

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Eighteenth Region**

CenturyTel of Minnesota, Inc. d/b/a CenturyLink¹

Employer

and

Communications Workers of America²

Petitioner

Case 18-RC-096793

DECISION AND DIRECTION OF ELECTION

Petitioner seeks, through an *Armour-Globe* self-determination election, to add the plant technicians and communications technicians employed by the Employer at its Roseau, Warroad, and Baudette, Minnesota facilities to an existing bargaining unit. See *Armour and Co.*, 40 NLRB 1333 (1942); *Globe Machine and Stamping Co.*, 3 NLRB 294 (1937). The Employer maintains that the employees Petitioner seeks to add lack a community of interest with the employees in the existing unit. Alternatively, if an election is directed, the Employer contends that the plant technicians and communications technicians employed by the Employer at its Hill City, Orr, and Hovland, Minnesota facilities share an overwhelming community of interest with the employees in the voting group sought by Petitioner and must be included in that group. The Employer further contends, citing *Flemming Foods*, 313 NLRB 948 (1994), that a “residual unit” is

¹ The record contains several variants in the Employer’s name, including CenturyTel of MN and CenturyTel of Minnesota. The name set forth in the caption appears to be the Employer’s correct legal name and is what appears on the Minnesota Secretary of State’s website.

² The above caption contains Petitioner’s correct legal name. At various places, the record refers to Petitioner as “Communication Workers of America,” rather than Communications Workers of America.

appropriate only if it includes all unrepresented employees of the type covered by the petition. However, contrary to the Employer, Petitioner seeks a self-determination election in a separate appropriate voting group, not the creation of, and election in, a residual unit. In these circumstances, I conclude that the “overwhelming community of interest” analysis employed by the Board in cases such as *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB No. 83 (2011), and the “residual unit” analysis in cases such as *Flemming Foods*, are inapplicable. Instead, the Board has held that a self-determination election is the proper method by which a union may add unrepresented employees to an existing unit if those employees share a community of interest with unit employees and constitute an identifiable, distinct segment so as to comprise an appropriate voting group. *St. Vincent Charity Medical Center*, 357 NLRB No. 79, slip opinion at 3 (2011); *Warner-Lambert Co.*, 298 NLRB 993, 995 (1990).

As explained below, I find that the plant technicians and communications technicians employed at the Employer’s Roseau, Warroad, and Baudette, Minnesota facilities share a community of interest with unit employees; that the employees Petitioner seeks to add are an identifiable, distinct segment of its employees; and that therefore those employees comprise an appropriate voting group for purposes of a self-determination election. Accordingly, I will direct an election among and limited to those employees.

In the pages that follow I will first provide an overview of the Employer’s operations and staff, highlighting the management structure and identifying the job classifications at issue. I will then review the evidence relevant to determining whether a community of interest exists among the employees in the voting group sought by Petitioner and the existing unit. Finally, I will consider whether the employees in that

group are an identifiable, distinct segment of the Employer's employees and are an appropriate voting group.

I. FACTS

A. The Employer's Business Operations

CenturyLink provides communication services such as wire line, DSL, and broadband services. Headquartered in Monroe, Louisiana, it provides services to residential and business customers throughout the United States. While originally founded as Century Telephone in 1968, it was renamed "CenturyTel" in 1971 and "CenturyLink" in 2008. Over the years, it has become the third largest telecom company in the country through a series of mergers and acquisitions.

Beginning in 1997, CenturyLink acquired Pacific Telecom, thereby creating 37 telephone exchanges³ in Minnesota, including in the towns of Baudette, Roseau, Warroad, and Humboldt. In 2008, it acquired Embarq, creating 46 new Minnesota exchanges. Finally, in 2011, it acquired Qwest, resulting in 154 exchanges in Minnesota.

Currently, CenturyLink provides services in Minnesota through three subsidiaries: CenturyTel, Qwest, and Embarq. In Minnesota, CenturyTel has 37 total exchanges, Embarq has 46, and Qwest has 121.⁴ These exchanges, which are scattered throughout the State, are demarcated into various geographical territories. The exchanges and employees at issue are located in the Northern Region of Minnesota,

³ At the hearing, witness Robert Brown defined an "exchange" as "basically a town and the surrounding areas that [are] served with our facilities that provide service where we sell products to customers" (Tr. 20-21.)

⁴ These numbers are based on the map depicted in Company Exhibit 2. Additionally, while the record is clear that CenturyLink is the parent company and CenturyTel, Qwest, and Embarq are the subsidiaries, I will refer to exchanges and employees by the subsidiaries they correspond to for purposes of brevity and consistency.

which is comprised of 9 CenturyTel exchanges and 24 Qwest exchanges, but no Embarq exchanges.

B. The Employer's Represented and Unrepresented Employees

The Communications Workers of America (CWA, and hereinafter the Union) represents 11,600 Qwest employees across 14 states in a unit known as "District 7."⁵ District 7 is comprised of 76 locals, but a single collective bargaining agreement encompasses all of them. The record does not state which job classifications comprise this unit, aside from "Central Office Technician (COT)," "Network Technician," and "Customer Data Technician." All three titles refer to job classifications within Qwest.

In Minnesota, the Union represents employees at Qwest exchanges. The record does not reflect the total number of Qwest employees in the Northern Region, but reflects that at least 13⁶ of them are based at the following Qwest exchanges: Park Rapids, Detroit Lakes, Bemidji, Thief River Falls, and Crookston.

