| In the Matter of: The | ) | Docket No.: |
| :--- | :--- | :--- |
| Joint Application of Qwest | ) | $10-049-16$ |
| Communications International, |  |  |
| Inc. and CenturyTel, Inc. |  |  |
| For Approval of Indirect. | ) |  |
| Transfer of Control of Qwest | ) |  |
| Corporation, Qwest |  |  |
| Communications Company, LLC, | ) | VOLUME I OF III |
| and Qwest LD Corporation. | ) |  |

## TRANSCRIPT OF HEARING PROCEEDINGS

TAKEN AT: Public Service Commission 160 East 300 South
Salt Lake City, Utah
DATE: October 26, 2010
TIME: 9:02 a.m.
REPORTED BY: Kelly L. Wilburn, CSR, RPR

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Direct by Mr. Merz
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OCTOBER 26, 2010

## PROCEEDINGS

CHAIRMAN BOYER: This is the time and place duly noted for the hearing on the merger of -- well, we'll read the caption.

It's Docket No. 10-049-16. And the case is captioned: In the Matter of the Joint Application of Qwest Communications International, Inc. and CenturyTel, Inc. For Approval of Indirect Transfer of Control of Qwest Corporation, Qwest Communications Company, LLC, and Qwest LD Corporation.

In terms of housekeeping, we're gonna -we're going to generally follow the suggestions in the report of the prehearing conference in terms of the order of witnesses, the times allocated for witness summaries, and cross examination.

I've added up all of those minutes and it looks like we can accomplish this task in two days if we stay on the case.

We've agreed to accommodate Mr. Proctor's schedule and we're glad to have Mr. Roberts with us. And so Mr. Roberts can be excused until such time as Mr. Orton testifies, I guess.

I guess we're going to hear Mr. King's testimony for the Department of Defense on Wednesday
morning. Mr. Orton will probably testify -- he's requested to testify after 4:00 tomorrow, on Wednesday.

The Utah Rural Telecommunications Association, URTA, will only attend the hearings if Mr. Meredith is cross examined.

We have three stipulations filed the Commission. Our intent is to simply hear testimony in favor and against those stipulations at the point and time designated for those witnesses on the prehearing conference report.

At 5:00 today we're going to hear from members of the public, if any, who wish to speak to this issue. So we'll have to conclude the case in chief before that hour.

Mr. Glover has been excused from attending this hearing as no one wishes to cross examine him.

With respect to the prefiled written testimony, on occasion, to expedite processes which are -- in complicated cases like this with lots of witnesses we've actually dealt with the admission of prefiled written testimony at the beginning of the hearing, rather than witness, by witness, by witness.

It seems to go a little faster, but we'll defer to your -- Counsel's preference on that. Any
thoughts on that approach?
MR. DUARTE: Your Honor, on behalf of the Joint Applicants, Qwest and CenturyLink, however your Honor wants to do it would be fine with us. We have a very brief, I'd say four or five question foundational direct examination to move the testimony into the record.

I don't think it will take that much time. But if you'd like to do that before the hearing, that's fine with us.

MR. MERZ: And your Honor, for the Joint CLECs -- this is Greg Merz for the Joint CLECs. We certainly don't have any objection to that.

CHAIRMAN BOYER: All right. We'll take care of that, then, in just a moment.

We just received an email from Mr. Spann. And he's been delayed -- or I guess there was a miscommunication in his office and his flight was scheduled at the wrong time, and so he'll be arriving late but will get here as soon as he possibly can.

With respect to the November 4th hearing, we want to remind Counsel that this is a tentative date and will be used only if we need hearing or the parties perceive a need for hearing after reviewing the DPU/Federal stipulation and the HSR documents.

So it's sort of a tentative date. But we have booked that, and the room is available, and the Commission is available.

MS. SCHMID: Chair Boyer?
CHAIRMAN BOYER: Ms. Schmid.
MS. SCHMID: I would like to note that the scheduling report addressed the disagreement between the Department of Defense and the Executive Agencies and the Division of Public Utilities regarding the appearance date of the Division of Public Utilities' witnesses.

Mr. Spann and I have not resolved that dispute. And I just wanted to alert you of that. Of course, he's not here.

CHAIRMAN BOYER: Okay. Would you remind me of the conflict there, or the contention?

MS. SCHMID: Mr. Spann wanted to examine the Division witnesses during this portion of the hearing.

CHAIRMAN BOYER: Uh-huh.
MS. SCHMID: My --
CHAIRMAN BOYER: Rather than on November 4th?
MS. SCHMID: Rather than on November 4th.
And then I proposed and advocate that the Division witnesses be examined on November 4th, as that is the date set -- scheduled with the stipulation, and the

Division has entered into a stipulation.
CHAIRMAN BOYER: Uh-huh. I think what we would like to do, if we possibly can, is we'll go through the other witnesses through tomorrow. And if we terminate before -- if we finish with the other witnesses before 4:00, at which time Mr. Orton will testify, we would like to hear the Division witnesses at that point in time.

MS. SCHMID: Thank you.
CHAIRMAN BOYER: All right. Well, let's enter appearances then now. And we should start with the Moving Parties. But to keep it simple in my mind I'm gonna -- as we do cross examination I'm just gonna kind of work across the room.

Are there other counsel present who are not sitting at counsel table? Apparently not. Okay. Well, I counted, I counted eight attorneys, and we have seven here and Mr. Spann is en route.

Let's begin with the Moving Parties.
MR. DUARTE: Yes. Good, morning your Honor.
For Joint Applicant Qwest Communications, Alex Duarte.
MR. ZARLING: Morning, your Honors. For Joint Applicant CenturyLink, Incorporated, Kevin K. Zarling.

CHAIRMAN BOYER: Very well. And then let's
begin with Ms. Schmid and Mr. Roberts, and then go around the room.

MS. SCHMID: Patricia Schmid, with the Attorney General's Office, representing the Division of Public Utilities.

CHAIRMAN BOYER: Mr. Roberts?
MR. ROBERTS: Thom Roberts, with the Utah Attorney General's Office, on behalf of the Office of Consumer Services.

CHAIRMAN BOYER: Thank you.
MR. MERZ: Morning Commissioners. Greg Merz representing the Joint CLECs. And the Joint CLECs include TW Telecom of Utah, McLeod USA Telecommunications Services, d/b/a PAETEC Business Services, Integra Telecom of Utah, Inc., Electric Lightwave, LLC, and Eschelon Telecom of Utah, Inc., and Level 3 Communications.

CHAIRMAN BOYER: Thank you, Mr. Merz.
MR. PEÑA: Good morning Commissioners. My name is Rogelio Peña and I'm here on behalf of Level 3 Communications.

CHAIRMAN BOYER: Welcome, Mr. Peña.
MR. MECHAM: Good morning. Steve Mecham from the law firm of Callister, Nebeker \& McCullough, representing Utah Rural Telecom Association.

CHAIRMAN BOYER: And Mr. Mecham, you're -are you going to excuse yourself at some point?

MR. MECHAM: I would move for Mr. Meredith's admission. And I'll monitor from there, assuming he gets admitted.

CHAIRMAN BOYER: Okay. We'll take Mr. Spann's appearance when he arrives.

Okay, next item of business then is let's deal with the prefiled written testimony. And for those who haven't practiced before us I'd like to assure you that we've reviewed all of the prefiled written testimony. So do not feel too deprived that you don't get to speak longer or your witnesses don't get more than five minutes to summarize their testimony.

With that, let's begin with the Moving Parties, and then we'll go in that same order among other counsel.

MR. MERZ: Yes, your Honor.
CHAIRMAN BOYER: Mr. Duarte.
MR. DUARTE: I have a list here of the testimony that we filed. First, filed on May 27, 2010, we have three testimonies: JA-Exhibit-1 is the Direct Testimony of Jerry Fenn.

> JA-Exhibit-2 is the Direct Testimony of Jeff

Glover. And there are four exhibits, denominated as Exhibits 2.1, 2.2, 2.3, and 2.4. They were previously marked as Exhibit JSG-1 through JSG-4.

And then also the Direct Testimony of Jeremy Ferkin. That's JA Exhibit 3. And Mr. Ferkin has five exhibits that we'll mark as Exhibits 3.1, 3.2, 3.3, 3.4, and 3.5. Those were marked originally as Exhibit JF-1 through 5.

And we did have a problem with one of the exhibits, and so yesterday we filed an errata for those exhibits.

Then on September 30th we filed rebuttal testimony. And there are six pieces of testimony. The first one is the Rebuttal Testimony of Jerry Fenn, that is JA-R1. The Rebuttal Testimony of Robert Brigham, JA-R2.

The Rebuttal Testimony of Michael G. Williams, Exhibit JA-R3. The Rebuttal Testimony of Karen A. Stewart JA-R4. The Rebuttal Testimony of Michael R. Hunsucker, that's JA-R5.

And there are two exhibits to Hunsucker's testimony. We will mark those as Exhibits R-5.1 and R-5.2. And they were originally marked in testimony on December 30th as Exhibits A and B.

And then finally the Rebuttal Testimony of

Jeremy Ferkin. That will be JA-R6. And Mr. Ferkin has one exhibit, Exhibit R -- JA-R6.1. And it was originally marked as Exhibit JF-1.

And finally your Honor we did file some very brief surrebuttal testimony on October 14th. And that was -- we'll call that JA-SR1. And that is the surrebuttal testimony of Michael R. Hunsucker.

And so we move for admission into the evidence of all testimony and all exhibits.

CHAIRMAN BOYER: Thank you, Mr. Duarte.
Are there any objections to the admission of the direct, rebuttal, and surrebuttal testimony, together with exhibits, of the Joint Applicants?
(The parties respond in the negative.)
CHAIRMAN BOYER: Seeing none, they are admitted.
(Direct, Rebuttal, and Surrebuttal testimony and attached exhibits of the Joint Applicants were admitted.)

CHAIRMAN BOYER: Let's turn now to Ms. Schmid.

MS. SCHMID: Thank you. The Division would like to move the admission of the following prefiled testimony: The Direct Testimony of Casey J. Coleman, marked as DPU Exhibit 1, filed on August 30th. That
contains Attachment CJC-1.1.
Also the Direct Testimony of Clair Oman, premarked as DPU Exhibit No. 2.0, also filed on August 30th. And finally the Rebuttal Testimony of Casey J. Coleman, filed on September 30th, marked as DPU Exhibit 1.OR. With its attachment 1.1R. Thank you.

CHAIRMAN BOYER: Thank you, Ms. Schmid.
Are there any objections to the admission of the prefiled written testimony of Messrs. Coleman and Oman, together with attachments?
(The parties respond in the negative.)
CHAIRMAN BOYER: They are admitted then.
(Direct and Rebuttal testimony and attached exhibits of the Division were admitted.)

CHAIRMAN BOYER: Mr. Roberts?
MR. ROBERTS: Thank you. Thom Roberts on behalf of the Utah Office of Consumer Services. We would at this time move the admission of the Direct Testimony of Eric Orton dated August 30, 2010. This is Exhibit No. OCS-1D-Orton.

CHAIRMAN BOYER: Thank you, Mr. Roberts.
Any objection to the admission of Mr. Orton's direct testimony?

MS. SCHMID: None.

CHAIRMAN BOYER: It is admitted as well. (Direct testimony of the Office of Consumer Services was admitted.)

CHAIRMAN BOYER: Turning now to Mr. Merz.
MR. MERZ: Thank you, your Honor. The Joint CLECs would move the admission of the following testimony: The Direct Testimony of Douglas Denney, which has been marked as Exhibit Integra-1, which includes an attachment Exhibit 1.1.

The Direct Testimony of Bonnie Johnson, which has been marked as Exhibit Integra-2, which includes Exhibits 2.2 through 2.27.

The Direct Testimony of August Ankum, which has been marked as Exhibit Joint CLECs-1, which includes Exhibits -- Exhibit Joint CLECs-1.1 through 1.5 .

The Direct Testimony of Timothy Gates, which has been marked as Exhibit Joint CLECs-2, which includes Exhibits Joint CLECs-2.1 through 2.9. There's a highly-confidential version of Mr. Gates' direct testimony as well, I don't know if you want to mark that separately. It's also been designated as Joint CLECs-2.

CHAIRMAN BOYER: We haven't customarily identified them separately.

MR. MERZ: Then we also filed surrebuttal testimony. The Surrebuttal Testimony of Douglas Denny, which has been marked as Exhibit-1SR. And the Surrebuttal Testimony of Bonnie Johnson, which has been marked as Integra -- Exhibit Integra-2SR. And that includes Exhibits Integra 2-SR. 1 through 2-SR.3.

The Surrebuttal Testimony of August Ankum, which has been marked as Exhibit Joint CLECs-1SR. And the surrebuttal -- I apologize, your Honor. The Surrebuttal Testimony of Timothy Gates, which has been marked as Exhibit Joint CLECs-2SR.

And so we would move the admission of the direct and surrebuttal testimony that I've just identified.

CHAIRMAN BOYER: Thank you, Mr. Merz.
Are there any objections to the admission of the prefiled written direct and surrebuttal testimony of the witnesses identified by Mr. Merz?
(The parties respond in the negative.)
CHAIRMAN BOYER: They are admitted.
(Direct and Surrebuttal testimony and attached exhibits of Integra and the Joint CLECs were admitted.)

CHAIRMAN BOYER: Mr. Peña?
MR. PEÑA: Yes. Level 3 has three pieces of
testimony, your Honor. We have the Direct Testimony of Richard E. Thayer, which has been marked as 1.0 . That testimony has Attachment A, that's been marked as 1.1 .

And also we have the Surrebuttal Testimony of Richard Thayer, and that's been marked as 1SR. And we would move the admission of those into the record.

CHAIRMAN BOYER: Thank you, Mr. Peña.
Are there any objections to the admission of the prefiled written direct and surrebuttal testimony of Mr. Thayer, together with attachments?
(The parties respond in the negative.)
CHAIRMAN BOYER: They are admitted.
(Direct and Surrebuttal testimony and attached
exhibits of Level 3 were admitted.)
CHAIRMAN BOYER: And last but not least, Mr. Mecham?

MR. MECHAM: Thank you. The Utah Rural Telecom Association filed the Rebuttal Testimony of Douglas D. Meredith on behalf the Association. It consists of four pages. We also yesterday filed a letter acknowledging that the surrebuttal testimony of Michael Hunsucker appears to have addressed our issue.

And we would move the admission of both of those. The testimony probably should be marked

URTA-1, and the letter URTA-1.1.
CHAIRMAN BOYER: Thank you, Mr. Mecham. Are there any objection to the -- objections to the admission of Mr. Meredith's rebuttal testimony and the letter identified by Mr. Mecham?
(The parties respond in the negative.)
CHAIRMAN BOYER: Okay, they are admitted.
(Rebuttal testimony and Exhibit No. URTA-1.1 of the Utah Rural Telecom Association were admitted.)

CHAIRMAN BOYER: Okay, very well. Now Mr. Spann has not yet arrived, so we'll proceed without him.

Let's begin with the Moving Parties' first witness, Mr. Brigham. Is that correct, Mr. Duarte?

MR. DUARTE: That's correct.
CHAIRMAN BOYER: Mr. Brigham, before you are seated would you mind raising your right hand and be sworn?
(Mr. Brigham was sworn.)
CHAIRMAN BOYER: Thank you, please be seated.
Mr. Duarte?
MR. DUARTE: Thank you, your Honor.

## ROBERT BRIGHAM,

called as a witness, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION
BY MR. DUARTE:
Q. Good morning Mr. Brigham.
A. Good morning.
Q. Please state your full name and business address for the record.
A. My name is Robert H. Brigham. My business address is 1801 California Street, Suite 4700, Denver, Colorado 80202.
Q. Mr. Brigham, who do you work for and what is your position?
A. I work for Qwest Corporation, and I'm a staff director in the Public Policy Department.
Q. Mr. Brigham, did you prepare rebuttal testimony that was filed on September 30, 2010, and admitted into the record of this proceeding this morning as Exhibit-JA-R2?
A. Yes, I did.
Q. Does your rebuttal testimony have any exhibits?
A. No, it does not.
Q. Do you have any confidential or
highly-confidential testimony in your rebuttal testimony?
A. No.
Q. Do you have any corrections to make to any of your rebuttal testimony?
A. No, I do not.
Q. Mr. Brigham, are all the answers in your rebuttal testimony true and correct to the best of your knowledge?
A. Yes.
Q. Finally Mr. Brigham, if I were to ask you the same questions here as those in your rebuttal testimony would your answers be substantially the same?
A. Yes.
Q. Mr. Brigham, do you have a summary of your testimony?
A. Yes, I do.
Q. Please present your summary.
A. Okay. First of all, my testimony -- my rebuttal testimony rebuts the testimony of Dr. Ankum and Mr. Gates on behalf of the Joint CLECs, as well as Mr. King on behalf of the Department of Defense.

Essentially Mr. Gates and Dr. Ankum argue that the current telecommunications market in Utah is
not sufficiently competitive today. And they argue that Qwest dominates the market and has a high level of market power.

They argue that the merger will harm competition by providing the post-merger company with additional market power that would allegedly allow the Company to act in an anticompetitive manner, to the detriment of public interest in Utah.

My testimony shows that they provide an inaccurate assessment of the competitive environment that exists today, and as well as the environment that will exist after the merger is consummated.

First and foremost, they ignore the fact that CenturyLink has virtually no presence in the State of Utah today. They have nine access lines in Southeast Utah. So essentially, after the merger is completed, in the State of Utah the footprint of the company will be basically the Qwest footprint that exists today.

I believe it makes no sense to claim that the combined company will somehow have additional market power and be able to act in an anticompetitive manner when the company will look exactly as it looks today.

The market in Utah is very competitive today. It will be competitive in the future. Competition is thriving. Qwest will not dom -- the post-merger
company will not dominate the market, just as Qwest does not dominate it today.

Briefly I'd like to talk a bit about the retail market. Mr. Gates argues that incumbent local exchange carriers such as Qwest control 70 percent of the market in the State of Utah today. And he argues that this means that Qwest has a lot of market power.

Essentially the problem with this is that market share is not a full indicator of the level of market power because, first of all, it's a historical snapshot of a point in time. It does not consider market trends. In addition, it does not consider the fact that there may be all sorts of alternatives despite a particular market share.

Now, I think that another major problem with Mr. Gates' analysis is that he basically comes up with a wireline market share and ignores wireless service entirely. As we're all aware, wireless is a substitute for wireline service. Many people, in fact 25 percent of Americans, have dropped their wireline service.

I believe that no reasonable competitive analysis can ignore wireless substitution. In fact, in Utah today incumbent local exchange providers, including Qwest, have only 25 percent of the voice market.

I think it's important to realize that Mr. Coleman of the DPU also stated that, and I quote: "Customers have many different options." And those would include cable, such as Comcast, Voice Over Internet Protocol providers, and wireless providers.

I also would point out that the legislature in Utah has determined that retail rates for Qwest would not be price regulated, which is an acknowledgment that there is a high level of competition in the State of Utah. And that's not going to change.

I'd also point out that broadband services, Qwest today provides service through DSL-type technologies. And if you look at the share of the market that DSL has in Utah according to the FCC, it's only a third of the market, as there's cable modem and there's wireless alternatives that are available.

So the bottom line is -- in the retail market is that Qwest is not dominant today, and it's not gonna be dominant after the merger is completed.

I point out also that the Department of Justice has looked at this merger. And we received early termination, which basically is clearance from the Department of Justice that the merger is not
anticompetitive. So they've looked at it and they have no further concerns.

Let me turn briefly to the wholesale market. The important thing here is the fact that this, this merger is not changing anything in the wholesale market. In other words, Qwest today is subject to Sections 251, 252, and 271 of the Federal Communication -- Telecommunications Act.

That means, for example, that Qwest has to provide unbundled network elements to competitive local exchange carriers, or CLECs. Essentially we have to provide on the loop in -- for loops, for example, Qwest is required to provide unbundled loops in every single wire center in the State of Utah. Except for in Salt Lake Main we are not required, based on the tri-annual review -- Tri-Annual Review Remand Order we are not required to provide DS3 loops.

But DS1 loops and other loops are available throughout the State of Utah. That does not change. It's gonna be the same way with the post-merger company as it was with the pre-merger company for the Qwest subsidiary.

The other thing I would say is that the interconnection agreements are still in effect. The performance assurance plan is still in effect. The
other point I would make is that CLECs are a very major con -- major customer of Qwest today.

They'll remain a major customer of the post-merger company. And I believe that Qwest and the post-merger company definitely have an incentive to meet the needs of those carriers. They're a major company -- or a major customer.

And we would certainly prefer that they stay on our network than move to some other competitive alternative, such as another fiber provider, or wireless, or going with a cable company, something like that. So we have incentive to make sure that their needs are met.

So the bottom line on wholesale is that really nothing changes due to this merger. So in conclusion what I would say is that the merger does not adversely impact competition in Utah. It does not confer additional market power on the post-merger entity.

The benefits of the merger are, as other witnesses described, that this merger will result in a financially-stronger company that will have the resources that will enable the company to compete with other alternatives, such as cable, wireless, voice over Internet, and whatever technologies are developed
in the future.
As you know, Qwest is losing access lines at a pretty rapid clip, and we would like to be able to stem that by being a healthy company that can compete with these other alternatives. And we believe that that's in the interest of Utah. And that concludes my summary.

MR. DUARTE: Thank you, Mr. Brigham.
Your Honor, I have no further questions for Mr. Brigham at this time. Qwest tenders Mr. Brigham for any cross examination and questions of the Commissioners.

CHAIRMAN BOYER: Okay. And thank you, Mr. Brigham, for your concise summary.

What we typically have done is we permit cross examination from the other parties first, and then we'll see if the Commissioners have any questions of you, Mr. Brigham, and then we'll offer some redirect if that's okay.

Beginning with Ms. Schmid, have you any questions of Mr. Brigham?

MS. SCHMID: No.
CHAIRMAN BOYER: Thank you. And Mr. Roberts has excused himself for the time being.

I know Mr. Merz does.

MR. MERZ: I do, thank you.
CROSS EXAMINATION
BY MR. MERZ:
Q. Good morning Mr. Brigham.
A. Morning Mr. Merz.
Q. I wanted to ask you first about something that you said in your summary just a moment ago when you referred to the approval that you received from the Department of Justice. Do you recall that?
A. Yes.
Q. Now, that approval related to the compliance with antitrust laws. Is that your understanding?
A. Yes.
Q. The Department of Justice wasn't undertaking the kind of broad public interest review that this Commission is undertaking?
A. I would say they're not taking the exact same review. What they did is they evaluated whether the merger would be anticompetitive. They viewed things like, for example, places where we might offer service in the same areas. They looked at adjacencies.

They looked at a number of areas to determine whether this merger would have anticompetitive effects. And they found, obviously, that there were no anticompetitive effects and that they didn't need
take any further action.
Q. But the anticompetitive effects you're talking about are anticompetitive effects that might result from increased concentration in the market?
A. Right, or increased market power, increased -- yes.
Q. Now, you also talked about the advantages of the merger in terms of improving the financial strength of the company. I take it you would not take the position that if the merger were not to go through Qwest is somehow unable to compete in the retail market, would you?
A. Oh, I, I certainly wouldn't say that if the merger did not take place Qwest would not be able to compete. What I would say is that the merger will allow Qwest, in the post-merger entity, to better compete than it is today because it will have the additional financial strength and resources to compete with the many intermodal options the customers have today.
Q. You would not characterize Qwest today as a company that is not financially strong?
A. Well, certainly I would say that we're financially strong. We are -- at least I know we're about to announce earnings for the next quarter. But,

I mean, we have in recent quarters been able to earn a profit.

I would say that we are, you know, essentially a strong company. But we certainly could be stronger, and we believe the merger will make us stronger.
Q. If you would turn now to your rebuttal testimony at page 7? And I'm looking specifically at line 5, where you say that there's no basis to assume that the combined company will cost ma -- cost -- I'm sorry, let me start again:
"...there is no basis to assume that the combined company will cut costs in a manner that harms CLECs."

Do you see that?
A. Yes.
Q. You would agree with me that the company post-merger does in fact intend to cut costs, correct?
A. Well, I think we certainly are intending to achieve synergies from the merger, I think as some of the other witnesses described.
Q. Indeed. And you talk about those synergies beginning at line 14 on page 7 of your rebuttal; is that right?
A. Yes.
Q. And you say there that:
"...the synergies realized by the merger will reduce costs by eliminating duplicative functions and increasing economies of scale and scope."

Do you see that?
A. Yes.
Q. It would be reasonable to assume that some of those synergies would be in the wholesale area, wouldn't it?
A. Well, certainly to the extent that we have for example, you know, two vice presidents of wholesale. We may only need one vice president of wholesale after the merger. You know, there may be some efficiencies.

I certainly would argue that none of the changes that would be made would have any effect on wholesale customers. And we certainly wouldn't be doing anything that would directly cut back on the provision of service and the service quality that we're currently providing to CLECs.
Q. Right now CenturyLink has regional service centers that provide service to CLECs; is that your understanding?
A. Yes. I'm not -- certainly not an expert on

Qwest's wholesale operations, but that's my understanding.
Q. And you understand as well that Qwest has regional service centers that provide service to CLEC customers?
A. That's my understanding.
Q. Okay. And those regional service centers perform the same functions for those two companies, correct?
A. You know, I would say that in general they perform the same functions, but I'm certainly not an operational expert on exactly what functions are performed by each of the wholesale centers.
Q. But you would agree with me that at least that's a potential area of duplicative functions that the Company could look to to realize the synergies that it is projecting?
A. Well, certainly to the extent that you had somebody -- you know, someone who is doing the exact same function and it no longer was necessary, you would be able to achieve synergies. But the point would be that if -- we're certainly not gonna cut out the actual functions that are done in any way that's going to cut back on service quality.
Q. You're not going to cut out the functions but
you might reduce the number of employees who are performing those functions, correct?
A. It's possible. I don't have intimate knowledge of -- as I understand it, there's going to be a complete review of operations. And there's a review going on right now on integration planning. I certainly don't have details about exactly how things are going to change post-merger. I think a lot of that has yet to be determined.
Q. Another example of potentially-duplicative functions is in the area of OSS. For example, CenturyLink has its own OSS, correct?
A. Yes.
Q. And CLECs use that OSS to access services from CenturyLink, correct?
A. Yes.
Q. And Qwest has its own OSS, correct?
A. Yes.
Q. And CLECs use that OSS to access services from Qwest?
A. Yes.
Q. So that would be another area of potential duplication that the Company might look to to realize synergies. Would you agree with me?
A. Again, I can't speak to exactly where the
synergies will be found in, in wholesale centers where we're providing service.

I do know that the plan is that we are not going to do anything that would any way harm service or hurt service quality. And we're certainly not going to have OSS that does not meet the needs of CLECs.

And as far as exactly what employees might be determined to be duplicative, or whether there might be some function that could be eliminated, I can't speak to that.
Q. If as a result of the merger the Company is able to reduce its cost to provide wholesale service, does the Company intend to reduce wholesale rates that CLECs pay?
A. I don't have any knowledge of what's going to happen to wholesale rates going forward.
Q. You are aware that the merged company will be in competition with CLECs to provide service in the retail market, correct?
A. Yes.
Q. Go to your rebuttal --
A. CLECs and others, such as cable companies and wireless, et cetera.
Q. Go to your rebuttal at page 9. And beginning
at line 7 on page 9 you discuss the reduction that Qwest has experienced in head count between 2004 and 2009; is that right?
A. Yes.
Q. And have there been additional head count reductions in 2010, do you know?
A. I don't know.
Q. Okay. Do you know whether that reduction in head count has taken place in any particular area? Functional area?
A. Well, certainly the numbers that I've quoted on page 9 of my testimony, that is total Qwest. So it's not broken down by say wholesale, retail, or any other market unit.
Q. You don't know where those numbers come from?
A. Well, the -- I -- the numbers that are in my testimony come from Qwest's financial reports.
Q. It was a poor question, I apologize. You don't know where that head count comes from; whether it's retail service, or wholesale service, or a combination?
A. Well, I think this -- the numbers that I've quoted are total head count. That includes all of that.
Q. Okay. If there were no merger you would
anticipate that trend to continue in the future at Qwest, correct?
A. Well, I don't -- I certainly can't predict the future. But typically what's been happening is that as we've -- as revenues have declined we have reduced our head count, which is what's allowed us to make a profit.

In other words as the business becomes smaller, which it has, we've reduced head count so that we can continue to earn a profit. So to the extent that access line accounts continue to go down and other services, we would anticipate that head count would be reduced.

But I don't have any -- that's just the trends that have happened in the past. I have no way of knowing what the Company's planning on doing in the future.
Q. And that gets to my next question. I'll just make sure that I understand your answer. You're not aware of any pre-merger plans on the part of Qwest to continue reducing its head count in 2010, 2011?
A. I'm not aware of any future plans, no.
Q. You would agree with me that the projected synergies that have been described for this transaction are in addition to whatever head count
reduction would have occurred anyway at Qwest, correct?
A. You know, without knowing exactly how Qwest would reduce head count, and not knowing exactly what the integration planners are coming up with, it's really hard for me to answer that.
Q. Well, but in order to constitute a synergy it has to reflect something that is a savings in addition to what would have happened regardless of the merger. You would agree with me about that?
A. Yes.

MR. MERZ: I have nothing further. Thank you, sir.

CHAIRMAN BOYER: Thank you, Mr. Merz and Mr. Brigham.

Any other cross examination of Mr. Brigham? Ms. Schmid? I already asked you, and you said no. That's right, we're working our way around the room, aren't we?

Mr. Peña?
MR. PEÑA: I don't have anything, your Honor.
CHAIRMAN BOYER: Mr. Mecham?
MR. MECHAM: No.
CHAIRMAN BOYER: Let's turn to Commissioner Allen? Commissioner Campbell?

COMMISSIONER CAMPBELL: I just have one question. It's probably a question Mr. Spann would ask if he were here.

In Charles King's surrebuttal testimony he challenges your assertion that wireless is a substitute, particularly as far as having a price-constraining effect, based on the FCC order. How would you respond to that?

THE WITNESS: Yes. The FCC order that's been referred to by Mr. King and some of the other witnesses in this case is a Phoenix Forbearance Order.

And I think certainly in that case the FCC decided that it would not view wireless as a subs -- as a price exchange substitute for wireline service. Which actually was a total reversal from the previous FCC's orders which had said wireless is a substitute for wireline service.

But I think what we need to do is look at that within the context of the fact that that whole docket, the purpose was to determine whether Qwest would receive forbearance from having to provide unbundled network elements to competitive local exchange carriers.

In other words, had we been granted forbearance, that would have meant Qwest would not
have had to have provided any unbundled network elements to competitive local exchange carriers.

So I think we need to understand at the time the question in that case was very different than the question in this case, which is -- the question in this case is whether the merger is in the public interest and, you know, whether the merger should be approved. In no way, shape, or form are we changing anything that has anything to do with unbundled network elements in this case.

So I would argue that the, that the cases are completely different. I certainly -- there's certainly some things in that FCC order that Qwest does not agree with. And, in fact, Qwest has appealed that order to the court.

And we certainly, we certainly don't -- we certainly believe that wireless -- it's fairly clear that wireless is a substitute, at least for many customers, for wireline service. And I think we're all aware of people that have cut the cord and have disconnected their wireline service in favor of wireless. You know, like I mentioned before, a quarter of Americans have already done that.

So I think it's incorrect to argue that wireless service does not have a price-constraining
effect on wireline service because I believe that it does. If Qwest were to increase its prices -- every time Qwest makes an increase in price on wireline service -- let's say you've got a customer that has both a wireless and a wireline phone?

If Qwest were to increase the price on that wireline? The customer is gonna look at that and go, Do I need both of these phones? Maybe, maybe this increase just causes me to where now I'm just gonna get rid of my wireline phone and I'm gonna go wireless only.

And I think we all know people that have done exactly that. So I would say we don't agree with the FCC, in that particular instance, on wireless.

CHAIRMAN BOYER: Just a question or two, Mr. Brigham. The Joint Applicants have forecast savings over the next 3 to 5 years in the round number of about $\$ 600$ million, or in excess of that.

Do you have any idea how that breaks out between savings, in terms of salaries and reduction in head count, and other savings through synergies and elimination of duplicative departments and that sort of thing?

THE WITNESS: You know, I'm aware that we, we stated 575 million of expense savings and 50 million
capital. As far as the exact breakdown of that, I don't have intimate knowledge of that. I think there are other witnesses that will be on that have a little bit more knowledge of what specifically is in the synergies.

You know, some of it is salary reduction. Maybe network efficiencies and a number of things like that that we hope to achieve. But I don't have a breakdown of that myself.

CHAIRMAN BOYER: For example, you might have two human -- after the merger you might have two human resource departments, and two regulatory departments, and those sorts of things.

THE WITNESS: Yes.
CHAIRMAN BOYER: Those are the synergies you're talking about?

THE WITNESS: Well, absolutely. I mean, certainly, you know, we've already announced some of the leadership of the new company. And, you know, for example, there's one president. There's one -- as you mentioned, human resources, there's gonna be one head of human resources. One head of law, you know.

So basically there are a number of executives that will be leaving the Company. And certainly, you know, I work in public policy. Well, we have -- also
have two public policy departments. And, you know, there's still decisions to be made as to how that's going to look going forward.

So certainly there's going to be those efficiencies gained by not having duplicate functions. And getting, you know, having, you know, that would be a sort of human resources issue.

I think there's also savings that will happen from the fact that we're combining networks, and there's some efficiencies to be gained there. So it's not just people.

CHAIRMAN BOYER: Okay. Thank you, Mr. Brigham.

