

–BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH–

IN THE MATTER OF QWEST CORPORATION D/B/A
CENTURYLINK QC’S PETITION FOR STATEWIDE
EXEMPTION FROM CARRIER OF LAST RESORT
OBLIGATIONS

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DOCKET No. 23-049-01
Exhibit No. DPU 1.0 DIR
Direct Testimony and Exhibits
Ronald Slusher

Redacted

FOR THE DIVISION OF PUBLIC UTILITIES
DEPARTMENT OF COMMERCE
STATE OF UTAH

Direct Testimony of

Ronald Slusher

October 19, 2023

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1 **INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION WITH THE**
3 **DIVISION OF PUBLIC UTILITIES.**

4 A. My name is Ronald Slusher (“Ron”); my business address is Heber M. Wells
5 Building, 160 East 300 South, 4th Floor, Salt Lake City, Utah 84114, I am a Utility
6 Technical Consultant in the Division of Public Utilities (“Division” or “DPU”).

7

8 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

9 A. I am testifying on behalf of the Division.

10

11 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL AND PROFESSIONAL**
12 **EXPERIENCE.**

13 A. I received a Bachelor of Science degree from Westminster College in Computer
14 Science.

15 Before coming to the Division, I worked as a project and production manager where I
16 worked with engineers, architects, and owners developing timelines and negotiating
17 budgets.

18 I began working for the Division in May 2004. In my work for the Division, I have
19 been assigned to review and analyze the applications for Certificate of Public
20 Convenience and Necessity (“CPCN”) submitted by telecommunications and water
21 companies. In addition to my duties within the telecommunications and water
22 sections, I have worked with the energy section on Rocky Mountain Power rate
23 cases running the company’s GRID model. I have testified on behalf of the Division
24 in many telecommunications and water hearings.

25

26 **PURPOSE OF TESTIMONY**

27 **Q. PLEASE SUMMARIZE AND DESCRIBE THE PURPOSE OF YOUR TESTIMONY.**

28 A. My testimony focuses on whether it is in the public interest to exempt Qwest
29 Corporation d/b/a CenturyLink QC (“CenturyLink”) from part or all of its Carrier of
30 Last Resort (“COLR”) obligations in the State of Utah, as requested by CenturyLink
31 in its petition filed on June 20, 2023, and the direct testimony of Mr. David Ziegler
32 filed on August 01, 2023, supporting its petition.

33

34 **Q. WHAT DOES CENTURYLINK SEEK IN ITS PETITION?**

35 A. CenturyLink asks for relief from its obligations as a carrier of last resort throughout
36 its territory. If it is unsuccessful, it also appears to seek permission to participate in
37 the Utah Universal Public Telecommunications Service Support Fund (“UUSF”). It
38 does not ask for specific relief under the UUSF.

39

40 **Q. WHAT IS THE DIVISION’S POSITION IN THIS TESTIMONY?**

41 A. CenturyLink has presented persuasive evidence that it faces significant competition
42 in much of its territory, but it is not clear from the record exactly where it faces
43 sufficient competition to justify an exemption under Utah Code section 54-8b-3.
44 Furthermore, it is also not clear whether all the services CenturyLink identifies as
45 offering competition qualify as functionally equivalent services. The Division needs
46 more information to identify areas where an exemption is warranted and areas
47 where the public interest may still require a COLR obligation. Regarding UUSF
48 eligibility, the Division does not object to CenturyLink receiving UUSF support in
49 high-cost areas that satisfy the UUSF statute and rules. However, this docket is
50 inappropriate to establish the right to that support and amounts for specific areas.

51

52 **Q. HOW MANY SERVICES AREAS OR WIRE CENTERS DOES CENTURYLINK**
53 **HAVE AND ARE THERE ANY THAT ARE CURRENTLY SERVICED BY**
54 **CENTURYLINK ALONE?**

55 A. From the data provided in Mr. David Zigler's Testimony, Confidential Exhibit 4,
56 CenturyLink states that it has [REDACTED] wire centers across [REDACTED] counties in the
57 State of Utah. Based on our review of the information provided there appear to be no
58 wire centers that are served by CenturyLink alone.

59

60 **Q. BASED ON THE INFORMATION FILED BY CENTURYLINK, WHAT IS ITS**
61 **CURRENT MARKET SHARE IN UTAH?**

62 A. Based on the information in Mr. Zigler's Testimony, Confidential Exhibit 4, it shows
63 that its market share ranges from as low as [REDACTED] to as high as [REDACTED] depending
64 on the wire center. The wire center average is currently at [REDACTED]. This market
65 information has some limitations because it is done at the wire center level. While it
66 appears to show that in some areas significant options are available for
67 telecommunications customers, it is not clear what those options are in which areas.

68

69 **Q. WHAT ARE THE SERVICE TECHNOLOGIES USED TO PROVIDE SERVICES IN**
70 **CENTURYLINK'S WIRE CENTERS?**

71 A. Based on the information provided by CenturyLink in Exhibit 5, which provides the
72 percentage of coverage and how services are provided into five columns
73 represented by; All Wired & Fixed Wireless, which includes copper, fiber and cable,
74 Fix Wireless; All Wired, which includes copper, fiber and cable; Cable & Fiber,
75 includes only cable and fiber; Fix Wireless, which includes only the Fix Wireless
76 providers; and Mobile, which includes only mobile wireless providers.

