



0000172442

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

BEFORE THE ARIZONA CORPORATION COMMISSION

DOUG LITTLE
Chairman
BOB STUMP
Commissioner
BOB BURNS
Commissioner
TOM FORESE
Commissioner
ANDY TOBIN
Commissioner

IN THE MATTER OF THE APPLICATION)
OF CENTUYRLINK COMMUNICATIONS)
COMPANY, LLC TO EXPAND THE SCOPE)
OF ITS CERTIFICATE OF CONVENIENCE)
AND NECESSITY TO PROVIDE RESOLD)
AND FACILITIES BASED LOCAL)
EXCHANGE SERVICES THROUGHOUT)
THE ENTIRE STATE OF ARIZONA BY)
ELIMINATING THE RESTRICTIONS AND)
CONDITIONS CURRENTLY CONTAINED)
IN DECISION NO. 68447)

DOCKET NO. T-02811B-14-0210
DECISION NO. 75692
ORDER

Arizona Corporation Commission
DOCKETED
AUG 05 2016

Open Meeting
July 12 and 13, 2016
Phoenix, Arizona

DOCKETED BY *J/G*

BY THE COMMISSION:

FINDINGS OF FACT

A. Introduction

1. On June 25, 2014, CenturyLink Communications, LLC ("CLC") filed an Application with the Arizona Corporation Commission ("Commission") seeking to amend its Certificate of Convenience and Necessity ("CC&N") to eliminate certain the restriction placed on its CC&N by the Commission in Decision No. 68447 in 2006 which does not allow CLC to provide competitive local

1 exchange service to residential customers and small business customer (with fewer than 4 access lines)
2 in areas within its Incumbent Local Exchange Carrier (“ILEC”) affiliate’s service area.¹

3 2. Staff recommends approval of the Application subject to the conditions discussed
4 below.

5 **B. Background**

6 3. CLC’s predecessor company, Qwest Communications Company Inc., (“QCC”) first
7 received authority from the Commission to operate as a reseller of long distance service in 1988.²

8 4. In 2001, QCC (now CLC) filed an application with the Commission to amend its
9 CC&N to include authority to provide competitive facilities-based long distance (InterLATA and
10 IntraLATA)³ interexchange services and Alternative Operator Services in Arizona.

11 5. On December 9, 2003, in Decision No. 66612, CLC’s existing CC&N was modified to
12 allow CLC to provide competitive, facilities-based only interLATA/intraLATA interexchange
13 telecommunications services in Arizona conditioned upon prior approval by the Federal
14 Communications Commission (“FCC”) of QC’s application under Section 271 of the
15 Telecommunications Act of 1996 (“1996 Act”) to re-enter the long distance market in Arizona.⁴ See
16 Decision No. 66612.⁵ Another affiliate of QC, Qwest LD Corp. dba Qwest Long Distance
17 (“QLDC”) was also granted authority on December 9 2003 in Decision No. 66613 to provide
18 competitive resold interexchange interLATA and intraLATA long-distance service in Arizona. QLDC
19
20

21 ¹ At the time Decision Nos. 60898 and 68477 were issued, Applicant was known as Qwest Communications Corporation.
22 The Applicant’s name was changed to Qwest Communications Company LLC on January 2, 2009. The, on April 1, 2014,
Applicant’s name was changed to CenturyLink Communications, LLC.

23 ² See Decision No. 60898

24 ³ Local Access and Transport Areas (“LATAs”) were formed pursuant to a Consent Decree or Modification of Final
Judgment (“MFJ”) in *United States v. American Telephone and Telegraph*, 552 F. Supp. 131 (DC 1982). “IntraLATA or “local”
25 toll service refers to calling within a geographic area known as a LATA. InterLATA long distance calls include all calls
outside the local exchange or local toll areas, calls that originate in one LATA and terminate in another and international
call.

26 ⁴ Section 271 of the 1996 Act essentially codified the requirements of the MFJ and transferred continued oversight and
administration of these issues from the District Court to the FCC. The 1996 Act required the BOCs to apply to the FCC
27 for approval to provide in-region interLATA services subject to meeting stringent requirements set out in the 1996 Act as
implemented by FCC Order and Rules.

28 ⁵ Decision 66612 stated that QCC intended to serve as a facilities-based provider in all its in-region states to provide
interexchange service to residential customers who take local service from a carrier other than QC and to provide
interexchange service to business customers who have either QC or another carrier as their local service provider.

1 was formed to provide resold in-region long distance service to residential customers which also had
2 QC as their local provider.