Mr. Duarte, any redirect?
MR. DUARTE: No redirect, your Honor.
CHAIRMAN BOYER: Okay. Thank you,
Mr. Brigham, you may be excused.
THE WITNESS: Thank you.
CHAIRMAN BOYER: Turn now to your next witness. Will that be Mr. Hunsucker?
(Mr. Hunsucker was sworn.)
CHAIRMAN BOYER: Please be seated.
MICHAEL HUNSUCKER,
called as a witness, having been duly sworn,
was examined and testified as follows:

## DIRECT EXAMINATION

BY MR. ZARLING:
Q. Morning Mr. Hunsucker. Would you please state your full name and business address for the record, please?
A. Michael R. Hunsucker. Business address is 5454 West 110th Street, Overland Park, Kansas 66211.
Q. And Mr. Hunsucker, who do you work for and what is your position?
A. Director of CLEC management. And I'm employed by CenturyLink.
Q. Okay. Mr. Hunsucker, did you cause to be prepared and filed in this case rebuttal testimony that's been marked as Joint Applicants' Exhibit-R5?
A. Yes, I did.
Q. And did that include two exhibits?
A. Yes.
Q. And did you have any confidential or highly-confidential portions to your rebuttal testimony?
A. No, I did not.
Q. Do you have any corrections to make to that rebuttal testimony?
A. No.
Q. Mr. Hunsucker, if I were to ask you all the
questions that are contained in your rebuttal testimony today would your answers be substantially the same?
A. Yes, they would.
Q. And are those answers true and correct, to the best of your knowledge?
A. Yes.
Q. Now Mr. Hunsucker, do you have a summary of your testimony you'd like to read into the record?
A. Sure, I do. Good morning. As I said, my name is Michael Hunsucker. I'm director of CLEC management. In that role at CenturyLink I'm responsible for the negotiations of the interconnection agreements, the implementation of those interconnection agreements, and all account management relations and relationships with our CLEC customers.

In addition, I'm responsible for wholesale service reporting, wholesale revenue assurance, and management of our recip., comp, and access expenses, and resolution of inter-carrier billing disputes.

My testimony is focused primarily in two areas: One, to provide an understanding of our commitment to our CLEC customers and the wholesale market, and two, providing our position on the
proposed conditions that the CLECs have offered up in this proceeding.

CenturyLink has a long-demonstrated history and commitment of providing quality service to CLECs in accordance with our obligations under the interconnection agreements, the Telecom Act, and state law. And that will continue after this transaction closes.

The CLECs incorrectly contend that
CenturyLink lacks experience in the wholesale market. That we -- lacks experience in the wholesale market, lacks planning and guidance on wholesale operations systems.

One of the things that the CLECs have -positions the CLECs have tried to take is that we have very limited experience dealing with OSS, and that is simply not the case. And I'll talk a little more about that in just a minute.

One thing that I can say about CenturyLink, we're very committed to the wholesale market. We have a standalone organization within the Company that is led by Bill Cheek, president of wholesale operations, that is solely dedicated to providing service and being responsive to our CLEC customers.

In addition, one of the things that has come
out recently within the last several weeks is we have made what we call "Tier 2 staffing announcements," which are the direct reports to the president of the wholesale markets.

There seems to be concern that, you know, we're going to abandoned Qwest personnel through this decision. What the Tier 2 position announcements clearly demonstrate is that we're committed to keeping both the expertise of CenturyLink and the expertise of Qwest in the new combined company.

And in fact, three personnel were named to key positions within the combined company in regards to working with the CLECs and the wholesale customers.

And those were in the areas of product management/product development. That will be a Qwest individual that will be leading that.

We also have a Qwest individual who will be leading our wholesale operations, including our operation support systems, or OSS. And we also have a Qwest person that will be leading our provisioning group, which will also -- which will handle the provision of services for the CLEC customers.

I think the bottom line is that CenturyLink wants the best of the best from an employee perspective. And we recognize it is in our best
interest to staff the wholesale organization with employees from both companies, not just from one company or the other.

It's my -- it's our intent and certainly our direction that this philosophy will continue as we move through the organization regarding staffing decisions.

One thing I want to point out is that
CenturyLink and Qwest's current wholesale organizations are not built on a state-by-state basis. They're built on a national basis to handle orders and interact with our customers across a national scale, not just within an individual state.

As such, the CLEC comparisons in their testimony fail to account for the volumes and for the service quality CenturyLink has provided on a national basis. As stated in my testimony, CenturyLink has almost 2,000 active interconnection and resale agreements in place today.

We're on pace to process almost one million orders through our operation support systems. And we do have experience with a performance assurance plan in our largest CLEC market, that being Nevada. And this plan is very similar to the Qwest performance assurance plans that they have in their states.

The bottom line is we have experience. And we are increasing our experience as we move forward by combining the two companies and bringing in Qwest personnel who clearly understand the systems and processes that they have in place today.

We have not made a decision yet regarding whether the CenturyLink, or the Qwest OSS systems, or a combination of both will be maintained long term. What we have said is that that decision on OSS will be based on a methodical review of both systems, including functionalities and efficiencies both internal to the company and external to our CLEC customers across the 38 -state region in which we will operate.

CenturyLink is not under the gun to make a quick OSS decision as CenturyLink will own both systems after the transaction closes, in stark contrast to other mergers where there were dates by which other companies had to make a cut or convert to a new system.

We're gonna own both systems. And we can utilize that as we go through our planning process on which system we will use in the future.

The CLECs in this proceeding have proposed 30 conditions which we -- which they believe this
transaction should be conditioned prior to Commission approval. Basically those -- rather than -- you know, to kind of summarize at a high level, I think that we could look at these conditions generally in a few areas.

First, we believe they go beyond status quo. With this merger Qwest is -- Qwest will -- the Qwest entity will be going completely under CenturyLink, the parent company. But nothing changes. Everything that they have in place today will be there tomorrow. Including the interconnection agreements, the term of those agreements will, will continue, et cetera.

So there is simply no change. And for example, going beyond status quo, the CLECs have proposed that we freeze wholesale prices for five to seven years. That goes well beyond the status quo of today.

What they're asking us to do is give up our rights under state law, federal law, and the voluntary negotiated interconnection agreements that they have with us. Or they're simply asking us to go beyond what's required by law in some cases.

In addition, they are conferring jurisdiction on certain services not subject to this Commission's approval. For example, commercial agreements and
interstate special access. Those, those have no place within any merger condition.

So in summary, we believe that the conditions that the CLECs are proposing are simply not necessary. And we would propose that this transaction be approved without those conditions. And that concludes my summary.

CHAIRMAN BOYER: Okay. Thank you, Mr. Hunsucker.

MR. ZARLING: Okay, your Honor, I have no further questions. And I tender Mr. Hunsucker for cross examination and any Commissioner questions.

CHAIRMAN BOYER: Thank you, Mr. Zarling.
Ms. Schmid, any questions for Mr. Hunsucker?
MS. SCHMID: No questions.
CHAIRMAN BOYER: Mr. Merz?
MR. MERZ: Thank you.
CROSS EXAMINATION
BY MR. MERZ:
Q. Morning, sir.
A. Morning.
Q. You are the director of CLEC management for

CenturyLink?
A. That's correct.
Q. For how long has that been your position?
A. I took that position in April of 2008.
Q. And you came to CenturyLink from Embarq; is that correct?
A. Yes. I was a legacy Embarq employee, that's correct.
Q. What was your role at Embarq?
A. At the time of the merger I was working as director CLEC management and wholesale.
Q. In your position today you manage interconnection agreements between CenturyLink and CLECs; is that right?
A. That's correct.
Q. And you also manage the implementation of interconnection agreements; is that right?
A. That's right.
Q. And you also manage account relations with CLECs; is that right?
A. That's correct.
Q. Now, I think I understand the first two of those things but what does the third thing involve, managing account relations?
A. We have a group within my organization that is responsible -- it's kind of the single point of contact with the CLEC carrier. So if they're having any issues with service that are not getting resolved
they can escalate those through the account management.

They're also there -- my account managers have periodic discussions with most of the carriers. Some of those can be, you know, different periods of time. We may talk to them once a year, we may talk to them monthly. It depends upon the particular account and their needs.

They're also responsible for understanding what the customer needs and trying to advocate for whatever the customer is looking for within the Company .
Q. Qwest today has a group of people who are responsible for interconnection agreement negotiations; is that right?
A. That's correct.
Q. And Qwest today has a group of people responsible for implementing ICAs?
A. Yes, that's correct.
Q. And Qwest also has people in that account management function; is that right?
A. Correct.
Q. Now, after the merger, assuming it's approved, your responsibilities will include Qwest as well as the legacy CenturyLink customers; is that
right?
A. That's correct.
Q. You're currently a director. Is your job title gonna change if the merger goes forward?
A. Yes. I have been named as the vice president of wholesale services.
Q. And then there will be directors that report up to you; is that right?
A. That's correct.
Q. There are, as I understand it, five functional areas within the wholesale operations organization; is that right?
A. Within the wholesale operations organization?
Q. Right. As I understood it, Mr. Cheek is the president of wholesale operations?
A. That's correct.
Q. And that -- his organization, the wholesale operations organization, includes five functional areas --
A. Yes.
Q. -- is that right?
A. Yes. I'm -- I just wanted to make sure you were asking about the overall structure of the Company, not my individual group. And yes, that's correct.
Q. Okay. And one functional area is product management and marketing, correct?
A. Correct.
Q. That includes setting of prices?
A. Yes.
Q. The prices that the Company charges to CLECs, correct?
A. Yes, that's correct. And that will -- that group will be led by a Qwest individual.
Q. Another functional area is the wholesale operations? I'm sorry, the -- yeah, wholesale operations.
A. Operation support systems and wholesale operations, yes. And that group will be led by a Qwest individual too.
Q. And that involves the OSS that CLECs use to access the Company's services?
A. That's right.
Q. And then there's national public access, which is pay phones; is that right?
A. Yes. Correct.
Q. And is that an area that will continue after the merger of the companies?
A. Yes, it will. We have -- that handles both traditional pay phone as well as inmate pay phone
service where we have several contracts with some of the states across the country.
Q. Then there's a functional area called "wholesale and account management," which are non-CLEC wholesale customers, correct?
A. The wholesale and account management, I think that's the responsibility that, that I have. I'm not sure.
Q. Is there a separate organization that handles non-CLEC wholesale customers?
A. Yes. There is a sales group will handle the non-CLEC, or the IXC and wireless customers, yes.
Q. I want to talk with you now about OSS and integration issues. You are the witness that is the most knowledgeable for the Joint Applicants regarding OSS issues; is that right?
A. Yes, I would be.

MR. MERZ: Your Honor, I have an exhibit that I'd like to review with Mr. Hunsucker, and I don't know what the practice is with regard to marking it and the like.

CHAIRMAN BOYER: Usually we just mark it with the next number in your series.

MR. MERZ: Okay.
CHAIRMAN BOYER: And then if you'd provide
copies to the other counsel and the Commission, it would be helpful.
(Pause.)
CHAIRMAN BOYER: If you wish, Mr. Merz, you could label this Joint CLEC-Cross-1, or something of that nature, to distinguish it from the other exhibits.

MR. MERZ: Thank you.
MR. ZARLING: Before Mr. Merz proceeds, I notice the document is marked "Confidential."

MR. MERZ: It is.
MR. ZARLING: And so I'm -- like Mr. Merz, I'm uncertain about how the -- what the process should be to ensure that the document is -- the confidentiality of the document is preserved if he's gonna cross examine Mr . Hunsucker about it.

CHAIRMAN BOYER: Well, therein lies the challenge.

MR. MERZ: This is the, I think the standard level of confidentiality. So it would be able to be disclosed to anyone who's, who's signed Exhibit A to the Nondisclosure Agreement.

CHAIRMAN BOYER: Okay. We're streaming live audio of this hearing, so there are a lot of people out there over whom we have no control. And, in fact,

I don't know everybody that's in the audience today. So let me just caution you to be very careful about how you cross examine him on this particular document.

MR. MERZ: I will. And perhaps if Mr. Hunsucker can -- because he's gonna know better than I do, probably, what the sensitivity is. It's a diagram. And I want to ask him some questions about what these various things on the diagram mean.

And so if he can help me, I think maybe together we can get through this in a way that doesn't disclose anything that shouldn't be disclosed.

CHAIRMAN BOYER: And maybe you can refer to the colors on the flowchart. I think kind of a 30,000-foot level might help.

MR. MERZ: Yes.
Q. (By Mr. Merz) Mr. Hunsucker, you have in front of you what we have marked as Joint CLECs Cross No. 1. Do you see that?
A. Yes, I do.
Q. And do you recognize that as a CenturyLink response to a discovery request served by Integra?
A. I have not seen this response. But based on the -- I, I don't know. I mean, like I say, I have not seen this response before now.
Q. Do you recognize the charts that are attached
to the response as charts that reflect generally CenturyLink's OSS?
A. They appear to be the current architecture. But again, $I$ have not seen it, so I'm not familiar with what's here.

MR. MERZ: Your Honor, Integra would offer Joint CLECs Cross No. 1.

CHAIRMAN BOYER: Are there any objections to the admission of Joint CLECs Cross No. 1?

MS. SCHMID: None, except I would request that it be marked "Confidential."

CHAIRMAN BOYER: Okay. We really don't have much foundation for it at this point in time, but we will give it appropriate weight in that case.

MR. MERZ: And your Honor, I guess my point would be this -- I don't think there's any dispute that this is a CenturyLink response. Mr. Hunsucker is, in fact, the only witness that is being presented that's knowledgeable in any respect regarding CenturyLink's OSS.

CHAIRMAN BOYER: All right. And let's follow Ms. Schmid's suggestion as well and mark it "Confidential." If there are no objections, then, it will be admitted.
(Joint CLECs Cross-1 was admitted.)
Q. (By Mr. Merz) Mr. Hunsucker, if you could turn to the second diagram? And do you see at the bottom there a legend to the diagram? And I take it that all of the, the green boxes are considered by CenturyLink to be OSS; is that right?
A. I don't know whether they're considered to be OSS or not. I recognize some of these, but I do not recognize all of them.
Q. You refer in your direct testimony to a particular OSS that is used by CLECs; is that right?
A. Correct.
Q. And that's the EASE system?
A. Yes.
Q. And that -- you see that box on this chart, correct?
A. Yes, I do.
Q. Are you aware that CenturyLink has OSS in addition to its EASE system?
A. Certainly I'm aware that we have systems that provide maintenance and repair, billing. Other functions than what's performed in EASE, yes.
Q. Is the billing system reflected on this chart?
A. Yes, it is.
Q. Is the name of the billing system
confidential?
A. No.
Q. Could you tell us which of these boxes, or maybe there's more than one, that are the billing system?
A. There are two of these that are billing systems, those being Ensemble and CABS.
Q. Those boxes are indicated in white; is that correct?
A. That's, that's correct. On this chart they are.
Q. Do you know why that is?
A. No. I do not. I did not put this together so I don't know what drove that -- why it was labelled the way it's labelled.
Q. Do you know whether CenturyLink considers the Ensemble and CABS systems to be OSS?
A. According to this document I think the answer would be no. But again, I don't know why that decision was made, so I can't represent why it was done the way it would -- it is here.
Q. And my question is really different. It's, it really concerns what CenturyLink itself thinks of as OSS. I had the same question about why these boxes are white rather than green. Do you know whether

CenturyLink considers Ensemble and CABS to be OSS?
A. They are a billing system that, in my opinion, would be considered part of OSS, yes.
Q. And the FCC has said that billing is one type of OSS, correct?
A. Correct, it has.
Q. Now, there are a number of green lines and arrows; is that right?
A. Yes.
Q. It is -- what those green lines and arrows represent, is that something that's confidential?
A. I, I don't know, because I don't know what -again, I've not seen this before, so I don't know what those green lines represent.
Q. Let me ask --

MR. ZARLING: Let me interject. I believe anything that represents directionality between these different systems that are reflected on the chart is potentially confidential.

MR. MERZ: And I wasn't gonna ask him about that. My question is really whether the green lines and arrows are considered by CenturyLink to be OSS.

THE WITNESS: I, I don't know the answer to that question.
Q. (By Mr. Merz) Okay. There's a red dotted
line that connects some of these boxes. Do you see that?
A. Yes.
Q. And do you know what that is?
A. No, other than what's in the label here.
Q. Do you know what the label refers to?
A. It says "Swivel Chair."
Q. And do you know what that means?
A. Not -- no. No, I don't.
Q. You've never heard that phrase used in connection with OSS?
A. I've heard, heard that phrase used, yes.
Q. Okay. And how have you heard it used?
A. Typ -- well, let's say respective to OSS I don't know that -- I've heard the term used, "swivel chair." And what it typically responds to, in some cases there can -- we allow carriers to fax in orders. And when they fax in orders then we have to take those and input them into the system for the carrier, rather than the carrier being able to put them in the system directly.
Q. Have you heard swivel chair used to describe a way of moving information that include -- that requires taking the information manually from one system and rekeying it into another system?
A. That's what I was referring to there, because again, the orders are coming in a fax mode so they have to be -- look at a piece of paper and then take those and put them into the system.
Q. But you don't know, I take it, whether any of the red dotted lines that connect any of these boxes are a fax communication or something else?
A. I don't know if they're fax communication. I don't know whether they apply in all cases, because there's also green lines. This could be a very small percentage of, of what we're talking about. I have no knowledge of what, what that really represents.
Q. You've heard of the concept "flow through" used in connection with OSS?
A. Yes.
Q. What does flow through refer to?
A. Flow through is -- means that the order comes into the system, and it goes into the system -- it'll flow through into other systems without human intervention.
Q. And swivel chair is something that would not be flow through, correct?
A. That, again, based on a fax order I think that's correct, yes.
Q. Flow through is something that is desirable
in OSS; is that right?
A. Yes. We're always seeking to improve flow through. And actually when we implemented the EASE system last year in CenturyLink that is one of the most significant gauging factors that we were looking at, what impact that has on flow through.
Q. What has CenturyLink done thus far, if anything, to analyze how its OSS compares with Qwest in terms of flow through?
A. I'm not aware of any analysis that's been done, but I wouldn't be privy to that -- I wouldn't necessarily be privy to that analysis anyway.
Q. Do you know whether LSRs submitted by CLECs flow through CenturyLink's OSS?
A. My understanding is that they do. That was one of the goals when we implemented EASE LSR was improving flow through. That was communicated to carriers when we first notified them that we were moving to EASE and away from IRES. And that that was one of the most significant issues that was driving our conversion to the EASE system.
Q. What is your -- let me ask you maybe a little better question. I focused on LSRs. Do you know whether there are wholesale orders that don't flow through CenturyLink's systems?
A. There could be. But again, flow through is impacted by a lot of things. For example, if the address is not correct, if there's incorrect or missing information on the CLEC order, then it won't necessarily through flow through. It's rejected and has to go back to the CLEC to improve the quality of the order.

So there's a lot of reasons that would drive why there might necessarily be -- order might not flow through the systems.
Q. But I'm talking about something different. I'm assuming that if every -- if this order is submitted correctly but it doesn't flow through because of an inadequacy of the system. Are you aware of any wholesale orders that do not flow through CenturyLink's OSS because the systems don't accommodate that?
A. I am not aware of that, no.
Q. Would CenturyLink commit that any changes that it makes to Qwest's OSS following the merger will not result in reduced flow through?
A. You know, I think that is one issue that we're certainly going to look at if and when we make decisions. But I think that's part of the methodical review that we are gonna go through to ensure that
those -- that that is occurring.
So I can't sit here today and say that I
would commit. But I'm certain that we will look at -that will be one of the significant factors in making a decision.
Q. So you believe that the result -- possible result of that methodical review might be a change in Qwest's OSS that reduces flow through?
A. I didn't say that. I said it's a key -- that flow through is a key area for us, and one that we will certainly be looking at as we make OSS decisions in the future.
Q. But as I understand what you're saying is in the -- changes to Qwest's OSS may result in less flow through than is currently the case?
A. That's not what I said, no.
Q. And so, getting back to my original question, would CenturyLink commit today that it won't make changes to Qwest's OSS that reduces the level of flow through?
A. I cannot make that commitment today without having gone through the analysis that we're going to go through on the systems.
Q. You referred to the faxing of orders. Do you know whether CLECs fax orders because they want to, or
because there's not electronic bonding available that allows those orders to flow through from the CLEC system to the CenturyLink system?
A. Well, first $I$ would say there is electronic bonding with the ASR piece. We implemented that several months ago. We have a couple of carriers that are using the electronic bonding feature. We have most recently implemented that on the LSR side. And we have asked carriers to step up and test that with us and move to that on the, on the CLEC side. We've had no one willing to do that.

So, you know, e-bonding is certainly a, an end state that we want to get to with every carrier. But some carriers choose to fax orders in because they're small and they don't want to, you know, e-bond or use the EASE system.

And to date we have still allowed certain carriers to do that. They're generally smaller carriers who want to operate with us in that manner.
Q. But right now, if a CLEC wants to submit an electronic order for an LSR, e-bonding's not available to do that?
A. It is available to a CLEC today if they want to do that. We implemented UOM for the LSR component. And we've told carriers they can move to that. No
carrier has said -- told us yet that they want to move to that.
Q. That system is not one, then, that has been used in production, correct?
A. It's a -- I don't know that would answer it's not used in production. It's not being used by any carriers today.
Q. And so if a CLEC isn't e-bonded and wants to submit an LSR it would do that via fax; is that right?
A. No. They can use the EASE system and enter the order into the EASE system. And we also, I believe, allow for EDI exchange so we can -- you know, there's, there's multiple ways a CLEC can get an order to us. I don't profess to be expert on all the ways. All I'm saying is we allow for faxing for smaller carriers who want to do that.
Q. I'm talking now about a carrier that doesn't want to do that. I'm talking about a carrier that wants to use e-bonding for LSRs. The system that's available to them now hasn't been used by any carriers thus far; is that right?
A. That's correct. No carrier has come forward saying that they want that feature.
Q. And do you know why?
A. No, I do not.
Q. Has CenturyLink tried to figure out why nobody wants to use that system?
A. To my knowledge, I'm not aware of whether we have or have not.
Q. You are aware that Qwest would have its own chart that looks something like the chart that we've been talking about, correct?
A. I --
Q. It has its own OSS?
A. I would assume so.
Q. Do you know whether Qwest considers its billing systems to be part of OSS?
A. I don't know that I know the answer to that question.
Q. Does CenturyLink consider Qwest's billing systems to be part of OSS?
A. Does CenturyLink consider Qwest's systems? You know, obviously, based on the FCC definition of "OSS," it does include billing system -- systems.
Q. Do you know whether there have been any discussions within CenturyLink about replacing Qwest's billing system with Ensemble?
A. I understand that that is being looked at, but that's the extent of my knowledge.
Q. Who's looking at that?
A. I assume the IT folks and the billing personnel. But, again, I'm not part of that, part of that process.
Q. And when you say that's being looked at, what does that mean exactly? What, what's that looking involve?
A. I don't know what that involves. Again, they're the ones that are doing the analysis and the investigation. So, you know, all $I$ know is that all the systems are or will be looked at at some point.
Q. And one that is currently being looked at is the billing system; is that right?
A. That's my understanding that they are looking at that, yes.
Q. Do you know whether CenturyLink is willing to make a commitment to not replace Qwest's billing system for any specific period of time?
A. We have said at the FCC that we will not replace the OSS for 12 months. That was in Mr. Cheek's affidavit to the FCC. We also have settlement agreements in Iowa with the Minnesota DOC. Also with the Utah Department of Public Utilities.

As well as the CWA, where we, we have committed to a 24 -month time frame. Basically an extension of what Mr. Cheek said to the FCC a couple
months ago. So our commitment at this point has been in the sake of a overall settlement that we would agree with a 24 -month extension.
Q. And that 24 months that you're talking about, that includes billing systems; is that right?
A. Yes.
Q. And just to tie this out a bit, the billing system that we're talking about, Ensemble, generates bills to the CLECs, correct?
A. It -- yes, the Ensemble system generates resale -- bills to the CLECs for resale purposes. It does not generate bills for UNE and other unbundled network elements. It's used primarily and I think solely for generating bills for those carriers who resell our service at a discount.
Q. And it's CABS that's used for the UNEs; is that right?
A. It is CABS or it is CASS.
Q. If there are errors in the bill the CLEC gets, that can result in the CLEC making errors in billing its customers; would you agree with me?
A. It could. I mean, I don't know how the CLECs bill their customers. If they bill it based off the bill we send them, or if they have a contract with their end user that has certain rates. So it may or
may not impact the end-user billing.
Q. You don't know?
A. I don't know.
Q. Okay. Go to your rebuttal at page 4?
A. Okay.
Q. And I'm looking at line 12. And you touched on this a bit in your opening summary. But you talk there about drawing on the best wholesale and interconnection practices and capabilities of each company. Do you see that?
A. Yes.
Q. Okay. Now, you are aware, obviously, that CenturyLink and CLECs are competitors in the retail market?
A. We -- yes, we are competitors in the retail market. And as I said here today, I mean, we don't apologize for trying to compete on a retail basis. But I can tell you that my role and Mr. Cheek's role is to provide quality service to the wholesale customers because we value that service.
Q. You would agree with me that it may be the case that what CenturyLink regards as the best practice and what a CLEC might regard as the best practice still might be different things?
A. They could be different things. I mean, I
think that's why we have billing disputes and other things that are, that are between our companies.
Q. And that's one of the reasons we have a dispute about OSS in this case, correct?
A. I'm not sure I understand what you're really asking me with that question.
Q. Well, what I'm asking you is you understand that the CLECs are asking for a commitment that changes to Qwest's OSS not be made for a period of time?
A. Yes. The CLECs are asking for 5 to 7 years. And what we have said in the context of an overall settlement we would agree to do that for 24 months, just like we have in other settlements. Absent that we have said at the FCC we'll do it -- we won't change for 12 months.
Q. And so that's an area where CLECs and CenturyLink have a disagreement about what's best, correct?
A. Yes -- well, yes. There's a disagreement, yes.
Q. And at the end of the day that -- the way that disagreement will get decided is CenturyLink will make the decision, correct?
A. We will make the decision, but we're also
going to allow for CLECs to joint test with us. So that we can make sure that whatever system we go with is acceptable, both internally and externally, to our customers.

I mean, we have, we have no incentive to migrate to a system that's only 50-percent accurate, because that's gonna put more resource strains on our company to try to handle any manual processes that are occurring, or deal with billing disputes, or whatever.

So we set a high threshold for making sure that whatever system we use is, is compliant and provides accurate service to the CLECs.
Q. You would agree with me that, notwithstanding the very best of intentions on CenturyLink's part, if changes are made, mistakes can happen, correct?
A. Certainly mistakes can happen, yes. But that's why we go through the testing with the CLEC and we go through our own internal user acceptance testing is to minimize any issues there may be.

And as we've gone through conversions resulting from the CenturyTel-Embarq merger we go through, you know, pre-change testing and then we go through a period of post-change cleanup so that we can get it, get it right.

Our intention is to make sure that, whatever
we have, that it's accurate and correct.
Q. Go to your rebuttal at page 10. At line 1 you say that the speculation that Section 271 compliance systems might just disappear is nonsense. Do you see that?
A. Yes.
Q. And the 271 compliance systems you are referring to are the Qwest systems, correct?
A. That's correct.
Q. CenturyLink did not go through the 271 process, correct?
A. CenturyLink was not required to go through a 271 process.
Q. It wasn't required to and it didn't do that either, correct?
A. No, because we weren't required to.
Q. You are aware that as part of the 271 process Qwest's OSS went through extensive third-party testing, correct?
A. Yes. And I think that was done because these were new systems. They had never been put into production. There were not commercial volumes that were going through those systems. And those are all facts that are basically different as we sit here today.
Q. The testing that you've talked about is not the kind of third-party testing that Qwest went through as part of the 271 process?
A. No, it -- no -- that's correct. It's actually taking the commercial volumes that are flowing between the CLEC and our company and making sure that we can process those commercial volumes accurately and correctly through the system.
Q. When you say "commercial volumes," say a little bit more about what you mean by that.
A. As I said earlier, we -- in the legacy CenturyLink side we are processing almost 1 million -in 2010 it will be a little less than a million ASRs, access service requests, and LSRs through the EASE system.

Comparable numbers for the Qwest system is 1.8 million orders. On a comparable basis, just ASRs and LSRs? I know there was a lot of discussion in Minnesota concerning a much larger number. That number was not reflective of just wholesale orders.

So I'm comparing apples and apples here, wholesale orders to wholesale orders. And it's 1 million versus 1.8 million . So those are the commercial volumes that I'm talking about that have been going through the systems.

And even on the CenturyLink side we reached a maximum of a little less -- about -- in excess of 1.4 million orders a few years ago. So we're seeing those volumes steadily decline over time.
Q. And the million orders, you're talking about orders from CLECs; is that right?
A. That's correct.
Q. Okay. And do you know, as between ASRs and LSRs, how many are LSRs?
A. They're predominantly LSRs. The vast -- the higher percentage is because it does deal with porting numbers and directory listings, which is a large percentage.
Q. Go to your rebuttal at page 12?
A. Okay .
Q. At line 15 there you talk about critical systems migration criteria?
A. Yes.
Q. Cost would be another critical systems migration criteria, correct?
A. Ye -- yes, it is. And I think that cost is somewhat considered under, under some of these.
Q. I don't mean to cut you off.
A. For example, overall support of key business needs? Obviously cost -- containment cost structure
is a key business need, so it would be consistent for cost to be considered under that one.

IT systems infrastructure simplification where possible. So if we can simplify our infrastructure by getting to a single system, that will drive cost considerations as well.

So cost was not called out specifically, but I think it's embodied within what's here.
Q. One of the anticipated synergies from the merger is cost savings that would result from consolidation of systems, correct?
A. Yes.
Q. And it is the Company's preference to have a single system for both the CenturyLink legacy companies and the Qwest legacy companies?
A. Yes. Long-term, that's our goal.
Q. When you say "long-term," isn't it in the Company's interest, if it's gonna realize synergies, to realize those as soon as possible?
A. Yes. But again, we said we're gonna go through a very methodical review of the two systems. And at a minimum we've said it's gonna take 12 months. And in the settlement agreements we've committed to 24 months. So I wasn't using the longer term to be 5, 7, 10 years. I was simply referring to the fact that
it's not going to occur day one post-closing.
Q. Go to your rebuttal at page 11? At line 20 you say that CenturyLink pledges to give its CLEC customers ample and adequate notice of future changes.
A. Correct.
Q. Would you agree with me that there might be a disagreement between CenturyLink and the CLECs about how much notice is adequate?
A. There could be. But I also think if we're making a change to a Qwest system there is the change management process, which does define the time frames for ample and adequate notice. So in that case, if we were to adopt the EASE system, then we would follow the change management process and give the notice that's, that's required under that process.
Q. Under the process as it exists today?
A. Correct.
Q. In your testimony you talk in a number of places about there not being any immediate changes that will be made, correct?
A. Yes.
Q. Now, you testified in Minnesota, I believe, that in your mind an immediate change is one that happens the day after closing; is that right?
A. Yes, I believe that's correct.
Q. Would a change that happened one month after closing be, in your mind, an immediate change?
A. Well, it's not immediate to the transaction closing date. But again, on OSS we've committed to a minimum time frame.
Q. In instances where you've not committed to a minimum time frame but have said that there won't be any immediate changes, what can the CLECs and the Commission expect with respect to when those changes might take place?
A. Well -- okay. We can use some examples if that makes it a little clearer. Let's take the interconnection agreements. Certainly there are interconnection agreements in place between Qwest and the CLECs today in Utah.

To the extent that those agreements are fairly new and have three-year terms on them, then obviously we can't make any changes under the contract until after the expiration of the contract. Same thing with commercial agreements or other wholesale agreements that we have.

So you know, to the extent that the change is possible under today's environment with Qwest today, then we can make the change tomorrow, post-closing.

But I don't anticipate that we're -- you
know, nothing is going to happen day one. We're gonna be all about trying to get the organization in place and make sure that we're -- we understand where we're at, and move forward.

So again, going back to the agreements that we have, nothing's going to change day one if those agreements don't allow changes to be made.
Q. Go to page 55 of your rebuttal?

CHAIRMAN BOYER: Mr. Merz, while he's looking that up, we're going to need to take a short recess here soon to give our reporter a break. Will you give me a signal when you think you've reached a convenient point?

MR. MERZ: It will be -- as soon as I finish this point it will be a convenient point.

CHAIRMAN BOYER: Excellent, thank you.
Q. (By Mr. Merz) Do you have page 55? And that is a section of your testimony where you provide the various conditions that are being proposed by the CLECs, correct?
A. Yes, it is.
Q. I want to ask you a question about 15, which is right there at the bottom of page 55, and then following on to page 56?
A. Okay.
Q. And that condition requires 30 -days notice to CLECs of certain kinds of changes; is that right?
A. Yeah. There's actually two, two 30-days notice periods in here in two different sentences.
Q. And do you regard 30 days advance notice to be an unreasonable amount of time for the kinds of changes that are being described in that condition?
A. Well, I think we, you know, certainly we have some concerns with this information. For example, you want to know prior to an organizational structure change or to a contact information that that acquire -- we do that with 30 days advance written notice?

Certainly we could seek to do that. But, you know, there are points in time where you don't announce -- we announce an organizational structure we don't give our own internal employees 30-days notice in some cases.

And as well as contact information, we could have somebody resign and leave the company so it's impossible for us to give 30 -days notice. Advance written notice.

So when we look at this conditions there's a lot of questions in our minds. And given that this has been presented as part of 30 conditions, you know,
we're not willing to, to commit to the total package here.
Q. And my only question really focussed on this particular condition and whether you believed that 30 days was an unreasonable expectation for CLECs to have with respect to the kinds of changes that are described there. That's my only question.
A. And I think, again, to the extent -- there are certain situations where we could not provide 30-days notice, so we can't commit to, we can't commit to this as written.
Q. Barring the situation where it's literally impossible to give 30 -days notice because someone left the Company unexpectedly, do you believe that 30 days is an unreasonable expectation for CLECs?
A. You know, my personal opinion is no, it's not unreasonable. I don't -- you know, two weeks could be just as reasonable. So again, you know, it's a matter of whether we can come to an overall agreement on, on the terms of a settlement versus what is particularly in here condition by condition.

MR. MERZ: Now, would be a good time to take a break.

CHAIRMAN BOYER: Okay, thank you.
Before we take this recess, has Mr. Spann
arrived?
MR. SKEEN: No, he's not. Sir, Mr. Spann has not arrived, and I'm here temporarily till he gets here. He hopes to get here later this morning.

CHAIRMAN BOYER: Very well. Very well. I didn't want to ignore him if he had arrived and I don't know him by sight, so.

All right, we'll take a short -- like a 10 or a 15-minute recess.
(A recess was taken from 10:33 to 10:46 a.m.)
CHAIRMAN BOYER: We're back on the record. Before we recommence Mr. Merz's cross examination of Mr. Hunsucker, Ms. Schmid would like to move admission of an exhibit.

