

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 23AL-0486T

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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.

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**RECOMMENDED DECISION  
GRANTING JOINT MOTION TO APPROVE  
NON-UNANIMOUS COMPREHENSIVE SETTLEMENT  
AGREEMENT, AND MODIFYING AND  
APPROVING SETTLEMENT AGREEMENT**

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Issued Date: October 10, 2024

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**I. STATEMENT**

**A. Summary**

1. This Recommended Decision grants the Joint Motion to Approve Non-Unanimous Comprehensive Settlement Agreement (“Settlement Agreement”) filed June 14, 2024; approves and modifies the Settlement Agreement; and sets an effective date for implementation of the Settlement Agreement.

2. In accordance with § 40-6-109, C.R.S., the Administrative Law Judge (“ALJ”) now transmits to the Commission the record in this proceeding and recommends that the Commission enter the following order.

**B. Procedural History**

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

4. AL 3168 and the accompanying 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. AL 3168 proposed an effective date of October 16, 2023, for these amendments to the Tariff Sheets.

5. CenturyLink states that it seeks to update these Tariff Sheets to ensure its Tariff Sheets comply with Rule 2137 of the Rules Regulating Telecommunications Services and Providers of Telecommunications Services (the "Telecomm Rules"), 4 *Code of Colorado Regulations* ("CCR"), 723-2, which became effective on March 30, 2023.<sup>1</sup>

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

7. 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 ALJ for disposition. The Proceeding was subsequently assigned to the undersigned ALJ.

8. 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.

9. 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;

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<sup>1</sup> 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.

10. 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.

11. 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.

12. The parties to this Proceeding are thus CenturyLink, Staff, CCOA, LETA, the AAJ Authorities, and BRETSA.

13. At a prehearing conference held Friday, December 15, 2023, counsel for CenturyLink advised the undersigned ALJ that CenturyLink preferred to delay this Proceeding in order to allow a potentially-applicable pending Commission Rulemaking Proceeding further amending the Telecomm Rules — Proceeding No. 23R-0577T<sup>2</sup> — to resolve, thereby minimizing CenturyLink’s burden in addressing the two potentially-intertwined and simultaneously-pending

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<sup>2</sup> Recommended Decision No. R24-0403 adopting and amending the Commission’s Rules Regulating Telecommunications Services and Providers of Telecommunications Services (the “Telecomm Rules”) was issued June 13, 2024. Commission Decision No. C24-0596 denying CenturyLink’s exceptions to Decision No. R24-0403 was issued August 19, 2024. No party filed an application for rehearing, reargument, or reconsideration of Commission Decision No. C24-0597. Subsequently, on September 30, 2024, the Colorado Secretary of State issued a Rule Filing Confirmation indicating that the Telecomm Rules as amended by Proceeding No. 23R-0577T were final September 9, 2024.

Proceedings.<sup>3</sup> The parties were advised that to pause this Proceeding, CenturyLink could file an Amended Advice Letter setting a future effective date.

14. After the prehearing conference, the ALJ issued Decision No. R23-0847-I, on December 21, 2023, 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.

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 thereafter issued Decision No. R24-0126-I on February 28, 2024, suspending the effective date of the Tariff Sheets to November 20, 2024, pursuant to § 40-6-111(1)(b), C.R.S.

17. At a second prehearing conference held March 21, 2024, the ALJ and parties agreed to a procedural schedule to govern this Proceeding and a date for the evidentiary hearing. By Decision No. R24-0204-I, issued April 3, 2024, the ALJ scheduled an evidentiary hearing to be held June 17 and 18, 2024. Decision No. R24-0204-I also set a deadline of June 11, 2024, by which the parties were to file any stipulations or settlements.

18. On June 11, 2024, counsel for CenturyLink filed an Unopposed Motion to Vacate Evidentiary Hearing and Modify Procedural Schedule and Request for Waiver of Response Time

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<sup>3</sup> 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. Recommended Decision No. R24-0403 adopting new Telecommunications Rules was issued June 13, 2024. CenturyLink filed exceptions to Decision No. R24-0403 on July 3, 2024. But the Commission denied CenturyLink’s exceptions by Decision No. C24-0596, issued August 19, 2024.

(“Unopposed Motion to Vacate”). The Unopposed Motion to Vacate advised that the parties had engaged in ongoing settlement negotiations and requested additional time to work out the details of any settlement. By Decision No. R24-0404-I, issued June 12, 2024, the ALJ vacated the evidentiary hearing scheduled for June 17-18, 2024, and modified the procedural schedule to allow the parties additional time to file any settlement documents.

19. On June 14, 2024, CenturyLink, Staff, BRETSA, and the AAJ Authorities (“the Settling Parties”) filed their Joint Motion to Admit into the Record Pre-Filed Testimony, Approve Non-Unanimous Comprehensive Settlement Agreement and Extend Response Time (“Joint Motion to Approve”), accompanied by the Settling Parties’ Non-Unanimous Comprehensive Settlement Agreement (“Settlement Agreement”). The Joint Motion to Approve requested that the Settlement Agreement be approved without modification.

20. The Settling Parties represented that, because the disputed issues concerned interpretation of tariff language and raised largely questions of law rather than fact, an evidentiary hearing to resolve the remaining disputed issues between the parties was unnecessary. Instead, the Settling Parties recommended that any questions the ALJ may have about the Settlement Agreement be posed to the parties in writing.

21. Neither LETA nor CCOA joined the Settlement Agreement.

22. By Decision No. R24-0462-I, issued June 27, 2024, the undersigned ALJ set a deadline of July 12, 2024, by which LETA and CCOA were to file any response in opposition to the Joint Motion to Approve and to the Settlement Agreement.

23. On July 12, 2024, LETA and CCOA filed their Combined Joint Response to Joint Motion to Approve Non-Unanimous Comprehensive Settlement Agreement and Joint Statement

of Position (“Combined Joint Response”). In it, LETA and CCOA propose several changes be made to the language in Tariff 25:

- a) Substitute “to Customers” for the phrase “to Public Safety Answering Points” in the first paragraph of § 1.1;
- b) Amend the second paragraph of § 1.1 to clarify that CenturyLink’s Local Terms of Service do not apply to basic emergency service (“BES”);
- c) Eliminate an allegedly erroneous reference to Local Terms of Service from § 1.7 and replace it with the word “Tariff”;
- d) Revise § 1.7 to reflect CenturyLink’s name change to Lumen Technologies, Inc. (“Lumen”);
- e) Add the following clarifying language to § 2.1: “All definitions set forth herein are intended to be consistent with the definitions in the applicable PUC rules 4 CCR 723-2-2131. To the extent there is an irreconcilable conflict between the definitions in this Tariff and such Rules, the definition in the Rules shall control, even if the Rules were amended after the effective date of this Tariff.”
- f) Edit language in § 9.2.5.A.1 to mirror language in the Commission’s Rules Regulating Telecommunications Providers;
- g) Emphasize the importance of avoiding transfers of calls in § 9.2.5.A.1; and,
- h) Set a deadline by which CenturyLink must file an undated, “cleaned up” Tariff.

