

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

In the Matter of Petition of CenturyLink and)
Dex Media, Inc. for a Waiver of or Exemption) Docket No. 16-UTDT-568-MIS
from the Commission's Directive Regarding)
Distribution of Telephone Directories)

NOTICE OF FILING OF STAFF'S REPORT AND RECOMMENDATION (PUBLIC)

The Staff of the Kansas Corporation Commission (Staff and Commission, respectively)
hereby files a Report and Recommendation (R&R) dated September 29, 2016. Staff
recommends the Commission take the following actions:

- Grant CenturyLink a partial waiver of the Commission's Directive regarding the distribution of telephone directories on a trial basis for the East Central Kansas Regional Directory, the Junction City/Fort Riley Area Regional Directory, the Burlington/Osage City Regional Directory, and the Turkey Red Regional Directory, while allowing customers the opportunity to obtain a printed directory, free of charge, indefinitely.
- For each affected directory, CenturyLink must provide its customers with notice of the directory change over two billing cycles via bill messages printed and distributed directly on the consumer's bill. Bill messages will be given concurrent with the time period when the affected directory would have been distributed, in order to limit customer confusion. CenturyLink must provide the Commission with the language used in the bill messages at least 30 days in advance of the issuance of the bill message.
- For each affected exchange, CenturyLink should be required to issue an annual bill message to remind customers they can request a printed directory at no charge by calling a toll-free number.
- For each affected exchange in which CenturyLink continues to print a Yellow Page Directory, CenturyLink should be required to include a notice on the Yellow Page Directory for each of the affected exchanges with a toll-free number for customers to call to request a printed residential directory. A copy of the notice should be submitted to Staff for review and approval prior to any roll out of the waiver in any of the directory areas.
- CenturyLink should be required to track consumer complaints concerning the waiver for a period of one year after implementation of the waiver in each exchange and provide the Commission with monthly complaint data on a quarterly basis. The Commission shall track and provide to CenturyLink, also on a quarterly basis, any directory waiver complaint data it maintains during the first year following implementation of the waiver in an exchange.

- CenturyLink should be required to provide the Commission with a report, on a quarterly basis during the first year following the implementation of the waiver in an exchange, detailing the number of requests it received monthly for the residential white page listings in any of the exchanges where the waiver is implemented.
- Following the one-year reporting period for the last directory area to switch from print to online publication, CenturyLink may file a request for review and request a waiver in this Docket for the exchanges included in the remaining three regional directories: Central Kansas Regional, Southeast Kansas Regional, and Northeast Kansas Regional.

WHEREFORE, for the reasons contained in its R&R, attached hereto, Staff respectfully requests that the Commission issue an order adopting its recommendations.

Respectfully Submitted,



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STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

VERIFICATION

Michael Neeley, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas, that he has read and is familiar with the foregoing *Notice of Filing of Staff's Report and Recommendation (PUBLIC)* and that the statements contained therein are true and correct to the best of his knowledge, information and belief.



Michael Neeley # 25027
Kansas Corporation Commission of the
State of Kansas

Subscribed and sworn to before me this 30th day of September, 2016.


Notary Public

My Appointment Expires: June 30, 2018

REDACTED VERSION
CONFIDENTIAL INFORMATION DENOTED BY **
REPORT AND RECOMMENDATION
UTILITIES DIVISION

TO: Chairman Jay Scott Emler
Commissioner Shari Feist Albrecht
Commissioner Pat Apple

FROM: Kelly Mabon, Telecommunications Analyst
Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: September 29, 2016

SUBJECT: Docket No. 16-UTDT-568-MIS
In the Matter of Petition of CenturyLink and Dex Media, Inc. for a Waiver of or Exemption from the Commission's Directive Regarding Distribution of Telephone Directories.

EXECUTIVE SUMMARY:

On June 10, 2016, United Telephone Companies of Kansas d/b/a CenturyLink (CenturyLink) and Dex Media, Inc. (Dex Media) filed a Petition for a Waiver of or Exemption from the Requirements of the Commission's May 1, 1967 Directive Concerning the Issuance of Telephone Directories (Petition).

Staff recommends the Commission deny the Petition for a complete waiver or exemption from the Directive concerning the issuance of telephone directories, as Staff does not believe it would be in the public interest to grant such request. Staff, however, recommends the Commission grant CenturyLink a partial waiver, on a trial basis, from the requirement to distribute a printed directory in the CenturyLink exchanges included in the East Central Kansas Regional Directory¹, the Junction City/Fort Riley Regional Directory², the Burlington/Osage City Regional Directory³, and the Turkey Red Regional

¹ The East Central Kansas Regional Directory includes the following CenturyLink exchanges: Baldwin City, Blue Mound, Bucyrus, Centropolis, Edgerton, Fontana, Gardner, Garnett, Greeley, Kincaid, Lane, Linwood, Mapleton, Moran, Mound City, Osawatimie, Parker, Pomona, Princeton, Richmond, Spring Hill, Wellsville, and Westphalia.

² The Junction City/Fort Riley Regional Directory includes the following CenturyLink exchanges: Alma, Alta Vista, and Junction City.

Directory⁴, with the caveat that a printed directory must be provided indefinitely and free of charge upon customer request.⁵ Staff further recommends the Commission adopt the six additional requirements that shall apply to the partial waiver, as discussed further below.

BACKGROUND:

On May 1, 1967, the Commission issued a Directive to all telephone companies stating that:

A Commission Conference was held on April 27, 1967 and it was determined that all telephone companies operating in the state of Kansas issue at least annually a dated telephone directory.

On June 10, 2016, CenturyLink and Dex Media filed a Petition requesting a permanent waiver or exemption from the Directive requiring the Company to annually provide a printed telephone directory of residential listings in all of its Kansas local exchange service territories.

Staff filed a Motion to Dismiss Dex Media, Inc. from this proceeding on August 22, 2016. Staff filed this Motion because: 1) the Commission does not have jurisdiction over Dex Media because Dex Media is not a public utility; and 2) Dex Media does not have standing to request relief from the Directive, as it is not subject to the Directive.

On September 1, 2016, a Joint Motion was filed by CenturyLink and Dex Media requesting an extension of time to respond to the Motion to Dismiss until October 3, 2016. On September 13, 2016, the Commission granted the Motion for an extension of time.

On September 23, 2016, a second Joint Motion was filed by CenturyLink and Dex Media requesting an additional extension of time to respond to the Motion to Dismiss until November 1, 2016. Staff is not opposed to this request.

ANALYSIS:

The Petition explains that Dex Media publishes directories for CenturyLink pursuant to publishing contracts. CenturyLink does not pay Dex Media for publishing telephone

³ The Burlington/Osage City Regional Directory includes the following CenturyLink exchanges: Alma, Burlingame, Burlington, Eskridge, Gridley, Harveyville, Lebo, LeRoy, Lyndon, Melvern, Michigan Valley, Osage City, Overbrook, Quenemo, and Waverly.

⁴ The Turkey Red Regional Directory includes the following CenturyLink exchanges: Durham, Hesston, Hillsboro, Lehigh, and Walton.

⁵ Staff requested CenturyLink provide a breakdown of directories provided for residential customers in Kansas. CenturyLink provided a list of seven regional directories and the exchanges associated with each directory. The regional residential directories include residential listings for exchanges in which CenturyLink is not the Incumbent Local Exchange Carrier (ILEC). This partial waiver would only apply to the exchanges in which CenturyLink is the ILEC. ILECs serving the other exchanges would continue to be required to distribute annual printed residential directories, as required by the Commission's Directive.

directories; instead Dex Media recovers the cost for publishing the directories through revenues received for yellow page advertisements.

The Petition states that Dex Media will begin to move away from 100% paper directories by providing a combination of print and digital directories. All consumers will have access to an online digital directory, and those who request a printed directory will be given one at no charge. This change would occur on a market-by-market basis as Dex Media determines the print directory needs of a particular market. Dex Media would provide paper copies to consumers upon request as a transition, until the number of requests becomes “miniscule” and makes the publishing cost per book prohibitive.

The Petition further states that prior to making a change, CenturyLink will include a bill message advising its customers of the digital directory web address and that paper copies of that market’s directories are available upon request. The notice would include a toll-free number to make such request.

Staff requested the Company provide a sample of the bill message that will be sent to customers regarding the change and the time frame in which the message would be sent to customers in Data Request (DR) 1.3. In response, CenturyLink stated that a Kansas-specific message has not yet been developed but that a copy would be provided to Staff 30 days in advance of the billing cycle in which the notice will be issued.

In support of the request, the Petition asserts that technology and consumer preferences have changed substantially in that the traditional residential white page telephone book no longer provides the same utility it once did in households across the state. The Petition states that customers tend not to use the white page residential listings because:

- the white pages today contain less than half of the possible residential listings;
- a growing number of homes have switched from local exchange carrier voice service to wireless and cable/VoIP service for which listings are not available⁶; and
- due to the expanded use of online directories.

While it may hold true that some consumers do not utilize a printed directory anymore, this does not hold true overall. In support of this, Staff found the following on Dex Media’s website:

Outside of the metro areas across America, print phone book usage is just shy of 70%. These are consumers who have said that in the past year they have used a phone book to find a business. And in the metro areas, a solid 40% of people are still using phone books.

How can this be true?

⁶ The Petition cites to a Federal Communications Commission statistic that subscription to voice service provided by ILECs declined more than 62% over a 14 year period.

Researchers have found that habits die hard in many people over 50. As a group, they have been much slower in adopting new technologies. As business people involved in marketing, we (and the people we work with) tend to be the quickest to become aware of and adopt new trends, forgetting that not everyone moves as quickly as we do. What does this mean? If your most profitable clients are over 50 (**and they do have 70% of the disposable income**) and you have an all-digital strategy, you might be missing out on a valuable lead generation channel.⁷

As the Dex marketing literature states, many older Kansans may not have the knowledge or ability to search for telephone numbers online and this demographic does not move quickly to adopt new technological trends.

U.S. Census Bureau data indicate that in 2015, approximately 15% of the Kansas population was 65 years or older.⁸ A study completed by the National Telecommunications and Information Administration (NTIA) reveals that only 56% of that demographic use the Internet.⁹ In another study, NTIA shows that only 69% of rural residents report using the Internet and 33% of rural citizens report not owning any Internet-compatible devices.¹⁰

The largest exchange served by CenturyLink is Junction City, with a population of approximately 24,621.¹¹ The smallest exchange served by CenturyLink is Quincy, with a population of approximately 218.¹² As CenturyLink's territory encompasses many small, rural communities where the population may include many older customers, it does not appear the Company's assertion that online publication of residential numbers would be desirable or sufficient for that demographic. Furthermore, the online publication may not be available to many of CenturyLink's rural customers, as they may not have access to or utilize the Internet.

According to CenturyLink's 2015 annual report, less than **■**% of its total customers have access to broadband service in approximately **■**% of its exchanges. In **■**% of its exchanges, less than **■**% of its total customers have access to broadband service. Although some of these unserved customers may have access to the Internet via wireless technology or through another provider, it remains true that some of CenturyLink's customers may not have access to Dex Media's online directory because they do not have Internet access.

⁷ <http://www.dexmedia.com/blog/think-you-know-how-consumers-search-for-your-business/>, last viewed September 23, 2016.

⁸ <http://www.census.gov/quickfacts/table/PST045215/00>, last viewed September 27, 2016.

⁹ United States Department of Commerce, NTIA, First Look: Internet Use in 2015, March 21, 2016, by John B. Morris, Jr., Associate Administrator, Office of Policy Analysis and Development,

¹⁰ United States Department of Commerce, NTIA, The State of Urban/Rural Digital Divide, August 10, 2016, by Edward Carlson, Policy Analyst, and by Justin Gross, Intern, Office of Policy Analysis and Development.

