

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

In the Matter of)	
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	

REPLY COMMENTS OF CENTURYTEL, INC.

CenturyTel, Inc. (“CenturyTel”), on behalf of its operating subsidiaries, hereby files these reply comments in the above-captioned proceeding. The Commission issued a Notice of Inquiry in the above-captioned proceedings to obtain comments to refresh the record in the above-captioned proceedings in order to respond to the court of appeals’ remand of the Commission’s implementation of the non-rural support mechanism for high cost loop support in the Universal Service Fund (“USF”).¹ CenturyTel has been on record in support of the Commission’s effort to comprehensively reform the USF.² That effort must address both the rules for rural carriers as well as those applicable to nonrural carriers.

This proceeding to date has focused primarily on the rules that are currently applicable to nonrural carriers. There is no question that these rules have failed to address the high cost and rural territories of price cap carriers, most of which are nonrural carriers. Due to the effects of cost averaging within states and study areas, the FCC has not addressed with sufficient

¹ *Qwest Communications Int’l, Inc. v. FCC*, 398 F.3d 1222 (10th Cir. 2005) (*Qwest II*). The FCC requested comments on this remand four years ago. *Federal-State Joint Board on Universal Service, High-Cost Universal Service Support*, CC Docket No. 96-45, WC Docket No. 05-337, Notice of Proposed Rulemaking, 20 FCC Rcd 19731 (2005) (*Remand NPRM*).

² Comments of CenturyTel, Inc., WC Docket No. 05-337, at 2 (Nov. 26, 2008)(“CenturyTel ICC-USF Global Comments”).

granularity needed support for high cost areas of price cap and nonrural carriers, disadvantaging carriers of last resort who must serve their rural customers. Reformation of the nonrural mechanism, whether or not completed separately from comprehensive USF reform, is essential to meeting Section 254's mandate that rates be affordable and reasonably comparable to urban rates, and that USF be sufficient to promote these goals.³ Therefore, this effort is necessary to adequately respond to the court's remand.

As explained more fully below, the FCC should eliminate state-wide averaging of costs in awarding nonrural USF. Such averaging undermines the growing competition in more rural areas by requiring that higher density regions subsidize lower density areas. It should also adopt a new plan to provide support to the rural and high costs areas of nonrural carriers. One approach that could work effectively is Embarq's Broadband and Carrier-of-Last-Resort ("BCS") Solution. Adopting the BCS Solution will not only adequately address the *Qwest II* court's questions, but also address other critical problems facing rural price cap properties today. Other approaches, such as reverse auctions, have been roundly criticized and cannot adequately address the needs of high cost and rural territories.

I. INTRODUCTION

CenturyTel is predominantly an ILEC in 25 states.⁴ CenturyTel provides a mixture of diverse communications services, including local and long distance voice, broadband, and video services. It serves mostly rural areas and medium-sized cities in these areas under a variety of

³ CenturyTel fully supports comprehensive reform of the existing USF program, but does not believe that such comprehensive reform need be adopted in order to respond to the court. Notwithstanding, comprehensive reform is essential to fully meeting the statutory objectives of Section 254, as outlined in CenturyTel's previous comments in this docket. *Id.* at 3.

⁴ Although CenturyTel is proposing to purchase Embarq, it will continue to serve largely rural and small city markets after the merger. Embarq Corporation, Transferor, and CenturyTel, Inc., Transferee; Application for Transfer of Control of Domestic Authorizations Under Section 214 of the Communications Act, as Amended, WC Docket No. 08-238, at 2 (Nov. 25, 2009)("Domestic 214 Application").

federal and state regulatory structures, including price caps and rate of return. It operates two nonrural properties in the states of Missouri and Alabama, where it receives model support and Interstate Access Support payments. It has operated as a price cap carrier in these two states, but is soon to convert most of its properties to price caps on July 1, 2009.⁵

The one characteristic that unifies these diverse properties, however, is that the vast majority operate in high cost and/or rural exchanges that require universal service support in order to maintain local exchange service rates and other regulated telecommunications services at affordable prices. Carrier of last resort requirements obligate only telephone companies to serve these high cost regions. This universal service support also permits the company to make infrastructure improvements and to maintain all aspects of the network infrastructure on an ongoing basis that makes communications the reliable essential service that it is for rural Americans. These maintenance efforts and improvements also make the network capable of delivering advanced services, including broadband.

CenturyTel is committed to providing modern, advanced, and diverse communications to rural America at affordable prices. That network infrastructure is vital to consumers who rely on it to obtain not only plain old telephone services, but also an increasing array of other services, such as telemedicine, distance learning and other broadband-related services. Wireless, Internet, and cable providers also rely on CenturyTel's core network infrastructure for transport and service delivery.

Although CenturyTel is ready to meet customer expectations for newer and higher-bandwidth services, the substantial dollar investment committed by its public investors cannot by

⁵ *CenturyTel, Inc. Petition for Conversion to Price Cap Regulation and Limited Waiver Relief*, WC Docket No. 08-191, DA 09-855 (Wir. Comp. Bur., rel. April 17, 2009)(“*CenturyTel Price Cap Conversion Order*”). CenturyTel's three average schedule companies were excluded from this conversion.

itself accomplish this forward-looking goal. CenturyTel relies in part on universal service funding to ensure that it can meet evolving customer expectations and achieve the demands that will be placed on its network. Even with these efforts there still exists a core of hard-to-reach customers who are not now receiving broadband and will remain a challenge for some time given the lack of a viable business case for such investment.

II. FCC RULES MUST RECOGNIZE THAT NETWORK DEVELOPMENT IS THE ESSENTIAL CRUX OF UNIVERSAL SERVICE FOR RURAL AMERICA.

It is no accident that today nearly all Americans enjoy access to the highest-quality voice service in the world,⁶ and 82 percent of households nationwide have access to broadband services provided by the ILEC.⁷ This accomplishment is the direct result of consistent and disciplined investment by the telephone industry over decades, and regulatory policies that closed the service gap between Americans who can and cannot afford high-quality service. That success now must be extended to telecommunications services that will be delivered via robust networks evolving to accommodate next generation voice service, high-speed data, video and other applications. The true test will be to keep such services viable and affordable for rural consumers going forward.

Networks are expensive to build and maintain. Wireline networks will continue to serve as critical infrastructure for most basic and advanced services for the foreseeable future. Both Internet Protocol (“IP”) applications and mobile services depend today and for the foreseeable future on the presence of reliable wireline networks to function properly. Telecommunications

⁶ Currently the FCC estimates universal service at about 95.0% availability. *See Telephone Subscribership in the United States (Data Through November 2008)*, Alexander Belinfante, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, at Table 1 (June 2009).

⁷ *High-Speed Services for Internet Access: Status as of December 31, 2007*, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, at 3 (Jan. 2009).

networks include transport, central office and switching, customer loops, trucks and crews, centralized customer service centers, and other elements. Virtually all of these elements require substantial initial investment, have varying economies of scope and scale, and are not quickly scaled up or down. Further, ongoing expenditures are significant for maintenance, expansion, and technological improvements, contrary to the popular view that suggests that the network is built and requires little additional support. These costs are higher when coupled with the carrier-of-last-resort requirements imposed only on ILECs.

III. FCC RULES MUST BE CHANGED TO ELIMINATE STATEWIDE AVERAGING AND ELIMINATE THE SUBSIDIES CREATED BY BROAD STUDY AREAS.

The FCC has been implementing Section 254(e)'s requirement that implicit subsidies for universal service be removed from the current system of intercarrier compensation.

Notwithstanding, it has not addressed one of the last vestiges of the implicit subsidy issue: rural and high cost areas are masked by state-wide averaging, or hidden in study area averaged costs.

The current nonrural system for computing high cost loop support examines the average costs of providing service to nonrural companies on a state-wide basis.⁸ The FCC leaves it to states to address any high cost issues that arise within the state. The results of this approach have been mixed, less than half of the states actually adopted their own state USF funds for these purposes.⁹ And even with a high cost fund, many are limited or are plagued by court challenges and other controversies.¹⁰ The FCC did propose in 2003 to establish a back-stop mechanism that

⁸ *Federal State Joint Board on Universal Service*, CC Docket No. 96-45, Ninth Report & Order, 14 FCC Rcd 20432, ¶ 45 (1999) (“*USF Ninth Report & Order*”).

⁹ *See, e.g.*, National Regulatory Research Institute (NRRI), *State Universal Service Funding Mechanisms: Results of the NRRI's 2005-2006*, (Report No. 06-09) (2006).

¹⁰ *See e.g.*, Kansas Corporation Commission's Petition for Declaratory Ruling, WC Docket No. 08-55 (filed Apr. 16, 2008); *Vonage Holdings Corp. v. Nebraska Public Service Commission*, No. 08-1764, slip op. (8th Cir., May 1, 2009).

would address the need for additional high cost loop support for nonrural carriers over and above HCPM-based support, however, the FCC has never actually implemented such a back-stop.¹¹

A number of commenters support the elimination of state-wide averaging. Qwest, for instance, has been advocating the elimination of state-wide averaging, and would instead focus on a wire-center based compensation scheme targeted to the highest cost wire centers.¹² Embarq also argues that truly rural territories of price cap carriers need funding, but are not receiving it today.¹³ AT&T argues for the elimination of state-wide averaging,¹⁴ although it addresses issues that are beyond the scope of the remand proceeding itself.¹⁵ Only public utility commissions of Vermont and Maine, and NASUCA argue that the current system of state-side averaging should remain, although Vermont and Maine would utilize a lower benchmark rate based on average urban rates to determine the need for support.¹⁶ However, Maine & Vermont agree that support for truly rural areas is not adequately addressed by the current system.¹⁷

¹¹ *Federal-State Joint Board on Universal Service*, Order on Remand, Further Notice of Proposed Rulemaking, & Memorandum Opinion & Order, CC Docket No. 96-45, 18 FCC Rcd 22559, ¶¶ 114-25 (2003).

¹² Comments of Qwest Communications International, Inc., WC Docket No. 05-337, at 5 (May 8, 2009).

¹³ Comments of Embarq on the Notice of Inquiry Regarding the Tenth Circuit Remand, WC Docket No. 05-337, at 9 (May 8, 2009).

¹⁴ Comments of AT&T, Inc., WC Docket No. 05-337, at 6 (May 8, 2009) (“AT&T Comments”). Verizon also admits that there are inequities among carriers with respect to the distribution of nonrural carrier high cost support. Comments of Verizon and Verizon Wireless, WC Docket No. 05-337, at 30 (May 8, 2009) (“Verizon Comments”).

¹⁵ AT&T argues that the current high cost system should be scrapped and the FCC should refocus the fund on promote broadband services. AT&T Comments at 3-4. Verizon urges that a cap be placed on the overall universal service fund. Verizon Comments at 24. Neither of these proposals address the specific questions raised by the *Qwest II* court and should not be addressed in this proceeding.

¹⁶ Comments on Notice of Inquiry by Vermont Public Service Board & Maine Public Utilities Commission, WC Docket No. 05-337, at 6-7 (May 8, 2009) (“Maine & Vermont Comments”); Comments of the National Association of State Utility Consumer Advocates on the Notice of Inquiry, WC Docket No. 05-337, at 46 (May 8, 2009) (“NASUCA Comments”).

¹⁷ Maine & Vermont Comments at 3.

Even if the state-wide system of averaging were adequately addressed, the problems with study area cost averaging would still remain unsolved. Currently, many study areas contain both towns and countryside. Costs are submitted for universal service purposes as if the costs are evenly spread throughout these study area, although they are clearly not. There is no question that service to subscribers outside of a town are significantly more costly than those in town. The effects of cost averaging, however, effectively make town subscribers subsidize rural subscribers by setting one averaged rate, which includes this implicit USF subsidy. Those implicit subsidies violates section 254's sufficiency and explicitness requirements.

What is more, while there is no federal carrier-of-last-resort obligation, the FCC has implicitly recognized and supported the state carrier-of-last-resort obligation through its implementation of the interstate access charge and universal service systems. Many rural areas would not be served at all except that carriers who serve those territories have the opportunity to recover their higher costs through rates, or through universal service if necessary. Thus, the FCC must meet its part of this bargain that carrier-of-last-resort and universal service are intended to impose on carriers, by creating a universal service support mechanism that can substitute the study area implicit subsidy with an explicit universal service subsidy.

This study-area averaging system only worked under a monopoly-based system. However, implicit subsidies cannot be squared with competition. The Commission long ago concluded:

implicit subsidies were sustainable in the monopoly environment because some consumers (such as urban business customers) could be charged rates for local exchange and exchange access service that significantly exceeded the cost of providing service, and rates paid by those customers would implicitly subsidize service provided by the same carrier to others. By adoption of the 1996 Act, Congress has provided for the development of competition in all telephone markets. ... [which] means that today's pillars of

implicit subsidies—high access charges, high prices for business services, and the averaging of rates over broad geographic areas—will be under attack.¹⁸

Competition abounds in rural markets, making implicit subsidies unsustainable.

Consequently, when regulators continue customer overcharges in town areas to subsidize service for rural customers, they skew the competitive market, disadvantaging the serving carrier.

Section 254 of the Act clearly recognized that requiring universal service support to be “explicit” was necessary in a competitive marketplace. A state- or study-area-wide system of implicit subsidies were intended to be eliminated under the Act for universal service purposes. The FCC should target support to better distribute universal service to areas that are high cost.

IV. THE FCC SHOULD MODIFY ITS NONRURAL MECHANISM TO ADDRESS THESE SHORTCOMINGS.

A number of proposals have been made to address the improper effects caused by the existing system of high cost loop support for nonrural carriers. CenturyTel agrees that whatever approach the FCC adopts it should strike a balance between compensating high cost areas while at the same time placing a reasonable limit on the cost of such a new approach. The adopted proposal should also take a forward-looking view in order to ensure that it properly focuses on construction of a modern network, rather than on recovering embedded costs.¹⁹ One issue the FCC must resolve in order to adequately respond to the *Qwest II* court is to determine a more granular area of the country that would serve as the basis for evaluating the need for support. Although some proposals utilize wire centers to evaluate support, this mechanism does not always work well when costs are not aggregated at the wire center level.

¹⁸ *Federal-State Joint Board on Universal Service*, First Report & Order, 12 FCC Rcd 8776, ¶ 17 (1997)(“*USF First Report & Order*”).

¹⁹ See Comments on Windstream Communications, Inc., WC Docket No. 05-337, at 6 (May 8, 2009).

CenturyTel has a number of smaller local exchanges which contain multiple wire centers, as the FCC has defined that term.²⁰ Because these exchanges originally were relatively small, CenturyTel may have one or more NXX codes in that exchange which assign customer numbers in multiple wire centers. Since CenturyTel has traditionally collected and reported customer data based on exchanges rather than wire centers, it would be unable at a reasonable price to precisely identify the number of customers in a particular wire center, although it can provide accurate data at the exchange level. Any new mechanism should take into account these anomalous situations and permit carriers either to aggregate multiple wire centers in one exchange or to use reasonable estimation techniques in order to provide accurate customer line count data.

With this caveat, CenturyTel supports the Embarq BCS proposal because it strikes that appropriate balance between sufficient funding through a fund of reasonable size. This proposal is supported by other industry members, such as the Independent Telephone and Telecommunications Alliance (“ITTA”).²¹ The BCS Plan is in the public interest for the following reasons:

- Embarq’s plan provides explicit USF to support high-cost and rural areas of price cap study areas, while bringing stability and thus improve rural infrastructure investment.
- It utilizes the existing Hybrid Cost Proxy Model (“HCPM”) loop cost calculations model and nonrural rules.
- That plan is more consistent with Section 254’s “explicitness” mandate because it reduces implicit subsidies, thereby promoting competition.

²⁰ 47 C.F.R. § 54.5. A wire center is defined as an area that is served by one or more central offices served by a single switch. A “switch” was defined in RAO Letter No. 21. *See Petitions for Reconsideration and Applications for Review of RAO 21*, Order on Reconsideration, 12 FCC Rcd 10061 (1997).

²¹ *See* Comments of Independent Telephone & Telecommunications Alliance, WC Docket Nos. 05-337, et al. (Nov. 26, 2008). ITTA makes one modification to its support. Instead of funding broadband commitments pursuant to the BCS proposal, it would adopt a plan to establish a \$500 million pilot program to fund broadband. CenturyTel supports this modification as well.

- Embarq’s plan supports network development, and thus will also promotes broadband deployment in rural and high-cost areas of the country.
- It responds to the issues raised by the Tenth Circuit by avoiding the problematic benchmark and rate triggers previously questioned by the Court.
- The plan would be funded through current USF receipts so that fund size will not increase overall.

Therefore, the FCC should adopt the BCS plan, as modified by ITTA.²²

V. OTHER MECHANISMS DO NOT MEET STATUTORY REQUIREMENTS.

Other mechanisms, such as proposals to distribute high cost loop funding based on a system of reverse auctions, do not adequately address the need for support in rural and high cost areas. CenturyTel is on record as opposing reverse auctions as an unproven and risky proposal for rural ILEC territories.²³

Although the FCC has solicited comments concerning reverse auctions in the past, none of the commenters either in those proceedings, or this proceeding, have adequately addressed the serious issues which could face an ILEC with carrier-of-last-resort requirements in a geographic area. How does the winning bidder take over providing service to the highest cost subscribers? Should subscriber choice play any role in such a take-over? How would the Commission compensate an existing carrier for any stranded costs that are no longer supported by revenues? How can the FCC ensure itself that the winning bidder will provide quality services for a sustained period of time? CenturyTel recognizes that even Verizon has suggested that reverse auctions first be used as an experiment to award mobile USF, and then pause to determine whether lessons learned form the experiment can answer the foregoing concerns and questions.²⁴

²² See note 21, *infra*.

²³ Comments of CenturyTel, Inc., WC Docket No. 05-337, at 9 (Apr. 17, 2008).

²⁴ See *Modernizing Universal Service: A Design for Competitive Bidding*, attached to Comments of Verizon and Verizon Wireless, WC Docket No. 05-337 Appendix, (filed May 31, 2007).

IV. CONCLUSION

CenturyTel urges the Commission to address the *Qwest II* remand promptly and to modify the universal service program rules to ensure that all Americans in rural, high cost, and insular areas can continue to receive affordable communications services, including broadband. Adopting comprehensive reform rules, where the FCC not only modifies the nonrural mechanism but also enables qualifying price cap carriers to receive high cost loop support pursuant to such amendments, is an essential part of responding to the Court. Therefore, the Commission should adopt the Embarq BCS Solution, as modified by ITTA, to address the critical needs of high-cost loop support for rural price cap carriers.

Respectfully submitted,

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June 8, 2009

Certificate of Service

I, Gregory J. Vogt, do hereby certify that I have on this 8th day of June 2009 caused a copy of the foregoing "Reply Comments of CenturyTel, Inc." to be served by electronic mail upon the following:

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