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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of Agency Action to Establish a Temporary Certification Process in Compliance with 47 U.S.C. Section 254(e)	Docket No. 12-999-07 CENTURYLINK'S ENTRY OF APPEARANCE AND RESPONSE TO THE NOTICE OF AGENCY ACTION
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On July 31, 2012, the Public Service Commission of Utah (“Commission” or “PSC”) issued a Notice of Agency Action and Technical Conference in order to establish a temporary certification process in compliance with 47 U.S.C. Section 254(e) (the “Notice”). Qwest Corporation d/b/a CenturyLink QC (hereinafter “CenturyLink”) submits this Entry of Appearance and Response as requested by the Notice. By way of this Response CenturyLink is notifying the Commission that based on FCC rulings it is not required to file a Section 54.313 report in 2012, and there is nothing for the Commission to certify with respect to CenturyLink on or before October 1, 2012. Even though CenturyLink is not required to file a report this year with the Commission, it is willing to participate in this docket to establish a temporary certification process in compliance with 47 U.S.C. Section 254(e) (“Section 254(e)”), and intends to fully participate in any proceeding established by the Commission to adopt a more permanent certification process in compliance with Section 254(e).

The Notice states that the Commission initiated this action “to address the sole issue of implementing a temporary process under which carriers receiving federal high-cost and Connect America Fund (“CAF”) support will submit to the Division for its examination of the annual section 54.313 reports in connection with the Commission’s annual section 254(e) certifications.”¹ Further, the Notice indicates that “any carrier receiving federal high-cost and CAF support shall file a section 54.313 report with the Division by August 15, 2012.”² The Commission states that the Division’s review of the Section 54.313 report shall be consistent with Paragraphs 607-614 of the *Transformation Order*.³ However, Paragraphs 607-614 of the *Transformation Order*, and subsequent reconsideration orders that specifically impact these paragraphs, demonstrate that a carrier that receives CAF support, but does not receive other federal high-cost support, is not required to submit a Section 54.313 report in 2012.

In addressing the annual Section 254(e) certification, the *Transformation Order* states that the FCC “currently requires states to annually certify with respect to ETCs they designate that this statutory requirement is met in order to receive HCLS, SVS, SNA, HCMS, or LSS.”⁴ CenturyLink is a designated ETC, however it does not receive federal high cost funding, including, HCLS, SVS, SNA, HCMS or LSS support. As such, CenturyLink has not been required in the past, and is not required in 2012, to file a Section 54.313 report, and there is nothing for the PSC to certify for CenturyLink in 2012.

On July 24, 2012, CenturyLink notified the Commission that it will accept CAF Phase I funding in Utah. However, even though CenturyLink and other carriers have notified the FCC and various state commissions of their intent to use CAF Phase I support, the FCC has not

¹ Notice, p. 2.

² *Id.* at p. 3 (emphasis in original).

³ *Id.*

⁴ *Transformation Order*, ¶607.

released any money to carriers, and there would not even be anything for the PSC to certify at this time. More importantly, however, neither the *Transformation Order* nor the regulations adopted as a part of the order require a recipient of CAF Phase I funding to file a Section 54.313 report in 2012, and the Wireline Competition Bureau clarified this in its February 3, 2012 Order.⁵ The regulations promulgated as result of the *Transformation Order* established a filing deadline of April 1, 2013 for annual reports pursuant to the new Section 54.313. On May 14, 2012, the FCC issued its *Third Order on Reconsideration*, and set July 1, 2013, as the filing deadline under Section 54.313.⁶ The *Third Order on Reconsideration* indicates that if a carrier submits its 54.313 report on July 1, 2013, it will still give state commissions' sufficient time to provide the annual section 254(e) certification to the FCC by October 1, 2013.⁷

Further, it is undetermined if recipients of CAF Phase I support are even required to file the 54.313 report. CTIA and USTelecom sought clarification from the FCC with respect to the *Transformation Order*. As part of their Petition, CTIA and USTelecom want to clarify that the reporting obligations in Section 54.313 do not apply to ETCs other than carriers receiving CAF Phase II support. On July 5, 2012, the FCC released a *Public Notice* seeking comments on CTIA and USTelecom's Petition. Comments to the CTIA and USTelecom Petition were due on August 6, 2012, and reply comments are due on August 21, 2012. Regardless, even if Section 54.313 reporting is due for CAF Phase I recipients, that report would not be due until July 1, 2013.

Since CenturyLink does not receive any high cost support under the programs identified in Paragraph 607 from the *Transformation Order*, it is not required at this time to file a Section

⁵ See, FCC Wireline Competition Bureau Order, February 3, 2012 (DA 12-147), ¶¶5-7.

⁶ *Third Order on Reconsideration* (FCC 12-52), ¶¶9-10.

⁷ *Id.* The specific rules attached to the *Third Order on Reconsideration* clearly indicate that the report is not due until July 1, 2013.

54.313 report in 2012, and no certification is required by the PSC with respect to CenturyLink. CenturyLink looks forward to working with the Commission and other parties in establishing a more permanent process for addressing the certifications that are required by the Commission in 2013 and beyond.

DATED this 10th day of August, 2012.

CENTURYLINK

A handwritten signature in cursive script that reads "Torry Somers".

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