

## DECISION MEMORANDUM

**TO:** COMMISSIONER ANDERSON  
COMMISSIONER HAMMOND  
COMMISSIONER LODGE  
COMMISSION SECRETARY  
LEGAL

**FROM:** JOHAN E. KALALA-KASANDA  
MICHAEL DUVAL, DEPUTY ATTORNEY GENERAL

**DATE:** MAY 14, 2024

**RE:** IN THE MATTER OF QWEST CORPORATION'S APPLICATION FOR  
THE 2022 BROADBAND EQUIPMENT TAX CREDIT;  
CASE NO. QWE-T-23-05.

### BACKGROUND

In 2001, House Bill 377 was enacted authorizing income tax credit for the installation of qualifying broadband infrastructure in Idaho. *Idaho Code* § 63-3029B(3)(a)(ii). *Idaho Code* § 63-3029I allows a taxpayer to receive an investment tax credit for eligible broadband equipment installed during a calendar year.

Qualified broadband equipment is defined as equipment “capable of transmitting signals at a rate of at least two hundred thousand (200,000) bits per second to a subscriber and at least one hundred twenty-five thousand (125,000) bits per second from a subscriber.” *Idaho Code* § 63-3029I(3)(b). If the equipment is installed by a telecommunications carrier, it must also be “necessary to the provision of broadband service and an integral part of a broadband network.” *Idaho Code* § 63-3029I(3)(b)(i). To be eligible for the tax credit, the taxpayer must obtain from the Commission an order confirming that the installed equipment meets the statutory definition of qualified broadband equipment. Commission Order No. 35297 and *Idaho Code* § 63-3029I(4). Once the Commission has determined the installed equipment is eligible for the broadband equipment tax credit, an order along with the original Application is forwarded to the Idaho Tax Commission.

## **THE APPLICATION**

On December 27, 2023, the Commission received an Application from Qwest Corporation DBA CenturyLink QC (“Qwest” or “Company”), seeking approval of the equipment for the broadband tax credit installed during the calendar year 2022.

In the Application, Qwest represented that it uses terrestrial wireline technology and has installed broadband equipment associated with various forms of DSL-based equipment (asymmetric digital subscriber line & very high-speed digital subscriber line in various vintages). Data transportation is a mixture of fiber optic and metallic cable—which typically also supports traditional telephone services. Equipment terminals are located in central office buildings, remote buildings, and in cabinets on concrete pads each serving a neighborhood.

Qwest disclosed that the lowest broadband network data transmission rate offered to customers is 500,000 bits per second for downloads and 250,000 bits per second for uploads. These rates exceed the minimum statutory speed requirements under *Idaho Code* § 63-3029I. Qwest also showed that it could provide high-speed internet to 91% of its potential customers within its designated service area. The total number of customers with the potential to be high-speed internet subscribers in Idaho is 713,204 and the total number of qualified subscribers is 648,982. Qwest stated that it made a net investment of \$23,348,473 in 2022, in qualifying broadband equipment integral to its broadband network.

## **STAFF REVIEW AND RECOMMENDATION**

Staff reviewed the entire Application submitted by Qwest, including the list of proposed broadband equipment. However, Staff has not been able to determine whether the equipment listed in the Application qualifies for the broadband investment tax credit. This is because Qwest filed an incomplete Application and failed to respond to subsequent audit requests. Additionally, the Application is not in compliance with Commission Order No. 35297. As a result, Staff would recommend that the Commission deny this Application. Qwest can resubmit its Application, if it so desires, ensuring that the application is in full compliance with Commission Order No. 35297.

The reasons for this recommendation are as follows:

- Applicants are required to provide a specific list of the equipment or types of equipment that the applicant is requesting that the Commission determines is ‘qualified broadband equipment’ as defined in Idaho Code § 63-3029I(3)(b). List the brand, manufacturer, model numbers, of the installed equipment, number of items, and total cost. Commission Order No. 35297 at 6. This was not the case in the Application submitted by Qwest. Staff discovered that the majority of the equipment listed on the spreadsheet attached to the Application had the statement “Electronic Information Not Available” for the brand, manufacturer, and model number of the equipment listed. Thus, Staff was not able to determine whether the listed equipment qualify for tax credit per Commission Order No. 35297.
- On January 11, 2024, Staff sent an audit request, with a response date of Friday, February 9, 2024, seeking clarification and additional information for the missing information in the Application. The response date came and passed with no reply from Qwest.
- On March 14, 2024, Staff sent a reminder to Ms. Amanda Brown, Senior Director of Tax and the signee of the Application. No reply was received.
- On March 15, 2024, Staff received an email communication from Toni Mincic, Sr Dir Tax Controversy, confirming that she was working on the requests and requested an opportunity to discuss so that she may gain a better understanding of the nature of the audit Staff spoke with Ms. Mincic over the phone and explained that the Application is not in compliance with Commission Order No. 35297. Ms. Mincic accepted and sent a letter requesting the extension of the response date as advised by Staff.
- On March 20, 2024, Staff issued a new date by which Qwest was to submit responses to its audit requests. The newly established due date was Friday, April 19, 2024.
- On April 4, 2024, Ms. Mincic sent an email to Staff stating that she was working on the audit requests, gathering all the information.
- As of May 2, 2024, Staff has not heard from Ms. Mincic or the Company.

**COMMISSION DECISION**

- 1) Does the Commission wish to deny the Application?
- 2) Anything else.



Johan E. Kalala-Kasanda

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