

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

**NTS SERVICES CORP.**

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**v.**

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**GALLATIN RIVER COMMUNICATIONS  
L.L.C. D/B/A CENTURYLINK**

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**Docket No. 12-0116**

**DIRECT TESTIMONY OF**

**GUY E. MILLER, III**

**ON BEHALF OF**

**GALLATIN RIVER COMMUNICATIONS L.L.C. D/B/A CENTURYLINK**

**CENTURYLINK EXHIBIT 1.0**

September 28, 2012

**DIRECT TESTIMONY OF  
GUY E. MILLER, III  
GALLATIN RIVER COMMUNICATIONS L.L.C.**

1 **I. INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. My name is Guy E. Miller, III. My business address is 100 CenturyLink Drive, Monroe,  
4 LA 71203.

5 **Q. On whose behalf are you submitting this direct testimony?**

6 A. I am submitting this Direct Testimony on behalf of Gallatin River Communications  
7 L.L.C. d/b/a CenturyLink (hereafter "CenturyLink"), the Illinois incumbent local  
8 exchange company ("ILEC") of CenturyLink, Inc.

9 **Q. By whom are you employed and what is your position?**

10 A. I am currently employed by CenturyTel Service Group as a Wholesale Staff Director. I  
11 have held this position since April 1, 2011.

12 **Q. What are your responsibilities as a Wholesale Staff Director?**

13 A. I am responsible for evaluating the impacts of the policies, obligations and operations that  
14 govern the interactions between representatives of CenturyLink's regulated telephone  
15 companies and wholesale customers, including competitive carriers. In addition, I am  
16 responsible for evaluating the impacts of CenturyLink's regulatory positions on inter-

17 carrier issues. For example, I have evaluated and recommended revisions to proposed  
18 elements of inter-carrier compensation reform. I am also involved in the development of  
19 CenturyLink's Interconnection contract templates and template terms, and I serve as an  
20 escalation resource to our wholesale interfacing teams on interconnection issues,  
21 negotiations and dispute resolution.

22 **Q. What positions did you hold before becoming a Wholesale Staff Director?**

23 A. From September 10, 2002 to December 4, 2005, I was Director-Carrier Relations for  
24 CenturyLink Service Group and from December 5, 2005 to April 1, 2011 I was Director-  
25 Carrier Relations Strategy and Policy.

26 **Q. What were your responsibilities as a Carrier Relations Director?**

27 A. I was responsible for overseeing all of the company's activity related to its obligations  
28 under §§ 251 and 252 of the 1996 revisions to the Communications Act of 1934, as  
29 amended (the "Act"), including ensuring compliance with those statutes. This also meant  
30 that I was responsible for the development and implementation of appropriate policies,  
31 the development and implementation of interconnection agreement terms, oversight of  
32 agreement negotiations, management of the dispute resolution process with  
33 CenturyLink's wholesale customers and ensuring compliant operations performed under  
34 agreement terms.

35 **Q. Please describe your experience in the telecommunications industry before**  
36 **becoming a Carrier Relations Director.**

37 A. I have worked in the telecommunications industry in various capacities for over 30 years.  
38 I started my carrier in 1978 with Southwestern Bell Telephone and held a variety of  
39 positions of increasing complexity and responsibility in the Customer Service, Sales, and  
40 Human Resources areas until 1989. From 1989 until 1995, I developed strategic, tactical  
41 and business plans to provide services to competitive local exchange carriers (“CLEC”),  
42 wireless carriers, Interexchange Carriers (“IXC”), Enhanced Service Provider/Internet  
43 Service Providers (“ISP”) and the cable industry. I also developed new products for this  
44 market segment and established specialized customer service and sales support programs.

45 In 1995, I was recruited to MFS Telecom, a competitive telecommunications  
46 access provider, where I served as the Director - Marketing for MFS’ private line and  
47 collocation services. From late 1996 until September, 2002, I worked for Intermedia  
48 Communications, a CLEC. For most of this time, I was a Senior Director in product  
49 marketing. I managed and developed dedicated and switched transport and collocation  
50 products for the wholesale business segment, which included carriers, ISPs, large  
51 enterprise business and government. In 2001, Intermedia was purchased by WorldCom.  
52 At that time, I began serving in an interim dual role as the Intermedia executive in charge  
53 of Carrier and ISP Sales Support and also as Intermedia’s Vice President for Industry  
54 Policy. In this latter role, I oversaw the integration of Intermedia’s regulatory and carrier  
55 relations activities into the WorldCom business model. I left WorldCom in late 2002  
56 and, as previously mentioned, joined CenturyLink as Director-Carrier Relations for  
57 CenturyLink Service Group in September of that year.

58 **Q. Have you previously testified before any state commission?**

59 A. Yes. I have testified before the following state commissions: the Illinois Commerce  
60 Commission, the Wisconsin Public Service Commission, the Tennessee Regulatory  
61 Authority, the Pennsylvania Public Service Commission, the Colorado Public Utilities  
62 Commission, the Arkansas Public Service Commission, the Michigan Public Service  
63 Commission, the Oregon Public Utility Commission, the Missouri Public Service  
64 Commission, the Alabama Public Service Commission, the Louisiana Public Service  
65 Commission, the Texas Public Utility Commission, the Iowa Utilities Board and the  
66 Nebraska Public Service Commission. My testimony before these commissions has been  
67 on a variety of issues including 47 U.S.C. § 252 arbitration proceedings, interconnection  
68 and inter-carrier compensation disputes under § 251 agreement terms, corporate  
69 acquisition applications, and the matter of acquisition and use of an N11 code for private  
70 business purposes.

71 I have also testified before a United States District Court in July 2009 and in  
72 American Arbitration Association proceedings in June 2009 and August 2007.  
73 Additionally, I have been involved in the preparation and delivery of written comments  
74 and ex partes related to several FCC proposed rulemakings during the period of 2003  
75 through 2007. These rulemakings have included wireless local number portability,  
76 virtual NXX, phantom traffic, intercarrier compensation reform and 911/E911 services  
77 for Voice over Internet Protocol (VoIP) providers.

78 **Q. What is the purpose of your testimony?**

79 A. The purpose of my testimony is to respond to parts of the testimony submitted by Sue  
80 Scott on behalf of NTS Services Corp (“NTS”).

81 **Q. How is your testimony organized?**

82 A. After concluding this Introduction, I will respond to NTS’s testimony on the following  
83 issues:

- 84 A) Handling of NTS Issues by CenturyLink Personnel
- 85 B) Circuit IDs and Trouble Reports
- 86 C) The Assignment of BANS
- 87 D) Manual vs. Electronic Ordering Charges
- 88 E) Prequalification Charges
- 89 F) Subloops
- 90 G) Tagging and Labeling Loops
- 91 H) Billing Disputes and the Dispute Portal
- 92 I) NTS Assertions Related to Service Orders
- 93 J) Unfair Marketing Practices Allegation
- 94 K) Slamming Allegation

95 CenturyLink witness John Fordham will address NTS’s complaints regarding access to  
96 collocation space, failures of back-up power and alleged slamming of customers in  
97 connection with the Crescent Street copper retirement. Mr. Fordham will also provide  
98 information regarding CenturyLink’s current practices concerning prequalification of  
99 loops, loop labeling, and notification of the resolution of trouble reports.

100 **Q. Have you been involved in the dispute resolution negotiations that NTS has had with**  
101 **CenturyLink?**

102 A. Yes, although I have not always served as the designated dispute negotiator for  
103 CenturyLink, since August 2007 I have either been involved in direct discussions with

104 NTS on its disputes or have assisted the then-designated negotiator as needed with  
105 interpretation of agreement terms, obligations of applicable law and research into asserted  
106 NTS issues.

107 **Q. Have you read the testimony of Sue Scott of NTS?**

108 A. Yes. Although NTS's complaint and testimony reads as if most complaints are still  
109 active and ongoing, this is not the case. NTS has in many cases raised issues from years  
110 ago that were previously resolved according to ICA terms such that both parties moved  
111 on without further discussion. Some of NTS's issues are old and raise issues under the  
112 Gallatin River Communications<sup>1</sup> interconnection agreement that was entered into before  
113 CenturyLink acquired Gallatin River (the "2006 ICA;" attached as CenturyLink Exhibit  
114 2.0). The 2006 ICA irrevocably terminated on November 28, 2009. Non-price issues  
115 that arose subsequent to November 28, 2009 fall under the terms of CenturyLink's  
116 template ICA (the "Template ICA," attached as CenturyLink Exhibit 3.0) that the Parties  
117 agreed would apply until they negotiated a successor agreement. CenturyLink and NTS  
118 just completed an interconnection arbitration to resolve certain pricing issues and filed  
119 the resulting ICA with the Commission for approval on August 9, 2012.<sup>2</sup> The pricing  
120 from the approved replacement ICA is subject to true-up back to December 2009.

121 Further, a word search shows that there are nineteen (19) instances in Ms. Scott's  
122 testimony where she refers to CenturyLink policies or actions using the words "suspect,"

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<sup>1</sup> The abbreviation "GRC" in this testimony is used to refer to Gallatin River in a manner that predates its acquisition by CenturyLink.

<sup>2</sup> Docket 11-0567.

123 “seem(s),” or “appear(s).” In contrast, to the fullest extent available, I support my  
124 rebuttal with written documentation that confirms the statements made in my testimony.

125 **Q. You just mentioned an older 2006 ICA and a Template ICA. Would you please**  
126 **summarize the negotiations history between the parties to put the applicability of**  
127 **the 2006 ICA and the Template ICA into context?**

128 A. In August 2006, NTS and CenturyLink’s predecessor, Gallatin River Communications,  
129 LLC, entered into the 2006 ICA. On August 28, 2008, CenturyLink sent NTS a Notice of  
130 Termination of the 2006 ICA along with an offer to continue providing services pending  
131 negotiations of a new ICA. NTS requested a copy of the CenturyLink template ICA on  
132 September 8, 2008. Kristopher Twomey introduced himself as counsel for NTS in an  
133 October 23, 2008 email.

134 During the remainder of 2008 and into 2009, the Parties negotiated the terms and  
135 conditions of an ICA but it appeared that very few issues were really in dispute and those  
136 issues were readily resolved as they were identified. CenturyLink fully expected that the  
137 Parties would be able to reach agreement on a new ICA. Pursuant to its stated terms, the  
138 2006 ICA had an irrevocable final termination date of November 28, 2009.<sup>3</sup>  
139 Accordingly, on November 25, 2009, CenturyLink sent a Notice of Final Termination to  
140 NTS. CenturyLink advised NTS that all existing services would continue to be provided

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<sup>3</sup> Section 2.3 of the Gallatin River ICA stated that if the Parties are in negotiations but have not finalized a replacement, the terminated Agreement terms will continue but shall not remain in effect for more than one year from the originally stated termination date. The concept of having an absolute final termination date for ICA terms is a standard industry practice.

141 if paid for but new orders could not be accepted unless NTS requested and agreed to  
142 interim arrangements to be effective during the negotiations for a new ICA.

143 On December 3, 2009, NTS sent a bona fide request (“BFR”) to CenturyLink to  
144 permit a continuance of interconnection services using the terms of CenturyLink’s  
145 Template ICA. The Parties agreed that the pricing from the 2006 ICA would apply,  
146 subject to true-up, until a permanent replacement ICA was reached. Pursuant to the  
147 parties’ arrangement, and the Federal Communication Commission’s § 51 rules,<sup>4</sup> the non-  
148 price terms of the Template ICA applied to both parties during the negotiations period.

