

Decision No. R24-0126-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
VACATING EVIDENTIARY HEARING,
SUSPENDING EFFECTIVE DATE OF TARIFFS, AND
SCHEDULING PREHEARING CONFERENCE**

Mailed Date: February 28, 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 proposed to 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 further proposed an effective date of October 16, 2023, for these amendments to the Tariff Sheets.

3. In its September 2023 Advice Letter, CenturyLink states that the purpose of its filing was 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:

- 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;

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

- 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 Oldemeyer; |
| 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 conveyed CenturyLink’s concerns about setting a procedural schedule accommodating both the statutory

timetable and 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 the statutory limits.

15. Section 40-6-111(1)(b), C.R.S., permits an Advice Letter to be suspended for a maximum of 250 days. Because Mr. Corbetta indicated that a 250-day timeline would be inadequate, the ALJ suggested that CenturyLink consider filing an Amended Advice Letter.

16. During the prehearing conference, Mr. Corbetta indicated that CenturyLink would file an Amended Advice Letter and Tariff Sheets within a few weeks.

17. Following the prehearing conference, on December 21, 2023, the ALJ issued Decision No. R23-0847-I, suspending the Tariff Sheets for an additional 130 days beyond the 120-day suspension ordered by the Commission, or up to and including June 17, 2024. The ALJ urged CenturyLink to file its Amended Advice Letter "as soon as practicable" and ordered that an evidentiary hearing and procedural schedule would be set and established after CenturyLink's Amended Advice Letter is filed.

18. However, as of early February, 2024 — more than six weeks after the prehearing conference — CenturyLink had not yet filed an Amended Advice Letter. The ALJ therefore issued Decision No. R24-0081-I on February 7, 2024, ordering CenturyLink to file a Status Report, setting a procedural schedule, and scheduling an evidentiary hearing for March 21 and 22, 2024, to ensure that the mandatory statutory time period could be met.

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.

19. On February 12, 2024, CenturyLink filed an Amended Advice Letter and proposed revised Tariff Sheets. It withdrew that Amended Advice Letter and proposed revised Tariff Sheets two days later.

20. On February 14, 2024, CenturyLink re-filed Amended Advice Letter No. 3168 (AAL 3168) along with proposed revised Tariff Sheets. AAL 3168 identified eight proposed changes to CenturyLink's Tariff Sheets.

21. Contemporaneously with AAL 3168, CenturyLink filed its Status Report advising the ALJ that it has been in discussions with the other parties to this Proceeding to craft revised Tariff Sheets "consistent with Commission rules and to include language that would address, to the extent possible, stakeholder concerns."³ It reported that AAL 3168 and revised Tariff Sheets had been filed that day and requested that the procedural schedule and evidentiary hearing set by Decision No. R24-0081-I be vacated. Finally, CenturyLink relayed that a hearing in the potentially-related Rulemaking Proceeding — Proceeding No. 23R-0577T — is scheduled to be held February 29, 2024.

II. AMENDED ADVICE LETTER AND TARIFF SHEETS

22. CenturyLink's Amended Advice Letter No. 3168 notes eight proposed revisions to its Tariff Sheets, and thus adds proposed revisions that were not included in AL 3168. AAL 3168 summarizes the proposed revisions.

23. AAL 3168 sets a proposed effective date of March 15, 2024, but expressly requests that the Tariff Sheets be suspended further. In particular, AAL 3168 states that "CenturyLink requests that the amended tariff filed herewith be suspended to allow time for the Commission" to

³ Status Report by Qwest Corporation d/b/a CenturyLink QC Pursuant to Dec. No. R24-0081-I, filed Feb. 14, 2024.

consider and implement changes to the Commission’s Rules “which may be amended in the ongoing Proceeding No. 23R-0577T.”⁴

III. TIME FOR COMMISSION DECISION

24. AL 3168 requested that its Tariff Sheets become effective October 16, 2023. The Commission, in its discretion, referred the Advice Letter to a hearing, and pursuant to § 40-6-111(1), C.R.S., suspended the Tariff Sheets’ effective date for an additional 120 days, or up to and including February 8, 2024.

25. Decision No. R23-0847-I extended that time period by an additional 130 days, or up to and including June 17, 2024.

26. CenturyLink has now filed AAL 3168 with a proposed effective date of March 15, 2024. However, CenturyLink expressly requested that its proposed effective date of March 15, 2024, be suspended.

27. Pursuant to § 40-6-111(1)(b), the Commission may, in its discretion, set the Tariff Sheets for hearing and suspend the effective date for 120 days from the proposed effective date. The effective date of the Tariff Sheets will therefore be suspended 120 days, up to and including July 13, 2024.

28. Although the statutory period has been extended, CenturyLink’s Advice Letter suggests that a timeframe expiring July 13, 2024, may not be sufficient to allow Proceeding No. 23R-0577T to conclude before a final Commission decision is due in this Proceeding.