Unlike Qwest employees, none of the State's CenturyTel or Embarq employees are represented by CWA or any other labor organization. Both the CWA and IBEW represent CenturyTel and Embarq employees in other states, but none of those employees belongs to District 7.⁷ Through an *Armour-Globe* election, the Union now

⁵ These states include New Mexico, Arizona, Colorado, Wyoming, Utah, Nebraska, South Dakota, North Dakota, Minnesota, Oregon, Washington, Idaho, and Iowa. The parties disputed whether or not Montana should be included in this list, since District 7 may represent other employers in Montana.

⁶ CWA represents the following Qwest employees in Minnesota: Chester Bohach, Russell Craig, Aaron Dougherty, Harold Dupree, William Ecker, Marilyn Ferre, Matthew Melbeck, Farron Pickar, Joseph Roemer, Timothy Rogers, Nathan Tischer, Terence Weston, and Eric Wilde. The record does not establish whether these are the only Qwest employees in the Northern Region or if there are others.

⁷ Either the CWA or IBEW represents CenturyTel employees in the following states: Missouri, Arkansas, Alabama, Michigan, and Wisconsin.

seeks to include six CenturyTel employees in the Northern Region (one communications tech and five plant technicians) in the District 7 bargaining unit.

The Northern Minnesota Area, also referred to in the record as the Northern Minnesota Region, has ten CenturyTel technicians and nine CenturyTel exchanges, as depicted in the map in Company Exhibit 2. Of the technicians, two are communications technicians (communications tech), and the remaining eight are plant technicians (plant tech). The nine CenturyTel exchanges include Humboldt, Roseau, Warroad, Baudette, Itasca State Park, Hill City, Orr, Gunflint Trail, and Hovland. Petitioner asserts that the CenturyTel position “Communications Tech” is identical to the Qwest position of “Central Office Technician.” Petitioner also maintains that the CenturyTel “Plant Tech” position is the same as the Qwest “Network Technician” (Net Tech). Petitioner seeks to include the five plant techs and one communications tech at Roseau, Warroad, and Baudette in the District 7 unit. Petitioner does not seek to include the four technicians at the remaining CenturyTel exchanges in the Northern Minnesota Area. Conversely, the Employer is opposed to including CenturyTel employees in the District 7 unit; but, alternatively, if they are included, the Employer contends that all ten CenturyTel employees, including those in Hill City, Orr, and Hovland, should be included.

Most, but not all, of the CenturyTel exchanges in the Northern Minnesota Area are regularly staffed. For instance, neither Humboldt nor Itasca State Park has regular employees, though Communications Tech Nels Hanson has some responsibility for the Humboldt area, and Itasca State Park sometimes has temporary employees or contractors. The six petitioned-for employees staff the exchanges in Baudette, Warroad, and Roseau. Nels Hanson and Plant Tech Steve Wink work from Warroad, though Nels Hanson is also responsible for Baudette, Roseau, and Humboldt. Plant

Techs Jared Hanson and Tim Beckstran are based in Baudette, and Plant Techs Richard Berggren and Jeff Weber work from Roseau.

As depicted in the Company Exhibit 2 map, Baudette, Warroad, and Roseau are relatively near each other. Humboldt is an unspecified distance west of these and all other CenturyTel exchanges, but, in terms of CenturyTel exchanges, is closest to Roseau. Thief River Falls is the closest Qwest exchange to Warroad, Baudette, and Roseau and is approximately an hour-and-a-half away. Qwest exchange Crookston is approximately two hours from Warroad, and Qwest exchanges Detroit Lakes and Park Rapids are roughly two-and-a-half to three hours away from Warroad.

Four employees cover the remaining CenturyTel exchanges of Hovland, Gunflint Trail, Hill City, and Orr. Plant Tech Rodney Dockan covers both Hovland and Gunflint Trail. Communications Tech Lowell Hanson and Plant Technician Jan Van Zinderen work at Hill City, and Plant Tech Victor Giddings works at Orr. Warroad is two-and-a-half hours from Orr, three hours from Hill City, and four or five hours from Hovland. Employee Nels Hanson testified that Gunflint Trail, which borders Hovland, is ten hours away from Warroad.

Petitioner asserts that the six petitioned-for employees share a community of interest with District 7 employees but not the remaining four CenturyTel employees in the Northern Minnesota Area. In contrast, the Employer denies that the six petitioned-for employees share a community of interest with District 7 employees; and the Employer also asserts that all CenturyTel employees in the Northern Minnesota Area share a community of interest with each other. At the hearing, both parties introduced evidence pertaining to community of interest, which can be grouped into the following categories: 1. Management Structure; 2. Employees' Job Titles and Responsibilities;

3. Exchanges' Facilities and Operating Systems; 4. Employee Interchange; and
5. Working Conditions and Benefits.

C. Community of Interest Factors

1. Management Structure

CenturyLink is composed of several levels of management both nationwide and in the State of Minnesota. At the top of the management hierarchy are Chief Executive Officer Glen Post and Chief Operating Officer Karen Puckett. Underneath them is Senior Vice President of Operations Garland ("Clay") Bailey, who is based in Monroe, Louisiana. Bailey supervises Duane Ring, the Midwest Region⁸ President for Legacy Qwest and CenturyTel employees and supervisors. Ring supervises Robert Brown, the Vice President and General Manager for Wisconsin and Eastern Outstate Minnesota. Julie Darrington and Tyler Middleton are Brown's counterparts, but the record does not indicate whom they report to or which areas they oversee. Brown, Darrington, and Middleton supervise area operations managers ("area managers" or "AOMs"). In turn, area managers supervise area plant supervisors, who directly supervise technicians.

