

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Qwest Corporation  
Telephone Outage – Amenia Area  
Investigation

Case No. PU-21-237

AFFIDAVIT OF SERVICE BY CERTIFIED 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 **19th day of August 2021** she deposited in the United States Mail at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

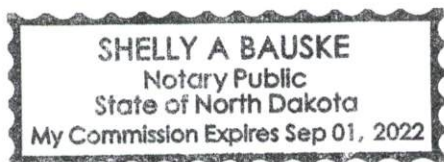
**Consent Order**

The envelope was addressed as follows:

Andrew Schriener  
State Legislative Affairs Director  
CenturyLink  
200 South 5<sup>th</sup> Street, Room 2100  
Minneapolis, MN 55402  
**Cert. No. 7020 1810 0000 0893 9660**

Each address shown is the respective addressee's last reasonably ascertainable post office mail address.

Subscribed and sworn to before me  
this **19th day of August 2021**.



A handwritten signature in blue ink, appearing to read "Geralyn R. Schmaltz", written over a horizontal line.

A handwritten signature in blue ink, appearing to read "Shelly A. Bauske", written over a horizontal line.  
Notary Public

SEAL

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Qwest Corporation**  
**Telephone Outage – Amenia area**  
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**Case No. PU-21-237**

**CONSENT ORDER**

**August 18, 2021**

**Preliminary Statement**

On June 23, 2021, the Commission received a memorandum from Stacy Eberl, Consumer Affairs and Public Outreach Specialist with the Commission detailing four informal complaints from Qwest Corporation (Qwest) customers in the Amenia, ND area who have had no telephone service since approximately May 15, 2021. The memorandum stated that there has been a lack of communication from Qwest to the customers regarding details of the outage and what to expect.

Also on June 23, 2021, the Commission directed staff to begin an investigation into the outages.

On July 1, 2021, the Commission discussed the matter with Qwest and Commission Staff (Staff) during an Informal Hearing.

On July 9, 2021, Qwest filed additional information on the shipping status of replacement components.

On July 13, 2021, Qwest notified the Commission that service in the Amenia area has been fully restored.

**Discussion**

Qwest Corporation is a foreign corporation authorized to do business in North Dakota with principal offices at 100 Centurylink Dr, Monroe, LA 71203-2041. It's registered agent with the North Dakota Secretary of State is C T Corporation System, 120 W Sweet Ave, Bismarck, ND 58504.

Commission Staff conducted an investigation of the alleged violation, including review of the filings and communication with Qwest.

North Dakota Century Code (NDCC) section 49-21-10.2 provides:

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. The commission may not adopt any rule or order under this section applicable to retail services unless the standards of service required by the rule or order are applicable to all telecommunications companies providing similar service in the relevant market area.

NDC section 49-02-04 provides:

Whenever the commission shall find, after hearing, that the rules, regulations, practices, equipment, appliances, facilities, or service of any public utility, or the methods of manufacture, distribution, transmission, storage, or supply employed by it are unjust, unreasonable, unsafe, improper, inadequate, or insufficient, the commission shall determine the just, reasonable, safe, proper, adequate, or sufficient rules, regulations, practices, equipment, appliances, facilities, service, or methods to be observed, furnished, constructed, enforced, or employed, and, after hearing, shall fix the same by its order, rule, or regulation. The commission shall prescribe, after hearing, rules and regulations for the performance of any service, or the furnishing of any commodity, of a character furnished or supplied by any public utility. On demand and tender of rates, such public utility shall furnish such commodity and render such service within the time and upon the conditions provided in such rules.

