

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Petition of USTelecom for Forbearance Pursuant	)	WC Docket No. 14-192
to 47 U.S.C. § 160(c) from Enforcement of	)	
Obsolete Incumbent LEC Legacy Regulations	)	
that Inhibit Deployment of Next-Generation	)	
Networks	)	

**COMMENTS OF CENTURYLINK<sup>1</sup>**

CenturyLink files these comments on USTelecom’s petition for forbearance (Petition).<sup>2</sup>

CenturyLink urges the Commission to grant all of the forbearance sought in this important petition, as part of its ongoing efforts to keep pace with rapid marketplace and technological change.

As the Commission well knows, the communications industry is in the midst of an extraordinary multi-faceted transformation. From decades-old, purpose-built copper networks to flexible fiber-based deployments. From analog TDM-based services to next-generation IP services. From staid monopolies to dynamic intermodal competition. Meanwhile, the regulatory framework governing the industry remains largely unchanged. ILECs continue to be saddled with a host of asymmetric regulations, based solely on the market position they held two, three or even four decades past.

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<sup>1</sup> The CenturyLink companies participating in this filing are the regulated subsidiaries of CenturyLink, Inc.

<sup>2</sup> See *Petition for Forbearance of the United States Telecom Association*, WC Docket No. 14-192, filed Oct. 6, 2014 (the “Petition”); *Pleading Cycle Established for Comments on United States Telecom Association Petition for Forbearance From Certain Incumbent LEC Regulatory Obligations*, WC Docket No. 14-192, Public Notice, DA 14-1585 (Nov. 5, 2014).

Bound by these pervasive constraints, ILECs continue to spend alarming amounts of time and resources complying with regulatory requirements related to increasingly underutilized and obsolete networks and services, rather than developing and deploying the IP-based services sought by today's consumers. At bottom, every dollar spent complying with outdated and unnecessary regulation is one less dollar available to facilitate the IP migration.

There is little question that, if starting from a blank slate, the regulatory framework governing the communications industry would look far different than it does today. Of course Congress and the Commission would not impose local-long distance separation/equal access requirements solely on ILEC providers, since those wireline providers now serve only 18 percent of voice connections and nearly all customers now choose all-distance plans from a single provider. Nor would the Commission require ILECs to incur the significant expense of offering a voice grade channel on fiber facilities if the Commission knew that almost no one would use such channels. Of course the Commission would not impose a service requirement on price cap carriers (under U.S.C. § 214(e)) when those carriers do not receive high-cost universal service support in that area. Nor would the Commission impose cumbersome *Computer Inquiry* requirements solely on ILECs, given their paltry share of both overall voice and broadband connections. Of course the Commission would not require an ILEC to share conduit to a new commercial building without requiring its competitors to do the same, since ILECs have no advantage in deploying such infrastructure. And, the Commission would clearly allow price cap LECs to offer customers lower rates and flexible rates, terms and conditions for "Business Data

Services”<sup>3</sup> via contract tariffs, if those LECs would maintain their generally available rates, terms and conditions.

While a legislative overhaul may offer a more straightforward means to update communications regulation, USTelecom’s Petition presents a critical opportunity for the Commission to begin to rationalize this situation. The Petition presents a list of modest changes to the current regulatory framework that would ease current regulatory burdens on legacy networks and services without threatening the “enduring values” the Commission is rightly intent on maintaining.

USTelecom’s petition also presents an opportunity for the Commission to acknowledge the irrefutable: that wireless voice services are an effective competitive alternative to wireline voice services, as four in ten U.S. households have abandoned wireline voice service altogether; that ILECs are not dominant providers of consumer or business services, as they provide wireline voice services to at most a third of homes passed, provide only 25 percent of broadband services of 6 Mbps/1.5 Mbps or faster, and face more than 30 competitive providers of enterprise broadband services; and that there is no longer a meaningful standalone long distance market sufficient to justify regulations designed to protect standalone providers.

USTelecom has gathered overwhelming evidence to justify the relief it seeks. In addition to relying on the Commission’s own data demonstrating ILECs’ lack of dominance, USTelecom’s submission includes lengthy and authoritative declarations from Dr. Kevin W. Caves, PhD and Professor John W. Mayo. Dr. Caves summarizes multiple econometric analyses confirming that wireline voice competes with wireless voice, identifies fundamental conceptual

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<sup>3</sup> For purposes of the Petition, USTelecom defined “Business Data Services” as tariffed TDM special access (DSO and above) services and tariffed enterprise broadband services.

problems with the analytical framework established in the *Phoenix Forbearance Order*<sup>4</sup> and evaluates the harm to consumers, competition and economic efficiency caused by certain outdated regulations. Professor Mayo reviews his substantial ongoing research on the consumer shift from wireline to wireless services. Taken together, these submissions amply support the modest reforms sought.

The petition and supporting evidence easily satisfy the specific statutory criteria for forbearance set forth in Section 10(a).<sup>5</sup> That section directs the Commission to forbear from applying a statutory provision or regulation to a telecommunications carrier or telecommunications service if “(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory; (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and (3) forbearance from applying such provision or regulation is consistent with the public interest.”<sup>6</sup> And, as the Petition correctly recites, Section 10(b)<sup>7</sup> further requires that in determining whether forbearance is “consistent with the public interest,” the Commission “shall consider whether forbearance from enforcing the provision or regulation will promote competitive market conditions, including the extent to

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<sup>4</sup> *In the Matter of Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) In the Phoenix, Arizona Metropolitan Statistical Area, WC Docket No. 09-135, Memorandum Opinion and Order*, 25 FCC Rcd. 8622 (rel. Jun. 22, 2010).

<sup>5</sup> 47 U.S.C. § 160(a) (“Section 10(a)”).

<sup>6</sup> *Id.*

<sup>7</sup> 47 U.S.C. § 160(b).

which such forbearance will enhance competition among [telecommunications] providers.”<sup>8</sup> The requirements addressed by the Petition include:

- The remaining, outdated provisions in Sections 271 and 272 and related equal access rules;
- Rule 64.1903 structural separation requirements;
- The requirement that an ILEC provide an unbundled 64 kbps voice channel where it has replaced a copper loop with fiber;
- Section 214(e)(1) eligible telecommunications carrier (ETC) requirements where a price cap carrier does not receive high-cost universal service support;
- The remaining *Computer Inquiry* rules;
- The Section 224 and 251(b)(4) requirement that ILECs share newly deployed entrance conduit; and
- Rules prohibiting the use of contract tariffs to offer special access and high capacity data services in the absence of pricing flexibility.

For each of these requirements, the Petition demonstrates persuasively, with strong supporting evidence, that the requirement is not necessary to ensure that charges, practices, classifications, or regulations are just and reasonable and not unjustly or unreasonably discriminatory; that enforcement of the requirement is not necessary for the protection of consumers, and that forbearance from applying that requirement is consistent with the public interest. In particular, the Petition shows that these requirements create unnecessary costs and are irrelevant in the current competitive market. By leveling the playing field, forbearance from these requirements will enhance competition consistent with the goals of Section 10.

Consumers will be the ultimate beneficiaries of this regulatory relief. By reducing unnecessary compliance costs, the Commission will enable ILECs to turn their attention where it

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<sup>8</sup> *Petition*, p. 7; 47 U.S.C. § 160(a)(3), (b).

should be—on deploying next-generation networks and competing in the dynamic market for IP-based services.

The Commission should expeditiously grant the overdue forbearance requested by USTelecom.

Respectfully submitted,

**CENTURYLINK**

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