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**REDACTED – FOR PUBLIC INSPECTION**

*Via ECFS*

March 1, 2019

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Re: *Regulation of Business Data Services for Rate-of Return Local Exchange Carriers*, WC Docket No. 17-144; *Business Data Services in an Internet Protocol Environment*, WC Docket No. 16-143; *Special Access for Price Cap Local Exchange Carriers*, WC Docket No. 05-25 – Refile of March 1, 2019 CenturyLink Submission

Dear Ms. Dortch:

On March 1, 2019, CenturyLink filed a copy of a report published by Atlantic-ACM in 2018 in the above captioned proceedings.<sup>1</sup> In making that filing earlier today, the copy of the report included was inadvertently submitted in portrait rather than landscape orientation. The purpose of this resubmission is to now file the *Atlantic-ACM 2018-2023 Forecast* report in the correct landscape orientation. As the report is a confidential document, CenturyLink is again making this submission in non-redacted form. As described in the attached, consistent with the nature of the confidential information in the report, the non-redacted version is marked as follows, **“CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER AND ORDER IN WC DOCKET NO. 05-25, RM 10593 & WC DOCKET NO. 16-143, BEFORE THE FEDERAL COMMUNICATIONS COMMISSION”**.

And, as consistent with the *Protective Orders* cited in the attached correspondence, CenturyLink is refile with the Office of the Secretary one hard copy of this non-redacted submission that includes a copy of the *Atlantic-ACM 2018-2023 Forecast* report. CenturyLink is

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<sup>1</sup> Atlantic-ACM, *U.S. Telecom Wireline and Wireless Sizing and Share Forecast: 2018-2023* (Oct. 2018) (*Atlantic-ACM 2018-2023 Forecast*).

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also providing two hard copies of its refiled non-redacted submission to Christopher Koves of the Wireline Competition Bureau.

Additionally, CenturyLink is filing today via the Commission's Electronic Comment Filing System (ECFS) a redacted submission (which includes a redacted version of the attached correspondence). Consistent with the *Protective Orders*, the redacted version of CenturyLink's filing omits the confidential information (that is, the *Atlantic-ACM 2018-2023 Forecast* report), and is marked, "**REDACTED – FOR PUBLIC INSPECTION**".

If you have any questions regarding this submission, please contact the undersigned.

Sincerely,

/s/ Craig J. Brown

Attachments

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Re: *Regulation of Business Data Services for Rate-of Return Local Exchange Carriers*, WC Docket No. 17-144; *Business Data Services in an Internet Protocol Environment*, WC Docket No. 16-143; *Special Access for Price Cap Local Exchange Carriers*, WC Docket No. 05-25

Dear Ms. Dortch:

On February 8, 2019 CenturyLink, Inc.<sup>1</sup> submitted comments supporting the Commission's proposal to adopt, on remand, the same TDM transport rule it established in the *BDS Order*,<sup>2</sup> forbearing from ex ante pricing regulation of price cap carriers' TDM-based transport business data services (BDS).<sup>3</sup> CenturyLink cited to a recent report published by

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<sup>1</sup> This submission is made by and on behalf of CenturyLink, Inc. and its wholly owned subsidiaries.

<sup>2</sup> *Business Data Services in an Internet Protocol Environment*, WC Docket Nos. 16-143 *et al.*, Report and Order, 32 FCC Rcd 3459, 3500-02 ¶¶ 90-92 (2017) (*BDS Order*), *remanded in part sub nom.*, *Citizens Telecomms. Co. of Minn., LLC v. FCC*, 901 F.3d 991 (2018), *mandate stayed until* Nov. 12, 2019 (Order, 8<sup>th</sup> Cir. Nov. 9, 2018) (Nos. 17-2296 *et al.*) (*Stay Order*).

<sup>3</sup> *Regulation of Business Data Services for Rate-of-Return Local Exchange Carriers*, WC Docket Nos. 17-144 *et al.*, Report and Order, Second Further Notice of Proposed Rulemaking, and Further Notice of Proposed Rulemaking, FCC 18-146 (rel. Oct. 24, 2018); 83 Fed. Reg. 61358 (Nov. 29, 2018); Erratum, WC Docket Nos. 17-144 *et al.* (rel. Dec. 11, 2018) (*Notice*).

Atlantic-ACM in 2018.<sup>4</sup> The report confirms that ILECs face intense demand for BDS, including for TDM transport, as wholesale and resale purchasers shift toward higher capacity Ethernet, Wavelength, and other IP-based services available from a variety of suppliers. The *Atlantic-ACM 2018-2023 Forecast* report was not attached to CenturyLink's Comments, is not available from publicly available sources and its content includes vendor-produced proprietary and confidential information.

