

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of )
CenturyLink Petition for Conversion of Average ) WC Docket No. 14-23
Schedule Affiliates to Price Cap Regulation and )
for Limited Waiver Relief )

ORDER

Adopted: May 15, 2014

Released: May 15, 2014

By the Associate Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order we grant a waiver, to the extent indicated, to allow CenturyLink, Inc. ("CenturyLink") to convert its average schedule study areas to the regulatory requirements applicable to price cap carriers. This waiver will further the public interest by providing the carrier incentives to maintain and promote more efficient operations and by accelerating the reduction of rates currently subject to intercarrier compensation reform.

II. BACKGROUND

2. Price Cap Conversion Orders Prior to the USF/ICC Transformation Order. Beginning with the Windstream Order, the Commission granted several waivers allowing price cap carriers to

1 See Petition of CenturyLink, Inc. for Conversion of Average Schedule Affiliates to Price Cap Regulation and for Limited Waiver Relief WC Docket No. 14-23, at 1 (filed Jan. 31, 2014) (Petition); CenturyLink, Inc. Petition For Conversion of Average Schedule Affiliates to Price Cap Regulation and for Limited Waiver Relief, WC Docket No. 14-23, Public Notice, DA 14-172 (Wireline Comp. Bur. rel. Feb. 10, 2014).

2 As discussed herein, any waivers granted in this order are subject to any future reforms or rule revisions regarding intercarrier compensation, regulation of special access services, price cap regulation, or universal service requirements that the Commission may adopt in the future. See, e.g., Connect America Fund et al., WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (USF/ICC Transformation Order), pets. for review pending sub nom. In re: FCC 11-161, No. 11-9900 (10th Cir. filed Dec. 8, 2011); Special Access for Price Cap Local Exchange Carriers; AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services, WC Docket No. 05-25, RM-10593, 27 FCC Rcd 10557 (2012) (Special Access R&O).

3 Windstream Petition for Conversion to Price Cap Regulation and for Limited Waiver Relief, WC Docket No. 07-171, Order, 23 FCC Rcd 5294 (2008) (Windstream Order); see also Petition of Virgin Islands Telephone Corporation for Election of Price Cap Regulation and for Limited Waiver of Pricing and Universal Service Rules, WC Docket No. 10-39; China Telephone Company, FairPoint Vermont, Inc., Maine Telephone Company, Northland Telephone Company of Maine, Inc., Sidney Telephone Company, and Standish Telephone Company Petition for Conversion to Price Cap Regulation and for Limited Waiver Relief, WC Docket No. 10-47; Petition of Windstream for Limited Waiver Relief, WC Docket No. 10-55, Order, 25 FCC Rcd 4824 (Wireline Comp. Bur. 2010); CenturyTel, Inc., Petition for Conversion to Price Cap Regulation and Limited Waiver Relief, WC Docket (continued....)

convert their cost company<sup>4</sup> study areas to price cap regulation under the *CALLS* regulatory model.<sup>5</sup> Under that model, carriers were required to establish initial Price Cap Indexes (PCIs) for their price cap baskets using the rates in effect on January 1 of the conversion year and the demand from the preceding year;<sup>6</sup> required to target their average traffic-sensitive (ATS) rates to the appropriate target ATS rates pursuant to section 61.3(qq) of the Commission's rules, using an X-factor of 6.5 percent;<sup>7</sup> and allowed to continue to receive Interstate Common Line Support (ICLS) on a frozen per-line basis for the converted study areas.<sup>8</sup> Carriers were also required to forego any recovery of a presubscribed interexchange carrier charge (PICC) or carrier common line (CCL) charge and forego assessing a \$7.00 non-primary residential line subscriber line charge (SLC).<sup>9</sup> Carriers withdrawing cost companies from the National Exchange Carrier Association (NECA) pool were required to employ a cost study based on the previous calendar year's cost and demand data to establish new initial price cap rates.<sup>10</sup>

3. *USF/ICC Transformation Order*. On November 18, 2011, the Commission released the *USF/ICC Transformation Order*<sup>11</sup>, which, among other things, established new rules requiring carriers to adjust, over a period of years, many of their switched access charges effective on July 1st of each year, with the ultimate goal of transitioning to a bill-and-keep regime. As an initial matter, the Commission capped the vast majority of interstate and intrastate switched access rates as of December 29, 2011, and price cap carriers were required to remove their switched access services from the traffic-sensitive and trunking baskets.<sup>12</sup> Price cap and rate-of-return carriers were required to make reductions to certain intrastate switched access rates in 2012 and 2013 if specified criteria were met.<sup>13</sup> Beginning in 2014, price cap and rate-of-return carriers begin a series of rate reductions to transition certain terminating

(Continued from previous page)

No. 08-191, Order, 24 FCC Rcd 4677 (Wireline Comp. Bur. 2009); *ACS of Alaska, Inc., ACS of Anchorage, Inc., ACS of Fairbanks, Inc. and ACS of the Northland, Inc., Petition for Conversion to Price Cap Regulation and Limited Waiver Relief*, WC Docket No. 08-220, Order, 24 FCC Rcd 4664 (Wireline Comp. Bur. 2009); *Petition of Puerto Rico Telephone Company, Inc. for Election of Price Cap Regulation and Limited Waiver of Pricing and Universal Service Rules*, WC Docket No. 07-292; *Consolidated Communications Petition for Conversion to Price Cap Regulation and for Limited Waiver Relief*, WC Docket No. 07-291; *Frontier Petition for Limited Waiver Relief upon Conversion of Global Valley Networks, Inc., to Price Cap Regulation*, WC Docket No. 08-18, Order, 23 FCC Rcd 7353 (Wireline Comp. Bur. 2008).

<sup>4</sup> A cost company is a rate-of-return carrier that determines its rates based on its own costs, as opposed to determining its costs based on average schedule formulas. See, e.g., *Windstream Order*, 23 FCC Rcd at 5298, para. 5 n.16. By contrast, an average schedule company is a rate-of-return company that determines its costs based on formulas approved by the Commission that are designed to produce disbursements that would be received based on the costs of a company that is representative of average schedule companies. See 47 C.F.R. § 69.606.

<sup>5</sup> *Access Charge Reform*, CC Docket No. 96-262; *Price Cap Performance Review for Local Exchange Carriers*, CC Docket No. 94-1; *Low-Volume Long-Distance Users*, CC Docket No. 99-249; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962 (2000) (*CALLS Order*) (subsequent history omitted).

<sup>6</sup> See, e.g., *Windstream Order*, 23 FCC Rcd at 5299-5301, paras. 11-14.

<sup>7</sup> See, e.g., *id.* at 5301, paras. 15-16.

<sup>8</sup> See, e.g., *id.* at 5302-04, paras. 19-22.

<sup>9</sup> See, e.g., *id.*

<sup>10</sup> See, e.g., *id.* at 5295, para. 3 n.4.

<sup>11</sup> See *USF/ICC Transformation Order*, 26 FCC Rcd 17663.

<sup>12</sup> See 47 C.F.R. §§ 51.907(a), 51.909(a).

<sup>13</sup> See 47 C.F.R. §§ 51.907(b)-(c), 51.909(b)-(c).

interstate and intrastate switched access rates to bill-and-keep.<sup>14</sup> The price cap transition occurs over six years and the rate-of-return transition occurs over nine years.<sup>15</sup>

4. The Commission also adopted a transitional recovery mechanism to mitigate the impact of reduced intercarrier revenues on carriers and to facilitate continued investment in broadband infrastructure, while providing greater certainty and predictability going forward than the *status quo*.<sup>16</sup> As part of the transitional recovery mechanism, the Commission defined as “Eligible Recovery” the amount of intercarrier compensation revenue reductions that incumbent LECs would be eligible to recover through a combination of end-user charges (the Access Recovery Charge (ARC)) and, where eligible and if a carrier elects to receive it, intercarrier compensation replacement Connect America Fund support.<sup>17</sup> A carrier’s Eligible Recovery is based on a percentage of the reduction in revenue each year resulting from the intercarrier compensation reform transition.<sup>18</sup> The precise percentages and the calculation methods vary between price cap and rate-of-return carriers, with the price cap methodology providing a faster reduction in recovery over time.

5. Price cap and rate-of-return LECs with Eligible Recovery were permitted to assess an ARC on consumers in the form of a monthly fixed charge beginning on July 3, 2012.<sup>19</sup> Subject to certain identical limitations, the Commission allowed an annual residential and single-line business ARC rate increase of \$0.50 and an annual multi-line business ARC rate increase of \$1.00. Price cap LECs are allowed to make five such increases, and rate-of-return LECs may make six such increases.<sup>20</sup> If an incumbent LEC cannot recover its entire Eligible Recovery through ARCs and is otherwise eligible, it may opt to receive the remainder from intercarrier compensation replacement Connect America Fund support.<sup>21</sup> Intercarrier compensation replacement Connect America Fund support for price cap LECs phases out over three years beginning in 2017.<sup>22</sup>

6. In the *USF/ICC Transformation Order*, the Commission also revised the rules governing high cost support for price cap LECs. Specifically, the Commission froze all forms of universal service support for price cap carriers.<sup>23</sup> Under these revised rules, rate-of-return carriers affiliated with holding companies for which the majority of access lines are regulated under federal price caps are treated as price cap carriers for the purpose of calculating their frozen high cost support.<sup>24</sup>

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<sup>14</sup> See 47 C.F.R. §§ 51.907(d), 51.909(d).

<sup>15</sup> See 47 C.F.R. §§ 51.907, 51.909.

<sup>16</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17677, para. 36. In adopting the recovery mechanism, the Commission explained that it did so in large part “to provide predictability to incumbent carriers that had been receiving implicit ICC subsidies [and] to mitigate marketplace disruption during the reform transition. . . .” *Id.* at 17962-63, para. 858.

<sup>17</sup> *Id.* at 17957, para. 850. In determining how the transitional recovery should be funded, the Commission concluded that “it is appropriate to first look to customers paying lower rates for some limited, reasonable recovery, and adopt[ed] a number of safeguards to ensure that rates remain affordable and that consumers are not required to contribute an inequitable share of lost intercarrier revenues.” *Id.*

<sup>18</sup> *Id.* at 17957-58, para. 851.

<sup>19</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17957, para. 850; *July 3, 2012 Annual Access Charge Tariff Filings*, WCB/Pricing File No. 12-07, Order, 27 FCC Rcd 2981, 2982, para. 3 (Wireline Comp. Bur. 2012).

<sup>20</sup> 47 C.F.R. § 51.917(e).

<sup>21</sup> 47 C.F.R. §§ 51.915(f), 51.917(f).

<sup>22</sup> 47 C.F.R. § 51.915(f)(3)-(5).

<sup>23</sup> 47 C.F.R. § 54.312(a).

<sup>24</sup> *Id.*

7. *2012 Average Schedule Conversion Order.* In the *2012 Average Schedule Conversion Order*, the Commission granted a waiver permitting several carriers to withdraw their average schedule study areas from the NECA common line and traffic-sensitive access tariffs and convert them to price cap regulation.<sup>25</sup> In that order, the Commission waived certain of its rules to allow each involved carrier to establish a single interstate access tariff for its average schedule study areas exiting the NECA interstate tariffs and approved a methodology for establishing initial interstate switched and special access rates using NECA switched and special access rates adjusted to reflect the extent the exiting study areas were either a net contributor to, or a net recipient from, the NECA traffic-sensitive pool.<sup>26</sup> The Commission concluded that the switched access rates developed using this methodology would be deemed to be the rates that are capped by section 51.907(a).<sup>27</sup> For special access services, the Commission required the carriers to file supporting materials establishing PCIs using the same methodology.<sup>28</sup> The *2012 Average Schedule Conversion Order* also noted that average schedule companies that convert to price cap methodology will become subject to the price cap transition rules in section 51.907 and to the price cap recovery rules for non-CALLS study areas set forth in section 51.915 of the Commission's rules.<sup>29</sup>

8. *CenturyLink's Petition.* On January 31, 2014, CenturyLink filed a waiver petition requesting authority to convert CenturyTel of Chester, Inc., CenturyTel of Postville, Inc., and CenturyTel of the Midwest-Wisconsin Region (collectively referred to as "CenturyLink Average Schedule Affiliates") to price cap regulation effective July 1, 2014.<sup>30</sup> Concurrently, CenturyLink would withdraw the CenturyLink average schedule affiliates from the NECA access tariffs. CenturyLink proposes that the conversion be subject to the price cap regulatory structure established in the *CALLS Order*, the *USF/ICC Transformation Order* and the *2012 Average Schedule Conversion Order*.<sup>31</sup> CenturyLink indicates that it will establish a single interstate access tariff with blended switched and special access rates for the three study areas and will develop switched and special access rates using the net-contribution approach employed in the *2012 Average Schedule Conversion Order*. CenturyLink states that approval of the waiver is in the public interest,<sup>32</sup> would provide CenturyLink administrative efficiencies by allowing it to be regulated entirely as a price cap company,<sup>33</sup> and would not have any impact on the CenturyLink Average Schedule Affiliates' Connect America Funding.<sup>34</sup> No comments were filed on CenturyLink's petition.

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<sup>25</sup> *Joint Petition of Price Cap Holding Companies for Conversion of Average Schedule Affiliates to Price Cap Regulation and for Limited Waiver Relief; Consolidated Communications Companies Tariff F.C.C. No. 2; Frontier Telephone Companies Tariff F.C.C. No. 10; Windstream Telephone Systems Tariff F.C.C. No. 7*, Order, 27 FCC Rcd 15753 (2012) (*2012 Average Schedule Conversion Order*). The *2012 Average Schedule Conversion Order* approved a two-step process: first the carriers withdraw from the NECA tariff and establish their own interstate access rates under rate-of-return regulation, and then convert to the price cap regulatory structure on January 1, 2013. The summary reflects the process as if it had been a single step process.

<sup>26</sup> *Id.* at 15760-61, para. 17.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 15761, para. 18

<sup>29</sup> *Id.* at 15763-64, para. 28.

<sup>30</sup> *See* Petition at 1.

<sup>31</sup> *See id.* at 2-3.

<sup>32</sup> *See id.* at 1.

<sup>33</sup> *Id.* at 3.

<sup>34</sup> *Id.* at 14.

### III. DISCUSSION

#### A. Conversion to Price Cap Regulation Is in the Public Interest

9. We find that good cause exists to grant, to the extent described below, a waiver to permit CenturyLink to convert, according to its proposed transition plan, its average schedule study areas to price cap regulation on July 1, 2014.<sup>35</sup> Petitioners seek to take advantage of the opportunities provided by section 61.41(a)(3) of the Commission's rules, the *Windstream Order*, and the *2012 Average Schedule Conversion Order* to convert their average schedule study areas to price cap regulation.<sup>36</sup> Specifically, for interstate switched access charges, Petitioners propose to cap switched access rates in accordance with section 51.907(a) and to adopt the shorter price cap transition timetable and the price cap recovery mechanism rather than the procedures applicable to rate-of-return carriers.<sup>37</sup> Petitioners will continue to receive Connect America Fund support as price cap carriers and will establish PCIs for their interstate special access services in a manner consistent with the approach specified in the *2012 Average Schedule Conversion Order*.<sup>38</sup>

10. As an initial matter, we find that the request presented by CenturyLink offers the public interest benefits generally attributed to incentive regulation – specifically, they provide incentives for the carrier to become more efficient, innovative, and productive.<sup>39</sup> In 1990, the Commission concluded that incentive-based regulation is preferable to rate-of-return regulation, finding that several benefits would flow from the adoption of price cap regulation, including incentives for carriers to become more productive, innovative, and efficient.<sup>40</sup> The Commission also found that price cap regulation is likely to benefit consumers directly or indirectly through lower access prices. More recently, in the *USF/ICC Transformation Order*, the Commission restated the benefits of price cap regulation and again encouraged carriers to convert from rate-of-return to price cap regulation.<sup>41</sup> Rather than detailing a rule to govern such conversions, however, the Commission noted that future conversions from rate-of-return regulation to price cap regulation would be addressed through the waiver process.<sup>42</sup>

11. Grant of the waiver requested here will also facilitate the achievement of Commission policies. Among other things, price cap carriers' terminating End Office Access Service rates will transition to bill-and-keep by July 1, 2017, three years before rate-of-return carriers' terminating End Office Access Service rates will complete such transition.<sup>43</sup> Price cap carriers also must, under certain

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<sup>35</sup> Generally, the Commission's rules may be waived for good cause shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166.

<sup>36</sup> 47 C.F.R. § 61.41(a)(3).

<sup>37</sup> *Id.* at 13.

<sup>38</sup> 47 C.F.R. § 61.41(a)(3).

<sup>39</sup> See *Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, Second Report and Order, 5 FCC Rcd at 6790, para. 31 (1990).

<sup>40</sup> *Id.*

<sup>41</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17940, para. 814.

<sup>42</sup> *Id.*

<sup>43</sup> See 47 C.F.R. §§ 51.907(f), 51.909(i).

conditions, reduce their terminating tandem switched rates to bill-and-keep on July 1, 2018.<sup>44</sup> The rate reductions for price cap carriers under section 51.907 reduces terminating switched access rates of price cap carriers more quickly than section 51.909 reduces the comparable rates for rate-of-return carriers, with Connect America funding phasing out over three years for price cap carriers beginning in 2017. These procedures for interstate switched access services and the capping of special access rates under the current price cap structure will ensure that these rates remain reasonable while affording petitioners the opportunity to benefit from incentive regulation. We further note that because the holding company of CenturyLink is already regulated pursuant to price cap regulation, the CenturyLink Average Schedule Affiliates' Connect America funding support is already calculated as if it were price cap regulated, and therefore, grant of this Petition will not impact Connect America funding. We emphasize that the relief granted in this Order is subject to any future reforms or rule revisions regarding intercarrier compensation, the regulation of special access services, price cap regulation, or universal service requirements that the Commission may adopt in the future.<sup>45</sup>

#### **B. Transition to Price Caps**

12. Above, we determined that the public interest would be served if CenturyLink was allowed to convert its average schedule study areas to price cap regulation on July 1, 2014. This will require CenturyLink to take certain steps to comply with price cap regulations and the intercarrier compensation rules applicable to price cap regulated carriers, which we outline in the following paragraphs.

13. In its petition, consistent with the approach approved in the *2012 Average Schedule Conversion Order*, CenturyLink proposes to use annualized settlement data at an 11.25 percent rate-of-return period for the period from January 1, 2013, through June 30, 2013, and the associated annualized demand to develop a single set of blended interstate switched access rates that reflect the extent to which the carriers are net contributors to the NECA pool.<sup>46</sup> CenturyLink states that these would be the rates it would adjust to develop rates for the CenturyLink Average Schedule Affiliates' initial traffic-sensitive access tariff filing. CenturyLink requests that the Commission deem these adjusted rates to be the December 29, 2011 rates for the CenturyLink Average Schedule Affiliates that are capped by section 51.907(a).<sup>47</sup> We find that this approach is consistent with the *2012 Average Schedule Order*, and therefore, we find it reasonable for CenturyLink to use annualized settlement data at an 11.25 percent rate of return for the period from January 1, 2013 through June 30, 2013, and associated annualized demand to develop switched access rates. This process allows CenturyLink to develop the amount of its net contribution to the NECA traffic-sensitive pool for switched access services. The amount of the net contribution associated with switched access then allows CenturyLink to establish reduced switched access rates reflecting that contribution. The switched access rates developed using this methodology will be deemed to be the December 29, 2011 rates that are capped by section 51.907(a), and we accordingly waive that section to the extent indicated herein.<sup>48</sup>

14. Consistent with the *2012 Average Schedule Order*, CenturyLink proposes to use the same net-contribution process described above to calculate special access tariff rates.<sup>49</sup> We agree and conclude

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<sup>44</sup> 47 C.F.R. § 51.907(b).

<sup>45</sup> See, e.g., *USF/ICC Transformation Order*, 26 FCC Rcd at 17663; *Special Access R&O*, 27 FCC Rcd at 10557.

<sup>46</sup> See Petition at 4. In addition, section 51.909(a)(4) of the Commission's rules establishes a methodology that requires NECA to adjust its switched access rate caps upon carriers entering and exiting the NECA pool. 47 C.F.R. § 51.909(a)(4).

<sup>47</sup> See Petition at 5.

<sup>48</sup> 47 C.F.R. § 51.907(a). We note that the capped terminating end office rates will begin to be reduced as of July 1, 2014. 47 C.F.R. § 51.907(d).

<sup>49</sup> CenturyLink Petition at 6-7.

that CenturyLink should calculate their special access rates using the annualized settlement data at an 11.25 percent rate of return for the period from January 1, 2013, through June 30, 2013. As the Commission concluded in the *2012 Average Schedule Conversion Order*, using a common period of measurement for establishing both switched and special access rates avoids possible rate distortions because of changes that may have occurred in average schedule formulas from one year to the next.<sup>50</sup>

