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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

Arizona Corporation Commission

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IN THE MATTER OF THE JOINT
APPLICATION OF QWEST LD CORP.,
EMBARQ COMMUNICATIONS, INC.,
AND QWEST COMMUNICATIONS
COMPANY, LLC. FOR A DECLARATORY
ORDER THAT RULES AAC R14-2-1904 ET
SEQ. AND AAC R14-2-1107 ARE
INAPPLICABLE TO THE PLANNED
REORGANIZATION OR IN THE
ALTERNATIVE FOR AN ORDER
WAIVING APPLICABLE RULES.

DOCKET NOS. T-04190A-13-0445
T-20443A-13-0445
T-02811B-13-0445

DECISION NO. 74407

ORDER

Open Meeting
March 11 and 12, 2014
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On December 16, 2013, Qwest LD Corp. ("QLDC"), Embarq Communications, Inc. ("ECI"), and Qwest Communications Company, LLC ("QCC") (collectively, the "Applicants"), notified the Commission of a planned corporate reorganization of the Applicants (the "Reorganization") which will proceed under the waiver from the Commission's public utility holding companies and affiliated interests rules granted by the Commission in its Decision No. 74092.¹ Each of the Applicants is affiliated by the common ownership and control of their

¹ Under the waiver granted to the Applicants in Decision No. 74092 the Applicants are excused from compliance with AAC R14-2-803, which would otherwise require the Applicants to gain the approval of the Commission. Further, the Applicants are relieved from the statutory requirement in A.R.S. §40-285(D) regarding Commission approval of stock transfers of public service corporations, because of newly enacted subsection ARS §40-285(E). Subsection E provides

1 ultimate parent corporation, CenturyLink, Inc. The Reorganization will result in the consolidation
2 of QCC, QLDC, and ECI, with QCC as the surviving entity and provider of telecommunications
3 services now provided by QLDC and ECI. The Applicants seek (a) a declaratory order that the
4 Commission's "slamming" rules (AAC R14-2-1904 et seq.) and the discontinuation of service rule
5 (AAC R14-2-1107) are inapplicable to the Reorganization described below, or (b) in the
6 alternative, an order waiving such rules that may apply in order for the surviving entity QCC to
7 provide the telecommunications services to the customers of QLDC and ECI. The Applicants
8 request that the certificates of convenience and necessity ("CC&Ns") of QLDC and ECI be
9 extinguished upon consummation of the Reorganization.

10 I. OVERVIEW OF THE REORGANIZATION

11 2. The entities which are merging are all subsidiaries of CenturyLink, Inc. Currently,
12 QCC is authorized to provide interexchange telecommunications ("IXC") services and competitive
13 local exchange ("CLEC") services in the State of Arizona.² QLDC and ECI are authorized to
14 provide resold IXC services, but not CLEC services.³ The Reorganization will consolidate the
15 Applicants into the surviving entity QCC, which will be a first tier subsidiary of CenturyLink, Inc.
16 QCC, which currently operates under the d/b/a "CenturyLink QCC", will change its legal name to
17 CenturyLink Communications, LLC on or about the same time as the Reorganization closes.

18 3. Ultimate ownership and control of the Applicants and of the surviving entity by
19 CenturyLink, Inc. will be unchanged as a result of the Reorganization.

20 4. The Reorganization will reduce the number of CenturyLink, Inc.'s internal
21 corporate IXC entities in Arizona and will simplify operations. Specifically, through a series of
22 internal corporate transactions, QCC, currently an indirect subsidiary of CenturyLink, Inc.,
23 becomes a direct wholly-owned subsidiary of CenturyLink, Inc. After QCC becomes a direct

24
25 that the statute does not apply to a telecommunications corporation whose retail services have been classified as
26 competitive. All of the services of the Applicants involved in the Reorganization are within the competitive
classification.

27 ² QCC: T-02811B-94-0352 (interexchange services), Decision No. 64541; T-02811B-04-0313 (competitive local
exchange services), Decision No. 68447.

28 ³ Qwest LD Corp.: T-04190A-03-0464, Decision No. 66613; Embarq Communications, Inc.: T-20443A-06-0112,
Decision No. 68826.

1 subsidiary of CenturyLink, Inc., the IXC affiliates of CenturyLink, Inc. merge into QCC,
2 liquidating and distributing assets and liabilities to QCC. Upon consummation of the
3 Reorganization, the customers of QLDC and ECI will be customers of QCC and QCC becomes
4 their service provider. The effective date ("Effective Date") of the Reorganization is planned to be
5 April 1, 2014.

