

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

IN THE MATTER OF CenturyLink QC's)	REGULATORY
Service Quality and Its Response to)	DIVISION
Notice of Commission Action in Docket)	DOCKETS
N2014.3.38, Including Petition for)	D2014.11.91 and
Waiver of Admin. R. Mont.)	N2014.4.38
38.5.33719(7)(b))	
IN THE MATTER OF the Request of)	
Staff of the Montana Public Service)	
For CenturyLink Service Quality)	
Information)	

**Brief of Missouri River Residents for Improved Telecommunications Service
Seeking PSC Enforcement Action**

Introduction

This case involves the persistent and outrageous failure of CenturyLink QC (CenturyLink or CTL) to meet its statutory obligation to its Montana customers to provide them with reasonably adequate telecommunications service. The single question before the Montana Public Service Commission (Commission or PSC) is whether it will continue to tolerate CTL's studied indifference to its customers or whether it will act to protect Montana customers.

History of the Case

This case began in March, 2014, with the collection by this Commission of service quality data from CTL and an effort by the Commission to prompt CTL to improve its dismal rural service. The PSC staff required CTL to file reports documenting two years of past monthly Trouble Repair rates and out-of-service conditions restored in less than 24 hours, and to begin periodically filing this information with the Commission. On August 26, 2014, the PSC required CenturyLink to file a repair service improvement plan. Rather than filing a plan, CTL, on October 12, 2014, filed a Request for Continuance (an extension of the date for filing of a plan) and a Request for Waiver of the rule it had been unable (or

unwilling) to comply with. Instead of making the operational changes and investments plainly needed to meet the Commission's out-of-service standard, CTL indicated that it would ask the Commission to accept its sub-standard service as the norm for Montana.¹

Missouri River Residents for Improved Telecommunications Service (Residents) were granted intervention in this case on December 12, 2014, along with the Montana Consumer Counsel and the Montana Telecommunications Association. Residents live in the Missouri River Canyon area on both sides of Interstate 15. They are served from either CTL's Wolf Creek or Cascade exchanges. Their well-documented service problems have been persistent for at least a decade, and CTL's interest in improving the situation does not go beyond a mild expression of "concern".²

On January 21, 2015, the Residents requested that the Commission conduct a public hearing for the purpose of receiving evidence of CenturyLink's on-going service quality violations. That hearing was held on May 21, 2015.

Residents now strongly urge the Commission to act on their behalf, and on behalf of customers across the State of Montana who are receiving similarly sub-

¹ It is worth noting that CTL is investing heavily in its urban areas. While Montana service limps along in third world status, CTL boasts of its state of the art service in places like Denver, Phoenix, Seattle and Minneapolis. CTL boasts of its financial condition, with \$2.7 billion of free cash flow available for share buybacks and investment to provide gigabit Internet service to its preferred urban customers. Presentation of Stewart Ewing, CenturyLink CFO, to the Morgan Stanley Leveraged Finance Conference, June 4, 2015, <http://ir.centurylink.com/calendar.aspx?iid=4057179>. Montana, meanwhile, serves as the conduit for substantial federal funds that help provide that financial cushion. Federal telecommunications policy has done no favors for rural America. While it can be argued that the Connect America Fund (CAF) Phase II initiative will reverse these years of neglect, CenturyLink has provided no indication that it wants anything to do with rural customers other than for them to maintain current cash flow. By contrast, Frontier Communications will be accepting the Phase II funding and bringing rural service in areas like Libby and Troy, Montana into the 21st Century. (Frontier Communications Press Release dated June 16, 2015).

The Commission, like all Montanans, should ask: "What will become of areas like the Missouri River Canyon, Essex, Wibaux and other neglected parts of the State if CenturyLink's present business practices continue into the foreseeable future?"

