

Decision No. R14-1123-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0669T

IN THE MATTER OF THE 2014 APPLICATION OF QWEST CORPORATION, DOING BUSINESS AS CENTURYLINK QC, REQUESTING COMMISSION APPROVAL OF ADDITIONS TO NON-IMPAIRED WIRE CENTER LIST IN ACCORDANCE WITH THE FCC'S TRIENNIAL REVIEW REMAND ORDER.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
CHANGING DESIGNATION OF DOCUMENTS
FROM HIGHLY CONFIDENTIAL TO CONFIDENTIAL
AND DIRECTING STAFF TO CHANGE RECORDS**

Mailed Date: September 12, 2014

I. STATEMENT

1. On June 20, 2014, Qwest Corporation, doing business as CenturyLink QC (Qwest), filed (in one document) its 2014 Application for Commission Approval of Additions to Non-Impaired Wire Center List [Application] and Motion for Expedited Issuance of Protective Order [Motion for Protective Order]. That filing commenced this Proceeding.

2. On June 24, 2014, the Commission issued its Notice of Application Filed.

3. The following intervened or were granted leave to intervene: Trial Staff of the Commission (Staff) and Eschelon Telecom of Colorado, Inc., doing business as Integra Telecom (Integra).¹

4. Qwest and Staff, collectively, are the Parties.

¹ On September 5, 2014, Integra filed a motion to withdraw its intervention. On September 11, 2014, by Decision No. R14-1116, Integra was dismissed from this Proceeding.

5. On July 30, 2014, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ).

6. The procedural history of this Proceeding is set out in Interim Decisions previously issued in this case. The ALJ repeats the procedural history here as necessary to place this Interim Decision in context.

7. On June 20, 2014, Qwest filed the Affidavit of Renee Albersheim (Albersheim Affidavit). Appended to the Albersheim Affidavit are four documents that are denominated Highly Confidential Attachment A, Highly Confidential Attachment B, Highly Confidential Attachment C, and Highly Confidential Attachment D (collectively, Highly Confidential Attachments).

8. Qwest entitled the Application filed on June 20, 2014 as follows: CenturyLink QC's 2014 Application for Commission Approval of Additions to Non-Impaired Wire Center List *and* Motion for Expedited Issuance of Protective Order. (Emphasis supplied.) In the body of the Application, however, Qwest stated: "The Commission declined to issue the requested protective order in Proceeding No. 13M-0881T, so [Qwest] does not request such an order in this proceeding." Application at ¶ 4 and note 4.

9. As of August 26, 2014, Qwest had not filed a motion seeking extraordinary protection of the Highly Confidential Attachments. *See generally* Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1101(b)² (procedure for obtaining extraordinary protection). Information is neither highly confidential nor afforded extraordinary protection as highly confidential information unless and until there is a decision that designates the information as

² This Rule is found in the Rules of Practice and Procedure, Part 1 of 4 *Code of Colorado Regulations* 723.

highly confidential and establishes the extraordinary protections to be afforded to that information. Thus, absent a decision from the Commission or the ALJ, the information in the Highly Confidential Attachments is not highly confidential. The information, however, is confidential and is subject to the procedures in Rules 4 CCR 723-1-1100 and 723-1-1101.

10. To provide Qwest with the opportunity to have the ALJ designate the Highly Confidential Attachments as highly confidential and establish extraordinary protection for those documents, the ALJ permitted Qwest to file, not later than September 9, 2014, a motion pursuant to Rule 4 CCR 723-1-1101(b). If Qwest elected not to file such a motion, the ALJ advised Qwest and put it on notice that, “on **September 10, 2014**, the Highly Confidential Attachments will be treated as confidential information in accordance with Rules 4 CCR 723-1-1100 and 723-1-1101.” Decision No. R14-1037-I at ¶ 33 (bolding in original); *see also id.* at Ordering Paragraph No. 12 (same).

11. Review of the Commission files in this matter reveals that, on August 26, 2014, the Commission served, through the Commission E-Filings System, Decision No. R14-1037-I on Qwest. Qwest is presumed to have notice of Decision No. R14-1037-I and of the requirements of that Interim Decision.

12. Review of the Commission files in this matter reveals that, as of the date of this Interim Decision, Qwest has not filed a motion pursuant to Rule 4 CCR 723-1-1101(b). In addition, review of the Commission files in this matter reveals that, as of the date of this Interim Decision, Qwest has not requested additional time within which to file a motion pursuant to Rule 4 CCR 723-1-1101(b).

13. In accordance with the advisement in Decision No. R13-1037-I (quoted above) and because neither the Commission nor the ALJ has determined that the Highly Confidential

Attachments contain highly confidential information, the ALJ will direct that the Highly Confidential Attachments be treated as confidential -- but not highly confidential -- documents in accordance with Rules 4 CCR 723-1-1100 and 723-1-1101.

14. To assure that persons who sign a nondisclosure agreement have access to the four confidential Albersheim Affidavit Attachments, the ALJ will direct the Commission Administrative Staff to change the Commission records and the way in which the documents are treated to reflect that those documents are confidential but are not highly confidential.

II. ORDER

A. It Is Ordered That:

1. Consistent with the discussion above and for purposes of this Proceeding, the document appended to the Affidavit of Renee Albersheim that was filed as Highly Confidential Attachment A shall be designated as, and shall be referred to as, Confidential Attachment A.

2. Consistent with the discussion above and for purposes of this Proceeding, the document appended to the Affidavit of Renee Albersheim that was filed as Highly Confidential Attachment B shall be designated as, and shall be referred to as, Confidential Attachment B.

3. Consistent with the discussion above and for purposes of this Proceeding, the document appended to the Affidavit of Renee Albersheim that was filed as Highly Confidential Attachment C shall be designated as, and shall be referred to as, Confidential Attachment C.

4. Consistent with the discussion above and for purposes of this Proceeding, the document appended to the Affidavit of Renee Albersheim that was filed as Highly Confidential Attachment D shall be designated as, and shall be referred to as, Confidential Attachment D.

5. For purposes of this Proceeding, the four documents appended to the Affidavit of Renee Albersheim that are now designated as Confidential Attachment A, Confidential Attachment B, Confidential Attachment C, and Confidential Attachment D shall be treated as confidential information pursuant to Rules 4 *Code of Colorado Regulations* 723-1-1100 and 723-1-1101.

6. Administrative Staff of the Commission shall change Commission records to reflect the new designation of the four documents appended to the Affidavit of Renee Albersheim as set out in Ordering Paragraphs No. 1 through No. 4.

7. Administrative Staff of the Commission and Parties shall treat the four confidential documents appended to the Affidavit of Renee Albersheim and discussed in Ordering Paragraphs No. 1 through No. 4 as confidential documents and not as highly confidential documents.

8. The Parties are held to the advisements in this Interim Decision.

9. This Interim Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MANA L. JENNINGS-FADER

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director