149 A limited exchange of ICA redlines took place in early 2010. However, the  
150 Parties did not reach agreement during the 2010 negotiations. Throughout 2010,  
151 CenturyLink attempted to coordinate a joint meeting to discuss NTS’s redlines to the  
152 template ICA and to negotiate with NTS but NTS would not commit to meet. On  
153 December 9, 2010, Kristopher Twomey, counsel to NTS, again formally requested  
154 negotiations of the terms and conditions of an interconnection agreement between  
155 CenturyLink and NTS pursuant to §§ 251 and 252 of the Telecommunications Act of  
156 1996. In a letter dated December 21, 2010, Mr. Twomey reaffirmed NTS’s  
157 understanding that the pricing used while the template ICA was in effect would be

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<sup>4</sup> 47 C.F.R. § 51.715(c). The purpose behind § 51.715(c) is to permit a CLEC without an existing interconnection arrangement with an incumbent LEC to immediately engage in business under an interim arrangement, pending resolution of negotiation or arbitration and approval of necessary rates by a state commission under §§ 251 and 252 of the Act. The interim rates are subject to true up upon approval of the final agreement rates. NTS and CenturyLink agreed in writing to use this precedent of federal regulation in regards to all rates that were to be contained in the final agreement.

158 subject to true up consistent with the final negotiated pricing. Copies of NTS's 2009  
159 request for negotiations and both 2010 requests are attached as Exhibit 1.1.

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161 **II. REBUTTAL OF NTS's TESTIMONY**

162 **A) Handling of NTS Issues by CenturyLink Personnel**

163 **Q. Throughout her testimony, Ms. Scott refers to CenturyLink behaviors and actions**  
164 **in disparaging ways?<sup>5</sup> Are her disparaging attacks justified?**

165 A. No. I have personally been present or on the telephone numerous times when  
166 CenturyLink and NTS representatives have interacted. I have observed that  
167 CenturyLink's employees have been completely professional in those interactions and  
168 have worked diligently to resolve issues between CenturyLink and NTS.

169 Much of Ms. Scott's testimony consists of examples of errors or mistakes over a  
170 span of years, out of hundreds or thousands of transactions or interactions.  
171 Telecommunications is a very complex business. Telecom billing systems, for example,  
172 are incredibly complicated because they have to address so many variables, including  
173 many hundreds of services and service options and one time, monthly, flat-rate, and  
174 usage charge components; sometimes all within the same order. Because of such  
175 complexity, some errors and mistakes will occur. There is no way to eliminate errors and  
176 mistakes altogether.

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<sup>5</sup> Scott Direct at lines 48-52, 542-551, 685-698, 704-705, and 756-762.

177 Ms. Scott is wrong to accuse CenturyLink of anticompetitive behavior. Based on  
178 my lengthy experience in dealing with NTS, I can say without reservation that  
179 CenturyLink has not knowingly impeded NTS's efforts to compete. CenturyLink has  
180 consistently endeavored to comply with the terms and conditions of its ICAs with NTS  
181 and to correspondingly provide to NTS the service to which it is entitled under the ICAs.

182

183 **B) Circuit IDs and Trouble Reports**

184 **Q. Ms. Scott complains that CenturyLink did not convert NTS's old circuit IDs to**  
185 **CenturyLink's "new" systems. Can you explain the issue with the assignment of**  
186 **circuit IDs?**

187 A. Yes. In approximately mid-2010, CenturyLink moved to an industry-standard circuit ID  
188 format. As part of this transition, the new circuit ID format was used for circuits ordered  
189 after the change, while existing circuits continued under the prior circuit ID format until  
190 disconnection. The advantage of this approach is that CenturyLink and its CLEC  
191 customers did not have to change IDs for existing circuits, but could use industry  
192 standard IDs for new circuits. It also minimized errors that could occur in mapping old  
193 circuit IDs to new circuit IDs in various systems of both CLECs and CenturyLink.

194 **Q. Did the decision to use the new circuit IDs for circuits created after the change, and**  
195 **to continue using the old circuit IDs for existing circuits until they were**  
196 **disconnected, apply equally to all CLECs and to CenturyLink itself?**

197 A. Yes. All existing circuits, whether provisioned to any CLEC or to any other CenturyLink  
198 wholesale or retail customer, retained their original circuit IDs after the change. Only  
199 circuits ordered by CLECs and other CenturyLink customers after the implementation of  
200 the change were given IDs using the new nomenclature.

201 **Q. Did the change to an industry-standard circuit ID format cause the old Circuit ID**  
202 **numbers to be invalid in CenturyLink's systems?**

203 A. No. CenturyLink's systems recognize the old circuit IDs just as well as the new circuit  
204 IDs. The old Circuit IDs are not invalid IDs in CenturyLink's systems.

205 **Q. Did CenturyLink fail to migrate circuit IDs when converting to new systems as NTS**  
206 **alleges?<sup>6</sup>**

207 A. No. The only CLEC-affecting system migration that has taken place during the past few  
208 years has been to replace the EZ Local order entry system with the EASE system in  
209 August 2010. No circuit ID information is stored in the EASE system, however. Circuit  
210 IDs are kept in the MARTENS facility assignment system and in the Ensemble and  
211 CABS billing systems. The MARTENS, Ensemble and CABS systems have not changed  
212 in a number of years so there has been no need to migrate any circuit ID information.

213 **Q. What could cause the appearance of a circuit not being found within CenturyLink's**  
214 **systems?**

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<sup>6</sup> Id. at lines 581-583.

215 A. The MARTENS, Ensemble and CABS systems which contain circuit information are  
216 accessed via the EASE and MetaSolve order entry systems and the TRACS repair  
217 ticketing system. If the circuit IDs on orders and repair requests are correctly input using  
218 the proper format for the specific circuits at issue, those circuits will be found within the  
219 appropriate systems. If the circuit IDs are not correctly input, they will not be found.  
220 Further, as I earlier stated, CenturyLink did not change any existing circuit IDs when it  
221 elected to move to the industry standard format; the format change only applied  
222 prospectively to new circuits.

223 **Q. Did CenturyLink change any existing NTS circuit IDs or circuit ID formats?**

224 A. No. As I previously stated, all existing circuits retained their original circuit IDs after the  
225 change.

226 **Q. Does the use of the old Circuit IDs cause problems when circuit disconnect orders**  
227 **are submitted?**

228 No, the use of old Circuit IDs does not cause problems with circuit disconnect orders.  
229 CenturyLink has identified only one issue with circuit disconnects and it is a systems-  
230 related issue that impacts both CenturyLink and NTS. When a CLEC order to disconnect  
231 a circuit is submitted, EASE (or MetaSolve for CenturyLink retail orders) checks the  
232 Ensemble billing system to make sure that the Circuit ID number matches what is in the  
233 Ensemble system. If there is a difference, EASE (or MetaSolve) sends an error message.

234 Typically, the order initially errors out because a suffix of some type (a user name, for  
235 example) has been added to the Circuit ID in Ensemble.

236 **Q. How does CenturyLink enable the submission of orders that error out?**

237 A. CenturyLink has developed a prompt workaround to address this issue. In NTS's case,  
238 Ms. Scott, or one of her staff, would typically send an email to Mr. Scott Nolan, a Service  
239 Delivery Lead Analyst for CenturyLink, noting that a circuit disconnect order has errored  
240 out. Mr. Nolan can view the Circuit ID in the Ensemble billing system and resubmit the  
241 order in EASE to match with what is in Ensemble. Mr. Nolan is generally able to resolve  
242 this issue quickly and does so with NTS. (Examples provided in Exhibit 1.2.)

243 **Q. Does the use of the old Circuit IDs cause problems when NTS submits trouble**  
244 **reports?**

245 A. No. CenturyLink's systems for handling trouble reports recognize the old Circuit IDs.  
246 However, as with circuit disconnects, there may occasionally be a system issue that arises  
247 for both CenturyLink customers and CLECs that could cause a brief delay in getting a  
248 trouble ticket issued and a technician dispatched to resolve a trouble report.

249 **Q. Please describe the systems issue that arises with trouble reports?**

250 A. CenturyLink receives trouble reports for business customers, including CLECs, at two  
251 call centers that use the same toll-free number. When a business repair technician at one  
252 of these two centers receives a trouble report, the technician accesses the circuit ID in  
253 CenturyLink's TRACS trouble reporting system in order to get a trouble ticket issued.

254 TRACS checks CenturyLink's MARTENS database to determine if the Circuit ID is a  
255 valid ID. In some cases, the circuit ID does not show up in MARTENS, in which case a  
256 simple workaround is required. The business repair technician will check CenturyLink's  
257 Ensemble billing system to verify that the Circuit ID is valid and then arrange to have the  
258 Circuit ID loaded into MARTENS. A repair ticket is then generated by TRACS and a  
259 technician is dispatched. Again, this is not a problem with the old Circuit IDs. It is  
260 merely a systems issue that requires a workaround, and it impacts CenturyLink customers  
261 and CLECs alike.

262 **Q. NTS alleges that CenturyLink refuses to acknowledge trouble on its side of the**  
263 **network and that its technicians often close out repair tickets with "no trouble**  
264 **found" rather than resolve a problem.<sup>7</sup> Is this allegation true?**

265 A. No. I reviewed NTS's trouble report history that covered October 2008 through April  
266 2012. During that time frame, NTS called in 41 reports. The key to understanding the  
267 report history is a review of the identified cause column.

268 On seven occasions, no trouble was found. An analysis of these seven shows:

- 269 - One report was called in for an end user that was not served by CenturyLink  
270 facilities,
- 271 - Two reports were not repair but NTS requests to install a NID at one new  
272 location and a second drop wire at another.
- 273 - The four remaining reports were found to have good signal from the  
274 CenturyLink office to the demarcation at the customer premise

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<sup>7</sup> Id. at lines 512-524.

275           On eight occasions, the trouble was determined to be caused by end use customer  
276 or NTS actions, equipment or network. In total, more than one third (15 of 41) of NTS's  
277 trouble reports were not CenturyLink repair issues. (See the Gray highlight in Exhibit  
278 1.3.) The actual CenturyLink repair issues were primarily equipment failure or  
279 deterioration.

280           Regarding CenturyLink's responsiveness and handling of repairs, the submitted  
281 ticket was cleared the same day on 40 of the 41 reports. (See the Blue and Green  
282 highlight in Exhibit 1. 3.) On 16 of those 40 reports, CenturyLink's time to repair  
283 objective was sometime the following day (based on the type of issue or the timing of the  
284 report) yet the tickets were still cleared on the day they were reported. (See the Green  
285 highlight in Exhibit 1. 3.) On only one report was the "trouble" not cleared the same day  
286 it was called in and that occurrence was the NTS request to have a second drop wire  
287 installed.

288 **Q. On lines 525-527 of her testimony, Ms Scott accuses CenturyLink of falsifying its**  
289 **records. Does CenturyLink permit such falsification?**

290 A. No. CenturyLink does not tolerate any falsification of records by its employees. Our  
291 company Code of Conduct requires employee termination for such behavior.

292 **Q. Has NTS provided any specific evidence to support its allegation that CenturyLink**  
293 **technicians purposely falsified records?**

294 A. No.

295 **C) The Assignment of BANS**

296 **Q. Ms. Scott complains that “new orders are not being billed on the proper BAN**  
297 **["Billing Account Number"] by collocation.”<sup>8</sup> How do you respond to her**  
298 **complaint?**

299 **A.** This is an example of NTS having an unrealistic expectation concerning CenturyLink’s  
300 billing to NTS and is just one example of how CenturyLink has attempted to  
301 accommodate NTS despite no obligation to do so under the parties’ ICA. BAN’s are not  
302 developed with the intent of enabling CLECs to internally reconcile their records.  
303 CLEC’s don’t typically request specific BANS nor do ICA terms or regulations obligate  
304 CenturyLink to accommodate requests for specific BANS. BANS are established by  
305 CenturyLink (and other ILECs) for its own internal recording and tracking purposes to  
306 designate a particular carrier to whom a specific CenturyLink affiliate provides service.

