Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90

COMMENTS OF CENTURYLINK

CenturyLink submits these comments in response to the Wireline Competition Bureau's Public Notice seeking comment on its proposed survey of urban rates for fixed voice and fixed broadband residential services and seeking comment on how to use data from that survey to determine the local voice rate floor and reasonable comparability benchmarks for fixed voice and fixed broadband services.[1] In designing the survey the Bureau should ensure that it is appropriately tailored to the Connect America Fund (CAF) purposes that it is intended to serve. The data collected should be limited to that necessary to determine the local residential fixed voice rate floor and the reasonable comparability benchmarks for residential fixed voice and fixed broadband services. To accomplish this the Bureau should limit its data collection to the non-discounted, stand-alone monthly prices offered to customers for fixed voice and fixed broadband service that are most analogus to CAF-supported services. This includes limiting its collection of broadband service data to the broadband service the survey respondent offers that is closest to a CAF-supported 4 Mbps down / 1 Mbps up service. The Bureau should also provide guidance on how a survey respondent should complete the form if it has multiple rates for residential fixed voice and fixed broadband service in a surveyed census tract.

[1] Public Notice, DA 12-1415, rel. Aug. 30, 2012.

I. THE URBAN RATES SURVEY FOR FIXED VOICE AND FIXED BROADBAND RESIDENTIAL SERVICE SHOULD BE APPROPRIATELY TAILORED TO THE CAF PURPOSES IT IS INTENDED TO SERVE.

The express purposes of the survey are to collect the data necessary to determine (1) the local residential fixed voice rate floor and (2) the reasonable comparability benchmarks for residential fixed voice and fixed broadband services.[2] As such, the data collected in the survey should be tailored to these purposes. The survey should not gather extraneous data that will not be needed to accomplish these purposes. Thus, for example, there should be no need for the survey to gather any data regarding rates for non-residential voice or broadband service, because this data would have no relevance to determining the floor and ceiling for residential rates. Nor should there be any need to gather data on broadband services that are not analogous to those supported by the CAF. The broadband data being gathered in this survey is ultimately to be used to confirm that residential broadband service that is being provided as a result of CAF support is being provided at rates and in a manner that is reasonably comparable to those in urban areas. Data on broadband services with speed tiers well above 4 Mbps down and 1 Mbps up is unnecessary for accomplishing this comparison. By comparison, the Bureau has not collected and does not propose to collect data about other types of voice service beyond those that are USF/CAF supportable. Accordingly, gathering such data for broadband would be unduly burdensome.

The Bureau proposes that the rate data to be collected for both fixed voice and fixed residential service would be non-discounted, stand-alone rates available to potential customers. CenturyLink agrees with this approach. This may not capture the rates customers actually pay

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[2] Public Notice: Wireline Competition Bureau Seeks Comment on Proposed Urban Rates Survey and Issues Relating to Reasonable Comparability Benchmarks and the Local Rate Floor, WC Docket No. 10-90, Public Notice, 27 FCC Rcd 8332 ¶ 1 (2012) (*WCB Urban Rates Public Notice*).

for their voice and broadband services and may not precisely portray the average rate paid for these services by urban customers. Many customers today purchase bundled services that enable reduced pricing on the components of the bundle from each component's standalone price. Additionally, many customers may obtain their services through short-term promotional pricing, or other discount offers. But, to attempt to capture the average price that urban customers actually pay for service would require a much more complex survey mechanism that may not result in more useful rates for the intended comparison tools. The simplified approach proposed by the Bureau should still enable a reasonable portrayal of the average rate paid for these services by urban customers.

The Bureau proposes defining "urban" as all 2010 Census urban areas and urban clusters that sit within a Metropolitan Statistical Area (MSA).[3] This seems reasonable. But, the Bureau should clarify the definition of MSA that it will be using, so that everyone will be working from the same understanding of an urban area for purposes of this survey.[4]

As proposed, the survey would be sent to selected respondents throughout the country to complete.[5] A recipient of the survey would be provided a specific 2010 urban census tract and date for which to provide the requested rate and service information for the fixed voice and/or fixed broadband services that the recipient provided on the specified date in the specified census tract. With respect to this approach, the Bureau should clarify that a survey recipient, if not

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[3] *Id.* ¶ 7.

[4] In the past, there has been some confusion as to the correct definition of MSA to use in certain FCC proceedings. *See Special Access for Price Cap Local Exchange Carriers; AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, Report and Order, WC Docket No. 05-25, RM-10593, FCC 12-92 ¶ 63 (rel. Aug. 22, 2012) (noting that different carriers had used different definitions of "MSA" in petitioning for pricing flexibility for special access services).

