

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter for Declaratory)	Application No. C-4858/
Order of Qwest Corporation)	DR-0007
d/b/a CenturyLink QC, United)	
Telephone Company of the West)	
d/b/a CenturyLink and Dex)	
Media, Inc. seeking a)	
determination that Neb. Admin.)	
Code, Title 291, Chap. 10,)	
\$019.01 et seq.; Title 291,)	
Chap. 5, \$002.22A and 010.09;)	ORDER ON RECONSIDERATION
and Title 291, Chap. 10,)	
\$006.07A be clarified or)	
waived entirely or partially)	
to permit compliance by)	
digitally published)	
directories, including online,)	
rather than traditional paper)	
printing and publication.)	Entered: April 18, 2017

BY THE COMMISSION:

On July 21, 2016, Qwest Corporation d/b/a CenturyLink QC, United Telephone Company of the West d/b/a CenturyLink ("CenturyLink") and Dex Media, Inc. ("Dex Media") (collectively referred to as "Petitioners") filed an application seeking a determination that Neb. Admin. Code, Title 291, Chapter 1, \$019.91 et seq.; Title 291, Chap. 5, \$ 002.22A and 010.09; Title 291, Chap. 10, \$006.07A be clarified or waived entirely or partially to permit compliance by digitally published directories, including online, rather than traditional paper printing publication. Notice of this petition appeared in the Daily Record, Omaha, Nebraska on July 27, 2016. No protests or petitions of formal intervention were filed.

On October 18, 2016, the Commission held a workshop to discuss the Petitioners' need for relief and proposal. As discussed further below, the Commission grants the request for Declaratory Rulings, interprets the meaning of \$ 002.22A and finds that a waiver should be granted with respect to \$\$ 010.09 and 006.07A permitting compliance through digitally published directories unless otherwise requested.

On November 29, 2016, the Commission granted the Petition in part with conditions. Dex Media and CenturyLink filed a Motion for Reconsideration on December 16, 2016. A hearing on the Motion was

held on January 18, 2017. Upon further consideration of the information gathered at the hearing and through the late-filed exhibits, the Commission grants the Motion in part and denies the Motion in part as set forth further below.

Background

Dex Media is not a common carrier or a telecommunications carrier under Nebraska law. Accordingly it is not regulated by the Commission.

CenturyLink is a common carrier of telecommunications services operating in Nebraska and is generally subject to the rules and regulations of the Commission in Title 291, Chapter 5. Dex Media, under contract with CenturyLink, prints and distributes directories. Through this relationship, Dex Media and Centurylink jointly request an interpretation of the Commission's rules.

The Petitioners claimed paper directories are no longer as valuable as they once were for finding phone numbers. Although they would prefer customers use printed directories because it benefits their business model, the Petitioners state that online services are already largely preferred by consumers. Dex Media already publishes its directory online at www.DexPages.com, and just 0.78% of consumers requested white pages delivery last year in Omaha. Petitioners stated that two years ago 78 percent of Nebraskans used high-speed Internet access. Additionally, the availability of free directory assistance ensures that even absent traditional print directories, consumers who do not have Internet access will still have free access to telephone directories. Petitioners further argued that since consumer preferences have largely moved away from print directories, the impact of a waiver for CenturyLink and Dex Media will have a minimal impact.

For those consumers that want to have a printed directory, Dex Media proposed to continue to provide print directories upon request until such time as the request rates become so small that it is uneconomic to continue paper printing. The Petition stated that bill notices, attachments from CenturyLink will notify the customers in advance of transition, and the customers will be will be told how they can call Dex Media on a toll-free "800" number to request a print directory for free.

Applicable Law

The Commission has the authority to interpret the scope and meaning of its rules and regulations pursuant to Neb. Rev. Stat. § 75-118.01. Here, the Commission was asked to determine whether Neb. Admin. Code, Title 291, Chapter 5, § 002.22A was satisfied by the availability of directories online and the free delivery of printed directories upon request as opposed to the traditional practice of saturation delivery of printed directories to every access line subscriber.

Section 002.22A of the Commission's Telecommunications Service rules reads as follows:

002.22A One exchange alphabetical directory for each access line shall be made available, without charge, to all access line customers. The listings of customers in the foreign exchanges to which extended area service is provided shall also be made available to all access line customers. Where such listings are not included in the exchange directory, the exchange carrier shall inform customers how such listings may be obtained. Inclusion of all listings for the calling area within a single volume is recommended.

Findings in the Commission's November 2016 Order

Interpreting § 002.22A, the Commission found that the Commission's rules do not specifically require that printed directories be delivered to all access line consumers. Rather § 002.22A requires that a directory be available to or readily obtainable by all access line customers. The Commission further interpreted the rule to mean that all access line subscribers must have the ability to readily obtain a paper copy free of charge.¹ Consumers must also know how and where to obtain paper copies of the directories. CenturyLink in coordination with Dex Media must

¹ That interpretation was consistent with the interpretation made by the Commission in a prior proceeding where Dex Media sought relief from saturation delivery in the Omaha area. See *In the Matter of Dex One Corporation seeking a declaratory ruling of Nebraska Administrative Code Title 291, Chapter 5, Section 002.22A is Satisfied by Delivery of a Directory Only To Access Line Customers Who Affirmatively Request One*, Application No. C-4529/DR-0005 (February 26, 2013), where Dex Media sought relief from saturation delivery in the Omaha area.

