

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 CENTURLINK 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
SCHEDULING EVIDENTIARY HEARING AND
ESTABLISHING PROCEDURAL SCHEDULE**

Mailed Date: April 3, 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 September 2023 Advice Letter proposes an effective date of October 16, 2023, for these amendments to the Tariff Sheets.

3. CenturyLink states that it seeks to update these Tariff Sheets to ensure its Tariff Sheets 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 thirty (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 No. R22-0811, in Proceeding No. 22R-0122T, issued Dec. 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. Subsequently, 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, 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., which the ALJ held as scheduled.

12. At the December 2023 prehearing conference, counsel for CenturyLink indicated that CenturyLink preferred to delay this Proceeding in order to allow a potentially-applicable pending Commission Rulemaking Proceeding further amending the Telecommunications Rules to resolve, thereby minimizing CenturyLink's burden in addressing the two potentially-intertwined and simultaneously-pending Proceedings.² The parties determined that this

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.

Proceeding could be further suspended if CenturyLink were to file an Amended Advice Letter setting a future effective date.

13. Based on the parties' statements at the prehearing conference, on December 21, 2024, the ALJ issued Decision No. R23-0847-I, suspending the Tarriff Sheets for an additional 130 days beyond the 120-day suspension ordered by the Commission, or up to and including June 17, 2024. She also 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.

14. When no Amended Advice Letter had been filed within several weeks of the issuance of Decision No. R23-0847-I, on February 7, 2024, the undersigned ALJ issued Decision No. R24-0081-I requiring CenturyLink to file a Status Report advising of the posture of the Proceeding, to file an Amended Advice Letter by February 23, 2024, and setting an evidentiary hearing for March 21-22, 2024, to ensure that a final Commission decision could be issued within the statutory time period.

15. On February 14, 2024, CenturyLink filed Amended Advice Letter No. 3168 (AAL 3168) along with proposed revised Tariff Sheets which identified eight proposed changes to its Tariff Sheets. AAL 3168 proposed an effective date for its Amended Tariff Sheets of March 15, 2024. In addition, CenturyLink filed a Status Report advising the undersigned of its efforts to amend its Tariff Sheets and AL 3168.

16. The undersigned ALJ therefore issued Decision No. R24-0126-I on February 28, 2024, vacating the March 21-22, 2024, evidentiary hearing; suspending the effective date of the Tariff Sheets to November 20, 2024, pursuant to § 40-6-111(1)(b), C.R.S.;

and scheduling a second prehearing conference to be held March 21, 2024, commencing at 10:00 a.m.

II. PREHEARING CONFERENCE

17. The undersigned ALJ held the second prehearing conference as scheduled on March 21, 2024.

18. The following individuals appeared on behalf of the respective parties:

- a) CenturyLink: Richard Corbetta and Tim Kunkleman;
- b) AAJ Authorities: Amanda Jokerst;
- c) BRETSA: Joseph Benkert; and,
- d) Commission Trial Staff: Justin Cox, Josh Horman, and Jennifer Kirkland.

No one appeared on behalf of CCOA or LETA.

19. At the prehearing conference, Mr. Corbetta presented the parties' agreed-upon, proposed procedural schedule and suggested dates for the evidentiary hearing. Mr. Cox, Mr. Benkert, and Ms. Jokerst concurred. In addition, Mr. Corbetta represented that Tracy Oldemeyer, counsel for both CCOA and LETA, participated in the scheduling discussions and had agreed to the schedule proposed by the other parties.

20. Subsequently, on March 26, 2024, counsel for CCOA and LETA, Tracy Oldemeyer, filed a Status Report explaining that her absence was inadvertent and unintentional, but that she concurred with the procedural schedule proposed by the other parties and had nothing to add to the discussion.

