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

COMMENTS OF CENTURYLINK

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INTRODUCTION AND SUMMARY

CenturyLink submits these comments in response to the Commission's January 4, 2013 Public Notice (Public Notice) seeking input as to the best approach to its compliance and monitoring activities associated with the intercarrier compensation (ICC) aspects of the *USF/ICC Transformation Order*.[1] The *USF/ICC Transformation Order* brought dramatic changes to the

[1] Public Notice, DA 13-11, rel. Jan. 4, 2013. *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* or *Order*), *Order Clarifying Rules*, 27 FCC Rcd 605 (rel. Feb. 3, 2012) (*Clarification Order*), Erratum to *USF/ICC Transformation Order* (rel. Feb. 6, 2012),

Commission's long-standing ICC regulatory framework -- among other things, establishing a multi-year transformation by which much of the terminating compensation aspects will ultimately be replaced with a bill-and-keep or zero rate structure. The *Order* also included a *Further Notice of Proposed Rulemaking* (*FNPRM*) which teed-up other issues in connection with its ICC framework -- for example, issues associated with originating access, 8YY services, transport and termination, and transit.[2]

While CenturyLink was not in complete agreement with the full extent of the ICC reform contained in the *USF/ICC Transformation Order*, CenturyLink has long-supported the Commission's ICC reform efforts in general. CenturyLink was a member of the ABC group which submitted a reform proposal that helped form the foundation for the *Order*. And, CenturyLink has, since the *Order*'s implementation, committed considerable internal resources to support the massive administrative effort needed to implement it. In Year 1, alone, this effort entailed the expenditure of tens of thousands of employee hours, IT systems changes and considerable other out-of-pocket expenditures in order to prepare for and make hundreds of significant federal and state regulatory filings. By way of example only, CenturyLink, in implementing Year 1, filed more than one hundred different new state comprehensive tariffs

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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, 27 FCC Rcd 4040 (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 (2012), Fourth Order on Recon., FCC 12-82, 27 FCC Rcd 8814 (2012), *Order Clarifying Rules*, DA 12-1155, 27 FCC Rcd 8141 (2012), Fifth Order on Recon., FCC 12-137, 27 FCC Rcd 14549 (2012), Erratum to Fifth Order on Recon. (Dec. 4, 2012), *pets. for rev. of USF/ICC Transformation Order pending, sub nom. In re: FCC 11-161* (l0th Cir. No. 11-9900, Dec. 16, 2011).

[2] *See, e.g., FNPRM*, 26 FCC Rcd at 18109-110 ¶ 1298, 18111 ¶ 1303, 18112 ¶ 1306, 18114 ¶ 1311.

alone, with accompanying data supporting each. CenturyLink accompanied each of these state filings with support work directed to the state commissions to educate them regarding the filing and the underlying supporting data, and to demonstrate, to each commission's satisfaction, compliance with the applicable requirements of the *Order*. Notably, CenturyLink and other carriers have, simultaneously with this ICC effort, been required to direct perhaps even greater resources to meet all the various requirements of the extensive universal service reform aspects of the *Order*.

CenturyLink understands the importance of this ICC reform work and is fully prepared to meet the demands necessitated in both implementing the Commission's reform and enabling the reasonable compliance and monitoring that must accompany it. But, CenturyLink asks the Commission to proceed with a full understanding of the enormous costs already being incurred by carriers like CenturyLink in connection with the *USF/ICC Transformation Order*. The Commission should strive to impose only those reasonable and balanced requirements that are needed to ensure adequate oversight. Similarly, the Commission should be conscious of these factors when framing the scope and burden of any data requirements needed to resolve the issues raised in the *FNPRM*, and to enable it to evaluate ICC trends and compare data across all carriers going forward. It is not mere hyperbole to say that, given the current competitive state of the current telecommunications landscape, every employee hour and dollar spent on data gathering and reporting is time and money that won't be spent building-out the network capabilities needed to bring consumers and businesses the communications services they seek. This is particularly so when these activities serve no business purpose whatsoever and are imposed solely as a result of regulatory mandates.

