

State of Florida



## Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** November 21, 2023

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Office of Industry Development and Market Analysis (Nave)<sup>CH</sup>  
Office of the General Counsel (Imig)<sup>AEH</sup>

**RE:** Docket No. 20000121<sup>B</sup>-TP – Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (CENTURLINK FLORIDA TRACK)

**AGENDA:** 12/05/23 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** *La Rosa*  
Administrative *11/21/23*

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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### Case Background

On January 9, 2003, the Florida Public Service Commission (Commission) adopted wholesale permanent performance measures for Embarq Florida, Inc. d/b/a CenturyLink (CenturyLink) in Docket Number 000121B-TP.<sup>1</sup> CenturyLink's Performance Measurement Plan (PMP) is a monitoring device that measures the level of wholesale service performance that CenturyLink provides to competitive local exchange carriers (CLECs).

At that time, the Commission also required all changes to CenturyLink's PMP approved in other states be brought before the Commission for review, approval, and implementation in Florida. CenturyLink's Florida PMP included the adoption of the August 2002 CenturyLink Nevada PMP, as well as administrative provisions and an associated compliance methodology.

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<sup>1</sup> Order No. PSC-03-0067-PAA-TP

Docket No. 20000121B-TP

Date: November 21, 2023

On December 22, 2003, the Commission approved revisions to CenturyLink's Florida PMP to coincide with revisions to CenturyLink's Nevada PMP. The revisions were effective beginning with February 2004 data. Additional revisions to CenturyLink's Florida PMP were approved by the Commission on February 12, 2007.<sup>2</sup> The revisions were approved by the Public Utilities Commission of Nevada on August 2, 2006. Further revisions, also originating in Nevada, were approved by the Commission on May 22, 2013, and February 15, 2016.<sup>3,4</sup> The 2016 revisions changed CenturyLink's performance measure reporting from monthly to quarterly reports.

On April 26, 2023, CenturyLink provided notice that the Nevada Public Utilities Commission issued an order exempting CenturyLink from future performance obligations under its PMP and requested forbearance from continued compliance with the plan in Florida.

The Commission has jurisdiction pursuant to Section 364.16, F.S.

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<sup>2</sup> Order No. PSC-07-0123-PAA-TP

<sup>3</sup> Order No. PSC-13-0216-PAA-TP

<sup>4</sup> Order No. PSC-2016-0072-PAA-TP

## Discussion of Issues

**Issue 1:** Should the Commission approve CenturyLink's request seeking exemption from continued compliance with its Florida wholesale Performance Measurement Plan filed April 26, 2023?

**Recommendation:** Yes, the Commission should approve CenturyLink's request seeking exemption from continued compliance with its Florida wholesale Performance Measurement Plan filed April 26, 2023. (Nave)

**Staff Analysis:** In its request, CenturyLink argues that it should not have to comply with the remaining PMP obligations because it is no longer necessary to encourage competition or discourage discriminatory conduct in the provision of telecommunications service. CenturyLink describes how the telecommunications market has changed substantially in the past 20 years, citing intermodal, facilities-based competition from wireless, cable, video, and fixed wireless services entering the market. CenturyLink asserts that the widespread availability of internet-based applications that provide various means of communication have eclipsed traditional wireline service as the primary means of communication. CenturyLink also asserts that the conditions that justified the PMP measures no longer exist today. CenturyLink states that requiring it to invest the resources needed to continue to comply with the remaining PMP obligations is unnecessary in CenturyLink's service area.

CenturyLink also asserts it incurs substantial systems, labor, and administrative costs to collect and maintain data for reporting requirements. Maintaining these reporting obligations requires a constant change in management due to system upgrades and system integrations that result from technology changes and corporate mergers. Based on a history of five to seven 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 four system conversions, estimated at almost \$1.8 million combined in Nevada. Also, the FCC forbore most UNE requirements in 2019 and 2020. Only two percent of PMP provisioning measures and only one percent of PMP repair measures apply to products CenturyLink is presently required to offer.

CenturyLink states that it has consistently performed well in the remaining measures, as reflected in its reporting to the Nevada Public Utilities Commission, and thus they believe that there is no reason to conclude that performance will change. Florida CLECs have not accessed the website that provides the PMP data since 2017, indicating that competitors are not expressing concerns about CenturyLink's performance. CenturyLink submits that the same market conditions which justified an exemption from compliance in Nevada also justify its request in Florida.

Staff agrees with CenturyLink that granting the exemption is in the public interest and will not reduce the quality of service that CenturyLink provides. As such, staff recommends that the Commission should approve CenturyLink's request seeking exemption from continued compliance with its Florida wholesale Performance Measurement Plan filed April 26, 2023.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes, if no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Imig)

**Staff Analysis:** If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.