

ORIGINAL



0000136929

BEFORE THE ARIZONA CORPORAT

RECEIVED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COMMISSIONERS

GARY PIERCE- Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

2012 MAY 11 P 2:46

ARIZONA CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF
QWEST CORPORATION D/B/A
CENTURYLINK-QC TO CLASSIFY AND
REGULATE RETAIL LOCAL EXCHANGE
TELECOMMUNICATIONS SERVICES AS
COMPETITIVE AND TO CLASSIFY AND
DEREGULATE CERTAIN SERVICES AS
NON-ESSENTIAL.

DOCKET NO. T-01051B-11-0378

**STAFF'S NOTICE OF FILING
SETTLEMENT AGREEMENT AND
REQUEST FOR PROCEDURAL ORDER**

The Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission"), on behalf of the Signatories to the Proposed Settlement Agreement ("Agreement"), hereby provides notice of filing the Agreement in the above-referenced matter.

Staff also requests that the following procedural schedule govern the further processing of this matter.

Filed Testimony in Support/Opposition to Agreement May 25, 2012

Hearing date(s) for the Agreement June 5, 2012

Under the current procedural schedule, the hearing is set to begin on June 4, 2012. Staff asks for that date to be changed to June 5, 2012 in order to accommodate a scheduling conflict of one of the parties. Although Staff anticipates that one day of hearing will be sufficient, Staff also requests that June 6, 2012 be reserved for an additional hearing date, if necessary.

Staff has conferred with the other parties regarding this request, and the other parties have no objection.

Arizona Corporation Commission
RESPECTFULLY SUBMITTED this 17th day of May 2012.

MAY 17 2012
DOCKETED BY TSM.

Janet F. Wagner
Maureen A. Scott, Senior Staff Counsel
Janet F. Wagner, Assistant Chief Counsel
Scott Hesla, Staff Counsel
Arizona Corporation Commission – Legal Division
1200 West Washington Street
Phoenix, Arizona 85007

1 Original and thirteen (13) copies
of the foregoing filed this
2 17th day of May, 2012 with:

3 Docket Control
Arizona Corporation Commission
4 1200 West Washington Street
Phoenix, Arizona 85007
5

6 Copy of the foregoing mailed this
7 17th day of May, 2012 to:

8 Norman G. Curtright
Associate General Counsel
CenturyLink, Inc.
9 20 East Thomas Road, 1st Floor
Phoenix, Arizona 85012-3114
10

Daniel D. Haws II
OSJA
Attn: ATZS-JAD
USA Intelligence Center & Fort Huachuca
Fort Huachuca, Arizona 85613-6000

11 Daniel W. Pozefsky
Residential Utility Consumer Office
1110 West Washington Street, Suite 220
12 Phoenix, Arizona 85007

Roseann Osorio

13 Joan S. Burke
Law Office of Joan S. Burke
14 1650 North First Avenue
Phoenix, Arizona 85003
15 Attorney for tw telecom of arizona, llc

16 Stephen S. Melnikoff, General Attorney
Regulatory Law Office (JALS-RL/IP)
17 US Army Legal Services Agency
9275 Gunston Road
18 For Belvoir, Virginia 22060-5546
Attorney for DOD/FEA
19

20 August H. Ankum
1520 Spruce Street, Suite 306
Philadelphia, Pennsylvania 19102
21

22 Patrick L. Phipps
3504 Sundance Drive
Springfield, Illinois 62711
23

24 Michael M. Grant
Gallagher & Kennedy, P.A.
2575 East Camelback Road
25 Phoenix, Arizona 85016-9225
Attorneys for AIC
26

27 Gary Yaquinto, President & CEO
Arizona Investment Council
2100 North Central Avenue, Suite 210
28 Phoenix, Arizona 85004

**Proposed Settlement Agreement
Docket No.T-01051B-11-0378**

**In the Matter of the Application of Qwest Corporation dba Century Link-
QC to Classify and Regulate Retail Local Exchange Telecommunications
Services as Competitive and to Classify and Deregulate Certain Services as
Nonessential**

The purpose of this Settlement Agreement ("Agreement") is to settle disputed issues related to Docket No. T-01051B-11-0378. This Agreement is entered into by the following entities:

Arizona Corporation Commission Utilities Division ("Staff")

Qwest Corporation dba Century Link-QC ("Century Link")

Residential Utility Consumer Office ("RUCO")

Arizona Investment Council ("AIC")

These entities shall be referred to collectively as "Signatories;" a single entity shall be referred to individually as a "Signatory."

