

FEDERAL COMMUNICATIONS COMMISSION

Enforcement Bureau

Market Disputes Resolution Division

445 12th St., SW

Washington, DC 20554

Copies sent by Email

March 13, 2018

NOTICE OF FORMAL COMPLAINT

**THIS LETTER CONTAINS IMPORTANT INFORMATION REGARDING
FILING DEADLINES AND PROCEDURES. PLEASE REVIEW IT CAREFULLY.**

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**Re: *CenturyLink Communications, LLC, et al., v. Verizon Services Corp., et al.,*
Proceeding Number 18-33, Bureau ID Number EB-18-MD-001**

Counsel:

On February 26, 2018, CenturyLink Communications, LLC (CenturyLink) filed with this Commission a formal complaint against Verizon Services Corp.; Verizon Virginia, LLC; Verizon Washington, D.C., Inc.; Verizon Maryland, LLC; Verizon Delaware, LLC; Verizon Pennsylvania, LLC; Verizon New Jersey Inc.; Verizon New York Inc.; Verizon New England, Inc.; Verizon North, LLC; Verizon South Inc., (collectively, Verizon) under Section 208 of the Communications Act of 1934, as amended (the Act), 47 U.S.C. § 208.¹ In accordance with the parties' joint request to waive Section 1.735(c) of the Commission's rules requiring "hand delivery" of the Complaint, a copy of the Complaint

¹ *CenturyLink Communications, LLC, et al., v. Verizon Services Corp., et al.*, Formal Complaint of CenturyLink Communications, LLC, Proceeding No. 18-33, Bureau ID Number EB-18-MD-001, (filed Feb. 26, 2018) (Complaint).

should already have been served on Verizon by email.² If that is not the case, Verizon should immediately contact the Commission counsel identified below.

Sections 1.720 through 1.736 of the Commission's rules govern Section 208 formal complaint proceedings.³ 47 CFR §§ 1.720-1.736. We strongly encourage the parties to read the formal complaint rules, the *Formal Complaints Order*, the *Formal Complaints Recon Order*, and the *Formal Complaints Amendment Order* fully and carefully.

By letter ruling on February 9, 2018, we granted the parties' joint request for limited waiver of certain formal complaint rules subject to specified conditions and/or clarifications.⁴ Subsequent to filing its Complaint, CenturyLink has requested an additional waiver of Sections 1.726(a) and 1.729(a) to provide for additional time to file its reply and additional written interrogatories.⁵ Verizon opposed that request, and alternatively requested additional time to file its answer if CenturyLink's additional waiver request is granted.⁶ Given the complexity of the case, we grant CenturyLink ten days to file its reply, and thus provide Verizon an additional three days to file its answer. In accordance with the formal complaint rules, as modified by our *Feb. 9 Letter Ruling* and this letter:

1) Verizon shall, on or before **April 12, 2018**, file and serve an Answer to the Complaint that complies with this Notice of Formal Complaint and 47 CFR § 1.724.⁷ Verizon shall also file and serve its request for interrogatories, if any, and shall file and serve any opposition and objections to CenturyLink's request for interrogatories, if any. 47 CFR § 1.729.

2) CenturyLink shall, on or before **April 23, 2018**, file and serve a Reply to the Answer that complies with this Notice of Formal Complaint and 47 CFR § 1.726.

² See Letter from Lisa Saks, Assistant Division Chief, Market Disputes Resolution Division, to Brendon P. Fowler, Counsel for CenturyLink Communications, LLC, and Curtis Groves, Assistant General Counsel Federal Regulatory and Legal Affairs, Verizon. (Feb. 9, 2018) (*Feb. 9 Letter Ruling*) (granting limited waivers of 47 CFR §§ 1.718, 1.720(f), 1.721(a)(6), (8) (10), (11) 1.724(a), (c), (f)(2), (g), 1.726(a), (c), (d)(2), (e), 1.729(a), 1.735(c), (e), (f)).

³ See *Implementation of the Telecommunications Act of 1996, Amendment of Rules Governing Procedures to Be Followed when Formal Complaints Are Filed Against Common Carriers*, Report and Order, 12 FCC Rcd 22497 (1997) (*Formal Complaints Order*), Order on Reconsideration, 16 FCC Rcd 5681 (2001) (*Formal Complaints Recon Order*). See also *Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure Relating to the Filing of Formal Complaints Under Section 208 of the Communications Act and Pole Attachment Complaints Under Section 224 of the Communications Act*, Order, 29 FCC Rcd 14078 (2014) (*Formal Complaints Amendment Order*).

⁴ See *supra* note 2.

⁵ See Letter from Marc S. Martin, Counsel for CenturyLink, to Sandra Gray-Fields, Market Disputes Resolution Division, Proceeding Number 18-33, Bureau ID Number EB-18-MD-001 (filed Mar. 7, 2018).

⁶ See Letter from Joshua D. Branson, Counsel for Verizon, to Sandra Gray-Fields, Market Disputes Resolution Division, Proceeding Number 18-33, Bureau ID Number EB-18-MD-001 (filed Mar. 12, 2018).

