

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matters of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Wireline Competition Bureau Seeks Comment on Petition for Expedited Declaratory Ruling)	WC Docket No. 18-41

COMMENTS OF CENTURYLINK

CenturyLink, Inc. (CenturyLink)¹ submits these comments in response to the Petition for Expedited Declaratory Ruling filed by South Dakota Network in the above-referenced matter. (the “SDN Petition”).²

The SDN Petition asks that the Commission do two things: (1) declare that a contract that SDN has entered into with AT&T, apparently for intermediate network services to facilitate the exchange of traffic between AT&T (acting as an IXC) and Northern Valley Communications, Inc. (“NVC”) (described by SDN as a “rural competitive local exchange carrier”), is lawful; (2) declare that CLECs such as NVC have no exclusive right to transport terminating traffic to their end office and that the filing of a CLEC federal tariff does not confer such a privilege. As SDN further describes the context in its petition, NVC is a well-known

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

² Petition for Expedited Declaratory Ruling of South Dakota Network, LLC, WC Docket No. 18-41 (filed Feb. 7, 2018); Wireline Competition Bureau Seeks Comment on Petition for Expedited Declaratory Ruling, WC Docket No. 18-41, Public Notice, DA 18-137 (rel. Feb. 12, 2018).

traffic stimulator and the AT&T contract is an offshoot of its ongoing efforts to deal with the problems created by those traffic stimulating activities.

CenturyLink files these brief comments to make three concise points:

First, CenturyLink encourages the Commission to see this petition as further evidence of the need for it to act expeditiously addressing the issues raised in the recent Intercarrier Compensation (ICC) *Public Notice*,³ both to resolve still-open critical questions from the *2011 ICC Transformation FNPRM*⁴ that are complicating the industry's implementation of the *Transformation Order* transition, and to take significant strides toward placing the treatment of tandem services on a solid footing for the IP migration. The apparent work-around sought by SDN and AT&T here, via their contract, might be a good short-term solution, but it is not a solution to the problems with traffic stimulators and tandem services charges more broadly. Nor is it a solution to other current problems in the industry where other types of terminating carriers (including CMRS providers) refuse to establish direct connections and force carriers instead to pay for sending terminating traffic through certain intermediate carrier partners.

³ "Parties Asked to Refresh the Record on Intercarrier Compensation Reform Related to the Network Edge, Tandem Switching and Transport, and Transit", WC Docket No. 10-90, CC Docket No. 01-92, Public Notice, 32 FCC Rcd 6856 (2017); 82 Fed. Reg. 44754 (Sep. 26, 2017); Public Notice, 32 FCC Rcd 7286 (2017); Order, 32 FCC Rcd 9409 (2017).

⁴ See, e.g., *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform - Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd 17663, 18116-20 ¶¶ 1316-25 (2011), *aff'd sub nom.*, *Direct Communs. Cedar Valley, LLC v. FCC and In re: FCC 11-161*, Nos. 11-9900, *et al.*, 753 F.3d 1015 (10th Cir. 2014), *petitions for rehearing en banc denied*, Orders, Aug. 27, 2014, *cert. denied*, 135 S. Ct. 2072, May 4, 2015 (Nos. 14-610, *et al.*) (*Transformation Order* or *2011 ICC Transformation FNPRM*).

Second, and related to this point, the Commission would go a long way toward addressing both the problems leading to the SDN Petition context and these broader ICC issues if it clarified, as CenturyLink and various other parties have suggested,⁵ that IXCs have a right to establish direct connections to end offices or their equivalent. The record makes clear that the party that has the financial responsibility to carry traffic to or from a network edge must have the unfettered freedom to choose how, and by what arrangements, that party will carry traffic to network edges. Otherwise, arbitrage, like the arbitrage at issue in the SDN Petition, will inevitably result.

Third, given the specific problems created by the traffic stimulation aspects of the call flows at issue in the SDN Petition, it may also be time to take specific steps to tweak the Commission's traffic stimulation rules to limit the ability of traffic stimulators to abuse the ability to generate tandem services charges. CenturyLink opposed the recently withdrawn AT&T forbearance petition because of certain flaws – for example, CenturyLink concluded that implementation problems would result from the broad-brush relief sought there (eliminating the ability of tandem providers to tariff their services to the extent traffic stimulators might make use of their services).⁶ But, it is possible that a more modest tweaking of the Commission's traffic stimulation rules could help address current problems. Consistent with the above discussion,

⁵ See, e.g., Reply Comments of CenturyLink, WC Docket No. 10-90 and CC Docket No. 01-92, at 1-4 (filed Nov. 20, 2017). CenturyLink has also encouraged the Commission to establish a right to equal and fair compensation to all types of carriers for equivalent tandem switching and transport service – as the current asymmetrical treatment regarding tandem services creates other arbitrage problems. See *id.* and at 6. And see Comments of CenturyLink, WC Docket No. 10-90 and CC Docket No. 01-92, at 2, 4, 6, 8-9, 11, 14 (filed Oct. 26, 2017).

⁶ *Petition of AT&T Services, Inc. for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Rules for Switched Access Services and Toll Free Database Dip Charges*, WC Docket No. 16-363, Order, 32 FCC Rcd 10222 (2017) (dismisses the Sept. 30, 2016 AT&T petition for forbearance, for which AT&T filed a request to withdraw without prejudice, on Nov. 16, 2017).

CenturyLink reiterates that addressing traffic stimulation issues is a stop-gap, interim way to partially address a pressing problem. Taking such a step would not eliminate the need for the Commission to take prompt action to advance its overall ICC reform agenda consistent with the above discussion.

CONCLUSION

For the reasons stated above, the Commission should take the action described herein.

Respectfully submitted,

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