

Service Date: August 26, 2015

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER OF CenturyLink QC's) REGULATORY DIVISION
Service Quality and Its Response to Notice) DOCKET NO. D2014.11.91
of Commission Action in Docket)
N2014.3.38, Including Petition for Waiver) ORDER NO. 7388j
of Admin. R. Mont. 38.5.337197)(b))

IN THE MATTER OF In the Matter of the) DOCKET NO. N2014.4.38
Request of the Staff of the Montana Public)
Service Commission for CenturyLink QC)
Service Quality Information)

FINAL ORDER

Procedural History

1. In March 2014, the Public Service Commission (Commission or PSC) opened an informal investigation of CenturyLink QC's (CenturyLink) service quality, which was designated Docket N2014.4.38. After considering the information CenturyLink provided informally in that docket, the Commission initiated a contested case proceeding (Dkt. No. D2014.11.91) to address its concern that CenturyLink's customers in rural areas are experiencing chronic service quality problems due to the poor condition of the CenturyLink infrastructure serving them. *See Notice of Commission Actions and Notice of Filing and Intervention Deadline*, Dkt. No. D2014.11.91 (Nov. 12, 2014).

2. Besides CenturyLink, the Montana Consumer Counsel (MCC), the Missouri River Residents for Improved Telecommunications Service (Missouri River Residents), and the Montana Telecommunications Association are parties to this proceeding.

3. On January 21, 2015, the Missouri River Residents filed a *Request for Hearing* to receive evidence of CenturyLink's violations of the Commission's telecommunications service standards. At a regularly scheduled work session on March 17, 2015, the Commission granted the request for hearing.

4. On February 23, 2015, the Commission issued a *Procedural Order* (Order No. 7388c) in this docket, which was revised by a *Notice of Staff Action* issued July 9, 2015.

5. CenturyLink filed its *Repair Service Improvement Plan* (Plan) on April 13, 2015. On the same date, CenturyLink filed a *Withdrawal of Petition for Waiver and Motion to Remove Issue*, in which the company withdrew its petition for a waiver of Admin. R. Mont. § 38.5.3371(7)(b) (generally requiring 90 percent of out-of-service trouble reports to be cleared within 24 hours) and requested that the Commission remove from this proceeding the issue of service quality in rural areas.

6. On April 29, 2015, the Commission issued a *Notice of Public Hearing*.

7. On May 21, 2015, the Commission held a public hearing in Helena to receive evidence concerning CenturyLink's violations of the Commission's telecommunications service standards.

8. On June 26, 2015, the MCC submitted the *Pre-filed Direct Testimony of Dr. Robert Loube* and the Missouri River Residents filed the *Pre-filed Testimony of Virginia Jamruszka-Misner*.

9. At a Commission work session on July 21, 2015, the Commission directed its legal staff to initiate an action in district court to seek penalties against CenturyLink for its violations of Admin. R. Mont. § 38.5.3371(7)(b). The Commission also identified three additional issues to be addressed by the parties.

10. On August 21, 2015, the Commission issued a second *Notice of Public Hearing*, setting a hearing date of August 25, 2015, for a hearing on a proposed settlement agreement, should one be filed.

11. On August 24, 2015, CenturyLink filed a *Joint Stipulation and Settlement Agreement* (Agreement) to resolve the issues in this case. (The Agreement (Ex. CTL-1) is attached to this Order.) The Agreement was entered into by CenturyLink, the Missouri River Residents, and PSC Advocacy Staff. (In order to participate in the negotiated settlement discussions, one Commission rate analyst and one Commission attorney were designated as PSC Advocacy Staff.) The MCC is not a party to the Agreement.

12. On August 25, 2015, the Commission held a public hearing regarding the Agreement.

Findings of Fact

13. CenturyLink's Plan to improve repair times for out-of-service customers included temporarily reassigning three network construction technicians to repair activities, prioritizing service restoral ahead of other outside plant workforce activities, assigning technicians to work Saturdays and overtime hours as needed to clear out-of-service reports, and hiring more employees to be trained and deployed as network technicians in Montana. Plan, pp. 2-3. The MCC witness Dr. Loube's main recommendation was that CenturyLink should accept the Federal Communications Commission's Connect America Fund (CAF) II offer, which would provide revenue to support capital improvement programs in underperforming wire centers. Pre-filed Direct Testimony of Dr. Robert Loube, p. 17. The Missouri River Residents recommended the Commission impose fines on CenturyLink as an incentive for the company to improve service quality and to upgrade its network. Pre-filed Direct Testimony of Virginia Jamruszka-Misner, p. 5. If CenturyLink refuses to improve rural telephone service, the Missouri River Residents proposed that the Commission decertify CenturyLink as a carrier that is eligible to receive federal universal service funds. *Id.*

