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Arizona Corporation Commission
4 1200 West Washington
Phoenix, Arizona 85007

5 COPIES of the foregoing hand delivered/
6 mailed or emailed this 10th day of November, 2010 to:

7 Belinda A. Martin
Administrative Law Judge
8 Hearing Division
Arizona Corporation Commission
9 400 W. Congress Street, Room 222
Tucson, AZ 85701

Norman G. Curtright
Associate General Counsel
Qwest Corporation
20 E. Thomas Road, 16th Floor
Phoenix, AZ 85012
norm.curtright@qwest.com

10 Janice Alward, Chief Counsel
11 Maureen Scott, Counsel
Legal Division
12 Arizona Corporation Commission
1200 W. Washington Street
13 Phoenix, Arizona 85007

Michael Patten
Roshka DeWulf & Patten, PLC
One Arizona Center
400 East Van Buren, Suite 800
Phoenix, AZ 85004
mpatten@rdp-law.com

14 Steven M. Olea, Director
Utilities Division
15 Arizona Corporation Commission
1200 W. Washington Street
16 Phoenix, Arizona 85007

Mark A. DiNunzio
Cox Arizona Telcom, LLC
1550 W. Deer Valley road
MV DV3-16, Bldg. C
Phoenix, AZ 85027
mark.dinunzio@cox.com

17 Jeffrey W. Crockett
Bradley S. Carroll
18 Snell & Wilmer, L.L.P.
One Arizona Center
19 400 East Van Buren
Phoenix, AZ 85004-2202
20 jcrockett@swlaw.com
bcarroll@swlaw.com

Joan S. Burke
Law Office of Joan S. Burke
1650 N. First Avenue
Phoenix, AZ 85003
Joan@jsburkelaw.com

21 Kevin K. Zarling, Esq.
22 Senior Counsel
CenturyLink
23 400 West 15th Street, Suite 315
Austin, TX 78701

Gregory Merz
Gray, Plant, Mooty, Mooty & Bennett, PA
500 IDS Center
80 South Eighth Street
Minneapolis, MN 55402
Gregory.merz@gpmlaw.com

1 Karen L. Clauson, Esq.
2 Vice president, Law and Policy
3 Integra Telecom
4 6160 Golden Hills Drive
5 Golden Valley, MN 55416-1020
6 klclauson@integratelecom.com
7
8 Nicholas J. Enoch, Esq.
9 Jarrett J. Haskovec, Esq.
10 349 North Fourth Avenue
11 Phoenix, AZ 85003
12 Nicholas.enoch@azbar.org
13
14 Scott J. Rubin, Esq.
15 333 Oak Lane
16 Bloomburg, PA 17815-2036
17 Scott.j.rubin@gmail.com
18
19 Lyndall Nipps
20 Vice President, Regulatory
21 tw telecom
22 9665 Granite Ridge Drive, Suite 500
23 San Diego, CA 92123
24 Lyndall.Nipps@twtelecom.com

Rogelio Pena
Pena & Associates, LLC
4845 Pearl East Circle, Suite 101
Boulder, CO 80301
rpena@boulderattys.com

Gregory L. Rogers
Level 3 Communications, LLC
1025 Eldorado Blvd.
Broomfield, CO 80021
Greg.Rogers@Level3.com

Stephen S. Melnikoff, Esq.
General Attorney
Regulatory Law Office (JALS-RL)
U. S. Army Litigation Center
901 North Stuart Street, Suite 700
Arlington, Virginia 22203-1837
Stephen.melnikoff@hqda.army.mil

Harry Gildea
Snavelly King Majoros O'Connor
& Bedell, Inc.
1111 14th Street, N.W., Suite 300
Washington, D.C. 20005
hgildea@snavelly-king.com

James C. Falvey
Senior Regulatory Counsel
Pac-West Telecomm, Inc.
420 Chinquapin Round Road, Suite 2-I
Annapolis, MD 21401
jfalvey@pacwest.com

William A. Haas
Vice President of Public Policy &
Regulatory
PAETEC Holding Corp.
One Martha's Way
Hiawatha, Iowa 52233
William.Haas@paetec.com

Michel Singer-Nelson
360networks (USA) Inc.
370 Interlocken Blvd., Suite 600
Broomfield, Colorado 80021
mnelson@360.net

Penny Stanley
360networks (USA) Inc.
370 Interlocken Blvd., Suite 600
Broomfield, Colorado 80021
penny.stanley@360.net

Rex Knowles
Executive Director – External Affairs
XO Communications
7050 Union Park Avenue, Suite 400
Midvale, Utah 84047
Rex.knowles@xo.com

Katherine K. Mudge
Director, State Affairs & ILEC Relations
Covad Communications Company
7000 N. Mopac Expressway, 2nd floor
Austin, Texas 78731
kmudge@covad.com

1 Linda C. Stinar
Director, Regulatory Affairs
2 CENTURYLINK
6700 Via Austi Parkway
3 Las Vegas, Nevada 89119

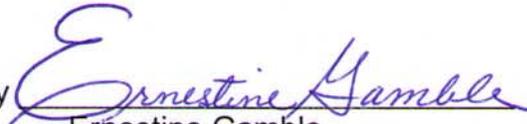
4 David L. Ziegler
Assistant Vice President-Public Policy
5 QWEST
20 East Thomas Road, 16th Floor
6 Phoenix, AZ 85012

7 John Ilgen
Westel Inc.
8 Vice President of Sales & Marketing
9606 N. Mopac Expressway, Suite 700
9 Austin, TX 78759

10

11

12

By 
Ernestine Gamble

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QWEST/CENTURYLINK

DOCKET NO. T-01051B-10-0194 ET AL.

