

Decision No. R23-0530-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0197T

IN THE MATTER OF THE APPLICATION OF LUMEN D/B/A CENTURYLINK QC FOR THE
2023 BASIC EMERGENCY SERVICE PROVIDER IMPROVEMENT PLAN.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
G. HARRIS ADAMS
SCHEDULING PREHEARING CONFERENCE**

Mailed Date: August 16, 2023

I. STATEMENT

1. On April 24, 2023, Lumen, doing business as, CenturyLink QC (Lumen) filed its application for 2023 Basic Emergency Service Provider Improvement Plan (Application). Lumen filed its Application pursuant to the Commission's Rules of Practice and Procedure, 4 Code of Colorado Regulations (CCR) 723-1-1000 et seq., and in response to Decision No. C23-0125 filed in Proceeding No. 22R-0122T on February 22, 2023 adopting amendments to 4 CCR 723-2-2143(b) and Decision No. C23-0250-I filed in Proceeding No. 22R-0122T on April 19, 2023, extending the deadline for submission of 2023 improvement plans. The 2023 Improvement Plan leverages a unique opportunity to combine state and federal funds to create redundancy, diversity, and resiliency along three middle mile project routes.

2. By minute entry during the Commission's weekly meeting held on June 7, 2023, this matter was referred to an Administrative Law Judge (ALJ).

3. By Decision No. R23-0412-I, issued June 22, 2023, the intervention of the Office of the Utility Consumer Advocate was noted and requests for permissive intervention of the Colorado Cable Telecommunications Association, the Boulder Regional Emergency Telephone Service Authority (BRETSA), the Douglas County Emergency Telephone Service Authority, the El Paso Teller County Emergency Telephone Service Authority, the Colorado Council of Authorities, Inc., and Larimer Emergency Telephone Authority were granted.

4. By Decision No. R23-0455-I, issued July 13, 2023, a prehearing conference was scheduled. At the scheduled time and place the conference was convened. All parties appeared and participated through counsel. Lumen reported that none of the three routes proposed in BESP network improvement Application would be funded by NTIA. As a result, Lumen was inclined to withdraw the Application. However, time being of the essence for inclusion in the next adjustment to the 9-1-1 surcharge, it was requested that a prehearing conference be convened in two weeks' time. The delay was intended to provide an opportunity to complete continuing negotiations with a third party and to incorporate the terms thereof into a comprehensive settlement agreeing to improve one of the paths through a potential alternative.

5. By Decision No. R23-0477-I, issued July 25, 2023, a prehearing conference was scheduled. At the scheduled time and place the conference was convened. All parties appeared and participated through counsel. Counsel for Lumen reported that, although potential remains for a fiber route from Georgetown to Frisco, negotiations are ongoing. Based thereupon, Lumen decided to withdraw the within Application. The Company commits to continue the ongoing efforts, positioning to submit a more robust and thorough plan proposal for 2024.

6. Counsel for BRETSA questioned during the prehearing conference whether the application could be held open as a venue for collaboration on a 2024 proposal.

7. There is currently no hearing scheduled in this matter.
8. In accordance with Rule 1309(d), of the Rules of Practice Procedure, 4 Code of Colorado Regulations 723-1, Lumen may withdraw an application or petition upon notification to the Commission and all parties prior to 45 days before the first day of hearing.
9. Prior to issuance of a decision following the prehearing conference or any filing by Lumen, the Motion to Hold Proceeding Open Pursuant to 4 CCR § 723-2-2143(b) (Motion to Hold Open) was filed by the Boulder Regional Emergency Telephone Service Authority, the Douglas County Emergency Telephone Service Authority, and the El Paso-Teller County Emergency Telephone Service Authority (collectively, ETSAAs).
10. On August 8, 2023, Lumen's Response to Motion to Hold Proceeding Open Pursuant to 4 CCR Section 723-2-2143(b) was filed.
11. No prejudice coming to any party, response time to the Motion to Hold Open will be shortened to issuance of this Interim Decision.
12. Among other arguments, the ETSAAs argue that the proceeding should remain open to facilitate sharing of confidential information regarding 9-1-1 facilities pursuant to the Commission's Confidentiality rules.
13. In its response, Lumen does not oppose the concept of continuing this proceeding to allow for filing and distribution of confidential materials, for the filing of amendments to the network improvement plan or to provide a forum for the parties, as proposed by the ETSAAs. Notably, Lumen states it would be willing to waive the applicable statutory period for issuance of a Commission decision in this proceeding.

14. If the proceeding does remain open, Lumen proposes that a prehearing conference be set in February 2024. Lumen further proposes that discovery not be allowed at this time, but agrees to furnish all information required under Section 2143(b) to the Intervenors.

15. Based upon good cause shown for the unopposed relief requested by the ETSAAs and conditioned upon Lumen's waiver of the applicable statutory period found in § 40-6-109.1 C.R.S., discovery will be stayed, and a prehearing conference will be scheduled, as ordered below. The proceeding will remain open at this time based upon the unopposed relief requested.

II. ORDER

A. **It Is Ordered That:**

1. Response time to the Motion to Hold Proceeding Open Pursuant to 4 CCR § 723-2-2143(b) filed by the Boulder Regional Emergency Telephone Service Authority, the Douglas County Emergency Telephone Service Authority, and the El Paso-Teller County Emergency Telephone Service Authority is shortened to issuance of this Interim Decision.

2. The Motion to Hold Proceeding Open Pursuant to 4 CCR § 723-2-2143(b) is granted, conditioned upon a waiver of the applicable statutory period and consistent with the discussion above.

3. Lumen, doing business as, CenturyLink QC (Lumen), must file a waiver of the applicable statutory period found in § 40-6-109.1 C.R.S., within 30 days of this Interim Decision.

4. Discovery in this proceeding is stayed pending a further decision.

5. A remote prehearing conference in this proceeding is scheduled as follows:

DATE: February 26, 2024

TIME: 10:00 a.m.

WEBCAST: Hearing Room B

METHOD: Join by video conference using Zoom at the link to be provided in an email from the Administrative Law Judge or Staff of the Colorado Public Utilities Commission.¹

6. Nobody should appear in-person for the remote prehearing conference.

7. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director

¹ Additional information about the Zoom platform and how to use the platform are available at: <https://zoom.us/>. All are strongly encouraged to participate in a test meeting prior to the scheduled hearing. See <https://zoom.us/test>.