

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

**In re the Matter of a Proposed Rescission
and Consolidation of Commission Rules
Relating to Telecommunications**

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File No. TX-2015-0097

CENTURYLINK'S COMMENTS

CenturyTel of Missouri, LLC d/b/a CenturyLink, Embarq Missouri Inc., d/b/a CenturyLink, Spectra Communications Group, LLC d/b/a CenturyLink and CenturyTel of Northwest Arkansas, d/b/a Century Link (collectively "CenturyLink"), through undersigned counsel, files its formal comments to the Missouri Public Service Commission's ("Commission") proposed rules to rescind and consolidate its rules relating to telecommunications.

I. Introduction

CenturyLink is supportive of the Commission's efforts to consolidate and simplify its telecommunications rules. CenturyLink also supports the comments filed by the Missouri Telecommunications Industry Association in this docket.

In large part, CenturyLink believes the Commission's efforts have resulted in proposed rules that are accurately designed to achieve the Commission's stated desire when originally opening a Repository Docket in TW-2014-0295, to receive feedback "Concerning Staff's Proposed Consolidation and Simplification of the Commission's Telecommunications Rules". Further, in issuing its Notice of Finding of Necessity in TX-2015-0097, the Commission titled this docket "In the Matter of a Proposed Rescission and Consolidation of Commission Rules Relating to Telecommunications" and stated that "[t]he Commission finds that the rescission and consolidation is necessary to bring the existing rules into compliance with state and federal statutory changes affecting the Commission's jurisdiction over the telecommunications

industry.” (emphasis added). However, despite our general support, CenturyLink objects to two provisions found in the proposed rule for 4 C.S.R. 240-28.080(2), which are clearly inconsistent with the Commission’s stated intent of “consolidation”, “simplification”, and “rescission” due to “state and federal statutory changes affecting the Commission’s jurisdiction”. CenturyLink’s comments are focused on the new provisions of 4 C.S.R. 240-28.080(2).

II. Comments

4 C.S.R. 240-28.080(2)

CenturyLink believes that the Commission’s changes to the timing in which a CLEC can adopt an interconnection agreement (“ICA”) previously approved by the Commission in this new rule are improper.¹ Under the current Missouri Rule, 4 C.S.R. 240-3.513(4)(B), an ILEC has the ability to object to a third-party CLEC’s adoption of an existing ICA after the ICA has been in effect for more than a reasonable period of time. Clearly, the Federal Communications Commission (“FCC”), at 47 C.F.R. § 51.809(c), requires ILECs to allow adoption of an ICA to provide services to third-party CLECs using the same terms agreed to by another CLEC for a “reasonable period of time”. The Commission’s new rule removes the ability of the ILEC to object after such a “reasonable period of time” has expired and forces an ILEC to allow adoption no matter how outdated an ICA has become.

The proposed rule includes the following provision that CenturyLink recommends be removed:

“Approved interconnection agreements whose original term has expired, but which remain in effect pursuant to term renewal or extension provisions, will be subject to adoption for so long as the interconnection agreement remains subject to the renewal or extension provision.”

¹ CenturyLink’s position provided in these comments applies to all Section 251/252 ICAs, including interconnection agreements with CMRS providers.

Under this provision of the proposed rule, a CLEC could adopt an ICA by Most Favored Nation (“MFN”) at any point regardless of how long the ICA has been expired under its terms, so long as the parties to the ICA continue to operate under the ICA pursuant to its post-expiration terms. Such a rule goes far beyond and is inconsistent with the FCC’s requirement of offering the adoption for a “reasonable period of time” since it effectively removes any time limitation whatsoever upon the ability to adopt an ICA which is improper under the terms of 47 C.F.R. § 51.809(c). In fact, any proposed rule that sets absolutely no time limitation on the adoption of ICAs has the effect of rendering the FCC’s rule meaningless.

CenturyLink offers CLECs the opportunity to adopt an ICA negotiated between CenturyLink and another CLEC from the date an ICA is established until six months prior to its expiration, notwithstanding any extension provision. CenturyLink’s standard term of an ICA is three years, which allows the adoption of an ICA for a “reasonable period” of two-and- one-half years.

CenturyLink strives to reach agreement on the terms of ICAs with all CLECs and is willing to consider and negotiate any specific terms of the ICAs that may be proposed by the CLEC. In fact, since April 2011, CenturyLink has executed 35 Resale, Traffic Exchange, and Interconnection Agreements by negotiation with the CLECs, including the adoption of four existing ICAs. Currently, CenturyLink has eighteen ICAs that are more than six months from expiration and are available for adoption by CLECs. Additionally, since 2009, no CLEC has filed any petition seeking intervention by the Commission as a result of the failure by CenturyLink and a CLEC to reach agreement on the terms of any ICA. CenturyLink contends that any such objections have been resolved through the negotiation process, and that the right of either party to seek arbitration in the event negotiations reach an impasse has provided a

successful framework for safeguarding both parties' rights. Therefore, the proposed language in 4 C.S.R. 240-28.080(2) is not necessary and the provisions allowing the perpetual adoption of an ICA outside of a reasonable period of time is inconsistent with 47 C.F.R. § 51.809(c) and should be deleted from the proposed rule.

Finally, CenturyLink recommends that the sentence immediately following the previously quoted language and found in 4 C.S.R. 240-28.080 (2) be modified to read “**Subject to section (2)(D) below,** the adoption will become effective on the date it is properly submitted to the commission.” The proposed rule does not provide an ILEC the opportunity to object to an adoption of an ICA prior to such ICA becoming effective as is currently provided by the current rule, 4 C.S.R. 204-3.513 (4)(B)(4) and 47 C.F.R. §51.809(b). Such a position thwarts the purpose of subsection (2)(D) which provides a hearing in such a situation. This deviation from the current rule is not necessitated by any state or federal statutory change and, therefore, should also be in a separate proceeding.

For the foregoing reasons, CenturyLink respectfully requests that the Commission delete and amend the language as outlined in these comments and for such further relief as deemed necessary by the Commission.

Respectfully submitted,

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