

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1484

In the Matter of

CENTURYLINK, INC.,

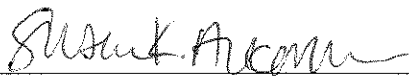
Application for Approval of Merger between
CenturyTel, Inc., and Qwest Communications
International, Inc.

ORDER

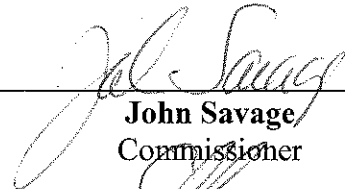
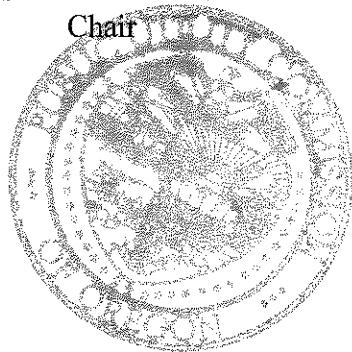
DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

This order memorializes our decision, made and effective at the public meeting on September 17, 2013, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

Dated this 17 day of September, 2013, at Salem, Oregon.



Susan K. Ackerman
Chair



John Savage
Commissioner



Stephen M. Bloom
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

ORDER NO. 13 340

ITEM NO. CA7


**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: September 17, 2013**

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A _____

DATE: September 5, 2013

TO: Public Utility Commission

FROM: Irvin Emmons 

THROUGH: Jason Eisdorfer and Bryan Conway 

SUBJECT: QWEST CORPORATION: (Docket No. UM 1484) Petition to remove Condition 55 requiring reporting of DSL subscribers and DSL trouble reports.

STAFF RECOMMENDATION:

Staff recommends that the filed petition requesting removal of Docket No. UM 1484 Condition 55 reporting requirement be granted.

DISCUSSION:

Background

Qwest Corporation d/b/a CenturyLink QC (CenturyLink) filed a petition to request the Commission to rescind Condition 55 of the Merger Order¹, which requires CenturyLink to prepare and submit annual reports of the number of Digital Subscriber Line (DSL) subscriptions and number of complaints regarding its DSL service. The condition required CenturyLink to submit its initial reports regarding its DSL services within 18 months of the merger close and for four subsequent annual periods thereafter. The condition also provides CenturyLink with the opportunity to petition the Commission anytime beyond eighteen months after merger close to remove the reporting requirements for its DSL services.

¹ The specific requirements of Condition 55 are outlined in Appendix A of the Commission's Order No. 11-095 in Docket UM 1484, issued on March 24, 2011.

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Analysis:

Petition

Although not directly cited, CenturyLink refers to Condition 13 in its petition at paragraph 5 as the driver behind Condition 55 "Staff asserted that the reporting was necessary to monitor whether CenturyLink fulfilled its commitment to accelerate and improve access to broadband." Condition 13 requires CenturyLink to expend \$45M in broadband deployment over a 5 year period from January 1, 2011, to December 31, 2015. CenturyLink states that it expended the entire required amount by June 30, 2012, plus an additional \$25M by December 2012.

In its Petition at paragraph 3, CenturyLink states it "has fulfilled, and in many respects exceeded, all of its commitments and obligations associated with broadband deployment required by the Merger Order... Specifically, CenturyLink has... 3) timely provided the initial report of DSL subscriptions and trouble reports consistent with Condition 55."

CenturyLink partially justifies removal of Condition 55 in its petition at paragraph 7 with the proposition that it significantly exceeded its broadband deployment commitment by 55 percent, once again referring back to Condition 13. CenturyLink states in Paragraph 7: "In just two years, CenturyLink significantly exceeded its broadband deployment commitment by 55 percent or \$27 million and made broadband available to a significant majority of its customers. This demonstrates CenturyLink's commitment to continue to make broadband service available to more of its customers and at greater speeds. Given the fact that CenturyLink has significantly exceeded its merger broadband commitment, CenturyLink asks the Commission to relieve it of the requirement to file any additional reports of broadband subscribers or broadband trouble reports."

At paragraph 8 in its Petition, CenturyLink implies the Commission was also looking for specific results from the Condition 55 reports, "the broadband subscriber and trouble report information that CenturyLink provided, in compliance with Condition 55, reveals no troubling trends with respect to broadband subscribers or broadband trouble reports that justify continued filing of the reports."

Reference UM 1484 Staff Testimony

Condition 55 is a singular condition unrelated to Condition 13. In Reynolds's testimony (Staff/300, Reynolds/6) for establishing a broadband deployment fund of \$60M (this evolves into Condition 13) he responds yes to "Do you specify certain reporting requirements concerning broadband deployment progress?" and states "These requirements are included in Condition 13 and then references Dougherty's testimony (Staff/100, Dougherty/47).

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In Dougherty testimony (Staff/100, Dougherty/47) lines 28 through 43 delineate the submissions and reports Staff recommends for Condition 13. In Order 11-095, Appendix A, page 3 clearly states the reporting requirements for Condition 13.

Dougherty testimony (Staff/100, Dougherty/49 section 14) specifies additional broadband reporting requirements (Condition 55) outside of Condition 13 and links these reports to the fact the Commission's approval of the transaction is based in part on the increase availability of broadband. There is no mention of Condition 13. Additional Dougherty testimony (Staff/100, Dougherty/42) identifies the conditions related to broadband separately: adequate investment for broadband improvements (Condition 13) and the enhanced broadband reporting (condition 55).

Submitted Reports

Condition 55 reporting consisted of one confidential and one highly confidential report. The confidential report consisted of Broadband Trouble Report Complaints in Oregon that were broken down by "Cause Description" that was Company caused and those complaints that were caused by the customer, third party or other non-company causes. The data was reported monthly and provided the average duration of the trouble complaint and total number of tickets.

The highly confidential report was for Broadband Subscriber Counts for Legacy CenturyLink Oregon Wire Centers. The monthly reporting consisted of a New Subscriber column and a Month-end Subscriber column. These were further subdivided by business and residence subscribers.

The third required information was the number of requests for DSL service that CenturyLink was unable to fulfill because broadband had not yet been made available to the customers location. CenturyLink respectfully noted that it does not separately track requests for DSL service that it was unable to fulfill, and therefore does not have information available to respond to that request. This information was therefore not provided.

Conclusion

Continued reporting of condition No. 55 is no longer needed. Staff has reviewed all of the Condition 55 reporting through July 2013 and finds all of the reports were submitted and complete with one exception. CenturyLink was unable to supply the number of unfulfilled DSL service requests. However, CenturyLink exceeded the UM 1484 requirements for DSL service installations. CenturyLink is now petitioning the Commission to remove the Condition 55 reporting requirements, as allowed in the Condition. Since requirements set forth in this Condition have been met and the data

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being within acceptable limits, Staff is supportive of the CenturyLink's request to remove the reporting requirement.

PROPOSED COMMISSION MOTION:

Staff recommends that the filed petition requesting removal of Docket No. UM 1484 Condition 55 reporting requirement be granted.

Qwest.UM1484.Condition55.PMmemo.09.05.13