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July 19, 2022

Via Email Only

Gary Widerburg
Commission Administrator
Utah Public Service Commission
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City, UT 84111
psc@utah.gov

Re: CenturyLink petition to eliminate QPAP Docket No: 22-049-60

Dear Mr. Widerburg:

Attached for filing please find CenturyLink's Petition for Elimination of Performance Assurance Plan and Performance Indicator Definitions.

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

Sincerely,

Max Backlund
Utah Government Affairs Director

Attachments
PEG/cb

Max Backlund
Utah Government Affairs Director
CenturyLink
250 E. 200 S., Suite 1000
Salt Lake City, UT 84111

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of QWEST CORPORATION d/b/a CENTURYLINK QC Petition for Elimination of Performance Assurance Plan and Performance Indicator Definitions	Docket No. 22-049-60 Petition of Qwest Corporation d/b/a CenturyLink QC
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PETITION

Qwest Corporation d/b/a CenturyLink QC (“CenturyLink” or “Company”) petitions the Commission to issue an order eliminating the Performance Indicator Definitions (“PIDs”) and Performance Assurance Plan (“PAP”) portions of its interconnection agreements (“ICAs”), incorporated by reference therein, with each Utah CLEC.¹

The PIDs and PAPs have been in place for nearly 20 years and have successfully accomplished their goal of performance parity as evidenced by low and declining volumes. This achievement coupled with the substantial changes recently ordered by the FCC to significantly reduce the unbundled network

¹ The PIDs are incorporated by reference as Exhibit B in each ICA; the PAP is in Exhibit K. The exhibits language to allow removal or amendment without the need to amend each individual agreement.

elements (UNEs) Regional Bell Operating Companies (RBOCs), like CenturyLink, are required to offer CLECs has created an environment in which the PIDS and PAP have become irrelevant and are no longer useful to the CLECs. However, the requirement to maintain them demands that the company expend substantial resources inapposite of their value. This is illustrated by the fact that annual payments to CLECs under the Utah PAP have dwindled to \$300 for all CLECs combined in Utah.

CenturyLink requests that the Commission grant this petition. The PIDs and PAP have served their purpose and it is appropriate to eliminate them. In support of this Petition, CenturyLink offers the following:

I. Background

The PAP is a self-effectuating performance assurance plan that provides assurance of continued appropriate interconnection and network access between Qwest and CLECs. The PAP terms and conditions, including performance indicator definitions, were established as part of Qwest's effort to obtain Federal Communications Commission ("FCC") approval to enter the interstate long distance telecommunications market in the early 2000's pursuant to 47 U.S.C. § 271. Each PAP is implemented as Exhibit K to all interconnection agreements ("ICAs") between CenturyLink and CLECs that opt to include it in their ICAs. The Performance Indicator Definitions ("PIDs") are implemented as Exhibit B to CenturyLink's ICAs, containing the definitions and metrics that support the

PAP.

The PAP and PIDs, which were originally approved by the Commission as referenced in its ICA and amended in Utah in Docket No. 09-049-60. In that case, CenturyLink originally filed for elimination of the QPAP, but subsequently filed a motion to limit the scope of the proceeding to the elimination of Tier 2 payments. In ordering that the Tier 2 payments be eliminated the Commission noted that Qwest had only been obligated to make a Tier 2 payment once in the last eight months for a total of \$150.00.²

In addition, the Commission ruled that the “Division concludes this payment history results from Qwest generally meeting the requirements outlined in the QPAP.” CenturyLink continues to perform well under the modified QPAP and submits that this Petition is likewise justified.

Since the last amendment to the PIDs and PAP approved by the Commission, the FCC eliminated and modified some obligations of RBOCs to provide certain products and network elements. Specifically, in *Petition of US Telecom et al. for Forbearance*, WC Dkt. No. 18-141, Memorandum Opinion and Order, FCC Release 19-72; Released August 2, 2019 (“*UNE Analog Loop and Resale Forbearance Order*”), and the *Report and Order on Remand and Memorandum Opinion and Order*, FCC Release 19-66; Released July 12, 2019 (“*UNE Transport Order*”), (collectively the “*2019 Forbearance Orders*”), the FCC eliminated the requirement

² Docket No. 09-049-60, Order (August 22, 2011).

for RBOCs to continue offering the avoided cost retail discount to resellers, and also eliminated the requirement for RBOCs to continue offering analog loops:

We forbear from UNE Analog Loop and Avoided-Cost Resale obligations for price cap incumbent LECs throughout their local service areas. This forbearance relief is warranted in light of overwhelming evidence demonstrating the increasing migration from legacy TDM voice service to IP-based and wireless voice communications capabilities provided by multiple intermodal providers. We find it is no longer necessary to require price cap LECs to bear these once-upon-a-time market-opening obligations that today amount to disparate regulatory burdens that frustrate the transition to advanced communications services offered over next-generation networks.³

