
PUBLIC VERSION -- CONFIDENTIAL MATERIAL OMITTED

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
CenturyLink Communications, LLC f/k/a Qwest)	
Communications Company, LLC,)	
)	
Complainant,)	Docket No. 18-33
v.)	File No. EB-18-MD-001
)	
Verizon Services Corp., et al.,)	
)	
Defendants.)	
)	

CENTURYLINK COMMUNICATIONS, LLC'S REPLY TO THE ANSWER

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April 23, 2018

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CENTURYLINK COMMUNICATIONS, LLC'S REPLY TO VERIZON'S ANSWER

Pursuant to 47 C.F.R. § 1.726, and the Commission's Letter Order, dated February 9, 2018, which waived in part certain aspects of Section 1.726, Complainant CenturyLink Communications LLC, f/k/a Qwest Communications Company, LLC ("CenturyLink") submits this Reply (the "Reply") in support of its Formal Complaint (the "Complaint") and in response to the numbered paragraphs set forth in the answering submission (the "Answer") filed by Defendants (individually and collectively, "Verizon") with the Federal Communications Commission (the "Commission") on April 12, 2018. CenturyLink also is submitting herewith its Reply Legal Analysis in Support of its Formal Complaint (the "Reply Legal Analysis") in response to Verizon's Legal Analysis, its Reply Summary of Governing Agreements, and Reply Declarations from Tiffany Brown ("Brown Reply Decl.") and Robert Montenegro ("Montenegro Reply Decl.").¹

Verizon's Answer contained four affirmative defenses and, pursuant to 47 C.F.R. § 1.726(b), CenturyLink denies such affirmative defenses for the reasons set forth herein, including in its Reply Legal Analysis. CenturyLink has also attached an Information Designation to this Reply at Tab E, its Opposition and Objections to Verizon's Interrogatories at Tab F, and its Second Request for Interrogatories to Verizon at Tab G.

¹ References to the Complaint and Reply include the Summary of Governing Agreements, and the Reply Summary of Governing Agreements, respectively, as well as all other supporting declarations, legal analyses, attachments, and exhibits. Defined terms have the meaning given to them in the Complaint unless otherwise defined. CenturyLink refers to exhibits attached to the Complaint or Reply as "CTL Ex. __," and refers to exhibits attached to Verizon's Answer as "VZ Ex. __."

SUMMARY OF REPLY

In its Answer, Verizon makes a number of admissions that should assist the Commission with resolving this matter. CenturyLink begins its Reply with a summary of the key matters Verizon does not dispute:

- *Verizon admits it made numerous billing errors involving large numbers of circuits, including in both its designation of circuits and in its calculations of applicable billing credits. These errors were extensive and systemic, not “isolated” or “trivial” or “minor,” and cost CenturyLink significant overcharges to date.*
- *Verizon admits that the tariff rate CenturyLink should have received under the Service Agreements was delivered to CenturyLink by means of the quarterly billing credits, and that Verizon’s errors in the billing credits resulted in “overcharges” to CenturyLink. CenturyLink’s disputes are thus timely under Section 415.*
- *Verizon admits that the discounted flat rates were CenturyLink’s consideration for entering into the Service Agreements and the Flat Rate Price Flex Deal.² Verizon also admits that a party is entitled to the benefit of its bargain. Because Verizon’s errors in its calculations for the billing credits resulted in CenturyLink not receiving its bargained for negotiated rates, Verizon has denied CenturyLink the benefit of the bargain.*
- *Verizon admits that the filed rate doctrine applies to these disputes. As discussed in the Reply Legal Analysis, that doctrine accordingly requires that Verizon correctly*

² Flat Rate Price Flex Deal refers to the general tariff arrangement between the parties under the 2009 and 2014 Service Agreements as explained in the Complaint, ¶ 30 n.34.

calculate and remit the billing credits, and that Verizon refund its admitted overcharges to CenturyLink.

As the Complaint established and this Reply further explains, the bargain struck between Verizon and CenturyLink is familiar to the industry: CenturyLink agreed to meet certain volume commitments in exchange for Verizon's promise to provide CenturyLink with specific discounted flat rates. CenturyLink upheld its half of the bargain, but Verizon did not. Instead, Verizon committed extensive errors in its billing calculations, including many errors it now concedes in its Answer. The effect of those numerous errors was to dramatically reduce the billing credits CenturyLink received, which Verizon further concedes had the effect of overcharging CenturyLink in excess of the tariffed rates. But rather than correct these errors and provide CenturyLink with its bargained for tariff rates, Verizon hides behind a skewed reading of a single dispute resolution provision (while ignoring others) in an attempt to escape any responsibility for its overcharges. Contrary to Verizon's arguments, the agreements and contract tariffs can and should be interpreted consistently with the filed rate doctrine to give effect to all relevant terms, principally including that CenturyLink be charged the flat rate.

It did not have to be this way. CenturyLink spent years trying to resolve these issues directly with Verizon, including submitting disputes in the ordinary course of business (and consistent with the parties' interrelated agreements), and meeting repeatedly with Verizon to explain its concerns. CenturyLink even tried to initiate more formal dispute resolution under a Master Services Agreement that has connected the parties for over a decade and which spans not only special access but a multitude of other important services and joint business interests. Nothing worked.

Instead, Verizon stalled and then rejected CenturyLink's disputes and outreach. It is increasingly apparent that Verizon erroneously interprets the agreements in a way that gives it no incentive to process disputes or fix its errors, and every incentive to delay resolution and deny the claims. Under its erroneous interpretation, Verizon would withhold extremely large billing credits for long periods of time, and thus had tremendous leverage over CenturyLink. Equally alarming is the fact that despite being advised over and over that there were significant, recurring errors in its circuit counts and credit calculations, and despite now admitting that it did in fact err with respect to thousands of units, Verizon has never fixed its errors. In fact, in its Answer, Verizon appears to celebrate them, informing both CenturyLink and the Commission that a "1-2% error rate" in tariffed rates is "well within the range the Commission has held acceptable" and one that CenturyLink could "agree to forgo."³ In what can only be described as a red neon warning sign for its other customers, Verizon even goes so far as to argue that if CenturyLink really wanted Verizon to give it the correct tariff rates that CenturyLink had bargained for, CenturyLink should have "negotiated a different contract."⁴

Nor does it end there. Verizon also directs its scorn at Sage Management ("Sage"), CenturyLink's billing auditor, which helped CenturyLink identify and dispute Verizon's admitted errors. Verizon castigates Sage as a mercenary organization, allegedly motivated strictly by recovering overcharges for its clients (as if that was an untoward goal) in a transparent attempt to divert attention from Verizon's admitted errors. But it is quite common for telecommunications companies to routinely use the services of outside billing auditors precisely

³ Verizon Legal Analysis at 3-4.

⁴ Verizon Legal Analysis at 1.

because of the complexity of these issues. Verizon itself uses outside billing auditors, making its attacks on Sage truly perplexing.⁵

Despite Verizon's attempts to rewrite history, CenturyLink obviously never would have agreed to a business relationship in which it received flat rates in exchange for giving Verizon the right to immediately undermine those flat rates, without recourse. That simply cannot be a rational interpretation of the governing agreements and contract tariffs, and Verizon's position is in fact foreclosed entirely by a straightforward application of the filed rate doctrine. Indeed, Verizon fails to identify a single case in which the filed rate doctrine permitted a carrier to deny the customer the tariff rates through the carrier's own errors and miscalculations, as Verizon would have the Commission allow here. That is because the doctrine simply cannot allow such an outcome and remain viable. In the final analysis, CenturyLink was denied the tariff rate due to Verizon's mistakes, and CenturyLink deserves to have those overcharges refunded pursuant to the agreements, the contract tariffs, and the filed rate doctrine itself.

CenturyLink's reply to the numbered paragraphs of the Answer follows.

INTRODUCTION AND SUMMARY⁶

1. Paragraph 1 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

2. CenturyLink denies the allegations in Paragraph 2 of the Answer. The Complaint and this Reply explain that Verizon has not provided the discounts and correct rates

⁵ See, e.g., Reply Legal Analysis, at n.101.

⁶ Internal headings are based on the Complaint for ease of reference.

that CenturyLink was to receive under the agreements and contract tariffs. CenturyLink also denies the suggestion that it did not abide by the requirements of the Service Agreements, or that Verizon complied with dispute resolution requirements, for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

3. CenturyLink denies the allegations in Paragraph 3 of the Answer. As explained in the Complaint and this Reply, CenturyLink lacked the necessary information to identify and dispute Verizon's calculations in the time periods Verizon claimed were required, and Verizon's dispute process required CenturyLink to accompany any dispute with information that did not exist or become available until after Verizon had later applied the credits.⁷ CenturyLink denies that its concurrences precluded its dispute of Verizon's errors, and CenturyLink denies that its "concurrences" show that Verizon had properly counted or designated circuits under the Service Agreements, as set forth in the Complaint.⁸ CenturyLink also denies that Billing Credits or Verizon's related errors could not be disputed, or that the automatic rejection of its disputes by Verizon's billing system (and personnel) were "immaterial."⁹ CenturyLink further denies that Verizon's "consistent methodology" was either consistent or in compliance with the Service Agreements and related contract tariffs, and Verizon has since acknowledged numerous errors with that methodology including as part of its Answer.¹⁰

4. CenturyLink denies the allegations in Paragraph 4 of the Answer. Verizon's quarterly credit calculations did not "generally" comply with the contracts and contract tariffs;

⁷ See, e.g., Complaint ¶¶ 73-77; Declaration of Tiffany Brown ("Brown Decl.") ¶¶ 9-14.

⁸ See also Montenegro Reply Decl. ¶ 21-22.

⁹ See generally Brown Reply Decl. ¶¶ 9-38; see also Brown Reply Decl. ¶¶ 11, 26, 99, 101.

¹⁰ Answer ¶¶ 48-51, 57-58; Brown Reply Decl. ¶¶ 37, 58-78.

they contained extensive errors as described in the Complaint. Verizon now admits, after years of effort by CenturyLink to obtain a full review of its disputes, that it indeed made errors with

[[BEGIN CONFIDENTIAL]] [REDACTED] [[BEGIN CONFIDENTIAL]]¹¹

CenturyLink also denies that correctly counting those circuits in the first place would have somehow retroactively generated flat rates “less favorable” to CenturyLink, as further discussed in this Reply and in the Reply Declarations of Brown and Montenegro.¹² Had Verizon complied with the contracts and contract tariffs, CenturyLink would have received the rates it had contracted for.¹³ CenturyLink also denies that Verizon properly refused to consider its disputes; Verizon has never substantially considered any of CenturyLink’s disputes and refused to even acknowledge any errors until CenturyLink brought this matter to the Commission. Finally, CenturyLink denies Verizon’s allegation that providing the correct credit calculations and contract would have “conflict[ed]” with the Service Agreements or “with the core framework that the parties used to negotiate the Price Flex Deal.”

5. CenturyLink denies that payment of undisputed credit amounts was “practically unworkable” or “inconsistent with the language of the 2014 Service Agreement.” Verizon itself was inconsistent in its position about paying undisputed amounts, and at times did pay undisputed credits without reference to CenturyLink’s disputed amounts.¹⁴ Later, in apparent retaliation for CenturyLink filing the Informal Complaint, Verizon reverted to its original position of withholding all undisputed amounts after CenturyLink raised additional disputes.

¹¹ *Id.*

¹² Montenegro Reply Decl. ¶¶ 2-15; Brown Reply Decl. ¶¶ 35-38.

¹³ Brown Reply Decl. ¶¶ 39-34.

¹⁴ Complaint ¶ 97; Brown Reply Decl. ¶¶ 9, 32-33.

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CenturyLink lacked the necessary information to identify and dispute Verizon's calculations in the time periods Verizon claimed were required, and Verizon's dispute process required CenturyLink to accompany any dispute with information that did not exist or become available until after Verizon had later applied the credits.¹⁸

6. Paragraph 6 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

PARTIES

7. Verizon admits the allegations in Paragraph 7 of the Complaint and therefore no response is required.

8. Verizon admits the allegations in Paragraph 8 of the Complaint and therefore no response is required.

9. Verizon admits the allegations in Paragraph 9 of the Complaint and therefore no response is required.

10. Verizon admits the allegations in Paragraph 10 of the Complaint and therefore no response is required.

11. Verizon admits the allegations in Paragraph 11 of the Complaint and therefore no response is required.

12. Verizon admits the allegations in Paragraph 12 of the Complaint and therefore no response is required.

¹⁸ See, e.g., Complaint ¶¶ 73-77; Brown Decl. ¶¶ 9-27.

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13. Verizon admits that defendant Verizon Pennsylvania LLC is a Delaware limited liability company, but states that its principal place of business is 900 Race Street, Philadelphia, PA 19107. As Verizon admits in response to paragraphs 19 and 22 of the Complaint that this entity was amenable to service through Verizon's agent CT Corporation System and is subject to FCC jurisdiction, CenturyLink admits the allegation regarding its principal place of business.

14. Verizon admits the allegations in Paragraph 14 of the Complaint and therefore no response is required.

15. Verizon admits the allegations in Paragraph 15 of the Complaint and therefore no response is required.

16. Verizon admits the allegations in Paragraph 16 of the Complaint and therefore no response is required.

17. Verizon admits that defendant Verizon North LLC is a Delaware limited liability company, but states that its principal place of business is 900 Race Street, Philadelphia, PA 19107. As Verizon admits in response to paragraphs 19 and 22 of the Complaint that this entity was amenable to service through Verizon's agent CT Corporation System and is subject to FCC jurisdiction, CenturyLink admits the allegation regarding its principal place of business.

18. Verizon admits the allegations in Paragraph 18 of the Complaint and therefore no response is required.

19. Verizon admits the allegations in Paragraph 19 of the Complaint and therefore no response is required.

PROCEDURAL HISTORY

20. CenturyLink denies that its March 21, 2016 dispute notice letter and related contractual dispute-resolution processes do not apply to disputes related to quarterly Billing

Credits under those contracts. CenturyLink's March 21, 2016 dispute notice letter requested that private dispute resolution be initiated under Attachments 11 & 13 of the MSA, which were closely integrated with the respective 2009 and 2014 Service Agreements, and contained interwoven dispute processes such that disputes arising under the Service Agreements were to be coordinated with the processes in Attachments 11 & 13.¹⁹ Verizon's unilateral pronouncement that disputes under the Service Agreements are not subject to contractual dispute resolution processes despite plain contract language to the contrary is further evidence of its unreasonable practices with regard to these disputes, which could have been resolved between the parties had Verizon engaged in that process and acknowledged its billing and rate errors, including those it has since conceded in this proceeding. Otherwise, Paragraph 20 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

21. CenturyLink denies that its Formal Complaint does not relate back to its Informal Complaint, or that any of its claims or allegations are untimely, as discussed further below and in the accompanying Reply Legal Analysis. Verizon's only cited basis for this assertion, Paragraph 151 of the Answer, mischaracterizes CenturyLink's argument regarding Verizon's failure to comply with its own contractual time limits, which demonstrated that Verizon was willing to ignore its own contractual obligations under specific deadlines in its course of dealing while simultaneously attempting to hold CenturyLink to restrictive interpretations of the same contracts. CenturyLink's Complaint is plainly based on the same

¹⁹ See, e.g., Complaint ¶ 27; Tab B, Summary of Governing Agreements ¶¶ 9-11; Reply Tab B, Reply Summary of Governing Agreements ¶¶ 4-11.

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causes of action as the Informal Complaint, which likewise requested the Commission investigate Verizon's actions under Sections 201(b) and 203 with regard to the same six general categories of errors under the same interrelated agreements and contract tariffs.²⁰ Verizon otherwise provides no authority in support of its bald and cursory assertion that "certain allegations" do not relate back to CenturyLink's Informal Complaint.²¹ Otherwise, Paragraph 21 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

JURISDICTION

22. Verizon admits the allegations in Paragraph 22 of the Complaint. Verizon violated the Act as well as its tariffs and agreements with CenturyLink, as further explained in the Complaint, this Reply, and their accompanying legal analyses. Otherwise, Paragraph 22 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

**STATEMENT REGARDING SUPPORTING MATERIAL AND REQUIRED
CERTIFICATIONS**

23. Verizon admits the allegations in Paragraph 23 of the Complaint and therefore no response is required.

24. Verizon admits the allegations in Paragraph 24 of the Complaint and therefore no response is required.

²⁰ See Informal Complaint at 1-2.

²¹ Verizon Legal Analysis at 68-69 & n.357.

FACTS IN SUPPORT OF THE FORMAL COMPLAINT

I. BACKGROUND

25. Verizon admits the allegations in Paragraph 25 of the Complaint and therefore no response is required.

26. In Paragraph 26 of its Answer, Verizon does not deny that the tariff rate that CenturyLink received for special access services was delivered by the credits it received from Verizon, and this allegation is deemed admitted. Verizon also does not deny that CenturyLink relied on Verizon to provide a complete and accurate description of the services and circuits as part of Verizon's required information reporting, and this allegation is deemed admitted. Verizon also does not deny that violations of the tariffs and related agreements would result in CenturyLink being charged a rate higher than the tariff rate, and this allegation is deemed admitted. CenturyLink denies that the Billing Credits were merely "one" important feature of the parties' Flat Rate Price Flex Deal; they were the purpose for which CenturyLink agreed to enter into the Flat Rate Price Flex Deal, and established the final rate CenturyLink paid under the Flat Rate Price Flex Deal and related contract tariffs.²² CenturyLink further denies that Verizon's reporting information was "consistently accurate and timely provided."²³ Verizon committed numerous reporting and related errors throughout the course of both Service Agreements.²⁴ Otherwise, Paragraph 26 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those

²² See Montenegro Reply Decl. ¶¶ 2-15; Brown Reply Decl. ¶¶ 35-38; *see also* Complaint ¶ 31; Complaint Legal Analysis 6-7.

²³ See, e.g., Brown Decl. ¶¶ 33-129.

²⁴ Complaint ¶¶ 35-69; Answer ¶¶ 48-51, 57-58; Brown Reply Decl. ¶¶ 39-94.

allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

A. Summary of Relevant Agreements Between CenturyLink and Verizon

27. CenturyLink denies that the MSA and its attachments do not govern the services at issue in addition to the Service Agreements, or that aspects of the MSA or its attachments are inapplicable. As explained in the Complaint, Attachments 11 and 13 to the MSA were made effective on the same days as the 2009 Service Agreement and the 2014 Service Agreement, respectively, and were by their terms interwoven with the Flat Rate Price Flex Deal under the Service Agreements and related contract tariffs.²⁵ This arrangement of parallel and interconnected Service Agreements, contract tariffs, and components of the MSA is expressly referred to as a **[[BEGIN CONFIDENTIAL]] [REDACTED] [[END CONFIDENTIAL]]** with an **[[BEGIN CONFIDENTIAL]] [REDACTED] [[END CONFIDENTIAL]]** between the various agreements and contracts.²⁶ CenturyLink agrees that neither Service Agreement itself was made an attachment to the MSA for the very reason that both were interrelated with their respective Attachments, 11 & 13, to the MSA. Otherwise, Paragraph 27 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

28. Verizon admits the allegations in Paragraph 28 of the Complaint and therefore no response is required.

²⁵ See Complaint, Tab B, Summary of Governing Agreements ¶¶ 5-11; *see also* Reply Summary of Governing Agreements, ¶¶ 5-11.

²⁶ See Complaint, Tab B, Summary of Governing Agreements ¶¶ 5, 8; *see also* Reply Summary of Governing Agreements, ¶¶ 5, 8.

29. CenturyLink's response to Verizon's response to the Summary of Governing Agreements is set forth in its Reply Summary of Governing Agreements at Tab B to this Reply.

B. Verizon's Flat Rate Tariffed Pricing

30. In Paragraph 30 of its Answer, Verizon admits it provided CenturyLink standard and discounted rates under the Service Agreements, but asserts that the Billing Credits themselves "were not rates (nor were they the differential between two rates)." Verizon provides no factual support for this allegation. In Paragraph 26 of its Answer, Verizon did not deny that the tariff rate that CenturyLink received for special access services was delivered by the credits it received from Verizon, and this allegation is deemed admitted. Verizon also admitted all of the allegations in Paragraph 28 of the Complaint, including that the "discounted rates were achieved through the quarterly credits provided by Verizon to CenturyLink, consisting of the billed amounts for the three categories of service revenue (DS1, DS3 CLF, DS3 CLS), minus the product of the total applicable qualifying units multiplied by the applicable flat rates for particular plan years." There is no factual basis for Verizon's subsequent interpretation in Paragraph 30 of its Answer that the Billing Credits are simply "dollar amounts" rather than a component of the final discounted rate CenturyLink paid after application of the credits, and Verizon has already admitted otherwise. Otherwise, Paragraph 30 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

31. In its response to Paragraph 31 of the Complaint, Verizon again admits that, under the Flat Rate Price Flex Deal, Verizon agreed to "provide discounted rates through Billing Credits" and that Verizon provided CenturyLink with "discounts on qualifying special-

access services - implemented through quarterly Billing Credits[.]” CenturyLink denies that the parties’ arrangement as set forth in the Service Agreements, contract tariffs, and related agreements in any way sacrificed accuracy in those Billing Credits in exchange for revenue commitments or a “streamlined process” that purportedly barred CenturyLink from submitting disputes.²⁷ The benefit to Verizon was the revenue commitments CenturyLink agreed to provide in exchange for discounted rates based on the Billing Credits, and CenturyLink did not agree to permit Verizon to alter those bargained for rates either through erroneous circuit counts or through refusal to engage in related dispute processes.²⁸ Verizon does not deny that the aggregate discounts and Billing Credits were CenturyLink’s consideration for the Flat Rate Price Flex Deal as described in Paragraph 31 of the Complaint, and as detailed in the Complaint CenturyLink has not received that full consideration as a threshold matter. Otherwise, Paragraph 31 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

32. CenturyLink denies that Verizon’s errors were either “few,” “isolated,” or “inadvertent.” As discussed at length in the Complaint, Verizon’s errors fell into six (6) broad categories, involved thousands of circuits, and both occurred and repeated in a systemic fashion across multiple plan years despite CenturyLink’s ongoing efforts to dispute and correct them.²⁹ Verizon’s calculations also did not “generally” comply with the contracts and contract tariffs; they contained extensive errors as described in the Complaint. Verizon now admits, after years

²⁷ Reply Legal Analysis § II.B.d.

²⁸ See *id.*; Brown Reply Decl. ¶¶ 30-31, 34-38; Montenegro Reply Decl. ¶¶ 2-14.

²⁹ Complaint ¶¶ 35-69; Brown Reply Decl. ¶¶ 39-94.

of effort by CenturyLink to obtain a full review of its disputes, that it indeed made errors with respect to thousands of circuits.³⁰ In its response to Paragraph 26 of the Complaint, Verizon also did not deny that CenturyLink relied on Verizon to provide a complete and accurate description of the services and circuits as part of Verizon's required information reporting, and this allegation is deemed admitted. In response to Paragraph 32, Verizon further admits that the 2009 and 2014 Service Agreements required Verizon to pay quarterly Billing Credits based on specific calculations. CenturyLink denies that despite Verizon's admitted reporting and calculation obligations, Verizon could effectively shift responsibility for properly determining and calculating those credits to CenturyLink.³¹ Moreover, any purported "obligation" by CenturyLink to correct Verizon's calculations was materially undermined by Verizon's refusal to take any corrective action when informed of errors.³² Verizon also does not deny that such errors would result in "overcharges to CenturyLink in violation of the tariffs and the Flat Rate Price Flex Deal" and that allegation is deemed admitted.

33. CenturyLink denies that the Service Agreements permitted Verizon to ignore deadlines at its discretion until it received what it now characterizes as a "final concurrence," or that alleged "delays" by CenturyLink prevented Verizon from issuing credits.³³ CenturyLink further denies that Verizon's practices involved a "reasonable effort" to comply with its credit

³⁰ See Brown Reply Decl. ¶¶ 39-94.

³¹ See Brown Decl. ¶¶ 17-32 (documenting calculation of the proper unit count in order for CenturyLink to receive the tariffed rate); Brown Reply Decl. ¶¶ 39-94 (same); *see also* Complaint Legal Analysis, 25-26.

³² See Complaint ¶¶ 106-126; Reply Legal Analysis § II.B.2; Brown Decl. ¶¶ 33-129; Brown Reply Decl. ¶¶ 10, 28, 33, 95-101.

³³ Complaint Legal Analysis § II.2.C; Reply Legal Analysis § II.D.3.

deadline, or that Verizon “promptly” issued credits in “virtually every case.”³⁴ Verizon’s allegations in this regard reflect a recurring theme regarding its unreasonable practices: attempting to excuse its own noncompliance with contractual obligations, such as deadlines, through a self-serving reading of the agreements, while simultaneously seeking to hold CenturyLink to extremely strict interpretations of purported deadlines and other contract provisions. Finally, CenturyLink agrees that Verizon has since paid the undisputed credits for PY3 of the 2014 Service Agreement, as more fully discussed in Paragraph 5 of this Reply, but not before it improperly withheld **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** in undisputed PY3 credits from CenturyLink for over a year.

34. Paragraph 34 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

C. Verizon’s Tariff Violations and Unjust and Unreasonable Practices

35. Paragraph 35 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

36. In Paragraph 36 of the Answer, Verizon admits that charges in excess of the correct discounted rates would be overcharges. CenturyLink agrees that, as previously explained in its Reply to Verizon’s Response to the Informal Complaint, there is some

³⁴ Brown Decl. ¶¶ 6; Complaint ¶ 79; *see also* Complaint 73-79.

duplication across Verizon's circuit errors, which can be addressed as part of CenturyLink's recovery of the overcharges, but denies that Tables 2 and 3 are "inaccurate." Those tables accurately depict the amounts attributable to each individual dispute category (Table 2), and likewise break those categories out by plan quarter (Table 3).³⁵

37. Verizon admits that it was the entity that was required to count qualifying "units" to calculate Billing Credits on a quarterly basis, and that an increase in the number of such "units" would decrease the credit amount due to CenturyLink. Paragraph 37 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

38. Verizon admits that after three of its operating companies were sold to Frontier in April 2016, Frontier continue to provide special access services to CenturyLink under the same contract tariffs. Unlike Verizon, **[[BEGIN CONFIDENTIAL]]** [REDACTED]
[REDACTED] **[[END CONFIDENTIAL]]** showing that the agreements can function as intended. Paragraph 38 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

39. Paragraph 39 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments

³⁵ Brown Reply Decl. ¶ 41.

are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

1. Verizon Overcounted Equivalents of DS3 CLF Units in FMS LATAs

40. Verizon admits that CenturyLink subscribed to Verizon's Facilities Management Service until July 2014, under which Verizon arranged special-access circuits dedicated to CenturyLink across Verizon's network "at its own discretion." Verizon also admits that it counted CenturyLink's DS3 CLF circuits in FMS territories as full "DS3 CLF Units" regardless of whether the DS3 circuits were fully subscribed. Paragraph 40 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

41. CenturyLink denies all the legal and factual claims in Paragraph 41 of the Answer for the reasons set forth in Complaint, including paragraph 42, and the Brown Declaration, including paragraphs 17-19, and the Brown Reply Declaration, including paragraphs 43-57. Verizon otherwise admits the allegations in Paragraph 41 of the Complaint and therefore no further response is required.

42. CenturyLink denies all the legal and factual claims in Paragraph 42 of the Answer for the reasons set forth in Complaint, including paragraph 42, and the Brown Declaration, including paragraphs 17-19, and the Brown Reply Declaration, including paragraphs 43-57. CenturyLink denies that it was proper for Verizon to count circuits as DS3 CLF Units in quarterly credit calculations no matter how Verizon spread DS1s and DS0s, and

given that those circuits did not have qualifying MRCs associated with them.³⁶ Verizon otherwise admits the allegations in Paragraph 42 of the Complaint and therefore no further response is required.

43. CenturyLink denies all the legal and factual claims in Paragraph 43 of the Answer for the reasons set forth in Complaint, including paragraph 42 and 43, and the Brown Declaration, including paragraphs 17-19, and the Brown Reply Declaration, including paragraphs 43-57, but admits it devised its formula in an effort to compensate Verizon for the DS3-equivalent capacity.³⁷ Eliminating the DS3-equivalency calculations, as suggested by Verizon, increases the dispute amount for Dispute Category 1 from **[[BEGIN CONFIDENTIAL]]** [REDACTED]³⁸ **[[END CONFIDENTIAL]]** Verizon otherwise admits the allegations in Paragraph 43 of the Complaint and therefore no further response is required.³⁹

44. CenturyLink denies all the legal and factual claims in Paragraph 44 of the Answer for the reasons set forth in Complaint, including paragraphs 42 and 43, and the Brown Declaration, including paragraphs 17-19 and the Brown Reply Declaration, including paragraphs 43-57. As more fully explained therein, the “brand new” formula Verizon questions was a rational means of compensating Verizon for the true number of DS3 CLF circuits

³⁶ Brown Decl. ¶ 17; and Brown Reply Decl. ¶¶ 45-46.

³⁷ Brown Reply Decl. ¶ 53.

³⁸ Brown Reply Decl. ¶¶ 54-57.

³⁹ CenturyLink’s Category 1 disputes remain timely as submitted, and by adjusting its calculations based on Verizon’s arguments and new information provided in Verizon’s Answer, CenturyLink does not waive, withdraw, or otherwise dismiss its disputes and claims. CenturyLink reserves the right and ability to utilize the DS3-equivalency analysis in Category 1 should Verizon again shift its position in response to CenturyLink’s Reply.

CenturyLink was actually using rather than providing no compensation at all, and as such actually benefits Verizon.⁴⁰ Based on the information provided in Verizon's Answer, it is clear that Verizon was fully compensated for the DS0-equivalents, and properly counted the DS1 circuits they rode upon as units.⁴¹ None of the DS3 CLFs in this category counted as units.⁴² Verizon otherwise admits the allegations in Paragraph 44 of the Complaint and therefore no further response is required.

45. Paragraph 45 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

46. CenturyLink denies all the legal and factual claims in Paragraph 46 of the Answer for the reasons set forth in Complaint, including paragraph 46, and the Brown Declaration, including paragraphs 17-19 and the Brown Reply Declaration, including paragraphs 43-57. Verizon otherwise admits the allegations in Paragraph 44 of the Complaint and therefore no further response is required.

47. CenturyLink denies all the legal and factual claims in Paragraph 47 of the Answer for the reasons set forth in Complaint, including paragraph 46, and the Brown Declaration, including paragraphs 17-19 and the Brown Reply Declaration, including paragraphs 43-57.

⁴⁰ Brown Reply Decl. ¶ 53.

⁴¹ Brown Reply Decl. ¶¶ 43-57.

⁴² Brown Reply Decl. ¶¶ 43-57.

2. Verizon Counted Units Without Qualifying USOCs or MRCs in the Quarterly Credit Calculation in Non-FMS LATAs

48. Verizon admits that it counted circuits that did not bill a qualifying USOC.

Under both the 2009 and 2014 Service Agreements, and related contract tariffs, circuits had to be associated with Qualifying MRCs to qualify as a “unit.”⁴³ Paragraph 48 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, including the above response to Paragraph 41 regarding the qualification of circuits as “units” under the 2009 Service Agreement and the 2014 Service Agreement.

49. Verizon admits that it erroneously counted certain DS3 circuits that rode an OC48 and lacked a qualifying USOC under the 2009 Agreements, which means those DS3s should not have been counted as “units.” CenturyLink denies that Verizon’s admitted errors were “isolated,” “inadvertent,” or that Verizon’s methodology was “generally correct,” for the reasons set forth in Complaint, and the Brown Declaration, including paragraphs 20-24 and the Brown Reply Declaration, including paragraphs 58-75. CenturyLink denies that its “concurrences” represented assent to be erroneously charged at levels higher than the tariffed rate. CenturyLink further denies that the filed rate doctrine permits Verizon to have been “generally correct” in charging tariff rates. Any assertion that CenturyLink and the Commission should ignore or accept overcharges – especially **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** overcharges – is contrary to law. Paragraph 49 of the Answer does not otherwise contain specific factual allegations or legal arguments to

⁴³ Brown Decl. ¶ 17; Complaint ¶ 41.

which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, including the above response to Paragraph 41 regarding the qualification of circuits as “units” under the 2009 Service Agreement and the 2014 Service Agreement.

50. Verizon either admits or does not deny the allegations in Paragraph 50 of the Complaint and therefore no response is required.

51. CenturyLink denies all the legal and factual claims in Paragraph 51 of the Answer for the reasons set forth in Complaint, and the Brown Declaration, including paragraphs 20-24 and 29 and the Brown Reply Declaration, including paragraphs 58-75.

3. Double-Counting of “Meet-Point” Circuits

52. CenturyLink denies all the legal and factual claims in Paragraph 52 of the Answer, including the allegation the Service Agreement flat rates would have been higher, for the reasons set forth in Complaint, and the Brown Declaration, including paragraphs 20-24 and 29 and the Brown Reply Declaration, including paragraphs 34-38, 76-78, and the Montenegro Reply Declaration, paragraphs 2-15. The allegation that CenturyLink’s receipt of the proper number of units would result in higher rates is wrong because the flat rates was negotiated prior to Verizon reverse engineering the formulas.⁴⁴

53. CenturyLink denies that Verizon used the proper methodology for counting meet-point circuits and denies Verizon's other allegations or arguments in this paragraph for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, the Brown Declaration, paragraph 25 and the Brown Reply Declaration, including paragraphs 76-78.

⁴⁴ Montenegro Reply Decl. ¶¶ 2-15.

54. CenturyLink denies that Verizon counted the referenced circuit properly, and denies Verizon's other allegations or arguments in this paragraph for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, the Brown Declaration, paragraph 25 and the Brown Reply Declaration, including paragraphs 76-78.

55. CenturyLink denies that the three circuits listed were properly counted by Verizon, and denies Verizon's other allegations or arguments in this paragraph for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, the Brown Declaration, paragraph 25 and the Brown Reply Declaration, including paragraphs 76-78.

56. Paragraph 56 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, the Brown Declaration, paragraph 25 and the Brown Reply Declaration, including paragraphs 76-78.

4. Misdesignating DS3 CLF Units as DS3 CLS Units

57. Verizon admits that it misclassified DS3 CLF circuits. CenturyLink denies all the legal and factual claims in Paragraph 57 of the Answer, including the allegation that CenturyLink nonetheless somehow “benefited” from Verizon’s misclassifications, for the reasons set forth in Complaint, the Brown Declaration, including paragraph 26 and the Brown Reply Declaration, including paragraphs 79-82. Verizon admits to credit calculation errors in this category, and any purported undercharges have already been accounted for in CenturyLink’s dispute submissions with Verizon.⁴⁵

⁴⁵ Brown Reply Decl. ¶ 82.

58. Verizon admits that it misclassified DS3 CLF Units. CenturyLink denies that it fully concurred in the amounts or that any “concurrence” presents an obstacle to its disputes in this category. Paragraph 58 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, the Brown Declaration, paragraph 26 and the Brown Reply Declaration, including paragraphs 79-82.

59. Paragraph 59 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, the Brown Declaration, paragraph 26 and the Brown Reply Declaration, including paragraphs 79-82.

5. Misdesignating DS0 Circuits as DS1 Units

60. CenturyLink denies that Verizon correctly counted the channel terminations as units under the tariffs because the circuits themselves were ordered and billed as DS0 circuits—these are ineligible to be counted as units under the agreement, no matter what class of service Verizon wrongly assigned to them.⁴⁶ CenturyLink denies all other the allegations in Paragraph 60 of the Answer for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, the Brown Declaration, paragraph 27 and the Brown Reply Declaration, including paragraphs 83-84.

⁴⁶ Brown Reply Decl. ¶ 83-84.

61. CenturyLink denies the allegations in Paragraph 61 of the Answer, including the assertion that correct circuit classifications would not have been subject to flat rates or would have reduced Billing Credits, for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, the Brown Declaration, paragraph 27 and the Brown Reply Declaration, including paragraphs 83-84.

62. CenturyLink denies the allegations in Paragraph 62 of the Answer for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, the Brown Declaration, paragraph 27 and the Brown Reply Declaration, including paragraphs 83-84.

63. CenturyLink denies the allegations in Paragraph 63 of the Answer for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, the Brown Declaration, paragraph 27 and the Brown Reply Declaration, including paragraphs 83-84.

6. Failing to Optimize FMS for CenturyLink

64. CenturyLink denies that Verizon distributed CenturyLink circuit in a permissible manner pursuant to the FMS tariff, which resulted in overcharges in the form of lower quarterly credits, for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, the Brown Declaration, paragraph 28 and the Brown Reply Declaration, including paragraphs 85-94.

65. In Paragraph 65 of the Answer, Verizon admits it had the obligation to deploy special-access circuits, and to do so to maximize network efficiencies and optimize economic efficiencies. CenturyLink specifically denies that FMS was intended to provide network and economic efficiencies to Verizon, rather than the customers that paid for the service. There is no basis in the tariffs or in practice for Verizon's argument that FMS was intended to solely benefit Verizon rather than the customers paying for the service. Verizon has admitted that

FMS customers are only supposed to pay for capacity used on a DS0 basis. Yet Verizon now argues that it was permitted to also charge for each DS3 that it chose to utilize. Verizon admits it ignored network and economic efficiency considerations under FMS for its customers, including CenturyLink. CenturyLink denies that Verizon gave it any notice that Verizon had not maximized CenturyLink's network efficiencies or economic efficiencies, or that CenturyLink had any obligation to do so under FMS. As discussed in the Reply Legal Analysis, the FMS Public Notice Verizon cites says nothing about ending Verizon's network optimization obligations.⁴⁷ Rather, it acknowledges that "Verizon maintains that it will continue to provide FMS to existing customers through the expiration of each customer's FMS term or, at the customer's request, through a twelve-month extension of that term." In fact, shortly before the actual FMS transition Verizon informed CenturyLink that the FMS conversion would not cause a material increase in DS3 counts.⁴⁸

CenturyLink otherwise denies allegations in Paragraph 65 of the Answer for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, the Brown Declaration, paragraph 28 and the Brown Reply Declaration, including paragraphs 85-94.

66. CenturyLink denies the allegations—including that CenturyLink had the responsibility or capability to make changes to the FMS network—in Paragraph 66 of the Answer for the reasons given in the Complaint, this Reply, and their accompanying legal

⁴⁷ Reply Legal Analysis § II.C.6.

⁴⁸ See Brown Decl. ¶¶ 123, 125; CTL Exhibit 53.05 ("There will be little to no impact on CenturyLink's special access billing from the FMS conversion because of their flat rated DS1 and DS3 pricing.").

analyses, the Brown Declaration, paragraph 28 and the Brown Reply Declaration, including paragraphs 85-94.

67. Again, CenturyLink denies it was under an obligation to optimize its network under FMS, or that it had the duty or ability to determine that Verizon had inefficiently structured the network while providing FMS to CenturyLink.⁴⁹ CenturyLink denies the allegations in Paragraph 67 of the Answer for the reasons given in the Complaint, including paragraphs 67-68, this Reply, including Paragraph 65 above, and their accompanying legal analyses, the Brown Declaration, paragraph 28 and the Brown Reply Declaration, including paragraphs 85-94. CenturyLink further denies that it had received prior notice of Verizon's inefficient network routings and other failures of Verizon's duty prior to the FMS conversion.⁵⁰

68. CenturyLink denies the allegations in Paragraph 67 of the Answer for the reasons given in the Complaint, including paragraphs 67-68, this Reply, and their accompanying legal analyses, the Brown Declaration, paragraph 28 and the Brown Reply Declaration, including paragraphs 85-94. As discussed in response to Paragraph 65, there is no basis in the tariffs or in practice for Verizon's argument that FMS was intended to solely benefit Verizon rather than the customers paying for the service. Verizon admits it ignored network and economic efficiency considerations under FMS for its customers, including CenturyLink.

69. CenturyLink denies that the Service Agreements somehow permitted Verizon to evade its optimization responsibility under FMS, or that CenturyLink had an obligation to uncover and file disputes with Verizon under FMS when Verizon was the party with sole knowledge of its network inefficiencies and their future impact on CenturyLink. As explained

⁴⁹ Reply Legal Analysis § II.C.6; Brown Reply Decl. ¶¶ 85-94.

⁵⁰ Brown Reply Decl. ¶¶ 85-94.

in Paragraph 64 of the Complaint, under FMS, CenturyLink was only supposed to pay for DS0 equivalents, so there was no need for CenturyLink to dispute monthly billing errors Verizon might make under FMS related to DS3 counts. CenturyLink denies the allegations in Paragraph 69 of the Answer for the reasons given in the Complaint, including paragraphs 67-68, this Reply, the Brown Declaration, paragraph 28 and the Brown Reply Declaration, including paragraphs 85-94.

7. CenturyLink's Attempts to Obtain Amounts Due Under the Tariffs

70. Verizon does not dispute that Verizon's electronic dispute submission system required the use of specific Verizon dispute forms pursuant to the Service Agreements. Paragraph 70 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

71. CenturyLink denies the allegations and arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses. In addition, CenturyLink denies "abandoning" any of its claims in this proceeding, or that certain of its claims were untimely. Verizon admits that it has "not yet formally closed" the claims it now suggests were untimely or improper.⁵¹

72. Verizon admits that the Billing Credits "that ensured that CenturyLink would receive the tariff rate" were calculated on a quarterly basis. CenturyLink denies the allegations in Paragraph 72 of the Answer for the reasons given in the Complaint, this Reply, and their

⁵¹ Brown Reply Decl. ¶¶ 9-27.

accompanying legal analyses, and the Brown Declaration, including paragraphs 9-14, 90-91, Brown Reply Declaration, including paragraphs 85-94. As explained in the Brown Declaration, Verizon provided two items on a monthly basis: monthly invoices, and the monthly Custom Solution tracking reports.⁵² Circuit level details between both reports were required in order to identify billing discrepancies, but the monthly tracking reports did not contain that information.⁵³

73. CenturyLink denies the allegations in Paragraph 73 of the Answer for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, and the Brown Declaration, including paragraphs 9-14, 90-91, and the Brown Reply Declaration, including paragraphs 95-101. As CenturyLink has explained, Verizon informed it that CenturyLink was required to submit disputes related to the Billing Credits within 30 days of the end of the quarter, in effect prior to the issuance of the Billing Credits themselves.⁵⁴ In its Response to the Notice of Informal Complaint, Verizon again repeatedly affirmed that position, including stating that “[u]nder the contracts, [CenturyLink] had to raise any dispute bearing on a Billing Credit within 30 days of the end of the quarter - *in advance* of Verizon’s payment of the disputed credit.”⁵⁵ CenturyLink therefore denies Verizon’s new and contradictory contentions

⁵² Brown Decl. ¶ 10.

⁵³ Brown Decl. ¶¶ 10-11.

⁵⁴ Complaint ¶ 73 (citing P. Mason Email, Ex. 46.04). Similarly, in its May 31, 2016 Letter, CTL Ex. 40.23, Verizon asserted that “CenturyLink did not dispute Verizon’s calculation of units and inclusion of units for purposes of calculating the applicable Billing Credits within 30 days of the end of the applicable quarter in connection with the Billing Credits, and did not provide the requisite legend on billing disputes that it did eventually submit to Verizon.” (emphasis added).

⁵⁵ Verizon Response at 7 (emphasis added) (italics in original); *see also* 2, 5, 9, 10. CenturyLink addresses this issue in greater detail in the Reply Legal Analysis § II.B.2.

that the 30-day deadline Verizon applied to CenturyLink only related to what Verizon now terms “business-as-usual” disputes, and that Billing Credits were supposedly “subject to a different process.”⁵⁶ Verizon’s new argument does nothing to address the core Catch-22 at issue here based on Verizon’s unjust and unreasonable practices: Verizon required CenturyLink to dispute Billing Credit issues during a narrow period in which CenturyLink did not have complete information regarding Verizon’s errors, and then denied CenturyLink’s disputes as untimely or otherwise lacking information.⁵⁷ As discussed in the Complaint and this Reply, CenturyLink denies that the information it received during that 30-day period was “irrelevant” or that it in fact received “all the information it needed” to raise disputes concerning Billing Credits within 30 days of each quarter’s end. CenturyLink addresses this issue and Verizon’s new position further below in its Reply Legal Analysis.⁵⁸

74. CenturyLink denies the allegations in Paragraph 74 of the Answer for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, and the Brown Declaration, including paragraphs 9-14, 90-91, and the Brown Reply Declaration, including paragraphs 95-101. CenturyLink denies Verizon’s characterization of the 30-day dispute deadline and “business-as-usual” disputes for the reasons set forth above in response to Paragraph 73 of the Answer. CenturyLink addresses this issue and Verizon’s new position further below in its Reply Legal Analysis.

⁵⁶ Verizon Legal Analysis at 33-34. Furthermore, Verizon often claims that Billing Credits are not subject to *any* dispute process. *See, e.g.*, Answer ¶¶ 94, 104.

⁵⁷ *See, e.g.*, Brown Decl. ¶¶ 90-91.

⁵⁸ Verizon’s Legal Analysis also states that it is “true” that “Verizon has also invoked the 30-day deadline as an additional obstacle to CenturyLink’s claims.” Verizon Legal Analysis at 34.

75. CenturyLink denies the allegations in Paragraph 75 of the Answer for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, and the Brown Declaration, including paragraphs 9-14, 97-100, and the Brown Reply Declaration, including paragraphs 95-101. As discussed in the Brown Declaration, CenturyLink did not receive DS1 and DS3 tracking reports and a proposed credit calculation for this quarter from Verizon until 58 days after the end of the quarter.⁵⁹ Those reports lacked complete information from Verizon, but CenturyLink attempted to complete Verizon's dispute forms anyway, and filed them on July 13, 2016 before any quarterly credits had been issued in an effort to meet Verizon's 30-day dispute deadline.⁶⁰ CenturyLink also emailed a courtesy copy of the dispute to Verizon.⁶¹ Despite CenturyLink's efforts to comply with Verizon's billing process as soon as it could, and also to provide extra courtesy copies of its dispute to Verizon, Verizon denied the claim the very same day because the quarterly credits had not issued, and thus information Verizon deemed necessary was not available.⁶² This quarter is a good example of the impossibility of navigating the Catch-22 in Verizon's dispute process, and CenturyLink denies Verizon's allegations in Paragraph 75 that its repeated efforts to advise Verizon of Verizon's own errors somehow make CenturyLink's disputes untimely, or that CenturyLink should have taken even more steps to sleuth out Verizon's mistakes and submit them back to Verizon.

76. CenturyLink denies that it was responsible for Verizon's inability to meet its own contractual deadlines, even as it sought to interpret and enforce deadlines against

⁵⁹ Brown Decl. ¶ 98.

⁶⁰ Brown Decl. ¶¶ 99-100.

⁶¹ *Id.*

⁶² Brown Decl. ¶ 100.

CenturyLink.⁶³ CenturyLink otherwise denies the allegations in Paragraph 76 of the Answer for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, and the Brown Declaration, including paragraphs 6, 9-14, 90-91.

77. CenturyLink denies that it was responsible for Verizon's inability to meet its own contractual deadlines, and further denies Verizon's "business-as-usual" dispute argument as set forth above in response to Paragraph 73. As discussed in its response to Paragraph 75, CenturyLink did also submit disputes directly to Verizon personnel in addition to Verizon's billing system. Verizon admits below that this occurred.⁶⁴ CenturyLink denies Verizon's allegations that it did not do so, or that bypassing Verizon's billing system would have caused Verizon to undertake a genuine review of CenturyLink's disputes. It did not. CenturyLink otherwise denies the allegations in Paragraph 77 of the Answer for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, and the Brown Declaration, including paragraphs 6, 9-14, 90-91, and the Brown Reply Declaration, including paragraphs 9-27, 95-101.

78. CenturyLink denies it received necessary information from Verizon in order to dispute Verizon's errors within the time period Verizon insisted upon, as previously discussed including in Paragraphs 72-75 above. In addition, CenturyLink denies that Verizon sent "earlier preliminary reports with summary-level information" that was "sufficient to alert CenturyLink" to alleged disputes regarding Plan Year 2 Quarter 1 or otherwise.⁶⁵ Paragraph 78 of the Answer

⁶³ Reply Legal Analysis § II.D.3.

⁶⁴ See, e.g., Answer ¶¶ 84 ("Verizon admits that CenturyLink ... emailed a copy [of Claim No. CLINKFAC0168] to Verizon's billing representatives."); 92 (not denying that CenturyLink emailed a dispute copy to Verizon as well).

⁶⁵ See Brown Decl. ¶¶ 9-14, 79-83; Brown Reply Decl. ¶¶ 95-101.

does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

79. Paragraph 79 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.⁶⁶

80. Paragraph 80 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

**a. First Claim Submission (December 2013 to February 2014
(2009 Service Agreement PY5Q4)) and Parties' Course of
Conduct Before CenturyLink Filed Its Informal Complaint**

81. CenturyLink denies the allegations in Paragraph 81 of the Answer. As explained above, and in paragraphs 34-56 of the Brown Declaration, Verizon's monthly invoices did not contain sufficient details that would have allowed CenturyLink to become aware of the specific billing or crediting discrepancies at issue, and the monthly tracking reports Verizon later supplied contained summaries of the total units billed, but no circuit level detail, again preventing CenturyLink from becoming aware of specific billing or crediting discrepancies.

82. CenturyLink denies the allegations in Paragraph 82 of the Answer. As explained above, and in paragraphs 34-56 of the Brown Declaration, Verizon's monthly invoices did not

⁶⁶ Brown Decl. ¶¶ 33-129.

contain sufficient details that would have allowed CenturyLink to become aware of the specific billing or crediting discrepancies at issue, and the monthly tracking reports Verizon later supplied contained summaries of the total units billed, but no circuit level detail, again preventing CenturyLink from becoming aware of specific billing or crediting discrepancies. CenturyLink further denies that Verizon would “readily provide” any information CenturyLink requested, or that even more efforts to compel Verizon to provide additional information or review disputes would have been effective.⁶⁷

83. CenturyLink denies the allegations in Paragraph 83 of the Answer.⁶⁸ The “competent evidence” Verizon asserts is lacking is CTL Exhibit 40.12, in which in a one sentence email CenturyLink indicated it agreed with the “calculations” for the credit amount. The cited paragraph of the Brown Declaration in turn cites CTL Exhibit 40.12 for the point that CenturyLink “concurred with Verizon’s calculation of credits” while also “acknowledging that there were open disputes unrelated to the crediting and counting issues.”⁶⁹ Furthermore, the Declaration of Patrick Welch similarly explained that **[[BEGIN CONFIDENTIAL]]**

[REDACTED]

[REDACTED] **[[END CONFIDENTIAL]]**”⁷⁰

CenturyLink denies that these statements “conflict[]” with Exhibits 37.04 or 38.01, which contain correspondence from a year earlier regarding different plan quarters.⁷¹ As discussed in

⁶⁷ See Brown Reply Decl. ¶ 98.

⁶⁸ Montenegro Reply Decl. ¶¶ 21-22.

⁶⁹ Brown Decl. ¶ 36.

⁷⁰ Welch Decl. ¶ 13.

⁷¹ Brown Decl. ¶¶ 40, 43.

its response to Paragraphs 75 and 77, CenturyLink did also submit disputes directly to Verizon personnel in addition to Verizon's billing system. Verizon admits this occurred.⁷² CenturyLink denies Verizon's allegations that it did not do so, or that bypassing Verizon's billing system or "properly submit[ing] dispute through a number of avenues" would have caused Verizon to undertake a genuine review of CenturyLink's disputes.

84. Verizon admits that CenturyLink attempted to submit the claim on June 19, 2014, and also emailed a copy to Verizon representatives. Verizon also admits that its billing system automatically rejected that dispute. CenturyLink denies the suggestion that Verizon informed "CenturyLink representatives" of specific system requirements "on multiple occasions" and Verizon's citation for that claim does not support the allegation. Otherwise, Paragraph 84 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.⁷³

85. Paragraph 85 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, including with respect to the nature and purpose of the joint call on July 30, 2014.⁷⁴

86. Verizon admits it continued to receive information from CenturyLink and Sage with respect to this dispute, and held subsequent meetings with CenturyLink regarding the

⁷² See, e.g., Answer ¶¶ 84 ("Verizon admits that CenturyLink ... emailed a copy [of Claim No. CLINKFAC0168] to Verizon's billing representatives."); 92 (not denying that CenturyLink emailed a dispute copy to Verizon as well).

⁷³ Brown Reply Decl. ¶¶ 9-27.

⁷⁴ See Brown Decl. ¶¶ 38, 49-56.

dispute despite claiming it was denied. Otherwise, Paragraph 86 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.⁷⁵

87. Verizon admits that it continued to review information submitted by CenturyLink despite asserting in response to Paragraph 86 that it “considered the disputes closed.” CenturyLink denies that Sage was “the driving force behind the disputes” or suggestions that CenturyLink was unaware of the disputes. Paragraph 87 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.⁷⁶

88. Verizon admits receipt of CenturyLink’s March 21, 2016 letter requesting contractual dispute resolution covering its Billing Credit claims. As discussed in the Complaint and its supporting Legal Analysis, CenturyLink denies that the 2009 and 2014 Service Agreements prevented it from submitting disputes, that Verizon had appropriately or accurately calculated the Billing Credits, or that Verizon had met its obligations under FMS. Paragraph 88 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses, including as discussed above.

⁷⁵ See Brown Decl. ¶¶ 49-56.

⁷⁶ See Brown Decl. ¶¶ 49-56, Brown Reply Decl. ¶¶ 9-27.

b. Claim Submission for Credits Due for Services from June 2015 to August 2015 (2014 Service Agreement PY2Q2)

89. Paragraph 89 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses. As explained above, *e.g.*, Paragraphs 72 and 75, and in ¶¶ 34-56 of the Brown Declaration, Verizon's monthly invoices did not contain sufficient details that would have allowed CenturyLink to become aware of the specific billing or crediting discrepancies at issue, and the monthly tracking reports Verizon later supplied contained summaries of the total units billed, but no circuit level detail, again preventing CenturyLink from becoming aware of specific billing or crediting discrepancies.

90. CenturyLink denies Verizon's allegations and arguments in Paragraph 90 for the reasons given in the Complaint, this Reply, and their accompanying legal analyses. As explained above, *e.g.*, Paragraph 73, Verizon repeatedly informed CenturyLink that CenturyLink was required to submit disputes related to the Billing Credits within 30 days of the end of the quarter, both contemporaneously and in response to CenturyLink's Informal Complaint. Further, CenturyLink denies that Verizon would have provided DS1 circuit details up request because CenturyLink requests for this detail were stymied.⁷⁷ After CenturyLink's request, Verizon provided only one month of DS1 circuit detail, and never provided full DS1 circuit level detail for the remainder of the agreement.⁷⁸

⁷⁷ Brown Reply Decl. ¶ 98.

⁷⁸ *Id.*

91. CenturyLink denies that it “abandoned” any of its claims. As discussed in the Complaint, including ¶¶ 94-99, Verizon routinely refused to issue the vast majority of undisputed amounts until CenturyLink expressed a “concurrence” in Verizon’s basic credit calculation. CenturyLink did not “fully concur,” as Verizon now contrives. That point should have been perfectly clear once Verizon received detailed billing disputes following the issuance of the undisputed credits. Verizon’s refusal to issue the large undisputed credit amounts was a significant component of Verizon’s unjust and unreasonable practices under the Service Agreements and related contract tariffs. Paragraph 91 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

92. Verizon does not deny that it would deny claims “under a 30-day dispute deadline” or that CenturyLink did not possess the billing record detail necessary to fully populate Verizon’s dispute form. Verizon also does not deny that CenturyLink also emailed a copy of its filing to Verizon. Paragraph 92 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

93. CenturyLink denies that it “abandoned” any of its claims. As discussed in the Complaint, including ¶¶ 94-99, Verizon routinely refused to issue the vast majority of undisputed amounts until CenturyLink expressed a “concurrence” in Verizon’s basic credit calculation. This was a significant component of Verizon’s unjust and unreasonable practices under the Service Agreements and related contract tariffs. Paragraph 93 of the Answer does not

otherwise contain specific factual allegations or legal arguments to which a response is required.

If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

c. Verizon Withheld Undisputed Credits after Receiving CenturyLink's Disputes

94. CenturyLink denies that Verizon's practice of **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** in undisputed credits that Verizon admitted were valid and owed to CenturyLink, in order to compel CenturyLink to provide a "full concurrence" in Verizon's additional errors, was not coercive. Verizon now describes aspects of the Service Agreements and their dispute requirements quite flexibly when it suits Verizon's purpose. For example, the Service Agreements expressly required CenturyLink to use Verizon's dispute submission forms, which Verizon does not deny.⁷⁹ Yet when confronted with the Catch-22 Verizon's interpretation of the dispute provisions and related unreasonable practices created, Verizon now asserts that the contract language governing the submission of disputes was "not sacrosanct" and that CenturyLink supposedly had a "number of avenues" by which it could have elected to "bypass the system altogether".⁸⁰ By contrast, in Paragraph 94 of its Answer Verizon still asserts that it rejected CenturyLink's requests for the payment of undisputed credit amounts as "inconsistent with the Service

⁷⁹ Complaint ¶ 70 & n.97; Answer ¶ 70.

⁸⁰ Answer ¶ 77. Notably, Verizon previously referred to this submission form as involving a “requisite legend” in its May 31, 2016 Letter, CTL Ex. 40.23. At the time, Verizon treated both the submission requirements and the 30 day period with the same degree of inflexibility when rejecting CenturyLink’s effort to initiate contract dispute resolution, stating that “CenturyLink did not dispute Verizon’s calculation of units and inclusion of units for purposes of calculating the applicable Billing Credits within 30 days of the end of the applicable quarter in connection with the Billing Credits, and did not provide the requisite legend on billing disputes that it did eventually submit to Verizon.” (emphasis added).

Agreements” because, in Verizon’s reading, such credits are “not subject to dispute,” and that Verizon was “merely following the terms of the Service Agreement[.]”

The same contract flexibility that Verizon has belatedly discovered with respect to the *submission* of disputes also applies to the *resolution* of disputes: As CenturyLink explained, Verizon could and should have followed a “number of avenues” to correct its admitted errors and provide CenturyLink with the correct Billing Credits under both the Service Agreements, and in keeping with the filed rate doctrine. For example, as discussed in the Complaint, the Service Agreements do allow for resolution of credit disputes after Billing Credits have issued.⁸¹ Verizon could have corrected its errors and upheld the filed rate doctrine at any time, including by issuing refunds that simply were not termed “Billing Credits” as expressly permitted under the 2009 Service Agreement. As previously discussed, *e.g.*, Paragraphs 20 & 27, Verizon also should have engaged in the contractual dispute resolution processes contained in the two MSA attachments directly interwoven with the two Service Agreements, but simply refused in its May 31, 2016 Letter.⁸² Instead, Verizon chose to apply an overly restrictive reading of the dispute process in one particular area that would benefit Verizon, thereby withholding tens of millions of dollars in undisputed credits -- and all to coerce CenturyLink into expressing “concurrence” in the very same billing errors that Verizon later claims in its Answer were of “nominal” importance.⁸³ For similar reasons, and as discussed in Paragraphs 5 and 98, Verizon’s unsupported assertion that it was “unworkable” to issue undisputed amounts (while separately resolving disputes) is simply wrong. Verizon in fact did so on multiple occasions, and should

⁸¹ Complaint Legal Analysis at 22-24.

⁸² CONFIDENTIAL CTL Ex. 40.23.

⁸³ See Verizon Legal Analysis at 50.

have employed that approach consistently. Instead, Verizon narrowly and rigidly interpreted only select contract provisions to CenturyLink's detriment.

Paragraph 94 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses. As explained above, *e.g.*, Paragraph 73, Verizon repeatedly informed CenturyLink that CenturyLink was required to submit disputes related to the Billing Credits within 30 days of the end of the quarter, both contemporaneously and in response to CenturyLink's Informal Complaint.

95. Verizon admits that CenturyLink attempted to dispute the credit amount through Verizon's system, but could not. Paragraph 95 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

96. Paragraph 96 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

97. CenturyLink denies that Verizon could not discern which amounts were disputed, as CenturyLink was submitting disputes throughout this time period.⁸⁴ CenturyLink lacks knowledge or information sufficient to form a belief as to the truth of Verizon's

⁸⁴ See Complaint Legal Analysis, at 9-10 (Table of CenturyLink-Verizon Claims).

“interpretation” of certain responses, but as previously discussed denies the suggestion that CenturyLink had abandoned its claims or disputes. Paragraph 97 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

98. CenturyLink denies that the issuance of undisputed credit amounts while the parties addressed remaining disputed issues was “unworkable and inconsistent with the Service Agreements,” as previously explained in the Complaint, the Legal Analysis, (including at 22-24), this Reply, and in the above response to Paragraph 94. As discussed in Paragraph 94, the Service Agreements were not nearly as inflexible as Verizon suggests with respect to this one aspect of the credit and billing dispute process, and Verizon has since interpreted the contract requirements in related dispute sections more flexibly. CenturyLink also denies Verizon’s attempts to reinterpret table column captions in Table 12. Furthermore, CenturyLink denies that Verizon acted reasonably or in compliance with the Service Agreements and contract tariffs when it withheld **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** in undisputed credits for PY3 of the 2014 Service Agreement for over a year, or that CenturyLink abandoned its dispute, as discussed in Paragraphs 5, 33, and 99. Paragraph 98 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

99. As explained in its response to Paragraph 5, CenturyLink admits that Verizon has paid **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** in undisputed credits for PY3 of the 2014 Service Agreement. CenturyLink’s Complaint

acknowledged that Verizon had informed CenturyLink it would pay that undisputed amount, but that it had not yet done so as of the required filing date of the Complaint.⁸⁵ Upon receipt of that payment following filing of the Complaint, CenturyLink timely updated the Commission by letter dated March 7, 2018, in the above proceeding pursuant to 47 C.F.R. § 1.720(g). CenturyLink denies that Verizon “properly” withheld this undisputed amount, for the reasons given in the Complaint, this Reply, and their accompanying legal analyses. The remainder of Paragraph 99 states a legal conclusion to which no response is required, but CenturyLink further denies that the Service Agreements preclude the Commission from applying tariff interest rates to the amounts Verizon withheld. CenturyLink’s Complaint is brought under the Communications Act, not the informal dispute provisions of Section 2 of the tariffs.

II. DISCUSSION

100. Paragraph 100 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

101. Paragraph 101 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

⁸⁵ See, e.g., Complaint ¶¶ 4 & n.4; 99; 147 & n.211.

A. Verizon Violated the Contract Tariffs and Overcharged CenturyLink

102. Paragraph 102 of the Answer states legal conclusions to which no response is required. If it is, however, Verizon's allegations, arguments, and conclusions are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

103. Paragraph 103 of the Answer states legal conclusions to which no response is required. If it is, however, Verizon's allegations, arguments, and conclusions are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses. As explained in the Complaint Legal Analysis (at Argument § I.A) and the Reply Legal Analysis (at § II.A.2), CenturyLink's claims are for overcharges in excess of the flat rates it should have received from Verizon. In its response to Paragraph 26, Verizon does not deny that the tariff rate that CenturyLink received for special access services was delivered by the quarterly credits it received from Verizon, and this allegation is deemed admitted. In its response to Paragraph 26, Verizon also does not deny that violations of the tariffs and related agreements would result in CenturyLink being charged a rate higher than the tariff rate, and this allegation is deemed admitted. In its response to Paragraph 32, Verizon also does not deny that errors in circuit designations and in quarterly credit calculations would result in "overcharges to CenturyLink in violation of the tariffs and the Flat Rate Price Flex Deal" and that allegation is deemed admitted.

104. As discussed above, the benefit to Verizon was the volume commitments CenturyLink agreed to provide in exchange for discounted rates based on the Billing Credits, and CenturyLink did not agree to permit Verizon to alter those bargained for rates either through erroneous circuit counts or through refusal to engage in related dispute processes. Verizon's interpretation of the agreements was that it could deny CenturyLink the agreed-upon

discount rate and then refuse to issue **[[BEGIN CONFIDENTIAL]]** [REDACTED]
[[END CONFIDENTIAL]] in undisputed credits (which generally totaled over 98% of the credits at issue) until CenturyLink expressed “concurrence,” at which point Verizon asserts that CenturyLink had abandoned its right to the tariff rate. Verizon’s interpretation and conduct was coercive and violates the filed rate doctrine.⁸⁶ Paragraph 104 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

105. Paragraph 105 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

B. Verizon’s Billing and Credit Practices Are Unjust and Unreasonable

106. Paragraph 106 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

107. Paragraph 105 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

⁸⁶ See Reply Legal Analysis § II.B.2.a, c.

1. **Verizon's Failure to Abide by the Terms of the Agreements' Dispute Resolution Provisions Was an Unjust and Unreasonable Practice.**
 - a. **Verizon Unreasonably Failed to Consider CenturyLink's Overcharge Disputes Even Though They Were Brought Within a Reasonable Time Under the Agreements and the Tariffs.**

108. CenturyLink denies the allegations in Paragraph 108 of the Answer. As explained above, *e.g.*, Paragraph 73, Verizon repeatedly informed CenturyLink that CenturyLink was required to submit disputes related to the Billing Credits within 30 days of the end of the quarter, both contemporaneously and in response to CenturyLink's Informal Complaint. Verizon has never corrected any of its admitted billing errors, regardless of how or when those errors were disputed.⁸⁷ Paragraph 108 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

109. CenturyLink denies the allegations in Paragraph 109 of the Answer. CenturyLink denies Verizon's characterization of the 30-day dispute deadline and "business-as-usual" disputes for the reasons set forth above in response to Paragraphs 73 and 74 of the Answer. CenturyLink addresses this issue and Verizon's new position further below in its Reply Legal Analysis.

110. As previously discussed, including in Paragraph 27, CenturyLink denies that the MSA and its attachments do not govern the services at issue in addition to the Service Agreements, or that aspects of the MSA or its attachments are inapplicable. Paragraph 110 of

⁸⁷ See Brown Decl. ¶¶ 33-129; Brown Reply Decl. ¶ 28.

the Answer otherwise states legal conclusions to which no response is required. If it is, however, Verizon's allegations, arguments, and conclusions are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

111. As previously discussed, including in Paragraph 27, CenturyLink denies that the MSA and its attachments do not govern the services at issue in addition to the Service Agreements, related disputes, or that aspects of the MSA or its attachments are inapplicable. Paragraph 111 of the Answer otherwise states legal conclusions to which no response is required. If it is, however, Verizon's allegations, arguments, and conclusions are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

112. CenturyLink denies the allegations in Paragraph 112 of the Answer. Verizon's desire for "finality" does not alter the consideration CenturyLink was to receive under the agreements, namely the flat rates it bargained for, nor does it supersede the filed rate doctrine. Permitting Verizon to continue its practices of committing significant, admitted errors across multiple quarters and with respect to various types of circuits would only threaten the interrelated service arrangements that Verizon claims a desire to protect.⁸⁸ Paragraph 112 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

113. Paragraph 113 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or

⁸⁸ See Reply Legal Analysis § II.B.1.b.

arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

b. Even If Verizon's Interpretation of Agreements and Tariffs Was Reasonable, Verizon Failed to Abide by Those Same Dispute Resolution Provisions and Cannot Now Rely on Them to CenturyLink's Detriment.

114. CenturyLink denies the allegations in Paragraph 114 of the Answer. As previously discussed, CenturyLink denies that its disputes were untimely, barred, or that Verizon could selectively treat some aspects of the Service Agreements flexibly to Verizon's benefit, while attempting to hold CenturyLink to much narrower and baseless interpretations as an excuse to not correct known errors and refund overcharges to CenturyLink. Paragraph 114 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

115. CenturyLink denies the allegations in Paragraph 115 of the Answer. As discussed in the Complaint, in the few instances where Verizon did react to submitted disputes, Verizon delayed its own alleged review of the disputes while assuring CenturyLink disputes remained "open," only to later claim that disputes had in fact been denied, resolved or closed. Paragraph 115 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

116. In Paragraph 116 of the Answer, Verizon admits that it received disputes from CenturyLink on multiple occasions in consecutive months and quarters, raising disputes regarding the "exact same circuit in the same circumstances." Verizon's response highlights

Verizon's callous disregard for its allegedly-valued customer. As further discussed in Paragraph 121, Verizon apparently felt no obligation to investigate, let alone correct, billing errors no matter how often disputes were raised. Instead, Verizon restrictively interpreted the agreements and contract tariffs to shield its errors, while relying on the practical business reality that CenturyLink could not afford to wait indefinitely to receive **[[BEGIN CONFIDENTIAL]]** **████████████████████** **[[END CONFIDENTIAL]]** in undisputed credits. Had CenturyLink been forced to remain trapped in Verizon's billing and dispute maze, to this day it would not have received **[[BEGIN CONFIDENTIAL]]** **████████████████████** **[[END CONFIDENTIAL]]** in undisputed credits (for which Verizon now argues it also need not pay interest). Paragraph 116 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

117. In Paragraph 117 of the Answer, Verizon admits that there is merit to at least some of the errors CenturyLink identified. As discussed above, CenturyLink denies that it "benefited" from Verizon's various errors in a manner that would lower the credits due to CenturyLink, or that correcting Verizon's errors would have authorized Verizon to lower its erroneous credit amounts further.⁸⁹ Paragraph 117 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

⁸⁹ Brown Reply Decl. ¶¶ 28-40, 43-94.

118. Paragraph 118 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

c. Verizon's Dispute Process Frustrated CenturyLink's Efforts to Identify and Challenge Verizon's Overcharges.

119. CenturyLink denies the allegations in Paragraph 119. As explained in the Complaint and this Reply, *e.g.*, Paragraph 3, CenturyLink lacked the necessary information to identify and dispute Verizon's calculations in the time periods Verizon claimed were required, and Verizon's dispute process required CenturyLink to accompany any dispute with information that did not exist or become available until after Verizon had later applied the credits. Paragraph 119 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

120. CenturyLink denies the allegations in Paragraph 120. As explained in the Complaint and this Reply, *e.g.*, Paragraph 3, CenturyLink lacked the necessary information to identify and dispute Verizon's calculations in the time periods Verizon claimed were required, and Verizon's dispute process required CenturyLink to accompany any dispute with information that did not exist or become available until after Verizon had later applied the credits. CenturyLink also denies that Verizon was attentive to dispute submissions or would provide timely or accurate information when requested.⁹⁰ Paragraph 120 of the Answer does

⁹⁰ Brown Reply Decl. ¶¶ 9-28, 95-101.

not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

121. Paragraph 121 of the Answer contains certain legal conclusions to which no response is required. CenturyLink otherwise denies the allegations in Paragraph 121 of the Answer. As discussed, including in Paragraphs 73 and 94, Verizon repeatedly asserted that CenturyLink was subject to a narrow 30-day dispute period for disputes related to the Billing Credits, and then withheld significantly larger, undisputed amounts whenever CenturyLink attempted to dispute Verizon's errors, including errors Verizon has since admitted. Verizon has never corrected any of its admitted billing errors, regardless of how or when those errors were disputed.⁹¹ Verizon's assertion that "CenturyLink could have withheld its concurrence while it pursued its disputes" exemplifies Verizon's callous attitude and treatment of CenturyLink. Verizon has never substantively engaged in CenturyLink to properly investigate and resolve its admitted errors, and in fact largely ignored the underlying merits of the disputes until CenturyLink filed a complaint with the Commission. By way of recent example, Verizon brushed off CenturyLink's attempt to resolve the withholding of **[[BEGIN CONFIDENTIAL]]** **██████████** **[[END CONFIDENTIAL]]** in undisputed credits for PY3 of the 2014 Service Agreement, and ultimately withheld those funds for over a year. Had CenturyLink followed Verizon's suggestion during the course of the agreements, Verizon would likely still be holding over **[[BEGIN CONFIDENTIAL]]** **██████████** **[[END CONFIDENTIAL]]** in undisputed credits owed to CenturyLink. Requiring CenturyLink to forfeit the use of such significant

⁹¹ See Brown Decl. ¶¶ 33-129; Brown Reply Decl. ¶ 28.

amounts in the hope that Verizon would investigate and resolve disputes in good faith is the actual unworkable aspect of Verizon's process, and is unjust and unreasonable.

122. Paragraph 121 of the Answer contains certain legal conclusions to which no response is required. CenturyLink otherwise denies the allegations in Paragraph 122 of the Answer. As discussed, including Paragraph 94, the Service Agreements evince significantly more flexibility regarding disputes than Verizon seeks to apply, and CenturyLink had no choice but to "concur" in Verizon's threshold calculation in order to receive the [[BEGIN CONFIDENTIAL]] [REDACTED] [[END CONFIDENTIAL]] in undisputed amounts.

123. Paragraph 123 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

2. Verizon's Withholding of Undisputed Credits Is an Unjust and Unreasonable Practice.

124. As discussed, including Paragraphs 91 and 94, CenturyLink denies the suggestion that its disputes were just "initial" responses to Verizon's erroneous credit calculations, or that it was appropriate for Verizon to "decline" to issue undisputed amounts until Verizon decided CenturyLink had alleged "concurred in the full amount." Paragraph 124 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

125. As discussed, including Paragraphs 91 and 94, Verizon did withhold amounts that both parties agreed were valid credits, and did so expressly on the basis of any dispute

CenturyLink filed related to Billing Credits. Paragraph 125 of the Answer does not otherwise contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

3. Failing to Provide a Reasonable Time in which CenturyLink Could Dispute Overcharges Is an Unjust and Unreasonable Practice.

126. Paragraph 126 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

COUNT I

(Violation of Tariff Rates, Section 203(c), 47 U.S.C. § 203(a) & (c))

127. CenturyLink incorporates its allegations, as well as its denials of and responses to Verizon's responses in its Answer.

128. Paragraph 128 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

129. Paragraph 129 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

130. Paragraph 130 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or

arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

131. Paragraph 131 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

132. Paragraph 132 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

133. Paragraph 133 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

134. Paragraph 134 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses

135. Paragraph 135 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

COUNT II

(Unjust and Unreasonable Practices, Section 201, 47 U.S.C. § 201(b))

136. CenturyLink incorporates its allegations, as well as its denials of and responses to Verizon's responses in its Answer.

137. Paragraph 137 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

138. Paragraph 138 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

139. Paragraph 139 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

140. Paragraph 140 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

141. Paragraph 141 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or

arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

142. As discussed, CenturyLink denies that it received information sufficient to analyze and dispute Verizon's proposed credit calculations within the dispute period Verizon demanded, and Verizon's refusal to substantively address any of CenturyLink's disputes is particularly unjust and unreasonable in light of the extensive errors Verizon has since conceded in the course of the Informal Complaint and Formal Complaint processes. Paragraph 142 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

143. Paragraph 143 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

144. Paragraph 144 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

145. Paragraph 145 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

146. Paragraph 146 of the Answer does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

III. PRAYER FOR RELIEF

147. Paragraph 147 of the Answer states legal conclusions to which no response is required. If it is, however, Verizon's allegations, arguments, and conclusions are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses. CenturyLink is owed overcharges in the amount set forth in the Final Dispute Amount column in Table 1 of the Reply Legal Analysis. CenturyLink further denies that the Service Agreements preclude the Commission from applying tariff interest rates to the amounts Verizon withheld. CenturyLink's Complaint is brought under the Communications Act, not the informal dispute provisions of Section 2.⁹²

IV. AFFIRMATIVE DEFENSES

148. Paragraph 148 of the Answer states legal conclusions to which no response is required. Verizon provides no support for this asserted defense, which is barred by the filed rate doctrine. Pursuant to 47 C.F.R. § 1.726(b), CenturyLink denies Verizon's First Defense for the reasons set forth herein, including in its Reply Legal Analysis at § II.D.1, and in the Complaint.

149. Paragraph 149 of the Answer states legal conclusions to which no response is required. Verizon provides no support for this asserted defense, which is barred by the filed rate doctrine. Pursuant to 47 C.F.R. § 1.726(b), CenturyLink denies Verizon's Second Defense for

⁹² Reply Legal Analysis § II.D.4 n.231.

the reasons set forth herein, including in its Reply Legal Analysis at § II.D.2, and in the Complaint.

150. Paragraph 150 of the Answer states legal conclusions to which no response is required. Verizon has admitted that CenturyLink's claims are for overcharges, and provides no support for this asserted defense, which is barred by the filed rate doctrine. Pursuant to 47 C.F.R. § 1.726(b), CenturyLink denies Verizon's Third Defense for the reasons set forth herein, including in its Reply Legal Analysis at § II.D.3, and in the Complaint.

151. Paragraph 151 of the Answer states legal conclusions to which no response is required. Verizon has admitted that CenturyLink's claims are for overcharges, and provides no support for this asserted defense, which is barred by the filed rate doctrine. Pursuant to 47 C.F.R. § 1.726(b), CenturyLink denies Verizon's Third Defense for the reasons set forth herein, including in its Reply Legal Analysis at § II.D.3, and in the Complaint.

152. Paragraph 150 of the Answer states legal conclusions to which no response is required. Verizon provides no support for this asserted defense, which is barred by the filed rate doctrine. Pursuant to 47 C.F.R. § 1.726(b), CenturyLink denies Verizon's Fourth Defense for the reasons set forth herein, including in its Reply Legal Analysis at § II.D.4, and in the Complaint.

CENTURYLINK'S SUPPLEMENTAL INFORMATION DESIGNATION

Pursuant to Section 1.726(d) of the Commission's Rules, 47 C.F.R. § 1.726(d), and the Commission's Letter Order, dated February 9, 2018, CenturyLink states that it has attached a supplemental information designation to this Reply.

Dated: April 23, 2018

Respectfully submitted,

PUBLIC VERSION
CONFIDENTIAL MATERIAL OMITTED



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**PUBLIC VERSION
CONFIDENTIAL MATERIAL OMITTED**

CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2018, pursuant to the Protective Order and the February 9, 2018 Letter Order, I caused a copy of the foregoing Reply, as well as all accompanying materials, to be served as indicated below to the following:

Marlene H. Dortch
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Respectfully submitted,



Michael A. Sherling

Tab A

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
CenturyLink Communications, LLC f/k/a Qwest)	
Communications Company, LLC,)	
)	
Complainant,)	Docket No. 10-33
v.)	File No. EB-18-MD-001
)	
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.,)	
)	
Defendants.)	

REPLY LEGAL ANALYSIS IN SUPPORT OF CENTURYLINK COMMUNICATIONS,
LLC'S FORMAL COMPLAINT

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April 23, 2018

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INTRODUCTION

Pursuant to Section 208 of the Communications Act (“Act”), 47 U.S.C. § 208, and Section 1.726(c) of the Federal Communications Commission’s (“Commission” or “FCC”) rules, 47 C.F.R. § 1.726(c), Complainant CenturyLink Communications, LLC (“CenturyLink”) hereby submits this Reply Legal Analysis in support of its Formal Complaint filed against the above-captioned Verizon entities (individually and collectively, “Verizon.”). As set forth in more detail in CenturyLink’s Reply and Formal Complaint, CenturyLink brings this proceeding to recover overcharges by Verizon for tariffed special access services. This brief contains CenturyLink’s legal analysis in support of its Complaint and Legal Analysis, and the Reply, and supplements the analysis set forth in the Reply, CenturyLink’s Formal Complaint and other materials submitted herewith.

I. SUMMARY OF ANALYSIS

Verizon and CenturyLink agreed to the following business deal: CenturyLink would commit to purchase a large volume of special access and other services, and in exchange Verizon would provide lower special access flat rates in the form of quarterly billing credits. In practice, CenturyLink upheld its side of the bargain. Verizon did not.

In its Answer, Verizon concedes that: (1) the tariff rate that CenturyLink received for special access services was delivered by the quarterly credits, (2) that CenturyLink was dependent upon Verizon to provide a complete and accurate description of the services and circuits as part of Verizon’s required information reporting, (3) that violations of the tariffs and related agreements would result in CenturyLink being inaccurately charged a rate higher than the filed tariff rate, and (4) such errors specifically result in “overcharges to CenturyLink” in

violation of the tariffs and the Flat Rate Price Flex Deal.¹ Yet when pressed to resolve the numerous, extensive calculation errors that deprived CenturyLink of the tariff rates, Verizon retreats into a thicket of self-serving and inconsistent procedural arguments. As explained in more detail below, none of Verizon's defenses has merit, and Verizon should be required refund the overcharges it imposed on CenturyLink.

First, Verizon's admission in its Answer that its billing errors result in overcharges to CenturyLink is fatal to its cursory assertions that CenturyLink only seeks "damages" for the purposes of Section 415, or that its claims are therefore somehow time-barred. CenturyLink's claims are for charges in excess of the tariff rates, and were timely submitted in writing to Verizon. Verizon has also failed to address, let alone distinguish, governing case law on overcharges as set forth in the Complaint.

Second, the filed rate doctrine precludes Verizon's efforts to alter the filed rates that the parties negotiated. Here, Verizon relies on its abusive billing practices and tortured interpretations of dispute provisions in an attempt to alter the filed rates. None of the cases Verizon cites in its Answer in defense of its practices involved a billing party interpreting dispute resolution provisions at the expense of the governing filed rate. In fact, none of Verizon's cases even involves a dispute surrounding the filed rate doctrine or a contention that adopting a particular interpretation of a specific dispute resolution provision would result in discriminatory pricing. The filed rate doctrine mandates that CenturyLink receives the rates it bargained for under the Service Agreements and contract tariffs.

Third, Verizon's narrow reading of certain aspects of those contractual dispute provisions as a bar to CenturyLink's claims is completely undermined by its new arguments regarding how

¹ Verizon Answer ¶¶ 26, 32; *see also* Reply ¶¶ 26, 32.

other aspects of the dispute process were “not sacrosanct” and that CenturyLink had a “number of avenues” by which it could have brought disputes to Verizon. As discussed below, the same contract flexibility that Verizon has belatedly discovered with respect to the *submission* of disputes has also always applied to the *resolution* of disputes. Verizon had numerous ways to correct its admitted errors and provide CenturyLink with the bargained for flat rates, consistent with the filed rate doctrine, and is required to do so.

Fourth, Verizon admits that the flat rates were CenturyLink’s consideration for entering into the Flat Rate Price Flex Deal in the first place, and Verizon does not dispute that a party is entitled to the benefit of its bargain. As discussed in more detail below, the bargain CenturyLink negotiated was to receive discounted flat rates in return for its commitment to purchase certain high volumes of special access and other services from Verizon. Verizon’s argument that CenturyLink instead allegedly bargained for lower rates in exchange for permitting Verizon to then increase those rates by inaccurately billing CenturyLink does not make sense. It contravenes the parties’ actual negotiation history, as well as the standard telecom industry practice of exchanging lower rates for volume commitments. Verizon’s argument would have resulted in CenturyLink not receiving the bargained for lower rate, while remaining committed to purchase the minimum volumes of special access and other services – in effect, denying CenturyLink the benefit of the bargain based on Verizon’s own interpretation of back end dispute provisions.

Fifth, Verizon does not dispute that CenturyLink can challenge Verizon’s unreasonable practices, including its failure to bill for the bargained for filed rates. Contrary to Verizon’s claims, CenturyLink is not challenging the validity of the tariffs or the contracts themselves, but

rather requesting that they be enforced against Verizon in order to provide CenturyLink with the rates it bargained for.

Sixth, reflecting the absence of a credible defense, Verizon devotes considerable portions of its Answer and Interrogatories to CenturyLink's use of an outside billing auditor, Sage. Relying on such auditors is a well-established practice in the telecommunications industry, including by Verizon.² This is nothing but a diversion from the merits. Who uncovered the errors is not relevant to the fact of Verizon's admitted errors.

Finally, as discussed below, Verizon's cursory and unsupported affirmative defenses lack merit, and Verizon cannot evade its obligation to provide CenturyLink with the flat tariff rate.

II. ARGUMENT

A. Verizon Admits that CenturyLink's Claims Have Merit, and That Verizon's Errors Were Greater Than Previously Thought.

There is no longer any question that Verizon committed extensive errors throughout the course of the parties' contractual relationship. All that remains is to determine the full scope of those errors and overcharges to ensure that CenturyLink receives the correct tariffed rates that both parties agreed would apply. In its earlier Response to the Informal Complaint, Verizon admitted to only **[[BEGIN CONFIDENTIAL]] [REDACTED] [[END CONFIDENTIAL]]** in overcharges.³ In its Answer to the Formal Complaint, Verizon now admits to **[[BEGIN CONFIDENTIAL]] [REDACTED] [[END CONFIDENTIAL]]** in overcharges, an increase of over 70,000%.⁴ While this represents a degree of progress, it continues to fall far short of

² See *infra* n.101.

³ Verizon Response to Notice of Informal Complaint at 2, 13.

⁴ Table 1, *infra*; Reply Declaration of Tiffany Brown ("Brown Reply Decl.") ¶ 40.

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accurately capturing the magnitude of the Verizon's errors. Such systemic errors are certainly not "nominal" or "minor."⁵

1. Verizon Admits It Overcharged CenturyLink by Miscalculating the Billing Credits.

The table below summarizes the amounts Verizon owes CenturyLink by dispute category, as well as amounts Verizon has already admitted based on its Answer. It also summarizes certain amounts CenturyLink agrees to adjust based on its review of the Answer and supporting materials.⁶ The "Final Dispute Amount" column reflects the current outstanding balance (not including interest) for each category of Verizon error addressed in the Complaint.

[[BEGIN CONFIDENTIAL]]

Table 1

Dispute Category	Original Dispute Amount	Amount Verizon Agrees is Owed	Amount CenturyLink Agrees to Adjust	Final Dispute Amount
1 - Miscalculating Equivalents for DS3 CLF Units				
2 - Including Units Without USOCs				
3 - Double Counting Units				
4 - Misdesignating DS3 CLF Units				
5 - Misdesignating DS0 Units				

⁵ Verizon Legal Analysis at 45, 50.

⁶ By adjusting its calculations based on Verizon's arguments and new information provided in Verizon's Answer, CenturyLink does not waive, withdraw, or otherwise dismiss its disputes or claims, which remain timely. CenturyLink reserves the right and ability to utilize the DS3-equivalency analysis in Category 1 should Verizon again shift its position in response to CenturyLink's Reply.

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6 - Failure to Optimize Circuit Routing				

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As shown in this table, based on the information provided in Verizon's Answer, CenturyLink agrees to adjust the dispute amounts for three of the Dispute Categories as follows:

- Dispute Category 1: CenturyLink agrees with Verizon that the DS3-equivalent count previously included in Dispute Category 1 is unnecessary as the DS0-equivalent charges are already being recouped by Verizon on the DS1 circuits and associated DS1 unit counts. This results in an increased dispute amount for Dispute Category 1 of [[BEGIN CONFIDENTIAL]] [REDACTED] [[END CONFIDENTIAL]] in additional overcharges due to CenturyLink.⁷
- Dispute Category 2: CenturyLink agrees to adjust certain dispute amounts in Dispute Category 2 based on the underbilling detailed in Verizon's Answer.⁸
- Dispute Category 4: Dispute Category 4 results in a net debit to CenturyLink, which CenturyLink already included in their analysis and related dispute amounts filed with Verizon. Verizon agrees with CenturyLink that [[BEGIN CONFIDENTIAL]] [REDACTED] [[END CONFIDENTIAL]] is owed for the misdesignation of DS3 CLF units and CenturyLink agrees with Verizon that [[BEGIN CONFIDENTIAL]] [REDACTED] [[END CONFIDENTIAL]] should be debited for the misdesignation of DS3 CLS units. All of the dollars associated with the underbilling and overbilling in Dispute Category 4 were already included in the dispute packages filed with Verizon.

A discussion of the total amount now due CenturyLink under each category of Verizon's errors follows in Section II.C.

2. Verizon's Failure to Pay Quarterly Billing Credits as Part of the Flat Rates Constitutes Overcharges.

⁷ Brown Reply Decl. ¶ 43-57.

⁸ Brown Reply Decl. ¶ 58-75.

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Verizon cannot escape liability for Plan Year 5 of the 2009 Service Agreement by mislabeling its admitted overcharges as “damages” for the purposes of Section 415.⁹ 47 U.S.C. § 415(g) defines overcharges as “charges for services in excess of those applicable thereto under the schedules of charges lawfully on file with the Commission.” Verizon seeks to narrow the plain language of the statute from charges “in excess of those applicable” to the “monthly rate under its tariffs.”¹⁰ However, nothing in the statute limits the definition of overcharges to the monthly rate as Verizon attempts to do. In any event, in its Answer, Verizon concedes that its Billing Credit errors result in overcharges.¹¹ Verizon does not deny that the tariff rate that CenturyLink received for special access services was delivered by the credits it received from Verizon, or that that violations of the tariffs and related agreements would result in CenturyLink being charged a rate higher than the tariff rate.¹² Verizon also does not deny that its errors would result in “overcharges” to CenturyLink “in violation of the tariffs and the Flat Rate Price Flex Deal.”¹³ That alone is dispositive of this issue.

Verizon nonetheless later issues a bald denial that CenturyLink’s claims involve overcharges, before again acknowledging that at least some of CenturyLink’s claims are for

⁹ Verizon Legal Analysis at 66-68. CenturyLink notes that Verizon does not contest that CenturyLink’s disputes were timely presented in writing within two years for the purposes of Section 415(c). *See* Complaint Legal Analysis at 2 & n.5; 3 & n.7; Verizon Legal Analysis at 66-68 (further acknowledging that if CenturyLink’s claims are indeed for overcharges, that “would allow CenturyLink to extend the accrual date by presenting its claims in writing to Verizon.”).

¹⁰ Verizon Legal Analysis at 67.

¹¹ *Compare* Answer ¶¶ 26, 32; with Complaint ¶¶ 26, 32; Reply ¶¶ 26, 32.

¹² *See* Reply ¶ 26.

¹³ *See* Reply ¶ 32.

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overcharges and are governed by § 415(c).¹⁴ The truth is that all of CenturyLink's claims are for overcharges. In its Complaint, CenturyLink in fact cited a number of relevant cases proving that its claims in this proceeding constitute overcharges, and that CenturyLink should receive refunds.¹⁵ For example, in *AT&T Corp v. Beehive Tel. Co.*, No. 2:08CV941, 2010 WL 376668, at *23 (D. Utah Jan. 26, 2010), the court addressed a situation involving a carrier charging for three Tandem Switched Terminations per access minute when its tariff only permitted a single charge. The court held that this involved "overcharges" under Section 415, that these overcharges were not "released" by a settlement agreement that did not mention them, and that "because [the carrier] has deviated from its tariff, it can and should be required to refund the TST overcharges."¹⁶ Cases such as *Brown v. MCI WorldCom Network Servs., Inc.*, 277 F.3d 1166 (9th Cir. 2002), further explain that a suit brought to enforce a tariff rate against a carrier is not barred by the filed rate doctrine because it is not challenging the rate, and that erroneously applying a tariff rate (*e.g.*, being charged a proper \$10 tariff rate in an improper way, such as for additional accounts or lines that did not exist) results in overcharges.¹⁷ By erroneously overcounting billable units in its credit calculations, by its own admission Verizon similarly overcharged CenturyLink.

¹⁴ Compare Answer ¶ 103 ("Nor are CenturyLink's claims for an "overcharge" subject to 47 U.S.C. § 415(c). Instead, CenturyLink's claims seek 'damages' under 47 U.S.C. § 415(b).") with Verizon Legal Analysis at 67 n.350 (acknowledging that "CenturyLink's Category 6 disputes are for overcharges and are governed by § 415(c)").

¹⁵ Complaint Legal Analysis at 2 n.5; 6 n.7 & 9; 5 n.14, and 6 n.15.

¹⁶ *Id.* at *21, 23 (emphasis added).

¹⁷ *Id.* at 1171-1172.

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One can scour Verizon's Answer and Legal Analysis in vain for any mention, let alone rebuttal, of these extensive authorities.¹⁸ That is because no credible defense can be mounted. Instead, Verizon only tries to rebut several additional overcharge cases CenturyLink also identified in the rail common carrier context, which Verizon dismisses out of hand as "far afield" and "not even addressing the Act."¹⁹ Yet the Supreme Court has explained that Section 203 of the Communications Act is modeled on the Interstate Commerce Act, and those cases are likewise applicable here.²⁰ In light of Verizon's concessions and failure to distinguish key opposing authorities there should be no doubt that CenturyLink's claims are for overcharges.²¹

Indeed, the tariffs themselves describe the true rate that CenturyLink was supposed to receive as the "Flat Rate." Significantly, the "Flat Rate pricing for the Qualifying Services is achieved by providing Quarterly Billing Credits."²² And, as Verizon has admitted and as described in the tariff transmittal letters, the specific purpose of the tariffs was for Verizon to

¹⁸ See, e.g., Verizon Legal Analysis, Table of Authorities.

¹⁹ Verizon Legal Analysis at 67 n.352.

²⁰ See Complaint Legal Analysis at 6 n.16 (citing *American Tel. and Tel. Co. v. Central Office Tel., Inc.*, 524 U.S. 214, 222 (1998) ("These provisions [Sections 203(a) and 203(c)] are modeled after similar provisions of the Interstate Commerce Act (ICA). ... Accordingly, the century-old 'filed rate doctrine' associated with the ICA tariff provisions applies to the Communications Act as well.")) (emphasis added) (internal citations omitted).

²¹ Nor are the two cases that Verizon does half-heartedly cite even supportive of its position. Verizon Legal Analysis at 68 n.354. One focused on Section 415(b) accrual dates and did not even discuss what qualifies as an overcharge. See *Communications Vending Corp. of Arizona, Inc. v. FCC*, 365 F.3d 1064, 1073 (D.C. Cir. 2004). The second only references overcharges in passing, and even then states that "the IXCs may seek to show that some or all of the LEC's violations were 'overcharges' in the strict sense of 415(g), and that various items of correspondence operated to extend the limitations period under Section 415(c)." *Memorandum Opinion & Order, AT&T Corp. v. Bell Atlantic - Pennsylvania*, 14 FCC Rcd. 556, ¶ 17 (1998).

²² CTL Ex. 14, Verizon Tariff No. 1 Section 21.58(H)(1); 21.66(G)(1) ("The Flat Rate pricing for the Services set forth in Tables 1 and 2 following is achieved by providing a DS1 Flat Rate Credit, a DS3 CLF Flat Rate Credit, and a DS3 CLS Flat Rate Credit.").

provide CenturyLink with a discounted flat rate for special access service.²³ Verizon charged an amount in excess of the tariffed rate by overcounting billable units and failing to pay the correct Billing Credits, the mechanism by which Verizon concedes that CenturyLink receives its true flat rate under the tariffs.²⁴

3. CenturyLink Must Receive the Correct Tariff Rates Pursuant to the Filed Rate Doctrine.

The parties agree that the filed rate doctrine applies to this proceeding.²⁵ Where they differ is the outcome of that application. CenturyLink's position is that the filed rate doctrine requires that the filed rates be upheld, that Verizon has violated the doctrine through its admitted errors, and that Verizon therefore must refund its overcharges. This is because the Supreme Court has held that the filed rate doctrine “forbids a regulated entity to charge rates for its services other than those properly filed with the appropriate federal regulatory authority.”²⁶

As discussed, Verizon admits that (1) the tariff rate that CenturyLink received for special access services was delivered by the quarterly credits, and (2) that violations of the tariffs and related agreements would result in CenturyLink being inaccurately charged a rate higher than the filed tariff rate.²⁷ In light of Verizon's admitted and extensive errors involving the quarterly credits, there is no denying that CenturyLink has not received the filed tariff rate, and instead has

²³ Complaint ¶¶ 26, 31; *see also* Verizon Answer ¶ 28 (admitting allegations including that agreements provided aggregate discounts and billing credits, and that the “discounted rates were achieved through the quarterly credits provided by Verizon to CenturyLink”).

²⁴ Verizon Answer ¶¶ 26, 32; *see also* Reply ¶¶ 26, 32.

²⁵ *See, e.g.*, Complaint, ¶¶ 102-103; Legal Analysis at 4-5; *see also* Answer, ¶¶ 102-103, Verizon Legal Analysis at 25, 45-46.

²⁶ *See Marcus v. AT&T Corp.*, 138 F.3d 46, 58 (2nd Cir. 1998) (quoting *Arkansas Louisiana Gas Co. v. Hall*, 453 U.S. 571, 577 (1981)).

²⁷ Verizon Answer ¶¶ 26, 32; *see also* Reply ¶¶ 26, 32.

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been charged a rate higher than the filed tariff rate. This is a straightforward violation of the filed rate doctrine, and Verizon should be required to refund those overcharges.

Nonetheless, Verizon cobbles together a trio of cases it claims require the interpretation of the contractual dispute provisions in a way that alters the filed rates.²⁸ Each of these cases is inapposite, however, because none upholds an interpretation of dispute resolution provisions at the ultimate expense of the filed rate. Indeed, none of the cases even involve a dispute surrounding the filed rate doctrine or a contention that adopting a particular interpretation of a specific dispute resolution provision would result in discriminatory pricing. It is not surprising that Verizon lacks support for its position, as it is axiomatic that the filed rate doctrine would not permit an outcome that undermines the filed rates.

For example, Verizon does cite filed rate doctrine cases for the unremarkable proposition that the terms of a tariff should be upheld along with the tariff rate itself, but these cases likewise do not involve a situation where a carrier violates the filed rate doctrine through billing errors that alter the filed rates, and then tries to preclude disputes that would restore the filed rate.²⁹ In *Global NAPS, Inc. v. Verizon New England Inc.*, 327 F. Supp. 2d 290 (D. Vt. 2004), the court explained that prohibiting a particular service entirely did not violate the filed rate doctrine because it would not discriminate among customers, since the service could not be offered to any

²⁸ Verizon Legal Analysis at 21 n.98 (citing Memorandum Opinion and Order, *Cox Virginia Telcom, Inc. v. Verizon South Inc.*, 17 FCC Rcd. 8540, ¶¶ 30-31 (2002) (granting formal complaint against Verizon based on interconnection agreement); Memorandum Opinion and Order, *MAP Mobile Commc'ns, Inc. v. Illinois Bell Tel. Co.*, 24 FCC Rcd. 5582, ¶ 18 (2009) (interconnection agreement); *Frontier Commc'ns of the West, Inc. v. North Am. Long Distance Corp.*, No. 99-CV-0868E(M), 2001 WL 1397856, at *4 (W.D.N.Y. Oct. 24, 2001) (wholesale agreement)). As noted, the parties agree the filed rate doctrine applies to this proceeding, yet these cases do not address it at all.

²⁹ Verizon Legal Analysis at 45-46.

customer.³⁰ Therefore, the ban “has not varied the rates” of the tariff.³¹ In *Richman Bros. Records, Inc. v. U.S. Sprint Commc’ns Co.*, 10 FCC Rcd. 13639 (1995), the Commission upheld a limitation of liability found in a tariff that limited the carrier’s liability to the tariff rates.³² These cases are therefore consistent with the purpose of the filed rate doctrine in upholding the filed rates, and inconsistent with Verizon’s own position. The Commission can and should interpret the dispute provisions to uphold the tariff rates.

Ultimately, through its strained interpretation of the dispute resolution provisions (which willfully ignores other dispute provisions providing a far more flexible picture of the parties’ expectations and obligations), Verizon merely seeks to avoid a “hardship” expressly contemplated by the filed rate doctrine: charging CenturyLink the tariff rates. But compared to truly aggrieved parties, providing CenturyLink with the rate it contracted for is no hardship to Verizon at all.³³ Holding Verizon to the tariff rates is at most a “hardship” that is demanded by, and furthers the core purpose of, the filed rate doctrine. Despite Verizon’s restrictive and draconian reading of the Service Agreements, the plain language of the parties’ agreements and tariffs clearly allow disputes concerning Verizon’s calculations to be raised more than 30 days

³⁰ 327 F. Supp. 2d at 301.

³¹ *Id.* (emphasis added).

³² See 10 FCC Rcd. 13639, ¶ 3 n.3 (liability of the carrier would not “exceed[] an amount equivalent to the charges the Carrier would make to the subscriber for the period of service ...”).

³³ See *Illinois Century Gulf R. Co. v. Golden Triangle Wholesale Gas Co.*, 586 F.2d 588 (5th Cir. 1978) (holding that a railroad was required to collect certain storage charges under its tariff even though it had entered into an agreement with a shipper that the tariff would not apply); *Taffet v. Southern Co.*, 967 F.2d 1483 (en banc) (11th Cir. 1992) (holding that even if a common carrier makes fraudulent misrepresentations regarding its tariff to the regulatory agency itself, a customer still has no cause of action for fraud); *H.J., Inc. v. Northwestern Bell Tel. Co.*, 954 F.2d 485, 489 (8th Cir. 1992) (holding that the filed rate doctrine prohibited a cause of action for fraud by rate payers in a case in which it was alleged that utilities had bribed regulators in exchange for higher rate approval).

after the end of the relevant quarter and after Verizon issues the quarterly credits.³⁴ Any other interpretation would effectively shield erroneous tariff credit calculations from review and permit Verizon to overcharge CenturyLink in violation of the tariff rate.

Verizon also tries to rely on a phalanx of readily distinguishable case law and regulatory decisions to support its proposition that the filed rate doctrine precludes common law equitable principles or estoppel arguments to Verizon's benefit.³⁵ But in each of the cases Verizon cites, the party asserting the defense refused to pay the rate stated in the tariff.³⁶ In other words, those parties were attempting to use common law defenses to undermine the core purpose of the filed rate doctrine. Here, by contrast, CenturyLink seeks to enforce the flat rates in the tariffs, as

³⁴ See Complaint ¶ 109; CTL Ex. 3, 2009 Service Agreement Section 7(e)(v) (emphasis added); see also CTL Ex. 14, Verizon Tariff No. 1 Section 21, Option 57(H)(5)(e).

³⁵ See Verizon Legal Analysis, at 46 nn.232-34.

³⁶ See *Midcontinent Commc 'ns v. MCI Commc 'ns Servs., Inc.*, No. 4:16-CV-04070-KES, 2018 WL 1370257, at *8 (D.S.D. Mar. 16, 2018) (rejecting equitable defense "because permitting Midco to keep fees that it wrongfully charged in violation of the tariffs infringes on the exclusive role of federal agencies in approving rates for telecommunications services that are reasonable by keeping courts out of the rate-making process.") (emphasis added) (internal quotation omitted); *Bowers v. Windstream Kentucky E., LLC*, No. 3:09CV-440-H, 2011 WL 4601032, at *3 (W.D. Ky. Oct. 3, 2011) (rejecting equitable defense where plaintiff alleged that Windstream's "assessment of varying percentages contradicted Windstream's tariff and therefore violated the Filed Rate Doctrine.") (emphasis added); *Int'l Telecomms. Exch. Corp., v. MCI Telecomms. Corp.*, 892 F. Supp. 1520, 1541 (N.D. Ga 1995) (rejecting equitable defense where plaintiff "claim[ed] [it] should not have to pay for telecommunications services provided by MCI because MCI failed to provide . . . services that are not a part of . . . the MCI Tariff.") (emphasis added); *MCI Telecomms. Corp. v. Best Tel. Co.*, 898 F. Supp. 868, 869-70 (S.D. Fla. 1994) (same); *Reiter v. Cooper*, 507 U.S. 258, 260 (1993) ("[S]hipper defends against a motor common carrier's suit to collect tariff rates with the claim that the tariff rates were unreasonable"); *WorldCom Techs., Inc. v. ACS Telecom, Inc.*, No. 00 CIV. 3200 (LLS), 2001 WL 1537696, at *6 (S.D.N.Y. Dec. 3, 2001) (rejecting ACS's equitable defense where it sought to avoid payment of the rate in the filed tariff); *In the Matter of Communique Telecomms., Inc. d/b/a Logically Application for Review of the Declaratory Ruling & Order Issued by the Common Carrier Bureau Intercontinental Tel. Corp.*, 14 FCC Rcd. 13635, ¶ 29 (1999) (rejecting ICTC's estoppel defense where it sought to avoid paying the Universal Service Fund and Lifeline Assistance charges contained in NECA's Tariff).

contemplated by the filed rate doctrine and 47 U.S.C. § 203. CenturyLink's claims involve the reasonableness of Verizon's interpretation of dispute resolution provisions with respect to its rate errors, which when not properly interpreted, results in CenturyLink paying a rate that is more than the filed rate. As a result, Verizon's reliance on the filed rate doctrine is fundamentally misplaced. "The application of the filed rate doctrine does not depend on the nature of the cause of action the plaintiff seeks to bring."³⁷ "Rather, 'the focus for determining whether the filed rate doctrine applies is the impact the ... decision will have on agency procedures and rate determinations.'"³⁸ Here, a Commission decision adopting CenturyLink's interpretation of the dispute resolution provision will serve only to enforce the filed rates, not disturb them.

4. Verizon's Erroneous Overcharges Were Not Isolated or Trivial.

Verizon has admitted various errors across the categories of disputes, including failing to provide credits for over **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]**.³⁹ As shown by their size and continuing nature, these errors were extensive and systemic, not "isolated" or "inadvertent."⁴⁰ Verizon nonetheless argues that because the Commission once stated in a very different context that an error rate in the range of 2-3% is "nominal," Verizon now believes it has the Commission's blessing to subject CenturyLink to significant error rates without consequence.⁴¹ That is absurd. As a threshold

³⁷ *Sancom, Inc. v. Qwest Commc'n Corp.*, 643 F. Supp. 2d 1117, 1125 (D.S.D. 2009).

³⁸ *Id.* (quoting *H.J. Inc.*, 954 F.2d at 489).

³⁹ Verizon Exs. 60, 61, 64, 66, 67; *see* Brown Reply Decl. ¶¶ 58-75, 79-82.

⁴⁰ CenturyLink Reply ¶¶ 32, 49; *see* Brown Reply Decl. ¶ 43-94.

⁴¹ *See* Answer at 45 (citing Memorandum Opinion and Order, *Application of Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, 16 FCC Rcd. 17419, ¶¶ 26, 29 (2001) ("*Verizon Pennsylvania Order*")); 50 (citing Memorandum Opinion and Order, *Application of Verizon New*

matter, contrary to Verizon's suggestions, the filed rate doctrine requires that a customer of tariff services be charged the tariff rate at all times.⁴² There is no exemption permitting public utilities to be "generally correct" or "close enough" to the rate. Nor does the doctrine require or enable customers, sophisticated or otherwise, to "agree to forgo" tariff rates as Verizon callously suggests.⁴³

The cases that Verizon claims involve "comparable" error rates are inapposite.⁴⁴ The *Verizon New Jersey Order* related to an evaluation of Verizon's billing performance in Pennsylvania in the context of whether to grant Section 271 authority.⁴⁵ The Commission found Verizon's error rate passable only in the sense that it was not prohibitive of "provid[ing] competing carriers a meaningful opportunity to compete" for the purposes of Section 271.⁴⁶ Simply put, both the *Verizon Pennsylvania Order* and the *Verizon New Jersey Order* only concerned application of the unrelated Section 271 standard for offering access to unbundled network elements in a nondiscriminatory manner, and do not stand for Verizon's current proposition in this case that the Commission permits public utilities to exceed tariff rates as long as the utility's billings are (in the utility's estimation) "generally correct."⁴⁷

Jersey Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in New Jersey, 17 FCC Rcd. 12275, ¶ 127 (2002) ("*Verizon New Jersey Order*").

⁴² See *supra*, § II.A.3; see also 47 U.S.C. § 203(c).

⁴³ Verizon Legal Analysis at 3-4.

⁴⁴ Answer at 44-45.

⁴⁵ *Verizon New Jersey Order* ¶ 127; see also *Verizon Pennsylvania Order* ¶ 1.

⁴⁶ *Verizon New Jersey Order* ¶ 127.

⁴⁷ See 47 U.S.C. § 271 (requiring access offered by BOCs to meet conditions such as: "Nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)"). Even so, the Commission still made clear that it "fully expect[ed]

5. Verizon's Speculation About Higher Rates Is Irrelevant.

Verizon also erroneously contends that the contractual flat rates would have been higher had Verizon been properly counting billing units, consistent with CenturyLink's claims in this case.⁴⁸ That is pure speculation, and is premised on a misrepresentation of how the flat rates were negotiated. It is also irrelevant, as the filed rate doctrine requires Verizon to charge CenturyLink according to the filed tariff rate, not according to some rate Verizon now wishes it had filed instead.

As conceded in the Declaration of Christopher Alston, and more fully explained in the Reply Declaration of Robert Montenegro, CenturyLink and Verizon directly negotiated the **[[BEGIN CONFIDENTIAL]]** [REDACTED]⁴⁹ **[[END CONFIDENTIAL]]** Those rates were not established by use of an "ARPU" or other formula. Instead, the formula was reverse engineered once the specific flat rates were agreed on.⁵⁰

B. CenturyLink Is Entitled to the Filed Rate and Verizon is Not Permitted to Overcharge.

After acknowledging extensive billing errors that Verizon admits resulted in CenturyLink not receiving the correct tariff rates, Verizon retreats behind a mix of self-serving and inconsistent procedural arguments for why it nonetheless should not have had to charge CenturyLink the correct rates under the tariffs. These procedural arguments also fail. The plain language of the tariffs contemplates disputes of Verizon's credit calculations as one mechanism

Verizon to closely adhere to its official policies so that its dispute-resolution procedures are clearly articulated and consistently applied to all parties." *Verizon Pennsylvania Order* ¶ 40.

⁴⁸ Verizon Legal Analysis at 49-50. *See* Brown Reply Decl. ¶¶ 37-38; Montenegro Reply Decl. ¶¶ 2-15.

⁴⁹ Alston Decl. ¶ 15 ("In negotiating the Service Agreements, the parties agreed first on the per-unit flat rates and then negotiated the rest of the Service Agreement"); Montenegro Reply Decl. ¶¶ 2-15.

⁵⁰ Montenegro Reply Decl. ¶¶ 2-3.

to ensure the accurate assessment of the filed rate. In addition, the Flat Rate Price Flex Deal was a multi-part custom arrangement that incorporated other agreements outside of the tariffs.

Verizon's unjust and unreasonable conduct—through its selective interpretation of the dispute provisions and its byzantine dispute process—mandates that CenturyLink be allowed to recover overcharges from Verizon. Verizon also cannot rely on its own desire for “finality” to escape its obligation to accurately charge the Flat Rate guaranteed by the tariff. Finality is no defense for overcharges, any more than it would be a defense for fraud.

1. The Tariffs Contemplate and Permit the Present Disputes.

a. CenturyLink's Disputes Are Allowed by the Plain Language of the Tariffs.

The language of the agreements and tariffs specifically contemplate the possibility that CenturyLink could receive amounts for disputes, even if they were not characterized as Billing Credits. Verizon repeatedly claims, to no avail, that the tariffs prevent CenturyLink from ever disputing the Billing Credits, as determined by Verizon.⁵¹ That statement is contradicted by the plain language of the 2009 tariffs, which states, “Upon resolution of any ... disputes raised after

⁵¹ Answer ¶¶ 94, 104. Verizon also argues that a specific clause stating that billing credits “are not subject to dispute” (taken out of context) controls over any other contractual language or other agreements with dispute resolution provisions. Verizon Legal Analysis at 25, n.115 (citing *Cox Virginia*, ¶ 30). This principle of contract construction, however, is “not [a] rule[] requiring blind adherence.” *Burger King Corp. v. Horn & Hardart Co.*, 893 F.2d 525, 528 (2d. Cir. 1990). If the contract evinces ambiguity or if the parties manifest contrary intent elsewhere, such as where the specific language would undercut the meaning of another provision of the contract, the specific provision will not be interpreted to discount the parties' intent or other provisions. *See id.* Stated differently, “a contract which confers certain rights or benefits in one clause will not be construed in other provisions completely to undermine those rights or benefits.” *Ronnen v. Ajax Elec. Motor Corp.*, 88 N.Y.2d 582, 590 (1996). Here, Verizon has admitted the agreements contain ambiguities, Verizon Legal Analysis at 57 & n.292, and those ambiguities should not be resolved in a way that undermines either (1) the actual rates CenturyLink bargained for under the filed rate doctrine, or (2) the numerous other dispute resolution mechanisms contained in the interrelated MSA, including Attachments 11 & 13.

the determination of the Billing Credits, amounts may be credited to the customer if the customer prevails” even though such amounts would not result in an adjustment to the Billing Credits themselves.⁵² That language, in no uncertain terms, allows the present dispute with regard to the Plan Year 5 Billing Credits.⁵³ The 2014 Agreement further provides for “situation[s] where Verizon applies a Billing Credit that does not match the mutually agreed upon credit amount.”⁵⁴ Verizon refuses to acknowledge that the dispute provisions or the contracts contain any such language, or indeed any flexibility that might benefit CenturyLink.⁵⁵ Contrary to Verizon’s

⁵² See Complaint ¶ 109; CTL Ex. 3, 2009 Service Agreement Ex. B, Section 7(e)(v) (emphasis added); see also CTL Ex. 14, Verizon Tariff No. 1 Section 21, Option 57(H)(5)(e).

⁵³ Verizon argues that the 2009 tariff language which provides that for “disputes raised after the determination of the Billing Credits, amounts may be credited to Customer if Customer prevails,” refers to MRCs, not Billing Credits. Verizon Legal Analysis at 22. Verizon’s only “evidence” for its argument is that the first clause in this section references Disputed Charges because supposedly “that is why the contract addressed those disputes together.” *Id.* However, Verizon’s reasoning goes against the rules of contract construction, specifically, the rule against surplusage. Under that rule, the Commission must render each term meaningful. *Johnson v. Am. United Life Ins. Co.*, 716 F.3d 813, 820 (4th Cir. 2013) (“And, because contracts are construed as a whole, courts should seek to give effect to every provision in [a contract], avoiding any interpretation that renders a particular provision superfluous or meaningless.”). Verizon’s interpretation would render the term “disputes raised after the determination of the Billing Credits” meaningless because it would have the same meaning as Disputed Charges. Thus, the proper interpretation is that the tariffs allow Verizon to remit sums to CenturyLink, if CenturyLink prevails in its disputes.

⁵⁴ CTL Ex. 3, 2009 Service Agreement, Ex. B, Section 8(f).

⁵⁵ Verizon Legal Analysis at 20-21. Verizon also erroneously argues that *Saturn Telecomms. Servs., Inc. v. BellSouth Telecomms., Inc.*, 29 FCC Rcd. 12520 (2014) (“*Saturn Order*”) (Order on Reconsideration), *petition for review denied*, *Saturn Telecomms. Servs., Inc. v. FCC*, 632 F. App’x 591 (11th Cir. 2016) (per curiam) precludes CenturyLink’s claims here. Verizon Legal Analysis at 20-21. That case is inapposite and CenturyLink’s claims are procedurally proper. The *Saturn Order* concerned a settlement agreement where Saturn specifically agreed to a broad release regarding a pre-existing complaint: “[Saturn] agrees not to re-file the [2006 PSC Proceedings] or the allegations raised in or associated with [2006 Proceedings] at the [Florida PSC, the FCC] or in any other forum.” *Saturn Order*, ¶ 9. Saturn’s settlement also provided that Saturn “releases, acquits, and discharges [AT&T] from all Demands, Actions and Claims, whether known or unknown, asserted or which could have been asserted, against [AT&T] related to the [2006 Proceedings].” *Id.* Here, the parties have not settled and CenturyLink did not “release” Verizon from any claims. Instead, it entered into a contract whereby it was guaranteed

position, the Agreements evince significant dispute flexibility and are in no way a waiver of CenturyLink's subsequent claims. Yet as discussed below in Section II.B.2.a, Verizon now describes aspects of the same Service Agreements and their dispute requirements quite flexibly when it suits Verizon's purpose.

b. The Interrelated Nature of the Tariffs, the MSA, and Its Attachments Also Allow CenturyLink's Disputes.

The Service Agreements also were not standalone contracts—as Verizon admits, they were part of a larger agreement that contained revenue commitments for business data services (including special access services) and contemplated wholistic dispute resolution.⁵⁶ **[[BEGIN**

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]⁵⁸ **[[END**

CONFIDENTIAL]] Thus, reading the contract tariffs in conjunction with the related

a flat rate for special access services, and which laid out a dispute process which Verizon failed to honor.