[5] It is not clear from the *WCB Urban Rates Public Notice* how the areas or respondents to be surveyed would be selected.

already identified as a specific operating company, should only need to report data for one operating company in the pre-identified census tract per survey, where it has more than one operating company providing service in the identified census tract.[6]

Fixed Voice. With respect to the data that the Bureau proposes collecting for fixed voice services, CenturyLink has two primary concerns. First, the Bureau should recognize that it may be difficult for CenturyLink, and potentially other ILECs, to provide rate information by census tract. Second, several of the data points for fixed voice service reflected on the proposed survey are not necessary for determining the rate floor or reasonable comparability benchmarks for voice services and should be removed from the survey.

CenturyLink cannot easily report rates on a census tract basis. One reason is that our local tariff rates are not defined or administered in this manner. Most typically, we tariff our residential voice rates by exchange. And, our exchanges do not align neatly with census tracts. As such, our rates for a single ILEC operating within a census tract may not be uniform within a census tract. CenturyLink may have more than one exchange within an MSA census tract. In such instances, the Commission should clarify how an ILEC would report its rates for the census tract.

Similarly, CenturyLink billing systems do not track the requested information by census tract in a given MSA. Rates, surcharges, and taxes may be assessed by zones within a serving area that have no correlation to census tract boundaries. Service connection charges may also be

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[6] Thus, for example, there is a census tract in Rochester, Minnesota in which CenturyLink has three different operating companies that provide service in the census tract. For a given survey request for that census tract, either the survey should initially be sent to the individual operating company, or CenturyLink can respond on behalf of one of the operating companies operating in the census tract. It would be impractical and unworkable to provide data on a single survey form for all three operating companies.

assessed by zone. To provide the data as requested could require significant effort to translate CenturyLink's data into data that is responsive to the proposed survey.

Further, certain components of what is charged to customers in providing residential fixed voice service should not be included in the survey, because the components are not relevant to information the Commission needs to determine a local rate floor or reasonable comparability benchmarks. Generally, fees, taxes, and surcharges which serve to pass through government charges or over which a provider has no control of the amount of revenue to be collected should not be included in the rate data collected. Most of the fees, taxes, and surcharges specified in the survey are set independently by governmental, special district, or quasi-governmental agencies. The telecommunications provider has no control over most of these charges and merely acts as a collection agent, just as a retail store collecting a sales tax.[7]

Additionally, government fees, taxes or surcharges can vary by exchange, municipal boundaries or special districts.[8] As such, providing a single rate for these items would require additional guidance not only on how to account for multiple rates for a particular fee, tax or surcharge within a census tract but also how to account for different combinations of the different rate components within the tract. This could add significant complexity to reporting this data, when it is not clear it is even necessary to gather this data in order for the Commission to determine the urban rate floor or the reasonable comparability benchmark.

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[7] Even though there is no requirement that telecommunication providers recover their federal USF contributions from their customers, when the contribution rate is over 15%, the choice not to recover those contributions is less realistic.

[8] For instance, Colorado has separate rates for various overlapping, but non-coterminus taxing districts, such as for county, municipal, transportation district, cultural district, local improvement district and public safety district sales taxes, in addition to 911 support fees. *See*, Colorado Department of Revenue Publication DR 1002; http://www.colorado.gov/cms/forms/dor-tax/dr1002.pdf.

To minimize the complexity of this data collection, and ensure that the data collection does not collect data unnecessary for its intended purposes, CenturyLink recommends that the survey not include the following data collection categories for fixed voice service:

(1) federally tariffed local number portability (LNP) surcharge, if any;

(2) federal universal service surcharge on federal subscriber line charge (SLC), LNP or Access Recovery Charge (ARC), if any;

(3) state USF charge, if any;

(4) tax or surcharge for funding 911 service;

(5) interstate telecommunications relay service (TRS) charge;

(6) state TRS;

(7) total other taxes (such as sales, excise, etc.) levied on customers by state, county, local governments;

(8) federal excise tax on local service; and

(9) any of the data regarding service initiation charges.

These components add complexity to responding to the survey and are not necessary for calculating the comparison rates.

Fixed Broadband. The Bureau should also revise its proposed survey data collection for urban residential fixed broadband service. Providing USF support for broadband and creating a reasonable comparability benchmark for broadband deployed with that support is a new endeavor for the FCC. The Commission has limited authority to regulate broadband Internet access service, and arguable authority to use the USF to support deployment of broadband Internet access service. As such, the Bureau should take care to make sure that this survey is limited to broadband data necessary to accomplish determining the benchmark consistent with the Commission's CAF goals. Any evaluation of reasonably comparable broadband rates necessarily must be limited to comparing the broadband rates in CAF-supported areas or for CAF-supported customer locations with the rates in urban areas for comparable services.

