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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of CenturyLink’s Petition for Review and Modification of its Performance Assurance Plan and Performance Indicator Definitions Consistent with the Colorado Settlement	Docket No. 13-049-15 PETITION TO MODIFY CENTURYLINK’S PERFORMANCE ASSURANCE PLAN AND PERFORMANCE INDICATOR DEFINITIONS
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Qwest Corporation d/b/a CenturyLink QC (“CenturyLink”)¹ requests that the Public Service Commission of Utah (“Commission”) modify the Qwest Performance Assurance Plan (“PAP”) and Performance Indicator Definitions (“PIDs”). CenturyLink requests that the existing Utah PAP and PIDs be replaced with the PAP and PIDs that were recently approved by the Colorado Public Utilities Commission (“CPUC”). The CPUC approved a settlement that was negotiated between CenturyLink and numerous CLECs with respect to modifying the PAP and PIDs. As an integral part of the Colorado settlement, participating competitive local exchange carriers (“CLECs”) and CenturyLink agreed that the redesigned PAP and PIDs in Colorado should be proposed for adoption in the 13 other CenturyLink RBOC² states, including Utah. In support of this Petition, CenturyLink offers the following information:

PAP BACKGROUND

¹ Prior to April 1, 2011, Qwest Corporation did business as Qwest.

² Regional Bell Operation Company

1. The PAP is a self-effectuating performance assurance plan that is implemented as Exhibit K of interconnection agreements (“ICAs”) between CenturyLink and CLECs that opt to include it in their ICAs.

2. The PAP contains terms and conditions, including performance indicator definitions, that were established as part of Qwest’s effort, in the early 2000’s, to obtain Federal Communications Commission (“FCC”) approval, pursuant to 47 U.S.C. § 271, to enter into the interstate long distance telecommunications market.

3. Originally, there was concern that RBOCs, including Qwest, could “back-slide” in their interconnection performance and network provisioning once the RBOCs were permitted to enter the long distance telecommunications market.

4. The PAP’s were negotiated to provide additional assurance of continued appropriate interconnection and network access between Qwest and CLECs.

5. On June 18, 2002, the Commission approved the Utah PAP and PIDs.³

6. In Docket No. 07-049-31, the Commission approved subsequent changes to the PAP.

7. The changes approved in Docket No. 07-049-31 were part of a stipulation between Qwest and several CLECs. The parties to the 2007 stipulation intended that it be implemented in all PAP’s throughout Qwest’s 14-state service territory, similar to the Colorado settlement at issue in this proceeding.

8. In Docket No. 08-049-50, the Commission entered an order indicating that all of the changes to the PAP in Docket No. 07-049-31 were applicable to all CLECs that have opted (or will opt) into the PAP and PIDs in Utah.

³ See, Docket No. 00-049-08.

9. In Docket No. 07-049-31, the Commission recognized at that time “that developments within the telecommunications industry and changes in the FCC’s implementation and administration of the 1996 Federal Telecommunications Act provide a basis for changes in the PAP and PIDs.” The Commission stated that “certain items or aspects are no longer available, relevant or necessary to effectuate the purpose of a performance assurance plan.”

10. On December 15, 2009, Qwest filed a petition to terminate the PAP in Utah.⁴ As part of Docket No. 09-049-60, Qwest wanted to examine the appropriateness of the PAP and whether its continuation was necessary.

11. Within a few months after filing the petition in Docket No. 09-049-60, Qwest Corporation’s parent company, Qwest Communications International, Inc. (“QCII”), announced it was merging with CenturyLink, Inc.

12. QCII and CenturyLink, Inc. sought approval for an indirect transfer of control of Qwest Corporation, Qwest Communications Company, LLC and Qwest LD Corporation to CenturyLink, Inc.

13. The Commission approved the indirect transfer of control of Qwest to CenturyLink, Inc. on January 4, 2011.⁵

14. Among the conditions accepted by the merging companies was one in which CenturyLink would not seek to change the PAP before October 1, 2012, or seek to eliminate the PAP before April 1, 2014. Accordingly, negotiations between CenturyLink and CLECs in Colorado resumed in October 2012.

⁴ See, Docket No. 09-049-60.

⁵ See, Docket No. 10-049-16.

15. As a result of settlement commitments made by CenturyLink in the merger proceeding, it no longer sought to terminate the PAP in its entirety as originally requested in Docket No. 09-049-60. Instead, CenturyLink filed a motion in Docket No. 09-049-60 to limit the scope of that proceeding to the elimination of Tier 2 payments.

16. On August 16, 2011, the Commission approved the elimination of Tier 2 payments as part of the PAP.

THE COLORADO SETTLEMENT

17. On May 23, 2013, CenturyLink, Comcast Phone of Colorado, LLC (“Comcast”), MegaPath Corporation fka DIECA Communications, Inc. dba Covad Communications Company (“MegaPath”),⁶ tw telecom of Colorado LLC (“tw telecom”), Eschelon Telecom of Colorado, Inc. dba Integra Telecom (“Integra”), and Staff of the CPUC (collectively the “Settling Parties”) filed a settlement agreement with the CPUC for the purpose of redesigning CenturyLink’s PAP (the “Colorado Settlement”). A copy of the Colorado Settlement is attached hereto as Exhibit W.⁷

18. The redesigned Colorado Performance Assurance Plan (“CPAP”) is included as Attachments 1 and 2 to the Colorado Settlement. Attachment 1 of Exhibit W consists of the new Exhibit K for interconnection agreements that constitutes the new CPAP; Attachment 2 of

⁶ On August 20, 2010, MegaPath, Inc., CCGI Holding, Inc., and Speakeasy Broadband Services, LLC merged, with respective operating companies continuing to operate as separate entities. As part of an intra-company pro forma roll-up merger, Covad Communications Company was merged into its sister affiliate, DIECA Communications, Inc., effective December 30, 2011. Effective January 1, 2012, DIECA changed its name to MegaPath Corporation.

⁷ “W,” “X,” “Y,” and “Z” are being used to identify the four exhibits to this Petition, in order to more easily distinguish and separate them from Exhibits K (PAP) and B (PIDs) of interconnection agreements that are also referenced herein as attachments to the Colorado Settlement. The only differences between the revised CPAP (Attachment 1 of the Exhibit W settlement agreement) and the new PAP (Exhibit Y hereto) are that the former contains an Appendix A that does not apply in states other than Colorado, along with some related, parenthetical notations within the CPAP (at the beginning of sections 4.0, 5.0, and 6.0). Regarding the PID document, Exhibit B of interconnection agreement, Exhibit Z of this petition is the same as Attachment 2 of the Exhibit W settlement agreement, but without the markings borne by Attachment 2 that identify it as a filing made with the CPUC.

Exhibit W consists of the new Exhibit B for interconnection agreements that contains the PIDs. Attachments 1A and 2A of Exhibit W to Colorado Settlement show in legislative redline format the changes from the prior version of the Colorado Exhibits K and B, respectively.

19. On June 17, 2013, the CPUC entered a written order approving the Colorado Settlement.⁸ The Colorado order is now final, and is not subject to any petitions for reconsideration.

20. The CLECs that were parties to the Colorado Settlement either directly, or through an affiliate, are CLECs in Utah.

21. Further, there are several other CLECs that participated in the Colorado PAP proceeding, but were not Settling Parties (hereinafter referred to as “Active CLECs”). These Active CLECs included Access Point, Inc., Liberty Bell Telecom,⁹ McLeodUSA Telecommunications services, Inc., dba PAETEC Business Services (now Windstream), and XO Communications Services, Inc. None of the Active CLECs opposed the Colorado Settlement. All of these CLECs also have ICAs in Utah.

22. In addition to the Active CLECs, all other CLECs in Colorado had notice and an opportunity to participate in that proceeding, including the settlement negotiations. There was no opposition to the Colorado Settlement, and some of these CLECs also have ICAs in Utah.

23. The Settling Parties agreed that the redesigned PAP that was approved by the CPUC should be proposed for adoption in the 13 other CenturyLink RBOC states, and should be effective in the 13 other states on January 1, 2014.

THE REDESIGNED PAP & PIDs

⁸ See, CPUC Decision No. C13-0722, Docket No. 02M-259T.

⁹ Liberty Bell Telecom is now known as dishNET Wireline, LLC.

24. Given the terms of the Colorado Settlement, the CPAP is being used as the basis for the redesigned PAP and PIDs proposed in Utah and the other CenturyLink RBOC states.

25. Exhibit X describes in detail the changes in the redesigned PAP and PIDs, in comparison with the PAP and PIDs currently in effect.

26. CenturyLink requests that the redesigned PAP (Exhibit Y hereto, which constitutes the proposed new Exhibit K for interconnection agreements) and the revised PIDs (Exhibit Z hereto, which constitutes the proposed new Exhibit B for interconnection agreements) replace the existing PAP and PIDs effective January 1, 2014.¹⁰ The Parties further request that the Commission deem all existing interconnection agreements that currently contain the PAP and PIDs be modified to incorporate these revisions, also effective January 1, 2014, without need for further filings or approvals.

27. The provisions of the redesigned PAP and PIDs in Exhibits Y and Z are just, reasonable, and not contrary to the public interest.

CenturyLink requests that the Commission do the following:

1. Approve Exhibits Y (redesigned PAP) and Z (redesigned PIDs) with an effective date of January 1, 2014, to replace the existing PAP and PIDs in Utah;
2. Deem all existing interconnection agreements that currently contain the PAP and PIDs be modified to incorporate these revisions, also effective January 1, 2014, without need for further filings or approvals;

¹⁰ The only differences between the revised CPAP (Attachment 1 of the Exhibit X Colorado Settlement) and the new PAP (Exhibit Y hereto) are that the former contains an Appendix A that does not apply in states other than Colorado, along with some related, parenthetical notations within the CPAP (at the beginning of sections 4.0, 5.0, and 6.0). Regarding the PID document, Exhibit B of interconnection agreements, Exhibit Z of this Petition is the same as Attachment 2 of the Exhibit W Colorado Settlement, but without the markings borne by Attachment 2 that identify it as a filing made with the CPUC.

3. In the event there is no opposition to this Petition within 30 days, CenturyLink requests that the Petition be adjudicated informally under Utah Code Ann. §63-46b-5 and R746-110 of the Commission's Rules; and
4. To the extent there is opposition to this Petition, CenturyLink recommends that the Commission schedule a technical conference to further discuss the redesign of the PAP and PIDs consistent with the Colorado Settlement and to determine the remaining process in this proceeding.

DATED this 29th day of July, 2013.

CENTURYLINK



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