

Torry R. Somers
Associate General Counsel
6700 Via Austi Pkwy.
Las Vegas, NV 89119
Ph: (702) 244-8100
Fax: (702) 244-7775
torry.r.somers@centurylink.com

Attorney for CenturyLink

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of a Request for Agency Action for Creation of a Telecom Working Group to Address Possible Streamlined Procedures for Approving Changes Mandated by the FCC	Docket No. 12-999-05 CENTURYLINK'S COMMENTS
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In its Order released on May 24, 2012, the Public Service Commission of Utah (“Commission” or “PSC”) requested “comments from parties concerning the actions, findings, proceedings, or other requirements which need to be undertaken by either the Commission or certificated Utah carriers, associated with complying with the Transformation Order.” Qwest Corporation d/b/a CenturyLink files these initial comments to provide its view of the issues that should be addressed by the Commission as it implements the requirements of the FCC’s Transformation Order,¹ and its subsequent clarification and reconsideration orders. These Orders reform the Federal Universal Service Fund (“FUSF”) and intercarrier compensation (“ICC”) mechanisms.

¹ *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and reasonable Rate for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Mobility Fund; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking* (Nov. 18, 2011).

The Commission Order did not provide a set of specific questions that parties should respond to. As such, CenturyLink is taking this opportunity to provide a summary of the issues it believes the Commission should address in this proceeding. CenturyLink reserves the right to provide more substantive comments once the Commission provides further guidance as to the issues it wants to address in this proceeding.

A. Intercarrier Compensation

1. **Access Tariffs** – The FCC’s Transformation Order requires price cap ILECs such as CenturyLink to decrease intrastate terminating end office and tandem rates over a six year period, ultimately resulting in bill and keep by July 1, 2018. On July 3, 2012, Intrastate terminating switched end office and transport rates, originating and terminating dedicated transport rates and reciprocal compensation rates, if above interstate rates, had to be reduced by 50% of the revenue differential based on interstate rates. On July 1, 2013, Intrastate terminating switched end office and transport rates and reciprocal compensation rates will be reduced to parity with interstate access rates. In compliance with the FCC’s requirements, on May 30, 2012, CenturyLink filed revisions to its Utah Intrastate Access Tariff to implement access reductions equal to 50% of the differential to interstate rates. These tariffs have an effective date of July 3, 2012.

The CenturyLink filing is consistent with the template provided by the FCC, and is compliant with the FCC’s directives. CenturyLink’s May 30, 2012, tariff filing targeted required access revenue reductions to the Carrier Common Line Terminating and Local Switching Terminating rate elements. In Order DA12-870, released on June 5, 2012, the FCC clarified that carriers are not required to reduce the level of each and every rate element in order to be in

compliance with the Transformation Order. Paragraph 9 of the FCC's June 5, 2012 Order states, "[c]onsistent with the above clarification, the required reductions to intrastate switched access rates may be made to any intrastate switched access rate as long as the lowered rates produce a reduction in revenues equal to the reduction required in 2012." Thus, CenturyLink's targeted reduction in the Carrier Common Line and Terminating Local Switching rate elements is consistent with the Transformation Order.

On June 4, 2012, the Division of Public Utilities ("DPU") recommended that the Commission approve the CenturyLink tariff. The DPU noted: "The Division investigated the results of the tariff calculations for the required access revenue reductions which were targeted to the Carrier Common Line Terminating and Local Switching Terminating rate elements and determined that they were reduced to the appropriate rates." The Division also agreed that this Tariff change is in compliance with the above mentioned FCC Order 11-161, and supported this change. The Division recommended that the tariff be approved and that this filing become effective on July 3, 2012. On June 15, 2012, the Commission approved the tariff filing.

CenturyLink appreciates the DPU's position on this filing and the approval of the tariff by the Commission. CenturyLink will continue to make annual filings to implement the FCC's mandates, and is hopeful that the process will continue to progress in a smooth manner.

2. VoIP Tariffs - On December 21, 2011, CenturyLink filed revised tariffs to implement the FCC's new requirements regarding compensation for VoIP-based traffic. The Commission approved that tariff on January 13, 2012, and the changes were implemented in Utah. However, on April 25, 2012, the FCC issued its Second Order on Reconsideration in WC Docket No. 10-90, etc., FCC Release No. 12-47, requiring changes to the treatment of originating VoIP in the tariff (the "Second Order on Reconsideration"). This order specifically

modified the rules that were originally set forth in the Transformation Order by permitting local exchange carriers, until June 30, 2014, to set a transitional default rate equal to their intrastate originating access rates, rather than their interstate rates, when they originate intrastate toll VoIP traffic.² Therefore, on June 12, 2012, CenturyLink filed changes to modify tariff language for the Identification and Rating of originating VoIP-PSTN Traffic to be in compliance with the Second Order on Reconsideration, with an effective date of July 13, 2012. CenturyLink is awaiting Commission approval of this tariff.

