

Washington Utilities and Transportation Commission
ETC Rulemaking, WAC 480-120-311
Docket No. UT-053021

COMMENTS OF CENTURYTEL

June 1, 2005

Pursuant to Notice of Opportunity to File Written Comments, dated May 10, 2005, CenturyTel of Washington, Inc., CenturyTel of Inter Islands, Inc., and CenturyTel of Cowiche, Inc., (collectively "CenturyTel") hereby comment as follows:

Prior to responding to the specific questions posed in the Notice, CenturyTel offers the following general observation as to the guidelines issued by the FCC:

Suggested Guidelines for Eligible Telecommunications Carriers (ETCs)

CenturyTel urges the WUTC to follow the FCC's suggestion to adopt its additional mandatory requirements regarding ETC designation and reporting, and place increased focus on how these funds are actually being used. The entire federal universal service system is undergoing a level of scrutiny that is unprecedented in its scope and scale in an effort to achieve accountability and stability for scarce funding at all levels. Adoption of the FCC's new requirements at the state level would provide additional consumer protection, and consistency, to the ETC process and to the universal service system as a whole. At a minimum, to achieve maximum consumer benefit and competitive parity, all ETCs should be held to the same service, eligibility and reporting standards. CenturyTel urges the WUTC's adoption of the following guidelines:

- Eligibility Requirements
 - Provide a 5-year plan demonstrating how high-cost universal service support will be used to improve coverage, service quality or capacity throughout the service area for which an ETC applicant seeks designation.
 - Demonstrate its ability to remain functional in emergency situations.
 - Demonstrate that it will satisfy consumer protection and service quality standards, as the ILECs are required to do.
 - Offer affordable local usage plans comparable to those offered by the ILEC in areas for which the applicant seeks ETC designation.
 - Acknowledge that it may be required to provide equal access if all other ETCs in the designated service area relinquish their ETC designations.

- Annual Certification and Reporting Requirements
 - Progress updates on 5-year service quality improvement plans.
 - Detailed information on outages in the ETC's network.
 - Number of unfulfilled requests for service from potential customers for the past year.
 - Number of complaints per 1,000 handsets or lines.
 - Annual certification that the ETC is meeting the other eligibility requirements delineated above.

A more detailed general analysis of the FCC Report and Order on the Requirements for Designation of Eligible Telecommunications Carriers is included as Attachment A to these comments.

On the following pages, CenturyTel specifically responds to selected questions posed in the WUTC's May 10, 2005 Notice.

Question 1, Para 11, 16

Single connection: ETCs designated by the WUTC receive support for all connections based on expenditures or on access lines served. This includes support for multi-line business and residential customers. Can the WUTC limit through the ETC designation process the number of access lines per-customer for which an ETC receives support? Can the WUTC limit through the ETC designation process the type of customer (i.e., business or residential) for which an ETC receives support?

Answer: No, the WUTC cannot limit through the ETC designation process the number of access lines per customer nor type of customer for which an ETC receives support. Under the FCC’s current rules, all residential and business connections provided by ETCs are eligible for high-cost support. In 1996, the FCC previously rejected a Joint Board proposal to allow support for only primary lines. However, in its 2004 Recommended Decision, the Joint Board again recommended support be based on a single connection to the public telephone network. In its written comments following the 2004 Recommended Decision, CenturyTel urged the FCC to reject the “single connection” proposal again because we believe, for rural consumers, it is critical for support to be made available for entire rural networks, not just primary lines. Rural networks must be maintained and upgraded to support the advanced telecommunications and broadband services provided both by the ILEC and competitors, each using the ILEC’s network to reach rural customers. ILEC networks in rural areas are essential for delivering broadband enabled services to rural markets. Rural carriers require high-cost support to enable rural customers to access content for purposes of education, employment and entertainment. Support is also necessary to allow carriers to maintain and upgrade the entire network. These network costs remain even when a competing carrier wins a customer’s primary line.

