

Decision No. R22-0806

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22AL-0356T

IN THE MATTER OF ADVICE LETTER NO. 3165 FILED BY QWEST CORPORATION D.B.A. CENTURYLINK QC TO AMEND THE ESINET TARIFF TO PROVIDE A MORE ROBUST REPORTING TOOL CALLED THE EMERGENCY CALL TRACKING SYSTEM, TO BECOME EFFECTIVE SEPTEMBER 16, 2022.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
GRANTING MOTION TO WITHDRAW ADVICE LETTER AND
CLOSING PROCEEDING**

Mailed Date: December 13, 2022

I. STATEMENT, SUMMARY, AND BACKGROUND

A. Summary

1. This Decision grants the Unopposed Motion to Withdraw Advice Letter No. 3165 Regarding Emergency Reporting Services Tariff Colo. P.U.C. No. 25 (Motion) filed on December 8, 2022, by Qwest Corporation, doing business as CenturyLink QC (CenturyLink or the Company) and closes this Proceeding.

B. Procedural History¹

2. On August 15, 2022, CenturyLink filed Advice Letter No. 3165 (the Advice Letter) with tariff sheets to modify CenturyLink Colo. P.U.C. No. 25 Section 9.2.5, Emergency Reporting Service (Tariff Sheets).

¹ Only the procedural history necessary to understand this Decision is included.

3. On September 14, 2022, the Commission set the Advice Letter and Tariff Sheets for a hearing, suspended the proposed effective date to January 14, 2023, and referred the matter to an administrative law judge (ALJ) for disposition.²

4. In addition to CenturyLink, the following entities are parties to this Proceeding: the Boulder Regional Emergency Telephone Service Authority (BRETSA); the Douglas County Emergency Telephone Service Authority; the El Paso-Teller County Emergency Telephone Service Authority; the Colorado Council of Authorities, Inc.; the Adams County E-911 Emergency Telephone Service Authority; the Arapahoe County 911 Authority; and the Jefferson County Emergency Communications Authority (collectively, the Interveners).³

5. On November 28, 2022, ALJ G. Harris Adams further suspended the effective date of the Advice Letter and tariff sheets by an additional 130 days, established procedural deadlines, and scheduled an evidentiary hearing for February 28 and March 1, 2023, consistent with the parties' proposed consensus schedule.⁴ ALJ Adams noted that he scheduled the hearing as requested contingent upon CenturyLink making a filing amending the proposed effective date of the suspended tariff pages on or by December 8, 2022, and that the new proposed effective date should be not earlier than October 22, 2022.⁵

6. Under the approved procedural schedule, CenturyLink's direct testimony must be filed on or by December 16, 2022; Interveners' answer testimony must be filed on or by

² Decision No. C22-0543 (mailed September 14, 2022).

³ Decision No. R22-0637-I (mailed October 24, 2022).

⁴ Decision No. R22-0756-I at 2-3 and 6-7 (mailed November 28, 2022). As noted in that Decision, CenturyLink filed a proposed procedural schedule on November 14, 2022 that all parties except BRETSA support. *Id.* at 2. On November 16, 2022, BRETSA made a filing indicating that it concurs with CenturyLink's proposed procedural schedule. *Id.* As implied, after ALJ G. Harris Adams issued Decision No. R22-0756-I, this Proceeding was transferred to the undersigned ALJ.

⁵ *Id.* at 2-3 and 6.

January 20, 2023; and rebuttal and cross-answer testimony must be filed on or by February 3, 2023.⁶

7. On December 8, 2022, CenturyLink filed the Motion.

II. DISCUSSION AND FINDINGS

8. CenturyLink states that the Interveners do not oppose the Motion.⁷ Given that the Motion is unopposed, and the closely approaching written testimony deadlines, the ALJ finds good cause to waive the response time to the Motion and does so.⁸

9. Under Rule 1309(e), 4 CCR 723-1, after a tariff's effective date has been suspended and scheduled for a hearing, a party wishing to withdraw the advice letter and tariff sheet must file a motion seeking leave to do so. In deciding such a motion, the Commission must consider whether the motion establishes good cause, and whether other parties may be prejudiced by the withdrawal.⁹

