CENTURYLINK-QWEST PROPOSED MERGER ISSUES MATRIX

#	Issue	Joint CLEC Recommended Conditions [From Ex. 8 to QSI Mr. Gates Direct][1]	CenturyLink/Qwest ("CLQ") Position [From CLQ Att. 45][2]	Joint CLEC Position
1	Discontinue Services	#1. Any wholesale service offered to competitive carriers at any time between the Merger Filing Date[3] up to and including the Closing Date[4] will be made available and will not be discontinued for at least the Defined Time Period,[5] except as approved by the Commission.	"CLECs propose several rate associated conditions that are improper and are not legitimate merger concerns. The time period is unreasonable." CLQ Att. 45, p. 20, Row 2.	The withdrawal of wholesale services would signal a move toward the Merged Company impeding competition, and in turn, result in a merger-related harm. Certainty and consistency for wholesale service availability is critical to offset the uncertainty resulting from the merger. A CLEC and its customers being served by that service would be harmed if they are forced off of a service previously available to them before the merger. Interestingly, CLQ refers to this as a "rate-associated" condition, even though this condition deals with *availability* of the service and separate conditions (e.g., condition #7) deal with rates. If CLQ views withdrawal of a service as a means to force CLECs into a higher-priced service, then that would make this a rate-associated condition in CLQ's view. In contrast, if the Merged Company has a

[1] The list of conditions is subject to change. Joint CLECs reserve their right to expand or modify the proposed conditions as needed. The conditions are grouped generally by subject matter. All of the conditions are important and no inference regarding priority should be made based on the numbering of the conditions, which is for ease of reference only.

[2] The CenturyLink/Qwest positions are quoted directly from Attachment DOC 45 to CenturyLink's and Qwest's Responses to the Minnesota Department of Commerce's Information Request Number 45 (September 14, 2010) [referred to as "CLQ Att. 45"]. If the information in a row of CLQ Att. 45 continues on to the next page, the next row on the continuation page is Row Number 1 for that page, for purposes of the citations provided.

[3] "Merger Filing Date," when used in the Joint CLEC list of conditions, refers to May 10, 2010, which is the date on which Qwest and CenturyLink made their merger filing with the FCC.

[4] "Closing Date," when used in the Joint CLEC list of conditions, refers to the closing date of the transaction for which the Applicants have sought approval from the Federal Communications Commission (FCC) and state commissions (the "transaction").

[5] "Defined Time Period," when used in the Joint CLEC list of conditions, refers to a time period of at least 5-7 years after the Closing Date or, alternatively, a time period that is a minimum of 42 months (*i.e.*, 3.5 years) and continues thereafter until the Applicants are granted Section 10 forbearance from the condition. With respect to agreements, the Defined Time Period applies whether or not the initial or current term of an agreement has expired ("evergreen" status). [*Note* that, in CLQ Att. 45, the Applicants paraphrase this definition to include only the first portion (at least 5-7 years), without acknowledging the alternative portion (minimum 3.5 years, until forbearance). See, e.g., CLQ Att. 45, p. 20, Row 2.]

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				legitimate basis for discontinuing service, the condition as written allows the Merged Company to discontinue it with Commission approval. See QSI Ankum Direct, §VII(A), pp. 63-82.
2	Transaction-related costs	#2. The Merged Company[6] will not recover, or seek to recover, through wholesale service rates or other fees paid by CLECs, and will hold wholesale customers harmless for, one-time transfer, branding, or any other transaction-related costs. For purposes of this condition, "transaction-related costs" shall be construed broadly and, for example, shall not be limited in time to costs incurred only through the Closing Date.	"CLECs propose several rate associated conditions that are improper and are not legitimate merger concerns. The time period is unreasonable. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, pp. 20-21.	Wholesale customers should not have to pay for any of the costs of the merger and CenturyLink merging the two companies. This is especially true as CenturyLink claims that it will save $650 million associated with the merger. CLQ does not explain how a condition expressly related to transaction-related costs is not a "legitimate merger concern." But for the merger, these costs would not occur. See QSI Ankum Direct, §VII(B), pp. 82-87.
3	Overall management costs	#3. The Merged Company will not recover, or seek to recover, through wholesale service rates or other fees paid by CLECs, and will hold wholesale customers harmless for, any increases in overall management costs that result from the transaction, including those incurred by the Operating Companies.	"CLECs propose several rate associated conditions that are improper and are not legitimate merger concerns. The time period is unreasonable. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 21, Row 1.	When asked whether CenturyLink would seek to recover through wholesale rates or fees paid by CLECs "overall management costs," CenturyLink said it would use forward-looking cost studies to develop UNE rates – rates that would include the Merged Company's management cost structure post-merger. CenturyLink's response ignores the principle recognized in numerous previous mergers that wholesale customers should not have to pay for any of the costs of the merger. As in Row 2 above, CLQ does not explain how a condition that expressly refers to costs that result from the transaction "are not a legitimate merger concern," and but for the merger, these costs would not

[6] "Merged Company," when used in the Joint CLEC list of conditions, refers to the post-merger company (CenturyLink and its Operating Companies, collectively, after the Closing Date).

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				occur. See QSI Ankum Direct, §VII(B), pp. 82-87.
4	Service Quality – Qwest ILEC Territory	#4. In the legacy Qwest ILEC territory, the Merged Company shall comply with all wholesale performance requirements and associated remedy or penalty regimes for all wholesale services, including those set forth in regulations, tariffs, interconnection agreements, and Commercial[7] agreements applicable to legacy Qwest as of the Merger Filing Date. The Merged Company shall continue to provide to CLECs at least the reports of wholesale performance metrics that legacy Qwest made available, or was required to make available, to CLECs as of the Merger Filing Date. The Merged Company shall also provide these reports to state commission staff or the FCC, when requested.	"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements and tariffs. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 5, Row 2.	There are many reasons to expect wholesale service quality performance in the legacy Qwest territory to deteriorate significantly as a result of the proposed transaction, such as pressure to achieve projected synergies; pressure to increase retail market share; an increased incentive and opportunity to degrade wholesale service due to an increased footprint; and a smaller number of benchmark incumbent LECs remaining post-transaction. Condition 4 is critical to helping ensure that wholesale service quality is not degraded post-merger as a result of these factors. Although CLQ's Position states, in the present tense, that the "merged company complies," the merged company does not yet exist. It has no track record of compliance.
		The state commission and/or the FCC may determine that additional remedies are required, if the remedies described in this condition do not result in the required wholesale service quality performance or if the Merged Company violates the merger conditions.	"The additional performance assurance plan (APAP) is not needed, inappropriate, and unreasonable. The MPAP is sufficient to provide performance monitoring post merger and will ensure that wholesale customers are not discriminated against in favor of retail customer. Such discrimination will be part of the existing MPAP and penalties will be applied consistent with the	The last sentence of condition #4 refers to additional remedies that may be imposed (*i.e.*, not only an Additional PAP, which is described in condition #4(a)). CLQ addresses only the Additional PAP and not additional remedies in its Position. CLQ does not appear, therefore, to dispute that regulators may determine additional remedies may be needed if the Merged Company violates the merger conditions. See QSI Gates Direct (public), §VI(B),

[7] "Commercial" agreements include but are not limited to wholesale metro Ethernet agreements, OCN (SONET) agreements, Local Services Platform (*e.g.*, QLSP) agreements, Dark Fiber agreements, Broadband for Resale agreements, and line sharing agreements.

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			current plan." CLQ Att. 45, p. 4-5.	pp. 126-131.
4a	Service Quality – Qwest ILEC Territory – UNEs (PID/PAP)	#4(a). No Qwest Performance Indicator Definition (PID) or Performance Assurance Plan (PAP) that is offered, or provided via contract or Commission approved plan, as of the Merger Filing Date ("Current PAP") will be reduced, eliminated, or withdrawn for at least five years after the Closing Date and will be available to all requesting CLECs until the Merged Company obtains approval from the applicable state commission, after the minimum 5-year period, to reduce, eliminate, or withdraw it.	"The additional performance assurance plan (APAP) is not needed, inappropriate, and unreasonable. The MPAP is sufficient to provide performance monitoring post merger and will ensure that wholesale customers are not discriminated against in favor of retail customer. Such discrimination will be part of the existing MPAP and penalties will be applied consistent with the current plan." CLQ Att. 45, pp. 3-4.	Although CLQ indicates that the PAP is sufficient, CLQ does not actually commit to keeping the PAP in place for any specific period of time. The current PIDs and PAPs are the best available way to identify and root out wholesale service quality degradation – they rely on trusted statistical methods as well as business rules and data that were extensively tested during the 271 approval process. The five year time period corresponds with the Applicants' own synergy savings time horizon, which is the time during which the risk of merger-related wholesale service quality degradation is greatly amplified. The critical nature of maintaining wholesale service quality post-merger is also reflected in the requirement for the Merged Company to obtain approval for reducing or eliminating the PIDs or PAP.
	Additional PAP (APAP)	For at least the Defined Time Period, in the legacy Qwest ILEC territory, the Merged Company shall meet or exceed the average wholesale performance provided by Qwest to each CLEC for one year prior to the Merger Filing Date for each PID, product, and disaggregation. If the Merged Company fails to provide wholesale performance as described in the preceding sentence, the Merged Company will also make remedy payments to each affected CLEC in an amount as would be calculated using the methodology (e.g., modified Z	*Note*: In CLQ Att. 45, p. 5, Row 1, CenturyLink and Qwest paraphrase the Integra Direct Testimony of Mr. Denney (which can be found at p. 9, line 3 – p. 10, line 2). The Applicants list the identical language, quoted above, as their Position in response to Mr. Denney's testimony, as well as in response to the language of the condition itself (#4a).	To provide proper signals to the Merged Company and to discourage it from paying current PAP remedies as a cost of doing business, this condition would require the Merged Company to pay an additional remedy payment for merger-related service quality degradation (Additional PAP or APAP). The APAP does not replace the Minnesota PAP, but works in addition to the existing PAP. The purpose of the proposed APAP is to compare the current level of Qwest's wholesale performance to CLECs with a

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		test, critical Z values, and escalation payments) in the Current PAP, for each missed occurrence when comparing performance post- and pre- Closing Date ("Additional PAP").		past level of wholesale performance to CLECs, rather than compare wholesale and retail performance. A plan such as the APAP would help to assure that wholesale performance does not deteriorate post merger. The PAP, which was not developed to identify merger-related harm, would not capture deteriorating performance, if the merged company's performance deteriorated for both wholesale and retail services simultaneously or if wholesale performance deteriorated, but remained above the minimum benchmarks. The APAP uses the same methodology but is tailored to the purpose of measuring merger-related performance issues. See QSI Gates Direct (public), §VI(B), pp. 126-131; see also Integra Denney Direct, pp. 9-15 & Exhibit DD-1.
4b	Service Quality – Qwest ILEC Territory – Special Access	#4(b). In the legacy Qwest ILEC territory, for at least the Defined Time Period, the Merged Company will meet or exceed the average monthly performance provided by Qwest to each CLEC for one year prior to the Merger Filing Date for each metric contained in the CLEC-specific monthly special access performance reports that Qwest provides, or was required to provide, to CLECs as of the Merger Filing Date. For each month that the Merged Company fails to meet Qwest's average monthly performance for any of these metrics, the Merged Company will make remedy payments (calculated on a basis to	"Conditions on special access are not appropriate for a merger proceeding. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 28, Row 1.	The FCC pointed to the lack of options for wholesale customers as a reason for denying Qwest's forbearance petition. This market power not only extends to wholesale services such as UNEs, interconnection and collocation required of ILECs pursuant to Section 251(c) of the Act, but also to other wholesale services provided by the ILECs, such as special access, as evidenced by the supracompetitive rates ILECs are currently charging for special access in areas where they have received special access pricing flexibility. The fact is that ILECs and BOCs continue to be

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		be determined by the state commission or FCC) on a per-month, per-metric basis to each affected CLEC.		entrenched incumbents in their local territories and the competition in those spaces is fragile and depends largely on use of incumbent facilities for its very existence. See QSI Gates Direct (public), §VI(B), pp. 18 & 126-131.
5	Service Quality – CL ILEC Territory	#5. For at least the Defined Time Period, in the legacy CenturyLink ILEC territory, the Merged Company shall comply with all wholesale performance requirements and associated remedy or penalty regimes for all wholesale services, including those set forth in regulations, tariffs, interconnection agreements, and Commercial agreements applicable to legacy CenturyLink as of the Merger Filing Date. The Merged Company shall continue to provide to CLECs at least the reports of wholesale performance metrics that legacy CenturyLink made available, or was required to make available, to CLECs as of the Merger Filing Date. The Merged Company shall also provide these reports to state commission staff or the FCC, when requested. The state commission and/or the FCC may determine that additional remedies are required, if the remedies described in this condition do not result in the required wholesale service quality performance or if the Merged Company violates the merger conditions.	"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements and tariffs. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 5, Row 2.	The many reasons to expect wholesale service quality performance to deteriorate significantly as a result of the proposed transaction described in Row 4 above also apply in legacy CenturyLink territory. Condition 5 is needed to ensure that the Merged Company adheres to quality performance standards and submits reports on that performance throughout its footprint. This condition provides public interest benefits by tracking and identifying service quality issues and helping to prevent or eliminate discriminatory conduct in all areas of the Merged Company's territory. See QSI Gates Direct (public), §VI(B), pp. 126-131.
5a	Service Quality – CL ILEC Territory –	#5(a). The Merged Company shall provide to CLECs the reports of wholesale special access performance metrics that Qwest provides, or was required to provide, to CLECs as of the Merger Filing Date. The	"CenturyLink complies with all reporting requirements that currently exist. However, CenturyLink will not agree to expanding the reporting	As indicated in Row 4(b) above, ILEC market power not only extends to other wholesale services but also to special access and, as indicated in Row 5, the many reasons to expect wholesale service

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	Special Access – Additional PAP (APAP)	Merged Company shall also provide these reports to the Commission staff, when requested. Beginning 12 months after the Closing Date, the requirements set forth in condition 4(b) shall apply to the Merged Company in the legacy CenturyLink ILEC territory, thereby requiring the Merged Company's average monthly performance in providing special access services in the legacy CenturyLink ILEC territory to meet or exceed the Merged Company's average monthly performance for each CLEC in the legacy Qwest ILEC territory for one year prior to the Merger Filing Date.	requirements for the Qwest operating companies to the CenturyLink operating companies. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, pp. 28-29.	quality performance to deteriorate significantly as a result of the proposed transaction apply in legacy CenturyLink territory. Therefore, this condition would require the Merged Company to pay a remedy payment for merger-related service quality degradation (Additional PAP or APAP) in all areas of the Merged Company's territory. See QSI Gates Direct (public), §VI(B), pp. 126-131.
6	Wholesale Agreements – Assume, Without Document Execution	#6. As of the Closing Date, the Merged Company will assume or take assignment of all obligations under Qwest's interconnection agreements, interstate tariffs (including the Annual Incentive contract tariff), and intrastate tariffs, Commercial agreements, and other existing arrangements with wholesale customers ("Assumed Agreements"). The Merged Company will assume or take assignment of all obligations under Qwest alternative form of regulation plans. The Merged Company shall not require wholesale customers to execute any documents(s) to effectuate the Merged Company's assumption or taking assignment of these obligations.	"This condition is unnecessary given the structure of this transaction. The transaction involves a complete acquisition of Qwest, including all of its existing obligations under law and contracts. The post merger Qwest affiliate will continue to be the provider of service to CLECs under the terms of their current contracts. CLQ Att. 45, p. 13, Row 1 & p. 18, Row 4. The Defined Time Period is unreasonable. CLECs with existing ICAs have voluntarily negotiated and agreed to the terms, including the length, in those agreements. CLECs should not be allowed to unilaterally extend the agreement for a lengthy period of time." CLQ Att. 45, p. 13, Row 1.	Condition 6 (exclusive of subparts) requires the Merged Company to take assignment of the Assumed Agreements without requiring wholesale customers to execute any documents to effectuate the assumption. CLQ's Position states that the legacy Qwest entity "will continue to be the provider of service" but CenturyLink does not commit to any specified time period for this to continue. CenturyLink also does not commit to *not* requiring such document execution (regardless of whether the obligations are considered continuing or assumed). If it will impose no such requirement, then CenturyLink should have no objection to this condition. While it may appear self-evident that, if an obligation continues or is assumed, the ILEC will not request further document execution, that was not the result in the Verizon-Frontier case. Despite a merger condition that Frontier

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				assume wholesale agreements and not terminate or change their terms, Frontier sent a letter and Adoption Agreement which effectively attempted to impose amendment of the wholesale agreement to reflect certain Frontier processes. See Integra May 13, 2010 Ex Parte FCC WC Dkt. No. 09-95. Condition 6 will help avoid the uncertainty, delay, and disputes associated with such a situation. As the term "Defined Time Period" is used in condition 6(a) but not (6), see the next row for a discussion of the Defined Time Period. See QSI Ankum Direct, §VII(A), pp. 63-82.
6a	Wholesale Agreements – Opt in & Not Terminate	#6(a). The Merged Company shall make available to requesting carriers and shall not terminate or change the rates, terms or conditions of any Assumed Agreements during the unexpired term of any Assumed Agreement or for at least the Defined Time Period, whichever occurs later, unless requested by the non-ILEC party, or required by a change of law.	"This condition is unnecessary given the structure of this transaction. The transaction involves a complete acquisition of Qwest, including all of its existing obligations under law and contracts. The post merger Qwest affiliate will continue to be the provider of service to CLECs under the terms of their current contracts. The Defined Time Period is unreasonable. CLECs with existing ICAs have voluntarily negotiated and agreed to the terms, including the length, in those agreements. CLECs should not be allowed to unilaterally extend the agreement	Wholesale customers need certainty with regard to the elements and services they purchase from Qwest (or the Merged Company) for business planning purposes, and based on the transaction as filed, there is no such certainty. CLECs cannot simply go elsewhere for the wholesale services they need from Qwest and CenturyLink both now and post-merger. Without the recommended conditions, Joint CLECs oppose the merger. While CLQ refers to alleged unilateral conduct with respect to extending wholesale agreements, it is CLQ that is "unilaterally" imposing upon its wholesale customers CLQ's desire to merge to achieve synergies for itself. This is a change in circumstance that must

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			for a lengthy period of time." CLQ Att. 45, p. 13, Row 1.	be taken into account and evaluated for potential harm to CLECs, end user customers, and competition. CLECs have built their business plans significantly around the availability of the products provided under wholesale agreements and the specific terms set forth in those agreements. Retail customers in turn receive competitive services based on CLEC access to these wholesale services from Qwest under these agreements. Based on the post-merger risks and incentives discussed throughout Dr. Ankum's testimony, there is a great risk that, without Condition 6, CenturyLink (as the acquiring company) will not assume or will terminate the obligations of Qwest's agreements, including Commercial Agreements, or will materially change them in a way that would be detrimental to CLECs and competition. This would result in extensive disruption to CLECs and their customers who rely on those products. Condition 6 at least minimizes the uncertainty and risk associated with the merger for a defined time. The Defined Time Period is reasonable, as it reflects the time period during which the merged company, by its own projections, will be making changes that create synergies for itself while creating uncertainty for CLECs and their customers. Also, just as CenturyLink has substantially under-estimated the time for

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				changes previously (QSI Gates Direct, pp. 79-80),CenturyLink may also be under-estimating the time period here. See QSI Ankum Direct, §VII(A), pp. 63-82.
6b	Wholesale Agreements – Commercial – CL ILEC Territory	#6(b). In the legacy CenturyLink ILEC territory, the Merged Company will offer Commercial agreements (including those offered pursuant to condition 7), at prices no higher, and for time periods no shorter, than those offered in the legacy Qwest ILEC territory.	"This condition assumes that the cost of providing the underlying commercial services are the same in CenturyLink territories as in Qwest territories. This is an incorrect assumption and could place CenturyLink in the position of providing services below cost. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, pp. 16-17.	CenturyLink cannot reasonably claim significant cost savings ($650 million) across the merged company while also claiming that its costs are and will remain higher. CenturyLink provides no evidence at all for its claim of providing services below cost. While it says that this "could" happen, CLQ has been otherwise critical of any discussion of what "could" happen post merger. See, e.g., Qwest Brigham Direct, p. 4, lines 5-10. CenturyLink does not currently make similar products to those of Qwest available under commercial agreements (*e.g.*, dark fiber, line sharing), although it may offer them through grandparented[8] contracts that are not commercially available to other CLECs. CenturyLink is the acquiring company in this merger. The fact that CenturyLink does not currently make these products commercially available further increases the risk to CLECs and their customers that these products will be withdrawn or the terms of their availability materially changed as a result of the merger. See QSI Ankum Direct, §VII(A), pp. 63-82
7	Rate	#7. Rates charged by legacy CenturyLink	"CLECs propose several rate	Wholesale rates should, if anything,

[8] The Qwest-Eschelon and Qwest-Integra Minnesota ICAs (as well as the ICAs listed in Exhibit BJJ-9) in Section 4.0 (Definitions) include the following definition: "'Grandparent(ed)(ing)' shall have the same meaning as 'grandfather(ed)(ing)' as used in FCC and Commission orders and Qwest and CLEC Tariffs."

