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January 23, 2020

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17101

Re: The United Telephone Company of Pennsylvania LLC d/b/a  
CenturyLink 2018 Annual Price Stability Index/Service Price Index  
Report Filing - Docket No. R-2018-3004019

The United Telephone Company of Pennsylvania LLC d/b/a  
CenturyLink 2019 Annual Price Stability Index/Service Price Index  
Report Filing - Docket No. R-2019-3012238

Office of Consumer Advocate v. The United Telephone Company of  
Pennsylvania LLC d/b/a CenturyLink  
Docket Nos. C-2018-3005400 and C-2019-3102876

Dear Secretary Chiavetta:

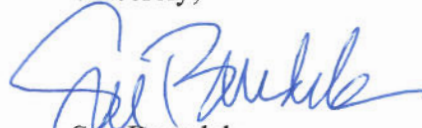
On behalf of The United Telephone Company of Pennsylvania, LLC d/b/a CenturyLink ("CenturyLink"), the Office of Consumer Advocate ("OCA"), and the Office of Small Business Advocate ("OSBA") enclosed for filing please find the Joint Petition for Approval of Settlement Agreement. The Joint Petition for Settlement contains several attachments:

- Appendix A: Proposed Findings of Fact
- Appendix B: Proposed Conclusions of Law
- Appendix C: CenturyLink Statement in Support
- Appendix D: OCA Statement in Support
- Appendix E: OSBA Statement in Support – Filing Separately (early next week)

The presiding Judges consolidated the above-referenced dockets by Order entered November 20, 2019. This filing does not contain confidential information.

Should you have any questions, please do not hesitate to contact me at 717-775-3088.

Sincerely,



Sue Benedek

ZEB/sac

cc: The Honorable Joel H. Cheskis (*via electronic and overnight delivery*) [jcheskis@pa.gov](mailto:jcheskis@pa.gov)  
The Honorable Benjamin Myers (*via electronic and overnight delivery*) [benmyers@pa.gov](mailto:benmyers@pa.gov)  
All Persons on the attached Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The United Telephone Company of Pennsylvania LLC	:	
d/b/a CenturyLink 2018 Annual Price Stability	:	R-2018-3004019
Index/Service Price Index Report Filing	:	
Office of Consumer Advocate	:	
v.	:	
The United Telephone Company of Pennsylvania LLC	:	C-2018-3005400
d/b/a CenturyLink	:	
The United Telephone Company of Pennsylvania LLC	:	
d/b/a CenturyLink 2019 Annual Price Stability	:	R-2019-3012238
Index/Service Price Index Report Filing	:	
Office of Consumer Advocate	:	
v.	:	
The United Telephone Company of Pennsylvania LLC	:	C-2019-3012876
d/b/a CenturyLink	:	

**JOINT PETITION FOR  
APPROVAL OF SETTLEMENT AGREEMENT**

The United Telephone Company of Pennsylvania d/b/a CenturyLink (“CenturyLink” or “CTL”), the Office of Consumer Advocate (“OCA”), and the Office of Small Business Advocate (“OSBA”) (collectively “the Parties”) enter into this Joint Petition for Approval of Settlement Agreement (“Settlement Agreement”) in the matter of CenturyLink’s 2018 and 2019 annual Price Stability Plan (“PSP Filings”). The annual PSP Filings are required by CenturyLink’s revised Amended Alternative Regulation Plan, as approved by Commission Opinion and Order entered June 23, 2005 at Docket Number P-00981410 (“CenturyLink Amended Chapter 30 Plan”), and are submitted in accordance with provisions of Act 183 of 2004, P.L. 1398 (66 Pa. C.S. §§ 3011-3019).

This Settlement Agreement proposes to resolve all issues associated with OCA’s Formal Complaints and OSBA’s Interventions in both CenturyLink’s 2018 PSP Filing and its 2019 PSP Filing. As addressed below, CenturyLink did not propose changes in rates in either its 2018 or 2019 PSP Filing. Therefore, the only issues implicated in this settlement concern an amicable resolution of the claims of OCA and OSBA relating to the Tax Cuts and Jobs Act of 2017 (“TCJA”).<sup>1</sup>

The Parties respectfully request that the presiding Administrative Law Judges recommend approval of the Settlement Agreement in its entirety and, furthermore, that the Pennsylvania Public Utility Commission (“Commission”) approve this Settlement in its entirety. In support thereof, the Parties submit as follows:

## **I. BACKGROUND**

### **CenturyLink’s 2018 and 2019 PSP Filings**

1. CenturyLink submits to the Commission its PSP Filing on or about September 1<sup>st</sup> each year. Pursuant to its Chapter 30 Plan, CenturyLink informs the Commission of the forthcoming filing via a 15-day advance notice. Under its Chapter 30 Plan, a Commission Order must be entered within one hundred five (105) days of the PSP Filing, or by mid-December.<sup>2</sup>

2. On August 29, 2018, CenturyLink submitted its 2018 PSP Filing, containing its updated Annual Price Stability Index (PSI) and its Service Price Index (SPI) Report,<sup>3</sup> pursuant to Part 3 of CenturyLink’s Chapter 30 Plan (“2018 PSP Filing”). Using the change in 2017 and 2018 1<sup>st</sup> quarter GDP-PI, the 2018 PSP produces a 1.90% increase in the PSI, which when applied to the previous PSI of 124.772, results in a new PSI of 127.143. Applying this change to

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<sup>1</sup> Tax Cuts and Jobs Act of 2017, Pub.L.No. 115-97, 131 Stat. 2054.

<sup>2</sup> CenturyLink Amended Chapter 30 Plan at p. 18, para. 8.

<sup>3</sup> The SPI indicates the cumulative price changes from current and prior years and tracks the actual total price changes for noncompetitive services.

noncompetitive revenues yields a maximum allowed noncompetitive revenue increase of \$473,890.

3. In its 2018 PSP Filing, CenturyLink did not seek increases, including to its residential or business basic local exchange rates. Because CenturyLink did not file for any rate or revenue increases, CenturyLink is permitted under its Chapter 30 Plan to bank the entire allowable revenue increase for future use.

4. CenturyLink served copies of its 2018 PSP Filing on OCA and OSBA.

5. On September 12, 2018, CenturyLink, OCA and OSBA filed a Joint Procedural Stipulation requesting that due dates for filing of complaints regarding CenturyLink's 2018 PSP Filing be held in abeyance for a period of 30 days pending Commission action on an August 24, 2018 Petition to Rescind and Discontinue Temporary Stay filed by a group of Incumbent Local Exchange Carriers following the Commission's issuance of a Secretarial Letter on August 9, 2018.<sup>4</sup>

6. On October 12, 2018 OSBA filed a Notice of Intervention.

7. On October 15, 2018, OCA filed a Formal Complaint and Public Statement.<sup>5</sup> The OCA Formal Complaint alleged that CenturyLink's 2018 PSP filing did not include an exogenous event adjustment to account for the effects of the federal TCJA. As a result, the OCA alleged that CenturyLink's resulting rates for non-competitive services are or maybe unjust, unreasonable and contrary to Chapter 30 and the Company's Amended Chapter 30 Plan.

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<sup>4</sup>The Commission initiated an investigation and sought comments regarding the impact of the federal Tax Cuts and Jobs Act of 2017 ("TCJA") on Pennsylvania telecommunications carriers for 2018 and future years. That proceeding was docketed at M-2018-2641242. The Commission's August 9, 2018 Secretarial Letter stayed the Commission's TCJA M-docket investigation.

