



WILLIAM E. HENDRICKS

October 17, 2017

Via eFiling and UPS Next Day Delivery

Oregon Public Utility Commission
Attn: Filing Center
P.O. Box 1088
Salem, OR 97308-1088
Puc.filingcenter@state.or.us

RE: UM 1891 – Qwest Corporation d/b/a CenturyLink QC's Response
to the Objections of Integra

Dear Commission:

Attached for filing please find CenturyLink QC's Redacted Response to the Objections of Integra. Highly Confidential Attachment A is appropriately marked, printed on green paper and sealed in a separate envelope per Protective Order No. 17-331, and was sent to the Oregon Public Commission via UPS Next Day Delivery.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "William E. Hendricks".

William E. Hendricks
Senior Corporate Counsel

Attachment

cc: Douglas Denney –Integra (via UPS - Signed Appendix "B" of Protective Order)
Kim Isaacs – Integra (via UPS - Signed Appendix "B" of Protective Order)

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BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 1891

In the Matter of
QWEST CORPORATION d/b/a
CENTURYLINK QC
Petition for Commission Approval of 2017
Addition to Non-Impaired Wire Center List

**QWEST CORPORATION dba
CENTURYLINK QC'S RESPONSE TO
THE OBJECTIONS OF INTEGRA**

Qwest Corporation d/b/a CenturyLink QC (CenturyLink) hereby provides these comments in response to the objections filed by Eschelon Telecom of Oregon, Inc., Integra Telecom of Oregon, Inc., Advanced TelCom, Inc. and Electric Lightwave, LLC (Integra) to CenturyLink's Petition for Commission Approval of 2017 Additions to the Non-Impaired Wire Center List.

I. BACKGROUND

CenturyLink's Petition under the FCC's Triennial Review Remand Order¹ asks the Public Utility Commission of Oregon (Commission) to approve the addition of certain wire centers to CenturyLink's non-Impaired Wire Center List.

CenturyLink has requested that the Corvallis (CRVSOR65), Hermiston (HMTNOR56), and Pendleton (PNTNOR56) wire center classifications be changed from Tier 3 to Tier 2 based on the number of fiber-based collocations. CenturyLink also requested that the Bend (BENDOR24) classification be changed from Tier 2 to Tier 1 and the Oregon City (ORCYOR18) wire center be changed from Tier 3 to Tier 1, also based on the number of fiber-based collocations.

¹ *In the Matter of 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, (2004) ("TRRO").

On August 28, 2017, Integra filed a petition to intervene and subsequently received the highly confidential information supporting these wire center additions. Integra filed its objections on October 6, 2017, arguing that CenturyLink's methodology for determining fiber-based collocators as to Oregon City² and Corvallis was incorrect, and asserts that CenturyLink has not yet met its burden of proof as to Bend. Integra does not object to the reclassification of Hermiston and Pendleton.

The Commission Staff has scheduled a workshop on October 19, 2017. CenturyLink provides these responsive comments in advance of the workshop to facilitate discussion.

II. SUMMARY

In the TRRO the Federal Communications Commission (FCC) established clear and simple tests for determining when competitors are not impaired without access to certain high capacity unbundled network elements (UNEs). The tests are based on the number of fiber-based collocators and the number of switched business lines in a particular wire center. Switched business lines are not at issue in this particular proceeding, as all of the reclassifications are based on the number of fiber-based collocators in each wire center.

Integra disputes the inclusion of one fiber-based collocator in the Oregon City and Corvallis wire centers, alleging that in each case the fiber-based collocation does not meet the FCC's test. Integra claims that because the fiber optic cable only connects an end user customer to the collocation space the cable cannot be used as an alternative to CenturyLink dedicated transport and does not qualify the carrier as a fiber-based collocator. However, Integra's arguments are based on a misinterpretation of the FCC's requirements, and Integra is essentially

² Oregon City is currently classified as Tier 3. Integra objects to only one of the four fiber-based collocation claims in the wire center and therefore does not object to the reclassification of the Oregon Wire Center to Tier 2, but objects to a Tier 1 classification.

creating new and additional requirements not contemplated by the plain language of the FCC rule that establishes the test.

CenturyLink will show that in both disputed wire centers the fiber-based collocator operates a fiber optic cable which meets the criteria set forth in the relevant rule governing a determination of non-impairment, 47 C.F.R. §51.5. CenturyLink’s methodology for determining fiber-based collocators squarely meets the FCC’s criteria: the fiber terminates at the collocation, it leaves the wire center premises, and it is owned by the collocator, who is unaffiliated with CenturyLink. That is the simple test that must be met, and the disputed collocation in each of these wire centers meets that test.