24. Because the Settling Parties had not offered their positions with respect to LETA and CCOA’s Combined Joint Response, the ALJ issued Decision No. R24-0537-I on July 25, 2024, waiving Rule 1400(e), 4 CCR 723-1, and permitting the Settling Parties to file replies in support of their Joint Motion to Approve.

25. On August 5, 2024, the Settling Parties filed their Reply to Response to Joint Motion to Approve Non-Unanimous Comprehensive Settlement Agreement (“Reply”). With one exception, the Settling Parties argue that the language changes CCOA and LETA proposes are unnecessary and unwarranted.

26. The ALJ notes that neither the Settling Parties nor CCOA and LETA filed any settlement testimony respectively in support of or in opposition to the Settlement Agreement.

## II. FACTUAL FINDINGS

### A. **Factual Background**

27. CenturyLink is a telecommunications company and basic emergency service provider (“BSEP”) that provides basic emergency service (“911 services”) to Colorado governing bodies and Public Safety Answering Points (“PSAPs”).<sup>4</sup> The service is regulated by the PUC under Emergency Reporting Services Tariff Colo. P.U.C. No. 25 (“Tariff 25”).<sup>5</sup>

28. The Commission reviewed and revised its Telecomm Rules in Proceeding No. 22R-0122T. The Commission issued a Notice of Proposed Rulemaking (“NOPR”) for the purpose of “improv[ing] the Commission’s rules regarding Basic Emergency Service network reliability and to prescribe a tariff-based mechanism for funding Basic Emergency Service network improvements.”<sup>6</sup>

29. The NOPR resulted in changes to the Telecomm Rules which were approved and adopted by Decision No. R22-0811, issued December 22, 2022. The final, amended Telecomm Rules included the addition of new Rule 2137, which set forth the “Required Components of a Basic Emergency Service Tariff.”<sup>7</sup>

30. On September 29, 2023, CenturyLink filed AL 3168. CenturyLink stated that the purpose of its filing was to bring Tariff 25 into compliance with Rule 2137.

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<sup>4</sup> Hearing Exhibit 300, Answer Testimony of Carl Stephens, Vice-Chair of Colorado Council of Authorities, Inc., p. 5, lines 15-

<sup>5</sup> *Id.*

<sup>6</sup> Decision No. C22-0174, issued Mar. 21, 2022, in Proceeding No. 22R-0122T, p. 2, ¶ 2.

<sup>7</sup> The entirety of new Rule 2137 of the Commission’s Rules Regulating Telecommunications Services and Providers of Telecommunications Services (the “Telecomm Rules”), 4 *Code of Colorado Regulations* (CCR), 723-2, is set out below.

31. With the exception of Staff and CCOA, the remaining Intervenors to this Proceeding are all governmental entities (or “Governing Bodies” as CCOA refers to them) that contract with CenturyLink for 911 services. CCOA is a membership-based not-for-profit comprised of 21 of Colorado’s 57 governing bodies within the State of Colorado.<sup>8</sup> One of CCOA’s goals or purposes is “to share information and provide a collective voice for Governing Bodies to provide input on and to advocate for or against matters affecting emergency telephone service in Colorado, such as rules, regulations, and tariffs at the federal, state, and local levels.”<sup>9</sup>

32. The proposed changes to Tariff 25, which accompanied AL 3168, included the following:

- a. Adding the following underlined and bolded words to § 1.1 Application: “Additional definitions, terms, conditions and rates applicable in conjunction with the provision of Emergency Reporting **Services** are **contained** in the Qwest Corporation d/b/a CenturyLink QC Local Terms of Service.”
- b. Adding to § 2.1 Definitions of Terms a citation to “4 CCR 723-2-2131” in the header paragraph, and adding the following definitions:
  - i. NETWORK MAINTENANCE: Is conducted on a 24-hour basis. A physical as well as a remote observation of the various 9-1-1 Network elements. This includes Office and field equipment and cabling inspections which may lead to repair or replacement procedures. Maintenance windows normally occur between 11:00 pm local time and 6:00 am local time the next day. Maintenance work is normally limited to the work week Monday through Thursday.
  - ii. NETWORK TESTING: As part of the Network Maintenance, routine tests are conducted on the 9-1-1 Network. These tests are most often non-intrusive, to prevent disruptions in service and therefore not impacting the availability of the 9-1-1 network.

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<sup>8</sup> Motion to Permissively Intervene by Colorado Council of Authorities, Inc., p. 4, ¶ 15, filed Nov. 6, 2023.

<sup>9</sup> *Id.* at p. 4, ¶ 17.

Some network testing can be performed during maintenance windows.

- c. Adding citations to “4 CCR 723-2-2143” in ¶¶ 5 and 6 of § 9.2.5.A Emergency Reporting Services.
- d. And, finally, adding ¶ 9 to § 9.2.5.A: “The ESInet service employs Network Maintenance and Network Testing based upon industry standards and practices.”

33. The Intervenors raised concerns about the changes CenturyLink initially proposed to Tariff 25, arguing that the proposed changes did not go far enough and failed to comply with certain aspects of Rule 2137. CCOA and Staff offered their own proposed changes to Tariff 25.

34. When it filed AAL 3168, CenturyLink expanded its proposed changes to Tariff 25 to address some of the concerns raised by the Intervenors. In addition to the changes it proposed with AL 3168, with AAL 3168 CenturyLink now proposed the following additional changes:

- a) In § 2.1 Definition of Terms, the new proposed changes made clear that “To the extent there is an irreconcilable conflict between the definitions in this Tariff and such Rules, the definition in the **Rules shall** control.” The format submitted with AL 3168 indicated that the Rules “as of September 1, 2018 shall control. The reference to outdated rules was thus removed.
- b) The Definition of “Alternate Routing (AR)” listed in § 2.1 was amended to include the following change:
  - i. “ALTERNATE ROUTING (AR): A Basic Emergency Service feature that **automatically** routes 9-1-1 requests for assistance to an alternate location **or locations as designated by the PSAP** [Public Safety Answering Points] when normal routing is not possible due to all DEDICATED 9-1-1 circuits being busy, equipment or circuit malfunctions, PSAP equipment malfunction or other cause that renders the PSAP out of service.
- c) Subparagraph 3.h. was proposed to be added to §9.2.5.A. which states: “The ability to transfer 9-1-1 requests for assistance to 10-digit lines without additional long distance charges.”
- d) And, finally, expanding new subparagraph 9 of § 9.2.5.A. to read in its entirety:

- i. The Network Maintenance and Network Testing of Facilities providing the ESInet Service based upon established network management practices as well as suggested industry standards. The company does not employ specific internal schedules for testing, monitoring, maintaining or replacing equipment and electronics.