To ensure a complete record, CenturyLink is filing for inclusion in the above referenced dockets a copy of the *Atlantic-ACM 2018-2023 Forecast* report, along with an associated request and justification for confidential treatment. The report is considered confidential both by the vendor and CenturyLink as it contains proprietary market intelligence on the U.S. telecommunications industry's service revenues, forecasts of voice and data product growth and quantitative market analyses of revenue segmentations and service provider product offerings. The report also contains vendor proprietary projections and predictive statements concerning evolving consumer, business, wholesale and wireless telecommunications markets. It generally is available only by paid subscription. Atlantic-ACM authorized CenturyLink to submit this report to the Commission, subject to that report receiving confidential treatment.

The *Atlantic-ACM 2018-2023 Forecast* report is entitled to protection from public disclosure by the *Protective Orders*<sup>5</sup> in WC Docket No. 05-25, RM-10593 and WC Docket No. 16-143. Although this confidential and proprietary commercial information is specifically protected from disclosure pursuant to the terms of the *Protective Orders*, the Confidentiality Appendix attached to this correspondence provides separate justification for confidential treatment under FOIA and the Commission's implementing rules, 47 C.F.R. §§ 0.457, 0.459

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<sup>4</sup> Atlantic-ACM, *U.S. Telecom Wireline and Wireless Sizing and Share Forecast: 2018-2023* (Oct. 2018) (*Atlantic-ACM 2018-2023 Forecast*).

<sup>5</sup> *Business Data Services in an Internet Protocol Environment; Investigation of Certain Price Cap Local Exchange Carrier Business Data Services Tariff Pricing Plans; 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 Nos. 16-143, 15-247 and 05-25, RM-10593, Order, 31 FCC Rcd 7104 (2016); *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, Modified Protective Order, 25 FCC Rcd 15168 (2010) (collectively, *Protective Orders*). The *Modified Protective Order* notes that "[c]onfidential information means information . . . that is not otherwise available from publicly available sources[.]" *Modified Protective Order*, 25 FCC Rcd at 15169 ¶ 4.

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(including to protect the report from disclosure as submitted in WC Docket No. 17-144, for which the Commission has not adopted a Protective Order to date).

Consistent with the nature of the confidential information enclosed with this submission, the non-redacted version is marked as follows, “**CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER AND ORDER IN WC DOCKET NO. 05-25, RM 10593 & WC DOCKET NO. 16-143, BEFORE THE FEDERAL COMMUNICATIONS COMMISSION**”. This confidential information is competitively sensitive proprietary commercial information and thus should not be available for public inspection. Release of the confidential information would have a substantial negative competitive impact on CenturyLink’s vendor, Atlantic-ACM.<sup>6</sup> Accordingly, the submitted confidential information is appropriate for non-disclosure pursuant to the *Protective Orders*, and under FOIA and sections 0.457(d) and 0.459 of the Commission’s rules.

Consistent with the *Protective Orders*, CenturyLink is filing with the Office of the Secretary one hard copy of its non-redacted submission that includes a copy of the *Atlantic-ACM 2018-2023 Forecast* report. CenturyLink is also providing two hard copies of its non-redacted submission to Christopher Koves of the Wireline Competition Bureau.

CenturyLink is also filing today via the Commission’s Electronic Comment Filing System (ECFS) a redacted version of its submission. Consistent with the *Protective Orders*, the redacted version of CenturyLink’s filing omits the confidential information (that is, the *Atlantic-ACM 2018-2023 Forecast* report), and is marked, “**REDACTED – FOR PUBLIC INSPECTION**”.

The text of this letter and the attached Confidentiality Appendix contain no confidential information and the non-redacted and redacted versions of the submission are the same except for the omission of the confidential information, the confidentiality markings and the manner of submission noted in the heading on the initial page of this letter. CenturyLink requests that today’s submission be made a part of the record of the above-captioned proceedings.

Sincerely,

/s/ Craig J. Brown

Enclosures

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<sup>6</sup> Atlantic-ACM charges a licensing fee to the public to access its proprietary reports, including the *Atlantic-ACM 2018-2023 Forecast* report.

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## CONFIDENTIALITY APPENDIX

### 47 C.F.R. § 0.457 (2017)

The Atlantic-ACM, *U.S. Telecom Wireline and Wireless Sizing and Share Forecast: 2018-2023* report (Oct. 2018), attached to CenturyLink's submission of March 1, 2019 in the above captioned proceedings, is entitled to confidential treatment under 47 C.F.R. § 0.457, and the *Protective Orders* in WC Docket Nos. 05-25, RM-10593 and 16-143.<sup>7</sup> The report is considered confidential both by the vendor and CenturyLink as it contains proprietary market intelligence on the U.S. telecommunications industry's service revenues, forecasts of voice and data product growth and quantitative market analyses of revenue segmentations and service provider product offerings. The report also contains vendor proprietary projections and predictive statements concerning evolving consumer, business, wholesale and wireless telecommunications markets.

This information is sensitive commercial information appropriate for non-disclosure to the public pursuant to the above-referenced *Protective Orders*. And, CenturyLink's vendor also considers the information in its *Atlantic-ACM 2018-2023 Forecast* report to be proprietary and competitively sensitive. This confidential proprietary commercial information is not routinely available from CenturyLink nor is it available from its vendor, Atlantic-ACM, except pursuant to a licensing fee, and nor is it available for public inspection from the Commission and thus is protected from public availability under 47 C.F.R. § 0.457(d).

