

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Petition of Qwest )  
Communications Company, LLC to Amend ) DOCKET NO. 13-2204-01  
its Certificate of Public Convenience and )  
Necessity No. 2204 ) REPORT AND ORDER  
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ISSUED: July 3, 2013

By The Commission:

I. BACKGROUND

On March 21, 2013, Qwest Communications Company, LLC d/b/a CenturyLink QCC (“CenturyLink QCC”) filed a request for approval to amend its certificate of public convenience (“CPCN No. 2204”) to allow it to provide local exchange service in the same manner as other competitive local exchange carriers. On April 12, 2013, the Division of Public Utilities (“Division”) filed a response to a Commission action request recommending approval of CenturyLink QCC’s request. Thereafter, Carbon/Emery Telcom, Inc. (“Carbon/Emery”) requested and received permission to intervene.<sup>1</sup>

On May 21, 2013, at the conclusion of the duly-noticed technical conference, the parties proposed a schedule for this proceeding consisting of a date for filing of a stipulation and a hearing date. Both of these deadlines were memorialized in a scheduling order and notice of hearing issued on May 22, 2013.

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<sup>1</sup> See Carbon/Emery Telcom, Inc.’s Petition to Intervene, filed April 22, 2013. See also Order Granting Intervention and Allowing a Response Regarding the Request for Technical Conference, issued April 26, 2013. CenturyLink QCC filed a response to the Commission’s order granting intervention on May 1, 2013.

Pursuant to the scheduling order, the parties filed a settlement stipulation on June 4, 2013 (“Stipulation”), a copy which is attached hereto as Exhibit #1. The Stipulation is signed by CenturyLink QCC, Carbon/Emery, and the Division. The Stipulation provides in relevant part:

2. The Parties agree that CPCN [No.] 2204 shall permit [CenturyLink] QCC to provide service throughout Utah, excluding those local exchanges of less than 5,000 access lines of incumbent telephone corporations with fewer than 30,000 access lines in the state subject to the terms of the Stipulation.
3. CPCN [No.] 2204 shall be effectively [sic] immediately upon Commission approval, but shall have a delayed implementation date for Price and Vernal as set forth in this Stipulation.
4. CPCN [No.] 2204 shall not be implemented in Price, Utah until April 1, 2017. Nothing in this Stipulation shall prohibit [CenturyLink] QCC from seeking an implementation date prior to April 1, 2017, for CLEC operations in Price, Utah provided it files a petition with the Commission, with notice to Carbon/Emery, and such Petition is granted by the Commission.
5. CPCN [No.] 2204 shall not be implemented in Vernal, Utah until April 1, 2015. Nothing in this Stipulation shall prohibit [CenturyLink] QCC from seeking an implementation date prior to April 1, 2015, for CLEC operations in Vernal, Utah provided it files a petition with the Commission, with notice to Strata, and such Petition is granted by the Commission.
6. The delayed implementation dates of CPCN [No.] 2204 in Price and Vernal gives Carbon/Emery and Strata an opportunity to evaluate the impacts of the FCC’s Transformation Order,<sup>2</sup> and to possibly seek legislative changes they believe may be needed as a result of that Order.
7. [CenturyLink] QCC acknowledges its competitive entry in Price or Vernal shall be subject to any applicable legislative, statutory, or rule changes that occur prior to the implementation dates of CPCN [No.] 2204 in Price and Vernal.

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<sup>2</sup> Footnote omitted.

8. This Stipulation does not impact [CenturyLink] QCC's ability [to] operate anywhere in Utah for services that do not require a CPCN.

Exhibit #1 at 3-4, (III) (2)-(8).

On June 11, 2013, the Administrative Law Judge for the Commission held a duly-noticed hearing. Torry Somers, associate general counsel, appeared on behalf of CenturyLink QCC, and was accompanied by James Farr, director of Utah and Idaho regulatory affairs for CenturyLink. Justin Jetter, assistant attorney general, appeared on behalf of the Division, together with Ron Slusher, utility technical consultant for the Division. Kira Slawson, attorney, appeared on behalf of Carbon/Emery, and was accompanied by Brock Johansen, CEO and general manager of Carbon/Emery. Mr. Farr,<sup>3</sup> Mr. Slusher,<sup>4</sup> and Mr. Johansen<sup>5</sup> each testified the Stipulation as proposed is just and reasonable, and in the public interest. "The Parties agree that this Stipulation as a whole is just and reasonable with respect to [CenturyLink] QCC's Petition." Exhibit #1 at 5, (IV) (1). No one opposed the Stipulation.

## II. FINDINGS, CONCLUSIONS AND ORDER

As set forth by statute and as previously noted by the Commission in other orders, settlements of matters before the Commission are encouraged at any stage of the proceedings.<sup>6</sup> The Commission may approve a settlement proposal after considering the interests of the public and other affected persons, if it finds the settlement proposal in the public interest.<sup>7</sup> With this

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<sup>3</sup> See Transcript of Hearing, June 11, 2013, at 14, lines 18-20.

<sup>4</sup> See *id.* at 16, lines 11-14.

<sup>5</sup> See *id.* at 18, lines 12-17.

<sup>6</sup> See Utah Code Ann. § 54-7-1 (2010). See also *In the Matter of the Notice of Rocky Mountain Power of Intent to File a General Rate Case*, Docket No. 11-035-200 (Report and Order; Sept. 19, 2012), at 26; and *In the Matter of the Application of Questar Gas Company to Adjust Rates for Natural Gas Service in Utah*, Docket No. 04-057-04 (Report and Order; Feb. 6, 2006), at 26.

<sup>7</sup> See Utah Code Ann. § 54-7-1(2)(a). See also *Utah Dept. of Admin. Services v. Public Service Comm'n*, 658 P.2d 601, 613-14 (Utah 1983).

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background in mind, and based on our consideration of the evidence before us, the testimony and recommendations of the parties, and the applicable legal standards, we find approval of the Stipulation to be in the public interest. Accordingly, the Commission approves the Stipulation.

Further, we approve CenturyLink QCC's petition to amend its CPCN No. 2204 to remove the local exchange service restriction, allowing it to provide local exchange throughout Utah, excluding those local exchanges of less than 5,000 access lines of incumbent telephone corporations with fewer than 30,000 access lines in the state. This approval is further limited in scope by the Parties' Stipulation discussed above.

DATED at Salt Lake City, Utah, this 3<sup>rd</sup> day of July, 2013.

/s/ Melanie A. Reif  
Administrative Law Judge

Approved and confirmed this 3<sup>rd</sup> day of July, 2013, as the Report and Order of the Public Service Commission of Utah.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg  
Commission Secretary  
D#245252

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on the 3<sup>rd</sup> day of July, 2013, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

Torry R. Somers ([torry.r.somers@centurylink.com](mailto:torry.r.somers@centurylink.com))  
James Farr ([james.farr@centurylink.com](mailto:james.farr@centurylink.com))  
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Administrative Assistant