35. On June 3, 2024, Drew Groff — Director of Network Operations Center – Public Safety Services & Compliance for Lumen Technologies, which is an affiliate of CenturyLink<sup>10</sup> — submitted his rebuttal testimony. In it, he responded to Staff’s and CCOA’s Answer Testimony and discussed the changes the Intervenors proposed to Tariff 25.

36. With his testimony, he also filed a further revised version of Tariff 25.<sup>11</sup> The further revisions to Tariff 25 incorporated the following additional proposed changes to Tariff 25:

- a) Amending the second paragraph of § 1.1 APPLICATION to read: ~~“Additional d~~Definitions, terms, conditions and rates **for services in addition to** applicable in conjunction with the provision of Emergency Reporting Services **are contained in** which were previously found in Colo. P.U.C. No. 23 ~~are now contained in the~~ Qwest Corporation d/b/a CenturyLink QC Local Terms of Service.
- b) Amending the introductory paragraph of § 2.1 DEFINITION OF TERMS to read: “All definitions set forth herein are intended to be consistent with the definitions in the applicable PUC rules **4 CCR 723-2-2131** adopted as of September 1, 2018. To the extent there is an irreconcilable conflict between the definitions in this Tariff and such Rules, the definition in the Rules as of September 1, 2018 shall control.”
- c) Further amending the definition of ALTERNATE ROUTING (AR) in § 2.1 to read: “A Basic Emergency Service feature that **automatically routes 9-1-1 requests for assistance to an alternate location or locations as designated by the Governing Body or PSAP in the event of a call overflow, outage, or PSAP abandonment, including split contingent routing of 9-1-1 requests for assistance to multiple PSAPs, if feasible.** ~~when normal routing is not possible due to all DEDICATED 9-1-1 circuits being busy, equipment or circuit malfunctions, PSAP equipment malfunction or other cause that renders the PSAP out of service.~~
- d) Amending subparagraph 9.2.5.A.3 of § 9.2 EMERGENCY REPORTING SERVICE to read:

<sup>10</sup> Hearing Exhibit 100, Direct Testimony of Drew Groff, p. 3, lines 3-9.

<sup>11</sup> See Hearing Exhibit 102, Attachment DG-1.

- i. The ESInet Service includes the following general functionality:
  1. The ability to transfer 9-1-1 requests for assistance, **without long distance charges**, to:
    - a. other **Colorado governing bodies or PSAPs with location information.**
    - b. **10-digit lines, when feasible.**
    - c. **a PSAP in another state with location information, when technologically feasible.**
  - e. Correcting the citations to the Telecomm Rules in subparagraphs 9.2.5.A.5 and 6 to read: “4 CCR 723-2-2143(a)(H)-(V)” and “4 CCR 723-2-~~§~~2143~~as that rule existed on September 1, 2018.~~”
  - f. Expanding subparagraph 9.2.5.A.9 substantially to read in its entirety:

Services and Equipment are maintained, tested and monitored on a 24x7x365 basis by Network Operations Centers (“NOC”s) managed by the company and its vendor. Testing will be performed after all maintenance and repair activities. Monitoring in the ESInet environment also serves as testing. Probes are enabled at the customer premise to regularly test and monitor the connection to the PSAP. Major and minor planned and critical un-planned changes for all service maintenance or upgrades that may impact customers including hardware service, repair, and replacement will be scheduled and conducted. The Company adheres to stringent, internal event plan processes and procedures which include step-by-step execution methods with the associated time frames, back-out procedures, and baseline and validation testing. A change management application is utilized for managing changes to the service including aggregation sites, core call routing complexes, PSAP equipment maintenance, circuit maintenance, and hardware and software versions. The company and its vendor maintains and monitors all equipment and software within the solution. End of support (EOS) equipment will be replaced prior to the published EOS vendor date assuming the replacement of equipment does not have a negative impact on the reliability and availability of the systems applications and solutions. The company will replace any faulty next generation core services (NGCS) equipment at no additional cost to the jurisdiction that is not a direct result of negligence of on-site PSAP personnel. All aspects of the service architecture are designed to be extremely resilient and redundant, allowing call traffic to continue in case of a failure at one or more pieces of hardware, software, or network infrastructure. This also allows repair to take place without further impacting PSAPs or call delivery. Disaster recovery plans have been created for each aspect of the service infrastructure, with on-call available resources and replacement hardware to quickly restore impacted

systems. Please see additional information found at 9.2.5.B.9, 9.2.5.B.25, 9.2.5.I.2, and 9.2.5.B.10.

- g. Finally, adding two sentences to the end of subparagraph 9.2.5.E.4, such that the provision reads:

If services other than those listed in this Tariff are requested, the Company reserves the right to charge the BES Customer for that service. In any instance where individual case basis (ICB) charges apply, an estimate of charges and negotiated completion dates will be provided to the BES Customer before the work is scheduled to begin. **In any instance where ICB charges do not apply and this tariff does not contain a separate line item for a jurisdictional BES charge, see 9.2.5.E.6., the Company will not assess any charge. The Company reserves the right not to offer an additional service until the tariff is properly updated.**

37. On June 14, 2024, less than two weeks after Mr. Groff filed his rebuttal testimony and the further revised version of Tariff 25, the Settling Parties filed their Joint Motion to Approve.

38. As noted above, LETA and CCOA filed their Response to the Joint Motion to Approve on July 12, 2024.

39. Thereafter, on August 5, 2024, the Settling Parties filed their Reply in support of the Joint Motion to Approve.

#### **B. Terms of Settlement Agreement**

40. The terms of the Settlement Agreement are concise and uncomplicated. Only two paragraphs of the Settlement Agreement pertain to this Proceeding. The remainder of the Settlement Agreement addresses general matters. The terms of the Settlement Agreement pertinent to this Proceeding are summarized below.<sup>12</sup>

41. The Settling Parties agreed to adopt the proposed language for Tariff 25 as set out in Attachment DG-1 to Mr. Groff's Rebuttal Testimony. That language is incorporated by reference into the Settlement Agreement.

