

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of)
)
Qwest Corporation DBA CenturyLink QC) Docket No. 23-049-01
)
Petition for Statewide Exemption from Carrier)
Of Last Resort Obligations)

**REBUTTAL TESTIMONY OF DOUGLAS DUNCAN MEREDITH
ON BEHALF OF THE
UTAH RURAL TELECOM ASSOCIATION**

November 16, 2023

Table of Contents

I.	Witness Qualification.....	1
II.	Response to Carrier of Last Resort Obligations Testimony.....	1

1 **I. Witness Qualification**

2 **Q: Please state your full name.**

3 A: My full name is Douglas Duncan Meredith.

4 **Q: Are you the same Mr. Meredith that filed Direct Testimony on October 19,**
5 **2023, in this proceeding?**

6 A: Yes.

7 **Q: Was this rebuttal testimony prepared by you or under your direct supervision?**

8 A: Yes.

9 **Q: What is the purpose of your Pre-filed Rebuttal Testimony?**

10 A: I seek to comment on the testimonies offered by Ms. Alyson Anderson on behalf of
11 the Office of Consumer Services and by Mr. Ronald Slusher on behalf of the
12 Division of Public Utilities, Department of Commerce for the State of Utah.

13 **II. Response to Carrier of Last Resort Obligations Testimony**

14 **Q: Is the Office of Consumer Services concerned about Carrier of Last Resort**
15 **(COLR) obligations in Utah?**

16 A: Yes. In recommending that the Commission not grant the relief sought by
17 CenturyLink,¹ Ms. Anderson asks the question: “Who will be the provider for new
18 customers in established CTL service territory?”² This question correctly identifies
19 the need for a COLR in all areas of Utah for the purpose of having at least one carrier
20 obligated to offer reliable, high-quality telecommunications service to any and all
21 requesting end-users. Utah policy is to ensure that all citizens have access to “public

¹ Ms. Anderson Testimony, Line 190.

² Ms. Anderson Testimony, Line 196.

22 telecommunications service” requesting “service within the local exchange.”³ To
23 maintain the reasonableness of the costs associated with providing public
24 telecommunications service to any customer or class of customers that requests it,
25 carriers have established line extension tariffs that require the requesting customer
26 to cover a portion of the costs associated with extending the carrier's line to provide
27 service. This ensures that both carriers and the Utah USF are not being required to
28 unreasonably fund these extensions, but also ensures that customers who want
29 service have access to such service.

30 Ms. Anderson has an equally valid concern that whether CenturyLink will maintain
31 adequate service quality standards absent COLR obligation to do so.⁴ This concern
32 should be a relevant factor in determining whether relief should be granted under
33 Utah Code 54-8b-3(5) and (6). The impact on consumers like Sue Ashdown, and
34 potentially many others like Ms. Ashdown scattered across CenturyLink exchanges,
35 without any viable competitive option other than CenturyLink is clearly relevant in
36 this proceeding.

37 **Q: Does Mr. Slusher raise the issue of whether there are competitive options for**
38 **existing and potential customers?**

39 A: Yes. Mr. Slusher suggests the petitioner provide additional evidence to allow a
40 “better review.”⁵ He also notes that “mere market share data is not detailed enough
41 to determine where effective competition exists.”⁶ I agree that there is not enough
42 evidence in this proceeding to determine with specificity “the extent to which
43 competing telecommunications services are available from alternative
44 telecommunications providers.”⁷ Consider for example market share information by

³ Utah Code § 54-8b-15(1)(b). As I noted in my Direct Testimony, another plain reading of the Utah law is that COLR obligations include the offering of all regulated telecommunications services offered by an incumbent local exchange carrier (“ILEC”) since every ILEC is a COLR.
⁴ Ms. Anderson Testimony, Lines 168-171.
⁵ Mr. Slusher Testimony, Lines 152-155.
⁶ Mr. Slusher Testimony, Line 104.
⁷ Utah Code 54-8b-3(5)(a).

