

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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

DOCKET NO. 10-049-16

SETTLEMENT AGREEMENT AND STIPULATION OF THE JOINT APPLICANTS AND THE UTAH DIVISION OF PUBLIC UTILITIES

Applicants Qwest Communications International, Inc. and CenturyLink, Inc., formerly CenturyTel, Inc., and their subsidiaries (“the Joint Applicants” or, collectively post-merger, “Company”) and the Utah Division of Public Utilities (“Division”) (collectively, the parties to this agreement will be identified as “Parties”) hereby agree and stipulate that the Commission should approve the merger transaction of the Applicants at issue in this proceeding (“merger” or “transaction”) subject to the following agreements, provisions and conditions. The Parties agree that this Stipulation represents a resolution among them of the matters in this proceeding included within this Stipulation. As such, all discussions, evidence or conduct leading to this Stipulation are privileged and confidential.

I. PURPOSE

This agreement has been prepared and executed for the purpose of resolving issues between Applicants and Division in this proceeding. Based on the commitments contained in this agreement, the Division finds that the merger transaction at issue in this docket is in the public interest as contemplated by Utah law, and agrees to support approval of the transaction, with the conditions contained in this Stipulation, before the Utah Public Service Commission and without additional conditions.

II. FILING

Upon execution of this agreement, this agreement will be filed with the Utah Public Service Commission (“Commission”).

III. THE APPLICANTS’ COMMITMENTS

The Joint Applicants agree and commit as follows:

A. Broadband

The Joint Applicants and the Company shall commit to invest at least \$25 million in broadband infrastructure (“Broadband”) to benefit retail customers in Utah over a five-year period beginning on January 1, 2011 and concluding five years thereafter. In the event the transaction does not close, this Broadband capital commitment will be null and void. Fifteen percent of the Broadband investment will be made in areas in Utah that are unserved or underserved. For purposes of this agreement, “unserved” means no wireline Broadband service is available, and “underserved” means Broadband wireline service up to and including 1.5 megabits per second (“Mbps”) download speed. The Company agrees to make annual filings that document the Company’s compliance with this Broadband commitment for a period of five years. These Broadband annual filings are subject to confidentiality afforded materials containing trade secrets that are considered protected records under the Utah Government Records Access Management Act (“GRAMA”). For the first two years, this Broadband filing requirement will be satisfied by the Company’s filings made under Section III. D.1., herein. If the Company meets its Broadband financial commitment in less than five years, this reporting requirement will be terminated.

B. Wholesale

The Company makes the following commitments for the purpose of addressing issues that intervenor Competitive Local Exchange Carriers (“CLECs”) and the Division have raised:

1. Operational System Support

Qwest Corporation or any successor entity (pre-merger or post-merger “Qwest” or “Qwest Corporation”) will not discontinue its wholesale Operations Support Systems (“OSS”) for a minimum of 24 months, post-transaction closing.

In the event that any Qwest OSS is subsequently changed or retired, Qwest Corporation will utilize the terms and conditions set forth in the Change Management Process (“CMP”) and consistent with the CMP condition below, but in no event shall there be less than six (6) months notice of the retirement of the legacy Qwest OSS from current Qwest territories. During that six-month notice period established for retiring a Qwest OSS, any interconnected CLEC or Commercial Mobile Radio Service (“CMRS”) provider shall be permitted to test the proposed replacement OSS, and the Company shall cooperate with such testing, at no charge to the testing carrier, including but not limited to making available a testing environment.