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<sup>12</sup> Non-Unanimous Comprehensive Settlement Agreement ("Settlement Agreement"), pp. 1-2, ¶ 1, filed June 14, 2024.

42. The Settling Parties also agreed “that CenturyLink will file an amendment to its 9-1-1 Tariff . . . within 30 days after the effective date of any rule changes ordered in Proceeding No. 23R-0577T.”<sup>13</sup>

43. Under the general provisions, the Settlement Agreement makes clear that it shall not have a precedential or binding effect on positions the Settling Parties may take in other proceedings, including the Rulemaking Proceeding No. 23R-0577T.

44. The remainder of the general provisions are akin to those found in other settlement agreements.

### **III. RELEVANT LAW**

#### **A. Commission Jurisdiction**

45. The Commission’s authority to regulate CenturyLink’s utility rates, services, and facilities derives from Article XXV of the Colorado Constitution. The Commission is charged with ensuring the provision of safe and reliable utility service at just and reasonable rates for customers pursuant to §§ 40-3-101, 40-3-102, 40-3-111, and 40-6-111, C.R.S.

46. Section 40-3-102, C.R.S., states that “[t]he power and authority is hereby vested in the public utilities commission of the state of Colorado and it is hereby made its duty to adopt all necessary rates, charges, and regulations to govern and regulate all rates, charges, and tariffs of every public utility of this state to correct abuses; to prevent unjust discriminations and extortions in the rates, charges, and tariffs of such public utilities of this state.”

#### **B. Legal Standards**

47. Rule 1408(a) of the Commission’s Rules of Practice and Procedure, 4 CCR 723-1, encourages parties to settle contested proceedings. Settlement agreements are to be reduced to

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<sup>13</sup> *Id.*, p. 2, ¶ 2.

writing and must be filed with a motion seeking approval of the settlement.<sup>14</sup> The Commission may, within its discretion, approve, disapprove, or modify any settlement agreement reached by the parties.<sup>15</sup>

48. In prior settled rate cases, the Commission has evaluated the settlement terms to determine whether “the settlement will result in rates that are just and reasonable.”<sup>16</sup> The Commission has stated that it believes it has an “has an obligation to review all the terms contained in a settlement agreement to ensure that they comply to the greatest extent possible with applicable regulatory principles, and are just and reasonable.”<sup>17</sup> Further, the Commission has considered whether the agreed-upon rates “within the range of recommended increases proposed by the parties . . . and reflect[] a meaningful reduction in the proposed rates compared with” those initially sought by the utility in the proceeding.<sup>18</sup> The Commission has also considered whether a proposed settlement is in the public interest.<sup>19</sup>

49. The Settling Parties have the burden of proving by a preponderance of the evidence that the Settlement Agreement is just and reasonable.<sup>20</sup>

### C. Applicable Rules

50. Telecomm Rule 2137 sets forth information which must be included in the tariff of a BES provider. Although amendments to the Telecomm Rules were recently adopted by Decision

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<sup>14</sup> Rule 1408(a) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

<sup>15</sup> Rule 1408(b), 4 CCR 723-1.

<sup>16</sup> Decision No. C09-0595, ¶ 81, issued June 9, 2009, in Proceeding No. 08S-0520E.

<sup>17</sup> Decision No. C06-0259, ¶ 10, issued Mar. 15, 2006, in Proceeding No. 05S-0264G.

<sup>18</sup> Decision No. C09-0595, ¶ 81.

<sup>19</sup> See Decision No. R15-1292, ¶ 165, issued Dec. 8, 2015, in Proceeding No. 15A-0424E.

<sup>20</sup> § 13-25-127(1), C.R.S., and Rule 1500, 4 CCR 723-1, establish the burden of proof for a party which asks the Commission to adopt its advocated position. See also, Decision No. C06-0786, ¶ 40 and n.23, issued July 3, 2006, in Proceeding No 05A-072E.

No. R24-0403 in Proceeding No. 23R-0577T, no changes were made to Rule 2137. Rule 2137 states in its entirety:

2137. Required Components of a Basic Emergency Service Tariff

- a) At a minimum, a BES tariff must include the following services:
- (I) delivery of 9-1-1 calls to the demarcation point with the governing body or PSAP with primary responsibility for dispatching first responders to the caller's location unless otherwise directed by the PSAP or governing body;
  - (II) delivery of location information to the governing body or PSAP receiving the 9-1-1 call;
  - (III) the ability to automatically route 9-1-1 calls to one or more alternate PSAPs, as designated by the governing body or PSAP, in the event of a call overflow, outage, or PSAP abandonment, including split contingent routing of 9-1-1 calls to multiple alternate PSAPs if feasible;
  - (IV) the ability to transfer 9-1-1 calls to other Colorado governing bodies or PSAPs with location information;
  - (V) when feasible, the ability to transfer 9-1-1 calls to 10-digit lines without additional long distance charges;
  - (VI) if feasible, the ability to transfer 9-1-1 calls to a PSAP in another state with location information without additional long distance charges;
  - (VII) processes or tools that a governing body or PSAP and the BESP may use to pre-validate location information and routing information associated with specific telephone numbers and to correct such information or to report telephone numbers that do not have associated location information;
  - (VIII) minimum quality of service metrics that the BES will meet (examples: service availability percentage, jitter, packet loss, mean opinion score, latency, successful call delivery percentage, and call delivery accuracy percentage);
  - (IX) a description of the internal schedules for testing, monitoring, maintaining, and replacing all equipment and electronics that will be used to provide BES;
  - (X) the provision of technical support 24 hours per day, every day of each year;

- (XI) reporting tools for access to service metrics, call processing, call status, and other call and service data;
  - (XII) nonrecurring charges for one-time costs, such as installation of equipment or change orders related to the delivery of BES must be listed separately in the tariff, unless those costs are included in the monthly recurring charges provided for in the tariff; and
  - (XIII) terms of payment for invoices for BES must be stated, including late fees.
- (b) BESP's with BES tariffs in place as of March 1, 2022 shall file an advice letter and tariff pages within 180 days of the effective date of this rule to comply with paragraph (a) of this rule.
  - (c) All of the requirements listed in paragraph (a) shall be provided in conformity with the relevant standards of the National Emergency Number Association, to the extent feasible.
  - (d) Additional features or services may be offered as part of a BES tariff, if they may reasonably be considered part of BES, or provide metrics related to that service.
  - (e) The pricing and rates for BES shall be set forth on the BESP's BES tariff.
    - (I) Rates for BES must be established per concurrent session per month. The rate for all services and features included with the BES offering, as approved by the Commission, must be the same, per concurrent session, for all governing bodies or PSAPs purchasing service under the tariff. Such pricing must be based on actual costs plus a proposed profit margin. The BESP shall describe the methodology it used to determine the proposed pricing in the advice letter or tariff pages. Additional features or services may be offered in the tariff on an optional or individual case basis, provided:
      - (A) the additional features or services may reasonably be considered part of BES or monitoring and metrics for such service; and
      - (B) the offering of the additional features or services on an optional or individual case basis will not create differences in the uniformity of BES availability statewide.