MS. SCHMID: Thank you. I inadvertently left Exhibit CO-2.1 off the list of exhibits that I requested to be admitted. This exhibit is attached to the Direct Testimony of Clair Oman. And I request its admission at this time.

CHAIRMAN BOYER: Any objection to the admission of that exhibit?
(The parties respond in the negative.)
CHAIRMAN BOYER: Very well, it is admitted. Thank you, Ms. Schmid.
(Division Exhibit CO-2.1 was admitted.)

CHAIRMAN BOYER: Mr. Merz?
MR. MERZ: Thank you, Commissioner.
Q. (By Mr. Merz) Mr. Hunsucker, before we broke you talked about this concept that the CLECs have proposed conditions and that CenturyLink was looking at them as a package. Do you recall that?
A. Yeah. I think I said we were looking at them in totality. What we actually had in their testimony was, you know, just the list of conditions, correct.
Q. I mean, does that mean that to the extent that CenturyLink and the CLECs would agree that a condition is reasonable, CenturyLink won't agree to that separate from addressing all of the conditions as part of a resolution?
A. Well, you know, it's hard for me to sit here and basically, you know, you're asking me questions is this reasonable, is that reasonable. Obviously we'd have to see the language before we could come to any decision on whether it's -- any condition is reasonable or not.

But the only thing that $I$ have to respond to is the 30 conditions. And, you know, sitting here trying to negotiate almost against myself on condition by condition little tweaks here and there, we'd have to see the language before we could agree to it.
Q. You've had the language that the CLECs have proposed for months now, correct?
A. Yes.
Q. Has CenturyLink red lined those conditions or suggested any alternative language if it had concerns?
A. No, because we believe that as they're written that they're not necessary for approval of this merger.
Q. But as I understand what you're saying is if the language were changed with respect to certain of those conditions perhaps the condition would be reasonable?
A. In the context of a settlement agreement, then we'd be more than willing to do that.
Q. And so, for example, we were talking about this Condition 15. And I understood you to be saying that, other than instances of impossibility, you thought that 30 -days notice was reasonable?
A. I said it was reasonable but, you know, again, we have to see the language and the total list of all the conditions that the CLECs would be willing to modify or change.
Q. But --
A. And we'd react from, we would react from there.
Q. But CenturyLink hasn't proposed any language to address what I understand to be your concern with respect to Condition 15 ?
A. No, because we don't believe that condition or any, any of these conditions are necessary.
Q. CenturyLink, excuse me, has four regional operations centers; is that right?
A. Yes. And let me correct that a little bit to what I said in Minnesota. We do have four locations. We have two regional operations centers primarily, one in Leesburg and one in Decatur, Indiana.

And we have two what I would consider remote satellite locations, but they do report in to the other two centers. So there are four locations for wholesale centers, but they're basically managed out of two centers.
Q. Okay. Do the Leesburg and Decatur centers both handle CLECs?
A. Yes. In my understanding they handle both CLECs and interexchange carriers, they serve a dual function. And then they're also able to handle overflow from one center to the other.
Q. What role, if any, do you have with regard to the management of those centers?
A. I have no role with regard to the management
of those centers.
Q. Where within the CenturyLink organizational structure do those centers fall?
A. They fall in the wholesale operations group, under Mr. Cheek, under Melissa Closz.
Q. And Qwest has six regional operations centers; is that right?
A. That's my understanding, yes.
Q. And you don't know how those are -- where those are located, correct?
A. I know where some of them are located. I don't know where they're all located. And I don't know what functions each of those perform.
Q. Do you know who within Qwest is responsible for the management of those centers?
A. Yes. That falls under their vice president of wholesale operations, Warren Mickens.
Q. And is there someone underneath Mr. Mickens that has more direct responsibility for those centers, do you know?
A. Yes, that's my understanding. I don't recall that person's name now, though.
Q. There would be, anyway, another tier between Mr. Mickens and the centers themselves, as you understand it?
A. Well, there would be somebody under Mr. Mickens who is responsible for their centers.
Q. Go to page 62 of your rebuttal.

Condition 18, which is at page 62, concerns the staffing of these support centers; is that right?
A. That's correct, yes.
Q. One of the things that Condition 18 asks is that the merged company ensure that the support centers are sufficiently staffed with adequatelytrained personnel, correct?
A. Yes.
Q. And do you believe that that's an unreasonable expectation for the Commission and the CLECs to have?
A. It's, you know, it's not unreasonable for the CLECs. It's also very reasonable for us internally that we're going to do that.
Q. But that condition is unacceptable to CenturyLink, correct? Condition 18?
A. Yeah, we, again, we think it's unnecessary. And it's within the context of 30 conditions, not a single condition.
Q. Is there any part of Condition 18 that CenturyLink believes it can agree to?
A. Again, we don't believe that any -- that this
condition is needed.
Q. But the CLECs believe it's needed?
A. I would assume so. They'll, you know, they'll speak for themselves based on their testimony.
Q. Does CenturyLink have any plan to reduce the number of employees that support wholesale services to CLECs?
A. I think the only plans that we have is once we are able to integrate the system then obviously we will have duplicative functions being performed. So there could be a plan in the future, once we are fully integrated, to reduce.

And then also we would look at -- over time we would look at the volumes that are coming through those centers. And it may be necessary to make staffing adjustments as volumes -- if, if they continue to decline like they have in the past.
Q. Is there any period of time for which CenturyLink would commit to maintaining its current staffing? I'm talking now about specifically the regional centers.
A. No. I don't think there's any period of time, because as we see volumes go down we've got to be able to staff our centers based on the load that's coming in to the centers.

So, you know, we're constantly looking at our load and drivers to drive our staffing. And if those continue to decline, we'll continue to make the necessary changes to the centers.
Q. And if there were a modification of the conditions such that it would enable CenturyLink to reduce based on reduced load, is that something you think would be reasonable?
A. I think that's something that we do today and will continue to do in the future.
Q. And I, when I say reasonable, reasonable to commit to in order to obtain approval of this merger?
A. Again, I think I've said a number of times we don't think we need to commit to any of these conditions because it's not necessary for the merger approval.
Q. Go to your rebuttal at page 15. And I'm looking specifically at lines 5 and 6 . And you say there that the conditions would only serve to increase CLECs' profits by pushing CLECs' costs of business -costs of doing business onto CenturyLink. Do you see that?
A. Yes, I do.
Q. Go to page 59: Specifically Condition No. 2. Are you there?
A. I'm -- yes, I'm there.
Q. Okay. And Condition No. 2 would prohibit the merged company from recovering or seeking to recover through wholesale rates or other fees paid by CLECs any transaction-related costs; is that right?
A. Correct.
Q. Now, the purpose of this condition you understand is to prevent CenturyLink from pushing its costs onto CLECs, not the other way around?
A. I don't understand that because, you know, as we discussed before, there's also language in here that says we will hold wholesale customers harmless for any other transaction-related cost. So --
Q. And there you're concerned that CenturyLink might make changes as part of the merger that would cause CLECs to incur costs?
A. CLECs could incur costs. And we want to make sure that we're not holding CLECs harmless for any costs that they incur.
Q. What are some examples of increased costs that CLECs might see as a result of the merger?
A. You know, I don't know that I have a definitive example that I could use. But the way this language is written so open ended, it -- you know, a CLEC could argue anything was rela -- was any other
transaction-related cost and try to come back to us and ask us to pay for that cost.
Q. Well, let's take an example we've already talked about. If CenturyLink were to make Qwest -make changes to Qwest's OSS, that would require CLECs to incur some costs, correct?
A. It could require them to incur some costs, yes.
Q. And you don't want, as part of Condition No. 2, to be held responsible for those increased costs?
A. Correct.
Q. And your concern is with the hold harmless language that's set out in Condition No. 2?
A. That's one concern. I still go back to the other concern that I've said numerous times, we don't believe that any of these conditions are necessary.
Q. One concern is you don't believe you should have to do -- you should have any conditions placed on this merger; is that correct?
A. Correct.
Q. Other than that concern and the concern about the hold harmless language, do you have any other concern about Condition No. 2?
A. Again, we'd have to see the language that we
could agree to with the CLECs to know whether it would be acceptable or not.
Q. Well, it's right here. I'm looking at it. And if you take out the phrase "and will hold harmless" -- "and will hold wholesale customers harmless for," is that acceptable?
A. You know, again, it's not necessary --
Q. And would you --
A. -- in our opinion, and we don't believe that it should be a condition.
Q. Why not?
A. Because we don't need these wholesale conditions to, to be placed on this merger. We will continue to provide quality service. We have always provided quality service at CenturyLink and Qwest both, and that will continue into the future.
Q. Well, this is talking about the concern of increased cost, not service quality, correct?

Condition No. 2, that's the focus of Condition No. 2?
A. Yes.
Q. And again, CenturyLink hasn't proposed any alternative language with respect to Condition 2 or any condition?
A. No. Because, again, we don't think it's
necessary.
Q. Does CenturyLink have any plans to recover transaction-related costs through wholesale rates?
A. I'm not aware of any plans as I sit here today, no.
Q. But CenturyLink won't commit to not doing that?
A. You know, again, because we don't believe it's necessary.
Q. Condition No. 3, similarly, would prohibit the recovery of increased management costs that might result from the transaction through wholesale rates; is that right?
A. Correct.
Q. And that condition also does not push CLEC costs onto CenturyLink. It tries to prevent the opposite problem, CenturyLink pushing its costs onto CLECs, correct?
A. Well, again, it's got the hold-harmless provision in it as well. So to the extent the CLECs' always -- overall management costs go up, you know, our concern is nothing here prevents them from coming back.
Q. If Condition 3 were limited to CenturyLink's costs, overall management costs, would you have a
concern? Other than your concern you don't think you should have any conditions.
A. Well, I think that is the concern.
Q. All right. And the reason you don't think you should have any is because you don't believe they're necessary?
A. Correct.
Q. And the reason you don't believe they're necessary is because you don't believe they're necessary?
A. (Laughing.)
Q. Is that right?
A. Well, the answer to that is yes, they're not necessary. That based on the -- this type of transaction, all the obligations that are in place today will continue tomorrow after this transaction closes. And there's no reason to place these kind of conditions upon this merger.
Q. Go to your rebuttal at page 24. Beginning at line 15 you discuss Conditions 21, 23, 26, and 27; is that right?
A. Yes. I was re-looking at that, yes.
Q. Sure. And then at the top of the next page, page 25, you say that:
"If the requested conditions stopped
at wanting compliance with applicable law and agreement terms, then the conditions would be entirely acceptable for CenturyLink."

Do you see that?
A. Yes.
Q. And so your objection to Conditions 21, 23, 26 , and 27 is that you believe those conditions go beyond compliance with applicable law and interconnection agreements; is that right?
A. That, that's correct.
Q. And your objection that you don't believe that you should have to have any conditions on your merger?
A. Yeah. At that point, you know, we're complying with the law today. We will continue to comply with the law tomorrow. And if the CLECs believe we are not complying with the law then they can obviously go to some formal litigation to solve that.
Q. They can bring a complaint case?
A. Yes.
Q. Go to page 56 of your rebuttal. Focus your attention on Condition 21. I won't ask you to read it, nor will I read it, but maybe you could just tell
me how that condition goes beyond compliance with applicable law and the interconnection agreements?
A. Certainly. This condition is asking or requiring a condition in the State of Utah to ensure that we're processing orders in compliance with federal and state law. This condition would then create an opportunity for a CLEC to bring a complaint against us for not being in compliance with federal law within the State of Utah.

To the extent that the FCC has conferred that ability to the State, then they could obviously do that. You have that right today. The CLECs have that right today. And -- but to the extent it brings an additional forum into play for CLECs to shop their complaints around, then we have a problem with that.
Q. Well, do you think it's reasonable for this Commission to expect that CenturyLink, after the merger, will comply with federal law?
A. I think it's reasonable for us to assume we're gonna comply with federal law, because we, we comply with it today, we'll comply with it tomorrow.
Q. But my focus is actually what you believe is reasonable for the Commission to expect. Do you believe it's reasonable for the Commission to expect that after the merger CenturyLink will comply with
both state and federal law?
A. I think it's reasonable for them to expect that, yes.
Q. And you --
A. But we don't want to create another forum for complaint proceedings.
Q. And you would agree with me that if CenturyLink were then to, after the merger, act in a way that violates federal law, that wouldn't be behavior that's in the public interest of the people of the State of Utah?
A. To -- ask that question again, because I want to make sure that I'm answering it correctly and responding to your questions.
Q. If CenturyLink, after the merger, does not comply with federal law, you would agree that that condition would not be in the best interest of the people of the State of Utah?
A. If we don't comply with federal law -- first off, that's gonna be a matter of interpretation between what we believe complies with the federal law and what the CLECs. And that drives a number of disputes -- or potential disputes.

But certainly we will strive to be in compliance with the federal law. That's -- we take
that very seriously. And we'll continue to do that.
Q. And do you have any reason to believe that this Commission would take jurisdiction over something that it does not have jurisdiction over?
A. I have no reason to believe that, no.
Q. Condition 23 is also found on page 56. Are you aware of any way in which Condition 53 goes beyond existing law or interconnection agreements?
A. I'm reading it real quick. I want -- I should know all these by heart, but I don't.

CHAIRMAN BOYER: Mr. Merz, you're referring to 23 , rather than 53?

MR. MERZ: It's on page 56.
CHAIRMAN BOYER: On page 56.
MR. MERZ: Condition 23. I may have
misspoke.
CHAIRMAN BOYER: I think you said Condition 53.
Q. (By Mr. Merz) And just to be clear on the record, Mr. Hunsucker. I'm asking you about Condition 23 --
A. Correct.
Q. -- which is found on page 56 of your rebuttal testimony.
A. Again, I, you know, I have the same general
objection that $I$ had to the other one with the incorporation of federal law into a state decision.
Q. Even with that incorporation condition 23 doesn't require CenturyLink to do anything more than the law already requires, does it?
A. To my knowledge, it does not. But I have not gone back and reviewed this language verbatim to what's in the federal law.
Q. Condition 26, can you tell me -- and that's on page 57. Can you tell me how that condition goes beyond applicable law and/or interconnection agreements?
A. I don't believe it goes beyond applicable law or interconnection agreements. But again, you know, I have the same general objection on the insertion of federal.
Q. Condition 27, same question. How does that one go beyond applicable law and/or interconnection agreements?
A. Well, I think 27 is obviously a, a big issue in a dispute currently pending between Integra and Qwest today.

So, you know, based on our review of this, we believe this does go beyond federal law. It doesn't provide a cost recovery for a remove-all function,
which was not contemplated in the rates that Qwest has in their interconnection agreement today.

The last sentence says that if we seek to change rates we have to do it -- but we'd say for remove all of it. Since it's not a Commissionapproved rate we would have to do it for free until we have a Commission-approved rate.
Q. You're talking now about a dispute that's pending between Integra and Qwest in Minnesota, correct?
A. Well, I think there's a proceeding dealing with that in Minnesota. I think it's a general dispute in all states.
Q. The proceeding you're talking about was one that was commenced long before this merger docket ever got started, correct?
A. That's correct.
Q. And it's one that won't have any impact on this Commission's review of the merger, the outcome of that proceeding in Minnesota?
A. That proceeding in Minnesota will have no impact. But the resolution of this issue -- that applies in all states, given this language -- does have an impact in Utah.
Q. Okay. Your rebuttal at page 27? You talk
there about Condition 24. And you say that it appears to deny CenturyLink the ability to charge for providing certain services; is that right?
A. Correct.
Q. And Condition 24 is found at page 56. So if you would flip to that?
A. Okay, I'm there.
Q. Is there anything in Condition 24 that you believe prohibits CenturyLink, after the merger, from charging Commission-approved rates?
A. From charging Commission-approved rates?
Q. Right. Is there anything in that condition that you believe prevents CenturyLink from charging Commission-approved rates?
A. I don't think there's anything that would prevent us from charging Commission-approved rates. I don't know if all these rates have Commission-approved rates or not.
Q. Your rebuttal at page 36? At line 16 you're talking about proposed Conditions 1, 2, 3, and 7; is that right?
A. Yes.
Q. And you say there on the next page, page 37, line 6, that this Commission has not imposed wholesale rate changes as part of any merger review in Utah. Do
you see that?
A. Yes, lines 6 and 7?
Q. Yep.
A. Okay.
Q. And I take that to mean that you're objecting to Conditions 1, 2, 3, and 7 because you believe that they impose wholesale rate changes. Am I right in my understanding?
A. That would be correct, yes.
Q. Go to page 59.
A. Okay.
Q. Condition No. 1. That condition would require, after the merger, that the same wholesale services continue to be offered for a period of time; is that right?
A. Yes.
Q. Condition No. 1 doesn't say anything about rates, does it?
A. No. Condition 1 says we have to continue to provide it. Then it's linked, I believe, to Con -linked to Condition 7, which does have rates in it for the specific type of services that -- or at least a subset of the services that are in Condition 1.

So in our mind, because we were responding to $1,2,3$, and 7 , since 1 and 7 are linked it does have
rate issues associated with it.
Q. Why do you say 1 and 7 are linked? I'm looking at 1 and $I$ don't see any reference to 7.
A. One says any wholesale service offered cannot be discontinued. And 7 then goes into a discussion of those same wholesale services, those being tandem transit, special access non-tariffed commercial offerings, any intrastate wholesale tariffed offering, and any service -- that we couldn't increase those for five to seven years. So I believe that the two are linked together.
Q. And so 7 says no rate changes, correct?
A. Correct.
Q. That doesn't impose a rate change that prohibits a rate change; isn't that right?
A. Ask that question again? I want to make sure.
Q. Seven doesn't impose a rate change it prevents a rate change, correct?
A. Correct.
Q. I understood that your objection to 1, 2, 3, and 7 was that those conditions imposed a rate change. Did I misunderstand?
A. Let me go back and look at it. It's page 36, you said?
Q. Thirty-seven.
A. Thirty-seven?
Q. Line 6 .
A. I'm saying that the Commission has not imposed wholesale rate changes.
Q. Right. And isn't that --
A. As part of that.
Q. And you're offering that as a reason not to adopt Conditions 1, 2, 3, and 7; isn't that right?
A. Correct.
Q. But 1 and 7, which are linked in your mind, don't impose a wholesale rate change, correct?
A. They impose the setting of wholesale rates. Now, if you want to argue the technicality of whether it's a rate change --
Q. Well --
A. -- it basically says the rates have to stay the same and are frozen would prevent us from going up, raising any rate change, or the rate change going down.
Q. And so you want to be free to decrease your rates. Do you think the CLECs are gonna have an objection to that?
A. I want to be free to price my services based on what the market, what the market realities are.

Whether -- especially in regards to commercial offering and other wholesale offerings.
Q. And then just to go back to what I understood your testimony to be. What I understood you to say was that your concern was that these conditions impose a rate change. And now I understand you to be saying a change might be a requirement that something not change?
A. Yeah. I mean, we're -- a rate change -- a rate freeze. I mean, it's not -- they're not -- they haven't imposed rate freezes as part of any merger approval.
Q. Okay. And that's something different than --
A. Or rate, or rate changes.
Q. And that's something different than is in your written testimony. You don't talk in your written testimony about the Commission's practice with respect to rate freezes?
A. I talk about rate changes. To me, that's also a rate freeze.
Q. Okay. A change and a freeze are the same thing in your mind?
A. Well, it's a subpart of a change, yes.
Q. Number 2 -- Condition 2 is another one that you say imposes a rate change; is that right? That's
on page 59?
A. Yes.
Q. And is your concern there the same thing, that freezing is the same as a change?
A. Again, I said I didn't -- I don't think I said it was the same. But I think a rate -- when you talk about rate changes, in my mind they could be rates going up, down, or staying the same.
Q. And you would have the same, I guess objection with respect to Condition 3 ?
A. Yes.
Q. Go to your rebuttal at page 39. And you talk there at line 17 about Conditions 17 and 18 , correct?
A. Correct.
Q. The concern that you express is that those conditions would dictate the number of wholesale employees on the CenturyLink payroll, correct?
A. Yeah, I'm talking about that we could -- that it would not allow us to reduce our costs through attrition of employees whose functions have been automated, or are duplicative, or redundant.
Q. Go to page 62 of your testimony,

Condition 17.
A. Okay.
Q. Condition 17 relates to the CMP, Qwest's CMP;
is that right?
A. Right.
Q. Will CenturyLink commit to not reduce the number of employees that are involved in Qwest's CMP for any period of time?
A. No, I don't think we would. I mean, if CMP requirements change, the number of change requests go down or up, then we're gonna have to be -- respond according to the load that's put on the CMP process.
Q. The last sentence of 17 -- Condition 17 says the merged company will dedicate the resources needed to complete pending CLEC changes -- change requests in a commercially-reasonable time frame. Do you see that?
A. Yes.
Q. Do you think that's an unreasonable expectation for the CLECs?
A. Again, I don't think these conditions are warranted or needed.
Q. Right. But do you think it's an unreasonable thing for the CLECs to expect?
A. I think we, you know, we will make sure the resources are there. We don't need a condition on the issue.
Q. You want the Commission and the CLECs to
trust you when you say the resources will be there?
A. Well, I think we have a proven track record that we've put the necessary resources in place on these. And we don't see any reason that that's going to change in the future.
Q. Page 62, Condition 18 , requires that the merged company will ensure that the 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 what Qwest was providing prior to the merger date. Do you see that?
A. Yes.
Q. Do you think that's an unreasonable expectation for the CLECs to have?
A. But again, this condition is not in isolation. You look at the last sentence, it conflicts with what we've said in the fir -- what you've said in the first sentence.

In the first sentence it says we gotta have sufficient staff relative to wholesale order volumes. Then in the last sentence you say that the number of employees will be no fewer than the number of such employees as of the merger filing date. So, you know,
it's a conflicting condition.
And again, it's not necessary. We're gonna put the resources there. To the extent we don't, we always have the Utah PAP, which is gonna draft penalty payments if we reduce the service that we're providing.
Q. You don't disagree with the concept that CenturyLink should maintain sufficient numbers of adequately-trained staff to deal with wholesale volumes at the regional support centers, correct?
A. I don't disagree with that, because we're committed to that internally in the Company. And we're gonna continue that commitment. That's why we have a separate wholesale business unit within the Company.
Q. Go to your rebuttal at page 42? Looking at line 4, you're talking about Condition 30 ; is that right?
A. Correct.
Q. And Condition 30 concerns bringing disputes before the Commission, correct?
A. Right.
Q. And what I understand to be your objection is that the ICAs already contain dispute resolution provisions?
A. That's correct.
Q. Do you have any other objection to

Condition 30 ?
A. Well, it, again, it's not necessary. We have a process for dealing with disputes between the companies. So --
Q. Do you believe that the ICA dispute resolution provisions would allow CLECs to bring to this Commission complaints that CenturyLink had violated the merger conditions that the Commission had imposed?
A. If the Commission imposes merger conditions relative to wholesale, it's my opinion that the majority, if not all of those, are gonna have to be embodied in an interconnection agreement on a go-forward basis that will have to be filed and approved by this Commission.

Once -- if there are conditions -- which we don't believe there should be -- those will be embodied in the interconnection agreement. And based on that, there will be appropriate avenues for CLECs to file a complaint proceeding.
Q. Now, when you filed your rebuttal testimony on September 30th it was the Company's position that there shouldn't be any conditions on this merger at
all, correct?
A. That's correct.
Q. And since then the Company's entered into settlements in Iowa, and Minnesota, and Utah; correct?
A. That's correct.
Q. And as part of those settlements it agreed to conditions, correct?
A. Yes.
Q. And now what I understand you to be saying is you don't believe there should be any more conditions than those you've already agreed to?
A. Yeah, I think what -- obviously when you look at the settlement that we have with the Department of Public Utilities, we brought forward those same concepts. Now, as I understand, we're gonna be back here next week to talk about that settlement agreement.

But we believe that those settlement agreements, including the one we have with the CWA specific to OSS, resolve the issues that need to be resolved, correct. And there should be no other issues.
Q. And I don't --
A. No other conditions.
Q. And I don't mean to get to the substance of
that, because we are gonna deal with that later. But at least when you filed your rebuttal testimony it was your view that there weren't any issues that needed to be resolved by conditions, correct?
A. That's correct. And so, you know, what we have done is continued to talk with our CLEC customers across the country. We've tried to understand their concerns. We've also talked with the Department of Public Utilities, the Minnesota Department of Commerce, and the CWA. And we've listened to those concerns.

And we have taken those specific issues which we believe give the CLECs business continuity that they're looking for and we have been willing to voluntarily agree to those in the context of that settlement, yes.
Q. And obviously my clients and your company disagree about whether that's good enough. Whether that provides sufficient --
A. Yeah, I don't remember the list of your clients, but yes.
Q. Last point. Page 40 of your rebuttal testimony? You talk there about Condition 29, which is the most favored nations clause, correct?
A. Correct.
Q. And what that condition provides generally is that if CenturyLink enters into an agreement in some other state that the State of Utah would have the benefit of that agreement, correct?
A. Yeah, let me look at that a minute because I want to make sure you're characterizing it correctly.
Q. Sure, you take your time.
A. Yeah, and that's why I was struggling with the way you phrased your question, because actually No. 29 says as a result of a regulatory decision, including decisions based on settlement.

So it could be things that we voluntarily agreed to in other states. It could also be other decisions made by, for example, the Oregon or Washington Commission regarding issues in the case. So it does more than the way you characterize your question.
Q. Do you believe that if CenturyLink enters into an agreement in Oregon that its unreasonable for the Utah Commission to believe that it should have the benefit of the same kind of agreement?
A. Well, our concern is that every state Commission has different regulatory decisions, different rules and regulations on certain issues. So we may be willing to agree to something in one state
based on the rules and regs in that state versus Utah, for example.

We don't think it's appropriate, then, that we start importing other commissions' decisions into other states. That's, you know, that just doesn't make sense to us. And it undermines the Commission's decisions that they may have made in Utah.
Q. Are any of the conditions that the CLECs have proposed, 1 through 30, conditions that, in your mind, are intended to be state specific?
A. I don't know how the CLECs characterize their conditions.
Q. Well, as you look at them is there any one, or two, or three that you would point out and say, Well, this only is applicable in Utah?
A. I, you know, I haven't reviewed them with that concept in mind.
Q. You don't know of any, do you?
A. I, again, I haven't reviewed them, so I can't sit here and say if there are or are not. I have not reviewed them with that thought in mind.
Q. And in terms of the concept of the State of Utah getting "the best deal" that you give anywhere else, you disagree with that because Utah might have different regulations; is that correct?
A. They may have made different decisions on any issue, yes.
Q. Okay.

MR. MERZ: I don't have anything further. Thank you, sir, for your time.

CHAIRMAN BOYER: Before we go to Mr. Peña's cross examination, I think Mr. Spann has arrived.

MR. SPANN: Yes, your Honor, I have.
CHAIRMAN BOYER: Would you like to enter your appearance on the record, please?

MR. SPANN: Terrance Spann for the Department of Defense and all other Federal Executive Agencies. And whenever you're ready we can take up the pro hac vice motion.

CHAIRMAN BOYER: Okay. Actually, that won't be necessary. You are admitted.

MR. SPANN: Thank you, sir.
CHAIRMAN BOYER: You may proceed. We have a lot of non-Utah lawyers here today already.

MR. SPANN: Okay.
CHAIRMAN BOYER: But thank you for making that motion.

Mr. Peña, cross examination of Mr. Hunsucker?
MR. PEÑA: Yes.

## CROSS EXAMINATION

BY MR. PEÑA:
Q. Good morning, Mr. Hunsucker.
A. Good morning.
Q. I have a few questions that address Level 3 specific conditions that are included in Mr. Thayer's testimony.
(The reporter asked Mr. Peña to speak up.)
Q. (By Mr. Peña) First of all, I just want to make sure I understand that part of your responsibilities is negotiating interconnection agreements; am I correct?
A. Yes, that's correct.
Q. Okay. Now, I want to turn your attention to page 19 of your rebuttal. There at line 14 you address Level 3 Condition 8, regarding extending existing interconnection agreements and evergreen status?
A. What -- you said?
Q. Page 19.
A. Line?
Q. Line 14.
A. Line 14? Okay.
Q. And there one of the things you say, beginning on line 16 , is that agreements become
outdated and -- within a short time -- short span of time, pardon me. Do you see that?
A. Yes.
Q. Now, would you agree with me that -- well, let's talk about the CenturyTel interconnection agreements. Would you agree with me that they would -- or have a termination clause? Include a termination clause?
A. You're speaking specifically about CenturyTel agreements, which we --
Q. Yes. Would --
A. -- have none here in Utah?
Q. In general.
A. Okay.
Q. You negotiate interconnection agreements --
A. Correct.
Q. -- across the country. So -- with Level 3?
A. Yes.
Q. Okay. Now, would it be reasonable to assume that Level 3's interconnection agreement with Qwest here in Utah would have a termination clause?
A. Yes, that's correct.
Q. Okay. And would it also be reasonable to assume that both parties to an interconnection agreement have a right to terminate an interconnection
agreement? And let's -- we can keep talking about the Qwest and Level 3 interconnection agreement, for example.
A. Generally that's true, correct.
Q. And would you also agree with me that parties have the right to amend interconnection agreements?
A. Yes.
Q. And would you also agree with me that if parties can't come to terms on a proposed amendment, either party could come to the Commission and file some sort of a complaint or dispute resolution?
A. Yes, that would be correct.
Q. Do you know, or would you agree with me subject to check, that Qwest has not filed any complaints with the Utah Commission whereby they sought to amend its interconnection agreement with Level 3?
A. I have no knowledge of whether they have or have not.
Q. And that's why I asked subject to check.
A. You know, if you can point me to one, or -it's hard for me to sit here and agree subject to check because it puts responsibility on me to go check it. If you've got an example, then we can talk from that.
Q. Let me ask you this. Do you think it's reasonable to assume that Level 3 and Qwest continue to operate and exchange traffic pursuant to their interconnection agreement?
A. Do I think it's unreasonable?
Q. It's reasonable.
A. Reasonable? Yes, obviously it's reasonable that the traffic's being exchanged today between the two parties.
Q. Do you know if Qwest has moved to terminate the Level 3 interconnection agreement?
A. To my knowledge, they have not.
Q. Thank you. Now, I wanted to turn your attention to page 26 of your rebuttal. Are you there?
A. Yes.
Q. You talk about traffic pumping there on -- at least on -- beginning on line 21 . And --
A. I'm, I'm sorry, I don't see that on line 21.
Q. Let me double check.

MR. PEÑA: If I might have a moment, your
Honor?
Q. (By Mr. Peña) I'm sorry, it begins on line 21 and it goes through page 27 , line 9.
A. Okay, you -- it begins on line 21 of page 26. I thought you said page 21.
Q. No.
A. Okay.
Q. It's page 26, line 21.
A. Okay.
Q. Page 27, line 9 .
A. Okay. Yeah, I see that.
Q. Okay. Now, you mention -- or you testify that Mr. Thayer agrees with you that CenturyTel -CenturyLink does not engage in traffic pumping. What's your understanding of the issue that Mr. Thayer has brought up? Or what -- strike that.

What's your understanding of the CLEC exemption that really is addressed in Mr. Thayer's testimony that you're responding to?
A. My under -- I'm assuming you're talking about Condition 1, and I do not have his conditions here in front of me. I don't know, if you have a copy of that I'll --
Q. I'm referring to your testimony.
A. -- look at it. Yeah, but he -- I don't have attached to my testimony that exhibit. Is

Condition 1, is that the CLEC rural access charge exemption?
Q. Yes. It's actually not Condition 1, but that is what I'm referring to. That is what I'm referring
to.
A. My understanding is that Level 3 is trying to ensure that CenturyLink doesn't attempt to create a CLEC to compete in Qwest territories to take advantage of higher access charges.
Q. Okay. Now, I realize CenturyLink is not operating in Utah, with the exception of the few lines that were mentioned earlier. But is it true that nothing prohibits CenturyLink from purchasing a rural CLEC operating in Utah?
A. Yes, I wouldn't be aware of anything that would prevent us from doing that. I don't know what the Commission's rules or the State's rules are on what kind of approval we would have to seek for that.
Q. But, I mean, you've gone through -- or

CenturyLink has a history of acquisitions, and some of those have been rural carriers?
A. Yes.
Q. Okay. And assuming that CenturyLink were to purchase a rural -- pardon me, let me go back. I -if I said rural CLEC I meant rural LEC.

Is there anything that would prohibit
CenturyLink from purchasing a rural LEC operating in Utah?
A. I don't think there would be anything to
prohibit us from purchasing them except, you know, it would have to be subject to whatever approval author -- approval requirements there would be within the state.
Q. Of course. Of course. And in that instance nothing would prohibit CenturyLink from setting up a rural CLEC in an adjoining Qwest exchange, correct?
A. I don't know what the Commission's rules are here. Some commissions will not allow an affiliate of an ILEC to become a CLEC in territory. Some commissions allow you to have state-wide authority. I don't know what the specific rules are here.
Q. But if it's allowed you could do that, though?
A. You know, if the Commission rules allowed it then yes, we could do that.
Q. And if you did that and you created a rural CLEC customer -- pardon me, a rural CLEC, I mean, that rural CLEC could market its -- or focus its customer base on high-volume customers, correct?
A. You know, I -- it's a hypothetical. I -- a company could do anything. I'm -- I don't -- I'm not sure that that's a reasonable hypothetical or not.
Q. Well, let me let me ask you this. I mean, assuming there's -- CenturyLink has a rural CLEC that
operates in Qwest-operated territory here. Could that rural CLEC focus its energies or its marketing on chat line customers?
A. I guess it could, but I can tell you that CenturyLink does not, you know, we don't believe in that. We don't have a history of doing that. I don't think that that would change because of this merger.
Q. But it could?
A. Anything's possible. But, you know, I would be very, very shocked if we did that.
Q. Could that rural CLEC market its services to conference callers, incoming calls?
A. It could, yes.
Q. And so, I mean -- well, strike that. That's all I have on that, thank you.