307 It is my understanding that NTS desired multiple BANS because it wanted to  
308 track its charges in a particular way at CenturyLink’s expense so that NTS would not  
309 have to separate monthly charges on its individual bills. NTS sought to use BANS  
310 assigned within CenturyLink’s systems to link particular loop orders to particular  
311 CenturyLink offices at which NTS has collocated equipment. BANS do not identify  
312 specific collocation locations within CenturyLink’s systems. CenturyLink’s automated  
313 provisioning system assigns an order, based in general around product type, to any active  
314 BAN that it recognizes for a particular carrier. As a result, the assignment of a specific

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<sup>8</sup> Id. at lines 411-421.

315 order to a specific BAN (as requested by NTS) can only be accomplished through manual  
316 intervention, not electronically.

317 **Q. What has CenturyLink done to accommodate NTS?**

318 **A.** Although CenturyLink had no obligation to do so, we attempted to accommodate NTS's  
319 request and approximately thirteen BANS were created for NTS. As Ms. Scott states in  
320 her testimony, NTS periodically submits an email in which it informs Mr. Scott Nolan of  
321 the BANS that NTS wants particular orders to be billed under. Mr. Nolan takes the list  
322 submitted by NTS and manually changes the BANS within CenturyLink's Ensemble  
323 billing system so that they match what NTS claims should be the "proper" BAN based on  
324 how NTS uses particular BANS.

325 **Q. Did NTS ask for any terms in the replacement ICA that would require CenturyLink**  
326 **to accommodate NTS's use of BANS?**

327 **A.** No. Despite NTS asserting this as an issue worthy of complaint, NTS did not propose  
328 any terms for the assignment and use of BANS during negotiations for the replacement  
329 ICA that was arbitrated in Docket 11-0567. NTS's demand for CenturyLink to incur the  
330 expense to accommodate NTS's internal tracking desires has no basis in law or ICA  
331 terms. If NTS desires this type of arrangement on a regular basis, it needs to be part of  
332 the ICA and CenturyLink would need to recover either the manual labor expense or the  
333 cost to re-program its provisioning and billing systems.

334

335 **D) Manual vs. Electronic Ordering Charges**

336 **Q. Ms. Scott complains that CenturyLink has charged NTS the manual order rate even**  
337 **though NTS has submitted orders electronically.<sup>9</sup> Is her criticism valid?**

338 A. No. The rates under the 2006 ICA were in effect during the period of this dispute and the  
339 2006 ICA does not include an electronic order rate.

340 While two ICAs, the 2006 ICA and the Template ICA, were in place between the  
341 Parties during the period relevant to this dispute, the pricing to be billed was the same for  
342 the entire time period. As I stated earlier, the 2006 ICA was in effect through November,  
343 2009. The Parties subsequently agreed that the non-price terms of the Template ICA  
344 would govern the Parties' relationship beginning in December, 2009 and until a  
345 replacement for the 2006 ICA was negotiated or arbitrated. However, the Parties agreed  
346 that the pricing under the 2006 ICA would continue to be billed subject to true-up back to  
347 December 2009 once a replacement ICA was reached. (See Exhibit 1.1.) The Parties  
348 filed the replacement ICA with the Commission on August 9, 2012 in compliance with  
349 the Commission's July 12, 2012 arbitration decision in Docket 11-0567.

350 The pricing under the 2006 ICA did not distinguish between electronic and  
351 manual orders. The standard service order charge under the 2006 ICA was \$25.25. If  
352 NTS ordered a prequalification of a loop and paid the prequalification charge, the rate  
353 was to be \$15.25. However, the \$15.25 rate was not a rate for electronic orders as Ms.

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<sup>9</sup> Id. at lines 82 to 88 and 391 to 403.

354 Scott suggests. Page 2 of the Support Service Guide to the 2006 ICA is attached as  
355 Exhibit 1.4.

356 **Q. Ms. Scott also asserts that CenturyLink's billing system cannot distinguish between**  
357 **manual and electronic rates.<sup>10</sup> Is this correct?**

358 A. No. Ms. Scott is not correct. CenturyLink's billing system is capable of distinguishing  
359 between manual and electronic orders. However, NTS was demanding a rate that was  
360 not a valid electronic order rate under any CenturyLink ICA. Further, the electronic and  
361 manual order rates of the replacement ICA did not become effective until the arbitrated  
362 replacement ICA was filed and approved.

363 **Q. Did CenturyLink agree to bill NTS the rate of \$15.25 for electronic orders at any**  
364 **point in time?**

365 A. Yes. On or about July 28, 2011, in response to complaints from NTS, I agreed as an  
366 accommodation to let NTS have their requested \$15.25 rate on electronic orders  
367 submitted by NTS, subject to a true-up. There was no basis in either the 2006 ICA or the  
368 Template ICA for the \$15.25 rate to be applied to electronic orders. However, knowing  
369 that the electronic order rate would be subject to true up upon approval of the  
370 replacement ICA, I saw no harm in agreeing to use \$15.25 as an electronic order rate for  
371 the prospective interim period. (See Exhibit 1.5 for internal email discussion that took  
372 place before I verbally gave the approval to proceed).

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<sup>10</sup> Id. at lines 84-85.

373 **Q. Does NTS claim that CenturyLink “incorrectly” billed NTS the \$25.25 rate**  
374 **subsequent to July, 2011?**

375 A. No. Both NTS’s amended complaint and Ms. Scott’s testimony on this issue fail to  
376 specify the time period involved.<sup>11</sup> The only specific bill referenced in her testimony was  
377 the July, 2011 bill which predates my agreement to apply an interim \$15.25 electronic  
378 order rate, subject to true-up. However, as I state above, \$15.25 was not a valid  
379 electronic order rate established within CenturyLink’s billing systems. Accordingly, all  
380 adjustments of the interim \$25.25 rate from the 2006 ICA to the temporary \$15.25  
381 goodwill rate had to be accomplished through manual intervention and CenturyLink  
382 billing personnel would not receive any automatic notification when NTS submitted an  
383 electronic order.

384

385 **E) Prequalification Charges**

386 **Q. In her testimony, Ms. Scott says NTS and CenturyLink reached an agreement at the**  
387 **November 19, 2009 meeting at the Illinois Commerce Commission (“ICC”) to**  
388 **refund the prequalification charges assessed by CenturyLink during the time period**  
389 **that MapQuest was used to provide loop lengths<sup>12</sup> and that there were no conditions**  
390 **to the refund.<sup>13</sup> Is this correct?**

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<sup>11</sup> Id., at lines 82 to 88.

<sup>12</sup> Id. at lines 105-109 and at 230-231.

<sup>13</sup> Id. at lines 236-238.

391 A. No. I attended that meeting by telephone. Ty Lemaster, then CenturyLink's General  
392 Manager for Illinois, who attended in person, only agreed to refund prequalification  
393 charges for those situations where NTS could provide proof of harm, specifically, any  
394 instances where CenturyLink provided inaccurate service limit information that caused  
395 NTS to delay its installation of the customer's service because NTS was thereby required  
396 to resolve associated technical issues. A critical component of this refund commitment  
397 was the requirement that NTS provide notice of the specific orders (i.e., customers) that it  
398 claimed were affected by delay to permit CenturyLink to investigate and validate NTS's  
399 claims. This agreement (and the requirement for NTS to provide specific order  
400 information) was reconfirmed to NTS in a January 26, 2010 email to Scott Luft from  
401 Matt Green (attached as Exhibit 1.6) and again in an April 9, 2010 email to Ms. Scott  
402 from Mr. Green (attached as Exhibit 1.7). Matt Green was CenturyLink's Account  
403 Manager for NTS until he transitioned to a new position in the summer of 2011. It  
404 should be noted that Ms. Scott incorrectly changes the delay of service condition  
405 established by Mr. Lemaster from NTS installation of customer service to CenturyLink  
406 provision of service to NTS.<sup>14</sup>

407 **Q. Has NTS provided any evidence of a CenturyLink offer to unconditionally refund**  
408 **the prequalification charges?**

409 A. No. NTS has not provided any evidence of CenturyLink offering refunds much less  
410 unconditional ones. In fact, NTS's own notes for the November 19 meeting do not

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<sup>14</sup> Id. at lines 242-259

411 document any discussion regarding refunds in regards to the prequalification issue.  
412 (Attached as Exhibit 1.8.)

413 **Q. On lines 144 to 153 of her testimony, Ms. Scott discusses one example of a delay**  
414 **allegedly caused by a difference in CenturyLink’s provided loop length and the**  
415 **asserted actual loop length. Did NTS submit any individual inaccurate service limit**  
416 **claims after the November 2009 meeting for the purpose of obtaining the offered**  
417 **refunds?**

418 A. Yes. A list of past orders alleged by NTS to have been affected was investigated by  
419 CenturyLink in early 2010. I was not involved in any review of the actual claims  
420 submitted by NTS in early 2010, but I was provided the outcome at the conclusion of the  
421 validation research. The loop length information provided by CenturyLink for all the  
422 orders alleged to have been affected was found to be within accurate service limits and  
423 thus not subject to crediting.

424 Further, the “MapQuest refund” offer referred to by Ms. Scott was only for orders  
425 submitted by NTS during the time CenturyLink actually used MapQuest. CenturyLink  
426 used MapQuest for prequalification for approximately three months during the Spring of  
427 2009 and not for a two-year period as asserted by NTS.<sup>15</sup> I reviewed NTS’s Responses  
428 11 and 12 to CenturyLink’s Document Production Request for this proceeding and note  
429 that NTS’s document shows twelve (12) claims for monthly billing of prequalification  
430 charges were submitted for “MapQuest” refunds on March 17, 2010. (Attached as

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<sup>15</sup> Id. at lines 233-234.

431 Exhibit 1.9.) Only three (3) of those claims were for billed prequalification orders that  
432 were submitted during the time when CenturyLink was using MapQuest. Even if NTS  
433 was correct in its asserted claims, which it was not, this NTS document reduces NTS's  
434 possible claims to three (3) instances of monthly billing, not twelve.

435 Regarding the asserted example that Ms. Scott includes in her testimony, if that  
436 example has been accurately related and if it fell within the three months in 2009 that  
437 MapQuest was actually used, I believe CenturyLink would have provided a refund for  
438 this one example had it received documentation from NTS that validated the provision of  
439 inaccurate information to NTS and the associated delay of service installation. If this  
440 example took place outside of the "MapQuest time frame," it would have been handled  
441 according to normal dispute processes.

442 **Q. Did NTS ever attempt to refute Mr. Green's confirmation of the actual offered**  
443 **refund conditions?**

444 Q. Mr. Green had a computer hard drive failure in the Fall of 2010 and lost his then-existing  
445 NTS files. There are no emails in my retained files that show NTS ever questioned  
446 CenturyLink's refund offer and associated validation condition until the complaint it filed  
447 for this proceeding. NTS sent a letter to CenturyLink on December 12, 2011 that  
448 threatened a complaint filing. In the attached complaint draft, however, NTS only states  
449 that CenturyLink "refused to refund the pre-qualification fees it charged for this [alleged]  
450 "non-service." NTS used this same language in the complaint that it actually did file on

451 February 15, 2012. NTS did not claim that CenturyLink offered “unconditional refunds  
452 of loop prequalification charges” until the complaint filed to initiate this proceeding.<sup>16</sup>

453 **Q. What arrangements did you have with Mr. Green regarding the handling of NTS**  
454 **complaints?**

455 A. By mutual agreement, Mr. Green brought *all* NTS complaints, disputes and issues to my  
456 attention. In many cases, I provided advice to Mr. Green on his response or actions to  
457 ensure that we were treating NTS in full compliance with ICA terms and applicable law;  
458 if not going above and beyond those obligations in an attempt to avoid further asserted  
459 issues from NTS.

