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May 12, 2010

filed electronically in docket office on 05/12/10

VIA ELECTRONIC FILING

Chairman Sara Kyle
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

Re: Docket No. 10-00055; United Telephone Southeast LLC d/b/a CenturyLink
Request to Withdraw Certain Tariffs Pursuant to Operating under Market
Regulation

Dear Chairman Kyle:

United Telephone Southeast LLC d/b/a CenturyLink ("CenturyLink") files this legal analysis as requested by the Tennessee Regulatory Authority ("TRA" or "Authority") at its conference held April 12, 2010 to demonstrate that CenturyLink's exchanges with 3000 lines or less meet the statutory criteria for market regulation under T.C.A. § 65-5-109.

I. BACKGROUND

On September 11, 2009, CenturyLink filed a notice of intent to operate pursuant to market regulation in all of its exchanges.¹ Pursuant to T.C.A. § 65-5-109(l)(1), that notice was effective upon filing. The Authority took official notice of this filing at its October 26, 2009 conference and asked CenturyLink (along with other companies electing market regulation) to file tariffs stating specifically which pages proposed to be withdrawn, and also noting that tariffs on file for Lifeline, Linkup, switched access and special access services were to remain on file.²

By letter dated March 25, 2010, CenturyLink filed to withdraw the following tariffs in their entirety:

United Telephone Southeast LLC (d/b/a CenturyLink) General Subscriber Services Tariff
United Telephone Southeast LLC (d/b/a CenturyLink) Interexchange Services Tariff

In addition, CenturyLink reissued its General Subscriber Services Tariff to include the following sections: Lifeline, Link-Up Tennessee, Charges Applicable Under Special Conditions (Construction Charges), and FCC Designated N11 Services (Telecommunications Relay Service (711), Universal Emergency Number Service (911) and Enhanced Universal Emergency Number Service (E911)). CenturyLink requested an effective date of April 16, 2010 for these tariffs. On

¹ See TRA Docket No. 09-00134.

² Transcript of Oct. 26, 2009 Agenda Meeting, Section 1.

April 5, 2010, CenturyLink received a request from Authority Staff to provide the number of lines in each of its exchanges. On April 6, 2010, CenturyLink provided the requested information, showing that eight (8) of CenturyLink's 20 exchanges have fewer than 3000 access lines. At the Authority's Agenda Conference on April 16, 2010, the Authority suspended the portion of the CenturyLink's proposed tariffs relating to exchanges with less than 3000 access lines for 60 days. In addition, the Authority directed CenturyLink to "file a statement of its legal analysis demonstrating compliance with the statutory conditions or basis for its exclusion that allows its exchanges with less than 3000 access lines to be placed under market regulation."³

II. CENTURYLINK QUALIFIES FOR MARKET REGULATION IN ALL EXCHANGES BECAUSE IT HAS TERRITORY-WIDE PRICING

CenturyLink meets the statutory criteria for market regulation in all exchanges, including those with fewer than 3000 lines. T.C.A. § 65-5-109(l)(1) allows incumbent local exchange carriers operating pursuant to price regulation to, in their sole discretion, elect to operate pursuant to market regulation by filing a notice of their intent to do so with the Authority. By statute, this notice is effective immediately upon filing. T.C.A. § 65-5-109(l)(1).

T.C.A. § 65-5-109(o), however, establishes additional criteria for incumbent local exchange providers to be eligible to elect market regulation for residential local exchange telecommunications services that are offered in exchanges with 3000 lines or less. In order to avail themselves of market regulation of such services in exchanges with 3000 lines or less, carriers with one million access lines or less in the state (such as CenturyLink) must offer statewide or territory-wide pricing. T.C.A. § 65-5-109(o). Carriers serving less than one million access lines in-state with single, individually priced services or rate group specific pricing must meet the competitive showing described in T.C.A. § 65-5-109(o)(1) – (o)(7) to gain market regulation of residential local exchange telecommunications services.⁴

CenturyLink is an incumbent local exchange carrier operating pursuant to price regulation. CenturyLink has less than one million access lines in Tennessee offers territory-wide pricing for residential basic local exchange service. CenturyLink offered that territory-wide rate on the date it filed for market regulation. Attached as Exhibit A is a declaration from Lottie Ryans, CenturyLink's General Manager in Tennessee, attesting to CenturyLink's offering of a territory-wide rate as of the date of its market regulation filing.

CenturyLink's interpretation of T.C.A. § 65-5-109(o) is based on not only the plain language of the statute, but also on its participation in the legislative process leading to passage of the Market Regulation Act of 2009 – HB 1698. CenturyLink participated in the House Commerce Committee meetings where amendments to the language of the Market Regulation Act of 2009 were discussed to enable companies with statewide or territory-wide pricing to become immediately eligible for market regulation. Attached as Exhibits B and C are letters from Representative Lundberg, the co-sponsor of the legislation, and Representative

³ Transcript of April 16, 2010 Agenda Conference for Docket No. 10-00055, pp. 1-2.

