at least 5 Mbps, at least 75% also will have at least 1 Mbps upstream (actual throughput) at the end of the build-out period. In addition, as a result of this investment, broadband service at speeds of 12 Mbps or more downstream – the speeds most often requested by small business customers – will be made available to more than twice as many Qwest customers as have access to such speeds today.

This investment plan focuses on legacy Qwest territory. It will have no effect on existing investment efforts and commitments to expand and upgrade facilities in legacy CenturyLink territory.[5] This investment plan reaffirms CenturyLink's intention to be a leading provider of broadband services in the United States.

Beginning on March 1, 2012, for data as of December 31, 2011, and every six months thereafter (*i.e.*, September 1 for data as of the end of June, and March 1 for data as of the end of December), CenturyLink will report to the Wireline Competition Bureau the percentage of living units within the Qwest territory to which CenturyLink offers broadband services capable of delivering at least 1.5 Mbps, 5 Mbps, 12 Mbps and 40 Mbps downstream, and the breakdown at each level between rural and non-rural areas.[6] This reporting obligation will not expire three years following the Merger Closing Date, but will continue until the earlier of: seven years following the Merger Closing Date or the achievement of all of the minimum broadband availability metrics set forth above.

II. ENCOURAGING ADOPTION OF BROADBAND SERVICE IN THE COMBINED TERRITORY

In order to promote adoption and use of broadband service, particularly within underserved communities, the Applicants commit to implement a broadband adoption program within the combined territory. The program has three goals: (a) reducing cost barriers for qualifying customers; (b) addressing the lack of computer equipment among qualifying customers; and (c) improving education, promotion and training as to the availability and uses of broadband.

As used herein, a "qualifying customer" is defined as a customer who: (i) is eligible for Lifeline telephone service in CenturyLink or Qwest ILEC service territory; (ii) is not a CenturyLink or Qwest broadband subscriber at the time of enrollment; and (iii) is not the subject of CenturyLink or Qwest collections activity. The Applicants believe that approximately 2.3 million households currently are eligible for Lifeline service throughout the combined CenturyLink and Qwest service territory.

CenturyLink's Adoption Program is comprised of the three components described below: the Service Discount described in Subsection A, the Equipment Discount described in Subsection B, and the Promotional Program described in Subsection C. Together with the reporting commitment described in Subsection E, and the retention of an independent researcher identified in Subsection F, the Applicants believe that this Adoption Program will produce substantial and measurable consumer benefits.

A. Service Discount: CenturyLink will offer discounted broadband Internet service for no more than $9.95 a month during the first 12 months of service, and $14.95 a month for

[5] *CenturyTel-Embarq Order*, FCC 09-54, at 30, App. C.

[6] As used herein, a "rural" area is an area that is not located within a city, town, or incorporated area that has a population of greater than 20,000 inhabitants, consistent with the definition employed by the Rural Utilities Service of the U.S. Department of Agriculture in its implementation of the American Recovery and Reinvestment Act. *See, e.g.*, Department of Agriculture, Rural Utilities Service, Broadband Initiatives Program, RIN 0572-ZA01, 75 Fed. Reg. 25185, 25187 (May 7, 2010). All other areas are non-rural.

the remainder of the service term, to all qualifying customers in the combined CenturyLink and Qwest territory. As a rule, the qualifying customer will gain access to 1.5 Mbps downstream capability, except in markets where 1.5 Mbps is unavailable, in which case the customer will gain access to 768 kbps broadband capability. Higher bandwidth services, where available, will be offered at a comparable discount:

	1.5 Mbps[7]	5 Mbps	12 Mbps
Ongoing Discounted Monthly Rate	$14.95	$19.95	$24.95

This discount plan will become available in all markets within six months following the Merger Closing Date and will remain open for five years following the availability of the adoption program in that market. At any time during that five-year period, a qualifying customer may enroll in this service plan once, and he or she may choose a term of as little as one year, which may be extended at the customer's option on a month-to-month basis for as long as five years.[8] An "enrolled customer" is a qualifying customer who enrolls in a contract to purchase broadband service from CenturyLink for a term of at least one year and who remains a qualifying customer for the full term of his or her contract, including any extension on a month-to-month basis.

B. Equipment Discount: CenturyLink will offer enrolled customers the ability to obtain one piece of computer equipment (such as a netbook) per household, pre-configured with operating software and Internet-ready, and with customary warranty from the manufacturer when available, for no more than $150, provided that the customer agrees to a two-year broadband services contract at the discounted rate described above. A customer who obtains such equipment will have access to CenturyLink's 24/7 toll-free help line.

C. Promotional Program: CenturyLink will implement a comprehensive customer education, broadband promotion, and customer training program targeting qualifying customers throughout the combined CenturyLink and Qwest territory.

1. The company will coordinate with at least 200 local community groups, such as Boys & Girls Clubs and senior centers, as well as schools, libraries, and other state and local institutions, especially those that support qualifying customers, tribal partners, and non-profit institutions, to develop and distribute educational materials that describe the uses and benefits of broadband capability.

2. CenturyLink will develop a meaningful promotional plan targeted to publicize the availability of discounted broadband services and equipment, as described in

[7] As stated above, 1.5 Mbps will be provided, except where it is unavailable, in which case 768 kbps will be provided.

[8] CenturyLink's Lifeline customers will continue to have access to the same CenturyLink services and products as other customers, on the same rates, terms, and conditions as other customers. CenturyLink will be attentive in matching services and products to their individual needs.

Subsections A and B above, to qualifying customers. CenturyLink will use at least 500 different media outlets (which may include radio and television stations, newspapers and magazines, on-line bulletin boards and web sites, libraries and social service agencies). CenturyLink will spend at least $1 million per year promoting the Adoption Program throughout the combined territory in each of the first five years following the Merger Closing Date.

3. CenturyLink will make available in-person training demonstrations at local anchor institutions, and develop and distribute materials such as DVDs with each computer, to assist consumers in basic computer skills, Internet browsing, and acquiring and using broadband services. CenturyLink will spend $1 million on training over the first two years following the Merger Closing Date, and will conduct 100 in-person training sessions and be responsive to requests for training at locations across the combined territory in the first two-year period.

D. CenturyLink will begin rolling out this Adoption Program within six months following the Merger Closing Date.

E. CenturyLink will report to the Wireline Competition Bureau on the Adoption Program's progress every six months after the start of the Adoption Program, for the next five years (*i.e.*, a total of ten reports). The Commission will reassess the need for additional reporting at the end of the five year period. The reports, as depicted in Attachment 1, will describe in detail:

1. the personnel head count with responsibility for the program in each market;

2. the types of advertisements, demonstrations, training DVDs, and other tactics utilized as part of the education, promotion and training aspects of the program;

3. the number of enrolled customers in the combined territory who purchased broadband under the discount plan in the preceding six months and cumulatively since the Merger Closing Date;

4. the number of enrolled customers who discontinued broadband service during the preceding six months and cumulatively since the Merger Closing Date;

5. the number of enrolled customers who purchased discounted computers in the preceding six months and cumulatively since the Merger Closing Date;

6. the cumulative broadband adoption numbers in the combined territory at the time of each report, and compared to the adoption rate as of the Merger Closing Date;

7. the respective cost to CenturyLink of the Equipment Discount and Promotional Program in the preceding six months and cumulatively since the Merger Closing Date.

8. The number of attendees that participated in training at the 100 training locations referenced above.

F. CenturyLink will evaluate the effectiveness of its Promotional Program, in consultation with the independent researcher discussed in paragraph II.G below, on an annual basis beginning one year after implementing the Program. CenturyLink will modify the Promotional Program as it deems appropriate to improve effectiveness, and will report to the Commission any modifications that it makes. At least once a year, the reports filed by CenturyLink pursuant to Section II.E will include a narrative description of the company's assessment of the overall success of the Adoption Program, including specific examples of aspects of the Program that have been most effective or least effective, or that might be modified in the future to be more effective, to stimulate broadband adoption in accordance with the goals of this Adoption Program and the Commission's National Broadband Plan. To the extent that such reports contain competitively sensitive information, such information may be submitted on a confidential basis.

G. CenturyLink will engage with an independent researcher to help monitor and assess the impact of this Adoption Program. The results of the independent researcher's work will be made available to the FCC. To the extent that such work contains competitively sensitive information, such information may be submitted on a confidential basis.

III. PRESERVING COMPETITIVE RATES FOR CUSTOMERS IN OVERLAP BUILDINGS IN MINNESOTA AND WASHINGTON

The buildings listed in Attachment 2 are locations where both of the Applicants have local facilities, but for which the Applicants are unable to confirm from publicly available data whether or not there are at least two other, unaffiliated fiber-based carriers in the building. In order to ensure that existing customers in the buildings listed in Attachment 2 continue to obtain competitive rates for their services following the Merger Closing Date, CenturyLink commits to the following condition:

The rates as of the Merger Closing Date for any service provided by CenturyLink or Qwest will not be increased for either existing or new customers at any building listed in Attachment 2 for seven years following the Merger Closing Date, except that the foregoing condition shall become inoperative as to a particular building if: (i) one of the legacy CenturyLink or Qwest fiber facilities in that building is divested prior to the expiration of such seven year period; or (ii) the number of competing carriers with fiber facilities in the building returns to the level that existed prior to the Merger Closing Date; or (iii) the FCC engages in comprehensive changes to its special access rules requiring industry-wide changes to rates or rate structure for the services covered by this condition. For avoidance of doubt, nothing herein shall restrict CenturyLink from lowering rates to any customer at any time.