I. RECITALS

- 1.1 Century Link filed the application underlying Docket No. T-01051B-11-0378 on October 13, 2011.
- 1.2 Subsequently, the Commission approved applications to intervene filed by RUCO, AIC, the Department of Defense/Federal Executive Agencies ("DoD/FEA"), and tw telecom of Arizona, LLC..
- 1.3 The Signatories conducted settlement discussions in this matter that were open, transparent, and inclusive of all parties to this docket who desired to participate.
- 1.4 The terms of this Agreement are just, reasonable, fair, and in the public interest in that they, among other things, establish just and reasonable classifications for ratemaking purposes; resolve issues arising from this docket; and avoid unnecessary litigation expense and delay.
- 1.5 The Signatories ask the Commission 1) to find that the terms and conditions of this Agreement are just, reasonable, and in the public interest; and 2) to approve the Agreement as written.

TERMS AND CONDITIONS

II. Competitive Classifications Approved Subject to Conditions

In order to settle the principal disputed issues in this matter, the Signatories agree as follows:

- 2.1 In connection with CenturyLink's Rule 1108 Competitive Classification Application, services shall be considered to be competitive and in compliance with Rule 1108, subject to the conditions set forth in paragraphs 2.2, 2.3 and 2.4 ("Competitive Classification Approved Subject to Conditions").
- 2.2 CenturyLink may file a proceeding under Rule 1110 to increase its rates.
 - a. For a period of three years from the date an order is entered by the Commission in this docket approving this agreement or otherwise resolving this petition (the "Order Approving Settlement"), CenturyLink shall not be entitled to increase its maximum rates for residential services or for small and medium business services greater than 25% over present rates.
 - b. In connection with the filing under Rule 1110 described above, CenturyLink may thereafter file under Rule 1109 to increase its actual rates by no more than 10% annually for residential services during the three years following the Order Approving Settlement and no more than 15% annually for small and medium business services during the three years following the Order Approving Settlement.
 - c. Staff agrees not to contest a request by CenturyLink under Rule 1110 to increase the maximum rates for services as set forth in paragraph 2(a) above or a request by CenturyLink under Rule 1109 to change the actual rates as set forth in paragraph 2(b) above. No other party shall be constrained from opposing Rule 1110 increases requested by CenturyLink.
 - d. No other consensual limitations apply to maximum rates for the above three year period. Enterprise services are considered fully competitive and may be increased pursuant to a Rule 1110 proceeding. Services already found to be competitive under Rule 1108 are not subject to the conditions in paragraphs 2(a) and 2(b) above. The services previously classified as competitive under Rule 1108 are listed in Attachment A.
 - e. CenturyLink agrees for a period of three years from the date of the Order Approving Settlement to charge statewide uniform rates for services subject to paragraphs 2(a) and 2(b) above. Thereafter, CenturyLink agrees to continue to charge uniform rates unless it specifically requests and is granted Commission authorization to deaverage rates in a filing pursuant to Rule 1110.
- 2.3 CenturyLink will file semi-annual reports with the Commission, Staff, and RUCO for a period of three years, commencing six months after the date of the Order Approving Settlement, setting forth data to be agreed with Staff and RUCO showing the state of competition in the State.
- 2.4 After the expiration of at least 30 months from the date of the Order Approving Settlement, CenturyLink may make an additional submission in this docket,

demonstrating that competition for voice services in Arizona is the same or greater than the levels CenturyLink's testimony and evidence claim exist at the time of the filing of the Application in this docket. CenturyLink's additional submission shall be based on competitive reports, data and statistics, including but not limited to the National Center for Health Statistics Wireless Substitution Report, the Federal Communications Commission ("FCC") Local Competition Report, and the FCC Internet Access Services Report. CenturyLink in such filing shall demonstrate that:

- a. The percentage of consumers who have no landline voice connection, as specified in the National Center for Health Statistics Report, shall be 30% or greater;¹
- b. Wireless connections, as set forth in the FCC's Local Competition Report, shall represent 65% or greater of total voice connections in Arizona;² and
- c. Access to VOIP providers shall be measured by xDSL broadband availability in Arizona, as set forth in the FCC Internet Access Services Report, and shall be 88% of households or greater.³

Upon such a filing by CenturyLink and verification by Staff, the Signatories stipulate that the conditions set forth in paragraphs 2.2, 2.3, and 2.4 shall terminate six months after such filing. CenturyLink may thereafter file, in its discretion, requests for additional pricing flexibility pursuant to the streamlined ratemaking procedures of Rule 1110, and the other parties hereto reserve their rights to object to any filings under Rule 1110.

2.5 After the expiration of three years from the date of the Order Approving Settlement, if CenturyLink does not make the showing described in Paragraph 2.4 above, CenturyLink may continue to seek rate changes pursuant to Rule 1110 (unless the Commission makes a finding that its services are not competitive). However, the Commission may consider that the conditions in Paragraph 2.4 above have not been demonstrated in its evaluation of the Rule 1110 filing.

2.6 The Signatories stipulate to the Staff's recommendations on the deregulation of services requested by CenturyLink in its application to be de-regulated. These services to be deregulated are listed in Attachment B.

¹ Based on "Wireless Substitution: Early Release of Estimates From the National Health Interview Survey," which is released by the National Center for Health Statistics every six months. The metric is the percent of American households that are wireless-only, as delineated in Table 1 of the report released 12-21-11.

² Based on "Local Telephone Competition: Status as of XXX" released by the FCC's Industry and Analysis and Technology Division twice a year. The percentage Metric is based on the quantity of Arizona wireless connections as shown in Table 17, and the ILEC and non-ILEC lines shown in Tables 12 and 13 (in report dated October 2011).

³ Based on "Internet Access Services: Status as of XXX" released by the FCC's Industry and Analysis and Technology Division twice a year. The Metric for Arizona is provided in table 24, column 1, of the report dated October 2011.

- 2.7 The Signatories stipulate that CenturyLink shall not hereafter be required to make a rate case filing under Rule 103, unless the Commission makes a finding that CenturyLink's services are not competitive.
- 2.8 All rates, terms, conditions and requirements now applicable to wholesale services in Arizona are unchanged by this Agreement, including those treated under Basket 4 in the Price Cap Plan.
- 2.9 The Signatories agree that, upon issuance of the Order Approving Settlement, the procedures for setting rates established in the current Price Cap Plan approved by the Commission in Decision No. 68604 (Docket No. T-01051B-03-0454) will be superseded by implementation of the foregoing provisions. CenturyLink may continue to operate under the terms and conditions of service and the rates contained in Decision No. 68604 until new rates are filed under either Rule 1110 or Rule 1109 for each service, as described above.
- 2.10 Until further order by the Commission, CenturyLink agrees to be bound by existing statutes and rules in effect, including but not limited to R14-2-503(C) and rules regarding the provision of services to qualifying low income customers.
- 2.11 CenturyLink and DoD/FEA agree to request withdrawal of their agreement filed on April 19, 2012 from Commission consideration in this docket, and the remaining Signatories agree not to oppose the withdrawal of that agreement from Commission consideration in this docket.
- 2.12 CenturyLink agrees to continue to comply with the Service Quality Plan developed for Qwest Corporation.

