

Public Service Commission of Utah

Public Service Commission (PSC)
Docket No. 23-049-01, Qwest Corp./CenturyLink's Petition For
Exemption as a Carrier of Last Resort
Yvonne R. Hogle, PSC Executive Staff Director

Presentation to the Rules Review
and General Oversight Committee

October 23, 2024

The Cornerstone of Utility Regulation: the Regulatory Compact

- An agreement between public utilities and the states that arose centuries ago as a way to encourage companies to provide critical, basic public services.
- Companies were granted a “franchise” – giving them exclusive access to customers in a specific territory. Because the cost of building facilities to provide basic services was so high, the government granted companies exclusive franchises to encourage them to invest in the necessary infrastructure to assure not only recovery of their investment in their designated service area but also an opportunity for profits through its monopoly status via its captive customers. In exchange, companies agreed to serve any customer within their franchises (or service areas).

Utah Code Section 54-8b-1.1: Telecommunications Policy

- Among other things, the PSC must:
 - endeavor to make available high-quality, universal telecommunications services to all residents and businesses in the state,
 - encourage development of competition for wider customer choices,
 - encourage new technologies and modify regulatory policy to allow greater competition in the industry,
 - enhance general welfare and encourage economic growth through increased competition, and
 - endeavor to protect customers who do not have competitive choice.

Understanding the Carrier of Last Resort Obligation

- A Carrier of Last Resort (COLR) is a telecommunications provider that stands ready to provide basic telephone service at just and reasonable rates, commonly via landline, to any customer requesting such service within its service area.
- In Utah, at least one telephone company in a specified area is legally required to provide access to telephone service to anyone in its service territory who requests it (ILEC). This is known as the COLR obligation, which ensures that everyone in Utah has access to safe, reliable, and affordable basic telephone service.
- CenturyLink is the designated COLR in certain parts of the state and must provide traditional landline telephone service to any potential customer in its service area.
- Withdrawal from COLR obligation must be approved by the PSC.

Qwest/CenturyLink's Proposed Petition

- On a forward-looking basis, CenturyLink sought relief from the obligation to provide voice service to every new customer location regardless of the cost of service.

Utah Code Section 54-8b-3: A path to relinquish COLR status.

- The PSC may issue an order exempting a telecommunications provider from any requirement in Title 54, and for its entire service territory or for a specific area within its service territory. UCA § 54-8b-3(1)(a) and subsection 3(3).
- The PSC may issue an order for an exemption if it finds that:
 - (a) the telecommunications corporation or service is subject to effective competition; and
 - (b) the exemption is in the public interest. UCA § 54-8b-4.

What is “effective competition”?

- The PSC must consider all relevant factors to determine if effective competition exists, which may include:
 - Availability of competing telecommunications services from alternative telecommunications providers;
 - Ability of alternative providers to offer competing services that are functionally equivalent and reasonably available at comparable prices, terms, quality, and conditions;
 - Applicant’s market share;
 - Extent of economic or regulatory barriers to entry;
 - Impact of potential competition; and
 - Type and degree of exemptions proposed. UCA § 54-8b-5.

Is the Proposed Exemption in the “public interest”?

- The PSC must consider, in determining if the proposed exemption is in the public interest, in addition to other relevant factors, the impact the proposed exemption would have on captive customers of the applicant.

The PSC Balances Divergent Interests

- The PSC balances divergent, most often competing, interests in its proceedings as it weighs the evidence that is submitted for decision-making.
- Here, CenturyLink must provide substantial evidence showing that (1) it is subject to effective competition in the provision of basic telephone service, and (2) exempting it from its COLR obligation is in the public interest.
- No intervening party, including the regulatory agencies, supported CenturyLink's application.
- Given the PSC's mandate that it must (1) endeavor to make available high-quality, universal telecommunications services to all residents and businesses in the state, and (2) protect customers who do not have competitive choice, CenturyLink's burden to show that it should be exempted from its COLR obligation is high.

CenturyLink Failed to Show that Effective Competition Exists.

- One of the factors the PSC may consider in deciding whether effective competition exists is whether alternative providers are able to offer competing services that are functionally equivalent and reasonably available at comparable prices, terms, quality, and conditions.
- The evidence provided by CenturyLink was that satellite and broadband services are functionally equivalent to basic landline telephone service. However, CenturyLink admitted that voice service typically is not included in satellite or broadband service and must be added on by the customer at additional costs.
- The evidence also showed that there are no CenturyLink local exchanges where telephone service is offered to 100 percent of the locations – meaning that even within CenturyLink’s own service territory, there are still areas that do not have a wireline or fixed wireless service available.

CenturyLink Failed to Show that Exempting it from COLR Obligation is in the Public Interest.

- CenturyLink noted the financial burden placed on it as a COLR, stating that it receives no money from the state USF and that it stopped receiving federal funding from the federal USF in 2022.
- This notwithstanding, CenturyLink acknowledged that even if the PSC were to grant its Petition, it would still have federal Eligible Telecommunications Carrier (ETC) obligations. CenturyLink's witness acknowledged that its claimed financial burden associated with its Utah COLR obligations would not be relieved even if the Petition were granted.
- So the PSC's decision to retain the COLR obligation to advance the public interest of ensuring that those members of the public who rely on basic telephone service (for whom satellite and VOIP are not equivalent) placed no additional financial burden on CenturyLink.



Public Service Commission of Utah
Yvonne R. Hogle: yhogle@Utah.gov
Heber M. Wells Building
160 East 300 South, Salt Lake City, UT 84111
Phone: 801-530-6716
Fax: 801-530-6796
Toll Free 866-772-8824
psc@utah.gov