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	Stability – Tandem transit, special access, tariff, commercial, ICA/UNE	and rates charged by legacy Qwest (including those described in condition 6) for tandem transit service, any interstate special access tariffed or non-tariffed and Commercial offerings, any intrastate wholesale tariffed offering, and any service for which prices are set pursuant to Sections 252(c)(2) and Section 252(d) of the Communications Act shall not be increased for at least the Defined Time Period. The Merged Company will not create any new rate elements or charges for distinct facilities or functionalities that are already provided under rates as of the Closing Date.	associated conditions that are improper and are not legitimate merger concerns. The time period is unreasonable." CLQ Att. 45, p. 21, Row 2.	decrease after the merger. Because the company's overall cost structure should decrease to the extent synergy savings are achieved post-merger, wholesale rates – which would be based on the cost structure of the Merged Company – should decrease as well. However, at this point, CLECs are not seeking rate reductions, but instead taking the conservative position that these rates should not increase for at least the Defined Time Period. This provides a degree of protection for captive wholesale customers that the Merged Company will not seek to increase their rates (or create new rate elements) during the Merged Company's pursuit of synergies and revenue enhancements. See QSI Ankum Direct, §VII(B), pp. 82-87. Regarding the time period, see row 6a above.
7a	Rate Stability – Term and volume & individual-ized pricing	#7(a). The Merged Company shall continue to offer any term and volume discount plans offered as of the Merger Announcement Date,[9] for at least the Defined Time Period, without any changes to the rates, terms, or conditions of such plans. The Merged Company will honor any existing contracts for services on an individualized term pricing plan arrangement for the duration of the contracted term.	"CLECs propose several rate associated conditions that are improper and are not legitimate merger concerns. The time period is unreasonable." CLQ Att. 45, p. 21, Row 2.	Certainty and consistency for wholesale service rates is critical to offset the uncertainty resulting from the merger. The Joint Petitioners have stated (Petition, p. 11) that "[o]ne of the Transaction's key benefits is the resulting financial condition of the combined company" and a "financially stronger company can…compete against cable telephony providers, wireless carriers, VoIP offerings, and CLECs…" It is most profitable for the Applicants to boost

[9] "Merger Announcement Date," when used in the Joint CLEC list of conditions, refers to April 21, 2010, which is the date on which Qwest and CenturyLink entered into their merger agreement.

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				revenues at the expense of their competitors. As the example on pages 85-86 of QSI Ankum Direct shows, Joint Petitioners have taken steps after the Merger Announcement Date and before the Closing Date to raise barriers to entry and enhance revenues at the expense of wholesale customers, either in terms of degraded services or higher rates. That is why it is important to provide protections for the time period between the Merger Announcement Date and Closing Date as well as for the Defined Time Period. See QSI Ankum Direct, §VII(B), pp. 82-87. Regarding the time period, see row 6a above.
7b	Rate Stability – Tandem transit, ICA/ UNE – CL ILEC Territory	#7(b). In the legacy CenturyLink territory, the Merged Company will comply with its statutory obligations pursuant to Section 251(c), and will provide tandem transit services to CLECs in interconnection agreements established pursuant to Sections 251 and 252, at rates no greater than any cost-based rate approved by the state commission for the Qwest ILEC territories, or current tandem transit rate, whichever is lower.	"This condition assumes that the cost of providing of providing [sic] 251 services and tandem transit services are the same in CenturyLink territories as in Qwest territories. This is an incorrect assumption and could place CenturyLink in the position of providing services below cost in violation of the pricing provisions of the Telecom Act. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 24, Row 2.	CenturyLink cannot reasonably claim significant cost savings ($650 million) across the merged company while also claiming that its costs are and will remain higher. CenturyLink provides no evidence at all for its claim of providing services below cost. While it says that this "could" happen, CLQ has been otherwise critical of any discussion of what "could" happen post merger. See, e.g., Qwest Brigham Direct, p. 4, lines 5-10. Wholesale rates should, if anything, decrease after the merger because the company's overall cost structure should decrease to the extent synergy savings are achieved post-merger. See QSI Ankum Direct, §VII(B), pp. 82-87
8	Wholesale Agreements	#8. The Merged Company will allow requesting carriers to extend existing	"This condition is unnecessary given the structure of this	While many of the ICAs under which Qwest and CLECs have been operating

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	– Extend ICAs	interconnection agreements, whether or not the initial or current term has expired or is in "evergreen" status, for at least the Defined Time Period or the date of expiration in the agreement, whichever is later.	transaction. The transaction involves a complete acquisition of Qwest, including all of its existing obligations under law and contracts. The post merger Qwest affiliate will continue to be the provider of service to CLECs under the terms of their current contracts. The Defined Time Period is unreasonable. CLECs with existing ICAs have voluntarily negotiated and agreed to the terms, including the length, in those agreements. CLECs should not be allowed to unilaterally extend the agreement for a lengthy period of time." CLQ Att. 45, p. 13, Row 2 (referring to the Position in *id*. p. 13, Row1).	for years are in "evergreen" status, meaning generally that the ICAs are in effect but may be terminated upon notice, CenturyLink has made no commitment as to any time period for which it will retain and not terminate these ICAs. The experience of Integra and Eschelon with the lengthy negotiation and arbitration process, which is described by Mr. Denney (pp. 15-26), sheds light on the length of time protections from merger-related harm need to remain in place. The Qwest ICAs have been updated regularly over time through multiple contract amendments. Each carrier's respective network configuration (trunking, collocation arrangements, points of interconnection, traffic exchange, etc.) and operating processes are based on those terms and conditions. CenturyLink seeks to deprive competitors of the benefit of their investment in time and resources to develop and maintain ICAs and processes in compliance with those ICAs in the legacy Qwest region. See QSI Ankum Direct, §VII(A), pp. 63-82; see also Integra Denney Direct, pp. 15-26. Generally, and specifically regarding unilateral conduct and the time period, see row 6a above.
9	Wholesale Agreements – Negotiation of ICAs	#9. The Merged Company shall allow a requesting competitive carrier to use its pre-existing interconnection agreement, including agreements entered into with Qwest, as the basis for negotiating a new	"This condition is not needed, inappropriate and unreasonable. CenturyLink does not oppose amending a current ICA rather than negotiate a new agreement.	CLQ's Position ignores the fact that the Qwest ICAs have been updated regularly over time through multiple contract amendments, including amendments to reflect changes in law (e.g., TRO/TRRO).

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		replacement interconnection agreement. If Qwest and a requesting competitive carrier are in negotiations for a replacement interconnection agreement before the Closing Date, the Merged Company will allow the requesting carrier to continue to use the negotiations draft upon which negotiations prior to the Closing Date have been conducted as the basis for negotiating a replacement interconnection agreement. In the latter situation (ongoing negotiations), after the Closing Date, the Merged Company will not substitute a negotiations template interconnection agreement proposal of any legacy CenturyLink operating company for the negotiations proposals made before the Closing Date by legacy Qwest.	However the current agreement should not include terms that are demonstrably out of date. Any renegotiation must consider changes of law, updating of processes and capabilities that make the relationship function more smoothly, and competitive industry issues and conditions that did not exist at the time the initial agreement was negotiated." CLQ Att. 45, pp. 14-15.	CLQ has pointed to no pre-existing Qwest ICA that does not contain provisions governing changes in law. To the contrary, all of the CLEC ICAs referenced in Exhibit BJJ-9 have change in law provisions. (See BJJ-4, §2.2, p. 125.) Qwest's SGATs were reviewed during the 271 approval process and some of these terms were incorporated into CLEC ICAs. In contrast, none of CenturyLink's ICA terms were reviewed under a 271 approval process, but instead, are currently in the process of being developed. Condition 9 addresses the document that will be used as the *basis for negotiation of a new agreement*. If a term in a pre-existing ICA is in fact "demonstrably" in need of change, the carrier seeking a change will be able to demonstrate *to the Commission* in a Section 252 arbitration that a change is needed. The ILEC should not be allowed to unilaterally make that determination. To the extent that the Merged Company suggests it may operate under existing ICAs for 12 months after the Closing Date, this plan offers little comfort to carriers, like Eschelon, that have spent years negotiating and arbitrating with the ILEC to obtain an ICA. Assuming the current pace of negotiations and arbitrations, one year is insufficient time to complete negotiations much less obtain an arbitrated resolution of remaining impasse issues. And, if the Merged Company insists upon negotiations based

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				on a new or revised template after the Closing Date, not only will the amount of time needed to obtain an effective ICA be extended but also literally years of effort and extensive use of resources will be lost. See QSI Ankum Direct, §VII(A), pp. 63-82; see also Integra Denney Direct, pp. 15-26.
10	Wholesale Agreements – Opt-in of ICAs – CL ILEC Territory	#10. In the legacy CenturyLink ILEC territory, the Merged Company will permit a requesting carrier to opt into any interconnection agreement to which Qwest is a party in the same state, including agreements in evergreen status. If there is no Qwest ILEC in a state, the Merged Company will permit a requesting carrier to opt into any interconnection agreement to which Qwest is a party in any state in which Qwest is an ILEC. Agreements subject to the opt-in rights described in this condition will apply in full, without modification and subject to the other conditions set forth herein. To the extent that the Merged Company seeks to modify agreements subject to the opt-in rights described in this condition, the Merged Company will permit the opt-in and the agreement shall become effective, subject to the Merged Company's right to subsequently seek from the applicable state commission an order modifying the agreement. The state commission may require modification of the agreement to the extent that the commission determines	"Agreements are entered into between specific legal entities and such terms cannot be involuntarily imposed on a non-signatory third party legal entity. The CenturyLink and Qwest ICAs were negotiated with the consideration of the particular networks and facilities of each company. Even after the merger the Qwest and CenturyLink operating companies will continued [sic] to be operated as separate legal entities. This condition would allow CLECs to opt into interconnection agreements from states other than Minnesota that would not be subject to the Commission rules/guidelines for ICAs in Minnesota. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 15, Row 1.	The FCC previously adopted a similar condition in conjunction with the AT&T/BellSouth merger, which required AT&T/BellSouth to make available to any CLEC any ICA (negotiated or arbitrated) to which a AT&T/BellSouth ILEC is a party in any state within the AT&T 22-state footprint, subject to state-specific pricing and technical feasibility. Notably, the CLEC-proposed condition permits the state commission to modify the ICA before opt in if the Merged Company demonstrates technical infeasibility or if the TELRIC-based prices in the ICA are inconsistent with the TELRIC-based prices in the state in question. Therefore, if as CLQ claims in its Position, the particular network or facilities of an operating entity make a provision technically infeasible, the Merged Company will be able to obtain modification of the ICA in that respect. See QSI Ankum Direct, §VII(A), pp. 63-82.

