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	)	WC Docket No. 96-45
	)	

CENTURYLINK COMMENTS ON SMITH BAGLEY REQUEST FOR REVIEW

Smith Bagley, Inc. alleges that the Universal Service Administrative Company (USAC) has failed to properly implement the Interstate Access Support (IAS) provisions of the Commission's 2008 order on support to competitive eligible telecommunications carriers (CETCs).[1] It asks the Commission to issue an order instructing USAC to abandon its current practices and instead adopt Smith Bagley's interpretation of the *CETC Cap Order*. Among other things, Smith Bagley challenges the manner in which USAC has implemented the *CETC Cap Order* with respect to IAS payments to incumbent local exchange carriers (ILECs), arguing that such support should be less than USAC is disbursing.[2] On this point, Smith Bagley is plainly wrong.

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[1] *High-Cost Universal Service Support*, WC Docket No. 05-337, Order, 23 FCC Rcd 8834 (2008), *aff'd*, *Rural Cellular Ass'n v. FCC*, 588 F.3d 1095 (D.C. Cir. 2009) (*CETC Cap Order*).

[2] Request for Review and Request for Declaratory Ruling, at 8-11 (filed July 6, 2010) (Request). Smith Bagley also complains that the amount of universal service fund (USF) support being provided to CETCs in areas designated as "covered locations" is being capped. CenturyLink leaves that portion of Smith Bagley's Request to other parties, and does not offer a position at this time.

The Commission ordered that annual amount of IAS available for ILECs, and the annual amount of IAS available for CETCs, both should be set at the amount that each group of carriers "were eligible to receive in March 2008 on an annual basis."[3] In addition, the Commission expressly stated that "[n]othing in this order is intended, or shall be construed by USAC, to alter the annual IAS targeted cap amount of $650 million."[4] Mathematically, the only way to make the equation work is to maintain the same targets for both groups of carriers each year, rather than reduce one of them as Smith Bagley claims.[5] The plain language of the *CETC Cap Order* simply precludes Smith Bagley's interpretation and requested ruling.

Smith Bagley's claim that USAC should be reducing IAS disbursements is based on a misapplication of a single statement in the *CETC Cap Order*. The order states that the amount "shall be indexed annually for line growth or loss."[6] Smith Bagley notes that "indexation" means that "one number is adjusted to reflect changes in another figure,"[7] but it falsely assumes this "required USAC to adjust IAS to ILECs upwards or downwards at the same rate of growth or loss in ILEC line counts."[8] On the contrary, by this statement the Commission directed USAC to index per-line IAS amounts to line counts to maintain the annual target at March 2008 levels, just as IAS has been administered to maintain the $650 million target for many years. That is what USAC obviously understood, and in fact that is the only permissible interpretation of the

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[3] *CETC Cap Order*, 23 FCC Rcd at 8850 ¶ 35.

[4] *Id*. at n.107.

[5] If $a + b = 650$ and neither a nor b can be increased, then both a and b must be constant.

[6] *CETC Cap Order*, 23 FCC Rcd at 8850 ¶ 35.

[7] Request at 9.

[8] *Id*.

word "index" in this context. Otherwise, the Commission's directive to maintain the annual target at $650 million could not possibly be fulfilled.

Smith Bagley points to a different method of indexing that was applied by a different Commission back in 1993. A different method was adopted there for the explicit purpose at that time of adjusting the total size of USF.[9] That instance is wholly irrelevant, given the Commission's clear intent to maintain the total size of the IAS mechanism.

Smith Bagley finally suggests that applying its misinterpretation of the *CETC Cap Order* to IAS support for ILECs would serve "important policy objectives." These objects include, it contends, funding its request for additional support to provide its competing voice service in Covered Locations and using the remainder for new programs implementing the National Broadband Plan.[10] Smith Bagley is wrong on this point as well. IAS support to ILECs currently supports networks that are being used as platforms for deploying and providing broadband services in areas where it is not economically feasible to do so without support, including areas that recently were unserved. Future IAS support to ILECs will support additional broadband deployment in unserved areas. Consequently, continuing USAC's current application of the *CETC Cap Order* will better serve the public interest and more faithfully fulfill the goals and purpose of the National Broadband Plan than would misapplying the order as Smith Bagley requests.

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[9] Request at 10.

[10] *Id.*

CONCLUSION

Smith Bagley is wrong about USAC's implementation of the *CETC Cap Order* with respect to IAS payments to ILECs. USAC has followed the Commission's direction and, indeed, it would violate the *CETC Cap Order* to grant Smith Bagley's request on this point. Accordingly, the Commission should deny Smith Bagley's request that it direct USAC to change its current, well-established administration of IAS payments to ILECs.

Respectfully submitted,

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