15. As part of the transition, CenturyLink proposes to issue a revised tariff for CenturyLink Operating Companies Tariff No. 6 to include CenturyTel of Chester, Inc., CenturyTel of Postville, Inc., and CenturyTel of the Midwest-Wisconsin (Wayside) using the methodology to establish rates discussed above.<sup>51</sup> CenturyLink would use a blended rate for all three companies.<sup>52</sup> According to CenturyLink, in the new interstate tariff, common line rates would be set to equal the existing rates in NECA Tariff FCC No. 5 adjusted according to the 2014 annual filing price cap rules that will then be applicable.<sup>53</sup> Effective the same date, the CenturyLink Average Schedule Affiliates would withdraw from the NECA pools.<sup>54</sup> We agree with CenturyLink's proposal and direct CenturyLink to file those tariffs pursuant to the 2014 Annual Access Charge Tariff Filing with a July 1, 2014 effective date along with the relevant Tariff Review Plan (TRPs) spreadsheets required in the filing.<sup>55</sup>

16. CenturyLink must file supporting materials establishing initial PCIs for special access service. Pursuant to the methodology outlined in the *2012 Average Schedule Order*, CenturyLink should use the special access rates developed pursuant to the above procedures and the appropriate 2013 demand to develop its PCI for the special access basket.<sup>56</sup> Under the special circumstances presented by these average schedule study areas leaving the NECA pool, we find that those special access rates and demand are the appropriate rates and demand to use in setting initial PCIs for the special access basket.<sup>57</sup> As in previous conversions to price cap regulation under the *CALLS* rules, there is no requirement for further reductions in the special access PCI.<sup>58</sup> Consistent with the Commission's price cap rules, the CenturyLink Average Schedule Affiliates must establish Actual Price Indexes, service categories, and Service Band Indexes for the special access basket.

17. Beginning July 1, 2014, the CenturyLink Average Schedule Affiliates will become subject to the price cap transition rules in section 51.907 and to the price cap recovery rules for non-*CALLS* study areas set forth in section 51.915.<sup>59</sup> Thus, CenturyLink will need to file TRP worksheets for

<sup>50</sup> *2012 Average Schedule Order*, 27 FCC Rcd at 15761, para. 18.

<sup>51</sup> *Id.* at 7-8.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* We note that CenturyLink requested a waiver if needed of section 69.3(i) to permit them to notify NECA of the CenturyLink Average Schedule Affiliates' withdrawal from the Association tariff within thirty (30) days after a Commission order granting this Petition. CenturyLink Petition at 6. Because CenturyLink timely notified NECA of its withdrawal from its tariff by March 1, 2014, no waiver is needed. See Letter from Jennifer Leonard, Director, Access Tariffs and Costs, to Julie Veach, Chief, Wireline Competition Bureau (filed March 10, 2014).

<sup>55</sup> See *July 1, 2014 Annual Access Charge Tariff Filings*, WC Docket No. 14-48, Order, DA 14-404 (Pricing Pol. Div. rel. Mar. 25, 2014); *Material to be Filed in Support of 2014 Annual Access Tariff Filings*, WC Docket No. 14-48, Order, DA 14-494 (Pricing Pol. Div. rel. Apr. 15, 2014) (*TRP Order*). In addition, as CenturyLink notes in its Petition, it will also need to file new intrastate tariff filings because it is likely that the new rates for the CenturyLink Average Schedule Affiliates will be lower than the previous rates. CenturyLink Petition at 8.

<sup>56</sup> *2012 Average Schedule Order*, 27 FCC Rcd at 15763, para. 27.

<sup>57</sup> *Id.*

<sup>58</sup> See 47 C.F.R. § 61.45(b)(1)(iv).

<sup>59</sup> 47 C.F.R. § 51.915.

the 2014 Annual Access Tariff Filing reflecting the election of price cap regulation following the recovery procedures set forth in section 51.915(d)(1)(iii).<sup>60</sup> The demand that the CenturyLink Average Schedule Affiliates shall use in calculating its Eligible Recovery in future years should be the relevant demand associated with the development of its Base Period Revenue. The CenturyLink Average Schedule Affiliates may not assess a non-primary Residential SLC or a PICC, consistent with previous price cap conversions.<sup>61</sup>

#### IV. ORDERING CLAUSES

18. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 201-203, and 254(g) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 201-203, and 254(g), that the petition for waiver file by CenturyLink IS GRANTED to the extent described herein.

19. IT IS FURTHER ORDERED that this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Deena M. Shetler  
Associate Chief  
Wireline Competition Bureau

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<sup>60</sup> 47 C.F.R. § 51.915(d)(1)(iii); *see also TRP Order*.

<sup>61</sup> *See, e.g., Windstream Order*, 23 FCC Rcd at 5302-04, paras. 19-22.