

1 **BEFORE THE PUBLIC UTILITY COMMISSION**

2 **OF OREGON**

3 UM 1891

4 In the Matter of

5 QWEST CORPORATION, dba
6 CENTURYLINK QC,

PARTIAL STIPULATION

7 Petition for Approval of 2017 Additions to Non-
8 Impaired Wire Center List

9 **INTRODUCTION**

10 1. The parties to this Partial Stipulation are Qwest Corporation d/b/a CenturyLink
11 QC (“CenturyLink”); Eschelon Telecom of Oregon, Inc., Integra Telecom of Oregon, Inc.,
12 Advanced TelCom, Inc., and Electric Lightwave, LLC (“Integra”); and Staff of the Public Utility
13 Commission of Oregon (“Staff”), together referred to as “the Stipulating Parties.”

14 2. By entering into this Partial Stipulation, the Stipulating Parties intend to resolve
15 the issue of the reclassification of the Hermiston, Pendleton, and Bend wire centers with respect
16 to CenturyLink’s non-impaired wire center list, and to partially resolve the issue of the
17 reclassification of the Oregon City wire center with respect to the non-impaired wire center list.

18 **BACKGROUND**

19 3. Under Section 251(d)(2) of the Telecommunications Act of 1996, incumbent local
20 exchange carriers (“ILECs”), such as CenturyLink, are required to make available to competitive
21 local exchange carriers (“CLECs”) certain high-capacity unbundled network elements (“UNEs”)
22 for the provision of telecommunications services to the public, until such time that the failure to
23 provide those UNEs would no longer “impair” a CLEC’s ability to provide service. In its
24 *Triennial Review Remand Order*,¹ the Federal Communications Commission (“FCC”)

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26 ¹ *Review of Unbundled Access to Network Elements, Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Order on Remand, CC Docket No. 01-338, WC Docket No. 04-313, 20 FCC Rcd. 2533 (2005) (“*Triennial Review Remand Order*” or “*TRRO*”).

1 established the rules for when ILECs must make UNEs available and set objective measures for
2 when the conditions in a wire center indicate the requisite level of non-impairment to relieve
3 ILECs of the obligation to provide UNEs to a requesting carrier. Once the number of business
4 lines served by a wire center and/or the number of “fiber-based collocators” at a wire center
5 reaches a certain number, a wire center is no longer “impaired.”²

6 4. For the purposes of determining whether an ILEC must provide unbundled access
7 to dedicated transport on a particular route, the FCC classifies wire centers into three tiers based
8 on the number of fiber-based collocators, business lines served, or both.³ An ILEC’s obligation
9 to provide UNEs for a particular transport route depends on the classification of the wire centers
10 at both ends of the route, with the ILEC’s obligations being lessened or eliminated when the wire
11 centers are reclassified to higher tiers.⁴

12 5. On August 15, 2017, CenturyLink filed a Petition asking the Commission to
13 approve the addition of certain wire centers to CenturyLink’s non-impaired wire center list, all
14 on the basis that the wire centers have the requisite number of fiber-based collocators under the
15 *Triennial Review Remand Order* to qualify the wire centers as no longer being competitively
16 impaired. CenturyLink filed confidential attachments in support of its Petition on August 30,
17 2017, and supplementary confidential information on September 6, 2017.

18 6. In its Petition, CenturyLink specifically requests that the Corvallis (CRVSOR65),
19 Hermiston (HMTNOR56), and Pendleton (PNTNOR56) wire center classifications be changed
20 from Tier 3 to Tier 2; the Bend (BENDOR24) classification be changed from Tier 2 to Tier 1;
21 and the Oregon City (ORCYOR18) wire center be changed from Tier 3 to Tier 1.

22 7. Pursuant to the procedure established in Order No. 07-328, Integra filed a petition
23 to intervene and filed objections to CenturyLink’s Petition. Integra argued that CenturyLink’s
24 methodology for determining the number of fiber-based collocators as to the Oregon City and
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26 ² See 47 C.F.R. § 51.319 (setting forth detailed unbundling requirements).

³ See 47 C.F.R. § 51.319(d); *TRRO*, 20 FCC Rcd. ¶¶ 66, 111-24.

⁴ See 47 C.F.R. § 51.319(d)(2).

1 Corvallis wire centers is incorrect and asserted that CenturyLink had not met its burden of proof
2 as to the Bend wire center. In its filed objections, Integra did not object to the reclassification of
3 the Hermiston, Pendleton, and Oregon City wire centers from Tier 3 to Tier 2.

4 8. At a workshop held on October 19, 2017, the Stipulating Parties discussed these
5 issues and reached a general agreement on how to move forward.

6 9. Commission Staff contacted several providers that did not respond to notices sent
7 by CenturyLink to confirm whether they met the definition of fiber-based collocator. Based on
8 the information obtained by Staff, Integra agreed to withdraw its objection to the reclassification
9 of the Bend wire center from Tier 2 to Tier 1.

10 10. A prehearing conference was held on November 27, 2017, at which Integra's
11 petition to intervene was granted and a schedule was set for the filing of a Partial Stipulation, a
12 motion with regard to undisputed issues, Stipulated Facts, and legal briefing on disputed issues.

13 11. At a workshop held on December 4, 2017, the Stipulating Parties discussed
14 remaining issues in this docket and reached general agreement on how to move forward.