45 exchange. When CenturyLink reports a high percentage of competitive options for
46 an exchange, the data also shows the percentage where end-users do not have any
47 competitive options. Yet, the exchange level data does not indicate where in the
48 exchange there are not competitive options. This level of detail is needed to
49 determine where effective competition exists.

50 **Q: Mr. Slusher states that "the COLR obligations exists, to some extent, to serve**
51 **the exceptions" (Slusher Direct Testimony, Lines 90-91). Do you agree with this**
52 **statement?**

53 A: Yes. This is well stated and explains why more data are needed to determine the
54 exceptions, or those without competitive options, that reside in each exchange.
55 Another way of expressing this is to refer to the remaining households or potential
56 customers as captive customers—this is discussed by Ms. Anderson. Unless there
57 is a COLR assigned to a geographic area, there is no guarantee that all customers
58 who want service will be able to obtain such service.

59 **Q: Earlier you quoted subpart 5(a) of Utah Code 54-8b-3. This is also quoted by**
60 **Ms. Anderson on lines 40-50 of her testimony. Do you agree with the**
61 **characterization made by Ms. Anderson that 54-8b-3(5) outlines the criteria**
62 **the Commission should consider when evaluating effective competition and its**
63 **impact?**

64 A: Ms. Anderson states subpart (5) contains the criteria the Commission “should
65 consider” and proceeds to list the items mentioned in the code. However, the
66 Commission is directed that it “shall consider all relevant factors, which **may**
67 include” the items listed on lines 40-50 of Ms. Anderson’s testimony. I understand
68 that the Commission’s duty is to determine the relevant factors necessary for its
69 assessment of effective competition and may look at the items listed, but I do not
70 believe the list provided is an exhaustive list of all relevant factors. For example,
71 the list includes the market share of the petitioning carrier. While market share can

72 be informative, it is not dispositive of the question for the reasons stated by Mr.
73 Slusher. Much more detailed information is needed to determine the matter. The
74 question of the geographic scope of the market is foundational to determining the
75 nature of effective competition and unfortunately the discussion on the geographic
76 scope in the record appears to be exchange level data that does not address the
77 exceptions, or locations without competitive options, within the exchanges.

78 I also note that in addition to assessing effective competition in subpart 5, the
79 determination of whether the relief is in the public interest is the second prong of
80 the analysis and is found in subpart 6 of the code. Here again, the Utah Legislature
81 directed the Commission to look at all relevant factors, including the captive
82 customers in an exchange area.

83 **Q: Do you agree with Ms. Anderson’s explanation of captive customers and the**
84 **importance to look at current and potential customers?**

85 A: Yes. I agree with Ms. Anderson that the term captive customer should refer to any
86 customer without an option for reliable, reasonably comparable service. Another
87 way of expressing this concept is found online. A captive customer is “A customer
88 who does not have realistic alternatives to buying power from the local utility, even
89 if that customer had the legal right to buy from competitors.”⁸ I believe this
90 definition captures the term as used by the Utah Legislature. It refers to the instance
91 where a customer has no options—this can apply to existing customers or potential
92 customers in CenturyLink exchange areas. Further, even if a geographic area has an
93 option for reliable, reasonably comparable service, it should be remembered that
94 another carrier's ability to serve a customer is not the same as a carrier's obligation
95 to serve a customer. Competitive service providers without COLR obligations have
96 no obligation to serve any customer or class of customers who request service. As
97 a result, even in areas where there is comparable competitive service, the customer

⁸ <https://thelawdictionary.org/captive-customer/> (last accessed Nov 10, 2023).

98 may be left without any choice for service. CenturyLink’s claim that this request
99 does not affect existing customers since it is not petitioning to discontinue service
100 is not helpful on this point. I agree with Ms. Anderson that move-ins and move-outs
101 create a situation where service is not assured when a COLR is not required to serve.

