

October 6, 2010

FILED ELECTRONICALLY

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

Re: *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:

Cox Communications (“Cox”), through its undersigned counsel, submits this letter to further address appropriate conditions for CenturyLink’s proposed acquisition of Qwest, and suggests areas in which further information may aid the Commission in its review. Cox hereby respectfully requests that this filing be added to the above-referenced docket.

CenturyLink’s^{1/} Continued Assertion of Protections Against Competition

Cox, along with Charter Communications, Inc., (“Charter”) submitted comments in this proceeding suggesting, among other conditions, that CenturyLink no longer assert the rural exemption under Section 251 of the Communications Act or otherwise take advantage of the special protections afforded small, rural carriers.^{2/} The comments described the anti-competitive problems Cox and Charter have encountered and noted that the Commission’s order approving Frontier’s acquisition of Verizon lines provided clear precedent for requiring CenturyLink to forswear reliance on the exemption.^{3/}

^{1/} For purposes of this ex parte submission, “CenturyLink” refers to any CenturyLink-affiliated operating company.

^{2/} Comments of Cox Communications and Charter Communications, Inc., WC Docket No. 10-110, filed July 12, 2010, at 21 (“Cox/Charter Comments”).

^{3/} Cox/Charter Comments at 16-22. In the Frontier proceeding, the Commission adopted a condition that Frontier not assert the rural exemption in rural areas transferred by Verizon. *See Applications Filed by Frontier Communications Corporation and Verizon Communications Inc. for Assignment or Transfer of Control*, WC Docket No. 09-95, Memorandum Opinion and Order, 25 FCC Rcd 5972, ¶ 40 (2010) (“Frontier has committed not to assert that it is exempt from section 251(c) obligations pursuant to section 251(f)(1) in the areas transferred from Verizon that are rural telephone companies outside of West Virginia,

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CenturyLink's cursory response simply asserts that "rural status is established by statute and by Commission rules, not manufactured by CenturyLink."^{4/} CenturyLink's reply misses the point. The rural exemption acts as a barrier to competition.^{5/} The special protections and privileges afforded by the rural exemption, or rural telephone carrier designation generally, are intended to help small companies overcome the lack of scale and scope. These characteristics arguably no longer applied to CenturyLink even before this proposed merger. Following its acquisition of Qwest, there can be no sound basis to continue to afford CenturyLink special protections against competition. Not only will the merger create the third largest ILEC with more than 17 million access lines, one of its primary asserted benefits is to increase substantially the companies' economies of scale and scope.^{6/}

CenturyLink's reply also overlooks that fact that its current fragmented structure, which enables it to assert the rural exemption in numerous areas throughout the country, is very much of its own making.^{7/} CenturyLink's current structure is the result of years of acquiring lines and exchanges primarily from the Bell Operating Companies and GTE, including many exchanges acquired from Qwest and its predecessor, US West. As a result of these acquisitions, portions of study areas that were not "rural" became eligible for the rural telephone company exemption as CenturyLink created one small entity after another to take over those exchanges as isolated study areas.^{8/}

or 'to move or reclassify any exchanges or wire centers currently located in Verizon West Virginia's legacy service areas so as to . . . take advantage of the rural exemption under Section 251(f)(1).'" ("Frontier Transfer of Control Order").

^{4/} Reply Comments of CenturyLink, Inc. and Qwest Communications International Inc., WC Docket No. 10-110, filed July 27, 2010, at 8, n.27 ("CenturyLink Reply Comments").

^{5/} See, e.g., *Atlas Tel. Co. v. Oklahoma Corp. Comm'n*, 400 F.3d 1256, 1266 (D.C. Cir. 2005) (noting that the rural exemption functions "as a significant barrier to the advent of competition.").

^{6/} See, e.g., Public Interest Statement at 2; CenturyLink Reply Comments at 7 ("Significant benefits also will accrue from the combined companies' increased scale and scope.").

^{7/} CenturyLink has reserved its rights to invoke the rural exemption in numerous interconnection and traffic exchange agreements.