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ensure that consumers have readily obtainable access to paper copies.

The Commission found that it was important for the notice to consumers no longer automatically receiving a telephone directory and now subject to the opt-in provision to be prominent and continuous, at least until those consumers understood this transition. Accordingly, the Commission found CenturyLink and Dex Media must notify subscribers via a bill insert on an annual basis.

The Petitioners also requested a Declaratory Order or waiver of the Commission's printed directory informational requirements in Chapter 5 § 10.09 (Commission's Telecommunications Relay Program for the Deaf and Hard of Hearing) and Chapter 10, § 006.07 (Nebraska Telephone Assistance Program for low-income subscribers). Sections 010.09 and 006.07 require carriers to provide *printed* directories with certain information pertaining to the Commission's Telecommunications Relay and NTAP Programs in order to provide subscribers with important information about the availability of these services. The Commission was willing to grant a waiver of these requirements as long as subscribers were to continue to receive this important information. The Commission imposed the following requirements:

1. CenturyLink shall continue to be responsible for providing its subscribers with printed information describing the Lifeline/NTAP program and the information contemplated by § 006.07 in the printed directory where provided, and in an alternative written format such as a bill insert on an annual basis.
2. CenturyLink shall continue to be responsible for providing its access line subscribers with printed information describing the Telecommunications Relay program and the information contemplated by Section 010.09 in the printed directory where provided, and in an alternative written format such as a bill insert on an annual basis.
3. Dex Media shall continue to include this information in the printed directories provided to subscribers requesting the printed version.

Finally, Dex Media stated in an affidavit to the petition that it planned to discontinue printing directories altogether in areas where it deemed printing them uneconomical. The Commission found Dex Media must come back to the Commission seeking approval

prior to discontinuance of the practice printing directories in an area altogether.

O P I N I O N A N D F I N D I N G S

In its Motion for Reconsideration, the Petitioners claim, summarized and restated, the Commission's conditions would be too cost prohibitive and would negate the benefits of the waiver. Specifically, Petitioners request the Commission reconsider the requirement for the notice to be included as a "bill insert" rather than a "bill message." In addition, Petitioners claim compliance with the notice requirements relative to the TRS and NTAP programs would be too burdensome. In support of its arguments Petitioners submitted information under seal depicting the estimated cost of compliance.² Moreover, Petitioners sought reconsideration of the obligation to come back to the Commission prior to discontinuing the delivery upon request model for distributing the directories. Petitioners would like the ability to decide without Commission approval when printed directories would be discontinued altogether in an area.

Upon further review, the Commission finds the requirement that the Petitioners annually notify consumers via a **bill insert** will be reconsidered. The Commission will accept notification to CenturyLink customers via an annual **bill message**. However, the Commission emphasizes its requirement that the notification to customers be prominent and conspicuous. Accordingly, we require the Petitioners to work with the Commission staff on the bill message characteristics. We require the Commission staff and the Petitioners to jointly submit a draft bill message to the Commission for approval.

Further, we grant the Petitioners' request to clarify the requirements for notifying consumers about the TRS and NTAP programs. We first clarify that CenturyLink must continue to provide the information contemplated by Title 291, Chapter 10, § 006.08 in the printed directory provided or upon request and in an alternative written format such as a bill insert or prominent bill message as contemplated by § 006.08, on an annual basis. We further clarify that Centurylink shall continue to be responsible for providing its access line subscribers with printed information describing the Telecommunications Relay program and the information contemplated by § 010.09 in the printed directory provided automatically or upon request, or in an alternative

² See Late-filed Exhibit Nos. 4 and 5.

written format such as a bill message or insert on an annual basis. Finally, we clarify that Dex Media shall continue to include the information required by Title 291, Chapter 10, § 006.08 and Title 291, Chapter 5, § 10.09 in the online version and in the printed directories provided to subscribers requesting the printed version.

Finally, we deny the Petitioners' request to permit Dex Media to discontinue providing directories upon request at a point when Dex Media determines that it is uneconomical for it to continue to print directories. We find that condition in our November 2016 Order was reasonable and in public interest. The Commission requests Dex Media to provide it with a request for approval. We further request Dex Media to provide us with reasonably advanced notice of its filing so that in the event that the request is granted, consumers have at least six (6) months advance notice prior to the discontinuance.

We further remind CenturyLink that this Order does not diminish its requirement to comply with Neb. Admin. Code, Title 291, Chapter 10, § 006.08 which requires it to "advertise the availability of [NTAP] services through a bill insert or prominent bill message on an annual basis." CenturyLink must continue this practice of notifying subscribers of its NTAP service offering.

O R D E R

IT IS THEREFORE ORDERED that that the Motion for Reconsideration filed by Dex Media and CenturyLink is granted in part and denied in part consistent with the findings herein.

IT IS FURTHER ORDERED that the Commission maintains jurisdiction over this matter to ensure that directory listings are make available to all access line customers as required by Neb. Admin. Code, Title 291, Chapter 5, § 002.22A.

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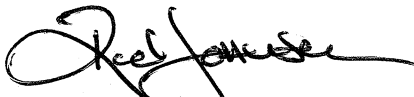
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ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 18th day of April, 2017.

COMMISSIONERS CONCURRING:





//s//Frank E. Landis
//s//Tim Schram

NEBRASKA PUBLIC SERVICE COMMISSION


Chairman

ATTEST:



Executive Director