IV. COMMITMENTS REGARDING WHOLESALE OPERATIONS

A. Operations Support Systems ("OSS") Replacement:

1. In Qwest ILEC territory, following the Merger Closing Date, CenturyLink will not replace Qwest OSS or integrate it with any other OSS for at least 30 months following the Merger Closing Date, and thereafter will provide a level of wholesale service quality that is not less than that provided by Qwest prior to the Merger Closing Date, with functionally equivalent support, data, functionality, performance, electronic flow through, and electronic bonding.

2. If CenturyLink plans to replace Qwest OSS or integrate it with any other OSS, then at least 180 days before replacement or integration of any of the Qwest OSS, CenturyLink will notify the FCC, affected states, and affected wholesale customers, file its proposed transition plan with the Commission and the affected states, and seek input from affected wholesale customers on such transition plan.

CenturyLink will prepare a detailed OSS transition plan describing the OSS to be replaced or integrated, the surviving OSS, and why the change is being made. The plan also will identify planned contingency actions in the event that CenturyLink encounters any significant problems with the planned transition. The plan submitted by CenturyLink will be prepared by information technology professionals with substantial experience and knowledge regarding legacy CenturyLink and legacy Qwest systems processes and requirements. CLECs will have the opportunity to comment on the Merged Company's plan in a forum in which it is filed, if the regulatory body allows comments, as well as in the Qwest Change Management Process.

3. The commitments made in this Section IV.A will not expire three years following the Merger Closing Date.

B. In the Qwest ILEC territory, CenturyLink will maintain wholesale functionality, performance and e-bonding at a level that is at least comparable to what Qwest is providing prior to the transaction Merger Closing Date, subject to reasonable and normal allowances for the integration of CenturyLink and Qwest systems. For the metrics described below, CenturyLink will maintain a comparison of actual quarterly results to a benchmark value to be set at one standard deviation below the twelve-month average results achieved for the twelve full months prior to January 2011 *(i.e.,* from January through December 2010), assessed on a quarterly basis, separately for each state. CenturyLink will maintain service at a level that is no worse than the benchmark value, 90 percent of the time over four consecutive quarters beginning on the Merger Closing Date, excluding instances in which the base universe number of events being evaluated (*i.e.,* the denominator) is 20 or less.

- Pre-Ordering - Average response time to pre-order queries calculated in seconds, which measures the number of seconds from CenturyLink's receipt of a query from a CLEC to the time CenturyLink returns the requested data to the CLEC; this would be reported for all areas transferred from Qwest in aggregate.

- Ordering - The percentage of electronically submitted resale and UNE orders confirmed within the following timeframes:

	POTS/Pre-Qualified Complex	Special Services
Orders with < 10 Lines	24 hours	24 hours
Orders with > 10 Lines	48 hours	48 hours

- Provisioning - Missed appointment rates/appointments met, and the average of by how many days the appointment was missed, average delay days, broken out by Resale and UNE Loop POTS.

- Provisioning - Percentage of installation troubles reported within 30 days for UNE Specials, which measures the percent of lines/circuits/trunks installed where a trouble was reported and found in the network within 30 days of order completion.

- Provisioning – Percentage of installation troubles reported within 30 days for Resale POTS and UNE Loop POTS, which measures the percent of lines/circuits/trunks installed where a trouble was reported and found in the network within 30 days of order completion.

- Repair/Maintenance - Network Trouble Report Rate, which measures the total number of network customer trouble reports received within a calendar month per 100 units/UNEs, separately for Resale and UNE Loop POTS.

- Repair/Maintenance - Mean Time to Repair, which measures the average duration from the receipt of the customer trouble report to the time the trouble is cleared, separately for Resale and UNE Loop POTS.

- Repair/Maintenance - Percentage of Repeat Reports within 30 Days for Resale POTS, UNE-Loop POTS and UNE Specials, which measures the percent of customer network trouble reports received within 30 calendar days of a previous customer network trouble report.

- Carrier Service Center - Average Speed of Answer, the average time it takes CenturyLink's local customer service center(s) to answer a repair or ordering call. This would be reported for all areas transferred from Qwest in aggregate.

C. Following the Merger Closing Date, in the Qwest ILEC territory, the company will:

1. Continue to provide the monthly reports of wholesale performance metrics that Qwest currently provides to CLECs and provide access to these metrics to state Commission or FCC staff;

2. Comply with all wholesale performance reporting requirements and associated penalty regimes currently applicable to Qwest, including but not limited to those applicable under Performance Assurance Plans ("PAPs"); and

3. Provide the performance reports that Qwest currently provides to existing wholesale customers to any new entrants in the Qwest ILEC territories.