3 6. On December 15, 2003, the ILEC, QC's Section 271 application was granted by the
4 FCC and QC was authorized to provide interLATA long-distance service in Arizona. Under Section
5 272⁶ of the Federal Act⁷, interLATA long distance services could only be provided through a wholly
6 separate QC affiliate. Both Qwest LD Corp. dba Qwest Long Distance and CLC were ordered to
7 comply with Section 272 of the 1996 Act until further order of the FCC finding that compliance with
8 Section 272 was no longer required.⁸ The separate affiliate requirement subsequently sunset and was
9 eliminated by the FCC.⁹

10 7. In 2006, in Decision No. 68447, CLC's CC&N was expanded by the Commission to
11 include the authority to provide resold long distance service throughout the State of Arizona, and to
12 include authority to provide, with the exception of areas within QC's service territory, resold and
13 facilities-based local exchange service throughout the State of Arizona subject to certain conditions.
14 One of these conditions provided that for areas within its ILEC affiliate's service territory, CLC could
15 not provide local service to residential customers or to small business accounts having fewer than four
16 (4) or more switched access lines or their equivalent.

17 8. In March, 2011, the Commission approved the merger of Qwest Communications
18 International Inc., and CenturyLink, Inc. in Decision No. 72232 in Docket No. T-01051B-10-0194 et
19 al.¹⁰

20 9. On December 16, 2013, QLDC, CLC and Embarq Communications, Inc. (a
21 CenturyLink, Inc. long distance provider) requested approval from the Commission of a planned
22 reorganization. The effect of the reorganization, which the Commission ultimately approved in
23 Decision No. 74407 on March 19, 2014 resulted in cancellation of QLDC and Embarq

24

25 ⁶ Section 272 imposed various structural, transactional and nondiscrimination safeguards on the BOC's provision of in-
26 region interLATA long distance service. The 1996 Act provided that the section 272 safeguards, other than those in
Section 272(e) would sunset three years after a BOC received interLATA authority in the state, absent an extension by the
FCC.)

27 ⁷ See Communications Act of 1934 as amended by the 1996 Act ("the Federal Act").

28 ⁸ See, Decision No. 66612 in Docket No. T-02811B-01-0895 issued on December 9, 2003 and Decision No. 66613 in
Docket No. T-04190A-03-0464 issued on December 9, 2003

⁹ See FCC Report and Order in CC 00-175, para. 12 (August 31, 2007).

¹⁰ After the merger, the ILEC Qwest Corporation began doing business as CenturyLink QC ("QC").

1 Communication's CC&Ns and a roll-over of their services, rates, terms and conditions into CLC's
2 tariff. Decision No. 74407 authorized CLC to file new tariffs that conform to and embody the rates
3 of QLDC and Embarq to fulfill the condition that the customer's rates, terms and conditions of
4 service would not change.

5 10. On October 13, 2011, CenturyLink filed an application with the Commission to
6 classify and regulate certain retail local exchange telecommunications as competitive, and deregulate
7 certain services as nonessential. In Decision No. 73354, the Commission classified CenturyLink's
8 retail services as competitive with limits on rate increases in certain markets for three years. On
9 February 23, 2015, CenturyLink requested pricing flexibility in all markets and made the required
10 demonstration as specified in the Settlement Agreement adopted by the Commission. On May 11,
11 2015, Commission Staff verified that CenturyLink had met the criteria for increased pricing flexibility.

12 **C. Staff Analysis**

13 11. CLC seeks to remove a restriction (and related conditions) that was placed on its
14 CC&N in 2006 which would allow it to serve residential and small business customers with fewer than
15 four (4) lines in competition with its ILEC affiliate, QC. CLC states that under its restricted CC&N,
16 while it was permitted to offer competitive resold and facilities based local exchange service statewide,
17 there was a major exception: in the ILEC QC service territory, the Applicant may only provide local
18 exchange service to customers having four (4) or more switched access lines or their equivalent.¹¹
19 CLC states that because of that limitation it cannot provide competitive local services to residential
20 and small business customers in the most densely populated parts of the state as well as all other
21 markets in which its affiliate, QC, is the ILEC. CLC asks the Commission to remove the restriction
22 placed upon its CC&N, allowing it to provide competitive local exchange services within the service
23 territory of its affiliate ILEC, QC, in addition to its existing authority to provide service in other parts
24 of the state under Decision No. 68447. Finally, CLC states that granting the relief will permit the CLC
25 to provide local service to residential and small business customers statewide.

