

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: COMPLAINT OF DOUGLAS PALS	DOCKET NO. FCU-2013-0009
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**ORDER REGARDING FOURTH PREHEARING CONFERENCE
AND REQUIRING FILING**

(Issued August 27, 2014)

A telephone prehearing conference was held in this case on August 25, 2014. The Consumer Advocate Division of the Department of Justice (Consumer Advocate) was represented by its attorney, Mr. Craig Graziano. Qwest Corporation, d/b/a CenturyLink QC (CenturyLink) was represented by its attorney, Ms. Becky Owenson Kilpatrick. Bluetone Communications, LLC (Bluetone), was represented by its attorney, Mr. Bret Dublinske. Bluetone's Director Wholesale Account, Ms. Gina Manzano, was also on the call. West Liberty Telephone Company, d/b/a Liberty Communications (Liberty) was represented by its attorneys, Mr. James Troup and Mr. John Gray. Mr. Douglas Pals and Touchtone Communications, Inc. (Touchtone) were not present on the call. Board staff member Ms. Tara Ganpat-Puffett was also on the call.

Mr. Pals has not experienced any call completion difficulties since his original complaint and the subsequent problem on November 19, 2013.

On July 22, the Consumer Advocate filed a Response to an order issued on May 1, 2014. The Consumer Advocate provided specific information regarding discovery activities and a summary of information regarding caller identification mismatches and call quality problems received from Liberty. It appears that Liberty's responses may have partially explained what caused the original problem leading to the complaint filed in this case. The Consumer Advocate also stated it communicated with Touchtone, the underlying carrier on the allegedly failed call on November 19, 2013, and was waiting for information from Touchtone. The Consumer Advocate stated it anticipated a continuing need for discovery from CenturyLink and the other parties and requested an additional 90 days for further discovery and investigation. The other parties had no objection to this request.

On July 29, CenturyLink filed an informational filing in this and other Iowa rural call completion dockets concerning CenturyLink's intent to adopt the Federal Communication Commission's (FCC) Safe Harbor provisions in the FCC's Rural Call Completion Docket.¹

On August 6, the Consumer Advocate filed information it received from Touchtone that explained what caused the November 19, 2013, call failure. The Consumer Advocate's information included Touchtone's statement that it has expanded its services to allow for greater traffic flow and is in the process of implementing further augments the week of the response (July 22, 2014). The

¹ *In the Matter of Rural Call Completion*, WC Docket No. 13-39, Final Rule, ¶¶ 85-100 (78 Federal Register 76218, December 17, 2013); 47 CFR § 64.2107.

Consumer Advocate expressed appreciation to Touchtone for the forthrightness of its response, and this appreciation is shared by the undersigned administrative law judge.

At the August 25 prehearing conference, the parties discussed these filings, their progress in discovery and investigation, and the appropriate procedure for the case. The Consumer Advocate is waiting for discovery responses from CenturyLink. It has received responses from Bluetone and may or may not have limited follow-up questions. Liberty sent discovery responses, and the Consumer Advocate sent follow-up questions to Liberty. The Consumer Advocate received a response to its informal question of Touchtone, does not anticipate further questions of Touchtone, and is not seeking to add Touchtone as a party. CenturyLink hopes to get its responses to the Consumer Advocate soon, and hopes to file further information regarding its intent to adopt the FCC's Safe Harbor provisions with the Board in approximately two weeks. West Liberty is working on the supplemental discovery request it received from the Consumer Advocate, does not think it will require a long time to provide, but does not yet know when it can provide the information. The parties are cooperating on the investigation of the case, which is also appreciated by the undersigned.

The parties discussed appropriate next steps for this case, and agreed it would be appropriate to work toward a mutual resolution within a reasonable period of time. Particularly since CenturyLink has filed its intent to adopt the FCC's Safe

Harbor provisions with the FCC, it is time for the parties in this and the other call completion cases involving CenturyLink to start working on an Iowa solution. The parties noted the procedural agreements and schedule set in Docket No. FCU-2013-0007, *Complaint of Carolyn Frahm (Frahm)*. The Consumer Advocate, CenturyLink, and the other parties in Docket No. FCU-2012-0019, *Rehabilitation Center of Allison (Allison)*, are working on their status report in that case, which is due on August 29, 2014. They expect to propose a procedural schedule in the status report and agreed it would make sense to wait to develop a procedural schedule in this case until after the procedural schedule in the *Allison* case is set. The Consumer Advocate and CenturyLink are confident they will be able to work out a mutually agreeable procedural schedule in the *Allison* case. The merits of having similar procedural schedules in the call completion cases in which CenturyLink is the long distance provider were discussed. Bluetone expressed the concern that carriers with smaller roles and not involved in all the cases might have their cases become more complicated if the CenturyLink cases were considered together, and asked that ways to control that problem be included. The Consumer Advocate noted that if the template used in the *Frahm* case is used in the other cases, it should alleviate this concern.² Liberty noted that this case is different because the original complaint involved a false caller identification number. This may provide a reason to consider

