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VIA ECFS

Ex Parte Notice

October 5, 2016

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *Business Data Services in an Internet Protocol Environment*, WC Docket No. 16-143; *Investigation of Certain Price Cap Local Exchange Carrier Business Data Services Tariff Pricing Plans*, WC Docket No. 15-247; *Special Access for Price Cap Local Exchange Carriers; AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, WC Docket No. 05-25, RM-10593

Dear Ms. Dortch:

In developing a Competitive Market Test, the Commission must consider the presence of both actual and potential competition in the census tract (or other geographic area) in question. Among other things, potential competition can take the form of fiber optic facilities that traverse or run near that census tract but that were not used, at least as of 2013, to provide business data service in that census tract. Certain proponents of expansive rate regulation, including Verizon and INCOMPAS, have urged the Commission to ignore the presence of such competitive fiber and to count competitors only if they have an actual customer or connection currently served by their own facilities in that area.¹ These parties claim that it would be economically feasible to serve customers with fiber facilities in a census block or tract only if there is a splice point on those facilities in the census block, which they assert often is not the case.² They therefore propose that the Commission assume that a non-ILEC provider is capable of serving one of these

¹ See, e.g., *Reply Comments of Verizon*, WC Docket Nos. 16-143, 15-247, 05-25, RM-10593, at 6-7 (Aug. 9, 2016); Letter from Kathleen Grillo, Verizon, and Chip Pickering, INCOMPAS, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 16-143, 05-25, RM-10593, at 2-3 (Aug. 9, 2016); *Reply Comments of Sprint Corporation*, WC Docket Nos. 16-143, 15-247, 05-25, RM-10593, at 6-7 (Aug. 9, 2016) (Sprint Reply).

² See, e.g., Sprint Reply at 6-7.

areas only if it already has a customer or connection in that area, regardless of whether it has nearby fiber facilities.

In response, AT&T noted in a recent filing that a Competitive Market Test based solely on the presence of actual customers and connections would be radically underinclusive, because “there are *far more* splice points in any network than there are connections[,]”³ allowing for economic provision of service to new customers upon demand. AT&T further noted that basic engineering principles and sound business decisionmaking undoubtedly lead CLECs to deploy splice points in a manner that allows them to use their fiber investments to serve businesses in reasonable proximity to that fiber, because “[f]ailure to do so would produce a network to nowhere, and would be a colossal economic and engineering blunder.”⁴

Like AT&T, when deploying fiber optic facilities, CenturyLink installs spare splice points to serve anticipated future demand.⁵ This is true whether CenturyLink is providing service as an in-region incumbent or as a CLEC deploying a fiber optic ring outside CenturyLink’s incumbent footprint. CenturyLink also minimizes the cost of adding *new* splice points by incorporating fiber “slack” in its network, which also expedites the installation of splice points and generally avoids the need to disrupt service to customers already served on that fiber cable.⁶

Given the ease of doing so, CenturyLink routinely adds splice points to its metro fiber networks, multiple times a day, to provision services, add new customers, and perform repairs.⁷ Establishing a splice point generally does not significantly increase the cost of adding a new customer location to CenturyLink’s network. The use of spare splice points is an industry best practice, utilized not only by CenturyLink but by virtually all providers that deploy fiber optic networks. As a result, the need for a new splice point typically does not negatively affect the

³ Letter from Christopher T. Shenk, Counsel for AT&T, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 16-143, 15-247, 05-25, RM-10593, at 2 (emphasis in original) (Sept. 23, 2016).

⁴ See *id.* at 2, 3. See also Sean Buckley, Fierce Telecom, *Level 3 Says Comcast, Charter, Other Cable Operators Can’t Match Its Network Scale, Service Breadth* (Sept. 23, 2016) (“We have connectivity not just within one market, but throughout the U.S. . . . and we can go to where our customers are.”) (quoting Jeff Storey, CEO of Level 3), available at <http://www.fiercetelecom.com/telecom/level-3-says-comcast-charter-and-other-cable-operators-can-t-match-its-network-scale>.

⁵ See Declaration of AnnMarie Cederberg ¶ 3, attached hereto (Cederberg Declaration).

⁶ *Id.* ¶ 4. Slack is spare fiber optic cable that is connected to the fiber network but coiled in a hand hole or manhole for the purpose of adding new customers and undertaking necessary repairs to the fiber ring. *Id.*

⁷ *Id.* In adding new splice points, CenturyLink follows standards applicable to all fiber-based providers. See *id.* ¶ 6.

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business case for deploying a fiber lateral to serve a new customer, for CenturyLink or its competitors.⁸

For all these reasons, the Commission should dismiss CLEC urgings to ignore the presence of fiber facilities in a census tract or census block and instead establish a Competitive Market Test that counts a competitor as present in that tract or block if it has facilities in that tract or block, or within 2,000 feet of it.

Pursuant to section 1.1206(b) of the Commission's rules, this notice is being filed in the above-referenced dockets. Please contact the undersigned with any questions.

