

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

PROCEEDING NO. 20M-0078T

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IN THE MATTER OF CENTURYLINK QC'S PETITION FOR APPROVAL OF  
AMENDMENTS TO THE QWEST PERFORMANCE ASSURANCE PLAN AND  
PERFORMANCE INDICATOR DEFINITIONS TO IMPLEMENT THE FCC FORBEARANCE  
ORDERS.

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**COMMISSION DECISION APPROVING MODIFICATIONS  
TO THE COLORADO PERFORMANCE ASSURANCE  
PLAN AND PERFORMANCE INDICATOR DEFINITIONS**

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Mailed Date: April 29, 2020

Adopted Date: April 29, 2020

**I. BY THE COMMISSION**

**A. Statement**

1. On February 28, 2020, Qwest Corporation, doing business as CenturyLink QC (CenturyLink), filed its Petition for Approval of Amendments to the Qwest Performance Assurance Plan (PAP) and Performance Indicator Definitions (PIDs) to Implement the FCC's 2019 Forbearance Orders (Petition) in order to modify sections of its interconnection agreements (ICAs) with all of its Colorado Competitive Local Exchange (CLEC) customers.

2. In 2019, the Federal Communications Commission (FCC), released its Forbearance Orders<sup>1</sup> that eliminated two then existing requirements that Regional Bell Operating Companies (RBOCs) offer an avoided cost retail discount to resellers and the sale of analog loops. A transition period was also established that allowed the continued offering of a retail

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<sup>1</sup> *Petition of US Telecom et al. for Forbearance*, WC Docket No. 18-141, Memorandum Opinion and Order, FCC Release 19-72; Released August 2, 2019 ("*UNE Analog Loop and Resale Forbearance Order*"), and the *Report and Order on Remand and Memorandum Opinion and Order*, FCC Release 19-66; Released July 12, 2019 ("*UNE Transport Order*").

discount and analog loops for a period of six months after the August 2, 2019 effective date of the *UNE Analog Loop and Resale Forbearance Order*, until February 2, 2020. In addition, any then existing agreements for the retail discount or the purchase of analog loops were allowed to continue in effect for three years, or until August 2, 2022.

3. The Petition represents that CenturyLink has notified all of the CLECs that are impacted by the changes to the PIDs and the PAP. The filing contains a sample copy of what was provided to the CLECs and also includes a standard example of the changes included in the proposed amendments. Because amendments will vary from the sample depending on the ICA entered into with each CLEC, CenturyLink states that it will provide the Commission with the actual amendments made as well as the amendment to Exhibit A to each ICA. Exhibit A contains a detail of the pricing for each element that may be purchased by a CLEC.

4. The Petition also contains as Appendix 2, an email from Integra Telecom (Integra, now a part of Allstream, Inc.) stating that it does not object to the contemplated amendments to the PIDs and PAP. This is in response to a notification that was made by CenturyLink, prior to the filing of the Petition, to the CLECs. Integra in the past has taken a leadership role in representing its and the interests of other CLECs on interconnection issues.

5. CenturyLink has also included two Appendices to its Petition, labeled as Appendix 3 and Appendix 4. Appendix 3 is the redesigned PID (Exhibit B to the ICAs) in redline format showing the changes of the existing language. Appendix 4 is the redesigned PAP (Exhibit K to the ICAs) that contains the redlined text that shows the modified language to implement the changes. The Petition also contains both Appendix 3 and Appendix 4 in clean versions incorporating the proposed redlined changes.

6. CenturyLink is requesting that the modifications to the redesigned PIDs and the PAP become effective on May 1, 2020 and replace the existing PAP and PIDs. The company also requests that the Commission deem all interconnection agreements that contain the PAP and PIDs be modified to incorporate the proposed revisions, to also become effective on May 1, 2020, without the need for further filings or approvals.

7. On March 3, 2020, notice of the Petition was provided to all persons, firms or corporations interested in or affected by the grant or denial of the requested relief. Interventions were due on April 2, 2020. No interventions were filed.

8. On April 16, 2020, CenturyLink filed a Verification document that included an affidavit signed by a company Director that stated that the contents of the petition were true and correct.

#### **B. Discussion and Findings**

9. The Commission recognizes its duties to review interconnection agreements and amendments made to interconnection agreements in its Rules 2530 through 2568, 4 *Code of Colorado Regulations* (CCR) of the Rules Regulating Telecommunications Services and Providers of Telecommunications Services 723-2. Specifically, Rule 2534 addresses Amendments to Interconnection Agreements. The Commission reviews amendments to ICAs using the standards set forth in 47 U.S.C. § 252 of the Telecommunications Act of 1996, Pub. LA. No. 104-104, 110 Stat. 56 (1996).

10. Pursuant to § 40-6-109(5), C.R.S., the Commission may, in uncontested proceedings, take evidence in the form of an affidavit, without the need for a formal hearing. Pursuant to the Commission's Rules of Practice and Procedure, 4 CCR 723-1-1403(a), the Commission may determine any application or petition without a hearing if the application or

petition is uncontested or unopposed, if the application or petition is accompanied by a sworn statement verifying sufficient facts and supported by attachments that adequately support the filing.

11. CenturyLink did file an affidavit, albeit on April 16, 2020, nearly two months after it submitted its petition. Nonetheless, we will accept the affidavit affirming that the facts in the petition and attachments are true and correct to the best of the affiant's knowledge. Therefore, because the matter is unopposed and CenturyLink did eventually file its required affidavit, we find that this matter may be considered under modified procedures without a hearing.

12. We acknowledge the changes made by the FCC that were included in its August 2, 2019 Memorandum Opinion and Order (Release 19-72) that modified the obligations of the incumbent RBOCs to offer certain retail discounts and analog lines to its competitor customers. These changes require that the pricing document, PAP and PIDs contained in existing ICAs be modified to accurately incorporate the FCC allowed modifications.

13. No CLECs opposed CenturyLink's Petition. We find good cause to grant the Petition to amend the PAP and PIDs as set forth in Appendices 3A (redesigned PIDs) and 4A (redesigned PAP), as well as deem all existing interconnection agreements which currently contain the PAP and PIDs be modified to incorporate those revisions, all to be effective May 1, 2020.

## **II. ORDER**

### **A. The Commission Orders That:**

1. The Petition for Approval of Amendments to the Qwest Performance Assurance Plan (PAP) and Performance Indicator Definitions (PIDs) to Implement the FCC's 2019

Forbearance Orders filed on February 28, 2020 by Qwest Corporation, doing business as CenturyLink QC (CenturyLink) is granted consistent with the discussion above and effective on May 1, 2020.

2. The Commission may consider the matter under modified procedures without a hearing pursuant to § 40-6-109(5), C.R.S., and Commission Rule of Practice and Procedure 4 *Code of Colorado Regulations* 723-1-1403(a).

3. All existing Interconnection Agreements between CenturyLink that currently contain PIDs (Exhibit B to interconnection agreements) and the PAP (Exhibit K to interconnection agreements), including Exhibit A to each interconnection agreement (pricing) are modified effective May 1, 2020, to incorporate the new PAP and PIDs without the need for further filings or Commission approvals.

4. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
April 29, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

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JOHN GAVAN

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MEGAN M. GILMAN

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Commissioners