⁵⁶ See, e.g., Verizon Response to CenturyLink's Summary of Governing Agreements ¶ 1; Alston Decl. ¶ 6.

⁵⁷ See CTL Ex. 3, 2009 Service Agreement § 3(a), § 6(h).

⁵⁸ See CTL Ex. 2, Attachment 11 to the MSA § 15. Verizon argues that dispute resolution is not available under the Attachments. Verizon Legal Analysis at 23-24. **[[BEGIN**

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[REDACTED]

[[END CONFIDENTIAL]] Verizon admits this, Verizon Legal Analysis at 24, then cursorily dismisses it as meaningless because the credits are not subject to dispute—its argument is essentially a tautology.

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agreements and MSA does not violate the filed rate doctrine.⁵⁹ In other words, the agreements can and should be read in a way that permits CenturyLink to bring its disputes, and that is consistent with the filed rate doctrine.

As more fully described in CenturyLink's Summary of Governing Agreements (Complaint, Tab B) and its Reply to Verizon's Response to CenturyLink's Summary of Governing Agreements (Reply, Tab B), **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁵⁹ Verizon argues that the filed rate doctrine prohibits using the Attachments to "escape" the provisions of the tariffs. Verizon Legal Analysis at 25. That is not what CenturyLink is asking; CenturyLink is requesting the tariffs be enforced, including the tariff rates. CenturyLink's point is that its interpretation of the dispute provisions is consistent with both the Service Agreements, the MSA, and the interrelated Attachments, as well as with the filed rate doctrine itself. Verizon is the party attempting to place them in conflict with each other through its unjust and unreasonable interpretations and practices. If Verizon had simply and fully acknowledged errors (many of which it now does acknowledge) years ago and provided the tariff rate based on correct billing credits, this matter would have been resolved consistent with those agreements and the parties' bargain.

⁶⁰ CTL Ex. 2, Attachment 11 to the MSA § 1; CTL Ex. 4, Attachment 13 to the MSA § 1.

⁶¹ **[[BEGIN CONFIDENTIAL]]** [REDACTED]

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Significantly, Attachment 13 to the MSA, Section 9.4 stated that the [[BEGIN
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[REDACTED]
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⁶² See CTL Ex. 2, Attachment 11 to the MSA § 15.

⁶³ CTL Ex. 4, Attachment 13, at 1; *see also* CTL Ex. 2, Attachment 11, at 2 [[BEGIN
CONFIDENTIAL]] [REDACTED]

[[END CONFIDENTIAL]]

⁶⁴ CTL Ex. 4, Attachment 13, § 9.4 (emphasis added); *see also* CTL Ex. 2, Attachment 11, § 15.

[REDACTED]⁶⁵ [[END

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Verizon in fact concedes that MSA Attachment 13 contemplated that the parties would

[[BEGIN CONFIDENTIAL]] [REDACTED]

[REDACTED] [[END

CONFIDENTIAL.]]⁶⁶ But Verizon asserts that it reads this provision to give CenturyLink “no help” because it supposedly does not allow for disputes of Billing Credits, an interpretation Verizon simply fabricates on the spot.⁶⁷ This sort of unilateral, unreasonable interpretation and pronouncement by Verizon is precisely why the parties are before the Commission, rather than

⁶⁵ CTL Ex. 4, Attachment 13, § 9.4. This section went on to detail an informal dispute resolution period of 90 days following a notice of a dispute to allow the parties to discuss and (hopefully) resolve the dispute. *Id.* § 9.4.1 [[BEGIN CONFIDENTIAL]] [REDACTED]

[[END CONFIDENTIAL]]

⁶⁶ Verizon Legal Analysis at 24. Verizon also argues that the MSA’s forum selection clause prohibits CenturyLink from invoking the MSA (or its dispute resolution provisions) in a case brought before the Commission. Verizon Legal Analysis at 25 n.119. That is an interesting new position for Verizon to take, given that the parties have been arguing these matters (including the applicability of the MSA) before the Commission since 2016. Private regulated parties of course “cannot divest a federal agency of jurisdiction to decide a case.” *Broadview Networks, Inc. v. Verizon Tel. Co.*, 19 FCC Rcd. 22216, ¶ 18 (2004) (EB Memorandum and Opinion Order); see *A/S Ivarans Rederi v. United States*, 895 F.2d 1441, 1445 (D.C. Cir. 1990) (holding that “[p]rivate regulated parties cannot agree to waive the subject matter jurisdiction of the agency charged with the statutory responsibility to insure that parties implement agreements as approved by and filed with that agency”). Policing violations of the terms of the tariffs filed with the Commission is also core to its enforcement mission. See *id.* (citing *Duke Power Co. v. FERC*, 864 F.2d 823, 831 (D.C. Cir. 1989)). In any event, Verizon admits without qualification that the Commission has jurisdiction over both CenturyLink’s Complaint, and over all of the individual Verizon defendants. See Complaint ¶ 22 (Jurisdiction); Answer ¶ 22 (“Verizon admits the allegations in Paragraph 22.”).

⁶⁷ Verizon Legal Analysis at 24.

resolving these matters through the contractual dispute processes. [[BEGIN

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[REDACTED]

[REDACTED] [[END CONFIDENTIAL]] Yet

when CenturyLink attempted to do so, Verizon continued its pattern of unjust and unreasonable conduct by denying CenturyLink's right to dispute Verizon's denials of its earlier disputes.⁶⁸

Finally, Verizon cannot rely on the Service Agreements' [[BEGIN CONFIDENTIAL]]

[REDACTED] [[END

CONFIDENTIAL]] However, Attachments 11 and 13 were executed contemporaneously with

the respective Service Agreements, and [[BEGIN CONFIDENTIAL]] [REDACTED]

[REDACTED] [[END CONFIDENTIAL]]—instead they form one agreement with complementary dispute provisions.

Ultimately, Verizon's unilateral pronouncement that disputes under the Service Agreements are not subject to contractual dispute resolution processes, despite plain contract language to the contrary is, further evidence of its unreasonable practices with regard to these disputes. These disputes could have been resolved between the parties had Verizon engaged in that process and acknowledged its calculation errors, including those it has since conceded in this proceeding.

⁶⁸ Compare Complaint ¶ 20; Answer ¶ 20. CenturyLink complied with this process in its March 21, 2016 dispute notice letter, which requested that private dispute resolution be initiated under Attachments 11 & 13 of the MSA.

2. Verizon's Erroneous Billing, Refusal to Accept or Investigate Disputes, and Withholding of Undisputed Amounts Are Unjust and Unreasonable Practices.

Verizon also tries to evade liability under Section 201 by characterizing its conduct as compliant with the tariffs. But as discussed below, Verizon's shifting rationales for its denials of CenturyLink's claims and its failure to abide by the tariff language simply provide more evidence of Verizon's unjust and unreasonable practices.⁶⁹

a. Verizon Admits CenturyLink's Allegations Concerning Dispute Resolution.

Verizon's practice of committing extensive errors and then unilaterally interpreting and applying the dispute process to its advantage was unjust and unreasonable. Verizon's unwillingness to either entertain CenturyLink's disputes or address ongoing errors contrasts greatly with its current pronouncements. In a profound about-face, Verizon now announces the discovery of great flexibility concerning contractual requirements of the tariffs, including their dispute language. The tariffs expressly required CenturyLink to use Verizon's dispute submission forms, including specific requirements such as Circuit IDs. Verizon does not deny this fact.⁷⁰ Yet when confronted with the Catch-22 that Verizon's interpretation of the dispute provisions and related unreasonable practices created, Verizon now asserts that the contract language governing the submission of disputes was "not sacrosanct" and that CenturyLink supposedly had a "number of avenues" by which it could have elected to "bypass the system

⁶⁹ Verizon also fails to distinguish *In re NOS Commc'ns, Inc.*, 16 FCC Rcd. 8133 (2001). CenturyLink in fact agrees with Verizon's characterization of the case, and here CenturyLink is similarly alleging that Verizon "promised certain 'credits . . . which never materialize[d].'" Verizon Legal Analysis at 44 n.222.

⁷⁰ Complaint ¶ 70 & n.97; Answer ¶ 70.

altogether.”⁷¹ As discussed below, Verizon has also tried to walk back its previously unyielding position that CenturyLink must submit disputes of the Billing Credits within 30 days of the end of the quarter. The reason for this reversal is that Verizon thinks it now benefits from it. By contrast, Verizon continues to assert that it effectively had no choice but to reject CenturyLink’s requests for the payment of huge and undisputed credit amounts as “inconsistent with the Service Agreements” because, in Verizon’s reading, such credits are “not subject to dispute,” and that Verizon was “merely following the terms of the Service Agreement[.]”⁷²

The same contract flexibility that Verizon has belatedly discovered with respect to the submission of disputes should and did apply to the resolution of disputes: As CenturyLink has repeatedly explained, Verizon should have followed a “number of avenues” to correct its admitted errors and provide CenturyLink with the correct Billing Credits under the Service Agreements. For example, as explained above and in the Complaint, the Service Agreements do allow for resolution of credit disputes after Billing Credits have issued.⁷³ Verizon could have

⁷¹ Answer ¶ 77; Verizon Legal Analysis at 35-36 (“CenturyLink could have filled out the claim form to avoid an automatic denial; it could have sought Verizon’s assistance in steering its disputes through the system; or it could have sent its disputes directly to Verizon’s dispute team (thus bypassing the electronic system altogether).”). Verizon nonetheless tries to have this both ways when it believes it may benefit Verizon. *See, e.g.*, Szol Decl. ¶ 56 (CenturyLink “must” file disputes with a “clear label” of “Dispute Associated with 2014 Contract Tariff” within 30 days of the end of each quarter); ¶ 58 (“CenturyLink did not comply with the requirement that all disputes be labeled ‘Dispute Associated with 2014 Contract Tariff.’”).

⁷² Answer ¶ 94. Notably, Verizon previously referred to this submission form as involving a **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** in its May 31, 2016 Letter. *See* CTL Ex. 40.23. As discussed in more detail *infra* § II.B.2.b, at the time, Verizon treated both the submission requirements and the 30-day period with the same degree of inflexibility, stating that **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[[END CONFIDENTIAL]] *Id.* (emphasis added).

⁷³ Complaint Legal Analysis at 22-24.

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corrected its errors and upheld the filed rate doctrine at any time, including by issuing refunds that simply were not termed “Billing Credits” as expressly permitted under the 2009 Service Agreement. The 2014 Service Agreement and related tariffs do not prohibit Verizon from issuing refunds for overcharges. **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[REDACTED] **[[END CONFIDENTIAL]]** but simply refused in its May 31, 2016 Letter.⁷⁴

Instead, Verizon chose to apply an overly restrictive reading of the dispute process in one particular area that would benefit Verizon, thereby withholding **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** in undisputed credits – and all to coerce CenturyLink into expressing “concurrence” with Verizon’s calculations. Verizon compounds this unreasonableness with the suggestion that its newly discovered alternate remedies would not have in fact resulted in proper dispute resolution anyway.⁷⁵ For example, Verizon claims that it assisted CenturyLink with the submission of its first batch of disputes, and that CenturyLink was “successful” in obtaining the inevitable denial from Verizon on the basis that the credits could not be disputed.⁷⁶ That is, Verizon admits that even methods it now holds out as evidence of a more open process were doomed from the start. This is unreasonable.

Verizon’s after-the-fact explanation for the denials is also incoherent: “CenturyLink continued to fill out Verizon’s claim form incorrectly – thus eliciting automated rejection notices from Verizon’s system – but that is not why its claims were denied.”⁷⁷ They were denied,

⁷⁴ See CTL Ex. 40.23.

⁷⁵ Verizon Legal Analysis at 36.

⁷⁶ *Id.*

⁷⁷ Verizon Legal Analysis at 36-37.

Verizon claims, “because, once paid, the Billing Credits as determined by Verizon are not subject to dispute.” If that were the ultimate basis for rejection, and not the automated system rejecting the submissions as Verizon stated, then Verizon’s argument that there was no “structural unfairness” bears no relationship to its institutionalized practice of always denying disputes regardless of form or process.⁷⁸

For similar reasons, Verizon’s unsupported assertion that it was “unworkable” to issue undisputed amounts (while separately resolving disputes) is simply wrong. Verizon in fact did so on multiple occasions, and should have employed that approach consistently.⁷⁹ Instead, Verizon narrowly and rigidly interpreted select contract provisions to CenturyLink’s detriment. That, again, is unjust and unreasonable.

b. Verizon’s Shifting 30-day Argument and Attacks on CenturyLink’s Auditing Consultant Shine a Spotlight on Verizon’s Unreasonable Practices.

The paragraphs above present an overview of Verizon’s unreasonable and institutionalized practice of practice of denying disputes regardless of form, substance or process. One of those practices deserves special attention – Verizon’s denial of disputes because CenturyLink failed to raise them within 30 days after the end of the quarter. The Commission should not be fooled by Verizon’s revisionist history in its Answer. Regardless of what Verizon now contends the 30-day provision meant, the Commission should look to Verizon’s practice of denying CenturyLink’s disputes without considering them and giving CenturyLink essentially no option to ever dispute the Billing Credits.

⁷⁸ *Id.*

⁷⁹ Complaint ¶ 97; Brown Decl. ¶¶ 79-100 (Verizon issuing credits for PY2Q1 through PY2Q4 despite awareness that CenturyLink disputed a portion of its credit calculations).

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Verizon repeatedly claimed that CenturyLink was required to submit disputes related to the Billing Credits within 30 days of the end of the quarter, both contemporaneously and in response to CenturyLink's Informal Complaint.⁸⁰ For example, in the course of the disputes, Verizon personnel told CenturyLink that CenturyLink "must submit such disputes to Verizon no later than the thirtieth day following the end of the quarter."⁸¹ In its response to CenturyLink's subsequent March 21, 2016 dispute letter, Verizon denied CenturyLink's request for contractual dispute resolution because **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[REDACTED]

[REDACTED]

82 **[[END CONFIDENTIAL]]**

After CenturyLink was thus left with no choice but to pursue this matter at the Commission via Informal Complaint, Verizon's Response to the Notice of Informal Complaint set forth Verizon's then position at length, variously asserting that:

- (1) If CenturyLink did not "concur" in a Billing Credit, "it must raise any disputes affecting the Billing Credit within 30 days of the end of the quarter,"⁸³
- (2) "the contracts require [CenturyLink] to submit any disputes bearing on the calculation of the Billing Credits – such as disputes about the number of eligible DS1 or DS3 Units – within 30 days of the end of each quarter"⁸⁴

⁸⁰ Complaint ¶ 73.

⁸¹ See CTL Ex. 46.04, CLINKFAC0421, File: Correspondence from Patricia Mason (Verizon) dated November 13, 2015.

⁸² See CTL Ex. 40.23, Response to Dispute Notice Letter from David Szol (Verizon) to Patrick Welch (CenturyLink), dated May 31, 2016.

⁸³ Response to Informal Complaint at 2.

⁸⁴ *Id.* at 5 (emphasis added).

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(3) “In short, the contracts afford [CenturyLink] 30 days after the end of the quarter (which is 30 days before Verizon pays the Billing Credit) to submit disputes”⁸⁵

(4) “[u]nder the contracts, [CenturyLink] had to raise any dispute bearing on a Billing Credit within 30 days of the end of the quarter - *in advance* of Verizon’s payment of the disputed credit.”⁸⁶

(5) “Verizon’s claim submission form called for basic information – such as Billing Account Numbers, and circuit identifiers – to which [CenturyLink] had access well in advance of the 30-day dispute deadline.”⁸⁷

(6) asserting that CenturyLink obtained discounted pricing and expedited billing credits from Verizon by expressly agreeing to raise disputes within 30 days “following the end of each Quarter”⁸⁸

Clearly, it was reasonable for CenturyLink to believe that this was the basis for Verizon’s denials. On this basis, CenturyLink undertook a significant effort to submit disputes prior to 30 days after the end of the quarter.⁸⁹ Those efforts were likewise frustrated. However, in response to CenturyLink’s Formal Complaint elaborating on how CenturyLink was not given necessary information until after expiration of the 30-day concurrence deadline, Verizon now offers the following unusually constructed statement: “Verizon does not contend that CenturyLink was precluded from disputing its proposed credit calculations after the passage of 30 days.”⁹⁰ In other words, Verizon now attempts to construct an entirely new interpretation by contending the purpose of this 30-day deadline was to allow the parties enough time to “tally the open-dispute

⁸⁵ *Id.* at 5.

⁸⁶ *Id.* at 7 (emphasis added) (italics in original).

⁸⁷ *Id.* at 9 (emphasis added).

⁸⁸ *Id.* at 10.

⁸⁹ Complaint ¶¶ 89-93, Brown Decl. ¶¶ 79-100.

⁹⁰ Verizon Legal Analysis at 33.

amounts and deduct them from the Billing Credits.”⁹¹ Of course, Verizon’s present contention is belied by Patricia Mason’s statement in 2015 that CenturyLink could not dispute the Billing Credits after 30 days from the end of the quarter, to say nothing of every other statement Verizon made on the issue during the Informal Complaint process.⁹²

Even so, Verizon still admits that it invoked the 30-day deadline “as an additional obstacle” to CenturyLink’s claims, and it makes back-handed admissions as to the unreasonable effect of its deadline.⁹³ In defending its practices, Verizon even has the audacity to rely its own Catch-22 as a defense.⁹⁴ But although Verizon argues CenturyLink received sufficient information prior to 30-day deadline by which to dispute the Billing Credits calculation, Verizon makes important admissions: “Although CenturyLink did not always have full circuit-level detail within that timeframe, it did always have complete monthly invoices and several Monthly Tracking Reports.”⁹⁵

Verizon then further blames CenturyLink for not codependently adapting its own practices to Verizon’s unreasonable practices: “Once CenturyLink decided that Verizon was ‘chronically over-count[ing]’ the same circuits every quarter, it could have adopted the practice of disputing those circuits within 30 days of the end of each quarter if it desired.”⁹⁶ Despite this

⁹¹ Verizon Legal Analysis at 33-34.

⁹² See CTL Ex. 46.04, CLINKFAC0421, File: Correspondence from Patricia Mason (Verizon) dated November 13, 2015.

⁹³ Verizon Legal Analysis at 34-35.

⁹⁴ Verizon Legal Analysis at 33.

⁹⁵ Verizon Legal Analysis at 35 (emphasis added).

⁹⁶ Verizon Legal Analysis at 35.

blame the victim argument, CenturyLink did in fact try to raise the disputes within thirty days of the end the quarter after it realized that Verizon was denying disputes on that basis.⁹⁷

Verizon also asserts that some of CenturyLink's disputes of Verizon's errors were actually disputes of Verizon's monthly charges rather than its calculation of the monthly charges. Interestingly, in making this defense, Verizon concedes the unreasonable effects of the 30-day deadline on CenturyLink's ability to evaluate Billing Credit allocations: "And because CenturyLink did not need any information about the Billing Credits to raise such disputes, it readily could have complied with the 30-day deadline in doing so."⁹⁸ Verizon appears to be talking out of both sides of its mouth. In reality, Verizon has only succeeded in highlighting the Catch-22 that CenturyLink described in its complaint. There was effectively no way for CenturyLink to truly dispute all of the Billing Credits under any of Verizon's shifting and ultimately illusory methods.

