BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

February 6, 2009

Re : Joint Application of Embarq Corporation and CenturyTel, Inc. Regarding Transfers of Control of United Telephone Southeast LLC d/b/a Embarq, Embarq Communications, Inc. and Embarq Payphone Services, Inc.	)))	Docket No. 08-00219

ISSUES LIST OF DELTACOM

DeltaCom, Inc. d/b/a DeltaCom Business Solutions ("DeltaCom") submits the following list of issues which are likely to arise in this docket. Further issues, of course, may develop as a result of information received during discovery and following the submission of testimony and exhibits.

Overview

Deltacom is a leading provider of integrated telecommunications and technology services to small- and medium-sized businesses in the southeastern states. The company offers a variety of services -- both voice and data -- including local, long distance, Internet connectivity and broadband data communications. Deltacom is one of the largest competitive telecommunications service providers within its primary eight-state region of Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee and, more importantly, has extensive experience with both CenturyTel and Embarq.

Based on its experience with both of the Applicants, Deltacom believes the proposed merger will have a negative impact on the state of competition in the Petitioners' combined service territory.

In Deltacom's experience, the CenturyTel and Embarq business practices are a mix of favorable and anticompetitive practices. On the whole, Embarq's wholesale systems, policies and practices are superior to those of CenturyTel. Deltacom is concerned that a combined CenturyTel/Embarq entity will adopt the less favorable practices of each company as its new standard throughout the combined CenturyTel/Embarq region.

With these concerns in mind, DeltaCom suggests the following initial issues list.

Issue 1 Under T.C.A. § 65-4-113, the Authority must consider "the benefit to the consuming public" of the proposed transaction and shall not approve the transaction unless the Authority finds that the transaction "furthers the public interest." The application states (at 8) that the transaction will "provide benefits to consumer" of the combined company "without any countervailing harms." The Application, however, nowhere discusses the impact of the transaction on competition or the impact on competitors. Given the TRA's legislative mandate to foster the development of "an efficient, technologically advanced" telecommunications system "by permitting competition in all telecommunications service markets" (T.C.A. § 65-4-123), the TRA must give careful consideration to how the takeover of Embarq by CenturyTel will effect competition in the combined service area of the two companies. As part of that investigation, the TRA should examine the operations and practices of each carrier in their interactions with competitive carriers and require the new, combined entity to adopt a "best practices" policy which insures that the better practices of each Applicant are adopted by the combined operations of the two companies. The TRA should specifically consider how the merger will impact each of the following areas:

a. Ordering and Provisioning

Embarq's ordering systems are much more robust and automated than CenturyTel's, which are largely manual with little if any automated or interactive capabilities. For example, Embarq's ordering systems readily provide customer address information for conversion orders and for orders for new customer locations. Embarq's systems also indicate whether a specific customer location can be served out of a particular office during the ordering process. In contrast, CenturyTel's systems do not provide addressing information, much less whether a specific customer location can even be served out of a particular end-office on a real-time or near real-time basis. Instead, a carrier can enter the customer address and submit the order. Between the time the order is submitted and when the order is due several days later, the order will be rejected if the customer address is incorrect or the customer location cannot be served out of a particular end-office. This creates delays and causes Deltacom to have to contact the customer to try another address.

The two companies differ markedly on the amount of information they provide about the ordering process. Embarq provides various handbooks and job aids for their ASR and LSR systems that make it easier to determine the specific ordering requirements for different types of orders. CenturyTel does not have this information. When submitting a new order type, Deltacom's technicians often use job aids provided by other incumbent local exchange carriers as the starting point for placing orders with CenturyTel. This best-guess form of ordering is inefficient and unnecessarily increases Deltacom's costs as orders must be submitted multiple times. Deltacom is concerned that the combined entity will be less willing or less able to provide supporting documentation and other materials.

The two companies also differ on the accuracy of the information contained in Customer Service Records ("CSRs"). CenturyTel's information is often missing, inaccurate, or contradicts information contained in CenturyTel's other databases. This is especially true with respect to customers with multiple locations. Since Deltacom often relies on this information when ordering, any missing, inaccurate, and/or contradictory information ultimately delays facility provisioning and causes orders to be rejected. Because of Embarq's more automated ordering processes, Deltacom rarely has to rely upon CSRs. When relied upon, the information has generally been accurate. Deltacom is concerned that the functionality of wholesale OSS systems of the combined entity will deteriorate as the companies combine operations.

Additionally, Embarq's business practices relating to provisioning intervals tend to be more favorable than those of CenturyTel. For example, Embarq has a five-business day interval for DS1 loop and EEL orders. In contrast, CenturyTel has a fifteen-business day interval for DS1 loop and EEL orders.

b. Directory Listings

The two companies also have different capabilities when it comes to directory listings. CenturyTel's system is more manual and error prone. For example, the two companies handle Directory Assistance (1411) information for Deltacom facility-based lines differently. Embarq sends our Directory Assistance (1411) information to the directory listings publisher, whereas CenturyTel does not. As a consequence, Deltacom's business customers in the CenturyTel territory can be excluded from the listings when end-users place calls to directory assistance. This is a competitive disadvantage that Deltacom faces in the CenturyTel territory and an example of CenturyTel's failure to treat competitors with parity.

In addition, CenturyTel's directory listing interface only displays a straight-line view of the listing and will not show any features. For instance, for a complex business listing with multiple lines or multiple locations, the CenturyTel interface will only show the caption header and not a complete set of listings. Also, the listing requests submitted through its interface are subjected to layers of interpretation. As a result, what appears in CenturyTel's interface or even the galleys is not what appears in the actual directory.

CenturyTel's listings can be seen in galley "proofs" in the form of spreadsheets but accuracy is still questionable. Because of the error-prone nature of CenturyTel's directory listing system and the necessary error-checking, Deltacom finds the listings to be unacceptably resource-intensive. Embarq, on the other hand, has a much better and more accurate system for submitting and reviewing directory listings. For example, Embarq's listings appear exactly as they do in the directory, and any changes to listings are shown on a real-time basis. Deltacom understands that Embarq is scheduled to change the interface in the near future and is unsure what capabilities will be available at that time. Deltacom is concerned that the listing process and the accuracy of the combined entity's processes will suffer as a result of this acquisition.

c. Treatment of Affiliates

CenturyTel maintains separate legal entities in Tennessee. However, the various entities appear to be managed jointly with many of the same people performing the same functions for each entity. Since these are separate legal entities, Deltacom may be required to maintain separate interconnection agreements, separate interconnection arrangements, and generally conduct business separately with each of the affiliates. Also, because these are separate legal entities, Deltacom understands that it is unable to lease dedicated interoffice transport between CenturyTel companies' end-offices and the tandems that subtend them, and would have to maintain separate POIs even if the ILECs were operating within a single LATA. Deltacom is concerned that if this acquisition occurs, it will require Deltacom to separately interconnect and operate with each legal entity. This will deny Deltacom any of the efficiencies these entities gain by consolidating operations.

<u>Issue 2</u> In order to insure that the transaction will promote the public interest and that the merger of the two companies will not result in the degradation of wholesale services, what conditions, if any, should the TRA impose upon the new, combined entity?

(a) Following the merger, should the combined entity be required to utilize the superior Embarq Operations Support Systems ("OSS") as well as Embarq's platforms, methods, and procedures for maintenance and repair, number portability, directory listings, 911 records, and billing throughout the merged entity?

(b) Following the merger, should the combined entity be required to adhere to the ordering and provisioning intervals used by Embarq for all wholesale service orders?

(c) Following the merger, should a competitor be able to utilize one interconnection agreement which would apply to all service areas of the merged entity in Tennessee? May the competitor require the merged entity to adopt the interconnection agreement between the competitor and Embarq and apply that agreement to the service areas now served by CenturyTel?

Issue 3 In order to insure that the economies and efficiencies of the proposed merger are captured and reflected in the wholesale rates of the combined entity, should the TRA impose a freeze on wholesale rates pending the determination by negotiation or by arbitration, of just and reasonable rates for the combined entity?

Conclusion

The TRA should not approve this merger unless the agency determines that the merger will serve the public interest by affirmatively promoting competition. With CenturyTel being the acquiring company and its management poised to take control of the combined entity, there is ample cause for concern that the "better" practices and systems of Embarq will be replaced by those of CenturyTel. To prevent that result, the Authority should approve the proposed merger only upon condition that the combined entity will adopt the best practices of both carriers and the resulting merger promotes, not undermines, the development of competition in Tennessee.

Respectfully submitted,

By:________________________
Henry Walker
1600 Division Street, Suite 700
Nashville, Tennessee 37203
(615) 252-2363

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via U.S. Mail, postage prepaid, to:

Edward Phillips
14111 Capital Boulevard
Mailstop: NCWKFR0313
Wake Forest, NC 27587-5900
Edward.phillips@embarq.com

William C. Bovender
Hunter, Smith & Davis
1212 N. Eastman Road
P.O. Box 3740
Kingsport, TN 37664
bovender@hsdlaw.com

R. Dale Grimes
Bass, Berry & Simms PLC
315 Deadrick Street, Suite 2700
Nashville, Tennessee 37238
dgrimes@bassberry.com

H. LaDon Baltimore
Farrar & Bates, L.L.P.
211 7th Avenue North, Suite 500
Nashville, TN 37219
don.baltimore@farrar-bates.com

Charles B. Welch
Farris Mathews Bobango, PLC
618 Church Street, Suite 300
Nashville, Tennessee 37219
cwelch@farrismathews.com

on this the 6th day of February, 2009

Henry M. Walker

2062911 v2
103062-001 2/6/2009