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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1891

In the Matter of
QWEST CORPORATION, dba
CENTURYLINK QC,

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

JOINT EXPLANATORY BRIEF

This brief explains and supports the accompanying Partial Stipulation among Qwest Corporation d/b/a CenturyLink QC (“CenturyLink”); Eschelon Telecom of Oregon, Inc., Integra Telecom of Oregon, Inc., Advanced TelCom, Inc., and Electric Lightwave, LLC (“Integra”); and Staff of the Public Utility Commission of Oregon (“Staff”), together referred to as the “Stipulating Parties.” The Stipulating Parties submit this brief, which reflects the view of each of the Stipulating Parties, pursuant to OAR 860-001-0350(7).

As explained below, the Partial Stipulation resolves certain issues in CenturyLink’s pending petition in this docket. Specifically, it fully resolves the issue of the reclassification of the Hermiston, Pendleton, and Bend wire centers and partially resolves the issue of the reclassification of the Oregon City wire center, leaving open the issue of the reclassification of the Corvallis wire center and the further reclassification of the Oregon City wire center.

I. BACKGROUND

A. Legal Framework

As one way of promoting competition in the telecommunications industry, the federal Telecommunications Act of 1996 (the “Act”), 47 U.S.C. § 251 *et seq.*, established a framework requiring incumbent local exchange carriers (“ILECs”), such as CenturyLink, to lease to competitive local exchange carriers (“CLECs”) certain network elements that are necessary for

1 competitors to enter the market and provide telecommunications services to the public. 47
2 U.S.C. § 251(d)(2). Pricing of these elements, referred to as “unbundled network elements” or
3 “UNEs,” is based on ILECs’ costs, as determined by a federally established methodology.

4 When determining what network elements an ILEC has a duty to provide to requesting
5 carriers, the Act requires that the Federal Communications Commission (“FCC”) consider
6 whether failure to provide such elements would “impair” the requesting carrier’s ability to
7 provide services. 47 U.S.C. § 251(d)(2)(B). In its *Triennial Review Remand Order*,¹ the FCC
8 set objective measures for when the conditions in a wire center indicate the requisite level of
9 competitive potential to relieve ILECs of the obligation to provide UNEs to a requesting carrier
10 at cost-based rates. For some types of network elements, these objective measures depend on the
11 number of “fiber-based collocators” at the wire center and/or the number of business lines served
12 by the wire center. Generally, once the number of fiber-based collocators and/or business lines
13 served reaches a certain number, the FCC no longer considers a wire center “impaired” such that
14 ILECs must offer particular types of UNEs. *See, e.g.*, 47 C.F.R. § 51.319(a),(d) (detailing
15 unbundling requirements for local loops and dedicated transport).

16 More specifically, for the purposes of determining whether an ILEC must provide
17 unbundled access to dedicated transport on a particular route, the FCC classifies wire centers into
18 three tiers based on their number of fiber-based collocators, business lines served, or both. *See*
19 47 C.F.R. § 51.319(d) (detailing unbundling requirements for dedicated transport); *TRRO*, 20
20 FCC Rcd. ¶¶ 66, 111-24. An ILEC’s obligation to unbundle a particular transport route depends
21 on the classification of the wire centers at both ends of the route, with the ILEC’s obligations
22 being lessened or eliminated when the wire centers are reclassified to higher tiers. For example,
23 unless the wire centers on both ends of a route are classified as Tier 1, an ILEC must unbundle
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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 dedicated DS1 transport. 47 C.F.R. § 51.319(d)(2)(ii)(A). For dedicated DS3 transport, an ILEC
2 must unbundle if either is classified as Tier 3. 47 C.F.R. § 51.319(d)(2)(iii)(A).

3 For these dedicated transport purposes, Tier 1 wire centers are those ILEC wire centers
4 that contain at least four fiber-based collocators, at least 38,000 business lines, or both. Tier 2
5 wire centers are those ILEC wire centers that contain at least 3 fiber-based collocators, at least
6 24,000 business lines, or both, but are not Tier 1 wire centers. Tier 3 wire centers are any that do
7 not qualify as either Tier 1 or Tier 2. *See* 47 C.F.R. § 51.319(d)(3). The process of reclassifying
8 wire centers to higher tiers is a one-way adjustment process from the lower to the higher tiers.
9 That is, once a wire center has been promoted from Tier 3 to Tier 2, or from Tier 2 to Tier 1, it is
10 not subject to later reclassification back to a lower tier. 47 C.F.R. § 51.319(d)(3)(i),(ii).

11 Unlike the FCC's approach for dedicated transport, in the context of determining whether
12 an ILEC must provide unbundled access to local loops that serve a particular building, the FCC
13 looks to how many business lines are served by the wire center *and* the number of fiber-based
14 collocators in that wire center. *See* 47 C.F.R. § 51.319(a) (detailing unbundling requirements for
15 local loops). For example, an ILEC must provide unbundled access to a DS1 loop to any
16 building not served by a wire center with at least 60,000 business lines and at least four fiber-
17 based collocators. 47 C.F.R. § 51.319(a)(4)(i). For DS3 loops, an ILEC must unbundle the loop
18 to any building not served by a wire center with at least 38,000 business lines and at least four
19 fiber-based collocators. 47 C.F.R. § 51.319(a)(5)(i).

