



COMMONWEALTH OF PENNSYLVANIA

February 24, 2022

E-FILED

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Joint Application of The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink; CenturyTel Broadband Services, LLC; Connect Holding LLC; and Lumen Technologies, Inc. for All Approvals of a General Rule Transfer of Control and Registration of Securities / Docket Nos. A-2021-3028668, A-2021-3028669

Dear Secretary Chiavetta:

Enclosed please find the Statement in Support of the Joint Petition for Settlement of All Issues on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceedings.

Copies will be served on all known parties in these proceedings, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Steven C. Gray

Steven C. Gray
Senior Supervising
Assistant Small Business Advocate
Attorney I.D. No. 77538

Enclosures

cc: Joseph Gillan
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Application of The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink; CenturyTel Broadband Services, LLC; Connect Holding LLC; and Lumen Technologies, Inc. for All Approvals of a General Rule Transfer of Control and Registration of Securities : **Docket Nos. A-2021-3028668, A-2021-3028669**

**STATEMENT OF
THE OFFICE OF SMALL BUSINESS ADVOCATE
IN SUPPORT OF THE
JOINT PETITION FOR SETTLEMENT OF ALL ISSUES**

Introduction

The Small Business Advocate is authorized and directed to represent the interests of the small business consumers of utility services in the Commonwealth of Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50. Pursuant to that statutory authority, the Office of Small Business Advocate (“OSBA”) filed a protest and notice of intervention in response to the Joint Application of the United Telephone Company of Pennsylvania LLC, CenturyTel Broadband Services, LLC, Connect Holding LLC, and Lumen Technologies, Inc. (collectively, the “Joint Applicants”) for all Approvals of a General Rule Transfer of Control and Registration of Securities (“*Joint Application*”) that was filed with the Pennsylvania Public Utility Commission (“Commission”) on September 22, 2021.

The OSBA actively participated in the negotiations that led to the proposed settlement and is a signatory to the Joint Petition for Settlement of All Issues (“*Joint Petition*”). The OSBA approached this transaction guided by skepticism and caution. The *Joint Petition* addresses the issues raised by this office and, therefore, the OSBA submits this statement in support.

The Joint Petition

The *Joint Petition* sets forth a list of issues that were resolved through the negotiation process. The following issues were of particular significance to the OSBA when it concluded that the *Joint Petition* was in the best interests of the Joint Applicants' small business customers.

OSBA witness Joseph Gillan summarized the deficiencies of the September 22nd *Joint Application*, as follows:

The purpose of my testimony is to explain why the Applicants (generally referred to as Connect in the testimony below) have not yet met their burden to prove that there are identifiable public benefits from the proposed transfer of control. As such, the record (as it exists today) simply does not support the requisite findings-of-fact necessary for the Commission to approve the transaction.

OSBA Statement No. 1, at 5 (footnote omitted). Mr. Gillan explained his conclusion, as follows:

Connect's dominant narrative is two-fold. First, is its promise to do nothing different; the second is its claim that it has 'better intentions' than the existing Lumen management with respect to broadband deployment.

* * *

It does make sense to adopt a 'do no harm' strategy, but these assurances do not demonstrate affirmative benefit. Rather, the strategy is nothing more than a commitment to inherit, and then continue, the status quo.

To be clear, I am not disagreeing with continuity as a baseline. However, this part of the narrative does not establish affirmative benefit and, as such, does not provide evidence that the Commission could rely upon to approve the transaction.

OSBA Statement No. 1, at 6-7.

Mr. Gillan addressed the second part of the Joint Applicants' narrative, as follows:

Connect's second narrative concerns its '*intention* to accelerate [compared to Lumen presumably] fiber deployments' in the formerly United territory. As 'evidence,' Connect points to Lumen's (*i.e.*, the existing owner of the United properties) reluctance to invest.

* * *

Lumen's assertion that it would *not* have invested is not proof that Apollo *will*. Nor should the Commission place weight on the Lumen CEO's belief that Apollo will invest in these markets, given that Lumen has no particular leverage on (nor insight into) Connect's post-transaction behavior. There are economic barriers to serve these markets and that fact is as true for Apollo as it was for Lumen, irrespective of their stated 'intentions.'

OSBA Statement No. 1, at 7-8 (emphasis in original) (footnote omitted).

Ultimately, Mr. Gillan recommended, as follows:

Because the Commission has no reason to attach any likelihood that fiber will be deployed in the Pennsylvania communities at issue here, I recommend that the Commission craft a set of conditions that will eliminate the downside risk of higher telecommunication prices and provide more certainty that Connect's claims will be realized. Specifically, I recommend that the Commission (a) adopt a rate cap on the single and multi-line (up to six) business services that small business purchase and that it reset United's Price Stability Plan to remove banked revenues that could be used to justify future increases, and (b) adopt an enforceable deployment schedule of fiber facilities that translates Connect's stated intentions to actual network facilities.

OSBA Statement No. 1, at 11 (footnote omitted).

The *Joint Petition* adopts each of Mr. Gillan's recommendations. As set forth above, the two principal concerns with the transaction are (1) that Connect would not follow through with its stated intention to expand broadband (and hence there would be no real benefit from the transaction), and (2) that economic pressures would cause Connect to increase telecommunications prices to offset the cost to deploy Internet access. Both issues are directly addressed by the *Joint Petition*.

First, the *Joint Petition* proposes a specific fiber deployment commitment for the years 2022 through 2027, inclusive. *Joint Petition*, at Paragraph 12. Specifically, the *Joint Petition*

sets forth Fiber Passing Commitments for 2022-2023 as 38,500, for 2024-2025 as 116,700, and for 2026-2027 as 35,500. *Id.* Furthermore, the Fiber Passing Commitments for residential and commercial customers shall be counted separately, and the “excess for one class of customer shall not count against the commitment for the other customer class.” *Id.*

In addition, the *Joint Petition* proposes to provide an annual report setting forth premises passed with fiber, and the existence of any public grants provided. *Joint Petition*, at Paragraph 15. This report will assist the OSBA, the Office of Consumer Advocate, and the Commission in monitoring the fiber deployment, and thus will identify whether enforcement actions (if any) are required.

The Fiber Passing Commitments and reporting requirements set forth in the *Joint Petition* are consistent with the recommendations set forth in the testimony of Mr. Gillan. Therefore, the OSBA respectfully submits these commitments are just and reasonable resolutions to the issue of creating an enforceable deployment schedule. In addition, the fiber and reporting commitments meet the affirmative public benefits standard set forth in *City of York*.

Second, the *Joint Petition* proposes no increases to R1 and B1 rates and to banked revenue in the 2022 PSI/SPI filing. *Joint Petition*, at Paragraph 17. The *Joint Petition* also proposes a price cap of \$1 on R1 and B1 rates for 2023 and 2024. *Id.* Finally, the *Joint Petition* proposes a \$7 million reduction of United Telephone’s banked revenue increases and includes a specific schedule for that reduction. *Joint Petition*, at Paragraph 18.

The *Joint Petition’s* proposals for a B1 rate freeze in 2022, the B1 rate caps in 2023 and 2024, and the \$7 million reduction in United Telephone’s banked revenue increases are consistent with the recommendations set forth in Mr. Gillan’s testimony to protect against future increases in telecommunications prices. Therefore, the OSBA respectfully submits that these

commitments, as set forth in the *Joint Petition*, are just and reasonable resolutions of these issues. Finally, the rate cap and banking reductions set forth in the *Joint Petition* also meet the affirmative public benefits standard set forth in *City of York* as these rate protections would not arise but for the *Joint Petition* (and the resulting approval of the transaction under these terms).

Conclusion

For the reasons set forth in the *Joint Petition*, as well as the factors that are enumerated in this statement, the OSBA supports the proposed *Joint Petition* and respectfully requests that the ALJ and the Commission approve the *Joint Petition* in its entirety.

Respectfully submitted,

/s/ Steven C. Gray

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Assistant Small Business Advocate
Attorney ID No. 77538

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555 Walnut Street
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Dated: February 24, 2022

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email and First-Class Mail (*unless other noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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