3. Access Recovery Charge - In the Transformation Order, the FCC instituted a transitional end user recovery mechanism—the Access Recovery Charge or “ARC”—to partially offset the access charge revenue reductions. The ARC is a federal charge that is regulated by the FCC, and thus no action is required from this Commission. On June 18, 2012, CenturyLink made a tariff filing with the FCC to implement the ARC, with a 50 cent charge effective for Utah residential customers, as well as a \$1 charge for certain business services, to be effective on July 3, 2012. On July 2, the FCC suspended the ARC rates contained in the 2012 annual access tariffs of all issuing carriers that are charging an ARC pursuant to this annual access tariff filing so that it could investigate various issues related to the filings.³

B. Universal Service

CAF 1 - The FCC has established the Connect America Fund (“CAF”), and is transitioning support from traditional voice services to broadband services. Traditional federal high cost funding has been frozen, and the CAF 1 mechanism will provide interim support until the cost models can be developed that will define the levels of long term support via CAF 2. The

² Second Order on Reconsideration, ¶2.

³ In the Matter of July 3, 2012 Annual Access Charge Tariff Filings, WCB/Pricing No. 12-09, DA 12-1037, page 4.

FCC has determined the amount of CAF 1 funding available for CenturyLink and other providers, and CenturyLink is eligible to receive up to \$90 million in support over its 37 state operating territory, subject to the limitations imposed by the FCC (e.g., support of no more than \$775 per location and no support in areas served by other providers, including fixed wireless). CenturyLink and other carriers have 90 days (until July 25) to inform the FCC as to how much support it will request. CenturyLink is currently evaluating its response and has not made any final decisions as of yet as to how much funding it will request, and how much would be applied to Utah.

However, CenturyLink would like to inform the Commission that on June 26, 2012, it filed a Petition for Waiver with the FCC, seeking authority to use CAF Phase I funds to deploy broadband to areas that, according to the National Broadband Map (“NBM”), are served by certain Wireless Internet Service Providers (“WISPs”) but that, according to CenturyLink’s data, those WISPs cannot fully serve. In some cases, the WISP coverage areas shown on the NBM are facially implausible, and the communities that CenturyLink wishes to serve may receive no WISP service at all. In other cases, the listed WISPs share many or all of the same core attributes that led the FCC to exclude satellite broadband service from identification of areas as “unserved” for CAF Phase I purposes, including capacity constraints, line-of-sight restrictions, high monthly rates, high installation and equipment fees and/or data caps.⁴ Under the one location-per-\$775 requirement, CenturyLink could feasibly accept funding to serve only a small

⁴ In particular, CenturyLink seeks a waiver that would permit it to spend CAF I funds on any community that, according to the NBM, is “served” only by a WISP, and at least one of the following two conditions applies: (1) The community lies within a state that has not independently verified WISP coverage areas shown in the NBM, and objective indicia demonstrate that the WISP could not plausibly serve the areas that the NBM shows it to cover; or (2) The WISP, like satellite broadband providers, imposes unusually high retail prices (\$720 or more for the first year of service) or unusually stringent data caps (25 GB per month or below), even though its services, also like satellite broadband services, are technologically inferior to wireline broadband.

fraction of the 116,000 locations (\$90 million divided by \$775) if it could not spend CAF I funds to deploy broadband to the areas nominally “served” by the WISPs in question.

The FCC has not yet acted on CenturyLink’s waiver. No action is needed by this Commission regarding CAF 1 at this time.

CAF 2 - In order to establish CAF 2 support levels, the FCC will adopt a forward looking cost model to estimate the cost of deploying a broadband capable network in high cost areas. Initially, the FCC stated that it planned to adopt a cost model by the end of 2012; with support planned to begin January 1, 2013. The FCC has directed the Wireline Competition Bureau to undertake a public process to determine the specific design and operation of the cost model to be used for Phase II of the CAF. The model is intended to efficiently support deployment of networks providing both voice and broadband service in specific high cost areas as identified by the model.⁵ However, based on current progress, it is not likely that this deadline will be met, as the FCC is just now starting to address issues related to the cost model. The model development, and the competitive bidding process associated with the model have not yet been completed. Thus, while the CAF will ultimately replace all existing terminating high cost support mechanisms, there are key aspects of the CAF that are unknown at this time, and these issues must be resolved before any meaningful analysis can be undertaken to determine the impact the FUSF reform will have on the Utah USF.