⁷ Except in rare circumstances, *motions to dismiss should not be filed*. *Formal Complaints Recon Order*, 16 FCC Rcd at 5696 ("We find this practice of filing a separate motion to dismiss to be unnecessary, in virtually all cases...[T]he Commission's rules are designed so that a defendant's answer is a comprehensive pleading containing complete factual and legal analysis, including a thorough explanation of every ground for dismissing or denying the complaint...[W]e remind defendants that the grounds for a motion to dismiss ordinarily should be raised in the answer alone rather than in a separate pleading.").

3) CenturyLink shall, on or before **April 23, 2018**, file and serve its second request for interrogatories, if any, and file and serve any opposition and objections to Verizon's request for interrogatories, if any. 47 CFR § 1.729.

4) Verizon shall, on or before **April 30, 2018**, file any opposition and objections to CenturyLink's second request for interrogatories, if any. 47 CFR § 1.729.

5) The parties shall meet prior to complying with Commission rule 1.732(g), 1.733(b)(1). One purpose of that meeting is to resolve or narrow as many issues as possible, including, but not limited to, settlement prospects, discovery, factual and legal issues in dispute, pleading schedules, and the creation of a joint statement of stipulated facts, disputed facts, and key legal issues. *See* 47 CFR § 1.733(b)(1).

6) By **May 7, 2018**, the parties must file with the Commission Secretary and the Commission counsel identified below a joint statement of all proposals agreed to and any disputes remaining with respect to the matters listed in Commission rule 1.733(b)(1)(i)-(iv) as a result of the parties' meeting. At the same time, the parties also must submit a joint statement of stipulated facts, disputed facts, and key legal issues. Both joint statements must be hand-delivered (if counsel is located in the Washington, DC area) and e-mailed to the Commission counsel identified below, and filed with the Commission Secretary. The parties may submit these two joint statements in a single document, if they separately identify each. **We strongly encourage the parties to devote substantial effort to developing comprehensive and detailed joint statements.**

7) We will schedule an initial status conference, if necessary, after we receive and review the parties' joint statements.

8) The parties shall file a public version of all written submissions in this proceeding using the Commission's Electronic Comment Filing System (ECFS). All written submissions shall (a) prominently contain the Proceeding Number and Bureau ID Number referenced above (*see, e.g.*, 47 CFR § 1.7), and (b) be addressed to the Commission Secretary.⁸ If a party seeks to file both a public version and a confidential version of a submission, it must file the public (redacted) version on ECFS and file the confidential (unredacted) version in hard copy form with the Office of the Commission Secretary. *See* 47 CFR § 1.731. In addition to filing the unredacted version with the Office of the Secretary, please leave at that office three additional unredacted hard copies marked as "Courtesy Staff Copies. EB-MDRD, 202-418-7330." *See* 47 U.S.C. § 154(i); 47 CFR § 1.735(e). In addition, the parties shall email to the Commission staff identified below courtesy copies of all filings (both public versions and confidential versions) in a format that permits full text searching. *See* 47 U.S.C. § 154(i); 47 CFR § 1.735(e). *See Formal Complaints Amendment Order*, 29 FCC Rcd at 14081, para. 11 (requiring parties to provide hard copies of submissions to Commission staff upon request).

The parties should note that this proceeding is restricted for *ex parte* purposes pursuant to 47 CFR Part 1, Subpart H. Further, the parties shall retain all records that may be relevant to the complaint, including electronic records, until the Commission's decision in this proceeding is final and no longer subject to judicial review. *See* 47 U.S.C. §§ 154(i), 208(a); 47 CFR § 42.7.


Commission staff assigned to this matter are: Rosemary McEnery (counsel) (202) 418-7336 and rosemary.mcenery@fcc.gov, Erin Boone (counsel), (202) 418-0736 and erin.boone@fcc.gov; Anthony J.

⁸ The parties are asked to ensure that they caption their submissions with the correct Bureau ID Number and Proceeding Number. The new Bureau ID Number for the converted informal complaint is EB-18-MD-001, and the correct Proceeding Number is 18-33.

DeLaurentis (counsel) (202) 418-0198 and anthony.delaurentis@fcc.gov, and Sandra Gray-Fields (administrative), (202) 418-0961 and sandra.gray-fields@fcc.gov.

This letter ruling is issued pursuant to Sections 4(i), 4(j), and 208 of the Act, 47 U.S.C. §§ 154(i), 154(j), 208, Sections 1.3 and 1.720-1.736 of the Commission's rules, 47 CFR §§ 1.3, 1.720-1.736, and the authority delegated in Sections 0.111 and 0.311 of the Commission's rules, 47 CFR §§ 0.111, 0.311.

FEDERAL COMMUNICATIONS COMMISSION


Rosemary H. McEnery, Acting Division Chief,
Market Disputes Resolution Division
Enforcement Bureau