



WILLIAM E. HENDRICKS

September 12, 2013

The Honorable Traci Kirkpatrick  
Oregon Public Utility Commission  
P.O. Box 1088  
Salem, OR 97308-1088

Re: Docket UM 1354

Dear Judge Kirkpatrick:

Please find enclosed the Second Amendment to Exhibit A to Qwest Corporation's Petition for Revision to Price Plan. This Amendment removes exemptions from requirements that some parties have suggested the Commission may lack authority to waive, specifically ORS 759.250 and OAR 860-022-0035.

In addition, CenturyLink hereby requests that the Commission schedule a prehearing conference in this matter to set a schedule for the remainder of the docket.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "W. Hendricks", with a stylized flourish at the end.

William E. Hendricks  
Senior Corporate Counsel

Enclosure  
cc: Service List

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## CENTURYLINK QC'S PRICE PLAN UNDER ORS 759.255

### I. Definitions

- A.** "Alternative provider" means a provider, other than Qwest Corporation d/b/a CenturyLink QC ("CenturyLink QC") or any affiliate of CenturyLink QC, of any service that is a functionally equivalent or substitutable service, without regard to the technology used to provide the service and without regard to whether the provider is subject to regulation by the Commission or any other agency. "Alternative provider" includes but is not limited to telecommunications carriers, radio common carriers, cable telephony providers, and providers of voice over internet protocol ("VoIP") service.
- B.** "Essential functions" means those unbundled network elements (UNEs) that ILECs are required to provide pursuant to 47 U.S.C. § 251(c)(3) according to the most current requirements of the FCC. "Nonessential functions" are all other functions used in providing a telecommunications service that are not essential functions. The price of essential functions is the Commission-approved price for UNE purchases by wholesale customers; the price for UNEs without Commission-approved prices is the rate in CenturyLink QC's most current Negotiations Template Agreement for Oregon, Exhibit A, which is available at <http://www.centurylink.com/wholesale/clecs/nta.html>.
- C.** "Functionally equivalent or substitutable" means that a service is reasonably interchangeable with the service to which it is being compared, even if the services are not identical, without regard to the technology used to provide the service or whether the service or provider are subject to regulation by the Commission.
- D.** "New service" means a retail telecommunications service that is offered in Oregon for the first time following the effective date of this price plan. A service is not a new service if it merely renames, repackages, or is a variation of an existing service, or if it is reintroduced in substantially the same form after having being withdrawn or abandoned.
- E.** "Pre-plan rates" means the rates charged by CenturyLink QC in Oregon pursuant to its tariffs or price lists that were effective on August 14, 2013.
- F.** "Primary line residential basic service" means the first line only of residential basic local exchange service for an individual residential customer account at a single location that is not sold as part of a package. For purposes of this definition, "residential basic local exchange service" means residential single party flat rate local exchange service and residential single party measured local exchange service, including local exchange usage.

## II. Objectives of Price Plan

- A. **General objectives.** CenturyLink QC's price plan will achieve the following objectives:
1. Ensure the plan is operating in a way that is in the public interest.
  2. Produce prices for CenturyLink QC's retail telecommunications services that are just and reasonable.
  3. Ensure that the quality of existing telecommunications services will stay at or above current high levels.
  4. Maintain the availability of primary line residential basic service at affordable rates.
  5. Allow CenturyLink QC to price other services competitively with services offered by alternative providers, including those using landline, wireless, cable, and VoIP technologies.
  6. Increase CenturyLink QC's pricing flexibility to meet changing market conditions.
  7. Make new telecommunications services available.
  8. Simplify and reduce the burden of regulation for both CenturyLink QC and the Commission.

