

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Qwest Corporation d/b/a CenturyLink QC's
Petition for Approval of Amendments to the
Qwest Performance Assurance Plan and
Performance Indicator Definitions to
Implement the FCC's 2019 Forbearance
Orders

DOCKET NO. 20-049-11

REPORT AND ORDER

ISSUED: July 16, 2020

On June 5, 2020, Qwest Corporation d/b/a CenturyLink QC ("CenturyLink") filed its Petition for Approval of Amendments to the Performance Assurance Plan and Performance Indicator Definitions portions of CenturyLink's existing interconnection agreements with each Utah certificated local exchange telecommunications carrier ("CLEC") including by deleting references to products and network elements therein for which the Federal Communications Commission ("FCC") recently ruled that Regional Bell Operating Companies ("RBOC") like CenturyLink will no longer be required to offer ("Petition"). Specifically, CenturyLink requests the Public Service Commission (PSC): (1) approve Appendices 3A (redesigned PIDs) and 4A (redesigned PAP) attached to the Petition,¹ to replace the existing PAP and PIDs that are currently approved and included in its interconnection agreements with CLECs in Utah; (2) deem all existing interconnection agreements that currently contain the PAP and PIDs be modified to incorporate the revisions set forth in Appendices 3A and 4A, without the need for further filings or approvals;² and (3) if no party opposes the Petition within 30 days, grant the

¹ The Petition requested an effective date for approval of the referenced Appendices of June 1, 2020. Because the Petition was not filed until June 5, 2020, the PSC determined that the proposed effective date of June 1, 2020 was clearly a mistake.

² The Petition also requested an effective date for this specific request of June 1, 2020 which the PSC likewise determined was a mistake.

Petition without a hearing or further filings or proceedings.³ CenturyLink requests full approval of the Petition, effective July 20, 2020.

On June 5, 2020, the PSC issued an Action Request to the Division of Public Utilities (DPU) for its recommendation. On June 19, 2020, the DPU filed its comments recommending the PSC approve the changes and grant the relief sought by CenturyLink, effective July 20, 2020.

On June 22, 2020, the PSC issued a notice of comment period, allowing interested parties to comment on or before July 15, 2020, and no comments were received.

DISCUSSIONS, FINDINGS, AND CONCLUSIONS

The PSC originally approved the Performance Assurance Plan (PAP) and Performance Indicator Definitions (PIDs) in question as part of CenturyLink's Statement of Generally Available Terms and Conditions, which terms were more recently amended in Docket No. 09-049-60. CenturyLink indicates that the FCC has since eliminated and modified various requirements for interconnection agreements.⁴ In its Petition, CenturyLink seeks to modify the PAPs and PIDs in its interconnection agreements with Utah CLECs in order to comply with the changes implemented by the FCC.

Both CenturyLink and DPU confirm that the proposed changes are limited only to those required to implement the FCC's recent changes to RBOC obligations. CenturyLink explains: "[T]he FCC eliminated and modified some obligations of RBOCs to provide certain products and network elements. Specifically, in *Petition of US Telecom et al. for Forbearance*, WC Dkt.

³ The Petition requested this specific request be effective June 16, 2020 which would only allow 15 days to comment, rather than the comment period of 30 days suggested by CenturyLink, and the Division of Public Utilities (DPU) recommended an effective date of July 20, 2020.

⁴ Petition at ¶ 5.

No. 18-141, Memorandum Opinion and Order, FCC Release 19-72; Released August 2, 2019 ..., and the *Report and Order on Remand and Memorandum Opinion and Order*, FCC Release 19-66; Released July 12, 2019 ..., the [FCC] eliminated the requirement for RBOCs to continue offering the avoided cost retail discount to resellers, and also eliminated the requirement for RBOCs to continue offering analog loops.”⁵ CenturyLink states that it has notified impacted CLECs and has proposed interconnection agreement amendments to change the language in the base agreements. With its Petition, CenturyLink also filed samples of its notification letter and proposed amendments. In addition, CenturyLink represents that before filing the Petition with the PSC, it “reached out to CLECs regarding their position on the proposed amendments – particularly Integra, which has [historically] taken a leadership position among CLECs in past PID/PAP negotiations and changes.”⁶ CenturyLink represents that it was informed by Integra’s representatives that they did not object to the proposed amendments.⁷

In Docket No. 09-049-60, the PSC authorized changes to CenturyLink’s (known as “Qwest” at the time) PAP to allow for the termination of Tier 2 payments within 30 days after no party opposed such a change.⁸ Likewise, in this docket CenturyLink requests the PSC grant the Petition without the need for further filings or proceedings if no party opposes the proposed modifications. The PSC gave interested parties, including CLECs, an opportunity to file comments, including oppositions to the requested modifications, and none were filed.

⁵ *Id.*

⁶ Petition at ¶ 10.

⁷ *Id.*

⁸ See Petition at ¶ 12 (referencing *In the Matter of Qwest’s Petition for Review and Termination of Qwest’s Performance Assurance Plan Termination Pursuant to Section 16.3*, Docket No. 09-049-60, Order at p. 2, issued August 22, 2011).

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Having reviewed the Petition and based on CenturyLink's representations that Utah CLECs were informed of the proposed changes to each of their interconnection agreements before submitting the Petition, and further based on the DPU's recommendation, and there being no opposition filed during the comment period, we find and conclude that the updates and modifications set forth in the Petition are reasonable and consistent with the applicable FCC orders. We therefore find the Petition to be just and reasonable, and in the public interest.

ORDER

Accordingly, we approve Exhibits 3A (redesigned PIDs) and 4A (redesigned PAP) attached to the Petition to replace the existing PAP and PIDs in Utah, effective July 20, 2020, and deem all existing interconnection agreements that currently contain the PAP and PIDs be modified to incorporate these revisions, without the need for further filings or approvals, also effective July 20, 2020.

DATED at Salt Lake City, Utah, July 16, 2020.

/s/ Yvonne R. Hogle
Presiding Officer

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Approved and confirmed July 16, 2020 as the Order of the Public Service Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#314667

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 PSC 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 PSC 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 PSC'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 July 16, 2020, a true and correct copy of the foregoing was served upon the following as indicated below:

By Email:

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