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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Petition of Qwest Corporation dba CenturyLink QC For Approval to Deviate from and/or Waive the End-User Service Quality Rules Only Applicable to CenturyLink	Docket No. 13-049-13 PETITION TO DEVIATE FROM AND/OR WAIVE THE END-USER SERVICE QUALITY RULES ONLY APPLICABLE TO CENTURYLINK
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Qwest Corporation d/b/a CenturyLink QC (“CenturyLink”) respectfully requests that the Public Service Commission of Utah (“Commission”) approve its request to deviate from and/or waive the Commission’s end-user service quality rules that are only applicable to CenturyLink. Specifically, CenturyLink requests that it no longer be bound by the end user service standards and reporting requirements set forth in R746-340-8 and R746-340-9 of the Commission’s Rules. Given the high level of competition in the Utah telecommunications market today, there is no justification for such rules that selectively apply only to CenturyLink. The Commission should grant this Petition, which would allow the company to compete on a more level playing field. In support of this Petition, CenturyLink offers the following information:

I. Background

1. In 2000, the Commission enacted rules relating to customer service standards that were only applicable to incumbent telecommunications corporations with 30,000 or more access lines in Utah.¹ Further, the Commission established reporting requirements associated with the customer service standards.²

2. CenturyLink is the only incumbent telecommunication corporation with 30,000 or more access lines in Utah, thus R746-340-8 and R746-340-9 apply only to CenturyLink, and not to any of its competitors.

3. The remaining service quality standards in Rule R746-340 are applicable to all telecommunication corporations. While CenturyLink questions the need for any of the service quality standards in Utah for areas that have competition, CenturyLink is not currently requesting deviation from any Commission rules other than R746-340-8 and R746-340-9.

4. The Commission may order deviation from a rule upon notice, opportunity to be heard and a showing that the rule imposes an undue hardship which outweighs the benefits of the rule.³

5. Further, R746-340-8 states that the Commission may waive the service quality standards “upon a finding that sufficient competition exists in a defined geographic area, and rely upon market operations to ensure adequate end user service quality...”⁴ There is sufficient competition throughout CenturyLink’s service area in Utah such that the waiver should be granted.

¹ R746-340-8.

² R746-340-9.

³ R746-100-15.

⁴ R746-340-8.

II. CenturyLink should be relieved of the service quality obligations in R746-340-8 and R746-340-9 given the level of competition it faces and the undue hardship caused by the rules.

6. R746-340-8 and R746-340-9 impose an undue hardship on CenturyLink because (1) the rules are applicable only to CenturyLink and not to any of its competitors and (2) the rules do not focus on service parameters that customers' value today. In the highly competitive environment that is present in Utah today, CenturyLink is harmed when it is burdened with outdated voice service quality standards that do not apply to any of its competitors and are no longer important to customers. CenturyLink needs the flexibility to utilize its resources in a way that makes competitive sense and meets customer needs.

7. R746-340-8 and R746-340-9 were enacted at a time when competition in the telecommunications industry was in its infancy. In establishing these rules, it is likely that the Commission was concerned that customers still had limited competitive choices, and therefore service quality rules were needed to protect consumers.

8. Much has changed since 2000 when the service quality rules at issue went into effect. CenturyLink now faces significant competition from other wireline, cable, wireless and Voice over Internet Protocol ("VoIP") providers. Traditional competitors such as Comcast, along with a number of CLECs, including Integra, XO, Level 3, Windstream, AT&T and Verizon aggressively compete with CenturyLink in Utah. At the same time, intermodal voice services from wireless companies such as AT&T, Verizon, Sprint and T-Mobile now account for the significant majority of voice connections in Utah. Additionally, intermodal competition from VoIP services from companies like Vonage, Lingo, MagicJack and Google are rapidly gaining a significant share of the telecommunications market in the state. Further there are municipal networks provided by iProvo/Google, UTOPIA and Spanish Fork Community. Thus, Utah

consumers and businesses have numerous alternatives to meet their local voice calling and broadband needs.

A. Wireless Competition

9. Wireless competition has had a huge impact on the telecommunications market. As of December 31, 2011, according to the FCC, there were over 2.3 million wireless connections in Utah which accounted for more than 70% of the voice connections in the state.⁵ Many customers have dropped wireline service altogether. According to the National Center for Health Statistics, 37.0% of the adults 18 years and older and 41.3% of the children under age 18 in Utah live in households that are “wireless only,” while only 8.6% of the adults 18 years and older and 6% of the children under age 18 live in households that have wireline only.⁶

B. Cable Competition

10. Competition from cable providers, especially Comcast, has also had a huge impact on the Utah market. Comcast serves most of CenturyLink’s serving area along the Wasatch Front, and has gained a significant share of the voice and broadband market. CenturyLink estimates that Comcast currently serves about two-thirds as many voice customers as CenturyLink in Utah, while Comcast serves more broadband customers than CenturyLink.⁷ Even in areas outside of the Wasatch Front, CenturyLink faces competition from other cable companies, such as Baja Broadband, Cablevision, South Central Communications and Central Telecom Services that also provide broadband and voice services. Exhibit A provides a list of CenturyLink wire centers served by cable companies.