## III. Pricing and Availability of Services Under Price Plan

- A. **Initial Rates.** The rates that CenturyLink QC charges upon commencing operation under the price plan will be its pre-plan rates. These rates are subject to adjustment as provided below.
- B. **Primary line residential basic service.**
1. **Price caps.**
    - a. Recurring charges for residential service. Primary line basic service for residential customers will be subject to price caps. Monthly rates for this service may increase a maximum of \$4 during the period of the price plan.
    - b. Adjustment of prices. CenturyLink QC is permitted to adjust recurring charges for primary line residential basic service upward or downward between the price caps and the applicable price floors for primary line residential basic service.

2. **Availability.** CenturyLink QC will continue to offer primary line residential basic service on a stand-alone basis (*i.e.*, CenturyLink QC will not require customers to purchase a package to obtain this service).
  3. **Petition to remove or adjust price caps.** CenturyLink QC may petition the Commission to remove or adjust the price caps for primary line residential basic service. CenturyLink QC will have the burden to show that removal or adjustment of the price caps for primary line residential basic service will result in rates that are just and reasonable. The Commission may also consider whether removal or adjustment of the price caps is in the public interest, considering the factors set forth in ORS 759.255(2).
- C. **Telephone Assistance Plans.** CenturyLink QC will continue to offer current Telephone Assistance Plans (OTAP, Tribal Lifeline, and Tribal Link-Up) pursuant to state and federal requirements.
- D. **Switched Access.** Rates for intrastate switched access services are capped at pre-plan rates. The Commission may adjust the price caps if required by FCC action.
- E. **EAS.** Rates for extended area service (EAS) are capped at pre-plan rates. However, CenturyLink QC is permitted to combine rates for primary line residential basic service and EAS additives into a single rate. CenturyLink QC will not be required to establish any new or expanded EAS routes as long as it operates under the price plan.
- F. **New Services.** Any new service introduced after the effective date of the price plan will be price listed and will not be subject to price caps.
- G. **Other Retail Services.** All remaining residential and business services not previously listed in this section ("Other Services") will not be subject to price caps.
- H. **Packages and Bundles.** CenturyLink QC may combine any regulated telecommunications service with any other service(s) to offer packages and bundles of services, which may include primary line residential basic service and EAS, at any price subject to the following conditions:
1. Customers can purchase separately from the company's tariff or price list any regulated telecommunications service included in the package or bundle.
  2. The package or bundle price is not less than the sum of the price floors (determined pursuant to ORS 759.255(4)) of the regulated telecommunications services included the package or bundle.
  3. The package or bundle price is not more than the sum of the retail prices of all services available in the package or bundle.

4. Terms applicable to new packages or bundles, including those that include primary line residential basic service, will be established in the company's price list at least one day prior to their effective date.

- I. **Notice of price changes.** CenturyLink QC will provide the Commission notice of price increases for services within Sections III.B. to III.E. by making tariff filings at least 15 days prior to the effective date of such price changes. CenturyLink QC will provide the Commission notice of price decreases for services within Sections III.B. to III.E. by making tariff filings at least one day prior to the effective date of such price decreases.

CenturyLink QC will make price list changes for new services, Other Retail Services and packages and bundles within Sections III.F. to III.H, at least one day prior to the effective date of any price change. CenturyLink QC will also provide customers with at least 30 days' prior notice of price increases for services they are purchasing at the time of the price increase. For services purchased on a per-call basis, CenturyLink QC will give reasonable notice to the customer of the price prior to the customer's use of the service.

- J. **Services exempt from regulation.** Services that the Commission has already ordered to be exempt from regulation will remain exempt from regulation subject to the conditions of the order that exempted the service from regulation. CenturyLink QC retains the ability to petition the Commission to exempt additional services from regulation under ORS 759.052.
- K. **Promotions.** CenturyLink QC may offer promotions for primary line residential basic service and other regulated services pursuant to ORS 759.182.

#### IV. Tariffs and Price Lists

- A. Tariffs for the services within Sections III.B to III.E will be filed with the Commission pursuant to the provisions of OAR 860-022-0015 and 860-022-0025(1). For price increases to primary line residential basic service allowed under provisions III.B.1 of the price plan, CenturyLink QC is not required to comply with the provisions of OAR 860-022-0025(2) or 860-022-0030.