Question 5, Para 23

The FCC now requires “that an ETC applicant submit a **five-year plan** describing with specificity it’s proposed improvements or upgrades to the applicant’s network on a wire center-by-wire center basis throughout its designated service area.” Are there circumstances in Washington that provide support for an approach similar to the FCC’s, or support an approach different from the FCC’s?

Please provide information about the effort and cost that might be required to comply with the FCC requirements should they be adopted by the WUTC.

If the WUTC requests five-year plans, should there be an evaluation of the plans, and if so, what criteria should be used to determine the adequacy or accuracy of the plans?

Answer: CenturyTel strongly encourages the WUTC to adopt the FCC’s mandate to request five-year plans on a study area basis and believes the rural demographics of

Washington support this approach. Washington should require a demonstration of capability and commitment (such as the five-year plan) because this will help them ensure that an ETC applicant is willing and able to provide the supported services throughout the designated service area and to be the sole ETC in a service area if the incumbent LEC relinquishes its designation. If the WUTC requests five-year plans, a preparation requirement alone is not enough. There should also be an evaluation of the plans to continually assess the capability and commitment of the ETC to provide the supported services throughout the designated service area.

Question 6, Para 23

The FCC now requires ETCs to demonstrate supported improvements have been made through particular report elements. It requires “an ETC applicant must submit coverage maps detailing the amount of high-cost support received for the past year, how these monies were used to improve its network, and specifically where signal strength, coverage or capacity has been improved in each wire center in each service area for which funding was received. In addition, an ETC applicant must submit on an annual basis a detailed explanation regarding why any targets established in its five-year improvement plan have not been met.” If the WUTC were to adopt this reporting requirement, are there other investments or expenditures that should qualify as satisfactory to meet the requirement to **use federal support only for intended purposes?**

Should the WUTC require ETC applicants to submit formal improvement plans? If so, what should those plans include? What reports should be required of ETCs; what should be the focus of the review; and what should occur when reported results vary from plans?

Answer: CenturyTel supports the WUTC requiring ETC applicants to submit formal improvement plans which demonstrate how high-cost universal service support will be used to improve coverage, service quality or capacity throughout the service area for which the ETC applicant seeks designation. In addition, ETCs should show progress made on this improvement plan in its annual certification. At a time when millions of dollars are flowing to wireless CETC’s, it has been CenturyTel’s experience that wireless coverage and reliability has not necessarily improved in some markets to reflect the level of support being received by some wireless providers.

Question 8, Para 25

The FCC will require an applicant for ETC designation to demonstrate its **ability to remain functional in emergency situations**, and to “demonstrate it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.” Should the WUTC adopt this requirement? If it does, how should “emergency situation” be defined? What does it mean, “to remain functional” in an emergency situation?

Many ETCs in Washington operate under WAC 480-120-412 and 414. If the FCC requirement were adopted by the WUTC, would compliance with these rules satisfy the FCC requirement?

Answer: From a customer standpoint, “remaining functional” means that barring cataclysmic occurrences, voice service should be reliable at all times. CenturyTel urges the WUTC to require ETC applicants to demonstrate their ability to remain functional in emergency situations.

Question 11, Para 27

The FCC will now require reporting on an annual basis of **outages** experienced by ETCs. Should the WUTC require similar reports on an annual or more frequent basis? How could the WUTC use the reports in the annual certification process?

Answer: CenturyTel encourages the WUTC to require ETCs to provide detailed information on outages, especially in cases when 911 is not available, in the ETC’s network as part of its annual certification and reporting requirements. CETC’s should be held responsible for the same reporting obligation as ILECs.

Question 12, Para 28

The FCC will require a carrier seeking “ETC designation to demonstrate its commitment to meeting **consumer protection and service quality standards**” by making “a specific commitment to objective measures to protect consumers.” The FCC did not adopt standards; it permits an ETC to propose standards to which the ETC will adhere. What are the concerns for consumer protection and service quality in Washington that should be addressed by standards? If there are concerns, what standards should apply?

