

**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 ANSWER TO COMPLAINT OF
ALBERT SILK, 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 Answer, Motion to
Dismiss and Affirmative Defenses to the Complaint filed by Mr. Albert Silk.

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

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.

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 that the letter 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 and the rejection of the Lifeline application referenced in the letter does not apply to him.

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 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.

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 mistaken receipt of the letter that was intended for another customer are

² Federal and state regulations require CenturyLink to conduct periodic audits of its Lifeline customers to ensure that they meet the qualifications to receive the Lifeline discount which is funded through Universal Service Funds collected from CenturyLink's customers. Mr. Silk's account is not subject to audit at this time, although it may be subject to the audit in the future. Should Mr. Silk's account be audited in the future, he will need to provide acceptable documentation that he meets the eligibility criteria for the Lifeline discount.

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 2nd day of March, 2012:

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