The CAF model that is ultimately selected will play a critical role in determining the impact FUSF reform may have on the Utah USF. The Commission and the companies will need to be involved in this process to assure that the CAF 2 support model is developed and implemented in a manner such that Utah customers receive the CAF 2 broadband funding needed to provide broadband to high cost areas.

⁵FCC Order, ¶23.

State High Cost Fund - The Utah Universal Public Telecommunications Service Support Fund (“Utah USF”) is established pursuant to Section 54-8b-15 of the Utah Code and administered according to PSC rule R746-360. CenturyLink understands that the Commission is particularly interested in the impact the Transformation Order will have on the Utah USF—an interest shared by CenturyLink. Utah Code 54-8b-15 states:

(7) To the extent not funded by a federal universal service fund or other federal jurisdictional revenues, the fund shall be used to defray the costs, as determined by the commission, of any qualifying telecommunications corporation in providing public telecommunications services to:

- (a) customers that qualify for a commission-approved lifeline program; and
- (b) customers, where the basic telephone service rate considered affordable by the commission in a particular geographic area is less than the costs, as determined by the commission for that geographic area, of basic telephone service.

CenturyLink is concerned that as the federal funding of universal service is reduced, some carriers may seek to utilize the Utah USF as a “make whole” mechanism, potentially drastically increasing the size of the state fund, and thus the contributions to the fund made by CenturyLink’s customers. While CenturyLink supports the ongoing need of the Utah USF, CenturyLink does not believe that the Utah USF is a mechanism for ILECs to recover all revenues lost from federal high cost funding, and believes this issue needs to be further examined by the Commission or legislature.

Today, rural Rate of Return ILECs in Utah need to file a rate case to receive increased draws from the Utah USF. The expense in time and resources of a rate case adds to the amount

that the rural ILECs seek to recover. For example, in its April 24, 2012 filing in its current rate case,⁶ Manti Telephone is seeking a revenue shortfall of over \$2.9 million which includes the “anticipated amount of expenses related to Manti’s costs incurred in prosecution of its rate case application since 2008”.⁷ During 2011, the Utah USF, including Lifeline, was about a \$7 million fund. The Manti request represents a potential 41% increase in the Utah USF, triggered by only one rural ILEC. As rural ILECs lose federal funding, many may file rate cases that will drain resources and may result in a much larger state fund.

The small rural ILECs would like to establish a streamlined process to obtain state USF funding, without needing to file a rate case. CenturyLink also believes a streamlined process for determining USF funding is appropriate, but CenturyLink does *not* support a streamlined ROR process. CenturyLink believes there are insufficient resources available to audit ILEC filings and assure moneys received are used to support high cost voice services. For example, a rate of return ILEC may offer voice, broadband and video services to its customers, and the amount of USF funding received is directly impacted by how costs are allocated to voice and other services. That is, the allocation of these costs to voice services will directly impact the amount of universal funding requested. Yet to be certain that allocations are performed in a reasonable manner, the DPU and OCS must perform expensive and time consuming audits that it may not have the resources to perform. CenturyLink believes that these allocations need to be thoroughly examined because rate of return ILECs may allocate too many costs to voice services, and that there is no mechanism to prevent such behavior. In short, the Commission must assure that

⁶ PSC website link for Docket No. 08-046-01:
<http://www.psc.utah.gov/utilities/telecom/telecomindx/2006-2009/0804601indx.html>

⁷ (Redacted) Amended Application in Docket No.08-046-01, filed April 24, 2012, page 5:
<http://www.psc.utah.gov/utilities/telecom/telecomindx/2006-2009/0804601indx.html>

voice revenues and high cost support are not used to subsidize competitive services such as high speed internet access and video.

To alleviate these concerns, CenturyLink proposes a streamlined Utah USF process based on the development and implementation of a high cost model to determine support. A streamlined process utilizing a cost model would assure that high cost support is provided for voice service where it is needed, and that it would not be used as a mechanism to subsidize other services. In addition, a cost model approach would provide support for voice service in Utah without allowing the fund to become a substitute for diminishing federal funds.

Finally, CenturyLink believes that the Commission should, at the appropriate time, address other state high cost fund issues such as the following:

- a. What services should be supported going forward?
 - i. Should the state USF continue to support voice services?
 - ii. Should the state USF support broadband?
- b. Should providers receive funding through ongoing draws and/or one time distributions?
- c. Should a cost model approach, consistent with the FCC cost model, also be adopted to supplement/replace the ROR revenue requirement approach?
- d. For the providers who receive state USF, should the state USF make up for federal revenue reductions (federal USF, access charges, etc.)?
- e. How should the state USF be funded going forward?