Sincerely,

/s/ Melissa Newman

Enclosure

cc: Matthew DelNero
Deena Shetler
Pamela Arluk
David Zesiger
William Kehoe
William Dever

⁸ See *id.* ¶ 5. See also Reply Comments of Cox Communications, Inc., WC Docket No. 16-143, 05-25, at 15 (Aug. 9, 2016) (“[T]he location of current splice points should not be determinative [of the existence of competition] because adding new splice points is not overly burdensome and each new extension of fiber creates additional splice points.”)

DECLARATION OF ANNMARIE CEDERBERG

1. My name is AnnMarie Cederberg. My business address is 700 West Mineral Avenue, Littleton, CO 80120. I have been employed by CenturyLink and its predecessor companies for 38 years. My current position is Manager of Operational Support. In this position, I provide guidance to CenturyLink's planning teams related to the placement and design of network infrastructure. I have held various other positions at CenturyLink, including managing CenturyLink's planners and field engineers in Colorado.

2. In this declaration, I discuss CenturyLink's practices for establishing and adding splice points for its metro fiber optic facilities when the company operates within its incumbent local exchange carrier (ILEC) footprint or as a competitive local exchange carrier (CLEC) outside that footprint.¹

3. Like any provider, CenturyLink deploys fiber facilities to meet both current and anticipated demand. When deploying a fiber ring in a metropolitan area, CenturyLink extends branches off the main fiber run to pass nearby potential customers and minimize the length of fiber laterals needed to serve those customers.² The hand hole or manhole utility vault for each of those branches contains a splice point that can be used to connect a lateral to serve a new customer.³ CenturyLink also deploys additional splice points to accommodate anticipated growth in demand. Not surprisingly, CenturyLink generally locates those spare splice points near large office buildings and other customer locations that CenturyLink does not currently serve but where CenturyLink might have a future opportunity to win new business. By installing such spare splice points, CenturyLink reduces the cost of adding those locations to its fiber network in the future.

4. CenturyLink also takes steps that are standard in the industry—and indeed are best practices used by ILECs, CLECs, cable providers, and other entities that deploy fiber networks—when deploying a fiber ring to minimize the cost of adding new splice points, by incorporating “slack” in hand holes and manholes. Slack is spare fiber optic cable that is connected to the fiber network but coiled in a hand hole or manhole and is used to add future customers and undertake any necessary repairs to the fiber ring. Where slack is available, a technician can quickly and easily move the slack to a controlled environment (typically in a truck

¹ A “splice” is a permanent joint between two fibers.

² A “branch” is a fiber run designed to serve multiple customers along that route. A “lateral,” in contrast, is constructed to connect a single customer location to a fiber ring.

³ A “hand hole” is a small utility box (ranging from 17” x 24” to 30” x 48”) that is set below ground, with a lid flush to the surrounding surface. In this context, they are used to house and protect optical fiber splices and distribution elements and provide access for installation and maintenance operations. A “manhole” utility vault serves a similar purpose but is much larger.

or trailer) to install a splice case and do any necessary splicing work,⁴ thereby expediting and minimizing the cost of adding new splice points. Slack also permits the technician to splice non-working fiber strands in a cable without interrupting service being provided over the working strands in that cable. Generally slack is available at the hand hole or manhole closest to the location at which a new fiber splice is required. If it is not, then the technician utilizes the slack at the next closest hand hole or manhole. In the rare instance that no slack is available, CenturyLink schedules an outage to complete the necessary work to add a splice point. That said, the absence of slack does not make a particular deployment prohibitively expensive or impractical; its availability merely accelerates deployment.

5. CenturyLink routinely adds splice points to its metro fiber networks, multiple times a day, to provision services, add new customers, and perform repairs. Obviously adding a splice point to an existing fiber run is much more cost effective than building out a new fiber run to the new customer location. Adding such a splice point also generally does not significantly increase the cost of adding a new customer location to CenturyLink's network. As a result, it is unlikely to affect the business case developed to determine whether CenturyLink will build a fiber lateral to serve a new customer.

6. It is my understanding that other fiber optic providers follow similar processes and frequently add splice points to their networks as well. If any do not, they should, in my opinion, because these processes reflect industry best practices for an efficient and appropriately designed fiber network. In installing splice points, CenturyLink follows the guidelines of the National Electrical Contractors Association and Fiber Optic Association, which apply to all fiber-based providers.⁵

⁴ A "splice case" is an access point on a fiber optic cable at which a technician can access and splice individual fibers in the cable. The splice case also protects open fibers not in a cable sheath.

⁵ See National Electrical Contractors Association/Fiber Optic Association, *Standard for Installing and Testing Fiber Optics*, NECA/FOA 301-2009, available at [https://www.necanet.org/store/product/neca-foa-301-2009-standard-for-installing-and-testing-fiber-optics-\(ansi\)-Standard](https://www.necanet.org/store/product/neca-foa-301-2009-standard-for-installing-and-testing-fiber-optics-(ansi)-Standard).

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on: October 5, 2016


AnnMarie Cederberg