

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Request for Review by Centennial Communications Corp. of Decision by the Universal Service Administrator)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non- Price Cap Incumbent Local Exchange Carriers)	CC Docket No. 00-256 DA 07-3484
)	

**NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
REPLY COMMENTS**

The National Telecommunications Cooperative Association (NTCA)¹ files these reply comments in response to initial comments filed July 27, 2007, regarding the Federal Communications Commission’s (Commission’s or FCC’s) June 27, 2007 Public Notice² and the FCC’s August 1, 2007 Extension Order³ granting Centennial Communication Corp.’s (Centennial) June 29, 2007 request for an extension of time for replies to Centennial’s May 25,

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents 575 rural rate-of-return regulated incumbent local exchange carriers (ILECs). All of its members are full service local exchange carriers, and many members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended (Act). NTCA members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

² *Comment Sought on Centennial Communications Corp.’s Request for Review of a Decision by the Universal Service Administrative Company and, in Alternative, Request for Waiver, and Request to Suspend Recovery*, CC Docket Nos. 96-45, 00-256, Public Notice, DA 07-2843 (rel. June 27, 2007) (*Public Notice*).

³ *In the Matter of Request for Review by Centennial Communications Corp. of Decision of the Universal Service Administrator*, Order, CC Docket No. 96-45, CC Docket No. 00-256, DA 07-3484 (rel. Aug. 1, 2007) (Order granting Centennial’s request for extension of time to file replies until August 31, 2007) (*Centennial Extension Order*).

2007 petition⁴ for review of the Universal Service Administrative Company's (USAC) March 28, 2007 decision regarding its Interstate Common Line Support (ICLS) universal service payment true-up rules for Puerto Rico.⁵ NTCA joins other commenters in urging the Commission to reject Centennial's requests for refund and waiver of repayments, and in urging the Commission to eliminate the identical support rule.⁶

I. Centennial's ICLS Support Was Reduced Because the ILEC's ICLS Support Was Reduced.

In 2004, the incumbent local exchange carrier (ILEC) in Puerto Rico, the Puerto Rico Telephone Company (PRTC), received ICLS support. USAC subsequently determined that PRTC, the ILEC, had been overpaid and, consequently, Centennial had likewise been overpaid per USAC's true-up rules and reconciliation process.⁷ Centennial's 2004 ICLS support was based on the PRTC's 2004 ICSL support under the identical support rule. Centennial received roughly \$9.18 million in portable 2004 ICLS support, but USAC contended that Centennial is entitled to only \$3.80 million for that time period, a difference of roughly \$5.38 million.⁸

⁴ Centennial Communications Corp. Request for Review and, in the Alternative, Request for Waiver, and Request to Suspend Recovery, CC Docket Nos. 96-45, 00-256, 2 (filed May 25, 2007) (*Centennial Petition*).

⁵ Centennial Petition, Exh. 1 (March 28, 2007 USAC Decision). NTCA silence on any positions or proposals raised by other commenters in this proceeding connotes neither agreement nor disagreement by NTCA with those positions or proposals.

⁶ Comments of Western Telecommunications Alliance, Organization for the Promotion and Advancement of Small Telecommunications Companies, and Independent Telephone & Telecommunications Alliance (WTA, OPASTCO and ITTA Comments), pp. 2-4.

⁷ USAC explained its reconciliation process: "The Commission also established a reconciliation process to ensure that carriers receive ICLS that accurately reflects actual costs. ... CETCs' per line support amounts also are subject to reconciliation to the extent the incumbent rate-of-return carrier's support amounts are subject to reconciliation." Centennial Petition, Exh. 1, p. 4.

⁸ Centennial Petition, p. 2.

In August 2006, USAC began offsetting Centennial's USF payments for ICLS based on USAC's 2004 true-up for PRTC.⁹ Centennial appealed the offset, contending that USAC incorrectly calculated the ICLS payments due to: 1) erroneous treatment of first-half 2004 Long Term Support revenues; 2) high PRTC line counts; 3) low Centennial line counts; and 4) overstated Centennial 2004 ICLS revenues.¹⁰ Centennial contended that, "rather than having over-recovered ICLS in the amount of \$6,525,745, in fact Centennial is actually owed another \$110,247 for 2004."¹¹

On March 28, 2007, USAC denied Centennial's appeal and ordered Centennial to refund the remaining uncollected \$4,294,017 of its ICLS support for two of PRTC's study areas in Puerto Rico for 2004.¹² USAC held that "recovery will occur over the next five disbursement months immediately following the issuance of [USAC's] appeal decision by subtracting the monthly amount owed from High Cost Support Mechanism benefits payable to Centennial ... [and] will continue monthly netting until all remaining ICLS associate with this matter is recovered."¹³

Centennial challenged USAC's decision by filing a request for review with the FCC on May 25, 2007. Centennial contended that USAC improperly calculated the amount of true-up necessary by improperly treating the Long Term Support (LTS) payments that Centennial

⁹ Centennial Petition, Exh. 2 (September 25, 2006 Centennial Appeal to USAC), p. 1.

¹⁰ Centennial Petition, Exh. 2, pp. 2-3.

¹¹ Centennial Petition, Exh. 2, p. 3.

¹² Centennial Petition, p. 2.

¹³ Centennial Petition, Exh. 1, p. 1.

received in early 2004 and by miscalculating the final 2004 line support.¹⁴ Centennial urged the Commission to either reverse USAC's decision or waive recovery of the excess ICLS support.¹⁵

II. The Commission Should Not Waive Centennial's ICLS True-Up Repayment.

The Commission is now reviewing USAC's calculations of Centennial's ICLS payment for 2004 and will determine whether USAC correctly reduced Centennial's 2004 ICLS support. If the Commission determines that USAC applied the true-up rules correctly and/or that USAC was justified in offsetting some of Centennial's going-forward ICLS payments, or if Centennial owes additional repayment, then the Commission should deny Centennial's petition for review and should not waive Centennial's true-up repayments.

Centennial contends that the magnitude of the repayment is too much for "a relatively small, publicly traded entity."¹⁶ This statement belies Centennial's substantial financial means relative to the rural ILECs, including NTCA's members, who depend on the viability of the USF for their continued existence. According to Centennial's website, Centennial has already written off a \$9.0 million charge "for an adjustment to USF revenue in Puerto Rico related to prior periods" and earned \$89.1 million in adjusted operating income during the fourth quarter 2007.¹⁷ The Commission should not be misled into believing that Centennial is a small rural carrier who

¹⁴ Centennial Petition, p. 2.

¹⁵ *Ibid.*

¹⁶ Centennial Petition, p. 29, n. 46.

¹⁷ See Centennial's August 9, 2007 News Release, "Centennial Communications Announces Fiscal Fourth-Quarter and Full-Year Results; US Wireless Delivers Record Adjusted Operating Income; Puerto Rico Wireless Postpaid Churn at Two-Year Low", available at: <http://www.ir.centennialwireless.com/phoenix.zhtml?c=72717&p=irol-newsArticle&ID=1038753&highlight=>. Centennial states that its 2008 outlook for fiscal year 2008 is for consolidated adjusted operating income for its US and Puerto Rico operations to reach "between \$385 million and \$405 million." *Ibid.*

cannot afford to pay for its own business decisions. The Commission should not waive this repayment obligation for one who can afford to repay.

The Commission recently adopted many measures designed to prevent, detect and remedy any waste, fraud and abuse that may occur in the USF programs.¹⁸ Clearly expressed in this USF enforcement order was the Commission's goal: "to strengthen the universal service program by combating waste, fraud, and abuse" and "to improve the universal service programs and to make the programs more effective and efficient."¹⁹ Allowing Centennial to shirk its responsibilities by waiving repayment will defeat the Commission's objective because it will encourage waste and inefficiency in the ICLS portion of the USF, and those funds should now be recovered.

Centennial claims that waiving its repayment obligations is in the public interest.²⁰ The Commission should disregard this claim because giving Centennial a waiver will create a precedent that will allow other ICLS recipients to ignore their repayment obligations and will only serve to increase the sky-rocketing high cost portion of the USF, which is not in the public interest. Centennial's request poses a threat to the viability of the USF by establishing a precedent or full or partial waiver that far outweighs the burden Centennial may have experienced due to the repayment offset. The true-up repayment rules are neither unfair nor unreasonable, contrary to Centennial's claims.²¹ The Commission should not waive Centennial's repayment obligations.

¹⁸ *In the Matter of Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight*, Report and Order, WC Docket No. 05-195, FCC 07-150 (rel. Aug. 29, 2007) (USF Enforcement Order).

¹⁹ USF Enforcement Order, ¶¶ 4, 6.

²⁰ Centennial Petition, pp. 27-28.

²¹ Centennial Petition, p. 28.

Centennial's assertion that it "is forced to rely on the approximate accuracy of the ILEC's underlying projections" is disingenuous and must be discarded. Centennial chose to receive its ICLS payments based on the ILEC's costs and projections as part of a business judgment to provide service in Puerto Rico. The voluntary nature of Centennial's use of the identical support rule to set ICLS benefits precludes Centennial from raising barriers to its application. No "taking" has occurred, contrary to Centennial's complaint, as Centennial was quite aware of the basis for its ICLS calculations.²² The Commission should not waive Centennial's responsibility to repay based on this assertion.

Had USAC determined that the ILEC was underpaid and entitled to additional ICLS funding, Centennial would undoubtedly have sought a correlating increase in its ICLS support. So long as the Commission retains the identical support rule, USAC's true-up ratchet should and must work both ways—up and down. To do otherwise would unfairly discriminate against the ILEC by providing the CLEC with support greater than, not equal to the ILEC's costs. Centennial should repay its ICLS overpayments.

III. Commenters are United in Opposing Centennial's Request and Calling for The Commission To Eliminate The Identical Support Rule.

Centennial sought an extension of time to address the issues raised through comments in this proceeding. Squarely at the heart of the controversy is the identical support rule under which Centennial received the ICLS support based on the ILEC's costs. NTCA has repeatedly encouraged the Commission to eliminate the identical support rule. NTCA agrees with WTA, OPASTCO and ITTA that "this proceeding constitutes yet another example of the defects and absurdities of the identical support rule."²³

²² Centennial Petition, p. 29.

²³ WTA, OPASTCO and ITTA Comments, pp. 2-4.

NTCA has shown that the universal service fund is not intended to subsidize competition where competition would not otherwise exist. This is a particularly valid consideration at this time when preventing waste and controlling unsustainable growth in the fund is a serious concern. The identical support rule which allows CETCs to receive support based solely on an ILEC's costs regardless of a CETC's own costs to provide service in the ILEC's service area. Under the current rules, a CETC can receive a windfall at the expense of the USF program. Eliminating the identical support rule would be a significant step toward reducing the amount of waste in the universal service funding mechanisms. NTCA has offered additional suggestions on reforming the CETC support process in its comments on the High Cost Reform proceeding and offered the astute testimony Professor Dale Lehman on the matter.²⁴ The Commission should eliminate the identical support rule.

²⁴ See NTCA Reply Comments, *Federal-State Joint Board on Universal Service Seeks Comment on the Long Term, Comprehensive High-Cost Universal Service Reform*, WC Docket No. 05-337, CC Docket No. 96-45 (filed July 2, 2007), pp. 9-11.

IV. Conclusion.

For these reasons, the Commission should reject Centennial's request for ICLS refund, should deny Centennial's request to waive excess ICLS repayment, and should eliminate the identical support rule.

Respectfully submitted,

**NATIONAL TELECOMMUNICATIONS
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August 31, 2007

CERTIFICATE OF SERVICE

I, Adrienne Rolls, certify that a copy of the foregoing Reply Comments of the National Telecommunications Cooperative Association in CC Docket Nos. 96-45 and 00-256, DA 07-3484, was served on this 31st day of August 2007 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons:

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