102 **Q: Ms. Anderson asks “If [CenturyLink] is relieved of its COLR obligation, who**
103 **will provide service to these customers [captive customers]?” (Ms. Anderson**
104 **Testimony, Lines 90-92) In response to this question do you still recommend**
105 **the Commission use the federal model and require that another COLR be**
106 **assigned before granting CenturyLink relief from its duties?**

107 A: Yes. The relinquishment of federal Eligible Telecommunications Carrier (“ETC”)
108 designation requires state Commissions to replace the ETC with another provider
109 willing to offer universal services to all customers in a geographic area. This
110 designation is a requirement for federal universal service fund eligibility.⁹ The
111 federal provision only covers universal services required by the FCC. The
112 corresponding state requirement would be to determine it is not in the public interest
113 to have customers without a COLR for all public telecommunications services
114 offered by the carrier in the state. This requirement is robust and enables all
115 customers to have access to public telecommunications services regardless of where
116 they live in the state.

117 **Q: Does the federal ETC obligation cover all public telecommunications services**
118 **offered by a carrier.**

119 A: No. The federal ETC obligation requires the offering of federally designated
120 universal services. It does not cover all Utah COLR obligations to offer all public
121 telecommunications services to all customers in a defined geographic area.¹⁰ This
122 is why the COLR and the ETC obligations complement each other. These

⁹ See 47 U.S.C. § 214(e).

¹⁰ Utah Code § 54-8b-15(1)(b).

123 designations also make available distinct universal service funds: the ETC enables
124 a carrier to receive federal support and the COLR enables a carrier to receive state
125 support.

126 **Q: Does CenturyLink need to receive Utah USF support to be obligated as an**
127 **COLR in its area?**

128 A: No. Mr. Slusher explained that CenturyLink is eligible for Utah Universal Service
129 Support despite not having requested support funds. I note there is a corollary in the
130 federal area regarding this matter.¹¹ In 2015, the Federal Communications
131 Commission (“FCC”) considered a petition by USTelecom to forbear from certain
132 obligations. One obligation from which USTelecom sought relief was related to
133 ETC duties. The FCC explained the duties of ETCs and reaffirmed that receipt of
134 funds is not required to retain the obligation to offer voice service.¹² I provide
135 extended quotations from the pertinent paragraphs to capture the FCC’s meaning. It
136 stated as follows:

137 “In addition to finding that USTelecom has failed to meet the statutory
138 forbearance criteria with respect to its requests concerning ETC
139 designations and obligations, we find that requiring price cap carriers to
140 maintain their ETC designations and obligations in all census blocks where
141 they do not receive high-cost support is consistent with section 214(e)(1).
142 Likewise, we decline a request that we reinterpret section 214(e)(1) to
143 require that price cap carriers only provide voice services in areas where
144 they are *receiving* support.”¹³

145 “[w]e are not convinced by the argument that our decision in the USF/ICC
146 Transformation Order to target high-cost support to certain unserved areas
147 requires that we reinterpret section 214(e)(1) so that price cap carriers only
148 have ETC obligations where they receive high-cost support. The
149 Commission has previously found that the Act does not “require that all

¹¹ Mr. Slusher Testimony, Lines 47-49.

¹² Federal Communications Commission, *Memorandum Opinion and Order*, WC Docket 14-192 et al., FCC 15-166, Dec. 28, 2015, at 138-157 (“USTelecom Order”).

¹³ USTelecom Order at 138.

150 ETCs must receive support, but rather only that carriers meeting certain
151 requirements be eligible for support.”¹⁴

152 “We also continue to interpret section 214(e)(1) such that ETC obligations
153 flow from the ETC’s eligibility for support, and are not limited to the actual
154 receipt of federal high-cost universal service support. Section 214(e)(1)(A)
155 and (B) imposes obligations on ETCs with respect to “the services that are
156 supported by Federal universal support mechanisms under section 254(c).”
157 Although conceivably read in different ways, we remain persuaded to
158 interpret the quoted language to refer broadly to the services that the
159 Commission establishes as universal service, rather than only referring to
160 services insofar as an ETC actually receives universal service support for its
161 provision of them. Section 214(e)(1)(A) uses the same language in
162 describing the ETCs’ service obligation — “the services that are supported
163 by Federal universal service support mechanisms” — as section 254(c)(1)
164 uses to describe what the Commission establishes as the definition of
165 universal service under that provision. The Commission’s existing
166 definition of service that constitutes universal service under section
167 254(c)(1) does not vary depending on whether or not high-cost support
168 actually is received, supporting the view that ETCs’ service obligations
169 under section 214(e)(1) need not be read as varying on that basis, either.
170 The Conference Report also supports our view by characterizing section
171 214(e)(1) as imposing the obligation “that a common carrier designated as
172 an ‘eligible telecommunications carrier’ shall offer the services included in
173 the definition of universal service throughout the area specified by the State
174 commission, and that such services must be advertised generally throughout
175 that area” while recognizing the possibility that the ETC might not actually
176 receive support.”¹⁵