Now, I want to turn your attention to page 45 of your testimony. Lines 7 through 14 address Mr. Thayer's testimony on billing disputes. Let me know when you're there.
A. Okay.
Q. Now, that Level 3 issue addresses CenturyLink leveraging existing billing disputes -- or a

CenturyLink affiliate leveraging a billing dispute and possibly not pay a fee or a ser -- for a service owed Level 3 on a different billing dispute?
A. Say that again, I'm sorry.
Q. Let me --
A. I'm confused by the question.
Q. Sure, sure. Now, Level 3's -- let me go back to the condition.
(Pause.)
Q. (By Mr. Peña) There on line 7 on page 40-- 45 you testify that:
"Mr. Thayer's testimony on billing
disputes, regarding its purported fear that CenturyLink could leverage existing billing disputes with one ILEC affiliate to slow or refuse to provision new services to another ILEC affiliate...." Do you see that?
A. Yes.
Q. Now, do you know if CenturyLink interconnection agreements have express language that would prohibit a CenturyLink ILEC affiliate from leveraging an existing billing dispute with one CenturyLink affiliate to slow or refuse to provision new services by another CLEC -- pardon me, CenturyLink ILEC affiliate?
A. You know, what $I$ know is that we have multiple contracts with Level 3. And to the extent
those contracts have specific language regarding billing and dispute process, then obviously we'll follow the provisions that are in the contracts.
Q. So, but do you know whether that specific issue is addressed in Level 3's interconnection agreement?
A. I'm not aware of anything in an interconnection agreement that addresses us leveraging billing disputes with another affiliate.
Q. Do you know whether Qwest's interconnection agreements would have any such language?
A. I have not reviewed all of Qwest's interconnection agreements so I really couldn't comment on that.
Q. Well, let me ask you this. Can you commit today that the combined company will not leverage billing disputes that a carrier has with one affiliate of the combined company with -- or to deny or delay the provision of service with another affiliated entity?
A. No, I wouldn't, you know, I wouldn't commit to that. I think billing disputes are best resolved through billing disputes and through process outlined in the various contracts the Companies have between each other.

I don't think a condition in this merger proceeding that changes what we can and can't do today is necessary.
Q. I want to talk to you a bit about the services -- pardon me, the LSRs I believe you testified in cross with Mr. Merz, the LSRs that CenturyLink provisions currently. And you -- I believe it's approximately a million; is that correct? Or if I'm stating it wrong if you could correct me, that's fine.
A. I think what I said, we run about a million wholesale orders through our, through our system. And I said the predominant percentage of those were LSRs. Some of those are ASRs for interexchange carriers and other -- and even CLEC carriers who purchase special access.
Q. And do you know if most of the LSRs -- well, let me go back to -- I asked you a question about the Embarq and CenturyTel merger. Obviously that's history. It was approved. It's well into consolidation, if not already completed.

But in terms of those million LSRs, how many of those are in Embarq-initiated-or-originated systems? Because I know that Embarq and CenturyLink merged or picked consolidated systems, and I'm
wondering if we're talking about an Embarq system here versus an old CenturyTel system.
A. Well, we're talking about the EASE system, so it's going through EASE. We implemented ASR for legacy CenturyTel. Early in the year we implemented LSR. Well, we actually implemented LSR late last year, we implemented LSR the middle of last year.

So those volumes -- and again, you said LSR is near a million, it's both LSRs and ASRs. But those reflect the number of orders that are flowing through the EASE system. So it is a combination of Embarq as well as CenturyTel, to the extent the EASE system was used.

Now, we did migrate the CenturyTel markets for LSRs in -- onto the EASE platform about -- I'm going off memory here. I think it was early Sep -around the first of September.
Q. So --
A. They're only -- so let me be clear. They're only in that count to the extent that they went through the EASE system.
Q. And the EASE system, was that a system that was in, for lack of a better term, legacy Embarq before CenturyLink acqu -- pardon me, CenturyTel acquired Embarq?
A. Correct, it was a legacy Embarq system.
Q. So then most of the wholesale experience that we're talking about in terms of wholesale orders being processed by CenturyLink are Embarq related -- or pardon me. Strike that.

So would it be true that most of the wholesale experience that CenturyLink has in addressing wholesale service derived from CenturyLink's acquisition of Embarq?
A. Yes, it would be. But you -- the one thing I would note there is when you look at the CenturyTel acquisition of Embarq, that it was pretty much the Embarq wholesale organization that stayed in place. In fact, CenturyTel didn't have a dedicated wholesale operations business unit.

They basically migrated, almost as is, the legacy Embarq into the CenturyLink. And so we brought the systems and we brought the expertise and the personnel, just like we're going to do in this merger when we acquire the Qwest systems.
Q. So in terms of the current CenturyLink management, they've had two years of experience with that? Since the Embarq acquisition?
A. Well, yeah. I think if you look at that management group I think Bill Cheek's been in place
for wholesale at legacy Embarq for 10 to 15 years, probably. Or, or -- I don't know the exact time, but I know it's greater than 10 years that he's been running the wholesale organization. He continued to run it at Embarq, and he runs it today for CenturyLink.
Q. And I'm talking about dealing with wholesale orders using the EASE system. I mean, CenturyLink has had two years of experience with that? Or at least since the Embarq merger was consummated?
A. Yeah, and I guess I don't -- I have trouble with the way you characterize this like, Well, we've got this new company that never did this before.

What I'm telling you is, is that the resources that -- where the experience came from at the time of that merger, it came from legacy Embarq. And that -- we've been in operation since the Telecom Act in 1996, provisioning and providing quality wholesale service to our customers.

MR. PEÑA: I don't have anything further, thank you.

CHAIRMAN BOYER: Thank you.
Mr. Mecham, any cross examination of Mr. Hunsucker?

MR. MECHAM: Mr. Chair, the surrebuttal
testimony of Mr. Hunsucker and our letter yesterday resolved our issue, and therefore I have no cross.

CHAIRMAN BOYER: Very well. I don't want to overlook Mr. Spann, who's now arrived. Do you have questions of Mr. Hunsucker?

MR. SPANN: I do not. But to the Commissioners, I just want to apologize for my being late today. It was circumstances beyond my control.

CHAIRMAN BOYER: Very well.
Commissioner Allen, have you questions of Mr. Hunsucker?

COMMISSIONER ALLEN: Thank you, I do have a few questions. Now that my mike is working that will be helpful. I'd like to step back just a little bit and get a broader sense of CenturyTel's management style with the CLECs, since you'll be the new firm in town to us.

And specifically what might help me inform that is how you approach training, specifically training and interacting with the CLECs, with your employees. And how that training -- it was broached a few times in the testimony, but there's not a lot of detail there. And how that training deals with customer satisfaction, performance issues.

And I realize you may have some of these
training issues in performance assurance plans but I'm not familiar with all your states, so. Do you have -how is your training broken up for employees? Is it by regional office?

Do you have a full-time training staff? Do you a have training center? Do you have mandatory training when it comes to CLEC interaction? Can you kind of describe that for me.

THE WITNESS: Yeah, we do -- we don't have a dedicated CLEC training group, but we do provide routine training to our employees. We also, you know, counsel with them multiple times a year on things that they're doing. What do they see going well. What do they not see going well.

But when we get into our operations centers it's my understanding that we provide a -- we have a commitment to making sure the training is there. I think one of the things that we're most proud of is when we look at some of the awards that we have won for wholesale service, both from a customer satisfaction standpoint and provisioning.

Primarily what the Atlantic ACM -- which is a group out of Boston which solicits inputs from customers, from our carriers -- when you look at our history of those awards, we have won a number of those
awards every year.
This past year I think between Qwest and CenturyLink we won 6 out of the 7 categories. And in the past it's generally been 5 to 6 out of 7 for the combined -- for the both companies. So, you know, we're very proud of that.

And we're very committed to making sure that we listen to our customers and provide the service provisioning, response time, account management, et cetera, as we go forward.

COMMISSIONER ALLEN: And so if you don't -what I heard you say is you don't have a central training team. Is it the responsibility of the individual group managers to provide training, or?

THE WITNESS: Yeah, it would be the responsibility of the individual group director. Now, within the operations group I don't -- you know, I'm not familiar. They have a large -- not a large, but a staff function that resides in Kansas City. And they are the ones that put together training and other things for the various centers.

And I, you know, I'm not sure whether that staff goes and does the training. Whether they bring the managers in from the operations centers and train them first, and then they go back and train.

Whether -- I don't know that I can give you a very clear answer to exactly how that works.

COMMISSIONER ALLEN: Do you have cust -- when it comes to the CLECs do you have customer performance goals, and standards, and satisfaction surveys that you train to, that you know of?

THE WITNESS: Yeah. I mean, we look every month. We have -- we do what we call a wholesale operations report internally, where we look at certain metrics that we're providing to make sure that we're on target. Things like answer time, you know, customer responsiveness, provisioning intervals, firmware commitment intervals.

In Nevada we have a very detailed plan, just like the PAP here in Neva -- in Utah. It was based on at the time what was called the Local Competitive User Group, or LCUG. It's statutorily required. In Nevada we go through, every three years, updates to that process.

But we're constantly -- and our president is very good about he wants to see those metrics, and he's committed to making sure that we keep those at a high level. If we're not, we do a cause analysis internally and put in place corrective action plans to improve it and get where we need to be.

COMMISSIONER ALLEN: That leads to my next question. Are most your performance -- your training performance standards, are most of them written into the performance assurance plan state by state, or is it something that's a corporate culture issue for you folks?

THE WITNESS: I think it's more of a corporate culture issue for us. Now, if you look at Nevada, for example, and the PAP, you know, obviously we've gotta make sure we're getting the training so we keep our metrics up or we're gonna pay significant penalties to the CLECs and the state. And -- so we're constantly using that as our guide of how are we performing.

Our centers are basically in Decatur, and -Indiana and Leesburg, Florida. They handle both CLEC and IXC. And so we provision service on a national basis. So simply because we have a plan in Nevada, it lets us look at it across the nation and make sure that we're meeting the customers' expectations.

COMMISSIONER ALLEN: So in terms of recent practice and history, would you say your firm has increased spending and commitment to train with the CLEC issues, maintained it, or reduced expense or spending over the last year or two?

THE WITNESS: I don't know that I have insight as to what the actual spend levels. What I could tell you is, when I look at the service performance metrics, that we've been able to maintain, maintain the service performance.

So my assumption is we're getting the right training in place, because our metrics have not been dropping.

COMMISSIONER ALLEN: Thank you.
CHAIRMAN BOYER: Commissioner Campbell?
COMMISSIONER CAMPBELL: Good morning.
THE WITNESS: Good morning.
COMMISSIONER CAMPBELL: You mentioned during cross examination that you weren't going to negotiate against yourself. So my question is, are there current negotiations taking place or are there planned negotiations with the CLECs to go over their 30 conditions?

THE WITNESS: There are negotiations in place in a number of states, as well as certain individual negotiations with certain carriers. As well as we -you know, Bill Cheek and myself attended a meeting with COMPTEL -- the competitive association that represents CLECs -- in Washington, D.C. last week.

So there are negotiations going on. I can't
talk a lot about the specifics because they're covered under confidential agreements. But they're -- we are participating. And I'm not spending a lot of nights at home, because I'm on the road talking with the carriers and trying to listen to their concerns and see if we can negotiate something.

COMMISSIONER CAMPBELL: At what point in this process would those negotiations be ended? For example, if this Commission did not want to issue an order until we could see if there were a Joint CLEC agreement across a multiple of states, at what point do you think we ought not to wait for that?

THE WITNESS: You know, it would be my opinion that, that you need to look at this independent to Utah. I mean, Utah is a state where there is no CenturyLink company, and a lot of their concerns are what are we doing in the CenturyLink markets.

We have the settlement with the Department of Public Utilities, which we think addressed the major concerns or the majority of the concerns that we believe are acceptable to us. And so we think with that settlement -- and we'll talk more about that next week -- but that that moves us down the road far enough here in Utah that, you know, we would ask that
hopefully we can move forward.
COMMISSIONER CAMPBELL: So what would happen, then, if the Commission decided that some of these conditions made sense and we were to issue an order, yet two weeks later you were to enter a nego -- you would enter a settlement with all the CLECs that would contradict what the Commission had ordered? Don't you see a process conflict there?

THE WITNESS: Well, I think there could be conflict, obviously, if there were additional, additional terms. But I can tell you one of the things that we built into the settlement here in Utah is we are having ongoing negotiations at the federal level.

So to the extent that the FCC issues an order with any conditions, then those would also be applicable in Utah as well. So it does -- yeah, it may create some process conflict. But, you know, I think that's something we'll work through and, and address at the time we see that we've got those issues.

CHAIRMAN BOYER: Just a couple of questions, Mr. Hunsucker. Following up on Commissioner Campbell's question, wouldn't one way to resolve those potential process conflicts be to incorporate a most
favored nation condition?
For example, if you settle globally and agree to continue the existing OSS services for three years instead of two years or something like that, why should Utah not take advantage of that extended period of time?

THE WITNESS: Yeah, you know, we're opposed to the MFN because we, you know, what can happen is if we get one state settled, then the CLECs will use that as the low-water threshold for the next state.

And then they'll go pick off two more issues, and two more, and two more. And try to argue for additional conditions in each state, knowing that they're gonna get those everywhere. And soon we're -at some point we're back to, you know, 25 or 30 conditions. So, you know, we don't believe in the MFN .

Now, if we come to a national settlement with a carrier that would apply within the State of Utah, then I think we would make that generally available to all CLECs in Utah. And we're, you know, we're trying to meet with CLECs.

Some of the discussions are state specific, some of them are on a national basis. So if we do reach a national settlement then we'd be willing to
make those same terms and conditions applicable to CLECs in Utah.

CHAIRMAN BOYER: Would that, then, be an appropriate condition to be placed on any merger if it were approved?

THE WITNESS: If we get a national settlement?

CHAIRMAN BOYER: Yeah.
THE WITNESS: Um.
CHAIRMAN BOYER: With terms more favorable than, say, the Commission were to rule in Utah if we were to approve the merger.

THE WITNESS: Yeah, I think that's a, again, that's a situation where we think kind of impacts our ability to negotiate with the CLECs to some extent. So we, you know, we would prefer not to have that.

CHAIRMAN BOYER: On another and totally unrelated topic, what proportion of CenturyLink's revenues are derived from wholesale activities? Do you know that?

THE WITNESS: You know, that's a confidential number. I mean, we don't report that to Wall Street. But I, I'm trying to figure out how to...

CHAIRMAN BOYER: Let me ask it a different way without making you disclose anything confidential.

Is that proportion similar to Qwest's proportion of the wholesale revenues?

THE WITNESS: I, you know, based on some of the numbers that I've seen, I think it's fairly com -proportionate, yes.

Let me -- I would, I would answer your question this way. It's a significant enough revenue stream that we are very concerned and committed to making sure that that revenue stream continues.

CHAIRMAN BOYER: And is the Qwest proportion of wholesale revenues higher or lower than -- can you say that without violating any confidence?

THE WITNESS: You know, I don't remember the exact numbers. I just remember that when we looked at it they were in a general range of being what we considered fairly similar.

CHAIRMAN BOYER: Some of the parties have raised concerns that CenturyLink's experience has been characterized as being largely rural, whereas Qwest might be considered a more of a urban carrier. Would you agree with that characterization?

THE WITNESS: You know, a lot of those concerns come from the fact of -- that the Federal Telecom Act allows for a rural exemption in 251. One thing I can tell you, that when you look across our
company that we -- less than 15 percent of our access lines are covered by the rural exemption. More than 85 percent are not.

So we have the same 251 obligations in 85 -across 85 percent of our access lines that Qwest has today. We don't have the 271 obligations, but legacy Embarq was a company where only one of our companies did not qualify for the rural exemption, yet we never invoked the rural exemption within any of our legacy Embarq territories.

So we always operated as -- under the same conditions that Qwest did for 251, 252. The less than 15 percent is -- results from some of the CenturyTel markets that are tremendously rural, and low access line density of households per access line.

So I don't agree with that characterization because, again, 85 percent of our lines are treated just like an urban line is with Qwest.

CHAIRMAN BOYER: So you don't see it would be problematic in integrating the two different companies were the merger approved?

THE WITNESS: No. I think we're gonna take the necessary steps to make sure we get the integration, integration right. But we've been doing the majority of the things that Qwest has been doing
regarding 251 and 252 , so it, it's not new to us. We've been doing it.

CHAIRMAN BOYER: One further area I'd like to ask a couple of questions on. Some of the parties have expressed -- well, implicit in some of the concerns of the parties requesting conditions attendant to this merger are related to, for example, the OSS system.

And implicit is a belief, I think, of the CLECs, the Joint CLECs, that the Qwest OSS system is either more effective, or more efficient, or more accurate than the CenturyLink.

Now, when CenturyTel acquired Embarq I think you've testified today that they basically appropriated and used the EASE system; is that correct?

THE WITNESS: Yeah, that's correct. That was actually --

CHAIRMAN BOYER: That was a system that you didn't have -- that the legacy company didn't have, and so you thought it would be advantageous to continue using that?

THE WITNESS: Yeah. I was actually a legacy Embarq employee at the time, so it was a system that we had. So when we merged the two companies, even
though CenturyTel acquired Embarq, we used the Embarq system.

CHAIRMAN BOYER: Okay. So my question is, if the merger is approved and you go through your due diligence of analyzing systems -- billing systems, OSS systems, and so on -- and you find that the Qwest system is superior in any way, would the merged company adopt the most effective and superior system over even a legacy system?

THE WITNESS: Yeah. I think if we go through the due diligence and we go through our review and we find that the Qwest system is the system that we need to provide service in the future, then absolutely, you know, I think we'd be committed to adopting that system.

There's, there's no pride of ownership of one system over the other. We're gonna look at it in totality and try to determine which is the best system for us to go forward.

CHAIRMAN BOYER: Okay, thank you.
Mr. Zarling, any redirect?
MR. ZARLING: Yes, your Honor. I'll try and keep it short, it's lunchtime.

CHAIRMAN BOYER: That'd be great because we will be taking a recess here soon.

## REDIRECT EXAMINATION

BY MR. ZARLING:
Q. Mr. -- am I on here? Mr. Hunsucker, do you recall questions from Mr. Merz about -- on the Ensemble system? Billing system?
A. Yes, I do.
Q. And the statements that you made about whether -- about how Ensemble was used? Would you explain again how Ensemble is used?
A. Well, I think the thing that I failed to mention, our Ensemble system is used for both retail billing purposes and wholesale billing purposes. The predominant amount of revenue that's billed out of it is retail.

And so I want to clear up that Ensemble was not just a wholesale-only system, it is both a retail and a wholesale system.
Q. Okay. And so when you talked before about a commitment to not making changes to billing systems, were you referring to any retail billing systems?
A. No, I was not. I mean, we would continue -we would want the flexibility to, if Ensemble is the right system and we decide to move Qwest's retail to that system, then obviously we want the flexibility to move the Qwest retail customers to Ensemble.
Q. Mr. Merz also asked you some questions about whether or not CenturyLink had provided any red lines to these 30 issues. And one of the Commissioners certainly asked about negotiations we've been having.

Has CenturyLink provided substantive responses to the Joint CLECs' 30 proposed conditions in other states besides Utah, or in other settlement settings?
A. Yes, we have. We provided numerous red lines on numerous occasions on these conditions in other states.
Q. So it would be fair to say that you're -that CenturyLink's engaging in sort of multi-state negotiations with Integra and members of the Joint CLECs?
A. I won't call any specific carrier out, but we are negotiating national settlements with a number of carriers.
Q. Mr. Merz also mentioned the possibility that, in connection with Condition 21 -- which I don't think we need to refer to the condition -- but that a CLEC could bring a complaint case. Do you recall your agreeing that one option a CLEC would have would be to bring a complaint case if they had an issue?
A. Yes.
Q. Why don't we look at 21 real quickly? Are you there?
A. Okay. Yes, I'm there.
Q. Okay. And that's the condition that has to do with staying in compliance with federal and state laws, as well as the terms of applicable interconnection agreements, correct?
A. Correct.
Q. Okay. Would a CLEC have other options that it could pursue with CenturyLink before it would have to resort to filing a complaint case if it thought that there were a violation of, say, an interconnection agreement or some law by CenturyLink?
A. Yeah, there are dispute resolution procedures in the contract that would allow the parties to try to resolve these. And then they could also file a State complaint. And typically in the, in the CenturyLink contracts there are language that would allow them to go to other forums as well.
Q. And is there an escalation process within the interconnection agreements?
A. Yes, there is an escalation process as part of the dispute resolution process.
Q. In fact, aren't CLECs required to pursue the escalation process?
A. Yes, they are.
Q. You were also asked some questions about MFNs, most favored nations provisions. I think Condition 29 is that particular condition?
A. Correct.
Q. As you read that condition would that require the porting of a -- or permit the porting of, for example, a CenturyLink interconnection agreement from a state where only CenturyLink operates to a state where only Qwest operates, for example, Utah?
A. It could to the extent that that was included in a regulatory decision by a Commission, yes.
Q. Okay. So do you -- would you foresee any potential problems with the porting of, for example, an interconnection agreement that was negotiated by one of these small rural telephone company ILECs -CenturyLink ILECs that qualifies for the rural exemption --
A. Yes --
Q. -- and maybe negotiated an agreement, importing that into, say, a state like Utah?
A. Yes. I'm not sure why a CLEC would even want to do that. But certainly that would -- if this was adopted, that could allow them to take a CenturyTel contract and import that into Utah for Qwest.
Q. And I think, just for the record, I wanted to ask you to help out the court reporter and explain what LSR is. Say what the -- what that acronym stands for.
A. Yeah, LSR is local service request. And ASR is access service request.
Q. You also earlier referred to UOM?
A. UOM is universal ordering module.
Q. And EDI?
A. Electronic data interface. I hope you don't ask me something I don't know.

MR. ZARLING: That won't happen because I'm done. Thank you.

THE WITNESS: Okay.
CHAIRMAN BOYER: All right, thank you. Thank you, Mr. Hunsucker.

We're moving forward, but in this first morning we've covered two of something like 17 or 18 witnesses, so we may have to pick up the pace a little. We will be in recess for an hour and 30 minutes.

MR. MECHAM: Mr. Chair, may I just confirm that no one has any questions or cross examination of Mr. Meredith?

CHAIRMAN BOYER: Let's find that out right
now.
Does anyone wish to cross examine
Mr. Meredith based on his testimony?
MR. ZARLING: None from --
CHAIRMAN BOYER: Apparently not. You may be excused if you wish.

MR. MECHAM: Thank you.
CHAIRMAN BOYER: Thank you. We'll see you back here in an hour and-a-half, then.
(A luncheon recess was taken from
12:07 to 1:40 p.m.)

CHAIRMAN BOYER: Okay, let's get back on the record. And proceed with the next witness.

Mr. Duarte?
MR. DUARTE: Yes, your Honor. Qwest calls
Karen Stewart as our next witness.
CHAIRMAN BOYER: Okay. Good afternoon.
MS. STEWART: Good afternoon.
(Ms. Stewart was sworn.)
CHAIRMAN BOYER: Please be seated.

KAREN STEWART,
called as a witness, having been duly sworn,
was examined and testified as follows:

## DIRECT EXAMINATION

BY MR. DUARTE:
Q. Good afternoon, Ms. Stewart.
A. Good afternoon.
Q. Please state your full name and business address for the record.
A. Karen A. Stewart. And that's spelled S-t-e-w-a-r-t. And my address is 310 Southwest Park, Portland, Oregon 97205.
Q. And Ms. Stewart, who do you work for and what is your position?
A. Qwest Communications, and I'm a director of regulatory issues.
Q. Ms. Stewart, did you prepare rebuttal testimony that was filed on September 30, 2010, and that was admitted into the record in this proceeding this morning as Exhibit JA-R4?
A. Yes.
Q. And does your rebuttal testimony have any exhibits?
A. No, it does not.
Q. Do you have any confidential or highly-confidential testimony in your rebuttal testimony?
A. I do not.
Q. Ms. Stewart, do you have any corrections to make to any of your rebuttal testimony?
A. Yes, I do. As I was doing a careful review of my testimony in preparation of the hearing I start -- I identified two typos. And then I incorrectly identified a Utah statute as a Commission rule. And I'd like to make those corrections.

MR. DUARTE: Your Honor, Mr. Commissioners, could I be able to -- we thought it would make sense to have actual written copies of the strike outs of Ms. Stewart's corrections. We obviously will pass that out for everybody.

And I think it might make sense to just put it on the record anyway. But I thought it might be helpful for --

CHAIRMAN BOYER: Yeah, that might be helpful. Let's see the red line.

MR. DUARTE: Okay. And just for the record before she testifies, there are some slight changes to pages 9, 14, 26, and 35. And unfortunately we collated them by each one, so we'll just pass these out.
(Pause.)
MR. DUARTE: Next time we'll have them all collated together.
Q. (By Mr. Duarte) Okay Ms. Stewart, for the record could you please describe your four minor corrections?
A. Yes, I will. Beginning on page 9, I discuss at line 8 which of the CLEC conditions I respond to in this testimony. And this Utah testimony does not have responsive rebuttal testimony regarding condition No. 20. So the number " 20 " should be stricken in line 8.

On page 14 of my rebuttal testimony at page -- at line 14 I correctly identified the docket that the Commission approved the stipulation regarding how non-impairment of wire centers should be treated.

However, in the footnote with further detail I've accidentally got an additional 1 after the 40 at the -- in the docket number. So the No. 1 should be stricken, and make it consistent between line 14 and the footnote.

On page 26 of my testimony on line 16 I inappropriately identify a -- I called a Utah Code statute a rule. And so I've replaced the word "Rule" with "Utah Code."

On page 35 of my rebuttal testimony, at line 2 , basically the same error was created a second time where I identified the statute as a commission
rule when indeed it's a Utah Code.
Q. Ms. Stewart, do you have any other corrections besides the ones you've just described?
A. No, I do not.
Q. Ms. Stewart, are all of your answers in your rebuttal testimony, with those corrections made, true and correct to the best of your knowledge?
A. Yes.
Q. And finally Ms. Stewart, if I were to ask you the same questions here as those in your rebuttal testimony would your answers be substantially the same?
A. Yes.
Q. Ms. Stewart, do you have a summary of your testimony?
A. Yes, I have a very brief summary.
Q. Please present your summary.
A. The scope of this proceeding is to determine if the merger between Qwest and CenturyLink is in the public interest. The scope of this proceeding is not to resolve every issue and concern that may exist between Qwest and the CLEC community in Utah.

I believe that there are processes in place that can and do deal with CLEC concerns. I cover in my rebuttal testimony many of the day-to-day concerns

I believe that processes exist to fully vet any of those issues or concerns of CLECs.

I do not think it's appropriate to use the merger docket as a docket to resolve all these concerns. And I believe that the docket should appropriately focus on whether the merger is in the public interest.

And I believe it is. I believe it will create a better, stronger company that will be able to compete and fully meet the needs of its retail and business customers. So I would urge approval of the merger. And that concludes my summary. Thank you.

MR. DUARTE: Your Honors, Mr. Commissioners, I have no further questions for Ms. Stewart at this time. Qwest tenders Ms. Stewart for any cross examination and any questions of the commissioners.

CHAIRMAN BOYER: Okay, thank you.
Thank you, Ms. Stewart.
Ms. Schmid, have you cross examination for Ms. Stewart?

MS. SCHMID: No.
CHAIRMAN BOYER: Mr. Spann?
MR. SPANN: No.
CHAIRMAN BOYER: Mr. Merz?
MR. MERZ: Thank you, your Honor.

## CROSS EXAMINATION

BY MR. MERZ:
Q. Ms. Stewart, one of the things that you testify about in your testimony is Qwest's change management process, correct?
A. Yes.
Q. That's sometimes referred to as CMP?
A. Yes.
Q. Qwest has some number of employees dedicated to managing and working with that process; is that right?
A. Yes.
Q. Do you know who has overall responsibility for managing Qwest's CMP?
A. I would consider that Mark Coin.
Q. Mark Coin?
A. Coin.
Q. Do you know whether CenturyLink has what would be the counterpart of Qwest's CMP?
A. I do not know.
Q. In your rebuttal at page 9 you've discussed certain conditions that you refer to as rate related; is that right?
A. Yes.
Q. And then on the next page you talk about the
application of Section 251 as it relates to rates; is that correct?
A. Yes.
Q. Now, you would agree with me that there are wholesale services that Qwest provides to CLECs that are outside the scope of 251 ; is that right?
A. Yes.
Q. You also refer to the ability of a CLEC to participate in the cost proceeding before the Commission in the event of a dispute regarding some rate-related issue; is that right?
A. Yes.
Q. And you, yourself, have participated in such cost proceedings, correct?
A. I've been in a lot of dockets, but I don't believe I've been in any that are truly narrowly a cost docket.
Q. In all events, you are aware that those cost dockets are -- tend to be fairly lengthy proceedings?
A. Yes, they can be.
Q. And they can be expensive and time consuming as well?
A. I don't personally have any knowledge about the cost involved.
Q. Time consuming, you would be aware of that?
A. Yes.
Q. Your rebuttal at page 23? At line 9 -beginning on line 9 you're talking about Conditions 25, 26, and 27; is that right?
A. Yes.
Q. Your objection, as it's stated in your testimony, is that those conditions present issues that could be addressed in another proceeding, correct?
A. Correct. Or that many of the conditions are already covered as terms of the ICA arrangements we have with our CLEC customers.
Q. Do the Joint Applicants have any substantive objections to Conditions 25, 26, and 27?
A. Yes, I believe we do.
Q. And what substantive objections do you believe you have?
A. I believe our substantive objectives (sic) are -- they're, one, not needed. In that many of these, especially the ones that refer to the entities should follow the law, we already -- one, we do, of course, follow all of the laws and rules that are required of us.

And secondly, our ICAs or interconnection agreements with our CLECs already contemplate that.

And we commit, in various places within the ICAs, that we will follow the law.

And it just seems like it creates kind of a, sort of an unknown situation, where in the ICA you've clearly got that commitment. And if there's any question on the part of the CLEC, obviously they can pursue that through the dispute resolution.

And to suddenly have a merger requirement that's a duplicate of what they already have sort of creates an odd situation and a potential two bites of the apple, as it were, for each item. And we don't believe that's in the public interest to have two forums to review the same issue.
Q. And I think I just wasn't very clear when I asked you about substantive objections. With respect to Conditions 25, and 26, and 27, do you believe that there is any requirement set forth in those conditions that is an unreasonable requirement for CLEC post-merger to follow?
A. It's hard to do an analysis completely, because in some cases disparate rules and laws have been sort of mushed together to try and make a single requirement.

And so we're unable to determine or know what was the intention with that type of requirement where
you take a sentence from one rule or law, add another sentence that's very similar, and again try to create a condition out of three disparate requirements.
Q. Well, let's look at Condition --
A. We do have some concerns.
Q. I'm sorry, I didn't mean to cut you off.
A. That's fine.
Q. Let's look at Condition 25. And I'm looking specifically at page 23 , where it says:
"The merged company will provide routine network modifications in compliance with Federal and State law, as well as the terms of applicable interconnection agreements."

What inconsistent obligations do you believe that Condition 25 would impose, if any?
A. I do not believe it creates an inconsistent requirement. It's, again, that's already contemplated and addressed in our ICA so there's no need to have a separate merger condition.
Q. And then is your answer the same with respect to 26?
A. The part of 26 that doesn't appear to be more attempt of identifying state laws and rules is the one that says resources will not be diverted to
merger-related activities.
And that just seems like an open-ended, nebulous kind of statement that would be hard later to know and verify whether or not something like that activity occurred. So I do have concerns about the ambiguous nature of that statement.
Q. Do you know whether the Company has proposed any different language that might be put into that condition to address the issue that you've just described?

MR. DUARTE: Your Honor, I will -- maybe not object, but I do want to make sure that there's no discussion regarding any settlement negotiations or red lines, as Mr. Hunsucker did testify that there have been red lines submitted back and forth to the various CLECs.

Because I don't think this is an appropriate place to negotiate or talk about different language conditions that have been placed at issue here.

CHAIRMAN BOYER: Okay. But he's just asking if there were such things.

THE WITNESS: I --
CHAIRMAN BOYER: If you know.
THE WITNESS: If I know. I have not been personally involved in any negotiations between the

Joint Applicants and the CLEC community, other than I did attend an Oregon settlement conference that happened a couple of weeks ago.

And again, that's a settlement conference, so I don't know the appropriateness of discussing it other than to say my understanding is various red line documents have been con -- swapped between the various parties in that proceeding.
Q. (By Mr. Merz) And my question I think is a little bit different. Has CenturyLink propose -- and this is yes or no. I don't want to get to the substance of whatever negotiations may or may not have taken place.

Has CenturyLink proposed language to address the concern that you've just described for us?
A. I, as I sit here I don't remember exactly what CenturyLink -- again, a CenturyLink representative should be asked, not myself -- what they have done with that exact condition.
Q. You don't know?
A. I don't.
Q. Okay. And then finally, 27. Is there anything about Condition 27 that you believe is in any way inconsistent with the obligations that already exist with respect to conditioned copper loops?
A. Again, here's one of these requirements where different requirements have been sort of mushed together, as it were, into a single requirement. And I would just note that, as it relates to the last requirement for cost and change of rates, some of the commissions have different processes in place to deal with rates that have not gone through a cost docket.

So again, I don't know about the applicability of that in multiple situations.
Q. Is your answer to my question you don't know?
A. My answer to the question is I have concerns about this requirement and what is the impact of putting together different -- disparate rules and trying to make a single condition out of it.
Q. But my question is whether you are aware of any way in which Condition 27 is inconsistent with the obligations that already exist with respect to conditioned copper loops?

MR. DUARTE: Your Honor, I will object to the extent that it calls for a legal conclusion.

CHAIRMAN BOYER: Well, Mr. Merz, why don't you try rephrasing the question?
Q. (By Mr. Merz) The concern, as I've heard you express it, is that Condition 27, among others, is not necessary because the law already requires this
conduct. And this condition mushes together disparate rules in a potentially inconsistent way.

Am I understanding your concern correctly?
A. Yes.
Q. Okay. And if that is your concern what I'm trying to get at is, in what specific way do you believe Condition 27 does that thing that reflects your concern as you've described it?
A. I'm probably not being as articulate as I should be on this issue. But it's when you take different rules or different requirements out of context and try to put them together in a single document and try to identify it as a to-follow-the-law requirement.

It may or may not have applicability as it relates to actual interconnection agreements. So for example -- maybe an example would be helpful. Line conditioning is described differently in some interconnection agreements. So for example, in Minnesota it's called "cable de-loading." And I don't believe line conditioning is specifically an item in there. Again, it's called "cable de-loading."