26 _____
27
28 ¹¹ For purposes of determining whether a customer or account had four or more switched access lines or their equivalent,
all individual locations of a multi-location customer were added together to determine whether the threshold had been met
for a given customer or account. See Decision No. 68447 at p. 38.

1 12. The restrictions adopted by the Commission in Decision No. 68447 related to
2 concerns with respect to CLEC CLC's provision of local exchange service in the ILEC QC's service
3 territory. Those concerns can be categorized as those regarding whether the requested grant of
4 authority for CLC to enter into direct competition with its ILEC affiliate will have detrimental
5 impacts on the preservation and advancement of universal service, the continued quality of
6 telecommunications services, and the Commission's ability to safeguard the rights of consumers and
7 protect the public safety and welfare (Decision No 68447, Page 26, Lines 19-23) and those regarding
8 the possibility that large revenue losses associated with customer migration to CLC could conceivably
9 leave ILEC affiliate without incentive or ability to maintain or update its network, despite regulatory
10 mandates to the contrary. (Decision No. 68447, Page 34, Lines 26-28).

11 13. Staff agrees with CLC that the telecommunications market has evolved since 2006 and
12 several intervening events suggest that a reevaluation of the restriction is necessary. Two events in
13 particular are deserving of significant consideration. First, at the same time that the application to
14 expand CLC's CC&N was being considered in Arizona, QC was subject to the 1996 Act's Section 272
15 requirement that it provide in-region interLATA telecommunications service through a separate
16 subsidiary. If CLC was authorized to provide all services, including interLATA service through the
17 same entity QC would have effectively avoided the section 272 requirements. As discussed above,
18 most of the provisions of Section 272 have now sunset and the requirement to provide in-region
19 interLATA service through a separate subsidiary has since ended.¹²

20 14. Second, in Decision No. 73354, dated August 12, 2012, the Commission classified
21 QC's retail services as competitive. This was subject to a condition in certain markets which limited
22 rate increases for residential services and small and medium business services for a period of three
23 years after which time QC was authorized to file, at its discretion, requests for additional pricing
24 flexibility pursuant to the streamlined ratemaking procedures of Rule 1110. QC made that filing on
25 February 23, 2015. As discussed above, on May 11, 2015, Staff filed its verification that QC had met
26 the criteria set out in Section 2.4 of the Settlement Agreement adopted by the Commission.

27 _____
28 ¹² See FCC Report and Order in CC 00-175, para. 12 (August 31, 2007).

1 15. Given these developments, Staff believes that some of the major concerns identified
2 by Staff in 2006 are no longer present. In particular, the continued need for the restrictions to CLC's
3 CC&N which limit its ability to provide certain services in areas where QC is the ILEC appear to be
4 no longer necessary. Through review of the consolidated annual reports submitted by the QC and
5 CLC, Staff can monitor the impacts on universal service, subscribership levels and infrastructure
6 investment. The informal complaint process will also highlight any concerns and the Staff can
7 promulgate data requests to the Company should it be necessary. In addition, QC is required under
8 the 1996 Act to provide interconnection services to unaffiliated providers of telecommunications
9 service under non-discriminatory rates, terms and conditions. Therefore, by law, it is not able to
10 adversely affect its competitors in the wholesale market. In addition, granting the Application as
11 discussed herein, does not affect QC's classification as a BOC or an ILEC under the Federal Act or
12 Arizona law. If, however, wholesale competitors believe that they are somehow adversely affected,
13 they can always file a complaint with the Commission.

14 16. Staff believes some requirements unrelated to CLC's primary request for relief, the
15 ability to offer competitive local service to residential and business customers in its ILEC affiliate's
16 service territory that were contained in Decision No. 68447 continue to be necessary today, in
17 particular those relating to CLC's provision of competitive local exchange service in Rural Telephone
18 Company areas in Arizona.

19 17. Currently, according to CLC, it has no imminent plans to begin offering competitive
20 local exchange service to residential customers or business customers with fewer than four (4) lines in
21 its ILEC affiliate's service area. When CLC does begin to offer residential service and service to small
22 business customers with fewer than four (4) lines, it will need to file a tariff with the Commission for
23 approval with initial and maximum rates pursuant to R14-2-1109 and R14-2-1110. CLC should
24 include fair value information at that time for evaluation by Staff and the Commission.

25 18. Staff also believes it would be helpful, if the Company notified Staff when it will begin
26 the actual provision of residential service in its ILEC's service territory or an RTC's service territory,
27 so the Commission's Consumer Services Section can be ready in the event there are any consumer
28 inquiries.