460 **Q. Did the 2006 ICA expressly require physical inspection of network records to**  
461 **determine loop lengths?**

462 A. No. There are no terms that specify what method must be used to determine loop lengths.  
463 By its silence on that subject, the ICA leaves the method used to CenturyLink’s  
464 discretion.

465 **Q. You earlier mentioned that CenturyLink only used MapQuest for approximately**  
466 **three months during the Spring of 2009? How do you know this?**

467 A. The use of MapQuest for prequalification was done at the direction of one specific  
468 CenturyLink Area Plant Supervisor (“APS”) who had responsibility for the Pekin area. I  
469 have confirmed that this APS was assigned to Pekin on an interim basis effective March

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<sup>16</sup> Id. at lines 236-238.

470 13, 2009. CenturyLink's records further confirm that the new permanent APS for Pekin  
471 was hired on June 15, 2009 and the interim APS retired in July. The new APS eliminated  
472 the use of MapQuest for prequalification process shortly after being hired.

473 **Q. When did NTS first bring the MapQuest issue to CenturyLink's attention?**

474 A. NTS first mentioned CenturyLink's use of MapQuest in an email from Scott Luft to Matt  
475 Green on October 2, 2009.

476 **Q. Ms. Scott also claims that NTS disputed the prequalification charges.<sup>17</sup> Does  
477 CenturyLink have any records of such disputes?**

478 A. I found only one specific NTS claim of an issue associated with MapQuest and that claim  
479 was in the October 2, 2009 email from Scott Luft which was not submitted via the  
480 dispute process as set forth in the 2006 ICA terms. In that email, Mr. Luft states an intent  
481 to dispute all prequalification charges assessed over the prior twelve month time period.  
482 NTS did not follow up to submit actual disputes by individual order with details as to  
483 what was incorrect. As Mr. Green's October 6, 2009 response email to Mr. Luft  
484 explains, pursuant to the 2006 ICA dispute terms, CenturyLink needed confirmation from  
485 NTS on exactly what was being disputed and why. (See Exhibit 1.10.)

486 Further, I reviewed a November 19, 2009 spreadsheet that contained all of NTS's  
487 disputes for 2009 up to that date. (November 19 was the day of the joint meeting with  
488 the ICC.) There were no NTS prequalification disputes for incorrect loop length

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<sup>17</sup> Id. at lines 273-274.

489 provided or for claimed use of MapQuest to obtain loop length. NTS did not assert any  
490 loop length “complaints” until after it learned about the use of MapQuest on September  
491 30, 2009.

492 The only other evidence that I have found of any “dispute” in regards to  
493 MapQuest is the written reference to a November 12, 2009 call between Ms. Scott and  
494 Matt Green (attached as Exhibit 1.10), and NTS’s verbal assertions during the November  
495 19 meeting. None of these occurrences follow the dispute process as set forth in the ICA.  
496 The claims that were submitted by NTS in early 2010, and that were found to contain  
497 loop length information within accurate service limits, were made pursuant to the offered  
498 refund conditions and are not disputes that were made under the Template ICA dispute  
499 terms and conditions.

500 I would also like to comment on the email that Ms. Scott sent on March 17, 2010  
501 (attached as Exhibit 1.9) which identified the NTS claims for refund. Ms. Scott does not  
502 actually state that NTS had any service installation issues with CenturyLink’s provided  
503 loop lengths on the twelve listed monthly billing claims. She merely stated that NTS is  
504 submitting disputes for prequalification orders that were submitted for a year prior to  
505 finding out MapQuest had been used.

506 **Q. Ms. Scott claims that CenturyLink refused to go back to a non-MapQuest method**  
507 **after NTS complained<sup>18</sup> and that CenturyLink only stopped using MapQuest after**  
508 **the November 19, 2009 meeting with the ICC.<sup>19</sup> Is this true?**

509 A. No. NTS first mentioned an intent to dispute the use of MapQuest on October 2, 2009.  
510 Further, Mr. Green sent an internal email on November 12, 2009 wherein he states he had  
511 just confirmed to Ms. Scott by telephone that CenturyLink had already stopped using  
512 MapQuest (attached as Exhibit 1.10). This November 12 call with Ms. Scott was  
513 certainly before the November 19 meeting. CenturyLink General Manager Ty Lemaster  
514 also confirmed at the November 19, 2009 meeting that CenturyLink had already stopped  
515 using MapQuest for prequalification. Contrary to its current assertion, NTS's own notes  
516 from this meeting confirm CenturyLink's cessation of the use of MapQuest. (See Exhibit  
517 1.8, bullet 11.) The actual cessation date was in late June 2009.

518 **Q. Did CenturyLink agree in the November 19 meeting that it had an obligation to**  
519 **inform NTS if it changed its internal processes?<sup>20</sup>**

520 A. Not that I recall. There was no requirement to do so in the ICA or in applicable law so  
521 there was no reason why CenturyLink would ever agree that this was an obligation.

522 **Q. Given the documented facts of this issue, what is it really worth to NTS on a net**  
523 **basis?**

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<sup>18</sup> Id. at lines 175-181.

<sup>19</sup> Id. at lines 183-190.

<sup>20</sup> Id. at lines 198-202.

524 A. If NTS had not submitted and paid for prequalification orders then NTS would have had  
525 to pay the standard service order rate for its loop orders. It is not clear in Ms. Scott's  
526 March 17, 2009 email if the monthly amounts shown are only for billed prequalification  
527 orders or if they also include the associated service order charges. If the amounts do  
528 equate only to billed prequalification orders, for the three monthly bills that cover when  
529 MapQuest was used, there would be 98 prequalification charges. The difference between  
530 the combined prequalification and subsequent service order rates and the standard service  
531 order rate comes to \$5.25 for each occurrence or \$514.50 for 98 orders. If the listed  
532 monthly amounts cover prequalification order amounts plus associated service order  
533 charges (and possibly standard service order charges), the difference would be something  
534 much less. Of course, subsequent investigation showed that none of these claims met the  
535 offered refund standard.

536 To summarize the documented facts that pertain to this issue:

- 537 - CenturyLink did not use MapQuest for prequalification for two years; it did so for  
538 approximately three months in 2009,
- 539 - CenturyLink did not "finally stop" using MapQuest after the November 19, 2009  
540 meeting; CenturyLink stopped using MapQuest in June 2009, approximately three  
541 months before NTS even learned that MapQuest had been used,
- 542 - NTS submitted no prequalification loop length disputes until after it learned about  
543 MapQuest,

- 544 - The specific prequalification orders submitted by NTS and investigated by  
545 CenturyLink were found to be within accurate service limits, and
- 546 - CenturyLink has been handing NTS's prequalification orders via an "acceptable"  
547 method since June 2009; five months before the November 19, 2009 ICC  
548 meeting.

549

550 **F) Subloops**

551 **Q. What is the dispute concerning subloops?**

552 A. NTS claims that under the 2006 ICA, it was only required to pay an \$8.96 subloop rate  
553 for loops that run from a remote central office to a customer premise. CenturyLink  
554 maintains that the transmission path from a remote central office to a customer premise is  
555 a loop, not a subloop, and therefore the \$17.93 rate in the 2006 ICA applied while the  
556 2006 ICA was in effect.

557 **Q. How does the 2006 ICA define loops and subloops?**

558 A. Loops and subloops, including the three types of subloops, are defined terms in the 2006  
559 ICA and as such, those definitions were controlling for ordering and pricing purposes. In  
560 Section 3.1 of the ICA a loop is defined as "a transmission path between the main  
561 distribution frame [cross-connect], or its equivalent, in a Gallatin Central Office or wire  
562 center, and up to the Network Interface Device at the customer's premises,..." Section  
563 3.2 confirms that a remote switch has a main distribution frame ("MDF"). Section 3.2

564 also defines a subloop as “any portion of the Local loop [sic] that is technically feasible  
565 to access at the terminals (access terminals) in GALLATIN’s [sic] outside plant...”  
566 Sections 3.2.1 and 3.2.2 respectively further define subloops as Feeder Subloops,  
567 Distribution Subloops or Drop Subloops. A Feeder Subloop extends from the MDF to a  
568 feeder distribution box or equivalent. A Distribution Subloop extends from the feeder  
569 distribution box or equivalent to the demarcation at the customer premises. Neither  
570 controlling subloop definition covers the entire facility from the remote switch MDF to  
571 the customer premises; which is the facility NTS now claims is a subloop. All of the loop  
572 and subloop definitions in the ICA comport with those found in applicable law.<sup>21</sup>

573 The \$8.96 price desired by NTS is found on page 12 of the Gallatin River/CLEC  
574 Support Service Guide in reference to CLECs with collocations at a remote office. By  
575 controlling definition, this rate in this one context applies to a Feeder Subloop only.  
576 Attachment 7 of the ICA is worded in such a manner as to make it clear that GRC  
577 intended a Distribution Subloop to also be available for the \$8.96 price.

578 **Q. Ms. Scott claims that the only requirement to get the subloop price was to have**  
579 **leased transport between the host and remote.<sup>22</sup> Is this correct?**

580 A. No. Any such “requirement” would be set forth in the ICA or a written amendment to the  
581 ICA. There are no terms that establish such a requirement. I would further note that  
582 “leased transport” between the host and remote switches is exactly what is specified in  
583 the FCC’s definition of an Enhanced Extended Link (“EEL”). FCC Rule 47 CFR § 51.5

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<sup>21</sup> See for example 47 CFR § 51.319.

<sup>22</sup> Scott Direct at lines 207-209.

584 defines an EEL as “a combination of an unbundled loop and unbundled dedicated  
585 transport, together with any facilities, equipment, or functions necessary to combine those  
586 network elements.” The interoffice transport facility may be of the same capacity as the  
587 loop or it may be of a higher capacity to serve the aggregation of multiple loops from the  
588 second switch. The 2006 ICA does not include EEL terms but it has terms based upon  
589 this concept. I have never encountered an ICA with terms that define the entire facility  
590 between a remote office and the end user premises as a subloop. However, even if NTS  
591 obtained an EEL it would not receive a “subloop” rate for the unbundled loop portion of  
592 the facility.

593 **Q. Is it possible for NTS to receive a service or a rate that is not supported by the**  
594 **written ICA terms?**

595 A. Setting aside any tariffed services and given that the written ICA terms include all valid  
596 amendments, no. Section 1.4 of the General Terms and Conditions specifies that ICA  
597 terms may not be waived or modified except by a signed written document. I reviewed  
598 this ICA not only as provided to CenturyLink by Madison River Communications during  
599 the acquisition of that company (Madison River was GRC’s former corporate owner) but  
600 I also reviewed this ICA and all associated official NTS files in Spring 2007 at Madison  
601 River’s headquarters location in Mebane, NC. One of the purposes for that trip was to  
602 ensure that I knew of any issues or written commitments to the CLECs that were not self-  
603 evident in the ICA documents that had previously been sent to me. No revision of this  
604 ICA was made by Madison River or subsequently by CenturyLink.

605 **Q. When did CenturyLink correct the NTS billing from subloops to loops?**

606 A. Matt Green brought the NTS subloop issue to my attention during the summer of 2009.  
607 Together we researched the ICA terms and NTS's billed services. Mr. Green presented  
608 the findings to NTS in late July. He then confirmed the pricing change to comply with the  
609 ICA terms to NTS on August 18, 2009. Although CenturyLink could have backbilled the  
610 full loop rate for the time period allowed by Illinois rules, I made the decision to only  
611 apply it prospectively as a gesture of good will.

