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NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

DOCKETED

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**IN THE MATTER OF THE  
AGREEMENT BETWEEN GRANITE  
TELECOMMUNICATIONS, LLC AND  
QWEST CORPORATION dba  
CENTURYLINK QC FOR THE  
PROVISION OF CENTURYLINK  
LOCAL SERVICES PLATFORM**

DOCKET NOS. T-01051B-16-0313  
T-04208A-16-0313

**COMPLIANCE FILING OF AMENDMENT  
UNDER PROTEST AND WITH  
RESERVATION OF RIGHTS**

Pursuant to 47 U.S.C. § 252 (e)(1), the Rules of the Arizona Corporation Commission (“Commission”) regarding filing of interconnection agreements and amendments to interconnection agreements, Qwest Corporation dba CenturyLink QC (“CenturyLink”) files the attached Amendment to the CenturyLink Local Services Platform Agreement (“CLSP”) for approval by the Commission. This Agreement was effective as of November 1, 2013. The attached Amendment shall be referred to as the “Amendment to the CenturyLink Local Services Platform (CLSP) Agreement. As explained below, CenturyLink objects to being required to file the Amendment for approval and likewise takes the position that the Commission lacks the authority to review, approve, amend, or reject the Commercial CLSP-2013 Agreement, in whole or in part. CenturyLink is therefore filing the attached Amendment to Commercial CLSP Agreement under protest and with a reservation of rights as explained below.

1 CenturyLink's filing of the Amendment to the Commercial CLSP-2013 Agreement under  
2 protest is the result of the order entered by the Commission on September 9, 2005 in Docket  
3 Nos.: T-01051B-04-0540 and T-03574A-04-0540 (the "MCI Filing Order"). In that order, the  
4 Commission denied CenturyLink's Motion to Dismiss the Agreement Filing of MCIMetro  
5 Access Transmission Services, L.L.C. ("MCI"). In the MCI Filing Order, the Commission  
6 concluded that the Commercial QPP Agreement between CenturyLink and MCI is subject to the  
7 Commission's jurisdiction and that the Telecommunications Act of 1996 ("the Act") required  
8 CenturyLink and MCIMetro to file the agreement and seek the Commission's approval of it.

9 The Amendment to the CLSP Agreement filed by CenturyLink in this docket, with the  
10 exception of the name of the party with whom CenturyLink is contracting to provide CLSP  
11 Service, addresses the same services as those in the Commercial OPP™ Agreement filed by MCI  
12 in Docket Nos. T-01051B-04-0540 and T-03574A-04-0540.

13 Pursuant to the Federal Communications Commission's rulings in the *Triennial Review*  
14 *Order*<sup>1</sup> and the *Triennial Review Remand Order*,<sup>2</sup> incumbent local exchange carriers ("ILECs")  
15 like CenturyLink are no longer required to provide mass market switching, shared transport, and  
16 certain other services under Section 251 of the Act.<sup>3</sup> Notwithstanding these rulings, CenturyLink  
17 has voluntarily determined that it will provide mass market switching and shared transport  
18 services under the CLSP-2013 Agreement. In *Qwest Corporation v. Arizona Corporation*  
19 *Commission* (the "*Covad Arbitration Decision*"), the United States District Court for the District  
20 of Arizona recently ruled that the Commission does not have the authority to require  
21 CenturyLink to include in its arbitrated interconnection agreements obligations to provide  
22 network elements that, per rulings of the Federal Communications Commission, CenturyLink is  
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25 <sup>1</sup> *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Report  
and Order, 17 FCC Rcd 16978 (2003).

26 <sup>2</sup> *In the Matter of Unbundled Access to Network Elements and Review of Section 251 Unbundling Obligations*,  
Order on Remand, 20 FCC Rcd 2533 (2005).

<sup>3</sup> 47 U.S.C. §251.

1 not required to provide under Section 251.<sup>4</sup> This ruling recognizes that while Congress gave  
2 state commissions authority to impose and enforce requirements involving the unbundled  
3 network elements and services included in Section 251, it specifically did not grant state  
4 authority over the elements and services that the FCC has removed from Section 251.<sup>5</sup> Thus, the  
5 CLSP-2013 Agreement, which does not include any services required under Section 251, is not  
6 subject to review by this Commission. CenturyLink recognizes that the Commission has  
7 appealed the *Covad Arbitration Decision* to the Ninth Circuit Court of Appeals, but the district  
8 court's decision remains binding while that appeal is pending. Further, that decision is consistent  
9 with those of multiple other federal courts that have ruled that states do not have authority under  
10 the Act to impose requirements on services and elements that the FCC has removed from  
11 Section 251.<sup>6</sup>

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<sup>4</sup> 496 F. Supp.2d 1069, 1077 (D. Ariz.2007).

19 <sup>5</sup> *Id.* at 1076-78.

20 <sup>6</sup> See e.g. *Verizon New England v. Maine Public Utilities Comm'n, et al.*, Nos. 06-2151, 06-2429, 2007 WL 2509863  
21 (1<sup>st</sup> Cir. Sept. 6, 2007); *DIECA Communications, Inc. v. Florida Public Services Comm'n et al.*, 447 F. Supp. 2d  
22 1281 (N.D. Fla. 2006); *Bellsouth Telecommunications, Inc. v. Kentucky Public Service Comm'n, et al.* No. 06-65-  
KCC, 2007 WL 2736544 (E.D. Ky. Sept. 18, 2007); *Michigan Bell Tel. Co. v. Lark, et al.*, No. 06-11982, 2007 WL  
2868633 (E.D. Mich. Sept. 26, 2007); *Southwestern Bell Tel., L.P. v. Missouri Public Service Comm'n*, 461 F. Supp.  
2d 1055 (E.D. Mo. 2006).

23 In *Qwest Corp. v. Public Utilities Commission of Colorado*, 479 F.3d 1184 (10<sup>th</sup> Cir. 2007), the 10<sup>th</sup> Circuit ruled  
24 that the Colorado and Utah Commissions had authority to review and approve a CenturyLink commercial agreement  
25 known as "Qwest Platform Plus" under Section 252(e)(1). However, CenturyLink submits that the decision is  
26 incorrect because it concludes erroneously that the commercial agreement at issue in that case related to the duties in  
Section 251(b) and (c) involving unbundled network elements and interconnection. The mass market switching and  
shared transport that CenturyLink provides under the agreement at issue here is not provided pursuant to either  
Section 251(b) or (c) and therefore does not relate to any of the duties in that section. As such, the agreement is not  
an "interconnection agreement" subject to this Commission's review and approval under Section 252(e)(1).



**AMENDMENT TO  
CENTURYLINK LOCAL SERVICES PLATFORM (CLSP) AGREEMENT**

This Amendment ("Amendment"), by and between **Qwest Corporation dba CenturyLink QC ("CenturyLink")**, a Colorado corporation, and **Granite Telecommunications, LLC ("CLEC")**, a Delaware limited liability company, amends the CenturyLink Local Services Platform (CLSP) Agreement between the Parties.

WHEREAS, the Parties entered into a CenturyLink Local Services Platform (CLSP) Agreement ("Agreement") with an Effective Date of November 1, 2013; and

WHEREAS, the Parties agree to amend the Agreement under the terms and conditions contained herein.

NOW THEREFORE, in consideration of the foregoing and the mutual terms, covenants and conditions contained in this Amendment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**Amendment Terms**

**1. Effective Date.** This Amendment is effective September 1, 2016.

**2. Term.** The term of this Agreement as amended begins on the Effective Date and continues through August 31, 2019. CLEC may, no more than twice, request to renew the Agreement for a one (1)-year renewal period, with such renewal terms being from September 1, 2019 to August 31, 2020, and September 1, 2020 to August 31, 2021. Such request must be performed by written request to CenturyLink at least sixty (60) days prior to the expiration of the initial term and/or the first renewal term. If CenturyLink agrees to such request, the Agreement will be extended as discussed herein. (In the event that at the expiration of the Agreement, CLEC has any remaining Customers served under the Agreement, CenturyLink may immediately convert CLEC to an equivalent alternative service at market-based wholesale or resale rates). In lieu of the one-year renewal periods or after August 31, 2021 the term of this Agreement will continue on a month-to-month basis until it is terminated by either Party with at least ninety (90) Days prior written notice or replaced by a successor agreement.

**Further Amendments**

Except as expressly modified by this Amendment, the provisions of the Agreement shall remain unmodified and shall be in full force and effect. The provisions of this Amendment, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions of this Amendment may not be given without the written consent thereto by both of the Parties hereto. No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, will be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

**Entire Agreement**

The Agreement as amended (including by the documents referred to herein) constitutes the full and entire understanding and agreement between the Parties with regard to the subject matter of the Agreement, as amended, and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, to the extent they relate in any way to the subject matter of the Agreement, as amended.

The Parties intending to be legally bound have executed this Amendment as of the dates set forth below, in multiple counterparts, each of which is deemed an original, but all of which shall constitute one and the same instrument.

<p><b>Qwest Corporation dba CenturyLink QC:</b></p> <p>DocuSigned by: <i>Diane Roth</i></p> <p>By: _____ 78BDEF8A148A455</p> <p>Name: <u>Diane Roth</u></p> <p>Title: <u>Director - Wholesale</u></p> <p>Date: <u>8/29/2016</u></p>	<p><b>Granite Telecommunications, LLC:</b></p> <p>DocuSigned by: <i>Rand Currier</i></p> <p>By: _____ 8FD5CA724AEF42B...</p> <p>Name: <u>Rand Currier</u></p> <p>Title: <u>Chief Operating Officer</u></p> <p>Date: <u>8/25/2016</u></p>
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