## V. Service Quality

- A. CenturyLink QC will continue to be subject the Retail Telecommunications Service Standards for Large Telecommunications Utilities identified in OAR 860-023-055 with the following exceptions:
1. CenturyLink QC will provide reports on a quarterly basis instead of monthly.
  2. CenturyLink QC will provide only exception information for those measures that did not meet the established standard during the quarter.

## VI. Waiver of statutes and rules

- A. **Statutes.** CenturyLink QC's compliance with the following statutes, and all Commission rules implementing these statutes, is waived in full, unless a partial waiver is noted:
- ORS 759.120 Form and manner of accounts prescribed by commission.
  - ORS 759.125 Records and accounts prescribed by commission; prohibition on other records or accounts; exception; blanks for reports.
  - ORS 759.130 Closing date of accounts; filing balance sheet; audit.
  - Waiver of condition 11 in Commission Order No. 11-095 (Appendix A) in Docket UM 1484 (In the Matter of the Application for Approval of Merger between CenturyTel, Inc. and Qwest Communications International, Inc.). Condition 11 imposed as a condition of approval of the merger a requirement that CenturyLink QC reinstitute submission of the Commission standard *Annual Report* Form O and *Oregon Separated Results of Operations Report* Form I.
  - ORS 759.135 Depreciation accounts; undepreciated investment allowed in rates; conditions.
  - ORS 759.180 to ORS 759.200 (with the exception of ORS 759.182).
    - 759.180 Hearing on reasonableness of rates; procedures; exceptions
    - 759.185 Suspension of rates pending hearing; time limitation; refund of revenue collected; interim rates.
    - 759.190 Notice of schedule change.
    - 759.195 Price listing of services; conditions; maximum rates; essential services; justification by utility of rates for price-listed services.
    - 759.200 Inclusion of amortizations in rates; deferral of certain expenses or revenues; limitation on amounts; prohibited uses.
  - ORS 759.215(2) Public access to schedules.

- ORS 759.220 Joint rates and classifications; procedure; considerations - with regard to joint rates and establishment of new through services, but not with regard to canceling any existing through service.
- ORS 759.250 Contracts for special services; procedure for filing and approval; subsequent review and investigation.
- ORS 759.285 Charging rates based on cost of property not presently providing service.
- ORS 759.300 to ORS 759.393
  - Issuance of Securities
    - 759.300 “Stocks” defined.
    - 759.305 Power to regulate issuance of telecommunications stocks.
    - 759.310 When issuance of securities void.
    - 759.315 Purposes for which securities may be issued; order required; exceptions.
    - 759.320 Application of ORS 759.315.
    - 759.325 Application of ORS 759.375.
    - 759.330 Hearings and supplemental orders for securities issuance; joint approval for issuance by utility operating in another state.
    - 759.335 Obligation of state as consequence of approval of issuance
    - 759.340 Conditional approval of issuance.
    - 759.345 Use of proceeds from issuance; accounting.
    - 759.350 Limitation on authority of utility to guarantee debt of another.
    - 759.355 Issuance or use of proceeds contrary to commission order.
    - 759.360 Prohibited acts regarding issuance of securities.
  - Transactions of Utilities
    - 759.375 Approval prior to sale, mortgage or disposal of operative utility property.
    - 759.380 Purchase of stock or property of another utility.
    - 759.385 Contracts regarding use of utility property; filing with commission; investigation.
    - 759.390 Contracts with affiliated interests; procedure; use in rate proceedings.
    - 759.393 Applicability of ORS 759.385 and 759.390.
    - Waiver of condition 18 in Commission Order No. 11-095 (Appendix A) in Docket UM 1484 (In the Matter of the Application for Approval of Merger between CenturyTel, Inc. and Qwest Communications International, Inc.). Condition 18 imposed as a condition of approval of the merger the removal of the CenturyLink QC price plan exemption from the requirements of ORS 759.380 and ORS 759.375. Condition 18 did allow an

exemption from ORS 759.375(1)(a) for property sales where the sales price is less than \$10 million, except that the sale of any CenturyLink QC exchange will be subject to Commission approval under ORS 759.375. CenturyLink QC seeks reinstatement of the exemption from ORS 759.380 and ORS 759.375 originally granted in Docket UM 1354.