SURREBUTAL TESTIMONY

OF

WILLIAM A. RIGSBY

ON BEHALF OF

THE

RESIDENTIAL UTILITY CONSUMER OFFICE

NOVEMBER 10, 2010

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4
5

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1 **INTRODUCTION**

2 Q. Please state your name, occupation, and business address.

3 A. My name is William A. Rigsby. I am a Public Utilities Analyst V employed
4 by the Residential Utility Consumer Office ("RUCO") located at 1110 W.
5 Washington, Suite 220, Phoenix, Arizona 85007.

6
7 Q. Have you filed any prior testimony in this case on behalf of RUCO?

8 A. Yes, on September 27, 2010, I filed direct testimony which recommended
9 that the ACC approve, subject to condition, the Proposed Merger of Qwest
10 and CenturyLink, the Joint Applicants in this proceeding.

11

12 Q. Please state the purpose of your surrebuttal testimony.

13 A. The purpose of my surrebuttal testimony is twofold. First I will provide
14 additional testimony on the public interest standard and on why I
15 performed the type of analysis that I conducted in this proceeding. I will
16 also explain why RUCO continues to believe that the Proposed Merger is
17 in the public interest. Second, I will address the rebuttal positions of the
18 Joint Parties and defend RUCO's position on the Proposed Merger.

19

20

21

22

23

1 **PUBLIC INTEREST ANALYSIS**

2 Q. Does RUCO believe that the merger is still in the public interest?

3 A. Yes. For the reasons stated in both my direct testimony and my present
4 surrebuttal testimony, RUCO believes that the merger is still in the public
5 interest. However, I wish to point out that RUCO's recommendation, as
6 presented in my direct testimony, is only from a financial perspective.

7

8 Q. Should the Commission only consider the financial perspective when
9 evaluating the public interest?

10 A. No. The Commission has addressed the public interest standard in prior
11 reorganization applications. For example, in Decision No. 67454, The
12 Matter of the Reorganization of Unisource Energy Corporation, the
13 Commission stated the following:

14 "The duty to act in the public interest requires this Commission to
15 consider all factors implicated in this transaction and not solely the
16 impairment of the financial status or services of the public service
17 corporation. A careful analysis of potential risks is particularly crucial
18 when the proposed transaction can impact the public health and safety."
19

20 The Commission further noted that the public interest inquiry is "broad"
21 and that the Commission should consider all of the available evidence in
22 any given case.¹ RUCO believes that this same standard and the same
23 broad level of scrutiny should be applied in the Proposed Merger of Qwest
24 and CenturyLink.

25

¹ Decision No. 67454 pages 28 thru 29.

1 Q. Is RUCO's recommendation on the Proposed Merger meant to be the
2 result of a broad public interest analysis as described in Decision No.
3 67454?

4 A. No. It was never RUCO's intent to make a recommendation based on a
5 broad public interest analysis.

6
7 Q. Why didn't RUCO perform a broad public interest analysis?

8 A. RUCO does not have the necessary expertise to perform a broad
9 analysis. For example, RUCO is not a CLEC and is not aware of the
10 particular problems and concerns that CLEC's have had with the Joint
11 Applicants regarding access rates in this state (i.e with Qwest) and in
12 other states (i.e. with Qwest and CenturyLink). Nor is RUCO aware of the
13 particular quality of service issues that this merger presents or the
14 integration concerns and their significance that are associated with
15 CenturyLink's previous acquisitions. RUCO chose not to use its limited
16 resources to hire outside consultants on these issues, as RUCO believes
17 and remains convinced that these issues could be adequately addressed
18 by the other parties in this docket.

19

20

21

22 ...

23

1 Q. Does RUCO have a position on the conditions sought by other parties in
2 this case as a prerequisite for approval?

3 A. RUCO does not oppose the conditions sought by ACC Staff (such as the
4 integration/acquisition cost condition discussed below which RUCO
5 supports) and has no position on the conditions sought by other parties in
6 this case.

7

8 **SUMMARY OF REBUTTAL TESTIMONY**

9 Q. Have you reviewed rebuttal testimony filed by the Joint Applicants filed on
10 October 27, 2010?

11 A. Yes. I have reviewed the rebuttal testimony of Joint Applicant witnesses
12 Robert H. Brigham, James P. Campbell, Michael G. Williams, Jeff Glover,
13 Michael R. Hunsucker, Kristin McMillan and Todd Schafer.

