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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Consideration of Potential Changes in the Regulation of the Utah Universal Public Telecommunications Service Support Fund, in Response to Recent Changes in the Federal Universal Service Fund Program	Docket No. 12-999-10 REPLY COMMENTS OF QWEST CORPORATION D/B/A CENTURYLINK QC
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Qwest Corporation d/b/a CenturyLink QC (“CenturyLink”) respectfully submits these Reply Comments in response to the Utah Public Service Commission’s Request for Comments and Notice of Technical Conference dated November 2, 2012 (the “Notice”). The Utah Public Service Commission (“Commission”) opened this docket to investigate what potential changes may be needed to the Utah Universal Public Telecommunications Service Support Fund (“Utah USF”) in response to the FCC’s Transformation Order (the “FCC Order”),¹ and its subsequent clarification and reconsideration orders. Several parties, including CenturyLink, the Utah Office of Consumer Services (“OCS”), AT&T, and Verizon filed initial comments in response to the

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).

Notice.² Verizon states that it wants to eliminate the Utah USF, while AT&T recommends that no changes take place at this time. URITA believes the Utah USF should offset decreases in the Federal USF (“FUSF”) caused by reform of that program.

CenturyLink requests that, in its report to the Legislature, the Division of Public Utilities (“DPU”) adopt the recommendations previously set forth by CenturyLink in its initial comments. CenturyLink believes that its recommendations represent a balanced approach that recognizes the importance of preserving and promoting the Utah USF, but doing so in a prudent and fair manner. CenturyLink’s recommendation to retain the Utah USF while establishing parameters to constrain its growth is the most balanced and reasonable approach presented in the opening comments.

The Utah USF serves an important function, and it should not be eliminated as proposed by Verizon. Verizon believes it is unfair that it and other companies are “required to collect Fund surcharges from their customers and remit those surcharges to the Fund, but [that] none of these companies receive any funding from the program.”³ Like Verizon, CenturyLink contributes to the Utah USF, but does not receive high cost funds from the program. However, unlike Verizon, CenturyLink recognizes the importance of the fund in providing universal service to rural and high cost areas in Utah.

AT&T urges caution and recommends no regulatory or legislative changes until it becomes clear what will happen at the FCC.⁴ CenturyLink agrees that not all information is known as a result of the FCC Order, but nonetheless, the Legislature can take action to establish various parameters that the Commission can operate within to preserve the fund, and prevent

² Comcast filed a request for intervention, but did not file comments.

³ Verizon Comments, p. 2.

⁴ AT&T Comments, pp. 1-2.

drastic increases in the fund. The process that the Commission is currently undertaking will provide more than sufficient time for additional clarity to come from the FCC.

URTA believes the Utah USF should be used to offset decreases in the FUSF that result from the FCC Order. However, given the changes as a result of the FCC Order, the Utah USF should not be utilized as a “make whole” mechanism with the potential to drastically increase the size of the fund which could happen under URTA’s (and AT&T’s) proposals.

During 2013, this docket will be ongoing and the Commission and DPU will provide information/recommendations to the Legislature. This information will help the Legislature determine the parameters that the Commission needs to operate under going forward to accomplish the policy objectives of the reformed USF. Any legislative recommendation proposed by DPU most likely would not even be enacted until the 2014 session. If new legislation is adopted, the Commission will need time for a proceeding and rulemaking to implement necessary changes, such as to select, develop and implement a USF cost model. This most likely would not be completed until late 2014 or early 2015. Thus, this schedule will give the Legislature and Commission additional time to further evaluate the changes as a result of the FCC Order.

I. THE PRESENCE OF WIRELESS COMPETITION IS NOT A BASIS TO ELIMINATE THE UTAH USF

Verizon argues that the Utah USF is “no longer necessary and should be eliminated or at least substantially reduced.”⁵ In large part, this conclusion is based on the claim that extensive intermodal competition has developed without Utah USF support that will “ensure that basic telephone service is available to Utah consumers at affordable rates.” Therefore, according to

⁵ Verizon Comments, p. 2.

Verizon, “the original purpose of the Fund has been met.”⁶ In drawing this conclusion, Verizon relies primarily on the extensive availability of wireless services throughout Utah.

CenturyLink agrees that wireless competition is flourishing in much of Utah. There is little question that wireless service is replacing wireline service for many customers and is serving as a price constraining substitute for wireline service in much of Utah today. However, CenturyLink does not agree with Verizon’s conclusion as to how this competition impacts the potential need for universal service funding in Utah. In evaluating the impact of wireless competition, there are two distinct and separate policy questions: (1) Does wireless service (and other competitive options) represent an effective price-constraining substitute for wireline service, such that the market, not regulation, can be relied on to drive reasonable prices and service quality? (2) Does wireless service provide the necessary coverage and reliability to eliminate the need for universal service funding? Verizon has blurred these very distinct questions; in essence using the competitive data that supports a clear answer of “yes” to question (1) as if it provides a “yes” answer to question (2). As described below, while wireless competition clearly represents an effective price-constraining substitute for wireline service in Utah, it does not provide the necessary coverage and reliability in all areas that would eliminate the need for universal service funding in Utah.

a. For Purposes of Regulation and Pricing Policy, Wireless is an Effective Substitute for Wireline.

