

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 OF CENTURYLINK**

CenturyLink submits this reply in connection with the petitions for reconsideration and clarification of the Commission’s *USF/ICC Transformation Order*.<sup>1</sup> In its initial comments, CenturyLink expressed support for a number petitions for reconsideration that appropriately

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<sup>1</sup> See *Public Notice*, Petition for Reconsideration of Action in Rulemaking Proceeding, Report No. 2945, dated Jan. 12, 2012. 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*, (10<sup>th</sup> Cir. Nos. 11-9581, et al.).

sought to modify (or in some cases appropriately preserve) the approach taken by the Commission in the *USF/ICC Transformation Order*, and opposed certain petitions that, if granted, would hinder the Commission's stated objectives in the *USF/ICC Transformation Order*.<sup>2</sup> In these reply comments, CenturyLink further addresses two aspects of the US Telecom petition and one aspect of the General Communication, Inc. (GCI) petition and the oppositions to those petitions.

**I. THE COMMISSION SHOULD CLARIFY THAT THE RESIDENTIAL RATE CEILING CAN BE APPLIED ON A STUDY AREA BASIS OR, IN THE ALTERNATIVE, GRANT US TELECOM'S PETITION ON THAT SUBJECT**

In its Petition, US Telecom contends that the Commission, in the *USF/ICC Transformation Order*, "contemplates that the 'Residential Rate Ceiling' will be calculated by an incumbent LEC on a customer-by-customer basis."<sup>3</sup> US Telecom asks that the Commission reconsider this decision and allow a carrier to account for the average amount of fees varying within a study area -- citing the fact that this approach is consistent with the Commission's pricing rules, which generally recognize the practical necessity of implementing rules on a study area basis.<sup>4</sup> As CenturyLink detailed in its Opposition, the better overall reading of the rules themselves and the relevant sections of the *USF/ICC Transformation Order* is that the new rules already contemplate that the Residential Rate Ceiling can be applied on a study area basis -- *i.e.*, a carrier can apply the Residential Rate Ceiling by averaging the amount of a given fee within a study area when the fee varies within a study area.<sup>5</sup> But, if the Commission intended a different

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<sup>2</sup> Opposition of CenturyLink, WC Docket Nos. 10-90, *et al.*, filed Feb. 9, 2012 (CenturyLink Opposition).

<sup>3</sup> Petition for Reconsideration of the United States Telecom Association, WC Docket Nos. 10-90, *et al.*, filed Dec. 29, 2011 at 31 (US Telecom Petition).

<sup>4</sup> *Id.*

<sup>5</sup> CenturyLink Opposition at 23-25.

result, it should grant US Telecom's Petition on this issue and reconsider that decision. The only other mention of this issue in the oppositions is in the NASUCA Opposition, where NASUCA argues that the Commission should defer any ruling on this issue (and virtually every other issue raised in the numerous petitions for reconsideration) until the Tenth Circuit appeal proceeding is resolved.<sup>6</sup> However, NASUCA's only objection is a generalized objection to all the petitions based on NASUCA belief that they will be rendered moot by the ultimate result in the Tenth Circuit.<sup>7</sup> Neither NASUCA nor any other party presents any substantive showing as to why US Telecom's request should not be granted. As US Telecom demonstrates in its Petition, and CenturyLink further substantiated in its opposition, certain charges included as part of the Residential Rate Ceiling calculation tend to vary within an incumbent LEC's study area -- namely, localized EAS and 911 charges.<sup>8</sup> CenturyLink demonstrated that that occurs in numerous CenturyLink states and provided detailed supporting data for how it occurs in two of CenturyLink's states.<sup>9</sup> As CenturyLink also explained, implementation problems are also created by the inclusion of TRS charges in the definition because TRS charges can be adjusted during a given year.<sup>10</sup> To further demonstrate these problems, CenturyLink attaches hereto, as **Appendix A**, a graph showing the wide variability of the localized charges. With this record, there can be no doubt that accommodating these variations in applying the Residential Rate Ceiling would be an administrative nightmare leading to significant and unnecessary costs to

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<sup>6</sup> Comments on Request for Reconsiderations by the National Association of State Utility Consumer Advocates and the New Jersey Division of Rate Counsel, WC Docket Nos. 10-90, *et al.*, filed Feb. 9, 2012 at 1, 4, 6, 12, 13, 18 and 21.

<sup>7</sup> *Id.*

<sup>8</sup> US Telecom Petition at 31 and CenturyLink Opposition at 24-25.

<sup>9</sup> CenturyLink Opposition at Appendix A.

<sup>10</sup> CenturyLink Opposition at 24 n.65.

carriers in implementing -- as well as potential customer confusion and billing errors.

Accordingly, the Commission should clarify that, pursuant to the new rules, carriers may apply the Residential Rate Ceiling on a study area basis -- and should do so by grant of US Telecom's reconsideration request if necessary.<sup>11</sup>

## **II. THE COMMISSION SHOULD RECONSIDER ITS DECISION TO LIMIT THE CARRIER RECOVERY BASELINE TO COLLECTED VERSUS BILLED REVENUES**

In its Petition, US Telecom also asked that the Commission reconsider its decision to use "collected" revenues when calculating "Price Cap Baseline Revenues."<sup>12</sup> As US Telecom ably demonstrates in its Petition, and as CenturyLink further substantiated in its filing, the proposed approach is both impossible for carriers to implement given systems limitations without incurring significant cost to modify current systems.<sup>13</sup> It also effectively deprives price cap carriers such as CenturyLink of a fair opportunity to recover lost ICC revenues in the manner intended because it: (1) locks in a permanent deduction to a carrier's access revenue baseline for the entire six-year ICC transition path simply because another carrier has failed to pay the carrier's access billing in FY 2011 -- something that CenturyLink and other carriers experience on a regular basis because of baseless disputes like the CenturyLink/Sprint dispute detailed in CenturyLink's Opposition; and (2) double counts the effect of uncollectable revenue.<sup>14</sup> The only

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<sup>11</sup> As CenturyLink noted in its Opposition, another solution would be to simply remove the relevant rate components from the list of Rate Ceiling Component charges, given that they are not costs of local service strictly speaking. CenturyLink Opposition at 23-25. Indeed, in addition to EAS and 911, the Commission should also consider excluding TRS charges from the Rate Ceiling Component charges definition. Implementation problems are also created by the inclusion of TRS charges in the definition because TRS charges can be adjusted during a given year.

<sup>12</sup> US Telecom Petition at 30-31.

<sup>13</sup> *Id.* and CenturyLink Opposition at 25-28.

<sup>14</sup> US Telecom Petition at 30-31 and CenturyLink Opposition at 26-28.

party to oppose US Telecom's Petition on this issue is National Cable and Telecommunications Association (NCTA). NCTA asserts that US Telecom's Petition should be denied because of generalized assertions that, without it, revenue that may have been erroneously or wrongfully billed by the price cap incumbent LEC could be included in the recovery mechanism baseline and NCTA claims that US Telecom's contentions regarding systems cost amount to mere "inconvenience."<sup>15</sup> NCTA is wrong. The rule does not reward carriers for erroneously/wrongfully billed charges because any legitimate uncollectability factor is already addressed by the fact that ARC charges are also subject to an "uncollectability" factor.<sup>16</sup> And, as CenturyLink demonstrates, many disputes of carrier access charges are wholly unsubstantiated.<sup>17</sup> Also, the Commission should recognize that, by adopting an initial 10% reduction of carrier revenues for purposes of the eligible recovery baseline to account for productivity gains and then adopting an additional 10% reduction to account for anticipated reductions in minutes of use, it has surely already adequately accounted for other factors such as uncollectability on billed access revenues.<sup>18</sup> Finally, CenturyLink confirms US Telecom's contentions regarding systems costs to implement in the event the Commission does not grant US Telecom's Petition -- *i.e.*, that they are substantial.<sup>19</sup> The Commission should grant this aspect of US Telecom's Petition as well.

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<sup>15</sup> Comments of the National Cable & Telecommunications Association, WC Docket Nos. 10-90, *et al.*, filed Feb. 9, 2012 at 16.

<sup>16</sup> US Telecom Petition at 30 n.49 and CenturyLink Opposition at 27-28.

<sup>17</sup> CenturyLink Opposition at 25.

<sup>18</sup> *USF/ICC Transformation Order* ¶¶ 881 to 887.

<sup>19</sup> CenturyLink Opposition at 25-26.

### III. THE COMMISSION SHOULD NOT REQUIRE CARRIERS TO REDUCE RATES TO THE LOWER OF INTERSTATE OR INTRASTATE ACCESS RATES DURING THE FIRST TWO YEARS

In its Petition, GCI requests that the Commission undertake a significant modification to the reform plan adopted in the *USF/ICC Transformation Order*.<sup>20</sup> CBeyond, *et al.*, in their Opposition, oppose this request.<sup>21</sup> CenturyLink echoes CBeyond, *et al.*'s, Opposition on this point. The *USF/ICC Transformation Order* provides that, to the extent intrastate access rates or reciprocal compensation for relevant elements are higher than interstate rates for equivalent functionality, those higher intrastate access rates and reciprocal compensation rates will be reduced to interstate access levels in two steps in years 1 and 2. GCI requests that the Commission change this and require that a carrier's access rates and reciprocal compensation rates be reduced to the lower of interstate or intrastate access rates in years 1 and 2.<sup>22</sup> The reform accomplished in the *USF/ICC Transformation Order* already dramatically reduces ICC rates for carriers and arguably already goes too far when considering the potential impacts on carriers and end users and universal service mechanisms. CenturyLink shares CBeyond, *et al.*'s, concern that "...adopting rules requiring reductions in some interstate access rates only a few months before those reductions would take effect (i.e., on July 1, 2012) would conflict with the Commission's goal of 'minimiz[ing] market disruption' and 'moderat[ing] potential adverse effects on consumers and carriers of moving too quickly from the existing intercarrier compensation regimes.'"<sup>23</sup> For all these reasons, the Commission should deny GCI's request and should not

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<sup>20</sup> General Communication, Inc. Petition for Reconsideration, WC Docket Nos. 10-90, *et al.*, filed Dec. 23, 2011 (GCI Petition).

<sup>21</sup> Comments of Cbeyond, EarthLink, Integra Telecom, and TW Telecom, WC Docket Nos. 10-90, *et al.*, filed Feb. 9, 2012 (Cbeyond Opposition).

<sup>22</sup> GCI Petition at 19-20.

<sup>23</sup> Cbeyond Opposition at 10 (footnotes omitted).

require carriers to reduce rates to the lower of interstate or intrastate access rates during the first two years of reform.

Respectfully submitted,

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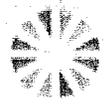
Its Attorney

February 21, 2012

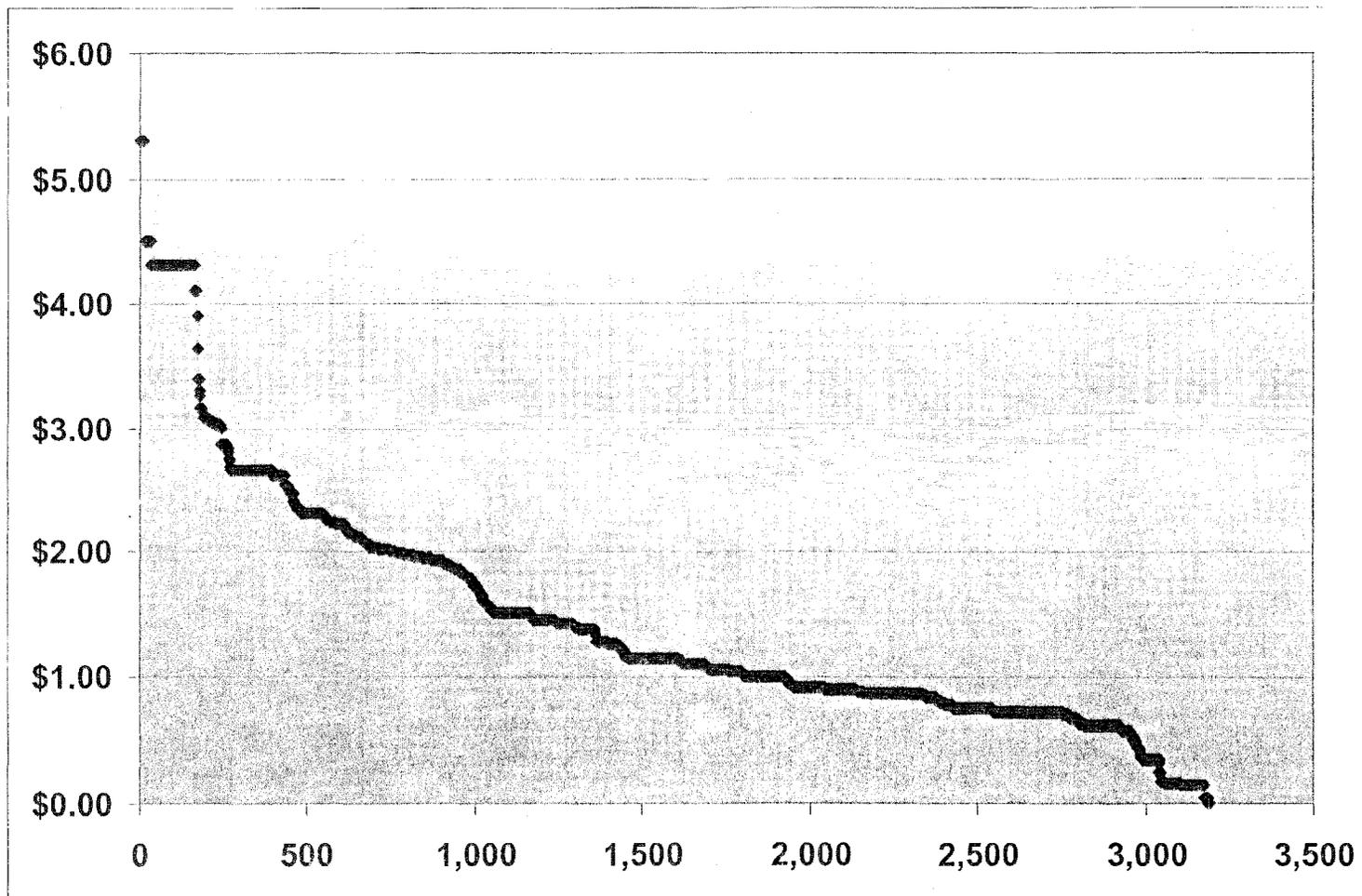
# CenturyLink

Appendix A

The sum of State SLC, 911, TRS and State USF  
For 3192 CenturyLink exchanges in descending order.  
The median rate is \$1.14 and the average rate is \$1.46  
with a range of \$0.00 to \$5.30.



CenturyLink



CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **REPLY OF CENTURYLINK** to be filed via ECFS with the Office of the Secretary of the FCC in WC Docket Nos. 10-90, *et al.*; and served via First Class United States Mail, postage prepaid, on the parties listed on the attached service list.

/s/ Richard Grozier

February 21, 2012

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