2. Interconnection Agreement Negotiations

Qwest Corporation or any successor entity operating in current Qwest territories (pre-merger or post-merger “Qwest” or “Qwest Corporation”) will honor all obligations under its existing interconnection agreements.

a. Extension. Qwest Corporation will not terminate or change the conditions of any CLEC or CMRS interconnection agreement, with the exception of changes required by law or to the extent Qwest is relieved by law of a current wholesale obligation, unless requested or agreed to by the CLEC or CMRS provider, or in the event of default or other triggering event expressly contemplated by the terms of the agreement, for a period of:

1. 36 months from the Closing Date for any CLEC or CMRS interconnection agreement that is not expired as of the Closing Date of the transaction and for any CLEC or CMRS interconnection agreement that has been expired less than three (3) years as of the Closing Date of the transaction;

2. 24 months from the Closing Date for any CLEC interconnection agreement that has been expired for more than three (3) years and has been amended to include Qwest's *TRRO* language and for any other CMRS interconnection agreement; or

3. 12 months from the Closing Date for any CLEC interconnection agreement that has been expired for more than three (3) years and not amended to include Qwest's *TRRO* language as of the Closing Date of the transaction.

b. Negotiation and Opting-In. Where parties are in negotiations for the initial successor agreement to an agreement covered in subpart III B.2 above, the interconnecting CLEC or CMRS provider may, at its option, use its currently existing agreement as the basis for negotiating the initial successor agreement with Qwest Corporation. Unless mutually agreed otherwise, the parties agree to incorporate the amendments to the existing agreement into the body of the agreement used as the basis for such negotiations of the initial successor agreement. An interconnecting CLEC or CMRS provider may opt-in to an interconnection agreement in its initial term or the extended term provided for in subpart III B.2 above, if applicable. This provision does not limit any opt-in rights a carrier may have under Section 252(i) or FCC rules or orders. If Qwest Corporation and a requesting CLEC or CMRS provider are in negotiations for a replacement interconnection agreement before the Closing Date, Qwest Corporation will

allow the requesting CLEC or CMRS provider to continue to use the negotiation draft upon which the negotiations prior to the Closing Date have been conducted as the basis for negotiating that replacement interconnection agreement.

3. Protection Against any New Rates or Tariff Changes

Qwest Corporation agrees that it will not seek approval for new rates, whether pursuant to interconnection agreements or tariff, to establish any new wholesale charges for service order processing, including but not limited to fees associated with Access Service Requests (“ASRs”) and Local Service Requests (“LSRs”), directory listings or directory listing storage, non-published number charges, local number portability charges, or E911 records transaction or storage charges for 36 months from the Closing Date, unless otherwise required by law or FCC or Utah Commission decision.

4. UPAP

Following the Closing Date, Qwest Corporation (pre-merger or post-merger “Qwest” or “Qwest Corporation”) shall not discontinue the use of the Utah Performance Assurance Plan (“UPAP”) for at least 36 months after the transaction closing. The Parties agree that the UPAP does not automatically terminate at the expiration of the 36 months, but that the Company may, before the expiration of the 36 months, initiate a proceeding to modify or discontinue the UPAP after the expiration of the 36-month term. CenturyLink and Qwest Corporation do not waive the right to seek modifications under the terms and conditions outlined in the Qwest UPAP. Qwest Corporation shall continue to provide the monthly reports of wholesale performance metrics to Staff and to each CLEC as set forth in the UPAP, unless modified under the terms and conditions outlined in the UPAP. Within three (3) months of the merger close, the Company will file a motion in Docket No. 09-049-60 with the Commission to limit the scope of that proceeding to

consider only the elimination of the “Tier 2” payments, along with any other mutually agreed upon changes between the parties in that proceeding. The Division agrees to support the elimination of the Tier 2 payments.

5. Change Management Process

Qwest Corporation (pre-merger or post-merger “Qwest” or “Qwest Corporation”) will maintain the current Qwest Corporation Change Management Process (“CMP”) for 36 months after the transaction closing, utilizing the terms and conditions set forth in the CMP Document. CenturyLink and Qwest Corporation do not waive their rights to modify the CMP consistent with the provisions contained in the CMP Document. Pending CLEC Change Requests shall continue to be processed in a commercially reasonable time frame consistent with the provisions contained in the CMP Document.

6. FCC Obligations

By virtue of the FCC’s jurisdiction, to the extent inconsistent, any required terms and conditions applicable to CLECs or CMRS providers contained in the FCC’s order approving the merger will automatically be incorporated into and supersede the terms in this section above, except to the extent it is state-specific. Nothing in this agreement shall preclude CLECs and CMRS providers from obtaining in Utah the benefits for additional FCC conditions not addressed in the agreement.

7. Status as a BOC

The Company agrees that the Utah ILEC operating subsidiary, Qwest Corporation, which is currently classified as a Bell Operating Company (“BOC”) pursuant to 47 U.S.C. Section 153(4), will continue to be classified as a BOC after the close of the merger. The agreement in this paragraph is subject to any change of law that may alter the definition of a “BOC” or

otherwise change the classification of Qwest Corporation. The Company has no current plans to seek reclassification of Qwest Corporation.

C. Service Quality

The Company agrees not to seek a waiver from the requirements of R. 746-340, sections 8 and 9, for two (2) years following the date of the close of the merger.

D. Reporting

The Company agrees to the following additional reporting requirements to be in effect for two (2) years from the close of the merger:

1. Commencing six (6) months after the close of the merger, and then every six months thereafter until the end of the two-year reporting period, the Company shall file a report showing its Broadband investment in Utah for the prior six months and its projected Broadband investment in Utah for the next six months.

2. Commencing six (6) months after the close of the merger, and then every six months thereafter until the end of the two-year reporting period, the Company shall file a report showing its capital expenditures in Utah for the prior six months and its projected capital expenditures in Utah for the next six months.

3. Commencing six (6) months after the close of the merger, and then every six months thereafter until the end of the two-year reporting period, the Company shall file a report showing the total headcount in Utah.

4. Commencing six (6) months after the close of the merger, and then every six months thereafter, the Company shall file a report showing Broadband availability, including the range of available Broadband speeds, for each Company wire center in Utah.

5. The Company will provide the Commission on the first and second anniversary of the transaction close a report for the previous calendar year showing system-wide capital expenditures, which can be compared to the Utah-specific data provided pursuant to paragraph D.2 of this section.

6. After the two-year period for providing the reports referenced in this section has ended, the Division may request that the Company meet with the Division to address questions regarding investment in Utah which may arise.

7. All information provided in the reports required by this section shall be subject to confidentiality afforded materials containing trade secrets, and shall be marked and treated as confidential and considered as a protected record pursuant to the Utah Government Records Access Management Act (“GRAMA”).

E. Compliance.

The Company agrees to comply with all applicable federal and Utah laws and regulations.

IV. RESERVATIONS

The Parties have entered into this Stipulation and Agreement with the express intent and purpose of settling and resolving the issues identified in this proceeding in a manner that is consistent with the public interest. By executing this Stipulation and Agreement, the Parties agree to represent to the Commission that they recommend acceptance of this Stipulation and Agreement without reservation, except that the Parties agree to reserve those rights and privileges set forth below.

A. No Precedent

The Parties agree that no precedent be established by the resolution of the contested matters made in this Stipulation and Agreement. The resolutions reached herein are for settlement purposes only and do not necessarily represent the positions the Parties would take if they continued to litigate this proceeding. The Parties specifically reserve the right to take positions contrary to the resolutions agreed to herein in any future proceeding before the Commission or any other judicial or administrative body and to argue for entirely different results in any future proceeding before the Commission or any other administrative or judicial body.

B. No Admission

Unless this Stipulation and Agreement is approved by the Commission, this Stipulation and Agreement, and any statements made in furtherance thereof, shall not be admissible in evidence or in any way described or discussed in any other Utah administrative or judicial proceeding, except as required by the Commission in this proceeding regarding settlements.

