

IN RE: Staff 3-9-17 E-mail
Subject: Act 181 – Section 5A – S.C. Code Section 58-9-280(E)(11)
Request for Comments

CENTURYLINK’S COMMENTS

On March 9, 2017 the Office of Regulatory Staff (ORS) requested input from CenturyLink regarding the ORS’s reporting obligations under Act 181, Section 5A, now codified as S.C. Code Ann. § 58-9-280(E)(11). Specifically, the ORS requested input regarding the definition of “need” and the appropriate level of distributions and how “need” could be standardized and presented to the PURC for each fund recipient. CenturyLink is both a contributor to and recipient of the fund.

The Act, as codified in the statutes, requires the ORS to “provide a report to the Public Utilities Review Committee (PURC) as to the State Universal Service Fund, the need for funding, and the appropriate level of distributions.” The first report is due two years after the effective date of the Act (May 25, 2018). Subsequent reports are due every four years thereafter.

The South Carolina Universal Service Fund (USF) was established through a series of Commission orders beginning in 1997. See, Docket No. 97-239-C. Through the orders, the size and appropriate distribution of the fund were determined based on the recipient carriers’ costs, as well as various rate caps and rate reductions implemented by the carriers. (Recipients are local exchange companies with carrier of last resort responsibilities in their service territories.) In Act 181, the Legislature confirmed and readopted the Commission’s previous determinations regarding the appropriate size and distributions of the fund by eliminating the statutory requirement for cost studies and freezing the fund, as well as carriers’ receipts from the fund, at 2015 levels. See, S.C. Code Ann. § 58-9-280(E)(4) and (5).

With the funding level set by statute, the reporting required under the Act is not properly focused on a determination of need through a recalculation of the recipient carriers' costs, particularly for the ORS informational reporting. Rather, CenturyLink believes that the legislative intent of this informational reporting requirement is to ensure there is a continued need for state USF and that by removing the statutory language requiring cost studies, the Legislature left the determination of the relevant information necessary to demonstrate need to the ORS's discretion. On this basis, CenturyLink suggests that the determination of need for these reporting purposes should be based on the proper use of the fund by recipient companies to accomplish the fund's purpose of ensuring affordable and available basic service throughout the recipient companies' local serving areas. See, SC Code Ann. § 58-9-280(E). Reporting on this basis is consistent with the intent of the legislation and the historical basis of the fund.

To demonstrate that recipients are properly using the funding received consistent with its statutory purpose, USF recipients should demonstrate that their expenses and capital expenditures exceed the state USF support that they receive. This approach properly reflects each carrier's investments and expenditures needed to continue to meet its carrier of last resort obligations. Further, it is consistent with the approach used in other states with high cost funds as well as the approach used in many states to evaluate whether federal high cost support for voice services was used appropriately prior to the implementation of the Connect America Fund to support broadband.

Respectfully submitted on June 1, 2017 by Deloris Carroll, CenturyLink State Regulatory & Legislative Affairs Director, who can be contacted at (919) 554-7298 or deloris.carroll@centurylink.com.