

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0861T

IN THE MATTER OF THE APPLICATION OF CENTURYLINK QC RELINQUISHING PROVIDER OF LAST RESORT DESIGNATION IN 56 EFFECTIVELY COMPETITIVE WIRE CENTERS FOR WHICH CHCSM SUPPORT HAS BEEN ELIMINATED.

**DECISION GRANTING APPLICATION TO
RELINQUISH PROVIDER OF LAST RESORT
OBLIGATIONS AND REQUIRING CUSTOMER NOTICE**

Mailed Date: December 8, 2014
Adopted Date: November 12, 2014

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I. BY THE COMMISSION

A. Statement

1. On August 15, 2014, Qwest Corporation, doing business as CenturyLink QC (CenturyLink), filed an application for Commission approval to relinquish provider of last resort (POLR) designation in the 56 wire centers found to have effective competition and for which Colorado High Cost Support Mechanism (CHCSM) funding has been eliminated by Commission

decisions in Proceeding No. 13M-0422T (Application). In its Application, CenturyLink also requests the Commission waive notice requirements in Rule 2186(e) of the Commission's Rules Regulating Telecommunications Providers, Services, and Products, 4 *Code of Colorado Regulations* (CCR) 723-2 (Request for Waiver). On October 27, 2014, CenturyLink filed its brief responding to questions raised by the Commission in Decision No. C14-1214-I which was mailed on October 3, 2014.

2. We grant CenturyLink's request to relinquish POLR in the 56 wire centers found to have effective competition; however, we deny CenturyLink's Request for Waiver of the notice requirements.

B. Application and Subsequent Filing

3. CenturyLink claims the Commission has determined the facts necessary to support the relinquishment of CenturyLink's POLR obligations in the 56 wire centers through Proceeding Nos. 13M-0422T and 12R-862T. CenturyLink argues that, in Proceeding No. 13M-0422T, the Commission concluded effective competition exists throughout the 56 wire centers and, therefore, no areas within these wire centers are at risk of unaffordable or non-competitive options. CenturyLink argues there is no longer a need to maintain a POLR in the 56 wire centers. CenturyLink further argues that there can be no "meritorious" objection or intervention to the Application given the Commission's finding that effective competition exists throughout the 56 wire centers and the elimination of CHCSM support.

4. CenturyLink also requests that the Commission waive requirements to provide notice to customers under Rule 2186(e). CenturyLink argues that, because it seeks neither to discontinue nor disrupt service in any of the 56 wire centers, and because the Application will not affect any prices for basic service, requiring consumer notice under Rule 2186(e) is

not required and would be counterproductive. CenturyLink also argues that, because its POLR obligations in the 56 wire centers will cease as a matter of law without any application or notice on July 1, 2016, regardless of the outcome of this Application, notice in this proceeding provides no real marginal benefit for consumers.

5. On August 19, 2014, the Commission issued a Notice of Application Filed. No petitions for intervention have been filed.

6. By Decision No. C14-1214-I, the Commission deemed the Application complete and requested briefing from CenturyLink on the Application, including the Request for Waiver of notice to customers provided in Rule 2186(e). The Commission directed CenturyLink to file a brief interpreting the revisions in § 40-15-401(1)(b)(III), C.R.S., by House Bill (HB) 14-1331, specifically the addition that, until July 1, 2016, a provider “remains subject to any obligations as provider of last resort.” In addition, the Commission requested clarification on the components of the POLR obligation that CenturyLink wishes to relinquish and their proposed effective date.

7. In response to the Commission’s decision, CenturyLink argues that HB 14-1331 amends § 40-15-401(1)(b)(III), C.R.S., and states:

Until July 1, 2016, each incumbent local exchange carrier remains subject to any obligations as provider of last resort, as established by the commission under section 40-15-502 (6), throughout its service territory[.]

CenturyLink focuses upon the word “remains” as defining the conditions under which a carrier is subject to POLR obligations established by the Commission. CenturyLink interprets “remains” to mean that, between May 9, 2014, and July 1, 2016, incumbent carriers like CenturyLink continue to be subject to the existing POLR regulations, which include both the establishment, and relinquishment, of POLR obligations.

8. CenturyLink explains that giving continued effect to the Commission's authority to regulate POLR obligations achieves a harmonious interpretation of all the changes adopted by HB 14-1331. CenturyLink points out the Commission determined in Proceeding No. 13M-0422T that, because of prior determinations of effective competition in the 56 wire centers, CHCSM support for those 56 wire centers was terminated effective May 9, 2014. CenturyLink contends it would be "unjust and inconsistent with the deregulatory purposes of HB 14-1331 to eliminate support for the provision of basic service in the 56 wire centers while at the same time continuing to enforce an obligation on CenturyLink to meet POLR obligations in those wire centers."¹

9. In addition, CenturyLink clarifies that it seeks relief from all POLR obligations set forth in Rule 2186 and in § 40-15-502(6), C.R.S. CenturyLink distinguishes its request between: (a) the obligation to provide basic service to consumers who request it, which is a POLR obligation; and (b) the obligation to seek approval from the Federal Communications Commission (FCC) before discontinuing service to a community or part of a community, which is a separate obligation defined in separate statutes and rules. CenturyLink clarifies that it does not file a request with the Commission pursuant to Rule 2108 or with the FCC pursuant to 47 USC § 214(a) or 47 *Code of Federal Regulations* § 63.71 to discontinue or impair service to any portion of the 56 wire centers.