612 **Q. Was this loop and subloop presentation shared with anyone other than NTS?**

613 A. Yes. Because we anticipated NTS's reaction to the news, we believed it was appropriate  
614 to inform the ICC Staff of the issue and our impending billing correction. We wanted to  
615 be sure that any concerns or questions the ICC might have were addressed before any  
616 billing change was made. Mr. Green and I discussed the issue and the relevant ICA terms  
617 with David Rudd, CenturyLink's former state government relations manager for Illinois  
618 on July 15, 2009. Mr. Rudd apprised members of the ICC Staff of the issue during the  
619 latter half of July 2009.<sup>23</sup>

620 **Q. Was the subloop issue discussed at the November 19, 2009 meeting with the ICC?**

621 A. Yes. After NTS raised its complaint, CenturyLink provided its position based on the  
622 actual definitions and terms of the 2006 ICA. After CenturyLink General Manager Ty  
623 Lemaster concluded his presentation and associated whiteboard diagramming, ICC Staff

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<sup>23</sup> Mr. Rudd retired in June 2011 and tragically died just a few days later. His archived calendar was not available for me to confirm an exact date.

624 member Bud Green said that the ICA language was very clear and that it supported  
625 CenturyLink's interpretation.<sup>24</sup> My recollection of Mr. Bud Green's comment is  
626 confirmed by NTS's own notes from this meeting. (See Exhibit 1.8, bullet 13.)  
627 Subsequent to Mr. Bud Green's comment, CenturyLink again sustained its ability to  
628 charge for a full loop pursuant to ICA terms and did so with the Staff as witnesses.

629 **Q. Should loop vs. subloop pricing still be an issue of concern for NTS?**

630 A. No. CenturyLink changed NTS's billing to comply with the 2006 ICA terms in August  
631 2009. The 2006 ICA irrevocably terminated in November 2009. In December 2009,  
632 NTS began operating under the terms and definitions of the Template ICA. The now  
633 approved replacement ICA contains new language that clarifies loops and subloops and  
634 also includes EEL terms. NTS's pricing for billed services since December 2009 is  
635 subject to true-up under the pricing terms of the replacement ICA. NTS has no valid  
636 basis for any allegation or complaint on this issue.

637

638 **G) Tagging and Labeling at the MPOE**

639 **Q. At line 285 of her testimony, Ms. Scott begins a complaint regarding CenturyLink's**  
640 **failure to label loops at the minimum point of entry ("MPOE"). Is her complaint**  
641 **legitimate?**

642 A. No. First, neither the 2006 ICA nor the Template ICA that NTS operated under since  
643 December 2009 required CenturyLink to proactively tag and label lines (or loops), and to

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<sup>24</sup> If necessary, Mr. Lemaster can also confirm Mr. Green's statement via affidavit.

644 do so at no charge. Furthermore, CenturyLink is not aware of any statute, regulation, or  
645 rule requiring CenturyLink to tag and label lines (or loops), including those terminating  
646 in a multi-unit premises. NTS is demanding an obligation from CenturyLink that does  
647 not exist in ICA terms or in applicable law. Because of NTS's asserted demand,  
648 however, CenturyLink developed tagging and labeling terms for the replacement ICA and  
649 NTS accepted those terms in negotiations. These terms are found in the ICA that the  
650 Parties have submitted to the Commission for approval.

651 Second, the tagging and labeling that NTS demanded in the past was always in  
652 regards to the Network Interface Device ("NID") and not in regards to a "pedestal." In  
653 Exhibit D of NTS's Amended Complaint, for example, the picture provided by NTS is  
654 clearly a NID and is even labeled by NTS as such in the photograph file name.

655 In her testimony, Ms. Scott has modified the NTS claim by referring to labeling at  
656 CenturyLink pedestals instead of NIDs. This is a new complaint that has never before  
657 been voiced to CenturyLink. In addition, at line 288 of Ms. Scott's testimony she also  
658 incorrectly implies that a pedestal can be an MPOE. The MPOE is at the NID or  
659 otherwise where the wiring enters the premises.

660 I believe there may be another area of confusion here. Ms. Scott refers to lines  
661 that enter a "complex" but does not define such.<sup>25</sup> A "complex" by definition under 47  
662 CFR § 68.105 would be a premises with multiple tenants. For a multi-tenant premises,  
663 the CenturyLink drop wires leave the closest distribution terminal and are attached to

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<sup>25</sup> Scot Direct at lines 290-292.

664 either an external multi-line NID or to an internal cross-connect panel. A cross-connect  
665 panel is contemplated within the definition of a NID under applicable law<sup>26</sup> and any  
666 agreed upon tagging and labeling would take place at that point and not at the pedestal.

667 **Q. NTS's testimony addresses this matter as if CenturyLink should automatically tag**  
668 **and label loops anytime NTS places a loop order. Does such an obligation exist?**

669 A. No. There is no requirement to tag and label loops in applicable law and no obligation to  
670 do so under the expired 2006 ICA or under the Template ICA. As I mentioned earlier,  
671 terms have been written into the new replacement ICA that allow NTS to request tagging  
672 and labeling. If NTS makes such a request, CenturyLink will perform the work and  
673 charge NTS for that work pursuant to ICA terms. NTS accepted these terms in ICA  
674 negotiations so these terms were not an arbitrated issue. In sum, NTS has no basis for  
675 this complaint.

676

677 **H) Billing Disputes and the Dispute Portal**

678 **Q. What is the nature of NTS's claims regarding billing disputes as set forth in its**  
679 **complaint and Ms. Scott's Testimony?**

680 A: NTS and Ms. Scott complain about a limited number of isolated billing disputes and  
681 CenturyLink's process for handling disputes. However, nowhere in Ms. Scott's testimony  
682 does she provide any evidence that CenturyLink has violated the applicable ICA or

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<sup>26</sup> See for example 47 CFR § 51.319 (c).

683 engaged in anti-competitive behavior. CenturyLink's processes for handling billing  
684 disputes is consistent with its Commission-approved ICA and standard industry practices.

685 **Q. What is the process for submitting disputes under the Template ICA between the**  
686 **Parties?**

687 A. The process for CLECs such as NTS to follow for submitting disputes is set forth in  
688 Section 9.4 of the Template ICA. Section 9.4 states that NTS must provide a written  
689 notice to CenturyLink of the amounts that it disputes and include the “specific details and  
690 reasons for disputing each item.” It further states that “[S]uch written notice shall be  
691 submitted in accordance with the guidelines for submitting billing dispute claims set forth  
692 in CenturyLink’s Service Guide.” Section 9.4 also requires that the dispute be submitted  
693 before the Bill Due Date if the CLEC intends to withhold payment.

694 **Q. What is the process for handling disputes that CenturyLink follows once it receives**  
695 **a dispute from a CLEC?**

696 A. Disputes are to be sent to the Dispute Team within CenturyLink’s Wholesale Billing and  
697 Collection department. Once the Dispute Team receives a dispute, it is assigned to a  
698 Dispute Analyst to review and to determine if CenturyLink has received enough  
699 information to be able to evaluate the dispute. If more information is required,  
700 CenturyLink will send the disputing party a request for additional information or for  
701 resubmission of the dispute. If the information received is adequate, the dispute is  
702 entered into CenturyLink’s dispute database and an automatic acknowledgement is sent

703 to the CLEC, notifying it that the dispute has been received and providing contact  
704 information that the CLEC can use to follow up on the dispute. Early this year,  
705 CenturyLink also began sending a second, more specific acknowledgement that provides  
706 among other things a claim number that the CLEC can use to identify the dispute.

707 **Q. What happens after the Dispute Analyst has reviewed the dispute?**

708 A. If the Analyst determines that the dispute should be denied, CenturyLink provides a  
709 notice to the CLEC that the dispute is being denied and an explanation for the denial of  
710 the dispute. If the Analyst determines that the CLEC is entitled to a credit, a notice is  
711 sent that identifies how much of a credit is to be given and the credit is in turn processed.

712 **Q. What is the status of CenturyLink's dispute resolution portal?**

713 A. Prior to February 2012, there were two alternative ways to submit a dispute. A CLEC  
714 could send an email to the Wholesale Dispute Team mailbox, or alternatively, could post  
715 a dispute to CenturyLink dispute portal. In February 2012, CenturyLink discontinued the  
716 dispute portal and opted to go to a single process for submitting disputes.

717 **Q. Is there any requirement in either the 2006 ICA or the Template ICA that requires**  
718 **CenturyLink to maintain the dispute portal that existed before February, 2012?**

719 A. No. There is no such requirement. Although Ms. Scott now complains about  
720 CenturyLink's cessation of the Dispute Portal,<sup>27</sup> I am aware that NTS also complained  
721 about having to use the Dispute Portal when it was first instituted. Mr. Lemaster and Mr.

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<sup>27</sup> Scott Direct at lines 433 to 443.

722 Green both stated to me in mid-2008 that NTS preferred walking across the street  
723 (literally) to bring its disputes to CenturyLink's attention. However, as I have just  
724 testified, CenturyLink's dispute resolution process is consistent with the parties' ICA, is  
725 clearly reasonable, and NTS's complaint about discontinuance of the Dispute Portal has  
726 no merit.

727 **Q. In her testimony, Ms. Scott gives an example of a billing dispute involving a T-1 line**  
728 **for NTS's collocation in North Pekin, Illinois.<sup>28</sup> Have you investigated this dispute,**  
729 **and if so, what did you find?**

730 A. Yes, I investigated this dispute by reviewing documents maintained by CenturyLink in  
731 the ordinary course of its business and by talking with individuals at CenturyLink with  
732 knowledge concerning this dispute. This was a dispute concerning the pricing for a T-1  
733 line. Historically, NTS has not ordered very many T-1 lines and when NTS ordered this  
734 particular T-1 line, it submitted the order on an Access Service Request ("ASR") form.  
735 ASRs are used to submit orders for tariffed access services. By submitting the order in  
736 this way, NTS placed the order into the Carrier Access Billing System ("CABS").  
737 Because the CABS billing system is used for tariffed products instead of ICA services, it  
738 has different rates programmed into it. As a result, NTS was charged at access rates for a  
739 period of time. It is my understanding that for at least part of that time, NTS withheld  
740 payment because it did not intend to order an access service.

741 **Q. Did NTS submit a dispute on the charges for the T-1 line?**

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<sup>28</sup> Id. at lines 343-367.

742 A. Yes, although multiple submissions were made that were confusing and not clearly  
743 consolidated as a single issue. I investigated and found that NTS first submitted this  
744 dispute on December 22, 2011. NTS also submitted the same dispute through Matt  
745 Green in mid-January 2012. Mr. Green was not made aware of the earlier submitted  
746 dispute.

747 The December 22 dispute was denied on February 6, 2012. NTS submitted this  
748 dispute in a batch with a large number of other items. Because all of the other disputed  
749 items were submitted with the same explanation, the Dispute Analyst missed the unique  
750 reason associated with this one item in NTS's dispute submission. The outcome was that  
751 we denied credit in error.

752 To clarify what happened, Dispute 3535 was submitted via the dispute portal with  
753 a total of sixteen lines. Fifteen lines included the same dispute verbiage: "Charges are  
754 billed on wrong BAN please move to BAN 304078513." The following verbiage was  
755 also contained in the submission but overlooked: "We are being doubled billed on this  
756 DS1, we are paying monthly charges on CABS billing 1057NTSS3." The Dispute  
757 Analyst determined that correcting orders to move the specified lines from one BAN to  
758 another were already in progress. This information regarding the BAN reassignment was  
759 communicated in the resolution and the dispute was denied.

760 As mentioned, NTS also notified Matt Green of the overcharge in January, prior  
761 to its receipt of the February 6 denial. After being contacted by NTS, Mr. Green  
762 arranged to have the T-1 circuit established in the Ensemble billing system so that the

763 correct rates would be charged to NTS. He later submitted a bill dispute on NTS's behalf  
764 to the Dispute Resolution Center dated January 18, 2012 in which he informed the Center  
765 that NTS had been billed at access rates rather than the rates provided for in the 2006  
766 ICA, and in which he requested a credit to be issued to NTS. However, it was not clear  
767 in the dispute notification that NTS had been double billed. As a result, the credit  
768 initially calculated by the Dispute Analyst did not reflect that NTS had been billed for a  
769 short period of time under both the CABS and Ensemble systems for the same T-1 line.  
770 Initial resolution was sent to NTS on January 23, 2012 giving a net credit of \$53.88 for  
771 the difference between the tariff rate and ICA. The net result of these two dispute  
772 submissions is that NTS did receive a credit but not as much as it should have received.

773 **Q. Did NTS dispute the insufficiency of the credit through CenturyLink's dispute**  
774 **submission process?**

775 A. No, although that action would have properly resolved the issue, we have no record of  
776 any such dispute submitted by NTS. As best as I have been able to determine, the first  
777 time the Wholesale Dispute Team became aware that NTS had been double billed was  
778 when Priscilla Coffey, a Supervisor in the Center, reviewed a copy of Ms. Scott's  
779 testimony on this billing issue. At my request, Ms. Coffey checked to verify whether  
780 NTS had been billed under both CABS and Ensemble. She determined that NTS had in  
781 fact been billed under both systems for a short period of time and, in turn, processed an  
782 additional credit of \$675.74 to NTS on this issue. This credit appeared on the August 13,  
783 2012 invoice of BAN 304071228.

784 **Q. Ms. Scott also claims that NTS submitted a dispute concerning interconnection**  
785 **trunks to CenturyLink.<sup>29</sup> Have you investigated whether CenturyLink received**  
786 **such a dispute?**

787 A. Yes. CenturyLink has twice reviewed both the current dispute database and the historical  
788 dispute database that preceded it. We have found no indication that there was a dispute  
789 submitted for interconnection trunks. Unfortunately, Ms. Scott provides no circuit  
790 identification or other identifying information that could be used in a more specific  
791 search of these databases.

792 **Q. Did you do any general investigation of the billing disputes that have been submitted**  
793 **by NTS?**

794 A. Yes. I reviewed a report and analysis of all of the disputes submitted by NTS between  
795 August 26, 2010 and April 13, 2012. (Report and analysis summary attached as Exhibit  
796 1.11.) There is no significance to this time period other than it was easy to retrieve the  
797 more current data rather than pull archival history information, and enough time has  
798 passed since April for these disputes to be considered closed (vs. open to re-dispute). As  
799 I earlier mentioned, I also have a dispute spreadsheet from November 19, 2009 but I saw  
800 no need to try to merge unconnected reports in significantly differing formats when a  
801 recent 20 month history is sufficient for a reasonable understanding of NTS's asserted  
802 disputes.

803 **Q. What did you determine from the analysis of the dispute report?**

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<sup>29</sup> Id. at lines 405-410.

804 A. During the identified time period, NTS submitted 256 disputes; inclusive of 80 re-  
805 disputed claims. 85 of the asserted disputes pertain to the manual vs. electronic service  
806 order issue that I discussed earlier and 12 disputes pertain to NTS's claim that the charges  
807 were billed on the "wrong" BAN. Elsewhere in my testimony I discuss in detail the lack  
808 of validity of these disputes so these 97 submissions must be removed from any  
809 consideration of valid NTS disputes. Further, NTS submitted 38 re-disputes with no  
810 associated re-disputed dollars. It is likely that NTS submitted these re-disputes in error,  
811 but without any disputed amounts, these 38 also cannot be considered valid disputes.  
812 Taking into account the disputes that do not qualify as valid, there are 121 combined  
813 initial and resubmitted disputes that NTS made for alleged valid reasons during this 20  
814 month period. Of these 121 disputes and re-disputes, only 67 resulted in the application  
815 of valid credits to NTS.

816 **Q. Why did CenturyLink give NTS any credits on re-disputes that were denied on**  
817 **initial disputes?**

818 A. In all cases, the crediting of a re-dispute was the result of new information that was not  
819 available during the first investigation. Sometimes CenturyLink found new information  
820 internally based on the updated claim from NTS; sometimes CenturyLink received new  
821 information from NTS in the re-dispute that was not initially provided for consideration.

822 **Q. Can you summarize the analysis of this 20 month dispute history?**

823 A. Yes. The number of submitted NTS disputes and disputed amounts compared to valid  
824 disputes and credits issued is as follows:

- 825 • Total number of disputes submitted: 256
- 826 • Disputes made for invalid reasons: 135 (53%)  
827 85 “manual vs. electronic” service order disputes  
828 38 re-disputed in error (no associated billed amounts)  
829 12 “wrong BAN” disputes
- 830 • Disputes made for alleged valid reasons: 121 (47%)
- 831 • Disputes denied as not valid after investigation: 54 (21%)
- 832 • Disputes determined to be valid after investigation: 67 (26%)
- 833 • Total amount disputed: \$10,224.51
- 834 • Disputed amount after discounting invalid electronic service order disputes:  
835 \$9,217.83
- 836 • Total credit given; inclusive of goodwill credit for invalid disputes: \$3,704.90
- 837 • Credit given for valid disputes: \$2,815.19

838

839 In summation, 189 of the 256 disputes submitted (3/4) were determined to have  
840 no valid reason to issue the claimed credit to NTS. \$2,815.19 of the claimed \$10,224.51  
841 was credited after the disputes were validated by research. An additional \$889.71 in  
842 credit was given for goodwill purposes. To put the disputes and adjustments into  
843 perspective, after the application of credits, NTS was billed approximately \$269,081 for  
844 all ICA services during this 20 month period. The total amount of claimed credits that  
845 were validated was therefore approximately 1% of the billed ICA revenue.

846

847 **I) NTS Assertions Related to Service Orders**

848 **Q. Beginning at line 445, Ms. Scott complains about CenturyLink’s policy of validating**  
849 **exact name and address on NTS’s submitted orders, and rejecting those that do not**  
850 **match. Is Ms. Scott correctly relating a CenturyLink practice?**

851 A. No. I can only address the NTS assertions by stating that there are differing current and  
852 historical rules for order validation. Under the current rules, NTS’s assertions regarding  
853 CenturyLink’s procedures are false.

854 Verification for porting (“LNP”) orders was addressed in an FCC Order that took  
855 effect on February 8, 2008.<sup>30</sup> So for the last four and a half years, CenturyLink has  
856 validated simple LNP orders on no more than the four criteria specified by the FCC- 1)  
857 10-digit telephone number; 2) customer account number; 3) 5-digit zip code; and 4) pass  
858 code, if applicable. For orders other than simple LNP, CenturyLink stopped validating  
859 the customer name in mid-2010.<sup>31</sup> When a non-simple LNP service conversion order  
860 (such as resale, disconnect or conversion of working service to a UNE loop) is submitted,  
861 CenturyLink’s automated order system only ensures that the order contains a valid  
862 address. If the order “falls out” of automated processing for any reason, it is reviewed

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<sup>30</sup> Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, In the Matter of Telephone Number Requirements for IP-Enabled Services Providers; Local Number Portability Porting Interval and Validation Requirements; IP-Enabled Services; Telephone Number Portability; CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues; Final Regulatory Flexibility Analysis; Numbering Resource Optimization, 22 FCC Rcd 19531, ¶2 (Rel. November 8, 2007).

<sup>31</sup> Unless otherwise required by Ordering and Billing Forum (“OBF”) guidelines for specific types of services that I do not believe are ordered by NTS. The purpose and composition of the OBF is discussed in this rebuttal.

863 manually and CenturyLink then only confirms that the order contains a working  
864 telephone number.

865 **Q. Where does CenturyLink obtain the address that it uses for validation?**

866 A. CenturyLink's MARTENS system contains the same address information that is listed in  
867 the Street Address Guide ("SAG") used for 911 purposes. Service addresses are entered  
868 into the CenturyLink customer account record when service is established by an end user  
869 customer. If the address provided by the customer does not match the list of valid street  
870 addresses contained in the MARTENS system, MARTENS gives the representative  
871 "close match" choices from which to choose and confirm with the customer. This  
872 ensures the address that will validate against MARTENS on subsequent orders is an  
873 address that is contained in MARTENS and the SAG.

874 **Q. So when NTS claims that it wants CenturyLink to verify orders using the Street**  
875 **Address Guide ("SAG"),<sup>32</sup> is this even an issue?**

876 A. No. The SAG already contains the same service address that CenturyLink has in its  
877 MARTENS system. So there is no reason for CenturyLink to manually look at the SAG  
878 and if NTS wants to use the SAG for its orders, then NTS will have a correct address  
879 match.<sup>33</sup> Further, as I just related, under CenturyLink's current process, if the order "falls

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<sup>32</sup> Scott Direct at lines 454-456 and 470-471.

<sup>33</sup> The street address and associated information (apartment or suite number, for example), state and zip code are identical in MARTENS and in the SAG. In the SAG, however, end users who are not located within the city(s) served by the responsible 911 Public Safety Answering Point may be assigned a "community" identification instead of a city. The community is usually the County of residence. A CLEC order must be submitted with the proper US Postal Service city, not the community, in order to be valid. This should not be an issue for proper order submission since city listings are never discarded in favor of county listings in common US practice. The zip code is not used

880 out” of automated processing for any reason, CenturyLink only confirms that the order  
881 contains a working telephone number.

882 **Q. What is your response to NTS’s claim that the name and address found in**  
883 **CenturyLink’s billing system is incorrect?**

884 A. Whether or not NTS believes the name and address that is found in CenturyLink’s billing  
885 system is incorrect is not even an issue. As I just related, CenturyLink has not validated  
886 on customer name for two years and the address in our system is the address in the SAG;  
887 the same document that NTS wants to use.

888 **Q. Has validation based on exact name and address been a legitimate practice either**  
889 **today or in the past?**

890 A. Verification of CLEC orders on exact name and address was and still remains a standard  
891 practice throughout the telecommunications industry. What CenturyLink did for order  
892 validation was also done by other carriers.

893 There exists a national telecommunications standards body called the Alliance for  
894 Telecommunications Industry Solutions (“ATIS”). Within ATIS are numerous fora and  
895 committees whose membership is comprised of voluntary participation by carriers that  
896 cover all aspects of the industry. One of these fora is the Ordering and Billing Forum  
897 (“OBF”). As the name implies, the OBF sets the national guidelines for ordering and  
898 billing information exchange between the ordering carrier and the wholesale provider.

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for validation purposes other than as required by law for LNP. A project is in progress to change SAG listings to reflect USPS cities.

899 The OBF's industry negotiated and approved processes for local services such as UNEs,  
900 resale and LNP are set forth in the Local Service Ordering Guidelines ("LSOG").

901 The industry and the OBF determined that confirming the identity of the customer  
902 by providing the exact information that the customer provided when the account was  
903 established could prevent unintentional slamming and ensure that the submitting carrier is  
904 speaking with a person who is authorized to make changes on the account. Another  
905 reason this industry practice was set in place was because orders were submitted with  
906 transposed letters or digits that resulted in provisioning, billing and directory errors. A  
907 review of a current LSOG, Issue 14 for example,<sup>34</sup> will produce relevant guidelines and  
908 processes for order validation; such as Section 15.2- Address Validation and Section  
909 2.1.6- Loop Qualification- Validating a Service Address.