**B. Rules.** CenturyLink QC's compliance with the following Commission rules is waived in full, unless a partial waiver is noted:

- OAR 860-022-0025(2) Requirements for Filing Tariffs or Schedules Changing Rates.
- OAR 860-022-0030 Requirements for Filing Tariffs or Schedules Naming Increased Rates.
- OAR 860-023-0055 Retail Telecommunications Service Standards for Large Telecommunications Utilities (partial as outlined in Section V.A).
- OAR 860-027-0100 Reporting of Affiliated Transactions.
- OAR 860-027-0015 New Construction Budget.
- OAR 860-027-0025 Applications for Authority to Sell, Lease, Assign, Mortgage, Merge, Consolidate or Otherwise Dispose of or Encumber its Property, or to Acquire Stock, Bonds, or Property of Another Utility.
- OAR 860-027-0050 Uniform System of Accounts for Large Telecommunications Utilities.
- OAR 860-027-0052 Allocation of Costs by a Large Telecommunications Utility.
- OAR 860-027-0070 Annual Report Requirements for Electric, Large Telecommunications, Gas, and Steam Heat Utilities.
- Waiver of condition 11 in Commission Order No. 11-095 (Appendix A) in Docket UM 1484 (In the Matter of the Application for Approval of Merger between CenturyTel, Inc. and Qwest Communications International, Inc.) Condition 11 imposed as a condition of approval of the merger a requirement that CenturyLink QC reinstate submission of the Commission standard *Annual Report* Form O and *Oregon Separated Results of Operations Report* Form I.
- OAR 860-032-0190 Definition of Basic Telephone Service (partial). This rule defines "basic telephone service" for purposes of administering ORS 759.425, among other statutes. For all other purposes involving application of the rule,



including administration and distribution of the universal service fund, CenturyLink QC would still be subject to the definition of "basic telephone service" found in OAR 860-032-0190.

## **VII. Conditions for Review of CenturyLink QC's Performance Under Plan**

**A. Five-year reviews.** CenturyLink QC's performance under the price plan will be comprehensively reviewed by the Commission every five years. To commence that review, CenturyLink QC will file a detailed report regarding its performance as compared to the objectives of the plan by the 90th day of the fifth year of operation under the plan, and every five years thereafter unless and until ordered otherwise by the Commission. CenturyLink QC will promptly respond to data requests submitted by Staff and other parties related to information contained in CenturyLink QC's report.

**1. Contents of Report.** The report will review how the objectives of the plan are being met and will include the following information:

- a. A summary of CenturyLink QC's performance for the review period with respect to the Commission's retail service quality standards and any other relevant information.
- b. An analysis of current market conditions for the various categories of CenturyLink QC's regulated retail telecommunications services and functionally equivalent or substitutable services, to the extent such information is publicly available.
- c. Data regarding the gain or loss of access lines, organized by CenturyLink QC Oregon wire center.
- d. A discussion of how the pricing flexibility allows CenturyLink QC to meet the plan's objectives.
- e. Identification of any new services CenturyLink QC has introduced.
- f. Identification of any ways in which the burden of regulation for both CenturyLink QC and the Commission has been simplified or reduced.