14. The key provisions of the Agreement negotiated by the parties are:

- CenturyLink will accept the Federal Communications Commission's (FCC) Connect America Fund (CAF) Phase II offer for Montana. The CAF II offer makes available to CenturyLink approximately \$15 million annually over a period of 6 years to fund the deployment of broadband to FCC-identified eligible census blocks in 84 of the 88 CenturyLink wire centers in the state. The Agreement provides that CenturyLink will deploy broadband service to 33,638 locations in the census blocks eligible for CAF II funding.

- No later than 24 months after approval of the Agreement, CenturyLink will complete the deployment of broadband at the speeds required by the CAF II offer to about 293 locations in its Cascade wire center that are eligible for the CAF II funding and to about 144 locations in the Cascade wire center that are not eligible. These locations are along the Missouri River corridor. CenturyLink will file detailed plans and a timeline for the Cascade deployment within 3 months of approval of the Agreement; quarterly reports will be filed thereafter until completion.

- No later than 120 days after approval of the Agreement, CenturyLink will develop service improvement plans for the Wolf Creek and Wibaux wire centers that will include corrective actions to reduce the trouble report rate, such as replacing defective equipment, grounding and bonding, and cable or carrier

system rehabilitation and/or replacement. CenturyLink will complete implementation of the service improvement plans no later than 18 months after approval of the Agreement.

- The Commission will reverse its decision to initiate an action in district court to seek penalties against CenturyLink for violations of Admin. R. Mont. § 38.5.3371(7)(b) (out-of-service trouble report clearance), and will not bring an action during the six year CAF II deployment regarding Admin. R. Mont. §§ 38.5.3371(7)(a) (trouble report rate) and (b) as long as CenturyLink satisfies its obligations under this Agreement.

- The Commission will not require CenturyLink to comply with Admin. R. Mont. §§ 38.5.3371(7)(a) and (b) for the pendency of the 6-year CAF II deployment as long as CenturyLink satisfies its obligations under this Agreement. The Commission plans to consider amending or repealing these rules in a rulemaking proceeding.

- Except for the broadband deployment along the Missouri River corridor in the Cascade wire center, the Commission will not attempt to control or direct CenturyLink's use of the CAF II funds.

- Prior to January 2016, the Commission will initiate a docket for the purpose of determining whether and how to establish a Montana universal service fund that would enable broadband-capable telecommunications deployment in Montana.

15. The Commission finds that the Agreement represents a reasonable resolution of the issues in this case and that approval of it is in the public interest. CenturyLink's acceptance of the CAF II offer will, over the next six years, make approximately \$91 million available to CenturyLink to be used in Montana to deploy broadband capability at speeds of at least 10 Mbps downstream and 1 Mbps upstream. The Agreement states that, if CenturyLink accepts the CAF II offer, the company will deploy broadband capability to 33,638 locations in the state and the improved network is estimated to pass another 100,000 locations that could benefit as well. Ex. CTL-1, p. 3. The Agreement is consistent with the MCC's recommendation in Dr. Loube's pre-filed testimony that CenturyLink accept the CAF II offer. CenturyLink's acceptance of CAF II and the Agreement's provisions that prioritize deployment of broadband capability to hundreds of locations in the Cascade wire center should result in significant improvements in telecommunications service and options along the Missouri River corridor. Certainly the Missouri River Residents will be better served by actual network improvements rather than court actions to impose fines on CenturyLink.

16. The Commission would have preferred to see the service quality problems in Wibaux and the Wolf Creek wire center addressed in the same way as in the Cascade wire center. However, those areas either are not eligible for CAF II funding, or are places where CenturyLink apparently plans to use the limited flexibility available to it under CAF II to bypass. *Infra* ¶ 17. The requirement in the Agreement that CenturyLink develop and implement service improvement plans in those two areas is somewhat similar to the element of the MCC's recommendation that called for service improvement plans on a statewide basis. The Commission will monitor the progress and results of the service improvement plans to ensure that tangible benefits result from them.

17. The MCC took no position on the Agreement. At hearing, Dr. Loube explained the two problem areas he found in the Agreement. First, in his opinion, the Wolf Creek and Wibaux service improvement plans should contain specific service standards against which the Commission could measure the success of the plans and take action if a plan was unsuccessful in improving service quality. Second, Dr. Loube said there are locations identified by the FCC as eligible for CAF II which will nonetheless not see broadband built-out to them under the CAF II award. That is because CenturyLink has identified approximately 44,000 unserved or underserved locations in the FCC-identified census blocks, according to Mr. Reynolds. According to Dr. Loube and Mr. Reynolds, CenturyLink may end up serving more than the FCC-identified number of locations in certain census blocks, which would allow CenturyLink to leave unserved with broadband some locations, while leaving unserved some locations among the 33,638 that the FCC itself identified. Dr. Loube said a positive aspect of the Agreement is that deployment of broadband to these eligible census blocks will occur sooner than would be the case if the Agreement was not approved and CenturyLink declined the CAF II offer for Montana.

18. The Commission does not believe that rejection of the Agreement would benefit CenturyLink's customers. Rejection would mean continuing this proceeding and the district court action, both of which could result in punitive actions against CenturyLink but neither of which appear likely to result in service quality improvements for customers – and certainly not at the magnitude of the annual \$15 million in CAF II funding. The Commission appreciates Dr. Loube's two concerns. It believes the first concern, about the lack of specific service quality metrics for wire centers that will enjoy CAF II benefits, is misplaced. The Commission has broad general authority to investigate and order remedies to service quality pursuant to its

statutory authority, notwithstanding the waiver of certain administrative rules by the approval of a settlement. *Infra ¶¶* 19-21. Dr. Loube's second concern, that CenturyLink will opportunistically bypass CAF II-eligible locations because it has identified a larger number of locations in eligible census blocks, allowing it to pick and choose which roughly three-quarters to serve, is a valid one. However, those census blocks are still fundamentally rural and the locations in question are, in any case, unserved or underserved. This is not a sufficiently problematic concern to cause the wholesale abandonment of CAF II acceptance in favor of a subsidy regime with even fewer conditions. The Commission is willing to give up the district court action and to forbear from enforcement of the out-of-service trouble report rule for six years in order to obtain this advantageous outcome. The requirement to initiate a proceeding to explore the potential for a state universal service fund is not onerous.

19. The Forbearance Section of the Agreement's Terms and Conditions states "[t]he Commission will not require CenturyLink to comply with Admin. R. Mont. §§ 38.5.3371(7)(a) and (b) for the pendency of the 6-year CAF II deployment as long as CenturyLink satisfies its obligations under this Agreement. The Commission plans to consider amending or repealing these rules in a rulemaking proceeding." Ex. CTL-1, p. 6. This provision does not prevent the Commission from investigating and enforcing future service quality provisions concerning CenturyLink. This section only represents that the Commission will not hold CenturyLink to this particular standard in evaluating service quality:

(a) Service shall be maintained by the carrier in such a manner that the monthly rate of all customer trouble reports, excluding reports concerning interexchange calls or nonregulated customer premises equipment, does not exceed six per 100 local access lines per month per exchange.

(b) Ninety percent of out of service trouble reports shall be cleared within 24 hours, excluding Sunday (except where access to the customer's premises is required but not available, or where interruptions are caused by unavoidable causalities and acts of God affecting large groups of customers).

Admin. R. Mont. 38.5.3371(7). Even if these rules are not applied to or enforced against CenturyLink, the Commission maintains substantial general authority over CenturyLink's service quality.

20. The Commission has a clear statutory basis for regulating the quality of service provided by public utilities. "Every public utility is required to furnish reasonably adequate service and facilities." Mont. Code Ann. § 69-3-201. Existing administrative rules, outside

Admin. R. Mont. 38.5.3371(7)(a) & (b), allow the Commission the information gathering tools to determine whether a public utility is furnishing reasonably adequate service and facilities.

Each carrier must furnish to the commission, at such times and in such form as the commission requires, the results of any service-related tests, summaries, or records in its possession. The carrier must also furnish the commission with any information concerning the utility's facilities or operations which may be requested.

