

gain is to be distributed and the extent to which any interest that may be accrued on the gain should be included.¹

Discussion

- 4 Staff worked with the parties, CenturyLink, the Office of Public Counsel of the Attorney General (Public Counsel) and Department of Defense and all other Federal Executive Agencies (DoD/FEA) and Community Voice Mail to explore options regarding how to distribute the gain from the building sale to Washington customers. As Staff stated in the previous memo, the parties agree that providing bill credits to all current CenturyLink customers will only have a small and short-term benefits. In comparison, broadband deployment in unserved and underserved areas in Washington will yield longer term benefits that promote broadband availability and enhance economic development in rural disadvantaged communities.
- 5 On June 4, 2012, CenturyLink filed a proposal for disbursing the gain from the building sale. The Company commits to invest approximately \$11.1 million in broadband deployment in currently unserved and underserved areas over the next 24 months. As detailed in confidential Attachment E of its June 4, 2012, filing, the Company will extend broadband facilities to those communities where there is no broadband service available from either the Company or a cable provider, or, in limited instances, where the upgrade will increase internet access speeds and replace copper with fiber routes. Households in those areas will have access to broadband at speeds ranging from 256 kilobits per second to 40 megabits per second down and 20 megabits up. These proposed projects are not included in the Company's capital budget plans for deployment over the next three years. These projects are not and will not be included as part of the Company's state-wide broadband build-out plan in the CenturyTel-Qwest merger proceeding. Due to the high cost of the projects, they will most likely not be eligible for support from other sources such as Connect America Fund projects in the future. The Company also agrees to make a contribution of \$100,000 to Community Voice Mail to support their work of providing voice mail service for low-income customers. Currently, Community Voice Mail serves about 7,000 customers.
- 6 Overall, the proposed projects would make broadband available to 4,022 households that would otherwise have little chance to have broadband in their communities. Staff believes that these broadband projects not only bring immediate benefits to residents in

¹ UT-120128, Order 01 (March 21, 2012), para. 19.

the areas but also paves road for future broadband extension and upgrade in neighboring areas. The availability of broadband can have ripple effects in promoting digital literacy and economic development in rural Washington. Contribution to Community Voice Mail also helps broaden the base of beneficiaries from the building sale.

- 7 Docket UT-120228, Order No. 1 states “the extent to which any interest should be included and at what rate” will be considered with the disbursement of the gain. Staff has looked at this issue and considering that the construction will take place over 24 months concludes it is appropriate to accrue interest. The customers should receive some consideration from the Company for the time value of their money during the construction period of the broadband service. Staff recommends the Commission require the Company to compute interest on the unused funds at the existing prime rate of 3.25 percent compounded quarterly until the broadband construction projects are completed.
- 8 Staff and Public Counsel support the Company’s proposed plan for disbursing the gain from the building sale. DoD/FEA does not support the Company’s proposed plan for disbursing the gain to rural customers.
- 9 On June 12, 2012, DoD/FEA filed Comments and Opposition in this Docket. It asserts that “a broader distribution of the gain than just broadband deployment to unserved areas is more appropriate and should include two projects necessary for national security and safety requirements on Joint Base Lewis McChord (JBLM) with ancillary Public Benefits for the communities on and adjacent to JBLM.”² DoD/FEA objected to the agreement reached among the Company, Staff, and Public Counsel on several grounds: (1) the proposed plan will limit benefits to a very narrow class of customers; (2) broadband is an interstate service whereas the gain from the building sale is attributable only to intrastate telecommunications revenue; (3) there are other federal programs in place for broadband investment; (4) the proposed broadband deployment will not result in guaranteed cost recovery or revenue for the Company; and (5) DoD/FEA is entitled to some benefits from the building sale because it is a constant consumer of the Company’s commercial services, purchasing approximately five percent of the Company’s total intrastate telecommunications services. DoD/FEA proposes to include in the disbursement plan two diverse fiber build-out projects that it says concern post-9/11 national security and safety requirements. DoD/FEA asserts that these proposed projects will generate revenue

² DoD/FEA’s Comments and Opposition, p.2.

for the Company and potentially benefit surrounding communities, including elementary schools, homes and commercial businesses supporting JBLM.

- 10 Staff considered DoD/FEA's proposal in the process but decided not to include the projects requested by DoD/FEA. Staff's rationale is explained as follows:
- 11 (1) Staff agrees that the Company's proposed disbursement plan will only benefit a relatively small number of customers. However, the objective of this disbursement plan is to extend broadband availability to rural areas where it is uneconomical for the Company to build out advanced infrastructure under normal circumstances. It will benefit a segment of Washington's population that would not otherwise have access to broadband in the digital age. DoD/FEA's proposal only broadens the benefits to DoD/FEA, not to other customers. In fact, its proposal will reduce the number of customers who may receive broadband service for the first time in their area.
- 12 (2) Even though broadband is classified as an interstate service, the same infrastructure will be carrying intrastate telecommunications traffic. The new facility will enable advanced calling features and significantly improve service quality of voice services. The Commission should not be constrained by the artificial distinction between intrastate and interstate services, but rather put the gain from the building sale in projects that best suit public interest.
- 13 (3) As Staff mentioned earlier in this memo, the areas in the Company's proposed broadband deployment plan are not covered by other sources of funding, including Connect America Fund, the funds from the American Recovery and Reinvestment Act, or the Company's broadband plan from the CenturyTel-Qwest merger proceeding.
- 14 (4) Under the Company's proposed plan, generating revenue is secondary as compared to the goal of serving disadvantaged communities where broadband is needed most. Staff and the Company anticipate that once broadband facilities become available in those areas, the service take rate will be higher than areas with competitive choices. Even if the diverse fiber routes are built as requested by the DoD/FEA, in a time when there is fierce market competition and rapid change in telecommunications technologies, there is no guarantee the Company will be able to recover the cost of fiber build-out to DoD/FEA.

- 15 (5) Staff and the Company cannot verify DoD/FEA's share of the Company's intrastate telecommunications revenue as stated in the Comments and Opposition. The two proposed projects involve deploying diverse fiber paths to buildings on JBLM. Staff has learned that the two existing fiber routes on JBLM have been in service for 10 to 15 years. If diverse fiber routes are indeed critical to national security and safety, they should have been built long ago. However, the Company has informed Staff that DoD/FEA never initiated any request for service or cost estimates since the original fibers were placed. In the CenturyTel-Qwest merger proceeding in 2011, DoD/FEA was a party to the settlement. This need for national security and safety requirements on JBLM was not brought up in the process. Whereas these projects are desirable, Staff does not think it would be the best use of the money in this context. If the gain from the building sale were to be disbursed to ratepayers in proportion to their respective contribution to the cost of the building, other large commercial customers would be entitled to similar benefits, as well. In terms of the ancillary public benefits claimed by DoD/FEA, Staff has learned that areas surrounding JBLM listed in the confidential Attachment 2 to DoD/FEA's Comments and Opposition currently have access to broadband services. Most residential housing units can receive service from both CenturyLink and Comcast.
- 16 Staff recommends that the Commission approve the Company's proposed plan of disbursing the gain from the building sale subject to annual reporting requirement. Staff recommends that the Commission require the Company to file annual reports on June 1, 2013, and June 1, 2014, detailing the facility build-out progress by each project. If the actual total cost is less than \$11.1 million, the Company must consult Commission Staff and Public Counsel to plan for additional projects to spend the remainder of the building sale gains.

FINDINGS AND CONCLUSIONS

- 17 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including telecommunications companies. RCW 80.01.040, RCW 80.04, RCW 80.08, RCW 80.12, RCW 80.16 and RCW 80.36.

- 18 (2) Qwest Corporation d/b/a CenturyLink QC is a telecommunications company and a public service company subject to Commission jurisdiction.
- 19 (3) This matter first came before the Commission at its special open meeting on March 20, 2012. The Commission approved Qwest Corporation d/b/a CenturyLink QC's application for the transfer of the property and sale of the land and building and deferred the decision how the gain is to be distributed and the extent to which any interest that may be accrued on the gain should be included.
- 20 (4) As required by the Commission Order 01, Commission Staff, in consultation with the Company and other interested persons, developed a proposal for distributing the gain to Qwest Corporation d/b/a CenturyLink QC's Washington customers. The Commission determines that the proposal is in the public interest.
- 21 (5) The disbursement of gains from building sale is discussed at the Commission open meeting on June 14, 2012.

ORDER

THE COMMISSION ORDERS:

- 22 (1) Qwest Corporation d/b/a CenturyLink QC's proposal of disbursing the gains from the transfer of the property and sale of the land and building located at 1600 - 7th Avenue, Seattle, Washington is approved. The Company will spend \$11.1 million on expanding broadband services in Washington and provide \$100,000 to Community Voice Mail to support the telecommunications needs of low income citizens of Washington.
- 23 (2) Qwest Corporation d/b/a CenturyLink QC must file annual reports on June 1, 2013 and June 1, 2014, detailing the facility build-out progress by each project. If the actual total cost is less than \$11.1 million, the Company must consult Commission Staff and Public Counsel to plan for additional projects to spend the remainder of the building sale gains.

- 24 (3) Qwest Corporation d/b/a CenturyLink QC will accrue interest on the unused funds at the existing prime rate of 3.25 percent compounded quarterly until the broadband construction projects are completed.
- 25 (4) The Commission retains jurisdiction over the subject matter and Qwest Corporation d/b/a CenturyLink QC to effectuate the provisions of this Order.

DATED at Olympia, Washington, and effective June 14, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PHILIP B. JONES, Commissioner