III. COMMISSION EVALUATION OF PROPOSED SETTLEMENT

- 3.1 All currently filed testimony and exhibits shall be offered into the Commission's record as evidence.
- 3.2 The Signatories recognize that Staff does not have the power to bind the Commission. For purposes of proposing a settlement agreement, Staff acts in the same manner as any party to a Commission proceeding.
- 3.3 This Agreement shall serve as a procedural device by which the Signatories will submit their proposed settlement of Century Link's pending application, Docket No. T-01051B-11-0378, to the Commission.
- 3.4 The Signatories recognize that the Commission will independently consider and evaluate the terms of this Agreement. If the Commission issues an order adopting all material terms of this Agreement, such action shall constitute Commission approval of the Agreement. Thereafter, the Signatories shall abide by the terms as approved by the Commission.
- 3.5 If the Commission fails to issue an order adopting all material terms of this Agreement, any or all of the Signatories may withdraw from this Agreement, and such Signatory or Signatories may pursue without prejudice their respective remedies at law. For purposes of this Agreement, whether a term is material shall be left to the discretion of the Signatory choosing to withdraw from the Agreement. If a Signatory withdraws from the Agreement pursuant to this

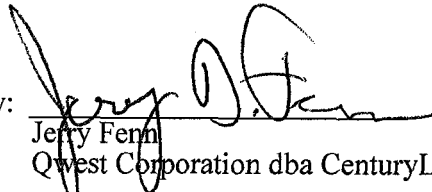
paragraph and files an application for rehearing, the other Signatories, except for Staff, shall support the application for rehearing by filing a document with the Commission that supports approval of the Agreement in its entirety. Staff shall not be obligated to file any document or take any position regarding the withdrawing Signatory's application for rehearing.

IV. MISCELLANEOUS PROVISIONS

- 4.1** To achieve consensus for settlement, the Signatories are accepting positions that, in any other circumstances, they would be unwilling to accept. They are doing so because this Agreement, as a whole, is consistent with their long-term interests and with the broad public interest. The acceptance by any Signatory of a specific element of this Agreement shall not be considered as precedent for acceptance of that element in any other context.
- 4.2** No Signatory is bound by any position asserted in negotiations, except as expressly stated in this Agreement. No Signatory shall offer evidence of conduct or statements made in the course of negotiating this Agreement before this Commission, any other regulatory agency, or any court.
- 4.3** Neither this Agreement nor any of the positions taken in this Agreement by any of the Signatories may be referred to, cited, or relied upon as precedent in any proceeding before the Commission, any other regulatory agency, or any court for any purpose except to secure approval of this Agreement and enforce its terms.
- 4.4** To the extent any provision of this Agreement is inconsistent with any existing Commission order, rule, or regulation, this Agreement shall control.
- 4.5** Each of the terms of this Agreement is in consideration of all other terms of this Agreement. Accordingly, the terms are not severable.
- 4.6** The Signatories shall make reasonable and good faith efforts to obtain a Commission order approving this Agreement. The Signatories shall support and defend this Agreement before the Commission. Subject to paragraph 3.5, if the Commission adopts an order approving all material terms of the Agreement, the Signatories will support and defend the Commission's order before any court or regulatory agency in which it may be at issue.
- 4.7** This Agreement may be executed in any number of counterparts and by each Signatory on separate counterparts, each of which when so executed and delivered shall be deemed an original and all of which taken together shall constitute one and the same instrument. This Agreement may also be executed electronically or by facsimile.

Docket No. T-01051B-11-0378

QWEST CORPORATION dba CENTURYLINK, INC.

By: 
Jerry Fenn
Qwest Corporation dba CenturyLink, Inc.