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		that the Merged Company has established that (1) it is not Technically Feasible[10] for the Merged Company to comply with one or more provisions of the agreement or (2) the price(s) set forth in the agreement are inconsistent with TELRIC-based prices in the state in question. More consistency in interconnection agreement offerings will provide more consistency for wholesale customers dealing with CenturyLink in multiple states, and will enable the industry to rely on interconnection agreement terms from the pre-closing entity that both has been through Section 271 approval proceedings and has the greater volume of CLEC wholesale business.		
10a	Wholesale Agreements – Opt-in of ICAs NA to approved rural carrier	#10(a). "CenturyLink ILEC territory," as used in this condition, excludes any CenturyLink ILEC for which a state commission has granted CenturyLink a rural exemption pursuant to Section 251(f) of the Federal Communications Act of 1934, as amended, 47 U.S.C. § 151 et seq. (the Communications Act") before the Merger Filing Date.	"Agreements are entered into between specific legal entities and such terms cannot be involuntarily imposed on a non-signatory third party legal entity. The CenturyLink and Qwest ICAs were negotiated with the consideration of the particular networks and facilities of each company. Even after the merger the Qwest and CenturyLink operating companies will continued	CLQ's Position does not comment upon Condition 10(a)'s clarification that CenturyLink ILEC territory, as used in Condition 10, excludes any CenturyLink ILEC for which a state commission has granted it a rural exemption. It appears, therefore, that CenturyLink does not object to subpart (a) of Condition 10. Regarding the remainder of CLQ's Position, see the previous row above. See QSI Ankum Direct, §VII(A), pp. 63-82.

[10] "Technically Feasible," when used in the Joint CLEC list of conditions, has the meaning set forth here (which is the same as the definition in the Qwest ICA negotiations template). Interconnection, access to Unbundled Network Elements, Collocation, and other methods of achieving Interconnection or access to Unbundled Network Elements at a point in the network shall be deemed Technically Feasible absent technical or operational concerns that prevent the fulfillment of a request by a Telecommunications Carrier for such Interconnection, access, or methods. A determination of Technical Feasibility does not include consideration of economic, accounting, Billing, space, or site concerns, except that space and site concerns may be considered in circumstances where there is no possibility of expanding the space available. The fact that an incumbent LEC must modify its facilities or equipment to respond to such request does not determine whether satisfying such request is Technically Feasible. An incumbent LEC that claims that it cannot satisfy such request because of adverse network reliability impacts must prove to the Commission by clear and convincing evidence that such Interconnection, access, or methods would result in specific and significant adverse network reliability impacts.

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			[sic] to be operated as separate legal entities. This condition would allow CLECs to opt into interconnection agreements from states other than Minnesota that would not be subject to the Commission rules/guidelines for ICAs in Minnesota. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 15, Row 1.	
10 b	Wholesale Agreements – Opt-in of ICAs – Regulator may terminate rural status in future	#10(b). Nothing in this condition precludes a regulatory body from determining that any operating company of the Merged Company, which as of the Merger Closing Date operates under a Section 251(f) exemption or a 251(f)(2) suspension or modification, must cease to do so. In the event that such a ruling is made, this condition would then apply to the applicable operating company as well.	"The CenturyLink companies that are considered rural telephone companies should continue to have that designation post merger. The Act provides the appropriate process for any CLEC to seek to remove CenturyLink's rural exemption and a merger proceeding is not the appropriate forum to seek changes to the process." CLQ Att. 45, pp. 25-26.	CLQ's Position recognizes that the Act provides a process for removal of CenturyLink's rural exemption. Therefore, CLQ appears to agree that nothing precludes a regulatory body from determining that any operating company of the Merged Company which operates under a rural carrier must cease to do so. Without the rural exemption, Condition 10 would apply.
10 b fn	Rural Status (See #12)	Footnote to #10(b): Charter Fiberlink further proposes as a condition of approval of this transaction that any operating company affiliates of CenturyLink or Qwest that currently operate under a Section 251(f) exemption or waiver relinquish and surrender such legal rights upon the Closing Date.	"The CenturyLink companies that are considered rural telephone companies should continue to have that designation post merger. The Act provides the appropriate process for any CLEC to seek to remove CenturyLink's rural exemption and a merger proceeding is not the appropriate forum to seek changes to the process." CLQ Att. 45, pp. 25-26. *Note*: In CLQ Att. 45, p. 26, Row 2, CenturyLink and Qwest	Charter Position: This condition was recently applied in the Frontier-Verizon transfer. Despite controlling over 7 million access lines following its merger with Embarq, CenturyLink continues to assert the protections of a so-called "rural" telephone company in Minnesota. It does so by organizing itself into dozens of small operating companies. The size, resources and combined territory of the post-merger company should be recognized, as the company is poised to become the third largest ILEC in the nation. An ILEC with a national footprint

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			paraphrase the Charter Direct Testimony of Mr. Pruitt (which can be found at p. 35, lines 7-8). The Applicants list the following language as their Position in response to Mr. Pruitt's testimony: "CenturyLink does not use the rural exemption to increases costs to CLECs. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 26, Row 2.	that exceeds the line count of every other carrier in the nation (except for AT&T and Verizon) should not be permitted to continue to operate separate legal entities in each state as a means of protecting "rural" carrier status. The experience of Joint CLEC coalition members in Wisconsin, and several other mid-west states, demonstrates that CenturyLink uses its "rural" status to increase Charter's operational costs. See Charter Pruitt Direct, pp. 35-41.
11	Wholesale Agreements – ICAs – Intervals	#11. To the extent that an interconnection agreement is silent as to an interval for the provision of a product, service or functionality or refers to Qwest's website or Service Interval Guide (SIG), the applicable interval, after the Closing Date, shall be no longer than the interval in Qwest's SIG as of the Merger Filing Date.	"CLEC provisioning intervals reflect retail provisioning intervals as federal law requires carriers to treat all customers the same. Legacy intervals are inherent in the legacy processes and systems." CLQ Att. 45, p. 1, Row 1.	CLQ's Position suggests that CenturyLink may lengthen a wholesale interval post-closing by lengthening its retail interval and then arguing the wholesale interval must be the same. This ILEC argument was rejected during the 271 proceedings. When Qwest previously tried to move from a 5-day to a 9-day loop interval by simultaneously lengthening the interval for its retail customers, the Minnesota Commission rejected Qwest's argument and found that the 5-day loop interval allowed competitors a meaningful opportunity to compete. The Minnesota Commission found that Qwest cannot make intervals "unreasonable by lengthening the intervals for provision of retail service."[11] CLQ refers to "legacy intervals" but makes no commitment not to lengthen them post-closing. Customers that CLECs are trying to win or maintain

[11] Findings of Fact, Conclusions of Law and Recommendations, *In the Matter of a Commission Investigation into Qwest's Compliance with Section 271(c)(2)(B) of the Telecommunications Act of 1996; Checklist Items 1,2,4,5,6,11,13, and 14*, Docket No. P-421/CI-01-1371 (Sept. 16, 2003) ("*MN ALJ 271 Order*"), ¶125.

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				have no way of distinguishing whether the CLEC or its underlying wholesale provider is responsible for an untimely installation or repair. Especially during the turbulent post-merger transition period, therefore, not lengthening service intervals is essential. Qwest has opposed inclusion of service intervals in ICAs and has previously changed service intervals unilaterally in CMP over CLEC protest; neither ICAs nor CMP therefore assure continuance of current intervals post-merger. CLQ's need to realize $650 million in synergies may prompt it to save money by lengthening intervals for both its own and CLEC customers. Lengthening intervals is not in the public interest. The longer the interval, the longer customers must wait to receive service and to take advantage of competitive options. In such a scenario, the adverse effect is more easily sustained by the historically dominant local provider—the ILEC—than by the CLEC trying to win over or retain customers. CLQ's See QSI Gates Direct (public), §VI(B), pp. 126-131.
12	Rural Status– Going Forward	#12. The Merged Company will not seek to avoid any of the obligations of CenturyLink under the Assumed Agreements on the grounds that CenturyLink is not an incumbent local exchange carrier ("ILEC") under the Communications Act. The Merged Company will waive its right to seek the exemption for rural telephone companies	"CenturyLink and Qwest comply with ILEC obligations under the Act. This proceeding is not the proper forum to submit the required documentation and conduct the necessary reviews for a determination on rural exemption. This condition is not needed, inappropriate and unreasonable."	To a very large extent, most CLECs' business plans rest on continued meaningful access to ILECs' wholesale products and services. CenturyLink has expressly reserved its right in ICA proceedings to seek a rural exemption to many unbundling and interconnection obligations pursuant to 47 U.S.C. § 251(f). CLECs in the Applicants'

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		under Section 251(f)(1) and its right to seek suspensions and modifications for rural carriers under Section 251(f)(2) of the Communications Act.	CLQ Att. 45, p. 25, Row 2.	proposed combined service area cannot remain competitive in an environment of near-complete uncertainty regarding their continued access to essential wholesale products and services. If the proposed acquisition is approved, it must be conditioned so that it does not produce such an environment. CLQ's Position states that this docket is not the proper forum to submit a request for review of an exemption, but Condition 12 requires no such review in this docket. Condition 12 precludes CLQ from submitting a request for an exemption in any proceeding going forward. See QSI Ankum Direct, §VII(A), pp. 63-82.
13	BOC Status & 271 – Qwest ILEC Territory	#13. In the legacy Qwest ILEC territory, the Merged Company shall be classified as a Bell Operating Company ("BOC"), pursuant to Section 3(4)(A)-(B) of the Communications Act and shall be subject to all requirements applicable to BOCs, including but not limited to the "competitive checklist" set forth in Section 271(c)(2)(B) and the obligation to ensure there is no backsliding, and the nondiscrimination requirements of Section 272(e) of the Communications Act.	"Qwest Corporation, as a successor to U S West, is a BOC and will remain a BOC. The legacy CenturyLink ILECs are not BOCs and will not become BOCs after the transaction closing." CLQ Att. 45, pp. 18-19.	Qwest has seven years experience doing business under the Act's obligations for a BOC; as a non-BOC, CenturyLink approaches the proposed merger without such BOC experience. CLECs in legacy Qwest territory should not suffer any erosion in Qwest's commitment to, or ability to implement, its BOC obligations because Qwest chose to be acquired by a non-BOC. CLQ's mere statements that the merger will take place on the parent level, or that Qwest will remain a BOC, do not answer this concern. The merger must be conditioned upon continuance of the post-merger entity in legacy Qwest territory as a BOC, subject to all BOC obligations, without backsliding in its compliance with 271 obligations. See QSI Gates Direct (public), §VI(D), pp. 148-188.