As their titles indicate, area managers and area supervisors are responsible for certain geographic territories. The Northern Minnesota Area, as depicted in Company Exhibit 2, is the geographic region at issue in the current petition, and Area Manager Troy Mack is responsible for this region. Mack, who reports to Robert Brown, oversees four area plant supervisors in the Northern Minnesota Area: Joe Lutter,⁹ Steve Sanders, Pat Pierce, and Michael Weller.

⁸ The Midwest Region includes Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, North Dakota, South Dakota, Nebraska, and Iowa.

⁹ In the transcript, Joe Lutter's name is also spelled "Joe Kutter."

Like area managers, area plant supervisors are responsible for certain geographic areas. In the Northern Minnesota Area, Lutter oversees customer data technicians and network technicians in the Arrowhead Region and also supervises Hovland. Sanders oversees CenturyTel employees in Hill City and Orr, as well as Qwest employees at other unspecified exchanges. Pat Pierce oversees Duluth proper. Weller supervises a total of 20 CenturyTel and Qwest employees.¹⁰

On the CenturyTel side, Weller supervises employees in Itasca State Park, Humboldt, Warroad, Baudette, and Roseau. On the Qwest side, Weller supervises employees at the following exchanges: Park Rapids, Detroit Lakes, Thief River Falls, Bemidji, and Crookston.¹¹ Weller is based in Bemidji, which is approximately two-and-a-half hours from the Roseau and Baudette areas.

At the hearing, Troy Mack testified that while Weller is the direct supervisor for the above employees, the Company currently has time-reporting problems which require supervisor Mary Sukraw to cover CenturyTel time reporting. Mack said that Weller thus supervises his employees half the time, while Sukraw supervises them the other half of the time. The record is not clear as to whether this is true for both Qwest and CenturyTel employees, or just CenturyTel employees.

Additionally, while Weller directly supervises employees, Troy Mack and Robert Brown may review his decisions. Human Resources (HR) may also review decisions if issues such as discipline or pay increases are involved. The particular HR office that becomes involved depends on the employee at issue. Minneapolis HR staff are

¹⁰ This number is based on Union Exhibit 1. The parties agreed that the document inadvertently omits employee Steve Wink and that he should be included on it.

¹¹ Union Exhibit 1 and Company Exhibit 2 both seem to suggest that Weller supervises employees in both Troy Mack's territory and Terry Vanwatermulen's area. No testimony was provided on this point.

responsible for Qwest employees, while La Crosse, Wisconsin HR is responsible for CenturyTel employees.¹² However, Nels Hanson testified that when he transferred from Qwest to CenturyTel in 2012, Qwest HR staff Katie Vandenhoeck handled his transfer, which a CenturyLink office in Denver paid for.

Weller has only served as the area plant supervisor for the above employees since January 1, 2013. The record does not state what position, if any, he held prior to that. Prior to Weller, Lamar Cox served in Weller's position for approximately 4-5 years.¹³ Before him, Buford McCombas held the position. Unlike Weller, Cox supervised all of the CenturyTel exchanges in the Northern Minnesota Area, and Troy Mack testified that Cox also supervised the Embarq exchanges of Deerwood and Aitkin, among others. Cox did not supervise any Qwest technicians.

At the hearing, Robert Brown testified that Cox did not supervise the Qwest exchanges because Qwest and CenturyTel exchanges are different in numerous respects. In response to a leading question, Brown asserted that Weller has to adjust, based on what exchange he is working with at the moment. Currently, the Employer is "trialing" the new organizational structure under Weller in an effort to minimize the amount of management required. Brown noted that another Minnesota territory "trialed" the same structure in the past, with management supervising both Qwest and CenturyTel employees, but that it did not work.

Although the Employer is "trialing" Weller's supervision of Qwest and CenturyTel employees, the Employer denies the employees are supervised as an integrated work

¹² Though HR has offices in Minneapolis and La Crosse, Wisconsin, personnel records are kept elsewhere. Personnel records for Qwest employees are maintained in the field, whereas personnel records for CenturyTel and Embarq employees are stored at corporate headquarters in Louisiana.

¹³ Communications Tech Nels Hanson testified that when he worked for CenturyTel as a plant technician in 2008, Cox was not his supervisor.

unit, asserting that they require and receive different supervision. At the hearing, the Employer's attorney asked a series of leading questions to witness Robert Brown, asking him to confirm that the following things are different for Qwest and CenturyTel employees: work rules, pay scales, benefits, policies, HR support, and labor relations support. Brown confirmed they were. Brown further testified that the Employer has no plans to integrate Qwest and CenturyTel operations in the near future, but that such integration is the Company's long-term goal.

2. Employees' Job Titles and Responsibilities

Employees in Qwest and CenturyTel exchanges have different job titles. Three job titles exist for Qwest employees in the Northern Minnesota Area: Network Technician, Central Office Technician, and Customer Data Technician. Two job titles exist for CenturyTel employees in the Northern Minnesota Area: Plant Technicians and Communications Technicians. However, employee Nels Hanson testified that CenturyLink staff refer to him as a "Central Office Technician," even though he is currently a CenturyTel "Communications Tech."