Dated: May 15, 2012

Docket No. T-01051B-11-0378

ARIZONA CORPORATION COMMISSION

By: 

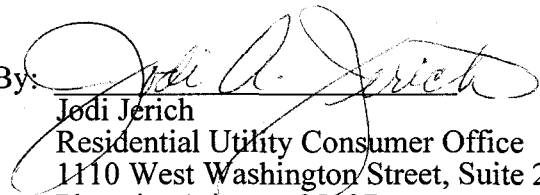
Steve M. Olea
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007

Dated: May 16, 2012

Docket No. T-01051B-11-0378

RESIDENTIAL UTILITY CONSUMER OFFICE

By:

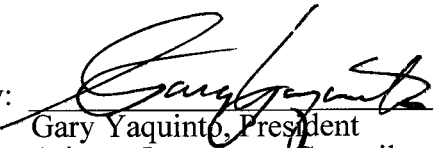


Jodi Jerich
Residential Utility Consumer Office
1110 West Washington Street, Suite 220
Phoenix, Arizona 85007

Dated:

5-17-2012

ARIZONA INVESTMENT COUNCIL

By: 
Gary Yaquinto, President
Arizona Investment Council
2100 North Central Avenue, Suite 210
Phoenix, Arizona 85004

Dated: 5/15/2012

SETTLEMENT AGREEMENT

Docket No. T-01051B-11-0378

Attachment A

Services Previously Found to Be Competitive

Service	Docket No.	Decision No.
MTS, Private Line, WATS, 800 Service, and Optional Calling Plans	T-01051B-96-0160	Decision No. 59637
Directory Assistance	T-01051B-99-0362	Decision No. 62129
Centrex Prime	T-01051B-97-0528	Decision No. 61089
ATM Cell Relay Service	T-01051B-97-0368	Decision No. 61328
National Directory Assistance	T-01051B-97-0369	Decision No. 60545

Docket No. T-01051B-11-0378
Settlement Agreement
EXHIBIT B
Services Recommended for Deregulation

C10.10.4	TRAFFIC DATA REPORTING SERVICE
C13.2	PREMISES WORK CHARGES
C13.2.1	NETWORK PREMISES WORK CHARGES
C13.3	RESIDENCE MAINTENANCE PLANS
C13.4	BUSINESS MAINTENANCE PLANS
C3.1.9	EXPRESS CHANGE CHARGES
Q4.1.1	SERVICE DATE CHANGE
Q4.1.10	MAINTENANCE OF SERVICE
Q4.1.11	ADDITIONAL ENGINEERING
Q4.1.12	ADDITIONAL LABOR
Q4.1.13	ADDITIONAL ENGINEERING AND LABOR CHARGES
Q4.1.14	ACCEPTANCE TESTING
Q4.1.15	TESTING SERVICES
Q4.1.16	TESTING CHARGES
Q4.1.17	DISPATCH CHARGE
Q4.1.2	DESIGN CHANGE
Q4.1.3	CANCELLATION OF APPLICATION FOR SERVICE
Q4.1.4	EXPEDITE
Q4.1.5	DESIGN LAYOUT REPORT
Q4.1.6	SPECIAL CONSTRUCTION
Q4.1.8	MAINTAINING FACILITIES
Q4.4	PROTECTION SERVICE FOR HIGH VOLTAGE ENVIRONMENTS
Q4.1.9	REPAIR OF FACILITIES
C10.10.1	MESSAGE DELIVERY SERVICE
C10.10.2	MESSAGE WAITING INDICATION
C25.1	CUSTOMIZED SERVICE EQUIPMENT OR SERVICE ARRANGEMENTS
C.10.10.5	CALL EVENT AND MANAGEMENT SIGNALING SERVICE (CEMSS) SUBSCRIBER
C9.4.6	NEXT CONNECTS
C10.5.2	CODE BILLING
C5.4.7	INTRACALL SERVICE
C9.4.4	UNIFORM CALL DISTRIBUTION
C9.4.5	CO-AUTO CALL DISTRIBUTION (CO-ACD)
Q3.2.2	NONRECURRING CHARGES
Q4.3.2	FACILITIES PROTECTION- SPECIAL FACILITIES ROUTING
Q4.5	COMMANDALINK-NETWORK RECONFIGURATION SERVICE
Q5.3	CUSTOM SERVICE ARRANGEMENTS
Q6.2.19	QWAVE SERVICE
Q6.2.5	AUDIO SERVICE
Q6.2.8	EXCHANGE SERVICE EXTENSIONS
Q6.2.9	TELEPHONE ANSWERING SERVICE