



CARLA M. BUTLER

December 7, 2017

Via Electronic Filing Only

Gary Widerburg  
Commission Administrator  
Utah Public Service Commission  
Heber M. Wells Building, 4<sup>th</sup> Floor  
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[psc@utah.gov](mailto:psc@utah.gov)

Re: Docket No. 17-R008-01

Dear Mr. Widerburg:

Attached for filing in the above entitled docket please find CenturyLink's Reply to Comments Filed on November 16, 2017, along with a Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Carla".

Carla Butler  
Lead Paralegal

Attachment  
cc: Service List

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Attorney for CenturyLink

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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Utah Administrative Code R746-8,  
Proposing to Repeal R746-360, R746-341,  
And R746-343

**DOCKET NO. 17-R008-01**

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**REPLY TO COMMENTS FILED ON NOVEMBER 16, 2017**

Qwest Corporation d/b/a CenturyLink QC and CenturyLink Communications, LLC (“CenturyLink”) appreciate the opportunity to file a reply to the comments filed in this proceeding by various parties on November 16, 2017.

This reply addresses some of the comments filed by other parties as follows:

**A. R746-8-402. Non-rate-of-return Regulated Providers.**

CenturyLink and the Utah Rural Telecom Association (“URTA”) made consistent comments in support of the Commission adopting the following rule language:

***R746-8-402. Non-rate-of-return Regulated Providers.***

*(1) A non-rate-of-return regulated provider may be eligible for ongoing UUSF support for the deployment and management of networks capable of providing access lines, connections, or broadband internet access, upon application to the Commission, if the provider:*

*(a) is a carrier of last resort;*

*(b) is in compliance with Commission orders and rules.*

(2) Upon receipt of an application brought under this section, the commission shall establish the appropriate criteria for the entitlement to, and the disbursement of, UUSF funds to non-rate-of-return regulated providers.

The only other party to address this issue was the Utah Division of Public Utilities (“DPU”).<sup>1</sup> DPU stated that *“The Division does not have any specific language to offer at this time in this area but would support developing rules and methods to allow access to all companies who need UUSF support.”* Consistent with the DPU comments, the above proposed rule is a placeholder for this issue to be addressed at a later time, should any application be filed with the Commission.

**B. R746-8-403. Lifeline Support.**

**Tiered approach for Lifeline benefits:** In the comments two different positions were presented. One in support of the Commission’s proposed rule which utilizes a tiered approach for determining the amount of Lifeline benefits to customers depending upon the services they have.<sup>2</sup> The other position advocates for no difference in the Lifeline benefit for bundled voice and broadband services in comparison to broadband service without voice. Both CenturyLink and CTIA advocated the latter position. However, CenturyLink proposes that the Commission keep the benefit at \$3.50 per month per Lifeline customer, whereas CTIA proposes that it be lowered to \$2.00.<sup>3</sup>

CTIA states that, *“Despite the good intentions underpinning this proposed regime, it is unlikely that the benefits of the varying benefit levels would outweigh the additional burdens on the Administrator, providers, and the Commission having to administer two different benefit tiers.”*

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<sup>1</sup> DPU’s November 16, 2017 comments in this proceeding, page 3.

<sup>2</sup> Supported by the DPU in its comment in this proceeding, page 3. URTA did not address this directly in its comments. However, in URTA’s Exhibit A, which are proposed edits, no edits were made to the Commission proposed tiered approach.

<sup>3</sup> CTIA’s comments, Footnote 10, page 3, Appendix A, edits to the Commission’s proposed rules, page 12 shows a change from \$3.50 to \$2.00.

*In addition, the federal program offers only a single benefit level, while supporting both voice-and-data and data-only plans.”<sup>4</sup>*

CenturyLink agrees with CTIA that having a tiered approach is not worth the additional administrative burden that will result from this approach. Additionally, it would be inconsistent with the federal program, and CenturyLink continues to believe it is critical for the Commission’s rules to remain consistent with the federal lifeline rules and requirements.