² The nature of the Residents' problems were documented in a log distributed during the public comment portion of the hearing. The Commission's records indicate that similar problems occur in other areas as well. The reported problems include: area-wide outages; a non-working repair website; custodial relatives unable to reach family members; EMT's unreachable when needed; a trucking company unable to be reached by its drivers or by potential customers; volunteer fire officials being required to make "wellness" checks when non-working phone service prevents calls from family members; deficient sound volume on calls, as well as clicking, humming or loud crackling sounds; CTL repair personnel indicating that "the system is old and needs repair"; repair service available in the Canyon area only once per week; messages wrongly indicating that working numbers have been disconnected; dropped calls; and phone dead when answered after repeated rings.

standard service, to bring an action in the District Court seeking fines against CenturyLink for its failure to meet Commission service quality standards. Without this action on behalf of customers, the status quo of poor and intermittent service will continue indefinitely.

Nature of the Violations

The Commission at hearing took judicial notice of the service quality reports of CenturyLink. While the detail of those reports is protected from public disclosure by a seemingly endless string of protective orders, the magnitude of the problem was made plain in a PSC staff memo dated August 6, 2014. There is one primary telecommunications rule adopted by this Commission that CTL struggles with (Admin.R.Mont., §38.5.3371(7) (b), Service Requirements). That standard requires that “Ninety percent of out of service [OOS] trouble reports shall be cleared within 24 hours, excluding Sunday...”³ How is CTL doing with this critical standard, which measures whether a customer can even use his or her phone for a lengthy period of time?

...the OOS<24 Hour reports showed that CenturyLink for the last 2 years has failed every reported month to meet the ARM 38.5.3371(7)(b) requirement...In fact, CenturyLink QC was not even close to meeting this requirement which probably partially explains the customer complaints that the PSC has been receiving. The lowest month reported showed only 45% cleared within 24 hours, while the best month showed 74% cleared with[in] the 24 hours. For 2012 CenturyLink QC cleared 57.4% of the OOS trouble reports within 24 hours and for 2013 they cleared 57.6%... Staff Memo dated August 6, 2014, p. 2.

While the later monthly reports show that results have ebbed and flowed since this time, the bottom line is the same: CenturyLink customers are not receiving the adequate service that they paying for and are legally entitled to. The PSC staff can calculate the magnitude of the violation.

Recommendation

What should the Commission do? Certainly the number of “levers” at the Commission’s disposal to require service improvements are vastly reduced

³ It is important to note that this is a statewide average. By concentrating improvements in urban areas, CTL believes it can avoid fixing rural service. Residents respectfully request that refined rules may be needed to ensure that CTL is not permitted to continue to ignore rural service.

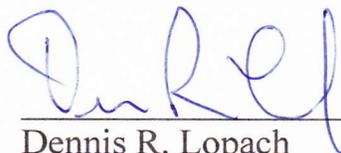
by the evolution of regulation in the last several decades. But the one standard that CTL has not escaped is the service requirement. Under Mont. Code Ann., §69-3-201, “Every public utility is required to furnish reasonably adequate service and facilities...” Service that works marginally sometimes is not adequate. Service that goes out when it rains is not acceptable.

Montana law spells out the remedy. In 1994, the Commission used that remedy when it brought suit against CenturyLink’s predecessor, U S WEST, in the District Court and asked that fines be imposed for the shoddy service being sold to Montanans. If anything, the reasons for acting are stronger now, since this Commission is the only entity that can provide an incentive for improvements to a service that is, sadly, an unregulated monopoly in many areas.

Residents ask that the Commission, in light of the evidence before it, file suit and seek the imposition of fines until CenturyLink either improves its service or sells its service to a Company that provides Montana with something more than lip service.

Dated: June 19, 2015

Respectfully Submitted,



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CERTIFICATE OF SERVICE

The foregoing Brief of Missouri River Residents for Improved Telecommunications Service Seeking PSC Enforcement Action was today served by conventional mail and email on:

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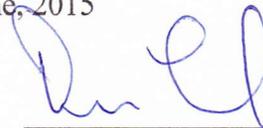
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DATED this 19th day of June, 2015



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