Some aspects of the proposed ICC Reform Compliance Form and the accompanying instructions (Proposed Compliance and Monitoring Plan)[3] are appropriately tailored to accomplish the Commission's needs. But, other aspects make no sense and/or would impose, on an annual basis, excessively burdensome, and in some cases outright impossible, data collection and reporting requirements. In almost all such cases, these objectionable parts also plainly go far beyond that which is necessary to accomplish the espoused purposes of the Commission's activity here. They, thus, also go beyond the Wireline Competition Bureau's delegated authority in this context.[4]

To begin with, the Proposed Compliance and Monitoring Plan, while purporting to be primarily justified as a tool to monitor compliance with the Commission's new ICC rules, largely ignores the data values that would be relevant to that exercise -- the values derived using Fiscal Year 2011 demand. The Commission specifically premised the mechanics of its ICC reform rules upon the use of a Fiscal Year 2011 baseline period from which all future calculations of carrier rate reductions and eligible revenue recovery would be developed. It did so in an effort to "... provide[ ] carriers with certain and predictable revenue streams."[5] In order to further that goal, the Commission, among other things, also specified that it would not be conducting annual true-up calculations for the demand (MOU) assumptions underlying carrier rate reductions and eligible recovery calculations.[6] Yet, much of what is proposed in the Proposed Compliance and Monitoring Plan would be useful only for that purpose. Annual reporting of different baseline

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[3] Public Notice, DA 13-11 at Attachment A.

[4] *See*, 47 C.F.R. § 0.291(e); *see also*, *In the Matter of Filing Requirements*, Report and Order, 11 FCC Rcd 16326, 16350 ¶ 54 (1996), (noting that "it would be inappropriate to move significantly beyond the stated scope of this proceeding in view of the explicit delegation in this case.").

[5] *FNPRM* at 17873 ¶ 651.

[6] *Id.* at 17971 ¶ 879.

data does nothing to verify compliance with the existing reform. Nor is it effective to accomplish the other stated purposes of the Proposed Compliance and Monitoring Plan.

The Proposed Compliance and Monitoring Plan also has the following other flaws:

- It generally requires carriers to collect and report demand, revenue and expense data every year on a fiscal year (October 1 through September 30) basis even though the entire structure of the Commission's ICC reform itself is to be implemented on an effective July 1 to June 30 cycle.

- Given that one of the key purported purposes of the proposed approach is to enable the Commission to evaluate ICC trends and compare data uniformly across all carriers, it has the clear foundational flaw of being directed solely and exclusively at one category of carriers -- ILECs.

- It overlays the same collected-versus-billed concept (requiring carriers to collect and report demand, revenue and expense values that were billed *and collected* by March 31 of the following year) that arose in the Year 1 implementation. That task proved exceedingly burdensome even for the more aggregated demand, revenue and expense data provided in connection with the Year 1 implementation. Imposing it here would create an immense burden for carriers.

- It requires data collection and reporting at a level of granularity that makes no account for the capabilities of carrier/industry processes and equipment. As a result, it would require the expenditure of massive amounts of employee hours, IT systems changes and other resources. Among other things, the proposed approach requires that carriers break-out a large number of data points each year where carriers lack the systems capability to do so in any automated way -- for example, requiring carriers to separately create, compile and analyze, on a rate-element-by-rate-element basis, VoIP, 8YY, originating versus terminating, and affiliate versus non-affiliate data.

- For those aspects that go to assisting the Commission's work in resolving the outstanding issues raised in the *FNPRM,* it seeks far more data then was sought in advance of the *USF/ICC Transformation Order* for the ICC aspects addressed there. The proposed approach also unnecessarily imposes an annual update obligation for such data, when a one-time report, with the potential for future refresh reports as needed, would suffice.

- Because it seeks highly sensitive data, the proposed protections provided by the *Third Protective Order* would not be adequate.

- It does not satisfy, as it must, the requirements of the Paperwork Reduction Act (PRA).[7]

In light of these flaws, CenturyLink recommends that the Commission work with the industry to revise the proposed approach to ratchet back the level of granularity requested and address other problems. CenturyLink is confident that an approach can be devised that satisfies the Commission's needs without overly burdening carriers. In doing so, the Commission should keep in mind that, in the *USF/ICC Transformation Order*, it expressly found that state tariff filing proceedings implementing ICC reform would already enable a considerable amount of oversight to carrier efforts to comply with the new rules.[8] It should also keep in mind that the recipients of access and non-access ICC billing (IXCs, CLECs, CMRS providers, ISPs, etc.) are devoting considerable resources of their own to scrutinizing ILEC regulatory filings and, perhaps more importantly, their own ICC bills to ensure that ILECs are complying with the new rules. Given the magnitude of the savings at stake for them, their economic self-interest already provides a powerful control mechanism. The Commission can take considerable comfort from these facts as well as from the fact that it has the ability to seek more granular data from individual carriers on a case-by-case basis as conditions warrant.