There is little question that wireless service is an effective substitute that constrains wireline prices, as the data provided by Verizon demonstrates. Over 30% of households have already “cut the cord” and there are far more wireless connections than wirelines in Utah today. *Most* customers in Utah have multiple voice options, including wireless, cable and VoIP

⁶ *Id.*

services. In this environment, CenturyLink (and other ILECs) must set prices for its retail services based on the constraints of the market. If prices are set too low, CenturyLink may not cover costs or be profitable. If prices are set too high, CenturyLink may experience a mass exodus of customers to the competition, with a potential loss in profitability.

It is important to note that wireless service does not need to be *identical* to wireline service, and does not need to be *available to each and every customer* in the state order for it to serve as an *effective substitute* for wireline service that constrains CenturyLink's retail wireline prices. There will *always* be differences between wireline and wireless service in terms of quality of transmission, data capability, mobility, ergonomics, etc. In addition, there are clearly locations in Utah that are either not served by wireless carriers⁷ or where wireless service may be unreliable. In these areas, customers may be dependent on traditional wireline voice service. However, as long as there are enough customers in the state that would switch to wireless, wireline prices are constrained by the market.

b. For Purposes of the Utah USF, Wireless is an not an Effective Substitute for Wireline.

For purposes of evaluating the need for a Utah USF, the Commission must ask whether wireless service provides the necessary coverage and reliability that would eliminate the need for universal service funding. While wireless service does not need to be available to all customers in all areas at the same level of reliability in order to constrain wireline prices, it does need to be available at a high level of reliability in all areas in order to provide an effective universal service alternative. There are certainly locations in Utah where reliable wireless service—as well as cable and VoIP service—are simply not available. In these areas, wireless is not an adequate

⁷ Or cable or VoIP providers

replacement for wireline service, and cannot be considered an alternative for wireline-based universal service.

URTA states in its comments that “[f]or purposes of state universal service policy . . . wireless services are not a substitute for traditional wireline universal service infrastructure and service. In terms of voice service, wireless services certainly complement wireline service, but wireless service cannot substitute for the reliability and dependability of a wireline service.”⁸ Like Verizon, URTA has failed to distinguish between (1) whether wireless is a price-constraining substitute for wireline and (2) whether wireless is an alternative for universal service purposes. As described above, wireless service clearly constrains wireline prices throughout Utah, and for many customers it represents a substitute, not a complement, for wireline service. But CenturyLink agrees with URTA that since reliable wireless service is not available in all areas that are served by wireline providers, it does not represent an adequate option to assure universal service to all citizens of Utah.

URTA also states that “wireless service providers rely on a robust wireline infrastructure to transmit wireless signals collected from antennas and sent to mobile collection and switching offices. In rural areas of the state, this wireline infrastructure is provided by the URTA members. Consequently, wireline infrastructure, and principally optic fiber cabling, is the only long-term infrastructure solution for universal service in Utah.”⁹ CenturyLink believes that URTA has raised a legitimate point, as wireline providers in many cases provide the “backhaul” that connects wireless towers to the mobile switching center and then to the rest of the switched telephone network. In this regard, wireline facilities are essential to the provision of wireless

⁸ URTA Comments, p. 16.

⁹ URTA Comments, p. 17.

service, and in rural high cost areas (including CenturyLink's high cost areas), universal service funding is needed to maintain these facilities.

II. EXPANSION OF THE UTAH USF TO SUPPORT BROADBAND

It does not appear that any party is proposing the immediate use of the Utah USF to support broadband; however, as broadband and voice networks converge, CenturyLink believes it is important that the Commission have the flexibility to expand the Utah USF to include broadband. Providing the Commission with the flexibility to transition to a broadband fund will allow the Commission to examine the results of the Connect America Fund Phase II before implementing changes at the state level.

The state USF is already implicitly supporting broadband deployment by the rural ILECs. CenturyLink believes that the policy objective for the Utah USF is to provide rural areas with comparable services at comparable prices. However, the cost to do this needs to be evaluated by the Commission and the DPU to ensure that the required investment is reasonable. A cost model approach can be utilized to understand the economic consequences of various policy decisions before investment is made, unlike a rate of return approach, where evaluations happen after the investment has been made. The Legislature does not need to expand the Utah USF to include broadband at this point, but can approve legislation that would give the Commission the ability to determine if and when it is appropriate to expand the fund.

III. COLR OBLIGATIONS

AT&T argues that the Commission and Legislature should eliminate legacy COLR obligations. CenturyLink agrees that COLR obligations should be eliminated in competitive areas and in areas where there is not adequate high cost support. However, a carrier that receives

support should be obligated to serve any customer in supported high cost areas who requests service, consistent with approved tariffs and price plans.

IV. PROCESS ISSUES

The OCS recommends that “interested parties should also be allowed the opportunity to comment on the Division’s report before it is finalized and submitted to the Governor and legislature.”¹⁰ Further, OCS believes that DPU’s report should summarize or attach comments that may be opposed to its recommendation. CenturyLink does not oppose OCS’s proposed process. It can be helpful for the Legislature to see the various positions of the parties when making its determination.

V. CONCLUSION

CenturyLink appreciates the opportunity to submit reply comments in this docket, and looks forward to participating at the technical conference on January 10, 2013. CenturyLink reserves the right to address new items raised in reply comments at the technical conference, or in further written comments if permitted by the Commission. Further, given the complexity of the issues in this docket, CenturyLink believes that further comments and additional technical conferences may be necessary. CenturyLink recommends that these procedural issues be addressed at the upcoming technical conference.

¹⁰ OCS Comments, p. 4.

DATED this 21st day of December, 2012.

CENTURYLINK

A handwritten signature in cursive script that reads "Torry Somers". The signature is written in black ink and is positioned above a horizontal line.

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