Mobile urges the Commission to require the merged company to give carriers the benefit of the lowest special access rate offered by either of the carriers in a state prior to the merger. None of these conditions would be overly burdensome, and they would help prevent an abrupt escalation of special access costs ultimately borne by consumers in these troubled economic times.

T-Mobile urges the Commission to adopt conditions pertaining to interconnection agreements. The Commission should adopt the conditions proposed by the competitive carriers, which include extension of interconnection agreements, interconnection agreement portability⁴ and allowing carriers to opt in to existing interconnection agreements within 30 days of receipt of the opt-in notice. T-Mobile also urges the Commission to require the newly-merged entity immediately to offer reciprocal compensation rates at the ISP rate of \$0.0007. Neither CenturyTel nor Embarq should be considered a small rural telephone company, and the merged entity should not garner any special treatment as such. The merged entity will approach the size of the Qwest and other RBOCs and, therefore, should be required to terminate traffic at the same reciprocal compensation rates as those other carriers. Given that both Embarq's and CenturyTel's rates are currently higher than the ISP rate, the ability to port, extend, or opt in to

³ *In re: AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, 22 FCC Rcd 5662 (2007) (“*AT&T/BellSouth Merger Order*”).

⁴ Most-favored nation agreements would allow competitors to port any interconnection agreement with any of CenturyTel's incumbent local exchange carriers (ILECs) in any state for use in any other state served by either ILEC, subject to state-specific pricing and performance measures.

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interconnection agreements alone will have limited benefit.⁵ Imposition of these conditions on the merger would help facilitate market entry by competitive carriers, which incur significant transaction costs negotiating interconnection agreements.

In sum, imposition of the proposed conditions regarding number porting, special access, and interconnection on the CenturyTel/Embarq merger will help prohibit anticompetitive and discriminatory behavior by the combined provider and promote innovation and deployment of new services to consumers and businesses in its market.

Respectfully submitted,

/s/

Kathleen O'Brien Ham,
Vice President, Federal Regulatory Affairs

⁵ This is in contrast to AT&T, which already offered reciprocal compensation at rates of \$0.0007 or lower before the Commission ordered interconnection agreement portability as condition of its merger with BellSouth. See *AT&T/BellSouth Merger Order*, Appendix F: Conditions at 149-150.