(II) The tariff must include, as a separate line item, the improvement amount approved pursuant to paragraph 2143(b), if any. Within 45 days of the Commission's approval of the improvement amount, the BESP shall file an advice letter and tariff pages to reflect the approved improvement amount, with an effective date of the following March 1, unless otherwise directed by the Commission in its approval of the improvement amount. The improvement amount shall be assessed per concurrent session per month to every governing body or PSAP receiving service from the BESP.

(III) The tariff must state that the improvement amount described in subparagraph (II) above may be temporarily or permanently suspended by Commission decision.

#### IV. DISCUSSION, ANALYSIS, AND CONCLUSIONS

##### A. Parties' Positions

51. In their Joint Response to Joint Motion to Approve Non-Unanimous Comprehensive Settlement Agreement and Joint Statement of Position ("Joint Response"), LETA and CCOA argue that the Settling Parties have not established that the Settlement Agreement is "fair, reasonable, and adequate, and the proposed tariff amendments are in the public interest."<sup>21</sup> LETA and CCOA raise four primary arguments in opposition to the proposed Settlement Agreement. Specifically, they contend that that proposed Settlement Agreement (1) does not resolve all issues in this Proceeding; (2) is not supported by the evidence; (3) does not comply with Commission Rules; and (4) is not just, reasonable, or in the public interest.<sup>22</sup>

52. As detailed in ¶ 22 above, though, LETA and CCOA's Joint Response argues only that certain language and changes they propose for Tariff 25 should be adopted instead of and/or in addition to the changes set forth in Attachment DG-1 to Mr. Groff's Rebuttal Testimony. They offer no other legal basis for rejecting the Settlement Agreement.

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<sup>21</sup> Joint Response to Joint Motion to Approve Non-Unanimous Comprehensive Settlement Agreement and Joint Statement of Position of Colorado Council of Authorities, Inc. and Larimer Emergency Telephone Authority ("Joint Response to Joint Motion"), p. 3, filed July 12, 2024.

<sup>22</sup> *Id.* at p. 4.

53. In their Reply to the Joint Response, the Settling Parties counter that, with one notable exception, the changes advocated by CCOA and LETA are unnecessary, do not apply, will not lead to the confusion CCOA and LETA anticipate, or will not have any impact on the service provided. The Settling Parties therefore take the position that the additional changes CCOA and LETA seek would unnecessarily hold up the settlement and the implementation of Tariff 25.

**B. Changes to Tariff 25 Proposed by CCOA and LETA**

54. The ALJ notes at the outset that the issues raised by CCOA and LETA concern legal disputes regarding specific language in Tariff 25. Because the parties' various testimony focused less on the specific language used in the Tariff, the parties' prefiled testimony is less relevant than testimony in other proceedings.

**1. § 1.1: Substitute "to Customers" for the phrase "to Public Safety Answering Points" in the first paragraph**

55. CCOA and LETA contend that the proposed version of § 1.1 of Tariff 25 that employs the phrase "to Public Safety Answering Points" ("PSAPs") in the first paragraph is confusing and should be changed to "to Customers."<sup>23</sup> They argue that the term PSAPs is too narrow because it does not necessarily include governing bodies who may receive 9-1-1 service.<sup>24</sup>

56. The Settling Parties point out that under CenturyLink's BES Tariff, customers "are" PSAPs.<sup>25</sup> They state that swapping "Customer" for "PSAP" in the Tariff "would technically be incorrect" and "would not change" the nature of the service provided or clarify the <sup>26</sup>rights or obligations of those served.

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<sup>23</sup> Joint Response to Joint Motion, p. 5.

<sup>24</sup> *Id.*

<sup>25</sup> Settling Parties' Reply to Response to Motion to Approve Non-Unanimous Comprehensive Settlement Agreement ("Settling Parties' Reply"), pp. 2-3, filed Aug. 5, 2024.

<sup>26</sup> *Id.* at p. 3.

57. Indeed, Tariff 25 defines an E9-1-1 Customer as “a Public Safety Answering Point (PSAP), which is a facility equipped and staffed to receive and process 9-1-1 calls on a 24-hour basis. The E9-1-1 Customer is responsible for directing the disposition of 9-1-1 calls within its Emergency Service Zone(s) (ESZ) for police, fire or other emergency services.”<sup>27</sup> Likewise, Tariff 25 defines BES Customer as “a Public Safety Answering Point (PSAP) or Governing Body responsible for directing the disposition of 9-1-1 requests for assistance within its Emergency Service Zone(s) (ESZ) for police, fire or other emergency services.”<sup>28</sup>

58. Thus, contrary to CCOA’s and LETA’s concerns that using “Public Safety Answering Points” in § 1.1 will be confusing, the term is well-defined in the definitions section of Tariff 25 (§ 2.1) and expressly includes “customers” and “governing bodies.” Any person seeking to determine the scope of the term need only look to the definitions section to determine that, under Tariff 25, all customers are PSAPs.

59. The ALJ therefore finds and concludes that the change proposed by CCOA and LETA is unnecessary and would, contrary to their assertion, likely increase, not decrease, confusion. The Settling Parties have established that the language change proposed in their Settlement Agreement is reasonable and appropriate and in the public interest.

60. The ALJ will therefore accept the inclusion of the term “Public Safety Answering Points” in § 1.1 of Tariff 25 as agreed to by the Settling Parties.

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<sup>27</sup> Hearing Exhibit 101, § 2.1, 1<sup>st</sup> Rev. p. 3.

<sup>28</sup> *Id.*, § 2.1, Original p. 1.1.