D. Orders will be processed in compliance with federal and state law, as well as the terms of applicable interconnection agreements.

E. For 12 months following the Merger Closing Date, CenturyLink will not discontinue any Qwest interstate wholesale service offered to competitive carriers in the Qwest territory as of the Merger Closing Date, except as approved or ordered by the Commission.

F. In legacy Qwest ILEC territory, interstate term and volume discount plans offered for tariffed services by Qwest as of the Merger Closing Date will be extended by 12 months beyond the expiration of the then-existing term, or until May 1, 2013, whichever is later, unless the wholesale customer opts out of this extension. Term and volume discount plans that would otherwise expire between the date the FCC order is adopted and the Merger Closing Date will be extended through the Merger Closing Date at the wholesale customer's option, such that the additional 12 months provided under this provision will run from the Merger Closing Date.

G. CenturyLink will honor all obligations under existing Qwest and CenturyLink interconnection agreements in effect as of the Merger Closing Date, and will extend any such interconnection agreements, unless the wholesale customer opts out of this extension, for 36 months following the Merger Closing Date, except that any interconnection agreement the term of which already was extended by operation of the *CenturyTel-Embarq Order* is exempt from this 36-month extension.

H. CenturyLink will allow any wholesale customer with a pre-existing interconnection agreement to use that agreement as the basis for negotiating an initial successor interconnection agreement. Where parties agree it is reasonable to do so, the parties may incorporate the amendments to the existing agreement into the body of the agreement used as the basis for such negotiations of the initial successor interconnection agreement.

I. CenturyLink will permit any requesting carrier under Section 251(b) desiring interconnection agreements with more than one CenturyLink ILEC operating within the same state to simultaneously negotiate interconnection agreements with all such CenturyLink ILECs operating in the same state. These unified negotiations will include negotiation of common terms, but CenturyLink reserves the right to negotiate individual terms unique to each operating company in the state.

J. CenturyLink will not assert that any state lacks Section 252 jurisdiction over a Section 251(b) interconnection agreement or dispute on the grounds that such agreement or dispute also arises under these commitments and conditions.

K. Following the Merger Closing Date, 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. This commitment will not expire three years following the Merger Closing Date.

L. CenturyLink will not seek to recover through wholesale service rates one-time transfer, branding or other merger-specific costs.

V. COMMITMENTS TO ADVANCE FEDERAL UNIVERSAL SERVICE REFORM

The conditions in this section will not expire three years after the Merger Closing Date.

A. CenturyLink Will Phase-Out Federal Local Switching Support ("LSS")

1. LSS funding will be phased down in three equal steps over two years, beginning January 1, 2012. The baseline for reduction will be CenturyLink's actual 2010 calendar year support for LSS, based on the final calculations for 2010 that CenturyLink will file in December 2011. The support for the 2012 calendar year will be two-thirds of the baseline amount, and the support for the 2013 calendar year will be one-third of the baseline amount. Beginning calendar year 2014, CenturyLink will receive no federal LSS funding for 2014 or any subsequent calendar year, unless and until the FCC adopts a new final order governing LSS, upon which CenturyLink will be eligible to receive LSS funding on the same terms as the rest of the industry.

B. CenturyLink Will Forgo Future Federal Safety Net Additive Payments

1. The company will forgo safety net additive payments for calendar year 2012 and subsequent calendar years.

C. CenturyLink Will Submit a Plan for Its Three Remaining Average Schedule Companies to Freeze Interstate Common Line Support ("ICLS") On a Per-Line Basis

1. CenturyLink commits to freeze ICLS on a per-line basis, effective January 1, 2012. CenturyLink will work with NECA and the Commission to determine if the operating companies at issue should remain average schedule companies. Upon such consultation, the Commission will determine within six months of the Merger Closing Date whether conversion to price caps is more appropriate, and if the Commission so determines, then CenturyLink commits to convert the average schedule companies to price caps by July 1, 2012 and then freeze ICLS consistent with Commission precedent.

VI. VIDEO COMPETITION REPORT

A. CenturyLink will file FCC Form 325 for the three reporting cycles following the Merger Closing Date for any market in which it has IPTV subscribers, provided that CenturyLink's agreement to this reporting obligation does not constitute an admission by the company that it is providing cable service or that it is a cable system operator. CenturyLink may submit competitively sensitive information on a confidential basis.

ATTACHMENT 1 - BROADBAND ADOPTION METRICS

Plan to be finalized by the company within 6 months following Merger Closing Date:	**Data Set**	
Personnel designated on adoption program	As of Merger Closing Date (updated as changes apply)	
Tactics and institutional partners identified	As of Merger Closing Date (updated as appropriate)	
Qualifying Lifeline customers identified	As of Merger Closing Date	
Total broadband adoption in the combined territory	As of Merger Closing Date	
Metrics to be reported semi-annually to the FCC:	**Preceding 6-month Period**	**Cumulative**
Qualifying customers who purchased broadband under discount program, by speed tier		
Qualifying customers who purchased computers under discount program		
Number of training programs and demonstrations held		
Number of people attending training programs and demonstrations		
Number of training DVDs and CDs shipped		
Number of enrolled customers who continue to subscribe to CenturyLink broadband service following expiration of their participation in the Adoption Program		
Total broadband adoption in the combined territory		
Total cost to the company of the Adoption Program		
Number of qualifying customers who discontinued CTL or Q broadband service		

ATTACHMENT 2 – BUILDINGS FOR WHICH THE APPLICANTS COMMIT NOT TO RAISE RATES FOR SEVEN YEARS FOLLOWING MERGER CLOSING DATE

1 Capital Drive	Eden Prairie	MN	55344
10 11th Avenue N	Eden Prairie	MN	55344
10001 W 78th Street	Eden Prairie	MN	55344
11010 Prairie Lakes Drive	Eden Prairie	MN	55344
113 S 6th Street	Minneapolis	MN	55402
1820 Xenium Lane N	Plymouth	MN	55441
18790 W 78th Street	Chanhassen	MN	55317
200 S 5th Street	Minneapolis	MN	55402
2440 Galpin Court	Chanhassen	MN	55317
314 W 90th Street	Bloomington	MN	55420
3601 Minnesota Drive	Bloomington	MN	55435
400 W 98th Street	Bloomington	MN	55420
4141 Douglas Drive N	Crystal	MN	55422
4700 Welcome Avenue N	Crystal	MN	55429
5051 Highway 7	Minneapolis	MN	55416
605 Highway 169 N	Plymouth	MN	55441
6160 Golden Hills Drive	Golden Valley	MN	55416
6500 France Avenue S	Minneapolis	MN	55435
690 Coulter Drive	Chanhassen	MN	55317
70 W 4th Street	St. Paul	MN	55102
710 Mendelssohn Avenue N	Golden Valley	MN	55427
7505 Metro Boulevard	Edina	MN	55439
7599 Corporate Way	Eden Prairie	MN	55344
7625 Smetana Lane	Eden Prairie	MN	55344
7711 Kerber Boulevard	Chanhassen	MN	55317
7800 Equitable Drive	Eden Prairie	MN	55343
8000 Audubon Road	Chanhassen	MN	55317
8080 Mitchell Road	Eden Prairie	MN	55344
8120 Penn Avenue S	Bloomington	MN	55431
90 Church Street SE	Minneapolis	MN	55455
9531 W 78th Street	Eden Prairie	MN	55344
9625 W 76th Street	Eden Prairie	MN	55344
9923 Valley View Road	Eden Prairie	MN	55344
100 E Lindstrom Street	Aberdeen	WA	98520
1700 Cherry Street	Aberdeen	WA	98520
2020 80th Avenue	Tumwater	WA	98512
2109 Sumner Avenue	Aberdeen	WA	98520
301 S Faragut Street	Aberdeen	WA	98520
601 School Road	Aberdeen	WA	98520
900 Cleveland Street	Aberdeen	WA	98520

STATEMENT OF CHAIRMAN JULIUS GENACHOWSKI

Re: *Applications Filed by Qwest Communications International Inc. and CenturyTel, Inc. d/b/a CenturyLink for Consent To Transfer Control,* WC Docket No. 10-110

Today, after a thorough, data-driven review of the record, the Commission approves a transaction that holds the promise of significantly improving broadband adoption and increasing high-speed broadband deployment and competition for tens of thousands of anchor institutions, hundreds of thousands of small businesses, and tens of millions of consumers.

Congress has directed us to approve transactions if the public interest benefits outweigh the harms. Here, that test is clearly met: The conditions we've imposed should effectively protect against the identified transaction-specific harms, and the company's commitments to help connect so many more Americans to broadband is an important and substantial public-interest benefit.

These commitments include a major broadband adoption program focused on the millions of low-income consumers in the combined company's 37-state territory. By offering broadband starting at less than $10 per month; providing computers for less than $150; keeping the window open for five years for qualifying consumers to sign up; and committing real resources to marketing, outreach, and digital literacy training, this program holistically tackles the principal barriers to broadband adoption.

I'm particularly pleased that the program will include detailed reporting on outcomes and an independent analysis of the program's effectiveness, so that the Commission and others can understand what works and what doesn't in efforts to close the adoption gap.

This program promises to move the needle on broadband adoption. And it should be viewed together with the broadband adoption pilot programs the Commission proposed in last month's Lifeline/LinkUp proceeding, and the broadband adoption program Comcast is undertaking in the wake of its recent transaction. As a result of these developments, we will soon have a set of diverse and promising responses to one of our great national challenges—connecting the more than 100 million Americans who don't currently have broadband.

