

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies. (CENTURYLINK FLORIDA TRACK)

DOCKET NO. 20000121B-TP
ORDER NO. PSC-2023-0371-PAA-TP
ISSUED: December 13, 2023

The following Commissioners participated in the disposition of this matter:

ANDREW GILES FAY, Chairman
ART GRAHAM
GARY F. CLARK
MIKE LA ROSA
GABRIELLA PASSIDOMO

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING CENTURYLINK'S REQUEST FOR EXEMPTION FROM
CONTINUED COMPLIANCE WITH ITS FLORIDA WHOLESALE PERFORMANCE
MEASUREMENT PLAN FILED APRIL 26, 2023

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

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.¹ 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, we 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.

¹ Order No. PSC-03-0067-PAA-TP

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, 2007.² The revisions were approved by the Public Utilities Commission of Nevada on August 2, 2006. Further revisions, also originating in Nevada, were approved by this Commission on May 22, 2013, and February 15, 2016.^{3,4} 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.

We have jurisdiction pursuant to Section 364.16, F.S.

Analysis and Decision

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

² Order No. PSC-07-0123-PAA-TP

³ Order No. PSC-13-0216-PAA-TP

⁴ Order No. PSC-2016-0072-PAA-TP

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.

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

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that CenturyLink's request seeking exemption from continued compliance with its Florida wholesale Performance Measurement Plan filed April 26, 2023 is approved. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 13th day of December, 2023.



ADAM J. TEITZMAN

Commission Clerk

Florida Public Service Commission

2540 Shumard Oak Boulevard

Tallahassee, Florida 32399

(850) 413-6770

www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 3, 2024.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.