

Staff Briefing Papers

Meeting Date	November 14, 2024	Agenda Item 2**
Company	Qwest Corporation D/B/A CenturyLink	
Docket No.	P-421/C-20-432	
	In the Matter of a Formal Complaint Regarding the Services Provided By the Qwest Corporation D/B/A CenturyLink in Minnesota, On Behalf of the Communications Workers of America	
Issues	Should the Commission grant CenturyLink's Petition for Reconsideration of the Commission's September 17, 2024, Order.	
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✓ Relevant Documents	Date
Commission Order	September 17, 2024
Petition for Reconsideration, CenturyLink	September 27, 2024
Answer to Petition, Office of Attorney General	October 7, 2024
Answer to Petition, Department of Commerce	October 7, 2024

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

BACKGROUND

On April 23, 2020, the Communications Workers of America (CWA) filed allegations that Qwest Corporation d/b/a CenturyLink QC (CenturyLink) had failed to meet service quality standards set forth in Minnesota Rules 7810. On May 1, 2020, following negotiations with CenturyLink, CWA petitioned to withdraw its complaint.

On May 18, 2020, the Commission sent letters to both CenturyLink and CWA acknowledging that CWA had fulfilled the requirements for withdrawing its complaint—but directing the parties to document the service quality issues that prompted CWA’s complaint and how those issues have been resolved.

On August 18, 2020, CWA petitioned the Commission to pursue an expedited investigation of CenturyLink’s service quality.

Thereafter the Commission received comments from CenturyLink, the Minnesota Department of Commerce (Department), and the Minnesota Office of the Attorney General—Residential Utilities Division (OAG). In particular, on August 30, 2021, the Department and the OAG filed joint reply comments alleging service quality lapses and making two procedural recommendations. The parties recommended that the Commission consider referring the matter to the Office of Administrative Hearings to develop the factual record. And if the Commission found a knowing and intentional violation of the Commission’s rules, these parties recommended that the Commission consider referring the matter to the Minnesota Office of the Attorney General to pursue civil penalties.

The parties pursued settlement negotiations and filed periodic reports on the status of those negotiations.

On August 16, 2022, CWA, the Department, and the OAG recommended referring the matter to the Minnesota Office of Administrative Hearings to convene a series of public hearings regarding CenturyLink’s service quality.

On January 30, 2023, finding that negotiations had reached an impasse, the Commission referred the matter to the Office of Administrative Hearings for a contested case proceeding before an administrative law judge (ALJ).

In the summer of 2023, the ALJ held public hearings in Hibbing, Marshall, Thief River Falls, and Owatonna, as well as two public hearings virtually. By December 1, 2023, the ALJ had received direct, rebuttal, and surrebuttal testimony from CenturyLink, the Department, and the OAG. On January 4, 2024, CenturyLink, the Department, and the OAG filed a stipulation narrowing the range of disputed issues. By February 7, 2024, the ALJ had received initial briefs, reply briefs, and proposed findings and recommendations from CenturyLink, the Department, and the OAG.

On March 13, 2024, the ALJ filed a Findings of Fact, Conclusions of Law, and Recommendations

(ALJ's Report). By April 22, 2024, the Commission had received exceptions to the ALJ's Report from CenturyLink and the OAG, and replies to those exceptions from the Department and the OAG. The Commission had also received more than 60 written public comments throughout the course of the docket.

On June 20, 2024, the Commission met to consider the matter and the record closed under Minn. Stat. § 14.61, subd. 2. The Commission's September 17, 2024 Order found CenturyLink violated Minn. R. 7810.3300, 7810.5000, and 7810.5800, and prescribed remedies for the violations.

CenturyLink filed a Petition for Reconsideration of the Commission's September 17, 2024 Order on September 27, 2024. The Department and the OAG replied to CenturyLink's Petition for Reconsideration on October 7, 2024.

DISCUSSION

The Commission may grant a petition for reconsideration if it "appear[s] that the original decision . . . is in any respect unlawful or unreasonable."¹ The Commission denies petitions for reconsideration if they "do not raise new issues, do not point to new and relevant evidence, do not expose material errors or ambiguities in the . . . order, and do not otherwise persuade the Commission that it should rethink the decisions set forth in its order."²

CenturyLink contends the "ALJ Report contains numerous findings that fail to have record support – and in some cases directly contradict the record -- and that include errors of law. By adopting all but one of the ALJ's over 100 Findings, the Order perpetuates these errors, requiring reconsideration and modification."³ CenturyLink has requested the Commission grant its Petition for Reconsideration of the Commission's September 17, 2024 Order. **(Decision Option 1)**

CenturyLink has grouped the "errors" in the following categories:

1. The ALJ Report and Order err in finding the company in violation of General rules regarding Plant Maintenance and Telephone Utility Obligations.
2. The Order contradicts the record evidence in finding the Company in violation of the General requirements of Minn. R. 7810.5800.
3. The ALJ report and Order go far beyond service quality regulation by dictating company investment decisions and do so on the basis of an inaccurate finding.

¹ Minn. Stat. 216B.27, subd. 3 (2022).

² *In the Matter of Application of Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota*, Docket No. E-015/GR-16-664, Order Granting Reconsideration in Part, Revising March 12, 2018 Order, and Otherwise Denying Reconsideration Petitions (May 29, 2018).

³ Petition for Reconsideration, CenturyLink, at 1-2.

4. The Commission should reject finding 14 of the ALJ Report which states:
As a successor to the Northwestern Bell Telephone Company, CenturyLink retains service across Minnesota that span approximately 66,000 miles of copper cable and nearly 10,000 cross box locations. In these service areas, CenturyLink remains the statutorily mandated “carrier of last resort.”
5. The Remedies set forth in the ALJ Report and Order go beyond the Commission’s legal authority and factual support.

Both the Department and OAG have rebutted each of the claims made by CenturyLink stating no new evidence has been presented nor have new or persuasive arguments been made. The OAG stated CenturyLink’s petition does not identify any errors or ambiguities in the Commission’s Order, nor does it demonstrate that the order is “unlawful or unreasonable.” As such the Petition for Reconsideration should be denied.⁴ **(Decision Option 2)**

The Department states CenturyLink is wrong when it asserts the Commission’s Order and the ALJ report ignored the record and relied on errors of fact. “Each of the alleged omissions CenturyLink raises in its petition were specifically considered and litigated at each stage of these lengthy proceedings.”⁵

The OAG states “CenturyLink has not identified any errors or omissions in the record. Instead, CenturyLink has identified a series of areas where it wishes the fact finders had weighed all relevant evidence, legal requirements, and customer needs differently. This is not a valid basis for reconsideration, and thus its petition should be denied.”⁶

CenturyLink has offered an alternative option to the ALJ Report and Order. CenturyLink offers to adopt the Minnesota Service Quality Plan (“MSQP”) as an alternative to reconsideration and reversal. CenturyLink believes the MSQP would continue to allow the company to provide safe and adequate service in Minnesota while moving toward the future.⁷ **(Decision Option 3)**

The Department argued the alternative option offered by CenturyLink should be rejected for three reasons: 1) CenturyLink is looking for relief from the Commission’s order to end the practice of declining to complete maintenance projects for failure to satisfy a five-year payback threshold. 2) CenturyLink seeks to eliminate the Commission’s requirements that it schedule repair appointments within a period of no more than four hours. 3) CenturyLink is attempting to reduce its obligation to resolve all reports within 90 days to 70% within 90 days.⁸

⁴ OAG Comments, October 7, 2024, at 2.

⁵ Department Comments, October 7, 2024, at 2.

⁶ OAG Comments, October 7, 2024, at 4.

⁷ CenturyLink Petition for Reconsideration, September 24, 2024 at 31.

⁸ Department comments, October 7, 2024, at 8-9.

DECISION OPTIONS

1. Grant CenturyLink's Petitions for Reconsideration and reverse the Commission's September 17, 2024, Order. Reject the ALJ's Conclusions of Law 7–9 and Recommendations 1–8. Delegate authority to the Executive Secretary to modify the ALJ Report consistent with this decision. (CenturyLink)

OR

2. Deny CenturyLink's Petition for Reconsideration. (Department and OAG)

AND/OR (if decision option 1 is selected, decision option 3 may also be selected)

3. Require CenturyLink to adopt the Minnesota Service Quality Plan filed as an attachment to CenturyLink's September 27, 2024 petition. (CenturyLink alternative)