### 47 C.F.R. § 0.459 (2011)

CenturyLink also considers the Atlantic-ACM, *U.S. Telecom Wireline and Wireless Sizing and Share Forecast: 2018-2023* report (Oct. 2018) attached to CenturyLink's submission of

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<sup>7</sup> *Business Data Services in an Internet Protocol Environment; Investigation of Certain Price Cap Local Exchange Carrier Business Data Services Tariff Pricing Plans; 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 Nos. 16-143, 15-247 and 05-25, RM-10593, Order, 31 FCC Rcd 7104 (2016); *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, Modified Protective Order, 25 FCC Rcd 15168 (2010) (collectively, *Protective Orders*). The *Modified Protective Order* notes that "[c]onfidential information means information . . . that is not otherwise available from publicly available sources[.]" *Modified Protective Order*, 25 FCC Rcd at 15169 ¶ 4.

March 1, 2019 in the above captioned proceedings as entitled to confidential treatment and protection from public disclosure pursuant to 47 C.F.R. § 0.459(b) as described as follows.

Information for which confidential treatment is sought

CenturyLink seeks confidential treatment of the *Atlantic-ACM 2018-2023 Forecast* report attached to CenturyLink's submission of March 1, 2019 in WC Docket Nos. 17-144 *et al.*, which is sensitive commercial information protected from public disclosure and availability pursuant to the above-referenced *Protective Orders* and 47 C.F.R. § 0.457.

Commission proceeding in which the information was submitted

The March 1, 2019 submission of CenturyLink is being filed in WC Docket Nos. 17-144, 16-143 and 05-25, *Regulation of Business Data Services for Rate-of Return Local Exchange Carriers; Business Data Services in an Internet Protocol Environment; Special Access for Price Cap Local Exchange Carriers*.

Degree to which the information in question is commercial or financial, or contains a trade secret or is privileged

The type of confidential information being submitted includes vendor-produced proprietary market intelligence on the U.S. telecommunications industry's service revenues, forecasts of voice and data product growth and quantitative market analyses of revenue segmentations and service provider product offerings. The report also contains vendor proprietary projections and predictive statements concerning evolving consumer, business, wholesale and wireless telecommunications markets. This information is sensitive commercial information appropriate for non-disclosure to the public pursuant to the above-referenced *Protective Orders*. And, CenturyLink's vendor also considers the information in its *Atlantic-ACM 2018-2023 Forecast* report to be proprietary and competitively sensitive. This confidential proprietary commercial information also is not routinely available from CenturyLink nor is it available from its vendor, Atlantic-ACM, and nor is it available for public inspection from the Commission and thus is protected from public availability under 47 C.F.R. § 0.457(d).

Degree to which the information concerns a service that is subject to competition; and manner in which disclosure of the information could result in substantial competitive harm

The type of confidential information included with CenturyLink's submission would generally not be subject to routine public inspection under the Commission's rules (47 C.F.R. § 0.457(d)), demonstrating that the Commission already anticipates that its release likely would produce competitive harm to both CenturyLink and its vendor, Atlantic-ACM. The telecommunications services CenturyLink provides – including the services at issue in the special access and business

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data services rulemakings – are all competitive. The release of this confidential proprietary information would cause competitive harm by allowing competitors to become aware of sensitive commercial information that was obtained from its vendor pursuant to a licensing fee. And, CenturyLink's vendor would also consider the information in its *2018-2023 Forecast* report to be proprietary and competitively sensitive, and thus its release would cause Atlantic-ACM harm in foregone revenues were its report to be publicly available without paying that fee.

Measures taken to prevent unauthorized disclosure; and availability of the information to the public and extent of any previous disclosure of the information to third parties

Both CenturyLink and its vendor, Atlantic-ACM, have treated and treat the sensitive commercial information in the *Atlantic-ACM 2018-2023 Forecast* report attached to CenturyLink's March 1, 2019 submission as confidential, and have protected it from public disclosure.

Justification of the period during which CenturyLink asserts that the material should not be available for public disclosure

At this time, CenturyLink cannot determine any date on which the sensitive commercial information included with its submission should not be considered confidential except in conformance with CenturyLink's general records retention policy absent any continuing legal hold, and as subsequently determined at any point by its vendor, Atlantic-ACM.

Other information that CenturyLink believes may be useful in assessing whether its request for confidentiality should be granted

Under applicable FCC and court rulings, the information in question should be withheld from public disclosure. Exemption 4 of the Freedom of Information Act shields information that is (1) commercial or financial in nature; (2) obtained from a person outside government; and (3) privileged or confidential. The information in question satisfies this test.



ATTACHMENT

03/01/19 CenturyLink Submission in WC Docket Nos. 17-144, et al.

**[REPORT REDACTED IN ITS ENTIRETY]**