<sup>5</sup> On November 6, 2018, CenturyLink filed an Answer to OCA's Formal Complaint.

8. On October 19, 2018, CenturyLink, OCA and OSBA filed a petition seeking a further procedural stay of CenturyLink’s 2018 PSP Filing pending the Commission’s decision at Docket No. M-2018-2651242.

9. By Order entered October 25, 2018 at Docket No. M-2018-2641242, the Commission determined that the pending, contested annual price change opportunity filings “are a proper forum for this [TCJA] issue to be investigated and decided.”<sup>6</sup>

10. By Order entered November 8, 2018, the Commission accepted CenturyLink’s 2018 PSP Filing as procedurally consistent with CenturyLink’s Chapter 30 Plan and permitted the 2018 PSP Filing to go into effect subject to the adjudication of OCA’s Formal Complaint and OSBA’s Intervention.

11. As to banking, the Commission in its November 8, 2018 Order found that the banking methods CenturyLink used in its 2018 PSP Filing were “procedurally consistent with its Amended Chapter 30 Plan.”<sup>7</sup> Therefore, the 2018 maximum allowed noncompetitive revenue increase of \$473,890 was added to CenturyLink’s bank, resulting in a cumulative total in its bank of \$10,107,581.<sup>8</sup>

12. Under the banking provisions of CenturyLink’s Amended Chapter 30 Plan, certain decreases “may be banked for application in future years, not to exceed four (4) consecutive years.”<sup>9</sup> For increases, CenturyLink may apply them in future years, without limitation as to time.<sup>10</sup>

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<sup>6</sup> *Tax Cuts and Jobs Act of 2017 – Petition to Rescind Secretarial Letter and Discontinue Temporary Stay*, Docket No. M-2018-2641242, Order entered October 25, 2018.

<sup>7</sup> *CenturyLink 2018 PSP Filing*, Docket Nos. R-2018-3004019, P-00981410F000, and C-2018-3005400, Order entered November 8, 2018, at page 6.

<sup>8</sup> *Id.*

<sup>9</sup> CenturyLink Amended Chapter 30 Plan, at p. 24 (E. Banking of Annual Price Decreases).

<sup>10</sup> *Id.*, fn. 14.

13. Several prehearing conferences were thereafter convened.<sup>11</sup>

14. OCA propounded discovery and CenturyLink provided timely responses to such discovery requests. Parties also engaged in informal discovery and discussions regarding the timing of certain regulatory filings and consolidated corporate tax filings given that information for a full year (i.e., all of year 2018) that the TCJA was effective would not be available until Fall 2019.

15. On August 30, 2019, CenturyLink submitted its 2019 PSP Filing, containing its updated Annual Price Stability Index (PSI) and its Service Price Index (SPI) Report,<sup>12</sup> pursuant to Part 3 of CenturyLink's Chapter 30 Plan ("2019 PSP Filing"). Using the change in 2018 and 2019 1<sup>st</sup> quarter GDP-PI, the 2019 PSP Filing produces a 2.0% increase in the PSI, which when applied to the previous PSI of 127.143, resulted in a new PSI of 129.686. Applying this change to noncompetitive revenues yields a maximum allowed noncompetitive revenue increase of \$438,621.

16. In its 2019 PSP Filing, CenturyLink did not seek increases to its residential or business basic local exchange rates. Because CenturyLink did not file for any rate or revenue increases, CenturyLink is permitted under its Chapter 30 Plan to bank the entire allowable revenue increase for future use.

17. CenturyLink served copies of its 2019 PSP Filing on OCA and OSBA.

18. On September 12, 2019, the OCA filed a Formal Complaint at Docket No. C-2019-3012876. The OCA Formal Complaint against the 2019 PSP raised the same challenges as the OCA Formal Complaint against the 2018 PSP.

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<sup>11</sup> Prehearing conferences were scheduled or re-scheduled for the following dates: January 24, 2019; May 15, 2019; November 14, 2019; and December 17, 2019.

<sup>12</sup> The SPI indicates the cumulative price changes from current and prior years and tracks the actual total price changes for noncompetitive services.

19. On September 30, 2019, CenturyLink submitted an Answer to the OCA's Formal Complaint.

20. On October 2, 2019, the OSBA filed a Notice of Intervention.

21. By Order entered November 14, 2019, the Commission accepted CenturyLink's 2019 PSP Filing as procedurally consistent with CenturyLink's Chapter 30 Plan.<sup>13</sup> The Commission permitted the 2019 PSP Filing to go into effect subject to the adjudication of OCA's Formal Complaint and further orders of the Commission as necessary.<sup>14</sup>

22. As to banking, the Commission in its Order found that the banking methods CenturyLink used in its 2019 PSP Filing were "procedurally consistent with its Amended Chapter 30 Plan."<sup>15</sup> Therefore, the 2019 maximum allowed noncompetitive revenue increase of \$438,621 was added to CenturyLink's bank, resulting in a cumulative total in CenturyLink's bank of \$10,546,201.<sup>16</sup>

23. In advance of a scheduled prehearing conference, and in lieu of OCA propounding additional discovery, the Parties engaged in settlement discussions.

24. After several conference calls, the Parties reached a settlement in principle.

25. On December 17, 2019, a further prehearing conference was held before Administrative Law Judges Cheskis and Myers.

26. To conserve resources and expenses associated with protracted litigation, the Parties engaged in settlement discussions and ultimately determined that it is in the public interest to reach a mutually amicable settlement of the OCA Formal Complaints and OSBA Interventions

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<sup>13</sup> *CenturyLink 2019 PSP Filing*, Docket No. R-2019-3012238, P-00981410F1000, and C-2019-3012876, Order entered November 14, 2019, at Ordering ¶ 1.

<sup>14</sup> *Id.*, at Ordering ¶ 3.

<sup>15</sup> *Id.*, Order at pages 4-5.

<sup>16</sup> *Id.*, Order at page 5.

regarding CenturyLink's 2018 and 2019 PSP Filings. To implement the Settlement in an administratively efficient manner, the Parties have reached certain agreements regarding CenturyLink's prospective 2020 PSP filing.

## **II. SPECIFIC TERMS AND CONDITIONS OF SETTLEMENT**

27. In consideration of the mutual promises and provisions contained in the Specific and General Terms and Conditions of this Settlement, the Parties desire to conclude litigation and to settle all claims regarding CenturyLink's 2018 and 2019 PSP Filings. The specific terms and conditions of this proposed Settlement Agreement are as follows:

- a. On or before September 1, 2020 and pursuant to its Amended Chapter 30 Plan, CenturyLink will file its annual PSP Filing ("2020 PSP Filing").<sup>17</sup>
- b. CenturyLink agrees in its 2020 PSP Filing to eliminate from its cumulative bank, and never to seek recovery of, both the 2018 maximum allowed noncompetitive revenue increase of \$473,890 and the 2019 maximum allowed noncompetitive revenue increase of \$438,621, for a total reduction of \$912,511 from CenturyLink's cumulative bank.
- c. CenturyLink further agrees to not add to its cumulative bank the 2020 PSP Filing's calculated maximum allowed noncompetitive revenue increase. While the maximum allowed noncompetitive change in revenue is not known and measurable at this time, it is estimated that the amount of the 2020 maximum allowed noncompetitive revenue increase should approximate prior years – i.e., \$425,000 to \$475,000.

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<sup>17</sup> CenturyLink will provide advance notice of its 2020 PSP Filing in mid-August 2020, as required by CenturyLink's Amended Chapter 30 Plan.

- d. CenturyLink further agrees to not file proposed tariffs to increase rates for noncompetitive services as part of the Company's 2020 PSP Filing. Because CenturyLink agrees not to increase noncompetitive rates as part of the Company's 2020 PSP Filing, current noncompetitive services should remain in effect until CenturyLink files its 2021 PSP Filing and the Commission issues an order regarding CenturyLink's 2021 PSP Filing.<sup>18</sup> Nothing in this Settlement Agreement is intended to limit CenturyLink's 2021 PSP filing.
- e. The OCA agrees to not file a formal complaint against the CenturyLink 2020 PSP Filing raising the specific issues set forth in the OCA Formal Complaints against the CenturyLink 2018 PSP Filing and 2019 PSP Filing regarding recognition of the impact of the TCJA as an exogenous event.
- f. OSBA agrees not to file a formal complaint against the CenturyLink 2020 PSP Filing raising issues regarding recognition of the impact of the TCJA as an exogenous event.
- g. Notwithstanding the provisions herein, in the event the Pennsylvania General Assembly enacts legislation impacting CenturyLink's Amended Chapter 30 Plan after Commission approval of this Settlement, nothing in this Settlement Agreement shall be construed to prohibit or limit any rights that may be available under such a legislative change.

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<sup>18</sup> CenturyLink's Amended Chapter 30 Plan requires entry of a Commission Order "within one hundred five (105) days of the filing" of a CenturyLink PSP Filing. CenturyLink Amended Chapter 30 Plan, at page 18 ("Part 3 – Price Stability Plan for Noncompetitive Services") at Para. 8(A)(8). Accordingly, existing CenturyLink noncompetitive rates should remain in effect through mid-December 2021 sometime, depending upon scheduling of a Commission public meeting.

- h. Furthermore, nothing in this Settlement Agreement shall be construed to prohibit Parties from seeking relief pursuant to Part 3.A. at paragraph 9 and Part 3.B of CenturyLink's Revised Amended Alternative Regulation Plan (June 9, 2005) (exogenous events) regarding any non-TCJA related exogenous event.
- i. This Settlement Agreement is a compromise result based upon the specific claims and defenses of the Parties and the specific provisions in CenturyLink's Amended Chapter 30 Plan. This Settlement Agreement represents a complete settlement of CenturyLink's 2018 and 2019 PSP Filings and fully satisfies all claims arising from the respective Formal Complaints of OCA and the Interventions of OSBA.
- j. The Parties expressly recognize that this Settlement Agreement's treatment of the TCJA is specific to CenturyLink in Pennsylvania and the specific provisions in CenturyLink's Amended Chapter 30 Plan. Nothing in this Settlement Agreement shall be construed to have applicability to any other entity or carrier, whether located in Pennsylvania or elsewhere.
- k. This Settlement Agreement is conditioned upon and subject to the approval of the Commission of this Settlement without modification or revision.
- l. This Settlement Agreement shall remain in effect upon approval by the Commission through mid-December 2021, unless modified by the Commission and subject to paragraph 30 below.

### **III. GENERAL TERMS AND CONDITIONS OF SETTLEMENT**

28. This Settlement Agreement is made without any admission against or prejudice to any position that any Party either has made or might make in any other proceeding in Pennsylvania or in any other jurisdiction or state. It is also made without any admission against or prejudice to any position that any of the Parties may have advanced or will advance in any other proceeding and without prejudice to their respective positions concerning the merits of any claims or defenses of the Parties if this Settlement is rejected by the Commission or withdrawn by any of the Parties as provided below. If this Settlement is not approved, no adverse inference shall be drawn against any Party as a consequence of any matter set forth herein.

29. Commission approval of this Settlement Agreement shall not be construed as binding or persuasive precedent in any other Commission proceeding or in any appeal from a Commission proceeding, except to effectuate the terms and conditions of this Settlement Agreement. This Settlement Agreement is a compromise and is conditioned upon the Commission's approval of all the terms and conditions contained herein without modification or amendment, except that this paragraph shall be effective regardless of whether the Settlement Agreement is accepted and adopted by the Commission.

30. If the Commission should modify the terms and conditions herein, this Settlement Agreement may be withdrawn by a Party upon written notice to the Commission and all other Parties within five (5) business days of receipt of the Commission's Order. In such withdrawal event, this Settlement shall be of no force and effect, except paragraphs 28 through and including 30. If there is hearing, the Parties reserve their respective rights to submit testimony and to conduct full cross-examination, briefing and argument, and to take, without prejudice, positions different from the terms of this Settlement Agreement. In the event of such withdrawal, this Settlement

Agreement shall be terminated without admission against or prejudice to any position, which any Party might adopt during any subsequent hearing.

31. By signing this Settlement Agreement, all Parties represent and acknowledge that they have read this Settlement Agreement, understand the contents and meaning of this Settlement Agreement, and have knowingly and willingly entered into this Settlement Agreement.

32. This Settlement Agreement is to be construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania.

33. This Settlement Agreement constitutes the entire agreement between the Parties in connection with OCA's Formal Complaints and OSBA's Interventions in the above-captioned dockets and may be changed only by written agreement of the Parties.

#### **IV. PUBLIC INTEREST**

34. This Settlement Agreement is in the public interest, is in the best interest of the Parties, the Commission, and CenturyLink's customers. Some of the public benefits of this Settlement Agreement include the following:

- a. The Settlement Agreement eliminates from recovery \$912,511 in revenues from CenturyLink's cumulative bank. By eliminating the 2018 and 2019 PSP revenues from CenturyLink's cumulative bank, a total of \$912,511 inures to CenturyLink's customers, with an additional estimated banking potential of \$425,000 to \$475,000 from CenturyLink's 2020 PSP Filing to be submitted on or before September 1, 2020. The cumulative bank constitutes revenues that CenturyLink's PSP filings determine could be recovered in the future. By eliminating these revenues from the cumulative

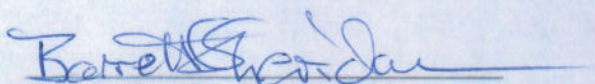
bank, CenturyLink has agreed to no revenue recovery opportunity for those amounts.

- b. The Settlement Agreement also includes a commitment to forgo using the annual maximum allowed revenues resulting from calculations within CenturyLink's 2020 PSP Filing to increase prices. This provision of the Settlement Agreement directly benefits customers because CenturyLink agrees not to increase rates of noncompetitive services as part of its 2020 PSP Filing. Thus, CenturyLink's customers will benefit from rate stability. CenturyLink's noncompetitive service rates will remain at the same level for the period of the 2018, 2019, and 2020 PSP filings.
- c. This Settlement Agreement avoids further protracted administrative litigation associated with two docketed matters. The Parties have set aside contentious and disputed legal and factual arguments which would have been time consuming and expensive to continue to litigate
- d. This Settlement Agreement does not create precedent. This Settlement Agreement provides for a tailored disposition of contentious legal arguments and claims, while also conforming to the specifics of CenturyLink's Amended Chapter 30 Plan in Pennsylvania.
- e. The Parties have reached an amicable resolution of both CenturyLink's 2018 and 2019 PSP Filings well in advance of CenturyLink's 2020 PSP Filing, thus streamlining a resolution of the TCJA issue prior to September 1, 2020. And,

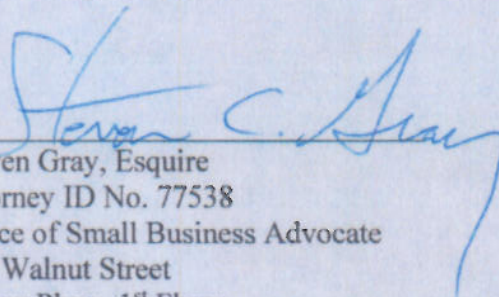
- f. The Parties agree that this Settlement Agreement is in the public interest by reducing uncertainty which may otherwise arise from litigation of the OCA's Formal Complaints and the OSBA's Interventions – and to do so well in advance of CenturyLink's 2020 PSP Filing.