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14	UNE Stability – Wire Centers & Forbearance	#14. For at least the Defined Time Period, the Merged Company will not seek to reclassify as "non-impaired" any wire centers for purposes of Section 251 of the Communications Act, nor will the Merged Company file any new petition under Section 10 of the Communications Act seeking forbearance from any Section 251 or 271 obligation or dominant carrier regulation in any wire center.	"FCC rules provide the requirements for impaired/non-impaired designations. Non-impairment designations require petitions to the Commission, a Commission review, and Commission finding. This proceeding does nothing to change this process and CenturyLink and Qwest should not be required to forego their legal rights. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 19, Row 1.	The Merged Company's CLEC customers/competitors are likely to be affected every hour of every day as the Merged Company struggles to meld its systems and processes while wringing hundreds of millions of dollars of savings out of operations. During this transition period, the competitive status quo should be maintained where practicable. A temporary moratorium on wire center impairment proceedings and forbearance petitions will mitigate the destabilizing effect of the merger, and will also allow all parties to absorb the FCC's new analytical methods and competitive philosophy expressed in its recent decision denying Qwest's Phoenix forbearance petition. See QSI Ankum Direct, §VII(A), pp. 63-82.
15	Wholesale Support – Contacts, Escalations, Centers, Organiza-tional Structure	#15. The Merged Company shall provide to wholesale carriers, and maintain and make available to wholesale carriers on a going-forward basis, up-to-date escalation information, contact lists, and account manager information at least 30 days prior to the Closing Date. For changes to support center location, organizational structure, or contact information, the Merged Company will provide at least 30 days advance written notice to wholesale carriers. For other changes, the Merged Company will provide reasonable advanced notice of the changes. The information and notice provided shall be consistent with the terms of applicable interconnection agreements.	"CenturyLink and Qwest provide and will provide carriers with up-to-date escalation information, contract lists and account manager information. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 12, Row 1.	While many significant facts about the effects of the merger remain unknown as the Applicants have not provided that information, one thing the Applicants have made clear is that their wholesale customers (and, thus, CLECs' end user customers) will experience change. The marked changes likely to occur post-merger will drive the need for swift, sure, and pinpointed communications between the companies. Because escalation procedures allow for escalation up through organizations, the organizational structure must be known to not delay escalation to the next level and to help ensure accountability. The projected merger synergies will result in part from

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				headcount reductions ("reduced corporate overhead" and "elimination of duplicate functions" [12]) resulting in the Merged Companies' liaisons being stretched further while taking on new roles and territories. The merger must be premised on a condition requiring specified notice conditions for changes to contact lists, account managers, organizational structure, and other critical information. See QSI Gates Direct (public), §VI(C), pp. 132-148.
16	Wholesale Support – Data, Information, Assistance, Notice, Tools	#16. The Merged Company will make available to each wholesale carrier the types and level of data, information, and assistance that Qwest made available as of the Merger Filing Date concerning wholesale Operational Support Systems functions and wholesale business practices and procedures, including information provided via the wholesale web site (which Qwest sometimes refers to as its Product Catalog or "PCAT"), notices, industry letters, the change management process, and databases/tools (loop qualification tools, loop make-up tool, raw loop data tool, ICONN database, etc.).	"The merger will not change any of the rights or obligations of any party. Qwest and CenturyLink comply with their OSS obligations and the CLECs will not be harmed. Serving wholesale customers is important to both companies and is crucial to the future of the merged company. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 6, Row 1.	The Applicants have stated definitively that their CLEC customers will experience change as the Merged Company effects efficiencies, but have not revealed any detail regarding that change. Continued meaningful access to Qwest OSS systems, processes, databases, tools, and personnel is vital to the continued viability of CLECs in Qwest's legacy territory. Qwest's current OSS systems and manual processes are the product of repeated, stringent, military-type testing held in the context of Qwest's pursuit of its much-desired 271 long distance authorization. CLECs need at least the current level of access to these systems and tools. CLQ's Position states generically that "the merger will not change any of the rights or obligations of any party" and that "CLECs will not be harmed," but notably absent from these statements is any assurance specific to

[12] Applicants' FCC Joint Application, p. 21.

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				OSS systems and processes post-merger. CLQ seems to be saying that CLECs' rights, such as a right to dispute harmful changes, will remain the same. A right to sue after the fact is little comfort when CLECs' customers, and thus CLECs' reputations, are adversely impacted by the merger and resultant customer-impacting outages and problems of the type experienced in the Fairpoint, Hawaiian Telcom, and Frontier situations. See QSI Gates Direct (public), §VI(C), pp. 88-106 & 132-148.
17	CMP (Change Manage-ment Process)	#17. After the Closing Date, the Merged Company will maintain the Qwest Change Management Process ("CMP"), utilizing the terms and conditions set forth in the CMP Document, including those terms and conditions governing changes to the CMP Document. The Merged Company will dedicate the resources needed to complete pending CLEC change requests in a commercially reasonable time frame.	"This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 10, Row 2.	When the FCC reviewed Qwest's 271 application, the FCC relied on the state commissions to oversee Qwest's ongoing compliance with CMP going forward to ensure that local markets remain open.[13] CMP procedures thus are designed to foster availability and nondiscriminatory implementation of Section 251 rights that advance opening those markets and keeping them open. There is express recognition in the Qwest CMP Document (§5.45), which was developed as part of the 271 process, that product, process, and systems changes may impact CLECs, and in many cases the ILEC's changes have a "major effect on existing CLEC operating procedures." Although CMP as implemented by Qwest is not perfect, it is tested, documented, includes an escalation process, and provides a means for CLEC participation in Qwest's proposed CLEC-

[13] E.g., Memorandum Opinion and Order, *In the Matter of Application by Qwest Communications International Inc. for Authorization to Provide In-Region, InterLATA Services in Arizona*, FCC WC Docket No. 03-194, Rel. Dec. 3, 2003 ["FCC Arizona 271 Order"], ¶¶3-4, 25, 58-60.

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				impacting system and process changes. In contrast, Embarq's CLEC Issue Resolution Process consists of a forum and CLEC/ILEC relations meeting that are twice-yearly and annual, respectively. CenturyLink has no CMP process, but uses instead a one-way notification process that may take place after a change has occurred. Particularly as CenturyLink has attempted to characterize its processes as sufficient to meet the CMP requirement, the merger creates a material risk of harm. See QSI Gates Direct (public), §VI(C), pp. 132-148.
18	Wholesale Support – Staffing & Training	#18. The Merged Company shall ensure that the legacy Qwest Wholesale and CLEC support centers are sufficiently staffed, relative to wholesale order volumes, by adequately trained personnel dedicated exclusively to wholesale operations so as to provide a level of service that is equal to or superior to that which was provided by Qwest prior to the Merger Filing Date and to ensure the protection of CLEC information from being used for the Merged Company's retail operations or marketing purposes of any kind. The Merged Company will employ people who are dedicated to the task of meeting the needs of CLECs and other wholesale customers. The total number of the Merged Company's employees dedicated to supporting wholesale services for CLEC customers will be no fewer than the number of such employees (including agents and	"This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 12, Row 2.	With regard to post-merger support of its wholesale customers, the Applicants have stated that unspecified changes will occur due to integration and that their pursuit of synergy savings will result in reductions in personnel. A reduction in experienced wholesale support personnel will invariably result in degradation to the Merged Company's vital support systems, and to less oversight over key customer data. Particularly in light of CLECs' recent experience with Qwest's inappropriate use of customer data and inappropriate practices (e.g., Exhibit BJJ-18), it is clear that the Merged Company must commit in writing to properly training and supporting dedicated wholesale support personnel, and to maintaining such employees at the levels maintained by the Joint Applicants as of the Merger Filing Date. See QSI Gates Direct (public), §VI(C), pp. 132-148.

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		contractors) employed by legacy Qwest and legacy CenturyLink as of the Merger Filing Date, unless the Merged Company obtains a ruling from the applicable regulatory body that wholesale order volumes materially decline or other circumstances warrant corresponding employee reductions.		
19	OSS	#19. In legacy Qwest ILEC territory, after the Closing Date, the Merged Company will use and offer to wholesale customers the legacy Qwest Operational Support Systems (OSS) for at least three years and provide at least the same level of wholesale service quality, including support, data, functionality, performance, and electronic bonding, provided by Qwest prior to the Merger Filing Date. After the minimum three-year period, the Merged Company will not replace or integrate Qwest systems without first complying with the following procedures:	"The merger will not change any of the rights or obligations of any party. Qwest and CenturyLink comply with their OSS obligations and the CLECs will not be harmed. Serving wholesale customers is important to both companies and is crucial to the future of the merged company. Any changes to the current Qwest OSS remains subject to the CMP and CenturyLink reserves its rights to make changes per the terms of the Change Management Process (CMP) Document. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 6, Rows 2 & 3 (same Position for both rows).	Recent CLQ discovery responses have confirmed that, despite CLQ's indications that it has not made post-merger OSS decisions, CenturyLink has decided that it will consolidate OSS, including but not limited to billing systems, and that it either will not retain or will modify Qwest IMA for Local Service Requests, as discussed in the surrebuttal of Mr. Gates. If the transaction is approved, systems integration is inevitable. Therefore, customers and competition need protections from harm resulting from those changes, such as the harm experienced in the Fairpoint, Hawaiian Telcom, and Frontier situations. The FCC has found that nondiscriminatory access to OSS is crucial to competition. Qwest has described its OSS as the lifeblood of Qwest's wholesale operation. The FCC largely premised its public interest findings in the 271 dockets on documented means to prevent backsliding from OSS standards. The Joint Applicants have stated that, while CLECs should expect change to the Merged Company's OSS, no decisions have been made regarding post-merger OSS

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				systems, staffing, or location. The Joint Applicants state that it may operate both Companies' OSS systems for at least 12 months, but even if that is the case, 12 months is inadequate particularly with no plan in place and no promise of testing before replacing tested systems. Faced with a certain integration combined with the remaining profound uncertainties, CLECs must have a written commitment that the Merged Company will use and offer Qwest's OSS for at least three years, at the same level of quality as provided by Qwest prior to the merger, and that the Merged Company will not replace or integrate Qwest's systems without first complying with the subparts to Condition 19. Without those subparts, the three-year period would need to be substantially longer. With the subparts, a plan would be in place to help ensure a smooth transition when the inevitable integration takes place. See QSI Gates Direct (public), §VI(A), pp. 88-106 & 116-124.
19a	OSS – Plan before replacing or integrating	#19(a). The Merged Company will prepare and submit a detailed plan to the Wireline Competition Bureau of the FCC and the state commission of any affected state before replacing or integrating Qwest system(s). The Merged Company's plan will describe the system to be replaced or integrated, the surviving system, and why the change is being made. The plan will describe steps to be taken to ensure data integrity is maintained. The plan will describe CenturyLink's previous	"The merger will not change any of the rights or obligations of any party. Qwest and CenturyLink comply with their OSS obligations and the CLECs will not be harmed. Serving wholesale customers is important to both companies and is crucial to the future of the merged company. CenturyLink complies with all applicable rules and laws regarding OSS. Any changes to the current Qwest OSS remains subject	In the Verizon-Frontier merger, the FCC's conditions include a provision that requires Frontier to prepare and submit a detailed OSS integration plan to the FCC and any affected state before certain systems transitions (FCC 10-87, Appendix C, pp. 32-33). As part of this process, Frontier must describe the system to be replaced, the surviving OSS, and why the change is being made; describe Frontier's previous experience with integrating OSS in other jurisdictions,