² In *Frahm*, a party with limited information and who was not the cause of the problem in the case was allowed to have its information included in the report filed by the Consumer Advocate, rather than having to file its own report, with the agreement the party would provide an affidavit supporting the information it provided.

this case separately from the others, but it is unclear at this time whether this would be the best approach and no decision was made.

The parties agreed the most appropriate procedure in this case would be to have them file a status report in 30 days. The status report must provide an update on the parties' discovery and investigation, state whether Mr. Pals has experienced any problems similar to those previously reported, and provide a proposed procedural schedule for this case.

The most efficient and clear way to provide the information in this and the other call completion cases was discussed. The parties think that filing reports, rather than prefiled testimony and exhibits, would work best and provide the Board with the information in as useful a format as possible. This was approved, with the understanding that any information provided in the reports had to be supported by an affidavit of the entity providing the information. The parties discussed whether the Consumer Advocate would provide one report in this case, or whether the carriers would each provide their own reports. The parties will discuss this and propose what they believe should be done in their status report.

For the benefit of the parties, guidance regarding what the report or reports should include and what an Iowa solution needs to include is provided. The parties' report or reports in this case must include all the information the parties have regarding what happened in this case. To the extent the parties have the information, the reports must provide answers to the questions posed by the Board in

its "Order Docketing for Formal Proceeding and Assigning to Administrative Law Judge," issued on July 1, 2013. The reports must provide the information the parties have to assist the Board in understanding what caused Mr. Pals' problems at issue in this case, what was done to correct the problems in this case, why the corrections solved the problems, and what was done or still needs to be done to provide a long-term solution to the problems at issue in this case. If the parties are unable to provide some of the answers to these questions, or do not have the information needed to provide the answers, they should include an explanation of why they cannot provide the answers or do not have the information. If Mr. Pals has experienced any further caller identification or call completion problems since the date of the scheduling order to be issued in the future, the reports must include information about the problems and what was done to resolve them. The report or reports should also include information regarding which telephone carriers involved in this case will need to implement effective, preventative, long-term solutions to prevent call completion problems for Iowa customers. One of these carriers, although not necessarily the only carrier, is CenturyLink.

When CenturyLink develops its Iowa solutions to prevent its Iowa customers from experiencing call completion problems in the future, the solutions may be based on the work CenturyLink is doing on a national basis pursuant to its commitments to the FCC. However, CenturyLink's Iowa solutions must include commitments by CenturyLink to the Board as to the actions it will take to prevent call completion

problems in Iowa. CenturyLink must implement effective, preventative, long-term solutions so its Iowa customers do not continue to experience call completion problems as they have in the past. CenturyLink's solutions must prevent such problems in the first place, and may not rely on a system where customers must first experience a problem and report it to the Board or their telephone carrier in order to have the problem corrected after the fact. However, the Board recognizes that even after these solutions have been implemented, an occasional call completion problem may occur. Therefore, part of CenturyLink's solutions will need to be the establishment of better procedures, including providing information to customers on how to most effectively report call completion problems, so customers may report and have their call completion problems addressed much more quickly and effectively than has occurred in the past. If it is possible, it would be ideal for CenturyLink and the Consumer Advocate to agree on what CenturyLink's Iowa solutions should include.

Procedurally, the undersigned administrative law judge believes that CenturyLink's Iowa solutions would not be included in the report or reports on the case, but would instead be provided in a separate filing by CenturyLink. However, the parties are free to propose a different procedure in their status report if they can agree on what the procedure should be.

IT IS THEREFORE ORDERED:

On or before September 26, 2014, the parties must file a status report that includes the information discussed in the body of this report. If the parties mutually determine another prehearing conference would be useful at that time, the report must provide three mutually agreeable dates and times for a telephone prehearing conference. If Mr. Pals has experienced any call completion problems since the date of this order, the status report must also inform the Board of the problems and what has been done to correct them.

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST

/s/ Joan Conrad
Executive Secretary

Dated at Des Moines, Iowa, this 27th day of August 2014.