Integra also objects to CenturyLink’s request to reclassify the Bend wire centers from Tier 2 to Tier 1, stating that CenturyLink should provide supporting documentation showing that circumstances in Bend have changed from the time of the last request, in 2010. CenturyLink has included such additional documentation as Highly Confidential Attachment A to this filing.

III. DISCUSSION

CenturyLink has verified the existence of four fiber-based collocators in Oregon City and three in Corvallis, in accordance with the FCC’s requirements. The FCC stated: “[w]e define fiber-based collocation simply. For purposes of our analysis, we define fiber-based collocation as a competitive carrier collocation arrangement, with active power supply, that has a non-incumbent LEC fiber-optic cable that both terminates at the collocation facility and leaves the wire center...”³ Integra’s interpretation of the rule is flawed, and would add requirements to the definition of fiber-based collocator that the FCC did not impose.

A. Oregon City (ORCYOR18)

A fiber-based collocator is defined in 47 C.F.R, §51.5 as follows:

³ TRRO ¶ 102.

Fiber-based collocator. A fiber-based collocator is any carrier, unaffiliated with the incumbent LEC, that maintains a collocation arrangement in an incumbent LEC wire center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that (1) terminates at a collocation arrangement within the wire center; (2) leaves the incumbent LEC wire center premises; and (3) is owned by a party other than the incumbent LEC or any affiliate of the incumbent LEC, except as set forth in this paragraph. Dark fiber obtained from an incumbent LEC on an indefeasible right of use basis shall be treated as non-incumbent LEC fiber-optic cable. Two or more affiliated fiber-based collocators in a single wire center shall collectively be counted as a single fiber-based collocator. For purposes of this paragraph, the term affiliate is defined by 47 U.S.C. § 153(1) and any relevant interpretation in this Title.

CenturyLink and Integra agree that each provision within the above definition must be met in order for a carrier to be classified as a fiber-based collocator. Integra agrees that the “disputed fiber-based collocator” in Oregon City is unaffiliated with CenturyLink, and that it maintains a collocation within the Oregon City wire center with an active power supply. Integra also agrees that the disputed fiber-based collocator has an operating fiber-optic cable that terminates in the collocation space and that is capable of originating and terminating traffic. In fact, the only element of the FCC’s test that Integra disputes is whether the fiber optic cable can be said to “leave” the collocation.

Integra states that the fiber optic cable does not “leave” the collocation because it serves an end-user. Integra then states that *traffic* on that cable cannot be said to leave the wire center because the traffic is originated by the end-user. However, Integra has mis-read the requirement. The clear and plain language of the rule states that the requirement pertains *to the cable itself*, not the traffic on the cable. And given that Integra concedes that the cable exits the wire center to serve an end-user, outside of the wire center, Integra must agree that the fiber optic cable leaves the wire center.

Nowhere in the TRRO is there an exclusion for a fiber-based collocation that serves an end-user. Had the FCC wanted to include such a restriction, it would have been easy to do.

Instead, the FCC explicitly did *not* place limits on the nature of the service provided over the cable, stating that “we find that a competing carrier’s collocation facilities shall count toward the qualification of a wire center for a particular tier *irrespective of the services that the competing carrier offers* because the fiber-based collocation indicates an ability to deploy facilities and because it would exponentially complicate the process of counting such collocation arrangements (emphasis added).”⁴

Integra argues that CenturyLink’s interpretation of the rule fails to read each of the criteria as unique, citing the general rule of statutory construction that each provision must be given meaning. Integra misconstrues CenturyLink’s position. Each prong of the test is unique, and not all facilities will meet all of the requirements. For example, CLECs might have CLEC-to-CLEC cross connections, on fiber optic cable, in a wire center. These fiber connections would meet all of the requirements of the FCC, *except* the requirement that the cable leave the wire center. CLEC-to-CLEC cross connects do not physically “leave” the wire center and thus do not qualify. CenturyLink excludes those cables when it is counting fiber-based collocations.

Integra relies on a convoluted process to shift attention away from whether the physical facility leaves the wire center, which it does, and on to the issue of whether “traffic” leaves the wire center. However, there is no basis to adopt Integra’s reasoning, or to allow Integra to create a requirement that was not established by the FCC. The FCC’s definition of “fiber-based collocater” makes no mention of the traffic on the fiber optic cable. Yet the TRRO has dozens of references to “traffic” in other parts of the Order. This is clearly a limitation that the FCC could have included in the consideration of fiber-based collocater, but did not.