BACKGROUND

While incredibly complicated in the details of its requirements and implementation, the ICC reform reflected in the *USF/ICC Transformation Order*, at a high level, mandated a relatively straight-forward multi-step reform process. The mechanics of this process centered upon the use of a Fiscal Year 2011 baseline period from which all future calculations of carrier rate reductions and eligible revenue recovery would also be developed. In short, it specified that:

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[7] 5 C.F.R. § 1320.1, *et seq.*

[8] *USF/ICC Transformation Order*, 26 FCC Rcd at 17940 ¶ 813.

(1) carriers must calculate a total revenue level for three specified subsets of interstate access services and a comparable total revenue level for functionally equivalent intrastate access services -- all using the common baseline demand factor (Fiscal Year 2011 demand); (2) to the extent that the intrastate revenue total produced in step #1 was higher than the interstate revenue level, carriers must eliminate one half of that delta in Year 1 and the other half of that delta in Year 2; (3) using that same Fiscal Year 2011 demand factor, carriers must reduce one of those three access subsets identified in step #1 (end office access services) to $0.0007 in three equal increments in Years 3-5 and then reduce it to zero in Year 6; (4) carriers must reduce certain other tandem switched transport access services to $0.0007 in year 6 and then to zero in year 7; and (5) with the exception of one subset of charges (LEC to/from CMRS non-access charges, which moved to a zero rate relatively immediately) carriers must perform essentially the same exercise as is described in steps 1 through 4 for non-access charges.[9] The Commission's ICC reform then created a recovery mechanism that was also tied to these same rate reductions and, thus, was centered on the use of the same Fiscal Year 2011 baseline period.[10]

The *USF/ICC Transformation Order* then identified a number of other ICC issues that it left for resolution via the *FNPRM*, including issues in connection with originating access, 8YY services, certain aspects of transport and termination, and transit.[11]

In the *USF/ICC Transformation Order*, the Commission also required "all incumbent LECs that participate in the recovery mechanism, including by charging any end user an ARC, to file data on an annual basis regarding their ICC rates, revenues, expenses, and demand for the

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[9] *See USF/ICC Transformation Order*, 26 FCC Rcd at Appendix A, Final Rules, 18164-65 § 51.705, 18170-73 § 51.907.

[10] *Id.* 18179-90 § 51.915.

[11] *FNPRM*, 26 FCC Rcd at 18109-110 ¶ 1298, 18111 ¶ 1303, 18112 ¶ 1306, 18114 ¶ 1311.

preceding fiscal year."[12] The purported purposes for collecting this data, as specified in the *USF/ICC Transformation Order*, were to: (1) "monitor compliance with the provisions of [the *USF/ICC Transformation Order*] and accompanying rules, including to ensure that carriers are not charging ARCs that exceed their Eligible Recovery and that ARCs are reduced as Eligible Recovery decreases;"[13] (2) "monitor the impact of the reforms we adopt today and to enable the Commission to resolve the issues teed up in the FNPRM regarding the appropriate transition to bill-and-keep and, if necessary, the appropriate recovery mechanism for rate elements not reduced in this Order, including originating access and many transport rates;"[14] and (3) "determine the impact that any transition would have on a particular carrier or group of carriers, and to evaluate the trend of ICC revenues, expenses, and minutes and compare such data uniformly across all carriers."[15] The Commission further specified: "Given that carriers must be monitoring these data to comply with our revised tariff rules, we require incumbent LECs to file electronically annually at the same time as their annual interstate access tariff filings."[16] The Commission ultimately delegated to the Wireline Competition Bureau the authority to adopt a template for submitting this data.[17]

The Proposed Compliance and Monitoring Plan moves far beyond this mandate. To begin with, a simple data demonstration of compliance with the required ICC reform steps would simply focus on the specific baseline access and non-access rate elements addressed in the reform and use Fiscal Year 2011 demand numbers. And, indeed, the ICC Access Reduction

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[12] *USF/ICC Transformation Order*, 26 FCC Rcd at 17996 ¶ 921.

[13] *Id.* ¶ 922.

[14] *Id.*

[15] *Id.*

[16] *Id.* ¶ 923.

[17] *Id.*

Form, the Reciprocal Compensation Form, the Eligible Recovery Form, the Tariff Rate Comparison Form, the Rate Ceiling CAF Form, and TRP Form submitted to the Commission in support of each year's annual interstate access tariff filings would already largely contain all of the data necessary to do that.[18] But, the Proposed Compliance and Monitoring Plan requires carriers to, in each year of the eight-year ICC reform, derive and report detailed breakdowns of countless, minute categories of demand, revenue, and expense values for *the prior fiscal year.*[19]

DISCUSSION

As noted above, some aspects of Proposed Compliance and Monitoring Plan are reasonable and balanced and appropriately tailored to accomplish the Commission's needs. For example, it does make sense to require carriers to gather and report data related to their ARC charges.[20] This will ensure, as the *USF/ICC Transformation Order* instructs, "that carriers are not charging ARCs that exceed their Eligible Recovery...."[21]

But, many other aspects of the Proposed Compliance and Monitoring Plan simply make no sense and/or would impose excessively burdensome, and in some cases outright impossible, data collection and reporting requirements on carriers. In almost all such cases, these objectionable requirements also plainly go far beyond that which is necessary to accomplish the espoused purposes of the Commission's activity here. Specifically:

1. The Proposed Compliance and Monitoring Plan, while purporting to be primarily justified as a tool to monitor compliance with the Commission's new ICC rules, ignores the demand, revenue and expense values that would be relevant to that exercise -- *i.e.*, values derived

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[18] *See In the Matter of Material to be Filed in Support of 2012 Annual Access Tariff Filings*, Order, 27 FCC Rcd 3960 (2012).

[19] *See* Proposed Compliance and Monitoring Plan.

[20] *See id.* at TAB "ARC": Access Recovery Charge (ARC) Elements.

[21] *USF/ICC Transformation Order*, 26 FCC Rcd at 17996 ¶ 922.

using Fiscal Year 2011 demand. Year 1 and all subsequent year carrier rate reductions and Eligible Recovery calculations (and, therefore ARC eligibility) are performed using the baseline of Fiscal Year 2011. But, the proposed approach requires carriers to, each year, derive and report detailed breakdowns of minute categories of demand, revenue, and expense values *for the prior fiscal year*. This runs counter to the Commission's decision to refrain from true-ups for demand. And, these data will tell the Commission nothing about whether carriers are complying with the new rules. Since they would only give snapshots in time of just one type of carrier's experience, they would also be of no value in monitoring the impact of the Commission's reforms or in evaluating trends and comparing data across all carriers.

2. While the use of a fiscal year time period was useful for calculating the baseline to be used in the mechanics implementing the Commission's ICC reforms, it is of little value in monitoring compliance going forward. The Proposed Compliance and Monitoring Plan generally requires carriers to collect and report demand, revenue and expense data every year on a fiscal year (October 1 through September 30) basis. But, the entire structure of the Commission's ICC reform itself is to be implemented each year on a July 1 through June 30 effective date cycle. Thus, requiring carriers to report each subsequent fiscal year's data will mean that each year's report will include demand, revenue, and expense data from two different stages of the Commission's reform plan. For example, Fiscal Year 2012 data will be composed of: (a) demand, revenue, and expense data for the October 1, 2011 through July 2, 2012 time period before any ICC reform had begun; and (b) demand, revenue, and expense data for the July 3, 2012 through September 30, 2012 time period when the Year 1 implementation was in place. This problem of blended data periods is compounded by the fact that, for some study areas, the carrier may not have had the same rate elements for the two different time periods in a fiscal

year. As a result, the data will be of little value in monitoring anything. Nor would this problem be eliminated by changing the specified date ranges to track with the July to July time flow each reform year. In fact, this will create even more problems for carriers who generally maintain their books and record on a calendar year basis.

