

July 1, 2024

Via Email:
psc@utah.gov

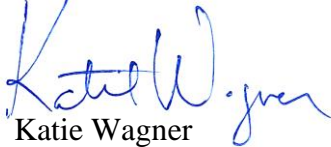
Gary Widerburg
Commission Administrator
Utah Public Service Commission
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City, UT 84111

RE: Docket No. 24-049-04
Formal Complaint of Ronald Moore Against CenturyLink

Dear Mr. Widerburg:

Attached for filing is CenturyLink's Motion to Dismiss and Motion to Submit Certificate of Good Standing as an out-of-state attorney in the above-referenced docket.

Sincerely,



Katie Wagner
Senior Corporate Counsel

Attachments

cc: Service List

- f. Complainant requests collections be stopped and for his credit rating to be repaired.
 - g. Complainant requests CenturyLink restore landline service and install fiber optic lines.
2. CenturyLink denies each and every allegation in the Complaint except for those which constitute admissions against the interest of the Complainant.
3. On April 22, 2024, prior to the filing of the formal Complaint, CenturyLink responded to an informal complaint on this matter, stating that the Complainant has not contacted CenturyLink since December 2022, and that on December 30, 2022, a CenturyLink technician completed repairs and performed a test call to confirm that the telephone service at Complainant's home was working properly. Since December 2022, there has been no communication from Complainant reporting service outage, disputing his monthly bills, or requesting to discontinue service. CenturyLink also confirmed Complainant's account had subsequently been deactivated for nonpayment. *See*, Complaint at Exhibit B.
4. On June 28, 2024, Comments from the Division of Public Utilities were filed stating that the Division of Public Utilities has no recommendation regarding this docket.
5. CenturyLink respectfully moves this Commission to dismiss with prejudice all claims and allegations because the Complaint on its face shows Complainant did not request to terminate service, Complainant did not report a service outage, and Complainant did not notify CenturyLink of alleged improper billing. The Complaint therefore fails to state a claim upon which relief may be granted. In support thereof, CenturyLink states as follows:

LEGAL AUTHORITY AND PERTINENT FACTS

6. The Utah Rules of Civil Procedure and case law interpreting those rules are persuasive authority in Commission adjudications. Utah Admin. Code § 746-1-105.

7. The Complaint is required to allege “a legal right, the invasion of which by defendant has caused damage to the plaintiff.” *Zubiate v. Am. Family Ins. Co.*, 2022 UT App 144, ¶ 16, 524 P.3d 148.

8. A complaint fails to state a claim when it “appears to a certainty that the plaintiff would be entitled to no relief under any state of facts which could be proved in support of the claim.” *Id.* at ¶ 29.

9. Here, the Complaint at Exhibit B shows that in the process of resolving the informal complaint, CenturyLink notified the Commission that Complainant’s service was working on December 30, 2022, and that Complainant never contacted CenturyLink for any reason after service was restored.

10. The Complaint at page 6 admits that Complainant did not pay CenturyLink for his December 2022 bill and has never paid any subsequent bills.

11. The Complaint was filed on May 29, 2024, and states for the first time that Complainant’s service allegedly went out on January 2, 2023. That is, Complainant waited approximately 513 days to notify CenturyLink that he believes his service went out on January 2, 2023.

12. The Complaint does *not* allege that Complainant ever notified CenturyLink on or after January 2, 2023, that there was any problem with the Complainant’s service. Nothing in the Complaint contradicts the statements in Complaint Exhibit B that Complainant was “correctly billed for service provided without request to disconnect.”

13. Similarly, Complainant does *not* allege that CenturyLink failed to submit monthly bills in violation of Utah Admin. Code § 746-240-4 (account billing), such that Complainant should be surprised to learn he was being billed for CenturyLink services.

14. If service was disrupted on January 2, 2023, the Complainant was capable of notifying CenturyLink of this outage by submitting an “online chat to report the outage” as Complainant had previously done on November 4, 2022. Complaint at page 6.

15. On its face, the Complaint demonstrates that Complainant could have notified CenturyLink of an alleged outage or billing issue, but that Complainant neglected to do so and simply stopped paying his bill.

16. As a result, the Complaint does not properly “specify the act committed or omitted by the public utility that is claimed to be in violation of the law or a rule or order of the commission.” Utah Code § 54-7-9 (complaints against utilities – scope).

