

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

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

STAFF'S REPORT

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through the undersigned counsel, and files this *Staff Report* with the Missouri Public Service Commission (Commission), regarding Staff's investigation and report on the complaint filed by Albert Silk, (Complainant) against CenturyLink (Respondent), and respectfully states as follows:

1. On February 1, 2012, the Complainant filed a complaint with the Commission against the Respondent.
2. On February 2, 2012, the Commission directed the Respondent to file an *Answer* to satisfy the complaint or file a request for mediation. The Respondent filed an *Answer*, after which the Commission directed Staff to investigate the complaint and file a report. After subsequent motions and orders, the Commission ordered Staff to complete Staff's investigation and file its report by May 14, 2012.
3. Staff has completed Staff's investigation and recommends the *Complaint* be dismissed and future hearings for this case be cancelled, for the reasons set forth in *Staff's Memorandum* (Appendix A).

WHEREFORE, Staff respectfully submits *Staff's Report* for the Commission's information and consideration and hereby requests the Commission dismiss the complaint and cancel all future hearings associated with this case.

Respectfully submitted,

/s/ Goldie Tompkins

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 11th day of May, 2012.

/s/ Goldie Tompkins

Memorandum

To: Official Case File
Case No. IC-2012-0268

From: John Van Eschen
Telecommunications Unit

Date: May 11, 2012

Subject: Staff Report on Albert Silk vs. CenturyLink

Background

On February 1, 2012 Albert Silk (Mr. Silk or Complainant) filed a complaint against Embark Missouri, Inc. d/b/a CenturyLink (CenturyLink or Company). Mr. Silk's complaint centers on a January 13, 2012 letter from CenturyLink rejecting his recent application for Lifeline service. CenturyLink rejected the Lifeline application due to lack of proof of eligibility; however, the letter identifies an incorrect phone number for Mr. Silk. Mr. Silk only has one phone number and he wonders if he'll be charged for two phone numbers. Likewise, the entire incident has generated confusion because Mr. Silk has been enrolled in the Lifeline program since January 7, 2009. The Complainant essentially wants the Missouri PSC to investigate in order to ensure such errors do not re-occur for other consumers.

CenturyLink's Response

On March 3, 2012 CenturyLink filed an *Answer to the Complaint*. CenturyLink's response admits the letter sent to Mr. Silk was the "...result of an administrative and/or typographical error...." CenturyLink affirmed that Mr. Silk is not being billed for the second telephone number. In addition, CenturyLink confirmed that Mr. Silk continues to receive the Lifeline discount which was initiated on January 7, 2009. CenturyLink is asking the Missouri PSC to dismiss the complaint on the basis of failing to state a claim upon which relief may be granted. In addition, CenturyLink claims the Complainant's claims are barred by state and federal law.

Staff Analysis

A brief overview of the Lifeline program may be helpful before addressing this complaint. Lifeline service is a program designed to provide monthly discounts to qualifying low-income consumers. The Federal Communications Commission (FCC) oversees the Lifeline program and state regulatory commissions, such as the Missouri PSC, help the FCC administer

the Lifeline program. Companies participating in the Lifeline program in Missouri must comply with requirements established by both the FCC and the Missouri PSC.¹ On a national basis the Lifeline program has been experiencing growing problems with fraud and waste. In order to address such problems the FCC recently over-hauled the Lifeline program.² The FCC and state regulatory commissions are in the process of implementing these reforms to the Lifeline program.

On March 12, 2012, the Missouri PSC Staff (Staff) contacted Mr. Silk. Staff asked Mr. Silk to explain what sort of relief he is seeking from the Missouri PSC since CenturyLink has admitted the letter error. Mr. Silk explained he is not seeking any monetary relief. Instead he wants assurance CenturyLink will not make any more errors. In addition, Mr. Silk claims he was receiving a higher Lifeline discount but it was reduced. As a result of Staff's discussion with Mr. Silk and after reviewing CenturyLink's *Answer* to Complaint, Staff issued a series of initial and later subsequent data requests to CenturyLink.

The rationale behind Mr. Silk submitting a new Lifeline application form in November 2011 remains unclear. Although Mr. Silk has been receiving Lifeline service since January 7, 2009, Mr. Silk states the company specifically asked him to submit a new Lifeline application form. In contrast, CenturyLink officials claim the company has never asked Mr. Silk to verify his continued eligibility for the Lifeline program.³ Mr. Silk submitted his Lifeline application on November 9, 2011 and enclosed a letter simply identifying his monthly social security amount for 2012. CenturyLink rejected Mr. Silk's Lifeline application due to inadequate proof of eligibility.⁴ In Staff's opinion, it is appropriate for CenturyLink to reject any Lifeline application lacking adequate proof of eligibility. A company offering Lifeline service in Missouri is required to obtain adequate proof of eligibility from a Lifeline applicant before initiating Lifeline service.⁵

¹ The FCC's requirements for the Lifeline program are identified in Subpart E of Part 54 of the FCC's rules. The Missouri PSC requirements for the Lifeline program are identified in Rule 4 CSR 240-31.050.

² Report and Order and Further Notice of Proposed Rulemaking; WC Docket No. 11-42, In the Matter of Lifeline and Link Up Reform and Modernization, released February 6, 2012 (FCC's Lifeline Reform Order).

³ CenturyLink officials speculate Mr. Silk may have submitted a new Lifeline application based on confusion about his request to switch to a different bundle of services in November 2011.

⁴ CenturyLink's letter to Mr. Silk indicated the documentation must have current effective dates. CenturyLink also enclosed a new Lifeline application form to complete and return. It should be noted the new application form is formatted more appropriately than the form used by Mr. Silk in his November 2011 submission.

⁵ The Missouri PSC has required proof of eligibility for years and this requirement is described in Rule 4 CSR 240-3.050(3)(D)2. The FCC recently expanded this requirement to apply in all states in its recent decision reforming the Lifeline program.

CenturyLink's rejection letter erroneously identifies the wrong telephone number for Mr. Silk. Company officials state the error is an isolated incident caused by human error due to agent multi-tasking. CenturyLink officials indicate the agent has since been coached about the error. Such errors are regrettable; however, Staff has no reason to believe CenturyLink's claim is not an isolated incident. This conclusion is also based on Staff's prior investigation of all companies participating in the Lifeline program reveals no significant issues with CenturyLink.⁶

It might be argued that CenturyLink should have immediately realized Mr. Silk was already subscribing to the Lifeline service when the Company received Mr. Silk's Lifeline application in November 2011 and rejected it. In response to such an argument a company is not required to verify program participation if the company is rejecting a Lifeline application. The FCC's new reform provisions will require companies to verify whether a Lifeline applicant already participates in the program before enrolling the applicant into the Lifeline program.⁷ Admittedly, this new provision will not apply to situations where a Lifeline application is being rejected. Therefore, even under the FCC's new reform provisions companies are still not required to verify program participation if the company is rejecting a deficient Lifeline application.

Despite the confusion surrounding CenturyLink's rejection letter, Mr. Silk continued to receive Lifeline discounts. Likewise Mr. Silk was not charged any additional charges for the erroneous telephone number identified in the rejection letter.⁸ A review of Mr. Silk's bill reveals he is receiving the appropriate Lifeline discount as identified by the following line items in his bill:

Adjustment for MO Lifeline Addl Fed ½ State	\$1.75 CR
Adjustment for MO Lifeline Addl Fed Reduction	\$1.75 CR
Adjustment for MO Lifeline State Reduction	\$3.50 CR
MO Lifeline Fed Reduction SLC	<u>\$6.26 CR</u>
Total:	\$13.26

⁶ Staff's investigation analyzed all companies participating in the Lifeline program within Missouri. Data requests associated with this investigation are filed on a confidential basis in File No. BISR-2011-1622 within the Missouri PSC's Electronic Filing and Information System (EFIS); however, a public report about Staff's investigation will be filed this summer in Case No. TO-2012-364, *In the Matter of Staff's Investigation into the Practices and Procedures of Companies Offering Low Income (Lifeline) or Disabled Universal Service Fund Discounts in the State of Missouri*.

⁷ The FCC is proposing to establish the National Lifeline Accountability Database which is explained in §54.404 of the FCC's new rules as well as Paragraph No. 78 of the FCC's Lifeline Reform Order.

⁸ For the record, Mr. Silk did resubmit a Lifeline application form on January 20, 2012 with adequate proof of eligibility.

These monthly credits are consistent with the expectations for Lifeline service. Staff found no evidence that these monthly credits changed in Mr. Silk's bills.⁹ It should be noted that due to recent reforms to the Lifeline program by the FCC, federal Lifeline discounts will change. Consequently Mr. Silk should anticipate his total Lifeline discount will be reduced from \$13.26 to \$12.75 a month within the next few months.¹⁰

On a going-forward basis, Lifeline consumers need to be aware they will need to comply with greater responsibilities for inclusion in the Lifeline program. For instance, all companies participating in the Lifeline program will need to annually verify the continued eligibility of all Lifeline subscribers.¹¹ In this regard Mr. Silk should expect to be annually contacted by his local phone company and asked for verification of continued eligibility.¹² A Lifeline subscriber failing to adequately respond to such requests will be de-enrolled from the Lifeline program.

Staff Recommendation

Staff recommends the Missouri Commission dismiss this complaint and cancel all future proceedings scheduled for this case. Although CenturyLink identified an erroneous phone number in a letter to Mr. Silk rejecting his Lifeline application, Staff is of the opinion the error is an isolated incident. CenturyLink has taken steps to remedy the matter and based on CenturyLink's track record for administering the Lifeline program, Staff anticipates it is unlikely such errors will occur for other customers.

⁹ Mr. Silk's bill did increase in late 2011 when he changed his bundle of services and prorated charges caused his bill to increase. Apparently, there was a misunderstanding about the bundle change whereas CenturyLink ultimately issued Mr. Silk a total of \$20.24 in credits along with a \$10 monthly promotional discount to help resolve the matter. Note: Mr. Silk logged a separate complaint against CenturyLink on January 11, 2012 (see Complaint/Inquiry No. C201202091).

¹⁰ The FCC's rules for Lifeline reimbursement are identified in §54.403 whereas monthly federal Lifeline support will simply be \$9.25 for a Lifeline subscriber. Monthly state Lifeline support will remain unchanged at \$3.50. Therefore, the total monthly Lifeline discount will be \$12.75 based on adding the \$9.25 federal and \$3.50 state funding support (\$9.25 + \$3.50 = \$12.75). The effective date for the new federal reimbursement rate depends on the timing of the Office of Management and Budget's approval of this specific new FCC rule.

¹¹ See Paragraph No. 136 of the FCC's Lifeline Reform Order as well as §54.416 of the FCC's new rules.

¹² One exception is if a database is ultimately established that maintains an active list of participants in qualifying programs. In this regard a company may simply check the database to determine if a specific consumer is qualified to participate in the Lifeline program. Although work is currently being performed at both the federal and state levels to enable Lifeline companies to have access to such a database it remains uncertain if such work will become a reality.