Finally, Integra seems to argue that the only fiber-based collocations that “count” are ones that are transport facilities, and that the connection to the end-user is not a transport facility.

⁴ TRRO, ¶ 102.

This is also incorrect. The disputed fiber-based collocator has what is called an “entrance facility” in the wire center. The FCC has definitely stated that entrance facilities are a type of transport.⁵ Integra’s argument here is unavailing.

For these reasons, a carrier who provides fiber between a collocation and an end-user customer that otherwise meets the requirements of the rule is eligible to be counted as a fiber-based collocator under the rules.

B. Corvallis (CRVSOR65)

The circumstances for the disputed fiber-based collocator in the Corvallis wire center are the same as with Oregon City. Integra’s objections are the same as for Oregon City, and CenturyLink will not repeat its response. For the reasons stated above, CenturyLink states that Corvallis has three fiber-based collocators and is eligible for Tier 2 status.

C. Bend (BENDOR24)

CenturyLink previously filed to reclassify Bend from Tier 2 to Tier 1 based on fiber-based collocations in 2010. The current filing by CenturyLink to reclassify Bend from Tier 2 to Tier 1 is also based on fiber-based collocations. Integra has stated that if CenturyLink is able to provide supporting documentation demonstrating that conditions are not the same as they were in 2010, then Integra would drop its objection to the Bend reclassification.

The issue in the prior filing was that one of the fiber-based collocators did not have active power to its collocation. That situation has now changed and CenturyLink has verified active power to the collocation, as well as the other criteria in the rule. Details are provided on Highly Confidential Attachment A. As such, Bend should be reclassified to Tier 1.

⁵ “As we noted in the *Triennial Review Order*, entrance facilities are used to transport traffic to a switch and often represent the point of greatest aggregation of traffic in a competitive LEC’s network.” TRRO ¶ 138.

“Because the traffic aggregation potential inherent in entrance facilities more closely resembles that associated with dedicated transport, we reject these arguments and consider these facilities to be a type of transport.” TRRO, FN 384.

IV. CONCLUSION

Undisputed Wire Centers: The Hermiston (HMTNOR56) and Pendleton (PNTNOR56) wire center classifications should be changed from Tier 3 to Tier 2 based on the number of fiber-based collocations. There are no objections to these two wire centers from any party.


It is also undisputed that Oregon City can be changed from Tier 3 to Tier 2. However, per the discussion herein, CenturyLink continues to request a Tier 1 designation for Oregon City.

Disputed Wire Centers: The Oregon City (ORCYOR18) wire center should be changed from Tier 3 to Tier 1, based on the number of fiber-based collocations. The Corvallis (CRVSOR65) wire center should be changed from Tier 3 to Tier 2, based on the number of fiber-based collocations.

The Bend (BENDOR24) classification should be changed from Tier 2 to Tier 1 based on the information provided in Highly Confidential Attachment A.

RESPECTFULLY submitted this 17th day of October, 2017.

QWEST CORPORATION d/b/a
CenturyLink QC

By 
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HIGHLY CONFIDENTIAL
Use Restricted per Modified Protective Order
Order No. 17-331, Docket No. UM 1891
ATTACHMENT A

First page (labeled Attachment B) is the collocation verification worksheet from 2010.

Second page is the collocation verification worksheet prepared for the 2017 filing.

Highly-Confidential Attachment B Collocation Verification Worksheet

Docket No. 1486
Qwest/1
Torrence/1
June 21, 2010

CLEC Name	Collo Type	State	WC CLLI	CO Name	Fiber	Exp Fiber	Termination in collo?	Exits Qwest Central office?	Visual Power?	Power Verification at BDFB?
[REDACTED]	[REDACTED]	Oregon	BENDOR24	BEND	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	Oregon	BENDOR24	BEND	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	Oregon	BENDOR24	BEND	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	Oregon	BENDOR24	BEND	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Verified by:	Date:
FC Millstead	3/9/2010

CLEC Name	Current Owner	Collo Type	St	WC CLLI	CO Name	Fiber	Termination in collo?	Exits Qwest Central office?	Visual Power?	Power Verification at BDFB?
[REDACTED]	[REDACTED]	[REDACTED]	OR	BENDOR24	[REDACTED]	Bend	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
			OR	BENDOR24	[REDACTED]	Bend				
			OR	BENDOR24	[REDACTED]	Bend				
			OR	BENDOR24	[REDACTED]	Bend				
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

**CenturyLink has also verified that it is billing Bend Cable Data Services for Active Power at this collocation.