

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.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
PAUL C. GOMEZ
APPROVING PETITION**

Mailed Date: October 20, 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, Inc., CenturyTel of Eagle, Inc., 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 sought to intervene in this proceeding to ensure that any activities did 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 (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.

7. By Interim Decision No. R14-0770-I, issued July 7, 2014, a pre-hearing conference was scheduled in this matter for July 16, 2014. However, on July 14, 2014, CenturyLink filed a status report in which it represented that it had conferred with Union and the parties agreed that the Petition was unopposed. According to the status report, Union's purpose

for intervening in the proceeding was to merely monitor the filing. As a result, CenturyLink requested that the pre-hearing conference be vacated.¹

8. On September 30, 2014, Interim Decision No. R14-1191-I was issued. Due to the unique nature of the Petition, the Interim Decision required CenturyLink to answer several questions in the form of an affidavit. The questions related to CenturyLink's intent in seeking approval of its Petition.

9. On October 10, 2014, CenturyLink provided answers in affidavit form to the questions propounded in Interim Decision No. R14-1191-I. CenturyLink also indicated that it objects to answering the propounded questions and notes that other petitions to obtain a Declaration of Intent were approved quicker than that Petition at hand.

II. FINDINGS

10. By Decision No. C11-0001, issued January 3, 2011 in Proceeding No. 10A-350T, the Commission granted the Joint Application of Qwest Communications International, Inc., and CenturyLink for Approval of Indirect Transfer of Control of Qwest Corporation, El Paso County Telephone Company, Qwest Communications Company, LLC, and Qwest LD Corporation (Merger Application). Commission approval of the Merger Application indirectly transferred Qwest Communications International, Inc.'s (Qwest) operating subsidiaries as listed above to CenturyLink. Qwest and its subsidiaries merged into CenturyLink, a holding company that contains a local service provider, an operating company acquired as a result of the Embarq merger, a long-distance company, and a Competitive Local Exchange Carrier (CLEC) operation. Qwest became a first tier subsidiary, similar to the existing entities operating under CenturyLink.

¹ Due to the short time period between the filing of the status report and the scheduled pre-hearing conference, the parties were notified by e-mail that the pre-hearing conference had been vacated.

The merger was conducted at the holding company level which purportedly resulted in no changes to the corporate structure of the operating entities. At the time the Merger Application was approved, the Joint Applicants asserted that the regulatory requirements of each operating company in the merged company would remain the same after the merger. Moreover, the parties to the merger represented that tariffs, price plans, Interconnection Agreements, and other regulatory obligations would continue in the same manner as before the merger.

11. While CenturyLink, cites the petition of Big River Telephone Company, LLC (Big River), Proceeding No. 14U-0688T, to protest the additional time taken, and the additional questions posed to it, which were not required of Big River, CenturyLink fails to consider several factors. Big River was not seeking to serve in a Rural Telecommunications Provider's territory in which the provider was a subsidiary of Big River. This in essence results in CenturyLink seeking CLEC status in a rural territory in which the Incumbent Local Exchange Carrier is a subsidiary of CenturyLink as the CLEC. It is important to ensure the Commission fully understands the implications of the unique structure of the proposed transaction prior to approval of the Petition.

12. In its sworn answers to the questions posed to it, CenturyLink states that upon approval of this Petition, CenturyLink will enter into an appropriate interconnection agreement with El Paso Telephone Company which will be filed with the Commission as required.

13. CenturyLink further avows that it will collect, remit and report on the Colorado High Cost Support Mechanism funds, as well as the Commission's Fixed Utilities Fund, the Telecommunications Relay Services for the Disabled Telephone Users Program, and other financial support mechanisms that may be created in the future by the Commission.

14. In addition, CenturyLink avows that it intends to provide the amount of new numbers it places in service in the extended rural service area as part of its bi-annual filing requirement for carriers to report on the utilization of all numbering resources and also a forecast of future demands which are due to the Federal Communications Commission on February 1st and August 1st of each year. Further, as part of its reporting obligations, CenturyLink avows that it will provide the number of port-in and port-out requests in the extended rural service area for each bi-annual reporting period.

15. Based on the information received as part of the Petition, information provided by CenturyLink in response to Staff's Deficiency Letter, and CenturyLink's answers pursuant to affidavit, it is found that granting the request in CenturyLink's Petition is consistent with the legislative policy statements contained in §§ 40-15-101, 40-15-501, and 40-15-502, C.R.S., and with the public interest.

16. As requested in its Petition, CenturyLink is granted authority to provide local exchange telecommunications services in the wire centers in the rural service territories of CenturyTel of Colorado, Inc., CenturyTel of Eagle, Inc., and El Paso Telephone Company as described in Exhibit A of the Petition. Before providing local exchange telecommunications service to customers in the three service territories listed in Exhibit A of the Petition, CenturyLink must file an Advice Letter and proposed tariff, or modification of an existing tariff, which shall identify the exchanges, local calling areas, and service offerings, on not less than 30 days' notice.

17. In accordance with § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

III. ORDER

A. The Commission Orders That:

1. The Petition filed by CenturyLink Communications, LLC, formerly known as Qwest Communications Company, doing business as CenturyLink QCC (CenturyLink or Company) stating its Declaration of Intent to Provide Local Exchange Services within Territories of Rural Telecommunications Providers is granted.

2. CenturyLink is granted the authority to provide local exchange telecommunications services in the wire centers as identified in its petition in the territories of CenturyTel of Colorado, Inc., CenturyTel of Eagle, Inc., and El Paso Telephone Company. The specific exchanges are listed in Exhibit A of the Petition.

3. CenturyLink shall serve customers in its service territory on a non-discriminatory basis. "Service territory" shall be defined as that portion of Colorado encompassed by the exchange areas included or referenced in the Company's tariff and as listed in Exhibits A and B of the Petition. However, CenturyLink shall not be required to extend service to customers where the underlying facilities-based provider has no facilities.

4. Unless the Commission orders otherwise, CenturyLink shall begin providing local exchange services within one year after the effective date of this Decision granting its Declaration of Intent.

5. Before commencing operations pursuant to the grant of the Declaration of Intent, CenturyLink shall file an Advice Letter and a proposed tariff, or modification of its then existing tariff to become effective on not less than 30 days' notice.

6. If CenturyLink fails to file a tariff within one year from the effective date of this Decision, this Declaration of Intent which grants the authority to provide local exchange

telecommunications in the service territory of CenturyTel of Colorado, Inc., CenturyTel of Eagle, Inc., and El Paso Telephone Company shall be deemed null and void without any further action by the Commission. For good cause shown, and if a proper request is filed within one year of the effective date of this Decision, the Commission may grant CenturyLink additional time within which to file a tariff.

7. In accordance with the Rules of Practice and Procedure, CenturyLink will be required to maintain its books of accounts and records using Generally Accepted Accounting Principles.

8. Consistent with terms and conditions established in previous Commission decisions, CenturyLink will be required to contribute, if applicable, to local and intraLATA services, to the Public Utilities Commission's Fixed Utilities Fund, the Colorado High Cost Support Mechanism, the Telecommunications Relay Services for the Disabled Telephone Users Program, and other financial support mechanisms that may be created in the future by the Commission to implement §§ 40-15-502(4) and (5), C.R.S.

9. 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.

10. 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 procedures 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.

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

PAUL C. GOMEZ

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director