**2. § 1.1: Amend the second paragraph to clarify that CenturyLink’s Local Terms of Service do not apply to basic emergency service (“BES”)**

61. CCOA and LETA point out that CenturyLink’s Local Terms of Service “do *not* apply to BES that CenturyLink sells under Tariff 25.”<sup>29</sup> More specifically, CCOA and LETA state that “CenturyLink’s Local Terms of Service apply only to services, *if any*, a Customer might purchase *in addition to* BES.”<sup>30</sup> CCOA and LETA argue that here, too, customers could be confused and “need to clearly understand” what documents are incorporated into Tariff 25.<sup>31</sup>

62. The Settling Parties counter that, this proposed clarification is unnecessary because Tariff 25 already explains what is included. They argue that “[t]here is no reasonable interpretation of the language in paragraph 2 of Attachment DG-1 § 1.1 that would cause confusion.”

63. The ALJ agrees with the Settling Parties. Reviewing the language in question, the ALJ notes that it states: “Definition, terms, conditions and rates for services *in addition to* Emergency Reporting Services are contained in Qwest Corporation d/b/a CenturyLink QC Local Terms of Service.”<sup>32</sup> (Emphasis added.) The ALJ is persuaded that this language is sufficiently clear to ensure that the average reader will understand that rates, terms, and conditions pertaining to services other than BES are contained elsewhere in CenturyLink’s Local Terms of Service. The clarification CCOA and LETA seek will not make this statement in Tariff 25 more understandable.

64. Moreover, despite asserting that further clarification is necessary to avoid confusion, CCOA and LETA have not pointed to any examples of customers becoming confused by the language.

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<sup>29</sup> Joint Response to Joint Motion, p. 5.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> Hearing Exhibit 102, Attachment DG-1, § 1.1, 1<sup>st</sup> Rev. p. 2.

65. The ALJ finds and concludes that the language is sufficiently clear and need not be altered further as advocated by CCOA and LETA.

66. The ALJ therefore finds that the Settling Parties have established that the language change proposed in their Settlement Agreement is reasonable and appropriate and in the public interest.

67. The ALJ will therefore accept the language for the second paragraph of § 1.1 as agreed to by the Settling Parties and contained in Hearing Exhibit 102, Attachment DG-1.

**3. § 1.7: Eliminate an Erroneous Reference to “Local Terms of Service” and Replacing it with “Tariff”**

68. CCOA and LETA point out that § 1.7 of Tariff 25 contains an inaccurate reference to “Local Terms of Service” and suggests that, to correct the error, “Tariff” be substituted for “Local Terms of Service.”<sup>33</sup>

69. The Settling Parties acknowledge that the use of the term “Local Terms of Service” in § 1.7 is erroneous and “do not object” to editing Tariff 25 to correct this error.

70. The ALJ therefore finds and concludes that § 1.7 of Tariff 25, Original Page 4, found in Hearing Exhibit 102, Attachment DG-1, will be modified to read as follows:

The following list of trade names, trademarks and/or service marks which may be used for services offered in this Tariff ~~Local Terms of Service~~ are owned by CenturyLink, Inc. or a subsidiary of CenturyLink, Inc. and are used by the Company with express permission. Trademark and service mark designations will not be listed hereafter in the Catalog. However, the laws regarding trademarks and service marks are applicable.

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<sup>33</sup> See Hearing Exhibit 102, Attachment DG-1, § 1.7, Original p. 4.

**4. § 1.7: Revise the Language to reflect CenturyLink’s name change to Lumen Technologies, Inc. (“Lumen”)**

71. CCOA and LETA note that CenturyLink changed its name to Lumen Technologies, Inc. (“Lumen”) “more than three and a half years ago,” yet Tariff 25 has not been updated to reflect the current moniker. They argue that Rules 1210(a) and 2122(a) of the Commission’s Rules and Practice and Procedure and the Telecomm Rules mandate that a utility have on file with the Commission any corporate name change to ensure that the utility is accurately identified with the Commission and with its customers.<sup>34</sup>

72. The Settling Parties raise several arguments in response. First, they observe that changing the name of the 9-1-1 service provider in Tariff 25 will have no impact whatsoever on the services provided. Second, they note that CenturyLink can address any name change when it “files its cleanup tariff.”<sup>35</sup> And third, “CenturyLink contends” that the language in proposed § 1.7 “is technically correct.”<sup>36</sup> It explains that

CenturyLink, as a subsidiary of Lumen Technologies, owns the rights to its own name and BES under the tariff is provided by Qwest Corporation dba CenturyLink QC and will continue to be provided by Qwest Corporation dba CenturyLink QC in the future regardless of whether a technical clarification is made in a future cleanup filing.<sup>37</sup>

73. The ALJ perceives no reason to quibble with CenturyLink’s explanation of its name and corporate structure. CCOA and LETA offer no evidence in support of their contention that CenturyLink’s name was changed to Lumen more than three years ago. Moreover, even if a name change occurred, Tariff 25 consistently refers to “Qwest Corporation dba CenturyLink QC.”<sup>38</sup> Given that the language in Tariff 25 is consistent throughout — and includes no references to

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<sup>34</sup> Joint Response to Joint Motion, p. 6.

<sup>35</sup> Settling Parties’ Reply, p. 4.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at pp. 4-5.

<sup>38</sup> *See, i.e.*, Hearing Exhibit 102, Attachment DG-1, headers at top of each page of proposed Tariff 25.

Lumen — that ALJ finds and concludes that this change proposed by CCOA and LETA is unnecessary.

74. The ALJ therefore finds that the Settling Parties have established that the language contained in § 1.7 of Tariff 25, as set out in their Settlement Agreement and Hearing Exhibit 102, Attachment DG-1, is reasonable and appropriate and in the public interest.

75. The ALJ therefore rejects CCOA and LETA’s proposal to amend § 1.7 of Tariff 25 to refer to Lumen rather than CenturyLink. The ALJ will therefore accept the language of § 1.7 referring to CenturyLink as agreed to by the Settling Parties and contained in Hearing Exhibit 102, Attachment DG-1.

#### **5. § 2.1: Add Clarifying Language**

76. CCOA and LETA propose adding the following language to § 2.1 to clarify that “definitions in Tariff 25 will be automatically updated.”<sup>39</sup> In particular, CCOA and LETA seek to incorporate the following statement into Tariff 25:

All definitions set forth herein are intended to be consistent with the definitions in the applicable PUC rules 4 CCR 723-2-2131. To the extent there is an irreconcilable conflict between the definitions in this Tariff and such Rules, the definition in the Rules shall control, even if the Rules were amended after the effective date of this Tariff.<sup>40</sup>

CCOA and LETA maintain that including the above language will “avoid[] the uncertainty created by having a timeframe when a revised definition in Commission rules conflicts with an outdated definition in Tariff 25.”<sup>41</sup>

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<sup>39</sup> Joint Response to Joint Motion, p. 6.