⁴ Similarly, carriers serving more than one million access lines in the state with rate-group specific pricing cannot elect market regulation in those exchanges with access line counts and calling areas classified as rate group 1 or 2 under any such carrier's tariff in effect on January 1, 2009 until the competitive showing in T.C.A. 65-5-109(o)(1) – (o)(7) is made.

McCormick, the primary House sponsor of the legislation, affirming CenturyLink's interpretation that CenturyLink is eligible for market regulation in all exchanges without needing to make a competitive showing because of CenturyLink's territory-wide pricing.

III. CENTURYLINK'S REQUEST TO WITHDRAW AND REISSUE ITS TARIFFS SHOULD BE ALLOWED TO GO INTO EFFECT IMMEDIATELY

As discussed above, all of CenturyLink's exchanges qualify for market regulation under T.C.A. § 65-5-109. CenturyLink respectfully requests that its tariff filing be allowed to go into effect for the remaining exchanges as soon as possible.

* * * * *

An original and four (4) copies of this submission are enclosed as a follow-up to its electronic filing. Please date-stamp and return the enclosed extra copy in the envelope provided. Should you have any questions, please contact myself at (919) 554-7621 or Pam Wescott at (615) 255-0155.

Sincerely yours,

A handwritten signature in blue ink, reading "Jeanne W. Stockman" with a stylized "Kc" to the right.

Jeanne W. Stockman

JWS:rc

Enclosures

cc: David Dickey
Pamela Wescott

DECLARATION

I, Lottie Ryans, the General Manager for United Telephone Southeast LLC d/b/a CenturyLink ("CenturyLink") for Tennessee, do hereby state as follows:

1. CenturyLink filed for market regulation in all exchanges on September 11, 2009.
2. I am familiar with CenturyLink's pricing for services in Tennessee.
3. On the date of CenturyLink's market regulation filing, CenturyLink had territory-wide pricing for its residential basic local exchange services in Tennessee.

Signature: Lottie F Ryans
Printed Name: Lottie F Ryans
Date: 5/12/10

STATE OF Tennessee
COUNTY OF Washington
On 12 20 10 May
personally appeared before me
☒ who is personally known to me.
☐ whose identity I have ascertained by inspection of
☐ whose identity I proved by the oath/affirmation of
_____, a credible witness.
to be the signer of the above instrument, and he/she acknowledged that he/she signed it.



Pamela Otey
Notary Public
05/24/2011



JON LUNDBERG
STATE REPRESENTATIVE
1ST DISTRICT
SULLIVAN COUNTY

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House of Representatives State of Tennessee

NASHVILLE

Majority Floor Leader

COMMERCE COMMITTEE

INDUSTRIAL IMPACT
SUB-COMMITTEE

JUDICIARY COMMITTEE
VICE-CHAIRMAN

CIVIL PRACTICE SUB-COMMITTEE

NORTHEAST TENNESSEE CAUCUS

April 15, 2010

Dear Pam:

At your request, I write concerning the Market Regulation Act of 2009 which I co-sponsored and also supported as a member of the House Commerce Committee. The bill as passed allows incumbent local telephone providers to elect market regulation for retail services.

As a legislator representing District 1 where CenturyLink (formerly Embarq) provides telephone service, I was interested in the law applying equally to all providers in the state and not to AT&T alone. Language was added to the bill in late May of 2009 as part of an amendment to enable companies to elect market regulation for exchanges with less than 3,000 access line; provided those companies have state-wide or territory-wide pricing.

With its territory-wide pricing, Century-Link is eligible to market regulation in all exchanges without making a competitive showing.

I hope this helps and please let me know if I need to provide you with additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Lundberg".

Jon Lundberg
State Representative
District 1

Gerald McCormick
STATE REPRESENTATIVE
26th LEGISLATIVE DISTRICT

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House of Representatives State of Tennessee

NASHVILLE

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COMMERCE
STATE AND LOCAL
CALENDAR & RULES
LOTTERY OVERSIGHT

SUBCOMMITTEES:

UTILITIES AND BANKING

CHAIRMAN
STATE GOVERNMENT

HOUSE ASSISTANT MAJORITY LEADER

Wednesday, April 14, 2010

Ms. Pam Wescott
611 Commerce Street, Suite 2605
Nashville, TN 37203

Dear Pam,

At your request, I write concerning the Market Regulation Act of 2009- HB 1698. The bill as passed allows incumbent local telephone providers to elect market regulation for retail services.

As the primary House Sponsor of the legislation, I was interested in the law applying equally to all providers in the state not just for AT&T. Language was added to the bill in late May as part of an amendment to enable companies to elect market regulation for exchanges with less than 3,000 access lines, provided those companies have state-wide or territory-wide pricing.

With its territory-wide pricing, CenturyLink-former Embarq is eligible for market regulation in all exchanges without making a competitive showing.

If I can be of further assistance, please let me know.

Best regards,

A handwritten signature in black ink that reads "Gerald McCormick".

Gerald McCormick
State Representative
District 26