CenturyLink has also committed to significant investments in improving and expanding its broadband network for consumers, businesses, and anchor institutions, and to advancing Universal Service Fund reform by phasing down support it currently receives from the Fund. I also note the important commitments made to ensure a smooth transition for wholesale customers, and to protect against the potential increase in the combined entity's incentive and ability to inhibit effective competition as a result of its significantly bigger footprint. Well-functioning wholesale markets are crucial for effective competition in the broadband ecosystem, particularly for enterprise and small business customers, and I look forward to seeing competition flourish in the territories involved in this transaction.

Some have argued that the Commission should forswear public interest commitments in the context of transaction reviews. But doing so would not only deny the public the kinds of meaningful transaction-specific benefits involved here; it would also disregard Congress's directive that the FCC affirmatively determine that a proposed transaction will serve "the public interest, convenience, and necessity."

While this transaction will help address broadband challenges in the combined territory, it is only one piece in a larger puzzle. To more fully address the broadband deployment and adoption gaps, the FCC must complete its efforts to reform the Universal Service Fund, including by supporting broadband in rural areas and by reforming and modernizing Lifeline/LinkUp. I look forward to pressing ahead with my colleagues on these ongoing initiatives.

I thank the Bureaus and Offices, particularly the Wireline Competition Bureau, for their work on this transaction.

CONCURRING STATEMENT OF COMMISSIONER MICHAEL J. COPPS

Re: *Applications Filed by Qwest Communications International Inc. and CenturyTel, Inc. d/b/a CenturyLink for Consent To Transfer Control,* WC Docket No. 10-110

Today the Commission approves the merger of two companies with a history of providing communications services in rural America. As with every transaction before the Commission, it is our statutory duty to weigh the potential benefits and potential harms of the proposed merger and determine whether it serves the public interest. As we mark the one-year anniversary of the National Broadband Plan, the salient question for me is whether approval of this transaction promotes or hinders the goal of affordable access to high speed, value-laden advanced telecommunications (broadband) service for all our citizens.

We are told that this combination will help expand the benefits of broadband to consumers and communities across the country—that the new CenturyLink will be a stronger company with greater resources to invest in its now significantly expanded service territory. On this score, I believe the applicants' commitments on broadband deployment are a step in the right direction. But the public interest here calls for bold strides, not timid steps. I would have welcomed greater and more explicit commitments to provide broadband access to rural and genuinely unserved areas. It is my hope that the applicants will go above and beyond the pledges made here. I am pleased that the commitments have been expanded to include the provision of broadband service to at least 20,000 community anchor institutions. Unfortunately, in the absence of even rudimentary reporting requirements on deployment to these anchor institutions, we will have to take the company at its word that it is meeting this goal. Measurable results, not "take our word for it" assurances, are what the Commission needs to focus on. They are the coin of the realm.

The merged company is making a significant commitment to promote broadband ***adoption*** among low-income consumers. Its program rightly targets key obstacles to broadband adoption by providing discounted service, training, and low-cost computer equipment to Lifeline-eligible households. This is a welcome new initiative that holds great promise. The Commission needs to monitor and learn from this effort—which is why it is so important that the applicants will be reporting to the Commission about the progress and success of this program.

Given the scale of this transaction and the size of the combined company, I would have much preferred that our action today included an enforceable commitment to protect consumers' open Internet rights. Absent this, we must be hopeful that truly effective implementation and enforcement of the rules we adopted in December will safeguard consumers online. However, I believe it would have been entirely appropriate to impose a transaction specific condition here and it would make for a more acceptable outcome.

For the reasons outlined above, I limit my support of this transaction to concurrence only.

CONCURRING STATEMENT OF COMMISSIONER ROBERT M. MCDOWELL

Re: *Applications Filed by Qwest Communications International Inc. and CenturyTel, Inc. d/b/a CenturyLink for Consent To Transfer Control,* WC Docket No. 10-110

Approval of this transaction is in the public interest. Together, the combined companies will be better able to provide advanced services to consumers who live in some of the most remote parts of our country than if they were to remain separate. I am concerned, however, that the Commission is continuing to create a prescriptive merger review process that unnecessarily raises the costs of such beneficial transactions. Regulatory costs are not free and are ultimately paid for by American consumers. If this trend continues, fewer companies may elect to engage in transactions that could accelerate investment and innovation, help grow the economy and create jobs. Accordingly, I respectfully concur.

