

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
vs. Qwest Corporation
Show Cause**

Case No. PU-20-442

AFFIDAVIT OF SERVICE BY CERTIFIED AND ELECTRONIC MAIL

**STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH**

Geralyn R. Schmaltz deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **5th day of August 2021**, she deposited in the United States Mail, at Bismarck, North Dakota, **three** envelopes with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

- **Findings of Fact, Conclusions of Law and Order**

The envelopes were addressed as follows:

Paul Sanderson
Evenson Sanderson PC
100 College Drive, Suite 5
Bismarck, ND 58501
Cert. No. 7020 1810 0000 0893 9493

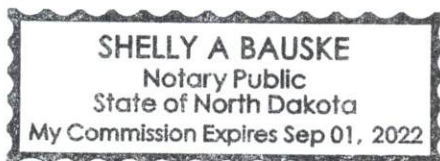
Jason Topp
Assistant General Counsel
CenturyLink
200 South 5th Street
Minneapolis, MN 55402
Cert. No. 7020 1810 0000 0893 9486

Sharon Gerbig
5215 E River Road
Amidon, ND 58620
Cert. No. 7020 1810 0000 0893 9509

The addresses shown are the respective addressee's last reasonably ascertainable post office addresses.

Subscribed and sworn to before me
this **5th day of August 2021**.

SEAL







Notary Public

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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Show Cause**

Case No. PU-20-442

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

August 4, 2021

Appearances

Commissioners Julie Fedorchak, Randy Christmann, and Brian Kroshus.

Jason D. Topp, Legal Counsel, Qwest Corporation, 200 South 5th Street, Minneapolis, MN, 55402, appearing on behalf of Qwest Corporation.

Paul Sanderson, Evenson Sanderson, PC, 1100 College Drive, Suite 5, Bismarck, ND 58501, local counsel for Qwest Corporation.

Brian L. Johnson, Legal Counsel, Public Service Commission, State Capitol, 600 E. Boulevard Avenue, Bismarck, ND 58505, appearing on behalf of Public Service Commission.

Preliminary Statement

On August 27, 2020, Commission Staff received a complaint from Sharon Gerbig stating she and her husband Gordon Gerbig have unresolved issues regarding the quality of their landline phone service provided by Qwest Corporation (Qwest).

On November 9, 2020, the Commission issued an Order to Show Cause scheduling a formal hearing on December 10, 2020, for Qwest to show cause why an order should not be made or entered penalizing or providing for other remedial action regarding service to the Gerbig household.

On December 10, 2020, a formal hearing on the Order to Show Cause was held as scheduled.

On February 4, 2021 and July 1, 2021, informal hearings were held to discuss the actions Qwest was taking to address the service quality issues.

On July 13, 2021, Qwest filed a response to an information request made at the July 1, 2021 informal hearing.

Findings of Fact

1. Qwest Corporation, doing business as CenturyLink, is a telecommunications company in the State of North Dakota.
2. Qwest provides telecommunications services to Sharon and Gordon Gerbig (the Gerbigs), Dorm Henders and Miles and Jodi Gerbig (altogether "the customers") on a pair gain system that consists of copper line and repeaters. Qwest is no longer able to maintain or repair the current system to provide reliable service to these customers.
3. Failure of the pair gain system has caused outages in phone service to the Gerbigs that have prevented the consistent reliable use of their landline phone service provided by Qwest in being utilized for home use, business use, or the ability to be available if an emergency would arise.
4. Commission staff has worked at resolving the quality of service with the Gerbig's and Qwest.
5. As of the end of October 2020, the Gerbig's continued to have issues with quality of service to the point where service was at times nonexistent and caused the Gerbig's to have concerns with safety as well as the ability to conduct business and communicate with family members.
6. During the December 10, 2020 hearing Qwest called Bradley Giles who provided testimony regarding the pair gain system that serves the customers. Mr. Giles stated the system is copper wire and 15 repeaters. Mr. Giles testified that repairs to this system continue to fail and only used replacement parts can be found so replacing the repeaters would not likely fix the issues. Mr. Giles testified that the cost to extend fiber optic telecommunications the 18 miles to serve the customers is approximately 1.3 million dollars, which would not be a cost beneficial option.
7. Qwest offered and eventually delivered satellite phones to the customers. The customers used the phones briefly before determining they were not a suitable substitution for land-line service. The satellite phones could not be used indoors, could not be used for checking Mr. Gerbig's pacemaker, and did not have local numbers.
8. The February 4, 2021 informal hearing was held to discuss the actions Qwest was taking to address the issues since the satellite phones were not adequate to address the quality of service to the Gerbigs. Qwest provided information on an internet-based solution through HughesNet. Qwest had a representative from HughesNet explain the service and what could be done. Installation and equipment would be covered as well as costs for 2 years. Battery backup would be provided to ensure service during power outages, and a compatible device to check Mr. Gerbig's pacemaker would be looked into. This service again was offered to the other two customers on the same line experiencing

the same issues as the Gerbig's. Number porting would be possible, and their existing local number could be used.

9. HughesNet was never installed as the Gerbig's did not feel that it would be adequate. The Gerbig's notified PSC staff that they were looking into a cellular repeater option through Kohler Communications in Dickinson.

10. The July 1, 2021 informal hearing was held to gather additional information from Qwest and address the Gerbig's concerns of HughesNet. Qwest clarified their offer as to the 2 proposed options.

From the foregoing Findings of Fact, the Commission now makes its:

Conclusions of Law

1. Qwest Corporation is a telecommunications company in the State of North Dakota.
2. Under North Dakota Century Code (N.D.C.C.) 49-21-10.2 any customer, and the commission on its own motion, may complain concerning the quality of service provided by a telecommunications company providing telecommunications services in the state.
3. Due to the frequency and duration of outages for the customers, and Qwest's inability to adequately repair the pair gain system that provides telecommunications services to the customers, Qwest has failed to provide reliable and quality service.
4. N.D.C.C. 49-07-01.1 allows the Commission to assess a civil penalty not to exceed five thousand dollars (\$5,000).

From the foregoing Findings of Fact and Conclusions of Law, the Commission makes the following:

Order

1. Qwest Corporation is assessed a civil penalty of \$5,000.
2. Qwest Corporation shall remit \$5,000 civil penalty, payable to the North Dakota Public Service Commission, within ten business days of service of this Order.
3. Qwest shall ensure quality and reliable service to the customers by no later than November 1, 2021. Qwest shall submit monthly updates to the Commission until reliable phone service is provided.
4. After a means of providing adequate service is found, Qwest shall complete an annual review and file an update with the commission.

PUBLIC SERVICE COMMISSION


Randy Christmann
Commissioner


Julie Fedorchak
Chair


Brian Kroshus
Commissioner