

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Susan K. Duffy, Chair
Shari Feist Albrecht
Dwight D. Keen

In the Matter of the Petition of CenturyLink for)
Waiver to Provide an Annual Interrogatory in) Docket No. 20-UTDT-212-MIS
Lieu of an Annual Report.)

**ORDER ON CENTURYLINK PETITION FOR WAIVER TO
PROVIDE AN ANNUAL INTERROGATORY IN LIEU OF AN ANNUAL REPORT**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings and conclusions:

I. BACKGROUND

1. On November 1, 2019, United Telephone Company of Kansas d/b/a CenturyLink, United Telephone Company of Eastern Kansas d/b/a CenturyLink, United Telephone Company of Southcentral Kansas d/b/a CenturyLink, and Embark Missouri, Inc. d/b/a CenturyLink (collectively CenturyLink) filed a Petition with the Commission for a permanent waiver to provide an Annual Interrogatory in lieu of an Annual Report.¹ In its Petition, CenturyLink stated that as the only price cap regulated carrier in Kansas, the comprehensive annual report information required for local exchange carriers (LECs) serves minimal purpose or benefit to the Commission or the public.²

2. As described by CenturyLink, information provided in the Annual Report is used to determine a rate of return carrier's regulated rates and other related purposes, but does not

¹ Petition of CenturyLink for Waiver to Provide an Annual Interrogatory In Lieu of an Annual Report (Nov. 1, 2019).

² *Id.*, at ¶ 5.

serve a similar purpose for a price-cap regulated carrier.³ According to CenturyLink, K.S.A. 66-2005 states that carriers that elect price cap regulation are exempt from rate base, rate of return and earnings regulation and, thus, are not subject to the provisions of K.S.A. 66-136 and K.S.A. 66-127.⁴ Because the Annual Report does not serve a useful purpose for price-cap regulated carriers, CenturyLink suggested the Annual Interrogatory used by interchange carriers (IXCs), competitive LECs (CLECs), and electing carriers provides the Commission with substantial business and financial data in the following categories: (1) general company information, (2) gross intrastate operating revenue by category, (3) number of subscribers, (4) KUSF reconciliation, and (5) detailed company contact information.⁵ CenturyLink posits that because the Annual Interrogatory is sufficient for IXCs, CLECs, and operator service providers (OSPs), it is also sufficient for price-cap regulated carriers.⁶

3. Lastly, CenturyLink proffered that it provides substantive and certified information to the Commission annually in other dockets and, should the Commission and/or Staff require additional information from a price-cap regulated carrier, CenturyLink will remain subject to the Commission's jurisdiction and obligated to provide Staff with information as may be deemed necessary for an ongoing investigation, docket or other case-by-case basis as required by K.S.A. 66-123.⁷

4. On December 23, 2019, Commission Staff (Staff) submitted a Report and Recommendation (R&R) in response to CenturyLink's Petition.⁸ In its R&R, Staff voiced disagreement with CenturyLink's request and alleged CenturyLink failed to offer any compelling

³ *Id.*, at ¶ 6.

⁴ *Id.*

⁵ *Id.*, at ¶ 8.

⁶ *Id.*

⁷ *Id.*, at ¶ 11.

⁸ Staff's Report and Recommendation (Dec. 23, 2019).

rationale in support of its Petition. Moreover, Staff claimed the Annual Report is used to determine more than regulated rates and provides information necessary to the Commission's duties.⁹

5. On January 10, 2020, CenturyLink filed a Response to Staff's Report and Recommendation¹⁰ in which CenturyLink outlined its disagreement with Staff's R&R. CenturyLink noted that as a price-cap regulated carrier, most of the data contained in the Annual Report is no longer needed for regulatory purposes.¹¹ CenturyLink contended that providing data, reports, and other information which no longer serves a critical regulatory oversight function is a sufficiently compelling to grant CenturyLink's request.

6. On January 22, 2020, Staff submitted its Reply to CenturyLink's Response to Staff's Report and Recommendation,¹² wherein Staff reiterated its need for the information contained within the Annual Report. Moreover, Staff stated its continued belief that the information provided in the Annual Report serves regulatory purposes.¹³

II. LEGAL STANDARDS

7. Pursuant to K.S.A. 66-101g, as applied to the regulation of telecommunication carriers, authority granted to the Commission shall be liberally construed.

8. Pursuant to K.S.A. 66-1,187(h), CenturyLink is a local exchange carrier providing switched telecommunications service within a local exchange service area; as such, CenturyLink is subject to the Commission's authority as a public utility.

9. Pursuant to K.S.A. 66-123, every public utility and common carrier governed by the provisions of this act when, and as required by the Commission, shall file with the

⁹ *Id.*

¹⁰ CenturyLink Response to Staff's Report and Recommendation (Jan. 10, 2020).

¹¹ *Id.*, at ¶ 3.

¹² Staff's Reply to CenturyLink's Response to Staff's Report and Recommendation (Jan. 22, 2020).

¹³ *Id.*, at ¶ 8.

Commission an annual report and such monthly or other regular reports, or special reports, and such other information as the Commission may require.

III. FINDINGS AND CONCLUSIONS

10. In reviewing the pleadings submitted by the parties, the Commission recognizes the merits of the arguments offered. However, the Commission remains cognizant that the Annual Reports required of all incumbent LECs (ILECs) operating in Kansas serve the important function of providing Staff with useful and necessary information. This information allows Staff to perform a variety of functions, including reviewing ILEC investments, debt, operating revenue, expenses, etc. These metrics are vital in determining an ILEC's financial health, which itself is central to ensuring that consumers are provided with efficient and sufficient service. Additionally, the information contained within the Annual Report is beneficial in that it allows the Commission to observe yearly variations experienced by reporting ILECs. These yearly variations give the Commission a better understanding of trends in the telecommunications industry.

11. While the Commission recognizes CenturyLink's argument that it currently provides Staff with useful information via annual ETC and KUSF filings, and that CenturyLink would provide additional information to Staff as requested, the Annual Report provides Staff with a useful repository of readily available information in one filing. Moreover, the Annual Report is more comprehensive than those filings provided in other, unrelated annual filings. And, perhaps most importantly, the Annual Report is a statutorily mandated filing that all ILECs must provide; that is to say, the filing of the Annual Report is not a unique requirement pertaining only to CenturyLink. Ultimately, it is CenturyLink's duty to provide the Commission with an Annual Report. Despite the assertions offered by CenturyLink, the Commission does not

believe that CenturyLink should be relieved of its statutory duty. While it may be accurate that some of the information contained in the Annual Report is excessive given CenturyLink's price-cap regulated carrier status, it is also accurate that much of the information contained therein is beneficial to Staff. As such, it is the opinion of this Commission that CenturyLink's requested waiver should be denied.

12. Notwithstanding the preceding, Staff must continue to ensure that what is provided within the Annual Report meets Staff's needs. Moreover, Staff must assure the contents of the Annual Report are both meaningful and relevant and aid in carrying out Staff's duties.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. For the reasons set forth above, CenturyLink's Petition for Waiver to Provide an Annual Interrogatory In Lieu of an Annual Report is denied. CenturyLink shall continue to provide an Annual Report as mandated in K.S.A. 66-123.

B. The parties have fifteen (15) days, plus three (3) days if service is by mail, from the date this order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 77-529(a)(1).

C. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Albrecht, Commissioner; Keen, Commissioner

Dated: 03/17/2020



Lynn M. Retz
Executive Director

PZA

CERTIFICATE OF SERVICE

20-UTDT-212-MIS

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
first class mail and electronic service on 03/17/2020.

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