So to try and take terms and conditions that have a basis in law but may or may not be implemented identically in all of the ICAs just creates an
unnecessary conflict. When any concerns that a CLEC has about any of these issues in their ICAs, they can pursue the dispute resolution process outlined in their ICA to address those with Qwest. Or I would assume CenturyLink with their ICAs.

And so there's not a need to have a separate merger condition for these requirements.

MR. MERZ: Nothing further.
CHAIRMAN BOYER: Okay, thank you.
Mr. Peña, any questions for Ms. Stewart?
MR. PEÑA: I have a few questions, thank you. CROSS EXAMINATION
BY MR. PEÑA:
Q. Good afternoon. You, on page 26, down at the bottom you testify regarding the SGAT, or the statement of generally available terms. And I have a few questions about that testimony.
A. Okay.
Q. You would agree with me that the 271 approval process involved a collaborative process?
A. Yes.
Q. And the parties in the 271 process were Qwest, the Commission, and CLECs?
A. Yes.
Q. And the withdrawn SGAT -- because I realize
the SGAT's been withdrawn here in Utah -- was developed in that collaborative process, correct?
A. I do not know that the SGAT in Utah has been withdrawn, so I.
Q. Oh, my apologies. But was the Utah SGAT developed in that collaborative process?
A. Yes, it was. And I apologize, I've been testifying in many states and I don't want to misspeak about Utah.
Q. That's fine. Now, you mentioned -- I want to shift gears on you a little bit. On page 31, at lines 5 and 8, you mention the Qwest interconnection template; is that correct?
A. Yes, I do.
Q. Now, the template, was that developed in a collaborative process with other parties?
A. In a manner, it was, in that the template was based on the SGAT. But when it became unwieldy to continue to file and update a single document when there's been significant change-of-law requirements and significant need changes for the CLECs we went to the template process, because it's a lot more mobile and a lot more flexible in responding to CLEC needs.

But the fundamental basis of that document was originally the SGAT document.
Q. And that template -- pardon me, those significant changes that you mentioned to the Commission, I mean, those are significant changes according to Qwest? I mean, it's your template, correct?
A. It is our template, yes.
Q. Now, other than in developing the SGAT, I mean, was Level 3 involved in developing that template?
A. I do not know, personally, what role Level 3 changes or needs might have driven template and/or SGAT changes.
Q. No, I'm talking about the Qwest template. Was Level 3 involved in Qwest preparing its interconnection template?
A. I do not know.
Q. Okay. Do you know if the Commission staff was involved in developing that Commission template? I mean, pardon me, the Qwest template.
A. To the extent that the template was based on the SGAT for those sections, yes, it is. To the extent that there's been any arbitrations that clarify Qwest's obligations in Utah, then those arbitration decisions or rules and orders by the Commission would also be in the template.
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not the way things are done in these sorts of cases.
Mr. Denney talked about the APAP. There's no reason in the world why this couldn't have been put in long before now.

MR. DUARTE: Your Honor, they will have an opportunity to file their brief. They will certainly be able to make whatever arguments they can. And again, it goes to the complete record. And it also goes, if they have any concerns, the Commission will give it the weight that it merits.

CHAIRMAN BOYER: Well, we think that Mr. Merz's objections are well taken, and we're not going to admit it at this late date.
(Exhibit JA-R3.1 was not admitted.)
MR. DUARTE: Thank you. Your Honor, with that, I do not have any further questions for Mr. Williams. And I will tender Mr. Williams for cross examination and any questions that your Honors might have.

CHAIRMAN BOYER: Thank you.
Ms. Schmid, questions for Mr. Williams?
MS. SCHMID: No questions.
CHAIRMAN BOYER: Mr. Spann?
MR. SPANN: No questions, sir.
CHAIRMAN BOYER: Very well. Mr. Peña?

Well, let's go to Mr. Merz first and then we'll let Mr. Peña backup.

## CROSS EXAMINATION

BY MR. MERZ:
Q. Good afternoon, Mr. Williams.
A. Good afternoon.
Q. Are you familiar with CenturyLink's, what would be the equivalent of the QPAP?
A. No, I'm not.
Q. Are you aware that there is one?
A. I understand there is one at least in, in Nevada.
Q. In Nevada? You don't know anything about how that -- how the requirements of that performance assurance plan compare with Qwest's performance assurance plan, I take it?
A. That's correct.
Q. You are aware of operational functions within Qwest that impact the quality of service that Qwest provides to CLECs, correct?
A. Yes.
Q. Those functions would include preordering processes, correct?
A. Yes.
Q. Receiving orders, correct?
A. Yes.
Q. Processing orders?
A. Yes.
Q. Repairs?
A. Yes.
Q. Billing?
A. Uh-huh (affirmative.)
Q. And you would agree with me if there was a decline in the service quality of any of those areas, that could have an adverse impact on CLECs?
A. It could.
Q. Qwest has its own OSS to perform the functions that we've just been talking about; is that right?
A. Yes.
Q. Are you familiar, to any extent, with the functionalities of Qwest's OSS?
A. I have some familiarity. I'm not a subject-matter expert on each of them.
Q. I appreciate that. Are you familiar with how the functionalities of Qwest's OSS compare with the functionalities of CenturyLink's OSS?
A. No.
Q. You are aware, however, that CenturyLink performs, for its own wholesale customers, the same
kinds of functions -- preordering, receiving orders, processing, repairs, billing -- correct?
A. That's my understanding.
Q. You are aware that one of the ways that post-mergered company intends to take advantage of synergies is to eliminate duplicate systems, correct?
A. Elimination of duplication is among the synergies, yes.
Q. And that duplication includes duplication in OSS that is used to provide service to wholesale customers?
A. Right now it's not a strict duplication, because Qwest's OSS are serving Qwest entities, and CenturyLink's OSS are serving CenturyLink entities.
Q. And I'm really focussing more on duplication in terms of the functions performed by those systems as opposed to customers they serve. In other words, Qwest has a system that handles the preordering process, correct?
A. Yes.
Q. And CenturyLink does too?
A. Yes.
Q. And in that sense those would be duplicate systems, correct?
A. They're doing the same functions for
different customers. And question is, Do you want to use one system to serve all the customers, or keep using multiple systems?
Q. And you heard Mr. Hunsucker tell us this morning that ideally the Company will just have one system that it utilizes rather than two systems, one for each company?
A. Over time I believe that's what I understood he's -- him to say.
Q. And you also understand that in terms of kind of the amount of cost savings, the sooner that duplication is eliminated the better for the Company, because it'll begin to realize that savings sooner?
A. I don't recall him saying that specifically. In fact, I think he emphasized that we don't have to rush into it. Too soon could be a problem.

We have the benefit, because this merger's different than other mergers that we're not acquiring whole entities as this one is, we have the benefit of being able to give them a methodological review to take the time that's needed.

But certainly if costs are to be saved it's better to obtain the cost savings sooner than later if you -- without sacrificing service quality.
Q. Another way that CenturyLink intends to
obtain synergies from the merger is to reduce head count, the number of employees, correct?
A. Well, to, to reduce or eliminate duplicate functions, yes. But not just solely on the basis of lowering numbers.
Q. Eliminate employees who are performing duplicate functions?
A. Yes.
Q. Is that fair to say?
A. Yes.
Q. And again, to the extent there's a cost savings to be realized from that, it's of a benefit to the Company to realize that cost saving sooner rather than later?
A. Again, subject to doing it in a sensible, careful way.
Q. Now, in your testimony you describe CLECs as valued customers, correct?
A. Yes.
Q. And you are aware as well that CLECs compete with Qwest to provide retail services to customers, correct?
A. Yes.
Q. And you would agree with me that, given a choice between providing retail service to a customer
on one hand or providing wholesale service to a CLEC to provide retail service to that same customer, Qwest would rather be providing the retail service to the customer, correct?
A. Not at the expense of the wholesale market. The point being that we're not gonna win all of the market. We are -- we don't have that power. And of all of the alternatives where we may lose customers, the CLEC part of the market that's particularly addressed by the QPAP are the only ones that allow customers to stay on our network.

All the others -- wireless, and cable, and so forth -- the customers are not on our network. And so we -- certainly, yes, our retail service delivery, and marketing, and product compete and try to win the retail customer.

But we don't do that at the expense of the wholesale market. And we are required by law to not discriminate, and we also do not discriminate. And therefore it's -- you can't take that question totally in isolation.
Q. And you've said -- and I think you said this in your written testimony as well -- that the way to keep those customers that are being served by the CLEC on the Qwest network is to provide CLEC customers a
quality service; is that correct?
A. I think that's what I said, yes.
Q. But another way to keep those customers on Qwest's network is for Qwest to be providing the retail service to those customers, right?
A. Yes. And as I say, we'll win some and we'll lose some.
Q. And all things considered, you'd rather be providing the retail service than the wholesale service that someone else is using to provide retail service to that customer?
A. Again, not to the expense of serving CLEC customers well.
Q. I think you've answered this, so I'm just gonna try one more time. Given a choice between providing retail service and wholesale service, you'd rather provide retail service. That's a more profitable business for Qwest, is it not?

MR. DUARTE: Your Honor, I'm gonna object to the question. It's been asked and answered twice already.

CHAIRMAN BOYER: Actually, the last question is the way I would have phrased it, so let's let him answer that.

THE WITNESS: Could you phrase that again?

I'm sorry.
Q. (By Mr. Merz) As between retail and wholesale service you'd rather provide the retail service because retail is a more profitable business for Qwest?
A. Again, I testified just a moment ago that I would not take that question in isolation. But if we have the whole retail customer, yes, we would earn more off of it. But we would not do that at the expense of wholesale service. That would not be in our interest.

MR. MERZ: I have nothing further, thank you.
CHAIRMAN BOYER: Thank you, Mr. Merz.
Now, we'll turn now to Mr. Peña.
MR. PEÑA: I don't have any questions.
CHAIRMAN BOYER: No questions, okay.
Commissioner Allen, any questions of Mr. Williams? Commissioner Campbell? Nor do I.

Any redirect?
MR. DUARTE: No, your Honor.
CHAIRMAN BOYER: Okay. Thank you,
Mr. Williams, you're excused.
Mr. Zarling, are you gonna examine the next witness?

MR. ZARLING: Yes. CenturyLink calls Jeremy

Ferkin.
(Mr. Ferkin was sworn.)
CHAIRMAN BOYER: Thank you, please be seated. JEREMY FERKIN,
called as a witness, having been duly sworn, was examined and testified as follows: DIRECT EXAMINATION

BY MR. ZARLING:
Q. Good afternoon, Mr. Ferkin. Would you please state your full name and business address for the record? And you might want to spell your name for the court reporter.
A. Jeremy Ferkin. J-e-r-e-m-y, Ferkin, F-e-r-k-i-n. Business address is 290 North Main Street, Kalispell, Montana, which is spelled K-a-l-i-s-p-e-l-l, Montana 59901.
Q. Mr. Ferkin, who do you work for and what is your position?
A. I work for CenturyLink. And my position is vice president and general manager of the Rocky Mountain market.
Q. And Mr. Ferkin, did you cause to be filed the direct testimony that's been marked as JA Exhibit 3, with five exhibits, Exhibit 3.1 through 3.5, that was admitted earlier today?
A. Yes.
Q. And did you also cause to be filed rebuttal testimony, that $I$ believe has been marked as JA Exhibit R6, with one exhibit --
A. Yes.
Q. -- in this proceeding? And do you have any corrections to your direct testimony?
A. Other than the errata filing we did yesterday, no.

MR. ZARLING: Your Honor, we did make an errata filing yesterday which corrected Mr. Ferkin's testimony by adding in a map that was an exhibit that hadn't made it into the file copy. And I have copies I can distribute that --

CHAIRMAN BOYER: Go ahead, Mr. Zarling. We did receive that and it's in the record, so. Or it's in our file anyway.

MR. ZARLING: Okay. Would you like me to distribute copies if you all have it?

CHAIRMAN BOYER: Yes, please do.
(Pause.)
Q. (By Mr. Zarling) And I'm sorry Mr. Ferkin, just so the record is clear. Other than the errata that was filed yesterday, do you have any other changes or corrections to your direct testimony?
A. That is correct, none.
Q. And do you have any changes or corrections to your rebuttal testimony?
A. None.
Q. And if I were to ask you the questions in your direct testimony today would your answers be substantially the same?
A. Yes.
Q. And would those answers be true and correct?
A. Yes.
Q. And if I asked you the same questions that are in your rebuttal testimony today would your answers be substantially the same?
A. Yes.
Q. And would they be true and correct?
A. Yes.
Q. Have you prepared a summary of your direct and rebuttal testimony?
A. A brief summary, yes.
Q. Okay. Would you please present that?
A. Gladly. My name is Jeremy Ferkin. I am CenturyLink's vice president and general manager for Montana, Idaho, Colorado, New Mexico, and Wyoming. When I joined CenturyTel in 2003, the Company had approximately 2.4 million access lines. Now we have

Close to 7 million access lines.
CenturyLink is a company that has grown through acquisition process, and it includes both large and small acquisitions. It includes large Bell Operating Companies lines, it also includes small ILEC lines. In addition, it includes fiber routes as well as Spectra that we've purchased.

Each of these acquisitions were unique in their own right, but at the same time they share one commonality. And that is they've all been successful from a financial, employee, and possibly most importantly, a customer perspective.

With each successful transaction CenturyLink has been able to increase the size and financial strengths of the company, which has enabled us to expand our range of services and enabled us enhanced delivery of those services to our customers.

We have the experience to enable us to achieve the same success in Utah. A few key factors I'd like for you to consider this morning are the telecommunications market is not dormant. In fact, far from dormant.

It's highly-evolving, rapidly and constantly-changing providers have to adapt quickly and rapidly to flexible meeting demands -- flexible
demands of their customers. Consolidation of the industry is a reality.

This transaction will be good for the State of Utah, its economy, and its people for the telecommunications investment in this state. The Commission has a great opportunity to provide leadership in helping Utah consumers realize the full potential of bringing together two strong companies together to meet the telecommunications needs of Utah's citizens.

The best way to describe the transaction is that financially it's an acquisition. CenturyLink is acquiring Qwest. But from an operational standpoint it is a merger of two companies. The -- that means we'll utilize the best employees, the best systems, as well as the best processes, resources, and services of both companies bringing this transaction.

The integration planning process with Qwest is well under way. Our approach to acquisitions and integration is part of -- is really part of our culture, and more importantly in this case is the joint effort between two companies. We have an integration process that is robust, proven, and both companies and their employees are working cooperatively towards that.

CenturyLink's track record here is relevant, with more than 20 years of acquiring and integrating companies and access lines while operating successful business in the environment cannot be dismissed or taken lightly.

We do not underestimate the importance of successful integration. And in our view, our overall approach is conservative and pragmatic to the integration process. Utah is no exception. And our focus will be to make the public interest met, and so Utah quickly realizes the benefits of this merger.

CenturyLink's Go-to-Market Service Delivery Model is a more decentralized local structure that is combined with leaner more efficient central corporate operations. Placing a significant percentage of the Company's leadership in the field creates a local market focus, which drives operations and service decision making closer to the customer.

Increasing reliability, accountability, and customer satisfaction are the centerpieces of our desires with the local market focus. Under CenturyLink's model, most decisions regarding Utah retail products and services will be made in Utah, not in Louisiana or Denver.

In conclusion, based on the factors I've
described in my summary, it's clear that this transaction is in the public interest and should be approved by the Commission.
Q. Thank you, Mr. Ferkin. I'm gonna make a recommendation -- I was looking at the court reporter -- you might want to take it easy on her. MR. ZARLING: But with that, I will tender Mr. Ferkin for cross examination and any questions that the Commissioners may have.

CHAIRMAN BOYER: Okay, thank you.
Ms. Schmid, questions for Mr. Ferkin?
MS. SCHMID: No questions.
CHAIRMAN BOYER: Mr. Spann?
MR. SPANN: No questions, sir.
CHAIRMAN BOYER: Mr. Merz?
MR. MERZ: Thank you.
CROSS EXAMINATION
BY MR. MERZ:
Q. Good afternoon, sir.
A. Good afternoon.
Q. Do you have any operational responsibilities relating to wholesale service?
A. None other than for installation and maintenance that would be carried out in my organization.
Q. And so you oversee people who have functions relating to installation and maintenance of, what, wholesale services for CLECs?
A. Other than for retail products that a CLEC might be reselling.
Q. Who, in the states for which you have responsibility, has the responsibility for other CLEC services?
A. With the list of states I don't think I could memorize all of the people. I don't know the direct counterpart in our structure.
Q. Okay. After the merger is it envisioned that you will have responsibility for both the legacy CenturyLink companies and the operations of the legacy Qwest company in the states where you are responsible?
A. At this time I don't know what my role will be in the new organization.
Q. There is not today any CenturyLink vice president or general manager for the state of Utah, correct?
A. Not that I'm aware of.
Q. Do you know whether one has been chosen to be in that position post-merger?
A. Not that I'm aware of.
Q. Do you know whether there will be one?
A. I would assume, but I have no knowledge of that.
Q. In your rebuttal testimony at page 11?
A. In surrebuttal?
Q. I'm sorry, yes.
A. Okay.
Q. No, your rebuttal. I'm sorry.
A. Okay.
Q. Not your surrebuttal. Looking at line 10, where you talk about the company evaluates, compares, and adopts the best systems of merged companies, do you see that?
A. I do.
Q. Now Qwest, you know, has its own systems that cover preordering, ordering, provisioning, maintenance, repair, and billing, correct?
A. That is correct.
Q. And CenturyLink has its own systems that perform those functions, correct?
A. That is correct.
Q. And the goal of the company is to eliminate duplicate systems?
A. A goal of the company is to eliminate duplicate systems.
Q. And eliminating duplicate systems will allow
the company to save costs?
A. That is one possibility, yes.
Q. You would agree with me that what might be best from the Company's perspective may not, from a CLECs perspective, be best?
A. I think as a large corporation we have different groups that focus on different segments of customers. And so with any corporation there are different priorities.
Q. And my question's different. I'm talking about the perspective of the Company as distinct from the perspective of the CLECs. Can you agree with me that it may be the case that what the Company decides is best might be different than what the CLECs believe is best?
A. I believe it is possible that one Company's decisions might not be what's best for another company.
Q. Okay. And if there's a disagreement between CenturyLink and the CLECs about what's best, obviously the Company gets to decide, correct?
A. Outside of any possible federal regulation or anything else that would preclude us being able to make the decision, then the answer would be yes.
Q. Go to your rebuttal at page 12?
A. Okay.
Q. Beginning at line 11 of page 12 you talk about CenturyLink's approach to the integration process, correct?
A. That is correct.
Q. And you describe there a number of functional groups, correct?
A. That is correct.
Q. Where do the members of those functional groups come from?
A. It depends on the different group and which organization it may be.
Q. They come from within CenturyLink?
A. In some cases, yes.
Q. Are there cases where they don't come from within CenturyLink?
A. I believe that we have hired some consultants that are helping the corporation make decisions, yes.
Q. The functional groups come up with the objectives and work plans for the integration activities that will take place after the merger, correct?
A. I believe our process is to select the appropriate leaders who will build the organization that will make those decisions, correct.
Q. Ultimately you have to come up with objectives and work plans. I think that's something you talk about in your testimony, is it not?
A. That is correct.
Q. Are there any CLECs that would be members of those functional groups?
A. At this point I do not believe we are at that point.
Q. Well, you know, you've talked about the history of CenturyLink's integration in a number of transactions. In those transactions have CLECs been members of these internal functional groups that do the integration planning?
A. We -- when we're acquiring companies we are working with the employees of that company and the leadership of that company.
Q. So if I understand your answer, it's no, there haven't been CLEC participants as part of those functional groups?
A. My answer is when we acquire companies we integrate those companies not integrate everything else that's extraneous.
Q. And I'm sorry. I just don't understand the question. Is your answer to my question, No, CLECs have not been members of the functional groups that do
the integration planning?
A. Is the question are you a part of selecting our leadership, or is the question a part of, are you guiding what we make for decisions as a business?
Q. You describe in your testimony an integration process, correct?
A. That is correct.
Q. And central to that integration process is what you describe as "functional groups," correct?
A. Uh-huh. That is correct.
Q. You talk about what each those functional groups does, right?
A. That's correct.
Q. And you told me that the members of those functional groups come from within the Company?
A. That is correct.
Q. And when I asked you whether CLECs were gonna be involved your answer was, We haven't made that decision yet. Did I understand that correctly?
A. No, my answer was that those functional groups are led by the company.
Q. All right. Led by -- I'm talking now about the members of those functional groups whether. The CLEC --
A. Those are employees of our company.
Q. Okay. And that's gonna be true in the case of the Qwest integration as well, correct?
A. That is correct.
Q. In your rebuttal at page 9 you describe a number of acquisitions; is that right?
A. Where are you looking at on page 9? On the rebuttal?
Q. Yes. You talk -- in line 14 you say:
"CenturyLink has a proven track record of successfully integrating the operations of the companies it acquires...."

Do you see that?
A. That is correct.
Q. And you're talking there about acquisitions, correct?
A. That is correct.
Q. And the most recent of those acquisitions involved the acquisition of the Embarq territory, correct?
A. That is correct.
Q. In your rebuttal at Page 7 -- 10, I'm sorry. Page 10 , line 17 you say:
"In each instance, the integration has been successful in terms of customer
service improvements and sound operating results, and there have been no meaningful failures or complaints as far as the Company knows."

Do you see that?
A. That is correct.
Q. The conversion of systems in the Embarq territory is something that's been ongoing for some time, correct?
A. I believe we have been going for quite a while, yes.
Q. Okay. And you are aware that that conversion has been taking place -- conversion of systems has been taking place on a state-by-state basis, correct?
A. It has been taking place, absolutely.
Q. On a state-by-state basis, correct?
A. Correct.
Q. And you are aware, are you not, of problems that occurred when CenturyLink converted Embarq systems in North Carolina?
A. I'm aware that there were issues with some activities, correct.
Q. Okay. And what happened was that during the conversion of the North Carolina market to CenturyLink billing and operations systems, certain plant records
were loaded incorrectly. You are aware of that, correct?
A. That is correct.
Q. And you are aware that those were problems that resulted from differences between the old system, the system that was in place, and the new system that was being implemented?
A. Don't believe that's how I would characterize it.

MR. MERZ: Your Honor, I have two documents I'd like to mark as Integra Cross Examination Exhibits 2 and 3.
(Pause.)
CHAIRMAN BOYER: Shall we call them Joint CLECs Cross Examination --

MR. MERZ: That would be appropriate, yes.
CHAIRMAN BOYER: -- Exhibits 2 and 3?
Q. (By Mr. Merz) Mr. Ferkin, do you have in front of you a document we've marked as Joint CLECs Exhibit Cross Examination 2?
A. I believe that's this document, Utah Staff Data Request No. 151?
Q. I don't think it's actually a Utah staff data request. It actually comes from Washington. But it's WUTC Staff Data Request 151?
A. Must have cut off the "W" on it. All I see is "UTC."
Q. That's how they call themselves there.
A. Okay.
Q. Does this document, Cross Exhibit No. 2, accurately describe the problems that occurred in North Carolina as you understand them?
A. I have not seen this document before, so I would need time to read it.
Q. And why don't you go ahead and do that.
A. Great.
Q. And let me know if it's consistent with your understanding of what took place in North Carolina.
(Pause.)
THE WITNESS: Okay.
Q. (By Mr. Merz) And so my question is, is this description that we see here on Joint CLECs Cross Examination Exhibit No. 2 consistent with your understanding of what happened in North Carolina?
A. I have a limited understanding of everything that happened in North Carolina, but it is reflective, yes.

MR. MERZ: And your Honor, I'll represent for the record that this is a response provided by CenturyLink in Washington to a request by the

Washington staff. And I would move the admission of Joint CLECs Cross Examination Exhibit No. 2.

CHAIRMAN BOYER: Any objection to the admission of Joint CLECs Cross Examination Exhibit 2? Ms. Schmid or Mr. Spann? Mr. Zarling?

MR. ZARLING: Your Honor, I'm sorry, if Mr. Merz could restate. This is a Washington?

MR. MERZ: This is a response given by Integra -- I'm sorry. A response given by CenturyLink to a request by the Washington staff, Request No. 151, in the merger case.

MR. ZARLING: And is there any testimony about this issue in Mr. Ferkin's rebuttal that you plan to cross examine him on?

MR. MERZ: Yes. His testimony that there haven't been any problems with integration efforts.

MR. ZARLING: And with the understanding Mr. Ferkin says he's only generally familiar with those problems, I will not object to the admission of this.

CHAIRMAN BOYER: Mr. Peña, no objection?
MR. PEÑA: I don't have any objection.
CHAIRMAN BOYER: Okay. It will be admitted. (Joint CLECs Cross Exhibit No. 2 was admitted.)
Q. (By Mr. Merz) The second paragraph of the response refers to devices that did not load correctly. Do you see that?
A. I do see that.
Q. Do you know what "devices" are, as that's used in this response?
A. I don't know specifically what devices they're referring to.
Q. Well, do you know generally what "devices" are?
A. My assumption would be that it's systems in the field.
Q. The problems that occurred in North Carolina, it would be fair to characterize those -- let me start again.

It would be fair to characterize what happened in North Carolina in the integration as a problem, would it not?
A. I don't know that I would say -- well, first I would say it's not customer impacting. These were systems that had an impact that we were able to correct before any customer was impacted by them.
Q. Would it be fair to characterize this as a problem?
A. Anytime an issue does not load perfectly,
there are issues.
Q. And it would also be fair to say that this is a problem that would not have occurred but for the integration, correct?
A. If we had not been updating the systems and doing the migration, it would not have occurred.
Q. You are aware that the North Carolina integration happened sometime around mid-June of this year; is that right?
A. I believe that to be closely accurate. Once again, I am not involved nor was I involved in the integration.
Q. Were you aware of the North Carolina situation when you filed your rebuttal testimony in this case on September 10th?
A. No, I was not.
Q. How did it come to your attention?
A. I believe in some meetings that we had in regards to other conversions that would be going on.
Q. When did those meetings take place?
A. I don't recall the time.
Q. Sometime after September 10th?
A. I believe that to be accurate.
Q. Go now to Joint CLECs Cross Examination Exhibit No. 3. Cross Examination Exhibit No. 3 is a
response given by CenturyLink to a request by Integra here in Utah. Do you see that?
A. I do.
Q. And the specific reference given in connection with the request is a reference to your direct testimony; is that right?
A. That is correct.
Q. And the request asks, among other things, for a description of problems that the Company experienced during integration. Do you see that?
A. Once again, on this?
Q. Yes. Look at 41(j.)
A. Okay.
Q. And you see that what's being asked for is a description of problems that the Company experienced or is experiencing during integration. Do you see that's the request?
A. I do.

MR. MERZ: Your Honor, Integra offers Joint CLECs Cross Examination Exhibit No. 3.

CHAIRMAN BOYER: Any objection to Joint CLECs
Cross Exhibit No. 3?
MR. ZARLING: No objection, your Honor.
CHAIRMAN BOYER: It's admitted.
(Joint CLECs Cross Exhibit No. 3 was
admitted.)
Q. (By Mr. Merz) And then if you would go to the response that's given to the request? You'll find that on the third page of the exhibit. You would agree with me, would you not, that the problems that are -- that took place in North Carolina are not disclosed in response to this request?
A. I don't know the timing of those, so I can't speak to that.
Q. Well, if you look at the first page of the document you see that these responses were provided on July 20th, correct?
A. That is the date on the first page.
Q. And so if these -- if the North Carolina situation took place in mid-June that would have predated the date of these responses, correct?
A. I don't know when the issue was first alerted to our company, so I can't speak to that.
Q. Well, I understood you told me that it took place in mid-June. Did I misinterpret --
A. I think your question was did the conversion take place in June. I do not know when the issues were brought to bear or when we were aware of them, so I can't speak to that.
Q. If the conversion happened in mid-June you
would expect the Company would have learned of the problem before July 20th, wouldn't you?
A. Once again, I can't speak to the timing of that because I don't know.
Q. In all events, you would confirm that there's no discussion in response to this request of what took place in North Carolina, correct?
A. To my knowledge, that is accurate.
Q. Go to your rebuttal testimony at page 23. And I'm looking specifically at line 12 , where you say no rate increases will be required to pay for the integration process. Do you see that?
A. I do.
Q. What do you mean by "integration process" as you use it there on page 23?
A. As a result of the integration of the two companies.
Q. And would that include any transactionrelated costs?
A. I don't believe that we are seeking any transaction costs to be recuperated in rates.
Q. How about any increases in management costs; will there be any rate increases as a result of increased management costs that might result from the merger?
A. I believe, as is stated here, that we do not anticipate any increased costs as a result of the merger.
Q. Whether or not such costs are anticipated, if such costs do in fact occur is there gonna be an effort to recover those costs through wholesale rates?
A. I am not aware of that.

MR. MERZ: I have nothing further. Thank you, sir.

CHAIRMAN BOYER: Thank you.
Mr. Peña, any questions for --
MR. PEÑA: I don't have any questions, no.
CHAIRMAN BOYER: Commissioner Allen?
Commissioner Campbell?
COMMISSIONER CAMPBELL: It's your testimony that this acquisition is in the public interest. And setting aside the legal argument whether it's a no-harm standard or a net positive benefit standard here in this state, let's just assume for this question that we have used a net positive benefit in previous mergers in this state.

Could you articulate for us what those benefits are and, if possible, put numbers to them?

THE WITNESS: I don't know that I can put numbers to them. I believe ultimately a much stronger
financially-stable company is definitely in the public interest for the citizens of Utah. Which both -- all the major credit agencies have given a position that the credit rating for Qwest could be on the upward side, potentially. They believe that to be an increase in their potential debt ratings.

I also believe that the combination of the companies would result in additional services potentially being driven to the Utah customers. So those are definite advantages to the transaction. As well as a company that is very committed to local presence.

Local employees and local engagement drives everything from community involvement to employees that care and employees that are heavily committed to working within the community that they serve. And when you're committed, and you're involved, and you're focused on delivering results you always go much farther than you would if it just simply was a job to you.

COMMISSIONER CAMPBELL: When you use the word "net positive benefits," that almost indicates that there might be some detriment. Do you see any detriments that these positive benefits then exceed?

THE WITNESS: I do not.

CHAIRMAN BOYER: There is reference in the prefiled written testimony of at least one witness referring to a J.D. Power survey that talked about service quality grades, I guess you could say. And the reference is that Qwest, in some respects, had a much higher rating than CenturyLink. Are you aware of that testimony?

THE WITNESS: I have heard, I've heard the survey, yes. But I don't know a whole lot of details about it.

CHAIRMAN BOYER: So do you see that there is a risk at all of any degradation in the level of service? If Qwest is doing something well now and CenturyLink does it less well in their territories, what would the Company's approach be on that?

THE WITNESS: People like myself, vice president and general managers, are ultimately accountable for the service quality for our customers in the areas that we serve. We have a local management structure that we would dig into it on a monthly basis to find out what's going on in that area, what we can do to better serve customers.

We are very aggressive in making sure that we can better serve our customers. So as we find things that we're not doing, or that aren't performing well,
it's our objective to ensure that those are turned around.

CHAIRMAN BOYER: Okay, thank you.
Any redirect, Mr. Zarling?
MR. ZARLING: Perhaps one or two short, short questions, hopefully.

## REDIRECT EXAMINATION

BY MR. ZARLING:
Q. Mr. Ferkin, Mr. Merz, I believe, asked you about whether a Utah general manager had been appointed or decided on yet. And your answer, I believe, was no. But has there been a decision, from an operational standpoint, as to who's gonna head up the region in Utah?
A. The region will be headed by Kenny Wyatt, that is correct. Region president based in Denver, Colorado.
Q. And can you explain briefly how, then, the general manager -- what the process will be for determining who the general manager will be going forward?
A. Sure. As in the testimony, we select our leaders first. We want to make sure that they are selecting the people that are gonna be the best people for those areas that they serve. And so Kenny is in
the process right now of selecting those vice president and general managers that will serve Utah and various other states.

And so then those leaders will cascade to select the next level of leadership as well. So Kenny is in the process right now of selecting that person. I do believe that there will be a general manager based in Utah, but I don't know if that selection has happened yet. Just ignorant of that.

MR. ZARLING: I think that's all I have. Thank you.

CHAIRMAN BOYER: I'm gonna take the prerogative of asking another follow-up question on that. The Qwest management structure right now has -uses state presidents.

So is it your opinion or your understanding at this point in time that if this merger is approved the merged companies will also have a local manager responsibility for local activities? Obviously responding to someone up the chain of command, but.

THE WITNESS: Sure. There's a, I think a sizeable difference, and please feel free to ask any questions as follow up on it.

I believe mostly Jerry Fenn's position is a public policy as well as government affairs position,
whereas the vice president and general manager is operational. Has, you know, all the way down to technicians reporting in. Works with local community on events and everything else.

So anything that goes on within that state ultimately is within the general manager's purview to navigate and help address. So a lot broader position.

CHAIRMAN BOYER: And have you looked at staffing levels in the various states and regions? I mean, will there be a movement of functions from, for example, the State of Utah to Louisiana or wherever?

THE WITNESS: I believe from a -- what I manage from the CWA perspective, they are comfortable. We've made commitments that, you know, in the CWA agreement that our staffing levels, you know, percentages-wise will stay the same.

However, where certain functions go? I can't speak to that because those decisions just have not been made at this point. From a call center perspective we've spoke definitively, we are not closing call centers.

I can't remember the timeline off the top of my head right now in the CWA agreement. But we've spoken definitively about that and settled with CWA and IBW.

CHAIRMAN BOYER: Okay, thank you.
Did that raise any other redirect questions?
MR. ZARLING: No, your Honor.
CHAIRMAN BOYER: Very well. Thank you, Mr. Ferkin, you are excused.

THE WITNESS: Thank you.
CHAIRMAN BOYER: Let's take a ten-minute recess and then we'll hear from Mr. Fenn.
(A recess was taken from 3:15 to 3:27 p.m.)
CHAIRMAN BOYER: Okay, we're back on the record. Mr. Fenn.
(Mr. Fenn was sworn.)
CHAIRMAN BOYER: Thank you, please be seated. Which of you illustrious lawyers is gonna?

Okay, Mr. Duarte.
MR. DUARTE: Well, if it's illustrious it would be my colleague, Mr. Zarling. But I happen to work for the same company. He's my client, so he's stuck with me.

