



CenturyLink™

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April 26, 2023

VIA ELECTRONIC FILING

Adam Teitzman, Director
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RE: Docket No. 20000121B-TP - Administrative Filing to Seek Exemption from Continued Compliance with CenturyLink's Performance Measurements Plan (PMP) in accordance with Order No. PSC-03-0067-PAA-TP

Dear Mr. Teitzman:

CenturyLink of Florida, Inc. ("CenturyLink") (formerly Embarq Florida, Inc. d/b/a CenturyLink) hereby gives notice under Order No. PSC-03-0067-PAA-TP that the Nevada Public Utilities Commission ("NV-PUC") issued an Order in Docket No. 21-06006 exempting CenturyLink from future performance with its obligations under its Performance Measurement Plan ("Plan").¹ By Order No. PSC-03-0067-PAA-TP, all changes to CenturyLink's Performance Measurement Plan that were approved in other states are to be brought before the Commission for review, approval, and implementation in Florida. CenturyLink respectfully submits that the same market conditions which justified an exemption from compliance in Nevada also justify an exemption from compliance in Florida under Order No. PSC-03-0067-PAA-TP.² As described below, continued compliance with the Plan imposes costs on CenturyLink with no corresponding, discernible benefit. CenturyLink, therefore, should be exempt from continued compliance with the Plan in Florida.³

¹ See Order from the Nevada Public Utilities Commission in Docket No. 21-06006 dated July 29, 2021 ("NV-PUC PMP Elimination Order").

² See Order No. PSC-03-0067-PAA-TP from the Florida Public Service Commission.

³ Within approximately the past year, CenturyLink affiliates have received exemptions from similar compliance obligations in the following states: Montana, Idaho, North Dakota, Utah, and Colorado.

I. NV-PUC Exempted CenturyLink from Future Compliance with the Plan

In 2021, in response to a request from CenturyLink's Nevada operating company ("CenturyLink-NV"), the Public Utilities Commission of Nevada ("NV-PUC") granted CenturyLink-NV an exemption from future compliance with the Plan, finding that the conditions that justified application of the Plan back in 2000 no longer applied over 20 years later. CenturyLink-NV sought this exemption pursuant to NAC 704.680302(1).⁴ CenturyLink-NV described how continued application of remaining Plan requirements to CenturyLink-NV is not necessary to encourage competition and discourage discriminatory conduct; that continued application of the Plan requirements imposes significant financial burdens on the Company, without serving a public purpose at this time; that CenturyLink-NV's competitors have not expressed any concerns about its performance, and there are other mechanisms available to the Commission and competitive carriers as a check on any unlikely future deterioration in performance. CenturyLink-NV entered into a Stipulation with the NV-PUC and its Staff whereby CenturyLink-NV acknowledged that it would remain subject to general penalty provisions under Nevada law rather than the specific penalty provisions in the Plan, that in the event any party believed a performance measurement plan should be reinstated, it could make such a request to the NV-PUC, and that the Plan would be discontinued the first full month following NV-PUC approval. The NV-PUC approved the Stipulation and CenturyLink-NV's request for exemption.⁵

II. The Commission Should Similarly Exempt CenturyLink from Future Compliance with the Plan

In light of this action by the NV-PUC and the language of Order No. PSC-03-0067-PAA-TP, CenturyLink seeks exemption from all of its OSS performance reporting requirements, including its OSS performance data collection efforts and the need to make ALEC-specific data available for any Florida ALEC.

CenturyLink currently tracks its performance on various different OSS measures and submeasures, and those results are posted quarterly to a website ALECs can access. *CenturyLink's review indicates that no ALECs in the State have accessed this website since 2017.* Clearly, if ALECs viewed these metrics as providing important or useful competitive information, they would be accessing this data. It makes little sense for CenturyLink to produce this data since it is not being used by the industry and, as described below, no longer serves any practical purpose. As CenturyLink's internal systems are updated and consolidated, it is becoming more burdensome for CenturyLink to keep producing this detailed data. Since this

⁴ NAC 704.680302(1) provides that "Any telecommunication provider required to file a plan pursuant to NAC 704.680303 prior to January 1, 2018, may file with the Commission a petition requesting an exemption, in whole or in part, from the requirements of NAC 704.680303 to 704.680315..." The rule further provides that the NV-PUC will grant the exemption "if the [NV-PUC] finds that: (a) The requirement is no longer necessary to encourage competition and discourage discriminatory conduct in the provision of local telecommunication services; and (b) The granting of the exemption would not be contrary to the public interest."

⁵ NV-PUC PMP Elimination Order at 1, 8.

data is not being accessed by those entities it was intended to benefit, this begs the question of to what end should CenturyLink be required to continue this practice.

Exemption from the Plan's obligations is also a natural extension of the Federal Communications Commission's ("FCC") efforts to grant relief from outmoded regulatory obligations. In 2019 and 2020, the FCC further reduced the products CenturyLink must provide to ALECs as unbundled network elements.⁶ This, in turn, has rendered much of the Plan obsolete going forward, as the Plan largely applies to products which CenturyLink is no longer required to offer and which CenturyLink's ALEC customers are no longer purchasing as they are required to migrate to different offerings. CenturyLink's most significant competitors (cable and wireless) have their own networks, and unbundled network elements are no longer significant components of the competitive landscape. To illustrate this, from a provisioning perspective, the products remaining in the Plan represent less than 2 percent of all provisioning orders in Florida for the period 2016 - 2022, with the remaining 98 percent of provisioning orders applying to products CenturyLink is no longer required to offer following the *2019 UNE Forbearance Order*. The same is true from a repair perspective, with products representing only approximately 1 percent of repair tickets in Florida for the period 2016 – 2022 remaining in the Plan following the *2019 UNE Forbearance Order*. Given that most products subject to the Plan have already been or are being phased out, maintaining the Plan going forward is no longer needed. The Plan has simply outlived its usefulness.