<sup>40</sup> Hearing Exhibit 300, Attachment CS-6, Rev. 1, page 2 of 2.

<sup>41</sup> Joint Response to Joint Motion, p. 6.

77. In response, the Settling Parties assert that language proposed in Hearing Exhibit 102, Attachment DG-1, at § 2.1, already addresses this concern and includes language clarifying when definitional updates will be made and acknowledging “the supremacy of rules over tariff in the event of future rule amendments.”<sup>42</sup> Thus, the Settling Parties contend, because the proposed language already contains this explanation “in the simplest terms,” the language proposed by CCOA and LETA “adds nothing” and is entirely unnecessary.<sup>43</sup>

78. The ALJ agrees with the Settling Parties. The introductory language proposed for § 2.1 would state:

All definitions set forth herein are intended to be consistent with the definitions in the applicable PUC rules 4 CCR 723-2-2131. To the extent there is an irreconcilable conflict between the definitions in this Tariff and such Rules, the definition in the Rules shall control.<sup>44</sup>

79. The ALJ finds and concludes that the language proposed by the Settling Parties is clear, unambiguous and easily understandable. The ALJ disagrees with CCOA and LETA’s implication that some readers may be confused and fail to comprehend that the Commission’s rules control in the event of a conflict with language in the Tariff.

80. The ALJ therefore finds that the Settling Parties have established that the introductory language prefacing the definitions in § 2.1 of Tariff 25, as set out in their Settlement Agreement and Hearing Exhibit 102, Attachment DG-1, is reasonable and appropriate and in the public interest.

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<sup>42</sup> Settling Parties’ Reply, p. 5.

<sup>43</sup> *Id.*

<sup>44</sup> Hearing Exhibit 102, Attachment DG-1, 1<sup>st</sup> Rev. p. 1.

81. The ALJ will therefore accept the introductory language for the definitions contained in § 2.1 as agreed to by the Settling Parties and contained in Hearing Exhibit 102, Attachment DG-1.

**6. § 9.2.5.A: Mirror language with the Commission’s Rules Regulating Telecommunications Providers**

82. CCOA and LETA argue that the language in § 9.2.5.A must comply with changes to Rules 2137(a)(I) and (III), and should mirror the Rules’ language “to avoid the appearance of potential conflict between the two.”<sup>45</sup>

83. The ALJ notes that the Settling Parties question the necessity of “essentially copy[ing] and past[ing] Rule 2137(a)” into Tariff 25. They note that a “tariff is not required to duplicate the rules, only to comply with them.”<sup>46</sup> Further, because the Telecomm Rules were amended by Rulemaking Proceeding No. 23R-0577T, and CenturyLink has agreed “to make a compliance filing within 30 days of the effective date of the rules adopted” in that proceeding, further revision and litigation of addressing changes to § 9.2.5.A at this time are unnecessary.

84. Rule 2137 requires a BES tariff to “include the following services:”

- (I) delivery of 9-1-1 calls to the demarcation point with the governing body or PSAP with primary responsibility for dispatching first responders to the caller’s location unless otherwise directed by the PSAP or governing body;
- (II) delivery of location information to the governing body or PSAP receiving the 9-1-1 call;
- (III) the ability to automatically route 9-1-1 calls to one or more alternate PSAPs, as designated by the governing body or PSAP, in the event of a call overflow, outage, or PSAP abandonment, including split contingent routing of 9-1-1 calls to multiple alternate PSAPs if feasible;

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<sup>45</sup> Joint Response to Joint Motion, p. 8.

<sup>46</sup> Settling Parties’ Reply, p. 6.

(IV) the ability to transfer 9-1-1 calls to other Colorado governing bodies or PSAPs with location information;

(V) when feasible, the ability to transfer 9-1-1 calls to 10-digit lines without additional long distance charges;

(VI) if feasible, the ability to transfer 9-1-1 calls to a PSAP in another state with location information without additional long distance charges;

85. Notably, CCOA and LETA do not allege that § 9.2.5.A fails to comply with these provisions of Rule 2137. Rather, they challenge the proposed language on the basis that it is not *identical to* the language of the Rule. As the Settling Parties observe, though, the language need not be identical to be compliant.

86. In fact, the proposed language of § 9.2.5.A set forth in Hearing Exhibit 102, Attachment DG-1, *exceeds* the requirements of Rule 2137.<sup>47</sup> As the Settling Parties explain and assert, although the language they propose is not a verbatim recitation of the Rule, the language they propose “is superior in that it more accurately describes the nature of the call-routing service provided under the tariff and it more completely addressed the feasibility issue as required by Commission rules.”<sup>48</sup>

87. The ALJ notes, too, that the version of Rule 2137 adopted by Recommended Decision No. R24-0403 in Rulemaking Proceeding No. 23R-0577T did not alter the Rule from its previous iteration. Thus, the language proposed by the Settling Parties complies with the requirements of current Rule 2137.

88. Accordingly, the ALJ finds and concludes that the Settling Parties have established that the proposed changes to § 9.2.5.A as set out in their Settlement Agreement and Hearing Exhibit 102, Attachment DG-1, are reasonable and appropriate and in the public interest.

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<sup>47</sup> See Hearing Exhibit 102, Attachment DG-1, pp. 4-6, Original p. 34.

<sup>48</sup> Settling Parties’ Reply, p. 7.

89. The ALJ will therefore accept the language contained in § 9.2.5.A as agreed to by the Settling Parties and contained in Hearing Exhibit 102, Attachment DG-1.

**7. § 9.2.5.A.1: Emphasize the Importance of Avoiding Call Transfers**

90. Next, CCOA and LETA “re-emphasize the importance in BES of avoiding transfers and the importance of Tariff 25 reflecting the language of Rule 2137(a)(VI).”<sup>49</sup> CCOA and LETA touch upon, but fail to fully develop, this assertion. They state that when 9-1-1 calls must be transferred, the “time and resources of both PSAPs are consumed, resulting in confusion and delay in the dispatch of first responders to render aid.”<sup>50</sup> Yet, they offer no discussion whatsoever explaining why the other changes they propose to § 9.2.5.A would minimize “confusion and delay” in transferred calls. Nor do they offer any proposed language that would emphasize the importance of avoiding call transfers. Absent such a discussion and analysis by CCOA and LETA, the ALJ is hamstrung in her consideration of CCOA and LETA’s arguments pertaining to this proposal.