Petitioner contends that the CenturyTel "Communications Technician" position is identical to the Qwest "Central Office Technician" and that the CenturyTel position of "Plant Technician" is identical to the Qwest position of "Network Technician." The Employer disputes both assertions, and Mack testified that plant techs and communications techs have more duties and responsibilities than the Qwest positions. During the hearing, the parties offered job descriptions and testimony on the job responsibilities of these positions.

a. Communications Tech/Central Office Technician (COT)

The record contains job descriptions for both the Communications Tech and Central Office Technician. The job description for the CenturyTel Communications Tech sets forth the following job duties, among others: maintains the central office and remotes, analyzes and repairs equipment, uses equipment to identify problems, understands complex circuit descriptions and flow charts, works with service orders, and maintains records. The job description for the Qwest Central Office Technician¹⁴ lists the following responsibilities, among others: reviews and interprets orders and drawings, installs and performs other repairs and tests to equipment, performs routine maintenance, removes or replaces connections, updates work, works with basic theories, and runs tests and utilizes various digital equipment.

In addition to job descriptions, both parties offered testimony to explain each position's daily responsibilities. Employer witnesses asserted that the central office technician, unlike the communications tech, works in the central office as a "four-wall" technician, meaning he or she does not leave to perform field work. Instead, the central office technician is responsible for wiring an "MDF frame," and then gives a network technician responsibility for that frame. The Employer contends that a communications tech brings a signal into the central office, wires it, and then continues to perform work outside the office.

¹⁴ This job description is set forth in Company Exhibit 8. Strangely, Company Exhibits 7 and 8 are the same, which suggests that, unless it was an error, the Central Office Tech and Customer Data Technician have the same job descriptions.

In contrast, Petitioner presented testimony that COTs are not confined within the four walls of the central office. Employee Nels Hanson¹⁵ testified that he transferred from being a network tech to a communications tech in 2012, and that his job as a communications tech is consistent with what he observed COTs do at Qwest. As a communications tech, he goes outside the four walls once every couple of weeks. Hanson did say that a COT only assisted him outside the office five times in his nine years as network technician. However, Hanson testified that if he currently has questions regarding preventative maintenance and functionality (as a communications tech), he calls Qwest COTs and that this happens about 2-3 days per week. Finally, Hanson testified that he also wires special circuits and provision equipment—tasks that COTS do, as well.

b. Plant Tech/Network Technician

Two different job descriptions also exist for the Plant Tech and Network Technician positions. The Plant Tech description requires the technician, among other responsibilities, to install, move, and maintain telephone services, high-speed internet, and customer equipment, and to maintain the telephone plant. The Qwest Network Technician description requires the technician to do some of the following: work with wires, cables, and basic electricity; work with computers; install and maintain the POTS system¹⁶; read service orders, drawings, etc.; use hand tools; maintain and repair cables; perform construction work; and splice.

¹⁵ Nels Hanson worked for Qwest from 2001-2008 in Park Rapids. In 2008, he took a plant technician job for CenturyTel in Warroad. After that, he was hired as a network technician in South Dakota. He stayed there for approximately 18 months before taking a network technician job in Little Falls, Minnesota, where he worked for approximately 18 months, as well. He finally took his current position with CenturyTel as a communications tech covering Baudette, Warroad, Roseau, and Humboldt.

¹⁶ POTS stands for plain old telephone service, which refers to dial tone.

In addition to the above job descriptions, the parties provided testimony on the daily job duties of these positions. In response to a leading question, Troy Mack testified that these two positions are different because a plant technician performs functions that are a combination of the net tech work and the CDT¹⁷ work at Qwest.

Employee Nels Hanson testified that when he served as a CenturyTel plant tech in 2008, his work as a plant tech was identical to his work as a network technician. As a network technician, Hanson said he was responsible for the following: taking care of cable from the main distribution frame¹⁸ to the customer premise to the network interface; installing dial tones; troubleshooting cables; fixing terminals that were run over; replacing terminals on buildings; installing and maintaining DSL; and working on special circuits. In small towns with fewer CenturyLink employees, Hanson testified that he was also responsible for CDT work and said others were, as well. Hanson received a wage differential when he performed CDT work.

3. Exchanges' Facilities and Operating Systems

According to witness Robert Brown, Qwest and CenturyTel facilities are generally the same and have the same purpose. Employees typically work out of central offices or report centers, which could be garages with small offices attached to them. Both CenturyTel and Qwest facilities have battery systems to run the offices, and most have back-up generators.

¹⁷ This acronym stands for "Customer Data Technician."

¹⁸ The main distribution frame is the same as a central office.

However, despite these similarities, Employer witnesses testified that CenturyTel and Qwest exchanges have different equipment and operating systems.¹⁹ Although CenturyLink acquired Qwest, CenturyTel, and Embarq, an Employer witness, in response to a leading question, testified that the systems and differences between Qwest and CenturyTel have not changed. Specifically, testimony was introduced on the exchange's equipment, record systems, tech support systems, engineering and planning groups, dispatch systems, special circuits and residential lines, and the training required by CenturyTel and Qwest employees.

a. Equipment

Qwest and CenturyTel exchanges use different brands of equipment. At least some CenturyTel locations use Avaya equipment, while Qwest uses Ericsson equipment. Employee Nels Hanson testified that the equipment is a "lot alike" and functions the same. (Tr. 159.) Hanson noted that Qwest—unlike CenturyTel—uses Tellabs, which is a kind of equipment.