910 **Q. Is a working telephone number sufficient for most if not all non-simple LNP orders?**

911 A. Yes. I would clarify, however, that NTS should not just assume a working telephone  
912 number is sufficient for its orders; particularly non-LNP requests such as the installation  
913 of a new UNE loop. NTS should prepare its orders consistent with LSOG rules,  
914 including the provision of a valid address, in order for the orders to flow automatically  
915 through the provisioning process. Even if CenturyLink ultimately accepts the order,  
916 processing an order that does not comply with LSOG rules involves manual intervention  
917 that could slow down the provisioning and effect the due date, and do so at NTS's fault.

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<sup>34</sup> Older LSOGs may contain different rules; sometimes more stringent, sometimes more lenient; due to then currently recognized and unrecognized industry issues.

918 **Q. How should NTS validate an address, and a name, before submitting an order?**

919 A. Other CLECs use a variety of methods to confirm name and address and then submit  
920 porting, resale and UNE loop orders daily with no problems. Customer Service Record  
921 orders may be submitted to obtain the information, the CLEC could ask the customer for  
922 a copy of the CenturyLink bill, or the CLEC could ask the customer to access the online  
923 CenturyLink account information. The customer should know the service address on his  
924 CenturyLink bill and the customer has multiple ways to confirm this information and  
925 provide it to NTS. As a general policy, however, CenturyLink has not validated on exact  
926 customer name and address for several years and when CenturyLink has used this  
927 validation method in the past, it has been in accordance with common industry practice  
928 and formal industry-established guidelines.

929 **Q. What is a Firm Order Commitment (“FOC”) date?**

930 A. An FOC date is the date when a local exchange carrier will commit to having the ordered  
931 service provisioned and ready for use.

932 **Q. Ms. Scott says CenturyLink missed thirteen FOCs from January to March 2012. Is  
933 this correct?**

934 A. No. I have reviewed the list of thirteen FOCs that NTS provided in discovery. The date  
935 that NTS relies upon for its assertion that there has been a missed FOC is an  
936 administrative close date, not the FOC order completion date. In fact, every FOC that  
937 NTS alleged was missed was completed on the FOC date. (See Exhibit 1.12.)

938 CenturyLink sent NTS a Data Request that required identification of the asserted  
939 missed FOCs. NTS provided details for ten alleged missed FOCs for the first quarter of  
940 2012, not thirteen. In its response, NTS also included two alleged missed FOCs from the  
941 fourth quarter of 2011 but these two orders do not comport with the claimed time period  
942 in Ms. Scott's testimony. Regardless, I investigated the alleged missed FOCs referred to  
943 in Ms. Scott's testimony.

944 NTS submitted sixty-eight orders during the first three months of 2012 so its  
945 allegation pertaining to the identified FOCs is for approximately 1/7th of the submitted  
946 orders. As I stated, however, none of the FOC completion dates, including the two NTS  
947 claimed from late 2011, were actually missed.

948 **Q. What would cause NTS to believe that the thirteen FOCs were missed?**

949 A. NTS is basing its allegations on the administrative close dates that are posted in the  
950 EASE ordering system. NTS uses the EASE system to submit orders so I believe NTS is  
951 mistakenly asserting that the close dates posted in that system represented the actual FOC  
952 completion dates, which they do not.

953 CLECs such as NTS have been informed that CenturyLink always provides a  
954 notification if an FOC date is in jeopardy. No jeopardy notification, therefore, means the  
955 work is completed on the FOC date as scheduled. This jeopardy notification is provided  
956 because administrative or other manual work must sometimes be completed before the  
957 order close date actually posts in EASE. EASE therefore should not be used for order

958 completion validation. Having said that, even the administrative EASE dates reflected  
959 appropriate FOC completion dates in all but three cases.

960 CenturyLink has until 5 PM on the FOC date to complete the actual work. Unless  
961 a coordinated hot cut is arranged, the CLEC is to begin its work on the day following the  
962 FOC date. Because order work may be completed late on the FOC date, the  
963 administrative completion in EASE sometimes shows up the next morning. Indeed, this  
964 is exactly the case in five of the ten examples listed by NTS in its Data Request response  
965 as well as one of the examples from 2011. In two other asserted examples from 2012, for  
966 reasons that cannot be determined, the system posted two EASE close dates for the  
967 orders, the first EASE close dates posted on the FOC dates and the second EASE dates  
968 each posted on the day following the FOC completions. In its asserted examples, NTS  
969 did not acknowledge the initial administrative closures that were posted on the FOC dates  
970 and simply asserted as missed the duplicative closures that posted on the subsequent  
971 days.

972 **Q. Can you explain what happened in the remaining three alleged 2012 examples and**  
973 **the second alleged example from 2011?**

974 A. Yes. The three 2012 examples that did not show an administrative close on the FOC date  
975 or on the following day were all disconnect orders. There is sometimes more  
976 administrative work to be done on a disconnect but as long as the order is worked on the  
977 FOC date, as was the case in all of these examples, the billing will cease on the  
978 appropriate date and there is no harm to the CLEC.

979           In the case of the second 2011 example, the CenturyLink technician was  
980           dispatched on the FOC date as requested but the end user customer told the technician to  
981           delay the order from that date, November 23, until December 1. CenturyLink was  
982           obligated to follow the end user's wishes and CenturyLink policy is to instruct the end  
983           user to call the CLEC to coordinate whatever may be needed from that provider's  
984           perspective. Typically in this type of situation, the end user calls the CLEC before the  
985           CenturyLink technician leaves the premises. So much time has passed since this  
986           particular dispatch that I could not determine when NTS was called by its end user.

987   **Q.   Should NTS have known that the FOC date for this dispatch was not missed before**  
988   **it made such an assertion?**

989   A.   Yes. The end user call to NTS was not the only opportunity for NTS to learn of the  
990           changed date. I did not find any documentation of this premises having asserted service  
991           issues between the original and rescheduled due dates. If NTS unknowingly worked its  
992           side of the order while CenturyLink did not, I would normally expect a service problem  
993           and a trouble or provisioning call from either the end user or from NTS. (See the trouble  
994           report history in Exhibit 1.3.) The due date change would have been clear to NTS if such  
995           a call had been made to CenturyLink.

996           If NTS unknowingly worked its side of the order earlier than the end user wanted,  
997           there would have been an end user billing problem even if there was no service problem.  
998           An NTS billing adjustment record would be evidence that NTS was indeed aware of the  
999           new due date and that the FOC was not missed.

1000 No trouble report and no billing adjustment record can only mean NTS performed  
1001 its work according to the new FOC date. So in any case- service issue, billing issue or  
1002 end user call- NTS should have received some notification of the FOC change prior to  
1003 making the missed FOC assertion in this proceeding.

1004 **Q. Is this issue of the administrative EASE close date sometimes not being identical to**  
1005 **the actual FOC completion date a problem for other CLECs?**

1006 A. No. This situation is certainly not unique to NTS but neither is it a matter of concern for  
1007 other CLECs. Because CLECs are notified if an FOC date is in jeopardy, they do not  
1008 rely on the posted close in EASE but rather understand that no jeopardy notification  
1009 means the work is completed as scheduled. If unique circumstances require a secondary  
1010 verification, at the end of the FOC day or early the next morning, the CLEC will typically  
1011 call the number associated with the order or test the circuit as appropriate before initiating  
1012 its own work. More rarely, a CLEC will call CenturyLink to verify that the work has  
1013 been completed on time. This issue is not represented as a problem by other CLECs.

1014

1015 **J) Unfair Marketing Practices Allegation**

1016 **Q. Ms. Scott claims that NTS has proof that CenturyLink engaged in unfair marketing**  
1017 **practices.<sup>35</sup> What is your response?**

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<sup>35</sup> Scott Direct at line 685.

1018 A. Ms. Scott has offered no examples of unfair marketing practices to support her testimony.  
1019 In its Amended Complaint, NTS provided one example where it claims CenturyLink used  
1020 a port request from a customer to market to that customer. While that practice is now  
1021 prohibited, this type of marketing was not prohibited during the brief period of time  
1022 CenturyLink employed it. CenturyLink began its retention marketing practice on April  
1023 12, 2008. CenturyLink's final consumer mailing to ported customers was made on June  
1024 23, 2008.

1025 As NTS was informed on July 9, 2008 the one example that it brought to  
1026 CenturyLink's attention was mailed on June 23 and delivered to the customer on June 24.  
1027 (See Exhibit 1.13.) The FCC released its Order on June 23, 2008 and required carriers  
1028 to cease the practice effective June 24, 2008.<sup>36</sup> CenturyLink ensured that it was in  
1029 compliance with that Order on the effective day. Proof of this compliance is attached as  
1030 Exhibit 1.14. Further, as Exhibit 1.13 and NTS's Exhibit G to its Amended Complaint  
1031 both confirm, NTS did not submit a porting order for this account until July 2, 2008.  
1032 Therefore, the example offered by NTS was not mailed to the customer due to  
1033 CenturyLink knowledge of an NTS porting order but for some other reason wherein  
1034 CenturyLink obtained information from or about the customer regarding an intent to  
1035 disconnect CenturyLink service.

1036 The FCC regularly changes its rules and/or makes rulings that change or  
1037 otherwise affect how carriers do business on a prospective basis. NTS's opinions on

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<sup>36</sup> Memorandum Opinion and Order, In the Matter of Bright House Networks, LLC v. Verizon California, Inc., 23 FCC Rcd 10704, ¶45 (rel. June 23, 2008), affirmed Verizon California, Inc. v. FCC, 555 F.3d 270 (DC Cir. 2009).

1038 CenturyLink's use of this practice *prior* to the FCC's ruling do not provide any basis for  
1039 a subsequent *retroactive* determination on the matter. Further, the FCC Order was  
1040 prospective and did not include penalties or sanctions for any activity that was conducted  
1041 prior to the Order. NTS's opinions on this long ago discontinued practice say nothing  
1042 about CenturyLink's conduct since the Order was released and became effective.

1043 **Q. Ms. Scott believes CenturyLink wholesale and retail personnel are improperly**  
1044 **sharing information with each other and that CenturyLink wholesale personnel**  
1045 **should not know that there is an active retail customer at a location for which NTS**  
1046 **has submitted an order.<sup>37</sup> Is Ms. Scott correct in her beliefs?**

1047 A. No. This is one more example of NTS making an unfounded allegation. Ms. Scott's  
1048 testimony also demonstrates NTS's lack of general familiarity with telecommunications  
1049 carrier systems, processes and technical limitations.

1050 CenturyLink has separate retail and wholesale operations and follows regulations  
1051 to ensure appropriate separation. Order entry records are separated into wholesale and  
1052 retail and by law and system design retail personnel are denied access to view  
1053 uncompleted wholesale orders. NTS's testimony that CenturyLink wholesale personnel  
1054 should not know about existing retail service, and that NTS should be able to order a loop  
1055 to a premises before the retail service is disconnected, simply staggers the mind.<sup>38</sup>  
1056 Contrary to NTS's implied belief, there are not two separate CenturyLink loops that go to  
1057 every premises so that local service from two different carriers can be accommodated.

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<sup>37</sup> Scott Direct at lines 687-705.

<sup>38</sup> Id. at lines 692-694 and 699-703.

1058 Because only one working service can be provided over a loop, the CenturyLink  
1059 wholesale employee *must* know if the loop has service on it or is unused and available for  
1060 assignment. Since line sharing is no longer available by FCC Order<sup>39</sup> and therefore may  
1061 not be requested by NTS, when NTS orders a UNE loop to a customer, under federal  
1062 rules NTS gets the entirety of the loop facility that goes to that particular customer. It is  
1063 not technically possible to assign a UNE loop to NTS that also has working CenturyLink  
1064 service. Obtaining working service information is done via access to the facility records  
1065 database, not by contacting a retail employee as NTS mistakenly asserts. There is no  
1066 sharing or discussion of NTS's orders with the retail side of CenturyLink's business.

1067 Technical infeasibility aside, this is another example of CenturyLink following  
1068 industry standards practices (see for example OBF LSOG Section 35- Working Service  
1069 on Premises).

1070

1071 **K) Slamming Allegation**

1072 **Q. NTS accuses CenturyLink of slamming.<sup>40</sup> What is the definition of slamming under**  
1073 **applicable law?**

1074 A. The FCC addresses slamming in 47 CFR § 1100 et seq. 47 CFR § 1100 (e) includes the  
1075 following: “[t]he term unauthorized change is a change in a subscriber's selection of a

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<sup>39</sup> Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, 18 FCC Rcd 16978, ¶255 (Rel. August 21, 2003), aff'd in pertinent part, United States Telecom Association v. FCC, 359 F.3d 554, 583-585 (Dc. Cir. 2004).

<sup>40</sup> Scott Direct at lines 707-719.

1076 *provider of telecommunications service* that was made without authorization verified in  
1077 accordance with the verification procedures specified in this part.” [emphasis added] In  
1078 other words, slamming is the conversion of a customer from one provider’s service to  
1079 another provider’s service without customer permission.

1080 **Q. In its asserted slamming testimony, NTS says CenturyLink “moved NTS customers**  
1081 **from copper UNE to its new [fiber facilities] without an order or anyone’s**  
1082 **permission.<sup>41</sup> Is this slamming?**

1083 A. No. Slamming has nothing to do with the change of a *facility* upon which a provider’s  
1084 service rides. The use of CenturyLink’s physical network to provision UNE loops  
1085 ordered by *NTS* does not constitute any provision of *CenturyLink* voice or broadband  
1086 service to NTS’s customers. Further, as I will later discuss, this type of facilities change  
1087 is permitted under applicable law and ICA terms.

1088 **Q. So did CenturyLink engage in any slamming of NTS’s customers?**

1089 A. No. Further, Ms. Scott has failed to acknowledge the following terms of the Template  
1090 ICA under which the Parties operated at the time of the alleged incident:

1091 47.0 TECHNOLOGY UPGRADES

1092 Notwithstanding any other provision of this Agreement, CenturyLink shall have  
1093 the right to deploy, *upgrade, migrate* and maintain its network *at its discretion*.  
1094 *Nothing in this Agreement shall limit CenturyLink’s ability to modify its network*  
1095 *through the incorporation of new equipment or software or otherwise. CLEC*  
1096 *shall be solely responsible for the cost and activities associated with*  
1097 *accommodating such changes in its own network. [emphasis added]*

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<sup>41</sup> Id. at lines 707-718.

1098 **Q. NTS also takes exception to CenturyLink upgrading the Crescent street feeder cable**  
1099 **to fiber when CenturyLink has not allowed NTS to have fiber loops in the past.<sup>42</sup>**  
1100 **What is the background for this NTS complaint?**

1101 A. There are two issues associated with this NTS allegation. One issue is whether  
1102 CenturyLink has an obligation under law to provide fiber loops under specific  
1103 circumstances. This issue has been addressed by the FCC in its rules, which provide:

1104 47 CFR Sec. 51.319 Specific unbundling requirements. (a) (3) (B)

1105 (ii) New builds. An incumbent LEC is *not required* to provide nondiscriminatory  
1106 access to a fiber-to-the-home loop or a fiber-to-the- curb loop on an unbundled  
1107 basis when the incumbent LEC deploys such a loop to an end user's customer  
1108 premises that previously has *not been served* by any loop facility.

1109 (iii) Overbuilds. An incumbent LEC is *not required* to provide nondiscriminatory  
1110 access to a fiber-to-the-home loop or a fiber-to-the- curb loop on an unbundled  
1111 basis when the incumbent LEC has deployed such a loop *parallel to, or in*  
1112 *replacement of*, an existing copper loop facility, except that:

1113 (A) The incumbent LEC must *maintain the existing copper loop connected to the*  
1114 *particular customer premises* after deploying the fiber- to-the-home loop or the  
1115 fiber-to-the-curb loop and *provide nondiscriminatory access to that copper loop*  
1116 *on an unbundled basis* unless the incumbent LEC retires the copper loops  
1117 pursuant to paragraph (a)(3)(iv) of this section.

1118 [emphasis added]  
1119  
1120

1121 Therefore, under applicable law, CenturyLink is not obligated to offer fiber UNE loops to  
1122 NTS in new build situations or in overbuild situations where the existing copper has been  
1123 retained for the provision of UNE loops.

---

<sup>42</sup> Id. at lines 713-716.

1124 **Q. Did CenturyLink ever advise NTS of these FCC rules?**

1125 A. Yes. My records show that discussions with Mr. Johnson on this topic took place at least  
1126 three times, and likely a fourth time; early August 2007, July 28, 2009 plus a date prior to  
1127 July 28, and November 29, 2010.

1128 **Q. What is the second issue associated with this NTS allegation?**

1129 A. The allegation also raises the question of whether CenturyLink is required to provide  
1130 unbundled loops over specific facilities that are requested by NTS. On this point,  
1131 CenturyLink's position is that NTS is legally entitled to order a UNE loop to any  
1132 customer location on CenturyLink's network and CenturyLink will provision such a UNE  
1133 loop in accordance with applicable law and the applicable ICA terms. What this means  
1134 in practice is that if NTS orders a 64 kbps UNE loop then NTS will get a copper loop if  
1135 copper is available or NTS will get a fiber loop if no copper is available. However, NTS  
1136 is not entitled under applicable law or ICA terms to demand a fiber UNE loop if copper  
1137 facilities exist.

1138 **Q. So to clarify, does CenturyLink take the position that NTS is not allowed to submit**  
1139 **an order for a UNE loop when fiber is the only option?**

1140 A. No, CenturyLink does not take that position. With the sole exception of the new build  
1141 situation described in 47 CFR § 51.319 (a) (3) (B) (ii), CenturyLink agrees that NTS may  
1142 submit an order for a UNE loop when existing copper has been retired and replaced by  
1143 fiber.

1144 **Q. Does NTS have a valid complaint if it asserts that its customers were “put out of**  
1145 **service” by CenturyLink’s actions?<sup>43</sup>**

1146 A. No. NTS has no valid complaint because NTS was duly noticed of the change from  
1147 copper to fiber facilities as required by applicable law. (The relevant pages of this notice  
1148 are shown in Exhibit 1.15.) NTS was therefore obligated to accommodate the change.  
1149 By way of further answer, I will repeat parts of the prior citations:

1150 47 CFR Sec. 51.319 Specific unbundling requirements. (a) (3) (B)

1151  
1152 (A) The incumbent LEC must *maintain the existing copper loop connected to*  
1153 *the particular customer* premises after deploying the fiber- to-the-home loop or  
1154 the fiber-to-the-curb loop and provide nondiscriminatory access to that copper  
1155 loop on an unbundled basis *unless the incumbent LEC retires the copper loops*  
1156 *pursuant to paragraph (a)(3)(iv) of this section.* [emphasis added]  
1157

1158 Template ICA- 47.0 TECHNOLOGY UPGRADES

1159 Notwithstanding any other provision of this Agreement, CenturyLink shall have  
1160 the right to deploy, upgrade, migrate and maintain its network at its discretion.  
1161 Nothing in this Agreement shall limit CenturyLink’s ability to modify its network  
1162 through the incorporation of new equipment or software or otherwise. *CLEC*  
1163 *shall be solely responsible for the cost and activities associated with*  
1164 *accommodating such changes in its own network.* [emphasis added]

1165 To provide further proof of NTS’s obligation to accommodate the fiber, 47 CFR § 51.319  
1166 (a) (3) (C) states the following:

1167 An incumbent LEC that *retires* the copper loop pursuant to paragraph (a)(3)(iv) of  
1168 this section shall provide nondiscriminatory access to a 64 kilobits per second  
1169 transmission path capable of voice grade service *over the fiber-to-the-home loop*  
1170 *or fiber-to-the-curb loop* on an unbundled basis. [emphasis added]

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<sup>43</sup> Id. at lines 718-719.

1171           If the copper needs to be retired, as this copper did due to extreme deterioration,  
1172 then fiber becomes the only method of providing the loop. CenturyLink is authorized by  
1173 applicable law and ICA terms to effect the migration of the loop to the new fiber, and  
1174 NTS is obligated to accommodate the change to ensure its continuing provision of service  
1175 to affected customers.

1176 **Q. Can NTS claim that its provision of service cannot be maintained over fiber?**

1177 A. Yes, but it is puzzling that NTS would claim that now when NTS complained several  
1178 times in past years, as well as in this proceeding, about only being able to get copper  
1179 loops from CenturyLink instead of fiber loops. Further, there is no provision of law or  
1180 ICA terms that guarantee that the available facilities will accommodate each and every  
1181 service the CLEC wishes to provision over the loop. As the citations of 47 CFR § 51.319  
1182 that I provided demonstrate, when a CLEC orders a 64 kbps UNE loop, the CLEC gets a  
1183 64 kbps loop. NTS has no valid basis for any allegation or complaint on this issue.

1184 **Q. NTS alleges that CenturyLink has taken existing, active NTS loops and used them to**  
1185 **provision services to CenturyLink’s customers, thereby eliminating service to NTS’**  
1186 **customers. Is this true?**

1187 A. No. CenturyLink has not intentionally “taken” active NTS’s loops and has not used, as  
1188 NTS alleges, NTS’s loops to provision services to CenturyLink’s retail customers.  
1189 However, CenturyLink is aware of one peculiar instance of human error involving an  
1190 active NTS loop and that singular instance was promptly rectified by CenturyLink.

1191 **Q. Ms. Scott alleges that this CenturyLink use of NTS loops happens far more than**  
1192 **CenturyLink is willing to admit.<sup>44</sup> Is this true?**

1193 A. No. CenturyLink has no record of any other occurrence of this type of asserted error.  
1194 Further, CenturyLink submitted a Data Request that requested NTS to provide any  
1195 further examples of CenturyLink use of NTS loops. NTS did not produce any evidence  
1196 to support its allegation. In summation, there is no merit to any of NTS's allegations that  
1197 relate to slamming or the alleged use of UNE loops provisioned to NTS.

1198

1199 **III. CONCLUSION**

1200 **Q. How should the Commission find on the allegations made by NTS in this complaint?**

1201 A. The Commission should find that NTS's allegations are unfounded and should dismiss  
1202 NTS's complaint.

1203 **Q. Does this conclude your testimony?**

1204 A. Yes, it does.

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<sup>44</sup> Id. at lines 311-316.

STATE OF LOUISIANA )  
  )  
PARISH OF OUACHITA )

**VERIFICATION**

I, Guy Miller, do on oath depose and state that the facts contained in the foregoing Direct Testimony of Guy E. Miller, III on Behalf of Gallatin River Communications, L.L.C. d/b/a CenturyLink are true and correct to the best of my knowledge and belief.

  
\_\_\_\_\_  
GUY MILLER

SIGNED AND SWORN TO BEFORE ME THIS 27<sup>th</sup> day of  
September, 2012.

  
\_\_\_\_\_  
Notary Public

My Commission expires:

perpetual

