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

CENTURYLINK, INC.
SUPPLEMENTAL PETITION FOR LIMITED WAIVER

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INTRODUCTION AND SUMMARY

On January 23, 2012, CenturyLink, Inc. (CenturyLink), on behalf of its affiliates, filed a limited waiver request (Initial Waiver Request)[1] in connection with the new call signaling rules

[1] *See* CenturyLink, Inc. Petition for Limited Waiver, filed Jan. 23, 2012. Public Notice, 27 FCC Rcd 466 (2012).

adopted by the Commission in the above-captioned proceeding.[2] In its Initial Waiver Request, CenturyLink identified a number of contexts where it is unable to comply with the new rules and demonstrated that good cause exists for a grant of a waiver for each context. Since that time, CenturyLink has identified several additional scenarios where a waiver is appropriate.[3] As described in greater detail below, most of these situations involve the same general scenarios that were identified in CenturyLink's Initial Waiver Request. However, CenturyLink files this Supplemental Waiver Request in order to make it unambiguously clear that these additional contexts fall within the scope of its request for relief. Additionally, CenturyLink has determined

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[2] *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, 26 FCC Rcd 17663 (rel. Nov. 18, 2011) (*USF/ICC Transformation Order*), *Order Clarifying Rules*, 27 FCC Rcd 605 (rel. Feb. 3, 2012) (*Clarification Order*), Erratum to *USF/ICC Transformation Order* (rel. Feb. 6, 2012), Application for Review pending, USCC, *et al.,* filed Mar. 5, 2012, *Further Clarification Order,* DA 12-298, 27 FCC Rcd 2142 (2012), Erratum to *Clarification Order* (rel. Mar. 30, 2012), Second Erratum to *USF/ICC Transformation Order*, DA 12-594 (rel. Apr. 16, 2012), *pets. for recon. granted in part and denied in part,* Second Order on Recon., FCC 12-47, 27 FCC Rcd 4648 (2012), *pet. for rev.*, *Windstream v. FCC* (10th Cir. No. 12-9575); Third Order on Recon., FCC 12-52, 27 FCC Rcd 5622 (2012), Erratum to *Second Order on Recon.* (rel. June 1, 2012), *Order Clarifying Rules*, DA 12-870, 27 FCC Rcd 5986 (2012), Erratum to *Order Clarifying Rules* (rel. June 12, 2012), Second Report and Order, FCC 12-70, 27 FCC Rcd 7856 (rel. June 27, 2012), Fourth Order on Recon., FCC 12-82, 27 FCC Rcd 8814 (2012), *Order Clarifying Rules*, DA 12-1155, 27 FCC Rcd 8141 (2012), *pets. for rev. of USF/ICC Transformation Order pending, sub nom. In re: FCC 11-161* (10th Cir. No. 11-9900, Dec. 16, 2011).

[3] CenturyLink shares Verizon's concern, reflected in its Petition for Reconsideration, that the *USF/ICC Transformation Order* did not allow adequate time to identify all potential instances where compliance with the new rules may not be possible due to the Commission's unexpected omission of an exception for technical infeasibility. *See* Petition for Clarification or, in the Alternative for Reconsideration of Verizon, filed in the instant proceedings on Dec. 29, 2011 at 8-12. Because of this, CenturyLink noted in its Initial Waiver Request that a supplement may be needed. Initial Waiver Request at n. 2.

that an additional context not covered in its Initial Waiver Request, but identified by other carriers in their waiver requests, is applicable to CenturyLink.

As with the scenarios addressed in CenturyLink's Initial Waiver Request, each of the contexts addressed by this Supplemental Waiver Request involves limited circumstances where compliance with the new rules is technically infeasible. When it adopted the *USF/ICC Transformation Order*, the Commission declined to adopt a technical feasibility exception to the call signaling rules and, instead, encouraged carriers to seek waivers of the rules where necessary. CenturyLink, therefore, seeks such a waiver for these additional circumstances. Good cause exists for a grant of the requested waiver and doing so would be in the public interest. Accordingly, this waiver request satisfies Commission Rule 1.3.[4]

BACKGROUND

On November 18, 2011, the Commission released the *USF/ICC Transformation Order*, which, among other things, amended its call signaling rules to address "phantom traffic." In this context, phantom traffic is defined as traffic that terminating networks receive lacking adequate identifying information.[5] CenturyLink has long been a proponent of rules addressing phantom traffic. In 2005, CenturyTel filed a request for Commission action,[6] and that filing precipitated substantial advocacy that led to a proposal by the United States Telecom Association in the

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[4] 47 C.F.R. § 1.3.