6 5. According to the Applicants, an internal reorganization of these affiliated IXC
7 entities is in the public interest. The proposed restructuring will decrease the number of
8 certificated entities subject to the Commission's oversight and consolidate these certificated
9 entities into one company subject to the Commission's jurisdiction. As a result, QCC will face
10 reduced administrative burdens and compete more efficiently than the multiple entities do under
11 their current structure. QCC will be the only CenturyLink, Inc. affiliate with both CLEC and IXC
12 certificates of public convenience in all 50 states, the District of Columbia, and Puerto Rico. The
13 Reorganization does not involve the customers or operations of the incumbent local exchange
14 carrier ("ILEC"), Qwest Corporation.

15 6. The Reorganization involves several interrelated steps which all will be deemed to
16 occur on the Effective Date. The steps also involve some wholly-owned affiliates which do not
17 provide telecommunications services and do not hold a CC&N in Arizona, but which are currently
18 part of the corporate structure which will be streamlined in the Reorganization.

19 **II. NO IMPACT ON CUSTOMERS**

20 7. The proposed internal corporate transactions will be invisible to Applicants'
21 customers. There will be no change in the rates and other terms and conditions of the services
22 available to the Applicants' respective customers as a result of the internal corporate transactions.
23 CLEC and IXC services will continue to be provided pursuant to the same contracts or tariff
24 provisions currently in place. There will be no change in the Commission's oversight of the
25 merged entities' intrastate telecommunications operations. QCC and its subsidiaries and affiliates
26 are committed to ensuring that the internal reorganization described in this Application will not
27 impact customers.

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1 8. The Applicants’ each provision service to customers under the “CenturyLink”
 2 brand. “CenturyLink,” without further corporate entity designation, is already the company brand
 3 identified to all customers and in public facing materials. Bills are prominently identified as
 4 coming from CenturyLink,⁴ the website for the entire company is identified as CenturyLink, and
 5 call centers are identified as CenturyLink. The Reorganization will not change the brand, the
 6 services, or the access and interactions the customers have with the Applicants. The customers of
 7 QCC, as well as the customers of ECI or QLDC to be transferred to QCC, will not experience a
 8 change in how they order service, order repair, or receive or pay their bills. Customers will be
 9 billed by QCC (which will be named CenturyLink Communications, LLC), in the CenturyLink
 10 bill, just as customers are currently billed now for the Applicants that are being consolidated into
 11 QCC.

12 9. As addressed above, the rates, terms and conditions of service provided by these
 13 certificated IXCs and QCC will not change as a result of the proposed transaction. The rates for
 14 the IXC services are set out in tariffs and price lists maintained by the affected entities, and the
 15 same rates will be extended to the Applicants’ customers in the QCC (to be known as CenturyLink
 16 Communications, LLC) tariffs and price lists upon the Effective Date. Services provided under
 17 contract will continue to be provided under the terms of the existing contracts.

18 10. For the reasons described above, the Reorganization will be invisible to the
 19 customers. While the customers will not experience changes to their services, terms, conditions,
 20 rates, or access to the service provider, prior to the Effective Date the Applicants will notify
 21 customers that the legal entity providing services will be CenturyLink Communications, LLC.

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 27 ⁴ A CenturyLink combined bill for local and long distance service is conspicuously branded “CenturyLink” although
 28 the long distance portion of the bill identifies the corporate name of the long distance provider. After the Effective
 Date, the bill will still present the overall look and feel of the “CenturyLink” brand, and the long distance service
 provider will be CenturyLink Communications, LLC.

1 **III. THE JOINT APPLICATION**

2 **A. Applicants' request for a Declaratory Ruling that the Commission's**
3 **"Slamming" and Service Discontinuance Rules do not Apply in these**
4 **Circumstances Presented, the Commission should Grant Waivers of those**
5 **Rules for this Reorganization**

6 11. The Applicants submit that the Commission's "slamming" rules (AAC R14-2-1904
7 et seq.) and the discontinuation of service rule (AAC R14-2-1107) are inapplicable to the
8 Reorganization described above, because of the following circumstances:

- 9 • The Reorganization is entirely between and among affiliates that are wholly-owned
10 and controlled by a common parent corporation. There is no change of control of
11 the merging entities or of the parent corporation.
- 12 • The services provided by the merging entities will continue to be provided, with no
13 change to the terms and conditions and no change to the rates and charges.
- 14 • The Reorganization does not change the Commission's regulatory authority over
15 the services or the service provider.
- 16 • The surviving service provider's authority (CC&N) already covers the full range of
17 services provided by the merged entities.
- 18 • The Reorganization will be invisible to customers, for the reasons described in
19 sections I and II above.

20 12. Applicants state that in these circumstances, although the Reorganization changes
21 the legal entity providing service to some Customers, the effect is no different than a mere name
22 change of a service provider.