C. ETC Process

In the Transformation Order, the FCC defined a process for annual Eligible Telecommunications Carrier (ETC) Certifications. The FCC preserved the states' role in the

certification process; CenturyLink and other ILECs, to the extent that they receive CAF 1 or CAF 2 funding, must provide specific information to states to demonstrate that funds have been used properly in the previous year and will be used for their intended purpose in the current year. States must then file an annual certification by October 1 of each year with the FCC and USAC, so that the ETC can receive funding in the subsequent year. The FCC has provided the states with specific requirements for state certifications, and has noted that these requirements are a “floor rather than a ceiling.” Nevertheless, this process should not devolve into a massive data gathering exercise that drains the resources of ILECs as well as the Commission. CenturyLink believes the certification process should be carried out in a well defined and efficient manner, focusing on the FCC’s criteria, which provides more than adequate data to allow the Commission to give necessary assurances to the FCC.

D. Lifeline

On February 6, 2012, the FCC issued its Lifeline and Link Up Modernization and Reform Report and Order and Further Notice of Proposed Rulemaking (“Lifeline Order”).⁸ In its Lifeline Order, the FCC sought to comprehensively reform the low-income program of the Universal Service Fund to (1) eliminate Link Up support in non-tribal areas; (2) impose uniform Lifeline eligibility, certification and verification requirements; (3) begin the process of modernizing the Lifeline program to shift to supporting broadband; and (4) constrain the growth of the low-income fund. Many of the FCC’s changes need to be addressed by the ETCs, the Universal Service Administration Company (“USAC”), and the FCC, but some of the FCC’s

⁸ *In the Matter of Lifeline and Link Up Reform and Modernization; Lifeline and Link Up; Federal-State Joint Board on Universal Service; Advancing Broadband Availability Through Digital Literacy Training*; WC Docket No. 11-42. WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23; Report and Order and Further Notice of Proposed Rulemaking (rel. Feb. 6, 2012).

changes need to be addressed by the state commissions. Based on the Lifeline Order, a host of issues must be addressed, such as (1) limitations in the level of federal funding (\$9.25 limit on federal monthly lifeline credits), (2) the minimum federal eligibility criteria (3) prevention of duplicate lifeline support, (4) new customer certification requirements, and (5) the annual recertification of all Lifeline customers.

CenturyLink believes the Commission should address Lifeline issues in its existing Lifeline proceeding, Docket No. 10-2528-01, rather than addressing Lifeline issues in this “catch all” proceeding. There are some critical deadlines that need to be met. The PSC, the state agency designated to administer Lifeline eligibility, and the ETCs need to move quickly so that low-income customers can continue to receive the federal Lifeline credits. For this reason it makes sense to deal with the Lifeline issues in the existing Lifeline proceeding to ensure a more timely consideration and resolution of the Lifeline issues.

It is important that the state Lifeline program be aligned, as much as possible, with the federal Lifeline program so that low-income customers do not need to follow two different processes to receive both the state and federal Lifeline credits. For example, a Lifeline application can be developed that meets both the state and federal requirements so that low-income customers do not need to complete two applications but can complete one that qualifies them for both programs.

In Utah, the state is responsible for the initial certification and ongoing eligibility verification, and some changes are needed to make the process compliant with the FCC requirements. For example, effective June 1, 2012, the FCC requires each new Lifeline customer to certify that they are qualified to receive the benefits. While the customer may self certify by providing a written or electronic signature, a copy of that certification needs to be provided to the

ETC. The FCC granted Utah and other states a temporary waiver, which requires the state agency to provide a copy of the self certification to the ETC by December 1, 2012. However, in the near term the state agency needs to communicate with the ETC that this information is being gathered. In the long term, the state agency and the ETCs need to coordinate to ensure that Utah's Lifeline customers are not harmed by the changes necessitated by the FCC's Lifeline order.

E. Conclusion

CenturyLink appreciates the opportunity to submit Comments in response to the Commission's May 24, 2012 Order. If requested, CenturyLink is prepared to respond to the comments submitted by other parties, and intends to participate at the upcoming technical conference.

DATED this 11th day of July, 2012.

CENTURYLINK



Torry R. Somers
Associate General Counsel
6700 Via Austi Pkwy.
Las Vegas, NV 89119
Ph: (702) 244-8100
Fax: (702) 244-7775
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