⁶ *In the Matter of Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) to Accelerate Investment in Broadband and Next Generation Networks*, Memorandum Opinion and Order, WC Docket No. 18-141, rel. Aug 2, 2019 ("*2019 UNE Forbearance Order*") (forbearing from UNE Analog Loop and Avoided-Cost Resale obligations for price cap ILECs finding "it is no longer necessary to require price cap LECs to bear these once-upon-a-time market-opening obligations that today amount to disparate regulatory burdens that frustrate the transition to advanced communications services offered over next-generation networks") ¶ 9; *In the Matter of Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services*, Report and Order, WC Docket No. 19-308, rel. Oct. 28, 2020, ¶ 3 ("*2020 UNE Forbearance Order*").

**CLEC PMP Provisioning Orders and Repair Tickets for the State of Florida
 By Product Reported in Measures 11 and 19
 Official Centurylink Results - January 2016 through December 2022**

Order Volume (Reported in Measure 11)

Non-UNE Product		Products Removed 2019 FCC UNE Forbearance Order		Products Removed 2020 FCC UNE Forbearance Order		
Year	Non-UNE Outside Telecom Act Interconnection Trunk	Business POTS	EEL	UNE Loops xDSL	UNE Loops Non-Designed	UNE DS1/ISDN PRI
2016	35	3923	11	21	47	39
2017	28	3421	2	9	86	32
2018	41	2729	1	17	17	19
2019	6	5221	0	10	24	10
2020	21	2045	1	5	6	7
2021	69	1198	0	1	8	2
2022	37	1451	0	0	0	0

Repair Volume (Reported in Measure 19)

Non-UNE Product		Products Removed 2019 FCC UNE Forbearance Order		Products Removed 2020 FCC UNE Forbearance Order		
Year	Non-UNE Outside Telecom Act Interconnection Trunk	Business POTS	EEL	UNE Loops xDSL	UNE Loops Non-Designed	UNE DS1/ISDN PRI
2016	2	594	33	0	112	340
2017	4	629	39	0	83	252
2018	4	470	38	0	57	214
2019	2	413	26	6	48	166
2020	0	387	25	4	23	109
2021	2	383	18	0	5	70
2022	31	225	16	1	0	35
YTD 2023	0					

The yellow highlighted figures above represent products that no longer belong in the Plan in light of the FCC’s 2019 *UNE Forbearance Order* and 2020 *UNE Forbearance Order*.

Moreover, the OSS performance requirements in the Plan continue to impose compliance costs on CenturyLink, but no longer provide any discernible competitive benefits. CenturyLink incurs substantial systems, labor, and administrative costs to collect and maintain data for outdated OSS reporting requirements. Maintaining these reporting obligations requires constant change management due to system upgrades and system integrations that result from technology changes and corporate mergers. Based on a history of 5-7 integrations per year, each conversion costs several hundred thousand dollars depending on the size and complexity of the system or application. In 2021, there were 4 system conversions, estimated at almost \$1.8M combined.

CenturyLink has considerable incentives to provide excellent service to its wholesale customers and forbearance of OSS performance reporting requirements would not alter or weaken those incentives. Given the high fixed cost nature of its network, if CenturyLink loses a retail customer, it is far better for CenturyLink that an ALEC retains that customer on CenturyLink’s network on a wholesale basis, rather than completely bypassing CenturyLink’s network. Importantly, CenturyLink’s systems are “Parity by Design” for repair and provisioning, which means that CenturyLink treats retail and wholesale customers in the same manner.

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As noted previously, ALECs have not complained about CenturyLink's OSS performance metrics in Florida. However, in the unlikely event that CenturyLink OSS performance would falter, ALECs have recourse beyond OSS reporting. The interconnection agreements between CenturyLink and its ALEC customers provide an escalation process and other dispute resolution procedures to address deficiencies. Accordingly, exempting CenturyLink from the Plan's reporting requirements would not abrogate an ALEC's rights or remedies under its interconnection agreement.

Given the absence of any Commission or ALEC complaints or issues with CenturyLink's OSS performance reporting and data collection, the infrequency with which CenturyLink's metrics are currently accessed, the lack of any ALEC challenges regarding CenturyLink's provision of non-discriminatory access to its support systems, and the dwindling relevance of the Plan given the substantial changes that have occurred in the marketplace over the past 20 years, CenturyLink respectfully submits that the Plan should be eliminated and the relief requested herein should be granted.

In compliance with Order No. PSC-03-0067-PAA-TP, ALECs and Commission staff are allowed an opportunity to review this proposed change before the staff brings a recommendation to the Commission to implement it in Florida. A copy of this filing has been served to parties as shown on the attached Certificate of Service.

Thank you for your attention to this matter. If you have any questions, please contact Brook Villa at (225) 333-3021 or Christie Mason at (850) 847-0173.

Sincerely,

/s/Jeanne W. Stockman

Jeanne W. Stockman

cc: Christie Mason, CenturyLink
Brook Villa, CenturyLink
Gregory D. Fogleman, FPSC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail to all known parties of record this 26th day of April, 2023.

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