III. PROCEDURAL SCHEDULE AND HEARING DATES

A. Procedural Schedule

21. At the second prehearing conference, the parties represented that they had unanimously agreed to the following procedural schedule:

Direct Testimony	April 19, 2024
Answer Testimony	May 20, 2024
Rebuttal Testimony and Cross-Answer Testimony	June 3, 2024
Corrected Testimony	June 7, 2024
Prehearing Motions Deadline	June 11, 2024
Stipulations and Settlement Agreements	June 11, 2024
Cross-Examination Matrix	June 12, 2024
Evidentiary Hearing	June 17-18, 2024
Statements of Position	July 12, 2024

22. Given that the effective date of AAL 3168 and the accompanying Tariff Sheets have been suspended up to November 20, 2024, the ALJ finds the proposed schedule reasonable and acceptable. It will be adopted, as ordered below.

B. Evidentiary Hearing

23. At the prehearing conference, Mr. Corbetta and Mr. Benkert expressed a preference for an in-person hearing. Mr. Cox indicated he and Staff were amenable to any format. Ms. Jokerst indicated that although she appreciated the other parties’ preference for an in-person hearing, she preferred a hybrid hearing to give any distant witnesses or counsel the option to appear remotely. Those present at the prehearing conference agreed that this was an acceptable solution for the hearing format.

24. The ALJ finds that given the parties’ differences, a hybrid hearing is appropriate because it will permit witnesses and counsel who so desire to appear in person, while allowing

other parties who may find appearing in person to be burdensome to appear remotely if they so choose. The ALJ will therefore schedule a hybrid hearing for the dates agreed to by the parties, June 17 and 18, 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. The parties are advised that if circumstances or conditions change, the ALJ retains the discretion to alter the hearing forming as necessary.

C. Unified Numbering System for Hearing Exhibits

27. In order to efficiently organize the numbering and preparation of exhibits for the hearing, the parties shall use a unified numbering system for all hearing exhibits. Blocks of hearing exhibit numbers are assigned as follows:

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

28. The parties are instructed to adhere to this exhibit numbering system for any prefiled testimony filed in this Proceeding, as well as any documentary evidence sought to be offered into evidence.

D. Advisements

29. The Parties are advised and are on notice that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the Parties to be familiar with and to comply with these rules. The rules are available on the Commission's website (puc.colorado.gov/pucrules).

30. 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.

E. Informal Video-Conference Practice Session

31. The ALJ will hold an informal practice video-conference session if requested by any party to give the parties an additional opportunity to practice using Zoom and box.com before the hearing.

32. 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.

33. The parties will receive information and a link to participate in the informal practice session by email.

IV. ORDER

A. It Is Ordered That:

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

Date: **June 17 and 18, 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.

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

3. **Video-Conference Participation.** Counsel for the parties, parties, and witnesses may attend in person or participate in the evidentiary hearing by videoconference using the Zoom platform.

4. **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.

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

6. The following procedural schedule is adopted:

Direct Testimony	April 19, 2024
Answer Testimony	May 20, 2024
Rebuttal Testimony and Cross-Answer	June 3, 2024

Testimony	
Corrected Testimony	June 7, 2024
Prehearing Motions Deadline	June 11, 2024
Stipulations and Settlement Agreements	June 11, 2024
Cross-Examination Matrix	June 12, 2024
Evidentiary Hearing	June 17-18, 2024
Statements of Position	July 12, 2024

7. **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.

8. **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* (CCR) 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.

9. The parties shall adhere to the following numbering system for their respective exhibits and prefiled testimony:

Qwest Corporation, doing business as CenturyLink QC	Hearing Exhibits 100-199
Commission Trial Staff	Hearing Exhibits 200-299
Colorado Council of Authorities, Inc.	Hearing Exhibits 300-399
Larimer Emergency Telephone Authority	Hearing Exhibits 400-499
Adams County E-911 Emergency Telephone Service Authority; Arapahoe County 911 Authority; and Jefferson County Emergency Communications Authority	Hearing Exhibits 500-599
Boulder Regional Emergency Telephone Service Authority	Hearing Exhibits 600-699

10. 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

Rebecca E. White,
Director