10. CenturyLink reiterates its request to waive notice requirements in Rule 2186(e) and claims that "[b]ecause CenturyLink is simply attempting to compete on an equal footing with competitors in the 56 Wire Centers who do not have POLR obligations (but who may have discontinuance obligations), requiring advance customer notice could be misleading, confusing,

¹ CenturyLink's Brief at 4.

and counterproductive.”² CenturyLink requests the Commission establish the effective date of the relinquishment to be 30 days following the entry of a final Commission decision approving the Application.

C. Findings and Conclusions

11. Among other regulatory reform, HB 14-1331 amends § 40-15-401(1), C.R.S., in that basic service is “exempt from regulation under [Title 40, Article 15] or under the ‘Public Utilities Law’ of the state of Colorado[,]” subject to exceptions.³ Within these exceptions, the Colorado Legislature extended until July 1, 2016, each incumbent local exchange carrier’s POLR obligations, “as established by the commission under section 40-15-502 (6), throughout its service territory.”⁴ We agree with CenturyLink that, pursuant to § 40-15-401(1)(b)(III), C.R.S., the Commission retains its authority to regulate POLR, including the ability to “chang[e] or terminat[e]” such designations. Though the Commission’s authority to regulate POLR obligations in all areas of Colorado continues through July 1, 2016, the Commission is authorized to relinquish POLR obligations consistent with § 40-15-502(6), C.R.S., its rules, and the public interest.

12. We agree with CenturyLink that recent findings of effective competition and our elimination of CHCSM funding in the 56 wire center serving areas support POLR relinquishment. Relinquishing the POLR obligation to “offer basic local exchange service to every customer who requests such service”⁵ within these areas is proper where findings in 13M-0422T indicate that customers throughout these areas have a choice in providers offering

² CenturyLink’s Brief at 10.

³ §§ 40-15-401(1)(b)(II) - (VI), C.R.S.

⁴ § 40-15-401(1)(b)(III), C.R.S.

⁵ Rule 2185(a).

service and, therefore, are not solely reliant on CenturyLink for the provision of affordable basic service. No person has intervened or objects to CenturyLink's requested relinquishment. We therefore grant CenturyLink's request to relinquish POLR in these 56 wire centers.

13. We deny CenturyLink's request to waive notice to customers as required in Rule 2186(e). The purpose of Rule 2186(e) is to ensure customers are aware of the cessation of the incumbent's obligation to provide basic service to all who request it. CenturyLink has not shown good cause to disregard the rule or its underlying policies. Further, the new legislation retains the existing POLR regulatory structure through July 1, 2016, which currently imposes a customer notice requirement.

14. The Commission grants CenturyLink the discretion to select the effective date of relinquishment; however, the Commission requires CenturyLink to comply with all prior notice requirements stated in Rule 2186(e) and with the obligation to provide proof of notice and an affidavit of compliance, all in accordance with the time periods stated in that rule.

15. Upon the completion of notice requirements pursuant to Rule 2186(e), 4 CCR 723-2, POLR obligations in Rule 2185, 4 CCR 723-2 and § 40-15-502(6), C.R.S., shall be relinquished in the 56 wire center serving areas found to have effective competition in Proceeding No. 13M-0422T.

II. ORDER

A. The Commission Orders That:

1. The Application filed August 15, 2014, by Qwest Corporation, doing business as CenturyLink QC (CenturyLink), and supplemented on August 28, 2014, is granted, consistent with the discussion above.

2. CenturyLink’s request for waiver of the customer notice requirements set forth in Rule 2186(e), of the Rules Regulating Telecommunications Providers, Services, and Products, 4 Code of Colorado Regulations 723-2, is denied.

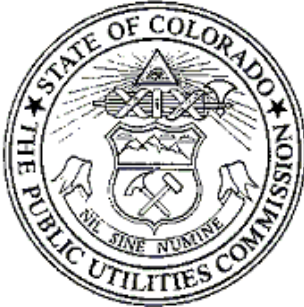
3. The Commission grants CenturyLink the discretion to select the effective date of relinquishment; however, the Commission requires CenturyLink to comply with all prior notice requirements stated in Rule 2186(e) and with the obligation to provide proof of notice and an affidavit of compliance, all in accordance with the time periods stated in that rule.

4. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

5. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING
November 12, 2014.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners