



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

TELECOMMUNICATIONS

IN THE MATTER OF THE BOARD'S INVESTIGATION	)	ORDER ADOPTING
REGARDING THE RECLASSIFICATION OF	)	STIPULATION AND
INCUMBENT LOCAL EXCHANGE CARRIER	)	AGREEMENT BETWEEN
SERVICES AS COMPETITIVE – PHASE II	)	CENTURYLINK AND RATE
	)	COUNSEL
	)	
	)	DOCKET NO. TX11090570

**Parties of Record:**

**Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel**  
**Colleen A. Foley, Esq., Saul Ewing LLP, Newark, NJ, for CenturyLink**  
**William D. Smith, Esq., Assistant General Counsel, Verizon New Jersey, Inc.**

**BY THE BOARD:**

By Order dated October 13, 2011, the New Jersey Board of Public Utilities ("Board") initiated a proceeding to re-evaluate the competitiveness of Incumbent Local Exchange Carrier ("ILEC") services, pursuant to N.J.S.A. 48:2-21-19(b), to review the question whether certain ILEC-provided services should be declared competitive after review of the necessary criteria. By this Order, the Board approves a Stipulation and Agreement between United Telephone Company of New Jersey, Inc. d/b/a CenturyLink ("CenturyLink") and the New Jersey Division of Rate Counsel ("Rate Counsel"). This Order incorporates by reference the Stipulation and Agreement ("Stipulation") and resolves this matter as it relates to CenturyLink, and the portion of this proceeding relating to Verizon New Jersey Inc. ("Verizon") remains open. As to Verizon, therefore, a final Order will be issued setting forth, among other things, the Board's analysis of the issues, the positions of the parties, and the reasoning underlying the Board's determinations, as part of its final consideration of this matter.

**BACKGROUND/PROCEDURAL HISTORY**

This proceeding is in response to a Board Order dated August 20, 2008, In the Matter of the Board Investigation Regarding the Reclassification of Incumbent Local Exchange Carrier (ILEC)

Services as Competitive, BPU Docket No. TX07110873; and In the Matter of the Application of United Telephone Company of New Jersey Inc. d/b/a Embarq for Approval of a Plan for Alternative Regulation, BPU Docket No. TO08060451 ("2008 Order"), which accepted and approved stipulations among Verizon, Board Staff, and Rate Counsel and, separately, among Embarq, Board Staff, and Rate Counsel.

Key provisions of the agreements approved by the 2008 Order are as follows:

With the exception of Verizon's residential basic exchange service including usage, single-line business basic exchange service, non-recurring charges for installation of residential services, and residential DA service, the Parties agree that the remainder of Verizon's mass market retail services will be classified as competitive.

With the exception of Embarq's residential basic exchange service, business basic exchange service, non-recurring charges for installation of residential services, and residential DA service, the Parties agree that the remainder of Embarq's mass market services shall be classified as competitive.

[2008 Order, pages 29 and 40]

As part of the 2008 agreements, the companies were permitted to adjust rates for the four rate regulated services on an annual basis for three years. In addition, the agreements called for a further proceeding to re-evaluate the competitiveness of those four rate regulated retail services as well as Rate Counsel being given the opportunity to seek reclassification of any retail mass market competitive services listed in Exhibit A thereof (2008 Order, page 43).

By Order dated November 30, 2011, the Board set forth the issues to be determined in this proceeding as well as a schedule for the conduct of this case ("Prehearing Order"). Specifically, the Board, pursuant to N.J.S.A. 48:21.19(b), sought "to determine if ILEC services satisfy the necessary elements of ease of market entry, presence of other competitors, and availability of like or substitute services in the relevant geographic area." Prehearing Order, page 3. The Prehearing Order also named Commissioner Nicholas Asselta as the presiding Commissioner and authorized him to modify the schedule, decide all motions, and otherwise control the conduct of this case, subject to subsequent Board ratification.

Motions to Intervene were timely filed by CenturyLink and Verizon. In addition, motions to participate were received from Warwick Valley Telephone Company d/b/a WVT Communications; AT&T Communications of NJ, L.P., and its regulated affiliates; Sprint Communications Company, L.P., Sprint Spectrum, L.P., and Nextel of New York Inc. (collectively, "Sprint"); Cablevision Systems Corporation; the New Jersey Cable Telecommunications Association; and Fiber Technologies Networks, LLC.<sup>1</sup>

---

<sup>1</sup> Only CenturyLink, Rate Counsel, Verizon, and Board Staff have actively participated in this proceeding.

Initial testimony was filed on February 24, 2012, followed by reply testimony on April 27, 2012, and rebuttal testimony on June 11, 2012. Both Verizon and CenturyLink filed testimony in support of their requests for reclassification of services set forth herein. Also, Rate Counsel filed testimony opposing reclassification as well as requested certain services be re-classified as rate regulated services. In addition, evidentiary hearings were held on July 17, 2012. And, three public hearings were held on October 23, 2012 (Clinton), November 15, 2012 (Newark), and November 19, 2012 (Trenton).

N.J.S.A. 48:2-21.19(b) states:

The board is authorized to determine, after notice and hearing, whether a telecommunications service is a competitive service. In making such a determination, the board shall develop standards of competitive service, which, at a minimum, shall include evidence of ease of market entry; presence of other competitors; and the availability of like or substitute services in the relevant geographic area.

Thus, the Board is required to address at a minimum, the three prongs of the test prescribed in N.J.S.A. 48:2-21.19(b). Also, the Board must determine whether the ILECs services at issue in this matter are sufficiently competitive to permit reclassification, which would remove the Board's ability to regulate the rates for the relevant services, N.J.S.A. 48:2-21.19(a), while ensuring that the public interest will be served.

