

Decision No. R24-0081-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23AL-0486T

IN THE MATTER OF ADVICE LETTER NO. 3168 FILED BY QWEST CORPORATION DBA CENTURYLINK QC TO REVISE ITS EMERGENCY REPORTING SERVICES TARIFFS COLORADO P.U.C. NO. 25, TO BECOME EFFECTIVE OCTOBER 16, 2023.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ALENKA HAN
ORDERING STATUS REPORT,
SETTING DEADLINE FOR AMENDED ADVICE LETTER,
ESTABLISHING PROCEDURAL SCHEDULE,
AND SCHEDULING EVIDENTIARY HEARING**

Mailed Date: February 7, 2024

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I. STATEMENT

1. On September 29, 2023, Qwest Corporation, doing business as CenturyLink QC (CenturyLink) filed Advice Letter No. 3168 (AL 3168).

2. The Advice Letter and Tariff Sheets modify CenturyLink’s Emergency Reporting Services Tariff Colo. P.U.C. No. 25, (sections 1.1, 2.1, and 9.2), by adding two definitions and a statement regarding network maintenance and testing. The Advice Letter proposes an effective date of October 16, 2023, for these amendments to the Tariff Sheets.

3. CenturyLink states that the purpose of this filing is to comply with recently adopted Rule 2137 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR), 723-2, which became effective on March 30, 2023.¹

4. On October 6, 2023, Protest Letters were independently filed by the Larimer Emergency Telephone Authority (LETA) and Commission Trial Staff (Staff), requesting that the Tariff Sheets filed under AL 3168 be set for a hearing and their proposed effective date be suspended.

5. On October 13, 2023, the Commission issued Decision No. C23-0699 suspending the Tariff Sheets for 120 days, up to and including February 8, 2024, and referring the Proceeding to an Administrative Law Judge (ALJ) for disposition. The Proceeding was subsequently assigned to the undersigned ALJ.

6. Decision No. C23-0699 also ordered that any entities wishing to intervene in this Proceeding move for or file notice of their interventions within 30 days of the Commission’s decision, or by November 13, 2023.

7. Four entities moved or noticed their interventions by that deadline:

¹ See Decision R22-0811, in Proceeding 22R-0122T, issued December 22, 2022.

- a. On November 6, 2023, LETA moved to permissively intervene;
 - b. Also on November 6, 2023, the Colorado Council of Authorities, Inc. (CCOA) moved to permissively intervene;
 - c. On November 10, 2023, the Boulder Regional Emergency Telephone Service Authority (BRETSA) filed its notice of intervention of right or, in the alternative, moved for permissive intervention, and
 - d. On November 13, 2023, the Adams County E-911 Emergency Telephone Service Authority, the Arapahoe County 911 Authority, and the Jefferson County Emergency Communications Authority (collectively the AAJ Authorities) collectively moved for permissive intervention.
8. In addition, on November 21, 2023, Staff filed an Unopposed Motion for Late-Filed Intervention, accompanied by Staff’s Notice of Intervention, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing.
9. By Decision No. R23-0809-I, issued December 7, 2023, the undersigned ALJ granted the four pending motions to intervene, granted Staff’s Motion for Late-Filed Intervention, and acknowledged Staff’s intervention as of right.
10. The parties to this Proceeding are thus CenturyLink, Commission Trial Staff, CCOA, LETA, the AAJ Authorities, and BRETSA.
11. Decision No. R23-0809-I also set a prehearing conference to discuss the procedural schedule governing this Proceeding for Friday, December 15, 2023, at 11:00 a.m.
12. On December 15, 2023, the undersigned ALJ held the prehearing conference as scheduled.
13. The following individuals appeared on behalf of the respective parties:
- | | |
|-------------------------|-----------------------------------------------------|
| CenturyLink: | Richard Corbetta and Tim Kunkleman; |
| CCOA and LETA: | Tracy Oldelmeyer; |
| AAJ Authorities: | Amanda Jokerst; |
| BRETSA: | Joseph Benkert; and, |
| Commission Trial Staff: | Justin Cox, Michael Santisi, and Jennifer Kirkland. |

14. At the commencement of the prehearing conference, Mr. Corbetta, speaking on behalf of CenturyLink, conveyed the parties' concerns about meeting the statutory timetable. In particular, Mr. Corbetta referenced a pending Commission Rulemaking Proceeding which could impact the proposed Tariff Sheets in this Proceeding.² He expressed CenturyLink's concern that pursuing this Advice Letter Proceeding and participating in the new Rulemaking Proceeding could be overly-burdensome, counterproductive, and inefficient. He therefore proposed extending the statutory deadlines beyond those allowed by statute.

