

In support of its Application, CenturyLink submitted the prefiled testimony of Ann C. Prockish ("Prockish").

Section 56-235.5 E of the Code provides that "[t]he Commission shall have the authority, after notice to all affected parties and an opportunity for hearing, to determine whether any telephone service of a telephone company is subject to competition and to provide, either by rule or case-by-case determination, for deregulation . . . or modified regulation determined by the Commission to be in the public interest for such competitive services."

On July 30, 2014, the Commission issued an Order for Notice and Comment that, among other things, docketed CenturyLink's Application; directed CenturyLink to give notice to the public of its Application; provided an opportunity for interested persons to comment or request a hearing on CenturyLink's Application; and directed the Staff of the Commission ("Staff") to conduct an investigation of the Application and present its findings and recommendations in a report ("Staff Report"). No one commented on CenturyLink's Application and no one requested a hearing.

Presently, CenturyLink's services are regulated in accordance with its Plan for Alternative Regulation ("PAR").⁴ In the PAR, services are classified into four categories: Basic Local Exchange Telephone Services ("BLETS"), Other Local Exchange Telephone Services ("OLETS"), bundled services, and competitive services.⁵

⁴ See *Application of Central Telephone Company of Virginia and United Telephone-Southeast, Inc., For Approval of its New Plan for Alternative Regulation*, Case No. PUC-2008-00008, 2008 S.C.C. Ann. Rept. 276, Final Order (June 20, 2008).

⁵ A listing of some of those services is shown in the Application at 2 and Exhibit A.

CenturyLink's proposal in this proceeding is based on tests established for Verizon Virginia Inc. and Verizon South Inc.'s (collectively, "Verizon") residential and business BLETs in Case No. PUC-2007-00008.⁶ In that case, the Commission found

that competition or the potential for competition can be an effective regulator of the price for residential BLETs in a telephone exchange area if each of the following criteria is satisfied:

- a. A minimum of 75% of the households in the telephone exchange area can choose residential local telephone service from among at least two (2) competitors to [the incumbent provider];
- b. A minimum of two (2) of the competitors to [the incumbent provider] in part "a" must offer residential local telephone service that may be purchased by a residential consumer without a corresponding requirement to purchase non-telecommunications services (e.g., video or broadband internet service) from that competitor; and
- c. At least 50% of the households in the telephone exchange area can choose a facilities-based competitor that owns its own wireline network facilities.⁷

The test adopted for Verizon's business BLETs is as follows:

- a. A minimum of 75% of the businesses in the telephone exchange area can choose local telephone service from among at least two (2) competitors to [the incumbent provider];
- b. A minimum of two (2) of the competitors to [the incumbent provider] in part "a" must offer local telephone service that may be purchased by the business customer without a corresponding requirement

⁶ Application at 10 (referencing *Application of Verizon Virginia Inc. and Verizon South Inc., For a Determination that Retail Services are Competitive and Deregulating and Detariffing of the Same*, Case No. PUC-2007-00008, 2007 S.C.C. Ann. Rept. 225, Order on Application (Dec. 14, 2007) ("Verizon Competition Order") and 2008 S.C.C. Ann. Rept. 255, Order on Reconsideration (Feb. 1, 2008) ("Verizon Reconsideration Order").

⁷ Verizon Competition Order, 2007 S.C.C. Ann. Rept. at 236.

to purchase non-telecommunications services (e.g., video or broadband internet service) from that competitor; and

- c. At least 50% of the businesses in the telephone exchange area can choose a facilities-based competitor that owns its own wireline network facilities.⁸

The Commission used these tests to determine in which Verizon exchanges residential and business BLETs were competitive based on the evidence presented in the proceeding.⁹ Instead of requiring Verizon to file a formal application for a determination on each additional exchange, the Commission adopted an administrative process for the Staff to evaluate Verizon's subsequent residential and business BLETs submissions on a case-by-case basis under the tests adopted by the Commission.¹⁰ In this proceeding, CenturyLink proposes using the same administrative process for evaluating its competitive test submissions as that approved for Verizon in Case No. PUC-2007-00008.¹¹

CenturyLink also requested the same competitive determination treatment for its OLETs provided in association with residential and business BLETs as that approved for Verizon's associated OLETs in the Verizon Competition Order.¹² That is, once a residential or business BLETs is determined to be competitive under the applicable competitive test in a given exchange, the associated OLETs in that same exchange would also become competitive.¹³

⁸ *Id.* at 239.

⁹ *Id.* at 237-40.

¹⁰ *Id.* at 238, 240.

¹¹ Application at 16-17.

¹² *Id.* at 12-13.

¹³ *Id.* at 13.

Regarding safeguards to be adopted in accordance with § 56-235.5 H of the Code, CenturyLink proposed for residential BLETS, "a maximum annual rate increase of 10% or \$2.00, whichever is greater, for a period of three (3) years from the date residential [BLETS] is competitively classified."¹⁴ As a safeguard against the cross subsidization of competitive services by monopoly services, CenturyLink proposed that it would maintain data in order to show that revenues from competitive services in the aggregate cover their direct incremental costs, and it would provide this data to the Division of Communications annually upon the Staff's request.¹⁵

The Application and Prockish's testimony offered analysis and data to support the request for the Commission to determine CenturyLink's bundled service offerings and directory assistance services are competitive on a statewide basis without further administrative filings.¹⁶

The Staff submitted its Staff Report on September 26, 2014. The Staff concluded that it would be appropriate for the Commission to determine that CenturyLink's bundled services and directory assistance services are competitive on a statewide basis.¹⁷ The Staff also stated that CenturyLink's request for the Commission to adopt competitive tests for residential and business BLETS and evaluate subsequent submissions through a Staff administrative process appears to be reasonable.¹⁸ The Staff noted that its experience evaluating Verizon's competitive test filings would enable it to do the same with any future CenturyLink submissions.¹⁹ However, the Staff

¹⁴ *Id.* at 20-21.

¹⁵ *Id.* at 19.

¹⁶ *Id.* at 13-16.

¹⁷ Staff Report at 32.

¹⁸ *Id.*

¹⁹ *Id.*

Report contained certain clarifications and modifications to CenturyLink's proposals that the Staff found should be made, including:

- Clarify that extended local calling service is not a service that is included as part of residential or business BLETs;
- Optional local calling plans should not be included in the definitions of residential and business BLETs. Optional calling plans are OLETs and should be identified as associated OLETs;
- Part "c" in the competitive tests for residential and business BLETs should be modified to reflect the full descriptions of facility-based competitors resulting from the Verizon Reconsideration Order and statutory changes as described in the Staff Report - the proposed replacement language suggested by Staff is:

"(c) At least 50% of the households [businesses] in the telephone exchange area can choose a facilities-based competitor that owns its own wireline facilities, leases UNE-loops from the [Incumbent Local Exchange Carrier], or is a wireless communications provider that offers voice communications services."²⁰

- The administrative process for evaluating CenturyLink's competitive test submissions for residential BLETs and business BLETs should be modified to reflect that retail services may be detariffed;
- Residential and business associated OLETs should be identified as shown in Attachment 2 to the Staff Report;
- Clarify that CenturyLink's request is for residential and business BLETs in exchanges that are determined to be competitive pursuant to the competitive tests not to be regulated under the PAR but instead be price deregulated;

²⁰ *Id.* at 17.

- Require that CenturyLink continue to make an annual filing with the Staff demonstrating that revenues from competitive services in the aggregate cover their direct incremental costs until December 31, 2017. After such time, CenturyLink would continue to maintain the data and provide it to the Staff upon request; and
- Establish a consumer safeguard that price increases for residential BLETS do not exceed two dollars per year for the period of January 1, 2015, through December 31, 2017,²¹ or for three years.²²

On October 3, 2014, CenturyLink filed a response to the Staff Report stating that it does not object either to the Staff Report, as amended, or to the modifications or clarifications described therein.²³ While CenturyLink questions the Staff's recommendation for continued submission of the cross subsidization report through 2017, as opposed to CenturyLink's proposal, CenturyLink does not object to this obligation or to any other modification or clarification in the Staff Report, as amended.²⁴

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that CenturyLink's Application should be approved in accordance with the findings made herein. We find that the proposed competitive tests and administrative process, as revised through the

²¹ On September 30, 2014, the Staff filed a correction to the Staff Report replacing December 31, 2018, with December 31, 2017, as the end of a three-year period for implementation of a safeguard regarding residential BLETS.

²² Staff Report at 30, 32-33. (The Staff Report also noted that the listed time period for the safeguard assumes that residential BLETS have been made competitive in at least one exchange by January 1, 2015. If this is not the case, the Staff proposed that the three-year period start once residential BLETS have been determined to be competitive in at least one exchange through the administrative process).

²³ CenturyLink Response at 1.

²⁴ *Id.*

clarifications and modifications set out in the Staff Report, should be adopted to determine on an exchange-by-exchange basis whether certain retail services may be found to be competitive in CenturyLink's service territory. We further find that the safeguards proposed by CenturyLink, as modified in the Staff Report, should be adopted. Finally, we find that CenturyLink's bundled service offerings and directory assistance services should be found to be competitive on a statewide basis.

Accordingly, IT IS ORDERED THAT:

(1) CenturyLink's proposed competitive tests and associated administrative process, as modified and clarified by the Staff in the Staff Report, hereby are adopted and shall be implemented forthwith.

(2) CenturyLink's bundled service offerings and directory assistance services are found to be competitive on a statewide basis.

(3) A consumer safeguard capping residential price increases at two dollars per year for three years hereby is adopted. This safeguard shall be in effect through the latter of:

(i) December 31, 2017, or (ii) three years from the first time a CenturyLink exchange is determined through the administrative process to be competitive for residential BLETs.

(4) CenturyLink shall continue to make an annual filing with the Staff demonstrating that revenues from its competitive services in the aggregate cover their direct incremental costs. Such filings shall continue until December 31, 2017, after which CenturyLink shall continue to maintain such data and provide it to the Staff upon request.

(5) There being nothing further to come before the Commission, this case is dismissed from the Commission's docket of active cases, and the papers filed herein shall be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:
Jeanne W. Stockman, Senior Corporate Counsel, CenturyLink, 14111 Capital Boulevard,
Mailstop NCWKFR0313, Wake Forest, North Carolina 27587; and C. Meade Browder, Jr.,
Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney
General, 900 East Main Street, Second Floor, Richmond, Virginia 23219. A copy also shall be
provided to the Commission's Office of General Counsel and Division of Communications.