Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208

REPLY COMMENTS OF CENTURYLINK

I. INTRODUCTION AND SUMMARY.

CenturyLink submits these additional comments in response to the *Further Notice of Proposed Rulemaking* in the above-captioned proceeding.[1] Specifically, these reply comments

[1] *See In the Matter of Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform - Mobility Fund,* WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) (*FNPRM* or *USF/ICC Transformation Order*), *Order clarifying rules* (*Clarification Order*), DA 12-147, rel. Feb. 3, 2012, Erratum, rel. Feb. 6, 2012; *pets. for recon. pending*; *pets. for rev. of the Report and Order pending, sub nom. Direct Communications Cedar Valley, et al. v. FCC*, (10th Cir. Nos. 11-9581, *et al.*).

pertain to the issues raised by the Commission in Sections XVII. A-K of the *FNPRM* regarding further reform of universal service support mechanisms in order to support broadband deployment and services in high-cost areas of the country. In these comments, CenturyLink emphasizes the following points: (1) the Commission should take further steps to ensure that the presence of unsubsidized competitors in high cost areas is not overstated so as to ineffectively limit CAF support to fewer areas than is warranted; (2) the Commission should eliminate federal ETC obligations everywhere it eliminates a carrier's high-cost support; (3) the Commission should not require CAF recipients to provide IP-to-IP interconnection as a condition of CAF support; (4) the Commission should not mandate an irrevocable standby letter of credit for publicly-traded ILECs that file financial reports with the Securities and Exchange Commission and (5) the Commission could consider using census tracts as the minimum bidding unit for the CAF Phase II competitive bidding process in price cap areas.

II. THE COMMISSION SHOULD TAKE CARE NOT TO OVERSTATE THE PRESENCE OF UNSUBSIDIZED COMPETITION SO AS TO DIRECT CAF SUPPORT TO FEWER AREAS THAN IS WARRANTED.

The Commission should not adopt WISPA's proposal to expand the scope of areas that are "served" for purposes of distributing CAF support in price cap areas. The Commission has defined "unsubsidized competitor" as "a facilities-based provider of residential fixed voice and broadband service that does not receive high-cost support."[2] Further, the Commission has determined that any area "served by an unsubsidized competitor that meets our initial performance requirements" will be excluded from CAF Phase II support, and has delegated to the Wireline Competition Bureau the "task of implementing the specific requirements of this

[2] *USF/ICC Transformation Order*, Appendix A, Final Rules § 54.5.

rule."[3] In its comments, WISPA advocates that the Commission change "unsubsidized competitor" to "unsubsidized competition" such that areas excluded from CAF Phase II eligibility would include any area that has an unsubsidized terrestrial fixed broadband provider and an unsubsidized terrestrial fixed voice provider, but does not have an unsubsidized provider that provides both services.[4] WISPA advocates that without this change "the Commission would understate the presence of unsubsidized competition in local areas and thus direct CAF funding to more areas than are warranted."[5]

CenturyLink disagrees. The Commission has made a valid policy decision that an unsubsidized competitor that eliminates an area from eligibility for CAF Phase II support must provide both fixed voice and fixed broadband service to the area. This is what the Commission requires for providers that would receive universal service support in the area in the absence of the unsubsidized competitor. In turn, it is reasonable for the Commission to expect the same minimum service offerings from the unsubsidized competitor that precludes any CAF Phase II support for the area. By implementing this approach, the Commission better insures that both subsidized and unsubsidized areas are effectively advancing toward the Commission's ultimate goal of universal availability of voice and broadband services throughout the country.

In fact, to further advance toward this goal, the Commission should also take care to ensure that for each area that is otherwise high-cost, but is excluded from CAF Phase II support due to the presence of an unsubsidized competitor, that the unsubsidized competitor fully serves or has the ability and a time-bound plan to fully serve the area with voice and broadband services

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[3] *USF/ICC Transformation Order* ¶ 170.

[4] Comments of Wireless Internet Service Providers Association, WC Docket Nos. 10-90, *et al.*, filed Jan. 18, 2012 at 17-18 (WISPA Comments).

[5] *Id.*

that are consistent with the Commission's fixed, terrestrial voice and broadband expectations. If the Commission does not take this step, pockets of the country will be left without the CAF support necessary for broadband and voice service, and the Commission will fail to achieve its goal of universal availability of these services.

III. WHERE THE COMMISSION ELIMINATES HIGH-COST SUPPORT THERE SHOULD BE A CORRESPONDING ELIMINATION OF FEDERAL SERVICE OBLIGATIONS.

CenturyLink continues to view that for the many reasons raised by it and others, ETC service obligations should be co-extensive with federal high-cost support (frozen high-cost support and CAF support) received.[6] In turn, where ETCs cease receiving high-cost support their ETC service obligations should also end. And, any ETC service obligations as a CAF recipient should only apply in those areas where the ETC is receiving CAF support.

Requiring carriers to provide voice services without CAF support in high-cost areas where the Commission is providing CAF support to another carrier is competitively unfair to both those carriers and the CAF recipient and, thus, violates the Commission's universal service competitive neutrality principle. The Commission cannot justifiably propagate a regulatory construct where one provider must provide service in an area without support but another provider is only required to provide service in the same area with support. Additionally, in areas where no competitor is receiving support, the Commission cannot perpetuate an unfunded service obligation on one carrier but not others serving the same area. The Commission cannot justify such a discriminatory construct, and must eliminate the ETC service obligations when high-cost support (frozen or CAF support) ends.

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[6] *See, e.g.*, Comments of AT&T, WC Docket Nos. 10-90, *et al.*, filed Jan. 18, 2012 at 5-6 (AT&T Comments); Comments of Verizon, WC Docket Nos. 10-90, *et al.*, filed Jan. 18, 2012 at 3-5; Comments of Frontier, WC Docket Nos. 10-90, *et al.*, filed Jan. 18, 2012 at 8-10; Comments of Windstream, WC Docket Nos. 10-90, *et al.*, filed Jan. 18, 2012 at 32, 34-35.

IV. THE COMMISSION SHOULD NOT REQUIRE CAF RECIPIENTS TO PROVIDE IP-TO-IP INTERCONNECTION AS A CONDITION OF CAF SUPPORT.

IP technology is still in its infancy in terms of product and technology maturity. At this point in the growth cycle, market needs and forces should drive IP interconnection, not regulatory obligations linked to the receipt of universal service funding. Therefore, CenturyLink disagrees with Cablevision and Charter's view that the Commission should require providers receiving CAF support to offer IP-to-IP interconnection as a condition of that support.

As CenturyLink stated in its opening comments, building a broadband network does not automatically create the ability for IP interconnection for voice. The cable companies themselves illustrate this point. Cable companies upgraded their networks for broadband several years before even offering voice services. In deciding to offer voice services, cable networks chose a technology that fits their network structure. Now these companies want the legacy voice provider in a market to devote limited capital budget dollars for changes to the legacy provider's network structure that only serve to lower the cable company's cost of competing with the legacy voice provider.

IP-to-IP interconnection is not a universal service issue, it is an industry issue caused by the technological evolution of networks; therefore, it should not be a requirement imposed on CAF recipients. Imposing IP-to-IP interconnection obligations on CAF recipients is an expensive, time consuming process that will divert capital and human resources away from the Commission's stated goal of broadband expansion.

As recognized by the Commission in the *FNPRM*, IP-to-IP interconnection presents complex issues of law, policy and technology.[7] Parties, including CenturyLink, likely will be

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[7] *See FNPRM* ¶¶ 1359-98.

addressing those issues in comments due to be filed next week.[8] Consistent with CenturyLink's view that the Commission should not regulate IP-to-IP interconnection which CenturyLink intends to detail in its comments next week, CenturyLink views that IP-to-IP interconnection should not be mandated for recipients of CAF support.

Fundamentally, this issue is about who should bear the costs of converting voice communications between the TDM and IP networks; the legacy voice providers whose success on voice universal service has allowed the Commission to expand the role of universal service to broadband, or the providers with IP networks wishing to interconnect with the existing TDM networks to lower the costs incurred by their IP networks. IP-to-IP interconnection is not a cost that should be borne by recipients of CAF support; especially given that deployment of all-IP networks is not being funded by that support. Such an obligation would be an unfunded mandate for ETCs with TDM networks in high-cost areas. And, it would only serve to increase the cost of deploying broadband in those areas and increase the risk that these ETCs will walk away from CAF support and from deploying broadband in high-cost areas because the support will not be sufficient to warrant further investment for both broadband and IP-to-IP interconnection in those areas.

Instead, parties should be allowed to negotiate in good faith to accomplish IP-to-IP interconnection. IP-to-IP interconnection arrangements should be permitted to develop and evolve as local networks in a given geographic area are upgraded to IP. Mandating IP-to-IP interconnection before that time would serve no useful purpose and would merely shift CLECs' network costs to their ILEC competitors. Until a terminating carrier converts its underlying local network to IP, an IP-to-TDM conversion will be necessary to terminate the call. There is no

[8] The filing deadline for initial comments on Sections XVII.L-R of the *FNPRM*, which includes Section P addressing "IP-to-IP Interconnection Issues" is next Friday, February 24, 2012.

benefit to requiring a CAF recipient to bear this cost. It will not hasten the migration to all IP networks, and if anything it will divert the private capital needed to deploy and upgrade broadband networks, further undermining the Commission efforts to make broadband service universally available.

V. THE COMMISSION SHOULD NOT MANDATE AN IRREVOCABLE STANDBY LETTER OF CREDIT FOR ALL ETCS.

As CenturyLink stated in its opening comments, the Commission should not require a letter of credit (LOC) from ETCs receiving CAF support that are publicly-traded ILECs and file financial reports with the Securities and Exchange Commission. Instead, if the FCC pursues a LOC requirement, it should be limited to those carriers who have a limited operating history and do not have a track record of compliance with ETC obligations.[9] Alternatively, the Commission could adopt an approach along the lines of what AT&T has suggested, namely allowing each CAF recipient the choice of either demonstrating that it meets certain bright line financial criteria or providing a letter of credit.[10]

Similarly, should the Commission decide to consider performance bonds, such bonds should only be allowed as an additional alternative for those carriers required to provide a LOC

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[9] Other commenters share this view. *See, e.g.*, Comments of Frontier, WC Docket Nos. 10-90, *et al.*, filed Jan. 18, 2012 at 10-12 (advocating that a LOC is not necessary for ILECs that have a long history of regulatory compliance); Comments of The Independent Telephone & Telecommunications Alliance, WC Docket Nos. 10-90, *et al.*, filed Jan. 18, 2012 at 10-14 (advocating that a LOC is too burdensome and broad a mechanism for meeting the Commission's accountability objectives).

[10] AT&T Comments at 30-31. CenturyLink thus disagrees with the Massachusetts Department of Telecommunications and Cable that all ETCs receiving high-cost, CAF and low-income USF support should be required to obtain an LOC. Comments of the Massachusetts Department of Telecommunications and Cable, WC Docket Nos. 10-90, *et al.*, filed Jan. 18, 2012 at 32. CenturyLink also disagrees with WISPA's view that a performance bond would be a preferable financial guarantee required of all ETCs. WISPA Comments at 15-17.

(specifically, those with a limited operating history and without a track record of regulatory compliance), or as an additional choice in the AT&T approach described above.

VI. THE COMMISSION COULD CONSIDER CENSUS TRACTS FOR MINIMUM BIDDING AREAS FOR THE CAF PHASE II COMPETITIVE BIDDING PROCESS IN PRICE CAP AREAS.

The CAF Phase II competitive-bidding process for price cap areas should be a competitively-neutral process that permits any provider that meets the pre-screening requirements to submit a bid. For each bid area, the auction should award a grant to a single winner that will support the costs of deploying and operating broadband infrastructure. The funding should be sufficient to provide broadband and voice service in the funded area for the required time period specified in the bid notice. The Commission should note that sustaining broadband and voice service in an area after the initial buildout has occurred will likely require ongoing support for expenses related to maintaining broadband service in rural high-cost markets.

CenturyLink continues to evaluate appropriate design details of the CAF Phase II bidding mechanism for price cap areas in order to elaborate on its opening comments regarding the design of this mechanism. As part of that on-going process CenturyLink would like to clarify one of its prior statements regarding the competitive bid process design. In its opening comments CenturyLink stated that "[i]ndividual census blocks or census tracts are too small to be practical as a bidding area." CenturyLink notes here that it revises that statement to be clear that while we continue to believe that individual census blocks are too small to be practical as a bidding area, a census tract may be appropriate as a minimum bidding area. The Commission should further consider whether a census tract -- as a pre-identified aggregation of census blocks

-- could be an effective minimum bidding unit for CAF Phase II competitive bidding purposes.[11] Any consideration of the appropriate minimum bidding area also requires consideration of the fact that existing service territories, especially those in more rural areas, may only cover a portion of a given census tract. Thus, a potential minimum bid area might be all of the census blocks within a provider's service territory in a census tract.

VII. CONCLUSION.

CenturyLink appreciates the Commission's consideration of its opening comments and these reply comments, and fully supports the Commission adopting the positions CenturyLink has advocated in this proceeding.

Respectfully submitted,

CENTURYLINK

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February 17, 2012

[11] And, in fact, this may complement the Commission's consideration of a census tract as the minimum bidding unit in the Mobility Fund auctions. *FNPRM* ¶ 1128.