

Decision No. R14-0770-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14U-0446T

IN THE MATTER OF CENTURYLINK COMMUNICATIONS, LLC F/K/A QWEST COMMUNICATIONS COMPANY DBA CENTURYLINK QCC PETITION FOR THE DECLARATION OF INTENT TO SERVE WITHIN TERRITORIES OF RURAL TELECOMMUNICATIONS PROVIDERS.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
PAUL C. GOMEZ
SETTING PRE-HEARING CONFERENCE**

Mailed Date: July 7, 2014

I. STATEMENT

1. On May 9, 2014, CenturyLink Communications, LLC, formerly known as Qwest Communications Company, doing business as CenturyLink QCC (CenturyLink) filed a Petition for the Declaration of Intent to Provide Local Exchange Services Within Territories of Rural Telecommunications Providers (Petition).

2. In its Petition, CenturyLink states that it intends to provide telecommunications services in the service territory of Rural Telecommunications Providers, specifically, in the service territory of CenturyTel of Colorado, CenturyTel of Eagle, and El Paso Telephone Company. CenturyLink indicates that it intends to provide Voice over Internet Protocol and data services within the designated service territories. CenturyLink intends to utilize facilities based and unbundled element telecommunications services to provide the proposed services. In a subsequent filing, CenturyLink explains that it makes its Declaration of Intent in order to obtain numbering resources for the provisioning of voice services in the proposed service territories.

3. On May 12, 2014, the Colorado Public Utilities Commission (Commission) provided notice of the Application to all interested parties. The notice also provided 30 days from the date of the notice for any interested party to file a petition to intervene to participate as a party in this proceeding pursuant to the Commission's Rules of Practice and Procedure.

4. On May 28, 2014, Union Telephone Company (Union) filed a Petition for Leave to Intervene in this proceeding. Union states that it has previously been certified by the Commission to provide rural local exchange service in a defined certificated area. Union indicates that as a telecommunications provider providing rural local exchange services within its certificated territory, it seeks to intervene in this proceeding to ensure that any activities do not adversely impact its entitlement to a rural exemption, or that any rulings impact its present or future entitlement.

5. On May 30, 2014, CenturyLink responded to a Deficiency Letter issued by Commission Telecommunications Staff providing additional information required by Commission regulations.

6. On June 18, 2014, the Commission, at its regularly scheduled weekly meeting, deemed the application complete and referred the matter to an Administrative Law Judge (ALJ) for disposition. The matter was subsequently assigned to the undersigned ALJ.

A. Interventions

7. A party may seek to intervene in a Commission proceeding, such as the Application at hand, pursuant to § 40-6-108(2)(a), C.R.S., and Commission Rule of Practice and Procedure 4 *Code of Colorado Regulations* (CCR) 723-1-1401.

8. Section 40-6-108(2)(a), C.R.S., requires that:

... any person desiring to file an objection or intervene in or participate as a party ... shall file his or her objection or petition for leave to intervene or, under such rules as the commission may prescribe, file other appropriate pleadings to become a party, within thirty days after the date of the notice, or such lesser time as the commission may prescribe.

Commission Rules 1401(a) – (c) explicitly set out the requirements for a party to intervene in a Commission proceeding, either as of right or for permissive intervention.

9. To seek intervention as of right, Rule 1401(b) requires that a party “shall state the basis for the claimed legally protected right that may be affected by the proceeding.”

10. To seek permissive intervention, Rule 1401(c) sets out the requirements for a party to demonstrate the grounds upon which it relies for a petition to permissively intervene.

Rule 1401(c) provides as follows:

A motion to permissively intervene shall state the specific grounds relied upon for intervention; the claim or defense within the scope of the Commission's jurisdiction on which the requested intervention is based, including the specific interest that justifies intervention; and why the filer is positioned to represent that interest in a manner that will advance the just resolution of the proceeding. The motion must demonstrate that the subject proceeding may substantially affect the pecuniary or tangible interests of the movant (or those it may represent) and that the movant's interests would not otherwise be adequately represented. ... The Commission will consider these factors in determining whether permissive intervention should be granted. Subjective, policy, or academic interest in a proceeding is not a sufficient basis to intervene.

11. Union seeks to intervene in this proceeding to protect its entitlement to a rural exemption. It is found that Union states good cause to grant it intervention by permission status in this matter.

12. The intervention period in this matter is closed. The sole intervenor is Union.

13. In order to facilitate the orderly resolution of the issues involved in this matter it is appropriate to schedule a pre-hearing conference for **Wednesday, July 16, 2014** in accordance with the order that follows.

14. At the pre-hearing conference the parties should be prepared to discuss all issues contemplated by 4 CCR 723-1-1409(a) including, without limitation, establishing a procedural schedule governing the case that address issues such as: (a) whether an evidentiary hearing in this matter is required; (b) if so, whether written testimony shall be filed or whether all testimony shall be provided orally at an evidentiary hearing; if written testimony, the dates for the filing of direct, answer, and rebuttal testimony; (c) discovery deadlines and cut-off dates; (d) deadlines for filing prehearing motions;¹ (e) the date for a final prehearing conference, if one is necessary; (f) the date by which the Parties will file any stipulation or settlement reached;² (g) hearing dates; and, (h) whether the Parties wish to file closing statements of position at the conclusion of the evidentiary hearing.³ The ALJ strongly encourages the parties to informally discuss and attempt to reach agreement on a procedural schedule prior to the pre-hearing conference. In the event the parties reach agreement as to a procedural schedule and file a proposed schedule at least two days prior to the pre-hearing conference, the pre-hearing conference will be vacated.

II. ORDER

A. It Is Ordered That:

1. The Petition to Intervene by Permission of Union Telephone Company is granted.

¹ This date can be no later than 14 calendar days before the first day of hearing.

² This date can be no later than 10 calendar days before the first day of hearing.

³ The date for filing Closing Statements of Position must be at least 94 days prior to the expiration of the statutory 210-day time limit for the Commission to issue a final Decision in this matter.

2. A pre-hearing conference is scheduled as follows:

DATE: July 16, 2014

TIME: 11:00 a.m.

PLACE: Hearing Room
Colorado Public Utilities Commission
1560 Broadway, Suite 250
Denver, Colorado

3. This Decision shall be effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

PAUL C. GOMEZ

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads 'Doug Dean'.

Doug Dean,
Director