Answer: CenturyTel believes imposing consumer protection and service quality standards as a condition of granting a request for ETC designation is consistent with the “public interest” mandate of section 254©. There is nothing in the Act, Commission’s rules, or orders that would limit state commissions from imposing such consumer protection and service quality standards on ETCs. Although wireless carriers have argued that states cannot regulate rates for mobile services, state commissions have authority under Section 332©(3) of the Act to regulate all other terms and conditions of commercial mobile services. CenturyTel supports state commissions in fully exercising their powers under Section 332©(3) in making ETC determinations.

Also, we feel such standards are necessary to further the universal service goals. CenturyTel believes that CETC’s have a clear business decision to make prior to seeking ETC designation. They must either choose to enjoy the benefits of being deregulated as they are today, or, to begin receiving scarce federal USF support and

be willing to accept regulatory obligations similar to incumbent recipients. An ETC should be made to demonstrate that it will satisfy these standards, as the ILECs are required to do.

Question 14, Para 32-33

The FCC will require an ETC to “demonstrate that it offers a **local usage plan** comparable to the one offered by the incumbent LEC in the service areas for which the applicant seeks designation.” The FCC itself declined to adopt a specific local usage threshold, but will review local usage offerings on a case-by-case basis. The FCC intends to “ensure that each ETC provides a local usage component in its universal service offerings that is comparable to the plan offered by the incumbent LEC in the area.” The FCC encourages states to determine whether the ETC “provides adequate local usage.” If the WUTC determines it should require wireless ETCs to offer something other than their current subscriber offerings, should the WUTC investigate the revenues and expenses of wireless companies to determine if the offering intended to be comparable to the incumbent LEC’s offering is fair, just, reasonable, and sufficient?

If the WUTC considers a requirement that wireless ETCs provide local usage comparable to that of the incumbent LEC, should the WUTC also consider a requirement that incumbent LECs have a local usage offering comparable to one or more wireless plans, including limited “anytime” minutes, extended area calling, or national “toll free” service?

Answer: The WUTC should require ETCs to offer local usage plans comparable to those offered by the ILECs in areas for which the applicant seeks ETC designation. In addition to requiring local usage to be provided under the Act, CenturyTel feels WUTC should also consider how much local usage ETCs should offer as a condition of federal universal service support. It has been CenturyTel’s experience that some CMRS providers do provide local plans that appear to be reasonable, but in actuality, only over 30 minutes or less of service per month (roughly a minute per day) accompanied by very high additional minute rates. There is nothing in the Act, Commission’s rules, or orders that would limit state commissions from prescribing some amount of local usage as a condition of ETC status. Section 332 applies here since the PSC’s are not actually setting rates for wireless carriers—they are only asking them to offer similar plans that can be priced accordingly and by service area. In addition, WUTC should also require that such minimum local usage plan be affordable. Wireless carriers have argued that states cannot regulate rates for mobile services. Although this may be true generally, there is no such restriction with regard to implementation of universal service provisions. Furthermore, aside from rates, state commissions have authority to regulate all other terms and conditions of commercial mobile services. CenturyTel supports state commissions in fully exercising their powers under Section 332©(3) of the Act in making ETC determinations.

The question as to whether ILECs should be required to have a local usage offering comparable to wireless plans is totally misguided. The base line for universal service offerings is the ILEC local usage offerings, which have been closely monitored and controlled by the WUTC for many years. The wireless plans were never designed with universal service in mind. It is absurd to imply that national “toll free” service is a local usage offering.

Question 15, Para 35

The FCC did not impose an **equal access** requirement on all ETCs, it stated that ETC applicants should acknowledge that the FCC may require equal access in the event that no other ETC is providing equal access within the same service area. Should the WUTC consider imposing an equal access requirement?

Answer: CMRS customers do not have a choice of competitive long distance providers. CenturyTel encourages the WUTC to require that an ETC acknowledge, as a condition to approval, that it may be required to provide equal access if it wishes to be an ETC or if all other ETCs in the designated service area relinquish their ETC designations.

Question 16, Para 37

The FCC did not adopt a requirement for ETC applicants to **demonstrate the financial capability** to provide quality services throughout the designated service area. Should the WUTC adopt a requirement that an ETC applicant demonstrate the financial capability to sustain supported services? Should the WUTC require proof of financial capability to sustain supported services as part of the annual certification process?

Answer: CenturyTel believes the WUTC should adopt a requirement that an ETC applicant demonstrate the financial capability to sustain supported services. It would not serve the public interest if a financially unsound carrier is designated as an ETC, receives universal service support and yet is still unable to achieve long-term viability that is sufficient to sustain its operations.

Question 17, Para 40-43

The FCC states that in making a **public interest determination**, the “public interest benefits of a particular ETC designation must be analyzed in a manner that is consistent with the purposes of the Act itself, including the fundamental goals of preserving and advancing universal service; ensuring the availability of quality telecommunications services at just, reasonable, and affordable rates; and promoting the deployment of advanced telecommunications and information services to all regions of the nation, including rural and high-cost areas.” To what degree should the WUTC consider the purposes of the Act and section 254 principles, including “the deployment of advanced

telecommunications and information services to all regions” in making the public service determination?

Answer: The purposes of the Act and section 254 principles should serve as the basis of *every* ETC designation. The basic purpose of universal service is to allow service to be provided in those areas where the free market forces alone would not be sufficient for service to arise because the costs are too high. Universal service support is a very scarce public resource and should only be spent in those areas where support is a “must” for obtaining basic local service, as well as deployment of advanced telecommunications and information services. As a policy objective, the PSC must clarify the purpose of high cost support: is it to promote competition; or is it to promote infrastructure and access to new services?

Question 18, Para 44

The FCC states “in light of the numerous factors it considers in its public interest analysis, the value of **increased competition**, by itself, is unlikely to satisfy the public interest test.” The WUTC has considered the benefits of competition, not competition itself. How should the WUTC factor in the benefits of competition when determining the public interest in ETC designation?

Answer: CenturyTel understands the benefits of competition that naturally arises as the result of market forces and the positive impacts it can have for consumers. However, the ETC designation process should not be used to subsidize competition. Such “artificial competition” runs counter to the fundamental principle that USF should only be used for the purpose of allowing service to be provided in those areas where service would not naturally arise because the costs are prohibitively high. It is not good public policy to support multiple carriers for the purpose of creating artificial competition in a given market (by granting an ETC application in that area) when market forces show the area can’t even support one provider. Supporting multiple ETCs in a very high cost area will not bring about benefits that will outweigh the cost associated with the expenditure of the scarce public resource necessary to create the artificial competitive environment. It has been CenturyTel’s experience in other states that the entrance of CETC’s does not stop with the first applicant. In some markets, CenturyTel has seen as many as eight ETC’s. The FCC’s own study shows that there is a minimum of three wireless providers in most rural markets.

Question 21, Para 47

Should the WUTC determine that ETC designation of a carrier will confer a **public benefit** before making the initial designation? If so, what information should the WUTC use to arrive at a determination of public benefit? Should the WUTC require some proof of continuing public benefit as part of the annual certification process?

Answer: CenturyTel believes that consideration of both the benefits and costs is inherent in conducting a public interest analysis under section 214(e)(2). In addition to standards for CETC designations, the WUTC should implement measures to ensure that all CETC designations will result in net benefits to all members of the public in a given service area. These considerations are increasingly important where an existing and already-successful wireless provider in a given market begins receiving support for doing nothing more than it was doing before it was granted ETC status. An important factor in ensuring that the public will benefit from a CETC designation is to make clear that designating ETCs requires more than just establishing a “competitor” in the market. CenturyTel has seen no new wireless providers enter its markets because of ETC designations. Rather, incumbent wireless providers with well-established business plans are the recipients of most CETC dollars today.

WUTC should consider whether consumers were likely to benefit from increased competition, whether the additional designation will provide long-term benefits not available from incumbent carriers, whether consumers may be harmed should the incumbent withdraw from the service area and whether there would be harm to a rural incumbent LEC. In rural communities, policy makers should consider the willingness of a carrier to deploy new and advanced services, create jobs, invest and become a viable economic development partner with those markets.

Question 22, Para 48-53

The FCC has rules that provide federal high-cost support to rural incumbents based on embedded costs of those carriers. The FCC rules provide support to non-incumbent ETCs for every line served based on the costs of incumbents, not on the costs of the ETC. In Washington, federal universal service has been disaggregated for rural incumbents so that support is based on costs associated with each rural exchange. As a result, non-incumbent ETCs receive support based on the level of support needed by the rural incumbent to serve an exchange. Should the WUTC address **cream skimming** more than it has: if so, how?

Answer: CenturyTel would prefer the WUTC to require ETCs to provide service throughout the same geographic service area as the incumbent in order to receive universal service support – especially when such support is based on the ILEC’s cost of serving the majority of the customers in that study area. This obligation would help guard against the potential for cream- skimming. In addition, we recommend denying future requests to redefine the service areas of incumbent rural telephone companies and to deny ETC designations in instances where an ETC’s proposed service area does not cover the entire service area of the incumbent service provider. It has been CenturyTel’s experience that CMRS providers that have requested and received approval to re-define existing service areas as long as three years ago, have not yet made necessary investments to serve the entire area after receiving high cost support during that time.

Question 24, Para 54

The FCC declined to adopt a specific test to use when considering whether designation of an ETC will affect the **size and sustainability of the high-cost fund**. In the absence of a federal test, should the WUTC apply a test and what test should it apply?

Answer: Analyzing the impact of one ETC on the overall universal service fund may be inconclusive. However, there are a number of circumstances that can and should be considered in evaluating the affect of an ETC designation on the size and sustainability of the high-cost fund. For instance, state commission adoption of mandatory CETC standards and an annual USF certification process that ensures conformance to those standards is the first step in assuring the continued viability and sustainability of universal service funding. In addition, states should take into consideration the level of per-line support: if per-line support is high, then it is likely that multiple ETCs in the market would strain the USF.

Question 26, Para 57

The FCC declined to adopt a proposal that would allow only **one wireline ETC and one wireless ETC in each service area**. The FCC also stated “Such a proposal that limits the number of ETCs in each service area creates a practical problem of determining which wireless and wireline provider would be selected.” Should the WUTC limit ETC designation to one wireline company and one wireless company in any location? Adopt a rebuttable presumption that it is not in the public interest to have more than one ETC in rural areas?

Answer: CenturyTel does not feel there should always be at least one wireless provider in any location. Each market should be evaluated on its own merits and public interest requirements. As we mentioned previously, the ETC designation process should not be used to subsidize competition. Such “artificial competition” runs counter to the fundamental principle that USF should only be used for the purpose of allowing service to be provided in those areas where no one in the market will serve because the costs are prohibitively high. It is not good public policy to support two (2) carriers in a given market (by granting an ETC application in that area) when the market forces show the area can’t even afford one ETC.

CenturyTel suggests a limitation similar to that proposed by Billy Jack Gregg, Director of the Consumer Advocate Division of the Public Service Commission of West Virginia, in his testimony before Congress regarding the future of the universal service fund. CenturyTel suggests the Commission adopt a limitation that for example, might limit support to only one ETC, the incumbent, in rural areas where average monthly per line support from all support mechanisms, federal and state, is \$30 per loop or greater. In areas where average monthly per line support from both intrastate and interstate funding mechanisms is greater than or equal to

\$20 but less than \$30, two ETCs may be designated following thorough public interest findings as previously stated, and where average monthly per line support is greater than or equal to \$10 but less than \$20, three ETCs may be designated. In markets where average monthly per line support is less than \$10, presumably, a greater number of ETCs may be designated by the Commission. CenturyTel urges the Commission to adopt this approach because it more closely targets the rural markets in which multiple ETC designations could detrimentally impact rural customers.

