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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of the Petition of Qwest Communications Company, LLC to Amend its Certificate of Public Convenience and Necessity No. 2204	Docket No. 13-2204-01  RESPONSE TO ORDER GRANTING INTERVENTION AND RESPONSE TO REQUEST FOR TECHNICAL CONFERENCE; AND REQUEST TO IMPOSE CONDITIONS ON CARBON/EMERY'S INTERVENTION
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Qwest Communications Company, LLC d/b/a CenturyLink QCC (“QCC”) respectfully submits this response to the April 26, 2013 Order (the “Order”) from the Public Service Commission of Utah (“Commission”) Granting Carbon/Emery Telcom, Inc’s (“Carbon/Emery”) Petition to Intervene (the “Petition to Intervene”). Further, QCC also responds to Carbon/Emery’s request for a technical conference. Lastly, QCC requests that the Commission place certain conditions on Carbon/Emery’s intervention to prevent the unnecessary expansion of this docket. Items raised in the Petition to Intervene would more appropriately be addressed in another docket initiated at the request of Carbon/Emery.

## **BACKGROUND**

1. On March 21, 2013, QCC filed an application (the “Application”) to amend its Certificate of Public Convenience and Necessity No. 2204 (“CPCN 2204”).
2. Specifically, QCC seeks to amend CPCN 2204 to permit it to provide local exchange services in the same manner as other competitive local exchange carriers (“CLECs”).
3. QCC’s request to amend its CPCN will allow it 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.”<sup>1</sup>
4. On April 12, 2013, the Division of Public Utilities (the “Division”) recommended approval of QCC’s Application. The Division states that “public interest will be promoted by recommending” approval of QCC’s Application “under the same terms and conditions allowed in other CPCNs.”<sup>2</sup>
5. On April 22, 2013, Carbon/Emery filed its Petition to Intervene.
6. Carbon/Emery provides local exchange service to the Price, Utah Exchange, which is an exchange with more than 5,000 access lines.<sup>3</sup>
7. Carbon/Emery appears to have filed its intervention solely on the basis that QCC may actually compete with it in Price, Utah.<sup>4</sup>
8. The Petition to Intervene also requests that the Commission schedule a technical conference.

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<sup>1</sup> Application, ¶3.

<sup>2</sup> Division Recommendation, p. 1.

<sup>3</sup> Carbon/Emery Petition to Intervene, ¶3.

<sup>4</sup> *Id.* at ¶5.

9. The Commission granted the intervention and requested that any party desiring to respond to the request for a technical conference do so no later than May 6, 2013.

### **RESPONSE TO REQUEST FOR TECHNICAL CONFERENCE**

10. Although QCC questions the merits of Carbon/Emery's Petition to Intervene (discussed more fully below), it is not opposed to the Commission scheduling a technical conference. However, given that Carbon/Emery only raised an issue with respect to Price, Utah, QCC requests that the Commission immediately grant the Application for all areas covered by the Application except Price. The technical conference can then be more narrowly focused to only address the issues raised by Carbon/Emery as they relate to Price.

11. QCC requests that a scheduling conference be set immediately after the technical conference to prevent any further delay of this matter.

12. QCC has had the opportunity to discuss this issue with the Division, Carbon/Emery and Gary Widerburg. May 21, 2013 at 10:00 a.m. has been reserved for a technical conference/scheduling conference.

### **REQUEST TO NARROW INTERVENTION**

13. QCC requests that the Commission limit the scope of Carbon/Emery's intervention.

14. The Commission may impose conditions on an intervenor at any time after the intervention.<sup>5</sup>

15. QCC's Application simply seeks to have QCC treated like other CLEC's in Utah.<sup>6</sup>

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<sup>5</sup> U.C.A. 1953 § 63G-4-207(3)(c).

<sup>6</sup> See, Application, ¶3 and Division Recommendation, p. 1.

16. The Commission has previously granted other CLEC applications that permit carriers to operate in Price, Utah, and have indicated that those applications were in the public interest and would enhance competition.<sup>7</sup>

17. Carbon/Emery does not dispute the fact that there are other CLECs that are certificated to provide local exchange service in Price, Utah. Nonetheless, Carbon/Emery seeks to intervene, because it claims that QCC's Application is "unique."<sup>8</sup> However, the only thing that Carbon/Emery alleges is "unique" is that QCC may actually have facilities to compete with it in Price, Utah, whereas it does not believe that other CLECs that have previously been granted authority to operate in Price would actually compete.<sup>9</sup> This is not an appropriate basis for intervention.

18. Additionally, as part of its Petition to Intervene, Carbon/Emery seeks to have its non-regulated affiliate, Emery Telecommunications & Video, Inc. be authorized to provide local exchange service in Price, "at a rate competitive with QCC's rate...."<sup>10</sup> It is beyond the scope of this docket to determine whether or not Emery Telecommunications & Video, Inc. should be permitted to provide local exchange service in Price. Carbon/Emery's intervention should be modified to prevent it from raising such issues in this docket.

WHEREFORE, QCC respectfully requests that the Commission schedule a technical conference and scheduling conference as set forth herein. Further, QCC requests that the

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<sup>7</sup> See, for example, Order Granting the CPCN of Zayo Group (Docket No. 11-2536-01), Teltrust Corp.(Docket No. 11-2537-01), and Windstream NuVox (Docket No. 11-2538-01). The Commission has granted numerous other CPCNs as well.

<sup>8</sup> Petition to Intervene, ¶5.

<sup>9</sup> *Id.*

<sup>10</sup> Petition to Intervene, ¶7.

Commission modify Carbon/Emery's intervention to prevent unnecessary delay and expansion of this matter.

DATED this 1<sup>st</sup> day of May, 2013.

CENTURYLINK

A handwritten signature in cursive script that reads "Torry Somers".

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