10. The Advice Letter and Tariff Sheets seek to modify the existing tariff to provide a more robust reporting tool referred to as the Emergency Call Tracking System (ECaTS or the product) to give customers more advanced reporting features and functionality than currently available under the existing tariff.¹⁰

11. The Motion states that since the procedural schedule was established, the Company has had discussions with Interveners and the entity who originated the product, Intrado Life and Safety Corp. (Intrado) about options for: structuring the product offering; making additional

⁶ *Id.* at 6.

⁷ Motion at 2 and 4.

⁸ See Rule 1400(b) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

⁹ Rule 1309(e), 4 CCR 723-1.

¹⁰ See Advice Letter and Tariff Sheets filed August 15, 2022.

modules available; cost and pricing; transitioning from Clear View; installation costs and requirements; and other related issues.¹¹ The Company states that discovery in this Proceeding also highlights these issues, and confirms that the issues require further discussion and that the offering needs additional refinement.¹² CenturyLink does not believe that a contested proceeding is the best vehicle to do all of this.¹³ For example, CenturyLink believes that the proposed tariff and the cost study will require changes given the demand to include additional modules to the existing offering, which can only be accommodated by modifying the procedural schedule, amending testimony, and possibly re-noticing the entire Proceeding.¹⁴ This will be difficult to manage given that much of the information that Interveners seek rests with Intrado, who is not a party.¹⁵

12. Rather than continue on this track within this contested Proceeding, the Company submits that it would be more appropriate to withdraw the Advice Letter, schedule several informal working group sessions with Interveners and Intrado to provide information, discuss the issues, and restructure the product offering and proposed tariff language.¹⁶ The Company intends to timely respond to all outstanding discovery requests and provide further information as needed, and is hopeful that this process will result in an uncontested product offering that can be resubmitted to the Commission.¹⁷ CenturyLink submits that all of this establishes good cause to withdraw the Advice Letter, consistent with Rule 1309(e), 4 CCR 723-1, and that no party will be prejudiced by the same. Indeed, CenturyLink explains that denying the Motion would require it to support the

¹¹ Motion at 2.

¹² *Id.*

¹³ *Id.* at 3.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

product as currently structured even though changes are plainly needed and that moving forward in this Proceeding would be inefficient for the parties and the Commission.¹⁸

13. For the reasons stated in CenturyLink's Motion (as discussed above), the ALJ finds that allowing the Company to withdraw the Advice Letter and Tariff Sheets will not prejudice any party, and that the Company has established good cause to withdraw the same. This is particularly the case given that no party objects to the Company withdrawing the Advice Letter and Tariff Sheets, and the Company's intention to continue to work with the parties and the product developer to address Interveners' concerns. For these reasons, the ALJ grants the Motion, deems the Advice Letter and Tariff Sheets withdrawn without prejudice, and vacates the remaining procedural schedule.

14. In accordance with § 40-6-109, C.R.S., the ALJ recommends that the Commission enter the following order and transmits to the Commission the record in this proceeding along with this written recommended decision.

III. ORDER

A. The Commission Orders That:

1. Consistent with the above discussion, the Unopposed Motion to Withdraw Advice Letter No. 3165 Regarding Emergency Reporting Services Tariff Colo. P.U.C. No. 25 filed on December 8, 2022 by Qwest Corporation, doing business as CenturyLink QC (CenturyLink) is granted.

2. The remaining procedural schedule in this Proceeding is vacated, including the February 28 and March 1, 2023 evidentiary hearing dates.

¹⁸ *Id.* at 4.

3. Proceeding No. 22AL-0356T is closed.

4. This Recommended Decision shall 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. This Recommended Decision shall 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.

5. 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.

6. 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.

7. 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.

8. 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)



ATTEST: A TRUE COPY

A handwritten signature in cursive script, appearing to read 'G. Harris Adams'.

G. Harris Adams,
Interim Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge