

ORIGINAL
OPEN MEETING



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MEMORANDUM

Arizona Corporation Commission

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TO: THE COMMISSION AUG 27 2013

2013 AUG 27 A 11:43

FROM: Utilities Division

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AZ CORP COMMISSION
DOCKET CONTROL

DATE: August 27, 2013

RE: IN THE MATTER OF THE JOINT APPLICATION OF QWEST CORPORATION D/B/A CENTURYLINK QC, QWEST COMMUNICATIONS COMPANY, LLC, QWEST LD CORP. D/B/A QWEST LONG DISTANCE, EMBARQ COMMUNICATIONS, INC. D/B/A CENTURYLINK COMMUNICATIONS AND EMBARQ PAYPHONE SERVICES, INC. FOR APPROVAL OF A WAIVER OF COMPLIANCE WITH THE PROVISIONS OF ACC RULES RELATING TO PUBLIC UTILITY HOLDING COMPANIES AND AFFILIATED INTERESTS ARIZONA ADMINISTRATIVE CODE, TITLE 14, ARTICLE 8. (DOCKET NOS. T-01051B-13-0218, T-02811B-13-0218, T-04190A-13-0218, T-20443A-13-0218, T-03555A-13-0218)

INTRODUCTION

On June 28, 2013, Qwest Corporation d/b/a CenturyLink QC, Qwest Communications Company, LLC d/b/a CenturyLink QCC, Qwest LD Corp. d/b/a CenturyLink LD, Embarq Communications, Inc. d/b/a CenturyLink Communications, and Embarq Payphone Services, Inc. d/b/a CenturyLink on behalf of themselves and their parent corporation CenturyLink, Inc. (collectively the "CenturyLink Companies") filed an application requesting a waiver from the Arizona Corporation Commission ("Commission") Arizona Administrative Code ("A.A.C.") Public Utility Holding Companies and Affiliated Interests Rules R14-2-803 through R14-2-805 (the "Affiliated Interest Rules").

BACKGROUND

On January 24, 2013, the State of Arizona Fifty-first Legislature First Regular Session introduced House Bill 2482 ("HB 2482") which amends Arizona Revised Statute ("A.R.S.") 40-285. A.R.S. § 40-285 requires Commission approval of the disposition of plant by a public service corporation and acquisition of capital stock of a public service corporation by other public service corporations. HB 2482 adds language to A.R.S. § 40-285 that exempts telecommunications corporations whose retail services are all classified as competitive by the Commission from the requirements specified therein. HB 2482 was passed by the Arizona Legislature on May 1, 2013, signed by the Governor on May 2, 2013, and will become effective on September 13, 2013. Below is the specific language added to A.R.S. § 40-285:

F. This section does not apply to a telecommunications corporation whose retail telecommunications services are all classified as competitive by the Commission, except as may otherwise be determined by a Commission order after the effective date of this amendment to this section.

The Commission's Affiliated Interest Rules specify restrictions regarding transactions between Class A public utilities and their affiliates. A.A.C. R14-2-803 requires a public utility to notice the Commission of its intention to organize or reorganize a public utility holding company including specific financial and organizational information, diversification plans, and changes to the cost of service and the cost of capital related to reorganization. A.A.C. R14-2-804 restricts a public utility from transacting business with an affiliate unless the books and records of the affiliate are made available to the Commission. A.A.C. R14-2-805 requires annual reports from public utilities relating to the diversification plans and other business activities between the utility and its affiliates.

STAFF ANALYSIS

The CenturyLink Companies (with the exception of Qwest Corporation d/b/a CenturyLink QC ("CenturyLink QC")) were each granted a Certificate of Convenience and Necessity ("CC&N") to provide competitive telecommunications services in Decision Nos. 66612 (December 9, 2003) and 68447 (February 2, 2006), 66613 (December 9, 2003), 68828 (June 26, 2006), and 61049 (August 6, 1998), respectively. CenturyLink QC is an incumbent local exchange carrier as defined by the Telecommunications Act of 1934 (as amended) and A.A.C. R14-2-1302.10. In Decision No. 73354 (August 21, 2012), the Commission approved a settlement agreement which granted CenturyLink QC's request to have its retail local exchange services classified as competitive, subject to conditions, pursuant to A.A.C. R14-2-1108.

In its application, the CenturyLink Companies contend that the Affiliated Interest Rules overlap the transactions identified in A.R.S. § 40-285 (although more extensive in scope) and therefore, the logic for exempting telecommunications corporations whose services have been classified as competitive by the Commission from the A.R.S. § 40-285 should apply to the Commission's Affiliated Interest Rules. Staff believes there is some merit to this argument.

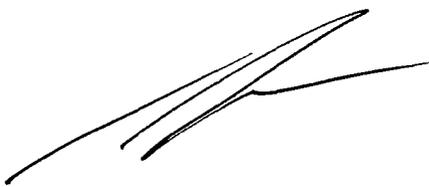
The CenturyLink companies make the request pursuant to A.A.C. R14-2-806, which provides that the Commission may waive compliance with any of the provisions of the Affiliated Interest Rules upon finding that such a waiver is in the public interest. Staff believes a waiver is in the public interest subject to the following conditions which should be included as part of the annual report filed with the Commission pursuant to A.A.C. R14-2-510-G.4:

- Should the CenturyLink Companies or any affiliate organize or reorganize an existing public utility holding company, an organizational chart of the holding company that identifies all affiliates and their relationships within the holding company (refer to A.A.C. R14-2-803.A.5).

- Reference to all relevant documents and filings made in compliance with the Securities and Exchange Commission ("SEC") and any other federal or state agencies (refer to A.A.C. R14-2-803.A.9).
- The name, home office location, and description of the CenturyLink Companies' affiliates with whom the transactions occur, their relationship to each other and the public utility, and the general nature of their business (refer to A.A.C. R14-2-805.A.1).
- A description of any contracts or agreements to receive or provide management, engineering, accounting, legal, financial (or other similar services), purchase or sell goods or real property including the dollar amount transferred between the CenturyLink Companies and each affiliate and purpose of each transfer during the annual period (refer to A.A.C. R14-2-805.A.8 – 10). Only transactions in the amount of \$50,000,000 or greater would be included.

Staff believes that the above information would allow the Commission to see the activities that take place between the CenturyLink Companies and any affiliates and allow for further investigation, if necessary. To the extent that the information above is provided in order to comply with any SEC reporting requirements, the CenturyLink Companies may elect to cite the reports filed with the SEC that would contain the information above. In order to have access to the information above on a continuing basis, the annual report form prescribed by the Commission will be amended to require the additional information.

Therefore, Staff recommends that the CenturyLink Companies be granted a waiver of A.A.C. R14-2-803 through A.A.C. R14-2-805, pursuant to A.A.C. R14-2-806, until further order of the Commission. However, Staff recommends that the CenturyLink Companies be required to file the information required in A.A.C. R14-2-803.A.5., A.A.C. R14-2-803.A.9., A.A.C. R14-2-805.A.1., and A.A.C. R14-2-805.A.8-10 or cite the reports filed with the SEC that would contain the required information as part of the annual report filed with the Commission pursuant to A.A.C. R14-2-510-G.4 beginning with the annual report to be filed in 2014.



Steven M. Olea
Director
Utilities Division

SMO:CLA:sms\MAS

ORIGINATOR: Candrea Allen

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BEFORE THE ARIZONA CORPORATION COMMISSION

- BOB STUMP
Chairman
- GARY PIERCE
Commissioner
- BRENDA BURNS
Commissioner
- BOB BURNS
Commissioner
- SUSAN BITTER SMITH
Commissioner

IN THE MATTER OF THE JOINT APPLICATION OF QWEST CORPORATION D/B/A CENTURYLINK QC, QWEST COMMUNICATIONS COMPANY, LLC, QWEST LD CORP. D/B/A QWEST LONG DISTANCE, EMBARQ COMMUNICATIONS, INC. D/B/A CENTURYLINK COMMUNICATIONS AND EMBARQ PAYPHONE SERVICES, INC. FOR APPROVAL OF A WAIVER OF COMPLIANCE WITH THE PROVISIONS OF ACC RULES RELATING TO PUBLIC UTILITY HOLDING COMPANIES AND AFFILIATED INTERESTS ARIZONA ADMINISTRATIVE CODE, TITLE 14, ARTICLE 8.

DOCKET NOS. T-0105B-13-0218,
T-02811B-13-0218, T-04190A-13-0218,
T-20443A-13-0218, T-03555A-13-0218

DECISION NO. _____
ORDER

Open Meeting
September 10 and 11, 2013
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Qwest Corporation d/b/a CenturyLink QC, Qwest Communications Company, LLC d/b/a CenturyLink QCC, Qwest LD Corp. d/b/a CenturyLink LD, Embarq Communications, Inc. d/b/a CenturyLink Communications, and Embarq Payphone Services, Inc. d/b/a CenturyLink on behalf of themselves and their parent corporation CenturyLink, Inc. (collectively the "CenturyLink ...

1 Companies”) are certificated to provide telecommunications services within the State of Arizona,
2 pursuant to authority granted by the Arizona Corporation Commission (“Commission”).

3 INTRODUCTION

4 2. On June 28, 2013, Qwest Corporation d/b/a CenturyLink QC, Qwest
5 Communications Company, LLC d/b/a CenturyLink QCC, Qwest LD Corp. d/b/a CenturyLink
6 LD, Embarq Communications, Inc. d/b/a CenturyLink Communications, and Embarq Payphone
7 Services, Inc. d/b/a CenturyLink on behalf of themselves and their parent corporation
8 CenturyLink, Inc. (collectively the “CenturyLink Companies”) filed an application requesting a
9 waiver from the Arizona Corporation Commission (“Commission”) Arizona Administrative Code
10 (“A.A.C.”) Public Utility Holding Companies and Affiliated Interests Rules R14-2-803 through
11 R14-2-805 (the “Affiliated Interest Rules”).

12 BACKGROUND

13 3. On January 24, 2013, the State of Arizona Fifty-first Legislature First Regular
14 Session introduced House Bill 2482 (“HB 2482”) which amends Arizona Revised Statute
15 (“A.R.S.”) 40-285. A.R.S. § 40-285 requires Commission approval of the disposition of plant by a
16 public service corporation and acquisition of capital stock of a public service corporation by other
17 public service corporations. HB 2482 adds language to A.R.S. § 40-285 that exempts
18 telecommunications corporations whose retail services are all classified as competitive by the
19 Commission from the requirements specified therein. HB 2482 was passed by the Arizona
20 Legislature on May 1, 2013, signed by the Governor on May 2, 2013, and will become effective on
21 September 13, 2013. Below is the specific language added to A.R.S. § 40-285:

22
23 F. This section does not apply to a telecommunications corporation
24 whose retail telecommunications services are all classified as
25 competitive by the Commission, except as may otherwise be
26 determined by a Commission order after the effective date of this
27 amendment to this section.

28 4. The Commission’s Affiliated Interest Rules specify restrictions regarding
transactions between Class A public utilities and their affiliates. A.A.C. R14-2-803 requires a

1 public utility to notice the Commission of its intention to organize or reorganize a public utility
2 holding company including specific financial and organizational information, diversification plans,
3 and changes to the cost of service and the cost of capital related to reorganization. A.A.C. R14-2-
4 804 restricts a public utility from transacting business with an affiliate unless the books and
5 records of the affiliate are made available to the Commission. A.A.C. R14-2-805 requires annual
6 reports from public utilities relating to the diversification plans and other business activities
7 between the utility and its affiliates.

8 **STAFF ANALYSIS**

9 5. The CenturyLink Companies (with the exception of Qwest Corporation d/b/a
10 CenturyLink QC ("CenturyLink QC")) were each granted a Certificate of Convenience and
11 Necessity ("CC&N") to provide competitive telecommunications services in Decision Nos. 66612
12 (December 9, 2003) and 68447 (February 2, 2006), 66613 (December 9, 2003), 68828 (June 26,
13 2006), and 61049 (August 6, 1998), respectively. CenturyLink QC is an incumbent local exchange
14 carrier as defined by the Telecommunications Act of 1934 (as amended) and A.A.C. R14-2-
15 1302.10. In Decision No. 73354 (August 21, 2012), the Commission approved a settlement
16 agreement which granted CenturyLink QC's request to have its retail local exchange services
17 classified as competitive, subject to conditions, pursuant to A.A.C. R14-2-1108.

18 6. In its application, the CenturyLink Companies contend that the Affiliated Interest
19 Rules overlap the transactions identified in A.R.S. § 40-285 (although more extensive in scope)
20 and therefore, the logic for exempting telecommunications corporations whose services have been
21 classified as competitive by the Commission from the A.R.S. § 40-285 should apply to the
22 Commission's Affiliated Interest Rules. Staff believes there is some merit to this argument.

23 7. The CenturyLink companies make the request pursuant to A.A.C. R14-2-806, which
24 provides that the Commission may waive compliance with any of the provisions of the Affiliated
25 Interest Rules upon finding that such a waiver is in the public interest. Staff believes a waiver is in
26 the public interest subject to the following conditions which should be included as part of the
27 annual report filed with the Commission pursuant to A.A.C. R14-2-510-G.4:

28 ...

- 1 • Should the CenturyLink Companies or any affiliate organize or reorganize an existing
2 public utility holding company, an organizational chart of the holding company that
3 identifies all affiliates and their relationships within the holding company (refer to A.A.C.
4 R14-2-803.A.5).
- 5 • Reference to all relevant documents and filings made in compliance with the Securities and
6 Exchange Commission ("SEC") and any other federal or state agencies (refer to A.A.C.
7 R14-2-803.A.9).
- 8 • The name, home office location, and description of the CenturyLink Companies' affiliates
9 with whom the transactions occur, their relationship to each other and the public utility, and
10 the general nature of their business (refer to A.A.C. R14-2-805.A.1).
- 11 • A description of any contracts or agreements to receive or provide management,
12 engineering, accounting, legal, financial (or other similar services), purchase or sell goods
13 or real property including the dollar amount transferred between the CenturyLink
14 Companies and each affiliate and purpose of each transfer during the annual period (refer
15 to A.A.C. R14-2-805.A.8 – 10). Only transactions in the amount of \$50,000,000 or greater
16 would be included.

17 8. Staff believes that the above information would allow the Commission to see the
18 activities that take place between the CenturyLink Companies and any affiliates and allow for
19 further investigation, if necessary. To the extent that the information above is provided in order to
20 comply with any SEC reporting requirements, the CenturyLink Companies may elect to cite the
21 reports filed with the SEC that would contain the information above. In order to have access to the
22 information above on a continuing basis, the annual report form prescribed by the Commission
23 will be amended to require the additional information.

24 9. Therefore, Staff recommends that the CenturyLink Companies be granted a waiver
25 of A.A.C. R14-2-803 through A.A.C. R14-2-805, pursuant to A.A.C. R14-2-806, with the
26 condition that the information contained in Finding of Fact No. 7 be filed with Qwest Corporation
27 d/b/a CenturyLink QC's Utilities Division annual report.

CONCLUSIONS OF LAW

28 1. The CenturyLink Companies are Arizona public service corporations within the
meaning of Article XV, Section 2, of the Arizona Constitution.

2. The Commission has jurisdiction over the CenturyLink Companies and over the
subject matter of the Application.

1 IT IS FURTHER ORDERED that if the information specified in the above ordering
 2 paragraphs is available in any report filed with the Securities and Exchange Commission, the
 3 CenturyLink Companies may elect to cite the report filed with the Securities and Exchange
 4 Commission.

5 IT IS FURTHER ORDERED that this decision remain in effect until further order of the
 6 Commission.

7 IT IS FURTHER ORDERED that this Order shall become effective immediately.

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9 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

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CHAIRMAN

COMMISSIONER

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COMMISSIONER

COMMISSIONER

COMMISSIONER

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IN WITNESS WHEREOF, I, JODI JERICH, Executive
 Director of the Arizona Corporation Commission, have
 hereunto, set my hand and caused the official seal of this
 Commission to be affixed at the Capitol, in the City of
 Phoenix, this _____ day of _____, 2013.

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 JODI JERICH
 EXECUTIVE DIRECTOR

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DISSENT: _____

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DISSENT: _____

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SMO:CLA:sms/MAS

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1 SERVICE LIST FOR: Qwest Corporation dba CenturyLink QC, et al.
2 DOCKET NOS. T-01051B-13-0218 et al

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