JERRY FENN,
called as a witness, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION
BY MR. DUARTE:
Q. Mr. Fenn, good afternoon.
A. Good afternoon.
Q. Please state your full name and business address for the record.
A. Jerry D. Fenn.

CHAIRMAN BOYER: Sorry, I'm -- Mr. Duarte, I'm not sure that your mike is on. Or at least I'm not sure if it's close enough to --

MR. DUARTE: Oh, there we go.
CHAIRMAN BOYER: -- pick you up. There you go.

THE WITNESS: My name is Jerry D. Fenn. And my business address is 250 Bell Plaza, Suite 1614, Salt Lake City, Utah 84111.
Q. (By Mr. Duarte) Mr. Fenn, who do you work for and what is your position?
A. I work for Qwest Communications. And I am the president of Qwest for the State of Utah.
Q. Mr. Fenn, did you prepare direct testimony that was filed on May 27, 2010, and that was admitted into the record of this proceeding this morning as Exhibit JA-1?
A. Yes.
Q. Does your direct testimony have any exhibits?
A. It does not.
Q. Do you have any confidential or
highly-confidential testimony in your direct testimony?
A. No, sir.
Q. And do you have any corrections to make to any of your direct testimony?
A. I do not.
Q. Mr. Fenn, did you also prepare rebuttal testimony that was filed on September 30, 2010, and that was admitted into the record of this proceeding this morning as Exhibit JA-R1?
A. I did.
Q. Does your rebuttal testimony have any exhibits?
A. It does not.
Q. Do you have any confidential or highly-confidential testimony in your rebuttal testimony?
A. I do not.
Q. Do you have any corrections to make to any of your rebuttal testimony?
A. None.
Q. Mr. Fenn, are all of the answers in both your direct testimony and your rebuttal testimony true and correct to the best of your knowledge?
A. Yes, sir. To the best of my knowledge.
Q. Mr. Fenn, if I were to ask you the same questions here as those in your direct and rebuttal testimonies would your answers be substantially the same?
A. They would.
Q. Mr. Fenn, do you have a summary of your testimony?
A. I do.
Q. Can you please present your testimony now?
A. With the permission of the Commission, I'd like to do that. Chairman Boyer, and Commissioner Campbell, and Commissioner Allen, it's a privilege to be able to appear before you today and to urge you to approve this merger as consistent with the public interest.

I'd like to say preliminarily, just in my viewpoint, that the Commission should approve this merger without the conditions that are being urged by the Joint CLECs. I don't think the Commission should be persuaded by the extraneous examples of problems with other mergers, or sympathetic to the laundry list of conditions that the Joint CLECs propose.

I understand the CLECs trying to take advantage of an opportunity to leverage these issues in this docket, but the Commission should reject the
conditions. They are onerous, they are burdensome, they are overreaching, and they are simply unnecessary.

Moreover, the CLECs are not foreclosed or barred from asserting, in other proceedings, their conditions. And raising their concerns either in other regulatory proceedings, or in resolving disputes under contracts in interconnection agreements.

This docket does nothing to change the existing regulatory contractual and legal requirements to the CLECs. Nothing about this merger erodes or somehow degrades any existing authority that this Commission has over wholesale or retail issues.

If there's a specific issue which later arises with respect to a claim that CenturyLink is not abiding by the terms of it's contractual obligations, or otherwise violating regulatory or legal constraints, those can be addressed at the appropriate time in another forum.

Now, I want to say and should note that the wholesale market is a very important part of the combined Company's business. The Company is committed to seeing that CLECs will receive high quality wholesale services.

I want to make five points with respect to
why I believe this merger is in the public interest and should be approved by the Commission. First, CenturyLink has the necessary technical, financial, and operational expertise.

Here we have two great companies that are coming together, where the combined company is much stronger than either company standing alone. CenturyLink is a company with an excellent track record. Its experienced in acquisitions and integrations and it has a very experienced management team.

And I believe that this Commission should have confidence in the ability of the combined Company's management to carry out integration and meet all the regulatory requirements and the legal obligations.

Second, I think the merger will result in a much stronger company. I think it'll be stronger financially, as I've said in my testimony and as others have said. They'll have improved access to capital. The debt will be leveraged. There will be great synergies that will result.

And this merger creates a financiallystronger company that has the enhanced ability and the resources to invest and to operate in the State of

Utah. To deploy broadband and enhanced services, including in the future possibly IPTV.

Third, I believe the citizens of the State of Utah will benefit from this merger. First of all I want to note it will be transparent to customers, with the possible exception of a name change and some combination of back-office billing functions.

But the retail end user as well as wholesale customers will continue to receive services from the same carrier that they receive services from now. And the legal and contractual obligations of the companies to those customers are not affected by this merger.

Now, I want to talk just a bit about the competitive environment in the State of Utah. Why the combined company will be better able to compete. If you can create a stronger competitor in the marketplace, then I think the citizens of the State of Utah are bene -- will benefit by improved choices. And that, $I$ think, is in the public interest.

We are in an environment, as this Commission well knows, where we have a very, very robust competitive marketplace. Qwest residential and retail access lines, business retail access lines, have declined by more than 40 percent in the last 8 years, while population in the state has been increasing.

Our major competitor in this marketplace is
Comcast. It has about 360,000 cable households in the Salt Lake area. And I think the other fact which is, I think, very powerful is that the wireless market has grown by leaps and bounds in the last several years, and where we now have almost 2 to 1 wireless connections in the state, 2.5 -- 2.05 million wireless phones and only 1.02 million wireline phones.

And wireline cost is only about 34 percent of total connections in the marketplace. In addition, we're seeing the emergence of new technologies, such as Voice over Internet. Well, this company will have the resources to invest to meet the challenges posed by Comcast and other competitors.

And the competitive market alone, I think, creates the incentives for us to invest. We'd be foolish not to invest in a competitive marketplace if we want to continue to earn revenue and to meet the needs of customers and to hang on to customers.

So the public interest is advanced by creating a stronger competitor. The reality, I think, of a competitive market also needs to be reflected and is reflected by the reduced regulatory constraints that have been placed on Qwest by changes in law.

In 2005 Qwest was granted pricing flexibility
on all retail services except for the basic residential line. And in 2009 the legislature completed that process and eliminated the cap on residential service. These changes in law reflect the changing competitive landscape, I think.

Fourth, as Mr. Ferkin described,
CenturyLink's Go-to-Market Operating Model will also create a stronger competitor and will benefit customers. This model drives decisions to the local level. And as has been discussed, there will be a general manager who will have responsibility for both network and mass-market issues, profit and loss responsibilities.

And it will allow that general manager to surgically be responsive to the needs in the marketplace. And to make strategic decisions based upon the competitive environment in this marketplace.

So they'll have the ability to focus on the needs of consumers in Utah. And be able to differentiate CenturyLink from its competitors in the marketplace by pricing, by marketing efforts, and by customer service.

So if the merged company is saddled with unreasonable, with onerous and unnecessary conditions, as urged by the Joint CLECs here, I think it will make
the company less competitive.
Finally, Mr. Chairman and Commissioners, I think that the settlements reached with the Division of Public Utilities, with the Office Of Consumer Services, and the Salt Lake Community Action Program demonstrate that these parties believe, as reflected in the stipulations, that this merger is in the public interest.

The assurances on a broadband commitment, on wholesale issues, where the most significant issues of -- on the wholesale level, such as the extension of the OSS, the CMP, extension of interconnection agreements, protection against new rates and wholesale charges, and continuation of the QPAP, all those are the issues, I think, that further demonstrate, based upon those stipulations, that this merger is in the public interest.

And I believe that the Commission should approve those stipulations entered into without modifications. I want to thank you in advance for your review, careful review of all of these issues. And I urge the Commission to approve this merger as advancing the public interest in this state.

CHAIRMAN BOYER: Okay. Thank you, Mr. Fenn.
Is he available for cross examination?

MR. MERZ: Yes.
CHAIRMAN BOYER: I don't think anyone indicated an interest in cross examination, but we'll ask anyway.

MR. DUARTE: Your Honors, I have no further questions for Mr. Fenn at this time. I do understand from the prehearing conference last Thursday, October 21st, that none of the parties had planned any cross examination of Mr. Fenn.

But certainly if your Honors have any questions of Mr. Fenn he will be available for the questions.

CHAIRMAN BOYER: Has that changed? Does anyone wish to cross examine?

MR. MERZ: No questions.
CHAIRMAN BOYER: Commissioner Allen, any questions? Commissioner Campbell? Nor I.

Mr. Fenn, thank you. You are excused.
THE WITNESS: Okay, thank you.
MR. DUARTE: Your Honor, the Joint Applicants rest their case in chief.

CHAIRMAN BOYER: Thank you. We're gonna continue to steam ahead until the public witness hearing, which will commence at 5:00. And in that regard, at 5:00 we'll take a short recess of five
minutes or so, or ten minutes, to see if any members of the public wish to testify.

If they don't, it would be our desire to continue on in an effort to get all of the witnesses in. And hopefully hear from the Division and some of the other witnesses tomorrow afternoon instead of on November 4th, if we could.

We'll continue to maintain that tentative date if we need oral arguments on the stipulation and the HSR documents.

So with that, let's turn now to Mr. Merz.
MR. MERZ: Thank you, your Honor. The Joint CLECs would call Timothy Gates.
(Mr. Gates was sworn.)
CHAIRMAN BOYER: Thank you. Please be seated.

## TIMOTHY GATES,

called as a witness, having been duly sworn, was examined and testified as follows: DIRECT EXAMINATION

BY MR. MERZ:
Q. Good afternoon, sir.
A. Good afternoon.
Q. By whom are you employed?
A. I'm employed by QSI Consulting.
Q. Mr. Gates, have you filed in this case direct testimony that's been marked and admitted as Joint CLECs Exhibit No. 2?
A. Yes.
Q. And that testimony includes the exhibits that have been marked and admitted as Joint CLECs-2.1 through 2.9?
A. Yes.
Q. There is a highly-confidential version of that testimony; is that right?
A. That's correct.
Q. You also have prepared surrebuttal testimony in this case; is that correct?
A. Yes, I have.
Q. That testimony has been marked as Joint CLECs Exhibit 2SR; is that correct?
A. Yes.
Q. And there is also a highly-confidential version of that testimony; is that correct?
A. That's correct, there is.
Q. There are no attached exhibits to Exhibit 2SR; is that correct?
A. I believe there are exhibits to the surrebuttal.
Q. Maybe we should on the record, then, state
what those are, because I may have omitted them.
A. Yes. We have the Issues Matrix.
Q. And what exhibit number is that?
A. You know, I deleted that -- well, no, I do have it. It's on the second page or third page of my testimony. Page ii of my surrebuttal identifies the five exhibits.
Q. And those are 2 SR. 1 through 2SR.5; is that correct?
A. That's correct.

MR. MERZ: And your Honor, I believe I must have omitted those when we were introducing testimony this morning, so we would now offer those exhibits to Mr. Gates' surrebuttal testimony.

CHAIRMAN BOYER: Right. And I assume there's no objection to?

MR. DUARTE: No objections, your Honor.
CHAIRMAN BOYER: I think we thought we had included them anyway earlier, so they are admitted as well.

THE WITNESS: I would note, Mr. Merz, that the 2SR. 5 is confidential.
Q. (By Mr. Merz) Thank you, sir.
A. Yes.
Q. Is the information contained in your direct
and surrebuttal testimony true and correct, to the best of your knowledge?
A. Yes, it is.
Q. Do you wish to make any corrections to any of your testimony?
A. No, I do not.

MR. MERZ: Your Honor, Mr. Gates is now available for cross examination and questioning by the Commission.

CHAIRMAN BOYER: Thank you, Mr. Merz.
Ms. Schmid?
MR. MERZ: Oh, I'm sorry. I neglected to ask -- Mr. Gates has a summary.

CHAIRMAN BOYER: Oh, we would like to hear his summary.

MR. MERZ: I apologize.
CHAIRMAN BOYER: Let's hear that first.
THE WITNESS: Thank you. Mr. Chairman, Commissioners, good afternoon. I know it's late and I've filed almost 400 pages of testimony and exhibits, so I'll make this as quick as I can.

The Joint Applicants have not met their burden of proof showing that the proposed merger is in the public interest or that there is a net public benefit -- positive benefit. In fact, despite the
efforts of the CLECs and Commission staffs, they have refused to provide any key information about the integration efforts.

They also refuse any of the CLEC conditions on the merger, even though those types of conditions are normal and necessary. This complete rejection of the CLEC conditions contradicts their statements about valuing wholesale customers. Contradicts their statements about providing quality wholesale services. And also contradicts their statements about continuing to abide by federal and state law.

It's not unreasonable for this Commission to require or for CLECs to expect service quality to at least remain the same after this merger closes, and that's what the proposed conditions are designed to do. The Joint Applicants are just wrong when they suggest that the CLECs are attempting to gain some competitive advantage or to get a cut of these synergy savings. It's just not true.

The conditions proposed by the Joint CLECs do not increase the quality of services provided by Qwest today. They don't reduce the rates currently charged by Qwest today. There's nothing in the Joint CLECs proposed conditions or in the testimony that would change Qwest's wholesale operations in Utah.

So -- but the CLECs and their customers needs stability and certainty which would result from extending the ICAs and maintaining the current level and quality of Qwest's wholesale services and systems during the integration process.

Now, I'd like to address some of the themes that you've heard -- and many of them you've heard very recently in the Qwest and CenturyLink testimony -- and briefly summarize our response.

You heard today, over, and over, and over again, that conditions are not necessary. I was counting as Mr. Hunsucker was being crossed by Mr. Merz, and I stopped at 20. Conditions are not necessary.

That's just not true. The FCC and the States have imposed conditions which are necessary to protect the development of competition, to protect the public interest, and to protect consumers. And we know, despite Mr. Hunsucker's testimony, that Qwest and CenturyLink are willing to accept conditions. At least the ones that they're willing to accept.

Second, Mr. Hunsucker says that CenturyLink abides by the law and will continue to abide by the law. Also not true. We -- in my testimony I discuss at length the CenturyTel purchase of exchanges in

Wisconsin. After which they immediately changed the designation of those exchanges from price cap regulation to rate of return regulation. And unilaterally increased retail and wholesale rates.

Two and-a-half years later, after all these Commission proceedings in Wisconsin, the Wisconsin Commission found that what CenturyTel had done was not in accordance with the law, they violated the law, and ordered refunds for both retail and wholesale customers.

We also know, based on what CenturyLink companies do around the country, that they impose anticompetitive policies and charges that are discriminatory and not consistent with the rules and the law.

A third thing. CenturyLink today provides quality services and will continue to provide quality services. I think you heard that several times today. It's throughout the testimony.

In my testimony I respond to that and provide service quality metrics. Post-merger metrics from North Carolina that shows that, indeed, after the Embarq merger service quality was degraded.

I also provide the J.D. Power \& Associates results on customer impressions of service quality to
show that CenturyLink's testimony is always below average. Certainly below -- CenturyLink's quality of service, I'm sorry, is always below average, and certainly below that of Qwest.

A fourth theme, and we heard this today, CenturyLink is not under the gun to make these changes to OSS and to get the integration process done. If the Company wants expedited consideration of this merger, then they should engage in expedited consideration of integration planning.

To expect this Commission and the parties to just trust them that this is gonna be in the public interest and that it will provide benefits just doesn't pass the straight-face test. You know, as President Reagan said, "Trust but verify." And in this proceeding we don't have any facts to support the conclusions and the statements made by CenturyLink.

The fifth theme, CenturyLink refuses to agree to wholesale rate freezes. I find this very curious. I think it's undeniable and there's no dispute over this that telecommunications is a decreasing-cost industry. Okay? So if you have rates up here and you have costs down here, okay? Over time, rates go down.

In this case they promised 600 million in synergy, so rates are gonna go down even more rapidly.

As rates go down, profits go up. And yet CenturyLink won't agree to the rate cap? To the freeze?

Remember, Joint CLECs aren't asking that they go down, just keeping them constant.

Which should provide a net benefit, over time, to the company. And yet they refuse to accept that freeze. Which makes me think that CenturyLink does, indeed, want to increase rates. I think that's the only conclusion one can reach from that.

Now, finally, CenturyLink claims to be an experienced and successful integrator. There is nothing in the record to support that. CenturyLink is still attempting to integrate Embarq. And is having dire problems in Ohio and in North Carolina. The CWA, the actual people doing the integration? That they brought forth in evidence?

And yes, they may have settled with the CWA. But that testimony and all those problems that impacted consumers and customers, retail and wholesale, is still sworn testimony. Those problems did occur and are still occurring in Ohio and North Carolina.

We also have evidence from Cox in Nebraska that they're having serious problems in Las Vegas with CenturyLink and integration efforts there, which I
understand is one of CenturyLink's largest markets.
So in summary, I think it's clear -- at least it is to me -- that they haven't met their burden. There are so many things that they have just not even responded to, including service quality. And although they say they won't accept any conditions, they certainly do when it evidently meets their interest.

So be happy to answer any questions, and that concludes my summary. Thank you.

MR. MERZ: And now Mr. Gates is available for questioning.

CHAIRMAN BOYER: Okay, thank you.
Ms. Schmid, any questions for this witness, Mr. Gates?

MS. SCHMID: No questions.
CHAIRMAN BOYER: Mr. Spann?
MR. SPANN: No, sir.
CHAIRMAN BOYER: Mr. Duarte, Mr. Zarling?
MR. DUARTE: I do have some questions.
CHAIRMAN BOYER: Mr. Duarte.
MR. DUARTE: Thank you.
CROSS EXAMINATION
BY MR. DUARTE:
Q. Good afternoon, Mr. Gates.
A. Good afternoon.
Q. This is about, what? Maybe the third, fourth time we've met in probably as many states?

CHAIRMAN BOYER: Mr. Duarte, would you raise your mike closer to your face? Thank you.
Q. (By Mr. Duarte) I'm just saying this is probably about the third or fourth time we've met in probably about as many states?
A. I think we've met several times over the years.
Q. Now Mr. Gates, you're testifying on behalf of Integra and the Joint CLECs in numerous states, aren't you?
A. Yes.
Q. In fact, you're testifying in all nine states in the Qwest ILEC region that are conducting merger reviews?
A. I guess that wouldn't surprise me. I don't know if we filed nine pieces of testimony yet. But I think I'm involved in most, if not all of those.
Q. And you've already testified in hearings in Nebraska and Minnesota; is that correct?
A. That's correct.
Q. And in addition to Utah you expect to testify in six additional states, as well as again in Minnesota and possibly here in Utah?
A. Again, I'm not sure about the number. But that sounds about right, yes.
Q. Okay. And you stated that you filed almost 400 pages of testimony in your summary; is that correct?
A. Yes.
Q. Okay. Would you believe me if I told you that without exhibits it spans something like 68,000 words?
A. I'll accept that.
Q. In fact, in your newest filings last week you're up to about 450 pages in Minnesota; is that correct?
A. I'm not sure of the exact number. But with testimony and exhibits, perhaps.
Q. You'd agree with me that at least 95 percent of the testimony that you've filed in any given state is the same as in other states?
A. Are you talking about in this proceeding?
Q. Yes.
A. Oh, I don't know the percentage. I think the positions are certainly consistent. We've had to deal with the different types of discovery responses and adjusted to different testimonies that were filed. But certainly the conditions are very similar and the
positions are similar.
Q. And certainly the conditions are not state specific, are they?
A. No, they are not. Although in Nebraska, which held a legislative-type hearing? I did provide or suggest four categories of services -- or not services but conditions which encompassed these 30 but were different in terms of how they were presented.
Q. Mr. Gates, to the extent that you testify about Telecom Act issues or about case law or other legal matters you're not testifying about any legal positions, are you?
A. I'm not a lawyer so I'm not providing legal positions in that capacity, no.
Q. So you're not offering legal opinions, I should say?
A. No. No, my opinions are based on interpretations of the Act and rules, et cetera, from an operational perspective as someone who's been in the industry for 25-plus years.
Q. Mr. Gates, in your summary a few minutes ago you were talking about the parties' different interests. You would agree with me, sir, that in regulatory proceedings each side must defend and advocate for their own self-interest?
A. I don't remember talking about different interests in my summary.
Q. No, I heard that and I wrote it down. Well, let me ask you the question then without reference to the summary. You'd agree with me that in regulatory proceedings each side must defend and advocate for their own self-interest?
A. Yes. I don't know if I would call it "self-interest." Yes, I would call it their interpretation of the law. But, you know, they all have different positions. But frequently if we come to the Commission with a dispute obviously there would be a difference of opinion.
Q. And you would agree with me, sir, that it's in the Joint Applicants' self-interest in getting this merger approved, for all of the reasons they have stated in their application and their testimony?
A. I think they think it might be in their self-interest. But given the horrific disasters we've had in recent mergers and the ongoing problems with the CenturyLink-Embarq merger I'm not certain, without conditions, that it would be in their best interest.
Q. Well, you'll certainly --
A. And I do not want to see Qwest and CenturyLink fail as a merged company.
Q. Well, you'll certainly agree with me, sir, that it is in the CLECs' self-interest for this merger to be denied for all of the reasons they've stated in their testimony?
A. No, I think, I think you're misstating it. I don't think the CLECs would see denying the merger, per se, as a benefit to them. I think -- I don't think they would have an opinion on the merger as long as there are sufficient conditions in place to protect against harm.

And recall that all of the conditions, the 30 conditions, are aimed at maintaining the status quo. And I don't see how that benefits CLECs other than to protect against harm, which is the goal of the conditions.
Q. Ultimately, sir, you would agree with me that it's in the CLECs' self-interest to see that if the merger's approved the Commission imposes many of the conditions that they proposed?
A. I think the public interest is served by imposing those conditions. And CLECs, the public interest, and consumers would benefit from those.
Q. And it would be in the self-interest of the CLECs for that to happen?
A. I think all parties and public interest would
benefit, yes.
Q. And you would agree with me ultimately that each side is acting under economic self-interest when they come to the Commission for a regulatory proceeding?
A. Well, I mean generally, yes. I mean, there's some, you know, the DoD, and the FEA, and the staff, and some interveners may not have that focus. But, but generally, yes. We don't want things to get worse. We want to at least maintain the status quo.
Q. Mr. Gates, you seemed to take a lot of umbrage at what you consider to be the Joint Applicants' dismissive attitude or belittling of the CLECs, or purportedly not taking the CLECs and their 30 proposed conditions seriously, didn't you?
A. Yes. As I recall, your witnesses referred to it as noise and irrelevant. And refused to accept any of them, even though all they do is seek to maintain the status quo. So yes, I, I am bothered by that and concerned.
Q. And Mr. Gates, you'll agree with me that you yourself used some pretty strong words about the Joint Applicants' positions in this case, didn't you?
A. I'm not sure what you mean by "strong words," but we can certainly go to my testimony and discuss
it.
Q. Well --
A. I think it would be a huge problem for this merger to be adopted as filed without conditions. I think it might result in an unmitigated disaster, as NASUCA referred to the FairPoint merger.

Recall that QSI was the advisor to the Maine Commission. QSI was the advisor to the Hawaiian Commission, the Commission on the Carlyle acquisition. So, I mean, we are familiar with the problems that have occurred with other similar mergers.

And all of those companies make the same claims that you're hearing from Qwest and CenturyLink. We have the financial ability. We have a great management team. We're gonna bring new products and services to consumers. And yet we had huge bankruptcies and failures, and consumers in competition were harmed.
Q. Sir --
A. So I want -- I would like to believe what the companies are saying, but I don't think we -- we need more than that. We need some assurances and protections to make sure that those other disasters don't occur here in Utah and elsewhere.
Q. Sir, I don't think I asked you to restate
your position. I asked you whether you used some pretty strong words about, for example, that the Joint Applicants' claims were absurd and made no sense, or that there was no rational basis to them. Do you remember that?
A. I do remember getting crossed in Minnesota on the use of the word "absurd." Can you point me to that in my testimony?
Q. Well, sure. Page 69 of your rebuttal testimony, sir. Surrebuttal, I should say.
A. Surrebuttal?
Q. Yes.
A. Oh, yes. That was Mr. Hunsucker's statement that maintaining the status quo and requiring compliance with the law increases CLEC profits and CenturyLink's costs. And yes, that is absurd to say the least, although I probably shouldn't have used that word. But it's appropriate.
Q. And in other places you said that Mr. Hunsucker's or the Joint Applicants' position made no sense; is that correct?
A. Again, I don't know where you're referring to, but I may have said that. Where is it again?
Q. Well, I -- do we have to go -- I mean, I'd be happy to go through it. Page 83 , sir.
A. Well, we -- let's do, because I -- I
understand you can characterize my testimony, but if I've made statements I think I've supported them. So I'd like to be able to at least explain why I made those statements.
Q. Okay. Page 83.
A. Thank you. Oh, yes. Again, this was the statement claiming that CLECs are attempting to undermine the Joint Applicants' ability to compete for end-user customers. And yes, and that does not make any sense.
Q. And so sir, rather than go through, I mean, you filed almost 400 pages and there was a number of other places where you used words like "absurd" or "made no sense."

But, you know, I think to cut to the chase, because it is getting late in the day. You would agree with me, sir, that in the context of regulatory litigation it's not unusual for sides to vigorously disagree with each other?
A. That's true. We do sometimes disagree.
Q. And you vigorously disagree with the Joint Applicants here?
A. On many points, I do.
Q. And you would agree with me that they
vigorously disagree with you on many points?
A. Yes, I think that's true.
Q. And ultimately in deciding the merits of this case you agree that the Commission should be guided by the facts, the law, and good policy, and not how, in the midst of regulatory litigation, one side vigorously objects to the other's position. Would you agree with me with that?
A. I certainly do. And that was the point of my testimony, is that the Joint Applicants haven't provided the necessary facts to reach conclusions on whether this merger is in the public interest. That's why conditions are necessary. If we had those facts, Mr. Duarte, then we could give you an opinion on the integration plan. But we don't.
Q. Okay. So you --
A. So in the absence of that, we need conditions.
Q. So you've said that there has been no useful information or no useful facts; is that correct?
A. I think something to that effect, yes.
Q. And you'll agree with me, however, that it's in the CLECs' self-interest to say that the Joint Applicants have not provided enough useful information, isn't it?
A. Absolutely not. That is not right. When we say that there aren't any sufficient or key facts, it means that CLECs are currently using Qwest OSS. We have no idea what the merged company will do with respect to OSS. And that's a key operating issue for CLECs and their customers.
Q. Now --
A. So the fact that there are no facts is not just problematic to me, it's problematic for the Commission that has to make the decision as to whether or not the merger is in the public interest.
Q. Now Mr. Gates, in your surrebuttal testimony you made numerous references to the testimony in the Minnesota proceeding of a witness from the Communications Workers of America, or CWA union, regarding OSS and systems issues, didn't you?
A. I believe I did, yes.
Q. And you are aware, sir, that the CWA has, in fact, settled with the Joint Applicants in the State of Minnesota?
A. I'm aware there was a settlement, but that doesn't negate the sworn testimony that the CWA provided regarding quality of service and customerimpacting problems in North Carolina and Ohio. I mean, just because you got your employees to buy off
on the merger doesn't mean that those problems are gone -- have gone away or never occurred.
Q. Sir, Qwest was granted Section 271 relief to offer interLATA toll services from the FCC in 2002 here in Utah, correct?
A. Yeah, I believe that was the time frame.
Q. And you're critical that because after Qwest was granted 271 approval, in some states it withdrew its statement of generally available terms and conditions, or SGAT, and replaced it with Qwest's template proposal; is that correct?
A. Not so much critical that they did it. And again, could you point me to my testimony, Mr. Duarte?
Q. Absolutely. Absolutely.
A. It was the manner which the replacement was done. This unilateral replacement of the SGAT, that we'd spent years getting in place, with this new negotiations template resulted in extensive additional proceedings, and time, and cost for all parties. Where is it again? I'm sorry.
Q. Certainly. I'll direct your attention to page 23 of your direct testimony.
A. Thank you.
Q. And specifically lines 2 to 4.
A. Yes, I'm there. Thank you.
Q. Okay. And in that same page you argue that Qwest using the template proposals has created additional disputes, delay, and litigation, as CLECs are now forced to arbitrate issues where Qwest's view of its obligations does not comport with the CLECs' views of Qwest's obligations. Did I read that correctly?
A. Yes.
Q. But in the almost eight years since 2002 you can't name one arbitration that a CLEC has brought before this Commission in Utah regarding a dispute that they'd had with Qwest's interconnection agreement template, can you?
A. There have been hundreds of disputes over the template interconnection agreement, which has resulted in scores of interconnection arbitrations in the Qwest region.
Q. Sir, my question to you was, you can't name me one arbitration that has been brought before the Utah Public Service Commission with respect to Qwest's interconnection agreement that you discuss on page 23 of your direct testimony?
A. I don't discuss a specific interconnection agreement. I discuss the fact that the SGATs were replaced with a new agreement. So that CLECs were
again starting from scratch, as opposed to relying on rates, terms, and conditions that were developed in proceedings before the commissions.

Now, did that result in additional
litigation? Absolutely. Now, can I, can I provide you with case numbers? Perhaps if -- in my CV we could go through it. I mean, there are dozens of cases where CLECs have litigated disputes with Qwest over their interpretation of the template agreement --
Q. But --
A. -- and how that complies with the Telecom Act.
Q. Are you -- I don't want to cut you off. I tend to do that by accident, not being rude. But you, again, don't know of any here in the State of Utah?
A. I can't name any particular proceedings.
Q. Okay. And then you also give other examples of disputes that may arise over an interconnection agreement, such as frequent billing disputes over traffic types, jurisdiction of traffic, and network engineering responsibilities later in that page 23. Do you see that?
A. Yes, at the bottom of the page.
Q. And again, sir, in the almost eight years since 2002 you can't name one complaint that a CLEC
has brought before this Commission in Utah regarding a dispute -- with respect to any examples of disputes that may arise over an interconnection agreement?
A. I, again, I can't identify a particular case. But I deal with these same issues every day. And I would be shocked if CLECs hadn't brought commissions -- or brought these issues before this Commission in arbitration proceedings.

Are you suggesting, Mr. Duarte, that there haven't been any arbitrations in Utah in the last eight years; is that the gist of your question?
Q. Mr. Gates, you've testified over 200 times before. You know the process. I'm not the witness here, so.
A. Okay. I apologize, I was just trying to get some clarification.
Q. Okay. Now, sir, you also talk about this concept called the "additional performance assurance plan," or the "APAP"? Do you recall that at direct testimony, exhibit -- or I'm sorry, pages 131 to 133, and also in your surrebuttal at page 13, and of course your Condition No. 4? You generally discuss the so-called "APAP"?
A. Yes.
Q. And you'll agree with me, sir, that neither
the FCC nor any State Utility Commission has ever ordered an additional PAP as a condition to a merger?
A. I don't think an additional PAP, as defined by Mr. Denney, has been ordered. But certainly merger orders have referred to and maintained existing performance assurance plans as a check against quality-of-service issues post-merger.
Q. And sir, you'll agree me that neither the FCC nor a state commission has ever ordered a PAP that was based on a standard such as service degradation as a result of a merger?
A. Not specifically.
Q. And neither the FCC nor any State Utility Commission has ever ordered a PAP that was not based on a parity or nondiscrimination standard?
A. I think that's what all PAPs are related to. Specifically in the 271 Qwest proceeding the FCC made extensive references to performance assurance plan with respect to nondiscrimination. So I think those concepts are certainly involved in the existing PAPs.
Q. So just for the record to be clear, the answer is yes; that you're not aware of any commission or FCC decision ordering a PAP that was not based on parity and nondiscrimination standards?
A. I'm not certain the way you characterized it,
so I guess I don't know.
Q. Okay. Well, sir, you will agree with me that if this Commission were to entertain Integra's APAP proposal and therefore order it as part of its order, this proceeding, it would be the first State Utility Commission that has ever ordered a PAP as part of a merger?
A. No, that's wrong. And I think I pointed that out earlier. There have been mergers -- orders that have referenced PAPs in those orders. We don't know whether or not other commissions in the Qwest region are going to order the APAP. So I guess the answer is I don't know.
Q. And certainly if this Commission were to order -- or were to adopt the APAP proposal that Mr. Denney proposes, it would be the first State Utility Commission to order a PAP that was based on the concept of service degradation as a result of a merger?
A. No. Again, as I stated a few minutes ago, other merger orders have referred to performance assurance plans with the intent of maintaining service quality post-merger.
Q. But again, you'd -- let me ask it this way then. This Commission, if it were to adopt

Mr. Denney's proposal, would be the first state commission to order a PAP that was based on a standard other than parity and nondiscrimination; is that correct?
A. I just don't know.
Q. Now, sir, at page 88 of your surrebuttal you recognize that some of the conditions could not apply here in Utah because CenturyLink does not have any ILEC territories in the State of Utah; is that correct?
A. I'm sorry, was it page 88?
Q. Yes, sir.
A. Okay. Oh, yes. I refer to the Joint Applicants' statement.
Q. Well, you're not aware that CenturyLink does have any ILEC operating territories in the State of Utah, do you?
A. No.
Q. You are --
A. The fact that -- I'm sorry.
Q. Go ahead.
A. The point of this testimony is not to say that because CenturyLink doesn't operate here, conditions aren't necessary. The point is that CenturyLink will, in fact, be in charge post-merger
and could impose its operating procedures processes and priorities on Qwest, which could harm the public interest.
Q. And so you're saying that, even though these conditions wouldn't apply in Utah, it's appropriate for this Commission to address issues that are essentially moot issues, or that require it to render an advisory opinion?
A. No, I don't think I said that. The conditions would apply in Utah, absolutely, regardless of whether CenturyLink has ILEC territories in Utah.
Q. Now sir, I think that we're gonna have the pleasure of seeing each other again next week on November 4th, and so I have one ques -- or two questions, actually, and I'm not gonna get into the substance of those issues.

You understand that on November 4th we're coming back here to -- possibly, if a hearing is necessary, to discuss issues surrounding some documents commonly known as "Hart-Scott-Rodino," or "HSR"?
A. Yes.
Q. And I won't get into the substance, but you do describe in about -- by my count about 18 different pages in your surrebuttal testimony, that you marked
as "highly confidential," issues surrounding HSR issues; is that correct?
A. I, I did address those issues. I don't know the exact count.
Q. And although you discuss those documents in your testimony, you never attach any of those documents or submit those documents to the Commission for them to review them, did you?
A. No. I leave that technical issue up to the lawyers as to how we're going to get that into the, into the record. Of course, it is in my testimony. And they are documents provided by Qwest and CenturyLink, so.
Q. But typically when you file testimony you attach exhibits to support the statements that you're making, correct?
A. Yes, generally. Which is why I have over 500 footnotes in my testimony, and many exhibits.
Q. Now, Mr. Gates, while I plainly disagree with a lot of things that you say -- and you might disagree with me -- I found one question and answer really perplexing.

On page 74 of your surrebuttal you state that CenturyLink has previously indicated that a financially-stronger company could work against CLECs
and not in their best interest, because the joint application here stated that a financially-stronger company can continue to compete against cable companies and CLECs. Do you see that, sir?
A. Yes. The bolded highlighted language in the middle of the page there?
Q. That's correct.
A. Yes.
Q. And sir, you're not suggesting that CenturyLink competing against CLECs or other competitors is somehow improper, are you?
A. Well, no. What I'm suggesting by that is -are the statements that the companies have made to the FCC claiming that this is, in fact, one of the benefits of the merger is to be able to, to be a more effective competitor against cable companies and other CLECs.
Q. And that's not a bad thing, is it?
A. Oh, no. I think effective competition is the goal that this Commission should have.
Q. And you would expect CenturyLink to compete against your customers, correct? Your clients?
A. I would. But absent these conditions, and given what CenturyLink has done in other states, and the statements they've made, and the service quality
we've observed absent these conditions, competition will be harmed. And ultimately consumers will be harmed.

And Qwest, by the way, doesn't impose a lot of the charges and practices that CenturyLink imposes in other states. And we're trying to prevent that in the Qwest region.
Q. Sir, in your summary you said a few minutes -- maybe about a half hour ago, you say that the only conclusion that you reached was that CenturyLink wants to increase wholesale rates. Do you recall that testimony?
A. Yes. I think that's a reasonable conclusion, given their refusal to even accept a price cap.
Q. And sir, you agree with me that in order to increase wholesale rates that are subject to Section 251 of the Telecom Act, CenturyLink would need to come to this Commission to ask for its permission?
A. Absolutely not. And this is my big concern in other states and CenturyLink territories. They have unilaterally imposed rates and charges on carriers that were not vetted by the FCC. That were not vetted by State Public Utility Commissions.

For local number portability activities that are specifically prohibited by the FCC's rules, for
instance. And charges for accessing the customer side of the NID, which is not contemplated by the FCC's rules and is clearly discriminatory and anticompetitive.

The directory listing and storage maintenance charge that Embarq attempted to impose around the country was specifically found to be discriminatory and in violation of Section 251 of the Act. So Mr. Duarte is clearly wrong. Simply because the Act exists doesn't mean that CenturyLink is going to abide by that Act or by the FCC's rules. And evidence shows that they have not.
Q. And sir, you would agree with me that if a CLEC believes that CenturyLink is doing something that is unlawful or in violation of the Telecom Act or State law, it has the right to go to the Commission and seek redress?
A. I think there are rules and methods in place, but CLECs shouldn't have to deal with these anticompetitive approaches. Why should they put the burden on competitors? Why not just abide by the law and the rules and not impose these rates and charges in the first place? And that's the goal.
Q. And you agree with me that on some of the issue that the CLECs had complained about, CenturyLink
has won before various Commissions on those issues?
A. Some. I mean, there was that Indiana

Commission on the directory listing storage and maintenance charge where they actually agreed with Embarq. But in other states, no.
Q. So there is a way to get redress by coming to the Commission if the CLECs believe that there's been something unlawful?
A. Oh, there is, but that's time consuming and expensive. And it might be just a cost of doing business for CenturyLink, but it is very difficult for CLECs to come up with the time and the resources to litigate these issues.

And if we can avoid that based on mandates and conditions proposed by this Commission, I think that's better. So avoid disputes.
Q. Mr. --
A. Rather than allow disputes to continue.
Q. Mr. Gates, you testified previously in person in Nebraska, didn't you?
A. Yes.
Q. And more recently, earlier this month in Minnesota?
A. Yes.
Q. And you generally remember that testimony,
don't you?
A. I was there. I remember.
Q. Okay. And you remember that my colleague, Mr. Topp, asked you if you remember testifying in the Nebraska hearing that a 36-month extension for interconnection agreements was reasonable?
A. And I think I asked him to see my testimony, which he didn't have. And I don't have it here with me today. But in that legislative proceeding we did have, I think we said at least 36 months was the required extension. Or recommended extension.

MR. DUARTE: I'll agree with that. Sir, I want to thank you for your time. I have no further questions.

CHAIRMAN BOYER: Thank you, Mr. Duarte. Mr. Peña, any questions for Mr. Gates?

MR. PEÑA: I have no questions.
CHAIRMAN BOYER: Commissioner Allen?
COMMISSIONER ALLEN: I do. Thank you, Mr. Chairman.

Mr. Gates, this is gonna be probably one of those questions or a couple questions where $I$ just have to let the parties know that they're not to read anything into my question. I actually am trying to get my head around the concept of the status quo when
you talk about it in your summary and in your testimony.

Is it possible that if the merger were not approved, did not go through, that down the road long term that the CLECs could actually be worse off? Have you considered the risk of not having the merger? Or is all the risk just on the side of approving the merger for the CLECs?

It seems to me, for instance, if I look at a declining retail market -- and I realize CLECs are in the wholesale world -- but at some point couldn't that damage the filing parties to the point where economic circumstances could spill in onto the wholesale side?

That the Company could be weakened, it could disadvantage the CLECs? So I want you to address this concept that if the merger does not go through, aren't there risks for the CLECs long term that you may not be looking at or have not addressed?

THE WITNESS: That's a very good question. And let me give you the perspective of the CLECs with respect to the Qwest region. Many of these CLECs that we have here today operate in CenturyTel/CenturyLink parts of the country and in Qwest.

The concern is the Qwest OSS? Much better. Much more functionality. More efficient. Easier to
use. And perhaps most importantly, 271 tested, third-party tested, and compliant. It's very good. They understand it. It works.

The CenturyLink OSS? Not nearly as efficient. Not third-party tested. And received serious degradation of service post-merger in North Carolina, Ohio, elsewhere.

So I think your question is probably beyond where the CLECs are thinking right now. They're thinking, Qwest isn't the best, but it works. We have CMP, change management process, in place. We understand it and it's been tested. And it's been improved since 2002, since the 271 approval, it's better.

We know that CenturyLink's is not as good. So they're trying to avoid having those inferior systems and some of those anticompetitive practices I mentioned, having those imported into the Qwest region. We know that service quality for CenturyLink is not as good as for Qwest, either on the retail level or the wholesale level. So CLECs are trying to just maintain the status quo.

Now your point, which is a much deeper point, and perhaps the point -- and Dr. Ankum addresses this in his testimony about mergers in general -- many of
them fail. The FairPoint disaster. Hawaiian Tel disaster.

Trillions of dollars over the last ten years in capital lost because of bad mergers, poor management decisions. Probably all well-intentioned, other than the fraud issues that we're aware of.

And it's not that the CLECs are trying to oppose this merger. The Company may, in fact, be better together. You know, making the third-largest carrier, with 17 million lines. Bigger is better. That's what they want you to believe.

And frankly, based on my testimony and that of Mr. An -- Dr. Ankum, bigger is better. We have the network effect. They have more resources. They're gonna supposedly have all these synergies. That's great. But absent these conditions, CLECs see their service quality going down. Rates going up.

A carrier that, um, I don't know how to characterize this. But much more difficult to work with in the CenturyLink states, in those arbitrations.

And I know you don't have the benefit of that.
But believe me, if these CLECs thought that CenturyLink was a better company, with a better systems, with a better approach to wholesale services, customers, and systems? They'd be in here begging you
to approve this merger. But they're not. And it's based on experience.

And the Joint Applicants may say we're speculating because we don't have facts? We've tried to get the facts. They haven't made decisions. Okay? They don't want any conditions. I understand that. I -- if I were merging with another company I wouldn't want to be subject to any conditions.

But we found over the last three or four years, even with conditions from Commissions and the FCC, mergers have failed dramatically. And consumers and competition have been harmed. So all we're asking here to maintain the status quo.

We're not asking you to increase the quality of service. We're not asking you to reduce rates. We're not asking you to put in new systems or make the Qwest OSS better. We're just saying just maintain it, you know?

And if you are gonna make a change, then let's go through the process that the FCC went through and the ROC went through. Do some real third-party testing to make sure the systems work.

Because clearly, whoever owns the new company, they should have the right to change systems. But they shouldn't do it without proving to the
parties that the systems are actually gonna benefit the public interest and the customers.

COMMISSIONER ALLEN: Okay, thank you.
THE WITNESS: Thank you.
CHAIRMAN BOYER: Commissioner Campbell has no questions, and neither do I.

Any redirect, Mr. Merz?
MR. MERZ: No redirect, thank you.
CHAIRMAN BOYER: Okay. Thank you very much, Mr. Gates. You are excused.

THE WITNESS: Thank you, Mr. Chairman.
CHAIRMAN BOYER: Shall we proceed with Dr. Ankum?

MR. MERZ: Yes. CLECs would call August Ankum.

DR. ANKUM: Greg, you gonna keep the testimonies over there, or can I use them on the stand?

MR. MERZ: You can use them.
DR. ANKUM: Thank you.
CHAIRMAN BOYER: Dr. Ankum, before you sit down would you please stand and raise your right hand and we'll swear you in.
(Dr. Ankum was sworn.)
CHAIRMAN BOYER: Thank you very much. Please
be seated.
Mr. Merz?
AUGUST H. ANKUM, Ph.D.,
called as a witness, having been duly sworn, was examined and testified as follows: DIRECT EXAMINATION

BY MR. MERZ:
Q. Good afternoon, sir.
A. Good afternoon.
Q. By whom are you employed?
A. QSI Consulting.
Q. And Dr. Ankum, you have filed in this case direct testimony that's been marked and admitted as Joint CLECs Exhibit No. 1; is that correct?
A. That's correct.
Q. And that also includes exhibits which have been marked and admitted as Joint CLECs-1.1 through 1.5?
A. Yes.
Q. You also prepared testimony -- surrebuttal testimony that's been marked and admitted as Joint CLECs-1SR; is that correct?
A. Yes.
Q. And that also includes an Exhibit 1SR.1; is that right?
A. Yes.

MR. MERZ: And your Honor, in consultation with the court reporter I also discovered that I neglected this morning to offer 1SR.1, so I would do that at this time.

CHAIRMAN BOYER: Any objections? Seeing none, it is admitted as well.
(Joint CLECs-1SR. 1 was admitted.)
Q. (By Mr. Merz) And there are no confidential parts of either your direct or surrebuttal testimony; is that correct, sir?
A. That's correct.
Q. Do you wish to make any corrections to your testimony?
A. No, I don't.
Q. Do you have a summary of your testimony?
A. Yes, I do. I have a brief summary.
Q. Please provide that.
A. My testimony is complementary to that of Mr. Gates, who also filed on behalf of the Joint CLECs. Fortunately it's a lot shorter, as my summary will be. I basically address three issues -- three main points in my testimony.

And the first point that I try to get across is that mergers generally are very risky. And I
discuss the academic literature. And there's a number of studies that have been performed going back to the 1950s, really. And that goes well beyond the telecommunications industry. It covers generally all mergers and acquisitions.

And what emerges, really, is that while mergers and acquisitions can be seen as an efficient shortcut to growing your company, when evaluated post-merger it turns out that roughly 60 percent of the mergers turn out to be failures. You know, some of those are catastrophic failures.

So in any event, what I establish in testimony by reviewing the academic literature is that there already is a presumption against mergers. Mergers, by and large, don't pan out the way that they're being emphasized. So already on the alert.

Now, to further fill in the blanks we review a number of telecommunications mergers. And then as we do that, both Mr. Gates and I discuss a number of mergers.

And as we do that, we find that the same pattern bears out in telecom that while mergers are being advertised as creating synergies, as creating healthier companies, et cetera, et cetera, that actually when you look at the number of mergers, that
doesn't really always pan out either.
And we specifically address or discuss four mergers. First is the notorious MCI-WorldCom merger. WorldCom, of course, was a fast-growing company in the '90s. In 1998 it acquired MCI-WorldCom, a company much larger than itself.

And it took about four years -- three and-a-half years for that company to completely melt down. With I think something like $\$ 70$ billion in market value collapsing and going to zero.

Then we have -- we discuss the Qwest merger. Qwest-US West merger. Where Qwest, in 2000, purchases the old US West, the RBOC. And of course again you have a pattern of a smaller company purchasing a much larger company.

And you probably know the history of Qwest quite well and of US West, possibly, being from this region, and we have seen that company going slightly up and then dipping deep down. And then of course a few years ago there was much talk of Qwest filing Chapter 11. It fortunately didn't have to.

But what we have found is that when Qwest was purchased in 2000 -- or US West was purchased it had a market capitalization of about $\$ 40$ billion. At this point CenturyLink is snapping it up for about
\$11 billion. So we've gone from 40 billion to 11 billion. That's a loss of $\$ 30$ billion in market capitalization.

Then we talk about Hawaiian Telecom. In 2005 The Carlyle Group purchases the Verizon properties in Hawaii. And it takes about four years of an intense struggle of Hawaiian Telecom with its OSS and trying to integrate OSS, and that doesn't work out. And by 2008 Hawaiian Telecom files for Chapter 11.

Then we have the FairPoint acquisition of Verizon territories in the New England states, and that same pattern repeats itself there. In 2008 FairPoint purchases the Verizon properties, and about a year and-a-half later it has to file for Chapter 11.

Now, when these companies file for Chapter 11 it comes on the heels of incredible turmoil. Not just for CLECs and for other companies that need to interact, but for Commissioners, because they need to deal with the fallout of the difficulties with retail service and maintaining quality service.

It could be an enormous headache for you, not just the public interest evaluation but just overall. I think we all have to appreciate, including CenturyLink itself and Qwest, that this is a very, very risky venture.

And it's made even more risky, as we have seen, because it concerns a relatively small company that goes through great growth and then purchases a much larger company of much greater complexity. And the question is, of course, Are we biting off something we can't swallow?

Now, there are two things that we have learned -- excuse me. Two things that I've pointed out in my testimony. First, the difficulties all the time stem from the failure to integrate. It's very difficult. These companies are all very IT intensive. Most of it relies on computer systems with databases. Turns out it's very difficult to integrate these across the companies.

Now, what we have heard really is much discussion of the synergies, the increased economies of scale and scope, the increased position in financial markets, et cetera, et cetera. What we have not heard is -- and this is really what the academic literature points out -- to bring these large companies together it takes an enormous effort on the part of management to successfully shepherd that.

And it's the diversion of energy and resources. And as is pointed out in the testimony of CenturyLink, it will cost them a billion dollars up
front to integrate these companies. And management has to be involved.

But it turns out, if you look at the economic literature, it's a fact that if management takes its eye off the retail ball the two reasons typically where mergers go wrong is the difficulties with integration, and secondly, in retail markets they don't quite have to -- they lose their focus because they're too busy integrating the companies.

Now, one of the things that Mr. Gates and I point out is that there's a difference between mergers in other non-regulated industries and in the telecom industry and network-based industry, where all companies are interdependent.

If General Motors has difficulties and has to file for Chapter 11, that may be some public interest concern because it's such a huge company, but in general other companies stand ready. Companies independent of General Motors -- like Ford, Honda, Toyota -- they stand ready to take care of the retail customers. They can pick up the slack.

Now, in Telecom it's very different. All the companies that orbit around Qwest and CenturyLink are dependent on CenturyLink. And particularly the Joint CLECs. They can't conduct their business the way that

Ford and Toyota do.
They are critically dependent on these OSS systems, and on CenturyLink and Qwest maintaining quality of service. When they melt down the entire industry is impacted. So you don't have the normal dynamic.

Now, we have some disagreement between how competitive the retail market is. But I'd like to point out, that is not what the Joint CLECs' focus is. This is not a forbearance proceeding. And we're not trying to convince the Commission that retail markets are not competitive.

Whether they are or not, the key is that whatever degree of competition exists it is critically dependent on functioning wholesale markets. So our testimony goes to conditions that the Commission should put in place to ensure to a maximum degree that those wholesale markets remain unaffected.

That if there are problems with this merger, if it doesn't work out the way it does, that -- the way it is anticipated or the way that it is advertised, that somehow wholesale markets are minimally impacted.

And that the rest of the industry can continue to function to mitigate the result so that,
one, they remain viable. Because they could be wiped out in situations like this, or seriously impacted.

And secondly, that of course your retail customers in Utah -- which should be your primary concern -- are still taken care of, have alternatives, and are protected. And the best way to protect retail customers, of course, is through retail competition.

The third point then that I address is how to insulate the wholesale markets and the CLECs. And that goes down to the nitty-gritty of the conditions. Mr. Gates discusses a large number of conditions. There are 30 in total.

I address a subsection of those, and they basically go to two categories. One category is the wholesale service availability. So that the services that are now available to CLECs will remain available to CLECs so that that degree of uncertainty is being taken away.

Secondly, it goes to wholesale rate stability. So that the services are available at the same rates that they currently are. Again, to take away that uncertainty.

That is being portrayed as prohibiting the Company from changing rates. I think, to put that in perspective, the Commission should recognize that
telecommunications in general is a declining-cost industry.

Prices generally go down. They don't go up. So the only thing that we're asking the Commission to do with the wholesale rate stability conditions is basically saying, Put a cap on it.

They can always come back -- the companies -and lower their rates if they feel that for some pattern consideration or other considerations -- new technologies, et cetera, et cetera -- if they feel they want to lower rates consistent with what -- with the patterns we see of prices in the industry, of course they have that flexibility.

But just put in place stability for the CLECs so that whatever uncertainty and whatever turmoil may transpire, that the CLECs and the wholesale markets are to a maximum degree insulated from that. This concludes my summary.

MR. MERZ: Thank you, sir.
Dr. Ankum available for questioning.
CHAIRMAN BOYER: Thank you, Dr. Ankum.
Ms. Schmid, questions for Dr. Ankum?
MS. SCHMID: No.
CHAIRMAN BOYER: Mr. Spann?
MR. SPANN: No, sir.

CHAIRMAN BOYER: Is it gonna be -- okay. Very well, Mr. Zarling.

## CROSS EXAMINATION

BY MR. ZARLING:
Q. Ready Dr. Ankum?
A. Yes.
Q. Couple points from your summary.

Telecommunications is a declining-cost industry. I'm gonna be called "insane" for arguing with an economist, but. That point would be true in a monopoly environment, but it's not true today when carriers face competition and are losing customers over fixed plant; isn't that correct?
A. It's in general the -- the declining-cost nature really stems from the advances in technology that make the delivery of services more efficient on a per-unit basis.

And that's the whole notion of the economies of scale and scope that the companies themselves are talking about. And that plays out, not just in the post-merger company, but is being played out throughout the industry.

To the extent that there may be attrition at the retail level, that surely doesn't impact the cost -- the per-unit cost at the wholesale level.

Particularly not where the attrition of retail customers is a substitution of, let's say, a customer served by Qwest to then a customer being served by a CLEC, because that's just the migration of the customer but the network itself is still being utilized.

So two points: It's a generally declining-cost industry stemming from technology. Secondly, as to your very specific point, that aspect has to do with how you do the cost studies, and the fact that the wholesale network is still being utilized.
Q. Okay. And you'd agree with me that it costs money to invest in the new technologies to obtain the efficiencies and economies of scale over time?
A. Yes.
Q. Okay. And I think based on what you said you'd agree with me that the Joint Applicants, the post-merger company, would have an incentive, if it's going to experience declining costs, to maintain the lost retail customers on its wholesale network?
A. I think their primary interest is retaining them as a retail customer. I -- and as the FCC has repeatedly pointed out in a number of proceedings, as well as other commissions, there is an inherent
conflict between -- which is set up in the Telecom Act.

But there's an inherent conflict between the interest of the ILEC in maintaining its own retail base and on the other hand having to serve its competitors. And that conflict really plays out in the way that the com -- that in this case Qwest and CenturyLink have strong incentives to discriminate.

And that's precisely why we have strong laws in place. And that's also why we're advocating that certain conditions are being imposed on the merger.
Q. All right. And that's the whole purpose of Section 251 and 252 --
A. Yes.
Q. -- and the interconnection agreements, and all the arbitrations that this Commission has been put through.

But would you agree with me -- your statement before was that on the wholesale level, for your statement to be true that it's a declining-cost industry the condition would have to exist that retail customers would be migrating to the wholesale segment of the -- or operations of the Joint Applicants after the merger?
A. Well, I didn't posture that as a
precondition. I discuss the issue of how in that particular instance the wholesale network is unimpacted. But the primary reason for why I believe or why I think it's generally accepted that we're dealing with a declining-cost industry stems from technological advances.
Q. Because, I mean, you would agree with me that, for example labor costs, perhaps until recently, have been going up?
A. Yes. There's certain components, of course, of your overall operations that are subject to inflation like many other components are, yes.
Q. And certain material costs, certain material costs have gone up? To the extent copper, for example, is still utilized in certain parts of the network that's gone up significantly, hasn't it?
A. Yeah. Of course, copper is by and large, you know, a legacy investment. Copper is in place. And I'm not really aware of any company that is currently placing copper. So whatever pricing pressures may exist for copper itself, I don't think that necessarily impacts the Company.
Q. You would agree with me that it would exist in the repair and maintenance of an existing copper network?
A. The labor component of it would.
Q. Well, the cop --
A. But the copper itself.
Q. Increased costs for copper would be reflected -- or experienced by the Company to the extent that it's having to engage in repair and maintenance of an existing copper network; isn't that correct?
A. Yeah, to that extent. But I would think that relative to the overall size of the network, with I believe what then would be like something like 17 million access lines, a good number of which will still be copper lines, that the maintenance component like the replacement of certain small portions with copper -- which I would think is sporadic -- would have a minimal impact.

And I would like to state again that my assertion that we're dealing with a declining-cost industry is hardly radical. I think it's generally accepted.
Q. Also in your summary you said that all -- I think I've paraphrased this correctly. All companies that orbit around Qwest and CenturyLink are heavily reliant on their wholesale system. Is that a fair statement of what you said?
A. Yes. And interconnecting with Qwest's network and operations.
Q. Okay. But some companies, some competitors are more reliant than others in terms of the network components that they need to obtain from Qwest; is that correct?
A. I'm tempted to say yes, but it depends on how you describe more or less reliant. Clearly the companies that lease loops, like many of the Joint CLECs that are being represented here, they are heavily reliant on Qwest for those loops.

But in other states where Qwest is interconnecting with cable companies like Charter, Charter is reliant -- even though they have their own network, they would still be reliant on Qwest for porting customers.

To the extent that they acquire customers, they can't really acquire those customers without the numbers being ported. And they can't really operate without efficient interconnections.

So those two -- I suppose that's what you're getting at, that those companies are less dependent? In a certain way, yes. But they're still critically dependent -- and I think that's really the point -they're critically dependent. They can't operate
without efficient interconnection.
Q. Well, first of all, you would agree with me that there's cable companies operating in Utah, not just charter outside the State of Utah?
A. Yes.
Q. So we have those kind of -- Comcast, for example, you're aware operates in Utah, correct?
A. Yes. The same kind of considerations apply in Utah.
Q. And that would be also true for wireless carriers. They need to have interconnection and they need to be able to port numbers, but they generally don't purchase network elements?
A. True. And if your point is that there is a distinction there, and a meaningful distinction, I would agree with you.
Q. Okay. Because I think my point would be is, there is no cable company or wireless companies who've intervened in this case; is that true?
A. I don't know that for a fact. Subject to check, I would accept that.
Q. Okay. And certainly there are none that are part of the Joint CLECs?
A. That's correct.
Q. Okay.
A. They're not being represented by either myself or Mr. Gates.
Q. And in your summary you said the degree of retail competition depends on functioning wholesale markets; is that correct?
A. Yes.
Q. Okay. And when you said "retail" did you mean both consumer and business services?
A. Yes. Those would both be components of retail competition.
Q. Okay. And none of your -- none of the CLECs that you represent provide residential service; is that correct?
A. I don't know that.
Q. Now, you start off by talking about how mergers are risky --
A. Yes.
Q. -- based on academic literature. And you said 60 percent of mergers are failures.
A. I don't want to make that 60 percent hard. It's -- but it's in that neighborhood. And depending on which studies you look at, it ranges somewhere from 50 percent to 70 percent. But yes.
Q. It's a soft science we're talking about?
A. It's not so much a soft science. I think
there are different studies out there, and they -they're being conducted over time. The only thing that is robust at, going back to the 1950s, it's on the upside -- the failure rate is on the upside of 50 percent.
Q. Okay. Well, you've used the term "failure" both in your testimony and your summary. What do you mean by "failure"? How do you define "failure"?
A. The way it's used generally in the literature is that the, that the shareholder value is negatively impacted by the merger. And of course that can take varying degrees.
Q. So there's no, there's no percentage that the academic literature agrees on?
A. No. It's generally declining shareholder value relative to industry peer groups.
Q. Is there any com -- did you do any comparison of the declines that are considered to be failures as a result of mergers, a comparison of that statistic to declines in shareholder values for free -- for standing companies that just don't do well?
A. Well, that's where the issue of peer groups come in.
Q. And so you're saying that the number that was used for the merged com -- they compare to say is it an industry specific, or --
A. Those are general indus --
Q. -- just the global --
A. These are cross -- across industries. Of course, I have addressed four specific telecom mergers. And -- well. At least three of those have filed for Chapter 11. I'm not sure that we need to go into the details of those. I think we can confidently consider those to be failures.

Then of course there's the acquisition of US West by Qwest. And that would be then a company that you can talk about where you say, Well, that company did not go bankrupt, so is that a failure or not?

And what I have pointed out is that the Company was purchased for $\$ 40$ billion. And we're looking ten years later and it's now being sold or acquired for about 11 billion. So there's some $\$ 30$ billion loss in market capitalization. Is that a success? I would not consider that to be a success.

Secondly, the Company of course brushed up against bankruptcy. It didn't go bankrupt, but it brushed up against it. Would we consider that, in retrospect, to be a great success? I think most of us sitting here would probably say that was a fairly
risky venture and it was not a good thing, probably.
Q. But is it possible to trace the loss in value directly to the merger? And is there anything that you cite in your testimony that confirms the merger as being the cause of that loss of market value?
A. Well, that's where I defer to the academic literature. And that is, of course, one of the issues that those studies deal with, i.e. comparing to peer groups and trying to isolate the merger effect from the other, from the other effects.
Q. Okay, but that, that sounds like a "no" to me. That you're not able to trace in the testimonies, you know, a definitive relationship between the merger and the loss of market capitalization for Qwest after its acquisition -- the US West acquisition by Qwest.
A. If your question is have I specifically looked into the four, the four mergers that I cite, and I have not approached those with the specific question that you just posed to me. But I think it's fairly obvious that, specifically with request -- with respect to the MCI-WorldCom merger, that the meltdown of MCI was caused by the acquisition by WorldCom.

I also think it's fairly clear that the meltdown of Hawaiian Telecom stemmed from the acquisition of the Verizon properties by The Carlyle

Group. And the, and the struggles that The Carlyle Group had with transitioning the OSS and integrating OSS. And its failure to do so is well documented.

Likewise, I think it's fairly well documented that the FairPoint meltdown subsequent to the acquisition of the Verizon properties had directly to do with the acquisition of the Verizon properties.
Q. A couple -- okay. So a couple key points. I think you'd agree with me that a large part of the MCI-WorldCom meltdown was traceable to fraud, which I believe Mr. Gates alluded to in his testimony?
A. I think the, the causal chain -- well, they probably went hand in hand. But I think it's fair to say that the fraud was probably related to the failure to perform. And that would induce management to take certain shortcuts to placate financial markets, live up to expectations.

That then led them to engage in certain activities that, had the companies been successful, had they managed to integrate and live up to their promises, they presumably would not have engaged in that fraud.
Q. Or it's possible they just might have really had overly-aggressive promises to begin with?
A. Yes, I think --
Q. Now --
A. -- that probably would have contributed to it.
Q. And then Hawaiian Telecom and FairPoint, I think you would agree with me -- I mean, you just stated that probably the primary driver of the problems for those two companies were the OSS problems that they encountered post-merger.

That's your testimony, isn't it? That's the primary driver of their difficulties?
A. I think that's the, the cause that stands out. But I think it's fair to say that it always is difficult to integrate two different corporate cultures, because we have learned that past performance is no guarantee for future success.

And it's buried somewhere in a footnote in my testimony, but again, some of the people that have analyzed mergers, they stress the fact that each company has its own corporate culture that is quite distinct.

And just because we have seen companies being successful in the past in no way predicts that they will be successful in the future. The proven track record only speaks to the past, but has no or little predictive value for the next acquisition.
Q. Well, certainly regulators/decision makers are gonna be much more comfortable with a company that has a positive track record; isn't that correct?
A. Yeah, but --
Q. That's all things being con --
A. -- that's exactly what I'm, what I'm here to do, is to caution the Commission to not necessarily listen to the language that's being put forth. Language like proven track, track record, successful acquisitions, et cetera, et cetera.

My testimony speaks to that. And I say this is boilerplate language. An undergraduate English major could have gone to all the past merger applications, lifted that identical language out of other applications, and put an application together here. It reads completely generic.

And as Mr. Gates quipped citing, you know, a former president, "Trust but verify." And we're being asked, the Commission is being asked, to put our faith in the "proven track record." But we know that the language itself is no indicator of anything.

And short of more documentation and proof, any kind of faith that a Commission may place in that language is misplaced. And that's precisely the point of my testimony.
Q. Well Dr. Ankum, we're not talking about just language. I mean, there are real people and real executives in CenturyLink, and they have biographies, and those have been presented to this Commission.

And so let me ask you to draw a distinction with Hawaiian Telecom. I'm sure you studied that a little bit.
A. I --
Q. I mean, did The Carlyle Group have any telecommunications experience before they purchased --
A. Yes.
Q. -- Hawaiian?
A. And the team that was in charge of implementing the acquisition had stellar credentials. On par with the credentials of CenturyLink.
Q. Well, let me ask --
A. By itself that doesn't really demonstrate much.
Q. Well, the first CEO that Carlyle appointed to Hawaiian Telecom, do you know who he was?
A. No, I don't.
Q. Does the name Michael Ruley ring a bell?
A. Excuse me?
Q. Does the name Michael Ruley ring a bell?
A. No, it doesn't.
Q. Okay. Were -- are you aware whether he -the first CEO of Hawaiian Telecom had ever been a CEO of a telecommunications company before?
A. No, I don't know that. I do discuss, either in my testimony or in the -- one of the appendices -and I can't recall which now -- but I do discuss the management team that was put in place to oversee the acquisition.

And they were drawing, not on The Carlyle Group, but on a group of people that had extensive experience in telecom. Including, I believe, Qwest.
Q. But hypothetically, if you had a CEO that didn't know anything -- that had not worked as a CEO of a major telecom company before, that would be -raise more alarm bells than, say, a CEO who has been a CEO of a fairly-large telecom company for more than 10 years and been in the industry for, say, more than 30 ?
A. Not necessarily. We have just seen Ed Whitacre, the former chairman of, first Southwestern Bell, and then SBC, and then at the end of his career AT\&T.

And Ed Whitacre became a successful CEO of General Motors, reviving the Company to where it's paying back the loans to the Government. And by all measures people have put their faith in Ed Whitacre,
as a telecom CEO, to run a car company.
Obviously I think it's common practice in industries to take CEOs from a different industry and put them on another industry under the notion that if you can manage one, you can manage the other, because you don't necessarily have to be out in the field laying the lines but you have, you have a team. And that notion is, is fairly common.
Q. I may not have asked my question correctly before. Do you know whether the first CEO of Hawaiian Telecom had ever been a CEO?
A. Oh, I don't know.

CHAIRMAN BOYER: Mr. Zarling, I hate to interrupt the rhythm of your cross examination --

MR. ZARLING: Is there one?
CHAIRMAN BOYER: -- but it is 5:00. And I think what we'll do is take a, like a five or ten minute recess. See if any members of the public appear.

If they do not, and if there are no objections, we'd like to continue with Dr. Ankum's cross examination after a respectable interval again. Would that be okay?

MS. SCHMID: Chair Boyer, when we reconvene the Division would like some clarification on the
scope of the testimony that its witnesses would be testifying about tomorrow.

The 4 th has been set aside sort of as a stipulation date, but things seem to be moving. And I'd like to discuss that when we reconvene so I can give my witnesses some direction.

CHAIRMAN BOYER: We will be happy to do that, Ms. Schmid.

MS. SCHMID: Thank you.
CHAIRMAN BOYER: Remind us though.
(A recess was taken from 5:00 to 5:13 p.m.)
CHAIRMAN BOYER: Okay, let's go back on the record. I notice that Ms. Murray from the Office of Consumer Services, she has been kind enough to assist with the members of the public who wish to testify this afternoon. And this is the time set aside for that. In fact, we're a few minutes late. But our day jobs called and we had some things we had to attend to.

Ms. Murray, to your knowledge have there been any members of the public here?

Okay. Well then, unless there's some really vociferous objection, we'd like to continue with Dr. Ankum at this point. And see if we can't conclude the cross examination of this witness this evening,
and then we'll have a head start on tomorrow.
MR. MERZ: And your Honor, if the Commission were willing, we think that we could also finish Ms. Johnson today. Depending on how long, of course, is left on Dr. Ankum.

CHAIRMAN BOYER: Okay. Well, we're probably good till about six, and then -- we're all getting a little fatigued. I'm recovering from a nasty cold, so I have an additional burden there. But let's see how this goes.

MR. ZARLING: Okay, I'll do my best.
CHAIRMAN BOYER: Mr. Zarling, the burden is on you.

MS. SCHMID: And Mr. Boyer, may we --
COMMISSIONER BOYER: Oh, yes. Your question, Ms. Schmid.

MS. SCHMID: -- discuss schedule?
CHAIRMAN BOYER: Let me answer that question right now. It's a very good point.

MS. SCHMID: Well, I believe we have some new information.

CHAIRMAN BOYER: Oh, okay.
MR. SPANN: Yes, Commissioner Boyer. The Department of Defense and the Federal Executive Agencies are going withdraw our request for the
witnesses Orton, Oman, and Coleman on the substantive issues.

We had requested cross examination of those witnesses during the hearing, and we're withdrawing that request. And we're also not going to oppose the settlement agreements that were discussed.