1 **D. Staff Recommendations**

2 19. Staff recommends that CLC's request that the Commission remove the restriction
3 placed upon its CC&N which precludes it from providing competitive local service to residential
4 customers, and small business customers with less than four (4) lines in markets in which QC is the
5 ILEC be approved.

6 20. Staff further recommends that CLC be required to file, as a compliance item, tariff
7 revisions consistent with the Commission's decision in this matter and that it file initial and maximum
8 rates for the services it offers to residential customers or small business customers with fewer than
9 four (4) lines. The Company shall also provide fair value information for Staff's and the
10 Commission's evaluation.

11 21. Staff further recommends that CLC's provision of local exchange service in the service
12 territories of Rural Telephone Companies be subject to any future proceedings required under Section
13 251(f)(1) or (2) of the 1996 Act or 47 U.S.C. Section 214(e)(2). Granting CLC's request to provide
14 competitive local exchange service outside its service territory is not a ruling that affects the rights of
15 specific Rural Telephone Companies under 47 U.S.C. Section 251(f) or 47 U.S.C. Section 214(e)(2).

16 22. Staff further recommends that CLC apprise the Commission through a filing in this
17 Docket when it begins to offer competitive residential and/or small business (fewer than four (4)
18 lines) telecommunications services in the service area of its ILEC affiliate or a Rural Telephone
19 Company. This will allow the Commission's Consumer Services Section to prepare for customer
20 inquiries it may receive when CLC begins to provide local exchange service to residential and small
21 business customers which may arise from CLC's provision of local service in these areas.

22
23 CONCLUSIONS OF LAW

24 1. CenturyLink Communications, LLC is a public service corporation within the meaning
25 of Article XV of the Arizona Constitution and A.R.S. 40-285.

26 2. The Commission has jurisdiction over CenturyLink Communications, LLC and the
27 subject matter of this application.

28 ...

1 IT IS FURTHER ORDERED that CenturyLink Communications, LLC shall apprise the
 2 Commission through a filing in this Docket when it begins to offer competitive residential and/or
 3 small business local exchange telecommunications services in the service area of its Qwest
 4 Corporation dba CenturyLink QC or a Rural Telephone Company to allow the Commission's
 5 Consumer Services Section to prepare to address any customer inquiries it may receive related to
 6 CenturyLink Communications, LLC's expanded authority.

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

8

9 BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

10

11 
 CHAIRMAN LITTLE

11 
 COMMISSIONER STUMP

12

13

13 
 COMMISSIONER FORESE

13 
 COMMISSIONER TOBIN

13 
 COMMISSIONER BURNS

14

15

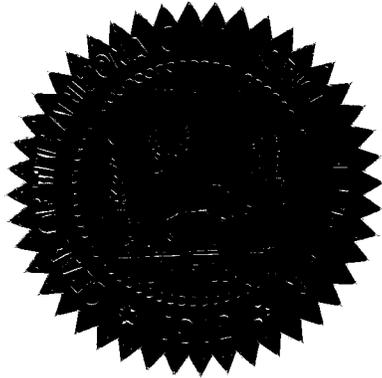
16

17

18

19

20



18 IN WITNESS WHEREOF, I, JODI JERICH, Executive
 19 Director of the Arizona Corporation Commission, have
 20 hereunto, set my hand and caused the official seal of this
 Commission to be affixed at the Capitol, in the City of
 Phoenix, this 5th day of August, 2016.

21

22

21 
 22 JODI JERICH
 23 EXECUTIVE DIRECTOR

23

24

25

25 DISSENT: _____

26

26 DISSENT: _____

27

27 TMB:WMS:red/MAS

28

1 SERVICE LIST FOR: CenturyLink Communications, LLC
2 DOCKET NO. T-02811B-14-0210

3 Mr. Norman Curtright
4 Associated General Counsel
5 Qwest Corporation dba CenturyLink QC
6 20 East Thomas Road, 1st Floor
7 Phoenix, Arizona 85012

8 Mr. Thomas M. Broderick
9 Director, Utilities Division
10 Arizona Corporation Commission
11 1200 West Washington Street
12 Phoenix, Arizona 85007

13 Ms. Janice M. Alward
14 Chief Counsel, Legal Division
15 Arizona Corporation Commission
16 1200 West Washington Street
17 Phoenix, Arizona 85007

18 Mr. Dwight Nodes
19 Chief Administrative Law Judge, Hearing Division
20 Arizona Corporation Commission
21 1200 West Washington Street
22 Phoenix, AZ 85007

23
24
25
26
27
28