3. The Proposed Compliance and Monitoring Plan also has the clear foundational flaw of being directed solely and exclusively at one category of carriers -- ILECs. One of the key purported purposes of the Proposed Compliance and Monitoring Plan is to enable the Commission to "evaluate the trend of ICC revenues, expenses, and minutes…" and "compare such data uniformly across carriers."[22] But, in order to even begin to have any meaning, the Commission would also need to have similar data at comparable granularity from every type of carrier -- *i.e.*, ILECs, CLECs, IXCs, CMRS providers, ISPs, etc. To be clear, CenturyLink is not suggesting that the Bureau compound the burdens of the Proposed Compliance and Monitoring Plan by extending it throughout the industry. CenturyLink notes this limitation simply to demonstrate another flaw in the proposed approach. Because it would only require reporting of the relevant data from one type of carrier -- ILECs, the proposed approach will only provide a partial picture of the type of data sought. And, despite the proposed confidential treatment for the data to be submitted, this type of asymmetrical reporting requirement only creates a competitive advantage for other types of carriers who will have access to a new detailed level of competitive data for the services at issue.

4. For all demand, revenue and expense values sought, the Proposed Compliance and Monitoring Plan also overlays the same collected-versus-billed concept that arose in the Year 1 implementation. This concept requires carriers to collect and report values encompassing

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[22] *USF/ICC Transformation Order*, 26 FCC Rcd at 17996 ¶ 922. *See also* Public Notice, DA 13-11 at 1.

only those fiscal year demand, revenue and expense values that were billed *and collected* by March 31 of the following year. That task proved exceedingly difficult even for the more aggregated demand, revenue and expense values required for the data reporting associated with the Year 1 implementation. Imposing it for the countless, granular demand, revenue and expense values sought in the Proposed Compliance and Monitoring Plan would impose a grossly unnecessary and overwhelming burden on carriers. For past periods, carriers would have to, each year, conduct individual special studies for each and every granular data component required by the Proposed Compliance and Monitoring Plan. And, carriers would have to perform this same exercise going forward unless they undertook costly build-outs of their billing and financial systems to enable them to, on a real-time basis, track every element from every access bill to payment. Nor would the solution ultimately reached for the Year 1 implementation be an adequate solution here. There, carriers were able, with a great deal of difficulty, to create a factor to accomplish the desired purpose for the more aggregated data at issue. The challenges would be exponentially higher in the context of the Proposed Compliance and Monitoring Plan.

To give a sense of the magnitude, CenturyLink estimates that it currently bills at least approximately 24 million lines of service -- individual access service line items on carrier bills -- annually. Given the level of granularity required in the proposed approach and the collected-versus-billed requirement, CenturyLink would have to somehow derive a method to manually track each of those service lines for dollars received and minutes paid. This mammoth task would be complicated by the fact that, given the way carriers pay access bills, it is often extremely difficult to allocate payments to minute rate element billing lines or specific minutes of use increments.

5. Even putting this challenge aside, the Proposed Compliance and Monitoring Plan requires data collection and reporting at a level of granularity that makes no account for the limited capabilities of carrier processes and equipment and would thus require the expenditure of huge amounts of employee hours, IT systems changes and other carrier resources. The Commission desired to minimize the burden by aggregating to the holding company level.[23] The Proposed Compliance and Monitoring Plan requires state level detail. It includes approximately 7,000 data points. At a conservative 30 minutes per data point to extract data (or to extract underlying data for allocation) and to compile, summarize and validate that data, CenturyLink estimates this work, alone (and not including the separate and distinct work involved in meeting the collected versus billed requirement described above) would entail an additional 3,500 hours over and above the current implementation requirements.

This burden flows from, among other things, the fact that the Proposed Compliance and Monitoring Plan asks carriers to break-out numerous data points by a large number of categories where carriers lack the systems capability to do so in any automated way. For example, the instructions for columns H through J in the proposed form specify that carriers must separately report VoIP units for both flat-rated elements and usage-based elements.[24] But, carriers do not have separate VoIP flat-rated elements and usage-based elements. Rather, the new VoIP access rules are being implemented by some carriers via a process by which a carrier's access customer submits VoIP usage percentage factors and then carriers reduce their access billing on flat rate and usage-based elements on monthly customer bills, often manually, as necessary to comply with the new rules. Other carriers may simply negotiate a factor as it is not possible to reliably

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[23] *USF/ICC Transformation Order*, Appendix O, Final Regulatory Flexibility Analysis, 26 FCC Rcd at 18358 ¶ 102.

[24] *See* Proposed Compliance and Monitoring Plan at Column Instructions.

identify VoIP traffic. As a result of this process, CenturyLink and other carriers don't keep overall demand, revenue or expense totals for VoIP flat-rated elements and usage-based elements, nor is it possible to isolate these for billed vs. collected reporting. And, it would be a colossal undertaking to derive those data manually -- even for a single fiscal year time period.

Similar problems extend to other parts of the proposed approach. With the exception of database queries, carriers do not separately track and bill associated originating access elements for 8YY usage. Collecting and reporting demand, revenue and expense data values for the 8YY aspects of each granular element specified in the Proposed Compliance and Monitoring Plan[25] would also be a massive undertaking for which carriers have no automated processes, and may be impossible to estimate. Similar concerns exist for the proposed requirement that carriers breakout separate values for originating versus terminating access and affiliate versus non-affiliate billing.[26] These data do not automatically exist today for any reporting at this level of granularity -- for any time period -- and costly, manual work would be required each year to comply with this requirement as well.

6. While some data gathering could be justified based on the mandate to monitor the impact of the ICC reforms going forward and to enable the Commission to resolve the issues teed up in the *FNPRM*, the Proposed Compliance and Monitoring Plan goes far beyond what is needed for this purpose as well.[27] Notably, it goes well beyond the level of granularity sought in the proceedings leading up to the *USF/ICC Transformation Order*. Even if the Commission concludes that that level of data were not adequate, the same level of granularity that was provided in the Year 1 implementation in connection with each carrier's annual filing (*i.e.*,

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[25] *Id.*

[26] *Id.*

[27] *Id.*

aggregated demand, revenue, and cost data for each rate element category at a holding company level) for the terminating access and non-access elements subjected to the new rules would surely satisfy the Commission's need for data for these purposes. Moreover, the proposed approach unnecessarily imposes an annual update obligation even for those data related to the *FNPRM* issues. For this data, a one-time report, with the potential for future refresh reports as needed, would clearly suffice.

7. In the Public Notice, the Bureau asks whether the Commission's *Third Protective Order* in these proceedings is adequate to protect confidential data that may be provided under the proposed approach and, if not, asks what measures may be needed.[28] As noted above, the Proposed Compliance and Monitoring Plan imposes an asymmetrical reporting obligation to provide competitively sensitive data at an incredibly detailed level. By way of example only, the required reporting on ARC data, SLC data, and affiliate demand, revenue and expense data -- at the level of granularity required (*e.g.* line counts by state) -- would give a virtual roadmap to competitors with data that is not presently publicly available. The *Third Supplemental Protective Order*, which ultimately permits access to any employee of a reviewing party that may be "assisting" in these proceedings, does not provide adequate protection.[29] For all the reasons detailed above, the Commission should ratchet back the level of granularity required in the proposed data collection regardless of the confidentiality protection provided. But, it must also, provide adequate protection for the confidential data being sought. In this context, that requires, at the very least, permitting a much smaller reviewing group -- for example, limiting access to outside counsel of reviewing parties.

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[28] Public Notice, DA 13-11 at 2.

[29] *See In the Matter of Connect America Fund,* Third Supplemental Protective Order, WC Docket No. 10-90, DA 12-1995 ¶ 8 (rel. Dec. 11, 2012).

8. As currently formatted, the Proposed Compliance and Monitoring Plan would also fail to satisfy the PRA. The PRA imposes specific statutory requirements in order to "reduce, minimize and control burdens and maximize the practical utility and public benefit of…" data collections like those proposed here.[30] And, of course, the proposed approach in the Public Notice is subject to the OMB notice and approval requirements of the PRA. But, the discussion above demonstrates that, among other deficiencies under the PRA, the proposed approach is not necessary for the proper performance of the Commission functions at issue, seeks data that will have little or no practical utility for the purposes espoused, does not take into account the resources available to ILECs, and is not consistent and compatible with existing ILEC reporting and recordkeeping practices.[31]

CONCLUSION

For all of the reasons stated herein, CenturyLink recommends that the Commission work with the industry to revise the Proposed Compliance and Monitoring Plan and ratchet back the level of granularity requested and address the other problems identified above.

Respectfully submitted,

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[30] 5 C.F.R. § 1320.1. *See also*, Executive Order 13563 – Improving Regulation and Regulatory Review: http://www.gpo.gov/fdsys/pkg/FR-2011-01-21/pdf/2011-1385.pdf (Jan. 18, 2011).

[31] 5 C.F.R. § 1320.9.