23 13. The Applicants state that the change of the service provider, in circumstances such
24 as these in which there are no customer-impacting changes whatsoever, are outside of the logical
25 scope of the Commission's "slamming" rules. The Applicants further state that the Commission
26 may take guidance from the Federal Communications Commission ("FCC"). On May 15, 2001,
27 the FCC issued an order amending its carrier change rules to provide a streamline process for
28 compliance with Section 258 of the Communications Act of 1934, as amended by the

1 Telecommunications Act of 1996.⁵ The Order states that “a change in corporate structure that is
2 invisible to the affected subscribers does not constitute a sale or transfer for purposes of Section
3 258 that implicates this streamline process.”⁶ Consistent with this FCC decision, it would be
4 appropriate, according to the Applicants, for the Commission to declare that its slamming rule does
5 not apply here. For the same reasons, the Applicants submit that AAC R14-2-1107, which governs
6 a telecommunications company’s discontinuance of competitive local exchange or interexchange
7 services in the state, does not apply to the circumstances of this Reorganization. In this
8 Reorganization, as described above, there is unbroken continuity of service, with (1) the same
9 network and facilities currently in place, (2) the same rates, terms and conditions, (3) the same
10 billing process, and (4) the same access to customer service that are currently in place, all under
11 the umbrella of the same parent corporation.⁷

12 **B. In the Alternative, Applicants’ Request that should the Commission Decline to**
13 **Declare that its Slamming and Service Discontinuance Rules do not Apply in**
14 **the Circumstances Presented, the Commission should Grant waivers of those**
15 **Rules for this Reorganization**

16 14. Should the Commission deny the Applicants’ request for a declaratory ruling that
17 the slamming rules or the service discontinuance rules do not apply in the circumstances presented
18 by this Reorganization, the Applicants request that the Commission grant waivers of those rules in
19 their entirety.

20 15. If necessary, Applicants request that the Commission grant a waiver of AAC R14-
21 2-1904 et seq. As noted above, customers will be notified of the Reorganization. Under the
22 circumstances of this Reorganization, the protections afforded by the rules regarding unauthorized
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24 ⁵ *In the Matter of 2000 Biennial Review -Review of Policies and Rules Concerning Unauthorized Changes of*
25 *Consumers’ Long Distance Carriers; Implementation of the Subscriber Carrier Section Changes Provisions of the*
26 *Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance*
27 *Carriers, First Report and Order in CC Docket No. 00-257, Fourth Report and Order in CC Docket No. 94-129, 16*
28 *FCC Rcd 11218 (2001).*

⁶ *Id.* at 713, n.24 (“indeed, in such cases, required notice of a change that is imperceptible to the affected 22
subscribers might cause confusion where there would otherwise be none.”).

⁷ Commission Staff has previously come to this same conclusion. See Docket No. T-03761A-04-0710, Addendum to
Staff Report (Dec. 27, 2004) (stating “Staff does not believe that the transfer of certain customers qualifies as a
discontinuance of service or an abandonment of any portion of its service area. Therefore, Staff does not believe that
AAC R14-2-1107 applies.”).

1 carrier changes would not be meaningful to the customers or practically possible. According to the
2 Applicants, more fundamentally, the Reorganization simply does not present the kind of carrier
3 change that the slamming rule was designed to regulate, and it would be contrary to the public
4 interest to refuse a waiver of the rule. Strict application of the rule would work to substantially
5 delay the process and increase the expense to the Applicants with no meaningful customer benefit.

6 16. If necessary, Applicants also request that the Commission grant a waiver of AAC
7 R14-2-1107, for much the same reasons as are presented above in regard to the waiver of the
8 slamming rule. The ultimate reason is that no service is being discontinued, and strict application
9 of the rule would work to substantially delay the process and increase the expense to the
10 Applicants with no meaningful customer benefit.

11 **C. Applicants' Request Pertaining to CC&N Cancellation, Customer Notice,**
12 **Subscriber Authorization and Commission Approval Requirements**

13 17. Following the completion of the Reorganization, QCC proposes that it notify the
14 Commission that the Reorganization has been accomplished, whereupon the CC&Ns of QLDC
15 and ECI will be cancelled.

16 18. Applicants further state that customer notice or customer approval requirements that
17 the Commission might apply in other circumstances, should not apply in the circumstances of this
18 Application, for the reasons stated above. In connection with this Reorganization, the Applicants
19 request that the Commission deem inapplicable or waive the slamming rule and service
20 discontinuation rule as requested above, and such other Commission subscriber notice, subscriber
21 authorization, and Commission approval requirements that may pertain.

22 19. Applicants have stated that customers will be informed of the intra-company
23 reorganizations through a bill insert prior to the Commission's Open Meeting addressing this
24 matter.