Question 29, Para 68-72

The FCC will require information from ETCs every year when the ETC makes its **annual certification** that it will use federal universal service support only for the intended purposes. Much of the information the FCC will require is similar to the information discussed in questions concerning initial designation. The FCC's new annual certification also requires information regarding the ETC's network and its use support funds. Should the WUTC require the same information as will the FCC?

The FCC created the Lifeline and Link Up programs to assist low-income consumers, and the federal tribal lifeline program to target low-income support to residents of Indian reservations. If the WUTC develops additional requirements for annual certification of designated ETCs, should it require annual reports on ETC efforts to publicize the availability of lifeline service in a manner reasonably designed to reach those likely to qualify for the service? Should it inquire into ETC practices related to accepting and processing requests for Lifeline service?

If the WUTC imposes any requirements for certification, must it do so by rule, or may it do so by order?

Answer: CenturyTel encourages the WUTC to require ETCs to submit to an annual certification and reporting requirements that set forth the following information: (1) progress updates on its 5-year service quality improvement plan, (2) detailed information on outages in the ETC's network, (3) number of unfulfilled requests for service from potential customers for the past year, (4) number of complaints per 1,000 handsets or lines, and (5) annual certification that the ETC is meeting the other eligibility requirements set forth.

The WUTC should not require reporting of information on ETC efforts to publicize the availability of lifeline service in its annual certification process nor should it inquire into ETC practices related to accepting and processing requests for Lifeline service. Federal reporting guidelines in this area are already sufficient additional reporting requirements at the state level would be unduly burdensome.

Additional Issue Regarding Location of ETC Service

As encouraged in the May 10 Notice and Questions, CenturyTel seeks to raise one additional issue not covered in the list of questions. This involves the need to assure that ETCs are in fact providing service in the geographic area for which they have been designated and for which they are receiving universal service support. CenturyTel is very concerned that there is no such assurance with regard to wireless ETCs.

Historically this Commission has used the subscribers billing address location as a proxy for the location where wireless service is actually being used. This is inherently counter-intuitive. Traditionally people have sought wireless service not to use it at their home or office location, i.e. their likely billing address. Rather, they sought wireless service to do precisely the opposite, which is to use it away from their home or office.

There can be no doubt that many subscribers who might have a billing address in a high cost service area in fact use their wireless phone predominantly away from that location. Quite often that other location will be in high-density low cost areas where they work or shop. CenturyTel points out that in many instances there is no cellular coverage at the billing address. In those cases none of the service would be used at the billing address, which is serving as the proxy for the location of the service.

Use of the billing address as a proxy for the location where the service is used will inevitably result in subsidizing service that is in fact used in low cost areas. It is questionable public policy to subsidize competition in high cost areas. It is absolutely foolhardy to subsidize competition for service provided in high-density low cost areas. Yet this is what this Commission and others have done by utilizing the billing address proxy.

CenturyTel urges the Commission to take this opportunity to re-examine use of the billing address as a proxy for the location where service is being provided. Many advancements have been made in the ability to locate where wireless service is in fact being used. Obviously billing address was never accepted as an adequate proxy for service location in the case of 911 service. Nor should it be for purposes of disbursement of the scarce public resource that is universal service funding. The Commission should inquire as to whether there are now practical methods of determining the areas of predominate use for each wireless account that is presented as being in need of universal service and for which a USF draw is claimed.

Only by improving on the billing address proxy can the Commission assure that disbursement of universal service funds is going to support service that is in fact provided in high cost areas deserving of support.

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CenturyTel Reponse to Proposed Questions
WUTC ETC Rulemaking, WAC 480-120-311 Docket No. UT-053021

CenturyTel very much appreciates having the opportunity to submit these comments.

Submitted this 1st day of June 2005.

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