

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF CENTURYLINK QC'S )  
VERIFIED PETITION FOR ELIMINATION OF THE ) Docket No. 22-00310-UT  
QWEST PERFORMANCE ASSURANCE PLAN AND )  
PERFORMANCE INDICATOR DEFINITIONS )**

**ORDER GRANTING CENTURYLINK QC'S VERIFIED PETITION**

**THIS MATTER** comes before the New Mexico Public Regulation Commission (the "Commission") upon the Verified Petition for Elimination of the Qwest Performance Assurance Plan and Performance Indicator Definitions (the "Petition") filed by CenturyLink QC ("CenturyLink"). CenturyLink requests that the Performance Assurance Plan and related Performance Indicator Definitions currently included in CenturyLink's standard interconnection agreement for agreements between CenturyLink and New Mexico competitive local exchange carriers be eliminated. CenturyLink further requests that its existing interconnection agreements with New Mexico competitive local exchange carriers be deemed modified to remove the Performance Assurance Plan and related Performance Indicator Definitions.

Whereupon, being duly informed, the Commission finds that the Petition should be granted.

**THE COMMISSION FINDS AND CONCLUDES:**

1. On December 16, 2023, CenturyLink filed the Petition. In the Petition, CenturyLink requests that the Commission issue an order eliminating the Performance Indicator Definitions and Performance Assurance Plan portions of CenturyLink's interconnection agreements ("ICAs") with each New Mexico Competitive Local Exchange Carrier ("CLEC").

2. CenturyLink states that the Performance Indicator Definitions and Performance Assurance Plan have been in place for nearly 20 years and argues that they have become less relevant each year. CenturyLink states that, in 2019 and 2020, the Federal Communications

Commission (“FCC”) further reduced the number of products that CenturyLink must provide to CLECs as unbundled network elements. CenturyLink states that incorporating the recent changes into the ICAs would require expensive system changes and asks, instead, that the Commission allow CenturyLink to eliminate the Performance Indicator Definitions and Performance Assurance Plan entirely.

3. CenturyLink notes that the states of South Dakota, Idaho, Iowa, Montana, Nebraska, Wyoming, North Dakota, Colorado, and Utah have approved similar petitions by CenturyLink.

4. CenturyLink describes the Qwest Performance Assurance Plan as a self-effectuating performance assurance plan that is implemented as part of any ICA between CenturyLink and any CLEC that chooses to include it in the ICAs. CenturyLink describes the Performance Indicator Definitions as the definitions and metrics supporting the Performance Assurance Plan, which also appear in any ICA that includes the Performance Assurance Plan.

5. CenturyLink states that, in February 2020, CenturyLink filed a petition with the Commission to update the Performance Indicator Definitions and Performance Assurance Plan in its New Mexico ICAs in accordance with the FCC’s August 2, 2019, order titled “[Unbundled Network Elements Analog Loop and Resale Forbearance Order]” (the “First Order”). CenturyLink further states that the Commission approved these changes in its Order Granting Petition, issued on May 13, 2020, in Docket No. 20-00054-UT. CenturyLink states that these changes significantly reduced the volume of products and metrics remaining under the Performance Indicator Definitions and Performance Assurance Plan.

6. CenturyLink states that, in October 2020, the FCC issued its “[Unbundled Network Elements] Modernizing Forbearance Order” (the “Second Order”), making further significant changes. CenturyLink states that making the changes required by the Second Order would require CenturyLink “to completely change the architecture of the automated reporting processing.” CenturyLink further states that compliance with the Second Order would require that metrics be compiled at a wire center level rather than at a state level, which would be very costly.

7. CenturyLink states that it has notified impacted CLECs of its proposal to eliminate the Performance Indicator Definitions and Performance Assurance Plan. CenturyLink includes a copy of the notice as an attachment to the Petition.

8. CenturyLink states that, in advance of this filing, it notified CLECs of the planned filing and contacted CLECs to inquire as to their positions regarding CenturyLink’s proposal to remove the Performance Indicator Definitions and Performance Assurance Plan from its ICAs. CenturyLink states that it contacted the CLECs with the highest volume and/or payments under the current plan and received no objections related to the state of New Mexico.

