

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Joint Application of)	DOCKET UT-100820
)	
QWEST COMMUNICATIONS)	ORDER 17
INTERNATIONAL INC. AND)	
CENTURYTEL, INC.)	ORDER GRANTING STAFF'S
)	MOTION FOR EXTENSION OF
For Approval of Indirect Transfer of)	TIME TO RESPOND TO
Control of Qwest Corporation, Qwest)	CENTURYLINK'S PETITION TO
Communications Company LLC, and)	RELEASE ESCROWED FUNDS AND
Qwest LD Corp.)	ELIMINATE FUTURE ESCROW
)	PAYMENTS
.....)	

1 **PROCEEDING.** On May 13, 2010, Qwest Communications International, Inc. (Qwest) and CenturyTel, Inc. (CenturyLink) filed a joint application with the Washington Utilities and Transportation Commission (Commission) for expedited approval of the indirect transfer of control of Qwest's operating subsidiaries, Qwest Corporation, Qwest LD Corp., and Qwest Communications Company LLC to CenturyLink.

2 **PROCEDURAL HISTORY.** On March 14, 2011, the Commission entered Order 14, approving the acquisition of Qwest by CenturyLink, subject to several conditions, one of which required CenturyLink to separate its broadband deployment commitment of \$80 million from general corporate funds and place those monies in an irrevocable escrow account over a three year period.¹ The Commission directed CenturyLink to deposit the first installment of \$30 million into the escrow account within 30 days after the transaction's close.² The next two payments would be due on

¹ Order 14 – Final Order Approving and Adopting, Subject to Conditions, Multiparty Settlement Agreements and Authorizing Transaction, ¶ 249.

² *Id.*

the transaction's anniversary in 2012³ and 2013, respectively.⁴ The Commission authorized CenturyLink to petition the Commission quarterly for reimbursement of monies from the escrow account.⁵

3 **PETITION FOR RELEASE OF FUNDS AND ELIMINATION OF ESCROW REQUIREMENT.** On March 30, 2012, CenturyLink filed a Petition for Release of Funds from Broadband Escrow Account and Elimination of Requirements for Future Escrow Payments (Escrow Petition).⁶ Specifically, CenturyLink is seeking Commission approval to discontinue further payments into the broadband escrow account. CenturyLink contends that it has made substantial progress in achieving its broadband deployment commitment in Washington.⁷ In fact, CenturyLink asserts that its broadband expenditures already exceed \$55 million for the first two escrow installments.⁸

4 The Commission asked parties to respond to CenturyLink's Escrow Petition by April 13, 2012. On that day, the Commission's regulatory staff (Staff)⁹ filed a Motion for

³ Since the transaction closed on April 1, 2011, the second broadband escrow installment would have been due on April 1, 2012. However, CenturyLink requested and the Commission granted a sixty-day extension of time within which to satisfy that requirement.

⁴ Order 14 – Final Order Approving and Adopting, Subject to Conditions, Multiparty Settlement Agreements and Authorizing Transaction, ¶ 249.

⁵ *Id.* at ¶ 250.

⁶ Escrow Elimination Petition, ¶ 2. While CenturyLink has styled its request for disbursement as a petition, the request is more akin to a compliance filing. As such, the request will be processed as a compliance filing on a separate track from the Petition. The Company's petition to eliminate the requirement of future escrow payments is in essence a motion to amend Order 14.

⁷ *Id.*

⁸ *Id.* at ¶ 3. CenturyLink states that it has expended more than \$57 million on expansion of fiber-based high speed Internet services in 2011 in Washington state. *Id.* at ¶ 8.

⁹ In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To ensure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

Extension of Time to Respond to CenturyLink's Escrow Petition (Staff's Motion).¹⁰ Staff states that it has reviewed CenturyLink's 2011 Annual Broadband Investment Report (Report) and the attachment to CenturyLink's Escrow Petition, which lists the broadband investment amounts the Company expended in each wire center in 2011. Staff requests additional time, however, to review the data used to produce CenturyLink's Report.¹¹ Specifically, Staff requests an extension of time within which to respond to May 7, 2012.¹² Staff asserts that CenturyLink does not oppose Staff's Motion.¹³

5 Also on April 13, 2012, the Public Counsel Section of the Office of the Attorney General (Public Counsel) filed a letter in which Public Counsel opposes Staff's Motion. Public Counsel contends that an extension is unnecessary and may not benefit discussions it is having with Staff and the Company.¹⁴ If the Commission grants Staff's Motion, Public Counsel recommends that any extension be limited to one week.¹⁵

6 **COMMISSION DECISION.** Pursuant to WAC 480-07-385(2), the Commission will grant a motion for extension of time if the requesting party demonstrates good cause for the continuance and the continuance will not prejudice any party or the Commission. Staff's Motion satisfies both criteria. Additional time to analyze the data provided by CenturyLink will help Staff provide the Commission with an informed response to CenturyLink's Escrow Petition. Further, Public Counsel's

¹⁰ Staff informally alerted the presiding officer that a motion would be forthcoming several days prior to the deadline.

¹¹ Staff's Motion, ¶ 3.

¹² *Id.* at ¶ 1. Staff maintains that it considered CenturyLink's May 31, 2012, escrow installment deadline when arriving at the May 7, 2012, date.

¹³ *Id.*

¹⁴ Public Counsel's Letter, at 1.

¹⁵ *Id.*

claims of harm if the extension is granted lack merit. Thus, Staff's Motion should be granted.

ORDER

- 7 THE COMMISSION ORDERS That Staff's Motion for Extension of Time to Respond to CenturyLink's Petition to Release Escrowed Funds and Eliminate Future Escrow Payments is granted. Commission Staff's response is due May 7, 2012.

Dated at Olympia, Washington, and effective April 17, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARGUERITE E. FRIEDLANDER
Administrative Law Judge