## **SUMMARY OF THE POSITIONS OF THE PARTIES**

### **Verizon**

Verizon avers that the four services subject to review in this matter - residential basic exchange service, including usage; single line business basic exchange service; non-recurring charges for installation of residential services; and residential directory assistance ("DA") services - are competitive under the New Jersey statutory reclassification criteria and that Rate Counsel has failed to demonstrate that certain Verizon discretionary services should be classified as non-competitive. Therefore, Verizon asks the Board to find that its landline and residential DA services are competitive and relieve the Company from any further rate regulation.

In support of its position, the Company argues that it has demonstrated that there is more competition today than there was four years ago when the Board found in Phase I that all of Verizon's other mass market services were competitive.

Verizon also asks the Board to reject Rate Counsel's argument that certain competitive discretionary services, such as Caller ID and Call Waiting, should be reclassified as noncompetitive and subject to future rate regulation. Under the 2008 Settlement, Verizon argues that discretionary services were deemed to be competitive. In response to a Board request at the initiation of this proceeding, Rate Counsel contended that approximately 25 of the over 50 discretionary services were no longer competitive. However, the Company believes that Rate Counsel has not only failed to explain why those particular discretionary services should be deemed non-competitive, but it has not provided any specific evidence to

demonstrate why any one of the identified discretionary services should be deemed non-competitive pursuant to the requirements of N.J.S.A. 48:2-21.19(d). Accordingly, Verizon posits that Rate Counsel's request to reclassify Verizon's discretionary services should be denied.

### **Century Link**

CenturyLink states that since the ILEC Phase I proceeding, telephone consumers throughout New Jersey have left and continue to leave in steady exodus fashion. Traditional ILECs, such as CenturyLink, have lost customers, not because of the quality of services and products offered by CenturyLink, but because competitors now offer an array of like or substitutable services to traditional landline service. The record overwhelmingly demonstrates satisfaction of the statutory criteria, namely ease of market entry, presence of other competitors, and the availability of like or substitute services in the relevant geographic market. CenturyLink argues that since the ILEC Phase I proceeding, competition, particularly intermodal competition, has resulted in consumers' substituting cable, wireless, and wireline services for CenturyLink services at a pace that continues to accelerate. The ability of CenturyLink to be at parity with other competitors is critical and necessary at this time.

CenturyLink requests that the Board grant competitive classification of the four CenturyLink rate regulated services and that the Board confirm and find competitive classification of all other CenturyLink's services, with the exception of Lifeline services. Competitive classification of the four rate regulated services will benefit New Jersey consumers, will further the public interest by creating a more robust telecommunications marketplace, and will allow CenturyLink to compete on a relatively level playing field.

### **Rate Counsel**

Rate Counsel opposes the positions set forth by both Verizon and Centurylink and contends that if these services are reclassified as competitive, the Board will no longer regulate, fix, or prescribe the rates, tolls, charges, rate structures, terms and conditions of service, rate base, rate of return, and cost of service of these services. Rate Counsel does not believe that Verizon or Centurylink has satisfied all the competitive-service criteria in this Phase II proceeding.

Ratepayers, American Association of Retired Persons and Citizen Action, who participated at the three Public Hearings held on October 23, 2012, November 15, 2012, and November 19, 2012, expressed their unanimous support for continued regulation of residential service and other services regulated by the Board.

Based on the record, Rate Counsel submits that the ILECs have failed to sustain their burden to show that reclassification of rate regulated services is warranted. According to Rate Counsel, substantial evidence in the record shows that vertical services and multiline business services should be reclassified as rate regulated. Therefore, Rate Counsel recommends that the Board regulate the following:

- Residence local exchange service;
- Residence discretionary services;
- Residence installation service;
- Residence directory assistance service;
- Business single-line local exchange service;
- Business single-line discretionary services; and
- Business single-line installation services.

**Settlement**

By letter dated January 15, 2013, Counsel for CenturyLink filed a Stipulation executed on behalf of CenturyLink and Rate Counsel. The letter and Stipulation were provided electronically to all parties on the electronic service list in this matter. Among other things, the Stipulation at paragraph 15 states that the agreement is “fully dispositive of all issues in controversy in this proceeding involving CenturyLink.” The key provisions of the Stipulation are as follows:

- (18) CenturyLink’s Residential (“R1”) rate and single line Business (“B1”) rate (a single business line purchased by a customer) (hereinafter “Single Line B1”), along with non-recurring charges for Service Connection and Installation of R1s, remain rate regulated until further modified by final Board order or as authorized by any changes in law as addressed below at paragraphs 20 and 21.
- (19) Upon final BPU order approving this Stipulation and Agreement without modification, all retail services offered by CenturyLink are deemed competitive pursuant to N.J.S.A. 48:2-21.19 and are no longer subject to CenturyLink’s Plan for Alternative Regulation (PAR), with the exception of CenturyLink’s: (i) R1 rate; (ii) Single Line B1 rate; and (iii) non-recurring charges for service connection and installation of R1s.
- (20) Regarding CenturyLink’s R1 rate and the non-recurring charge for service connection and installation of R1s, the price caps set forth in paragraph 23, sections (a) and (c) of the Stipulation and Agreement approved by the Board at Docket No. TX07110873 shall remain in effect until January 1, 2016 or thereafter and until further modified by final Board order, unless there is a change in state law or in the event of federal action or change of law as addressed in subparagraph 3.C, below. The price cap for CTL’s R1 rate as approved at Docket No. TX07110873 is set forth as follows:

CTL Residential Basic Exchange Rate (R1)	\$15.45/per month	See Exhibit A for tariff references
CTL Non-Recurring Charges for R1 rate (Residence Primary Charge for Service Connection and Installation)	\$30.00	See Exhibit A for tariff references (3.11.C)

Furthermore, upon execution of this Stipulation and Settlement:

- A. CenturyLink may submit on July 1, 2015 or thereafter a filing to the Board to seek competitive classification of its R1 rate and its residence primary charge for service connection and installation. A copy of the filing shall be served upon Rate Counsel. The Parties to this Stipulation and Agreement respectfully request that the Board issue a final decision regarding any such request within a year of its filing (e.g., by July 2, 2016). As part of any proceeding initiated by CenturyLink pursuant to this paragraph, Rate Counsel may seek reclassification of any CenturyLink competitive service specifically identified by Rate Counsel in writing and filed with the Board.
  - B. Nothing in this Stipulation and Agreement shall prohibit CenturyLink at any time from submitting to the Board, with a copy to Rate Counsel, a filing seeking a Board Order to modify the terms and conditions of this Stipulation and Agreement, including the rate caps set forth herein, in the event of an unforeseen or catastrophic event, such as an act of God or in the event of an exogenous event, as set forth in paragraph III, D of CenturyLink's PAR plan, and approved by the Board at Docket No. TO08060451. In the event intrastate access charges are reduced, CenturyLink may submit to the Board, with a copy to Rate Counsel, a petition seeking to adjust rates, including the R1 rate cap and the Single Line B1 rate cap, for reductions in intrastate access charges, after hearing and upon notice, wherein CenturyLink shall have the burden of proof to show that the increase, change or alteration is just and reasonable.
  - C. In the event that the New Jersey Legislature after execution of this Stipulation and Agreement at any time modifies the New Jersey competitive classification statute or otherwise enacts legislation that materially alters the regulation of telecommunications carriers, the terms of the legislation shall control this Stipulation and Agreement.
- (21) Regarding CenturyLink's Single Line B1 rate, the price cap set forth in paragraph 23, section (b) of the Stipulation and Agreement approved by the BPU at Docket No. TX07110873 shall remain in effect until January 1, 2015 or thereafter and until further modified by final BPU order, unless there is a change in state law or in the event of federal action or change in federal law as addressed in subparagraph 4.C, below. The price cap for CTL's Single Line B1 rate as approved at Docket No. TX07110873 is set forth as follows:

CTL Single-Line Business Local Exchange Rate (B1)	\$25.50/per month	See, Exhibit A for tariff references
---	-------------------	---

Furthermore, upon execution of this Stipulation and Settlement:

- A. CenturyLink may submit on July 1, 2014 or thereafter a filing to the Board to seek competitive classification of CenturyLink's Single Line B1 rate. A copy of the filing shall be served upon Rate Counsel. The Parties to this Stipulation and Agreement respectfully request that the Board issue a final decision regarding any such request within a year of its filing (e.g., by July 1, 2015). As part of any proceeding initiated by CenturyLink pursuant to this paragraph, Rate Counsel may seek reclassification of any CenturyLink competitive service specifically identified by Rate Counsel in writing and filed with the Board.
  - B. Nothing in this settlement shall prohibit CenturyLink at any time from submitting to the Board, with a copy to Rate Counsel, a filing seeking a Board Order to modify the terms and conditions of this Stipulation and Agreement, including the rate caps set forth herein, in the event of an unforeseen or catastrophic event, such as an act of God or in the event of an exogenous event, as set forth in paragraph III, D of CenturyLink's PAR plan, approved by the BPU at Docket No. TO08060451. In the event intrastate access charges are reduced, CenturyLink may submit to the Board, with a copy to Rate Counsel, a petition seeking to adjust rates, including the R1 rate cap and the Single Line B1 rate cap, for reductions in intrastate access charges, after hearing and upon notice, wherein CenturyLink shall have the burden of proof to show that the increase, change or alteration is just and reasonable.
  - C. In the event that the New Jersey Legislature after execution of this Stipulation and Agreement at any time modifies the New Jersey competitive classification statute or otherwise enacts legislation that materially alters the regulation of telecommunications carriers, the terms of the legislation shall control this Stipulation and Agreement.
- (22) Notwithstanding the classification of Directory Assistance ("DA") as competitive under Paragraph 2 above, upon the effective date of the Board Order approving this Stipulation and Agreement without modification, CenturyLink will reduce the free DA call allowance to one (1) call per month through December 31, 2014. CenturyLink agrees to provide to Rate Counsel, upon request, the number of free DA calls made by CenturyLink customers and the number of such customers making DA calls in any given month, commencing sixty (60) days after the date of the Board order approving this Stipulation and Agreement through December 31, 2014.
- (23) The Lifeline program as provided by CenturyLink pursuant to FCC requirements and prior NJ BPU Orders remains outside the scope of this Stipulation and Agreement. Changes to CenturyLink's Lifeline program may not be undertaken absent Board approval.

Presiding Commissioner Asselta, by Order dated January 31, 2013, directed that any party to the proceeding may file comments, by February 13, 2013, on the Stipulation for consideration by the Board. Only Verizon filed comments, stating that it:

does not oppose the Proposed Settlement provided that: (1) the Board give it the fair evaluation required by the Phase I Order, (2) nothing in the Settlement or approval thereof be considered as evidence against Verizon regarding its satisfaction of the three-prong statutory standard under N.J.S.A. 48: 2-21.19 for the Verizon legacy landline services at issue in this proceeding, which Verizon has demonstrated are competitive, and (3) the Board's decision on the Proposed Settlement will have no bearing on any of the record evidence that has been submitted in this proceeding, *i.e.*, all the evidence submitted by the parties will remain in the record.

[Verizon Comments at 3].

The Stipulation of Settlement is attached to and is incorporated in this Order as if it were fully set forth herein. In summary, the parties have agreed that CenturyLink's residential rate and single line business rate, along with non-recurring charges for residential service connection, shall remain rate regulated. The Stipulation allows CenturyLink to file in the future for competitive status for each of these services. Directory Assistance service would be reclassified as competitive under the Stipulation, however, CenturyLink will continue to provide one free call per month through December 31, 2014.

After careful review of the record and the attached Stipulation and Agreement, the Board **FINDS** that the proposed Stipulation and Agreement is a reasonable resolution of all CenturyLink issues in controversy, is in the public interest, and is in accordance with law. Where, as here, the Board has independently examined the record, and has provided opportunity for any non-consenting party to be heard, the Board has the power to consider and rely upon non-unanimous stipulations as fact-finding tools. In the Matter of the Petition of Public Service Electric and Gas Company for Approval of an Increase in Electric and Gas Rates, 304 N.J. Super. 247, 267-268 (App. Div. 1997). Accordingly, the Board **HEREBY ADOPTS** the Stipulation and Agreement as its own and incorporates it into the within Order as if fully set forth herein. The Board **ORDERS** the signatory parties to fully comply with the terms of the Stipulation and Agreement.

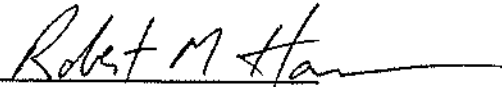
In addition, CenturyLink is **HEREBY DIRECTED** to file tariffs with the Board setting forth the rates, terms, and conditions as agreed to in the Stipulation and Agreement.




This Order is effective on April 1, 2013.

DATED: 3/20/13

BOARD OF PUBLIC UTILITIES  
BY:



ROBERT M. HANNA  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER  
JOSEPH L. FIORDALISO  
COMMISSIONER  
MARY-ANNA HOLDEN  
COMMISSIONER

ATTEST:   
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



IN THE MATTER OF THE BOARD'S INVESTIGATION REGARDING THE  
RECLASSIFICATION OF INCUMBENT LOCAL EXCHANGE CARRIER SERVICES AS  
COMPETITIVE – PHASE II - BPU DOCKET NO. TX11090570

SERVICE LIST

Colleen A. Foley, Esq.  
Saul Ewing LLP, Newark, NJ, for CenturyLink  
One Riverfront Plaza, 5th Floor  
Newark, NJ 07102

William D. Smith, Esq.  
Assistant General Counsel  
Verizon New Jersey, Inc.  
One Verizon Way-VC545222  
Basking Ridge, New Jersey 07920  
[william.d.smith@verizon.com](mailto:william.d.smith@verizon.com)

Stefanie A. Brand, Esq., Director  
Division of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Floor  
Post Office Box 46005  
Newark, NJ 07101  
[sbrand@rpa.state.nj.us](mailto:sbrand@rpa.state.nj.us)

Alex Moreau, DAG  
Department of Law & Public Safety  
124 Halsey Street  
Post Office Box 45029  
Newark, NJ 07101

Carol Artale, Esq.  
Counsel's Office  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Anthony Centrella, Director  
Division of Telecommunications  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

**Members:**

Alan Molner	Alan.molner@bpu.state.nj.us
Alex Moreau	Alex.Moreau@dol.lps.state.nj.us
Anthony Centrella	Anthony.centrella@bpu.state.nj.us
Ava-Marie Madeam	Avamarie.p.madeam@verizon.com
Benjamin J. Aron	Benjamin.aron@sprint.com
Bradford M. Stern	brad@bmsternlaw.com
Carol Artale	Carol.artale@bpu.state.nj.us
Charlene Brown	charlenebrown@att.com
Christopher White	cwhite@rpa.state.nj.us
Colleen Foley	cfoley@saul.com
David Wand	David.wand@dol.lps.state.nj.us
Dennis C. Linken	dlinken@scarincihollenbeck.com
Elana Shapochnikov	Eshapoch@cablevision.com
Harold Bond	Harold.bond@bpu.state.nj.us
James Meyer	jmeyer@riker.com
Jana R. Hurst	Jana.r.hurst@centurylink.com
Jim Roberts	Jim.Roberts@centurylink.com
Jimarli Figueiredo	Jimarli.figueiredo@bpu.state.nj.us
John DeLuca	John.deluca@bpu.state.nj.us
Jose Rivera-Benitez	jriviera@rpa.state.nj.us
Lawanda Gilbert	Lawanda.gilbert@bpu.state.nj.us
Maria T. Novas-Ruiz	Mnovas-ruiz@rpa.state.nj.us
Patricia Campbell	Patricia.campbell@bpu.state.nj.us
S. Michael	smichael@cablenj.org
Sarah M. Bosley	sbosley@nc.rr.com
Scott Sommerer	s.sommerer@wvvc.com
Sidney A. Sayovitz	sas@spsk.com
Sue Benedek	Sue.benedek@centurylink.com
Susan Baldwin	smbaldwin@comcast.net
William D. Smith	William.D.Smith@verizon.com
William K. Mosca	wmosca@bmgzlaw.com

**Saul Ewing**  
LLP

Colleen A. Foley

Phone: (973) 286-6711

Fax: (973) 286-6811

cfoley@sauf.com

www.sauf.com

January 15, 2013

**Via Email and Overnight Delivery**

Hon. Kristi Izzo, Secretary  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> floor  
P.O. Box 350  
Trenton, NJ 08625-0350

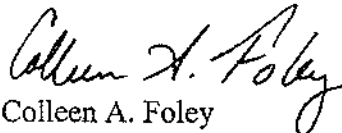
Re: I/M/O the Board's Investigation Regarding the Reclassification of Incumbent Local Exchange Carrier (ILEC) Services as Competitive Phase II – BPU Docket No. TX11090570

Dear Secretary Izzo:

The undersigned represents the United Telephone Company of New Jersey, Inc. d/b/a CenturyLink ("CenturyLink"), a party in the above-referenced matter. Enclosed for filing please find an original and five (5) copies of a Stipulation and Agreement executed on behalf of CenturyLink and the Division of Rate Counsel. An extra copy has also been enclosed. Kindly stamp the extra copy "filed" and return it to the undersigned in the enclosed envelope.

Please feel free to contact me should you have any questions regarding this filing. Thank you for your attention to this matter.

Respectfully submitted,

  
Colleen A. Foley

Enclosures

Cc: Electronic Service List (via email only)

One Riverfront Plaza, Suite 1520 • Newark, NJ 07102-5426 • Phone: (973) 286-6700 • Fax: (973) 286-6800  
Stephen B. Genzer - Newark Managing Partner

DELAWARE MARYLAND MASSACHUSETTS NEW JERSEY NEW YORK PENNSYLVANIA WASHINGTON, DC

A DELAWARE LIMITED LIABILITY PARTNERSHIP

**I/M/O The Boards Investigation Regarding the Reclassification of Incumbent Local Exchange  
Carrier (ILEC) Services as Competitive – Phase II**

Dennis Linken	<a href="mailto:dlinken@scarincihollenbeck.com"><u>dlinken@scarincihollenbeck.com</u></a>
William Mosca	<a href="mailto:wmosca@bmgzlaw.com"><u>wmosca@bmgzlaw.com</u></a>
Benjamin Aron	<a href="mailto:Benjamin.aron@sprint.com"><u>Benjamin.aron@sprint.com</u></a>
William D. Smith**	<a href="mailto:William.d.smith@verizon.com"><u>William.d.smith@verizon.com</u></a>
Ava-Marie Madeam**	<a href="mailto:Avamarie.p.madeam@verizon.com"><u>Avamarie.p.madeam@verizon.com</u></a>
Elana Shapochnikov	<a href="mailto:eshapoch@cablevision.com"><u>eshapoch@cablevision.com</u></a>
Scott Sommerer	<a href="mailto:s.sommerer@wvlc.com"><u>s.sommerer@wvlc.com</u></a>
Colleen Foley	<a href="mailto:cfoley@saul.com"><u>cfoley@saul.com</u></a>
Charlene Brown	<a href="mailto:charlenebrown@att.com"><u>charlenebrown@att.com</u></a>
Zsuzsanna Benedek	<a href="mailto:sue.benedek@centurylink.com"><u>sue.benedek@centurylink.com</u></a>
Chris White**	<a href="mailto:cwhite@rpa.state.nj.us"><u>cwhite@rpa.state.nj.us</u></a>
Maria T. Novas-Ruiz**	<a href="mailto:mnovas-ruiz@rpa.state.nj.us"><u>mnovas-ruiz@rpa.state.nj.us</u></a>
Jose Rivera-Benitez**	<a href="mailto:jrivera@rpa.state.nj.us"><u>jrivera@rpa.state.nj.us</u></a>
David Wand**	<a href="mailto:david.wand@dol.lps.state.nj.us"><u>david.wand@dol.lps.state.nj.us</u></a>
Alex Moreau**	<a href="mailto:alex.moreau@dol.lps.state.nj.us"><u>alex.moreau@dol.lps.state.nj.us</u></a>
Anthony Centrella**	<a href="mailto:Anthony.centrella@bpu.state.nj.us"><u>Anthony.centrella@bpu.state.nj.us</u></a>
Carol Artale**	<a href="mailto:Carol.artale@bpu.state.nj.us"><u>Carol.artale@bpu.state.nj.us</u></a>
Lawanda Gilbert	<a href="mailto:Lawanda.gilbert@bpu.state.nj.us"><u>Lawanda.gilbert@bpu.state.nj.us</u></a>
John DeLuca**	<a href="mailto:John.deluca@bpu.state.nj.us"><u>John.deluca@bpu.state.nj.us</u></a>

**\*\* Receives via email and overnight mail**

**I/M/O The Boards Investigation Regarding the Reclassification of Incumbent Local Exchange  
Carrier (ILEC) Services as Competitive – Phase II**

Chris Molner	<a href="mailto:Alan.molner@bpu.state.nj.us"><u>Alan.molner@bpu.state.nj.us</u></a>
Harold Bond	<a href="mailto:Harold.bond@bpu.state.nj.us"><u>Harold.bond@bpu.state.nj.us</u></a>
Patricia Campbell	<a href="mailto:patricia.campbell@bpu.state.nj.us"><u>patricia.campbell@bpu.state.nj.us</u></a>
Jim Meyer	<a href="mailto:jmeyer@riker.com"><u>jmeyer@riker.com</u></a>
Bradford Stern	<a href="mailto:brad@bmsternlaw.com"><u>brad@bmsternlaw.com</u></a>
Susan Baldwin	<a href="mailto:smbaldwin@comcast.net"><u>smbaldwin@comcast.net</u></a>
Sarah Bosley	<a href="mailto:sbosley@nc.rr.com"><u>sbosley@nc.rr.com</u></a>
Sidney Sayovitz	<a href="mailto:sas@spsk.com"><u>sas@spsk.com</u></a>

**\*\* Receives via email and overnight mail**

**BEFORE THE  
NEW JERSEY BOARD OF PUBLIC UTILITIES**

In the Matter of the Board's Investigation Regarding the Reclassification of Incumbent Local Exchange Carrier (ILEC) Services as Competitive – Phase II	Docket No. TX11090570
--	-----------------------

**STIPULATION AND AGREEMENT**

Pursuant to *N.J.A.C.* 14:1-8.1 and 1:1-19.1(a), the Parties (defined below in paragraph one (1)) hereby agree as follows:

**I. BACKGROUND**

- (1) The parties to the Stipulation and Agreement are United Telephone Company of New Jersey, Inc. d/b/a/ CenturyLink (“CenturyLink”) and the New Jersey Division of Rate Counsel (“Rate Counsel”) (collectively, the “Parties”).
- (2) By Order dated August 20, 2008, a Stipulation and Agreement was approved by the Board in the *ILEC Phase I* proceeding.<sup>1</sup> As a result of the *ILEC Phase I* proceeding, the Board authorized competitive classification of many services offered by Verizon New Jersey (“Verizon NJ”) and CenturyLink. *N.J.S.A.* 48:2-21.19(b). In the *ILEC Phase I* proceeding, however, the following four (4) CenturyLink services remained “rate regulated:” (1) Residential basic exchange service; (2) Single line business basic exchange service; (3) Non-recurring charges for residence service connection and installation; and (4) Residential Directory Assistance (“DA”) services.<sup>2</sup>
- (3) As a result of the *ILEC Phase I* proceeding, the Board also ordered that it “would initiate a proceeding to re-evaluate the competitiveness of the services [the four rate regulated services] ...within ninety (90) days after the third anniversary of the effective date of the appropriate tariffs reflecting the first year increases.”<sup>3</sup> In accordance with paragraph 29 of the Stipulation and Agreement approved as a result of the *ILEC Phase I*

<sup>1</sup> See, *I/M/O the Board Investigation Regarding the Reclassification of Incumbent Local Exchange Carrier (ILEC) Service as Competitive*, BPU Docket No. TX07110873; and *I/M/O the Application of United Telephone Company of New Jersey, Inc. d/b/a Embarq for Approval of a Plan for Alternative Regulation*, BPU Docket No. TO08060451 (“*ILEC Phase I* proceeding.”).

<sup>2</sup> *Id.*, at CTL Stipulation and Agreement at ¶ 23.

<sup>3</sup> *Id.*, at ¶ 27.

proceeding, parties to that re-evaluation proceeding “may seek to modify provisions of [the *ILEC Phase I* proceeding] Stipulation and Agreement, including the rate caps” of the four rate regulated services.<sup>4</sup>

- (4) On October 13, 2011, the Board released an Order at Docket No. TX11090570 initiating this *ILEC Phase II* proceeding.
- (5) On November 30, 2011, the Board released an Order setting forth a procedural schedule.
- (6) On December 7, 2011, Rate Counsel submitted its proposed list of services subject to review for possible reclassification. On December 12, 2011, CenturyLink submitted its list of the rate regulated services subject to competitive classification in *the ILEC Phase II* proceeding.
- (7) Pursuant to the procedural schedule, on February 24, 2012, CenturyLink, Rate Counsel, and Verizon NJ respectively filed Initial Testimony. On April 27, 2012, these same parties respectively filed Reply Testimony. On June 11, 2012, CenturyLink, Rate Counsel, and Verizon NJ respectively filed Rebuttal Testimony.
- (8) On July 17, 2012, the Board conducted an evidentiary hearing in Trenton, New Jersey.
- (9) On October 23, 2012, a public input hearing was held in CenturyLink’s service territory in Clinton, New Jersey.
- (10) The modified procedural schedule for this proceeding required the filing of Initial Briefs and Reply Briefs on November 2, 2012 and December 20, 2012.
- (11) On December 20, 2012, CenturyLink and Rate Counsel jointly filed a letter notifying the Board that CenturyLink and Rate Counsel were discussing settlement. The letter was served upon all parties in the *ILEC Phase II* proceeding. On January 15, 2013, CenturyLink and Rate Counsel jointly filed the Stipulation and Agreement and the Stipulation and Agreement was served upon all parties via electronic mail.

---

<sup>4</sup> *ILEC Phase I* CenturyLink Stipulation and Agreement at para. 29.



## II. STIPULATED FINDINGS

- (12) The resolution of this contested matter as pertaining to CenturyLink through the adoption of this Stipulation and Agreement best serves the interests of judicial economy and preservation of valuable corporate, judicial and administrative resources and is, therefore, in the public interest.
- (13) The terms and conditions covered by this Stipulation and Agreement reflect negotiated terms and conditions that include concessions made by the Parties in the spirit of compromise to bring the matter to an appropriate resolution regarding CenturyLink.
- (14) The Parties agree that this Stipulation and Agreement is a negotiated agreement and represents a reasonable balance of the competing interests and issues addressed in this proceeding pertaining to CenturyLink. The contents of this Stipulation and Agreement shall not in any way be considered, cited or used by either of the Parties as an indication of either Party's position on any related or other issue litigated in any other proceeding or forum, except to enforce the terms of this Stipulation and Agreement.
- (15) This Stipulation and Agreement is voluntary, consistent with the law, and fully dispositive of all issues in controversy in this proceeding involving CenturyLink.
- (16) This Stipulation and Agreement contains the entire understanding of the Parties, and there are no other terms, conditions, representations or warranties that form a part hereof.
- (17) As set forth in Section III immediately below, the Parties agree that the resulting rates for the identified services produce rates that are affordable and just and reasonable under the standards set forth in *N.J.S.A. 48:2-21.17*.

## III. SETTLEMENT TERMS AND CONDITIONS

To resolve this proceeding and the Parties' respective issues without the expense, inconvenience, and uncertainty of further litigation and with specific acknowledgement by the Parties that the terms and conditions of the specific services covered by this Stipulation and Agreement represent terms and conditions negotiated among and between

the Parties. With both Parties making concessions in the interests of amicable resolution, the Parties agree to stipulate to the following terms and conditions:

- (18) CenturyLink's Residential ("R1") rate and single line Business ("B1") rate (a single business line purchased by a customer) (hereinafter "Single Line B1"), along with non-recurring charges for Service Connection and Installation of R1s, remain rate regulated until further modified by final BPU order or as authorized by any changes in law as addressed below at paragraphs 20 and 21. These rate regulated services are listed and are specifically identified by tariff page reference at Exhibit A.
- (19) Upon final BPU order approving this Stipulation and Agreement without modification, all retail services offered by CenturyLink are deemed competitive pursuant to N.J.S.A 48:2-21.19 and are no longer subject to CenturyLink's Plan for Alternative Regulation (PAR), with the exception of CenturyLink's: (i) R1 rate; (ii) Single Line B1 rate; and (iii) non-recurring charges for service connection and installation of R1s.
- (20) Regarding CenturyLink's R1 rate and the non-recurring charge for service connection and installation of R1s, the price caps set forth in paragraph 23, sections (a) and (c) of the Stipulation and Agreement approved by the BPU at Docket No. TX07110873 shall remain in effect until January 1, 2016 or thereafter and until further modified by final BPU order, unless there is a change in state law or in the event of federal action or change of law as addressed in subparagraph 20.C, below. The price cap for CTL's R1 rate as approved at Docket No. TX07110873 is set forth as follows:

CTL Residential Basic Exchange Rate (R1)	\$15.45/per month	See Exhibit A for tariff references
CTL Non-Recurring Charges for R1 rate (Residence Primary Charge for Service Connection and Installation)	\$30.00	See Exhibit A for tariff references (3.1.1.C)

Furthermore, upon execution of this Stipulation and Settlement:

- A. CenturyLink may submit on July 1, 2015 or thereafter a filing to the Board to seek competitive classification of its R1 rate and its residence primary charge for service connection and installation. A copy of the filing shall be served upon Rate Counsel. The Parties to this Stipulation and Agreement respectfully request that the Board issue a final decision regarding any such request within a

year of its filing (e.g., by July 2, 2016). As part of any proceeding initiated by CenturyLink pursuant to this paragraph, Rate Counsel may seek reclassification of any CenturyLink competitive service specifically identified by Rate Counsel in writing and filed with the Board.

- B. Nothing in this Stipulation and Agreement shall prohibit CenturyLink at any time from submitting to the Board, with a copy to Rate Counsel, a filing seeking a Board Order to modify the terms and conditions of this Stipulation and Agreement, including the rate caps set forth herein, in the event of an unforeseen or catastrophic event, such as an act of God or in the event of an exogenous event, as set forth in paragraph III, D of CenturyLink's PAR plan, and approved by the BPU at Docket No. TO08060451. In the event intrastate access charges are reduced, CenturyLink may submit to the Board, with a copy to Rate Counsel, a petition seeking to adjust rates, including the R1 rate cap and the Single Line B1 rate cap, for reductions in intrastate access charges, after hearing and upon notice, wherein CenturyLink shall have the burden of proof to show that the increase, change or alteration is just and reasonable.
- C. In the event that the New Jersey Legislature after execution of this Stipulation and Agreement at any time modifies the New Jersey competitive classification statute or otherwise enacts legislation that materially alters the regulation of telecommunications carriers, the terms of the legislation shall control this Stipulation and Agreement.

(21) Regarding CenturyLink's Single Line B1 rate, the price cap set forth in paragraph 23, section (b) of the Stipulation and Agreement approved by the BPU at Docket No. TX07110873 shall remain in effect until January 1, 2015 or thereafter and until further modified by final BPU order, unless there is a change in state law or in the event of federal action or change in federal law as addressed in subparagraph 21.C, below. The price cap for CTL's Single Line B1 rate as approved at Docket No. TX07110873 is set forth as follows:

CTL Single-Line Business Local Exchange Rate (B1)	\$25.50/per month	See, Exhibit A for tariff references
---	-------------------	--------------------------------------

Furthermore, upon execution of this Stipulation and Settlement:

- A. CenturyLink may submit on July 1, 2014 or thereafter a filing to the Board to seek competitive classification of CenturyLink's Single Line B1 rate. A copy of the filing shall be served upon Rate

Counsel. The Parties to this Stipulation and Agreement respectfully request that the Board issue a final decision regarding any such request within a year of its filing (*e.g.*, by July 1, 2015). As part of any proceeding initiated by CenturyLink pursuant to this paragraph, Rate Counsel may seek reclassification of any CenturyLink competitive service specifically identified by Rate Counsel in writing and filed with the Board.

- B. Nothing in this settlement shall prohibit CenturyLink at any time from submitting to the Board, with a copy to Rate Counsel, a filing seeking a Board Order to modify the terms and conditions of this Stipulation and Agreement, including the rate caps set forth herein, in the event of an unforeseen or catastrophic event, such as an act of God or in the event of an exogenous event, as set forth in paragraph III, D of CenturyLink's PAR plan, approved by the BPU at Docket No. TO08060451. In the event intrastate access charges are reduced, CenturyLink may submit to the Board, with a copy to Rate Counsel, a petition seeking to adjust rates, including the R1 rate cap and the Single Line B1 rate cap, for reductions in intrastate access charges, after hearing and upon notice, wherein CenturyLink shall have the burden of proof to show that the increase, change or alteration is just and reasonable.
  - C. In the event that the New Jersey Legislature after execution of this Stipulation and Agreement at any time modifies the New Jersey competitive classification statute or otherwise enacts legislation that materially alters the regulation of telecommunications carriers, the terms of the legislation shall control this Stipulation and Agreement.
- (22) Notwithstanding the classification of Directory Assistance ("DA") as competitive under Paragraph 19 above, upon the effective date of the Board Order approving this Stipulation and Agreement without modification, CenturyLink will reduce the free DA call allowance to one (1) call per month through December 31, 2014. CenturyLink agrees to provide to Rate Counsel, upon request, the number of free DA calls made by CenturyLink customers and the number of such customers making DA calls in any given month, commencing sixty (60) days after the date of the Board order approving this Stipulation and Agreement through December 31, 2014.
  - (23) The Lifeline program as provided by CenturyLink pursuant to FCC requirements and prior NJ BPU Orders remains outside the scope of this Stipulation and Agreement. Changes to CenturyLink's Lifeline program may not be undertaken absent Board approval.

- (24) Both CenturyLink and Rate Counsel agree to support BPU review and approval of this Stipulation and Agreement.
- (25) This Stipulation and Agreement shall be governed by the substantive laws of the State of New Jersey without regard for choice of law rules.
- (26) If any provisions of this Stipulation and Agreement are held to be invalid or unenforceable by a court of competent jurisdiction, the other provisions of this Stipulation and Agreement shall remain in full force and effect.
- (27) The entire Stipulation and Agreement has been reviewed by and is acceptable to the Parties and their counsel as to form, content and meaning. The Stipulation and Agreement was drafted jointly by the Parties; it was not drafted by any one Party and shall not be construed against any Party based on its preparation.
- (28) The Parties further agree that with respect to any policy or other issues which were compromised in the spirit of reaching this Stipulation and Agreement, none of the Parties shall be prohibited from, or prejudiced in, arguing a different policy or position before the Board in any other proceeding, as such settlement pertains only to this matter and to no other matter. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of this proceeding. Except as expressly provided herein, the Parties shall not be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposedly underlying this Stipulation and Agreement provided herein in total or by specific item. The Parties further agree that this Stipulation is in no way binding upon them in any other proceeding, except to enforce the terms of this Stipulation. This Stipulation and Agreement has no affect on other parties to the proceeding. This Stipulation and Agreement cannot be relied upon by other parties that filed testimony in this proceeding.
- (29) In the event of default or breach or any terms and/or condition of this Stipulation and Agreement, the injured Party shall be entitled to file or use this Stipulation and Agreement for any purposes whatsoever, including, but not limited to, enforcing the terms and conditions thereof.
- (30) This Stipulation and Agreement may be executed in multiple counterparts, each of which shall be an original and all of which shall constitute one agreement.
- (31) Any notice to be given pursuant to this Stipulation and Agreement shall be in writing and shall be given or made by confirmed facsimile or by certified, registered or overnight mail addressed as follows or to any other

address upon thirty calendar (30) days advance written notice to the other Parties:

To: United Telephone Company of New Jersey, Inc. d/b/a CenturyLink  
240 North Third Street, Suite 300  
Harrisburg, PA 17101  
Attn: Thomas A. Bailey and Sue Benedek

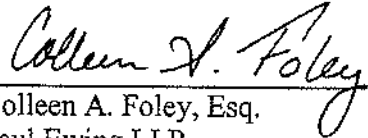
To: Division of Rate Counsel  
31 Clinton Street, 11th Floor  
Newark, NJ 07101  
Attn: Stefanie Brand and Christopher J. White

To: Division of Law  
124 Halsey Street, 5<sup>th</sup> Floor  
Newark, NJ 07101  
Attn: Caroline Vachier

- (32) This Stipulation and Agreement may not be amended or any part of its provisions waived, except by a writing executed by all of the Parties. This Stipulation and Agreement is the valid, legal and binding obligation of the Parties, enforceable against them in accordance with their terms.
- (33) The Parties hereby agree to be bound to this Stipulation and Agreement, and they acknowledge that they are authorized on behalf of their respective clients to execute this Stipulation and Agreement and to bind their respective clients by their signatures below.
- (34) The Parties jointly request the Board approve the Stipulation and Agreement and adopt it as a final decision and order relative to CenturyLink.

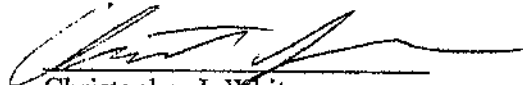
In witness whereof, and with the advice of counsel and intending to be legally bound, the Parties have executed this Stipulation and Agreement.

Respectfully submitted,



Colleen A. Foley, Esq.  
Saul Ewing LLP  
Counsel for United Telephone Company of New  
Jersey, Inc. d/b/a CenturyLink

Stefanie A. Brand, Director  
New Jersey Division of Rate Counsel



Christopher J. White  
Deputy Rate Counsel

Dated: January 15, 2013