In addition to equipment inside the facilities, Nels Hanson said communications techs and COTs use identical tools, such as wrap guns, unwrapping tools, jumper wire, carbons, ladders, and stripping tools. Hanson testified that plant techs and net techs use identical hand tools as well, such as screwdrivers, side cutters, and needle-noses.

b. Record Systems

The Employer asserts that Qwest and CenturyTel employees have different record systems. A record system contains the plant's location of cables. CenturyTel

¹⁹ Robert Brown testified that each exchange also has some degree of uniqueness due to inter-connecting facilities between the exchanges that transport long-distance and high-speed Internet services, among other things.

employees use the Martens system, while Qwest technicians use LFACS.²⁰ The Martens system receives orders, and a facility designer does work with the cable pair and informs the technicians of their status. The record does not describe how the LFACS system works. However, Mack testified that CenturyTel technicians can change records through Martens, whereas Qwest technicians cannot access records through LFACS and must call for assistance, which could add 10-20 minutes of additional time to their work.

c. Tech Support Systems

The Company has tech support systems, which are staffed by experts who can provide assistance to technicians experiencing equipment issues outside their realm of knowledge. The Company asserts that different tech support systems exist for CenturyTel and Qwest employees. According to the Employer, CenturyTel technicians use the Network Operation Center (NOC)²¹ located in Kansas City, while the Qwest technicians use the Network Reliability Operation Center (NROC) in Seattle. According to Nels Hanson, CenturyTel technicians call both NROC and NOC. Mack testified that the technical experts at each location are experts on different types of equipment.

d. Engineering and Planning Groups

The Employer argued that Qwest and CenturyTel exchanges rely upon different engineering and planning groups. Troy Mack testified that, inside of the engineering organization, CenturyTel engineers are separate entities from Qwest engineers. These groups determine which systems are used and where they are placed. Mack testified

²⁰ The record does not reflect what this acronym represents.

²¹ Troy Mack referred to the NOC as the Network Operation Center, whereas Employer's counsel referred to it as the National Operations Center during his cross-examination of Nels Hanson. The record does not state whether these are the same, though they appear to be.

that the Company maintains two separate databases for this work—MetaSolv and TIRKs. The record is unclear on which set of employees use which systems.

e. Dispatch Systems

The Employer contended that dispatch systems are different for Qwest and CenturyTel employees. An Employer witness explained that a dispatch system reflects how a customer's order gets completed in the field; the system essentially shows the technician the work that needs to be done. For Qwest exchanges, Mack testified that the Employer uses two dispatch systems: (1) SFA-DI, which is dispatch in; and (2) WFA-DO, which is dispatch out. Legacy CenturyTel uses a system called the "Advantax" system.

The CenturyTel dispatch operation is in La Crosse, Wisconsin, and the Qwest operations are in Minneapolis. Both dispatch groups are comprised of load specialists, who bring in work and ensure its distribution to the right techs so their loads can be completed in an 8-hour work day. Mack denied that the systems are integrated and testified that service orders cannot be transferred from one system to another. According to Mack, 40 hours of basic training, in addition to on-the-job training, is necessary to learn these. Mack estimated that it takes 3-6 months to become fluent in the systems.

f. Special Circuits and Residential Lines

In the Northern Minnesota Area, the Employer works with both special circuits²² and residential lines. The Employer asserts that Qwest and CenturyTel employees handle these differently. Special circuits and residential lines are each reviewed in turn.

²² Special circuits are often used for credit card machines and Minnesota state licensing machines.

i. Special Circuits

The Employer asserts that Qwest technicians handle special circuits as follows. The central office technician is only responsible for bringing the signal from a carrier, and then his job ends. The customer data technician then goes to the “remote terminal” (RT) to do work, including the customer premise work.

Conversely, Troy Mack testified that CenturyTel employees work on special circuits as follows, though the record is unclear on the exact order of each step involved. A communication stack brings a signal to the central office, and the communications tech brings it to the distribution frame. The communications tech, who is unable to do his work remotely via computer, goes outside the office at some point and does work, as needed. A plant technician is responsible for the cross-connects and physical wiring and picks the circuit up at the customer’s premise to do end-to-end circuit testing with the carrier. Mack also testified that the plant tech will bring the circuit to the terminal where the communications tech hooks up the network interfacing unit; it is unclear when in the above order this occurs. During the above explanation, Mack also frequently referred to CenturyLink, and it was unclear if he meant to say CenturyLink or CenturyTel. The hearing officer asked him if “CenturyLink” also refers to “LegacyTel,” and Mack answered no. According to Mack, communications techs and plant techs basically share what the CDT does.

Contrary to the Employer, employee Nels Hanson testified that CenturyTel and Qwest technicians do the same work on special circuits. He also testified that when he once worked as a network technician, he worked with COTs if he encountered problems on special circuits.

ii. Residential Lines

The Employer also pointed to differences between the work of Qwest and CenturyTel employees on residential lines. For example, the Employer asserted that, in the Qwest world, the customer data technician does programming, and the network technician picks up the cross-connect to deliver to the customer.

Conversely, the Employer asserted that, in the CenturyTel world, a plant tech picks up cables and takes them to a terminal to pick up the cross-connect box and deliver a dial tone; essentially, the plant tech brings the signal from the central office all the way to the customer. However, if an RT is there, the communications tech will get involved with programming.