Admin. R. Mont. 38.5.3320(2). The Montana Supreme Court has held that the total effect of these authorities grants the Commission “broad investigatory power in Montana” and the Commission “should not be denied access to information necessary to perform its statutory investigative duties.” *Qwest Corp. v. Pub. Serv. Comm’n*, 2007 MT 350, ¶ 38, 340 Mont. 309, 174 P.3d 496 (2007). The court also held “that the PSC's statutory duty to investigate utilities may not be hindered by limiting its ability to obtain information in a specific manner.” *Id.*; see also Admin R. Mont. 38.5.3335 (concerning processing of complaints); Admin. R. Mont. 38.5.3360 (concerning carrier’s obligation to maintain and provide trouble reports).

21. The Forbearance Section only serves as an acknowledgement that the prescriptive and formalistic methods of ensuring service quality in Admin. R. Mont. 38.5.3371(7)(a) & (b) are no longer appropriate, at least not during the six-year tenure of CAF II. In the future, the Commission will instead use its other investigative and information collecting authority in determining whether CenturyLink is furnishing “reasonably adequate service and facilities.” Mont. Code Ann. § 69-3-201. The Commission will continue to conduct *ad hoc* investigations into CenturyLink’s service quality if necessary. See, e.g. *Qwest Corp.*, ¶ 9 (“PSC issued a Notice of Investigation to determine whether the rates charged by Qwest are reasonable and just pursuant to § 69-3-201, MCA”) (internal quotations omitted). Thus, the Commission has not abrogated its authority to regulate CenturyLink QC for service quality.

22. For the reasons stated herein, the Commission approves the Agreement.

Conclusions of Law

23. The Commission has full power of supervision, regulation, and control of public utilities. Mont. Code Ann. § 69-3-201. 21.

24. A “public utility” includes a private corporation “that owns, operates, or controls any plant or equipment . . . for the production, delivery, or furnishing” of regulated telecommunications service. *Id.* § 69-3-101. As a telecommunications provider in Montana,

CenturyLink is subject to the regulation of the Montana Public Service Commission.

25. “Every public utility is required to furnish reasonably adequate service and facilities.” Mont. Code Ann. § 69-3-101.

26. The Terms and Conditions proposed in the Agreement are just, reasonable, and provide a fair resolution of the issues in this case.

Order

IT IS HEREBY ORDERED THAT:

27. The Agreement is APPROVED.

28. That the Commission's Motion on July 21, 2015, directing its legal staff to initiate an action in district court to seek penalties against CenturyLink for its violations of Admin. R. Mont. § 38.5.3371(7)(b) is reconsidered and reversed.

29. The Commission will open an investigation docket to determine whether to establish a Montana Universal Service Fund under Mont. Code Ann. § 69-3-841 to -843.

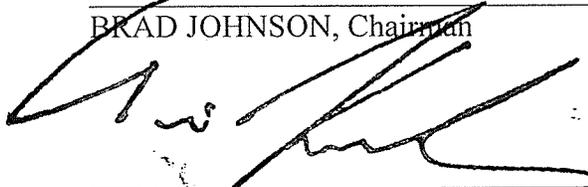
30. Docket Numbers D2014.11.91 and N2014.4.38 are closed.

DONE AND DATED this 25th day of August, 2015, by a vote of 4-0. Commissioner Koopman abstaining.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION



BRAD JOHNSON, Chairman



TRAVIS KAVULLA, Vice Chairman



KIRK BUSHMAN, Commissioner



BOB LAKE, Commissioner

ATTEST:



Aleisha Solem
Commission Secretary

(SEAL)

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Waiver of)
Admin. R. Mont. 38.5.337197)(b))
DOCKET NO. N2014.4.38
IN THE MATTER OF the Request of)
Staff of the Montana Public Service)
Commission for CenturyLink Service)
Quality Information)

**JOINT STIPULATION
AND
SETTLEMENT AGREEMENT**

This Joint Stipulation and Settlement Agreement ("Joint Stipulation") is entered into among Qwest Corporation d/b/a CenturyLink QC ("CenturyLink QC"), Montana Public Service Commission Advocacy Staff ("Advocacy Staff"), and the Missouri River Residents for Improved Telecommunications Service ("MRRITS") who are Adrienne and John Kernaghan, Virginia Jamruszka-Misner, Kathleen and James Ahrens and Susan Maclin.

INTRODUCTION

Mont. Admin. R. 38.5.3371 establishes "service quality requirements for facilities-based local exchange carriers." Mont. Admin. R. 38.5.3371(7)(b) describes a specific out of service ("OOS") restoral standard:

Ninety percent of out of service trouble reports shall be cleared within 24 hours, excluding Sunday (except where access to the customer's premises is required but not available, or where interruptions are caused by unavoidable causalities and acts of God affecting large groups of customers).