15. However, the undersigned ALJ pointed out that she could not extend the statutory suspension period beyond the 130 additional days permitted by § 40-6-111(1)(b), C.R.S.

16. Mr. Corbetta then indicated that CenturyLink will file an Amended Advice Letter and Tarriff Sheets, which would reset the timeline and provide the parties additional time beyond the statutory maximum of 250 days for the Commission to issue a final decision to allow the Rulemaking Proceeding to conclude.

17. Based upon Mr. Corbetta's and CenturyLink's representations, the ALJ issued Decision No. R23-0847-I, suspending the Tarriff Sheets for an additional 130 days, up to and including June 17, 2024, and ordered that an evidentiary hearing and procedural schedule would be set and established after CenturyLink's Amended Advice Letter is filed. The undersigned ALJ urged CenturyLink to file its Amended Advice Letter "as soon as practicable."

18. To date, however, CenturyLink has not filed an Amended Advice Letter. The statutory time period will expire in approximately four months and cannot be extended further absent the filing of an Amended Advice Letter.

² See Decision No. C23-0800, Notice of Proposed Rulemaking, in Proceeding No. 23R-0577T, In the Matter of the Proposed Amendments to 4 Code of Colorado Regulations 723-2 Modifying the Commission Rules Regarding Basic Emergency Service Outage Prevention, Response, and Reporting, issued Dec. 5, 2023.

II. STATUS REPORT

19. Given the impending expiration of the statutory time period, the undersigned ALJ will order CenturyLink to file a Status Report advising of the current status of its Amended Advice Letter within seven days of the issuance of this decision.

20. The ALJ will also set a deadline of February 23, 2024, by which CenturyLink must file any Amended Advice Letter.

III. EVIDENTIARY HEARING AND PROCEDURAL SCHEDULE

21. The statutory time period within which a final Commission decision addressing CenturyLink's Advice Letter must be issued will expire June 17, 2024. Absent the filing of an Amended Advice Letter, this deadline cannot be extended further.

22. Because a Recommended Decision must issue at least 65 days before that deadline to allow time for exceptions and review by the Commission as a whole, and because a recommended decision can only issue after an evidentiary hearing is held and the parties have filed their respective Statements of Position, the undersigned ALJ concludes that it is in the best interests of the parties and the Commission to immediately set this Proceeding for an evidentiary hearing. The ALJ notes that if a hearing is not promptly set, it will be difficult to schedule the hearing and have the matter heard given the Commission's busy calendar.

23. Should CenturyLink file an Amended Advice Letter, the ALJ will vacate the evidentiary hearing and procedural schedule.

A. Evidentiary Hearing

24. Therefore, a two-day, hybrid evidentiary hearing will be set for March 21 and 22, 2024.

25. The ALJ notes that the Commission can conduct in-person, remote, or hybrid hearings. A remote hearing is one in which all of the participants appear and participate from remote locations over the Zoom web conferencing platform. A hybrid hearing involves the ALJ and at least one party and/or witness participating from one of the Commission’s hearing rooms in Denver, and the remaining party(ies) and witness(es) participating from one or more remote locations using the Zoom web conferencing platform. An in-person hearing is one in which the ALJ and all parties and witnesses participate in the hearing at the same location.