25 **D. Applicants' Request for Extension of Time to File New Tariffs**

26 20. Because the Reorganization results in the need for literally thousands of pages of
27 tariff filings nationwide, the Applicants request that QCC (to be named CenturyLink
28 Communications, LLC) be allowed 6 months from the closing to file tariffs that conform to and

1 embody the rates of the merged entities QLDC and ECI, in order to fulfill the intention that
2 customer's rates, terms and conditions of service are not changed. In the interim between the
3 closing of the Reorganization and the filing of the new tariff pages, the Applicants request that the
4 Commission order provide that QCC shall honor the tariffs of QLDC and ECI as if they were
5 issued by QCC, until QCC files its conforming tariffs under its revised legal name, CenturyLink
6 Communications, LLC. QCC would have to file revisions to its tariffs pursuant to A.A.C. R14-2-
7 1110 in order to raise any of the prices for service provided by QCC subsequent to the merger.

8 **IV. STAFF EVALUATION AND RECOMMENDATIONS**

9 21. The transfer of customers from ECI and QLDC to QCC does not require
10 Commission approval under A.R.S. §40-285. Further under the conditional waiver from public
11 utility holding companies and affiliated interests rules approved by the Commission in Decision
12 No. 74092, Qwest is not required to obtain prior approval of the reorganization from the
13 Commission. Further because QLDC and ECI provide resold long distance services only, under
14 A.R.S. §40-282, the Commission can act upon the Company's CC&N requests without a hearing.

15 22. Staff recommends that the Application to cancel the CC&Ns be approved, effective
16 upon consummation of the Reorganization and upon notification that the transaction has taken
17 place. Upon cancellation of ECI and QLDC Certificates of Convenience and Necessity (CC&Ns),
18 ECI and QLDC will no longer be authorized to provide resold interexchange telecommunications
19 services in Arizona and therefore, shall no longer be subject to the requirements of Decision Nos.
20 66613 and 68828.

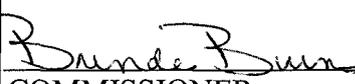
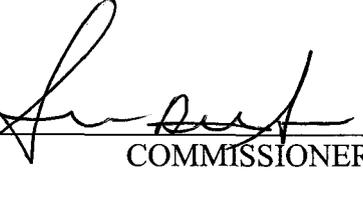
21 23. Staff further recommends approval of the Applicants' request for a waiver of
22 A.A.C. R14-2-1904 et seq. the Commissions slamming rules. The Commission's slamming rules
23 were implemented to mitigate instances of the unauthorized changes to a customer's telephone
24 service provider. Embarq and QLDC currently provide service dba CenturyLink, service will
25 continue to be provided as CenturyLink after the merger, and will provide service to customers at
26 rates, terms and conditions of service that do not change. Staff has reviewed the customer notices
27 that will be sent to those affected customers who will become QCC (to be named CenturyLink

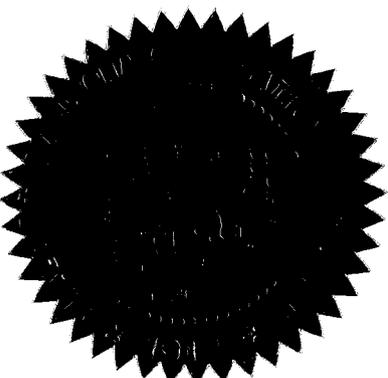
28 ...

1 IT IS FURTHER ORDERED that until such time as the new tariffs are filed and
 2 determined to be in compliance with this Decision, Qwest Communications Company, LLC shall
 3 continue to comply with the rates, terms and conditions contained in the Embarq Communications,
 4 Inc. and Qwest LD Corp. tariffs and shall honor such tariffs as if they were issued by Qwest
 5 Communications Company, LLC

6 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

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

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 9
 10  CHAIRMAN  COMMISSIONER
 11
 12  COMMISSIONER  COMMISSIONER  COMMISSIONER
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14 IN WITNESS WHEREOF, I, JODI JERICH, Executive
 15 Director of the Arizona Corporation Commission, have
 16 hereunto, set my hand and caused the official seal of this
 17 Commission to be affixed at the Capitol, in the City of
 Phoenix, this 19th day of March, 2014.

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 20 JODI JERICH
 EXECUTIVE DIRECTOR

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 22 DISSENT: _____

23 DISSENT: _____

24 SMO:WMS:sms\MAS

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1 SERVICE LIST FOR: QWEST LD CORP., EMBARQ COMMUNICATIONS, INC., AND
2 QWEST COMMUNICATIONS COMPANY, LLC
3 DOCKET NOS. T-04190A-13-0445, T-20443A-13-0445 AND T-02811B-13-0445

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