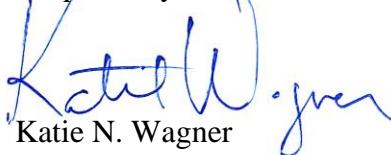
17. Because Complainant simply disregarded CenturyLink’s bills without notifying CenturyLink of any alleged service quality issues, the Complaint fails to state a claim upon which relief can be granted.

CONCLUSION

WHEREFORE, having fully answered, CenturyLink prays that the Complaint of Ronald Moore be wholly dismissed with prejudice, and for such further relief as the Commission deems just and equitable.

Dated this 1 day of July, 2024.

Respectfully submitted,



Katie N. Wagner
Senior Corporate Counsel
CENTURYLINK
(405) 669-8712

katie.wagner@lumen.com

ATTORNEYS FOR QWEST CORPORATION DBA
CENTURYLINK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing CENTURYLINK'S MOTION TO DISMISS FORMAL COMPLAINT was sent to the following parties on the date indicated below:

Complainant

Via UPS

Ronald Moore 1587 S. Denver St.
Salt Lake City, UT 84115

Utah Attorneys General

Via Email

Patricia Schmid pschmid@agutah.gov
Patrick Greco..... pgreco@agutah.gov
Robert Moore rmoore@agutah.gov

Utah Division of Public Utilities

Via Email

Madison Galt..... mgalt@utah.gov

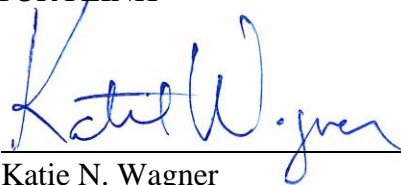
Office of Consumer Services

Via Email

Alyson Anderson..... akanderson@utah.gov
Bella Vastag bvastag@utah.gov
Alex Ware aware@utah.gov
Jacob Zachary..... jzachary@utah.gov
OCS ocs@utah.gov

DATED this 1 day of July, 2024.

CENTURYLINK

By: 
Katie N. Wagner

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

FORMAL COMPLAINT OF RONALD)
MOORE AGAINST CENTURYLINK)
)
)
_____)

Docket No. 24-049-04

MOTION TO SUBMIT CERTIFICATE OF GOOD STANDING

I, Katie N. Wagner, counsel for Qwest Corporation d/b/a CenturyLink QC (“CenturyLink”) and an attorney in good standing licensed to practice in the State of Oklahoma, respectfully move to submit to the Public Service Commission of Utah (“Commission”) a Certificate of Good Standing from the State Bar of Oklahoma, attached hereto as **Exhibit 1**, in order to represent CenturyLink before the Commission pursuant to Utah Admin. Code section R746-1-107(1)(a)(ii).

Respectfully submitted this 1 day of July 2024.

CENTURYLINK

By: 

Katie N. Wagner, OK Bar #33296
Senior Corporate Counsel
katie.wagner@lumen.com
405-669-8712

OKLAHOMA BAR ASSOCIATION

Office of the General Counsel

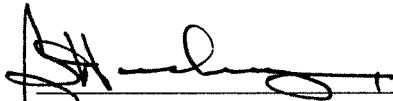
CERTIFICATE

STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA)

Gina L. Hendryx, being duly sworn, deposes and says:

That she is the General Counsel of the Oklahoma Bar Association, under the Rules Creating and Controlling the Oklahoma Bar Association as adopted and promulgated by the Supreme Court of the State of Oklahoma, and as such has access to the records and files showing the date of admission and the standing of all attorneys admitted to practice by the Supreme Court.

That KATIE NAOMI WAGNER, OBA #33296, was admitted to the practice of law by the Supreme Court of Oklahoma on September 26, 2017 and is an active member in good standing of the Oklahoma Bar Association.



Gina L. Hendryx
General Counsel

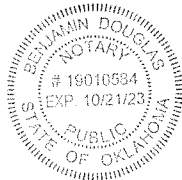
The foregoing was subscribed and sworn to before me under penalty of perjury pursuant to the laws of the State of Oklahoma on the 9th day of June 2023 by Gina L. Hendryx.



NOTARY PUBLIC

My Commission Expires:
_____ 10/21/23

Commission Number:
_____ 19010584



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