

Testimony in Opposition of Senate Bill 336

Testimony by CenturyLink John Idoux, Kansas Governmental Affairs Before the Senate Committee on Ways and Means February 6, 2012

Thank you Chairwoman McGinn and members of the Committee. My name is John Idoux with CenturyLink's Governmental Affairs team and I appreciate this opportunity to express CenturyLink's concerns and opposition to Senate Bill 336.

CenturyLink Introduction

CenturyLink has provided communications services in Kansas for over 110 years and today is the third largest telecommunications company in the United States providing broadband, voice, wireless and managed services to consumers and businesses across the country. CenturyLink serves over 80,000 rural Kansans in 119 communities including Junction City, Fort Riley, Gardner, and 111 communities with less than 1000 residents. CenturyLink has deployed high speed Internet facilities to all 119 Kansas communities and nearly 87% of customers have access to broadband. In addition, the company provides data, voice and managed services to enterprise, government and wholesale customers in local, national and select international markets through its high-quality advanced fiber optic network and multiple data centers. CenturyLink is recognized as a leader in the network services market by key technology industry analyst firms, and is a global leader in cloud infrastructure and hosted IT solutions for enterprises through Savvis, a CenturyLink company.

Senate Bill 336 Background

Senate Bill 336 proposes the establishment of a \$40 million Disaster Relief Fund to be used by the adjutant general or designee after a declared state disaster emergency. Nearly half of the funding of the proposed Disaster Relief Fund will come from the Kansas Universal Service Fund – up to \$10 million annually. CenturyLink does not take a position regarding the necessity of establishing such a fund. CenturyLink's opposition relates to how the proposed Disaster Relief Fund will be financed. Specifically, disaster relief should not be paid for by creating a new tax within the existing KUSF surcharge as proposed nor is it appropriate to assess telecom users for disaster relief. Furthermore, recent FCC rules result in a new surcharge this summer which will increase consumer bills. These concerns are discussed in greater detail below.

Senate Bill 336 Creates A New, Hidden Tax

There is no disguising the fact that Senate Bill 336 is the equivalent of a new tax that will be assessed on every Kansan telephone subscriber to support a \$40 million government fund. The current KUSF fee is a “surcharge” and not a “tax” because today the funds collected from the KUSF fee do not go to the State or other governmental agency but rather go to eligible telecom providers to provide basic telecom service throughout the state and offer credits for low-income users. Senate Bill 336 proposes, however, to transfer \$10 million of the KUSF to be retained by the State thereby making it a “tax”. This is not only a new tax but a tax hidden within an existing surcharge for a completely different purpose. If a telecom provider attempted to bury, hide or conceal a new fee within an existing surcharge structure it would be in violation of Commission rules, the FCC’s truth in billing rules, and quite possibly state consumer protection laws. Moreover, taking funds from the KUSF is contrary to the established declaration of public policy with respect to telecom. Among other things, it is a declared public policy of the state to “[e]nsure that every Kansan will have access to a first class telecommunications infrastructure that provides excellent services at an affordable price.” Senate Bill 336 has the effect of taking funds intended to help ensure that every Kansas has access to a first class telecom infrastructure at an affordable price, and instead is using that money for a an unrelated purpose.

Taxing Telecom Customers For Disaster Relief is Inappropriate

Neither telecom carriers nor their customers are the cause of disasters. Furthermore, neither telecom carriers nor their customers receive state financial support after a disaster to repair or replace damaged telecom equipment. When a disaster occurs that damages or destroys central offices, remote terminals, lines, and other telecom equipment, CenturyLink and other carriers fund the needed repairs and replacements internally if not covered with insurance. There is no connection between telecom and the proposed Disaster Relief Fund to justify this funding approach. Just because the KUSF surcharge is in existence does not warrant this mismatched funding proposal no more so than increasing gasoline taxes or imposing a hotel bed surcharge. Moreover, Senate Bill 336 has a disparate impact on telecom providers, and their customers, compared to other businesses.

New FCC Rules Will Place Challenges on Customers and the KUSF

Late last year, the Federal Communications Commission issued a long-awaited order to reform inter-carrier compensation and universal service which has the potential to shift millions of dollars in higher fees to Kansans. In short, the FCC eliminated charges carriers assess and pay each other over 7-9 years and allowed partial recovery through a new surcharge that will be added to

customer bills starting in July, 2012. The FCC also transitions the federal USF from providing basic voice support to supporting incremental deployment of broadband. While the specifics are still unknown, there is the potential that the KUSF will be impacted. Adding a new \$10 million obligation to the KUSF for non-related activities such as Disaster Relief is not prudent given the fact that customers will already be experiencing increased phone bills.

Conclusion

CenturyLink opposes SB 336 because its means do not justify its end. While CenturyLink does not take a position on the necessity of the proposed disaster relief fund, CenturyLink opposes the proposed \$10 million funding obligation of the KUSF. In short, this proposal creates a new, hidden tax by inappropriately taxing telecom users for a non-related activity and unnecessarily increasing both the KUSF as well as customers' bills at a time when FCC changes will already be creating significant upward pricing pressures.

Thank you for your consideration.