

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

In the Matter of)
)
Universal Service Contribution Methodology) WC Docket No. 06-122
)
MeetingOne.com Corp. Application for Review)
of a Decision of the Wireline Competition)
Bureau)

COMMENTS OF CENTURYLINK

CenturyLink files these comments in response to MeetingOne.com Corp.'s (MeetingOne's) Request for Review of the Wireline Competition Bureau's Order finding that MeetingOne's Internet Protocol (IP) audio bridging service is "telecommunications" subject to direct Universal Service Fund (USF) reporting and contribution obligations.¹

The key Bureau conclusions that are now before the Commission in MeetingOne's Request for Review are: (1) whether "MeetingOne's service is telecommunications subject to direct USF reporting and contribution obligations," and (2) whether "prospective-only application of MeetingOne's direct USF contribution obligations in connection with its provision of audio bridging services is not warranted."² CenturyLink takes no position here as to whether the Bureau's conclusions regarding MeetingOne's service are correct. Rather, CenturyLink comments here to make clear that MeetingOne's various assertions regarding the two underlying

¹ See Public Notice, "Comment Sought on MeetingOne.com Corp. Request for Review of a Decision of the Wireline Competition Bureau," DA 11-2013, WC Docket No. 06-122 (Dec. 13, 2011).

² *In the Matter of Universal Service Contribution Methodology; Request for Review of a Decision of the Universal Service Administrator by: MeetingOne.com Corp.*, Order, DA 11-1841, WC Docket No. 06-122 ¶ 1 (rel. Nov. 3, 2011) (*Bureau Order*).

services that Qwest, now a wholly-owned subsidiary of CenturyLink, provides to MeetingOne and that MeetingOne uses in its provision of its IP audio bridging service have no practical bearing on the issues before the Commission. The issues decided by the Bureau that now are before the full Commission pertain to MeetingOne's service, not Qwest's services. Moreover, Qwest's USF contribution obligations are in no way determinative of MeetingOne's own USF contribution obligations.

When it comes to new IP-based services, especially multi-functional services, drawing distinctions among various service categories -- and thus discerning contribution obligations -- can be a difficult task. It is for this reason that CenturyLink urges the Commission to consider determining contribution obligations for new and complex IP-based services in the context of broader rulemaking proceedings rather than on a piecemeal basis, such as through Requests for Review of Bureau and Universal Service Administrative Company (USAC) decisions. Furthermore, as discussed more fully below, where an IP-based service is deemed to be assessable for the first time, contribution obligations should apply only on a prospective basis.

I. MEETINGONE'S IP AUDIO BRIDGING SERVICE IS THE SOLE SERVICE AT ISSUE IN ITS REQUEST FOR REVIEW OF THE BUREAU'S ORDER.

MeetingOne's IP audio bridging service is the sole service at issue in this proceeding. In its October 15, 2009, letter to USAC, MeetingOne asked USAC to confirm only that "MeetingOne does not have direct contribution obligations to the USF."³ MeetingOne defined the issue just as narrowly in its request for review filed with the Bureau, stating: "The specific services at issue in this matter are MeetingOne's IP audio conferencing services that are

³ Letter from Trent Martinet, Davis Graham & Stubbs LLP, to Fred Theobald, Universal Service Administrative Company at 3 (Oct. 15, 2009).

exclusively provided over the Internet.”⁴ Although it described Qwest’s services to USAC and the Bureau, MeetingOne never questioned the regulatory classification and contribution obligations for Qwest’s IPTF or IPLD services until now. It therefore should not be surprising, as MeetingOne itself has acknowledged, that “the Bureau Order [did] not address Qwest’s liability at all.”⁵

Nevertheless, MeetingOne now asserts, without any legal analysis or supporting authority, that Qwest’s separate and distinct IPTF and IPLD services, which serve merely as components of MeetingOne’s end-to-end service, are “closer to telecommunications than MeetingOne’s service” and that “if only one of these services should count as a telecommunications service, it should not be the value-added service that MeetingOne provides.”⁶ MeetingOne also claims that it would be “manifest injustice” to require MeetingOne to contribute “while a gigantic telecommunications carrier is absolved of liability for the PSTN complement to [MeetingOne’s] service.”⁷

In addition to being incorrect, these statements simply are irrelevant. In considering MeetingOne’s Request for Review, the Commission is limited to deciding whether the Bureau committed legal or factual error on the issues squarely before it. Section 1.115 of the

⁴ See, e.g., *Request for Review of Universal Service Administrator Decision*, CC Docket No. 96-45 at 3 (filed May 3, 2010) (docketed in ECFS in WC Docket No. 06-122); see also Letter from USAC to Trent Martinet, counsel for MeetingOne at 1 (Mar. 3, 2010) (“USAC has determined that the services offered by MeetingOne are subject to USF reporting and contribution obligations.”).

⁵ MeetingOne.com Corp., *Application for Review of Wireline Competition Bureau Order*, WC Docket No. 06-122 at 14 (filed Dec. 5, 2011) (Request for Review).

⁶ *Id.* at 3–4.

⁷ *Id.* at 5, 20. In its Request for Review MeetingOne also implies that it relied on advice from Qwest as to MeetingOne’s USF contribution obligations on its audio bridging service. To be clear, Qwest never advised MeetingOne about the contribution obligations of MeetingOne’s services. Qwest only provided MeetingOne with information regarding Qwest’s own contribution determination for the services it was providing to MeetingOne.

Commission's rules prohibit a request for Commission review of a Bureau action from relying on questions of fact or law upon which the Bureau did not have an opportunity to pass.⁸

Although MeetingOne could have sought reconsideration of the Bureau's Order in order to present new questions of fact or law to the Bureau, it did not.⁹ The Commission therefore is precluded from going beyond the Bureau's findings to consider contribution obligations pertaining to Qwest's services.

II. CONTRIBUTION OBLIGATIONS FOR COMPLEX IP TECHNOLOGIES SHOULD NOT BE DECIDED IN A PIECEMEAL MANNER AND, IF APPLICABLE, SHOULD BE APPLIED ONLY PROSPECTIVELY.

The *Bureau Order* is the latest in a number of rulings and other pronouncements that demonstrate the technical complexities and range of IP-based services that currently are available in the marketplace.¹⁰ This complexity is likely to increase as technology evolves and new business models develop. The current piecemeal approach of determining contribution

⁸ 47 C.F.R. § 1.115(c).

⁹ *Id.* In any event, the deadline for filing a petition for reconsideration has passed.

¹⁰ See, e.g., *IP-in-the-Middle Order* (addressing AT&T's specific "IP-in-the-Middle" service); *In the Matter of Universal Service Contribution Methodology; Federal-State Joint Board on Universal Service; 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms; Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990; Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size; Number Resource Optimization; Telephone Number Portability; Truth-in-Billing and Billing Format; IP-Enabled Services*, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518 (2006) (a/k/a VoIP Contribution Order); *In the Matter of Contributions to the Telecommunications Relay Services Fund*, Report and Order, 26 FCC Rcd 14532 (2011) (a/k/a TRS Non-Interconnected VoIP Contribution Order). Also see, Letter from Jennifer K. McKee, Wireline Competition Bureau, to Michelle Tilton, Universal Service Administrative Company, DA 09-748, dated Apr. 1, 2009, addressing Form 499-A filer obligations that relate to multi-protocol label switching, describing those obligations within the context of the 1996 Act and FCC precedent.

obligations for providers of these services has created uncertainty and risks that ultimately may be stifling innovation in the IP environment.

CenturyLink takes no position here as to whether the Bureau correctly concluded that MeetingOne's IP audio bridging service is "telecommunications." However, it does believe that a determination of contribution obligations for new and complex IP-based services should be done in the context of broad rulemaking proceedings rather than in response to USAC decisions. The current case-by-case approach is cumbersome, and while parties are able to file comments when Bureau- and Commission-level reviews of USAC decisions are sought, these reviews do not always result in widespread participation and robust records.

Given the checkerboard of determinations regarding the regulatory treatment of IP-enabled services, the USF contribution obligations of new and complex IP-based services seldom are clear. The plain language of the Commission's *InterCall Order*, for example, is silent regarding USF contribution obligations for IP-based audio conferencing services that do not allow end users to transmit a call using telephone lines to a conference bridge without change in the form or content of the information as sent and received. Moreover, as has been previously noted, the Commission's *IP-in-the-Middle Order* was expressly limited to the specific facts and record in that proceeding.¹¹ Determinations about the assessability of IP-based services should be made through rule-making proceedings and accordingly applied prospectively.

III. CONCLUSION.

MeetingOne's IP audio bridging service is the only service at issue in this proceeding. Even if the regulatory classification of the services that Qwest sells to MeetingOne were relevant here (which they are not), that would have no practical bearing on the question before the

¹¹ See Comments of Qwest Communications International Inc., WC Docket No. 06-122 at 3-4 (June 7, 2010).

Commission. The Commission may decide that the Bureau erred in its determination. But going forward, it would be more prudent and appropriate for the Commission to decide these types of questions in the context of broader rulemaking proceedings rather than on a piecemeal basis. And where new, IP-based services are at issue and liability is found, CenturyLink would encourage the Commission to apply such liability only prospectively due to the technical complexities involved.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **COMMENTS OF CENTURYLINK** to be: 1) filed with the FCC via its Electronic Comment Filing System in WC Docket No. 06-122; 2) served via e-mail on Ernesto Beckford (Ernesto.Beckford@fcc.gov) and Charles Tyler (charles.tyler@fcc.gov) of the Telecommunications Access Policy Division, Wireline Competition Bureau; 3) served via e-mail on Pantelis Michalopoulos of Steptoe & Johnson LLP, attorney for MeetingOne.com Corp. at pmichalo@steptoe.com; and 4) served via e-mail on the FCC's duplicating contractor, Best Copy and Printing, Inc. at www.bcpweb.com.

/s/ Richard Grozier

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