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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Formal Complaint of
Delmus Hall against Qwest Corporation d/b/a
CenturyLink QC

DOCKET NO. 16-049-02

**CENTURYLINK'S RESPONSE AND
MOTION TO DISMISS**

On February 23, 2016, Delmus Hall (“Mr. Hall”) filed a formal complaint¹ against Qwest Corporation d/b/a CenturyLink QC (“CenturyLink”). On February 24, the Commission issued a Notice of Filing and Comment Period.² On February 29, 2016 the Utah Division of Public Utilities (“DPU”) filed a recommendation for the Commission to dismiss the complaint based upon lack of subject matter jurisdiction. CenturyLink agrees that the Complaint should be dismissed for lack of subject jurisdiction, but it should also be dismissed based on the following:

- Mr. Hall has failed to state any claim upon which the Commission can grant relief.³
- CenturyLink in its offerings and pricing has not violated any statute or Commission rule.
- CenturyLink is in compliance with its price list on file with the PSC.⁴

¹ PSC website link for Docket No. 16-049-02:

<http://www.psc.utah.gov/utilities/telecom/telecomindx/2016/1604902indx.html>

² In this notice the Commission stated that “CenturyLink may submit a response to Mr. Hall’s complaint no later than Thursday, March 24, 2016.”

³ Utah Code Ann. 54-7-20, Reparations – Courts to enforce commission’s order – Limitations of action.

⁴ Qwest Corporation d/b/a CenturyLink QC price list and CenturyLink’s price list.

- Pursuant to statute CenturyLink has pricing flexibility to determine its pricing and service offerings.⁵
- The PSC does not have jurisdiction over high speed internet (HSI) service and other non-regulated services.

Based on the reasons set forth by the DPU, and for all of the above reasons the Complaint should be dismissed.

Mr. Hall has a phone package and unlimited long distance service, which as a bundle provides a better rate than if these same services were purchased ala carte. Mr. Hall does not dispute that he signed up for this package, and does not dispute that the amount charged in the package is consistent with CenturyLink's price list. Additionally, the promotional high speed internet ("HSI") service rate that Mr. Hall requested and receives is based upon having bundled services from CenturyLink. Mr. Hall's promotional HSI service rate is not available to him if he does not continue to have a phone package and bundle his services with CenturyLink. A higher rate is applicable for customers that do not have a phone package and bundled services.⁶ All of this was explained to Mr. Hall, and Mr. Hall does not dispute that this was explained to him.

Mr. Hall's Complaint requests the Commission force CenturyLink to provide a discount for eliminating two features from the phone package.⁷ It also appears that Mr. Hall would like the Commission to require CenturyLink to provide a senior citizen discount. CenturyLink does not have an offering, nor can it be required to have an offering, that would decrease the package price by eliminating two of the features. Further, CenturyLink does not provide a senior citizen discount, and is not required to have such a discount.⁸ CenturyLink has made a business decision to provide the best rates to customers who have a phone package and who bundle with other

⁵ Utah Code Ann. 54-8b-2.3 Pricing Flexibility.

⁶ See Confidential Attachment A which provides a comparison based upon Mr. Hall's long distance usage.

⁷ Included in his phone package are a number of other features besides 3-Way Calling and Call Waiting. See Confidential Attachment A which provides the additional features.

⁸ Even if Mr. Hall wants to eliminate all of the features, the pricing is better for him to continue to have a phone package. See Confidential Attachment A.

CenturyLink products. In a very competitive marketplace, CenturyLink continuously evaluates what it needs to do to remain competitive, and the law permits CenturyLink to have this pricing flexibility. At this time there are no plans to make modifications to its offerings and provide Mr. Hall with what he is requesting.

CenturyLink has explained the bundled pricing concept to Mr. Hall, and advised him that if he removes the requested items, he would lose the benefits of the bundled pricing, and his total price would actually increase. Once again, Mr. Hall does not dispute that he signed up for this bundle. CenturyLink is not requiring Mr. Hall to keep his phone package and bundled services. Mr. Hall can remove the features identified in the Complaint, but this would cause him to pay more for the same services since he would be purchasing them a la carte, and would not have the benefit of the bundled price. The prices and packages that Mr. Hall is questioning are part of CenturyLink's price list on file with the Commission. Mr. Hall's Complaint requests that the Commission force CenturyLink to develop offerings at a lower price, and this is not an appropriate basis for a Complaint.

The pricing for CenturyLink's phone package and long distance services are contained in the various CenturyLink price lists⁹ on file with the Commission. Pursuant to statute CenturyLink has pricing flexibility for all of its retail services.¹⁰ HSI service is not regulated by the Commission.

Further, Mr. Hall alleges that CenturyLink was "*unable to tell him an itemization of his charges.*" There is no basis for this allegation. CenturyLink provides detailed itemization of the various charges, surcharges, taxes and fees on its monthly bills. (See Confidential Attachment B). Lastly, Mr. Hall also alleges that he was told by CenturyLink that "the rates were high due to

⁹ Qwest Corporation d/b/a CenturyLink QC price list and CenturyLink's price list.

¹⁰ Utah Code Ann. 54-8b-2.3 Pricing Flexibility.

government.” CenturyLink believes any discussion about rates being high “due to government” was in response to his concerns about having to pay the 911 surcharges.¹¹

On February 29, 2016, the DPU provided a recommendation to dismiss the Complaint based on a lack of subject matter jurisdiction. CenturyLink concurs with the Division’s recommendation to dismiss, but also believes the Complaint should be dismissed based on the following:

- Mr. Hall has failed to state any claim upon which the Commission can grant relief.
- CenturyLink in its offerings and pricing has not violated any statute or Commission rule.
- CenturyLink is in compliance with its price list on file with the PSC.
- Pursuant to statute CenturyLink has pricing flexibility to determine its pricing and service offerings.
- The PSC does not have jurisdiction over HSI service and other non-regulated services.

For the above stated reasons, CenturyLink respectfully requests that the Commission dismiss Mr. Hall’s complaint against CenturyLink in its entirety.

RESPECTFULLY SUBMITTED this 14th day of March 2016

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¹¹ On January 22, 2016, Mr. Hall filed a complaint with the FCC. On February 4, 2016 CenturyLink responded to FCC. In the response CenturyLink addressed the 911 surcharge issue by stating: “*The State and Local 911 charge is an excise tax on telephone lines. . . . CenturyLink collects the charge each month for the county, city or state.*”