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		experience with replacing or integrating systems in other jurisdictions, specifying any problems that occurred during that process and what has been done to prevent those problems in the planned transition for the affected states. The Merged Company's plan will also identify planned contingency actions in the event that the Merged Company encounters any significant problems with the planned transition. The plan submitted by the Merged Company will be prepared by information technology professionals, retained at the Merged Company's expense, with substantial experience and knowledge regarding legacy CenturyLink and legacy Qwest systems processes and requirements. Interested carriers will have the opportunity to comment on the Merged Company's plan.	to the CMP and CenturyLink reserves its rights to make changes per the terms of the Change Management Process (CMP) Document. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, pp. 7-8.	specify any problems that occurred in that process and what has been done to avert those problems in the planned transition for the affected states; and identify planned contingency actions in the event that the company encounters a difficulty. The plan must be prepared by information technology professionals with detailed experience and knowledge regarding the systems integration process and requirements. Frontier must submit the OSS integration plan to the regulators no less than 180 days prior to the proposed system transition date. All of these terms are reasonable and necessary to help avoid merger-related harm. See QSI Gates Direct (public), §VI(A), pp. 116-124.
19 b	OSS – Third party testing before replacing	#19(b). For any Qwest system that was subject to third party testing (e.g., as part of a Section 271 process), robust, transparent third party testing will be conducted for the replacement system to ensure that it provides the needed functionality and can appropriately handle existing and continuing wholesale services in commercial volumes. The types and extent of testing conducted during the Qwest Section 271 proceedings will provide guidance as to the types and extent of testing needed for the replacement systems. The Merged Company will not limit CLEC use of, or retire, the existing system until after third party testing has	"The merger will not change any of the rights or obligations of any party. Qwest and CenturyLink comply with their OSS obligations and the CLECs will not be harmed. Serving wholesale customers is important to both companies and is crucial to the future of the merged company. CenturyLink complies with all applicable rules and laws regarding OSS. Any changes to the current Qwest OSS remains subject to the CMP and CenturyLink reserves its rights to make changes per the terms of the Change Management Process (CMP)	In addition to the type of plan adopted in the Verizon-Frontier merger as discussed in the previous row above (FCC 10-87, Appendix C, pp. 32-33), protections are needed which recognize that Qwest is not only an ILEC but also a Bell Operating Company ("BOC") with additional, explicit Section 271 obligations. In the 271 proceeding, Qwest's OSS underwent three years of rigorous third-party testing, leading to the discovery and resolution of hundreds of problem areas, before it could be judged adequate. CenturyLink's OSS has never undergone third-party testing. Before any replacement or restructuring of Qwest's OSS can take place, the

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		been successfully completed for the replacement system.	Document. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 8, Row 1.	planned system must undergo the same type of objective third-party testing. Anything less would mean a retrenchment from Qwest's current 271 obligations. See QSI Gates Direct (public), §VI(A), pp. 116-124.
19c	OSS – Coordinated testing	#19(c). Before implementation of any replacement or to be integrated system, the Merged Company will allow for coordinated testing with CLECs, including a stable testing environment that mirrors production and, when applicable, controlled production testing. The Merged Company will provide the wholesale carriers training and education on any wholesale OSS implemented by the Merged Company without charge to the wholesale carrier.	"The merger will not change any of the rights or obligations of any party. Qwest and CenturyLink comply with their OSS obligations and the CLECs will not be harmed. Serving wholesale customers is important to both companies and is crucial to the future of the merged company. CenturyLink complies with all applicable rules and laws regarding OSS and will allow coordinated testing with CLECs." CLQ Att. 45, pp. 8-9.	CLQ's Position asserts that CLQ values its wholesale customers and states that it will allow coordinated testing with CLECs. CLQ does not explain, however, why it will not therefore accommodate its valued customers by entering into an enforceable commitment to allow coordinated testing for a defined period of time to allow its customers much needed certainty. CLQ also does not explain why it does not commit to not charging wholesale customers for training and education that would not be needed but for the merger and resultant systems changes. During the lengthy third-party OSS testing conducted in Qwest's 271 proceeding, it became apparent that testing must be coordinated with the affected parties, CLECs, to ensure functionality in real-life, production volumes. Before any replacement or restructuring of Qwest's OSS can take place, the planned system must undergo the same level of coordinated testing. Further, CLECs must be trained, without charge, on any revised OSS system. See QSI Gates Direct (public), §VI(A), pp. 116-124.
20	OSS –	#20. In the legacy CenturyLink ILEC territory, as soon as reasonably possible,	"Post merger CenturyLink is committed to having industry	Qwest's OSS underwent three years of rigorous, transparent, third-party testing

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	CL ILEC territory	the Merged Company will use the wholesale pre-ordering, quoting, ordering, provisioning, and maintenance and repair functionalities (including electronic bonding) of the legacy Qwest territory to provide interconnection, Unbundled Network Elements, and special access services in the legacy CenturyLink ILEC territory. Specifically, in the legacy CenturyLink ILEC territory, the Merged Company will use the legacy Qwest IMA (GUI and XML), CORA, DLIS, CEMR, MEDIAC, Q.pricer, and Qwest Control systems for those services and functionalities for which Qwest provides wholesale services through these systems as of the Merger Filing Date.	leading OSS. Whether CenturyLink chooses an existing OSS or selects a new system should be resolved through a refined analysis and the need to respond to marketplace conditions. A CLEC that serves primarily in a part of the country where Qwest does not offer ILEC service may prefer CenturyLink's OSS. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 9, Row 1.	including CLEC participation; CenturyLink's OSS has not undergone any third-party testing. A CLEC that has conducted business using both Qwest's and CenturyLink's OSS in their respective territories has testified that Qwest's OSS is superior to CenturyLink's OSS. No such CLEC has testified that, as CLQ suggests, it prefers CenturyLink's OSS to that of Qwest's OSS. In any event, it is not as though CLECs will be able to elect which system to use in which legacy territory, now that CenturyLink has confirmed that consolidation of OSS is inevitable (as discussed in row 19 above). If CLQ were going to consider the preferences of its wholesale customers, it would consider the expressed preference of all of the Joint CLECs for Qwest's OSS and commit to using Qwest's OSS for the long term. CenturyLink should commit to implementing Qwest's OSS throughout the footprint created by the merger as soon as practicable. Best practices will require the Merged Company's use of Qwest's tested and proven OSS systems throughout CLQ's legacy territories. See QSI Gates Direct (public), §VI(A), pp. 116-126.
21	Compliance – Order processing	#21. The Merged Company will process orders in compliance with federal and state law, as well as the terms of applicable interconnection agreements.	"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements. CLECS should not be permitted to add new obligations and unilaterally	The FCC adopted this as an enforceable condition in the Embarq-CenturyTel merger because of the potential for increased anti-competitive conduct of the combined company and the potential for problems spreading to CenturyTel's

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			impose conditions that are more expansive than those required by the law or contractual terms. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 1, Row 2.	newly-acquired territory. QSI Gates Direct (public) p. 159, lines 7-12. By its very terms, this condition is no more expansive than required by law. Since CenturyLink has promised to meet this condition (QSI Gates Direct (public) p. 156, lines 5-8), it is worrisome that CLQ now states in its Position that it is inappropriate and unreasonable. See QSI Gates Direct (public), §VI(D), pp. 148-188.
22	Compliance – Number portability	#22. The Merged Company will provide number portability in compliance with federal and state law, as well as the terms of applicable interconnection agreements.	"CenturyLink and Qwest currently comply with the FCC's Order on one day porting and will continue to do so post merger. CenturyLink has received a waiver until February 2011 consistent with the FCC's Order on one day porting. After the waiver expires, CenturyLink will provide one day porting consistent with the FCC Order." CLQ Att. 45, p. 11, Row 2.	In discovery, CenturyLink said it will "provide number portability in compliance with federal and state law, as well as the terms of applicable interconnection agreements." QSI Gates Direct (public) 156, lines 5-8. A discovery response, however, is not an enforceable condition. The fact that CenturyLink attributed its recent waiver request of the one-day porting requirement to the ongoing integration efforts related to the Embarq merger shows that an enforceable condition is needed to ensure that the integration of the Qwest merger does not similarly impact the Merged Company's ability to meet number porting requirements. QSI Gates Direct (public) pp. 148-188.
22a	Compliance – Number portability – E911 unlock	#22(a). When a number is ported from the Merged Company, E-911 records will be unlocked at the time of porting. Trouble reports involving locked E-911 records will be addressed within 24 hours.	"CenturyLink and Qwest currently comply with the FCC's Order on one day porting and will continue to do so post merger. CenturyLink has received a waiver until February 2011 consistent with the FCC's Order on one day porting.	CLECs expended the resources to raise and address the important issue of unlocking E-911 records with Qwest via CMP commencing nine years ago. Naturally, after reading the concerns raised by CLECs in the Embarq-CenturyTel merger on this issue, CLECs

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			After the waiver expires, CenturyLink will provide one day porting consistent with the FCC Order." CLQ Att. 45, p. 11, Row 2.	are concerned about going backward to pre-271 workshop days such that the record updating process and the accuracy of records will suffer as a result of this acquisition. Condition 22(a) is needed to address this concern and avoid backsliding. In discovery, CenturyLink asserted compliance with the law but also said it has not evaluated or reached any conclusions regarding the issues of when CenturyLink will unlock E911 records or address trouble reports related to unlocking E911 records. The uncertainty caused by CenturyLink's vacillation on this issue makes Condition 22 that much more important. The FCC adopted an identical condition in conjunction with the Embarq-CenturyTel merger, in response to the concerns identified by wholesale customers. The Merged Company should have no problem abiding by condition 22(a) given that CenturyLink said in discovery that "within legacy service areas E911 records are being unlocked at the time of porting in accordance with the FCC's merger condition." QSI Gates Direct (public) p. 156, lines 8-10. See QSI Gates Direct (public), §VI(D), pp. 148-188.
22 b	Compliance – Number portability – Pass Code	#22(b). The Merged Company will not assign any pass code, password or Personal Identification Number (PIN) to retail customer accounts in a manner that will prevent or delay a change in local service providers. The Merged Company will require only pass codes that an end user	"CenturyLink and Qwest complies [sic] with all state and federal regulations regarding passcodes, passwords, or PIN numbers on retail customer accounts. This condition is not needed, inappropriate and unreasonable."	In ¶25 of the CenturyTel-Embarq Merger Order, the FCC summarized allegations that CenturyTel engaged in anti-competitive practices with regard to local number portability, including practices relating to use of a subscriber's Personal Identification Number (PIN) in a manner