**WHEREFORE,** The United Telephone Company of Pennsylvania d/b/a CenturyLink, the Office of Small Business Advocate, and the Office of Consumer Advocate, intending to be legally bound, do here execute this Settlement Agreement through their authorized representatives and respectfully request that the Pennsylvania Public Utility Commission enter an Order approving this Settlement Agreement in its entirety and deem the Formal Complaints of the OCA and the Notices of Intervention of the OSBA satisfied.

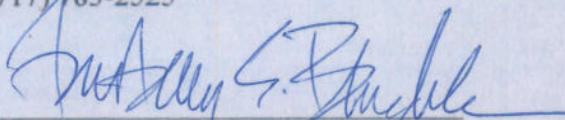
Respectfully submitted,



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On behalf of:  
Tanya J. McCloskey  
Acting Consumer Advocate



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Dated: January 23, 2020

# APPENDIX A

## **APPENDIX A**

### **PROPOSED FINDINGS OF FACT**

#### ***CenturyLink's 2018 PSP Filing at R-2018-3004019***

1. On August 29, 2018, CenturyLink submitted its annual Price Stability Plan (“PSP”) filing, containing an annual Price Stability Index (PSI) and a Stability Price Index (SPI) report, using the change in 2017 and 2018 1<sup>st</sup> quarter Gross Domestic Product Price Index (“GDP-PI”) (hereinafter, “2018 PSP Filing”). CenturyLink’s 2018 PSP Filing was docketed at R-2018-3004019.

2. The 2018 PSP Filing was made pursuant to provisions of Act 183 of 2004, P.L. 1398 (66 Pa. C.S. §§ 3011-3019) (Chapter 30) and pursuant to CenturyLink’s Alternative Regulation and Network Modernization Plan. *Petition for Amended Alternative Regulation and Network Modernization Plan of The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink*, Docket No. P-00981410F1000 (Order entered June 23, 2005) (“CenturyLink Amended Chapter 30 Plan”).

3. On August 29, 2018, CenturyLink also filed a Petition for a Protective Order, requesting that specific information in its filing be treated as proprietary. 52 Pa. Code § 5.365(b). *See, The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink Petition for Protective Order Regarding 2018 Annual Price Cap Filing*, Docket No. P-2018- 3004668 (Order entered October 4, 2018).

4. On October 12, 2018, the OSBA filed a Notice of Intervention in this proceeding.

5. The OSBA’s pleading in part claimed that a thorough inquiry by the Commission into all elements of the Company’s 2018 PSP Filing was necessary to ensure that the resulting rates are lawful, just, reasonable, nondiscriminatory and have accounted for all exogenous events.

6. On October 15, 2018, OCA filed a Formal Complaint and Public Statement regarding CenturyLink's 2018 PSP Filing. OCA's Formal Complaint was docket at C-2018-3005400.

7. OCA's Formal Complaint alleged, *inter alia*, that the Tax Cuts and Jobs Act of 2017 ("TCJA") may qualify as an exogenous event under CenturyLink's Chapter 30 Plan requiring an adjustment to the Company's Price Stability Mechanism formula. The OCA alleges that the omission of an adjustment may result in an overstated maximum allowed noncompetitive revenue increase amount, an overstated cumulative banked revenue amount, the cross-subsidization of competitive services, and the Company's rates for noncompetitive services being unjust and unreasonable. OCA Complaint at pages 2-3.

8. CenturyLink filed an Answer to OCA's Formal Complaint on November 6, 2018.

9. CenturyLink responded and argued that the TCJA is not an exogenous event and does not qualify as an exogenous event under CenturyLink's Amended Chapter 30 Plan. Specifically, the TCJA does not qualify as a legislative change affecting revenues and/or costs to the extent not captured in GDP-PI. CenturyLink contended that its 2018 PSM Filing properly calculated allowable rate increases using the change in the GDP-PI and correctly revised the PSI to reflect the allowable change in GDP-PI without impact of any "exogenous event" or "Z Factor" attributable to the TCJA.

10. CenturyLink's 2018 PSP Filing did not propose any changes to CenturyLink's noncompetitive rates. Because CenturyLink did not file for any rate or revenue increases, CenturyLink is permitted under its Chapter 30 Plan to bank the entire allowable revenue increase for future use. *See*, CenturyLink Amended Chapter 30 Plan, Part 3, Sec. (E) (Banking of Annual Price Decreases), fn. 14.

11. Under the terms of CenturyLink’s Amended Chapter 30 Plan, the Commission must issue an order regarding CenturyLink’s annual price cap filing within 105 days of its filing. *See*, CenturyLink Amended Chapter 30 Plan, Part 3, Sec. A (Modified Price Stability Mechanism (“PSM”)), Para. 8.

12. By Order entered November 8, 2018, the Commission accepted the 2018 PSP Filing as procedurally consistent with CenturyLink’s Chapter 30 Plan and permitted the 2018 PSP Filing to go into effect subject to the adjudication of OCA’s Formal Complaint and OSBA’s Intervention.

13. The Commission in the November 8, 2018 Order also found that the banking methods CenturyLink used in its 2018 PSP Filing were procedurally consistent with its Amended Chapter 30 Plan. Therefore, the 2018 maximum allowed noncompetitive revenue increase of \$473,890 was added to CenturyLink’s bank, resulting in a cumulative total in its bank of \$10,107,581.

14. Parties engaged in rounds of formal and informal discovery.

15. Prehearing conferences were also scheduled and rescheduled in order to allow for responses to discovery, especially discovery requests seeking reports and certain tax information which would not be available until later in 2019.

***CenturyLink’s 2019 PSP Filing at R-2019-3012238***

16. On August 30, 2019, the Company filed its annual Price Stability Plan (“PSP”) filing, containing an annual Price Stability Index (PSI) and a Stability Price Index (SPI) report, using the change in 2018 and 2019 1<sup>st</sup> quarter GDP-PI (“2019 PSP Filing” or “2019 PSI/SPI Filing”). The matter was docketed at R-2019-3012238.

17. On September 12, 2019, the OCA filed a Formal Complaint. The matter was docketed at C-2019-3012876.

18. The OCA again contended, *inter alia*, that the federal TCJA may qualify as an exogenous event under the Company's Chapter 30 Plan requiring an adjustment to the Company's Price Stability Mechanism formula and that the omission of said adjustment may result in an overstated maximum allowed noncompetitive revenue increase amount, an overstated cumulative banked revenue amount, the cross-subsidization of competitive services and the Company's rates for noncompetitive services being unjust and unreasonable.

19. On September 30, 2019, CenturyLink filed an Answer to OCA's Formal Complaint.

20. CenturyLink again disagreed with OCA and maintained that the TCJA is not an exogenous event and does not qualify as an exogenous event under CenturyLink's Amended Chapter 30 Plan. Specifically, the TCJA does not qualify as a legislative change affecting revenues and/or costs to the extent not captured in GDP-PI. CenturyLink contended that its 2018 PSM Filing properly calculated allowable rate increases using the change in the GDP-PI and correctly revised the PSI to reflect the allowable change in GDP-PI without impact of any "exogenous event" or "Z Factor" attributable to the TCJA.

21. On October 2, 2019, the OSBA filed a Notice of Intervention in this proceeding.

22. The OSBA again stated that its intervention was necessary to protect the interests of the Company's small business customers. OSBA requested that the Commission direct the Office of Administrative Law Judge to hold hearings on the Company's 2019 PSP Filing and prepare an initial decision. The OSBA contended that a thorough inquiry by the Commission into all elements of the Company's 2019 PSP Filing was necessary to ensure that the resulting rates are lawful, just, reasonable, nondiscriminatory and have accounted for all exogenous events.

23. CenturyLink's 2019 PSP Filing did not propose any changes to CenturyLink's noncompetitive rates. Because CenturyLink did not file for any rate or revenue increases, CenturyLink is permitted under its Amended Chapter 30 Plan to bank the entire allowable revenue increase for future use. *See*, CenturyLink Amended Chapter 30 Plan, Part 3, Sec. (E) (Banking of Annual Price Decreases), fn. 14.

24. Under the terms of CenturyLink's Amended Chapter 30 Plan, the Commission must issue an order regarding CenturyLink's annual price cap filing within 105 days of its filing. *See*, CenturyLink Amended Chapter 30 Plan, Part 3, Sec. A (Modified Price Stability Mechanism ("PSM")), Para. 8.

25. By Order entered November 14, 2019, the Commission accepted CenturyLink's 2019 PSP Filing as procedurally consistent with CenturyLink's Chapter 30 Plan. Order entered November 14, 2019, Docket No. R-2019-3012238, at Ordering Para. 1. The Commission permitted the 2019 PSP Filing to go into effect subject to the adjudication of OCA's Formal Complaint and further orders of the Commission as necessary. *Id.*, at Ordering Para. 3.

26. As to banking, the Commission in its Order found that the banking methods CenturyLink used in its 2019 PSP Filing were "procedurally consistent with its Amended Chapter 30 Plan." *Id.*, Order at pages 4-5. Therefore, the 2019 maximum allowed noncompetitive revenue increase of \$438,621 was added to CenturyLink's bank, resulting in a cumulative total in CenturyLink's bank of \$10,546,201. *Id.*, Order at page 5.

27. In advance of a scheduled prehearing conference, and in lieu of OCA propounding additional discovery, the Parties engaged in settlement discussions.

28. On November 20, 2019, the presiding Administrative Law Judges entered an Order consolidating the 2018 and 2019 PSM Filings of CenturyLink. 52 Pa. Code § 5.81.

***CenturyLink's Exogenous Event Provision and the TCJA***

29. Unlike fixed utilities which file base rate cases and are subject to rate-of-return regulation, CenturyLink's noncompetitive rates are subject to Act 183 and CenturyLink's Amended Chapter 30 Plan.

30. CenturyLink's Amended Chapter 30 Plan contains a provision for exogenous events, which in relevant part provides as follows:

[T]he Commission make special revenue adjustments within the scope of the PSI to recognize significant exogenous events that are outside the Company's control as follows:

- (a) Jurisdictional shifts in cost recovery when interstate revenues actually change;
- (b) Subsequent state or federal regulatory and legislative changes which affect revenues or expenses, to the extent they are not captured in GDP-PI; and
- (c) Unique changes in the telephone industry that are not reflected in the overall inflation factor as measured by GDP-PI.

CenturyLink Amended Chapter 30 Plan, Part 3, Sec. A (Modified Price Stability Mechanism ("PSM")), Para. 9.

31. The settling parties' respective positions vary significantly regarding: (a) whether the TCJA qualifies as an exogenous event under the specific provisions of CenturyLink's Amended Chapter 30 Plan; and (b) quantification of any such exogenous event.

32. While the settling parties maintain their respective positions concerning the TCJA and the exogenous event language in CenturyLink's Amended Chapter 30 Plan, settling parties have entered into the proposed Settlement in order to amicably resolve this 2-year litigation,

including any appeals, as well CenturyLink's future annual PSP filings on the issue of the TCJA and CenturyLink's exogenous event provision.

***Commission TCJA Investigation at Docket No. M-2018-2641242***

33. On December 22, 2017, the federal Tax Cut and Jobs Act ("TCJA") was signed into law. The TCJA reduced the U.S. federal corporate income tax rate from 35 percent to 21 percent. Tax Cuts and Jobs Act of 2017, Pub.L.No. 115-97, 131 Stat. 2054.

34. By Secretarial Letter dated March 2, 2018, at Docket No. M-2018-2641242, the Commission directed Incumbent Local Exchange Carriers (ILECs) to submit comments and submit data responses regarding whether rates should be adjusted to reflect the effects of the TCJA.

35. By Secretarial Letter dated March 26, 2018, the Commission granted an extension until May 25, 2018 for the Pennsylvania Telephone Association ("PTA") and its member companies to submit comments and responses to the data requests propounded by the Commission.

36. On March 27, 2018, the OCA filed comments in response to the March 2, 2018 Secretarial Letter.

37. CenturyLink is a member of PTA for purposes of submitting comments at Docket No. M-2018-2641242. As part of the PTA's comments, CenturyLink provided timely responses to the Commission's March 2, 2018 data requests.

38. By Secretarial Letter dated August 9, 2018, the Commission noted that the OCA had filed formal complaints against the 2018 price stability mechanism filings of ten incumbent local exchange carriers' ("ILECs") and temporarily stayed its own inquiry at Docket No. M-2018-2641242 pending full adjudication of these 10 formal complaints.

39. On August 24, 2018, the ten ILECs and the PTA filed a Petition to Rescind the August 9, 2018 Secretarial Letter and to discontinue the Commission's stay.

40. While CenturyLink was not one of the ten ILECs, CenturyLink is a member of PTA.

41. The OCA filed an answer to the Petition to Rescind on September 6, 2018.

42. On October 25, 2018, the Commission entered an order at Docket No. M-2018-2641242 denying the request to rescind the Secretarial Letter issued August 9, 2018 and to discontinue the Commission's temporary stay.

43. In that Order entered October 25, 2018 at Docket No. M-2018-2641242, the Commission also determined that the pending, contested annual price change opportunity filings "are a proper forum for this [TCJA] issue to be investigated and decided."

#### ***The Proposed Settlement***

44. All parties to this proceeding support the proposed Settlement.

45. The settlement should be approved as being in the public interest because the settlement will save the parties and the Commission from expending substantial time and expense involved with protracted litigation and potential appeals.

46. The Settlement is in the public interest because the settlement was reached after much formal and informal discovery and discussion, as a result of which the parties had meaningful opportunity to review information in an effort to qualify and quantify a TCJA-based adjustment for CenturyLink which has been subject to alternative regulation since 1999.

47. The proposed Settlement is in the public interest because it contains provisions requiring CenturyLink to permanently eliminate from CenturyLink's cumulative bank the 2018

maximum allowed noncompetitive revenue increase of \$473,890 and the 2019 maximum allowed noncompetitive revenue increase of \$438,621 – for a total permanent reduction of \$912,511 to total banked amounts. Moreover, the settlement also contains provisions requiring CenturyLink to not increase the cumulative bank by the maximum allowed noncompetitive revenue increase from CenturyLink’s upcoming 2020 PSP Filing, an amount which is estimated to range from \$425,000 to \$475,000.

48. In addition to permanently eliminating bank amounts from any possible rate recovery in the future, CenturyLink has agreed not to increase any noncompetitive rates as part of its upcoming annual 2020 PSP Filing. This provision of the Settlement is in the public interest because CenturyLink’s Pennsylvania noncompetitive rates will remain at current levels through mid-December 2021, which is approximately when the Commission should resolve CenturyLink’s 2021 PSP Filing.

49. The totality of the terms and conditions of the Settlement is in the public interest and represent a reasonable compromise of the parties’ competing positions regarding the TCJA and CenturyLink’s Amended Chapter 30.

# APPENDIX B

## **APPENDIX B**

### **PROPOSED CONCLUSIONS OF LAW**

1. The Pennsylvania Public Utility Commission ("Commission") has jurisdiction over the subject matter and the parties to this proceeding pursuant to Act 183. Act 183 of 2004, P.L. 1398, 66 Pa. C.S. §§ 3010 *et seq.* (Act 183).

2. Prior to Act 183, Chapter 30 authorized a local exchange telecommunications company to petition the Commission for approval of an alternative form of regulation.

3. The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink ("CenturyLink") has been subject to an alternative regulation plan since 1999. *Petition of The United Telephone Company of Pennsylvania for Approval Under Chapter 30 of the Public Utility Code of an Alternative Regulation and Network Modernization Plan*, Docket No. P-00981410, (Opinion and Order entered July 16, 1999). *See also, Petition for Amended Alternative Regulation and Network Modernization Plan of The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink*, Docket No. P-00981410F1000 (Order entered June 23, 2005) (hereinafter "CenturyLink Amended Chapter 30 Plan").

4. Under Part 3 of its Amended Chapter 30 Plan, CenturyLink is required to file an annual Price Stability Plan ("PSP Filing"). The PSP calculates the allowable change (increase or decrease) in rates for noncompetitive services, equal to the annual change in the Gross Domestic Product Price Index ("GDP-PI"), as adjusted for any exogenous event. The PSP also addresses revenue neutral rate rebalancing/restructuring, the introduction of new services and the banking of price changes. CenturyLink Amended Chapter 30 Plan, Part 3 (Price Stability Plan for Noncompetitive Services).

5. CenturyLink's Amended Chapter 30 Plan also provides that the PSP in the Plan is a complete replacement of rate base/rate of return regulation for the Company and is the exclusive basis upon which the Company's rates and services will be regulated, upon implementation of this Plan. CenturyLink Amended Chapter 30 Plan, Part 3 (Price Stability Plan for Noncompetitive Services).

6. CenturyLink's Amended Chapter 30 Plan arises from Act 183 and predecessor statutes.

7. Act 183 in part provides that "Nothing in this chapter shall be construed to limit the requirement of section 1301 (relating to rates to be just and reasonable) that rates shall be just and reasonable." 66 Pa. C.S. § 3015(g). 66 Pa.C.S. § 1301. CenturyLink's Amended Chapter 30 Plan acknowledges that that nothing in the Plan shall be construed to limit the requirement under Section 1301 of the Public Utility Code that rates shall be just and reasonable. CenturyLink Amended Chapter 30 Plan, Part 3, F, (1).

8. Tax Cuts and Jobs Act of 2017, Pub.L.No. 115-97, 131 Stat. 2054. As pertinent here, the TCJA lowered the Federal corporate income tax rate from a maximum rate of 35% to a new flat rate of 21%.

9. All parties to this proceeding support the Settlement.

10. Joint Petitioners have the burden to prove that the settlement is in the public interest. *Pa. PUC v. Pike Count Light & Power (Electric)*, Docket Nos. R-2013-2397237, C-2014-2405317, *et al.* (Order entered Sept. 11, 2014). *Pa. Pub. Util. Comm'n v. City of Lancaster – Bureau of Water*, Docket Nos. R-2010-2179103 (Opinion and Order entered July 14, 2011), *citing*, *Warner v. GTE North, Inc.*, Docket No. C-00902815 (Opinion and Order entered April 1, 1996); *Pa. Pub. Util. Comm'n v. CS Water and Sewer Associates*, 74 Pa. PUC 767 (1991).

11. Commission policy promotes settlements. 52 Pa. Code § 5.231.
12. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401.
13. A decision of the Commission must be supported by substantial evidence. 2 Pa. C.S. § 704.
14. “Substantial evidence” is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 194 Pa. Superior Ct. 278, 166 A.2d 96 (1961); *Murphy v. Comm., Dept. of Public Welfare, White Haven Center*, 85 Pa. Commonwealth Ct. 23, 480 A.2d 382 (1984).
15. The terms and conditions of the Settlement are supported by substantial evidence and are in the public interest.

# APPENDIX C

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The United Telephone Company of Pennsylvania LLC :  
d/b/a CenturyLink 2018 Annual Price Stability : R-2018-3004019  
Index/Service Price Index Report Filing :

Office of Consumer Advocate :  
v. :  
The United Telephone Company of Pennsylvania LLC : C-2018-3005400  
d/b/a CenturyLink :

The United Telephone Company of Pennsylvania LLC :  
d/b/a CenturyLink 2019 Annual Price Stability : R-2019-3012238  
Index/Service Price Index Report Filing :

Office of Consumer Advocate :  
v. :  
The United Telephone Company of Pennsylvania LLC : C-2019-3012876  
d/b/a CenturyLink :

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**STATEMENT IN SUPPORT  
THE UNITED TELEPHONE COMPANY OF PENNSYLVANIA LLC D/B/A  
CENTURYLINK**

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The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink (“CenturyLink”), a signatory to the Joint Petition for Approval of Settlement Agreement (“Settlement”), submits this Statement in Support of the Settlement filed in the above-captioned proceeding. The proposed Settlement is in the public interest and should be approved as proposed.

First, the proposed Settlement efficiently brings to a reasonable conclusion controversies spanning a two-year period concerning the alleged impact of the federal Tax Cuts and Jobs Act

(“TCJA”), as signed into law on December 22, 2017, upon CenturyLink’s annual Price Stability Plan (“PSM”) Filings of 2018 and 2019. The settling parties maintain divergent positions regarding the TCJA’s alleged impact upon CenturyLink – a company which has been subject to an alternative rate regulation plan since 1999.<sup>1</sup> From CenturyLink’s standpoint, alternative regulation and CenturyLink’s Amended Chapter 30 Plan are a complete substitution for traditional rate base/rate of return regulation and a one-time change in corporate tax rate under the TCJA is already captured in the GDP-PI inflation index within the provisions of CenturyLink’s Amended Chapter 30 Plan. Furthermore, assuming *arguendo* the TCJA qualifies as a “exogenous event”, factual and legal issues arise with the quantification of an alleged “exogenous event” under the specific language in CenturyLink’s Amended Chapter 30 Plan.