NDCC section 49-07-01.1 provides:

Any person who violates any statute, commission order, or commission rule which applies to matters within the authority of the commission under chapters 8-08, 8-09, 8-10, 24-09, 32-25, and 51-05.1, titles 60 and 64, and title 49 except for chapters 49-22 and 49-23, shall, in addition to any other penalty provided, be subject to a civil penalty of not to exceed five thousand dollars. A violation occurring under chapter 49-23, in addition to any other penalty, is subject to a civil penalty not to exceed twenty-five thousand dollars. The commission shall develop policies for the assessment of penalties under chapter 49-23 which will take into consideration the severity of damages and the conduct of the offender. The civil penalty may be compromised by the commission. The amount of the penalty when finally determined or agreed upon in compromise, if not paid, may be recovered in a civil action in the courts of this state.

North Dakota Administrative Code (NDAC) section 69-09-05-07 provides:

When a customer's service is found to be out of order or a customer

reports trouble, the local exchange telecommunications company shall test its facilities to determine if the problem is with the local exchange company's facilities. If it is, the local exchange company shall correct the trouble promptly. There may be no charge to the customer to test to determine if the problem is on the local exchange company's facilities or to correct a problem on the local exchange company's facilities. A local exchange company shall inform a customer in advance what charges will be assessed to identify or correct a problem located on the customer's facilities.

### **Investigation Summary**

Based on its investigation, Staff concluded that on May 17, 2021, a portion of Qwest's system near Amenia, ND failed causing an outage to approximately 21 customers.

Based on its investigation, Staff concluded that a power supply shelf unit failed causing a lack of power to be supplied to the customers' lines.

Based on its investigation, Staff concluded that when customers contacted Qwest's customer service center, they were given inaccurate information and led to believe the service would be restored within a much shorter period of time.

Based on its investigation, Staff concluded that Qwest replaced the shelf unit and restored service to customers on July 13, 2021.

Based on its investigation, Staff concluded that Qwest did not promptly correct the trouble to the 21 Amenia customers' service as required by NDAC section 69-09-05-07.

Based on its investigation, Staff concluded that Qwest failed to provide adequate service as required by NDCC section 49-02-04.

This agreement may be executed in counterparts and duplicate copies, each of which shall be deemed to be an original, and which, when taken together, shall constitute one and the same instrument.

### **Concurrences**

Qwest and the Commission have agreed to resolve this matter without further administrative proceedings.

In the attached Consent to Entry of Order, Qwest expressly waives its rights to a hearing in this matter, to consult an attorney, to present argument to the Commission, and to appeal from any adverse determination after a hearing.

There are no covenants, promises, undertakings, or understanding other than as

specifically set forth in this Order.

The Commission issues the following:

**Order**

The Commission orders:

1. Qwest Corporation violated North Dakota Administrative Code section 69-09-05-07 by failing to promptly correct the telecommunications service trouble of 21 customers in the Amenia, ND area.
2. Qwest Corporation violated North Dakota Century Code section 49-02-04 by failing to provide adequate service.
3. Qwest Corporation shall pay a fine of \$2000, payable to the North Dakota Public Service Commission within ten business days of service of this Order.

**PUBLIC SERVICE COMMISSION**

  
Randy Christmann  
Commissioner

  
Julie Fedorchak  
Chair

  
Brian Kroshus  
Commissioner

**CONSENT TO ENTRY OF ORDER**

The undersigned, on behalf of Qwest Corporation (Qwest), is authorized to act on behalf of Qwest and bind Qwest for purposes of this Consent Order; has read the Consent Order, knows and fully understands its content and effect; has been advised of the right to a hearing in this matter, the right to be represented by legal counsel, the right to present evidence and arguments to the Commission, the right to cross examine witnesses, and the right to appeal from an adverse determination after hearing; and that, by signing this Consent to Entry of Order, waives all those rights in their entirety on behalf of Qwest, and consents to entry of this Order by the North Dakota Public Service Commission to resolve the violation without further administrative proceedings. It is further expressly understood that this Order constitutes the entire settlement agreement between the parties, there being no other promises or agreements, either express or implied.

DATED this 10<sup>th</sup> day of August 2021

Qwest Corporation for CenturyLink QC

By 

Its Assistant General Counsel  
(TITLE)