^{8/} See, e.g., *Petition of CenturyTel of Central Wisconsin, LLC and Telephone USA of Wisconsin, LLC for Waiver of Section 36.612(a)(3)*, CC Docket No. 96-45, filed Dec. 22, 2005, at 1 (noting that in 2000, CenturyTel purchased 77 exchanges from Verizon and "formed CenturyTel of Central Wisconsin through the purchase of 70,000 access lines in 42 exchanges, and formed Telephone USA of Wisconsin through the purchase of an additional 62,650 lines in 35 additional exchanges."). See also *Kendall Telephone, Inc. Application for Authority to Acquire and Provide Service Over 19 Local Exchanges in Northern and Central Wisconsin*, Order and Certificate, 13 FCC Rcd 21605 (1998) (approving application by Kendall Telephone, a wholly owned subsidiary of Pacific Telecom, Inc., which in turn is a wholly owned subsidiary of Century Telephone Enterprises, Inc., to purchase 19 exchanges from Ameritech Wisconsin); *CenturyTel, Inc. and CenturyTel of Alabama Petition for Waiver of Sections 61.41(b) and (c) of the Commission's Rules*, Memorandum Opinion and Order, 17 FCC Rcd 27694 (2002) (granting, *inter alia*, price cap waivers for CenturyTel affiliates' purchase of Verizon's lines in Alabama and Missouri); *US West Communications, Inc. and Eagle Telecommunications Inc., Joint Petition for Waiver of Definition of "Study Area" Contained in Part*

CenturyLink's response is wholly inadequate to address this serious issue. Cox believes that the Commission's ability to assess this issue will be aided by collecting additional information from CenturyLink regarding its invocation of rural status currently and in the future. Cox respectfully suggests that the Commission seek the following information.

Proposed Information Requests

Identify the CenturyLink corporate entities, and the associated study areas, in which CenturyLink claims entitlement to the rural exemption.

Identify every CenturyLink affiliates that CenturyLink asserts qualifies as a rural telephone company.

For any study area served by a CenturyLink affiliate that CenturyLink asserts qualifies as a rural telephone company, describe: (1) when such area was acquired by CenturyLink; (2) whether such area qualified for the rural exemption, or was served by a company that qualified as rural telephone company, prior to being acquired by CenturyLink; (3) whether, following the acquisition, CenturyLink increased terminating or originating interstate or intrastate access charges for such study area; and (4) for each such area, state the amount of safety valve universal service support CenturyLink received for such area.

Identify each instance in which CenturyLink notified a regulatory agency that it opposed competitive entry into a study area served by a CenturyLink affiliate that CenturyLink asserts qualifies as a rural telephone company.

Identify each instance in which CenturyLink or one of its affiliates opposed the proposed designation by a State Commission of a competitive Eligible Telecommunications Carrier for high-cost and/or Lifeline support in the service area of that affiliate; segregated by pre- and post-imposition of the cap on CETC funding.

Identify any CenturyLink study area served by a CenturyLink affiliated rural telephone company that is adjacent to or abuts another CenturyLink study area.

Identify any CenturyLink study area in which CenturyLink continues to refuse to provide interconnection as required by Section 251(c)(2) of the 1996 Act.

Following the merger, will CenturyLink continue to invoke the rural exemption in any area for interconnection, or any other purpose?

36, Appendix-Glossary of the Commission's Rules, Memorandum Opinion and Order, 10 FCC Rcd 1771 (1995) (granting study area and price cap waiver related to acquisition of US West lines by a subsidiary of PTI, subsequently acquired by CenturyTel).

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Following the merger, will CenturyLink continue to assert the rights of a rural telephone company for purposes of universal service?

With respect to interconnection agreements or traffic exchange agreements in which CenturyLink has reserved its right to invoke the rural exemption: (1) has CenturyLink asserted such rights and (2) does CenturyLink intend to continue to reserve such rights following its acquisition of Qwest?

Should there be any questions regarding this matter, please contact the undersigned.

Sincerely,

/s/ Michael H. Pryor
Counsel for Cox Communications

cc: Donald Stockdale
Carol Simpson