Regarding whether the benefit should stay at \$3.50 per month per lifeline customer, or change to \$2.00, CenturyLink recognizes this is within the Commission’s discretion. The existing \$3.50 was originally put in place because in order for lifeline customers to be able to get the maximum federal lifeline benefit, which was at one time also \$3.50, a state had to match the federal benefit level. The direct tie between the federal and state benefit changed many years ago. It will not be inconsistent with the federal lifeline program if the Commission decides to change the existing state lifeline benefit level.

If the Commission decides to reconsider the appropriate benefit level, it should consider many factors before making a decision. For example, CenturyLink believes it is important to weigh the impact on existing lifeline customers against the overall impact to the size of the UUSF, especially since wireless ETCs could start receiving Utah lifeline support which could significantly increase the size of the fund. In recent years, other states have made changes to the benefit levels for the state lifeline program.<sup>5</sup> This is another lifeline issue that could be discussed in a workshop/technical conference environment to ensure that the Commission understands and considers all relevant factors before making a determination to change the benefit level.

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<sup>4</sup> CTIA’s comments, page 3.

<sup>5</sup> For example: Idaho Telephone Service Assistance Plan (Lifeline) benefit was reduced from \$3.50 per month per customer to \$2.50 in 2013. Website link to SB 1013 (signed by the Idaho Governor on 03/29/13): <http://legislature.idaho.gov/sessioninfo/2013/legislation/S1013/>  
Washington Telephone Assistance Program ended August 2015. WUTC website link: <https://www.utc.wa.gov/consumers/telephone/Pages/telephoneAssistanceProgram.aspx>

**Phasing down and elimination of the voice only benefit:** As previously stated in its comments, Centurylink believes the Commission should keep the voice only benefit at a consistent level and not attempt to phase it down as is planned with the federal lifeline program. *“When the federal voice Lifeline benefit is finally eliminated, the Utah Legislature and/or Commission will need to make the policy decision about whether the UUSF should continue to fund broadband only Lifeline customers.”*<sup>6</sup> CenturyLink does not believe this would be inconsistent with the federal lifeline program since the Commission has the authority to determine the benefit level, and the Utah benefit level is not directly tied to the federal lifeline benefit level.

TracFone is the only other party that provides comments concerning the elimination of the Utah lifeline benefit to voice only customers. TracFone stated, *“Given the importance of voice service to Utah Lifeline customers and the fact that federal Lifeline support for voice service will be eliminated within the next few years, the Commission should make UUSF support available for voice services offered under the Lifeline program.”* CenturyLink believes that continuing with a Utah Lifeline benefit for voice only customers after the FCC eliminates this at the federal level will cause significant administrative burdens for providers and increases the potential for mistakes, since the Utah Lifeline program would be inconsistent with the federal Lifeline program. Also, when the federal lifeline program eliminates the voice only benefit, there is no indication that the National Verifier would continue to do the customer eligibility verifications for Utah voice only customers, and the Commission would need to reinstate a Utah lifeline administrator to do this.<sup>7</sup> If TracFone and others are successful in getting the FCC to either delay or change and continue to

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<sup>6</sup> CenturyLink comments, page 4.

<sup>7</sup> It is CenturyLink’s understanding that when the National Verifier starts handling Utah, the Utah Lifeline administrator will no longer be doing the customer eligibility verifications because it will be redundant to what the National Verifier will be doing.

allow a voice only benefit at the federal level, the voice only benefit should also continue with the Utah lifeline program.