RECITALS

WHEREAS, a Notice of Commission Action issued on August 26, 2014 in Docket No. N2014.4.38 states:

Within 60 days of the date of this Notice, CenturyLink shall file with the Commission a plan to improve the repair times for OOS customers, such that

CenturyLink will be in compliance with Admin. R. Mont. 38.5.3371(7)(b), for its legacy Qwest serving area. Such a plan should include details regarding capital expenditures, operating expenses, and staffing required to achieve clearing 90% of OOS trouble reports within 24 Hours. The plan must include measurable milestones by which the PSC can gauge the progress towards the 90% target. For example, 70% by a date certain, 80% by a date certain, and an estimated date to reach the 90% target. CenturyLink shall file a written plan with the Commission and shall make an oral presentation to the Commission regarding the plan prior to the 60 day deadline. CenturyLink shall file quarterly progress reports and be prepared to make an oral presentation if required by the Commission.

WHEREAS, CenturyLink QC filed with the Commission on October 24, 2014, its *Response to Notice of Commission Action, Request for Continuance, and Petition for Waiver* (Response). In the Response, CenturyLink requested that the Commission grant a continuance of the 60-day deadline for filing a repair service improvement plan so that the company could work with the Commission and its staff on the issues raised by CenturyLink, Commissioners and staff at the October 17, 2014 oral presentation. In addition, CenturyLink petitioned the Commission for a waiver of Mont. Admin. R. 38.5.3371(7)(b) pursuant to Mont. Admin. R. 38.5.3301(3), which provides that the Commission may waive a telecommunications service standard if it results in “unreasonable hardship” for a carrier.

WHEREAS, the Commission, in a Notice of Commission Action dated November 12, 2014, opened a contested case proceeding under Docket No. D2014.11.91 and granted CenturyLink QC’s request for a continuance of the deadline by which CenturyLink QC must file a repair service improvement plan.

WHEREAS, the Commission, through a Notice of Staff Action dated December 17, 2014, granted intervention in Docket No D2014.11.91 to MRRITS, Montana Consumer Counsel (MCC) and the Montana Telecommunications Association.

WHEREAS, MRRITS filed with the Commission on January 21, 2015, a request for a separate hearing to receive evidence on whether CenturyLink QC should be assessed penalties for violation of Mont. Admin. R. 38.5.3371(7)(b).

WHEREAS, CenturyLink QC filed with the Commission on April 13, 2015, its service quality improvement plan that called for redirecting resources to focus on restoring OOS faster.

WHEREAS, on April 29, 2015 in DA 15-509 the Wireline Competition Bureau of the Federal Communications Commission announced offers of model-based Connect America Fund II (“CAF II”) support to price cap carriers to fund the deployment of voice and broadband-capable networks in their service territories.

WHEREAS, acceptance of a state-level CAF II offer imposes certain, specific public interest obligations that the FCC established in FCC 14-190, the *December 2014 Connect America Order* in *Connect America Fund et al.*, WC Docket Nos. 10-90 et al., Report and Order, paragraphs 13-49 (2014), among which is to bring broadband capability with minimum speeds of 10 megabits per second (Mbps) downstream and 1 Mbps upstream (10/1 Mbps) (“Broadband Service”) to a certain specified number of price cap locations in census blocks subject to the FCC’s offer of model-based CAF II funding.

WHEREAS, the FCC’s CAF II offer to CenturyLink (which includes both CenturyLink QC and CenturyTel of Montana) in Montana is \$15,195,628 annually for six calendar years beginning with 2015 and ending with 2020 (totaling \$91,173,768 over the six years) to bring 10/1 Mbps broadband to 33,638 price cap locations in Montana.

WHEREAS, the FCC’s state-level CAF II offer to CenturyLink of \$91,173,768 for Montana greatly exceeds penalties that could result from expensive and time consuming litigation.

WHEREAS, CenturyLink would enable Broadband Service to at least 33,638 locations under the FCC’s CAF II state-level offer. In addition, CenturyLink has estimated that the network it would build to serve these locations is likely to pass an additional 100,000 locations that could benefit from access to higher broadband speeds.

WHEREAS, if CenturyLink does not accept CAF II funding as explained in this Stipulation, CenturyLink is not likely deploy broadband to any of the CAF II eligible locations due to the very high cost to serve those locations.

