Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
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Petition of US Telecom for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain Legacy Telecommunications Regulations	))))	WC Docket No. 12-61

COMMENTS OF CENTURYLINK

CenturyLink respectfully files these comments in support of US Telecom's Petition seeking forbearance from various unnecessary, duplicative and burdensome regulatory requirements.[1]

I. INTRODUCTION AND SUMMARY

US Telecom's Petition demonstrates in great detail the futility of the regulatory provisions in question, due to fundamental changes in technology, the onset of fierce competition in the telecommunications industry and, in some cases, the mere passage of time. While eliminating these requirements generally is long overdue, the Commission's recent dramatic reforms of intercarrier compensation and universal service have eliminated any potential lingering utility of these requirements. Many of the rules covered by the Petition duplicate, overlap or conflict with requirements imposed by other government agencies (such as the Securities and Exchange Commission or the Internal Revenue Service), federal and state privacy laws, and even campaign finance rules and international treaties. None of these requirements is

[1] Petition of US Telecom for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain Legacy Telecommunications Regulations (filed Feb. 16, 2012) (Petition). *See* Public Notice, WC Docket No. 12-61, DA 12-352 (rel. Mar. 8, 2012).

necessary to ensure that carriers' rates, terms and conditions are just, reasonable and nondiscriminatory.

CenturyLink is well aware of the burdens imposed by these requirements. With Bell Operating Company (BOC) and non-BOC incumbent local exchange carrier (ILEC) affiliates, CenturyLink must comply with a broad array of inconsistent and illogical regulatory requirements. For the most part, these arise from plainly outdated regulatory classifications, although they also reflect the piecemeal regulatory reform that has occurred over the past decade. The current disparities in regulation among competing service providers generally bear no relationship to the services that these carriers provide or to the robust competition they face today.

US Telecom's Petition presents a ripe opportunity for concrete steps in the Commission's ongoing initiative to eliminate unnecessary and outdated regulations. All of the regulations covered by the Petition impose real and wholly unnecessary burdens, which ultimately increase costs and burdens on consumers, distort competition, and consume resources that could be better used for broadband investment. In today's marketplace, they no longer serve any meaningful regulatory purpose. Many of them are rooted in rate-of-return regulation, as well, and therefore make no sense when applied to price cap carriers.

Much of the requested relief also would require a mere extension of forbearance or waivers that the Commission has previously granted for certain categories of carriers or services, or acceptance of past staff recommendations to eliminate regulations that have outlived their utility and become harmful to the public interest.

The Commission should expeditiously grant this long overdue regulatory reform.

II. THE SUBJECT REGULATIONS IMPOSE SIGNIFICANT COSTS, WHILE SERVING NO USEFUL REGULATORY PURPOSE.

Each of the regulatory requirements addressed by the Petition imposes genuine, often significant burdens on the carriers covered by them, while contributing effectively nothing to the public interest. It is difficult to estimate precisely how great a total burden these outdated regulatory rules impose on carriers individually or on the industry as a whole. Certainly, however, the cumulative impact of these costs is very substantial. To take just one example, the Commission has estimated that industry spends nearly 4,000 hours to complete the annual ARMIS 43-01 report.[2]

These requirements generally arose in an era very different from today: when ILECs had a virtual monopoly on telecommunications services; when ILECs provided the only "pipe" into the home; when nearly all telecommunications were provided over the wireline PSTN; when rate of return was the usual form of telecom regulation; when the Internet was at best in its infancy or was at most a secondary source of information. As a result, many of these regulations are truly detached from reality, mandating reports and records that are rarely read,[3] that are often outdated

[2] *Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority*, Notice, 77 Fed. Reg. 5800 (Feb. 6, 2012). ARMIS 43-01 requires a comprehensive view of carriers' financial and cost allocation processes, including revenue, expense, reserve, and investment data, as well as interstate access demand data, prepared by study area basis. A larger carrier like CenturyLink must prepare dozens of these reports annually, for no purpose.

[3] *See, e.g.*, 47 C.F.R. §§ 32.1-32.9000 (Part 32 Uniform System of Accounts); ARMIS Report 43-01; 47 C.F.R. § 43.21(c) (annual revenue and total telecommunications plant report); 47 C.F.R. § 64.5001 (prepaid calling card report).

in format and content,[4] and that impose other regulatory obligations that no longer make any sense, given changes in technology, robust competition and alternative sources of data.[5]

Ultimately the burden of complying with these requirements is borne by consumers in the form of higher prices and delays. Unnecessary reporting and recordkeeping requirements add to the expense of providing telecommunications services, while duplicative network disclosure requirements and approval requirements delay network upgrades and the introduction of new services. Pointless regulatory costs needlessly consume resources that could otherwise be invested in the network or could improve the health of carriers operating in today's difficult economy.

III. MANY OF THESE REQUIREMENTS ARE VESTIGES OF RATE-OF-RETURN REGULATION AND MAKE NO SENSE WHEN APPLIED TO PRICE CAP CARRIERS.

For most of the twentieth century, telecommunications markets were treated as a natural monopoly, whereby regulators relied on rate regulation "to protect consumers from monopoly pricing."[6] Under rate-of-return regulation, carriers calculated their rates based on their historical costs -- the costs they actually incurred and listed on their books. Carriers were required to track, categorize and report in dizzying detail the expenses they incurred and the transactions they

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[4] *See, e.g.*, 47 C.F.R. §§ 32.2000(e), (f) (property record rules); 47 C.F.R. §§ 42.4, 42.5, 42.7, 42.10(a) (Part 42 recordkeeping requirements).

[5] *See, e.g.*, 47 C.F.R. § 64.702 (ONA and CEI requirements and structural separation requirements); 47 C.F.R. §§ 32.27, 43.21, 64.902-64.904 (cost assignment); 47 C.F.R. § 51.329(a)(2), 51.333(a), 51.333(b) (notice of network change); 47 C.F.R. § 63.60-63.63, 63.71(a)(5), 63.71(c), 63.90(a)(8) (service discontinuance approval); 47 C.F.R. § 64.1 (traffic damage claims); 47 C.F.R. § 64.1903 (structural separation for independent LECs); 47 C.F.R. §§ 64.801, 64.804 (extension of unsecured credit for communications services to candidates for federal office); 47 C.F.R. § 65.820(d) (cash working allowance); 47 C.F.R. § 64.301 (furnishing of facilities to foreign governments for international communications); 47 C.F.R. § 64.501 (recording of telephone conversations with telephone companies).

[6] Jonathan E. Nuechterlein & Philip J. Weiser, *Digital Crossroads: American Telecommunications Policy in the Internet Age* 46 (2005) (*Digital Crossroads*).

conducted with affiliates, so that regulators could ensure that these costs were "prudentially incurred," and that carriers were not cross-subsidizing their operations in more competitive markets.[7] Many of the rules covered by the Petition are holdovers from the long-past days when rate-of-return regulation was the norm in the telecommunications industry, including Part 32 Uniform Systems of Accounts, cost assignment, property record, ARMIS Report 43-01 and "cash working capital allowance" requirements.

Two decades later, these requirements illogically still apply to some, and, in some cases, all, price cap carriers. As the Commission explained in forbearing from application of the cost assignment rules to AT&T, these rules are "unnecessary" in determining whether a price cap carrier's rates are just, reasonable, and not unjustly or unreasonably discriminatory.[8] Further, by "sever[ing] the direct link between regulated costs and prices," the evolution to price cap regulation has reduced the incentive to shift nonregulated costs to regulated services.[9] In such circumstances, these regulations "impose costs that outweigh their benefits," and ultimately divert "resources that would otherwise be directed to positive activities that generate consumer benefit."[10] The Commission should follow its own deregulatory lead and eliminate these and other "outmoded" and "counterproductive" rules.[11]

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[7] *Digital Crossroads* at 47, 51.

[8] *AT&T Cost Assignment Forbearance Order*, 23 FCC Rcd 7302, 7311 ¶ 16 (2008).

[9] *Id.*, 23 FCC Rcd at 7311 ¶ 17 (quotation omitted).

[10] *See id.*, 23 FCC Rcd at 7322 ¶ 36 (quotation and footnotes omitted).

[11] *See* Preliminary Plan for Retrospective Analysis of Existing Rules, Federal Communications Commission, at 2 (rel. Nov. 7, 2011).

IV. MUCH OF THE REQUESTED RELIEF HAS PREVIOUSLY BEEN APPLIED TO SOME, BUT NOT ALL, CARRIERS AND SERVICES.

In addition to being clearly outdated, many of the regulations covered by the Petition currently apply on a haphazard and inconsistent basis. Some requirements apply only to independent ILECs and not to BOCs, while others apply to BOCs but not independent ILECs. For example, the Commission has granted forbearance to the BOCs with respect to equal access scripting, cost assignment, ARMIS 43-01 and structural separation requirements, finding the rules obsolete and unnecessary,[12] but independent ILECs generally must still comply with these same, or similar, pointless requirements. Likewise, the BOCs, but not independent ILECs, are still subject to ONA, CEI and certain separate affiliate *Computer Inquiry* requirements for some, but not all, of the information services they provide.[13] For a carrier like CenturyLink, which includes BOC and independent ILEC operations, this conflicting mix of regulatory obligations greatly complicates the task of complying with applicable law in a sensible and cost efficient manner.

These inconsistent regulations also illustrate the lack of any principled justification for continuing to apply these regulations in any regard. For example:

- The Commission has already concluded that "the stand-alone long distance competition that the [Equal Access] Scripting Requirement was designed to protect has largely given way to competition between service bundles" and the scripting requirement "may, in fact, confuse or mislead consumers and cause them not to investigate alternative means of making long distance calls."[14] This same rationale

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[12] *See Section 272 Sunset and Equal Access Scripting Forbearance Order*, 22 FCC Rcd 16440, 16499-500 ¶¶ 120-21 (2007) (equal access scripting and structural separation requirements); *AT&T Cost Assignment Forbearance Order*, 23 FCC Rcd 7302 (cost assignment rules); *Qwest ARMIS Forbearance Order*, 23 FCC Rcd 18483 (2008) (ARMIS Form 43-01).

[13] *See* Petition at 25-28.

[14] *Section 272 Sunset and Equal Access Scripting Forbearance Order*, 22 FCC Rcd at 16499-500 ¶¶ 121, 122.

applies to independent ILECs that are still subject to the equal access scripting requirement.

- The Commission has already determined that application of its cost assignment rules is unnecessary to assure that a price cap carrier's rates are just, reasonable, and not unjustly or unreasonably discriminatory, and that these rules pose "significant adverse consequences – in terms of competition and financial costs – that outweigh any potential benefits" of enforcing them.[15] This same reasoning applies to non-BOC price cap carriers.

- The Commission has already found that the BOCs' ARMIS Report 43-01 (along with Reports 43-02 and 43-03) are not necessary to determine whether a price cap carrier's rates are just, reasonable, and not unjustly or unreasonably discriminatory, and "reflect only aggregated or otherwise redundant or piecemeal collections of data that, by themselves, are no longer necessary" under section 10.[16] This same logic applies to those mid-size ILECs that today are still required to file ARMIS Report 43-01.

- The Commission has already classified BOCs and their independent ILEC affiliates as nondominant in the provision of in-region, interstate and international, long distance services, whether they provide these services directly or through affiliates that are neither section 272 nor rule 64.1903 separate affiliates.[17] The same classification should apply to independent ILECs that are still subject to rule 64.1903.

The Commission should not delay in rectifying the current inconsistent application of these outdated and administratively burdensome regulatory requirements.

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[15] *AT&T Cost Assignment Forbearance Order*, 23 FCC Rcd at 7311, 7326 ¶¶ 16, 44.

[16] *Qwest ARMIS Forbearance Order*, 23 FCC Rcd at 18487-89 ¶¶ 10, 11.

[17] *Section 272 Sunset and Equal Access Scripting Forbearance Order*, 22 FCC Rcd at 16477 ¶ 75.

V. CONCLUSION

For all the reasons outlined in the Petition and those set forth above, the Commission should take this overdue opportunity to remove these many outdated and unnecessary regulations. It should grant US Telecom's Petition.

Respectfully submitted,

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April 9, 2012

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **COMMENTS OF CENTURYLINK** to be: 1) filed via ECFS with the Office of the Secretary of the FCC in WC Docket No. 12-61; 2) served via e-mail on the Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission at CPDcopies@fcc.gov; and 3) served via e-mail on the FCC's duplicating contractor, Best Copy & Printing, Inc. at fcc@bcpiweb.com.

/s/ Richard Grozier

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