¹¹ <http://www.census.gov/quickfacts/table/PST045215/2035750.00>, last viewed September 27, 2016.

¹² http://www.bestplaces.net/people/city/kansas/quincy_township, last viewed September 27, 2016.

The Petition states that the United States Department of Health and Human Services Centers for Disease Control and Prevention (CDC) publishes regular reports on wireless substitution. The CDC's telephone coverage data indicate that in the first half of 2015 the percentage of wireless-only households nationwide had grown to 47.4% and the percentage of households with both wireless and landline service stood at 41.6%. The Petition contends that the national trend is echoed in Kansas.

In DR 1.4, Staff requested the line counts for CenturyLink in Kansas from 2013 through 2015. According to the data provided by CenturyLink, the number of subscribers declined from 51,649 in 2013 to 46,219 – a 10.5% decrease, which could be attributed to wireless-only households or competition from wireline providers. Therefore, it is difficult to determine exactly how many households in a specific area have ceased using residential wireline telephones.

The Petition further indicates that consumers may call directory assistance and pay a fee for listings or call a toll-free number (1-800-FREE-411) and receive a residential listing for free in exchange for listening to an advertisement. It is not in the public interest to grant this request to increase the profitability of a non-regulated publisher while requiring Kansas consumers to either pay a fee to obtain a residential listing or listen to an advertisement in exchange for the listing. In addition, it is possible that many consumers are not aware of the option available to obtain a free listing in exchange for listening to an advertisement.

The Petition indicated that the transition to online directories would occur on a market-by-market basis as Dex Media determines the print directory needs of a particular market. Thus, in order to understand what criteria Dex Media will use to make the determination on the directory needs for a particular market, Staff issued DR 1.1. In response, CenturyLink stated that Dex Media uses a scoring model at the zip code level, which tracks where calls to the business are coming from, how many calls per household originate in each zip code, the number of competitive directories in each zip code, and a revenue score based on client count. Dex Media also considers the profitability of specific directories when determining whether to stop publishing printed directories.

In Staff DR 1.2, Staff further requested CenturyLink to define the terms “miniscule requests” and “prohibitive costs”, with regard to Dex Media's determination of when it will completely discontinue providing printed directories. In response, CenturyLink stated that “miniscule” will be relative and can vary between different markets, based primarily on the number of CenturyLink customers and other directory users in the area served by a particular directory title. CenturyLink explains that in larger markets, which it did not define, Dex Media would provide paper copies upon request until the request rate drops to about 3%. The term “prohibitive costs” is relative also, according to the response. CenturyLink states that once an entire directory has transitioned to online through its coverage area, setting up a paper and print run for a small number of requesting customers can make the cost per book much higher than the revenue generated.

CenturyLink has not provided concrete parameters of when a “market” would be targeted for implementation of this proposal. While Staff is mindful that companies are in business to make a profit, it does not believe that the decision to cease printing residential directories should be in the hands of a non-regulated entity based solely on profitability. This is not in the public interest, which is why Staff recommends any type of waiver that may be granted include a requirement to provide a printed directory to any requesting customer free of charge, indefinitely.

The Petition further references the significant costs of regulatory requirements on publishing directories. Staff DR 1.6 requests the Company to explain these regulatory requirements and the “significant costs” associated with them. According to the Company’s response, these “significant costs” are associated with content, font size, placement requirements, and other restrictions for publishing directories. Staff is not aware of any Commission Order, statute, or rule containing any of these requirements. The Company’s response also referenced the requirement to publish directories in paper format to every customer without regard to the need, demand, or usage, and stated that online publication of such information could be done at a much lower cost. Although it may be true that an online directory can be produced at a lower cost than a printed directory, the only entity benefiting from the cost savings is Dex Media.

RECOMMENDATION:

Staff does not recommend a complete waiver of or exemption from the requirements of the Commission’s May 1, 1967, Directive concerning the issuance of telephone directories, as requested at this time.

The assumption that households within CenturyLink’s territories in Kansas have the ability to find residential telephone numbers online is not supported in the Petition. Some rural areas do not have access to broadband and many consumers, especially those 65 and older, do not use the Internet. The Petition further appears to focus on the profitability of a non-regulated entity, Dex Media, without regard for the public interest.