[5] *USF/ICC Transformation Order*, 26 FCC Rcd at 17890-91 ¶ 703.

[6] *See* Letter to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, from Ms. Karen Brinkmann, Latham and Watkins LLP, on behalf of the midsized carriers (of which CenturyTel is a party to), CC Docket No. 01-92, dated Dec. 5, 2005 (the midsized carriers updated their proposal on Mar. 31, 2006).

spring of 2006.[7] Phantom traffic has resulted in significant regulatory arbitrage and undermined the intercarrier compensation and universal service policies that are embodied in our access charge mechanisms. CenturyLink strongly supports the Commission's action and is working assiduously both to take advantage of the benefits of the rules as a terminating local exchange carrier and to comply with the rules as an originating carrier and interexchange carrier (IXC).

Among other things, these new rules require that originating providers "us[ing] Signaling System 7 (SS7) … transmit the calling party number (CPN) … in the … CPN field to interconnecting providers, and … transmit the calling party's charge number (CN) in the … CN field to interconnecting providers for any PSTN Traffic where CN differs from CPN."[8] The Commission also amended its rules to require originating service providers using Multi-Frequency (MF) signaling to pass the number of the calling party (or CN, if different) in the MF Automatic Number Identification (ANI) field.[9] The Commission allowed carriers flexibility to devise their own means to pass this information in their MF signaling.[10] And, the Commission noted that, to the extent that a party is unable to comply with the rule as a result of technical limitations related to MF signaling in its network, it may seek a waiver.[11] The new rules also require that "[i]ntermediate providers within an interstate or intrastate call path that originates and/or terminates on the PSTN … pass unaltered to subsequent providers in the call path

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[7] *See* Letter to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, from Jeffrey S. Lanning, United States Telecom Association, CC Docket No. 01-92, dated Mar. 30, 2006.

[8] *USF/ICC Transformation Order*, Final Rule 64.1601(a)(1) (Appendix A), 26 FCC Rcd at 18227.

[9] *Id.*, 26 FCC Rcd at 17895-96 ¶ 716.

[10] *Id.*

[11] *Id.*

signaling information identifying the telephone number, or billing number, if different, of the calling party that is received with a call."[12]

The Commission declined to adopt exceptions to the new call signaling rules for circumstances in which it would not be technically feasible to comply given the network technology deployed or where industry standards would permit deviation from the duty to pass signaling information unaltered.[13] Instead, the Commission noted that parties seeking limited exceptions or relief in connection with the call signaling rules may avail themselves of the Commission's established waiver procedures.[14]

APPLICABLE STANDARD

The Commission may waive its rules for good cause[15] and where strict application of the rule would be contrary to the public interest.[16] In determining whether to grant a waiver, the Commission may consider hardship, equity, or the fact that a more effective implementation of public policy will attend the granting of the waiver.[17]

DISCUSSION

Good cause exists for the Commission to grant CenturyLink a waiver from the Commission's new signaling rules in the following circumstances and the public interest would be served by such a waiver:

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[12] *Id.*, Final Rule 64.1601 (a)(2) (Appendix A), 26 FCC Rcd at 18227.

[13] *Id.* at 17895-96 ¶ 716.

[14] *Id.*

[15] 47 C.F.R. § 1.3.

[16] *See Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

[17] *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

Clarification To A Scenario Identified in CenturyLink's Initial Waiver Request: "SS7 Charge Number Scenarios - Intermediate Carrier Obligation as an IXC" -- In its Initial Waiver Request, CenturyLink sought a limited waiver of the requirement to pass the CN unaltered where it is different than the CPN in certain limited circumstances involving SS7 signaling where CenturyLink acts as an IXC.[18] As CenturyLink noted then, for certain calls made to CenturyLink enhanced services platforms when an end user calls to the platform and the call goes back out to the PSTN, CenturyLink passes the CPN but does not pass the CN if it is different from the CPN.[19] This is because CenturyLink's enhanced services platforms cannot support the passage of both the customer CPN and CN. In its Initial Waiver Request, CenturyLink erroneously identified this as only an intermediate carrier situation.[20] CenturyLink addresses this issue in this Supplemental Waiver Request to clarify that this problem occurs when CenturyLink operates as an originating carrier as well. All the bases previously given for a grant of a waiver where CenturyLink acts as an intermediate carrier apply equally where CenturyLink acts as an originating carrier.[21] In order to eliminate this limitation, CenturyLink would have to incur significant costs. Indeed, it would effectively have to replace the legacy platform equipment at issue. CenturyLink estimates that the cost of such a fix would easily be in the millions of dollars, assuming it were possible to fix the problem. But, it is by no means clear that it would be technically feasible to fix this limitation since the services at issue are provided over platforms for which development support is no longer available. Requiring CenturyLink to incur these significant costs would also divert scarce capital and resources that could be used to

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[18] Initial Waiver Request at 5-6.

[19] *Id.* at 5.

[20] *Id.*

[21] *See id.* at 5-6; *see also See* Reply Comments of CenturyLink, Inc., filed Mar. 15, 2012, *generally* (CenturyLink Reply Comments).

build-out next-generation broadband networks. At the same time, granting this narrow waiver to CenturyLink will not undermine the policy goals of the *USF/ICC Transformation Order* -- eliminating phantom traffic. CenturyLink already uses long-established and well-accepted industry practices (*e.g.*, auditable percent interstate use and other factors) to ensure proper settlements of intercarrier compensation with terminating carriers. Therefore, grant of this narrow waiver to CenturyLink is warranted for good cause and would serve the public interest.

Clarifications To Scenarios Identified in CenturyLink's Initial Waiver Request: "MF Signaling Automatic Number Identification – Originating Carrier Obligation as a LEC" – CenturyLink's Initial Waiver Request and subsequent comments addressed multiple issues dealing with "MF Signaling Automatic Number Identification" where CenturyLink operates as an originating LEC.[22] One of these scenarios addresses limitations on CenturyLink's ability to pass required call information when CenturyLink uses MF signaling to pass traffic as an originating carrier.[23] The remainder of scenarios in that section of CenturyLink's Initial Waiver Request address situations where CenturyLink uses SS7 signaling to pass the traffic to the next carrier, but is limited in what it can pass because of the limitations of the MF functionality being used by its originating customer.[24] Several clarifications are also required with aspects of this section of CenturyLink's Initial Waiver Request:

First, in its Initial Waiver Request, CenturyLink sought a limited waiver for the situation where CenturyLink uses MF signaling as a LEC when exchanging local EAS traffic with rural LECs and CLECs.[25] But, CenturyLink erroneously identified this as only an issue when

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[22] Initial Waiver Request at 6-8.

[23] *Id.* at 6.

[24] *Id.* at 6-7.

[25] *Id.* at 6.

exchanging local traffic as an originating carrier.[26] CenturyLink addresses this issue in this Supplemental Waiver Request to clarify that this problem also occurs when CenturyLink exchanges intraLATA toll as an originating carrier. All the same reasons exist for a waiver for this requested relief.[27] For calls in this context, as with the local EAS scenario addressed in CenturyLink's Initial Waiver Request, it will be technically infeasible to transmit the required signaling information -- either CPN or CN if different from CPN. As with that scenario, these circumstances, by definition, impact a small amount of traffic because there are limited areas where CenturyLink uses such MF signaling facilities. There is also no concern from the perspective of the underlying policy concerns here. By definition, the appropriate subscriber information is used and accounting applied to these situations as a result of existing industry practices which, collectively, enable accurate jurisdictionalization and compensation. This is also another situation where very high costs would be entailed in acquiring the ability to comply with the rules. Finally, it is noteworthy that this is a problem that only exists (both in the local EAS and the intraLATA toll scenarios) because the terminating carrier (CenturyLink's downstream carrier) has the requirement for MF facilities. For all these reasons, CenturyLink should be granted a waiver for this scenario.

Second, CenturyLink also sought a limited waiver in its Initial Waiver Request for the situation where CenturyLink as an originating carrier received traffic from its customer over DTMF (Dual Tone Multifrequency) signaling trunk group trunks and, as a result, was unable to comply with its originating carrier obligations to send CPN or CN if different from CPN.[28] Here, CenturyLink specified that technical limitations impacted CenturyLink's ability to comply with

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[26] *Id.*

[27] *See id.* at 6-8; *see also* CenturyLink Reply Comments, *generally*.

[28] Initial Waiver Request at 6-7.

the new rules -- specifically, the fact that CenturyLink does not receive the CPN from the originating customer.[29] But, in its Initial Waiver Request, CenturyLink erroneously indicated that CenturyLink can send CN in all toll call flows involving this problem.[30] CenturyLink has since learned that, while this is true for interLATA toll call flows, it is not the case for LEC-carried intraLATA toll call flows. For intraLATA toll call flows, CenturyLink can send neither CPN nor the CN. All the same bases as were previously stated for CenturyLink's Initial Waiver Request continue to hold true for this situation.[31] This is yet another scenario where, by definition, a small amount of traffic is at issue. Also, carriers have developed a methodology for addressing this limitation and for ensuring accurate jurisdictionalization and billing. For all these reasons, CenturyLink should be granted a waiver for such scenarios.

Third, in its Initial Waiver Request, CenturyLink also sought a limited waiver addressing the situation where CenturyLink originates calls through operator services/directory assistance (OS/DA) switches using SS7 facilities to deliver traffic to the upstream carrier.[32] In this context, CenturyLink is unable to satisfy its obligation as an originating carrier to pass CPN or CN if different from CPN. In its Initial Waiver Request, CenturyLink explained that, as with AT&T's comparable services, depending on the configuration of incoming and outgoing trunks to the OS/DA switches, CenturyLink will be partially compliant with the new call signaling rule under certain conditions.[33] But, in its Initial Waiver Request, CenturyLink erroneously identified this

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[29] *Id.* at 6.

[30] *See id.* at 7 (also explaining that, if this call is passed to another provider for an EAS/local call, CenturyLink can send only CN or can send neither CPN nor the CN).

[31] *See id.* at 6-8; *see also* CenturyLink Reply Comments, *generally*.

[32] Initial Waiver Request at 7.

[33] *Id.*

as only an issue when exchanging traffic as an originating carrier.[34] CenturyLink addresses this issue in this Supplemental Waiver Request to clarify that this problem also occurs when CenturyLink operates as an intermediate carrier for calls originated by other carriers through CenturyLink's OS/DA switches. Once again, all the same reasons exist for a waiver when CenturyLink serves as an intermediate carrier.[35] This is yet another scenario where, by definition, a small amount of traffic is at issue. Also, carriers have developed a methodology for addressing this limitation and for ensuring accurate jurisdictionalization and billing. For all these reasons, CenturyLink should be granted a waiver for such scenarios.

New Waiver Scenario: MF Signaling Automatic Number Identification -- Intermediate Carrier Obligation as a LEC" -- In this Supplemental Waiver Request, CenturyLink also seeks a limited waiver of the new rules for scenarios where CenturyLink acts as a local exchange carrier serving as an intermediate carrier in all call flow types (*i.e.*, local, intraLATA toll and interLATA toll) where CenturyLink receives the call over SS7 facilities, but uses MF signaling facilities on the terminating side. In these scenarios, CenturyLink is acting as either a provider of Jointly Provided Switched Access or as a transit provider. In these scenarios, CenturyLink is unable to satisfy its intermediate carrier obligation and pass on the CPN or CN (if different from CPN) that it may receive from the originating carrier. It is likely that many other carriers have this same limitation and, indeed, other carriers have already requested waivers for similar limitations.[36] Here again, it is noteworthy that this is a problem that only exists because the terminating carrier (CenturyLink's downstream carrier) has the requirement for MF facilities.

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[34] *Id.* at 6.

[35] *See id.* at 7-8; *see also* CenturyLink Reply Comments, *generally*.

[36] *See, e.g.,* AT&T Inc. Petition for Limited Waiver, filed in the instant proceedings on Dec. 29, 2011 at 6.

Additionally, this is yet another scenario that, by definition, impacts a small amount of traffic as there are limited areas where MF signaling facilities are used on the terminating side in this manner. And, once again, in each of these scenarios, there is no concern for the ultimate purposes of the phantom traffic rules -- ensuring proper jurisdictionalization and billing of traffic. For toll traffic involved in this context, a billing record is provided which can be used for jurisdictionalization and billing. And, for local traffic, significant amounts of the traffic will already be bill and keep where jurisdictionalization and billing is not an issue. To the extent the traffic is local and there is a positive rate, the terminating carrier seeking to bill for the traffic can hardly be heard to complain since the limitations arise from that carrier's equipment. In all events, it is impossible for CenturyLink to come into compliance with the rules because the problem is not CenturyLink's to begin with. For all these reasons, CenturyLink should be granted a waiver.

CONCLUSION

For all of the reasons stated herein, CenturyLink respectfully requests that the Commission expeditiously grant this Supplemental Petition for Limited Waiver of 47 C.F.R. § 64.1601(a).

Respectfully submitted,

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