

June 3, 2014

*Filed electronically and by UPS Overnight Delivery*

Oregon Public Utility Commission  
Attn: Filing Center  
P.O. Box 1088  
550 Capitol Street NE, Suite 215  
Salem, OR 97301

RE: In the Matter of QWEST CORPORATION, Petition for Approval of Price Plan  
Pursuant to ORS 759.255.  
Docket No. UM 1354

Dear Filing Center:

Enclosed for filing are the original and five copies of the Rebuttal Testimony of Douglas Denney on behalf of Integra, in connection with the above-referenced docket. Also enclosed is a Certificate of Service.

Sincerely,



Kim K. Wagner  
Legal & Regulatory Administrator  
Eschelon Telecom, Inc.  
763-745-8468 (direct)  
763-745-8459 (department fax)  
[Kim.Wagner@integratelecom.com](mailto:Kim.Wagner@integratelecom.com)

Enclosures

cc: Service List

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

DOCKET NO. UM 1354

In the Matter of  
QWEST CORPORATION,  
Petition for Approval of Price Plan  
Pursuant to ORS 759.255.

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of June, 2014, I served the foregoing **REBUTTAL TESTIMONY OF DOUGLAS DENNEY ON BEHALF OF INTEGRA**, in the above-entitled docket, on the parties listed below, via means of e-mail transmission:

Robert Jenks  
G. Catriona McCracken  
Citizens' Utility Board of Oregon  
610 SW Broadway, Suite 400  
Portland, OR 97205  
[dockets@oregoncub.org](mailto:dockets@oregoncub.org);  
[bob@oregoncub.org](mailto:bob@oregoncub.org)  
[catriona@oregoncub.org](mailto:catriona@oregoncub.org)

Arthur A. Butler  
Ater Wynne LLP  
601 Union Street, Suite 1501  
Seattle, WA 98101  
[aab@aterwynne.com](mailto:aab@aterwynne.com)

Mark P. Trinchero  
Davis Wright Tremaine LLP  
1300 SW Fifth Avenue, Suite 2300  
Portland, OR 97201  
[marktrinchero@dwt.com](mailto:marktrinchero@dwt.com)

Bruce Hellebuyck  
Oregon Public Utility Commission  
P.O. Box 2148  
Salem, OR 97308-2148  
[bruce.hellebuyck@state.or.us](mailto:bruce.hellebuyck@state.or.us)

Stephen Hayes  
Oregon Public Utility Commission  
P.O. Box 2148  
Salem, OR 97308-2148  
[stephen.hayes@state.or.us](mailto:stephen.hayes@state.or.us)

Lawrence Reichman  
Perkins Coie LLP  
1120 NW Couch St., 10<sup>th</sup> Flr.  
Portland, OR 97209  
[lreichman@perkinscoie.com](mailto:lreichman@perkinscoie.com)

Jason W. Jones  
Department of Justice  
1162 Court Street NE  
Salem, OR 97301  
[jason.w.jones@state.or.us](mailto:jason.w.jones@state.or.us)

Bill Garcia  
Windstream Communications  
1800 Old Pecos Trail, Suite J  
Santa Fe, NM 87505  
[bill.garcia@windstream.com](mailto:bill.garcia@windstream.com)

Ron Trullinger  
CenturyLink  
310 SW Park Ave., 11th Flr.  
Portland, OR 97205  
[ron.trullinger@centurylink.com](mailto:ron.trullinger@centurylink.com)

Renee Willer  
Frontier Communications.  
20575 NW Von Neumann Dr.  
Beaverton, OR 97006  
[renee.willer@ftr.com](mailto:renee.willer@ftr.com)

Maja K. Haium  
Sean O'Day  
League of Oregon Cities  
PO Box 928  
Salem, OR 97308  
[mhaium@orcities.org](mailto:mhaium@orcities.org)  
[soday@orcities.org](mailto:soday@orcities.org)

William E. Hendricks  
CenturyLink  
902 Wasco Street  
Hood River, OR 97031  
[tre.hendricks@centurylink.com](mailto:tre.hendricks@centurylink.com)

DATED: June 3, 2014.

  
\_\_\_\_\_  
Kim K. Wagner

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**UM 1354**

In the Matter of the Petition of )  
QWEST CORPORATION for )  
Approval of Price Plan Pursuant to )  
ORS 759.255 )  
\_\_\_\_\_ )

**REBUTTAL TESTIMONY**

**OF**

**DOUGLAS DENNEY**

**ON BEHALF OF**

**INTEGRA TELECOM**

**June 3, 2014**

1       **I.       INTRODUCTION**

2       **Q.       PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3       A.       My name is Douglas Denney. I work at 18110 SE 34<sup>th</sup> St; Building One, Suite  
4               100; in Vancouver, WA 98683. My work address changed since I filed  
5               opening testimony.

6       **Q.       DID YOU FILE DIRECT TESTIMONY IN THIS DOCKET?**

7       A.       Yes. I filed direct testimony on April 2, 2014.

8       **Q.       ARE THERE ANY EXHIBITS TO YOUR REBUTTAL TESTIMONY?**

9       A.       No.

10      **Q.       PLEASE SUMMARIZE YOUR TESTIMONY.**

11      A.       In my direct testimony I recommended that, to the extent the Commission  
12              approves CenturyLink's price plan, it make modifications to that plan associated  
13              with four areas: 1) Mergers and Acquisitions; 2) Privilege Tax; 3) Service  
14              Quality; and 4) Affiliate Transactions that could have a negative impact on  
15              CenturyLink's wholesale customers, such as Integra.

16              CenturyLink's response testimony did provide clarification to Integra's concerns  
17              relating to affiliate transactions. However, CenturyLink did not sufficiently  
18              address all the issues raised by Integra in my opening testimony.

19      **Q.       SHOULD CENTURYLINK BE ALLOWED TO ADDRESS ARGUMENTS  
20              MADE BY INTEGRA IN OPENING TESTIMONY IN ITS  
21              SURREBUTTAL TESTIMONY?**

1 A. No. To the extent CenturyLink did not address arguments made by Integra in my  
2 opening testimony, it should not be allowed to do so in its round of Surrebuttal  
3 Testimony. Any arguments in response to Integra's opening testimony should  
4 have been made in CenturyLink's rebuttal testimony so that Integra would have  
5 the appropriate opportunity to respond.

6

7 **II. AFFILIATE TRANSACTIONS**

8 **Q. DID CENTURYLINK ADDRESS INTEGRAS CONCERN REGARDING**  
9 **AFFILIATED TRANSACTIONS?**

10 A. Yes. In Mr. Felz's testimony,<sup>1</sup> CenturyLink clarified that the request was a  
11 continuation of a current waiver and would not impact certain types of  
12 agreements that were of concern to Integra. Based on the additional information  
13 provided in Mr. Felz's reply testimony, Integra withdraws its request regarding  
14 affiliate transactions.

15

16 **III. MERGERS AND ACQUISITIONS**

17 **Q. DID CENTURYLINK ADDRESS INTEGRAS CONCERN REGARDING**  
18 **COMMISSION OVERSIGHT OF MERGERS AND ACQUISITIONS?**

19 A. No. CenturyLink merely reiterated its opening testimony. It further concludes,  
20 "Therefore, CenturyLink believes the uncertainties that existed at the time of the

---

<sup>1</sup> Exhibit CTL/200 Felz/27, lines 15-30.

1 CenturyLink/Qwest merger have been addressed and there is no reason not to  
2 eliminate Condition 18 and return this waiver to the Price Plan.”<sup>2</sup>

3 However, this comment misses the point, as the concern about a waiver of this  
4 condition applies to Commission oversight of future mergers and acquisitions, not  
5 the previous CenturyLink/Qwest merger. As I pointed out in my opening  
6 testimony, the Commission found that the merger conditions imposed upon the  
7 CenturyLink/Qwest merger were essential to the conclusion that the merger was  
8 in the public interest.<sup>3</sup> The Commission should maintain oversight of future  
9 mergers, acquisitions and sales of exchanges, and continue to assure that the  
10 public interest is protected. CenturyLink’s statement that other voice competitors  
11 are not subject to this condition<sup>4</sup> is irrelevant due to the unique role that  
12 CenturyLink plays in Oregon’s communications market, as both the dominant  
13 wholesale provider and large retail competitor.<sup>5</sup>

14

15 **IV. PRIVILEGE TAX**

16 **Q. DID CENTURYLINK ADDRESS INTEGRAS CONCERN REGARDING**  
17 **THE PRIVILEGE TAX?**

---

<sup>2</sup> Exhibit CTL/200 Felz/27, lines 9-12.

<sup>3</sup> Exhibit Integra/100 Denney/13, lines 5-8.

<sup>4</sup> Exhibit CTL/200 Felz/27, lines 12-13.

<sup>5</sup> Exhibit Integra/100 Denney/5, lines 7-16.

1 A. No. CenturyLink merely affirmed Integra’s concerns by clarifying that, if it were  
2 granted its requested exemption with respect to the privilege tax, it would increase  
3 the tax passed through to Integra, effectively increasing the rates that Integra pays  
4 for wholesale services.<sup>6</sup> As explained in my opening testimony, changes in the  
5 pass through of the privilege tax on wholesale services, especially those  
6 purchased pursuant to interconnection agreements should be dealt with in a  
7 generic cost docket, because when these rates were set, they generally took into  
8 account existing taxes.<sup>7</sup> Therefore, changing the pass through of this tax for  
9 wholesale services, which are regulated by the Commission, could result in  
10 double recovery.<sup>8</sup>

11

12 **V. RETAIL SERVICE QUALITY REPORTING**

13 **Q. DID CENTURYLINK ADDRESS INTEGRAS CONCERN REGARDING**  
14 **ITS PROPOSED CHANGES TO RETAIL SERVICE QUALITY**  
15 **REPORTING?**

16 A. Yes. CenturyLink confirmed, “...nothing in its proposed modifications to retail  
17 service quality reporting will impact its wholesale service quality reporting.”<sup>9</sup>  
18 Because wholesale service quality reports contain, in part, certain retail service

---

<sup>6</sup> Exhibit CTL/200 Felz/29, lines 2-5.

<sup>7</sup> Exhibit Integra/100 Denney/15, line 14 – Denney/16, line 2.

<sup>8</sup> Exhibit Integra/100 Denney/16, lines 3-6.

<sup>9</sup> Exhibit CTL/200 Felz/28, lines 17-18.



1 quality performance,<sup>10</sup> Integra recommends, that to the extent the Commission  
2 approves of changes to retail service quality reporting, it should clarify that there  
3 will be no impact on wholesale service quality reports.

4

5 **VI. CONCLUSION**

6 **Q. WHAT DOES INTEGRA RECOMMEND TO THIS COMMISSION WITH**  
7 **RESPECT TO CENTURYLINK'S PRICE PLAN?**

8 A. Integra recommends that if the Commission approves CenturyLink's price plan, it  
9 make the following modifications to the plan:

10 1) The Commission should retain authority over mergers, acquisitions, and sales  
11 of exchanges, and reject CenturyLink's proposal to eliminate applicability of  
12 these rules and statutes.<sup>11</sup>

13 Specifically, the Commission should delete (as shown in strikeout below) from  
14 CenturyLink's price plan the section "Transactions of Utilities" and  
15 corresponding references to the statute, which is contained in Section VI (Waiver  
16 of statutes and rules) A (Statutes) of the price plan.<sup>12</sup>

17 ~~Transactions of Utilities~~

18 ~~• 759.375 Approval prior to sale, mortgage or disposal of operative utility~~  
19 ~~property.~~

---

<sup>10</sup> Exhibit Integra/100 Denney/18, lines 3-9.

<sup>11</sup> Exhibit Integra/100 Denney/12-14.

<sup>12</sup> Exhibit CTL/109 Felz/6.

- 1           • ~~759.380 Purchase of stock or property of another utility.~~
- 2           • ~~759.385 Contracts regarding use of utility property; filing with~~  
3           ~~commission; investigation.~~
- 4           • ~~759.390 Contracts with affiliated interests; procedure; use in rate~~  
5           ~~proceedings.~~
- 6           • ~~759.393 Applicability of ORS 759.385 and 759.390.~~
- 7           • ~~Waiver of condition 18 in Commission Order No. 11-095 (Appendix A) in~~  
8           ~~Docket UM 1484 (In the Matter of the Application for Approval of~~  
9           ~~Merger between CenturyTel, Inc. and Qwest Communications~~  
10           ~~International, Inc.). Condition 18 imposed as a condition of approval of~~  
11           ~~the merger the removal of the CenturyLink QC price plan exemption from~~  
12           ~~the requirements of ORS 759.380 and ORS 759.375. Condition 18 did~~  
13           ~~allow an exemption from ORS 759.375(1)(a) for property sales where the~~  
14           ~~sales price is less than \$10 million, except that the sale of any CenturyLink~~  
15           ~~QC exchange will be subject to Commission approval under ORS~~  
16           ~~759.375. CenturyLink QC seeks reinstatement of the exemption from ORS~~  
17           ~~759.380 and ORS 759.375 originally granted in Docket UM 1354.~~

18           The Commission should also delete (as shown in strikethrough below) from  
19           CenturyLink's price plan, the reference to OAR 860-027-0015, which is  
20           contained in Section VI (Waiver of statutes and rules) B (Rules).<sup>13</sup>

21           ~~OAR 860-027-0025 Applications for Authority to Sell, Lease, Assign,~~  
22           ~~Mortgage, Merge, Consolidate or Otherwise Dispose of or Encumber its~~  
23           ~~Property, or to Acquire Stock, Bonds, or Property of Another Utility.~~  
24

25           2) To the extent the Commission allows for a waiver of the limits associated with  
26           the city privilege tax pass through, the Commission should rule that the waiver  
27           does not apply to wholesale services.<sup>14</sup>

---

<sup>13</sup> Exhibit CTL/109 Felz/7.

<sup>14</sup> Exhibit Integra/100 Denney/14-16.

1 Specifically, Integra proposes adding the underlined sentence below to the  
2 exception associated with OAR 860-022-042, which is contained in Section VI  
3 (Waiver of statutes and rules) B (Rules).<sup>15</sup>

4 OAR 860-022-0042 Relating to City Privilege Taxes, Fees, and Other  
5 Assessments Imposed Upon a Large Telecommunications Utility. Partial  
6 waiver of paragraph (4) limiting the pass through of privilege taxes to only  
7 amounts in excess of 4 percent.  
8

9 This waiver will not impact the way CenturyLink passes through city  
10 taxes to services sold to wholesale customers.

11 3) To the extent the Commission allows for relaxation of service quality  
12 reporting, the Commission should clarify that the relaxation in no way impacts  
13 wholesale service quality reporting obligations, including the incorporated  
14 reporting of retail results, contained in carriers' interconnection agreements.<sup>16</sup>

15 Specifically, Integra proposes adding the underlined sentence below to the  
16 exception associated with OAR 860-022-042, which is contained in Section V  
17 (Service Quality) A.<sup>17</sup>

18 3. Exceptions to the service quality rules will in no way impact service  
19 quality reporting obligations associated with Interconnection Agreements.

20

21 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

22 A. Yes.

---

<sup>15</sup> See Exhibit CTL/109 Felz/7.

<sup>16</sup> Exhibit Integra/100 Denney/17-18.

<sup>17</sup> See Exhibit CTL/109 Felz/4.