While Staff is mindful that companies are in business to make a profit, it does not believe that the decision to cease printing residential directories should be in the hands of a non-regulated entity based solely on profitability. This is not in the public interest, which is why Staff recommends any type of waiver that may be granted include a requirement to provide a printed directory to any requesting customer free of charge, indefinitely.

Based upon population and broadband availability in the exchanges associated with the regional directories, Staff recommends granting a partial waiver of the Commission's Directive regarding the distribution of telephone directories on a trial basis for the East Central Kansas Regional Directory, the Junction City/Fort Riley Area Regional Directory, the Burlington/Osage City Regional Directory, and the Turkey Red Regional Directory, while allowing customers the opportunity to obtain a printed directory, free of charge, indefinitely.

Staff further recommends the following parameters apply to any waiver granted:

- For each affected directory, CenturyLink must provide its customers with notice of the directory change over two billing cycles via bill messages printed and distributed directly on the consumer's bill. Bill messages will be given concurrent with the time period when the affected directory would have been distributed, in order to limit customer confusion. CenturyLink must provide the Commission with the language used in the bill messages at least 30 days in advance of the issuance of the bill message.
- For each affected exchange, CenturyLink should be required to issue an annual bill message to remind customers they can request a printed directory at no charge by calling a toll-free number.
- For each affected exchange in which CenturyLink continues to print a Yellow Page Directory, CenturyLink should be required to include a notice on the Yellow Page Directory for each of the affected exchanges with a toll-free number for customers to call to request a printed residential directory. A copy of the notice should be submitted to Staff for review and approval prior to any roll out of the waiver in any of the directory areas.
- CenturyLink should be required to track consumer complaints concerning the waiver for a period of one year after implementation of the waiver in each exchange and provide the Commission with monthly complaint data on a quarterly basis. The Commission shall track and provide to CenturyLink, also on a quarterly basis, any directory waiver complaint data it maintains during the first year following implementation of the waiver in an exchange.
- CenturyLink should be required to provide the Commission with a report, on a quarterly basis during the first year following the implementation of the waiver in an exchange, detailing the number of requests it received monthly for the residential white page listings in any of the exchanges where the waiver is implemented.
- Following the one-year reporting period for the last directory area to switch from print to online publication, CenturyLink may file a request for review and request a waiver in this Docket for the exchanges included in the remaining three regional directories: Central Kansas Regional, Southeast Kansas Regional, and Northeast Kansas Regional.¹³

¹³ The Central Kansas Regional Directory includes the following CenturyLink exchanges: Abbeyville, Alden, Arlington, Belpre, Buhler, Burrton, Claflin, Conway, Cunningham, Ellinwood, Haven, Hoisington, Hudson, Inman, Langdon, Macksville, Murdock, Partridge, Preston, Pretty Prairie, St. John, Sterling, Sylvia, and Windom. The Southeast Kansas Regional Directory includes the following CenturyLink exchanges: Altamont, Altoona, Baxter Springs, Benedict, Buffalo, Coyville, Fall River, Fredonia, Galena, LaFontaine, Mound Valley, Neosho Falls, Oswego, Piqua, Quincy, Riverton, Scammon, Thayer, and Toronto. The Northeast Kansas Regional Directory includes the following CenturyLink exchanges: Circleville, Delia, Denison, Effingham, Emmett, Hiawatha, Highland, Holton, Horton, Hoyt, Lancaster, Mayetta, McLouth, Meriden, Morrill, Nortonville, Oskaloosa, Ozawkie, Perry, Powhattan, St. Mary's, Troy, Valley Falls, Wathena, White Cloud, and Winchester.

CERTIFICATE OF SERVICE

16-UTDT-568-MIS

I, the undersigned, certify that a true and correct copy of the above and foregoing Notice of Filing of Staff's Report and Recommendation (Public Version) was served via electronic service this 30th day of September, 2016, to the following:


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