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March 30, 2017

VIA ECFS

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

Re: *Business Data Services in an Internet Protocol Environment et al., WC  
Docket Nos. 16-143, 15-247, and 05-25 and RM-10593*

Dear Ms. Dortch:

On March 28, 29, and 30, CenturyLink, Inc. ("CenturyLink") and Frontier Communications Corp. ("Frontier") conducted several meetings with Commission personnel to discuss the above-referenced matters. Specifically:

- On March 28, Jeffrey Lanning of CenturyLink, Michael Saperstein and A.J. Burton of Frontier, and Brian Murray of Wilkinson Barker Knauer, LLP met with Amy Bender of Commissioner O'Rielly's office.
- On March 28, Jeffrey Lanning and Craig Brown of CenturyLink, Michael Saperstein and A.J. Burton of Frontier, and Russell Hanser of Wilkinson Barker Knauer, LLP met with Jay Schwarz of Chairman Pai's office.
- On March 29, Jeffrey Lanning and Craig Brown of CenturyLink, Michael Saperstein and A.J. Burton of Frontier, and Russell Hanser of Wilkinson Barker Knauer, LLP met with Pam Arluk, Irina Asoskov, Gregory Capobianco, Lynne Engledow, Justin Faulb, Lisa Hone, William Kehoe, Christopher Koves, Erich Ralph, Marv Sacks, Shane Taylor, and David Zesiger of the Wireline Competition Bureau.
- On March 30, Jeffrey Lanning of CenturyLink, Michael Saperstein and A.J. Burton of Frontier, and Russell Hanser of Wilkinson Barker Knauer, LLP met with Claude Aiken of Commissioner Clyburn's office.

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During these meetings, CenturyLink and Frontier explained that the time has come for price-cap ILECs to be deemed non-dominant in the provision of business data services (“BDS”). As the companies have previously argued,<sup>1</sup> this decision would be the next logical step toward the congressionally mandated goal of replacing regulation with competition where possible, and is compelled by the Commission’s long-standing, bipartisan jurisprudence concerning non-dominant treatment of entities that lack market power. Competitors operate in 95.2 percent of all census blocks where an ILEC offered special access-type service, CLECs are the only BDS suppliers in 13 percent of census blocks, and, among those buildings served only by an ILEC, 98.7 percent are close enough to competitive facilities to experience the price-constraining effects of competition. There are now multiple competitive alternatives to DSn services, including cable broadband and Ethernet provided over existing cable plant and hybrid fiber-coaxial (“HFC”) plant, which customers view as functional substitutes for DSn services. Inter-platform competition will only grow when 5G services offer an additional ubiquitous last-mile alternative. This evidence refutes any suggestion of market power. Further, a non-dominance finding would promote deployment in rural areas, facilitate negotiation by sophisticated BDS customers, further migration to next-generation IP services, and advance the Commission’s commitment to technological and competitive neutrality by placing price-cap ILECs on an even footing with cable companies, competitive fiber providers, and other entities supplying BDS.<sup>2</sup>

CenturyLink and Frontier also reiterated their views as to how the Commission might instead structure a regime centered on a location-specific competitive market test (“CMT”). Among other things, they noted that (1) the Commission should ensure that ILECs are afforded flexibility to apply any geographic differentiations in ways that accord with their network architectures and internal systems; (2) DOCSIS- and HFC-based BDS offerings are marketplace substitutes for certain ILEC BDS products, and should be treated as such in any CMT; (3) the record evidence shows that there is no basis for a one-time rate cut in areas deemed “non-competitive” under the CMT; and (4) any annual productivity reductions should, consistent with the record evidence, account for the *rising* per-unit costs associated with legacy DSn offerings.

Please do not hesitate to contact the undersigned with any questions.

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<sup>1</sup> Letter from Russell P. Hanser and Brian W. Murray, Counsel to CenturyLink and Frontier, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 16-143 et al. (filed Mar. 20, 2017).

<sup>2</sup> See generally *id.*

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Sincerely,

WILKINSON BARKER KNAUER, LLP



Russell P. Hanser