14

15 Q. Which of the Joint Applicants' witnesses addressed RUCO's
16 recommendations?

17 A. RUCO's recommendations were addressed by Mr. Jeff Glover.

18

19 Q. Please provide a brief summary of Mr. Glover's rebuttal testimony.

20 A. In his rebuttal testimony, Mr. Glover addressed the financial and related
21 issues related to the Proposed Merger that were raised in my direct
22 testimony. Mr. Glover relies on the information presented in my direct
23 testimony to support the Joint Applicants' argument that the Proposed

1 Merger should be approved by the ACC. Mr. Glover, however, takes
2 exception to RUCO's recommendation that Arizona ratepayers be
3 shielded from any integration/acquisition costs that the merged
4 Qwest/CenturyLink entity may attempt to pass on to them.

5

6 **INTEGRATION/ACQUISITION COSTS**

7 Q. What is the Joint Parties' position on RUCO's recommendation that the
8 Commission should approve the Proposed Merger on the condition that
9 Qwest's Arizona ratepayers be shielded from any integration/acquisition
10 costs that the combined entity may attempt to pass on to them?

11 A. The Joint Parties' witness, Mr. Glover, states in his rebuttal testimony that
12 the proper treatment of integration costs should be determined under
13 applicable laws or regulations and not as a condition of approval of the
14 Proposed Merger.

15

16 Q. Does RUCO agree with Mr. Glover on this issue?

17 A. No.

18

19 Q. Has RUCO changed or modified its position based on Mr. Glover's
20 testimony?

21 A. No.

22

23

1 Q. Why does RUCO continue to advocate its position on this issue?

2 A. RUCO believes that ratepayers should not have to bear any costs that
3 may be incurred in order to integrate Qwest and CenturyLink's system for
4 accounting, billing or other business related functions. RUCO believes
5 that these types of costs should be borne by the acquiring entity or its
6 ultimate parent since they are a direct result of the decision to enter into a
7 merger. Throughout their filed testimony in this proceeding, the Joint
8 Applicants have highlighted the estimated synergies that the merger will
9 produce. RUCO believes that if the Joint Applicants enjoy the savings that
10 the Proposed Merger will bring, then they must also bear the costs. By
11 making the denial of integration/acquisition costs a condition of the
12 approval of the Proposed Merger, there will be no need to litigate this
13 issue in a future rate case or price cap renewal proceeding. The entity
14 that emerges from the Proposed Merger will know that integration costs
15 have been denied and that it cannot seek recovery for such costs in the
16 future.

17

18 Q. Has ACC Staff made a similar recommendation?

19 A. Yes. ACC Staff has made a similar recommendation. In Attachment 1 of
20 the direct testimony of ACC Staff witness Armando Fimbres, ACC Staff's
21 first condition for approval of the Proposed Merger is as follows:

22

23

1 That CenturyLink and Qwest Corporation (“the Merged Company”) shall
2 not recover, or seek to recover, through wholesale service rates or other
3 fees paid by Competitive Local Exchange Carriers (“CLECs”) or through
4 Arizona end-user retail rates, and will hold both wholesale and retail
5 customers harmless for, one-time transfer, branding, or any merger or
6 transaction-related costs.
7

8 Q. Do you believe that the Commission has the authority to approve the
9 Proposed Merger on a conditional basis?

10 A. Yes. While I am not a lawyer and I am not expressing a legal opinion, I
11 believe that the Commission has the constitutional authority to approve a
12 merger on certain conditions in order to insure that ratepayers are not
13 harmed as a result of a transaction such as the one being sought in this
14 proceeding.

15
16 Q. Can you cite any cases in which the Commission approved a request for a
17 merger or acquisition on a conditional basis?

18 A. Yes. In Decision No. 62672, dated June 30, 2000, the ACC approved the
19 merger of Qwest and US West Communications, Inc. subject to a number
20 of conditions that were adopted by the Commission.² More recently in
21 Decision No. 71486, dated February 23, 2010, the ACC approved the
22 transfer of 6,000 Verizon California local exchange access lines located in
23 Arizona to Frontier Communications Corporation subject to numerous
24 conditions recommended by ACC Staff.³ In Decision No. 62909, dated
25 September 18, 2000, the Commission approved the acquisition of

² Docket No. T-01051B-99-0497

³ Docket No. T-01846B-09-0274 et al.

1 Chaparral City Water Company (“CCWC”), which serves customers in
2 Fountain Hills, Arizona, from MCO Properties, Inc. to American States
3 Water Company (“American States”) on the condition that CCWC’s
4 customers be held harmless from any obligation to pay judgments arising
5 out of future lawsuits against California subsidiaries of American States.⁴
6

7 Q. Does your silence on any of the issues or positions addressed in the
8 rebuttal testimony of the Mr. Glover or any of the Joint Applicants’ other
9 witnesses constitute acceptance?

10 A. No, it does not.

11

12 Q. Does this conclude your surrebuttal testimony?

13 A. Yes, it does.

⁴ W-02113A-00-0233