CenturyLink raises these points only to underscore the Settlement’s significant benefits of saving time, resources, and expenses given the potential for years of protracted litigation on these contentious issues. In addition, settling parties have aimed to submit the proposed Settlement to the Commission sufficiently in advance of CenturyLink’s September 2020 PSP Filing. The proposed Settlement therefore provides certainty relative to CenturyLink’s 2020 PSP Filing, along with the savings of time, resources, and expenses with amicable resolution of CenturyLink’s 2018 and 2019 PSP Filings.

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<sup>1</sup> In 1993, the General Assembly enacted legislation that became known as “Chapter 30” of the Public Utility Code. CenturyLink’s Chapter 30 Plan was approved by the Commission in 1999. *See, Petition of the United Telephone Company of Pennsylvania for Approval Under Chapter 30 of the Public Utility Code of an Alternative Regulation and Network Modernization Plan*, Docket No. P-00981410, Opinion and Order, entered July 16, 1999, Chapter 30 expired on December 31, 2003. On November 30, 2004, Governor Edward G. Rendell approved and signed House Bill 30, Printer’s No. 4778 (known as “Act 183”). *See*, 66 Pa.C.S. §§ 3011 *et seq.* On March 15, 2005, consistent with the requirements of Act 183, CenturyLink filed its Amended Alternative Regulation Plan with the Commission, as revised on June 9, 2005. By Order entered June 23, 2005, the Commission approved CenturyLink’s Revised Amended Alternative Regulation Plan (“CenturyLink Amended Chapter 30 Plan”).

Second, the proposed Settlement contains provisions to ensure rate certainty and stability.<sup>2</sup> CenturyLink has agreed to eliminate certain amounts from the available cumulative bank of unused rate increases and thereby such amounts could not be utilized for future recovery through rates.

Specifically, CenturyLink has agreed to forgo from CenturyLink's cumulative bank both its 2018 maximum allowed noncompetitive revenue increase of \$473,890 and its 2019 maximum allowed noncompetitive revenue increase of \$438,621, for a total reduction of \$912,511. These allowable revenues will be removed from CenturyLink's cumulative bank in CenturyLink's 2020 PSP Filing.<sup>3</sup>

In addition, when it submits its upcoming 2020 PSP Filing on or before September 1, 2020, CenturyLink has agreed for purposes of this settlement not to increase the cumulative bank by the maximum allowed noncompetitive revenue increase from CenturyLink's 2020 PSP Filing, an amount which is estimated to range from \$425,000 to \$475,000. *In total, the value associated with the eliminations from bank amounts ranges from an estimated \$1.337 million to \$1.387 million.* This amount – over \$1.3 million – represents potential future end user rate increases that under the terms of the Settlement CenturyLink has agreed to forgo.

Third, in addition to eliminating such bank amounts from any possible rate recovery in the future, CenturyLink has agreed not to increase *any* noncompetitive rates as part of its annual 2020 PSP Filing CenturyLink will be submitting the 2020 PSP Filing. This commitment thereby further

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<sup>2</sup> By Secretarial Letter dated March 2, 2018, the Commission had directed Incumbent Local Exchange Carriers (ILECs) to submit comments and submit data responses regarding whether rates should be adjusted to reflect the effects of the TCJA. *The Tax Cuts and Jobs Act of 2017*, Docket No. M-2018-2641242. The Pennsylvania Telephone Association (“PTA”) submitted comments, reply comments, and responses to discovery on behalf of its members. CenturyLink is a member of the PTA.

<sup>3</sup> The Commission has previously approved settlements based upon a commitment to not bank revenue increases allowable under the operation of the pricing model of CenturyLink's Revised Alternative Regulation Plan. *See, e.g., Joint Application for Approval Under Chapter 11 of the Pennsylvania Public Utility Code of the Change of Control of Qwest Communications Company, LLC and For All Other Approval Required Under the Public Utility Code*, Docket No. A-2010-217633, Order entered October 14, 2010.

promotes rate stability for *all* noncompetitive rates through mid-December 2021. Because CenturyLink agrees not to increase noncompetitive rates as part of the Company's 2020 PSP Filing, current noncompetitive services should remain in effect until CenturyLink files its 2021 PSP Filing and the Commission issues an order regarding CenturyLink's 2021 PSP Filing.<sup>4</sup>

CenturyLink respectfully submits that the permanent elimination of the bank amounts noted above from future CenturyLink's PSP filings and the commitment not to increase any noncompetitive rates in CenturyLink's 2020 PSP Filing, along with the other considerations in the proposed Settlement, achieve a fair and reasonable result regarding the TCJA and CenturyLink's Amended Chapter 30 Plan in Pennsylvania.

Only one other state has sought adjustments to any of CenturyLink's rates due to the potential impact of the TCJA. The remainder have found that it was not appropriate to seek any reductions to the TCJA from telecommunications carriers like CenturyLink or simply did not pursue the issue at all.

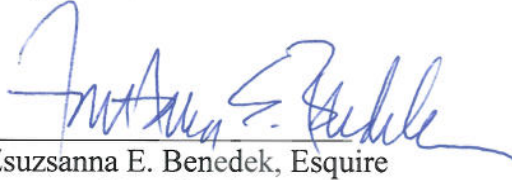
CenturyLink believes that the totality of the commitments made in this proposed Settlement reach a reasonable and fair conclusion of the contentious issues raised in Pennsylvania and that likely would have been subject to costly and protracted litigation. The proposed Settlement is in the public interest.

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<sup>4</sup> See, CenturyLink's Amended Chapter 30 Plan requires entry of a Commission Order "within one hundred five (105) days of the filing" of a CenturyLink PSP Filing. CenturyLink Amended Chapter 30 Plan, at page 18 ("Part 3 – Price Stability Plan for Noncompetitive Services") at Para. 8(A)(8). Accordingly, existing CenturyLink noncompetitive rates should remain in effect through mid-December 2021 sometime, depending upon Commission review, approval, and the scheduling of a Commission public meeting.

For the foregoing reasons, CenturyLink respectfully requests that the Commission approve the Settlement in its entirety.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Zsuzsanna E. Benedek". The signature is written in a cursive style with a horizontal line underneath it.

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Counsel for CenturyLink

DATED: January 23, 2020

# APPENDIX D

**APPENDIX D**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The United Telephone Company of Pennsylvania LLC :  
d/b/a CenturyLink 2018 Annual Price Stability : R-2018-3004019  
Index/Service Price Index Report Filing :

Office of Consumer Advocate :  
v. :  
The United Telephone Company of Pennsylvania LLC : C-2018-3005400  
d/b/a CenturyLink :

The United Telephone Company of Pennsylvania LLC :  
d/b/a CenturyLink 2019 Annual Price Stability : R-2019-3012238  
Index/Service Price Index Report Filing :

Office of Consumer Advocate :  
v. :  
The United Telephone Company of Pennsylvania LLC : C-2019-3012876  
d/b/a CenturyLink :

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**STATEMENT OF THE OFFICE OF CONSUMER ADVOCATE  
IN SUPPORT OF SETTLEMENT**

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The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Petition for Settlement (Settlement), finds the terms and conditions of the Settlement to be in the public interest for the following reasons:

## I. INTRODUCTION

On December 22, 2017, the federal Tax Cut and Jobs Act (TCJA) was signed into law. The TCJA reduced the U.S. federal corporate income tax rate from 35 percent to 21 percent. Tax Cuts and Jobs Act of 2017, Pub.L.No. 115-97, 131 Stat. 2054.