177 “We also disagree that we need to reinterpret section 214(e)(1) to “fully”
178 implement our goal of ensuring that broadband is available in high-cost
179 areas. While promoting the deployment of broadband is an objective of our
180 USF/ICC Transformation reforms, another objective is to preserve existing
181 voice service. We conclude that, by continuing to find that section
182 214(e)(1) requires that ETCs provide the supported service if they are
183 eligible for support, we are able to balance our dual objectives without
184 sacrificing one for the advancement of the other.”¹⁶

185 “To the extent that price cap carriers remain obligated to comply with state-
186 imposed regulations as a result of being ETCs, we find that price cap

¹⁴ USTelecom Order at 139.

¹⁵ USTelecom Order at 140.

¹⁶ USTelecom Order at 143.

187 carriers have not provided enough information beyond generalized
188 assertions regarding the state obligations that are imposed as a result of
189 them continuing to be ETCs, and whether they are eligible to receive any
190 type of funding to comply with those obligations so they have not
191 demonstrated that the support they receive from states is insufficient.”¹⁷

192 From this 2015 order, the FCC confirms that ETC obligations remain in force and
193 are not predicated on whether a carrier receives support.

194 I recommend a similar determination by this Commission in this matter.
195 Furthermore, consistent with ETC relinquishment procedures, the Commission
196 should find a replacement COLR for CenturyLink areas where it grants the
197 petitioned relief. Any COLR serving in Utah is eligible for Utah Universal Service
198 Fund support with the purpose to achieve the Legislative goal of offering public
199 telecommunications services throughout the state. Captive customers in
200 CenturyLink exchange areas should not be dismissed or their interests discarded
201 while CenturyLink seeks to offer more profitable service elsewhere.

202 **Q: Mr. Slusher states on line 96 of his Direct Testimony that there are currently**
203 **over 100 registered CLECs in the State of Utah approved to provide service**
204 **and compete in CenturyLink’s service areas. Is that statistic enough to exempt**
205 **CenturyLink from its COLR obligations statewide?**

206 **A:** No. The number of CLECs registered and approved to provide service and compete
207 in CenturyLink’s service areas is not determinative since none of the CLECs have
208 an obligation to serve every customer or class of customer that request service.
209 Unless and until a replacement COLR is identified, if CenturyLink is relieved of
210 their COLR obligations statewide, the State of Utah could have pockets of unserved
211 customers. I do not believe this to be in the public interest.

212 **Q: Does this end your Pre-filed Rebuttal Testimony?**

¹⁷ USTelecom Order at 150.

213 A: Yes. I request the opportunity to revise and/or supplement my testimony as new
214 information becomes available or issues arise.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Rebuttal Testimony of Douglas Meredith on behalf of URTA, Docket 23-049-01, was served the 16th day of November, 2023 as follows:

DIVISION OF PUBLIC UTILITIES (by email)

Patricia Schmid
p Schmid@agutah.gov

Patrick Greco
pgreco@agutah.gov

Chris Parker
chrisparker@utah.gov

Brenda Salter
Bsalter@utah.gov

OFFICE OF CONSUMER SERVICES (by email)

Robert Moore
rmoore@agutah.gov

Michele Beck
mbeck@utah.gov

Alyson Anderson
akanderson@utah.gov

Qwest Corporation (by email)

Katie Wagner
Katie.wagner@lumen.com



Kira M. Slawson