**C. R746-8-404. One-time UUSF Distribution.**

Three parties filed comments addressing one-time UUSF distributions. In its comments, URТА stated that, “*URТА believes that a workshop or technical conference is imperative for the development of one-time UUSF distribution rules.*” URТА also stated that, “*URТА is supportive of repealing the current rule and participating in a separate rulemaking, after workshop, on this issue.*”<sup>8</sup> This is consistent with CenturyLink’s comments.<sup>9</sup> The DPU in its comments stated that, “*More in-depth study, perhaps in a group setting, is required to determine what an effective one-time distribution system would be.*”<sup>10</sup> Based upon the comments of URТА, the DPU and CenturyLink, CenturyLink respectfully requests that the Commission schedule a workshop/technical conference to discuss one-time UUSF distributions before draft rules are developed. In a notice to parties about a workshop/technical conference, it would help facilitate discussion during the meeting if the Commission requested interested parties to file a list of the specific issues/criteria that should be discussed during the workshop/technical conference.

**D. Other issues.**

**CPCN requirement for wireless ETCs:** TracFone and CTIA oppose the Commission requiring wireless ETCs to obtain a CPCN before they can seek money from the UUSF. The DPU and URТА support this requirement. CenturyLink understands that the positions advocated by the DPU and URТА are supported by the fact that all providers that currently receive distributions from the UUSF, both high cost support and Lifeline support, have CPCNs. Wireless providers stress the need for competitive neutrality as it relates to pre-paid wireless paying into the UUSF,

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<sup>8</sup> URТА’s November 16, 2017 comments in this proceeding, page 11.

<sup>9</sup> CenturyLink’s November 16, 2017 comments in this proceeding, pages 6 and 7.

<sup>10</sup> DPU’s November 16, 2017 comments in this proceeding, page 4.

but they do not seem to feel parity is needed when it comes to the need for a CPCN. If a wireless ETC seeks money from the UUSF, it should be subject to similar requirements as other providers seeking money from the fund, regardless of whether they need to obtain a CPCN.

TracFone and CTIA believe it is unlawful to impose a CPCN requirement on a wireless ETC that seeks money from the UUSF. Specifically, TracFone relies on 47 U.S.C. § 332(c)(3)(A). The federal law cited by TracFone does state in part that “no state or local government shall have any authority to regulate the entry of or rate charged by any commercial mobile radio service...” However, the Commission’s proposed CPCN requirement is not imposing a restriction on entry of or rates charged by a commercial mobile radio service (CMRS) provider. Further, the statute cited by TracFone goes on to state that “except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services.”<sup>11</sup> A CMRS provider seeking to provide service in Utah is not required to get a CPCN. Instead, only when a CMRS provider that is an ETC voluntarily seeks money from the UUSF is it proposed they have a CPCN, and this is not an entry requirement, or a regulation of rates, rather, it is an another term or condition that may be regulated.

It is undisputed that the Commission has the ability to impose “reasonable conditions” on the distribution of UUSF support to wireless telecommunications providers.<sup>12</sup> The CPCN requirement proposed by the Commission is not a requirement for the wireless provider to enter the market, but instead is only applicable when a wireless ETC seeks money from the UUSF. Rather than focus on the need for the CPCN, the discussion should focus on the requirements associated with having a CPCN, and then impose “reasonable conditions” on a wireless ETC provider seeking to obtain funds from the UUSF. If the Commission ultimately decides not to require wireless ETC providers to have a CPCN before drawing from the UUSF, at a minimum it

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<sup>11</sup> 47 U.S.C. § 332(c)(3)(A).

<sup>12</sup> Utah Code, § 54-8b-15(15)(b).

should still require such providers pay regulatory fees consistent with other providers, and require such providers to allow the Commission and/or Division to review the providers records and respond to data requests to ensure UUSF funds are appropriately accounted for and those providers cooperate with any audits.