20 In 2007, the Oregon Public Utility Commission approved a settlement that set forth the
21 procedures for adding wire centers to the list of non-impaired wire centers as competitive
22 circumstances change.² Under those procedures, an ILEC would do the following: (1) give
23 notice to CLECs that it considers fiber-based collocators, giving those CLECs an opportunity to
24 provide feedback before CenturyLink files its request to reclassify wire centers; (2) request that
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26 ² Docket No. UM 1251, Order No. 07-328 (July 31, 2007) (adopting the Multi-State Settlement Agreement
Regarding Wire Center Designations and Related Issues, as set forth in Attachment 1 to Order No. 07-328); *see also*
Docket No. UM 1702, Order No. 14-286 (Aug. 12, 2014) (citing and following these procedures).

1 the Commission issue a protective order; and (3) file a petition seeking reclassification of wire
2 centers with specified supporting data that varies depending on the bases for the ILEC's
3 reclassification request. Once the ILEC's request is filed, CLECs and other parties have 30 days
4 to file objections. In the event that any objections are filed, the parties agreed to ask the
5 Commission to attempt to resolve such a dispute within 60 days of the date of the objection. If
6 no objections are filed with respect to some (but not all) of the requested reclassifications, the
7 parties agreed to jointly request an expedited order approving those undisputed designations.

8 **B. Procedural History**

9 On August 15, 2017, CenturyLink filed this Petition asking the Commission to approve
10 the addition of certain Oregon wire centers to CenturyLink's non-impaired wire center list and
11 the reclassification of several wire centers to higher tiers on the basis that they each have the
12 requisite number of fiber-based collocators under 47 C.F.R. § 51.319(d)(3). CenturyLink
13 specifically requests that the Corvallis, Hermiston, and Pendleton wire center classifications be
14 changed from Tier 3 to Tier 2; the Bend classification be changed from Tier 2 to Tier 1; and the
15 Oregon City wire center be changed from Tier 3 to Tier 1. CenturyLink filed confidential
16 attachments supporting its Petition on August 30, 2017, and September 6, 2017.

17 Pursuant to the procedure established in Order No. 07-328, Integra intervened and filed
18 objections to some of CenturyLink's requests. In its objections, Integra contested CenturyLink's
19 methodology for determining the number of fiber-based collocators, which affects the
20 determinations regarding the Oregon City and Corvallis wire centers.³ Integra also asserted that
21 CenturyLink had not met its burden of proof as to certain conditions in the Bend wire center.⁴

22 After the Parties discussed these issues in a workshop on October 19, 2017, Staff
23 contacted several providers that had not responded to the initial notices sent to CLECs by
24 CenturyLink in order to confirm whether they met the definition of fiber-based collocator. On
25 the basis of the information obtained by Staff, Integra then withdrew its objection regarding the

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³ Docket No. UM 1891, Integra Objections 3-13 (filed Oct. 6, 2017).

⁴ *Id.* at 13.

1 reclassification of the Bend wire center. It did not withdraw its objections regarding the
2 reclassification of the Oregon City and Corvallis wire centers, which are based on the same
3 issue: whether a particular carrier can properly be considered a “fiber-based collocator.”

4 The Stipulating Parties file the accompanying Partial Stipulation and concurrently file
5 Stipulated Facts pursuant to the schedule that was set on November 28, 2017.

6 II. DISCUSSION

7 In the accompanying Partial Stipulation, the Stipulating Parties agree that the Hermiston,
8 Pendleton, and Oregon City wire centers meet the criteria to be reclassified as Tier 2 wire centers
9 for the purposes of dedicated transport on the basis of the number of fiber-based collocators in
10 each of those wire centers. The Stipulating Parties also agree that the Bend wire center meets the
11 criteria to be reclassified as a Tier 1 wire center for the purposes of dedicated transport on the
12 basis of the number of fiber-based collocators in the Bend wire center.

13 The Stipulating Parties agree that the criteria has been established for at least a certain
14 number of fiber-based collocators to be identified in the Oregon City wire center (three agreed
15 fiber-based collocators) and the Corvallis wire center (two agreed fiber-based collocators). The
16 Stipulating Parties also agree that the remaining disputed issues—whether the Oregon City wire
17 center has a total of four fiber-based collocators such that it should be reclassified as Tier 1 and
18 whether the Corvallis wire center has a total of three fiber-based collocators such that it should
19 be reclassified as Tier 2—depend on the proper interpretation of “fiber-based collocator” under
20 47 C.F.R. § 51.5 and the *Triennial Review Remand Order*, as applied to the facts set forth in the
21 Stipulated Facts filed contemporaneously with this Partial Stipulation.


22 The Stipulating Parties also agree that under CenturyLink’s interpretation of fiber-based
23 collocator, the Oregon City wire center should be reclassified as Tier 1 and the Corvallis wire
24 center should be reclassified as Tier 2. The Stipulating Parties further agree that under Integra’s
25 interpretation, the Oregon City wire center should be reclassified as Tier 2 and the Corvallis wire
26 center should remain in Tier 3. The Stipulating Parties anticipate that the Commission will

1 address these remaining issues based on its consideration of the concurrently filed Stipulated
2 Facts and the forthcoming scheduled legal briefing.

3
4 DATED this 15th day of December, 2017.

5 Respectfully submitted,

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7 Attorney General

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11 Of Attorneys for Staff of the Public Utility
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