26. If the parties prefer a fully in-person or fully remote hearing, they may file a motion to amend the hearing format.

B. Procedural Schedule

27. The ALJ notes that CenturyLink has not filed any testimony in this Proceeding. The ALJ will therefore establish the following procedural schedule to govern this matter, including providing a deadline by which CenturyLink is to submit its prefiled direct testimony:

Direct Testimony	February 20, 2024
Answer Testimony	February 28, 2024
Rebuttal Testimony and Cross-Answer Testimony	March 6, 2024
Prehearing Motions Deadline	March 7, 2024
Stipulations and Settlement Agreements	March 7, 2024
Settlement Testimony (if matter settles) OR Corrections to Pre-filed Testimony and Exhibits	March 14, 2024
Cross-Examination Matrix	March 14, 2024

32. The parties are also on notice that failure to appear at the scheduled evidentiary hearing may result in decisions adverse to their interests, including granting the complete relief opposing parties seek, dismissing interventions, and dismissing or granting the Application.

33. **Informal Videoconference Practice Session:** The ALJ will hold an informal practice videoconference session if requested by any party to give the parties an additional opportunity to practice using Zoom and box.com before the hearing.

34. The parties may contact a Commission Legal Assistant by email at casey.federico@state.co.us and stephanie.kunkel@state.co.us, to schedule an informal practice video-conference session.

IV. **ORDER**

A. **It Is Ordered That:**

1. Qwest Corporation, doing business as CenturyLink QC (CenturyLink), is ordered to submit a Status Report advising of the current status of its Advice Letter and Tarriff Sheets within seven (7) days of this Decision.

2. Any Amended Advice Letter and Tarriff Sheets shall be filed no later than February 23, 2024.

3. A **hybrid** hearing is scheduled as follows:

Date: March 21 and 22, 2024

Time: 9:00 a.m.

Location: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

Method: In person and by videoconference using Zoom at the link to be provided to counsel and the parties via email prior to the hearing.

Optionally, any party may participate remotely by joining a video conference using Zoom at the link provided to the established parties in an e-mail prior to the scheduled hearing, as addressed above.

4. The parties and witnesses may not distribute the Zoom link and access code to anyone not participating in the remote hearing.

5. **Videoconference Participation.** Counsel for the parties, parties, and witnesses may attend in person or participate in the evidentiary hearing by videoconference using the Zoom platform.

6. **Instructions for Remote Hearings Via Zoom:** Detailed instructions governing participation in and procedures for remote hearings conducted via Zoom are set out in Attachment A to this order, which is incorporated into and made part of this order.

7. The ALJ will hold an informal Zoom practice session upon request.

8. The following procedural schedule is adopted:

Direct Testimony	February 20, 2024
Answer Testimony	February 28, 2024
Rebuttal Testimony and Cross-Answer Testimony	March 6, 2024
Prehearing Motions Deadline	March 7, 2024
Stipulations and Settlement Agreements	March 7, 2024
Settlement Testimony (if matter settles) OR Corrections to Pre-filed Testimony and Exhibits	March 14, 2024
Cross-Examination Matrix	March 14, 2024
Evidentiary Hearing	March 21-22, 2024
Statements of Position	April 5, 2024

9. **Evidence Presentation at the Evidentiary Hearing.** Because the hearing may accommodate remote participation by videoconference, all evidence must be presented electronically. Each party is responsible for ensuring that they and their respective witnesses: (a) have access to all pre-filed exhibits; and (b) can download and view documents available from box.com during the hearing.

10. **Instructions for Preparation and Presentation of Exhibits at Hearing:** In addition to other requirements of the Commission’s Rules of Practice and Procedure, 4 Code of Colorado Regulations 723-1 (e.g., Rule 1202 regarding pre-filed testimony), detailed additional instructions governing the preparation and presentation of exhibits at the hearing are set out in Attachment B to this order, which is incorporated into and made part of this order.

11. The parties shall adhere to the following numbering system for their respective exhibits:

- a) CenturyLink Hearing Exhibits 100-199
- b) Commission Trial Staff: Hearing Exhibits 200-299
- c) CCOA: Hearing Exhibits 300-399
- d) LETA: Hearing Exhibits 400-499
- e) BRETSA: Hearing Exhibits 500-599
- f) AAJ Authorities: Hearing Exhibits 600-699

12. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director