77

78 **Q. DO THE TECHNOLOGIES LISTED TO PROVIDE THE TELECOMMUNICATIONS**
79 **SERVICES CONSTITUTE A FUNCTIONALLY EQUIVALENT OR**
80 **SUBSTITUTABLE SERVICE AS DEFINED UNDER UTAH CODE 54-8B-3(5)(B)?**

81 A. Unfortunately, Utah Code 54-8b-3(5)(b) doesn't give a definition for "functionally
82 equivalent" but, based on a basic definition of the phrase which is "an item or group
83 of items that can be used in the same basic manner as another item or items to
84 perform a task to the same standard"¹ it appears there could be equivalent
85 substitution for many purposes. While a basic definition is somewhat useful, it does
86 not resolve the statutory question. While for many customers a mobile phone or
87 other technology might satisfy that customer's own "functionally equivalent" test, for
88 many other customers, the lack of a more traditional land line could leave
89 reasonable needs unmet. While the market suggests many customers find
90 alternatives adequate, the COLR obligation exists, to some extent, to serve the
91 exceptions.

92

93 **Q. HOW MANY COMPETITIVE LOCAL EXCHANGE CARRIERS ("CLECs") ARE**
94 **CURRENTLY REGISTERED TO PROVIDE SERVICE IN CENTURYLINK'S**
95 **TERRITORY?**

96 A. In reviewing the Division's database, there are currently over 100 registered CLECs
97 in the State of Utah approved to provide service and compete in CenturyLink's
98 service areas.

99

¹ Law Insider, <https://www.lawinsiders.com/dictionary/functionally-equivalent>

100 **Q. BASED ON THE DIVISION'S REVIEW, IS THERE EFFECTIVE COMPETITION IN**
101 **CENTURYLINK'S SERVICE TERRITORIES AS STATED BY THE COMPANY?**

102 A. The Division's review indicates that there appears to be competition in portions of
103 CenturyLink's service territories. As noted above, despite the criteria in Section 54-
104 8b-3(5), it is not easy to evaluate whether there is effective competition. As
105 CenturyLink points out in its original filed petition, Docket 22-049-62, Exhibit 6, each
106 wire center has multiple providers and ways to provide service to customers. Those
107 services come in various forms like wireline, cable, fiber, wireless, and satellite.

108 As noted above, mere wire center market share data is not detailed enough to
109 determine where effective competition exists in CenturyLink's service areas.

110 Furthermore, as noted above, while many members of the public might use a mobile
111 phone and find it sufficient, other customers with the specific need for a wireline or
112 the inability to receive mobile service might find it insufficient. The Commission will
113 need to weigh Subsection (5)'s factors carefully to evaluate when market share,
114 functional equivalence, and other factors suggest that effective competition exists.

115

116 **Q. ARE THERE STATES THAT HAVE GIVEN CENTURYLINK RELIEF FROM**
117 **CARRIER OF LAST RESORT OBLIGATIONS?**

118 A. In doing research for this petition, the Division found that there are currently 22
119 states that have provided some form of relief to CenturyLink for COLR obligations.
120 Of these states, the relief given appears to have come in the form of legislative
121 changes and not directly to any specific telecommunications company.

122

123 **Q. IF THE COMMISSION GRANTS CENTURYLINK'S REQUEST TO CEASE ITS**
124 **COLR OBLIGATION FOR CERTAIN AREAS, WOULD THE COMMISSION**

125 **ASSIGN THOSE COLR OBLIGATIONS TO ANOTHER TELECOMMUNICATIONS**
126 **COMPANY?**

127 A. The Commission could ask or request another company to take over the duties of
128 COLR in a given area or wire center, but if the Commission does grant CenturyLink's
129 request for exemption in any or all of its wire centers, it appears those wire centers
130 would not have a COLR going forward and be assumed to have sufficient providers
131 in the area to give customers a choice.

132

133 **Q. DOES THE DIVISION AGREE WITH CENTURYLINK THAT, IF THE COMMISSION**
134 **GRANTS EXEMPTION TO SOME BUT NOT ALL OF CENTURYLINK WIRE**
135 **CENTERS, CENTURYLINK SHOULD BE ABLE TO RECEIVE UNIVERSAL**
136 **SERVICE FUNDS FOR THOSE CENTERS FOR WHICH COLR OBLIGATIONS**
137 **REMAIN?**

138 A. Requiring COLR in high-cost areas comes with costs. The Division understands that
139 some remote service areas may not have effective competition and that some form
140 of compensation could be made available for those centers that do not, by whatever
141 metric used, meet the competition guidelines, and are not granted an exemption.
142 Any support under the UUSF would be determined in accordance with applicable
143 statutory and rule requirements in a separate docket from this one.

144

145 **Q. BASED ON THE REVIEW OF THE COMPANY'S TESTIMONY, IS IT IN THE**
146 **PUBLIC INTEREST TO EXEMPT CENTURYLINK FROM ITS COLR**
147 **OBLIGATIONS?**

148 A. The Division's initial review indicates that there are likely areas where effective
149 competition clearly exists. Although it is likely in the public interest to provide
150 CenturyLink an exemption from its COLR obligations in some areas, more
151 information is needed to determine where effective competition exists in

152 CenturyLink's service territory. The Division suggests CenturyLink provide additional
153 evidence revealing sub-wire center and even sub-exchange data that will allow
154 better review. A sound set of metrics might be produced to evaluate areas one at a
155 time for relief.

156

157 **CONCLUSION**

158 **Q. DOES THIS COMPLETE YOUR TESTIMONY?**

159 **A.** Yes, it does. Thank you.