While the FCC's 2019 *Forbearance Orders* eliminated these obligations, those orders permitted CLECs to order new UNE analog loops for six months after the August 2, 2019 effective date of the *UNE Analog Loop and Resale Forbearance Order*, or until February 2, 2020. CLECs were also permitted to keep existing UNE analog loop arrangements for three years, or until August 2, 2022.⁴

The FCC also allowed avoided cost resale arrangements to be requested until February 2, 2020, and existing resale discount arrangements to be maintained until August 2, 2022.⁵

On October 28, 2020, the FCC issued its 'UNE Modernizing Forbearance Order' that made further significant changes eliminating the following:

- a. Unbundling requirements, subject to a reasonable transition period, for enterprise-grade DS1 and DS3 loops;
- b. Unbundling requirements for broadband-capable DS0 loops in the most densely populated areas, and for voice-grade narrowband loops nationwide;

³ *UNE Analog Loop and Resale Forbearance Order*, ¶ 9 (footnotes omitted).

⁴ *UNE Analog Loop and Resale Forbearance Order*, ¶ 23.

⁵ *UNE Analog Loop and Resale Forbearance Order*, ¶ 45-46.

c. Unbundled dark fiber transport provisioned from wire centers within a half-mile of competitive fiber networks but provide an eight-year transition period for existing circuits to avoid stranding investment and last-mile deployment by competitive LECs that may harm consumers.⁶

II. Eliminating the PAP and Remaining PIDs is Consistent with the Public Interest

CLEC reliance on the PAP has declined dramatically, and the PAP is no longer necessary to support a competitive marketplace. In the state of Utah, CLECs rarely, if ever, order or seek repair of the remaining PAP services, nor are they reviewing PAP performance metrics. Payments to CLECs under the PAP have declined from \$664,000 in 2003 to \$2,718 in 2019, and to only \$300 in 2021. So far in 2022, there have been no payments.

⁶ *In the Matter of Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services*, Report and Order, WC Docket No. 19-308, Released Oct. 28, 2020, ¶ 3.

All-Tiers PAP Payments for the State of Utah
All PAP Metrics
Official Centurylink Corporate 271 Results
January 2003 through February 2022

	Utah
Year	Total PAP Payments
2003	\$664,640
2004	\$363,483
2005	\$700,192
2006	\$249,229
2007	\$271,780
2008	\$136,811
2009	\$75,575
2010	\$99,803
2010	\$99,803
2011	\$80,069
2012	\$48,283
2013	\$84,856
2014	\$7,955
2015	\$1,096
2016	\$10,279
2017	\$15,850
2018	\$2,718
2019	\$1,262
2020	\$499
2021	\$300
2022 YTD	\$0

CLEC orders for services still covered by the PAP continue to decline year-over-year:

CLEC PID/PAP Provisioning Orders Completed Volume for the State of Utah
 By Product Reported in Metric OP5 - Includes All Orders Completed Regardless of Company or Customer Delays
 Official Centurylink Corporate 271 Results - January 2014 through February 2022

Year	Remaining Product LIS Trunk	Products Removed 2019 FCC UNE Forbearance Order			Products Removed 2020 FCC UNE Forbearance Order						
		Residence	Unbundled Loop - Analog	Total	Unbundled Loop - DS1 Capable	Enhanced Extended Loops - DS1 Capable	Unbundled Loop - 2 Wire Non-Loaded	Unbundled Loop - Sub Loop	Unbundled Loop - XDSLi	Unbundled Loop - ADSL Capable	Total
2014	31	3	1219	1222	800	0	1837	0	0	541	3178
2015	52	9	578	587	506	0	1683	0	0	226	2415
2016	72	7	380	387	431	0	1432	0	0	134	1997
2017	53	0	275	275	146	0	949	0	0	166	1261
2018	33	0	121	121	277	0	671	0	0	69	1017
2019	71	0	135	135	77	0	475	0	0	25	577
2020	67	0	68	68	81	20	277	0	0	3	381
2021	31	0	12	12	9	44	164	0	0	1	200
2022 YTD	3	0	0	0	1	0	1	0	0	0	2
Totals	413	19	2788	2807	2328	64	7489	0	0	1165	11028

Repairs for the one product that will remain beyond both FCC UNE Forbearance Orders and are currently in the PAP for all CLECs in Utah have declined to zero in 2021, as highlighted in green below:

CLEC PID/PAP Repair Tickets Completed Volume for the State of Utah
 By Product Reported in Metric MR8 - Includes All Tickets Completed Regardless of Company or Customer Delays
 Official Centurylink Corporate 271 Results - January 2014 through February 2022

Year	Remaining Product LIS Trunk	Products Removed 2019 FCC UNE Forbearance Order			Products Removed 2020 FCC UNE Forbearance Order						
		Residence	Unbundled Loop - Analog	Total	Unbundled Loop - DS1 Capable	Enhanced Extended Loops DS1 Capable	Unbundled Loop - 2 Wire Non-Loaded	Unbundled Loop - Sub Loop	Unbundled Loop - XDSLi	Unbundled Loop - ADSL Capable	Total
2014	5	1	1017	1018	851	416	224	0	1	147	1639
2015	6	0	785	785	705	292	210	0	1	125	1333
2016	10	1	704	705	615	323	211	0	2	90	1241
2017	6	1	587	588	427	208	167	0	1	83	886
2018	9	0	404	404	343	203	131	0	0	65	742
2019	4	1	302	303	281	97	108	0	0	42	528
2020	4	1	206	207	158	78	115	0	0	24	375
2021	0	0	184	184	147	63	120	0	1	21	352
2022 YTD	0	0	47	47	22	16	10	0	0	6	54
Totals	44	5	4236	4241	3549	1696	1296	0	6	603	7150

In the last 3 years, only 1 CLEC out of 100 Utah CLECs has logged in twice to review its multi-state performance results and only 4 Utah CLECs logged in a total of 9 times since 2014.

Utah State CLEC's Who've Logged Into QPID to Access Their PID/PAP Results *
Official Centurylink QPID Admin Report as of February, 2022

CUSTOMER NAME	# of Log-In's							
	2021	2020	2019	2018	2017	2016	2015	2014
UT CLEC #1	1	1						
UT CLEC #2				2				
UT CLEC #3				1			1	1
UT CLEC #4						1		
UT CLEC #5							1	
TOTAL	1	1	0	3	0	1	2	1

* These are Utah CLEC's who logged into the QPID application where all 14 state reports reside. They could have accessed any state, not necessarily Utah.

III. CenturyLink adhered to the procedures in the ICAs to eliminate the PAP

Amendments of PIDs and PAP require a separate proceeding and procedures independent from the normal ICA amendment filing process, as outlined in Section 17.2 of the current PAP:

17.2 If CenturyLink QC or CLEC wishes to modify a PID or a PAP provision, the change must be approved by the Commission. Prior to seeking Commission approval, CenturyLink QC and CLEC will use the dispute resolution process set forth in Section 16.0 as the procedure for resolving the issues. Either CenturyLink or CLEC may submit its proposed modification(s) to the Commission for approval. The Commission will establish a process for providing notice and considering such request, including timelines for interested parties or Staff to oppose the request. If the request is unopposed, the Commission may grant such request without a hearing or further notice.

CenturyLink notified CLECs consistent with this requirement and reached out directly to CLECs regarding the elimination of the PIDs and PAP by providing notice in the Change Management Process.

It is important to note that Exhibit K of every interconnection agreement with PIDs/PAP contains a provision designed to ensure that changes to the PAP are efficient and effective. Exhibit K states:

15.2.1 Subsequent changes to the PAP approved by the Commission will be incorporated into individual interconnection agreements that contain the PAP as soon as the effective date of the Commission order, and **without further Amendment to those Agreements.**

In addition to being unnecessary, it would be highly impractical to attempt to amend every interconnection agreement that contains a PAP. In CenturyLink's experience it often never receives a response from CLECs for requests to amend an interconnection agreement, which may be because a CLEC is no longer in business, it does not offer any service in the state where the agreement is on file, or it simply chooses not to respond. The terms of the interconnection agreements, and the rationale for that language, obviate the need for written amendments to the PAP/PIDs and dictate that changes be accomplished by an order of the Commission.

IV. Request for Relief

Eliminating the PAP and PIDs is just, reasonable, and not contrary to the public interest. CenturyLink therefore requests that the Commission eliminate them, effective on the date of the Commission order.


Additionally, consistent with prior Commission proceedings and orders amending the PIDs and the PAP, CenturyLink further requests that the Commission deem all existing interconnection agreements that currently contain the PAP and PIDs be modified to incorporate these revisions, effective on the same date without need for further filings or approvals.

In the event there is no opposition to this Petition within 30 days (or as

soon as is otherwise practicable), CenturyLink requests that the Petition be granted without a hearing, further filings, or proceedings, or at a regularly schedule Commission Open Meeting.

Respectfully submitted this 19th day of July 2022.

CENTURYLINK

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