WHEREAS, MCC caused to be filed on April 30, 2015 the pre-filed written direct testimony of Dr. Robert Loubé that highly recommended that CenturyLink QC accept the CAF II offer for Montana.

WHEREAS, MRRITS caused to be filed on April 30, 2015 the pre-filed written direct testimony of Virginia Jamruszka-Misner that recommended the Commission

impose fines on CenturyLink and that CenturyLink upgrade the telephone system and equipment to provide reliable telephone service to its customers.

WHEREAS, the Commission conducted on May 21, 2015, the hearing requested by MRRITS to take evidence on whether the Commission should file a complaint against CenturyLink QC in Montana district court seeking fines for violation of Mont. Admin. R. 38.5.3371(7)(b).

WHEREAS, at the May 21, 2015, hearing, Philip Grate testified that CenturyLink QC's service quality improvement plan's redirection of resources to restoring OOS faster had harmed its delivery and restoral of other non-voice services including broadband.

WHEREAS, the Commission, at its open meeting on July 21, 2015, passed a motion to file a complaint in Montana district court seeking penalties against CenturyLink QC for violation of Mont. Admin. R. 38.5.3371(7)(b).

WHEREAS, CenturyLink QC, Advocacy Staff, MRRITS and MCC (collectively the "Parties") stipulate and agree that CenturyLink's acceptance of the CAF II offer and its attendant public interest obligations is in the public interest in Montana.

WHEREAS, the Parties agree that this Joint Stipulation represents a compromise in the positions of the Parties. As such, conduct, statements and documents disclosed in the negotiation of this Stipulation shall not be admissible as evidence in this or any other proceeding unless independently discoverable or lawfully offered for other purposes. The Parties believe that the Stipulation will result in substantially greater and more certain benefits to customers than would litigation.

TERMS AND CONDITIONS

NOW, THEREFORE, CenturyLink, Advocacy Staff, and MRRITS hereby agree that upon the Commission's approval of this Joint Stipulation, the Commission will close Docket No. D2014.11.91, as this Stipulation satisfactorily resolves that docket subject to the conditions that follow.

1. CAF II offer. CenturyLink will accept the CAF II offer for Montana and the public interest obligations that it imposes. Specifically, CenturyLink will deploy

Broadband Service to all 33,638 locations in CAF II eligible Montana census blocks¹ as required by the FCC.²

2. **Missouri River corridor broadband deployment.** CenturyLink will deploy 10/1 broadband capability to approximately 437 locations, comprised of approximately 293 locations within its Cascade wire center in census blocks subject to the FCC's offer of model-based CAF II funding and approximately 144 locations in the Cascade wire center that are not subject to the FCC's offer of model-based CAF II funding.³ The geographic areas where CenturyLink QC will deploy broadband in the Cascade wire center are shown in Appendix A to this Stipulation and Settlement Agreement. CenturyLink will make every effort to complete the Cascade broadband deployment within 15 months of the date of approval of this settlement, but the deployment shall be completed no later than 24 months from the approval of this settlement. CenturyLink will file detailed plans and a timeline for the Cascade deployment within 3 months of the date of the approval of this settlement and will provide quarterly progress reports to the Commission until the completion of the deployment.

3. **Wolf Creek (Craig) and Wibaux wire center service quality plan.**

Taking into account both the low density and relatively higher trouble report rate, as well as the extensive facilities-based competition available to many customers within the Wolf Creek and Wibaux wire centers, within 120 days after the date the Commission issues an order approving this Agreement, CenturyLink QC will complete an analysis to determine the most problematic, recurring areas of trouble in the network serving its current customers. Based on that analysis, CenturyLink QC will identify reasonable corrective action and implement a service improvement plan in the Wolf Creek and Wibaux wire center with the goal of reducing the trouble report rate. This plan may include but is not limited to: replacing defective equipment including repeaters, pedestals,

See, https://transition.fcc.gov/wcb/CAM43_Supported_Locations.zip, for the eligible census block list. Also see, <https://www.fcc.gov/maps/connect-america-phase-ii-final-eligible-areas-map>, for a map of the eligible census blocks.

² Connect America Fund et al., WC Docket No. 10-90 et al., Report and Order, 29 FCC Rcd 15644 (2014)

and terminals, grounding and bonding, cable rehab and/or replacement and rehab or replacement of carrier systems.

