

**STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

Beverly Jones Heydinger	Chair
Dr. David C. Boyd	Commissioner
Debra Lange	Commissioner
Dan Lipschultz	Commissioner
Betsy Wergin	Commissioner

In re Joint Petition by Qwest Corporation
dba CenturyLink QC and Dex Media East,
Inc. pursuant to Minn. Stat. § 237.081, Subd. 1
for a variance of rules 7810.2900 and 7812.0600 MPUC Docket No: P-421/M14-775
requiring distribution of a printed residential
white pages directory to all customers served
in Minnesota.

INITIAL COMMENTS OF MINNESOTA CABLE COMMUNICATIONS ASSOCIATION

The Minnesota Cable Communications Association (the “MCCA”) appreciates this opportunity to file Comments in response to the joint petition of CenturyLink and Dex Media East (“Dex”) captioned above. As the request for Comments notes, several other dockets before the Minnesota Public Utilities Commission (“Commission”) have addressed either varying or amending the Commission’s rules concerning the distribution of white pages directories. The MCCA has participated in each of these dockets, consistently voicing its position that, given the appropriate conditions for guarding against anti-competitive behavior by incumbent local exchange carriers, saturation delivery of residential white page directories need-not be required of local exchange carriers.¹

¹ See MCCA Comments in *Petition of Frontier Communications of Minnesota, Inc. and Citizens Telecommunications Company of Minnesota, for a Waiver of Rule 7810.2900 Regarding the Distribution of Telephone Directories*, P-405/AM-12-140 (May 15, 2012); *Petition of Dex Media East, Inc. for a Variance of Rules 7810.2900 and 7812.0600 Regarding the Distribution of Printed Residential White Pages Directory to All Customers Served by CenturyLink in the State of Minnesota*, P-405/AM12-1236

CenturyLink and Dex recognize that it would be poor consumer policy and bad industrial policy to grant the requested variance to CenturyLink alone. Consequently the petitioners agree with the MCCA and support granting competitive service providers operating in CenturyLink's service territory the same variance as the Commission should grant to it. Competitive service providers are not in the directory publication business and rely on CenturyLink and Dex to fulfill white pages directory delivery obligations for them. Thus, it only makes sense that if the waiver is granted to CenturyLink and Dex, it should also be waived for competitive service providers.

The MCCA appreciates Dex's commitment to negotiate in good faith agreements with our members to accept electronic files from them identifying their subscribers who request printed residential white pages. Accepting electronic files from competitive service providers however, should be a requirement, and not merely a subject for negotiation. In addition to being more efficient than other methods of providing the information, transmitting directory requests via electronic files would avoid re-keying errors. Having to direct customers to the incumbent telephone company or Dex to obtain a physical directory is not good customer service and creates opportunities for anti-competitive cross marketing. Therefore, CenturyLink and Dex should be required to accept electronic files from competitive service providers identifying customers who desire a physical directory.

As MCCA has advocated in previous similar petitions by ILECs to waive white pages directory delivery requirements, the wholesale telecommunications service of publishing and delivering directories should not become a tool for seeking competitive

(Jan. 7, 2013 and Jan. 31, 2013); *Possible Amendment to Rules Concerning White Pages Directory Publication and Distribution*, P-999/R-13-459.

advantage. If the Commission grants Dex's petition, the MCCA urges that the Commission order that the process whereby a subscriber requests a directory not be used for marketing CenturyLink telecommunications services. Requiring subscribers to call someone other than their own provider to obtain a directory creates a marketing opportunity. Subscribers should not have to be subjected to marketing efforts when requesting a directory. Nor should competitive providers be disadvantaged because their subscribers must make a call to obtain a directory.

In *U.S. West Communications, Inc. v. Hix*, 93 F. Supp. 2d 1115, 1132 (D. Colo. 2000), a federal district court in Colorado explained why the FCC has insisted that this be the case. The court in *Hix* underscored that FCC rules require ILECs to place a competitor's customer listing information in their directories in a non-discriminatory manner. The court found that if competitive phone providers were denied publication of directory listings in ILEC phone books on terms and conditions equal to those provided to ILEC customers, ILECs could deny publication to competitors' customers. This denial could become a critical marketing or sales opportunity to persuade a potential competitor's customer to choose the ILEC over a competitor. A similar risk is present when a competitive service provider's customer must request a physical white pages directory from an ILEC.

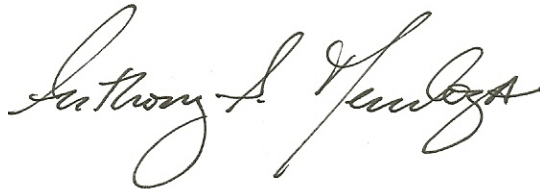
The fact that CenturyLink has delegated the directory delivery service function to Dex does not change the law. Actions the law forbids a carrier to undertake do not become permissible because the carrier arranges for another to perform them. The MCCA requests that the Commission expressly prohibit the petitioners from using the wholesale service of directory delivery to engage in marketing. The fact such misuse is

unlikely under current circumstances does not mean such misuse will never occur, as circumstances may change.

In conclusion, the MCCA continues to support a process whereby subscribers must request a residential directory be delivered to them. The conditions set out by the joint petitioners are reasonable but do not go far enough. It is appropriate to supplement their proposed conditions with a clear prohibition against any carrier gaining a retail advantage through the provisioning of a wholesale service and a clear requirement that Dex as the directory publisher must accept electronic files from competitive service providers. The MPUC should also grant the same relief to competitive providers as it decides to grant to Qwest and Dex Media.

Dated: October 23, 2014

MINNESOTA CABLE
COMMUNICATIONS ASSOCIATION

A handwritten signature in black ink, appearing to read "Anthony S. Mendoza". The signature is fluid and cursive, with a large initial 'A' and 'M'.

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