**2. Performance of objectives.** The Commission will evaluate CenturyLink QC's performance as compared to the objectives of the plan. If the Commission determines that CenturyLink QC has not substantially satisfied its objectives, as set forth in Section II of this plan, the Commission may enter discussions with CenturyLink QC to establish an agreement, including a timeline and a process, under which CenturyLink QC will achieve compliance with the objectives. If the Commission and CenturyLink QC cannot reach such an agreement within a reasonable time of commencing such discussions the Commission may order modifications

to the plan, following notice and an opportunity for hearing, or open an investigation under Section VII.B.2. of this plan.

3. **Evaluation of market, modifications to plan.** The Commission will review the data submitted by CenturyLink QC and other relevant evidence regarding the competitiveness of the market for services that are functionally equivalent or substitutable for services offered by CenturyLink QC and determine whether other modifications to the plan are appropriate to provide CenturyLink QC with additional regulatory flexibility beyond that included in the original price plan or better ensure the plan is in the public interest according to the factors set forth in ORS 759.255(2).

**B. Ongoing conditions for review**

1. **Review of service quality.** The Commission may review CenturyLink QC's retail customer service quality at any time during operation of the price plan. If CenturyLink QC does not meet the objective service levels for one or more individual standards in OAR 860-023-0055 for three months out of a twelve month sliding window,<sup>1</sup> then the Commission may require CenturyLink QC to submit a performance plan pursuant to ORS 759.450(5) and may suspend CenturyLink QC's authority under the price plan to increase retail prices until such time as CenturyLink QC has met all the goals of the performance plan. If the Commission determines after a notice and an opportunity for hearing that CenturyLink QC has not met the goals of a performance plan within six months, or if the plan is disapproved by the Commission, then, in addition to the remedies set forth in ORS 759.450(5) – (7), the Commission may open an investigation under Section VII.B.2. of this plan.
2. **Public interest.**
  - a. The Commission may open an investigation at any time pursuant to ORS 756.515 to determine whether further adjustments to the price plan or termination of the price plan is required by the public interest, according to the factors set forth in ORS 759.255(2). The Commission may order further adjustments to the price plan or termination of the price plan only after providing CenturyLink QC notice and an opportunity for hearing. If the Commission determines to hold such a hearing, it may suspend CenturyLink QC's authority to increase prices pending the conclusion of the proceeding. In any such investigation and proceeding, the Parties agree that the

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<sup>1</sup> Sliding 12-month window: The 12-month window consists of the current reporting month and data from the previous eleven months. For example, using "commitments for service" with an objective service level of 90 percent (OAR 860-023-0055(4)(b)(A)), a performance plan may be required if three or more months during the 12-month window were reported with less than 90 percent commitments met. Each new month would look at the adjusted 12-month window and the data would be compared to the objective service level.

Commission should first attempt to identify and require adjustments to the price plan such that continuation of the price plan is in the public interest before it orders termination of the price plan (unless this proceeding was opened pursuant to Section VII.A.2. of the plan).

- b. If the Commission orders termination of the price plan, CenturyLink QC would no longer be able increase its rates as it was permitted to do under the price plan, but CenturyLink QC would be allowed to decrease its rates subject to any applicable price floor.
- c. If the Commission orders termination of the price plan, CenturyLink QC may thereafter pursue any form of price regulation or relief therefrom then permitted under Oregon law, including but not limited to: exemptions from regulation pursuant to ORS 759.052; price listing pursuant to ORS 759.054, 759.056, and/or 759.195; rate regulation pursuant to ORS 759.175 – 759.190; another price plan pursuant to ORS 759.255; or price cap regulation pursuant to ORS 759.405 – 759.410.

**CERTIFICATE OF SERVICE**

**UM 1354**

I hereby certify that on the 12th day of September 2013, I served the foregoing **LETTER TO ALJ TRACI KIRKPATRICK** the above entitled docket on the following persons via means of e-mail transmission to the e-mail addresses listed below. No paper copies will follow.

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\*G. Catriona McCracken  
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DATED this 12<sup>th</sup> day of September, 2013.

CENTURYLINK



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\* Have signed Protective Order No. 08-116