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		customer requests for the purpose of limiting or preventing activity and changes to their account. The Merged Company will not require that a new local service provider provide, on a service request, a password or PIN that the end user customer uses or used to access its account information on-line [including Customer Proprietary Network Information (CPNI)].	CLQ Att. 45, p. 10, Row 3.	that in effect forced many customers to contact CenturyTel to retrieve the PIN before being able to port their number to a new provider. This contact then gave CenturyTel personnel an opportunity to try to retain the customer. Given this background, Condition 22(b) is appropriate and reasonable to avoid merger-related harm. CenturyLink and Qwest have indicated that their current policies regarding pass codes/PINs would not be disrupted by this condition and that the number of ports that can be processed are not currently limited. QSI Gates Direct (public) p. 156, line 10, 157, lines 1-2. They also claim that they comply with "all state and federal regulations" governing this issue. This confirms that Condition 22(b) is reasonable and appropriate. See QSI Gates Direct (public), §VI(D), pp. 148-188.
22c	Compliance – Number portability – Number of ports	#22(c). The Merged Company shall not limit the number of ports that can be processed.	"CenturyLink and Qwest do not routinely limit the number of ports that can be processed, however, CLEC requests for a large number of port requests may be subject to a timeframe agreed to by the company and the CLEC. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, pp. 11-12.	CenturyLink and Qwest already claim that they do not limit the number of ports that can be processed but in their Position state that a limit may be imposed if a "large number" of requests are made. Artificially limiting the number of ports that may be submitted in a particular time period is anticompetitive and disruptive to the competitive process. The porting process should be largely if not completely automated, so limits on the number of ports are not necessary. This condition, as adopted by the FCC in the CenturyTel-Embarq order, states that the companies will not limit the number of

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				ports that can be processed and does not contain any exception for a large number of port requests (see FCC 09-54, App. C, p. 28). QSI Gates Direct (public) p.157, lines 1-2, note 266 & pp. 148-188.
23	Compliance – DL & DA	#23. The Merged Company will provide nondiscriminatory access to directory listings and directory assistance in compliance with federal and state law. Specifically, the Merged Company will be responsible for ensuring that all directory listings submitted by CLECs for inclusion in directory assistance or listings databases are properly incorporated into such databases (whether such databases are maintained by the Merged Company or a third party vendor). Further the Merged Company will ensure that CLECs' subscriber listings are accessible to any requesting person on the same terms and conditions that the Merged Company's subscriber listings are available to any requesting person.	"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements. The proposed condition may require the establishment of terms and conditions that are not covered by applicable law. CLECs should not be permitted to add new obligations and unilaterally impose conditions that are more expansive than those required by the law or contractual terms." CLQ Att. 45, p. 25, Row 1.	CLQ identifies no aspect of Condition 23 that is "not covered" by the law, but its allegation of "new" or "more expansive" terms suggests that there is some aspect of Condition 23 which CLQ intends to challenge and with which it does not intend to comply. It is incumbent on CLQ to identify any such argument so that it can be addressed. In any event, Condition 23 expressly requires compliance with the law and therefore is not more expansive than the law. Indeed, the nondiscrimination principles set forth in Condition 23 are taken directly from Section 251 and applicable FCC orders. Condition 23 is necessary as an enforceable condition to this merger because CenturyLink refuses to ensure that competitor's subscribers have the same access to DA and DL databases as CenturyLink provides to its own customers, as required by federal and state law. Directory services provided by competitors will be degraded if CenturyLink, or its vendor, fails to properly maintain these databases in a manner that ensures nondiscriminatory access. See QSI Gates Direct (public), §VI(D), p. 166, line 15- p.167, line 1 & pp. 162-167.
24	Rate	#24. After the Closing Date, the Merged	"These issues are associated with	Condition 24 is necessary to ensure

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	Stability – Surcharges	Company shall not assess any fees, charges, surcharges or other assessments upon CLECs for activities that arise during the subscriber acquisition and migration process other than any fees, charges, surcharges or other assessments that were approved by the applicable commission and charged by Qwest in the legacy Qwest ILEC territory before the Closing Date. This condition prohibits the Merged Company from charging fees, charges, surcharges or other assessments, including:	prior and ongoing billing and/or interconnection agreement between Qwest/CenturyLink and CLECs. These are not legitimate merger concerns and are misplaced in this proceeding. In addition, these issues have been arbitrated in other state venues and the rates at issues [sic] are contained in the interconnection agreements approved by the MN Commission. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 22, Row 1.	continuity of operations and wholesale rate stability for Joint CLECs currently competing with Qwest. If imposed, this condition would ensure that new subscriber acquisition surcharges are not assessed upon competitors operating in the Qwest service territories. Joint CLECs are not asking the Commission to revisit prior or ongoing billing or interconnection disputes. These surcharges are not contained in Qwest agreements approved by the Minnesota Commission. The prohibition of new subscriber acquisition surcharges is consistent with applicable law since the FCC has ruled that such charges are prohibited by federal law. Specifically, in a 2002 Number Portability Cost Reconsideration Order, the FCC ruled that ILECs may not recover any number portability costs through interconnection charges or add-ons to interconnection charges to their carrier "customers," nor may they recover carrier-specific costs through interconnection charges to other carriers when no number portability functionality is provided. QSI Gates Direct (public) p. 170. The FCC's directive clearly prohibits interconnection-based surcharges on number porting, like those imposed by CenturyLink. See QSI Gates Direct (public), §VI(D), pp. 167-172.
24a	Rate Stability –	#24(a). Service order charges assessed upon CLECs submitting local service requests ("LSRs") for number porting;	"These issues are associated with prior and ongoing billing and/or interconnection agreement between	Condition 24(a) is necessary to ensure that new subscriber acquisition surcharges are not assessed upon

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	Local Number Portability (LNP) order charges		Qwest/CenturyLink and CLECs. These are not legitimate merger concerns and are misplaced in this proceeding. In addition, these issues have been arbitrated in other state venues and the rates at issues [sic] are contained in the interconnection agreements approved by the MN Commission. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 22, Row 1. *Note*: In CLQ Att. 45, p. 22, Row 2, CenturyLink and Qwest attempt to paraphrase the Charter Direct Testimony of Mr. Pruitt (which Qwest claims can be found at p. 10). The Applicants list the following language as their Position in response to Mr. Pruitt's testimony, instead of the Position quoted above regarding the condition itself (#24a): "These issues have been arbitrated in other state venues and the rates at issues [sic] are contained in the interconnection agreements approved by the MN Commission. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, pp 22-23.	competitors operating in the Qwest service territories in the form of service order charges assessed upon CLECs submitting LSRs for number porting. Joint CLECs are not asking the Commission to revisit prior or ongoing billing or interconnection disputes. These surcharges are not contained in Qwest agreements approved by the Minnesota Commission. The prohibition of new subscriber acquisition surcharges is also consistent with applicable law. In several orders implementing Section 251(e) (2) of the Act, the FCC held that carriers are required to recover their costs of implementing LNP through tariffed end-user charges. In these orders, the FCC determined that ILECs may recover through end-user charges their carrier-specific costs directly related to providing number portability. The FCC concluded that this framework for cost recovery (from end users rather than other carriers) best serves the statutory goal of competitive neutrality. The prohibition on such charges is codified at 47 C.F.R. § 52.33. The Commission needs to protect the public interest and prevent merger-related harm to competitors and thus competition by ensuring that the combined company abides by its obligations under the law. Such merger conditions are adopted to ensure that the combined company will not follow its

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				increased incentive to engage in anti-competitive conduct or spread existing worst practices throughout its larger service territory post-merger. QSI Gates Direct (public) pp. 150-155 & 167-172.
24 b	Rate Stability – Access fees/ Network Interface Device (NID)	#24(b). Access or "use" fees or charges assessed upon CLECs that connect a competitor's own self-provisioned loop, or last mile facility, to the customer side of the Merged Company's network interface device ("NID") enclosure or box; and	"These issues are associated with prior and ongoing billing and/or interconnection agreement between Qwest/CenturyLink and CLECs. These are not legitimate merger concerns and are misplaced in this proceeding. In addition, these issues have been arbitrated in other state venues and the rates at issues [sic] are contained in the interconnection agreements approved by the MN Commission. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 22, Row 1.	Condition 24(b) is necessary to ensure continuity of operations and wholesale rate stability for Joint CLECs currently competing with Qwest. If imposed, this condition would ensure that new subscriber acquisition surcharges are not assessed upon competitors operating in the Qwest service territories in the form of fees assessed upon CLECs that connect a competitor's self-provisioned loop to the customer side of the Merged Company's NID enclosure or box. Joint CLECs are not asking the Commission to revisit prior or ongoing billing or interconnection disputes. These surcharges are not contained in Qwest agreements approved by the Minnesota Commission. Further, with respect to these surcharges, CenturyLink incurs no costs or technical obligations when a CLEC unplugs the short cross connect between the network side and the customer side of the NID enclosure. In addition, a CLEC's limited use of the customer side of the NID enclosure to connect its network to the customer's inside wire generally only arises in limited circumstances, usually when CenturyLink has installed an

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				enclosure on the customer's premises in a way that blocks any reasonable access to the customer's inside wire. QSI Gates Direct (public) pp. 68-69 & pp. 148-188.
24c	Rate Stability – Storage fees - DL	#24(c). "Storage" or other related fees, rents or service order charges assessed upon a CLECs' subscriber directory listings information submitted to the Merged Company for publication in a directory listing or inclusion in a directory assistance database.	"These issues have been arbitrated in other state venues and the rates at issues [sic] are contained in the interconnection agreements approved by the MN Commission. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 23, Row 1.	Condition 24(c) is necessary to ensure continuity of operations and wholesale rate stability for Joint CLECs currently competing with Qwest. If imposed, this condition would ensure that new subscriber acquisition surcharges are not assessed upon competitors operating in the Qwest service territories in the for of fees assessed upon a CLECs' subscriber directory listings information submitted to the Merged Company for publication in a directory listing or inclusion in a directory assistance database. Joint CLECs are not asking the Commission to revisit prior or ongoing billing or interconnection disputes. These surcharges are not contained in Qwest agreements approved by the Minnesota Commission. Notably, Embarq has imposed fees that were contrary to its statutory obligation to provide nondiscriminatory access to directory listing functions as required by 47 U.S.C. § 251(b)(3); 47 C.F.R. § 51.217 (a) and (b). Embarq sought to impose the charge only on facilities-based competitors that utilize their own-last mile facilities as opposed to the unbundled loops and services of Embarq. The Washington Commission, for

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				example, found this practice to be unreasonable and contrary to federal law. [Arbitrator's Report and Decision, Docket No. U-083025, January 13, 2009, at pp. 11-12]. QSI Gates Direct (public) p. 66, lines 4-23 & pp. 168-175.
25	Compliance – Routine Network Modifica-tions	#25. The Merged Company will provide routine network modifications in compliance with federal and state law, as well as the terms of applicable interconnection agreements.	"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 1, Row 3.	In discovery, CenturyLink has said that, "in all service areas post merger, CenturyLink will continue to provide routine network modifications in compliance with federal and state laws and with applicable terms in interconnection agreements." As CenturyLink agrees to do this, and it is required by law, the condition is appropriate and reasonable. It is worrisome that CenturyLink considers an obligation to comply with federal and state laws and interconnection agreements to be inappropriate and unreasonable. See QSI Gates Direct (public), §VI(D), pp. 172-176.
26	Compliance – Engineer & Maintain Network	#26. After the Closing Date, the Merged Company will engineer and maintain its network in compliance with federal and state law, as well as the terms of applicable interconnection agreements. Resources will not be diverted to merger-related activities at the expense of maintaining the Merged Company's network.	"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements. The proposed condition may require the establishment of terms and conditions that are not covered by applicable law. CLECs should not be permitted to add new obligations and unilaterally impose conditions that are more expansive than those required by the law or contractual terms. This condition is not needed, inappropriate and unreasonable."	CenturyLink has repeatedly represented that it will continue to invest in its network post-merger and that it is fully capable of allocating resources to both maintain current operations and to conduct merger-related activities post-merger. See, e.g., Minnesota Petition at p. 3 ("It will provide the combined company with greater financial resources and access to capital enabling it to invest in networks…") and p. 13 ("CenturyLink has a demonstrated ability to acquire and successfully integrate companies, and to combine systems and practices, while

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			CLQ Att. 45, pp. 1-2.	continuing to provide high-quality service to customers"). Failure to maintain adequate investment and maintenance in the Merged Company network would degrade the network for the Merged Company, the PSTN and for CLECs, to the detriment of end user customers. This is a harm that should be avoided. A condition that requires legal compliance is a reasonable, even a minimal, way to attempt to avoid such harm. This condition is also needed to prevent inappropriate diversion of resources to merger-related activities that would normally be directed to the network. See QSI Gates Direct (public), §VI(D), pp.150-155 & 172-176.
26a	Compliance – Disrupt or Degrade Loop Access	#26(a). The Merged Company shall not engineer the transmission capabilities of its network in a manner, or engage in any policy, practice, or procedure, that disrupts or degrades access to the local loop.	"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements. The proposed condition may require the establishment of terms and conditions that are not covered by applicable law. CLECs should not be permitted to add new obligations and unilaterally impose conditions that are more expansive than those required by the law or contractual terms. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 2, Row 1.	Condition 26a is consistent with 47 C.F.R. § 51.319(A) (8)) which states: "An incumbent LEC shall not engineer the transmission capabilities of its network in a manner, or engage in any policy, practice, or procedure, that disrupts or degrades access to the local loop." QSI Gates Direct (public) p. 175, lines 11-15. QSI Gates Direct (public) p. 176, lines 3-8. See QSI Gates Direct (public), §VI(D), pp. 150-155 & 172-176.
26 b	Copper Retirement	#26(b). The Merged Company will retire copper in compliance with federal and state law, as well as the terms of applicable interconnection agreements and as required	"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements.	In discovery, CenturyLink has represented that it will comply with all applicable state and federal laws and rules and ICAs in relation to copper retirement.

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		by a change of law.	The proposed condition may require the establishment of terms and conditions that are not covered by applicable law. CLECs should not be permitted to add new obligations and unilaterally impose conditions that are more expansive than those required by the law or contractual terms. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, pp. 2-3.	By its terms this condition does not "add new obligations" or impose "more expansive" conditions than required by law or contract, as it expressly requires compliance with the law. It is of concern that CenturyLink considers complying with the law to be a new obligation that is unreasonable. See QSI Gates Direct (public), §VI(D), pp. 150-176.
26c	Rate Stability – Engineer & Maintain Network	#26(c). The Merged Company will not engineer or maintain the network (including routing of traffic) in a manner that results in the application of higher rates for traffic or inefficiencies for wholesale customers.	"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements. The proposed condition may require the establishment of terms and conditions that are not covered by applicable law. CLECs should not be permitted to add new obligations and unilaterally impose conditions that are more expansive than those required by the law or contractual terms. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 2, Row 1.	CenturyLink cannot reasonably claim significant cost savings ($650 million) across the merged company while also claiming that it may engineer its network in an inefficient manner or in a manner that results in higher rates for wholesale customers. Such inefficiencies and higher rates are not in the public interest and would constitute merger-related harm. The requirement to not engineer or maintain the network in a manner that results in inefficiencies is consistent with 47 C.F.R. § 51.319(A) (8)), which states: "An incumbent LEC shall not engineer the transmission capabilities of its network in a manner, or engage in any policy, practice, or procedure, that disrupts or degrades access to the local loop." QSI Gates Direct (public) p. 175, lines 11-15 & pp. 150-176.
27	Compliance – Conditioned Copper Loops	#27. The Merged Company will provide conditioned copper loops in compliance with federal and state law and at rates approved by the applicable state commission. Line conditioning is the	"The merged company complies with all applicable state and federal laws, and terms and conditions of current interconnection agreements. The proposed condition may require	In Condition 27, the first sentence simply requires compliance with the law. The second sentence reflects the definition of line conditioning in 47 C.F.R. §51.319(a)(1)(iii)(A). The third sentence

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	(xDSL)	removal from a copper loop of any device that could diminish the capability of the loop to deliver xDSL. Such devices include bridge taps, load coils, low pass filters, and range extenders. Insofar as it is technically feasible, the Merged Company shall test and report troubles for all the features, functions and capabilities of conditioned copper lines, and may not restrict its testing to voice transmission only. If the Merged Company seeks to change rates approved by a state commission for conditioning, the Merged Company will provide conditioned copper loops in compliance with the relevant law at the current commission-approved rates unless and until a different rate is approved.	the establishment of terms and conditions that are not covered by applicable law. CLECs should not be permitted to add new obligations and unilaterally impose conditions that are more expansive than those required by the law or contractual terms. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 3, Row 1.	reflects the requirements of 47 C.F.R. §51.319(a)(1)(iii)(C). The final sentence recognizes that, in each state in Qwest's territory, the Commission has already established rates (either non-recurring charges or recovery via recurring charges) for line conditioning and therefore the Merged Company must either charge that rate or seek state commission approval to charge a different rate. That the condition so closely follows the language of the law shows that it does not add new obligations and it is not more expansive than the law. A review of the Legal Authority Compared to Qwest Position Matrix (Exhibit BJJ-2) demonstrates that there is substantial evidence warranting a concern that the ILEC is already improperly inhibiting CLECs' provision of advanced services using conditioned copper loops throughout Qwest's legacy territory. This result is directly contrary to the public interests reflected in the national broadband plan. Qwest is inhibiting CLECs' ability to provide broadband services to small and medium sized customers. Due to the proposed merger, CenturyLink has an increased incentive and opportunity to adopt these practices due to an increased footprint and the desire to boost revenues at the expense of its competitors. The importance of using copper to provide advanced services is apparent, however, in the FCC's conclusion that CLECs are impaired without access to unbundled xDSL-

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				capable stand-alone copper loops. As explained by the FCC's SBC-Ameritech merger order (¶ 196), a merger of this sort will increase the Merged Company's incentive and ability to discriminate against its competitors with respect to the provision of advanced services. See QSI Gates Direct (public), §VI(D), p. 176-177, line 14 & pp. 152-182; see also Exhibits BJJ-1 through BJJ-16 to Integra Johnson Direct.
28	Inter-connection – Single Point of Inter-connection (POI)	#28. At CLEC's option, the Merged Company will interconnect with CLEC at a single point of interconnection per LATA, regardless of whether the Merged Company provides service in such LATA via multiple operating company affiliates or a single operating company.	"The FCC's decision in the Southwestern Bell 271 Order does not apply to non-RBOCs such as CenturyLink. The order does not require the transport of traffic between separate legal entities and noncontiguous service territories." CLQ Att. 45, p. 30, Rows 2 & 3 (pp. 30-31).	Section 251(c) of the Act requires all ILECs – not only BOCs – to provide interconnection "at any technically feasible point within the carrier's network" and "that is at least equal in quality to that provided by the local exchange carrier to itself or any subsidiary, affiliate, or any other party to which the carrier provides interconnection." So, the fact that CenturyLink is an ILEC and Qwest is both an ILEC and a BOC should have no bearing on whether CLECs should be permitted to interconnect with the Merged Company at a single POI per LATA. The goal of the Act was to open local markets to competition for all ILECs, not just the BOCs. QSI Gates Direct (public), p. 183, lines 9-18 & pp. 148-188; QSI Ankum Direct, §VII(A), pp. 63-82.
29	Most Favored State/Nation	#29. All Conditions herein may be expanded or modified as a result of regulatory decisions concerning the proposed transaction in other states, including decisions based upon	"Terms or conditions addressing a state's public interest concerns are a result of negotiations, considerations and tradeoffs unique to that state. Bringing in other terms	CLQ does not identify a single state-specific condition or concern. CLQ also does not acknowledge that the conditions listed in Exhibit 8 to the QSI testimony of Mr. Gates have been submitted by QSI in

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		settlements, that impose conditions or commitments related to the transaction. CenturyLink agrees that the state commission of any state may adopt any commitments or conditions from other states or the FCC that are adopted after the final order in that state.	under an MFN provision moots the prior negotiation and the context under which items were discussed. Trade-offs made by the Commission and the Company that result in satisfying the public interest should not be subsequently unraveled by importing a condition from a different state. Individual state conditions often flow from individual state specific facts, circumstances and regulations. As a result, there will almost always be uncertainty as to whether and how a condition of approval in one state will be applicable to another. State conditions typically are particularized to address a state specific need. Due to the differences in each state, a condition or commitment in one state may not translate easily or hardly at all into a condition for another state." CLQ Att. 45, pp. 26-27.	at least 8 states in Qwest territory, without state-specific variation. These conditions are needed in every state to protect the public interest and prevent merger-related harm. Condition 29 will provide a degree of consistency and spread "best practices" across the Merged Company's service territory, while at the same time likely lowering the Merged Company's cost of post-merger compliance activities. A similar condition was adopted by the Oregon Commission in the Frontier-Verizon merger proceeding. By its terms, Condition 29 provides that a state commission must act to "adopt" conditions from another state or the FCC, and CLQ has provided no evidence that this Commission would act to adopt a condition that was inapplicable in this state. QSI Gates Direct (public), pp.187-188.
30	Dispute resolution	#30. In the event a dispute arises between the parties with respect to any of the pre-closing and post-closing conditions herein, either party may seek resolution of the dispute by filing a petition with the state commission at any time. Alternative dispute resolution provisions in an interconnection agreement shall not prevent any party from filing a petition with the state commission at any time.	"Every Minnesota interconnection agreement already contains language allowing a party to seek resolution of disputes before (be Commission at any time. This condition is not needed, inappropriate and unreasonable." CLQ Att. 45, p. 19, Row 2.	Merger conditions were not in place at the time that existing agreements were entered into. Condition 30 addresses resolution of disputes relating to merger conditions. It is important that the CLECs have a way to quickly and efficiently resolve disputes related to merger condition compliance. Otherwise, the Merged Company could just drag out disputes until some of the conditions expire or could avoid compliance with

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				this Commission's merger order for a long period of time, while imposing significant costs upon its competitors. See QSI Gates Direct (public), §VI(D), p. 188.