

Decision No. R14-0888

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0408T

IN THE MATTER OF THE JOINT APPLICATION OF QWEST CORPORATION DBA CENTURYLINK QC ("CENTURYLINK QC") AND WILLARD TELEPHONE COMPANY TO REARRANGE THEIR EXCHANGE AREA BOUNDARIES AND CENTURYLINK QC'S APPLICATION TO RELINQUISH DESIGNATION AS PROVIDER OF LAST RESORT AND CENTURYLINK QC'S PETITION FOR A WAIVER FROM COMPLIANCE WITH THE COMMISSION'S REQUIREMENT THAT NEWSPAPER NOTICE BE PUBLISHED CONCERNING THE RELINQUISHMENT OF ITS PROVIDER OF LAST RESORT OBLIGATIONS.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
DISMISSING INTERVENTION AND GRANTING
APPLICATION FOR APPROVAL OF REARRANGED
EXCHANGE AREA BOUNDARIES AND FOR APPROVAL
TO CHANGE EACH PROVIDER'S DESIGNATION AS
PROVIDER OF LAST RESORT; REQUIRING THE FILING
OF ADVICE LETTERS; AND GRANTING WAIVER OF
THE COMMISSION'S NEWSPAPER NOTICE RULE**

Mailed Date: July 25, 2014

I. STATEMENT

1. On May 1, 2014, Qwest Corporation, doing business as CenturyLink QC (Qwest) and Willard Telephone Company (Willard) (collectively, Joint Applicants) filed the above-captioned joint application (Application).

2. On June 4, 2014, Bresnan Broadband of Colorado, LLC (Bresnan) timely filed its Motion to Intervene and Request for Hearing in this proceeding. In this filing, Bresnan did not state that it opposed or contested the Application.

3. The Joint Applicants did not file their direct testimony and exhibits at the time they filed the Application. By Minute Order, the Commission deemed the Application complete as of June 11, 2014.

4. On July 8, 2014, Bresnan filed its Notice of Withdrawal of Motion to Intervene and Request for Hearing. In the notice Bresnan states, after further consideration, it no longer wishes to intervene in the proceeding.

5. Good cause is found to allow Bresnan to withdraw from the proceeding.

6. Withdrawal of the intervention and dismissal of the Intervenors leaves the Application, as amended, uncontested. Pursuant to § 40-6-109(5), C.R.S., and Rule 1403 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, the uncontested application may be processed under the modified procedure, without a formal hearing.

7. In accordance with § 40-6-109, C.R.S., the Administrative Law Judge now transmits to the Commission the record in this proceeding along with a written recommended decision.

A. Application

8. This matter is for consideration of the Joint Application filed by the Joint Applicants to revise portions of each companies' operating area, to review the associated proposed advice letter filings concurrently with the review of this Application, to obtain on behalf of Qwest a waiver of the Commission rule regarding newspaper notice and to change each provider's designation as provider of last resort.

9. Joint Applicants propose to transfer portions of the Qwest territory located in the Sterling Exchanges to Willard. There are distinctly identified portions of Qwest's territory that are included in the proposed transfer to Willard: Township 8N, Range 54W, Section 30 and the

western half of Section 29; Township 7N, Range 54W, the southwest $\frac{1}{4}$ of Section 10 and the western half of Section 15; and Township 6N, Range 54W, the northwest $\frac{1}{4}$ of Section 4 and the northern half of Sections 5 and 6.

10. The Application states that no assets will transfer and four customers and four additional locations that currently either have facilities or take Qwest's service will be affected by the transfer.

11. Joint Applicants indicate that the requested changes are being requested because Qwest does not have facilities to provide more than basic service to portions of this area. Due to the fact that the transfer is on the extreme western portion of Qwest's Sterling wire center that serves the area, and due to the proximity to Willard's facilities, Willard believes it can provide service to the area in a more economical manner.

12. Joint Applicants request that the Commission release each provider of its respective obligations as providers of last resort for the service territories that are transferred. Willard agrees to become the provider of last resort in the newly acquired service territories and Qwest agrees that it will not be permitted to offer service in the transferred territory if the transfer is approved by the Commission.

13. The Application contains two proposed advice letters and associated tariff sheets that Joint Applicants intend to file, if the Commission approves the request for territory exchange. The filing requests that the Commission approve the contents of the advice letters and tariff sheets and that Joint Applicants be able to file these in compliance with the Commission's order to become effective on not less than two business days' notice, in combination with the Application.

14. There is an acknowledgement made in the Application that if the Commission approves the requested territory exchange, a joint Part 36 Waiver and a Section 214 Application are required to be filed with the Federal Communications Commission for its approval prior to closing the transaction.

15. The Joint Applicants request a waiver of the requirement that Qwest publish a newspaper notice of its relinquishment of its provider of last resort obligations in the areas that it transfers to Willard (Rule 4 CCR 723-2-2186(e) of the Commission's Rules Regulating Telecommunications Providers, Services, and Products).

B. Findings

16. The proposed revisions to the Sterling exchange and the rearrangements are not adverse to any customer interests. The implementation of those revisions will not adversely affect the public switched network. Finally, the revisions of the exchanges will not compromise the financial integrity of the providers. Therefore, the proposed revision to the exchange is in the public interest.

17. The request for waiver is of our Rule 4 CCR 723-2-2186(e) as it relates to the requirement of a newspaper notice for the relinquishment of provider of last resort obligations by Qwest. Adequate notice was provided to affected entities and it is found to be in the public interest.

18. Consistent with § 40-15-111(2), C.R.S., the Joint Application for the boundary changes of the Sterling Exchange should be granted.

II. ORDER

A. The Commission Orders That:

1. The Joint Application filed by Qwest Corporation, doing business as CenturyLink QC (Qwest) and Willard Telephone Company is granted.

2. Qwest is granted a waiver, for this transaction only, of the newspaper notice requirement contained in Commission Rule 4 *Code of Colorado Regulations* 723-2-2186(e).

3. Qwest is relieved of its obligations as provider of last resort in the territory that is transferred to Willard Telephone Company with Willard Telephone Company becoming the provider of last resort in the territory that is received as a part of the transaction.

4. Citing this Decision as authority, Qwest and Willard Telephone Company shall each make an Advice Letter and accompanying tariff sheet filing implementing the tariff changes on not less than two business days' notice. The Advice Letter and accompanying tariff sheets shall not be filed until the applicants receive the appropriate Part 36 Waiver for the transaction from the Federal Communications Commission.

5. 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.

6. 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) Response time to exceptions shall be within seven calendar days of the filing of exceptions.

b) 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.

c) 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.

7. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission finds good cause.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director