The survey's four proposed speed tiers for reporting fixed broadband rates are problematic in at least two respects. First, CenturyLink offers broadband service that would not fit neatly, if at all, in any of these categories. For instance, CenturyLink has a 7 Mbps down service that can be paired with an upload speed of 5 Mbps. It is not clear that this service would fit in any of the ranges proposed, and yet it may be the CenturyLink service that is the most comparable to the CAF-supported broadband service of at least 4 Mbps down and 1 Mbps up. Second, the last two service ranges proposed seem irrelevant to the Commission's purpose of designing a reasonable comparability benchmark for rural broadband services provided through CAF support. Only services that are comparable to the 4 Mbps/1 Mbps broadband service (or potentially the 6 Mbps/1.5 Mbps broadband service) that will be supported by CAF in the near future should be relevant for this survey. There is simply no requirement or expectation for CAF support that would warrant the higher speed broadband data requested in the last two service ranges proposed on the survey. Instead of the four proposed service ranges, the Commission should seek data for only a single service range with minimum speeds of 4 Mbps down and 1 Mbps up. Providers surveyed should report data for their broadband service that is closest to a 4 Mbps/1 Mbps service but within the range.

Also, as with fixed voice rates, CenturyLink's fixed broadband prices are not aligned with census tract boundaries. Taxes or surcharges associated with the service may again vary by local jurisdiction for which there may be different rates within a single urban census tract. Thus, for the same reasons as expressed above for fixed voice, the Bureau should eliminate collecting rate data for fees, taxes, and surcharges set by governmental, special district, and quasi-governmental agencies over which telecommunications providers have no control.

II. THE COMMISSION SHOULD CREATE A REASONABLE COMPARABILITY RATE BENCHMARK FOR EACH TYPE OF CAF-SUPPORTED SERVICE.

As currently structured, starting with a July 1, 2013 certification, CAF support recipients will be required to certify that their fixed voice and fixed broadband rates do not exceed certain reasonable comparability benchmarks. To meet this date, the Bureau needs to finalize the survey, undertake and complete the first survey, provide sufficient notice of the relevant benchmarks, and sufficient notice of the manner in which CAF support recipients should certify whether their rates are reasonably comparable, all prior to July 1, 2013. At this time, that seems a tall order. It may make more sense to postpone the first reasonable comparability certification to July 1, 2014, the same date for which the survey data will be used to establish the rate floor.

Fixed Voice. The Commission has already determined that for CAF-supported voice services, the rates need to be within two standard deviations of "the national average" for those rates to be deemed reasonably comparable. The Commission should perform a separate reasonable comparability analysis for each type of supported service. To legitimately compare rates, services must be comparable. Thus, the Commission should create a rate benchmark for local, flat rate voice service; a separate rate benchmark for all-distance flat-rated service; and a separate rate benchmark for measured service with a flat-rated component. Non-recurring charges should not be included in determining the benchmarks. Those charges could vary depending on customer location or other factors that could make including them in any comparison unnecessarily complex. Additionally, combining the non-recurring rate with a recurring rate requires an amortization of the non-recurring rate and the amortization term is subjective.

CenturyLink agrees that there should be a presumption for residential fixed voice services that if a given provider is offering the same rates, terms and conditions within a service area to

both urban and rural customers that those rates are reasonably comparable. Further, where a provider satisfied this presumption, it would not need to compare its rates against a national urban benchmark.

Fixed Broadband. As addressed above, in order to determine the benchmark rate for the broadband reasonable comparability analysis the Commission only needs to obtain data for one service within the one service range of at least 4 Mbps down/1 Mbps up. The Commission has been clear that CAF support is intended for broadband service with speeds of at least 4 Mbps down and 1 Mbps up. If a provider is using CAF support to deploy broadband with significantly higher speeds, it should still have a broadband service offering in those high-cost areas or for those high-cost customer locations at a rate that is reasonably comparable to an average national urban rate for service that is comparable to the at least 4 Mbps down/1 Mbps up service that is intended to be supported by the CAF.[9] The validity of any other rate for broadband service at significantly higher speeds in high cost areas is simply beyond the scope of the Commission's authority to address in the context of CAF support.

III. CONCLUSION.

For these reasons, the Bureau should modify the proposed survey form to appropriately tailor the data requested to the CAF purposes it is intended to serve, provide further guidance on completing the form where a survey respondent has multiple rates within a census tract, and create a reasonable comparability benchmark for each type of CAF-supported service.

[9] To the extent that the Commission will eventually require a minimum broadband speed of 6 down/1.5 up that may need to be taken into account.

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) served via e-mail on Jay Schwarz at jay.schwarz@fcc.gov and Alexander Minard at alexander.minard@fcc.gov, Industry Analysis and Technology Division, Wireline Competition Bureau; and 2) 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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