91. The Settling Parties push back against CCOA and LETA’s proposal to “emphasize the importance of avoiding” call transfers by noting that the purpose of a tariff “is to establish the terms and conditions of service, not to make generalized aspirational statements.”<sup>51</sup> In addition, they point out that “there are times when a call transfer is appropriate or even necessary.” Notably, the need to transfer a 9-1-1 call can arise for many reasons, most of which are entirely outside CenturyLink’s control.

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<sup>49</sup> Joint Response to Joint Motion, p. 8.

<sup>50</sup> *Id.*

<sup>51</sup> Settling Parties’ Reply, p 7.

92. The ALJ agrees with and is persuaded by the Settling Parties' response on this point. Moreover, given that CCOA and LETA have failed to fully develop this argument, the ALJ must reject their proposal.

93. The ALJ therefore finds and concludes that the Settling Parties have established that the proposed changes to § 9.2.5.A as set out in their Settlement Agreement and Hearing Exhibit 102, Attachment DG-1, are reasonable and appropriate and in the public interest. The ALJ finds that there is no basis or need to further amend the language of § 9.2.5.A to “emphasize the importance of avoiding call transfers.”

94. The ALJ will therefore accept the language contained in § 9.2.5.A as agreed to by the Settling Parties and contained in Hearing Exhibit 102, Attachment DG-1.

**8. Set a deadline by which CenturyLink must file an undated, “cleaned up” Tariff**

95. CCOA and LETA maintain that a “date certain” should be set by which CenturyLink must file further “clean-up” tariff amendments.<sup>52</sup>

96. As noted above, however, under the Settlement Agreement, CenturyLink has agreed to file any “clean-up” amendments to the tariff within 30 days of the finality of the amended Telecomm Rules adopted by in Rulemaking Proceeding No. 23R-0577T. On September 30, 2024, the Colorado Secretary of State issued the Rule Filing Confirmation advising that the Telecommunications Rules as amended by Proceeding No. 23R-0577T were final September 9, 2024. The new Telecomm Rules will consequently be effective October 30, 2024. A date certain therefore exists by which CenturyLink has agreed, under the express terms of the Settlement Agreement, to submit its “clean-up” amendments to the tariff.

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<sup>52</sup> Joint Response to Joint Motion, pp. 8-9.

97. Accordingly, the ALJ finds and concludes that this argument made by CCOA and LETA is essentially moot and provides no basis for rejecting the Settlement Agreement.

**C. Conclusion**

98. The Commission has an independent duty to determine matters that are within the public interest.<sup>53</sup>

99. The undersigned ALJ has reviewed the full administrative and evidentiary record, including: the direct, answer, and rebuttal testimony filed by the Settling Parties, CCOA and LETA; the terms and conditions of the Non-Unanimous Comprehensive Settlement Agreement; and the briefs filed by the parties in support of and in opposition to the Settlement Agreement. Further, the ALJ has duly considered the positions of the Settling Parties and CCOA and LETA opposing the Settlement Agreement in this matter and weighed the evidence presented. Any issues or arguments raised by the parties but not expressly discussed above are rejected.

100. Based on a review of the entire record, the undersigned finds that proposed changes to Tariff 25 are consistent with the Settlement Agreement and are in the public interest. With the exception of the required change to § 1.7 of Tariff 25, the Settlement Agreement proposes a fair and timely resolution of all contested issues and substantial evidence shows that its terms will benefit the Settling Parties, CenturyLink's customers, and the public generally. The remainder of the changes to Tariff 25 proposed by Mr. Groff in his Rebuttal Testimony and set forth in Attachment DG-1 thereto will be adopted.

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<sup>53</sup> See, *Caldwell v. Pub. Utils. Comm'n*, 692 P.2d 1085, 1089 (Colo. 1984).

101. The ALJ further finds that — with the one exception discussed above — the Settling Parties have established by a preponderance of the evidence that the Settlement Agreement is just, reasonable, in the public interest, and should be accepted by the Commission.<sup>54</sup>

102. The one exception necessitates a further change to § 1.7 of Tariff 25, substituting the word “Tariff” for the term “Local Terms of Service.” This language substitution can be made when CenturyLink submits its revised Tariff sheets to comply with new amendments to the Telecomm Rules, as set out in the Settlement Agreement and anticipated by Decision No. R24-0403 in Proceeding No. 23R-0577T.

103. With that modification, the remainder of the Settlement Agreement will be approved. The Settling Parties’ Joint Motion to Approve will therefore be granted.

## V. **ORDER**

### A. **It Is Ordered That:**

1. The Joint Motion to Approve Non-Unanimous Comprehensive Settlement Agreement collectively filed by Qwest Corporation, doing business as CenturyLink (“CenturyLink”), Trial Staff (“Staff”) of the Colorado Public Utilities Commission (“PUC” or “Commission”), the Boulder Regional Emergency Telephone Service Authority (“BRETSA”), and Adams County E-911 Emergency Telephone Service Authority, Arapahoe County 911 Authority, and Jefferson County Emergency Communications Authority (“the AAJ Authorities”) on June 14, 2024, is granted, consistent with the discussion above.

2. The Settlement Agreement filed by the Settling Parties on June 14, 2024, and attached to this Decision as Appendix A, is approved, consistent with the discussion above.

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<sup>54</sup> See Decision No. C06-0259, ¶ 10; Decision No. R15-1292, ¶ 165.

3. The proposed effective date of the tariff sheets filed on September 29, 2024, with Advice Letter 3168, as amended on February 14, 2024, with Amended Advice Letter No. 3168, is permanently suspended consistent with the discussion above.

4. The tariff sheets filed on February 14, 2024, with AAL 3168 are permanently suspended and shall be modified consistent with the discussion above.

5. To implement this Decision, CenturyLink must file a compliance advice letter and tariff sheets substantially consistent with the terms of the Settlement Agreement and this Decision on not less than five business days' notice. CenturyLink shall file the compliance advice letter and corresponding tariff sheets in a separate new proceeding and shall comply with all applicable rules regarding the same. In calculating the proposed effective date, the date the filing is received at the Commission is not included in the notice period and the entire notice period must expire prior to the effective date. The advice letter and tariff must comply in all substantive respects to this Decision in order to be filed as a compliance filing on shortened notice.

6. CenturyLink must file the compliance advice letter no later than 30 days following the effective date of the Commission's Rules Regulating Telecommunications Services and Providers of Telecommunications Services, 4 *Code of Colorado Regulations* (CCR), 723-2, as amended and adopted in Proceeding No. 23R-0577T.

7. Proceeding No. 23AL-0486T is closed.

8. This Recommended Decision will be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

9. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

- a. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.
  - b. If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.
10. Response time to exceptions is shortened to seven days.

11. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(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