Contrary to the Employer, employee Nels Hanson testified that, in small towns, he would be responsible for everything.

g. Training

Based on the above, Employer witnesses testified that employees would require training if they transferred from a Qwest exchange to a CenturyTel exchange, or vice versa. For example, Mack testified that a Qwest employee who seeks to transfer to a CenturyTel position may need anywhere from 6-12 months of training depending on the employee's background. Mack later testified that it would take a Qwest COT anywhere from 9-12 months or more to become proficient in a communications tech job, depending on that technician's experience. He also estimated that it would take a Qwest network technician anywhere from 3-9 months of training to become a plant tech.

Contrary to the Employer, employee Nels Hanson denied that such training is necessary or even provided to employees. For example, Hanson testified that when he transferred from being a Qwest network technician to being a plant technician, he did

not receive training for the latter position. He testified that the job was nearly identical and that he actually provided training to the CenturyTel plant techs based on his Qwest experience. Hanson did state that recently CenturyTel employee Jared Hanson participated in pole-climbing training in Minneapolis with Qwest employees.

4. Employee Interchange

The Employer denied that Qwest and CenturyTel technicians comprise an integrated group of employees. For example, the Employer witnesses asserted that Qwest technicians and CenturyTel technicians do not travel back and forth between different exchanges. For example, Robert Brown testified that the Employer does not have Qwest employees work at CenturyTel exchanges because this arrangement would result in complications as to how work is dispatched, completed and reported; how service orders are generated; how time reporting is kept; and how tests are done. However, Nels Hanson testified that he was once dispatched to the Qwest exchange in Thief River Falls. The record does not indicate when this occurred or the duration of the work.²³

Aside from physically traveling to Qwest exchanges, Nels Hanson testified that he does communicate and work with Qwest employees.²⁴ For example, he said he regularly calls Legacy Qwest testers to request that special circuits be tested and that plant techs speak with these testers, as well. In addition, Hanson worked with Qwest employees in July or August 2012 when a CenturyTel office in Baudette went dead. On that occasion, Hanson called a Qwest tester, who added on COTs from Grand Forks,

²³ Nels Hanson did testify that it happened sometime after he obtained the communications tech position in March of 2012.

²⁴ The record does not indicate where the Qwest testers are based or if they belong to the District 7 bargaining unit.

and the Qwest and CenturyTel employees tested back and forth to determine the problem. Hanson denied that he could fix the problem solely with CenturyTel employees because the network did not go through their offices until miles later.

Unlike the relationship between Qwest and CenturyTel employees, Troy Mack testified that he “interchange[s] work” among technicians in Hill City, Orr, Hovland, Warroad, Baudette, and Roseau because these technicians do the same work. (Tr. 68.) For example, Mack said that Communications Tech Lowell Hanson from Hill City has been sent to work in the Roseau-Baudette area, and other technicians are also switched, as necessary. Mack did not specify how often that occurs or provide other examples. Communications Tech Nels Hanson confirmed that he has talked to Communications Tech Lowell Hanson from Hill City before, but denied having any interaction with the other CenturyTel employees the Employer seeks to include in the unit. Nels Hanson testified that he only spoke with Lowell Hanson once in the four weeks preceding the hearing.²⁵

5. Working Conditions and Benefits

Employment decisions affecting employee working conditions, such as promotions or pay, are made through a joint effort between the respective area plant supervisor and area manager, in consultation with the appropriate HR office. As explained earlier, the Minneapolis HR office oversees Qwest employees, while the La Crosse, Wisconsin office manages CenturyTel employees. Michael Cheney, who works in Labor Relations, testified that the Company does not have a common labor relations policy for all CenturyLink employees, and that instead employee and HR

²⁵ Nels Hanson also testified that he talks to Lowell Hanson approximately once a week, but there is no record evidence that any other employee does so. Additionally, Nels Hanson did not testify whether his communications were work-related or were personal communications.

functions are separated based on whether the employee is represented or not.²⁶ The record contains evidence relevant to pay, hours, retirement plans, leave time, health insurance, performance standards, uniforms, vehicles, and seniority.

a. Pay and Hours

Management and HR determine pay rates. On the Qwest side, the central office technicians and the customer data technicians both make \$31.52 per hour, and the network technicians make \$30.53 per hour. On the CenturyTel side, both the communications techs and the plant techs make \$28.63 an hour. Mack testified that CenturyTel technicians in Hill City, Orr, Hovland, Warroad, Baudette, and Roseau all have the same wages and benefits.

Both Qwest and CenturyTel employees can opt for direct deposit or a check payment, and the same payroll department covers both sets of employees based on their rates of pay and benefits. In response to a leading question, Brown stated that CenturyTel's paychecks are budgeted out of CenturyTel, while Qwest's are done by Qwest of Minnesota or a company called T600 Legacy. It is unclear if these are the same or different companies.

In addition to their regular pay, CenturyTel employees can receive bonuses, whereas Qwest employees cannot. CenturyTel employees are eligible for a so-called "short-term incentive plan," which pays them 5 percent of their annual base wage for achieving certain targets. Accordingly, if CenturyTel employees outperform their targets, they can make more money.

