

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

Albert Silk,)	
)	
Complainant)	
v.)	<u>File No. IC-2012-0268</u>
)	
Embarq Missouri, Inc.)	
d/b/a CenturyLink,)	
)	
Respondent)	

**EMBARQ MISSOURI, INC., D/B/A CENTURYLINK'S AMENDED ANSWER TO
COMPLAINT OF ALBERT SILK, AMENDED MOTION TO DISMISS. AND
AFFIRMATIVE DEFENSES**

COMES NOW Embarq Missouri, Inc., d/b/a CenturyLink (hereinafter
"CenturyLink"), in accordance with Commission Rule 4 CSR 240-2.070 and the Commission's
Order Giving Notice of Contested Case, Directing Answer and Directing Staff Investigation
issued in this matter on February 2, 2012, and respectfully submits its Amended Answer,
Amended Motion to Dismiss and Affirmative Defenses to the Complaint filed by Mr. Albert
Silk.

AMENDED ANSWER TO COMPLAINT

The *Order Giving Notice of Contested Case, Directing Answer and Directing Staff
Investigation* attached a letter submitted as a formal complaint by Mr. Silk regarding his Lifeline
service provided by CenturyLink. In reviewing Mr. Silk's letter, it appears that the allegations in
his complaint are that 1) CenturyLink erroneously determined that he is not eligible for Lifeline

service, and 2) potentially he is being billed erroneously for services for the telephone number designated on the letter, which is not his telephone number.¹

In response to the first allegation, CenturyLink determined that the telephone number designated on the letter (336-386-8199) is assigned to another customer and was inserted into the letter that was sent to Mr. Silk purely as a result of an administrative and/or typographical error. Mr. Silk is not being billed for services at the number designated on the letter. The letter sent to Mr. Silk rejecting the Lifeline application he submitted in November 2011 was sent in accordance with the Commission's Lifeline rules, since Mr. Silk did not submit the appropriate documentation of his eligibility. However, since Mr. Silk was already enrolled in Lifeline and was not subject to an annual verification audit, there was no need for him to reapply and the rejection of his November application did not result the removal of his Lifeline credits.

In response to the second allegation, in reviewing Mr. Silk's records, CenturyLink determined that Mr. Silk currently has an account with CenturyLink for the telephone number he noted in his letter (816-987-2484). According to CenturyLink's records Mr. Silk is currently receiving the Lifeline discount for service at this telephone number and began receiving the Lifeline discount for his telephone service on January 7, 2009.²

Because the letter Mr. Silk complained about was sent to him in error and CenturyLink has determined that: 1) he is not being billed for service at the erroneous telephone number included on the letter; 2) he is being billed only for telephone service at his assigned number; and

¹ Because Mr. Silk did not provide numbered paragraphs in his letter, CenturyLink's Answer similarly is organized in narrative form to respond to his allegations, rather than through numbered paragraphs.

² Although it was not necessary for him to do so, since he was already enrolled in Lifeline and not subject to an annual verification audit, Mr. Silk did submit the appropriate documentation demonstrating his eligibility for Lifeline when he resubmitted his Lifeline application in February 2012 in response to the rejection letter.

3) he is currently receiving the Lifeline discount and has been receiving the discount since January 7, 2009, CenturyLink denies the allegations and claims in Mr. Silk's letter.

AMENDED MOTION TO DISMISS

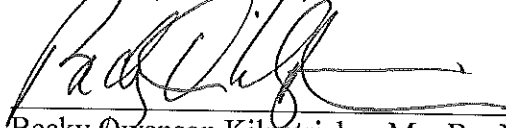
In accordance with Rule 4 CSR 240.070(6), CenturyLink hereby moves that the Commission dismiss the above-captioned matter for failure to state a claim upon which relief may be granted. In support of its Motion, CenturyLink respectfully restates and incorporates by reference its Answer as fully set forth above. As discussed above, Mr. Silk's assumptions about the import of his receipt of a letter that mistakenly included another customer's phone number are incorrect. In addition, Mr. Silk has not clearly described the statutory basis for his claims (i.e., what statutes, rules or laws CenturyLink may have violated) or the specific relief he is seeking. For these reasons, CenturyLink believes that there is no justiciable claim to be resolved regarding Mr. Silk's service. Therefore, CenturyLink respectfully requests that the Commission dismiss Mr. Silk's complaint.

AFFIRMATIVE DEFENSES

1. Complainant fails to state a claim upon which relief may be granted. CenturyLink incorporates by reference the statements and allegations contained in its Answer and Motion to Dismiss above.
2. Complainant's claims are barred by state and federal law.

WHEREFORE, having fully answered, Respondent CenturyLink respectfully requests the Commission to enter an Order dismissing the Complaint, and for such other further and additional relief as may be appropriate.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, transmitted by e-mail or mailed, First Class, postage prepaid to the following parties on this 14 day of April, 2012:

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