⁵ FCC Local Telephone Competition: Status as of December 31, 2011, Industry Analysis and Technology Division, Wireline Competiotion Bureau, January 2013 (Table 9 and 18).

⁶ See, National Health Statistics Report Number 61 October 12, 2012, pages 5, 8 and 11 <http://www.cdc.gov/nchs/data/nhsr/nhsr061.pdf>.

⁷ Based on data from Centris.

C. VoIP Competition

11. VoIP telephone service is a rapidly growing communications technology that clearly represents a competitive alternative to traditional landline-based telephone services in Utah.⁸ In fact, in a 2009 Order regarding IP-enabled services, the FCC recognized that VoIP-based services are increasingly replacing traditional wireline services:

Consumers increasingly use interconnected VoIP service as a replacement for traditional voice service, and as interconnected VoIP service improves and proliferates, consumers' expectations for this type of service trend toward their expectations for other telephone services.⁹

“Over the Top” VoIP-based telephone service, which is typically offered as a package that includes unlimited local and long distance service plus an array of calling features, is now readily available from a broad range of providers to *any customer in Utah that has high-speed broadband internet access.*

D. Increased Broadband Availability

12. Based upon CenturyLink's experience, broadband services are growing fast, and becoming much more important to customers than traditional voice services. A higher percentage of customers now order broadband services compared to voice services. For example, in April 2013, in the Salt Lake City area, as outlined in Confidential Exhibit B, a significant majority of customer requests for new service were for broadband services. All of CenturyLink's competitors, who are not bound by the traditional voice rules (R746-340-8 and R746-340-9), can focus more of their resources on broadband services because they are not unnecessarily constrained by having to comply with outdated voice standards.

⁸ It is useful to describe VoIP services as either “managed” or “over-the-top.” Generally, cable companies offer “managed” VoIP-based services that are non-portable and that carry traffic over private managed networks, rather than the internet. Many other companies such as Vonage, Google and MagicJack offer “over-the-top” VoIP services, which rely on a third-party broadband connection, and transmit calls over the public internet. This discussion focuses on these “over the top” providers.

⁹*Report and Order*, In the Matter of IP-Enabled Services, Federal Communications Commission, WC Docket No. 04-36, Released: May 13, 2009, ¶ 2.

13. It is clear that broadband availability and subscribership will increase over time, especially given the recent initiative by the FCC to provide universal service funding for broadband. In fact, the FCC acknowledged how increases in broadband availability will stimulate VoIP usage: “The deployment of broadband infrastructure to all Americans will in turn make services such as interconnected VoIP service accessible to more Americans.”¹⁰

Broadband access has been increasing rapidly in Utah. According to the FCC’s latest *High Speed Internet Report*, as of the end of 2011, there were 1.9 million broadband connections in Utah (over 200kbps) and 868,000 broadband connections with speeds of at least 3 mbps down and 768 kbps up, including 146,000 ADSL connections and 284,000 cable modems.¹¹ Thus, the number of broadband connections in Utah far exceeded the 554,000 total ILEC retail lines¹² or 469,000 CenturyLink retail lines in Utah as of December 31, 2011—and today CenturyLink’s retail access lines are down to 420,000.

14. According to the FCC, as of December 2011, high speed internet access (at least 200kbps) was available to 95% of ILEC residential end-user premises and 94% of cable residential end-user premises in Utah.¹³ Thus, competitive broadband services are now widely available from multiple providers in Utah, and these services have been embraced by a rapidly increasing number of customers. Each broadband connection represents an existing or potential VoIP subscriber.