9. CenturyLink argues that adoption of its proposal by the Commission will have only a minimal impact upon New Mexico CLECs. CenturyLink states that payments to CLECs under the Performance Assurance Plan declined from \$205,476 in 2003 to only \$465 in 2022 (up to the filing date of the Petition). CenturyLink further states that both CLEC order volume for services and repair volume covered by the Performance Assurance Plan continue to decline, providing tables illustrating the declines.

10. CenturyLink states that the statistical analysis software that must be utilized in Performance Indicator Definitions/Performance Assurance Plan reporting is required exclusively

for Performance Indicator Definitions/Performance Assurance Plan reporting, causing CenturyLink to incur an additional cost between \$400,000 - \$500,000 annually in addition to conversion project costs.

11. CenturyLink concludes, “In light of the changes to unbundling obligations ordered by the FCC, the decline in services covered by the Performance Indicator Definitions and Performance Assurance Plan and the cost of updating these documents and systems compared to CLECs’ interest in them, CenturyLink QC believes it is time to eliminate them entirely.”

12. CenturyLink asks for the following relief from the Commission: (1) an order approving the elimination of the Performance Indicator Definitions and the Performance Assurance Plan from all interconnection agreements in New Mexico; (2) an order deeming all existing interconnection agreements that currently contain the Performance Assurance Plan and the Performance Indicator Definitions modified to incorporate these revisions without the need for further filings or approvals; and (3) in the event there is no opposition to this Petition within 30 days of filing, the issuance of such an order without a hearing, further filings, or proceedings.

13. The Petition is supported by the verifying affidavit of Nancy Tangeman, Government Operations Director for CenturyLink.

14. On May 11, 2023, Staff of the Telecommunications Bureau of the Commission (“Staff”) filed the Affirmation of Michael S. Ripperger, Telecommunications Bureau Chief. In his Affirmation, Mr. Ripperger affirms that Staff supports the Petition. He further states that CenturyLink has provided adequate notice to CLECs operating in New Mexico, and that the record of this docket shows that there have been no intervention and no filings in the docket except for the Petition and Staff’s Affirmation.

15. Mr. Ripperger provides relevant background information, noting that CenturyLink's predecessor, Qwest Corporation ("Qwest"), was permitted to enter the long-distance market under Section 271 of the federal Telecommunications Act of 1996, in New Mexico and in other states. In exchange, Qwest was required to provide wholesale unbundled service to CLECs on par with the service it provided to itself as adopted through the Qwest Performance Assurance Plan and measured by associated Performance Indicator Definitions. Mr. Ripperger further states that Section 271 approval was designed to allow for competition to develop for local exchange services in the incumbent carrier's (Qwest's) service territory and nationwide in exchange for the incumbent receiving access to long distance calling markets.

16. Mr. Ripperger concludes, "It is evident the focus of the FCC and communications markets are shifting away from the [public switched telephone network] on which Section 271 approval was based towards IP and broadband based services." He further states that "[t]he objective of the 1996 [Federal Telecommunications Act] has largely been accomplished; CLECs have penetrated the markets and competition is healthy." He states that "the demand for Unbundled Network Elements is nowhere near what it once was, and the costs to [CenturyLink] in continuing to preserve and modify the [Qwest Performance Assurance Plan] far outweigh the benefit to competition and CLECs in New Mexico." He concludes that, "Staff therefore believes it is in the public interest for the Commission to grant CenturyLink QC's Petition to discontinue the Qwest Performance Assurance Plan and associated Performance Indicator Definitions in New Mexico as other CenturyLink QC states have done to this date."

17. The Commission has jurisdiction over this matter pursuant to 47 C.F.R. 51.

18. The Commission finds that granting the Petition is in the public interest. CenturyLink and Staff agree that, given the FCC's long-term, consistent trend of eliminating unbundled network element requirements, there is no significant need for Qwest's Performance Assurance Plan and its related Performance Indicator Definitions to be retained in current or future interconnection agreements between CenturyLink and any New Mexico CLEC. Thus, any remaining benefits of retaining the Performance Assurance Plan and its related Performance Indicator Definitions are far outweighed by the substantial costs to CenturyLink of complying with the plan, as well as maintaining and updating its systems for compliance and reporting.

19. The Commission finds that the Petition should be granted without a hearing or other further proceedings as adequate notice was provided to impacted CLECs and as the Petition is unopposed.

**IT IS THEREFORE ORDERED:**

- A. The Petition is GRANTED.
- B. CenturyLink may omit the Qwest Performance Assurance Plan and Performance Indicator Definitions from all future interconnection agreements that it enters into with New Mexico CLECs.
- C. All of CenturyLink's existing interconnection agreements with New Mexico CLECs that contain the Qwest Performance Assurance Plan and the Performance Indicator Definitions are hereby deemed modified to eliminate the Qwest Performance Assurance Plan and the Performance Indicator Definitions.
- D. This Order is effective immediately.

E. A copy of this Order shall be served upon all persons listed on the attached Certificate of Service via e-mail if their e-mail addresses are known; otherwise, via regular mail.

**ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 17<sup>th</sup> day of May, 2023.**

**NEW MEXICO PUBLIC REGULATION COMMISSION**

*/s/ Gabriel Aguilera, electronically signed*

**GABRIEL AGUILERA, COMMISSIONER**

*/s/ James F. Ellison, Jr., electronically signed*

**JAMES F. ELLISON, JR., COMMISSIONER**

*/s/ Patrick J. O'Connell, electronically signed*

**PATRICK J. O'CONNELL, COMMISSIONER**



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**CERTIFICATE OF SERVICE**

I CERTIFY that a true and correct copy of the foregoing *Order Granting Centurylink QC's Verified Petition* was sent via email to the parties listed below:

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*Order Granting CenturyLink QC's Petition to Eliminate  
Performance Indicator Definitions and Performance  
Assurance Plans from Interconnection Agreements*  
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Broadview Networks, Inc  
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Brook Landry Villa  
Bryan Catanach  
BT Americas Inc.  
Bullseye Telecom., Inc.  
Business Ntwk Long Distance  
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Cable One  
Callcatchers Inc/Freedom Voice  
Carla Najjar  
Carol Clifford  
Catherine Hannan  
Cebridge Acquisition LP  
Cebridge Acquisition LP d/b/a Suddenlink Communications  
Cecile Archibeque  
Cellco Partnership  
Central Valley Electric  
CenturyLink Comms., LLC  
Centurytel of the Southwest- NM  
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Charles Garcia  
Charles Mulcock  
Cherie Kiser  
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Chicago Business VoIP, LLC  
Chris Barron  
Chris Martinez  
Chris Rackley  
Christina Ward  
Chuck Moore  
Cincinnati Bell Any Distance, Inc.  
Cintex Wireless, LLC  
Claro Enterprise Solutions, LLC  
CloudCall, Inc. fka Synety, Inc.  
Columbus Electric  
Comcast OTR1, LLC  
Comcast Phone of New Mexico, LLC  
Commnet Wireless, LLC  
Computer & Network Paramedics, Inc dba G02 Tech  
Comtech 21, LLC  
ConnectMe, LLC  
Consumer Cellular Inc  
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Crexendo Business Solutions  
Crown Castle Fiber LLC  
Custom Teleconnect, Inc.  
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D. Alel  
D. James  
Dale Snider  
Dallas MTA LP  
Daniel Davis  
Daniel Gonzalez  
Daniel Meszler  
Daniel Najjar  
Danny Gray  
Darneshia Smith  
DataBytes, Inc.  
David Spradlin  
David Ziegler  
Delcom, Inc.  
Denise Barrera  
Denta!Tek, LLC  
Dialpad, Inc.  
Digium Cloud Services, LLC  
Dish Wireless LLC  
dishNET Wireline L.L.C.  
Distributed Computing, Inc. dba Ten4pbx.com  
Doug Kitch  
DP Access, LLC  
Duncan Valley Electric  
Earthlink, LLC  
Eddie Mishan  
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Electric Lightwave, LLC  
Elizabeth Ramirez  
ENA Healthcare Services, LLC f/k/a TeleQuality Communications, LLC  
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Eugene Evans-PRC  
EvolveIP, LLC  
Excellus Comms., LLC  
Excellus Communications, LLC d/b/a Snapfon  
Farmers' Electric Cooperative, Inc.  
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FastTrack Communications  
First Choice Technology, Inc  
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First Contact Communications, LLC  
First Contact Communications, LLC(secondary email)  
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**DATED** this 17<sup>th</sup> day of May, 2023.

**NEW MEXICO PUBLIC REGULATION COMMISSION**

**/s/ LaurieAnn Santillanes, electronically signed**  
**LaurieAnn Santillanes, Law Clerk**