**Public Interest requirement:** CenturyLink continues to believe that the Commission needs to determine that it is in the public interest for any provider to receive high cost support and/or Lifeline support from the UUSF. This equally applies to the wireless ETCs who are seeking Utah Lifeline support. As a factor in determining public interest, CenturyLink stated the following in its comments:

*“CenturyLink believes it is important that the \$3.50 per customer per month Utah Lifeline payment to Lifeline providers directly benefit qualified low-income customers. For example, CenturyLink, passes on the Utah Lifeline benefit directly to its Lifeline customers and they receive a \$3.50 discount on their monthly phone service rate as a direct result of the Utah Lifeline program. Since wireless Lifeline ETCs for the most part do not render a bill, it is also important that their Lifeline customers directly benefit from the Utah Lifeline program payment to wireless ETCs, otherwise the Commission is simply giving these ETCs a windfall, without their Lifeline customers receiving a direct benefit from the additional money coming from the Utah Lifeline program. These customers may already be receiving for free a set number of voice minutes. The UUSF statute allows the Commission to “impose reasonable conditions” on the wireless Lifeline provider in-order for them to receive the Utah Lifeline benefit.<sup>13</sup> In determining what is “reasonable” the Commission should schedule a workshop to discuss what benefit wireless Lifeline providers will need to provide to their Lifeline customers in-order to qualify for the Utah Lifeline credit. Ultimately, the Commission will need to determine if it is in the public interest to*

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<sup>13</sup> Utah Statute 54-8b-15(15)(b): [https://le.utah.gov/xcode/Title54/Chapter8B/54-8b-S15.html?v=C54-8b-S15\\_2017050920170701](https://le.utah.gov/xcode/Title54/Chapter8B/54-8b-S15.html?v=C54-8b-S15_2017050920170701)



*provide a wireless Lifeline ETC with the state credit, even if the customer is already getting free service.”<sup>14</sup>*

URTA stated that, *“Additionally, a wireless ETC that seeks state lifeline funds should be required to show that its entitlement to such funds is in the public interest.”* URTA also proposed that specific rule language *“upon a specific finding of public interest by the Commission,”* be added in subsection R746-8-403(1).<sup>15</sup> CenturyLink supports this rule language change.

TracFone in its comments, stated that *“TracFone filed a petition with the Commission seeking authorization to obtain UUSF funds so that it may provide an enhanced Lifeline service to qualifying low-income Utah households.”<sup>16</sup>* Based upon this statement, apparently TracFone recognizes it needs to at least provide *“an enhanced Lifeline service”* in order to receive UUSF lifeline support. In comments both CenturyLink and URTA recommend or support the Commission scheduling a workshop to determine the *“reasonable”* or *“enhanced Lifeline service”* requirements for the Commission to be able to make a public interest finding that the wireless ETCs will receive UUSF Lifeline support.

**R746-8-301. Calculation and application of UUSF charge to providers:** In its comments, URTA provided rule language changes *“to ensure that providers account for and/or report to the Division of Public Utilities all access lines or connections that are omitted from the surcharge.”* CenturyLink supports URTA’s recommendation for the various reasons URTA specified in its comments.<sup>17</sup>

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<sup>14</sup> CenturyLink’s November 16, 2017 comments in this proceeding, pages 5 and 6.

<sup>15</sup> URTA’s November 16, 2017 comments in this proceeding, page 10.

<sup>16</sup> TracFone’s November 16, 2017 comments in this proceeding, page 2.

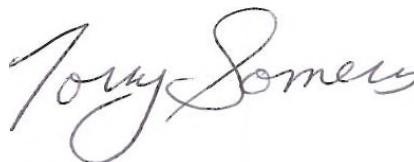
<sup>17</sup> URTA’s November 16, 2017 comments in this proceeding, pages 5 and 6.

## CONCLUSION

CenturyLink appreciates the opportunity to file reply comments, and looks forward to providing additional comments as may be requested, or participating in technical conferences/workshops that may be scheduled as requested.

RESPECTFULLY SUBMITTED this 7th day of December 2017.

CENTURYLINK

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

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Attorney for CenturyLink

**CERTIFICATE OF SERVICE**  
VIA EMAIL TRANSMISSION  
Docket No. 17-R008-01

I hereby certify that on the 7<sup>th</sup> day of December 2017, I caused a true and correct copy of the foregoing REPLY TO COMMENTS FILED ON NOVEMBER 16, 2017 to be served upon the following persons via electronic mail at the e-mail addresses shown below.

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