15 **PARTIAL STIPULATION**

16 12. The Stipulating Parties agree that the reclassification of the Hermiston wire center
17 from Tier 3 to Tier 2 is undisputed and should be approved by the Commission.

18 13. The Stipulating Parties agree that the reclassification of the Pendleton wire center
19 from Tier 3 to Tier 2 is undisputed and should be approved by the Commission.

20 14. The Stipulating Parties agree that the reclassification of the Bend wire center from
21 Tier 2 to Tier 1 is undisputed and should be approved by the Commission.

22 15. The Stipulating Parties agree that the reclassification of the Oregon City wire
23 center from Tier 3 to Tier 2 is undisputed and should be approved by the Commission.

24 16. In the Oregon City wire center, CenturyLink includes in its counts of fiber-based
25 collocators three carriers that the parties agree are unaffiliated with CenturyLink; that maintain a
26 collocation arrangement in the CenturyLink wire center, with active electrical power supply; and

1 that operate a fiber-optic cable or comparable transmission facility that terminates at a
2 collocation arrangement within the wire center, leaves the incumbent LEC wire center premises,
3 and is owned by a party other than CenturyLink or its affiliates.

4 17. In the Corvallis wire center, CenturyLink includes in its counts of fiber-based
5 collocators two carriers that the parties agree are unaffiliated with CenturyLink; that maintain a
6 collocation arrangement in the CenturyLink wire center, with active electrical power supply; and
7 that operate a fiber-optic cable or comparable transmission facility that terminates at a
8 collocation arrangement within the wire center, leaves the incumbent LEC wire center premises,
9 and is owned by a party other than CenturyLink or its affiliates.

10 18. In each of the Oregon City and Corvallis wire centers, CenturyLink includes in its
11 counts of fiber-based collocators one carrier in each wire center about which the parties agree as
12 to the factual characteristics but do not agree whether it meets the definition of a fiber-based
13 collocator. This carrier is referred to as the “disputed fiber-based collocator.”

14 19. The Stipulating Parties agree that the remaining disputed issues—whether the
15 Oregon City wire center should be reclassified as Tier 1 and whether the Corvallis wire center
16 should be reclassified as Tier 2—depend on the proper interpretation of “fiber-based collocator”
17 under 47 C.F.R. § 51.5 and the *Triennial Review Remand Order*, as applied to the facts set forth
18 in the Stipulated Facts filed contemporaneously with this Partial Stipulation. The Stipulating
19 Parties agree that under CenturyLink’s interpretation, the Oregon City wire center should be
20 reclassified as Tier 1, with four fiber-based collocators, and the Corvallis wire center should be
21 reclassified as Tier 2, with three fiber-based collocators. The Stipulating Parties agree that under
22 Integra’s interpretation, the Oregon City wire center should be reclassified as Tier 2, and the
23 Corvallis wire center should remain in Tier 3. The Stipulating Parties will brief this issue
24 according to the legal briefing schedule adopted for disputed issues.

25 20. The Partial Stipulation will be offered into the record of the above-captioned
26 docket pursuant to OAR 860-001-0350. The Stipulating Parties will support the Partial

1 Stipulation throughout this proceeding and any appeal, provide witnesses to sponsor the Partial
2 Stipulation at any hearing held in the above-captioned docket, and recommend that the
3 Commission issue an order adopting the settlement contained herein.

4 21. The Stipulating Parties have negotiated the Partial Stipulation as an integrated
5 document. If the Commission rejects all or any material portion of the Partial Stipulation, or
6 conditions its approval upon the imposition of additional material conditions, any party
7 disadvantaged by such action shall have the rights provided in OAR 860-001-0350 to present
8 evidence and argument on the record in support of the Partial Stipulation or to withdraw from the
9 Partial Stipulation, and shall be entitled to seek reconsideration of the Commission's order.

10 22. By entering into this Partial Stipulation, no party shall be deemed to have
11 approved, admitted or consented to the facts, principles, methods or theories employed by any
12 other party in arriving at the terms of the Partial Stipulation. No party shall be deemed to have
13 agreed that any part of the Partial Stipulation is appropriate for resolving issues arising in any
14 other proceeding.

15 23. The Partial Stipulation may be executed in counterparts and each signed
16 counterpart shall constitute an original document.

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1 The Partial Stipulation is entered into by each Party on the date entered below.

2 CENTURYLINK

3 Dated: December 15, 2017

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5  By: _____

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7
8 INTEGRA

9
10 Dated: _____

11 By: _____

12
13 PUBLIC UTILITY COMMISSION STAFF

14
15 Dated: _____

16 By: _____

1 The Partial Stipulation is entered into by each Party on the date entered below.


2 CENTURYLINK

3 Dated: _____

4 By: _____

6 INTEGRA

8 Dated: 12/15/2017

9 By:  _____

11 PUBLIC UTILITY COMMISSION STAFF

13 Dated: _____

15 By: _____

1 The Partial Stipulation is entered into by each Party on the date entered below.

2

3 CENTURLINK

4 Dated: _____

5 By: _____

6

7 INTEGRA

8 Dated: _____

9 By: _____

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11 PUBLIC UTILITY COMMISSION STAFF

12 Dated: 12/15/2017

13 By: 

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