STATEMENT OF COMMISSIONER MIGNON L. CLYBURN

Re: *Applications Filed by Qwest Communications International Inc. and CenturyTel, Inc. d/b/a CenturyLink for Consent To Transfer Control,* WC Docket No. 10-110

This Commission has a duty to ensure that the public interest is served as a result of any proposed transfers of control. Today, we find that the merger of CenturyLink and Qwest is in the public interest. Through their commitments, the companies have addressed some of the possible harms that could occur as a result of the transaction, and have pledged to improve broadband deployment in the Qwest territory and broadband adoption by low-income consumers in both Qwest's and CenturyLink's territories. These commitments also include regular reporting so that we can assess the merged company's progress in meeting its deployment and adoption obligations.

There were several issues, however, that I believe should have been more specifically addressed in our review. The companies asserted that post-merger CenturyLink will continue to focus on rural customers, yet the company did not provide sufficient information in the proceeding so that we could ensure that result. While the companies pledge to inform us in their regular reporting the broadband deployment that occurs in rural versus non-rural areas, I would have preferred a specific, verifiable commitment to deploy broadband in unserved, rural areas. I also remain concerned that the merger will change the post-merger company's incentives with respect to its service offerings. In prior mergers, applicants have addressed such incentives through commitments that ensure consumers continue to enjoy nondiscriminatory access to Internet services and applications. Unfortunately, we do not have that backstop here.

The companies' commitment to address the affordability of broadband for consumers throughout its post-merger service territory is a significant step. I commend the companies for developing a plan based on the CenturyLink business model to introduce and manage its adoption program at the local level in order to meet the communities' low-income needs. As a nation, we must address the broadband affordability issue in order to ensure that every American has the opportunity to connect at home. We know that addressing the barriers to adoption may vary based on whether citizens live in urban or rural areas. I appreciate the company's commitment to share its experiences and findings with us so that we can learn more about what works and doesn't work in addressing the adoption issues in its local areas, as well as its commitment to inform us of its program's effectiveness and the improvements it makes to ensure its success. As a result of its dedication to improve services to low-income Americans, the company's experience will inform our decision-making with respect to reforming the Lifeline program and our ongoing consideration of extending that program to include broadband pilot projects for Lifeline-eligible consumers.

CONCURRING STATEMENT OF COMMISSIONER MEREDITH ATTWELL BAKER

Re: *Applications Filed by Qwest Communications International Inc. and CenturyTel, Inc. d/b/a CenturyLink for Consent To Transfer Control,* WC Docket No. 10-110

I support this transaction, and believe that a combined CenturyLink/Qwest will create a stronger company with a clear rural focus to the benefit of consumers across their 37 state footprint. I have serious reservations, however, with the length of this review and some of the conditions imposed on this transaction.

I recently expressed my concerns with our merger review process,[1] and, unfortunately, I believe this transaction is further evidence we need to take a hard look at how we review transactions. Our current process does not serve the public interest, and it should be overhauled before we conduct another major merger review.

I acknowledge that the conditions and timing of this merger are consistent with our practice over the past decade, and likely met the expectations of the Applicants. That does not mean we are doing the job the public interest or our economy demands. We need to do better. This Commission is quick to point out that regulatory "red tape" can act as a "significant obstacle" to "businesses ability to invest in new technologies and hire new workers." Yet the Commission has done nothing to address how its merger review process is one of the clearest examples of the "red tape" problem that is within our discretion to fix.

The Review Took Longer Than Necessary.

Our review took over 300 days. The Department of Justice cleared this transaction over 240 days ago. While a number of state commissions just recently completed their reviews, I believe our lack of urgency may have contributed to a longer process at the state level. Regardless, we could—and should—have conducted our statutory review of this transaction in a thorough manner in the allotted 180 days. There are 49,000 employees of the combined company that have experienced a year of professional uncertainty, and two companies have been unable to move forward to better serve rural communities. Given the very limited set of public interest harms identified in the Order, we should have been able to conclude this review in a much more timely manner.

The Conditions Addressing Alleged Public Interest Harms Are Not Sufficiently Supported.

The Commission has become too comfortable with imposing conditions on merging parties. Prior to imposing any condition, we should establish a clear evidentiary record demonstrating the existence of a merger-specific harm. We should then make an explicit finding that the harm necessitates a condition, and provide a clear description of that condition and how it mitigates against the harm in a directly proportional manner. With some limited exceptions, the Order fails to provide the detail necessary to properly evaluate the conditions imposed on the merging parties.

[1] Remarks of Commissioner Meredith Attwell Baker, *Towards a More Targeted and Predictable Merger Review Process,* IPI Third Annual Communications Summit (Mar. 2, 2011).

Specifically, conditions are imposed to address four sets of asserted merger harms. One set of conditions addresses Qwest's Operations Support Systems (OSS). These conditions relate to concerns about CenturyLink's operation of—and potential modification to—the Qwest ordering system. These conditions are certainly merger-specific, but based on the limited record outlined in the Order, I do not think we have demonstrated a documented public interest harm to cure. Simply stating that commenters expressed OSS concerns is not a basis to impose a condition. The Commission needs to make a clear finding of its own and document the harm with far greater specificity. We also need to consider more comprehensively other existing remedies available to those parties concerned with OSS issues. To that end, there is an inadequate explanation as to why existing statutory protections under section 271, and the corresponding state processes and procedures, are not sufficient to check against any these potential harms. Nor is there an analysis of state-imposed conditions or commercial settlement agreements that may also address these concerns sufficiently. We acknowledge these additional protections without detailing why we find them lacking. I do not rule out the need for OSS-specific conditions, but it is far from clear on the record before us that there is a merger-specific harm that is inadequately addressed by protections already in place. It is similarly not possible on this record to evaluate whether the imposed conditions are narrowly tailored or proportional to the harm.

The next two set of conditions address interconnection agreements and wholesale competition issues. These conditions suffer the same basic infirmity. The cursory discussion of these alleged harms, relevant existing protections, and the related conditions similarly forecloses a proper evaluation. One condition in particular bears highlighting: CenturyLink is prohibited from asserting some of its rights under section 251. A regulatory agency requiring companies to waive their statutory rights in order to gain regulatory approval raises red flags in and of itself. Further, the Order fails to develop any merger-specific, let alone merger-harm-specific, basis to impose the condition. CenturyLink's ability to claim the rural exemption existed prior to this transaction, and has nothing to do with Qwest or CenturyLink's acquisition of Qwest. There is also no evidence in the Order that CenturyLink asserts these rights today in an anti-competitive manner.[2]

In contrast, I believe that Commission has crafted a narrowly tailored condition to address the risk of lost competition in 40 specific buildings in the special access market. I support our refusal to address broader special access pricing issues that the Order properly notes are "better addressed in the special access rulemaking." With respect to the condition itself, I would have preferred some analysis as to why "at least two other, unaffiliated fiber-based carriers" is the criteria used to determine the applicable buildings, and why a single unaffiliated provider would not be sufficient to check against any potential harm. An explanation is also warranted as to why this condition needs to be in place for seven years. I

[2] This condition is also clearly distinguishable from one imposed in the Verizon/Frontier deal. In that instance, the condition was limited to the properties Frontier was acquiring from Verizon. The Commission did not want a relatively large company using an acquisition as a basis to establish new statutory rights intended for small carriers. *Frontier Communications Corporation and Verizon Communications Inc. for Assignment or Transfer of Control,* Memorandum Opinion and Order, FCC 10-87, ¶ 40 (2010) (explaining that "Frontier has committed not to assert that 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, 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).'"). There is no analogous concern here, and this condition is far broader. The Commission must be careful to avoid reflexively applying merger conditions from prior transactions on future deals; each transaction must be evaluated based on the evidentiary record of the immediate proceeding.

believe there needs to be a documented basis for any condition imposed on parties that lasts longer than the default three years, yet no explanation is given here.

The Need for Additional Commitments is Unproven.

Two companies with complementary businesses and footprints with a record of serving rural America assert that together they will be able to provide a better platform to serve consumers, compete with cable and wireless competition, and expand new offerings. We have adopted a series of conditions to address the limited harms identified by commenters. It is unclear on this record why additional conditions are warranted.

Even if additional conditions were appropriate, a number of these conditions bear no relation to any harm associated with the underlying transaction. I fully support the efforts of the Applicants to invest in more broadband infrastructure and to expand efforts to increase broadband adoption. This is great corporate citizenship, but I do not think they should be extracted as merger conditions. In particular, I have concerns with government mandating broadband investments for seven years. Seven years is an eternity in this dynamic space, and the market conditions and consumer demands of 2018 are not known today by the companies or the Commission. With respect to broadband deployment, we should have explained why the significant conditions at the state level on the same issue are insufficient: Arizona required $70 million in broadband investment, Colorado $70 million, Utah $25 million, Minnesota $50 million and so on.

One last condition to highlight is the commitment of the companies to surrender some universal service support. This type of condition is representative of how our process is broken. There is no nexus between the relinquishment of universal service funding and this transaction, and none is claimed in the Order. We require CenturyLink to forego universal service funding it is entitled to prior to—and after this—transaction. Whether a company the size of CenturyLink and Qwest, separate or apart, should be entitled to universal service support intended for small carriers is an important policy question, and a question directly under review in a rulemaking proceeding.[3] I do not believe the Commission should use merging parties as a test case for a new policy or a mechanism to signal future policy to industry at large.

* * *

I ultimately support this transaction. The Applicants determined that as conditioned, this transaction still makes economic and competitive sense. I have no basis to second guess their decision, but concur in the result because of the infirmities in the process used by the Commission to approve transactions.

[3] *Connect America Fund,* Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13, ¶¶ 182-193 (2011).