In February 2018, the Public Utility Commission commenced a proceeding “to seek to determine the effects of the TCJA on the tax liabilities of Commission-regulated public utilities for 2018 and future years and the feasibility of reflecting such impacts in the rates charged to Pennsylvania utility ratepayers.” Re: Tax Cuts and Jobs Act, Docket No. M-2018-2641242, Secretarial Letter (Feb. 12, 2018). In response to a March 2, 2018 Secretarial Letter, as to telecommunications providers, the OCA submitted comments which averred that this dramatic decrease in federal tax rates and expected savings to Pennsylvania incumbent local exchange carriers (ILECs) should be recognized in rates. Specifically, the OCA averred that the change in federal tax law qualifies as an exogenous event under an ILEC’s Chapter 30 Plan price stability mechanism (PSM).

On August 29, 2018, The United Telephone Company of Pennsylvania d/b/a CenturyLink (CenturyLink or Company) filed its annual PSM report pursuant to its amended Chapter 30 Plan. CenturyLink’s 2018 PSM report applied the one-year change in the Gross Domestic Product-Price Index (GDP-PI) in its PSM formula to calculate an allowed increase in annual revenues of \$473,890. CenturyLink chose to bank the allowed increase for possible future use.

On October 15, 2018, the Office of Consumer Advocate (OCA) filed a Formal Complaint against the CenturyLink 2018 PSM filing. The OCA challenged the Company’s rates for non-competitive services as potentially unjust and unreasonable. The OCA alleged that the

Company's 2018 PSM calculations were incomplete, absent an exogenous event adjustment to recognize the impact of the federal Tax Cut and Jobs Act (TCJA) of 2017 and so pass through to CenturyLink's consumers the benefit of the significant decrease in federal corporate tax rates.

On August 30, 2019, CenturyLink submitted its 2019 PSM filing. The Company calculated the one-year change in GDP-PI and applied it to the PSM formula. The Company calculated an allowed annual revenue increase of \$438,621. CenturyLink chose to bank the 2019 PSM increase for possible future use.

The OCA filed a Formal Complaint against CenturyLink's 2019 PSM filing, challenging the just and reasonableness of the Company's non-competitive service rates, in the absence of an exogenous event adjustment to account for the benefits of the TCJA.

The OCA conducted discovery pertinent to both CenturyLink's 2018 and 2019 PSM filings and the OCA Formal Complaints.

The OCA, Company, and Office of Small Business Advocate (OSBA) engaged in negotiations which have resulted in the proposed Settlement. The Settlement provides benefits to CenturyLink's intrastate, non-competitive service ratepayers, is in the public interest, and should be approved by the Commission.

## **II. SETTLEMENT**

### **A. The Settlement Agreement Benefits CenturyLink's Ratepayers and Is in the Public Interest.**

CenturyLink's revenues and rates for intrastate, non-competitive services are determined by the Company's PSM which factors in the one year change in the GDP-PI. The Company's PSM also allows for an adjustment to account for the occurrence of an exogenous event, as described in the Company's PSM. CenturyLink's Chapter 30 Plan also allows the Company to

bank an allowed revenue increase not implemented for possible application to increase rates in a future period. The Company's bank is cumulative. CenturyLink's cumulative bank of allowed increases not implemented stood at \$9,633,691,<sup>1</sup> before CenturyLink's 2018 and 2019 PSM filings.

The Settlement is in the public interest because it provides specific benefits to the Company's ratepayers.

For the purpose of settlement, the Parties have agreed that CenturyLink will eliminate from its cumulative bank the \$473,890 in 2018 PSM revenue amount and the \$438,621 in 2019 PSM revenue amounts. CenturyLink's ratepayers will benefit because CenturyLink will not be able in the future to increase rates to provide those additional revenues.

CenturyLink's ratepayers will also benefit from the Parties' agreement regarding CenturyLink's upcoming 2020 PSM filing. The Settlement provides that CenturyLink will not propose tariffs to increase rates as part of the 2020 PSM filing. Additionally, CenturyLink commits to not add the amount of any 2020 PSM calculated allowed revenue increase to the Company's bank. This Settlement provision assures CenturyLink's ratepayers that their rates for non-competitive services will remain at present levels through mid-December 2021. Mid-December 2021 is the earliest time that any future proposed rate increase might take effect, in the event that CenturyLink's 2021 PSM filing includes proposed tariff changes.

The OCA submits that the Settlement provides benefits to CenturyLink's ratepayers and provides a reasonable resolution to complex and difficult issues. The Settlement addresses the prime concern that CenturyLink's rates for non-competitive services must be just and reasonable.

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<sup>1</sup> The United Telephone Company d/b/a CenturyLink 2017 Price Stability Index/Service Price Index Report and Supplement No. 154 to Tariff Telephone Pa. P.U.C. No. 27, Docket No. R-2017-2620634, Opinion and Order at 6 (Oct. 26, 2017).

The Settlement provides a mutually-agreed upon resolution of this question, without the expense and administrative burden of full litigation. Litigation of the Company's 2018 and 2019 PSM filings and the OCA Formal Complaints would involve complex issues of fact, pertaining to financial and tax records and jurisdictional allocations, as well as interpretation of the Company's Chapter 30 Plan exogenous event provision. Litigation of the complex, contested issues would have involved more time, expense, and administrative resources to arrive at an answer to the same question concerning what rates are just and reasonable.

The OCA supports the Settlement as reflecting the Parties' agreement on what those rates should be for the period covered by the Company's 2018, 2019 and upcoming 2020 PSM filings, with administrative efficiency.

### III. CONCLUSION

The OCA submits that the terms and conditions of the proposed Settlement of these CenturyLink PSM filings and the OCA Formal Complaints represent a fair and reasonable resolution of the issues raised by the OCA in this proceeding. The OCA respectfully requests that the Commission approved the Settlement, without modification, as in the public interest.

Respectfully Submitted,



Barrett C. Sheridan  
Assistant Consumer Advocate  
PA Attorney I.D. # 61138  
E-Mail: BSheridan@paoca.org

Counsel for:  
Tanya J. McCloskey  
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January 23, 2020

282927

# **APPENDIX E**

**OSBA Statement in Support -**

**Filing Separately**

**(early next week)**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The United Telephone Company of Pennsylvania LLC	:	
d/b/a CenturyLink 2018 Annual Price Stability	:	R-2018-3004019
Index/Service Price Index Report Filing	:	
Office of Consumer Advocate	:	
v.	:	
The United Telephone Company of Pennsylvania LLC	:	C-2018-3005400
d/b/a CenturyLink	:	
The United Telephone Company of Pennsylvania LLC	:	
d/b/a CenturyLink 2019 Annual Price Stability	:	R-2019-3012238
Index/Service Price Index Report Filing	:	
Office of Consumer Advocate	:	
v.	:	
The United Telephone Company of Pennsylvania LLC	:	C-2019-3012876
d/b/a CenturyLink	:	

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**CERTIFICATE OF SERVICE**

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I hereby certify that I have this 23rd day of January, 2020, served a true copy, via electronic and first-class mail, of the Joint Settlement Petition, inclusive of Appendices A through and including E, upon parties of record and the Commission's Bureau of Investigation and Enforcement in accordance with the requirements of 52 Pa. Code §1.54:

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Harrisburg PA 17101

Barrett C. Sheridan  
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Richard Kanaskie, Director  
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Pennsylvania Public Utility Commission  
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