

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Comprehensive Review of the) WC Docket No. 14-130
Part 32 Uniform System of Accounts)

REPLY COMMENTS OF CENTURYLINK¹

CenturyLink submits this reply to comments filed in response to the Federal Communications Commission’s (“Commission”) Notice of Proposed Rulemaking (“NPRM”), released August 20, 2014, addressing reform of the Part 32 Uniform System of Accounts (“USOA”).²

INTRODUCTION

It is critical that this proceeding be viewed from the proper perspective. This is not a proceeding about the accounting requirements that should be applied to telecommunications and broadband providers. It is concerned only with whether the Commission should continue to burden a small segment of the industry – ILECs – with unnecessary and antiquated accounting rules. The Part 32 USOA requirements that are the subject of this proceeding only apply to the ILECs that make up a small segment of the overall universe of companies providing telecommunications and broadband services in today’s markets. Not only are the ILECs small in number, but their share of the markets for telecommunications/ broadband services continues to

¹ This filing is submitted on behalf of CenturyLink, Inc.’s incumbent local exchange carrier (“ILEC”) subsidiaries.

² *Comprehensive Review of the Part 32 Uniform System of Accounts*, WC Docket No. 14-130, Notice of Proposed Rulemaking, 29 FCC Rcd 10638 (rel. Aug. 20, 2014); 79 Fed. Reg. 54942 (Sept. 15, 2014) (“NPRM” or “Notice”).

shrink, as the Commission has noted frequently.³ Furthermore, the USOA was never designed or intended to be used for regulating price cap carriers – its focus is entirely on rate-base rate-of-return regulation. Today, the Commission only regulates a miniscule share of telecommunications services under rate-of-return regulation. And, there is no rational basis for continuing to subject price cap ILECs to the Part 32 USOA requirements. With this perspective in mind, CenturyLink provides the following reply to comments in this proceeding.

OPPOSITIONS TO PART 32 USOA RELIEF

Only four parties, National Association of State Utility Consumer Advocates (“NASUCA”), National Cable & Telecommunications Association (“NCTA”), Ad Hoc Telecommunications Users Committee (“Ad Hoc”), and Alexicon Telecommunications Consulting (“Alexicon”) oppose some or all of the relief from Part 32 USOA requirements that the Commission addressed in its NPRM. None of these parties provides any credible basis for continuing the imposition of Part 32 USOA requirements on price cap carriers.

NASUCA’s opposition is the most broad-based. NASUCA opposes any relief from USOA requirements and even “opposes the rationale behind the NPRM[.]”⁴ NASUCA also asks the Commission to reverse its decisions over the last decade or more regarding: the separations freeze, forbearance from ARMIS reporting requirements, forbearance from the affiliate transactions and cost allocation rules and the classification of broadband as an information service. NASUCA’s position appears to be based on its views that “the Commission no longer

³ See, e.g., *Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations, et al.*, WC Docket Nos. 12-61, *et al.*, Memorandum Opinion and Order and Report and Order, etc., 28 FCC Rcd 7627, 7729-32 ¶¶ 230-36 (2013) (“USTelecom Forbearance Order”), *aff’d sub nom., Verizon and AT&T v. FCC*, 770 F.3d 961 (D.C. Cir. 2014).

⁴ NASUCA at 1.

collects enough data to do an adequate job of regulating[]”⁵ and that “larger carriers do not seem to be suffering under their current burdens.”⁶ NASUCA offers no evidence to support its position other than weak rhetoric. The Commission should reject NASUCA’s comments as unsupported.

NCTA limits its opposition to pole attachment issues. NCTA argues that Part 32 cost data continues to be needed if the Commission is going to regulate pole attachment rates as required by Section 224 of the Act.⁷ NCTA largely relies on dictum in *Verizon and AT&T v. FCC*⁸ to support its position that the Commission must retain the Part 32 USOA to provide pole attachment cost data. Contrary to NCTA’s implications, *Verizon and AT&T v. FCC* does not limit the Commission’s actions in the current rulemaking proceeding.⁹ While the Commission cannot ignore its regulatory responsibilities under Section 224, it is not limited to using USOA data in regulating ILEC-owned poles, ducts, conduits and rights-of-way (“poles”). In fact, the Commission’s responsibilities under Section 224 extend to all utilities providing poles, not just ILECs. To the best of CenturyLink’s knowledge, no party in this proceeding has objected to providing pole attachment cost data. As CenturyLink and USTelecom have noted, there are other less-burdensome ways of providing pole attachment cost data than requiring the continued

⁵ *Id.* at 2.

⁶ *Id.* at 7.

⁷ NCTA at 2-4.

⁸ *Id.*

⁹ This decision addressed Verizon and AT&T’s appeal of the USTelecom Forbearance Order where the Commission declined to grant forbearance from the Part 32 USOA requirements finding that USTelecom had failed to meet its burden of proof under Section 10 of the Act. In denying Verizon and AT&T’s petition, the Court deferred to the Commission’s forbearance decision. In referencing the current Part 32 USOA rulemaking proceeding, the Court observed that “[i]t may well be that petitioners’ contention that Part 32 data is no longer justified by the expense will prove more compelling. [footnote omitted]” 770 F.3d at 970.

use of Part 32 USOA accounts by ILECs.¹⁰ CenturyLink urges the Commission to meet its pole attachment cost information needs by adopting “targeted accounting requirements” based on GAAP accounting rather than the USOA.

Ad Hoc opposes any relief from Part 32 USOA requirements for price cap carriers. It also opposes the vast majority of the NPRM’s proposals concerning streamlining Class A and B accounts, arguing that the USOA continues to be relevant for the Commission to perform its statutory function.¹¹ Other than referencing the Commission’s ongoing special access proceeding¹² and possible future data needs, Ad Hoc offers nothing to support its contention that USOA should be retained in its current form. Despite Ad Hoc’s arguments, it is highly unlikely that the Commission will abandon price cap regulation for special access services and replace it with rate-of-return regulation based on the USOA. Such an approach would be at odds with the Commission’s actions over the last twenty-five years. Also, as USTelecom noted in its earlier forbearance proceeding, “predictions that the Commission will resolve its special access rulemaking in a manner that will or may necessitate Part 32 data are entirely speculative at this juncture.”¹³ Neither the speculation that the Commission may require rate-of-return regulation for special access services at some time in the future or any other speculative future needs for Part 32 cost data are sufficient grounds to demonstrate a current federal need for such data. As

¹⁰ CenturyLink Comments, filed herein, at 9-10. *See also* letter from Walter B. McCormick, Jr. (USTelecom) to Chairman Genachowski (FCC), *et al.*, filed in *Petition of the United States Telecom Association for Forbearance From Certain Legacy Telecommunications Regulations*, WC Docket No. 12-61 (May 3, 2013) and Comments of USTelecom, filed herein, at 6-7.

¹¹ Ad Hoc at 2.

¹² *Id.* at 2-3.

¹³ Ex parte letter from Bennett L. Ross, Wiley Rein (USTelecom) to Marlene H. Dortch (FCC), *Petition of the United States Telecom Association for Forbearance From Certain Legacy Telecommunications Regulations*, WC Docket No. 12-61 (Apr. 18, 2013), at 9.

such, Ad Hoc’s arguments for the continued retention of USOA requirements for price cap carriers must be rejected since the Commission has previously found that it must have a “current federal need to retain a rule.”¹⁴

Alexicon, a company providing “professional management, financial and regulatory services” to a variety of small rate-of-return ILECs,¹⁵ fails to distinguish between when its comments apply to rate-of-return ILECs, price cap ILECs and all ILECs. This makes Alexicon’s comments somewhat confusing. In order to avoid confusion, CenturyLink assumes that virtually all of Alexicon’s comments were intended to apply to rate-of-return regulated companies. For example, Alexicon’s proposal that the Commission update allowable depreciation rate ranges is meaningless for price cap carriers whose rates are not affected by depreciation rate changes. If Alexicon’s comments were intended to apply only to rate-of-return regulated ILECs, CenturyLink takes no position on these comments. However, if Alexicon’s comments on streamlining the USOA are intended to apply to price cap ILECs, and can be read as opposing the consolidation of Class A and Class B accounts, CenturyLink opposes this position. Alexicon’s opposition to streamlining the USOA appears to be based on its mistaken assumption that there can be no “uniformity” of regulation if ILECs are allowed to use GAAP or some other approach to accounting.¹⁶ This position is simply not true and should be rejected by the Commission.

¹⁴ See *Petition of AT&T Inc. for Forbearance Under 47 U.S.C. §160 From Enforcement of Certain of the Commission’s Cost Assignment Rules*, WC Docket Nos. 07-21 and 05-342, Memorandum Opinion and Order, 23 FCC Rcd 7302, 7307 ¶ 11, 7321 ¶ 32, 7322 ¶ 36 (rel. Apr. 24, 2008).

¹⁵ Alexicon at 1.

¹⁶ *Id.* at 2.

CONCLUSION

Opponents have provided nothing new. The Commission should modify its rules to eliminate Part 32 USOA requirements for price cap ILECs with the provision that the ILECs continue to provide pole attachment information sufficient for the Commission to fulfill its statutory duties.

Respectfully submitted,

CENTURYLINK

By: /s/ Timothy M. Boucher

Timothy M. Boucher
1099 New York Avenue, N.W.
Suite 250
Washington, DC 20001
303-992-5751
Timothy.boucher@centurylink.com

Its Attorney

December 15, 2014