²⁶ For represented employees, the HR hierarchy from top to bottom is as follows: Charlie Wheeler, Vice-President of Labor Relations Joe Osa, Director of Labor Relations Mike Lynch, Labor Manager Stephanie Miles, and Labor Relations Manager Meredith Morena. For unrepresented employees, the HR hierarchy includes Senior Vice-President of Human Resources Charlie Wheeler, Vice-President of HR Christie Grey, Director of HR Kathy Flynn, HR Manager Dave Buroker, and Manager Shannon Klug.

Overtime pay is also different. Qwest employees receive 1.5 times base plus applicable differentials for all time over 8 hours in a day, all time over 40 hours in a week, and all time worked on Sundays. If total hours are greater than 49, they are paid at a double-time rate. In contrast, CenturyTel employees receive overtime after 40 hours.

Nels Hanson confirmed that all four positions work the same hours, from 8:00 to 4:30.

b. Retirement Plans

District 7 employees have a defined benefit pension plan, whereas CenturyTel employees had their pension schedule accrual frozen as of December 31, 2010. Additionally, the Company's 401(k) match is different for represented and non-represented employees. District 7 employees hired before December 31, 2010, are eligible for a 4.86 percent maximum company match, and District 7 employees hired after that date are eligible for a 3 percent match. CenturyTel employees are eligible for a 3.5 percent maximum company match.

c. Leave Time

At CenturyLink, represented and non-represented employees are accorded various types of leave. For instance, Qwest employees have a standard vacation plan based on years of service, which is adjusted at the 7-, 15-, and 20-year marks. In contrast, CenturyTel technicians have a paid time-off (PTO) system. Upon hire, CenturyTel employees are afforded 18 days; at some point, depending on the employee's term of service, it goes up to 22, 28, or 33. Cheney said a 25-year Qwest employee would have 25 days off, whereas a 25-year CenturyTel employee would have 33 days off. Cheney testified that PTO is different from vacation time for several

reasons; e.g., CenturyTel employees must use PTO for sick days and, as a result, could potentially use their PTO days fairly quickly. In contrast, the illness absence scale is unlimited for Qwest employees, though Cheney stated that employees could be subject to discipline for their absences in certain cases.

In addition to vacation and PTO, CenturyTel and Qwest employees also have other types of leave. For instance, CenturyTel employees do not have any personal days, whereas Qwest employees have up to eight paid personal days per year and two non-paid personal days per year. CenturyTel employees have nine fixed holidays, while Qwest employees only have six. CenturyTel employees' absences are governed by the employee handbook and local policies, while Qwest absences are covered by the District 7 collective bargaining agreement. The record does not explain how the absenteeism policies differ.

d. Health Insurance

Mike Cheney testified that Qwest employees have a larger collection of plans available to them and that none of those plans are available to CenturyTel employees. Cheney did not elaborate on what those plans are or identify what plans CenturyTel employees are offered.

e. Performance Standards

The Employer asserts that performance standards vary between the Qwest and CenturyTel technicians. According to Cheney, the employee handbook contains the standards for managing performance for CenturyTel employees, whereas the Occupation Employee Performance Plan (OEPP) contains performance management standards for Qwest employees.

f. Uniforms and Vehicles

The Employer denies that the Company has a common uniform program. Instead, the subject of uniforms is negotiated within every collective bargaining agreement. District 7 employees hired before 2005 are able to choose whether or not to wear a uniform. Cheney testified that uniforms are mandatory for non-unit employees, but the record does not reflect what uniform rules apply to District 7 employees hired in 2005 or later.

Nels Hanson said communications techs wear the same uniforms as Qwest COTs. Hanson got his CenturyLink uniform when he worked for Qwest, and he still wears it today. He said network technicians and plant techs still wear the same uniforms. It is unclear if the uniform is identical for all four sets of job positions.

Hanson also testified that CenturyTel and Qwest employees have identical company vehicles with the same branding on the sides.

g. Seniority

When making certain employment decisions, the Company relies upon two types of seniority—company seniority and bargaining unit seniority. The type used depends on the issue involved. For instance, Company seniority is used to determine vacation accrual. According to Mike Cheney, if a CenturyTel employee accepts a Qwest position, that employee retains his accrued vacation time. However, Robert Brown testified that he did not believe employees retained their seniority when transferring from one CenturyLink company to another. The record is not clear if he was referring to seniority for a particular issue, such as vacation. In contrast, Nels Hanson testified that when he transferred from Qwest to CenturyTel in 2012, CenturyTel recognized his seniority with respect to everything.

h. Promotions and Transfers

CenturyTel employees could be promoted or transferred to Qwest exchanges, and vice versa. In response to a leading question, Robert Brown testified that employees are not automatically awarded a transfer or promotion; instead, they may need to bid on an open position and proceed through the external hiring process. Mike Cheney testified that the Company posts available jobs on a posting site similar to **monster.com**. He said that, while the jobs are posted nationwide, per the District 7 CBA, unit employees may be accorded priority when they apply for another unit position. According to the Employer, CenturyTel employees interested in Qwest positions must fulfill the requirements under the Union contract.

Employer witness Robert Brown testified that he was not aware of any CenturyTel employees moving to Qwest positions but knows of Qwest employees who have taken CenturyTel positions, though it has been rare. Nels Hanson testified that he has transferred from CenturyTel to Qwest in the past.

II. ANALYSIS

An *Armour-Globe* self-determination election allows employees sharing a community of interest with an existing bargaining unit to vote whether to join that unit. See generally *NLRB v. Raytheon Co.*, 918 F.2d 249, 251 (1st Cir. 1990) (describing origins and subsequent developments in *Armour-Globe* self-determination elections). In determining whether employees in a proposed unit share a community of interest, the Board considers such factors as whether the employees sought are organized into a separate department; have distinct skills and training; have distinct job functions and perform distinct work, including inquiry into the amount and type of job overlap between classifications; are functionally integrated with the employer's other employees; have

frequent contact with other employees; interchange with other employees; have distinct terms and conditions of employment; and are separately supervised. *United Operations, Inc.*, 338 NLRB 123 (2002).

On the basis of the foregoing and the record as a whole, I conclude that the petitioned-for employees share a community of interest with employees in the existing unit. In reaching this conclusion, I have taken into consideration the fact that although the petitioned-for employees and currently-represented employees have the same hours, the two sets of employees have somewhat different pay scales and fringe benefits. However, the record also establishes that although HR functions are divided along represented and unrepresented lines, the employees Petitioner seeks to add to the existing unit share common supervision with at least some represented employees and, at least as of January 1, 2013, have immediate supervision separate from the four employees the Employer would add; that although the petitioned-for employees have different job titles than currently represented employees, both sets of employees perform essentially the same, if not exactly the same, duties; that although the two sets of employees perform their duties in separate geographic locations, the types of facilities and the equipment used, though of different brands, are essentially the same; and that the petitioned-for employees have regular telephonic communication with currently represented employees but not with the employees that the Employer would add. *NLRB v. Raytheon Corp.*, 918 F.2d 249, 253 (1st Cir. 1990) (concluding that a difference in pay scales was insufficient to establish that employees lacked a community of interest where other evidence demonstrated otherwise).

I further conclude that the petitioned-for employees are an identifiable, distinct segment of the Employer's employees and are an appropriate voting group. In reaching

this conclusion, I am cognizant of the fact that Petitioner does not seek to add all of the Employer's plant technicians and communications technicians in the Employer's Northern Minnesota Area. Cf. *St. Vincent Charity Medical Center*, 357 NLRB No. 79, slip opinion at 3 (2011). I nonetheless conclude that—based on geographic separation; separate immediate supervision; and the absence of evidence of regular interchange between the employees the Employer would add and either the petitioned-for employees or the currently represented employees—the petitioned-for employees are an identifiable, distinct segment of the Employer's employees. Cf. *Capitol Cities Broadcasting Corp.*, 194 NLRB 1063, 1064 (1972) (concluding that a voting unit limited to the petitioned-for employees was an "arbitrary segment of unrepresented employees" and not an appropriate voting group where other unrepresented employees shared common supervision, work location and integration of function with those employees). Accordingly, I conclude that the petitioned-for employees constitute an appropriate voting group for a self-determination election.

III. CONCLUSIONS

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Upon the entire record in this proceeding, I find:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.²⁷

²⁷ The Employer, CenturyTel of MN d/b/a CenturyLink, is a Minnesota corporation engaged in the business of providing telecommunications services. Within the past calendar year, a representative

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. In accordance with Board policy, the petitioned-for employees will be given an opportunity by a self-determination election to express their desires with respect to being included in the existing bargaining unit currently represented by Petitioner, Communications Workers of America. Accordingly, I shall direct an election in the following voting group:

All full-time and regular part-time plant technicians and communications technicians employed by the Employer at its Roseau, Warroad, and Baudette, Minnesota facilities; excluding all other employees, guards and supervisors as defined in the Act, as amended.

If a majority of the employees in the above voting group cast their ballots for Communications Workers of America, they will be taken to have indicated their desire to constitute a part of the existing unit of employees, and Communications Workers of America may bargain for such employees as part of that unit. If a majority of them vote against Communications Workers of America, they will be taken to have indicated a desire to remain outside the existing unit and unrepresented by Communications Workers of America.

period, the Employer received gross revenue valued in excess of \$500,000, and purchased and received at its facilities within the State of Minnesota goods valued in excess of \$50,000 directly from points outside the State of Minnesota. The correct legal name is CenturyTel of Minnesota, Inc. d/b/a CenturyLink.

DIRECTION OF ELECTION

An election by secret ballot will be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations.

A. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date below, and who meet the eligibility formula set forth above. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are persons who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.²⁸

²⁸ To ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is directed that two copies of an election eligibility list containing the full names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within seven (7) days of the date of this Decision and Direction of Election. *North Macon Health Care Facility*, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. In order to be timely filed, this list must be received in the

Those eligible shall vote whether or not they desire to be represented for collective-bargaining purposes by **Communications Workers of America**.

B. Employer to Submit List of Eligible Voters

To file the eligibility list electronically, go to the Agency's website at www.nlrb.gov, select **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001. This request must be received by the Board in Washington by **March 1, 2013**.

The request may be filed electronically through the Agency's website, www.nlrb.gov,²⁹ but may not be filed by facsimile.

Signed at Minneapolis, Minnesota, this 15th day of February, 2013.

/s/ Marlin O. Osthus

Marlin O. Osthus, Regional Director
National Labor Relations Board – Region 18
330 South Second Avenue, Suite 790
Minneapolis, MN 55401-2221

Minneapolis Regional Office, 330 South Second Avenue, Suite 790, Minneapolis, MN 55401-2221, on or before close of business **February 22, 2013**. No extension of time to file this list may be granted by the Regional Director except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

²⁹ To file the request for review electronically, go to www.nlrb.gov, select **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions.