

**BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
600 North Robert Street
St. Paul, Minnesota 55101**

**FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 Seventh Place East, Suite 350
St. Paul, Minnesota 55101-2147**

Beverly Jones Heydinger	Chair
David Boyd	Commissioner
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
Betsy Wergin	Commissioner

In the Matter of the Petition of Hutchinson)	
Telecommunications, Inc. for Arbitration)	PUC Docket No. P-421, 5561, 430/IC-14-189
with Embarq Minnesota, Inc., Pursuant to)	
47 U.S.C. Section 252 of the Federal)	OAH Docket No. 48-2500-31383
Telecommunications Act)	

Embarq Minnesota Inc. d/b/a CenturyLink EQ

REBUTTAL TESTIMONY OF WILLIAM R. EASTON

JULY 25, 2014

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I. IDENTIFICATION OF WITNESS

Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS ADDRESS.

A. My name is William R. Easton. I am a Wholesale Staff Director at CenturyLink Inc. (“CenturyLink”), the corporate parent of Embarq Minnesota Inc. dba CenturyLink EQ (“CenturyLink EQ”). My business address is 1600 7th Avenue, Seattle, Washington.

Q. ARE YOU THE SAME WILLIAM EASTON WHO FILED DIRECT TESTIMONY IN THIS PROCEEDING?

A. Yes.

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to respond to arguments raised in the Direct Testimony of Mr. Burns for Hutchinson Telecommunications, Inc. (“Hutchinson”) and Ms. Doherty of the Minnesota Department of Commerce (“DOC”).

1 **Q. HOW IS YOUR TESTIMONY ORGANIZED?**

2 A. Although there are 57 disputed issues remaining in this arbitration, many of these
3 issues are related to a handful of overarching areas of dispute between the parties.

4 My testimony will discuss each of these overarching areas of dispute, specifically:

- 5 • Technical Feasibility
- 6 • Physical Interconnection Point vs. Financial Demarcation
- 7 • Meet Point Interconnection
- 8 • Bill and Keep
- 9 • Glencoe Interconnection
- 10 • St. Cloud Interconnection
- 11 • Good Faith Negotiations

12 To the extent points raised by either Mr. Burns or Ms. Doherty do not fit neatly
13 within one of these overarching areas of dispute, the final section of my testimony
14 will address specific disputed issues.

15
16

III. TECHNICAL FEASIBILITY

17 **Q. IS TECHNICAL FEASIBILITY AN ISSUE IN THIS ARBITRATION?**

18 A. No. Although Mr. Burns spends a great deal of time discussing technical
19 feasibility,¹ he fails to acknowledge that technical feasibility is not actually an issue

¹ Burns Direct at pp. 2, 3, 4, 5, 37, 38, 40, 53, and 54.

1 in this arbitration. As I discussed in my Direct Testimony, Hutchinson has
2 requested interconnection at CenturyLink EQ's Glencoe remote office.
3 CenturyLink EQ has acknowledged that interconnection at Glencoe is technically
4 feasible and put together a proposal that would allow such interconnection.
5 Hutchinson's objection is not the interconnection at Glencoe - after all that is where
6 it requested interconnection. Hutchinson's real objection is to the compensation
7 associated with the CenturyLink EQ proposal, which would have Hutchinson pay
8 for its use of the transport between Glencoe and the host switch in Osseo.
9 Hutchinson would instead prefer to call the interconnection a meet point
10 arrangement, whereby it would only provide 14 miles of transport from its location
11 to Glencoe and require CenturyLink EQ to provide 44 miles of transport back to the
12 Osseo host switch. As I discussed in my Direct Testimony, and will discuss further
13 in this testimony, requiring Hutchinson to share the cost of the transport between
14 the Glencoe remote office and the Osseo host is entirely appropriate and provides
15 for a reasonable sharing of the costs of interconnection as contemplated under
16 federal rules. Mr. Burns argues that the reason we are in this arbitration is because
17 CenturyLink EQ refuses "to give effect to clear guidance from the FCC regarding
18 the obligations of ILECs,"² but a more accurate portrayal is that Hutchinson is
19 unwilling to share in the transport costs of the interconnection arrangement it has
20 requested.

² Burns Direct at p. 14.

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**Q. MR. BURNS CITES LANGUAGE FROM THE FCC’S LOCAL
COMPETITION ORDER THAT COSTS ARE NOT A CONSIDERATION IN
DETERMINING TECHNICAL FEASIBILITY.³ IN THAT SAME ORDER,
DOES THE FCC ADDRESS WHO SHOULD BEAR THE COSTS OF THE
INTERCONNECTION?**

A. Yes. Paragraph 199 of the Local Competition Order finds that the 1996
Telecommunications Act bars consideration of costs in determining technical
feasibility but concludes:

Of course, a requesting carrier that wishes a “technically feasible” but
expensive interconnection would, pursuant to section 252(d)(1), be
required to bear the cost of that interconnection, including a reasonable
profit. (Footnotes omitted).

This goes directly to the heart of a key issue in this proceeding: which party should
bear the costs of the requested interconnection? The Local Competition Order
makes clear that it is the requesting carrier, Hutchinson, who should bear the costs.
Yet, under Hutchinson’s proposed language in the interconnection agreement,
responsibility for the majority of the costs is shifted to CenturyLink EQ.

³ Burns Direct at p. 4.

1 **Q. MR. BURNS ARGUES THAT COMPETITIVE LOCAL EXCHANGE**
2 **CARRIERS (“CLECS”) ARE ADVERSELY AFFECTED BY NOT**
3 **KNOWING WHERE CENTURYLINK EQ IS INTERCONNECTED WITH**
4 **OTHER CARRIERS.⁴ DO YOU AGREE?**

5 A. No. I do agree that network information relevant to a CLEC’s particular
6 interconnection request should be, and is, made available to CLECs, but disagree
7 that providing information on all points at which other carriers are interconnected
8 with the CenturyLink EQ network is appropriate or useful nor is it required under
9 applicable law.⁵ In fact, the information regarding where competitors are
10 interconnected and how they are interconnected is competitively sensitive
11 information and must be treated as such under federal law.⁶ In addition, I question
12 the assumption that knowing all the points of CLEC interconnection is relevant. A
13 CLEC should make its interconnection request based on the customers it wishes to
14 serve and the location of its own facilities. Knowing that the Incumbent Local
15 Exchange Carrier (“ILEC”) must interconnect at any technically feasible point, the
16 CLEC should pick a point that makes the most sense given its facilities and plans,

⁴ Burns Direct at p. 7.

⁵ 47 C.F.R. 51.305 (g) states “An incumbent LEC shall provide to a requesting telecommunications carrier *technical information* about the incumbent LEC’s network facilities *sufficient* to allow the requesting carrier *to achieve interconnection* consistent with the requirements of this section.” [Emphasis added] As can be seen, the ILEC is only required to provide *sufficient* technical information to assist the CLEC with interconnecting at the CLEC-selected location; the ILEC is *not* required to discuss interconnection matters that relate to other CLECs, especially as regards other locations.

⁶ 47 U.S.C. 222(a).

1 not based on where other carriers have interconnected based on their particular
2 facilities and plans. The ILEC will then either allow the request or bear the burden
3 of demonstrating that it is not technically feasible. Although Mr. Burns broadly
4 claims that CLECs are adversely affected by a lack of information, he offers no
5 examples of relevant information that Hutchinson was denied during the course of
6 negotiations between the parties.

7
8 **Q. THE FCC HAS STATED THAT, “IF A PARTICULAR METHOD OF**
9 **INTERCONNECTION IS CURRENTLY EMPLOYED BETWEEN TWO**
10 **NETWORKS, OR HAS BEEN USED SUCCESSFULLY IN THE PAST, A**
11 **REBUTTABLE PRESUMPTION IS CREATED THAT SUCH A METHOD**
12 **IS TECHNICALLY FEASIBLE FOR SUBSTANTIALLY SIMILAR**
13 **NETWORK ARCHITECTURES.”⁷ DOESN’T THIS MAKE THE**
14 **LOCATIONS OF ALL CLEC INTERCONNECTIONS RELEVANT?**

15 A. Not necessarily. Knowing the locations where CenturyLink EQ has interconnected
16 with other CLECs becomes relevant only to the extent CenturyLink EQ denies an
17 interconnection request as being technically infeasible. In this situation,
18 CenturyLink EQ bears the burden to demonstrate that the requested interconnection
19 is not technically feasible and that it has not done so with another carrier with a
20 substantially similar network. As a part of that burden, CenturyLink EQ could be

⁷ First Report and Order, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 96-325 (Rel. August 8, 1996) (“*First Report and Order*”), ¶554.

1 asked to provide location information to the Commission that identifies where
2 CenturyLink EQ has interconnected with other carriers and how those locations
3 differ from the requested point.

4 **IV. POINT OF INTERCONNECTION**

5 **Q. PLEASE SUMMARIZE THE DISPUTE RELATED TO THE POINT OF**
6 **INTERCONNECTION.**

7 A. As I discussed in my Direct Testimony, one of the major areas of dispute between
8 the parties is the location of the POI. Because the POI is the demarcation point for
9 determining the parties' financial responsibilities under this agreement, this issue
10 impacts the degree to which each party is responsible for the cost of
11 interconnection. In simplest terms, CenturyLink EQ's proposed language follows
12 industry practice and regulatory precedent by establishing POIs at the tandems or
13 end offices where the parties will exchange traffic. Hutchinson proposes language
14 that would establish the POI in a manner that avoids financial responsibility for
15 Hutchinson by focusing exclusively on the point of physical connection of the
16 networks.

17 **Q. MS. DOHERTY STATES THAT FOR CENTURYLINK EQ, THE TERM**
18 **POI CAN HAVE DIFFERENT MEANINGS IN THE INTERCONNECTION**
19 **AGREEMENT.⁸ PLEASE COMMENT.**

⁸ Doherty Direct at p. 15.

1 A. I would frame the issue differently. As the CenturyLink EQ proposed language in
2 dispute in Issue No. 11 makes clear, the physical point of interconnection and the
3 financial demarcation point are one in the same *except* for non-standard
4 interconnection arrangements established through its Bona Fide Request (“BFR”)
5 process. In this situation, the physical point of interconnection and the financial
6 demarcation point, need not be one and the same and should be established in such a
7 manner that each party bears a reasonable share of the cost of transport.

8
9 **Q. MR. BURNS STATES THAT “THE INTERCONNECTION POINT IS**
10 **SYNONYMOUS WITH THE POINT OF INTERCONNECTION.” DO YOU**
11 **AGREE?**

12 A. No. The interconnection point, or place where two carriers’ networks physically
13 connect, may be the POI (financial demarcation point) for the parties, but certainly
14 need not be. The point where the networks connect is determined by the
15 interconnection request of the CLEC. The financial demarcation point is
16 determined by compensation terms the two carriers negotiate in their
17 interconnection agreement. Typically, these terms are structured so that each party
18 pays a reasonable share of the costs of interconnection.

19
20

⁹ Burns Direct at p. 10.

1 **Q. IS AN ENTRANCE FACILITY AN EXAMPLE OF A FORM OF**
2 **INTERCONNECTION WHERE THE POINT WHERE THE TWO**
3 **CARRIERS' NETWORKS CONNECT IS NOT THE FINANCIAL**
4 **DEMARCATION POINT?**

5 A. Yes. Mr. Burns describes an Entrance Facility interconnection arrangement and
6 acknowledges that CLECs pay for such a facility even though it is on the ILEC side
7 of the point where the two networks physically connect. If the interconnection
8 point (i.e. the point where the entrance facility connects with the CLEC location)
9 were truly the financial demarcation point, the ILEC would not be able to charge for
10 the facility. Although Mr. Burns argues that an "Entrance Facility *may* be an
11 exception" to the rule that each party must bear the financial responsibility for the
12 network on its side of the POI, a more reasonable explanation is that the place
13 where the two networks meet need not be the same as the financial demarcation
14 point.

15
16 **Q. DOES THE FCC MAKE CLEAR THAT THERE ARE MULTIPLE**
17 **OPTIONS FOR THE "EDGE" OR POINT WHERE BILL AND KEEP**
18 **BEGINS TO APPLY?**

19 A. Yes. In its Connect America Fund Order the FCC recognizes that there are
20 "numerous" options for defining the network edge:

21 *The Network Edge.* A critical aspect to bill-and-keep is defining the
22 network "edge" for purposes of delivering traffic. The "edge" is the point
23 where bill-and-keep applies, a carrier is responsible for carrying, directly

1 or indirectly by paying another provider, its traffic to that edge. Past
2 “proposals to treat traffic under a bill-and-keep methodology typically
3 assume the existence of a network edge, beyond which terminating
4 carriers cannot charge other carriers to transport and terminate their
5 traffic.”²³⁸⁵ In the *USF/ICC Transformation NPRM* we recognized that
6 there are numerous options for defining an appropriate network edge.²³⁸⁶
7 For example, the edge could be “the location of the called party’s end
8 office, mobile switching center (MSC), point of presence, media gateway,
9 or trunking media gateway.”²³⁸⁷ We have not received significant
10 comment on the network edge issue up to this point.¹⁰
11

12 **Q. IN CENTURYLINK QWEST (“CENTURYLINK QC”)**
13 **INTERCONNECTION AGREEMENTS, IS THE POINT WHERE THE**
14 **NETWORKS CONNECT ALSO THE FINANCIAL DEMARCATION**
15 **POINT?**

16 A. No. The term POI is defined differently in the CenturyLink QC interconnection
17 agreements. For CenturyLink QC, the POI is the physical demarcation between the
18 CenturyLink QC and CLEC network but does not represent the financial
19 demarcation point. On the CenturyLink QC side of the POI, the CLEC incurs the
20 cost of the dedicated facilities used to terminate traffic. For this reason, it is not at
21 all surprising that the CenturyLink QC interconnection language Mr. Burns cites on
22 page 25 of his testimony, does not make reference to establishing a POI, but instead
23 refers to ordering a trunk group.
24

¹⁰ *In the Matter of Connect America Fund*, “Report and Order and Further Notice of Proposed Rulemaking,” FCC 11-161 (released November 18, 2011), at ¶ 1320.

1 **Q. HOW DO THE CENTURYLINK EQ AGREEMENTS DIFFER FROM THE**
2 **CENTURYLINK QC AGREEMENTS WITH REGARD TO THE POI?**

3 A. In the CenturyLink EQ agreements, for interconnection arrangements which use one
4 of the defined, productized methods of interconnection and are not established
5 through the BFR process, the POI is the demarcation of financial responsibility
6 between CenturyLink EQ's network and the CLEC's network. On the
7 CenturyLink EQ side of the POI, the CLEC incurs no facility costs, but the ICAs
8 include triggers for requiring CLECs to move or establish additional POIs based on
9 specific criteria (e.g. traffic volume thresholds) and do so in such a manner as to
10 ensure that each party pays its fair share of the interconnection costs. Given the
11 significance of establishing a financial demarcation point, the CenturyLink EQ
12 proposed language is very specific in referring to how CLECs must establish POIs.
13 Mr. Burns may argue that "the subject being discussed is, in fact trunking and traffic
14 routing,"¹¹ but he is well aware of the financial implications of removing language
15 requiring the establishment of POIs. Hutchinson has agreed to establish dedicated
16 transport to end offices when the volume triggers have been met, but refuses to share
17 in the cost for such facilities. Hutchinson should not be allowed to evade
18 expectations set under FCC rules and shift its share of the financial responsibilities
19 for the transport facilities to CenturyLink EQ.

¹¹ Burns Direct at p. 23.

1 **Q. MR. BURNS CHARACTERIZES THE POI VS. TRUNK GROUP**
2 **TERMINOLOGY ISSUES AS A SITUATION WHERE “CENTURYLINK IS**
3 **OFFENDED THAT HTI IS NOT INCLINED TO LEASE TRANSPORT ON**
4 **THE CTL NETWORK FOR THE EXCHANGE OF NON-ACCESS**
5 **TELECOMMUNICATIONS TRAFFIC.”¹² PLEASE COMMENT.**

6 A. This is not an issue of one or another party being “offended,” but is an issue of each
7 party paying a reasonable share of transport costs, something Hutchinson appears to
8 be unwilling to do.

9
10 **Q. MS. DOHERTY RECOMMENDS THAT FOR ISSUE NOS. 26, 30, AND 34,**
11 **THE CENTURYLINK EQ PROPOSED LANGUAGE “ESTABLISH A POI”**
12 **BE REPLACED WITH “ESTABLISH A LOCAL INTERCONNECTION**
13 **TRUNK GROUP.”¹³ DOES CENTURYLINK EQ HAVE CONCERNS**
14 **ABOUT THIS RECOMMENDATION?**

15 A. Yes. Although the recommendation makes clear the situations in which
16 interconnection trunk groups must be established, it fails to address the critical issue
17 of who is responsible for paying for the trunk groups, an issue that Ms. Doherty
18 herself states is central to this proceeding.¹⁴ Ms. Doherty also proposes to delete

¹² Burns Direct at p. 24.

¹³ Doherty Direct at p. 18.

¹⁴ Doherty Direct at p. 3.

1 language in the definition of “POI” related to the financial demarcation point.¹⁵ By
2 failing to address the issue of financial responsibility, CenturyLink EQ is concerned
3 that the financial demarcation point could logically then be construed as the point
4 where the two networks physically connect. This would inappropriately result in
5 the majority of transport costs being shifted to CenturyLink EQ. In fact, it would
6 result in Hutchinson not even paying for the dedicated facilities which the
7 CenturyLink QC language would require. This outcome is not only inequitable,
8 but, as I discussed in my Direct Testimony, is also inconsistent with the
9 Commission’s previous ruling in the Charter arbitration.

10
11 **Q. DO YOU AGREE WITH MS. DOHERTY’S CONCLUSION THAT THE**
12 **CHARTER DECISION “DOES NOT COMPEL THE SAME ANALYSIS OR**
13 **DECISION” IN THIS PROCEEDING?¹⁶**

14 A. No. As is the case in this proceeding, the issue in the Charter proceeding was a
15 determination of who was financially responsible for the dedicated transport related
16 to the interconnection arrangement between the parties. Just as in this proceeding,
17 the parties had agreed to a bill and keep arrangement for usage. As I discussed in
18 my Direct Testimony, in the arbitration between Charter Fiberlink and Qwest, the
19 Commission ruled that Charter carried the responsibility for paying for transport
20 costs when its interconnection arrangement caused Qwest to incur a

¹⁵ Doherty Direct at p. 16.

¹⁶ Doherty Direct at. p. 19.

1 disproportionate share of transport costs.¹⁷ Specifically, the Commission agreed
2 with the following finding in the Arbitrator's Report:

3 Because of the manner in which Charter has configured its network, it will
4 face additional switching costs to terminate Qwest originated traffic, but it
5 will not face much in the way of additional transport costs (other than the
6 distance from the POI to its switch). Qwest, on the other hand, will face
7 additional costs for both transport and termination of traffic originated on
8 Charter's network. Use of a bill-and-keep method for transport, as
9 advocated by Charter, would require Qwest to forego compensation for its
10 more substantial transport costs. In this situation, reciprocal billing for
11 transport of the other party's traffic is a more fair and reasonable method
12 of recovering these costs.¹⁸

13
14 Finally, I would point out that the transport at issue in the Charter arbitration, like
15 the transport at issue in this arbitration, was on the ILEC side of the physical point
16 where the two networks connected.

17
18 **V. MEET POINT INTERCONNECTION**

19 **Q. MR. BURNS ARGUES THAT CENTURYLINK EQ IS SEEKING TO**
20 **PLACE "IMPERMISSABLE CONSTRAINTS" ON PROVIDING A MEET**
21 **POINT ARRANGEMENT.¹⁹ PLEASE COMMENT.**

¹⁷ *In the Matter of the Petition of Charter Fiberlink for Arbitration of an Interconnection Agreement with Qwest Pursuant to 47 USC §252 (b)*, Docket P-5535, 421/M-08-952, Order Resolving Interconnection Issues and Requiring Filed Interconnection Agreement, pp. 9-11 (July 10, 2009).

¹⁸ *In the Matter of the Petition of Charter Fiberlink for Arbitration of an Interconnection Agreement with Qwest Pursuant to 47 USC §252 (b)*, Docket P-5535, 421/M-08-952, Arbitrator's Report at par. 89.

¹⁹ Burns Direct at p. 29.

1 A. As will be discussed below, contrary to Mr. Burns' assertions, there are legitimate
2 constraints associated with a meet point interconnection arrangement. The
3 constraints that CenturyLink EQ has placed on meet point arrangements are entirely
4 consistent with the FCC's concept of meet point interconnection.

5
6 **Q. MR. BURNS STATES THAT HUTCHINSON IS ENTITLED TO**
7 **ESTABLISH A MEET POINT ARRANGEMENT AT ANY TECHNICALLY**
8 **FEASIBLE POINT ON CENTURYLINK EQ'S NETWORK.²⁰ DO YOU**
9 **AGREE?**

10 A. No. As stated above, Hutchinson is entitled to request interconnection at any
11 technically feasible point. However, contrary to Mr. Burns' claim, Hutchinson is
12 not entitled to unilaterally designate a meet point. As I pointed out in my Direct
13 Testimony, the FCC has made clear that a meet point is a point designated by *two*
14 carriers and in such an arrangement, each party will "bear a *reasonable portion* of
15 the economic costs of the arrangement."²¹ HTI does not have the right to
16 unilaterally designate the meet point as it is proposing to do here, forcing
17 CenturyLink EQ to pay for 44 miles of transport while it only pays for 14 miles.

18

²⁰ Burns Direct at p. 2.

²¹ First Report and Order, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 96-325 (Rel. August 8, 1996) ("*First Report and Order*"), ¶ 553.

1 Mr. Burns cites a number of examples of ILEC-to-ILEC meet point arrangements in
2 his testimony, and I would note that these meet points were not unilaterally
3 designated by one party. Instead, they were the result of negotiations whereby the
4 parties mutually agreed to the location of the meet point which often corresponds
5 with the serving territory boundaries.

6
7 **Q. MR. BURNS CLAIMS THAT CENTURYLINK EQ'S REJECTION OF ITS**
8 **FIBER MEET POINT INTERCONNECTION CONSTITUTES "A CLEAR**
9 **VIOLATION OF FCC RULE 51.321(A)."²² DO YOU AGREE?**

10 A. No. Rule 51.321(a) is the FCC's technical feasibility language. As I discussed in
11 my Direct Testimony and will discuss further in this testimony, it is technically
12 feasible for Hutchinson to interconnect with CenturyLink EQ at the Glencoe central
13 office. Through its BFR process, CenturyLink EQ has reviewed the available network
14 facilities, including: other connection points between HTC, Hutchinson's affiliate ILEC
15 and CenturyLink EQ in Glencoe; Glencoe central office space; and umbilical spare
16 capacity between Glencoe and Osseo. As a result of that investigation, CenturyLink
17 EQ offered a technically feasible arrangement that would allow Hutchinson to connect
18 with the Osseo Host and Tandem Switches through a virtual collocation located at the
19 Glencoe remote. While CenturyLink EQ has agreed to interconnection at Glencoe, it
20 has not agreed that the arrangement is a meet point as contemplated by the FCC. This

²² Burns Direct at p. 35.

1 is because it is not at a mutually agreeable location where each party bears a reasonable
2 portion of the cost of interconnection.

3
4 **Q. DO YOU HAVE A CHART WHICH DEPICTS THE TRANSPORT**
5 **INVOLVED IN THE INTERCONNECTION ARRANGEMENT AT**
6 **GLENCOE?**

7 A. Yes. Attached as Exhibit WRE-3 is a chart which depicts the transport associated
8 with the Hutchinson interconnection at the Glencoe remote office. Under
9 Hutchinson's proposal which places the financial demarcation point (POI) at the
10 Glencoe office, Hutchinson would provide 13.3 miles of transport to the Glencoe
11 remote. CenturyLink EQ would then provide 43.9 miles of transport to the Osseo
12 host and would also provide all of the transport beyond Osseo, allowing Hutchinson
13 to potentially reach each of the end offices which subtend the Osseo tandem and
14 host switch.

15 Under the Hutchinson proposal, Hutchinson would in no way "bear a *reasonable*
16 *portion* of the economic costs of the arrangement."

17
18 **Q. DO YOU AGREE WITH THE DESCRIPTION MR. BURNS PROVIDES ON**
19 **PAGES 4-5 OF HIS TESTIMONY FOR ADDITIONAL FORMS OF THIRD**
20 **PARTY MEET POINT INTERCONNECTION?**

21 A. No. CenturyLink EQ's language describes the meet point arrangement that it
22 provides, Mid Span Fiber Meet, which includes the terms and conditions that

1 CenturyLink EQ has developed to ensure that each party bears “a *reasonable*
2 *portion* of the economic costs of the arrangement.” What Mr. Burns describes as
3 “2) third party meet point facilities” generally describes the same concept as
4 CenturyLink EQ’s Third-Party ILEC Leased Facility. The other two methods that
5 Mr. Burns describes would be covered by the language in 39.9.1.a of the agreement:
6 “CLEC may lease facilities from CenturyLink to establish Interconnection through
7 CenturyLink’s provision of a DS1 or DS3 Local Interconnection Entrance Facility
8 and Direct Trunked Transport...CLEC may also lease access facilities from a third
9 party.” I agree that a CLEC has multiple ways of connecting to CenturyLink EQ’s
10 End office from the CLEC’s location, whether that be its switch (if that is located
11 within CenturyLink EQ’s serving territory) or another physical location (such as a
12 carrier hotel, if that is located within CenturyLink EQ’s serving territory) where the
13 CLEC establishes a presence. But, I don’t agree that these are “meet point
14 interconnection options.”

15
16 **VI. BILL AND KEEP**

17 **Q. MR. BURNS DISCUSSES THE FCC’S CONNECT AMERICA FUND**
18 **ORDER, NOTING THAT IT STATES THAT IF AN ILEC HAS A BILL AND**
19 **KEEP ARRANGEMENT IN PLACE WITH ANOTHER CARRIER AS OF**
20 **DECEMBER 29, 2011, THAT COMPENSATION ARRANGEMENT**

1 **CANNOT BE CHANGED UNLESS AGREED TO BY BOTH PARTIES.²³ IS**
2 **CENTURYLINK EQ PROPOSING TO MOVE AWAY FROM A BILL AND**
3 **KEEP ARRANGEMENT WITH THE PROPOSED ICA?**

4 A. No. Section 43.2.2 of the proposed interconnection agreement provides that all
5 local traffic will be exchanged on a bill and keep basis:

6 43.2.2 Local Traffic shall be exchanged on a “Bill and Keep”
7 basis, subject to Section 43.2.3 below. The “Bill and
8 Keep” arrangement which may be in effect between the
9 Parties at any time shall not affect the respective rights
10 and obligations of the Parties under this Agreement with
11 respect to any transit charges that may be assessed for
12 any Transit Traffic.
13

14 **Q. DOES THE BILL AND KEEP ARRANGEMENT INCLUDE DEDICATED**
15 **TRANSPORT?**

16 A. No. Consistent with the FCC’s Connect America Order, the bill and keep
17 arrangement only includes usage based elements (e.g. tandem switching, tandem
18 transmission or common transport, end office switching).²⁴ Dedicated transport,
19 such as flat rated direct trunked transport, is not included in the Connect America
20 Order Fund bill and keep regime. In fact, the FCC has specifically excluded
21 dedicated transport from the bill and keep regime it established in the Connect
22 America Fund Order:

²³ Burns Direct p. 9.

²⁴ As discussed in Mr. Gordon’s testimony, common transport is billable in situations where CenturyLink EQ is not the tandem provider.

1 Par. 739: We recognize, however, that we need to further evaluate the
2 timing, transition, and possible need for a recovery mechanism for those
3 rate elements – including originating access, common transport elements
4 not reduced, and *dedicated transport* - that are not immediately
5 transitioned; we address those elements in the FNPRM.”
6 (Emphasis added).
7

8 Par 821: *Other Rate Elements*. Finally, we note that the transition set forth
9 above caps rates but does not provide the transition path for all rate
10 elements or other charges, such as *dedicated transport charges*. In our
11 FNPRM, we seek comment on what transition should be set for these
12 other rate elements and charges as part of comprehensive reform, and how
13 we should address those elements. (Emphasis added).
14

15 Par 1297: Although we specify the implementation of the transition for
16 certain terminating access rates in the Order, we did not do the same for
17 other rate elements, including originating switched access, *dedicated*
18 *transport*, tandem switching and tandem transport in some circumstances,
19 and other charges including dedicated transport signaling, and signaling
20 for tandem switching. (Emphasis added).
21

22 **Q. MR. BURNS ARGUES THAT CENTURYLINK “HAS NOT FULLY**
23 **EMBRACED THE PRICING CONSTRAINTS” IMPOSED BY THE**
24 **CONNECT AMERICA FUND ORDER.²⁵ DO YOU AGREE?**

25 A. No. CenturyLink agrees that Hutchinson is entitled to maintain an existing bill and
26 keep arrangement with respect to the usage based charges for traffic routed between
27 the parties and the section 43.2.2 cited above is consistent with that position.²⁶ As
28 discussed above, this bill and keep arrangement is entirely consistent with the bill
29 and keep regime for usage laid out in the Connect America Fund Order.

²⁵ Burns Direct at p. 14.

²⁶ As discussed in Mr. Gordon’s testimony, common transport is billable in situations where CenturyLink EQ is not the tandem provider.

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**Q. DOES THE EXISTING CONTRACT BETWEEN THE PARTIES MAKE A
DISTINCTION BETWEEN BILL AND KEEP AND TRANSPORT?**

A. Yes. Section 36.1.2 refers separately to bill and keep and transport:

36.1.2 Bill and Keep applies to EAS Traffic between either Parties' End Office and the Physical POI. Each Party is responsible for any necessary transport on its side of the POI as described in Appendix 2.

**Q. IS THIS DISTINCTION BETWEEN BILL AND KEEP AND TRANSPORT
CONSISTENT WITH THIS COMMISSION'S FINDINGS IN THE
CHARTER ARBITRATION?**

A. Yes. As discussed above, in the Charter arbitration, as in this proceeding, the parties had agreed to a bill and keep arrangement for usage based charges. Charter argued that dedicated transport must also be treated on a bill and keep basis, while Qwest argued that it was entitled to compensation for the dedicated transport it provided to Charter. The Commission's ruling that Charter carried the responsibility for paying for transport costs when its interconnection arrangement caused Qwest to incur a disproportionate share of transport costs is entirely consistent with the Connect America Fund Order's distinction between usage based charges and dedicated transport and with what CenturyLink EQ is proposing in this proceeding.

1 **Q. WHAT IS MS. DOHERTY'S POSITION REGARDING WHETHER**
2 **CHARGING FOR TRANSPORT ASSOCIATED WITH THE EXISTING**
3 **ST. CLOUD INTERCONNECTION IS ALLOWABLE UNDER THE BILL**
4 **AND KEEP PROVISIONS OF THE FCC'S CONNECT AMERICA ORDER?**

5 A. Although Ms. Dougherty does not appear to take a direct position on the issue, she
6 does cite the Connect America Fund Order's provisions and notes that
7 CenturyLink EQ is now planning on charging for transport going forward. As I
8 discussed above, dedicated transport, such as the St. Cloud arrangement transport, is
9 specifically excluded from the FCC's bill and keep regime. CenturyLink EQ's
10 proposal to charge for this transport on a going forward basis is entirely consistent
11 with the provisions of the Connect America Fund Order to maintain existing usage-
12 based bill and keep contractual arrangements unless the parties mutually agree to
13 change them.

14 **VII. GLENCOE INTERCONNECTION**

15 **Q. MR. BURNS, CITING THE FCC'S LOCAL COMPETITION ORDER,**
16 **STATES THAT CENTURYLINK EQ IS REQUIRED TO FIND A WAY TO**
17 **PROVIDE THE INTERCONNECTION REQUESTED BY HUTCHINSON.²⁷**
18 **DID CENTURYLINK EQ FIND A WAY TO PROVIDE THE REQUESTED**
19 **INTERCONNECTION?**

²⁷ Burns Direct at p. 34.

1 A. Yes. As I discussed early on in this testimony and will discuss further below,
2 CenturyLink EQ has agreed to interconnect with Hutchinson at the Glencoe remote
3 office. While Hutchinson may not like the concept of sharing some of the transport
4 costs associated with the proposed arrangement, that does not in any way alter the
5 fact that CenturyLink EQ has met its obligation to provide interconnection at the
6 requested location.

7
8 **Q. MR. BURNS CLAIMS THAT CENTURYLINK EQ “WAS NOT**
9 **RESPONSIVE TO THE INTERCONNECTION METHOD REQUESTED.”²⁸**
10 **PLEASE COMMENT.**

11 A. Mr. Burns is being less than accurate when he claims that CenturyLink EQ was not
12 responsive to his request. CenturyLink EQ and Hutchinson engaged in significant
13 negotiations regarding Hutchinson’s desire for a “meet point” network
14 interconnection in CenturyLink EQ’s Glencoe remote central office (or near to it, if
15 meeting each other with fiber cable facilities). CenturyLink EQ did and does
16 continue to object to the use of Glencoe as a meet point between Hutchinson and
17 Osseo due to the significant imbalance of facility costs that establishes, but in good
18 faith examined solutions that it hoped would be mutually agreeable to both parties.
19 After reviewing the existing facilities, CenturyLink EQ proposed that existing meet
20 point facilities of Hutchinson’s affiliate ILEC, Hutchinson Telephone, be used as it

²⁸ Burns Direct at p. 34.

1 would be the most efficient and cost-productive way for the parties to accomplish
2 Hutchinson's stated interconnection goals. CenturyLink EQ proposed that
3 Hutchinson would order a virtual collocation in the Glencoe remote central office,
4 then cross-connect that virtual collocation to the existing Hutchinson ILEC affiliate
5 facility (terms for virtual collocation would also be added to the ICA), and then
6 Hutchinson could purchase appropriate connectivity from the virtual collocation,
7 using TELRIC-rated Direct Trunked Transport ("DTT") to the Osseo switch (both
8 the host and tandem partitions) for the purpose of exchanging local traffic, transit
9 traffic and jointly provided switched access traffic. The POI, as defined in the ICA,
10 would be at the Osseo host/tandem office. Using an existing system from
11 Hutchinson's ILEC affiliate would meet Hutchinson's needs. The fact that
12 CenturyLink EQ developed this proposal and offered it to Hutchinson is clear
13 evidence that CenturyLink EQ was responsive to the Hutchinson request for
14 interconnection.

15
16 **Q. MR. BURNS ARGUES THAT ONE OF THE REASONS THE PARTIES**
17 **HAVE BEEN UNABLE TO REACH AGREEMENT IS BECAUSE OF**
18 **CENTURYLINK EQ'S INSISTENCE THAT THE INTERCONNECTION IT**
19 **IS REQUESTING IS NON-STANDARD.²⁹ WHY IS THE GLENCOE**
20 **INTERCONNECTION REQUEST CONSIDERED NON-STANDARD?**

²⁹ Burns Direct at p. 15.

1 A. As I discussed in my Direct Testimony, CenturyLink EQ provides multiple standard
2 interconnection options, which it has productized, to meet the needs of CLECs.
3 These standardized interconnection product offerings were developed using both
4 expectations under FCC rules and the common types of interconnections requested
5 by CLECs since the passage of the Telecom Act. A CLEC can lease a Local
6 Interconnection Entrance Facility to provide transport from its switch or CLEC
7 premises in the CenturyLink serving wire center area to the CenturyLink EQ
8 network. Another option, which is not included in this agreement, is for the CLEC
9 to provide its own facility to transport traffic from its switch to a collocation point
10 established on the CenturyLink EQ network. Hutchinson requested that both the
11 Collocation and UNE sections be removed from this agreement so that option only
12 becomes available as a BFR request. A third option is for each of the parties to
13 provide a portion of the transport between their respective networks. In this Mid
14 Span Fiber Meet option, each party builds a portion of the transport within
15 CenturyLink EQ's territory, meeting somewhere in the middle at a mutually agreed
16 upon point. A fourth option, available to CLECs that only have a physical presence
17 within another ILEC's territory, is a Third Party ILEC Meet Point using Leased
18 Facilities. These are the standard CenturyLink EQ interconnection options for
19 which CenturyLink EQ has developed ordering, provisioning and billing processes.
20 Finally, for interconnection arrangements that do not fit within the standard
21 offerings just described, CenturyLink EQ offers a BFR process to assess the

1 technical feasibility of providing some alternate, non-standard form of
2 interconnection.

3 The request for interconnection at Glencoe, while technically feasible, does not fit
4 neatly into any of the existing standardized product offerings, but, as described
5 above, CenturyLink EQ was able to put together a proposal that would allow for
6 interconnection at the Glencoe remote office. The disagreement between the parties
7 has to do with the compensation related to the Glencoe arrangement, not simply the
8 fact that it is not a standard product offering.

9
10 **Q. MR. BURNS OBJECTS TO THE FACT THAT THE BONA FIDE PROCESS**
11 **WAS USED TO EVALUATE THE REQUEST FOR INTERCONNECTION**
12 **AT GLENCOE.³⁰ PLEASE COMMENT.**

13 A. The CenturyLink EQ language in Section 39.9.5 of the interconnection agreement
14 makes clear that the parties may establish, through negotiations, other technically
15 feasible methods of interconnection via the Bona Fide Request (BFR) process,
16 unless a particular arrangement has been previously provided to a third party, or is
17 offered by CenturyLink EQ as a product. As I discussed above, the interconnection
18 requested at Glencoe is not a standard product offering and required engineering
19 analysis to determine how it could be accomplished.

20

³⁰ Burns Direct at p. 54.

1 **Q. MR. BURNS STATES THAT THE FCC HAS REJECTED A**
2 **REQUIREMENT FOR BFRs.³¹ IS THE BFR REQUIREMENT THE FCC**
3 **WAS TALKING ABOUT IN THE CITE PROVIDED BY MR. BURNS THE**
4 **SAME AS THE BFR PROCESS EMPLOYED BY CENTURYLINK EQ?**

5 A. No. Mr. Burns points to a single sentence in paragraph 156 of the FCC's First
6 Report and Order. A reading of the entire paragraph provides some necessary
7 context:

8 We also find that incumbent LECs may not require requesting carriers to
9 satisfy a "bona fide request" process as part of their duty to negotiate in
10 good faith. **Some of the information that incumbent LECs propose to**
11 **include in a bona fide request requirement may be legitimately**
12 **demand from the requesting carrier; some of the proposed**
13 **requirements, on the other hand, exceed the scope of what is**
14 **necessary for the parties to reach agreement, and imposing such**
15 **requirements may discourage new entry. For example, parties**
16 **advocate that a "bona fide request" requirement should require**
17 **requesting carriers to commit to purchase services or facilities for a**
18 **specified period of time. We believe that forcing carriers to make**
19 **such a commitment before critical terms, such as price, have been**
20 **resolved is likely to impede new entry.** Moreover, we note that
21 section 251(c) does not impose any bona fide request requirement. In
22 contrast, section 251(f)(1) provides that a rural telephone company is
23 exempt from the requirements of 251(c) until, among other things, it
24 receives a "bona fide request" for interconnection, services, or network
25 elements. This suggests that, if Congress had intended to impose a "bona
26 fide request" requirement on requesting carriers as part of their duty to
27 negotiate in good faith, Congress would have made that requirement
28 explicit. (Emphasis Added).

29
30 The language that has been emphasized makes clear that the FCC is talking about a
31 somewhat different BFR concept than the process employed by CenturyLink EQ to

³¹ Burns Direct at p. 54.

1 assess the feasibility and cost of providing a non-standard form of interconnection.

2 I would also note that this Commission has approved both CenturyLink QC and

3 CenturyLink EQ agreements which contain BFR language.

4

5 **Q. WHAT IS THE PURPOSE OF THE VIRTUAL COLLOCATION THAT IS A**
6 **PART OF CENTURYLINK EQ'S PROPOSAL?**

7 A. The purpose of the virtual collocation in the CenturyLink EQ proposal is to
8 facilitate connectivity and network reliability through electrical protection, testable
9 access and facility administration between the facilities of two connected networks.

10 This is consistent with standard engineering and industry practices. Testable access
11 allows for the efficient isolation of network trouble so that each party may either
12 address trouble on its network or exclude its network from the cause of trouble.

13

14 **Q. WHAT ARE THE ADVANTAGES OF USING A VIRTUAL**
15 **COLLOCATION AS OPPOSED TO INTERCONNECTING IN A UTILITY**
16 **HOLE AS HUTCHINSON ORIGINALLY DISCUSSED?**

17 A. One of the benefits of virtual collocation is that CenturyLink EQ maintains the
18 equipment. Additionally, the remote central office environment provides facility
19 administration flexibility where additional capacity can be added, removed and
20 changed with relatively little effort. Hutchinson's original proposal would require it
21 to provide a utility hole adjacent to CenturyLink's utility hole that Hutchinson
22 would then be required to use and to maintain on its side of the connection and it

1 would provide little facility administration flexibility. Additionally, access to the
2 Glencoe remote office is also considerably less burdensome than access to a utility
3 hole for maintenance and provisioning changes and additions. Utility holes may
4 need to have water removed and must always be ventilated to ensure that any toxic
5 or poisonous gasses are removed and remain evacuated throughout any
6 maintenance that is performed on the facilities. Mobile fiber optic splicing vehicles
7 may also be required to provide a clean environment necessary to splice fiber optic
8 strands. Coordination between companies would also be required. Such access to a
9 utility hole may be necessary during any time of day and year and during nearly any
10 type of weather. However, Virtual Collocation has none of these issues since the
11 maintenance is performed by CenturyLink EQ within the central office that is
12 environmentally controlled with the appropriate heating and air conditioning
13 (HV/AC).

14
15 **Q. MR. BURNS SAYS THAT HE “CANNOT CONCEIVE OF ANY**
16 **‘EQUIPMENT’ NECESSARY” FOR THE VIRTUAL COLLOCATION.³²**
17 **PLEASE EXPLAIN WHAT EQUIPMENT WOULD BE INVOLVED.**

18 A. Equipment necessary for the connection of facilities in the Glenco remote central
19 office would include a relay rack and the appropriate cross connect equipment such
20 as a DSX-3 as well as the cables necessary to interface between the Hutchinson
21 ILEC MUX and the cross connect equipment.

³² Burns Direct at p. 55.

1
2 **Q. DOES THE ST. CLOUD INTERCONNECTION, WHICH WILL BE**
3 **DISCUSSED IN THE FOLLOWING SECTION, ALSO MAKE USE OF A**
4 **COLLOCATION?**

5 A. Yes. Although in the St. Cloud interconnection arrangement, the collocation
6 appears to be owned by another carrier in CenturyLink QC's central office.

7
8 **Q. MR. BURNS CLAIMS THAT INFORMATION CONVEYED BY**
9 **CENTURYLINK EQ'S ATTORNEY WAS MISLEADING.³³ PLEASE**
10 **COMMENT.**

11 A. At the time of the reference discussion, it was CenturyLink EQ's belief that there
12 were capacity issues at the requested location. As more experts became involved
13 and further analysis was conducted, it was determined that an interconnection at
14 Glencoe was technically feasible, resulting in the BFR proposal that was provided
15 to Hutchinson.

16 **VIII. ST. CLOUD INTERCONNECTION**

17 **Q. ONE OF THE ISSUES IN THIS PROCEEDING IS COMPENSATION FOR**
18 **THE EXISTING INTERCONNECTION ARRANGEMENT AT ST. CLOUD,**
19 **WHICH MR. BURNS DISCUSSES AT PAGES 5-7 OF HIS TESTIMONY.**
20 **PLEASE PROVIDE SOME BACKGROUND ON THIS**
21 **INTERCONNECTION ARRANGEMENT.**

³³ Burns Direct at p. 33.

1 A. This arrangement was established in 1999 and, with the passage of so much time, it
2 is difficult to determine all of the details related to its establishment. It is a unique
3 arrangement from a number of standpoints. It actually involves three carriers,
4 Hutchinson, CenturyLink EQ and, at the time U S WEST, now CenturyLink QC.
5 The arrangement, which makes use of a long established ILEC-to-ILEC meet point
6 infrastructure facility between CenturyLink EQ and CenturyLink QC, was put into
7 place to allow for the exchange of Grove City-Litchfield EAS traffic. The
8 arrangement is rather unusual in that it involves a physical connection point with
9 Hutchinson (the St. Cloud central office) which is not on the CenturyLink EQ
10 network. My understanding is that it was established on an interim basis because of
11 facility shortages which did not allow for other arrangements. Although it was
12 originally intended to be an interim arrangement and CenturyLink EQ did ask that it
13 be reconfigured in 2002, it has now been in place for approximately fifteen years.

14
15 **Q. PLEASE DESCRIBE THE INTERCONNECTION ARRANGEMENT.**

16 A. The diagram in Exhibit WRE-3 depicts the basic elements of the arrangement.
17 Hutchinson provides approximately 47 miles of transport from Hutchinson to St.
18 Cloud, which is all outside of CenturyLink EQ's serving territory. CenturyLink EQ
19 provides approximately 63 miles of transport, (with only 12% of those miles being
20 within the CenturyLink EQ serving territory), including a private line facility it
21 purchases from CenturyLink QC.

1 **Q. WHAT IS THE COMPENSATION ARRANGEMENT FOR THIS FACILITY**
2 **TODAY?**

3 A. As I just noted, CenturyLink EQ purchases approximately 55 miles of transport
4 from CenturyLink QC at tariffed rates. Hutchinson provides its transport to the
5 St. Cloud office, but provides no compensation for the transport CenturyLink EQ
6 provides outside of its service area.

7
8 **Q. IN YOUR VIEW, IS THE EXISTING COMPENSATION ARRANGEMENT**
9 **FOR THIS FACILITY APPROPRIATE?**

10 A. No. It is not appropriate that CenturyLink EQ is required to purchase transport
11 from another carrier in order to allow Hutchinson to exchange EAS traffic with
12 Grove City. As noted earlier, CenturyLink EQ requested a change in 2002 and
13 once again desires to negotiate provisions to the new agreement which are more in
14 line with what is provided to other CLECs with this type of arrangement.

15
16 **Q. HOW IS CENTURYLINK EQ PROPOSING THAT COMPENSATION FOR**
17 **THIS ARRANGEMENT BE HANDLED ON A GOING FORWARD BASIS?**

18 A. This arrangement would appropriately be classified under the proposed
19 interconnection agreement as a Third-Party ILEC Meet Point using Leased
20 Facilities.

21
22

1 **Q. WHERE SHOULD THE POI BE IN SUCH AN ARRANGEMENT?**

2 A. Consistent with Section 251(c)(2)(B) of the Telecommunications Act, the POI
3 should be on CenturyLink EQ's network, at the Alexandria central office. The
4 Third Party ILEC Meet Point using Leased Facilities provides the transport required
5 to establish the POI at the Alexandria switch. This is one of the areas of dispute in
6 this arbitration (Issue No. 42). CenturyLink EQ proposes the following language
7 for Third Party ILEC Meet Point using Leased Facilities:

8 39.9.3 Third Party ILEC Meet Point using Leased Facilities. If CLEC
9 chooses to interconnect with CenturyLink using a third party ILEC Meet-
10 Point arrangement (i.e., leased switched access facilities jointly
11 provisioned by CenturyLink and a third party ILEC), then any portion of
12 such facilities provided by CenturyLink will be ordered from
13 CenturyLink's access Tariff.

14 As I discussed in my Direct Testimony, Hutchinson proposes to change this
15 language by deleting the language about ordering facilities from the tariff and
16 adding language requiring that the POI be at the Third Party meet point and that
17 each party is responsible for the costs on its side of the POI. This additional
18 language would inappropriately move the POI to a third party's network. By
19 redefining the location of the POI to be outside of CenturyLink EQ's network and
20 on the network of another provider, Hutchinson seeks to have CenturyLink EQ pay
21 for the cost of Hutchinson's portion of the transport.

22

1 **Q. UNDER THE CENTURLINK EQ PROPOSAL, HOW WOULD**
2 **COMPENSATION FOR THIS ARRANGEMENT BE HANDLED ON A**
3 **GOING FORWARD BASIS?**

4 A. Under the terms CenturyLink EQ is proposing, Hutchinson would lease the jointly
5 provided switched access facility from CenturyLink QC and CenturyLink EQ and
6 pay the appropriate portion of the applicable access tariffed transport rates to each
7 company for the facility. CenturyLink EQ's tariffed switched access rates are listed
8 in Section 6 of its access tariffs and would be the basis for the portion HTI would
9 pay to CenturyLink EQ. Today, CenturyLink EQ is solely responsible for paying
10 access charges to CenturyLink QC.

11
12 **Q. IS THIS PROPOSAL CONSISTENT WITH HOW SIMILAR**
13 **ARRANGEMENTS ARE HANDLED WITH OTHER CARRIERS?**

14 A. Yes it is in terms of the physical connections described. In his testimony Mr. Burns
15 describes a mutually agreeable POI at the "facility meet point at the Carrier's
16 exchange boundary" between Verizon Wireless and Paul Bunyan which involves
17 CenturyLink QC.³⁴ Mr. Burns cites the following language from Exhibit B to the
18 interconnection agreement which describes the compensation related to the third
19 party meet point:

20 The Parties agree to directly connect their networks as follows:

³⁴ Burns Direct at p. 42.

1 **1. Direct Connection.** The Parties agree to directly connect
2 their networks at a POI established at the existing Carrier-
3 CenturyLink meet point between the BMDJMNAS Carrier
4 Central Office Switch and the WADNMNWA Central
5 Office Switch. Consistent with Section 4.2 of the
6 Agreement, each Party is responsible for all recurring and
7 nonrecurring charges associated with providing facilities
8 from its respective Central Office Switch or Mobile
9 Switching Center to the POI. CMRS is responsible for
10 submitting a meet point billed private line/special access
11 order to CenturyLink and Carrier for BMDJMNAS -
12 WADNMNWA transport in DS1 increments. CMRS is
13 also responsible for submitting a trunk order to Carrier in
14 DS1 increments.
15

16 This appears to be partially what CenturyLink EQ is proposing for the St. Cloud
17 interconnection arrangement and is not consistent with what Hutchinson has
18 proposed.

19
20 **Q. CAN YOU DESCRIBE HOW THE FACILITY MEET POINT**
21 **ARRANGEMENT BETWEEN VERIZON WIRELESS AND PAUL BUNYAN**
22 **IS SIMILAR TO WHAT CENTURYLINK EQ HAS DEVELOPED AS A POI**
23 **ESTABLISHED WITH A THIRD-PARTY ILEC MEET POINT USING**
24 **LEASED FACILITIES?**

25 A. Yes. Both describe a method for establishing a POI in the situation where the
26 customer's (Hutchinson or Verizon Wireless) location is outside of the Carrier's
27 (CenturyLink EQ or Paul Bunyan) serving territory. Paul Bunyan appears to
28 require that Verizon Wireless order a jointly provided special access facility from
29 both Paul Bunyan and CenturyLink QC. Similarly, CenturyLink EQ's language for

1 establishing a POI using a Third-Party ILEC Meet Point Using Leased Facilities
2 would require Hutchinson to order a jointly provided access facility from the third
3 party ILEC as well as CenturyLink EQ. Both also state that each party is financially
4 responsible for transport costs on their own side of the POI.

5
6 **Q. PLEASE DESCRIBE HOW THE VERIZON WIRELESS - PAUL BUNYAN**
7 **ARRANGEMENT DIFFERS FROM WHAT HUTCHINSON IS**
8 **PROPOSING FOR THE ST. CLOUD INTERCONNECTION**
9 **ARRANGEMENT?**

10 A. Hutchinson proposes that no changes be made to the unique POI arrangement for
11 Alexandria. Hutchinson does not propose that it would order a jointly provided
12 special access circuit from both CenturyLink QC and CenturyLink EQ. Nor does
13 Hutchinson propose that the POI be located at the exchange boundary. Rather,
14 Hutchinson proposes to locate the POI at the CenturyLink QC tandem central
15 office, a point outside of the CenturyLink EQ network. Hutchinson's proposal
16 requires that CenturyLink EQ order and pay for the entire special access facility
17 between Alexandria and St. Cloud. Unlike Verizon Wireless, Hutchinson is not
18 willing to pay for the transport which is outside of the ILEC's territory.

19

1 **Q. PLEASE DESCRIBE HOW THE FACILITY MEET POINT**
2 **ARRANGEMENT BETWEEN VERIZON WIRELESS AND PAUL BUNYAN**
3 **DIFFERS FROM WHAT CENTURYLINK EQ HAS DEVELOPED AS A**
4 **POI ESTABLISHED WITH A THIRD-PARTY ILEC MEET POINT USING**
5 **LEASED FACILITIES?**

6 A. The main difference in the two approaches is the location of the POI itself and thus
7 how the compensation is handled for the transport provided. CenturyLink EQ's
8 language would locate Hutchinson's POI at the CenturyLink EQ End Office and
9 would charge Hutchinson for the portion of Century Link EQ provided switched
10 access transport facility used to reach the POI at the end office. In contrast, Paul
11 Bunyan sets Verizon Wireless' POI at the exchange boundary (with
12 CenturyLink QC). It appears that Verizon wireless does not pay for any transport
13 provided within Paul Bunyan's network.

14
15 **Q. IS THERE ANYTHING UNIQUE ABOUT THE FACILITY MEET POINT**
16 **ARRANGEMENT BETWEEN VERIZON WIRELESS AND PAUL BUNYAN**
17 **THAT MAY HAVE CAUSED PAUL BUNYAN TO AGREE TO NOT**
18 **CHARGE VERIZON WIRELESS FOR ITS PORTION OF THE JOINTLY**
19 **PROVIDED SPECIAL ACCESS FACILITY THAT WAS ORDERED?**

20 A. Yes. There are two portions of the facility: a portion between Verizon Wireless (in
21 Wadena) and CenturyLink QC (in Bemidji), which is fully provided by
22 CenturyLink QC, and a second portion (within Bemidji) that connects

1 CenturyLink QC and Paul Bunyan. CenturyLink QC provides 97% of the route.
2 Thus, what Paul Bunyan provides in terms of facilities is minimal, and is in no way
3 similar to the transport that Hutchinson is seeking to have CenturyLink EQ provide
4 between Glencoe and Osseo without charge.

5
6 **Q. MR. BURNS IMPLIES THAT THE CENTURYLINK EQ NEGOTIATOR**
7 **ASSURED HIM THAT THE COMPENSATION FOR THE ST. CLOUD**
8 **ARRANGEMENT WOULD NOT CHANGE GOING FORWARD.³⁵ PLEASE**
9 **COMMENT.**

10 A. As in any negotiations there were gives and takes on the part of both parties. There
11 was a discussion during the negotiations that, if Hutchinson would agree to
12 CenturyLink EQ's interconnection language in the agreement, CenturyLink EQ
13 would not change the existing compensation arrangement for St. Cloud. In
14 addition, CenturyLink EQ offered Hutchinson a BFR for interconnection at the
15 Glencoe remote, and if Hutchinson had accepted the BFR proposal,
16 CenturyLink EQ was planning to agree to maintain the existing St. Cloud
17 compensation arrangement in return. But, Hutchinson rejected this proposal and
18 CenturyLink EQ is now proposing to appropriately classify St. Cloud as a Third-
19 Party ILEC Meet Point using Leased Facilities.

³⁵ Burns Direct at p. 36.

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IX. GOOD FAITH NEGOTIATIONS

Q. MR. BURNS ARGUES THAT CENTURYLINK EQ FAILED TO NEGOTIATE IN GOOD FAITH, CLAIMING THAT THE CENTURYLINK EQ NEGOTIATOR HAD NO AUTHORITY TO MAKE BINDING REPRESENTATIONS ON CENTURYLINK EQ’S BEHALF.³⁶ PLEASE COMMENT.

A. Mr. Burns cites 47 C.F.R. 51.301(c)(7) to support his claim that the FCC has found that “a party’s failure to designate a representative with the authority to make binding representations on behalf of the party” is an example of a failure to negotiate in good faith. Unfortunately he has not fully quoted from 47 C.F.R. 51.301(c)(7) which reads: “Refusing throughout the negotiation process to designate a representative with authority to make binding representations, *if such refusal significantly delays resolution of issues.*” (Emphasis added). The FCC provides further context around this rule in its *First Report and Order*:

A determination based upon the intent of a party, however, is not susceptible to a standardized rule. If a party refuses throughout the negotiation process to designate a representative with authority to make binding representations on behalf of the party, and thereby significantly delays resolution of issues, such action would constitute failure to negotiate in good faith. In particular, we believe that designating a representative authorized to make binding representations on behalf of a party will assist small entities and small incumbent LECs by centralizing communications and thereby facilitating the negotiation process. *On the other hand, it is unreasonable to expect an agent to have authority to*

³⁶ Burns Direct at pp. 57-58.

1 ***bind the principal on every issue -- i.e., a person may reasonably be an***
2 ***agent of limited authority***³⁷ (Footnotes omitted. Emphasis added).
3

4 In the negotiations between Hutchinson and CenturyLink EQ, the CenturyLink EQ
5 negotiator was, by necessity, an agent of limited authority. CenturyLink EQ is a
6 large company with numerous stakeholders who have an interest in decisions made
7 during negotiation, decisions which can have larger policy and downstream impacts
8 and consequences than just the issues between Hutchinson and CenturyLink EQ.
9 CenturyLink EQ's negotiation process legitimately requires stakeholder feedback
10 and approval before a substantive change is made to CenturyLink's template
11 agreement language to insure any changes that are made to the agreement/processes
12 are capable of being ordered, provisioned, implemented and invoiced appropriately.
13 This ultimately benefits both CenturyLink EQ and CLECs as it limits problems
14 which may arise once an agreement is put into effect. It is only appropriate that the
15 negotiations allow for these discussions amongst the stakeholders and the process
16 followed here is no different than any other arbitration I have been involved in.
17 More importantly, the fact that there was a need to take issues back to discuss with
18 stakeholders in no way caused significant delays in the negotiations process.
19
20 During the course of negotiations, CenturyLink EQ's negotiator worked directly
21 with CenturyLink subject matter experts and exchanged e-mails and network

³⁷ First Report and Order, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 96-325 (Rel. August 8, 1996) (“*First Report and Order*”), ¶ 154.

1 diagrams with Hutchinson's negotiator outside of scheduled negotiation calls to
2 further attempt to resolve issues in dispute, and appropriately escalated issues to
3 higher levels of authority in an attempt to resolve issues with Hutchinson.

4 CenturyLink EQ also held regular stakeholder meetings where various proposals
5 were discussed and decisions made. These decisions were then communicated back
6 to Hutchinson.

7 **Q. DID YOU PARTICIPATE DIRECTLY IN THE NEGOTIATIONS?**

8 A. No. I was not a part of the negotiations with Hutchinson, but did participate in
9 many of the CenturyLink EQ internal stakeholder discussions since early this year
10 and am generally aware of the correspondence between CenturyLink EQ and
11 Hutchinson.

12 **Q. DO YOU AGREE WITH MR. BURNS' CHARACTERIZATION THAT,**
13 **"THE NEGOTIATOR WAS EMPOWERED TO SAY 'NO' WITH LITTLE**
14 **OR NO JUSTIFICATION, BUT VIRTUALLY ALL DISCUSSIONS THAT**
15 **DEVIATED FROM THE TEMPLATE LANGUAGE WAS REJECTED**
16 **SIMPLY BECAUSE A TERM OR CONCEPT WAS NOT USED IN THE**
17 **TEMPLATE."**³⁸

19 A. No. Mr. Burns is totally mischaracterizing the negotiations. Mr. Burns' claim that
20 CenturyLink EQ rejected all proposals from Hutchinson are belied by the fact that

³⁸ Burns Direct at. 58.

1 numerous issues were resolved during the course of negotiations and even after
2 Hutchinson filed its petition for arbitration. The initial issues matrix contained 102
3 issues, which were reduced to 77 at the time the Petition for Arbitration was filed.
4 Subsequent to the filing of the petition, the parties' agreed to settle an additional
5 twenty issues. These agreements could not have been reached if CenturyLink EQ
6 negotiated in the manner claimed by Mr. Burns. The reality is that CenturyLink EQ
7 made concessions through the negotiations to reach agreement on issues that could
8 be settled. The fact that CenturyLink EQ did not accept all positions taken by
9 Hutchinson in no way constitutes a failure to negotiate in good faith.

10
11 **Q. DO YOU AGREE WITH MR. BURNS' CLAIM THAT, "DESPITE HTI'S**
12 **EFFORTS, CTL HAS NOT ACTUALLY ENGAGED IN DIALOGUE TO**
13 **ADDRESS THE COMPENSABLE TRAFFIC" THAT WILL BE**
14 **TERMINATED TO HUTCHINSON'S NETWORK?³⁹**

15 A. No. CenturyLink EQ's positions on the types of traffic to be exchanged were
16 conveyed to Hutchinson on numerous occasions through conference calls, e-mails,
17 the arbitration matrices the parties exchanged and in data responses. In fact, many
18 of the issues between the parties had to do with CenturyLink EQ wanting to
19 specifically spell out the traffic types that would be exchanged over the
20 interconnection trunks.

21

³⁹ Burns Direct at p. 16.

1 **Q. HAS CENTURYLINK EQ BEEN CLEAR ON WHETHER IT WILL BE**
2 **DELIVERING TOLL VOIP-PSTN TRAFFIC TO HUTCHINSON?**

3 A. Yes. CenturyLink EQ has repeatedly informed Hutchinson that it offers transit
4 service to providers that serve VoIP providers and thus it is likely that IP-originated
5 traffic will be sent via CenturyLink EQ's network for delivery to Hutchinson. In
6 fact, the parties have agreed on language in sections 43.1.2.b and 55.2.2 which
7 addresses how the exchange of traffic will take place and how the traffic will be
8 quantified and billed. Despite these provisions, Mr. Burns now demands that
9 CenturyLink EQ provide records that enable HTI to bill the originating company
10 for the traffic.⁴⁰ This requirement ignores the non-disputed language in the
11 agreement that addresses how this traffic is to be handled and the transit records
12 that CenturyLink EQ provides.

13
14 **Q. IS MR. BURNS CORRECT WHEN HE STATES THAT, "THERE HAVE**
15 **BEEN NO NEGOTIATIONS BETWEEN THE PARTIES REGARDING THE**
16 **POI LOCATION?"⁴¹**

17 A. No. Given the number of disputed issues related to the location of the POI, it
18 strains credibility for Mr. Burns to suggest that there have been no discussions. In
19 fact, as Mr. Burns' own testimony indicates, there were numerous discussions
20 between the parties and exchanges of diagrams depicting the parties' positions. It

⁴⁰ Burns Direct at p. 16.

⁴¹ Burns Direct at p. 30.

1 would certainly be fair to say that the parties' have different positions with regard to
2 the POI, but that is a far cry from claiming that no negotiations have taken place.

3
4 **Q. MR. BURNS CLAIMS THAT CENTURYLINK EQ NEGOTIATION**
5 **TACTICS "PUT AN UNNECESSARY DRAIN ON THE RESOURCES OF**
6 **THIS SMALL COMPANY."⁴² PLEASE COMMENT.**

7 A. It is fair to say that CenturyLink EQ holds the exact opposite view of the
8 negotiations. In fact, Hutchinson was often the party causing unnecessary delays.
9 Hutchinson failed to attend several scheduled negotiations calls with no prior notice
10 of cancellation. (See Exhibit WRE-4). Hutchinson's non-standard application of
11 the document redlining process also added additional delays. (See last 3 paragraphs
12 in Exhibit WRE-5). At one point, CenturyLink EQ had to wait several weeks to
13 receive Hutchinson's response to proposed language. (See Exhibit WRE-6). It is
14 both ironic and disingenuous for Hutchinson to now complain about
15 CenturyLink EQ's behavior during the negotiations.

16
17 **Q. PLEASE SUMMARIZE CENTURYLINK EQ'S RESPONSE TO**
18 **HUTCHINGSON'S CHARGES THAT CENTURYLINK EQ FAILED TO**
19 **NEGOATIAE IN GOOD FAITH.**

20 A. There is absolutely no basis for Mr. Burns' claims of bad faith negotiations. In fact,
21 as I stated above, it was Hutchinson's own negotiating tactics that often caused

⁴² Burns Direct at p. 15.

1 unnecessary delay in the negotiations. Mr. Burns appears to confuse
2 CenturyLink EQ's refusal to agree with each of Hutchinson's proposals with the
3 concept of bad faith negotiations. Based on my involvement in this arbitration,
4 CenturyLink EQ has conducted its part of the negotiations in a professional manner,
5 agreeing to Hutchinson proposals where it could, but holding firm on other
6 positions where it did not agree Hutchinson's proposals were reasonable or where
7 such proposals required a significant shift in CenturyLink EQ policies. It cannot be
8 expected that two parties will be in complete agreement with each other when
9 negotiating an interconnection agreement. The FCC anticipated there would
10 naturally be disagreements in such negotiations, which is why it established the
11 arbitration process under which this proceeding is taking place. Mr. Burns' claims
12 of bad faith negotiations have no basis and should be dismissed.

13 **X. RESPONSE TO INDIVIDUAL ISSUES**

14 **Issue No. 4**

15
16 **Q. HAS MR. BURNS ACCURATELY QUOTED THE CENTURYLINK EQ**
17 **PROPOSED LANGUAGE FOR ISSUE NO. 4 (DEFINITION OF "LOCAL**
18 **CALLING AREA")?⁴³**

⁴³ Burns Direct at p. 50.

1 A. No. The CenturyLink EQ language he cites for Issue No. 4 and takes exception to
2 is actually the CenturyLink EQ language for Issue No. 3 (Definition of “IntraLATA
3 Toll Traffic”). The CenturyLink EQ proposed language for Issue No. 4 is:

4 The CenturyLink local exchange area, or mandatory Extended Area
5 Service (EAS) exchanges, as required by a State Commission and
6 expressed in the CenturyLink tariff.
7

8 **Q. MR. BURNS STATES THAT CENTURYLINK EQ HAS FAILED TO**
9 **RECOGNIZE THE AUTHORITY OF THE COMMISSION IN**
10 **ESTABLISHING LOCAL CALLING AREAS.⁴⁴ DOES THE**
11 **CENTURYLINK EQ LANGUAGE REGARDING LOCAL CALLING**
12 **AREAS RECOGNIZE THE COMMISSION’S AUTHORITY?**

13 A. Yes. As discussed in my Direct Testimony, CenturyLink EQ’s language recognizes
14 that the Commission has authority over local calling areas, but also recognizes that
15 the Commission exercises that authority by approving tariffs, not necessarily by
16 issuing orders defining/mandating/requiring local calling areas.

17
18

⁴⁴ Burns Direct at pp. 49-50.

1 **Issue No. 7**

2
3 **Q. MS. DOHERTY SUPPORTS THE INCLUSION OF HUTCHINSON'S**
4 **DEFINITION OF "MEET POINT INTERCONNECTION**
5 **ARRANGEMENT."⁴⁵ PLEASE COMMENT.**

6 A. Although 47 C.F.R. 51.5 defines a Meet Point Interconnection Arrangement,
7 CenturyLink EQ does not agree that all of the defined terms in 47 C.F.R. 51.5 need
8 to be incorporated into the interconnection agreement. I question the value in
9 having this definition in the parties' interconnection agreement as it is not a term
10 used anywhere in CenturyLink EQ's language and CenturyLink EQ does not accept
11 the Hutchinson proposed language where it is present. Since Century Link EQ's
12 meet point product offering is Mid Span Fiber Meet, that is the definition that I
13 believe needs to be in the agreement. Rather than having a definition for Meet
14 Point Interconnection Arrangement, which is accurate but unused in the agreement,
15 CenturyLink EQ believes it is more important to agree on and include a definition
16 of Mid Span Fiber Meet in the definitions section of the interconnection agreement.

17
18

⁴⁵ Doherty Direct at p. 21.

1 **Issue No. 8**

2
3 **Q. FOR THE DEFINITION OF MID SPAN FIBER MEET, MS. DOHERTY**
4 **SUPPORTS INCLUDING AN ACKNOWLEDGMENT THAT IT IS A FORM**
5 **OF MEET POINT INTERCONNECTION ARRANGEMENT.⁴⁶ PLEASE**
6 **COMMENT.**

7 A. While CenturyLink EQ continues to believe that the language regarding meet point
8 interconnection arrangement is unnecessary, it has no objection to adding the
9 acknowledgment. However, any other arrangement which Hutchinson would deem
10 to be a “meet point interconnection arrangement” which is not a Mid Span Fiber
11 Meet would properly fall within the BFR process. The other concern from
12 CenturyLink EQ’s standpoint, is that the Mid Span Fiber Meet language includes
13 the necessary limitation which ensures that CenturyLink EQ is not obligated to
14 provide facilities outside of the serving area of the Point of Interconnection (“POI”)
15 switch. This limitation is consistent with Section 251(c)(2)(B) of the
16 Telecommunications Act which requires that the physical interconnection be “at
17 any technically feasible point *within* the carrier’s network.” (Emphasis added).
18 Ms. Doherty does not provide a recommendation on this limitation language.

19
20

⁴⁶ Doherty Direct at p. 21.

1 **Issue No. 19**

2
3 **Q. ISSUE NO. 19 INVOLVES RECOURSE AVAILABLE WHEN TRAFFIC IS**
4 **MISROUTED. MR. BURNS CLAIMS THAT CENTURYLINK EQ IS**
5 **SEEKING DAMAGES WITHOUT LIMITATION.⁴⁷ IS THIS WHAT**
6 **CENTURYLINK EQ IS SEEKING WITH ITS LANGUAGE?**

7 A. No. It is important that there be an incentive to route traffic per the terms of the
8 agreement. Injunctive relief, which would only stop misrouting on a going-forward
9 basis, does not, in and of itself, provide a sufficient incentive. Adding the potential
10 for the recovery of damages related to previously misrouted traffic does provide the
11 necessary incentive for both parties to properly route traffic. I am not an attorney,
12 but it is my understanding that Minnesota state law provides limits as to the amount
13 of damages that can be recovered.

14
15 **Issue No. 30**

16
17 **Q. ON PAGES 46-47 OF HIS TESTIMONY MR. BURNS DISCUSSES**
18 **LIMITATIONS ON NUMBER PORTABILITY. DOES THE DISPUTE IN**
19 **ISSUE NO. 30 REALLY CONCERN NUMBER PORTABILITY**
20 **LIMITATIONS?**

⁴⁷ Burns Direct at p. 50.

1 A. No. Hutchinson has agreed to establish the trunk groups necessary to address the
2 number portability concerns. The real issue at dispute goes back to Hutchinson's
3 desire to replace CenturyLink EQ "establish a POI" with "establish a trunk group"
4 in order to avoid paying for the needed trunk groups.

5
6 **Issue No. 46**

7
8 **Q. WHEN DISCUSSING THE PARTIES RESPONSIBILITIES FOR INDIRECT**
9 **NETWORK CONNECTIONS, MR. BURNS CLAIMS THAT**
10 **CENTURYLINK EQ'S LANGUAGE ALLOWS IT TO ENGAGE IN SELF**
11 **HELP BY SHIFTING CENTURYLINK EQ COSTS TO HUTCHINSON.⁴⁸ IS**
12 **THIS AN ACCURATE CHARACTERIZATION OF THE CENTURYLINK**
13 **EQ LANGUAGE?**

14 A. No. Mr. Burns ignores the fact that indirect interconnection exists at the choice of
15 the CLEC, not CenturyLink EQ. Therefore, any incentive to move to a more
16 economical network arrangement must be on the part of the CLEC, in this case
17 Hutchinson.

18

⁴⁸ Burns Direct at p. 22.

1 **Q. MR. BURNS STATES THAT THE PARTIES HAVE AGREED NOT TO**
2 **ROUTE TOLL TRAFFIC DIRECTLY OR INDIRECTLY TO EACH**
3 **OTHER.⁴⁹ IS THAT AN ACCURATE STATEMENT?**

4 A. No. Mr. Burns' reference to toll traffic is overly broad. This is still a disputed issue
5 between the parties (Issue No. 18) as to the types of traffic that can be routed over
6 interconnection trunks. CenturyLink EQ agrees that since it no longer provides
7 intraLATA LEC toll, that specific type of toll traffic will not be routed over the
8 interconnection trunks, but consistent with the FCC Connect America Order, does
9 not agree that Toll VoIP-PSTN traffic will not be exchanged with Hutchinson.

10

11 **Issue No. 50**

12

13 **Q. ISSUE NO. 50 CONCERNS RAMIFICATIONS IF NEW POIs ARE NOT**
14 **ESTABLISHED CONSISTENT WITH THE TRIGGERS ESTABLISHED IN**
15 **THE AGREEMENT. MR. BURNS ARGUES THAT CENTURYLINK DOES**
16 **NOT HAVE THE RIGHT TO IMPOSE TRANSIT AND TRANSPORT**
17 **CHARGES ON HUTCHINSON.⁵⁰ PLEASE COMMENT.**

18 A. Hutchinson has already agreed to abide by the triggers in the agreement. The
19 language related to reimbursement for transit and transport would apply only if
20 Hutchinson fails to abide by the triggers. The language provides a necessary

⁴⁹ Burns Direct at p. 23.

⁵⁰ Burns Direct at p. 51.

1 incentive to insure that the additional POI or POIs are established. This should be a
2 non-issue if Hutchinson plans to abide by trigger language in the agreement.

3

4 **Issue No. 51**

5

6 **Q. HAS HUTCHINSON NOW CHANGED ITS PROPOSED LANGUAGE FOR**
7 **ISSUE NO. 51?**

8 A. Yes. Hutchinson has now removed the term “non switched access traffic” from its
9 proposed language.

10

11 **Q. WITH THIS REVISION, IS CENTURYLINK EQ WILLING TO ACCEPT**
12 **HUTCHINSON’S PROPOSED LANGUAGE?**

13 A. Yes.

14

15 **Issue No. 54**

16

17 **Q. IS THE LANGUAGE MR. BURNS PROPOSES FOR ISSUE NO. 54**
18 **CONSISTENT WITH THE PROPOSALS THAT HAVE PREVIOUSLY**
19 **BEEN SHARED WITH CENTURYLINK EQ⁵¹?**

20 A. No. The Issue No. 54 language in Mr. Burns’ testimony does not match the last
21 proposal provided to CenturyLink EQ as detailed in the Joint Issues Matrix (WRE-
22 1).

23

⁵¹ Burns Direct at pp. 17-18.

1 **Q. DOES CENTURYLINK AGREE WITH THE NEW LANGUAGE**
2 **MR. BURNS IS PROPOSING?**

3 A. No. Hutchinson is still insisting on striking language that, while it may not be
4 needed for Hutchinson given its current network and the way it currently handles
5 IXC traffic using Onvoy, is necessary for other carriers who may choose to opt into
6 this agreement. Hutchinson argues that a separate trunk group should not be
7 required for JPSA traffic, yet IXC traffic originated from or terminating to
8 Hutchinson goes through the Onvoy tandem so Hutchinson would not need to
9 establish a separate trunk group with CenturyLink EQ for JPSA traffic.⁵²
10 CenturyLink EQ uses a separate trunk group for JPSA traffic with all CLECs due to
11 an inability to properly separate and bill for this traffic if it is combined on a single
12 trunk group. Hutchinson would not be affected by this requirement and deleting the
13 requirement would adversely affect CenturyLink EQ's ability to properly collect
14 access charges for JPSA traffic with another CLEC that might opt into this language
15 and does use CenturyLink EQ for JPSA traffic.

16
17 **Issue Nos. 59 – 61**

18
19 **Q. MR. BURNS TAKES EXCEPTION WITH CENTURYLINK EQ'S TRUNK**
20 **FORECASTING LANGUAGE ARGUING THAT "CTL FAILS TO**
21 **CONSIDER THE ENTIRE FACILITY'S CAPACITY IN RELATION TO**

⁵² Hutchinson Responses to CenturyLink EQ First Set of Information Requests, Request No. 18.

1 **THE PORTION OF CAPACITY THE CLEC WAS RESPONSIBLE FOR**
2 **OVER-FORECASTING.”⁵³ IS THIS A PROBLEM WITH THE**
3 **CENTURYLINK EQ PROPOSED LANGUAGE?**

4 A. No. CenturyLink EQ’s language for Issue No. 59 makes clear that the
5 consequences for over forecasting apply only where the over forecasting is to
6 CenturyLink EQ’s detriment:

7 In the event that CLEC over-forecasts its trunking requirements by twenty
8 percent (20%) or more, and CenturyLink acts upon this forecast to its
9 detriment, CenturyLink may recoup any actual and reasonable expense it
10 incurs.

11 Therefore, the entire facilities’ capacity would have to be taken into account to
12 establish that the over forecasting was to CenturyLink EQ’s detriment.

13
14 **Q. MR. BURNS STATES THAT HUTCHINSON WILL AGREE TO ACCEPT**
15 **CENTURYLINK EQ’S LANGUAGE FOR ISSUES 59 AND 61 IF**
16 **CENTURYLINK EQ ACCEPTS THE HUTCHINSON LANGUAGE FOR**
17 **ISSUE NO. 60.⁵⁴ WHY IS CENTURYLINK EQ UNWILLING TO ACCEPT**
18 **THE HUTCHINSON LANGUAGE FOR ISSUE NO. 60?**

19 A. Hutchinson proposes the following language for Issue No. 60:

20 The calculation of CLEC over-forecasted capacity will be based on the
21 number of DS1 equivalents expressed as a percentage to the total capacity
22 of the facility cross-section. Example: A CLEC over-forecast of 10 DS1s

⁵³ Burns Direct at p. 20

⁵⁴ Burns Direct at pp. 20-21.

1 in a facility segment served by an OC3 (84 DS1s) equates to an
2 over-forecast of 11.9%.

3
4 As I discussed in my Direct Testimony, the purpose of trunk forecasting is to
5 provision sufficient trunk capacity to handle actual traffic volumes. Hutchinson's
6 proposed calculation language does not use actual traffic volumes or describe how
7 actual traffic volumes are used to determine the over-forecast condition. By
8 contrast, the CenturyLink EQ calculation is very straight forward and is based on
9 the number of DS1 equivalents for the total actual traffic volume.

10
11 **Issue No. 65**

12
13 **Q. ISSUE NO. 65 INVOLVES CLEC RESPONSIBILITIES RELATED TO**
14 **TRANSIT TRAFFIC. MR. BURNS CLAIMS THAT HUTCHINSON**
15 **CANNOT AGREE TO INDEMNIFY CENTURYLINK EQ FOR SUCH**
16 **TRAFFIC WITHOUT LIMITATION.⁵⁵ IS THAT WHAT**
17 **CENTURYLINK EQ IS PROPOSING?**

18 A. No. The CenturyLink EQ language clarifies CLEC responsibilities for originating
19 Transit Traffic. It correctly describes the application of Transit charges to the
20 originating CLEC, in this case Hutchinson. The language also makes clear that, as
21 a transit provider, CenturyLink EQ does not bear responsibility for any charges the
22 terminating carrier may assess for this traffic. As the originating carrier,
23 Hutchinson is responsible for such charges and should indemnify CenturyLink EQ

⁵⁵ Burns Direct at p. 51.

1 for any such charges CenturyLink EQ may be assessed. The language does not
2 provide for unlimited indemnification, it only provides for indemnification for
3 charges that CenturyLink may be assessed for Hutchinson originated traffic by the
4 terminating carrier, charges for which it has no responsibility.

5 **XIV. CONCLUSION**

6 **Q. DO YOU HAVE ANY CONCLUDING COMMENTS?**

7 A. Yes. The fundamental disagreement between the parties in this arbitration is not
8 one of technical feasibility, but instead concerns whether each party should bear its
9 fair share of the costs of the interconnection Hutchinson seeks, and whether any
10 BFR terms and conditions should be placed on potential future methods of
11 interconnection for which CenturyLink EQ has not developed standard product
12 offerings. Hutchinson's proposals seek to unfairly place the financial responsibility
13 for the majority of the transport required to exchange traffic between the two
14 networks on CenturyLink EQ and to include broad language about what constitutes
15 a POI rather than accept CenturyLink EQ's BFR language and standard offerings.
16 CenturyLink EQ respectfully requests that this Commission reject Hutchinson's
17 cost shifting proposals and adopt the CenturyLink EQ language which seeks to
18 ensure that each party pays its fair share of the interconnection costs and to use the
19 BFR process for non-standard interconnection requests. Finally, for the reasons I

1 have discussed in this testimony, Mr. Burns' claims of bad faith negotiations have
2 no basis and should be dismissed.

3

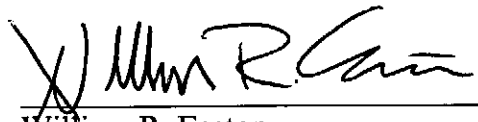
4 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

5 A. Yes.

VERIFICATION

I, William R. Easton, Wholesale Staff Director for Embarq Minnesota, Inc. dba CenturyLink EQ, state that I have first-hand knowledge of the matters set forth above and hereby verify that, to the best of my knowledge and belief, the allegations and statements contained herein are true and correct.

Dated: July 25, 2014



William R. Easton

Exhibit WRE-3

Exhibit WRE-4

Exhibit WRE-4

From: Mackay, Lynda A
Sent: Tuesday, August 06, 2013 1:32 PM
To: 'Tom Burns'
Subject: re: are you in the office today?

Tom-

I tried to call you at the following number: 651-621-8322 at 1:00 and left a VM message for you.

If there's another number I should call, please let me know, otherwise, you can contact me at 913-345-7611.

Thank you,

Lynda

From: Mackay, Lynda A
Sent: Tuesday, August 13, 2013 9:57 AM
To: 'Tom Burns'
Subject: RE: Hutchinson negotiation

Tom-

Not a problem- I can either meet at 1:00 tomorrow, or 11:00 Thursday.

Do either of those times work for you?

Thanks,

Lynda

-----Original Appointment-----

From: Tom Burns [<mailto:tgburns@otcpas.com>]
Sent: Tuesday, August 13, 2013 9:50 AM
To: Mackay, Lynda A
Subject: Declined: Hutchinson negotiation
When: Tuesday, August 13, 2013 10:00 AM-11:00 AM (GMT-06:00) Central Time (US & Canada).
Where: 651-621-8322

Lynda,

I am very sorry I have to cancel our scheduled meeting in 15 minutes. Please let me know your availability to meet on Wed Thu or Fri of this week. I am available any time.

Again – I am very sorry for the change and the late notice.

Tom B

Circular 230 Notice: IRS regulations require us to advise you that, unless otherwise specifically noted, any federal tax advice in this communication (including any attachments, enclosures, or other accompanying materials) was not intended or written to be used, by any taxpayer for the purpose of avoiding tax-related penalties imposed under the U.S. Internal Revenue Code or any other applicable state or local tax law provision; furthermore, this communication was not intended or written to support the promoting, marketing or recommending of any of the transactions or matters it addresses.

INFORMATION IN THIS MESSAGE, INCLUDING ANY ATTACHMENTS, IS INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE RECIPIENT(S) NAMED ABOVE. If you are not an intended recipient of this message, or an agent responsible for delivering it to an intended recipient, you are hereby notified that you have received this message in error, and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you received this message in error, please notify the sender immediately, delete the message, and return any hard copy print-outs.

From: Mackay, Lynda A
Sent: Wednesday, September 18, 2013 2:29 PM
To: 'Tom Burns'
Subject: RE: 1:00 call today

Not a problem- I knew there had to be a reason.

I'm available tomorrow after 1:00 if you have time then?

From: Tom Burns [<mailto:tgburns@otcpas.com>]
Sent: Wednesday, September 18, 2013 2:24 PM
To: Mackay, Lynda A
Subject: RE: 1:00 call today

Lynda,
I'm very sorry I missed our call today. I was in the office but my work PC crashed today so I didn't get the notice to attend the meeting. Please let me know when you are available the remainder of this week.

Tom B

From: Mackay, Lynda A [<mailto:Lynda.A.Mackay@centurylink.com>]
Sent: Wednesday, September 18, 2013 1:11 PM
To: Tom Burns
Subject: re: 1:00 call today

Tom-

Just wanted to check to see if you still planned to meet for our call today. I'm on the bridge (on the meeting maker) right now if you can still join?

If not, let's set up another time to meet.

I have more issues to close out.

Thank you,

Lynda

Circular 230 Notice: IRS regulations require us to advise you that, unless otherwise specifically noted, any federal tax advice in this communication (including any attachments, enclosures, or other accompanying materials) was not intended or written to be used, by any taxpayer for the purpose of avoiding tax-related penalties imposed under the U.S. Internal Revenue Code or any other applicable state or local tax law provision; furthermore, this communication was not intended or written to support the promoting, marketing or recommending of any of the transactions or matters it addresses.

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Exhibit WRE-5

Exhibit WRE-5

From: Topp, Jason D
Sent: Wednesday, December 11, 2013 3:21 PM
To: 'dan.lipschultz@lawmoss.com'
Cc: Mackay, Lynda A
Subject: HTI/Embarq Negotiations

Dan – Following up on our discussion yesterday, we believe the following major substantive issues exist:

1. **Use of term “Non-Access Telecommunication Traffic” to replace Local Traffic, ISP-Bound Traffic, IntraLATA LEC Toll Traffic, Local and Toll VoIP-PSTN Traffic, Transit Traffic and Jointly Provided Switched Access Service Traffic (all commonly used and familiar terms in Interconnection Agreements).** Non-Access Telecommunications Traffic includes Mobile Wireless Service Traffic, which is a type of traffic that is expressly not included in the CLEC Interconnection Agreement. Is HTI attempting to include CMRS traffic within this definition? If so, we have a dispute beyond the drafting issues. It appears HTI is seeking to include CMRS based on deletion in 37.1
2. **Use of Point of Interconnection (POI) v. Trunk groups** – the redrafted language confuses us and causes concern that HTI is attempting to eliminate the need to establish a POI in the LATA where HTI seeks to exchange traffic with EQ.
3. **Location of POI/one POI per LATA requirement** –
 - We believe that FCC rules require HTI to establish one POI per LATA with on Embarq’s existing network. We believe HTI is attempting to avoid establishing a POI in the LATA and asking Embarq to transport HTI traffic to the Osseo Tandem at its expense rather than HTI doing so.
 - Indirect interconnection through a third party tandem – it is our position that to serve LATA 628 in EQ’s territory, HTI must establish a POI at the Osseo tandem.
4. **Section 39.1** - We do believe there is a substantive dispute regarding Section 39.1 – Embarq’s standard language was removed entirely. Our original POI language needs to be restored and negotiate from that (it was moved entirely from this section and placed under a different section.

This list is a list of major substantive differences, but does not capture all disputes.

It is difficult to determine the full extent of additional substantive issues because of the manner in which HTI has modified the document because it is difficult to follow all the changes. Sections have been re-ordered/moved entirely, and at least some changes to the document are not shown as red-lined. For example the POI language previously existing in Section 38.5 is not shown as deleted and heading on 39.1 is not shown as an addition, and section references to language in the interconnection section were changed, and do not match what was originally proposed, and also does not appear in redline format.

The negotiations would be much more efficient if HTI kept the draft document in the original format until substantive issues are addressed. In order to achieve this process, Lynda will re-format the document in the original form and keep Tom's redlines in place.

The organization/order of specific clauses in the document can be addressed later, and should be treated as separate negotiation issues, once the language has been negotiated or identified as arbitration issues, in order to proceed in a logical manner.

Jason Topp
Senior Corporate Counsel
CenturyLink
200 S 5th St., Rm 2200
Minneapolis, MN 55402

Phone Number 651-312-5364



Exhibit WRE-6

Exhibit WRE-6

From: Mackay, Lynda A

Sent: Tuesday, December 03, 2013 2:02 PM

To: Nodland, Jeff; Hammack, Carolyn; Roth, Diane M; Topp, Jason D; Hanson, JoAnn; Christensen, Larry; Zarling, Kevin; Williams, David G

Cc: Ferguson, Karen; Stulen, Sandra; Miller, Guy

Subject: re: Hutchinson's Extension for Day 160- now February 4, 2014

All-

Hutchinson's attorney requested to extend the negotiation window another 60 days, which now renders Day 135 as January 11, 2013, and Day 160 as February 4, 2013.

We are waiting (since October 14, 2013) for Hutchinson's negotiator to return redlines to our standard template Interconnection language (from the consolidated ICRA template), and the related definitions, in order to continue moving the Traffic Exchange Agreement negotiations forward.

Internal meetings will be scheduled as needed to address the outstanding redline issues.

Thank you,

Lynda