C. No Waiver of Rights

Except as to matters expressly set forth herein, no Party shall be deemed to have waived, compromised or limited any rights, remedies, or obligations arising out of, or relating to, matters previously determined by, or now pending before, the Commission or any other administrative or judicial entity as a result of this Stipulation and Agreement. By executing this Stipulation and Agreement, the Parties have not waived, compromised or limited any rights, duties, remedies, or jurisdictional objections available to them under Utah, except as set forth herein.

D. Commission Rejection, Modification and the Parties' Right to Void

1. Right to Void

If the Commission alters any portion of this Stipulation and Agreement, including this portion, the Stipulation and Agreement will immediately become voidable by any Party. In order to exercise the right of voiding the Stipulation and Agreement, a Party must file written notice of its intent to void within ten (10) days after the Commission issues a final order rejecting or altering any portion of the Stipulation and Agreement.

2. Party Acceptance of Commission Modification

If the Commission issues a final order altering any portion of this Stipulation and Agreement and no Party exercises its right to void the Stipulation and Agreement within ten days of the final order, then the Stipulation and Agreement, as modified by the Commission, becomes binding on all Parties. If the Commission approves this Stipulation and Agreement as filed or if the Commission modifies this Stipulation and Agreement and all Parties agree to the modification, the Parties waive their right to appeal the Commission's decision.

E. Effect of Commission Rejection or Party Voiding Stipulation and Agreement

If the Commission rejects this Stipulation and Agreement or if the Commission modifies this Stipulation and Agreement and any Party exercises its right to void the Stipulation and Agreement within ten days of a final order, the Parties retain all of their rights in any related proceedings before the Commission. These rights include the right to file any relevant motions, briefs, or related documents with the Commission; participate in oral argument, or seek rehearing, reconsideration, clarification or alteration of the Commission's Order in this proceeding; appeal that Order, or take whatever action deemed necessary as if there had been no Stipulation and Agreement.

V. **MISCELLANEOUS**

A. **Applicability and Scope**

This Stipulation and Agreement, together with all its provisions, is binding on the Division, the Companies and their subsidiaries and affiliates engaged in the provision of telecommunications services in Utah, and each will support this Stipulation and Agreement before all regulatory agencies with jurisdiction, and before all state and federal courts.

B. **Future Mergers**

Should the Companies merge with, be acquired by, or otherwise combine or consolidate with another entity during the period when any provision of this Stipulation and Agreement is effective, the terms of this Stipulation and Agreement shall apply to and be binding on that entity and any subsidiary or affiliate of that entity engaged in the provision of telecommunications services in Utah.

C. **Complete Resolution of the Issues**

This Stipulation and Agreement resolves, between the Parties, all issues related to the Commission's approval of the merger in Docket No. 10-049-16.

D. **Entire Agreement**

The Parties acknowledge that this Stipulation and Agreement is the product of negotiations and compromise and that the Parties drafted it jointly. This Stipulation and Agreement constitutes the Parties' entire agreement on all matters set forth herein, and it supersedes any and all prior oral and written understanding or agreements on such matters.

E. **Enforcement**

This Stipulation and Agreement shall be enforceable as a Commission Order if and when adopted by the Commission as such..

F. Effective Date

The “Joint Applicants’ Commitments” as stated in Part III shall become effective on the date the transaction closes, and will be effective only if the transaction closes.

G. Commission Approval

The provisions of this Stipulation and Agreement are subject to Commission approval. The Parties agree that the proposed merger, as modified by the forgoing conditions, is consistent with the public interest. The Division agrees to support approval of the merger without additional conditions based on the commitments contained herein.

H. Execution

This Stipulation and Agreement may be executed in separate, identical counterparts. Copies sent by facsimile are as effective as original documents.

DATED this 13th day of October 2010

**Qwest Communications International, Inc.
Qwest Corporation
Qwest LD Corporation
Qwest Communications Company, LLC**

By:

CenturyLink, Inc.

By:

Utah Division of Public Utilities

By: