

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Nancy Lange
Dan Lipschultz
Matthew Schuenger
Katie J. Sieben
John A. Tuma

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Petition of CenturyLink
QC to be Regulated Pursuant to Minn. Stat.
§237.025: Competitive Market Regulation

ISSUE DATE: January 27, 2017

DOCKET NO. P-421/AM-16-496

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DOCKET NO. P-421/AM-16-547

ORDER FINDING PETITION
COMPLETE, REQUIRING NOTICE,
AND SETTING PROCESS SCHEDULE

PROCEDURAL HISTORY

On June 30, 2016, Qwest Corporation d/b/a CenturyLink QC (CenturyLink) filed a petition to be regulated under newly enacted legislation, Minn. Stat. § 237.025. The petition included a request for deregulation in each of the company’s 109 Minnesota exchange service areas, stating that in each area, CenturyLink serves fewer than 50 percent of households, and unaffiliated competitors offer voice service to at least 60 percent of households. If the petition is approved, CenturyLink will be authorized to operate as a competitive local exchange carrier (CLEC).

On November 2, 2016, the Commission issued an order initiating an expedited proceeding and requiring CenturyLink to file additional information to make its application complete. First, the Commission required CenturyLink to file number portability data to address the requirements of subdivision (2)(b)(5) of the statute regarding loss of customers to unaffiliated competitive service providers. Second, the Commission directed CenturyLink to file data to address subdivision 2(b)(6) regarding evidence of competition, including the percentage of households served by CenturyLink in each exchange service area and the percentage of households in each exchange that can choose service from unaffiliated competitive service providers.

On November 14, 2016, the Office of the Attorney General – Residential Utilities and Antitrust Division (OAG) filed comments recommending that the Commission ask that an administrative law judge be assigned to the case to resolve discovery disputes and related motions. The OAG also recommended that the Commission require CenturyLink to hold public hearings on its petition throughout its service territory and that the company be required to give notice to customers of its petition and of public hearings.

On November 21, 2016, CenturyLink filed supplemental information in response to the Commission’s November 2 order. The company also responded to the OAG’s recommendations, stating that it is unopposed to referring discovery matters to an administrative law judge but that

it is opposed to public hearings. CenturyLink also included in its comments a proposed process schedule for Commission consideration.

On November 22, 2016, the Department of Commerce (the Department) filed comments concurring with the OAG in recommending that the Commission ask an administrative law judge to resolve discovery disputes. The Department also recommended that an administrative law judge conduct hearings and handle interlocutory motions, and provide the Commission with a recommendation on whether to approve the petition. In addition, the Department included a proposed process schedule.

On December 21, 2016, the matter came before the Commission.

FINDINGS AND CONCLUSIONS

I. Completeness

In its prior order in this case, the Commission directed CenturyLink to file additional information to make its petition complete.

Specifically, the Commission directed CenturyLink to file its number-porting records to address Minn. Stat. § 237.025, subd. 2(b)(5), which requires that a petitioner file documentation demonstrating the local exchange carrier's loss of local voice service customers to unaffiliated competitive service providers in each exchange area over, at a minimum, the previous five years. In response, CenturyLink filed number-porting data from 2011 through August 2016. According to the company, the data shows every port, by month, from CenturyLink.

The Commission also directed CenturyLink to file data to address Minn. Stat. § 237.025, subd. 2(b)(6), which requires the petitioner to demonstrate that it satisfies the competitive criteria under subdivision 4. In its petition, CenturyLink claimed that it meets the requirements of subdivision 4(1) of the statute because it serves fewer than 50 percent of the households in its exchange service areas and that at least 60 percent of households in each of those exchange service areas can choose voice service from at least one additional competitive service provider.

In response to the Commission's directive that CenturyLink file information to substantiate its claim about the percentage of households it serves, the company filed data on the number of primary residential voice lines in each wire center and the number of households in each wire center, using data from the United States Census Bureau. The company stated that it divided the number of lines by the number of households to calculate the percentage of households it serves in each wire center, and consequently, in each exchange service area.

To address the percentage of households that can choose voice service from competitive service providers, the company filed data derived from the Federal Communications Commission (FCC) on cable coverage, wireline carrier coverage, and wireless coverage.

At the Commission meeting, the Department argued that the supplemental information filed by CenturyLink, particularly the FCC data, does not sufficiently address the statutory requirement to show the number of households served by CenturyLink and the number of households with the

option to choose voice service from a competitive service provider. Questions concerning the sufficiency of the information filed, however, are more relevant to whether the petition is persuasive in showing that CenturyLink meets the requirements for deregulation under the statute. That question is not yet in front of the Commission.

Based on the additional information filed by CenturyLink, the Commission will find the petition complete, as of the date of the filing, November 21, 2016. The Commission's finding of completeness is as to form only; it implies no judgment on the merits of the petition. Comments more closely related to the merits of the petition, rather than its completeness, can be most effectively addressed as the record is developed.

Under the statute, the petition is deemed approved if no party objects to the petition within 45 days of the filing.¹ The objections to the petition filed by the Department and the OAG on August 15, 2016 are sufficient to prevent automatic approval of the petition under the statute. The petition will therefore proceed on the merits.

II. Process

Under the statute, the Commission must make a final determination on a petition within 180 days of the date the petitioner files all the information required under subdivision 2. To facilitate development of the record consistent with the statutory timeframe, the Commission will set the following schedule.

Day 0:	November 21, 2016	Filing Complete
Day 30:	December 21, 2016	Agenda Meeting
Day 72:	February 9, 2017	Intervenors Direct, with Exhibits
Day 87:	February 23, 2017	Rebuttal Testimony, with Exhibits
Day 102:	March 9, 2017	Initial Briefs and Proposed Findings and Conclusions
Day 114:	March 23, 2017	Reply Briefs and Amended Findings and Conclusions
Day 136:	April 13 and 28, 2017	Commission Oral Argument and Deliberations
Day 180:	May 22, 2017	Statutory Deadline

Adjustments to the schedule, consistent with the statutory deadline, are permitted with the approval of the Executive Secretary.

¹ Minn. Stat. § 237.025, subd. (3)(c).

Anyone not a party to this proceeding wishing to file comments on the merits of the petition must do so no later than March 9, 2017.

While the above schedule establishes the process for development of the record, the Commission will refer disputes concerning discovery issues and interlocutory motions to the Office of Administrative Hearings. This limited referral will assist in both the timely and orderly resolution of these issues and enable parties to promptly begin developing the record.

The Administrative Law Judge assigned to this case is: Jessica A. Palmer-Denig. Her address is: Office of Administrative Hearings, 600 North Robert Street, St. Paul, Minnesota 55101. She can be reached through her legal assistant, Sheena Denny, at 651-371-7881 or sheena.denny@state.mn.us.

III. Customer Notice

The Commission will also direct CenturyLink to notify its customers of its petition to be regulated under Minn. Stat. § 237.025. This furthers the goal of ensuring that CenturyLink's customers will receive information on how to contact the Commission with any input on the petition.

The Commission will delegate to the Executive Secretary the authority to determine the form and content of the notice.

ORDER

1. The Commission hereby finds that CenturyLink's filing is complete as of November 21, 2016.
2. The objections filed by the Department and the OAG on August 15, 2016, are sufficient to prevent automatic approval of CenturyLink's petition under the statute. The petition shall proceed on the merits.
3. CenturyLink shall issue a notice to its customers informing them of its petition to be regulated pursuant to Minn. Stat. § 237.025.
4. The Commission delegates to the Executive Secretary the authority to determine the form and content of the customer notice.
5. Any comments on the merits of the application must be filed with the Commission no later than March 9, 2017.
6. The Commission sets the following process schedule:

Day 0:	November 21, 2016	Filing Complete
Day 30:	December 21, 2016	Agenda Meeting
Day 72:	February 9, 2017	Intervenors Direct, with Exhibits
Day 87:	February 23, 2017	Rebuttal Testimony, with Exhibits
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Day 180:	May 22, 2017	Statutory Deadline

7. Adjustments to the schedule, consistent with the statutory deadline, are permitted with the approval of the Executive Secretary.
8. The Commission hereby refers disputes concerning discovery and resolution of interlocutory motions to the Office of Administrative Hearings.
9. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf
Executive Secretary



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