E. The increase in competitive alternatives has resulted in a decrease in CenturyLink total access lines.

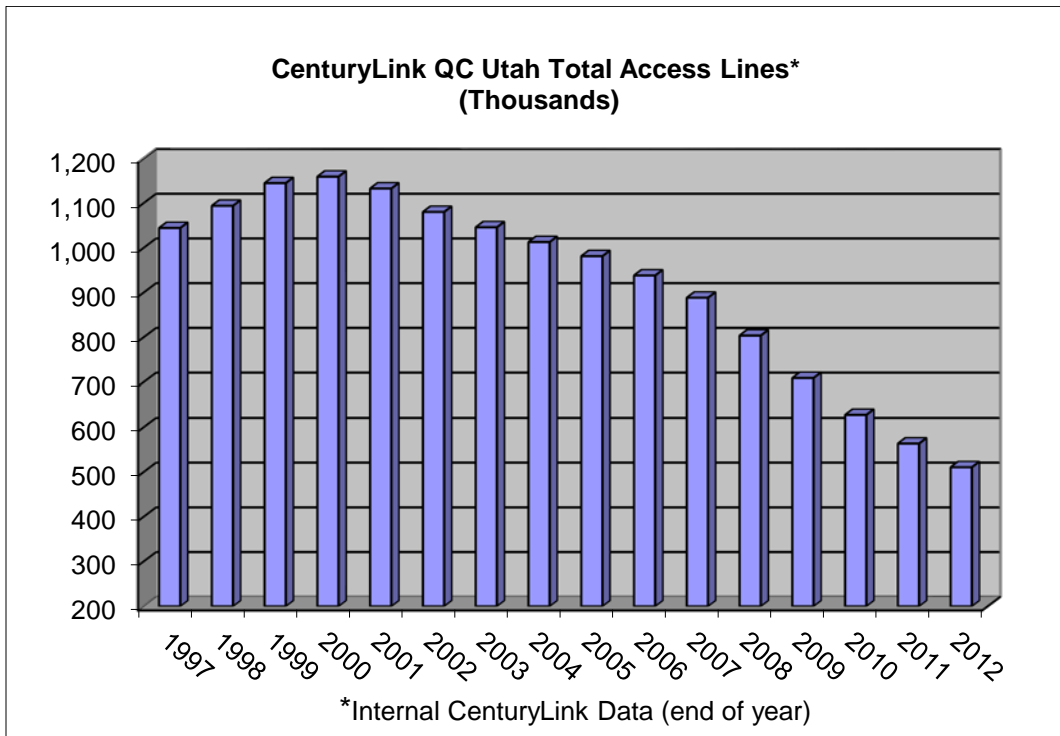
¹⁰ *ICC/USF Order*, ¶67.

¹¹ *Internet Access Status as of December 31, 2011*, FCC Industry Analysis and Technology Division, Wireline Competition Bureau, February 2013, Tables 16 and 17.

¹² *FCC Local Telephone Competition: Status as of December 31, 2011*, Industry Analysis and Technology Division, Wireline Competition Bureau, January 2013 (Table 9).

¹³ *Internet Access Status as of December 31, 2011*, FCC Industry Analysis and Technology Division, Wireline Competition Bureau, February 2013, Table 22.

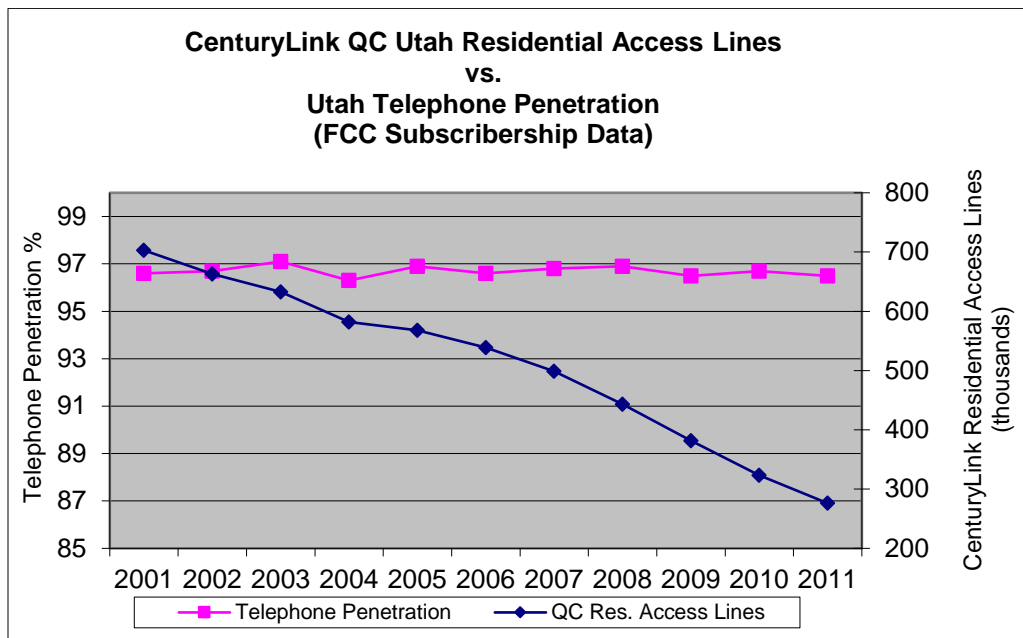
15. Based upon CenturyLink’s internal information, in 2000, when the relevant service quality rules were enacted, CenturyLink had approximately 1.2 million total access lines (wholesale and retail). At the end of 2012, CenturyLink had just over 510,000 total access lines (wholesale and retail), representing a decline of over 55%.



16. The customers that have left CenturyLink have not given up phone service—they have gone to competitors that are not saddled with the same regulatory burdens as CenturyLink. Thus, CenturyLink is *losing* customers in a *growing* market, as demonstrated below. First, while CenturyLink has experienced a steady decline in residential and business access lines over the past decade, U.S. Census data shows that both households and the number of people in Utah have increased. For example, between 2001 and 2010, Utah population increased from 2,283,715 to 2,776,469, an increase of 21.6%.¹⁴ Second, the evidence shows that the increasing

¹⁴ US Census Bureau; See: <http://quickfacts.census.gov/qfd/states/35000.html> and <http://www.census.gov/popest/states/tables/NST-EST2009-01.xls>.

population of Utah is not doing without phone service, as demonstrated by the fact that over the past decade, the Utah telephone subscriber penetration rate has remained relatively steady. The following chart shows CenturyLink’s decline in Utah *residential* access lines along with the FCC’s Utah telephone penetration rate since 2001:¹⁵



Despite the large upward trend in population and the steady telephone subscribership rate—which indicates overall increasing demand for voice services—CenturyLink’s retail residential access line base in Utah has fallen sharply since 2001. As CenturyLink’s access lines decline, consumers are increasingly meeting their telecommunications needs via services provided by cable telephony providers, wireless providers, VoIP providers and other wireline providers.

¹⁵Telephone Subscribership In The United States (Data through July 2011), Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, Released: December, 2011, pp. 2-3, See: http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-311523A1.pdf. The FCC’s Current Population Survey (“CPS”), which is used to develop telephone penetration data, asks the following question: "Does this house, apartment, or mobile home have telephone service from which you can both make and receive calls? Please include cell phones, regular phones, and any other type of telephone." And, if the answer to the first question is "no," this is followed up with, "Is there a telephone elsewhere on which people in this household can be called?" If the answer to the first question is "yes," the household is counted as having a telephone "in unit." If the answer to either the first or second question is "yes," the household is counted as having a telephone "available."

17. To further illustrate the decline in CenturyLink's share of the voice market, the information contained in Confidential Exhibit C demonstrates that CenturyLink now serves well less than half of the Living Units to which it has facilities in Utah.

F. Given the level of competition faced by CenturyLink, market pressure will ensure adequate end user service quality.

18. If a customer is dissatisfied with CenturyLink's service quality (or any other aspect of CenturyLink's service) he or she is likely to move to a competitive option such as wireless, VoIP, or cable rather than go "phoneless." This is how competitive markets work, and the presence of multiple competitive alternatives disciplines CenturyLink's service quality, thereby protecting Utah retail consumers.

19. In this environment, artificial service quality standards--which may not reflect current customer needs and desires-- are not necessary to help ensure CenturyLink maintains good customer service because the competitive marketplace in Utah will resolve issues that arise with respect to customer service. In fact, the service quality rules established over a decade ago that apply to only one provider are harmful because they distort the competitive market, and may force CenturyLink to focus on service attributes that are not important to customers.

III. CONCLUSION

20. CenturyLink requests that the Commission expeditiously approve its request to deviate from and/or waive the requirements in R746-340-8 and R746-340-9.

21. The continuation of these outdated rules places CenturyLink at a competitive disadvantage.

22. The burdens placed on CenturyLink as a result of R746-340-8 and R746-340-9 far outweigh any benefit from the rules. The customer service standards set forth in these rules were established at a time when there was minimal competition in the telecommunication industry.

The original basis for these rules no longer exists. The burden placed on CenturyLink from these rules places it at a significant competitive disadvantage to other carriers who are not weighed down with the same obligations.

23. Further, the decline in CenturyLink's access lines, along with the corresponding increase in wireless usage, competition from cable companies, broadband availability, and the increasing use of VoIP, demonstrates that sufficient competition exists in CenturyLink's service territory such that the end-user service quality rules and reporting requirements in R746-340-8 and R746-340-9 should be waived.

24. In the event there is no opposition to this Petition within 30 days, CenturyLink requests that the Petition be adjudicated informally under Utah Code Ann. §63-46b-5 and R746-110 of the Commission's Rules.

WHEREFORE, CenturyLink respectfully requests that the Commission grant its Petition and permit CenturyLink to deviate from and not be obligated to meet and report the customer service standards set forth in R746-340-8 and R746-340-9.

DATED this 15th day of May, 2013.

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