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REDACTED – FOR PUBLIC INSPECTION

VIA ECFS

March 26, 2014

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, N.W.
Room TW-A325
Washington, DC 20554

**Re: Request for Review of a Decision of the Universal Service Administrator and
Request for Confidential Treatment; WC Docket No. 06-122**

Dear Ms. Dortch:

CenturyLink Public Communications, Inc., formerly known as Embarq Payphone Services, Inc. (“CPCI” or the “Company”) is providing with this letter a Request for Review of a Decision of the Universal Service Administrator (“Request”) and within this letter a request for confidential treatment of certain portions of the Request and supporting documents.

Request for Confidential Treatment

CPCI, pursuant to 47 C.F.R. §§ 0.457, 0.459, asks that portions of its Request be treated as confidential and not subject to public inspection. Certain portions of the Request as identified further below contain confidential and proprietary information that, if subject to public disclosure, would cause significant commercial and competitive harm to CPCI. As described below, CPCI’s request satisfies the standards for grant of this request as set forth in Sections 0.457 and 0.459 of the Commission’s Rules.

In accordance with Section 0.459(b) and in support of its request, CPCI provides the following information:

(1) Identification of Confidential Materials: CPCI seeks confidential treatment of specific information related to CPCI’s provision of payphone and inmate calling services as contained in the Request and the USAC Internal Audit Division Report for Embarq Payphone Services, Inc. (USAC Audit No. CR2013CP003), dated January 28, 2014 (“Final Audit Report”) (Attachment 1), in the declarations of Ken Dawson (Attachment 2) and Michael Haynes (Attachment 3), and in selected pages of Embarq Payphone Services, Inc.’s Confidential

Contract with Inmate Calling Solutions, Inc. (Attachment 4). The non-redacted version of the Request has been marked with the annotation “**CONFIDENTIAL – NOT FOR PUBLIC DISCLOSURE OR INSPECTION.**” Specifically, Company information on revenues that is designated as confidential, are appropriately marked “**BEGIN CONFIDENTIAL**” and “**END CONFIDENTIAL**” in the Request. The non-redacted versions of the declarations of Ken Dawson (Attachment 2) and Michael Haynes (Attachment 3) are marked with the annotation “**CONFIDENTIAL – NOT FOR PUBLIC DISCLOSURE OR INSPECTION**” and are designated as confidential to the extent they include Company revenue data and contract language. Attachments 1 and 4 have been redacted in their entirety and are provided only in the confidential version of the filing. Portions of Attachments 2 and 3 have been redacted and Attachment 2.1 contains no confidential information. A “**REDACTED – FOR PUBLIC INSPECTION**” version of the Request and the accompanying attachments intended for public inspection is being filed simultaneously in the Commission’s Electronic Comment Filing System.

(2) Circumstances Giving Rise to Submission of Information: CPCI requests that specific information in the Request be treated on a confidential basis under Exemption 4 of the Freedom of Information Act. The information designated as confidential includes the USAC Final Audit Report and information regarding CPCI’s USAC contribution amount and the degree to which such amount would change based on USAC’s recommendations. The information is competitively sensitive information that CPCI maintains as confidential and is not normally made available to the public. Release of the information would have a substantial negative impact on CPCI since it would provide competitors with commercially sensitive information.

(3) Degree to Which Information is Commercial or Financial: The information designated in the Request and in the Attachments as Confidential is of a highly sensitive commercial nature, containing non-public financial information concerning aspects of CPCI’s business.

(4) Degree to Which Information Concerns a Service Subject to Competition: CPCI is a provider of competitive payphone and inmate calling telecommunications services operating nationwide. CPCI’s telecommunications services are subject to competition and the release of this confidential and proprietary information would cause CPCI competitive harm by allowing its competitors to become aware of sensitive proprietary information regarding the operation of CPCI’s business at a level of detail not currently available to the public. Such information is directly applicable to how CPCI operates and provides telecommunications services subject to substantial competition from numerous other telecommunications providers.

(5) How Disclosure Could Result in Substantial Harm: Disclosure of CPCI’s confidential information regarding its provision of payphone and inmate calling services would give its competitors a significant advantage by revealing sensitive business information about CPCI’s business relationships and revenues. This data could be used by competitors to damage CPCI’s position in the market and future potential growth.

Ms. Marlene H. Dortch
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(6) Measures Taken to Prevent Disclosure: The Request and Attachments provide information relating to CPCI's contractual and financial operations. CPCI holds all such information designated as "**CONFIDENTIAL – NOT FOR PUBLIC DISCLOSURE OR INSPECTION,**" within the Request in strict confidentiality and does not permit access to such information to any persons other than employees who require access to this information for the specific purpose of conducting business on behalf of CPCI.

(7) Public Access to Information, Third Party Disclosure: As noted above, CPCI has not made this information publicly available through any previous disclosures.

(8) Justification of the Period During Which the Material Should Not be Publicly Available: CPCI requests that the Commission hold this information out of public view, and cannot determine at this time any date on which this information should not be considered confidential.

(9) Additional Information: Release of the forgoing information would have a serious detrimental impact on the business operations and plans of CPCI. Because of the competitively sensitive nature of this information, CPCI respectfully requests that the Commission treat this filing as confidential and withhold the same from public inspection. CPCI has simultaneously filed a copy of the filing marked "**REDACTED – FOR PUBLIC INSPECTION**" so that the non-confidential information contained in the filing may be made available to the public.

Please contact the undersigned should you have any questions concerning the attached documentation, or CPCI's request for confidentiality pursuant to the Commission's rules. An original and four (4) copies of the confidential version of the Request are enclosed. Please date-stamp the enclosed extra copy of this filing and return it to the courier.

A copy of this Request is also being provided to the Universal Service Administrative Company as is represented in the certificate of service appended to the Request.

Sincerely,



Enclosures

REDACTED – FOR PUBLIC INSPECTION

REDACTED – FOR PUBLIC INSPECTION

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter)
)
Request for Review by CenturyLink) WC Docket No. 06-122
Public Communications, Inc. of Decision)
of Universal Service Administrator)

**REQUEST FOR REVIEW BY CENTURYLINK PUBLIC COMMUNICATIONS, INC.
OF DECISION OF THE UNIVERSAL SERVICE ADMINISTRATOR**

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CENTURYLINK PUBLIC
COMMUNICATIONS, INC.

Its Attorneys

Date: March 26, 2014

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**REQUEST FOR REVIEW BY CENTURYLINK PUBLIC COMMUNICATIONS, INC.
OF DECISION OF THE UNIVERSAL SERVICE ADMINISTRATOR**

**I. GENERAL SUMMARY STATEMENT OF INTEREST, ISSUES FOR REVIEW
AND RELIEF REQUESTED.**

Pursuant to Sections 54.719(c), 54.721, and 54.722 of the Federal Communications Commission’s (“Commission”) rules,¹ CenturyLink Public Communications, Inc. (“CPCI”) formerly known as Embarq Payphone Services, Inc.,² seeks review of certain findings by the Internal Audit Division of the Universal Service Administrative Company (“USAC”) in an audit of CPCI’s universal service contributions reported on its 2012 FCC Form 499-A.

By letter dated January 30, 2013, USAC informed CPCI that it was initiating an audit of CPCI’s compliance in completing its 2012 Telecommunications Reporting Worksheet, FCC Form 499-A. The primary objective of the audit was to determine the accuracy and

¹ 47 C.F.R. §§ 54.719(c), 54.721, 54.722.

² On, November 14, 2013, Embarq Payphone Services, Inc., formally changed its name to CenturyLink Public Communications, Inc. Embarq Payphone Services, Inc. was the name of the entity at the time of the revenue reporting that was the subject of the audit for which CPCI is now requesting Commission review. Throughout this request for review, we use CPCI to refer to the former Embarq Payphone Services, Inc.

completeness of the revenues reported by CPCI on its 2012 FCC Form 499-A.³ USAC notified CPCI of the final audit report on January 28, 2014.⁴

CPCI now seeks review of only the first USAC audit finding contained in the Report. Specifically, CPCI seeks review of Finding 1 that CPCI understated its USF contribution base by [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL]. With respect to this finding CPCI seeks review of USAC's determinations that: (1) CPCI's contribution base should not be reduced by [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] to account for revenues improperly included in the contribution base; (2) CPCI's claim that Finding 1 leads to a double payment of federal Universal Service Fund (USF) contributions falls outside the scope of the audit; and (3) CPCI, as opposed to Inmate Calling Solutions, LLC (or "ICSolutions"), had the obligation to report revenues in its contribution base for inmate calling services provided at correctional facilities. These determinations should be reversed because: (1) CPCI has sufficient evidence that a double payment of USF contributions has and will occur if USAC's decision is not reversed; (2) a claim of double payment is within the scope of the audit; and (3) CPCI did not have the primary obligation to report the subject revenues for USF contribution purposes. In turn, Finding 1 should be revised to reflect that CPCI understated its USF contribution base by only [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] not [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] as found in the Report. Under the Commission's rules, the Wireline Competition Bureau is required to conduct a *de novo* review of USAC's decision.⁵

³ Final USAC Audit Report for Embarq Payphone Services, Inc. (Filer ID 820698), January 28, 2014 (the "Report"), attached hereto as Attachment 1.

⁴ See Attachment 1.

⁵ 47 C.F.R. § 54.723.

II. SPECIFIC ISSUES FOR REVIEW

A. Background and the Final Audit Report

It should be noted at the outset that the provision of telephone service here is not the traditional payphone provider arrangement involving a single telecommunications service provider. CPCI is a provider of payphone and inmate calling services (“ICS”) at various correctional institutions located throughout the United States. For the ICS portion of its business, CPCI will often subcontract with other telecommunications providers to provide debit and prepaid telecommunications service to inmates and their families. In this case, CPCI contracted with ICSolutions to provide debit and prepaid calling at several of the correctional institutions with which CPCI had contracted to provide telecommunications services.⁶

ICSolutions is not merely a billing and collection agent. It is a telecommunications carrier and it provides a telecommunications service to inmates and their families under its own brand, not CPCI’s brand.⁷ In this arrangement, CPCI has the customer relationship with the correctional institutions with which it contracts to provide telecommunication services to these institutions.⁸ ICSolutions has the customer relationship with the inmate callers and their families for the placement of debit and prepaid calls, using underlying telecommunication facilities provided by CPCI.⁹ ICSolutions provides the calling platform for the debit and prepaid calls and is the entity that receives the end-user revenues for these calls. As the telecommunications provider with the direct end user relationships for these particular services, ICSolutions had the

⁶ Declaration of Ken Dawson, attached as Attachment 2, ¶¶2; Declaration of Michael Haynes, attached as Attachment 3, ¶2.

⁷ Declaration of Ken Dawson, ¶2; ICSolutions Website Telephone Service Descriptions, attached as Attachment 2.1.

⁸ Declaration of Ken Dawson, ¶¶2-3; Declaration of Michael Haynes, ¶¶2-3.

⁹ *Id.*

primary obligation to make the universal service contributions on interstate and international revenues received by it for prepaid and debit calls. Accordingly, under its contract with CPCI, ICSolutions agreed to make the universal service contributions required on revenue from debit and prepaid calls, and it in fact made the required contributions.¹⁰

The USAC audit focused on CPCI's compliance in completing its 2012 Telecommunications Reporting Worksheet, FCC Form 499-A. The primary objective of the audit was to determine the accuracy and completeness of the revenues reported by CPCI on its 2012 FCC Form 499-A and to identify "any potential misstatements" that may result in a change to CPCI's USF reporting and contribution obligations for the period January 1, 2011 through December 31, 2011.¹¹ USAC issued the Report for the audit on January 28, 2014 with three primary findings. At issue in this request for review is Finding #1 and certain related determinations that led to that finding.

In Finding #1, USAC determined that CPCI had understated its USF Contribution Base by **[BEGIN CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]**. Specifically, Finding #1 concluded that CPCI reported revenues related to its USF pass-through charges on an incorrect line of its 2012 FCC Form 499-A and that CPCI used old allocation factors to allocate revenues from operator services, public payphone coin and credit card services, and inmate telephone services among the jurisdictions of the Form.¹² CPCI acknowledged that certain items were reported on the incorrect line and that old allocation factors had been used. However, during the audit, CPCI presented clear and convincing evidence that these errors were in large

¹⁰ Declaration of Ken Dawson, ¶¶2-5; Declaration of Michael Haynes, ¶3; CPCI Contract with ICSolutions, attached as Attachment 4, Section 6.2.

¹¹ Report, p. 2.

¹² Report, p. 3.

measure offset by the improper inclusion of [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] in revenue in CPCI's USF Contribution Base.¹³ Thus, when these errors were aggregated, CPCI's USF Contribution Base was understated by [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] not [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] as found in the Report.

During the course of the audit, CPCI realized that it had included revenues in its contribution base that also had been reported as revenue by ICSolutions in its contribution base.¹⁴ ICSolutions filed a 2012 FCC Form 499-A covering the time period January 1, 2011 through December 31, 2011.¹⁵ In accord with its contract with CPCI and as the telecommunications carrier with the end-user relationships for debit and prepaid calls placed from the correctional institutions in question, it reported revenues for these calls in its contribution base.

The 2012 FCC Form 499-A filed by ICSolutions reported the full amount of telecommunications revenue that it received from debit and prepaid collect accounts, before any deductions for its services in providing inmate telecommunications services pursuant to its contract with CPCI.¹⁶ The total amount of interstate and international revenue that ICSolutions reported for all of the correctional facilities it served was [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL], of which [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] was reported as interstate revenues and [BEGIN CONFIDENTIAL]

¹³ Report, pp. 8-9.

¹⁴ Report, p. 8.

¹⁵ Declaration of Ken Dawson, ¶¶ 4-5.

¹⁶ ICSolutions does not provide traditional collect calling for inmates at correctional institutions that have contracted with CPCI and does not collect the revenue for traditional collect calls. Instead, CPCI provides the traditional collect calls service for the facilities. Billing and collection for those traditional collect calls is handled by CPCI's billing agent, ILD. Declaration of Michael Haynes, ¶ 2. CPCI's revenues for those collect calls is not at issue in this request for review.

[REDACTED] [END CONFIDENTIAL] was reported as international revenues.¹⁷ These figures included, respectively, revenues of [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] interstate and [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] international attributable to facilities under ICSolutions' contract with CPCI.

Mistakenly, CPCI also reported as telecommunications revenue the full amount it received from ICSolutions on its FCC Form 499-A for debit and prepaid calls. CPCI reported [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] as interstate revenues and [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] as international revenues.¹⁸ As a result, ICSolutions and CPCI both made universal contributions on the same revenue. The amount of the double reporting of revenues equals the full amount that CPCI reported as interstate and international revenues, or [BEGIN CONFIDENTIAL] [REDACTED] [REDACTED] [END CONFIDENTIAL]¹⁹

During the audit, CPCI claimed that its USF Contribution Base reported in its 2012 FCC Form 499-A should have been reduced by this amount, largely reducing the Contribution Base understatement of [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] that USAC identified in Finding 1. As a result, the USF Contribution Base understatement reflected

¹⁷ Declaration of Ken Dawson, ¶ 5.

¹⁸ These amounts do not include revenues for traditional collect calling since traditional collect calling is not provided by ICSolutions at correctional institutions served by CPCI. Declaration of Michael Haynes, ¶¶ 2, 5; Report, p. 8.

¹⁹ ICSolutions used actual call data to determine the amount of interstate and international calls rather than factors. Declaration of Ken Dawson, ¶ 5. As a result, it reported more interstate and international revenue, which worked to the benefit of the Universal Service Fund.

in Finding #1 should have been only [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL]²⁰

B. CPCI Did Not Underpay USF Contributions for the Subject Revenues.

In this request for review, CPCI presents clear and convincing evidence that CPCI contributed into the USF on the same revenues on which ICSolutions also contributed into the USF. As such, USAC erred in demanding that CPCI re-file its 499-A forms to include as assessable revenues the amounts on which ICSolutions had already paid USF. Furthermore, contrary to USAC's view, ICSolutions as the telecommunications provider to the end users for the calls in question was the correct contributor to the fund. In turn, the Commission should reverse USAC's determination that CPCI now owes additional USF contributions based on revenues that never should have been reported in CPCI's assessable revenue base in the first instance. USAC's Finding 1 constitutes mandating a double contribution to the USF, which is wholly inconsistent with the Commission's rules as recently re-emphasized in the Commission's *Wholesaler-Reseller Clarification Order*.²¹

²⁰ During the audit, CPCI also asserted that it had reported revenue that had been reported by Network Communications International Corp. ("NCIC"). While CPCI and NCIC did in fact both contribute on the same revenues, CPCI is not raising the double reporting for NCIC in this request for review. CPCI reported interstate and international revenue of [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] that had also been reported by NCIC. Report, p. 8. Thus, in this request for review, CPCI claims a double reporting of [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] instead of the [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] amount asserted during the audit [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL].

²¹ *Universal Service Contribution Methodology*, Order, 27 FCC Rcd 13780, 13786 ¶ 11, 13799-800 ¶¶ 43-46 (2012) ("*Wholesaler-Reseller Clarification Order*").

1. There Has Been and Will Be a Double Payment of USF Contributions if USAC’s Decision Is Not Reversed.

In its *Wholesaler-Reseller Clarification Order*, the Commission determined that USAC cannot “double collect if clear and convincing evidence shows that *another provider actually contributed* on the subject revenues[.]”²² In this request for review, CPCI presents declarations from employees of CPCI and ICSolutions that describe the overlap in revenue-reporting and demonstrate that a double payment in USF contributions has and will occur if USAC’s finding is not reversed.

In the Report, USAC initially dismissed CPCI’s argument that there has been a double payment of USF obligations by asserting that “to the extent the Carrier alleges a double payment of USF obligations, the Carrier’s claim falls outside the scope of the audit.”²³ CPCI respectfully disagrees. In the Report itself, USAC identifies the objective of the audit to be to determine the accuracy and completeness of the revenues reported by CPCI on its 2012 FCC Form 499-A.²⁴ That USAC was not limiting the audit to the detection of USF contribution base understatements is made apparent in Finding 2 of the Report where USAC identifies an overstatement of the USF contribution base in the amount of [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] related to uncollectable revenue/bad debt expense reporting.²⁵ Thus, CPCI’s claim that it had over-reported revenues was clearly within the scope of the audit.

Further, USAC simply cannot use the “scope” of the audit as a basis for side-stepping a potential double-payment of USF contributions. The Commission has made abundantly clear that the fundamental premise for splitting reported revenues between end-user revenues and

²² *Id.* at 13799, Heading III.C. (emphasis added; initial capitalization for words omitted).

²³ Report, p. 9.

²⁴ Report, p. 2.

²⁵ Report, p. 3.

carrier's carrier revenues is to avoid double-payment of USF contributions.²⁶ USAC must take reasonable steps, as set out in the *Wholesaler-Reseller Clarification Order*, to evaluate a claim of double-payment.²⁷

Clear evidence that a double-payment occurred is seen in the declarations provided here that confirm that ICSolutions contributed on the full revenues obtained for providing the calling services to inmates residing in correctional facilities served by CPCI, and their friends and family members. CPCI's subject revenues are fully-encompassed in the revenues ICSolutions reported. As explained in the declarations of Ken Dawson and Michael Haynes and in the background section above, ICSolutions reported as assessable telecommunications revenue all the revenue it received from the inmates and their friends and family members purchasing its inmate calling services in correctional facilities with which CPCI had contracted.²⁸ At the same time, CPCI also reported as assessable revenue all the revenue it received for providing the telecommunication services underlying the debit and prepaid inmate calling services provided by ICSolutions in correctional facilities that had contracted with CPCI. The CPCI revenue for these services offsets [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] of the [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] in revenues in Finding #1 that USAC determined in the audit were underreported. Based on the evidence presented, this USAC finding should be modified to properly account for this double payment.²⁹

²⁶ *Wholesaler-Reseller Clarification Order*, 27 FCC Rcd at 13786 ¶ 11, 13799 ¶¶ 43-45.

²⁷ *Id.* at ¶¶ 44-45.

²⁸ Declaration of Ken Dawson, ¶ 5; Declaration of Michael Haynes, ¶ 5.

²⁹ Even if one were to accept USAC's incorrect view addressed in the next section that CPCI had the primary obligation to contribute into the federal USF on these revenues, that view cannot mandate a double payment where there is clear and convincing evidence that such a double payment has or would occur. Instead, where such a demonstration is made, USAC should not

2. ICSolutions – and Not CPCI - Had the Primary Obligation to Make Universal Service Contributions Because it Had the Primary Relationship with End User Customers for the Debit and Prepaid Calls at Issue.

The above showing regarding double payment of USF contributions is alone sufficient to support reversal of USAC’s finding. Nevertheless, CPCI also addresses another ground that USAC gave for rejecting CPCI’s claim that it had over-reported revenues as part of its USF contribution base. According to USAC, CPCI, “as the entity with the end-user revenues in the first instance,” has the primary obligation to report such revenues and contribute to the federal USF based on those revenues, regardless of what CPCI’s agreement with ICSolutions provides.³⁰ USAC asserted that “the FCC has made clear that while a third party may agree to pay an entity’s USF contribution obligation on its behalf and while USAC, as the Administrator, may accept payments from the third party, the ‘obligation to directly contribute cannot be contracted away.’”³¹

USAC expressed the view that ICSolutions operates merely as a billing and collection agent for certain services provided under CPCI’s contracts with correctional facilities, but does not itself provide telecommunications services to these correctional facilities.³² USAC believed that CPCI, as “the primary contract holder with the correctional facilities (i.e., the end-user customers)”, provided the telecommunications services to the end-user customers’ and then subcontracts with ICSolutions in order to meet the calling platform requirements in the

seek to recover additional contributions on the subject revenues. *See Wholesaler-Reseller Clarification Order*, 27 FCC Rcd at 13799-800 ¶¶ 43-46.

³⁰ Report, p. 9.

³¹ Report, p. 10.

³² *Id.*

contracts.³³ Thus, USAC concluded that the revenues ICSolutions collects, remits to CPCI, and reports in its contribution base, are revenues ICSolutions collects from CPCI's end-user customers for telecommunications services CPCI provides.³⁴

In reaching its conclusions, USAC mistakenly viewed the correctional institutions served by CPCI as "the end-user customers." In fact, the end-user customers for calls from correctional facilities are the inmates and their families who place and pay for those calls. While CPCI has the contractual relationships with various correctional facilities for managed informational technology solutions, a part of which is the carriage and billing of inmate telephone calls, ICSolutions has the end user relationship with the inmates and their families who place and pay ICSolutions for the debit and prepaid calls. Thus, ICSolutions has the primary obligation to report the revenues received for debit and prepaid calls.³⁵ ICSolutions did not, as USAC apparently believed, erroneously report another entity's end-user telecommunications revenues in its own contribution bases. It properly reported its own end-user telecommunications revenues because it is the entity that has the end-user relationship with the inmates and their families who place and pay for the calls.

As stated previously, ICSolutions is not merely a billing and collection agent.³⁶ It is a telecommunications carrier and it provides a telecommunication service to inmates and their families under its own brand, not CPCI's brand.³⁷ That is why ICSolutions' agreement with

³³ *Id.*

³⁴ *Id.*

³⁵ *Wholesaler-Reseller Clarification Order*, 27 FCC Rcd at 13786 ¶ 11.

³⁶ In fact, if they were merely billing and collection agents as USAC interpreted, it would not make sense for them to agree to file Form 499-As and remit USF contributions since they would not be providing telecommunications and thus would have no obligation to file Form 499As in the first instance.

³⁷ Declaration of Michael Haynes, ¶¶ 2-3.

CPCI requires that it collect and remit universal service contributions on the revenues it receives for its debit and prepaid telecommunications services.³⁸ Consequently, USAC's conclusion that CPCI was responsible for reporting the end-user revenues received by ICSolutions is erroneous and should be reversed.

Finally, the two orders USAC relied upon for its conclusion that the "obligation to directly contribute cannot be contracted away" are not on point.³⁹ The *American Telecommunications System Order*⁴⁰ was a Wireline Competition Bureau decision in which it was not clear whether there had been a double collection of USF contributions. Moreover, the full Commission in its *Wholesaler-Reseller Clarification Order* later rejected the view that USAC could ignore evidence of double collection. The second order relied upon by USAC was the Wireline Competition Bureau's *American Cyber Corp. Order*,⁴¹ which also predates the Commission's *Wholesaler-Reseller Clarification Order*. The *American Cyber Corp. Order* is distinguishable for the additional reason that the evidence in that case demonstrated there had not

³⁸ ICSolutions Contract, Section 6.2, attached as Attachment 4. In fact, contrary to USAC's interpretation, this contract language provides "reliable proof" that ICSolutions is appropriately viewed by CPCI as a reseller for federal universal service contribution purposes in that ICSolutions incorporated CPCI's telecommunications into its own offerings and could reasonably be expected to contribute into the USF based on revenues from those offerings. Further, the fact that ICSolutions actually contributed into the USF in accord with the contract language leaves no question that CPCI had a reasonable expectation that ICSolutions would contribute.

³⁹ Report, pp. 9-10, fn. 8.

⁴⁰ *Federal-State Joint Board on Universal Service; American Telecommunications Systems, Inc. Equivoice, Inc.; Eureka Broadband Corporation TON Services, Inc.; Value-Added Communications, Inc.*, CC Docket No. 96-45, Order, DA 07-1306, 22 FCC Rcd 5009 (2007) ("*American Telecommunications System Order*").

⁴¹ *Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Petition for Review American Cyber Corp.; Petition for Review Coleman Enterprises, Inc.; Petition for Review Inmark, Inc., d/b/a Preferred Billing; Petition for Review Lotel, Inc., d/b/a Coordinated Billing; Petition for Review Protel Advantage, Inc.*, CC Docket Nos. 96-45, 02-6, Order, DA 07-1263, 22 FCC Rcd 4925 (2007) ("*American Cyber Corp. Order*").

been a double collection. The underlying wholesaler who had contracted to make the USF contributions in the *American Cyber Corp.* case had ceased making the contributions.⁴²

In the present case, the evidence clearly and convincingly demonstrates that CPCI on the one hand, and ICSolutions on the other, both reported revenues for the same calls on their respective FCC Form 499-As. Thus, under the Commission's *Wholesaler-Reseller Clarification Order*, USAC must consider CPCI's evidence of double reporting of revenues and the double payment of USF contributions on those revenues in order to avoid any double collection of USF contributions. Accordingly, Finding #1 of the Final Audit Report and the related determinations must be reversed.

III. CONCLUSION: SUMMARY OF REQUESTED RELIEF

For the reasons stated above, CPCI respectfully requests that the Commission reverse USAC's Finding 1 that CPCI understated its USF contribution base by **[BEGIN CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]**. The Commission should instruct USAC to avoid mandating a double payment of USF contributions. USAC should properly account for the revenues mistakenly included in CPCI's contribution base

⁴²*Id.* at 4927 ¶ 7.

that would result in a double payment of USF contributions and reduce CPCI's understated contribution base accordingly.

Respectfully submitted,

**CENTURYLINK PUBLIC
COMMUNICATIONS, INC.**

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Its Attorneys

Date: March 26, 2014

LIST OF ATTACHMENTS

Attachment 1 – Final USAC Audit Report for Embarq Payphone Services, Inc.

Attachment 2 -- Declaration of Ken Dawson

Attachment 2.1 – ICSolutions Website Telephone Service Descriptions

Attachment 3 -- Declaration of Michael Haynes

Attachment 4 -- Section 6.2 of Contract Between CPCI and ICSolutions

ATTACHMENT 1

REDACTED IN ITS ENTIRETY

REDACTED – FOR PUBLIC INSPECTION

ATTACHMENT 2

REDACTED – FOR PUBLIC INSPECTION

REDACTED – FOR PUBLIC INSPECTION

DECLARATION OF KEN DAWSON

I, Ken Dawson, declare:

1. I am employed at Inmate Calling Solutions, LLC (“ICSolutions”) as Director Contracts & Regulatory. My job responsibilities include, among other things, managing regulatory compliance matters. In this capacity I have personal knowledge of ICSolutions’ business relationship with CenturyLink Public Communications, Inc., formerly known as Embarq Payphone Services, Inc. (“CPCI”), and the manner in which ICSolutions reports revenues pertaining to that relationship on ICSolutions’ FCC Form 499-A.
2. Generally, the business relationship between ICSolutions and CPCI enables voice communications for inmates at certain correctional facilities within the United States. CPCI contracts with correctional facilities to provide the telecommunication services to the facilities and ICSolutions subcontracts with CPCI to provide telecommunication services under ICSolutions’ brand to inmates and friends and family members that are using prepaid and debit accounts to make telephone calls. ICSolutions tracks the usage and settles the accounts for prepaid and debit calls placed by inmates and has the end user relationship with the inmates and friends and family members for the calls the inmates place. Attached as Attachment 2.1 are copies of selected pages from ICSolutions’ website describing the services ICSolutions provides.
3. In accord with the contract between ICSolutions and CPCI, ICSolutions receives all of the revenue collected by the correctional facilities for debit calls placed by inmates, and also all of the revenue collected from friends and family members for prepaid calls. ICSolutions then subtracts from these gross revenues the amount due to it for services it provides and then remits the remainder back to CPCI.

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4. On ICSolutions' FCC Form 499-A, ICSolutions reports the full amount of all interstate and international telecommunications revenue it receives for prepaid and debit calls, before any deductions for the payment it is entitled to receive for the services it provides to inmates for such prepaid and debit calling.
5. Accordingly, in its 2012 FCC Form 499-A, reporting 2011 revenues, ICSolutions reported the full amount of all interstate and international telecommunications revenue that it received from prepaid and debit accounts, before any deductions for its services in providing inmate telecommunication service including, without limitation, any deductions relating to CPCI. ICSolutions total amount of such revenue for 2011 was [REDACTED] [REDACTED] which, based on actual comparisons of the originating and terminating telephone numbers of the calls, was broken out as [REDACTED] interstate and [REDACTED] international. These figures included, respectively, revenues of [REDACTED] interstate and [REDACTED] international attributable to facilities under prime contract with CPCI.

I hereby declare, under penalty of perjury, that the foregoing is true to the best of my knowledge, information, and belief.

Executed on March 24, 2014



Ken Dawson

ATTACHMENT 2.1



About Us

Products & Services

Services for Facilities

Centralized Call Processing

JMS by Zuercher Technologies

Commissary Services

Inmate Banking

Paperless Grievance Reporting

Remote Access

Staff Training

Over-the-Phone Commissary Ordering

System Integrations

Technical Service

Technology Upgrades

Video Visitation by VizVox

Security & Investigations

Call Alerts

Cell Phone Control

Custom Reporting

Keyword Search by Nexidia

Link Analysis

Officer Check-In

Records Seal

Reverse Lookup

Visitation Phone Monitoring & Recording

Voice Biometrics by Investigator Pro™

Services for Inmates & Families

Automated Information Line

Customer Service

Flexible Calling Options

Inmate & Family Education

Inmate Voicemail

Kiosks – Booking, Lobby & Pod

Phone and Web-based Deposit Services

About Us

Company Profile

News & Events

Partners

Tariffs

Careers

Contact Us

Facility Support

TRANSFORMING THE INMATE CALLING INDUSTRY

Founded in 2002, IC Solutions (Inmate Calling Solutions, ICS) has become the leading provider of innovative telecommunications products and technologies, and exceptional customer service, to the corrections industry. We currently serve more than 150,000 inmates in over 200 correctional facilities nationwide and our services are deployed in five statewide Department of Corrections prison systems.

Now a wholly owned subsidiary of Centric Group, we bring unmatched technical, financial and personnel resources to bear on every endeavor. We develop our products and services to meet the unique needs of the corrections industry, building in reliable, flexible features that facilities need, including:

- A superior call-control platform
- Flexible administrative capabilities
- Extensive fraud prevention features
- Advanced investigative tools
- Continuous voice biometric identification

SEAMLESS INTEGRATION AND TECHNICAL SUPPORT

We believe the cornerstone of a lasting partnership is exceptional customer service. We make it our top priority by focusing squarely on each correctional facility's unique needs, with a service commitment that includes:

- Carefully planned and coordinated service transition
- Dedicated account management
- 24/7 technical support
- A nationwide network of local repair technicians
- Free, ongoing software upgrades
- Free on-site and/or online training as needed

We understand the balance between call cost and facility commissions and will customize a plan, incorporating technology features, call rates, funding fees and a commission percentage that meets your specific objectives.

SUPERIOR REVENUE GENERATION AND ACCOUNTABILITY

We deliver on our promise to increase your revenue by providing inmates' families and friends with flexible payment options and real-time access to live payment agents. Our program includes:

- A complimentary conversation with the first call completion
- Flexible call rates and commission plans
- Multiple payment methods
- 24/7 support from bilingual (English and Spanish) agents
- A real-time revenue audit trail
- A proven ability to significantly increase call completions

To learn how we can enhance your inmate communications processes, contact us today at 800.661.3845.





Sign In | Create Account | Products & Services | Support

- Products & Services
- Debit Telephone Account**
- Prepaid Account
- Collect Calling
- Voicemail Messaging
- Video Visitation
- Secure Mail™ & Secure Photo™
- Secure Deposits™

Debit Telephone Account

Would you like a convenient way to purchase prepaid phone services for your incarcerated friend or loved one? Setting up a free Debit Telephone Account is a quick, easy and convenient way to allow your loved one to call ANY phone number that is not blocked by the facility.

You can purchase prepaid phone services for the Inmate's Debit Telephone Account in three different ways: online, phone or by mail. Yes, it's that easy.

1) **Online (click here):** The fastest and easiest way to set up an account and purchase prepaid phone services is our Online Payment Processing Service. This service allows you to conveniently purchase prepaid phone services using a credit or debit card. As soon as your payment is completed, the Inmate will be able to make phone calls to any numbers which are not restricted by the facility, including your phone number.

2) **By Phone:** You can also call our toll-free customer service center at 1 (888) 888-8413. Customer Care Representatives are available 24 hours a day, 365 days a year to answer your questions and process your purchase.

3) **By Mail:** If you want to purchase prepaid phone services for an Inmate's Debit Telephone Account using a check or money order, please mail to:

ICSolutions
Attn: Customer Service Department/Debit Telephone Account
2200 Danbury Street
San Antonio, TX 78217

When purchasing prepaid phone services through a mail-in purchase, please be sure to include with your payment:

- Your Name
- Your Address
- Your daytime Telephone Number
- Name of the Facility
- Inmate's Name
- Inmate's Facility ID Number

If you have any questions, you can speak with a customer care representative by calling 1.888.888.8413. We are available 24 hours a day, every day! Call us today.

Please click here to learn more about this calling service.





[Sign In](#) | [Create Account](#) | [Products & Services](#) | [Support](#)

[Products & Services](#)
[Debit Telephone Account](#)
[Prepaid Account](#)
[Collect Calling](#)
[Voicemail Messaging](#)
[Video Visitation](#)
[Secure Mail™ & Secure Photo™](#)
[Secure Deposits™](#)

Prepaid Account

The Prepaid Account provides you an option to continue to accept an inmate's calls when:

- Your phone is a cell phone
- Your local telephone company does not offer billing of collect calls
- Your phone number has exceeded its allowed spending limit for collect calls

You can easily create a free Prepaid Account and purchase prepaid phone services in three ways:

1) **Online** (click here): The fastest and easiest way to set up an account and purchase prepaid phone services is our Online Payment Processing Service. This service allows you to conveniently purchase prepaid phone services using a credit or debit card. As soon as your payment is completed, the inmate will be able to make phone calls to your designated telephone number.

2) **By Phone**: Call toll free 1.888.506.8407 where you will speak with one of our bilingual (English and Spanish) Customer Care Representatives which are available 24 hours a day, 365 days a year to answer your questions and process your purchase.

3) **By Mail**: To purchase prepaid phone services for a Prepaid Account using a check or money order, please mail to:

ICSolutions
Attn: Customer Service Department/Prepaid Account
2200 Danbury Street
San Antonio, TX 78217

When purchasing prepaid phone services through a mail-in purchase, please be sure to include with your payment, your name, address and the designated telephone number you wish to receive calls from.

Please note: Prepaid Account phone services expire 6 months from the date of your last purchase to the account, unless otherwise required by state law. You may request a refund for unexpired prepaid phone services remaining. Where applicable, any such refund granted will incur a \$2.99 processing fee.

[Click here to learn more about our Prepaid Account service.](#)



ATTACHMENT 3

REDACTED – FOR PUBLIC INSPECTION

REDACTED – FOR PUBLIC INSPECTION

DECLARATION OF MICHAEL HAYNES

I, Michael Haynes, declare:

1. I am employed at CenturyLink Public Communications, Inc. as Manager Systems Support. My job responsibilities include, among other things, managing the financial relationship with the Company's vendors and customers, including Inmate Calling Solutions, Inc. ("ICSolutions"). I supervise a team of employees whose responsibilities include reporting, reconciliation, and auditing of the intra-company settlement processes. In this capacity, I have personal knowledge of CenturyLink Public Communications, Inc.'s business relationship with ICSolutions. CenturyLink Public Communications, Inc. was formerly known as Embarq Payphone Services, Inc. On November 14, 2013, Embarq Payphone Services, Inc. changed its name to CenturyLink Public Communications, Inc. ("CPCI").
2. Generally, the business relationship between ICSolutions and CPCI enables voice communications for inmates at certain correctional facilities within the United States. CPCI contracts with correctional facilities to provide telecommunications services to the facilities and ICSolutions subcontracts with CPCI to provide telecommunications services to inmates and friends and family members that are using prepaid and debit accounts to make telephone calls. CPCI functions in part as a wholesaler to ICSolutions in that it provides the transport network used by ICSolutions to provide ICSolutions's telecommunications services. Inmates may also make traditional collect calls; in this situation, the call detail records are sent to CPCI's billing agent, ILD, for billing and collection. ICSolutions does not receive the revenue for traditional collect calls. ICSolutions tracks the usage and settles the accounts for prepaid and debit calls placed by inmates and has the end user relationship with the inmates and friends and family

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members for the calls the inmates place. In accord with the contract between ICSolutions and CPCI, CPCI receives and then passes on to ICSolutions all of the revenue collected by the correctional facilities CPCI serves for debit calls placed by inmates. ICSolutions directly collects all of the revenue for prepaid calls collected from friends and family members. ICSolutions then subtracts from these gross revenues for debit and prepaid calls the amount due to it for services it provides and then remits the remainder back to CPCI.

3. The contract between CPCI and ICSolutions requires ICSolutions to report the full amount of all interstate and international telecommunications revenue it receives for prepaid and debit calls on its FCC Form 499-A. Specifically, Section 6.2 of the contract provides in pertinent part:



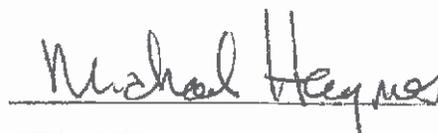
A copy of the pertinent pages of the contract is attached as Attachment 4. It is my understanding that for calendar year 2011, ICSolutions reported total interstate and international revenue of [REDACTED] on its 2012 FCC Form 499-A. Of this amount, revenues of [REDACTED] interstate and [REDACTED] international were attributable to debit and prepaid calls at facilities under ICSolutions' contract with CPCI.

4. For calendar year 2011, CPCI also reported on its FCC Form 499-A interstate and international revenues for prepaid and debit calls collected by ICSolutions and then

remitted to CPCI. Specifically, CPCI reported [REDACTED] interstate revenues and [REDACTED] international revenues resulting from these prepaid and debit calls. These amounts do not include interstate or international revenues for traditional collect calls which CPCI billed and collected separately from its relationship with ICSolutions. The difference between what CPCI reported as revenue for the prepaid and debit calls and what ICSolutions reported as revenue for these calls is because CPCI used factors to estimate the amount of interstate and international calls, whereas ICSolutions used a comparison of calling and called party telephone numbers to calculate the amount of interstate and international calls. Notwithstanding the difference in amounts, the interstate and international revenues reported by CPCI and ICSolutions were for the same calls placed by inmates and their families and friends as end users of ICSolutions telecommunications services.

I hereby declare, under penalty of perjury, that the foregoing is true to the best of my knowledge, information and belief.

Executed on March 25, 2014

A handwritten signature in cursive script that reads "Michael Haynes". The signature is written in black ink and is positioned above a horizontal line.

Michael Haynes

ATTACHMENT 4

REDACTED IN ITS ENTIRETY

REDACTED – FOR PUBLIC INSPECTION

CERTIFICATE OF SERVICE

I, Joan O'Donnell, do hereby certify that I have caused the foregoing **REQUEST FOR REVIEW BY CENTURLINK PUBLIC COMMUNICATIONS, INC. OF DECISION OF THE UNIVERSAL SERVICE ADMINISTRATOR** to be served via courier on the Universal Service Administrative Company at the following address as provided by the Universal Service Administrative Company:

Universal Service Administrative Company
Letter of Appeal
Billing, Collections, and Disbursements
2000 L Street, NW, Suite 200
Washington, DC 20036

/s/ Joan O'Donnell
Joan O'Donnell

March 26, 2014