CenturyLink QC will provide its Wolf Creek and Wibaux service improvement plan to the Commission prior to implementation and will provide quarterly reports thereafter on the progress of the plan until the corrective actions are completed. CenturyLink QC will make every reasonable effort to complete implementation of the service improvement plan within 15 months after the Commission approves this Agreement, but in no event longer than 24 months.

4. **Lawsuit.** The Commission will reconsider and reverse its decision to file a lawsuit in Montana District Court against CenturyLink QC seeking penalties for violation of Mont. Admin. R. 38.5.3371(7) (b). The Commission agrees that no future lawsuit seeking penalties for violations of Mont. Admin. R. 38.5.3371(7) (a) and (b) would be appropriate during the six year CAF II deployment, so long as CenturyLink QC fulfills its obligations under this agreement. The parties agree to fully support and enforce this provision as written, but acknowledge that it does not bind or restrict any future Commission that contains one or more new Commissioners not currently serving on this Commission.

5. **Forbearance.** With regards to CenturyLink QC and CenturyTel, the Commission will forebear enforcement and waive Mont. Admin. R. 38.5.3371(7)(b) (OOS<24 Hours) and Mont. Admin. R. 38.5.3371(7)(a) (trouble reports), during the six year CAF II deployment so long as CenturyLink remains in compliance with the FCC's CAF II requirements. The Commission intends to initiate a rulemaking to amend or repeal these rules so at the conclusion of this proposed rulemaking, forbearance and waiver may no longer be necessary.

6. **Non-interference.** Except as specifically set forth in condition 2 of this Joint Stipulation and Settlement Agreement the Commission will not interfere in or attempt to control or direct how or where CenturyLink QC and CenturyTel of Montana fulfill their public interest obligations under the Montana CAF II offer.

7. **Universal Service Fund Investigation.** On or before January 1, 2016, the Commission will open an investigation docket, the purpose of which is to determine whether and how to establish, pursuant to the authority vested in the Commission by

Mont. Code Ann. §§ 69-3-841 through 843, a Montana Universal Service Fund that would enable the deployment of broadband capable telecommunications networks in locations in Montana that will not have access to broadband absent such support, and to consider changes in Montana law that may be necessary to accomplish greater broadband deployment.

8. Order approving Joint Stipulation. This Joint Stipulation shall be deemed final and binding on the Parties when the Commission shall have approved it by order without material modification and such approval is no longer subject to administrative or judicial review.

9. Hearing participation. The Parties agree to support this Joint Stipulation and Settlement Agreement at any hearing in this matter.

10. Withdrawal; Commission Action. In the event the Commission enters an order that does not satisfy the requirements of condition 8 above, the Parties reserve the right to pursue all appropriate avenues of administrative review and appeal, including but not limited to seeking rehearing of this proceeding in front of the Commission, and no party shall be bound or prejudiced by the terms of the Joint Stipulation.

11. Entire agreement. The Parties acknowledge that this Joint Stipulation and Settlement Agreement is the product of negotiations and compromise and shall not be construed against any Party on the basis that it was the drafter of any or all portions of this Stipulation. This Stipulation constitutes the Parties' entire agreement on all matters set forth herein and it supersedes any and all prior oral and written understandings or agreements, on such matters that previously existed or occurred in this proceeding, and no such prior understanding or agreement or related representations shall be relied upon by the Parties.

12. Counterparts. This Joint Stipulation and Settlement Agreement may be executed in counterparts and each signed counterpart will constitute an original document.

DATED this 24th day of August, 2015.

Qwest Corporation d/b/a CenturyLink QC and CenturyTel of Montana d/b/a CenturyLink.

By: _____
William E. Hendricks
Attorney for CenturyLink

Montana Public Service Commission
Advocacy Staff

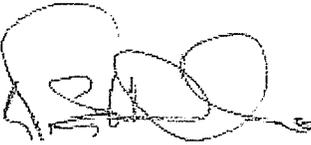
By: Justin Kraske
Justin Kraske
Attorney for Advocacy Staff

Missouri-River Residents for Improved Telecommunications Service

By: Dennis R. Lopach
Dennis R. Lopach
Attorney

DATED this 24th day of August, 2015.

Qwest Corporation d/b/a CenturyLink QC and CenturyTel of Montana d/b/a CenturyLink.

By: 

William E. Hendricks
Attorney for CenturyLink

Montana Public Service Commission
Advocacy Staff

By: _____
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