

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Computer III Further Remand Proceedings:) CC Docket Nos. 95-20, 98-10
Bell Operating Company Provision of Enhanced)
Services; 1998 Biennial Regulatory Review –)
Review of Computer III and ONA Safeguards)
and Requirements)

COMMENTS OF CENTURYLINK

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July 31, 2013

TABLE OF CONTENTS

	Page
I. INTRODUCTION AND SUMMARY	1
II. THE ECONOMIC CIRCUMSTANCES RELIED UPON TO ESTABLISH CEI AND ONA NO LONGER EXIST	3
III. CEI AND ONA HAVE NO CONTINUING UTILITY	6
IV. CEI AND ONA IMPOSE SIGNIFICANT COSTS ON CARRIERS	10
V. THE COMMISSION SHOULD ELIMINATE ANY REMAINING CEI REQUIREMENTS AND, AS PART OF THAT, ANY GOING-FORWARD <i>COMPUTER III</i> UNBUNDLING REQUIREMENT	13
VI. THE COMMISSION SHOULD ADOPT ITS PROPOSED PROCEDURE FOR DISCONTINUING EXISTING ONA SERVICES	14
VII. THE COMMISSION SHOULD ALSO ELIMINATE THE ALL-CARRIER RULE	15
VIII. CONCLUSION	15

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CenturyLink files these comments in response to the Commission’s *Computer III* Further Notice of Proposed Rulemaking (*FNPRM*) proposing the streamlining or elimination of any remaining *Computer III* regulatory requirements.¹

I. INTRODUCTION AND SUMMARY

The Commission is correct in considering this examination of *Computer III* regulatory requirements to be an important step in fulfilling its “commitment to adapt requirements that may no longer be necessary as the nation transitions from TDM- to Internet Protocol (IP)-based networks.”² As the Commission turns its sights to the important work of fostering the TDM-to-IP transition, there may be debate about how to wind down the remnants of the Telecommunications Act of 1996 (1996 Act) regulations that currently hinder that transition. But, there should be no need for debate whatsoever about whether there is a continuing need for the even more outdated remains of the earlier *Computer Inquiry* framework.

¹ *Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements*, FCC 13-69, Further Notice of Proposed Rulemaking, CC Docket Nos. 95-20, 98-10 (rel. May 17, 2013) (*FNPRM*); Public Notice, Wireline Competition Bureau Announces Comment Cycle for Further Notice of Proposed Rulemaking on Computer III Requirements, DA 13-1516, CC Docket Nos. 95-20, 98-10, rel. July 3, 2013; 78 Fed. Reg. 39233 (rel. July 1, 2013).

² *FNPRM* ¶ 194.

There is no longer any economic or other policy justification for imposing ongoing *Computer Inquiry* obligations uniquely upon just three providers of telecommunications networks. There are no monopoly bottlenecks and no case can be made that BOCs are uniquely dominant providers for voice services. At the same time, competition in the market for next-generation broadband networks is thriving and those networks increasingly serve as the underlying platform for “enhanced” services.

The Commission’s comparably efficient interconnection (CEI) and open network architecture (ONA) requirements, have also long since lost their practical utility. These requirements arose from the Commission’s series of *Computer Inquiry* proceedings initiated in 1966. CEI and ONA were imposed as part of *Computer III*, which was initiated in the early 1980’s, and are almost thirty-years old. They pre-date the 1996 Act and, to a significant extent, were supplanted by the 1996 Act’s local competition regulatory framework and its more broad-reaching unbundling requirements and the like. Given this, it is not surprising that demand for access to the limited types of narrowband telephone technology that enhanced service providers (ESPs) have historically used has decreased dramatically over time. That trend will only continue.

At the same time, CEI and ONA continue to impose significant costs upon BOCs.

In light of the above, CenturyLink supports the Commission’s proposal to eliminate the remaining CEI requirements. As part of that relief, the Commission should also make clear that BOCs no longer have any affirmative obligation to unbundle and make generally available additional narrowband telephone network elements going-forward.

CenturyLink also supports the Commission’s proposed procedures specifying how BOCs can proceed to eliminate existing basic narrowband service elements currently subject to the

ONA requirements. As described below, ONA services are, essentially, many of the core legacy network services that BOCs offer. They will continue to be important revenue sources for the BOCs and, thus, BOCs have every incentive to continue to offer them. And, if a BOC seeks to discontinue an existing ONA service, the Commission's proposal will provide adequate protection to ESPs to the extent they believe (and can actually demonstrate) that adequate substitutes do not exist or that discontinuance is not otherwise warranted.

For all these same reasons, the Commission should also eliminate the All-Carrier-Rule.

II. THE ECONOMIC CIRCUMSTANCES RELIED UPON TO ESTABLISH CEI AND ONA NO LONGER EXIST

Data filed in the record in a variety of recent Commission proceedings continues to build an irrefutable record demonstrating that the key economic principles underlying legacy regulation such as CEI and ONA have no continued relevance today. Most recently through comments and other filings in connection with the *USF/ICC Transformation Order Further Notice*, the US Telecom Forbearance Petition, and the AT&T and the National Telecommunications Cooperative Association petitions regarding the IP transition, the Commission has before it overwhelming evidence that competition is thriving in the markets for voice services and, more broadly, broadband and related services.³ This record already makes undeniably clear that ILECs do not have a dominant market position today in the voice and broadband markets. The relevant services are provided by cable companies, wireless providers,

³ See, e.g., Comments of Verizon and Verizon Wireless, GN Docket No. 12-353 at 19-20 (Jan. 28, 2013); Comments of XO Communications, LLC, GN Docket No. 12-353 at 7-8 (Jan. 28, 2013); Comments of Cox Communications, Inc., GN Docket No. 12-353 at 2 (Jan. 28, 2013); Comments of Frontier Communications Corporation, WC Docket Nos. 10-90, *et al.*, at 10-11 (Feb. 24, 2012); Comments of CenturyLink, WC Docket Nos. 10-90, *et al.*, at 50-52 (Feb. 24, 2012); Reply Comments of CenturyLink, WC Docket Nos. 10-90, *et al.*, at 11-28 (Mar. 30, 2012); USTelecom Forbearance Petition at Appendix B, Supporting Data (47 C.F.R. Section 1.54(e)(3)(II)), Competitive Analysis. The Commission can and should incorporate this record into this proceeding.

satellite providers, and new competitive entrants -- all, in addition to more traditional wireline companies like CenturyLink. In every conceivable service category, ILECs have far fewer customers than many of their competitors.

It is by now very old news that ILECs possess a minority share of the market overall for voice services and that the number of households purchasing voice services from ILECs continues to shrink at an approximate 10% rate annually. This finding was a cornerstone of the Commission's reforms in the *USF/ICC Transformation Order*.⁴ As of the end of June 2012, there were 39 million interconnected VoIP subscriptions in the U.S., a nearly 70% increase in just three years.⁵ Of the nation's 81 million wireline residential local telephone service connections, 40 percent were interconnected VoIP connections.⁶ And, new competitors join the fray all the time. Recently, Hughes Satellite announced the nationwide launch of HughesNet® Voice, a feature-rich home Voice over IP (VoIP) solution.⁷

Consumer broadband services. In the consumer broadband services market, regulated wireline providers like CenturyLink compete with cable providers, wireless companies and other

⁴ *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, 17974-75 ¶¶ 885-886 (rel. Nov. 18, 2011) (*USF/ICC Transformation Order or Order*) (subsequent history omitted).

⁵ See *Local Telephone Competition Status Report*, Status as of June 30, 2012 at 14 (Table 3) (rel. June 2013), Industry Analysis and Technology Division, Wireline Competition Bureau.

⁶ *Id.* (Chart 3).

⁷ "Hughes Makes Satellite Home Phone Service Push," June 18, 2013, <http://www.telecompetitor.com/hughes-makes-satellite-home-phone-service-push/>.

types of providers and have fewer customers and a smaller share of revenue as compared to their competitors.⁸

Business services. Similarly, for business services, CenturyLink competes with cable companies that have made significant strides in capturing market share in recent years⁹ as well as CLECs that are aggressively migrating into the field.¹⁰

In light of this record, it cannot be seriously disputed that the economic circumstances that underlay the establishment of the initial *Computer Inquiry* framework almost fifty years ago,

⁸ CenturyLink's frequent competitor Comcast has almost twice as many broadband subscribers as CenturyLink's 5.8 million, and AT&T has more than 47 million smartphone users, all with broadband at the touch of an icon. See Comcast News Release, *Comcast Reports 4th Quarter and Year End 2012 Results* (Feb. 12, 2013), available at <http://www.cmcsk.com/releasedetail.cfm?ReleaseID=739834> (reporting 9.5 million broadband subscribers) (Comcast 2012 Results); CenturyLink Press Release, *CenturyLink Reports Fourth Quarter and Full-Year 2012 Earnings* (Feb. 13, 2013), available at http://ir.centurylink.com/phoenix.zhtml?c=112635&p=irol-newsArticle_Print&ID=1784862&highlight at 1 (CenturyLink 2012 Results). In terms of resources, CenturyLink reported revenues of \$18.4 billion for 2012, compared with \$127.4 billion, \$75.9 billion, and \$62.5 billion for AT&T, Verizon Wireless, and Comcast, respectively. See CenturyLink 2012 Results; AT&T News Release, *Strong Growth in Wireless and U-verse Drives Revenue and Adjusted Earnings Per Share Growth in AT&T's Fourth-Quarter Results* (Jan. 24, 2013), available at <http://www.att.com/gen/press-room?pid=23672&cdvn=news&newsarticleid=35937>; Verizon News Release, *Verizon Reports Strong Revenue And Customer Growth For Verizon Wireless And FiOS Services In 4Q 2012* (Jan. 22, 2013), available at <http://news.verizonwireless.com/news/2013/01/fourth-quarter-2012-earnings.html>.; Comcast 2012 Results.

⁹ Cable providers are in the "ideal position to develop comprehensive carrier Ethernet architecture to support a wide range of business services," as they pass three-quarters of the nation's businesses. The Insight Research Corp., *Cable TV Enterprise Services: 2012-2017*, at 88, 105 (Sept. 2012).

¹⁰ For example, tw telecom is the nation's third largest Ethernet provider, ahead of CenturyLink, with strong showings by Level 3 and XO. *Vertical Systems Group: 2012 U.S. Business Ethernet Leaderboard* (Jan. 29, 2013), available at http://www.verticalsystems.com/prarticles/stat-flash-YE_2012_US_Leaderboard.html. By way of further example, in June of this year, tw telecom, described "Our Robust Market Reach", which includes "75 U.S. metropolitan markets[,] Fiber networks spanning over 29,000 route miles... [and] 18,500 fiber connected buildings[.]" "Changing the way businesses Connect and Communicate", tw telecom Investor Presentation, at 4, available at <http://www.twtelecom.com/investor-guide/investor-presentations/>.

and the subsequent creation of the CEI and ONA rules, no longer exist. Most importantly, any concept of disproportionate treatment for one type of provider must be discarded.

III. CEI AND ONA HAVE NO CONTINUING UTILITY

Separate and aside from the fact that the economic justifications for these requirements no longer exist, CEI and ONA no longer have any practical utility.

The Commission's CEI and ONA rules are remnants of the Commission's almost fifty-year-old *Computer Inquiry* proceedings.¹¹ Prior to 1986, BOC information services were subject

¹¹ See, *Regulatory and Policy Problems Presented by the Interdependence of Computer and Communication Services and Facilities*, Docket No. 16979, Notice of Inquiry, 7 FCC 2d 11 (1966) (*Computer I NOI*); *Regulatory and Policy Problems Presented by the Interdependence of Computer and Communication Services and Facilities*, Docket No. 16979, Final Decision and Order, 28 FCC 2d 267 (1971) (*Computer I Final Decision*), *aff'd in part sub nom. GTE Service Corp. v. FCC*, 474 F.2d 724 (2d Cir. 1973), *decision on remand*, 40 FCC 2d 293 (1973) (*Computer I*). See *Amendment of Section 64.702 of the Commission's Rules and Regulations (Computer II)*, 77 FCC 2d 384 (1980) (*Computer II Final Decision*), *recon.*, 84 FCC 2d 50 (1980) (*Computer II Reconsideration Order*), *further recon.*, 88 FCC 2d 512 (1981) (*Computer II Further Reconsideration Order*), *aff'd sub nom. Computer and Communications Industry Ass'n v. FCC*, 693 F.2d 198 (D.C. Cir. 1982) (*CCIA v. FCC*), *cert. denied*, 461 U.S. 938 (1983) (collectively referred to as *Computer II*); *Amendment of Section 64.702 of the Commission's Rules and Regulations*, CC Docket No. 85-229, Phase I, 104 FCC 2d 958 (1986) (*Computer III Phase I Order*), *recon.*, 2 FCC Rcd 3035 (1987) (*Computer III Phase I Reconsideration Order*), *further recon.*, 3 FCC Rcd 1135 (1988) (*Computer III Phase I Further Reconsideration Order*), *second further recon.*, 4 FCC Rcd 5927 (1989) (*Computer III Phase I Second Further Reconsideration Order*); Phase I Order and Phase I Recon. Order vacated sub nom. *California v. FCC*, 905 F.2d 1217 (9th Cir. 1990) (*California I*); CC Docket No. 85-229, Phase II, 2 FCC Rcd 3072 (1987) (*Computer III Phase II Order*), *recon.*, 3 FCC Rcd 1150 (1988) (*Computer III Phase II Reconsideration Order*), *further recon.*, 4 FCC Rcd 5927 (1989) (*Phase II Further Reconsideration Order*); Phase II Order vacated, *California I*, 905 F.2d 1217 (9th Cir. 1990); *Computer III Remand Proceeding*, CC Docket No. 90-368, 5 FCC Rcd 7719 (1990) (*ONA Remand Order*), *recon.*, 7 FCC Rcd 909 (1992), *pets. for review denied sub nom. California v. FCC*, 4 F.3d 1505 (9th Cir. 1993) (*California II*); *Computer III Remand Proceedings: Bell Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards*, CC Docket No. 90-623, 6 FCC Rcd 7571 (1991) (*BOC Safeguards Order*), *BOC Safeguards Order vacated in part and remanded sub nom. California v. FCC*, 39 F.3d 919 (9th Cir. 1994) (*California III*), *cert. denied*, 514 U.S. 1050 (1995); *Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services*, CC Docket No. 95-20, Notice of Proposed Rulemaking, 10 FCC Rcd 8360 (1995) (*Computer III Further Remand Notice*), *Further Notice of Proposed Rulemaking*, 13 FCC Rcd 6040 (1998) (*Computer III Further Remand Further*

to *Computer Inquiry* structural separation requirements set forth in Section 64.702 of the Commission's rules.¹² In its *Computer III* proceedings, initiated with the Commission's *Computer III Phase I Order* in 1986, the Commission permitted BOCs to offer those information services on an integrated basis -- *i.e.*, through the LEC entity itself or otherwise without need to comply with any structural separation requirements.¹³ However, in order to do so, carriers first had to comply with CEI and ONA and certain other non-structural safeguards.

At a high level, the CEI regime requires BOCs to comply with numerous specified "equal access" parameters and to file a CEI plan describing how they will do that for a given information service before the service is launched. Notably, CEI was intended by the Commission to be a transitional regime that remained in place only as long as it took to get the ONA regime established.¹⁴ CEI was never intended to remain in place as long as it has and it is largely duplicative of the ONA framework in practical effect.

The transition to completely eliminate CEI never took place simply because of the appellate history associated with the *Computer III* proceeding -- specifically, the Commission's failure to fully complete remand proceedings following the last appellate review almost twenty years ago.¹⁵

Notice); Report and Order, 14 FCC Rcd 4289 (1999) (*Computer III Further Remand Order*), recon., 14 FCC Rcd 21628 (1999) (*Computer III Further Remand Reconsideration Order*).

¹² 47 C.F.R. § 64.702.

¹³ *See generally*, *Computer III Phase II Order*, 2 FCC Rcd 3072.

¹⁴ *FNPRM ¶¶* 200-201.

¹⁵ In 1994, the United States Court of Appeals for the Ninth Circuit remanded the Commission's *Computer III* rules, finding that the Commission had not adequately explained how its nonstructural safeguards offered adequate protection against discriminatory interconnection by the BOCs. *See California III*, 39 F.3d 919. In 1995, the Commission released a Notice of Proposed Rulemaking which sought comment on both the remand issue in *California III* and the effectiveness of the Commission's *Computer III* and ONA rules in general. *See Computer III Further Remand Notice*, 10 FCC Rcd 8360. In 1998, the Commission, observing that the 1996

The ONA regime was intended to be the longer lasting *Computer III* framework. At a high level, it initially required carriers to proactively divide their legacy networks into building blocks -- basic service elements, basic service arrangements, and complimentary network services -- that would be described in carrier ONA Plans and be made available to competing ESPs. Pursuant to the Commission's ONA orders, carriers, more than 20 years ago, engaged in a lengthy and laborious process to create ONA Plans that accomplished this. In this process, carriers worked directly with the enhanced services industry to identify and unbundle the network elements that ESPs required. The ONA rules also imposed a variety of other obligations, including requirements that carriers establish procedures to ensure that they do not discriminate in their provision of ONA services, that they respond in a specified manner to enhanced service provider requests for new network elements (120-day requests), and that they file nondiscrimination reports and annual affidavits demonstrating the nondiscriminatory service provided to unaffiliated ESPs and documenting other ONA-related activities.

As a collective result of these prior activities, carriers long ago made every conceivable building block to their legacy networks available to third-party ESPs as a tariffed service.¹⁶ In some cases, these processes led to the establishment of services, features or functions that had

Telecommunications Act had brought significant changes to the telecommunications industry that affected these CEI and ONA issues, issued a Further Notice of Proposed Rulemaking to address issues raised by the interplay between the safeguards and terminology established in the 1996 Act and the *Computer III* regime. *Computer III Further Remand Further Notice*. Notably, in that same order, the Commission also sought comment on whether or not, in light of these developments, *Computer III* and ONA rules might be eliminated in connection with the Commission's 1998 Biennial Review. *Id.* at 6046 ¶ 6. While the Commission subsequently addressed a few discreet issues in its 1999 *Computer III Further Remand Order* and its 1999 *Computer III Further Remand Reconsideration Order*, it has never fully addressed the *Computer III Further Remand* issues.

¹⁶ Subsequently, in some cases, particular ONA services may have become de-regulated at either the state or federal level. Thus, some services may no longer be tariffed. But, they continue to be offered as telecommunications services that are generally available.

not previously been made available to ESPs. But, it is noteworthy that, in many cases, the resulting ONA services were actually those that carriers already offered -- they were now simply memorialized as well in the carrier's ONA Plan and further identified in its tariffs as ONA services. For example, carrier ONA Plans included traditional switched access functionality already available as access services as well as the carrier's existing TDM services offerings (for example, PBX and Centrex) and the features and functions that accompany those services.

Over time, due to a variety of factors, these CEI and ONA requirements have become increasingly irrelevant. To some extent, this stems from the initial accomplishments of the CEI and ONA regimes described above -- including the establishment of ONA Plans that already make network elements available to ESPs. It has been approximately ten years since CenturyLink's BOC, Qwest Corporation, received a 120-day request from a competing ESP. In other words, it's been approximately ten years since an ESP communicated to CenturyLink that it sought an ONA service not yet available to it.

The CEI/ONA rules have also become irrelevant due to the industry's evolution toward broadband-oriented services where the Commission has determined that *Computer Inquiry* requirements should not apply (e.g., broadband Internet access services and enterprise broadband offerings). Increased competition in telecommunications, generally, has also helped to render these obligations further irrelevant. It can no longer be seriously argued that ESPs require a unique level of access to BOC networks as opposed to the networks of other traditional wireline telephone companies or wireless companies, cable companies and the like.

And, notably, demand for access to the limited types of narrowband telephone technology that ESPs historically used has decreased dramatically over time and that trend will only continue. The *FNPRM* requests information regarding the specific narrowband offerings that

BOCs currently provision for unaffiliated ESPs and regarding the extent to which BOCs themselves continue to provide narrowband enhanced services.¹⁷ Providing precise and detailed information in response to these questions is a challenge because, as noted above, ONA services that may be purchased by ESPs may technically include a variety of generic carrier narrowband network services such as traditional switched access functionality and other TDM service offerings (for example, PBX and Centrex) and the features and functions that accompany those services. CenturyLink has no effective way of identifying only those such services purchased by ESPs. The services more readily identifiable as possible services, features and functions still utilized by third party ESPs or by CenturyLink itself in any material manner are those associated with voicemail, operator services and directory assistance services, and 911 services. And, even for those services, CenturyLink has experienced reductions in both its own and any third-party usage -- no doubt explained by the reduced market share of CenturyLink and other traditional wireline networks for voice services and the emergence of broadband networks as the primary platform for enhanced services as described below.

IV. CEI AND ONA IMPOSE SIGNIFICANT COSTS ON CARRIERS

Despite the fact that they no longer serve any meaningful purpose, BOCs continue to incur significant costs in order to comply with the CEI and ONA rules. All BOCs have to continue to maintain unwieldy and arcane regulatory processes to comply with CEI and ONA. By way of example, carriers must maintain internal regulatory processes to ensure that employees remain familiar with the aging ONA and CEI requirements, that CEI/ONA-specific non-discrimination and equal access requirements are met, that new products receive CEI/ONA reviews, and that CEI/ONA-related documentation (*e.g.*, extensive descriptive material in carrier

¹⁷ FNPRM ¶¶ 202-03.

tariffs) is maintained. These processes increasingly result in confusion and operational churn as carriers strive to apply 30-year old regulatory frameworks in today's telecommunications environment. Collectively, these processes impose material costs in terms of employee time and dollars invested to support them. CenturyLink estimates that, in the last year, it had between 55 and 60 staff in just the core of employees who either maintained CEI/ONA specific processes or became engaged in some CEI/ONA-related compliance activities, large or small. Determining the costs of compliance is difficult, but the costs are real, even apart from the equally real, but more elusive, cost of the operational churn described above.

And, the CEI and ONA rules impose other costs. Both the rules and the regulatory processes they have spawned fundamentally impede the ability of carriers to develop and deploy innovative products that respond to market demands in a timely fashion. Similarly, advance product notice aspects such as the CEI plan posting requirement give a BOC's competitors an undue advantage and provides further disincentives to BOC innovation in the information service area. These impacts ultimately reduce each carrier's incentive and ability to invest in and deploy network infrastructure.

These further costs are all well documented in the Commission's own past orders. In its 2005 *Wireline Broadband Order*, the Commission correctly observed that the *Computer Inquiry* requirements "impede the development and deployment of innovative wireline broadband Internet access technologies and services" because "vendors do not create technologies with the *Computer Inquiry* requirements in mind."¹⁸ The Commission also concluded that the *Computer*

¹⁸ *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, Universal Service Obligations of Broadband Providers, Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services, Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements,*

Inquiry requirements compelled wireline carriers when deploying advanced network equipment to either “decide not to use all the equipment’s capabilities” or “defer deployment” while the equipment was re-engineered “to facilitate compliance with the *Computer Inquiry* rules” -- which, according to the Commission, were “less-than-optimal” outcomes, since they reduced “operational efficiency” and created “unnecessary costs and service delays.”¹⁹

Elimination of CEI and ONA will relieve carriers of these burdens.²⁰

Conditional Petition of the Verizon Telephone Companies for Forbearance Under 47 U.S.C. § 160(c) with Regard to Broadband Services Provided Via Fiber to the Premises; Petition of the Verizon Telephone Companies for Declaratory Ruling or, Alternatively, for Interim Waiver with Regard to Broadband Services Provided Via Fiber to the Premises, Consumer Protection in the Broadband Era, Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 14853, 14887-88 ¶ 65 (2005), aff’d sub nom., Time Warner v. FCC, 507 F.3d 205 (3rd Cir. 2007).

¹⁹ *Id.* The Commission reached similar conclusions in granting forbearance from the application of *Computer Inquiry* requirements to enterprise broadband services. *See, e.g., Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Its Broadband Services; Petition of BellSouth Corporation for Forbearance Under Section 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Its Broadband Services, Memorandum Opinion and Order, 22 FCC Rcd 18705, 18734 ¶ 56 (2007)* (continued application of the *Computer Inquiry* requirements to enterprise broadband services “constrains AT&T’s ability to respond to technological advances and customer needs in an efficient, effective, or timely manner” because enterprise customers have (18733-34 ¶ 54), “individualized needs” that AT&T must be able to meet through “innovative service arrangements that make full use of its networks’ telecommunications and information service capabilities”); *see also, Qwest Petition for Forbearance Under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to its Broadband Services, Memorandum Opinion and Order, 23 FCC Rcd 12260, 12288-89 ¶ 55, 12289 ¶ 57 (2008)* (noting that eliminating the *Computer Inquiry* requirements “should benefit potential enterprise customers by giving them increased opportunities to obtain integrated service packages that meet their needs.”).

²⁰ These burdens are all in addition to those associated with meeting the ONA reporting requirements, which the Commission initially eliminated via waiver in 2011. In the Notice of Proposed Rulemaking leading to that waiver, the Commission acknowledged that the CEI/ONA reporting rules impose significant costs on BOCs without any corresponding benefit. *Review of Wireline Competition Bureau Data Practices; Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review -- Review of Computer III and ONA Safeguards and Requirements, Notice of Proposed Rulemaking, 26 FCC Rcd 1579 (2011).* Those rules required the filing of detailed quarterly, semi-annual and annual reports. They included such things as quarterly nondiscrimination reports that detail performance intervals for relevant services and related requirements for affidavits regarding non-discrimination in quality of service. These reporting requirements, thus,

V. THE COMMISSION SHOULD ELIMINATE ANY REMAINING CEI REQUIREMENTS AND, AS PART OF THAT, ANY GOING-FORWARD COMPUTER III UNBUNDLING REQUIREMENT

The Commission should adopt its proposal in the *FNPRM*²¹ to eliminate the remaining CEI requirements. As the Commission itself acknowledges, CEI plans were always intended to be an interim measure.²² And, the Commission is correct in its assumption that any limited ONA requirements -- which, as discussed below, CenturyLink believes should be minimal -- will ensure that ESPs have adequate access to any narrowband network functionality that they require.²³ But, it is also important that, as part of that relief eliminating its CEI requirements, the Commission make clear that BOCs no longer have any obligation to unbundle and make generally available any new narrowband telephone elements going-forward. As detailed above, carriers long ago made every conceivable building block to their legacy networks generally available to third-party ESPs. And, BOCs, like other ILECs, continue to be subject to the more rigorous unbundling requirements of sections 251 and 252 of the 1996 Act. Under these circumstances, there is simply no justification for continuing to keep an additional affirmative unbundling requirement in place.

independently consumed considerable internal resources of each carrier and imposed other costs jointly on the BOCs, collectively. Just one such cost falling in the latter category -- the approximately \$140,000 BOCs were required to spend annually for an outside consultant required simply to prepare the required joint reports in the specified formatting.

²¹ *FNPRM* ¶ 201.

²² *Id.*

²³ *Id.*

VI. THE COMMISSION SHOULD ADOPT ITS PROPOSED PROCEDURE FOR DISCONTINUING EXISTING ONA SERVICES

As proposed in the *FNPRM*,²⁴ the Commission should also retain only very limited ONA requirements. Indeed, CenturyLink supports the Commission's proposed procedure for BOCs to follow in discontinuing existing ONA services.²⁵ And, if the Commission adopts that procedure, that device will, in and of itself, adequately ensure that ESPs continue to have adequate access to a BOC's legacy network. As described above, ONA services are, essentially, many of the core legacy network services that BOCs offer. They will continue to be important revenue sources for the BOCs and, thus, BOCs have every incentive to continue to offer them. And, regardless, if a carrier, when discontinuing an existing service, complies with the proposed discontinuance procedure (or already-existing corollary discontinuance processes for intrastate services), ESPs will be adequately protected. To the extent they believe (and can actually demonstrate) that adequate substitutes do not exist and that discontinuance is not otherwise warranted,²⁶ the request will not be granted. Conversely, to the extent they cannot do so, the request will be granted and the service can and should be discontinued. This procedure will both provide an orderly process for BOCs to initially discontinue ONA services that are not currently being used and/or have become obsolete and provide an ongoing procedure for discontinuing other services over time as necessary.

²⁴ *Id.* ¶ 194.

²⁵ *Id.* ¶¶ 207-09.

²⁶ The Commission should make clear that the ultimate granting or denial of a discontinuance request should not turn solely on the ability of an ESP to claim that it or its customer cannot obtain a substitute service. The BOC should still have the ability to prevail based on an adequate demonstration of other circumstances demonstrating that discontinuance is warranted regardless (*e.g.*, lack of utility of the service, lack of feasibility in continuing to offer the service, etc.).

VII. THE COMMISSION SHOULD ALSO ELIMINATE THE ALL-CARRIER RULE

The Commission should also eliminate the All-Carrier-Rule.²⁷ The discussion above regarding changes in underlying economic circumstances for the BOCs applies equally to ILECs more broadly.²⁸ ILECs also no longer maintain any form of dominant position for the relevant services. This is demonstrated by the fact that those services are increasingly offered on a non-dominant and non-tariffed basis. Given the vigorous state of competition overall and given that enhanced services are increasingly being offered over broadband networks, the All-Carrier-Rule is unnecessary to ensure that ESPs have access to the services they need. The generic requirements of sections 201 and 202²⁹ provide more than sufficient protection.

VIII. CONCLUSION

The Commission should eliminate its remaining *Computer III* regulatory requirements consistent with the discussion above.

Respectfully submitted,

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²⁷ *Id.* ¶ 210.

²⁸ *See supra*, Section II.

²⁹ 47 U.S.C. §§ 201 and 202.