29. This time period can be extended further, though. If the Commission in its discretion finds that additional time is necessary for a decision, the period of suspension may be

⁴ Amended Advice Letter 3168, filed Feb. 14, 2024.

extended an additional 130 days beyond the 120-day suspension, for a total of 250 days. See § 40-6-111(1)(b), C.R.S.

30. In order to facilitate the progression of this Proceeding and to ensure the parties have sufficient time to consider the revised Tariff Sheets and incorporate any additional changes that may become necessary as a result of further amendments to the Rules brought forth by Proceeding No. 23R-0577T, it is found necessary to extend the time for the issuance of a final Commission decision. The applicable statutory period shall be extended by an additional 130 days up to and including November 20, 2024.

IV. VACATION OF EVIDENTIARY HEARING AND PROCEDURAL SCHEDULE

31. Because CenturyLink's filing of AAL 3168 has extended the statutory time period within which a final Commission decision must be issued, and because the time period of the suspension will be extended the full amount permitted by § 40-6-111(1)(b), an evidentiary hearing need not be held expeditiously in March 2024.

32. Therefore, the procedural schedule adopted by Decision No. R24-0081-I will be vacated. The parties will not be required to comply with any of the deadlines established by Decision No. R24-0081-I.

33. Likewise, the evidentiary hearing scheduled for March 21 and 22, 2024, will be vacated.

V. PREHEARING CONFERENCE

34. To ensure this matter nevertheless moves forward, and in anticipation of a hearing on the Amended Advice Letter 3168, the ALJ is scheduling a fully-remote prehearing conference per Rule 1409(a), 4 CCR 723-1, for Thursday, March 21, 2024, at 10:00 a.m.

35. Participants will appear at the prehearing conference from remote locations by videoconference and may not appear in person for the prehearing conference. The remote prehearing conference will be held using the web-hosted service, Zoom. Attachment A hereto includes important technical information and requirements to facilitate holding the prehearing conference remotely. All those participating in the hearing must carefully review and follow all requirements in this Decision and Attachment A.

36. To minimize the potential that the videoconference hearing may be disrupted by non-participants, the link and meeting ID or access code to attend the hearing will be provided to the participants by email before the hearing, and the participants will be prohibited from distributing that information to anyone not participating in the hearing.

37. At the prehearing conference, an evidentiary hearing will be scheduled, and related procedural deadlines will be established. The ALJ anticipates that a fully-remote evidentiary hearing will be held in via Zoom. Alternatively, the parties may choose to hold a hearing fully in person at the Commission's offices in Denver, Colorado, or at another location agreed to by the parties and approved by the ALJ, or a hybrid hearing which accommodates both in person and remote participation in the evidentiary hearing. CenturyLink's Tariff Sheets will be suspended 250 days, up to and including November 20, 2024, beyond the stated effective date of March 15, 2024, for the revised Tariff Sheets proposed by CenturyLink. The undersigned ALJ anticipates extending the deadline. To ensure a final Commission decision can be issued by November 20, 2024, the ALJ anticipates that an evidentiary hearing in this matter must be held before the end of August 2024. The participants should keep this in mind when preparing for the prehearing conference. Other issues relevant to this proceeding may be raised or addressed at the prehearing conference,

including whether the parties have met the requirements of this Decision and relevant Commission rules.

38. All parties are on notice that failure to appear at the prehearing conference may result in decisions adverse to their interests, including granting the complete relief opposing parties seek, dismissing interventions, and dismissing or granting the Application. The ALJ will deem any party's failure to appear at the prehearing conference to be a waiver of that party's objection to the rulings made during the prehearing conference.

39. In the alternative, if the parties reach a consensus procedural schedule, hearing format, and proposed evidentiary date(s), the parties are encouraged to contact the undersigned ALJ informally by email (alenska.han@state.co.us) with their proposed procedural schedule. In the event that the parties' proposed procedural schedule can be accommodated by the Commission, the undersigned ALJ will vacate the prehearing conference.

VI. ORDER

A. It Is Ordered That:

1. Pursuant to § 40-6-111(1)(b), C.R.S., the period of suspension of CenturyLink's Amended Advice Letter No. 3168 and the period for issuance of a Commission decision is extended by 250 days, up to and including November 20, 2024.

2. The procedural schedule established by Decision No. R24-0081-I, issued February 7, 2024, is vacated. No party is required to comply with the deadlines set forth in Decision No. R24-0081-I.

3. The evidentiary hearing scheduled for March 21 and 22, 2024, is vacated.

4. A fully-remote prehearing conference in this Proceeding is scheduled as follows:

DATE: Thursday, March 21, 2024
TIME: 10:00 a.m.
PLACE: Join by video conference using Zoom

5. Participants in the hearing may not distribute the hearing link, access, or ID code to anyone not participating in the hearing. Participants may not appear in person at the Commission for the above-scheduled hearing. Instead, they must participate in the hearing from remote locations, consistent with the requirements of this Decision.

6. All participants must comply with the requirements in Attachment A to this Decision, which is incorporated into this Decision.

7. 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