STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

In the Matter of a Repository Case in Which to Gather Information about the Lifeline Program And Evaluate the Purposes and Goals of the Missouri Universal Service Fund	))))	**File No. TW-2014-0012**

CenturyLink's Comments

On January 15, 2014, the Missouri Public Service Commission (Commission) issued an Invitation to Comment about the Possible Creation of a Missouri Universal Service High-Cost Fund. The Commission listed a series of questions that it wanted responses to. CenturyLink appreciates the opportunity to formally provide comments to the Commission on the creation of a high-cost fund in Missouri and its affiliated companies[1] respond as follows:

Response to Questions:

1. *Does Missouri need a state high-cost fund? If no, please explain your position. If yes, please address the following questions in your response:*

Yes, a Missouri state high cost find is necessary if the state wants to maintain the availability of essential services in rural, high-cost areas that are reasonably comparable in terms of features, functions and rates to those in more urban areas.

a. *Why is the existing federal high-cost program insufficient?*

The existing federal program is undergoing a significant transition. The historic federal universal service programs are being completely transformed from providing

[1] CenturyTel of Missouri, LLC d/b/a CenturyLink; Embarq Missouri, Inc., d/b/a CenturyLink; Spectra Communications Company, LLC d/b/a CenturyLink; CenturyTel of Northwest Arkansas, LLC d/b/a CenturyLink; Embarq Communications, Inc. d/b/a CenturyLink Communications; CenturyTel Lon Distance d/b/a CenturyLink Long Distance; Qwest Communications Company, LLC d/b/a CenturyLink QCC; CenturyTel Solutions, LLC d/b/a CenturyLink Solutions; and CenturyTel Fiber Company II, LLC d/b/a Lightcore, a CenturyLink Company.

support for voice services across all rural service areas to providing support for a broadband and voice network in targeted rural locations under the new Connect America Fund (CAF). The Federal Communications Commission (FCC) established two phases in this transformation for price cap companies like CenturyLink.[2] Under CAF Phase I, existing federal support was frozen until the introduction of Phase II.[3] As part of that Order, under CAF Phase II support will be made available to price cap carriers such as CenturyLink based on the forward looking economic costs of deploying and maintaining the required broadband capable network. CAF II is targeted to specific census blocks that do not currently have qualifying broadband service available and will leave other high-cost areas in the State of Missouri without ongoing support for either a voice network or a broadband capable network with voice capabilities. CAF II is also subject to a finite budget causing the underlying cost model function primarily as an allocation method to distribute the budgeted dollars, rather than using the model to determine the actual level of support needed to achieve universal voice and broadband availability goals. As a result, there will be a benchmark below which funding will not be provided as well as a high-cost cap on funding. This will leave some areas without support for either a wireline voice or broadband solution. As part of this allocation process, the FCC determined that the highest-cost consumers would only receive some token support for broadband service, probably satellite, and no voice network support. It is critical that Missouri's rural consumers who will not be supported by CAF II

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[2] *In the Matter of Connect America Fund*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (the "Transformation Order") (subsequent history omitted).
[3] Because the FCC expected Phase II modeling and rules development to take more than a year, the FCC developed an interim CAF Phase I funding, where existing high-cost support was frozen at 2011 levels until CAF Phase II was implemented.

funding are at least able to continue receiving their existing voice service. A Missouri state high-cost fund would be the vehicle for providing the support necessary to accomplish this public interest goal.

b. *How much state funding is needed?*

The level of state funding will depend on the state's commitment to the ongoing availability of voice service at comparable rates in rural areas, or whether the state wants to expand that commitment to also include broadband for rural Missouri consumers.

c. *What consequences, if any, are anticipated if the Missouri Commission fails to establish a high-cost fund?*

Over time, Missouri's rural consumers will be left behind as urban and suburban consumers continue to receive ever-improving, robust voice and broadband services. Carriers cannot commit to either the ongoing availability of comparable, affordable voice services or any further expansion of broadband service in high-cost areas that are not supported by CAF II funding or a state universal service fund. Balhoff & Williams, LLC provided an assessment of the implications to rural areas as a result of CAF II in a June, 2013 white paper, available at http://www.balhoffrowe.com/documents.htm.

2. *What issues need to be addressed by the Public Service Commission in order to establish a high-cost fund?*

The key issues in establishing a state high-cost fund would include a determination of the service(s) to be supported, level of support, public interest conditions for the receipt of support, and funding methodology.

3. *What service(s) should be supported?*

Given likely budget concerns, it is essential that voice services immediately be supported for Missouri's rural consumers. The Commission should retain the flexibility to expand the definition of covered services in the future as both technology and consumer needs evolve. Any Missouri USF plan should complement the FCC's CAF II funding, which supports a broadband capable network with voice capability.

4. *What type(s) of providers should be able to receive high-cost support?*

a. *Should funding be limited to landline providers?*

Yes. It should be specifically limited to incumbent local exchange carriers (ILECs). ILECs historically have been subject to carrier of last resort (COLR) obligations, and have already built infrastructure to more than 99% of Missouri's consumer locations. The continued maintenance and enhancement of that infrastructure over time to deliver essential services to rural, high-cost areas is the best method available to achieve the goals of a state high-cost fund. The ultimate source of funding to achieve these goals rests on the citizens of Missouri and it is incumbent upon the Commission to efficiently utilize that scarce resource. The fund should not be structured in such a manner that it would fund competition in uneconomic areas; but it should instead be used to offset the high cost of providing voice services in rural areas of Missouri. In the context of the Connect America Fund, the FCC, in its Transformation Order, determined that only one network should be funded to achieve its goals for the delivery of essential services in high-cost areas and that the supported network should not be a mobile network.[4] Wireless network providers generally charge more for the equivalent of basic network

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[4] *Id.* at ¶ 104.

services and generally have usage caps for data usage that are below those for equivalent ILEC services. The FCC explained its rationale as follows:

> In particular, several considerations support our determination not to immediately adopt competitive bidding everywhere for the distribution of CAF support. Because we exclude from the price cap areas eligible for support all census blocks served by an unsubsidized competitor, we will generally be offering support for areas where the incumbent LEC is likely to have the only wireline facilities, and there may be few other bidders with the financial and technological capabilities to deliver scalable broadband that will meet our requirements over time. In addition, it is our predictive judgment that the incumbent LEC is likely to have at most the same, and sometimes lower, costs compared to a new entrant in many of these areas. We also weigh the fact that incumbent LECs generally continue to have carrier of last resort obligations for voice services. While some states are beginning to re-evaluate those obligations, in many states the incumbent carrier still has the continuing obligation to provide voice service and cannot exit the marketplace absent state permission. On balance, we believe that that our approach best serves consumers in these areas in the near term, many of whom are receiving voice services today supported in part by universal service funding and some of whom also receive broadband, and will speed the delivery of broadband to areas where consumers have no access today.
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> We disagree with commenters who assert that the principle of competitive neutrality precludes the Commission from giving incumbent carriers an opportunity to commit to deploying broadband throughout their service areas in a state in exchange for five years of funding. The principle of competitive neutrality states that "[u]niversal service support mechanisms and rules should be competitively neutral," which means that they should not "unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another." The competitive neutrality principle does not require all competitors to be treated alike, but "only prohibits the Commission from treating competitors differently in 'unfair' ways." Moreover, neither the competitive neutrality principle nor the other section 254(b) principles impose inflexible requirements for the Commission's formulation of universal service rules and policies. Instead, the "promotion of any one goal or principle should be tempered by a commitment to ensuring the advancement of each of the principles" in section 254(b).

> As an initial matter, we note that our USF reforms generally advance the principle of competitive neutrality by limiting support to only those areas of the nation that lack unsubsidized providers. Thus, providers that offer service without subsidy will no longer face competitors whose service in the same area is subsidized by federal universal service funding. Especially in this light, we conclude that any departure from strict competitive neutrality occasioned by affording incumbent LECs an opportunity to commit to deploying broadband in their statewide service areas is outweighed by the advancement of other section 254(b) principles, in particular, the principles that "[a]ccess to advanced telecommunications and information services should be provided in all regions of the Nation," and that consumers in rural areas should have access to advanced services comparable to those available in urban areas. Although other classes of providers may be well situated to make broadband commitments with respect to relatively small geographic areas such as discrete census blocks, the purpose of the five-year commitment is to establish a limited, one-time opportunity for the rapid deployment of broadband services over a large geographic area. The fact that incumbent LECs' have had a long history of providing service throughout the relevant areas – including the fact that incumbent LECs generally have already obtained the ETC designation necessary to receive USF support throughout large service areas – puts them in a unique position to deploy broadband networks rapidly and efficiently in such areas. We see nothing in the record that suggests a more competitively neutral way of achieving that objective quickly, without abandoning altogether the goal of obtaining large-area build-out commitments or substantially ballooning the cost of the program.[5]

b. *Does a provider need to own facilities? If so, what kind of facilities?*

Yes, the fund should only support providers that build and maintain their own facilities. The purpose of this is to ensure that rural customers have at least one provider always available with reasonably comparable services at rates that are reasonably comparable to urban customers.

c. *Should wireless or broadband providers be able to draw support?*

This is a critical decision for Missouri policy makers to determine. Over the course of a multi-year investigation into this issue, the FCC determined that wireless service

[5] *Id.* at ¶¶ 175-176 (FCC citations omitted).

was not a comparable broadband service to landline networks in urban areas, and that cable networks are not currently built into the areas that require support. Therefore telephone company networks were considered the most cost-effective method to expand broadband capable networks in high-cost, rural areas except for the highest-cost areas that only comprise one percent of locations nationwide.

5. *How should high-cost disbursements be determined? (For example, how will it be determined if an area or provider needs high-cost support, and if so, how much?*

High-cost support levels for rural areas in Missouri should be determined based on a forward looking economic cost model (FLEC) like the one being utilized by the FCC for CAF Phase II funding. The costs of providing the essential service should, at a minimum, be determined separately for the denser urban zone and the areas surrounding that core if not on a census block basis. The FCC found the following:

> 199. Informed by the further recommendations of the state members of the Joint Board, we implement the Joint Board's recommendations, including a specific timetable for implementation of federal universal service support to rural, insular and high cost areas. As the Joint Board recommended, we today establish that the level of support for service to a particular customer will ultimately be determined based upon the forward- looking economic cost of constructing and operating the network facilities and functions used to provide that service. As the Joint Board stated, forward- looking economic cost best approximates the costs that would be incurred by an efficient carrier in the market. Thus, as the Joint Board found, the use of forward-looking economic cost as the basis for determining support will encourage and permit economically correct levels of entry, investment, and innovation. Use of forward-looking economic cost helps us to ensure that we are providing the minimum support necessary for efficient provision of the supported services.[6]

[6] *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, FCC 97-157A1, CC Docket No. 96-45, released May 8, 1997, ¶199.

6. *What state(s), if any, have a state high-cost fund that Missouri should strive to mirror?*

While the funding level and service obligations would be unique to Missouri, the Kansas and Nebraska state high-cost funds, for example, determine support based on a FLEC model and utilize two zones within each exchange. The Texas Universal Service Fund established funding levels utilizing a FLEC model at an exchange level. In a 2012 Survey of State Universal Service Funds conducted by the National Regulatory Research Institute (NRRI), the authors found that 21 states have specific state funds for high costs.[7] There may be components of these funds, or others that could inform the Commission in developing a Missouri high-cost fund.

7. *Should an attempt be made to limit the size of the fund? (For example, should the fund's total annual disbursement amount be capped? Should the fund have a sunset provision or a phase-out provision?)*

The size of the fund should be determined after identifying the social goals and the financial needs required to meet those goals. If the funding is arbitrarily capped then the public interest obligations must also be correspondingly adjusted. Also, public interest obligations must be matched with funding. While the Commission could review the goals of the fund, and whether or not the fund is filling those goals, the initial term of the fund should allow the eligible telecommunication carriers (ETCs) to recover their capital and operational expenditures associated with providing services. If the fund is sunset or phased-out, then carriers cannot continued to be held to the corresponding public-interest obligations.

[7] Survey of State Universal Service Funds 2012, National Regulatory Research Institute.

8. *What accountability requirement, if any, should be established to ensure a company is appropriately using state high-cost support?*

Accountability should be determined through a demonstration by the fund recipients that they are meeting the public interest obligations associated with the funding.

9. *Is there a need to revise how the Missouri USF is funded to accommodate a high-cost fund?*

a. *Should the base of services assessed to support the MoUSF be expanded?*

A wider base of services subject to the assessment will serve to lower the level of the assessment and more equitably support the maintenance of comparable services in rural areas. All carriers and technologies benefit from a robust interconnected network. In any event, the base of services should be technology neutral. If voice services are the base, then all types of voice services should be charged.

b. *What exemptions should exist (e.g. Lifeline, Wholesale)?*

Only retail services should be assessed. Lifeline service is typically exempted from surcharges to limit the cost of basic service to the low income consumer.

c. *Should the MoUSF assessment be based on revenues or the services (connections) provided, or some other measure?*

Either measure can work. There are issues to address regardless of the method used. In most states, retail revenues have been utilized as the base for assessments.

10. *What revisions, if any, are needed to Missouri's statutes if the Public Service Commission intends to implement a high-cost fund?*

Any needed revisions to Missouri's statutes would be ultimately determined by the fund structure recommended by the Commission. CenturyLink does not believe that statute revisions would be necessary to develop a fund based on the above recommendations.

11. Is there anything else you would like to tell the Missouri Public Service Commission about implementation of a high-cost fund?

Not at this time.

CenturyLink again thanks the Commission for the opportunity to comment on the need for a high-cost fund in Missouri, as well as some of the methodology required is such a fund were created. CenturyLink looks forward to the continuing discussions and commits to assist the Commission in any way it can.

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 email or mailed, First Class, postage prepaid to the following parties on this 14th day of February, 2014:

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