CHAIRMAN BOYER: Oh, very good. Okay, so that is good additional information.

MS. SCHMID: And so that would leave the Division's stipulation witnesses being Mr. Oman, Mr. Coleman. And then depending on the day, either -then I guess it would be Dr. Powlick regarding settlement things.

CHAIRMAN BOYER: Well, we -- this is what we envisioned, and maybe we weren't very clear on this. We set up the November 4 th date as sort of a contingent day. Because some of the parties complained that they had not had an opportunity to review some of the HSR documents that were forthcoming and had very limited time review the DPU settlement.

So we gave them an opportunity to file written testimony on those two issues, if necessary, with different time frames. And then to the extent necessary if they needed, you know, oral argument on that additional testimony we would do that on the 4th.

So what we were hoping to do tomorrow is hear from the Division witnesses on the stipulation. Speaking for the stipulation.

MS. SCHMID: Chair Boyer, I think it, I think it would be prejudicial to the Division to do that at this point, when the Joint CLECs and others have not had a chance to comment on the stipulation and the Division has not had a chance to respond to those comments.

CHAIRMAN BOYER: Well, but the Division signed the stipulation --

MS. SCHMID: Yes.
CHAIRMAN BOYER: -- based on the belief that it was in the public interest. We'd like to hear that testimony.

MS. SCHMID: Okay.
CHAIRMAN BOYER: That's our intention. We'll see how it goes. Now, I'm not even sure that we'll have time tomorrow, but we're hopeful that we will.

Okay. Mr. Zarling?
Q. (By Mr. Zarling) Dr. Ankum, I think we left off with Ed Whitacre.
A. What a place, of all things.
Q. I want to take that out of the transcript somehow, but.

So in the example you cited of Mr. Whitacre going to General Motors and being successful, would you agree with me that that's an example of where successful people can take their skills and bring success to other ventures?
A. Yes.
Q. Because successful people tend to surround themselves with other successful people who know how to get the job done?
A. That's why I try to cozy up to Mr. Gates.
(Multiple people laughing.)
THE WITNESS: Yes, sir.
MR. ZARLING: At this time, your Honor, I would like to -- Commissioners, I would like to distribute two Joint Applicant cross exhibits that I'll talk to Mr. Ankum -- Dr. Ankum about.

CHAIRMAN BOYER: Very well.
(Pause.)
MR. ZARLING: Sorry, I may have handed out extra pages because some of these appear to be two pages, one that is referred to as Level 3-- and I'll identify those exhibits in a moment -- and then others were double-sided.

MS. SCHMID: If I may ask a couple more procedural questions while documents are being passed
out?
CHAIRMAN BOYER: Go ahead, Ms. Schmid.
MS. SCHMID: Does the Commission intend to hear from signatories to other stipulations tomorrow as well, such as Mr. Orton representing the Committee? Or sorry, the Office of Consumer Services?

CHAIRMAN BOYER: We assume at some point the Office will want to testify as to the reasons why they entered into that settlement agreement, yes.

MS. SCHMID: And so you --
CHAIRMAN BOYER: But the DPU settlement is the one that the parties objected to because they have not had an opportunity to review it.

MS. SCHMID: Yes. And then also Salt Lake CAP signed a stipulation.

CHAIRMAN BOYER: Right. And we don't know -they haven't appeared yet. And the pretrial -- or the prehearing conference indicated their witness as being unknown at that point.

Ms. Murray?
MS. MURRAY: Sonya Martinez called me yesterday. She was listening in to the scheduling conference but didn't make herself known. She is intending to be here tomorrow --

CHAIRMAN BOYER: Great.

MS. MURRAY: -- to testify to the stipulation.

CHAIRMAN BOYER: Excellent. Thank you for that clarification.

So yes, Salt Lake CAP will be here to testify to their stipulation as well.

MS. SCHMID: And also Mr. Roberts is being substitute counsel for Mr. Proctor. Mr. Roberts' schedule is much more flexible than Mr. Proctor's was yesterday, so would you just like to have witnesses go in one -- in serial? In -- just one after another?

CHAIRMAN BOYER: We can do that, yes.
MS. SCHMID: Rather than wait until four?
CHAIRMAN BOYER: Until four, that would be fine.

MS. SCHMID: Thank you.
CHAIRMAN BOYER: Thank you.
Okay, now Mr. Zarling.
MR. ZARLING: I've handed out two documents.
One is a PAETEC Cavalier, appears to be joint news release. And I'd like to have that marked as Joint Applicants Cross Exhibit No. 1. And I apologize to the Court reporter for not marking it in advance, but.

And so --
MR. MERZ: Your Honor, I think we already
marked a 1, although it wasn't received. I don't know if you want to have two numbers.

CHAIRMAN BOYER: Well, one was, one was a Joint CLECs Cross-1, wasn't it?

MR. MERZ: The propose -- the chart, I think, that --

MR. ZARLING: I think Mr. Merz is correct.
CHAIRMAN BOYER: Oh, you're right.
MR. ZARLING: We did have a 1 , but it was not admitted.

CHAIRMAN BOYER: That's right, you're right. So this would be -- thank you for that.

MR. ZARLING: So we'll make this No. 2. Joint Applicants Cross Exhibit No. 2.

Thank you, Mr. Merz.
Q. (By Mr. Zarling) Now, Dr. Ankum, one of your, one of your clients that you represent in this case is PAETEC, correct?
A. Yes.
Q. And you're familiar with PAETEC's recent announcement of its acquisition of Cavalier?
A. Generally, yes.
Q. Generally?
A. Yes.
Q. Okay. This is an example of a merger in the
telecommunications sector, is it not?
A. Yes.
Q. Okay. And in fact, despite the apparent bad odds, there's quite a bit of integration or merger activity that's taken place in the telecommunications market in the last, oh, 14 years, approximately?
A. Yes. Mergers and acquisitions actually are part of most industries. But yes, there have been a lot of mergers and acquisitions in the telecom industry.
Q. And quite a few since the Federal Telecom Act was passed?
A. Yes.
Q. Okay. And perhaps even more in the last five, six years as perhaps the shakeout of new entrants in the industry occurred?
A. I'm not sure about that.
Q. Okay. But would you agree with me that telecommunications companies, that there is quite a -it's -- there's quite a lot of acquisition taking place as a means of growing within the industry?
A. I think it's driven by two things. Surely it's, it's a shortcut to growing, as you pointed out and as I pointed out. I also think that it's a bit of a speculative industry, where a large amount of
capital investments are required.
And when things go wrong, those investments can be purchased at a steep discount. And that induces, of course, our positions.
Q. Okay. And in your testimony you talk about the distinction between organic growth and growth through acquisitions. And that you -- I think you say you can't really tell that much from growth by acquisitions about a Company's --
A. Yeah. My point was that if you see organic growth then you know that management is doing something right, because the Company is growing. And it's the growing that's the proof in the pudding.
Q. Okay, but --
A. If you have an acquisition, the ability to acquire another company means that management is skillful in financial markets but it doesn't say anything about whether they will be skillful in the marketplace itself and will be skillful in integrating companies. They're different skill sets.
Q. But if there's a history of successful integration, that would suggest that there's -- I mean, past -- well. Suggest a greater likelihood of success than if there were no history of successful integration. Wouldn't that be the case?
A. Possibly. We talked about that. But generally I would say -- obviously you want to see your successful history. But I already discussed that, you know, past performance is no guarantee of future success. As with any investment.
Q. And as you talked about before, the statements that companies make in regards to promises, if you will, when they talk about mergers, that is something that is common among companies that are making acquisitions, correct?
A. It's -- there is a common set of nomenclature that finds itself into the news releases.
Q. Okay. And so if you look for example at page 2 on Joint Applicants Cross Exhibit 2, the third full paragraph. Perhaps you can just read the first sentence for me?
A. "This planned acquisition of Cavalier fits our strategic plan to add both fiber assets and regional density to better serve our customers and release increased network synergies, both in the loop and long haul."
Q. Okay. So, I mean, this press release represents that CLECs and not just ILECs, not just CenturyLink in particular, make acquisitions?
A. Yes.
Q. Okay.

MR. ZARLING: And I'm gonna move for admission of this. If nothing else to ask the Commission to take official notice of this press release by PAETEC, who's a party to the proceeding.

CHAIRMAN BOYER: Are there objections to the admission of this?

MR. MERZ: No objection.
CHAIRMAN BOYER: Okay, it will be admitted. (Joint Applicants Cross Exhibit No. 2 was admitted.)
Q. (By Mr. Zarling) And in fact, PAETEC has engaged in a lot of acquisitions, has it not?
A. Yes.
Q. Okay. And are you familiar with the acquisitions that -- all the acquisitions they've made?
A. No.
Q. Okay.
A. Some of them.
Q. Did -- are you aware of their 2004 acquisition of Total Tel?
A. I -- cursory.
Q. Okay. And in 2005 they acquired American

Long Lines; is that correct?
A. I don't know that.
Q. Okay. In 2006 they acquired US LEC?
A. Yes.
Q. You're aware of that? And in 2007 they acquired McLeod?
A. Yes.
Q. And they've just recently announced an acquisition of Cavalier, correct?
A. Yes.
Q. And to the best of your knowledge have any of those acquisitions produced a -- well, would you characterize any of those acquisitions as failures?
A. I have not really examined them, so I don't really have an opinion on that.
Q. Okay. So you haven't looked at that particular series of telecom acquisitions?
A. PAETEC has not filed for Chapter 11. But I have not done a comparison of market capitalization in how well these investments have really worked for them. I have not been asked to do that.
Q. Have you looked at Integra's history of acquisitions?
A. No, I haven't.
Q. So are you familiar at all with the
acquisition they made of InfoTel in 1999?
A. No, I'm not.
Q. But you are aware that they acquired Electric Lightwave in 2006, right?
A. Yes.
Q. And they acquired Eschelon in 2007?
A. Yes.
Q. And they've recently announced an acquisition of, I think is it Sharenet Communications?
A. I don't know.
Q. Okay. But subject to check, that would be three acquisitions in the last four years by Integra?
A. I have no idea actually how many they have. Mr. Denney will be testifying here on behalf of Integra, and he may be able to answer those questions better than I can.
Q. Well, and Level 3 is also a Joint CLEC that you're representing here, and are you familiar with their history of acquisitions?
A. I'm not specifically familiar with all their acquisitions. I think in general we can agree that all the Joint CLECs, and we can go beyond that, that virtually all companies operating in the telecom industry are the product of one or more mergers and acquisitions.

And we're surely not here to say that mergers and acquisitions are bad, or to oppose mergers and acquisitions categorically.
Q. No, you've talked about percentages and I'm trying to bring some balance to the discussion. You're -- you have a number of your own clients that appear to -- I mean, let me ask the question.

Level 3, you'll concede they've made a number of acquisitions, correct?
A. Yes.
Q. Surely you're familiar they acquired Broadwing in 2007?
A. Yes.
Q. Almost certainly you're aware that they acquired Wiltel in 2005?
A. Yes.
Q. And they made a whole series of acquisitions in 2006, including Telcove, ICG, Looking Glass Networks, and Progress Telecom?
A. Well, they were acquiring there, oftentimes, firms that were ailing themselves after mergers and acquisitions. And as you refer to them as my clients, I mean, these are my surviving clients. So I think the universe of CLECs that came and went is substantially larger than the Joint CLECs that we're
representing here.
And I think it's quite well documented that the CLEC industry itself is a risky undertaking in its own right, for a number of reasons. But that the various mergers and acquisitions were ripe with risk. And I think the track record there is well established that there's quite a good number of failures.

Now, I've not done an extensive study. I've done no study of that. But I'd dare to wager that if we were to do a study, that I wouldn't be surprised that it comes out very much along the same percentages that we discussed earlier. That at least half of them probably have failed in some form or another.
Q. Well, let -- so it's half now, maybe not 60 percent?
A. At least half, I said.
Q. Okay. And so to just add a little flavor, what about Windstream; you're familiar with their acquisitions over the last four or five years?
A. No, not specifically.
Q. Okay. But you're not aware of Windstream failing?
A. Excuse me?
Q. You're not aware of Windstream failing; is that correct?
A. No, I am not aware of that.
Q. Okay. And you're not aware of -- do you know if they've failed or not?
A. No, I don't think they have failed.
Q. Okay. So let's look at the other exhibit marked Joint Applicants Cross Exhibit 3. And I will represent to you that this is off of Level 3's website, if you read their history. And -- just because I, I found it interesting.

MR. PEÑA: Excuse me, Mr. Zarling. I just have one document that you passed out for Level 3. I have two pages, but it's the same thing.

MR. ZARLING: I think that I had a few, Mr. Peña, that we're double sided, and a few that were two pages. So they should be the same document.

MR. PEÑA: So just so I get it straight, you circulated one Level 3 exhibit?

MR. ZARLING: Yes.
MR. PEÑA: Or exhibit with Level 3
information?
MR. ZARLING: That was my intent.
MR. PEÑA: Okay, that's fine. I just wanted to be sure.
Q. (By Mr. Zarling) So just to -- because I think this bears emphasizing. If you look on the
second page of your client's Web page that I've excerpted as an exhibit. And look at the first full paragraph, or second-to-the-last paragraph, that says "Beginning." If you'd read that sentence for me?
A. "Beginning with the late-2005 acquisition of Wiltel, Level 3 has established itself as a natural industry consolidator."
Q. So it appears Level 3 thinks that it is important to tout itself, actually, as a consolidator and acquirer of other companies?
A. Yes, as many companies do. I don't see a problem with that.
Q. Now, would you agree with me that it establishes that in the telecommunications industry there is a trend of acquisition, mergers, and consolidation?
A. Yes. Generally speaking.
Q. Let me ask you about Condition 12, which you discuss briefly on page 94 of your direct testimony. And that has to do with the rural waiver.

MR. MERZ: I'm sorry, Mr. Zarling, which page?

MR. ZARLING: Ninety-four.
MR. MERZ: Thank you.

THE WITNESS: Yes.
Q. (By Mr. Zarling) Okay. And correct me if I'm wrong. The position of the Joint CLECs is that the condition they would like to see imposed is have the Utah Commission order the CenturyLink ILECs to not invoke their rural exemption anywhere?
A. Generally, yes. And of course you're paraphrasing, as I am now.
Q. And I understand you're not a lawyer, but what is your understanding of the Utah Commission's authority to impose a condition on companies -- on a company and operations that are not part -- that don't operate in Utah?
A. I discussed the Commission's authority early in my testimony. And I give examples of Commissions that have assumed authority beyond the direct authority that they have with respect to individual issues.

But because the Commissions are asked to do a public interest finding of sorts, that has led certain Commissions to reach beyond their authority on individual issues to more generally impose conditions that are broader than the authority on individual issues.

For example, interstate switched access falls
beyond the authority of a state commission, yet a Commission can make certain -- can impose certain conditions that apply to switched access, interstate switched access, under its authority to evaluate the merit of a particular merger.

Likewise here the Commission may not have authority on a particular issue with respect to rural exemption, but it may impose certain conditions under its authority for merger approvals.
Q. I didn't --
A. Now, I must also add to that. Given that CenturyLink has only nine access lines, as I understand it, in Utah, this particular issue is probably of less concern with respect to those nine access lines than it otherwise would be.
Q. But in fact your request would be to have this Commission, for example, require that CenturyLink in Louisiana or CenturyLink in Arkansas or Wisconsin not invoke the rural ILEC exemption under 251(f.) Isn't that what you're requesting?
A. If you give me a second. More than a second. I have to -- I want to go to the specific conditions stated in Mr. Gates's testimony. The attachment to Mr. Gates, which I don't think I have here. If somebody can provide me that.
(Pause.)
MR. MERZ: For the record, I provided Dr. Ankum with Exhibit 2.8, which is part of Mr. Gates' direct testimony.

And I believe we're -- the question concerns Condition 12.

MR. ZARLING: That's correct.
THE WITNESS: Could you restate your question? I just read the condition.
Q. (By Mr. Zarling) Well, I guess my question is, is how broad is this condition supposed to be? Because I interpret it to require that CenturyLink not be able to invoke its rural exemption anywhere.
A. My understanding is with respect to Utah.
Q. Okay. I think, as you stated, there are really virtually no -- you agree with me there's virtually no CenturyLink operations in Utah? There's nine access lines served out of the Colorado exchange, or -- is that your understanding?
A. Yes, but only from the presentations by the CenturyLink witnesses.
Q. Okay. You don't have any contrary knowledge?
A. I don't.
Q. Okay. And so on page 47 of your direct testimony? Just there beginning at line 8 you talk
about one of the potential harms from the merger is -- well, potential harm is, as you characterize it, "horizontal effects."

That would be the reduction of competition in areas and for services in which the companies compete?
A. Yes.
Q. Okay. Is that a realistic risk in Utah, where there's virtually no CenturyLink operations?
A. Clearly that's, that concern is much less prevalent and much less important here than it would be in other states, due to the fact that CenturyLink has such few access lines and other operations here.

MR. ZARLING: Commissioner, I think that's all I have. In fact, I know that's all I have for now.

CHAIRMAN BOYER: Mr. Zarling, do you wish to --

MR. ZARLING: Oh, yes.
CHAIRMAN BOYER: -- move the admission of --
MR. ZARLING: Yes. Thank you for reminding me.

CHAIRMAN BOYER: -- Joint Applicants Cross Exhibit 3?

MR. ZARLING: I do wish to move the admission of Joint Applicants Cross Exhibit No. 3. Thank you,

Mr. Chairman.
CHAIRMAN BOYER: Any objection to the admission of that?

MR. MERZ: No objection.
CHAIRMAN BOYER: It is admitted.
(Joint Applicants Cross Exhibit No. 3 was admitted.)

CHAIRMAN BOYER: Okay. Thank you, Mr. Zarling.

Mr. Peña, have you questions for this witness?

MR. PEÑA: Wait.
No, your Honor.
CHAIRMAN BOYER: Okay. Commissioner Allen? Commissioner Campbell?

I have one question, Dr. Ankum, since we have you here and you have this expertise and familiarity with mergers. I have the impression that businesses -- corporations, if you will, have corporate cultures. Some are pinstripe suits and wing-tipped shoes, and others are Dockers and T-shirts and that sort of thing.

Have you looked into the respective corporate cultures of Qwest and CenturyLink?

THE WITNESS: Not to that extent. I think

Mr. Gates tried to differentiate the general attitude toward interpreting the Telecom Act and negotiating with CLECs over wholesale products that we have found over the years, basically since 1996, with Qwest versus the experience that CLECs have had with CenturyLink.

He spoke to that briefly. That's the only comparison that I can offer.

CHAIRMAN BOYER: Would you agree that some companies have sort of an authoritarian, top-down management style and other companies might have an empowerment style, where they delegate responsibility and so on?

THE WITNESS: Yes.
CHAIRMAN BOYER: You haven't looked at those issues? That's one of the issues that tends to present a problem in integrating different companies. I'm thinking of Mercedes-Benz and Chrysler Motors.

THE WITNESS: Yes, exactly. And I think it goes beyond just a management style there. I think you truly find different, different attitudes, different ways of doing things. And you're dealing with large groups of people with vested interests. And particularly among the acquired company, a certain degree of resentment toward the acquiring company.

And the acquiring company will be relying on a high degree of cooperation to make the integration work, but it's bumping up against a certain degree of resentment. And it's trying to integrate those different cultures that turns out to be very difficult.

And the larger the Company is that is being acquired, the harder it is to bring that -- to integrate that with the acquiring, with the acquiring company.

Some of the mergers that were being discussed earlier, for example the PAETEC merger, they're acquiring a company, Cavalier, for 460 million. Which is a much smaller company than PAETEC. I have no doubt that they will run into difficulties. At the same time, it's an acquisition of a smaller company by a larger company.

Here we see the reverse. We see a relatively small company -- we may even go back to CenturyTel -acquiring a very large company that is a very old company and that has, you know, distinct and defined ways of doing things.

And I think that's what you're speaking to. And I agree with you that that can pose a tremendous challenge. And as I said earlier during my testimony,
that may absorb so much of the energy and efforts of management that it forces them to take the, the eye of the ball. "The ball" being the retail competition against wireless, cable, CLECs, what have you.

CHAIRMAN BOYER: Okay, thank you.
Any redirect, Mr. Merz?
MR. MERZ: Very briefly, your Honor.
REDIRECT EXAMINATION
BY MR. MERZ:
Q. Dr. Ankum, Mr. Zarling asked you a number of questions regarding acquisitions that CLECs had purchased in the past few years. Do you recall those questions?
A. Yes.
Q. In your opinion is there any difference in the way that public interest issues ought to be analyzed in the case of a CLEC acquisition as distinguished from an acquisition like this one involving an ILEC and an RBOC?
A. Yes, there's some critical differences. The CLECs, like PAETEC, they may have customers but they don't have captive customers. All their customers have alternatives available to them.

If PAETEC misjudges the merit of this particular acquisition, if things go wrong, if they
can't integrate things, then their customers will be disenchanted, the customers will be dissatisfied, but all those customers will have alternatives. And so the party that is harmed is PAETEC itself.

And so when we talk about the risk return profile of PAETEC, it voluntarily assumes its own amount of risk. That risk may pay off or it may not pay off. But that is really a private concern for PAETEC. There is no public interest concern there. By contrast, when we see Qwest and CenturyLink engaging in this, Qwest is supporting an entire wholesale industry. If things go wrong, as they have with FairPoint and Hawaiian Telecom, it's not just the Company -- CenturyLink and Qwest that are impacted, but it has ripple effects to the industry.

It disturbs the ability -- it impairs the ability of CLECs to carry on with their operations. And the -- I think the important thing really is that, at the retail level, end users don't really understand oftentimes what is the source of the problems that they're experiencing.

When PAETEC is trying to order facilities from Qwest, let's say, and if Qwest is struggling with its OSS, the end user doesn't know that. They will blame PAETEC for that, or Level 3. So there are
ripple effects there. And therefore the public interest evaluation or analysis is very different.

MR. MERZ: I have nothing further, thank you.
CHAIRMAN BOYER: Okay. Thank you, Dr. Ankum.
THE WITNESS: Thank you.
CHAIRMAN BOYER: You are excused.
Shall we still try Witness Johnson?
MR. DUARTE: I'm game if she is.
MR. MERZ: All right.
CHAIRMAN BOYER: Okay, well.
MR. DUARTE: I'll leave it up to her.
MS. JOHNSON: Yes.
CHAIRMAN BOYER: Okay, she's ready to go.
Probably been ready to go for hours.
MR. MERZ: Now the Joint CLECs would call
Bonnie Johnson.
(Ms. Johnson was sworn.)
CHAIRMAN BOYER: Thank you, please be seated. Mr. Merz?

BONNIE JOHNSON,
called as a witness, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION
BY MR. MERZ:
Q. Good afternoon, Ms. Johnson.
A. Good afternoon.
Q. By whom are you employed?
A. Integra Telecom.
Q. And you have prepared testimony in this case; is that right?
A. Correct.
Q. Your direct testimony, which has been marked and admitted as Integra Exhibit No. 2, that's testimony that you prepared; is that right?
A. That's correct.
Q. That testimony includes Exhibits Integra-2.1 through 2.27, correct?
A. Correct.
Q. You've also prepared surrebuttal testimony that's been marked and admitted as Integra-2SR?
A. Yes.
Q. That testimony includes Exhibits

Integra-2SR. 1 through $2 S R .3$; is that correct?
A. Correct.
Q. And is the information contained in that testimony true and accurate, to the best of your knowledge?
A. Yes, it is.
Q. Do you wish to make any changes to that testimony --
A. No.
Q. -- any corrections to that testimony?
A. No.
Q. Do you have a summary of your testimony that you'd like to give today?
A. I do.
Q. Would you please give that?
A. Good afternoon Mr. Chairman, Commissioners.

CHAIRMAN BOYER: Good afternoon, welcome.
THE WITNESS: My name is Bonnie Johnson and I'm employed by Integra Telecom. My title is director of carrier relations, and my responsibilities include managing relations between Integra and other telecommunications carriers, including Qwest.

For example, I work directly with Qwest's service management on operational issues, including provisioning, network, and billing issues between the companies. I am also involved in the escalation of service delivery issues as needed, and communicating with Qwest on day-to-day issues including those that are described in my testimony, such as conditioned copper loops and inappropriate marketing activities.

I am Integra's representative at Qwest's CMP and the industry forum -- the Local Number Portability Working Group. I also participated in the
interconnection negotiations with Qwest for several states. And before that I participated in the ICA negotiations and arbitrations on behalf of Eschelon.

Prior to joining Integra I was employed by US West -- now Qwest -- and Mountain Bell, in a number of different capacities that include service management and service delivery in Qwest wholesale, and before that in the business outlets for retail residential services.

My testimony provides factual documentation and background relating to unbundled loops conditioned to transmit the digital signals needed to provide xDSL service, ILEC network maintenance and modernization activities, the change management process, and ILEC marketing activities, disparaging remarks, and discriminatory conduct.

The factual information $I$ provide supports merger conditions proposed by the CLECs in this proceeding. My testimony is not intended to repeat the work being done in the Minnesota UNE Provisioning and Marketing Practices Docket or any other docket.

In this docket CLECs are proposing merger conditions to ensure that the post-transaction entity complies with the law and does not harm customers and competition. In other dockets CLECs are seeking
findings of discrimination, and rulings from the arbitrators on specific issues presented.

Although several of the exhibits to my testimony were attached to the Joint CLEC initial comments in the Minnesota UNE Provisioning Docket, the same facts are helpful to the finders of fact in more than one proceeding and uses of the evidence may be different, as here.

My testimony also responds to CenturyLink's assertions that CLECs have not provided support, indicating CenturyLink's OSS has inferior functionality to that of Qwest's OSS and that the limitations of CenturyLink's OSS do not exist.

I discuss that the information provided by CenturyLink in recent information requests reveals limitations in functionality in CenturyLink's OSS, EASE, relative to Qwest's OSS, IMA, including less preorder functionality and fewer order types.

These relative limitations in functionality in CenturyLink's OSS are apparent from the comparison matrix in my testimony, Exhibit 2SR-1, summarizing information obtained recently from CenturyLink in data requests.

In addition, I respond to statements made by Qwest witness Ms. Stewart rebuttal testimony regarding

Qwest change management process, and to Mrs. Stewart's statement that 90 -day billing policy is an issue specific to Level 3.

I describe that Integra has also raised the same problem with Qwest, and the problem is not unique to Level 3. Thank you.

MR. MERZ: Thank you, Ms. Johnson.
The witness is now available for questioning.
CHAIRMAN BOYER: Thank you, Ms. Johnson.
Ms. Schmid, any questions of this witness?
MS. SCHMID: No questions.
CHAIRMAN BOYER: Mr. Spann?
MR. SPANN: No, Chairman Boyer.
CHAIRMAN BOYER: Mr. Duarte?
MR. DUARTE: Yes, your Honor.
CROSS EXAMINATION
BY MR. DUARTE:
Q. Good afternoon. I hope we can get out of here by 6:00. We've got six minutes. I usually speak pretty fast -- at least I'm accused of that -- so maybe we can get through this in six minutes. But if I'm eight minutes $I$ hope you won't take it against me.

Ms. Johnson, could you turn to page 6 of your direct testimony?
A. Yes.
Q. And on page 6 you have a list of exhibits that are attached to your testimony that goes on to pages 7 and 8; is that correct?
A. That's correct.
Q. And the first exhibit is marked Integra 2.1, and it's a copy of the Joint CLECs' Initial Comments.

And that is in the docket that you referred to in Minnesota that's called the "UNE Provisioning and Marketing Docket"; is that correct?
A. That's correct.
Q. And that Minnesota PUC Docket has been commonly referred to as the "1066 Docket"; is that correct?
A. That is correct.
Q. And then Exhibit 2.2 is a number of errata pages associated with the initial comments in the 1066 Docket; is that correct?
A. Correct.
Q. And then Exhibit 2.3 is an attachment to the comments in the Minnesota PUC 1066 Docket, correct?
A. Yes. Actually 2.3 through 2.18 , and 2.20 through 2.23 were all attachments to those comments.
Q. I was just getting to that in the next question, so thank you very much.
A. Saved you some time.
Q. Saved me some time. So -- and I was not gonna go through each one, believe me. I was gonna take them together. And so these are all attachments. And I think it's Attachments A through X in the -well, actually most of the documents from Attachments A through X in that Minnesota 1066 Docket, correct?
A. Correct.
Q. And it looks like there's -- you're missing a couple of the attachments. P, Q, R, and U, I didn't see; is that correct?
A. That is correct.
Q. Okay. And then Exhibit 26 is a Minnesota PUC order in another Minnesota PUC Docket; is that correct?
A. Yes.
Q. And then Exhibits $2.24,2.25$, and 2.27, is some information relating to a change management process or CMP notice by Qwest to CLECs; is that correct?
A. Correct. Two dot two five is the actual CMP document.
Q. Oh. And the other ones are notice letters --
A. One is a change request and the other is a Level 3 notification, that's correct.
Q. Okay. Now, Ms. Johnson, I'd like to ask you, in drafting your testimony for this docket you started with a draft of your testimony in the Minnesota 1066 Docket as a basis for your testimony here; is that correct?
A. Well, actually I filed my direct testimony in this case on August 30th and in the Minnesota case on September $2 n d$.
Q. And -- but the testimony is very similar, you --
A. It is similar, yes.
Q. Okay. And would you agree with me that your 27 exhibits in your direct testimony encompass more than 700 pages of documents?
A. Yes.
Q. And Ms. Johnson, your intent in providing these 700 pages of documents from a Minnesota PUC Docket was so that the Commissioners here could read all of those pages to learn about Integra's advocacy in that Minnesota PUC 1066 Docket; is that correct?
A. Actually, these -- the exhibits are intended to offer support for the recommended merger conditions in this proceeding, as I say on page 10 of my direct.
Q. But you do want the Commissioners to see that this is the Joint CLEC advocacy in that Minnesota

1066 Docket; is that correct?
A. The intent of my testimony is to offer support for the merger conditions in this case. And its factual support for Mr. Gates' and Mr. Denney's testimony.
Q. I probably just --
A. For the merger conditions.
Q. I'm sorry. It's probably just the way I asked the question.

But you would agree with me that the attachment that you do attach for purposes of this docket is, in fact, Integra testimony -- Integra advocacy in Minnesota? In addition to what you're -you know, the purposes that you have here for?
A. It, it is our advocacy in Minnesota -- in the Minnesota mergers and in all states to support the conditions.
Q. And in 1066, obviously?
A. That -- there -- it's similar to 1066, yes.
Q. Well, I mean, it's actually advocacy in 1066; wouldn't you agree with me on that?
A. I, I guess I would agree it's our advocacy, yes.
Q. Okay, thank you. Now, you agree with me that the issues in the Minnesota PUC 1066 Docket is an
outstanding dispute issue?
A. It is a generic docket that the -- that was opened by the Minnesota Commission.
Q. And that docket is still pending before the Minnesota Commission, correct?
A. Yes, it is.
Q. And Integra hasn't filed any kind of petition or complaint similar to the issues that have been raised in the Minnesota PUC 1066 Docket here in Utah; is that correct?
A. No. As I state on page 10 of my direct testimony, of the 14 states, Minnesota is the one that has initiated the investigation into the Qwest UNE provisioning and marketing practices. So they were filed first in Minnesota.
Q. But there's no prohibition for Integra to request initiation of a similar proceeding here in Utah; is that correct?
A. Not to my knowledge.
Q. And the intent of your testimony here was to submit at least part of the record of a litigated case in Minnesota in the context of and as part of this merger approval review here in Utah; is that correct?
A. It was submitted to support the merger conditions discussed by Mr. Denney and Mr. Gates.

MR. DUARTE: I'm one minute late, I'm very sorry.

THE WITNESS: Okay.
MR. DUARTE: Thank you very much. I have no further questions.

THE WITNESS: Thank you.
CHAIRMAN BOYER: Thank you, Mr. Duarte.
Mr. Peña, any cross examination --
MR. PEÑA: No questions.
CHAIRMAN BOYER: -- of Ms. Johnson?
Commissioner Allen? Commissioner Campbell? Commissioner Boyer? No. Okay. We will --

MR. MERZ: And I don't have any redirect either.

CHAIRMAN BOYER: -- ask for redirect, and then we will now adjourn and reconvene tomorrow.

You're excused, Ms. Johnson.
And we'll reconvene at 9:00 tomorrow and we'll hear from Witness Denney at that point in time. Thank you all.

MR. MERZ: Then the schedule for tomorrow will be, we're obviously gonna finish up with the CLEC witnesses. And then is the intention that we'll be taking the public witnesses' testimony on the settlement?

CHAIRMAN BOYER: I think what we will do, based on Ms. Schmid's representations, is we'll just continue down the witness list from the prehearing conference report. That would be Mr. Denney. And then Level 3 witness, Mr. Thayer.

Department of Defense, if we need to do that in the morning. I mean, if we need to shuffle that around and you need to go first or something we could do that as well, Mr. Spann.

And then we'll hear from the Office's witness and also the Division on the settlements. And Salt Lake CAP, if they show.

MR. MERZ: The parties, though, are -- this is really loud. The parties are still anticipating that we'll be filing something, I think the day after tomorrow is our deadline.

CHAIRMAN BOYER: Correct.
MR. MERZ: Okay.
CHAIRMAN BOYER: Correct. But we'd like to get on the record -- those proponents of the three stipulations, we'd like to get their testimony on the record now. Just in case we don't have another hearing in November -- on November 4th, okay?

Great. Have a good evening. We'll see you in the morning.
(The hearing was recessed at 6:02 p.m., to reconvene at 9:00 a.m. on Wednesday, October 27, 2010.)

## C E R T I F I C A T E

STATE OF UTAH
COUNTY OF SALT LAKE

This is to certify that the foregoing proceedings were taken before me, KELLY L. WILBURN, a Certified Shorthand Reporter and Registered Professional Reporter in and for the State of Utah.

That the proceedings were reported by me in stenotype and thereafter caused by me to be transcribed into typewriting. And that a full, true, and correct transcription of said proceedings so taken and transcribed is set forth in the foregoing pages, numbered 1 through 349, inclusive.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

SIGNED ON THIS 8th DAY OF November, 2010.

Kelly L. Wilburn, CSR, RPR Utah CSR No. 109582-7801
(October 26, 2010 - Qwest/CenturyTel - 10-049-16, Vol. I of III)

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