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Sent: Monday, August 29, 2011 4:43 PM
To: Filings@psc.state.fl.us
Cc: Masterton, Susan S
Subject: Docket No 110224-CenturyLink's Post Workshop Comments
Attachments: 110224 CTL Post Workshop Comments 8-29-11.pdf

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Docket No. 110224

Title of filing: CenturyLink's Post Workshop Comments

Filed on behalf of: CenturyLink

No. of pages: 6

Description: CenturyLink's Post Workshop Comments

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DOCUMENT NUMBER - DATE

06233 AUG 29 =

8/29/2011

FPSC-COMMISSION CLERK

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August 29, 2011

FILED ELECTRONICALLY
Ms. Ann Cole, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 110224-TP
Proposed Changes to Rule 25-4.0161

Dear Ms. Cole:

Enclosed please find CenturyLink's Post Workshop Comments in the above referenced matter.

If you have any questions regarding this electronic filing, please do not hesitate to call my assistant, Roberta Cooper at (850) 599-1563.

Sincerely,

/s/ Susan S. Masterton
Susan S. Masterton

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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| In the Matter of: Proposed Amendment of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies | Docket No. 110224-TP Filed: August 29, 2011 |
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**EMBARQ FLORIDA, INC. d/b/a CENTURYLINK'S
POST-WORKSHOP COMMENTS**

Embarq Florida, Inc. d/b/a CenturyLink ("CenturyLink") submits these comments on staff's proposed changes to Rule 25-4.0161, F.A.C., Regulatory Assessment Fees in accordance with amendments to s. 364.336, F.S., enacted in 2011.¹ Staff requested that written comments regarding the proposed rule changes be submitted by August 29, 2011.

Background

During the 2011 session the Legislature made significant changes to the regulatory structure for telecommunications companies, essentially eliminating regulation of retail telecommunications services.² To accomplish the deregulation, the Legislature repealed substantial portions of ch. 364, F.S., including all regulation of intrastate interexchange services and companies and substantially all price and service regulation for basic and nonbasic services offered by local exchange companies. Although the legislation substantially reduced the scope of the Commission's regulation of local exchange carriers, the Legislature retained Commission oversight in several key areas, including: intercarrier (i.e., wholesale) relationships, Lifeline, and numbering issues.

¹ See, 2011-36, L.O.F., section 32.

² See, CS/CS/HB 1231.

As part of the deregulation, the Legislature directed the Commission to re-evaluate the regulatory assessment fees (RAFs) assessed on telecommunications companies to cover the costs of the Commission's regulatory activities. Specifically, the Legislation provides:

(2) By August 1, 2011, the commission must begin rulemaking to reduce the regulatory assessment fee for telecommunications companies under s. 350.113 and this section, as required to reflect the reduction in regulation resulting from the amendments to chapter 364 that take effect on July 1, 2011. The reduced fee shall be applied beginning with payments due in January 2012 on revenues for the preceding 6-month period. The commission's consideration of the required amount of the reduction to the regulatory assessment fee must include, but is not limited to:

(a) The regulatory activities that are no longer required and the number of staff currently assigned to such activities.

(b) The number of staff necessary to carry out the reduced level of regulatory responsibilities based on reductions in workload for the staff in the Division of Regulatory Analysis, the Office of Auditing and Performance Analysis, and the Division of Service, Safety and Consumer Assistance.

(c) The reductions in overhead associated with the commissioner's offices, the Office of General Counsel, the Office of Commission Clerk, the Office of Information Technology Services, the Office of Public Information, and the Office of Inspector General.

(3) By January 15, 2012, and annually thereafter, the commission must report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, providing a detailed description of its efforts to reduce the regulatory assessment fee for telecommunications companies, including a detailed description of the regulatory activities that are no longer required; the commensurate reduction in costs associated with this reduction in regulation; the regulatory activities that continue to be required under this chapter; and the costs associated with those regulatory activities.

The staff initiated the proposed rulemaking to carry out the Legislature's directive.

Discussion of Proposed Rule Changes

A. Clarifying and Conforming Changes

Commission staff has proposed several changes to the rule that appear necessary as a result of the deregulation or that otherwise clarify the rule in accordance with Commission practice. CenturyLink notes one technical issue to conform to other changes and that is the

reference to 364.02(12) on page 6, line 1, of the rule which should be eliminated consistent with a similar change noted by staff at the workshop (Staff Workshop Transcript at p. 4, lines 11-18).

B. Proposed changes to Regulatory Assessment Fees

At the heart of the Legislature's direction to the Commission to initiate this rulemaking is the presumption that the significant deregulation and reduction of Commission oversight of telecommunications companies effectuated by the 2011 changes would necessarily result in a concomitant reduction in expenses incurred by the Commission related to these regulatory activities. This reduction in expenses should then lead to a reduction in the fees collected from telecommunications companies to fund these costs. Section 364.336(2), F.S., specifically directs the Commission to reduce these fees and provides explicit guidance as to how the Commission is to evaluate the need for reductions. In response to that direction, the staff has proposed to reduce the minimum regulatory assessment fees for all local exchange carriers from \$1,000 to \$600 (a 40% reduction) and to reduce the percentage applied to companies whose revenues result in a RAF payment above the minimum from .20% to .16%, (a 20% reduction). At the request of the parties, Staff provided some supporting documentation for its calculations and stated at the workshop that the expense and revenue numbers were calculated in accordance with the statutory direction. (Staff Workshop Transcript at p. 16, lines 2-10) However, the information provided to parties at this point remains insufficient to evaluate whether the staff reductions and continued expenditures "reflect the reduction in regulation resulting from the amendments to chapter 364 that take effect on July 1, 2011."³

CenturyLink notes that as a result of the deregulation there should no longer be a substantial difference in how incumbent local exchange companies such as CenturyLink are

³ CenturyLink is not able to independently evaluate whether the statutory criteria have been met, as it does not have access to the necessary information.

regulated by the Commission as compared to competitive local exchange companies. Under the new statutory scheme, regulation of relationships among these carriers is likely to be a primary focus of the Commission's jurisdiction. CLEC representatives confirmed at the workshop that it is their primary concern in participating in the rulemaking to ensure that the Commission retains sufficient resources to continue effective oversight of these wholesale relationships (Staff Workshop Transcript at p. 19, line 14 through p. 20, line 8). However, the staff's proposed reductions do not appear to reflect this new regulatory reality, in that the fees for companies that pay the minimum fee (the majority of which are likely to be CLECs) are proposed to be reduced by 40%, while the fees for companies that pay more than the minimum (the majority of which are likely to be ILECs) are proposed to be reduced by only 20%. This is so, even though the level of continued regulation will be comparable for both CLECs and ILECs and both CLECs and ILECs should expect to benefit equally from the Commission's oversight of competitive relationships.

CenturyLink recognizes that the rulemaking effort at this stage is largely based on expectations, rather than actualities, and that experience under the new deregulatory regime will provide more concrete guidance as to the level of expenditures associated with carrying out the Commission's continuing regulatory authority. The Legislature recognized this reality, as well, in providing that the Commission must report annually to the Legislature regarding its efforts to properly scale the regulatory assessment fees paid by telecommunications companies to the scope of regulated activities. Therefore, CenturyLink expects that over time the Commission will continue to re-evaluate the expenditures necessary to fulfill its regulatory responsibilities for telecommunications companies and the appropriate level of the fee to reflect that responsibility.

Respectfully submitted this 29th day of August 2011.

/s/ Susan S. Masterton
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