⁹⁷ See Brown Decl. ¶ 92. Verizon is wrong that CenturyLink did not act diligently under the agreements and tariffs because it allegedly did not "request the circuit-level information it now claims it needed." Verizon Legal Analysis at 32. Verizon provides no evidence of a time where it properly provided circuit level data before the end of a quarter. Verizon's reference to Ms. Grimm's request to Ms. Mason also fails to support Verizon's argument. Verizon Legal Analysis at 32 n.148. In that exchange, Ms. Mason sent Ms. Grimm a monthly tracking report *without circuit level detail*. Mason Decl. ¶ 12. However, Ms. Mason *also* failed to send the quarterly tracking report with circuit level detail. Brown Reply Decl. ¶ 95-96. Contrary to Verizon's argument that CenturyLink was not diligent, Ms. Grimm followed up "the next business day" to request detail CenturyLink needed. Mason Decl. ¶ 12. Further, CenturyLink did specifically ask for circuit level detail for the DS1 circuits that Verizon had continuously failed to provide. Brown Reply Decl. ¶ 98. Verizon resisted providing this information, and when it finally did, it provided it for only a single month out of the 48 months in dispute. *Id.* In any event, CenturyLink's disputes are timely, including under Section 415(c). Verizon's caselaw suggesting that equitable tolling of Section 415(b) might not be available due to a lack of diligence is factually distinguishable, but ultimately not relevant given CenturyLink's timely claims under the Act. Verizon Legal Analysis at 32 n.149.

⁹⁸ Verizon Legal Analysis at 34-35.

Moreover, Verizon appears to blame Sage Management for disturbing the arrangement between the parties by daring to help uncover Verizon's mistakes.⁹⁹ But CenturyLink has worked with auditing vendors such as Sage/Synchronoss for many years.¹⁰⁰ Verizon nonetheless suggests that the use of third party billing auditors is untoward and renders their analysis not credible. This is both galling and absurd. As Verizon well knows, outside billing management vendors are common in the telecommunications sector. Verizon's castigation of these vendors is especially ridiculous -- reflecting Verizon's lack of respect for this process and lack of credibility -- because Verizon itself uses outside billing vendors to assist it in the review of billings from its service providers.¹⁰¹

In light of Verizon's admissions of numerous billing errors, as well as its running "nominal" error rate, Verizon's propensity for billing errors is not in dispute. The only issue is the total value of such billing errors. The specific entity that helped determine the scope of Verizon's errors is not material to this issue, and if Verizon is concerned about their existence or business purpose the easiest solution would be to stop committing large numbers of billing and credit errors. As shown above, Verizon's conduct violated the language of the tariff, plain and

⁹⁹ See, e.g., Verizon Legal Analysis at 2, 16-17.

¹⁰⁰ Welch Decl. ¶ 3; see also Brown Decl. ¶ 2.

¹⁰¹ A simple internet search reveals that (like CenturyLink and many other telecommunications firms) Verizon is a client of TEOCO, a competitor of Sage. See, e.g., TEOCO, <http://www.teoco.com/success/> (last accessed April 22, 2018) (leading telecommunications audit firm showing Verizon as a client). It is public knowledge that Verizon in fact previously utilized the services of Razorsight Corporation, the predecessor of Synchronoss, even if Verizon now finds it convenient to attack the use of these services. See MapR Technologies Press Release, *Razorsight Launches New Cloud-Based Predictive Analytics Solution on MapR with Apache Spark* (June 16, 2015) ("Razorsight's Cloud-based Predictive Analytics Software is used by the world's best-known Communications & Media brands including AT&T, Verizon, T-Mobile, Comcast, Time Warner, Telus, Orange, CenturyLink, Windstream, Virgin Mobile and IBM"), <https://mapr.com/company/press-releases/razorsight-launches-new-cloud-based-predictive-analytics-solution-mapr-apache/>.

simple. No speculation or reliance on the parties' alleged negotiating styles or motives can rebut the plain evidence of Verizon's overcharges.

c. Verizon Admits to an Unjust, Unreasonable, and Coercive Process in Withholding Billing Credits.

Verizon's practice of withholding **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** in credits that Verizon admitted were valid and owed to CenturyLink, in order to compel CenturyLink to provide a "full concurrence" in Verizon's erroneous calculations, was coercive. Verizon's conception of the credit process is as follows: Before Verizon would issue any Billing Credits, it sent its calculations to CenturyLink (many times after 60 days following the end of the quarter) in order to obtain CenturyLink's "concurrence." CenturyLink was supposedly free to agree or disagree with Verizon's calculation. But Verizon would withhold entire Billing Credits until CenturyLink agreed in writing to Verizon's calculation of the credit amount.

Verizon's position again reflects the Catch-22 underlying CenturyLink's complaint. Under Verizon's view (and in Verizon's practice), if CenturyLink disagreed with a Verizon calculation, and therefore did not concur, then CenturyLink was stuck with no Billing Credits at all—resulting in the potential loss of **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** That is, under Verizon's unreasonable interpretation, the dispute resolution mechanism was intended to completely shield Billing Credit calculations from any formal dispute process. But, as discussed above, CenturyLink was not given the information necessary to determine if the calculation was correct until after this 30-day window to concur expired. Again, Verizon asserts that CenturyLink agreed to this unreasonable process "in exchange for the significant discounts Verizon provided" – but as applied, the process allows Verizon to deny the discounts with unappealable finality. Why would CenturyLink knowingly

bargain for discounts in return for giving Verizon the unfettered right to deny them? Verizon's interpretation and related practice are unreasonable.¹⁰²

¹⁰² Verizon argues that CenturyLink “gave informed consent” to its errors by agreeing to the methodology for counting units set forth in the tariff. *See* Verizon Legal Analysis at 30-33. First, the description of the definition of units and the counting formula as described by CenturyLink is the only logical methodology and the only one consistent with the terms of the tariff and interrelated agreements. Brown Reply Decl. ¶¶ 43-94. Because of this, CenturyLink cannot be faulted for being unaware of Verizon's misunderstanding of the tariff (generously assuming it was unintentional, an assumption that unfortunately became less likely after Verizon persisted in miscounting billing units despite receiving CenturyLink's disputes quarter after quarter). Second, Verizon's argument rests on a false premise. The parties did not negotiate the formula and did not count units in order to determine the rate. Montenegro Reply Decl. ¶¶ 2-15. Instead, the parties negotiated the flat rate first, and then Verizon reverse engineered the formula after the fact. *Id.* Verizon also cannot rebut the fact that CenturyLink was unable to give informed consent within the 30-day timeframe. In all quarters but two, Verizon failed to provide circuit level detail until after 30 days following the end of the quarter—thus, any consent that CenturyLink gave was after the purported 30-day deadline. The monthly tracking reports also did not contain sufficient information for CenturyLink to discern an error. Brown Reply Decl. ¶ 97. Finally, Verizon's citations do not support an argument that the type of “notice” Verizon provided was sufficient for CenturyLink to give informed consent so as to excuse Verizon's errors and permit Verizon to deviate from the filed rate. Although CenturyLink has distinguished *Ryder* before, Complaint Legal Analysis at 26-27; Informal Complaint Reply at 18-19 n.16, Verizon relies on it again to erroneously promote a foreseeability standard, “where complainant ‘could have foreseen, and thus sought to address differently in the agreements, the very circumstances that allegedly occurred here.’” *See* Verizon Legal Analysis at 31 n.144 (citing *Ryder Commc'ns, Inc. v. AT&T Corp.*, 18 FCC Rcd. 13603, ¶ 27 (2003) (“*Ryder*”) (Memorandum Opinion and Order)). Verizon, however, omits the first part of that clause, “perhaps most importantly, *Ryder*'s own description of the parties' business relationship reveals that *Ryder* could have foreseen” the consequences of its actions. *Ryder*, ¶ 27. That is not the case here. Verizon's reliance on *Kiefer* fails for the same reason—*Kiefer* had agreed to pay a late fee if he did not remit payment with a certain time after receiving the monthly bills for his paging service. *Kiefer v. Paging Network, Inc.*, 16 FCC Rcd. 19129, ¶¶ 1-2 (2001) (Memorandum Opinion and Order). *Kiefer* received notice of the late fee provision on each bill. The FCC did not discuss “foreseeability,” instead finding that Paging Network's late fees were not an unreasonable practice because of the clear language on *Keifer*'s bill, and Paging Network's policy to provide a grace period in which it would not assess a late fee if received payment within a reasonable time after the bill was due. *Id.* ¶¶ 9-10. Simply put, neither *Ryder* nor *Kiefer* stand for the proposition that “notice” of the type CenturyLink received here was sufficient to preclude CenturyLink from being able to dispute the Billing Credits.

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The reality is that, as demonstrated by the disputes that led to this Complaint, Verizon had no incentive or intention to engage in good faith or prompt negotiations. Thus, had CenturyLink foregone the massive undisputed credits in the naïve hope of first resolving the smaller (but still significant) disputed credits, Verizon still would have stonewalled and ended up withholding **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **[[END CONFIDENTIAL]]** in additional

credits CenturyLink pointed out were also due. The potential loss of the undisputed **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** was untenable, and thus

CenturyLink attempted to reach a standalone resolution with Verizon for Plan Year 3. After two months of fruitless communications, Verizon flatly rejected CenturyLink's outreach and instead retreated to its position that it was correctly calculating billing units. Verizon continued to hold the full **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[REDACTED]

[[END CONFIDENTIAL]] If CenturyLink had followed the Verizon model, in which CenturyLink was "free" to dispute that Verizon had calculated the credits correctly, then Verizon would be currently holding over **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** of undisputed credits.¹⁰³

¹⁰³ Answer ¶¶ 5, 14.

d. Verizon Cannot Rely on Its Own Desire for Finality to Wrongly Retain Overcharges in Excess of the Tariffed Rates.

After failing to rebut CenturyLink's descriptions of its numerous and systemic billing errors, Verizon resorts to an argument that the tariffs represented a grand bargain—in which CenturyLink was allegedly granted discounted rates in return for volume commitments and “restrictions on its ability to file disputes.”¹⁰⁴ Verizon thus maintains that even where it has made errors in its calculations, it is entitled to deny all Billing Credits unless the erroneous calculation is agreed to by CenturyLink.¹⁰⁵ This is also an unreasonable practice. Verizon's rationale is that paying Billing Credits for undisputed portions of calculations while other calculations remain disputed would undermined its sacred “bargained for” billing certainty. But why would CenturyLink “trade away” for the ability to dispute Verizon's admitted billing errors in return for discounted flat rates that would immediately be undermined by such a trade? The interests of billing certainty and finality cannot outweigh honesty and accuracy in the fundamental trade. Consider the opposite situation: Verizon undoubtedly would not agree to a situation in which CenturyLink's volume commitments were verified solely by CenturyLink, and any errors by CenturyLink in determining its compliance were not subject to challenge by Verizon, yet CenturyLink would remain fully eligible for its Billing Credit discounts even if Verizon were to later discover errors. Yet Verizon's current characterization of the “bargain”

¹⁰⁴ Legal Analysis at 1.

¹⁰⁵ Legal Analysis at 41-42. Verizon argues that bifurcation of credits poses major “logistical” problems due to the formulas and the interrelationship with other parts of Attachments 11 and 13. *Id.* at 43. This is a straw man. Verizon followed this model (issuing undisputed credits, while smaller additional amounts remained in dispute) several times without any indication it was “unworkable.” Furthermore, as CenturyLink has explained one resolution under the agreements is that amounts due to CenturyLink simply would not be termed Billing Credits, and thus would not affect the formula calculations. Verizon's related argument regarding the issuance of credits is irrelevant for the same reason. Verizon Legal Analysis at 42.

structure is effectively permission for Verizon to overcharge CenturyLink without consequence.

This is nonsensical.

Verizon does not even attempt to conceal its callousness regarding customer disputes or even its own extensive errors. In this regard, it asks the Commission to ignore CenturyLink's Complaint based on the notion that Verizon's overcharges were "minor" and "trivial," and that CenturyLink should simply accept being overcharged.¹⁰⁶ Instead, consistent with well-established telecommunications industry practices, the proper interpretation of the tariffs is that the parties struck a deal for volume commitments in return for discounted flat rates—if CenturyLink had not committed to the minimum volume purchases, then it would not have been offered the corresponding lower rates. That is in fact the way the parties negotiated the business deal, as even Verizon admits.¹⁰⁷ There simply is no evidence that Verizon expressed any desire for "finality" or an overly restrictive interpretation of basic dispute provisions as part of that bargain.

Indeed, Verizon's supposed evidence for the parties' emphasis on "finality" is flimsy and without foundation. Verizon places great weight on Christopher Alston's attestations to the "parties'" intent in negotiating the Service Agreements to establish that "finality" was central to the bargain.¹⁰⁸ Although Alston can testify as to what his private intentions might have been during the course of negotiation, Alston and Verizon do little to establish that the parties' true intent was anything other than the business deal the parties actually struck—instead, Verizon

¹⁰⁶ Verizon Legal Analysis at 50-51.

¹⁰⁷ Alston Decl. ¶ 15; Montenegro Reply Decl. ¶¶ 16-20.

¹⁰⁸ Answer ¶¶ 2, 31; Legal Analysis at 7; Alston Decl. ¶¶ 8-14.

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simply relies on bald assertions about what Alston “was willing to offer.”¹⁰⁹ Verizon, in fact, did not propose and CenturyLink did not agree to a quid pro quo of discounts for CenturyLink sacrificing its ability to dispute Verizon’s unilateral calculation of the tariffed rate.¹¹⁰ Verizon instead proposed discounts on special-access services and certain forbearance services in return for aggregate revenue commitments over multiple years.¹¹¹ From the beginning, however, Verizon did not propose the idea the CenturyLink would receive discounts in exchange for not being able to dispute Verizon’s calculation of the discounts.

[[BEGIN CONFIDENTIAL]]

¹⁰⁹ Alston Decl. ¶ 8.

¹¹⁰ Montenegro Reply Decl. ¶¶ 16-20.

¹¹¹ Montenegro Reply Decl. ¶¶ 2-20.

¹¹² Montenegro Reply Decl. ¶¶ 4-7, 18. Copies of the parties’ proposals are not included as exhibits due to confidentiality concerns, but are potentially available on request.

¹¹³ *Id.*

¹¹⁴ *See id.*

¹¹⁵ *See id.*

e. Verizon Thus Misapplies the *Mobile-Sierra* Doctrine to This Case.

The *Mobile-Sierra* doctrine is inapplicable to this case, and Verizon’s reliance is misplaced for a number of reasons. As explained in the Complaint, and as more fully discussed below, CenturyLink is not disputing the validity or lawfulness of the contract tariff or Service Agreements themselves.¹¹⁸ Rather, CenturyLink wants them enforced. CenturyLink is

¹¹⁸ Verizon asserts that CenturyLink cannot rely on clear statements of federal policy because, by entering into the Service Agreements, CenturyLink allegedly waived its rights to “claim that the Service Agreements deprived it” of a reasonable period to submit disputes. Verizon Legal Analysis at 29, nn.135, 136. Again, Verizon raises a straw man by mischaracterizing CenturyLink’s arguments. CenturyLink is not attacking the validity of the tariff provisions.

challenging Verizon's practices in unreasonably interpreting and applying the provisions (which, by contrast, Frontier reasonably interpreted and carried out after it inherited the same Service Agreement and contract tariffs).¹¹⁹ Verizon cannot credibly contend that CenturyLink bargained for Verizon's unreasonable interpretations of or practices under the tariffs and Service Agreements.

The weakness of Verizon's reliance on *Mobile-Sierra* is exposed when Verizon describes what Verizon supposedly "traded away": greater discounts in return for "protection against disputes" with "finality."¹²⁰ In reality, Verizon traded discounts in exchange for volume commitments from CenturyLink. But in Verizon's view, CenturyLink's essential bargain was to trade: (a) a guaranteed commitment to purchase a minimum amount of special access services from Verizon and (b) the forfeiture of its rights to dispute Verizon's denial of any Billing Credits, in exchange for (c) Billing Credit discounts that could immediately be undermined without recourse by Verizon's errors. This is no bargain at all, and Verizon cannot invoke the

Instead, CenturyLink relies on case law to show how Verizon's unreasonable practices of denying disputes and making the dispute process impossible contravene federal policy, which is to give customers of carriers like Verizon a reasonable period to submit disputes. The case law Verizon relies upon to make its waiver arguments is also factually distinguishable because it concerns settlement agreements in which parties clearly and unequivocally released rights with respect to prior existing claims. See *Nova Cellular West, Inc. v. Airtouch Cellular*, 17 FCC Rcd. 15026 (2002) (Memorandum and Opinion Order) (enforcing settlement agreement with standard release and discharge language); *In the Matter of Exch. Network Facilities for Interstate Access Allnet Commc'ns Serv., Inc.*, 1 FCC Rcd. 618, ¶¶ 11, 54 n.33, 72 (1986) (interpreting settlement agreement where parties agreed to "not attack or challenge [the] Agreement or the lawfulness [thereof]" as "standard settlement provisions waiving the right to continue pursuit of claims which formed the original basis of the dispute"). CenturyLink simply did not waive its right to bring claims or agree to settle disputes that Verizon kept rejecting, and the existence of the forward-looking dispute mechanisms and interrelated dispute resolution processes in the agreements themselves prove this. See *infra*, n. 224, 226 & 227.

¹¹⁹ Complaint ¶ 38.

¹²⁰ Verizon Legal Analysis at 37-38.

Mobile-Sierra doctrine to hold CenturyLink to a tortured contract interpretation that would gut the actual bargain it struck in the Service Agreements and contract tariffs.

Verizon concludes its flawed application of the *Mobile-Sierra* doctrine by returning to its other tariff invalidation argument that the FCC has not invalidated a contract tariff under Section 201 without a showing of “compelling public interest.”¹²¹ As explained throughout the Complaint as well as this Reply, CenturyLink does not contend that the contract tariffs are invalid or unlawful.¹²² CenturyLink instead requests that the terms of the Service Agreements and contract tariffs be enforced against Verizon, and that CenturyLink receive the tariff rates it contracted for under those agreements and tariffs. Verizon cannot rely on the *Mobile-Sierra* doctrine to prevent CenturyLink from challenging the fairness and reasonableness of Verizon’s conduct.

f. CenturyLink Is Not Challenging the Tariffs, But Rather Requests They Be Enforced.

Verizon willfully misconstrues CenturyLink’s arguments and position when it claims a **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** clause in the Service Agreements constitutes a waiver by CenturyLink against bringing Section 201 claims.¹²³ As CenturyLink has repeatedly stated, it is not challenging the terms of the Service Agreements, or

¹²¹ Verizon’s Legal Analysis at 38-41. Thus, Verizon’s citations to *Ryder, Morgan Stanley Capital Grp. Inc. v. Public Util. Dist. No. 1 of Snohomish Cty.*, 554 U.S. 527, 550 (2008) and *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, 17 FCC Rcd. 27039, ¶ 348 (WCB 2002) (Memorandum Opinion and Order) (“*WorldCom Petition Order*”) are misplaced because all involve attempts to reform contracts or tariffs.

¹²² See *infra*, § II.B.2.f; see also Complaint Legal Analysis § II (arguing that Verizon’s practices were unjust and unreasonable).

¹²³ CTL Ex. 3, 2009 Service Agreement, § 3(d)(ii); CTL Ex. 5, 2014 Service Agreement, § 3(d)(ii); see Verizon Legal Analysis at 26-29.

of the contract tariffs; CenturyLink is requesting that they be enforced.¹²⁴ CenturyLink is challenging Verizon's unjust and unreasonable practices in denying CenturyLink its bargained for flat tariff rates.¹²⁵

Contrary to Verizon's current suggestions, a party's allegation that a carrier's practices are unjust and unreasonable does not entail that the party is also alleging that the tariffs or agreements themselves are unlawful. Although Verizon argues that CenturyLink has nefariously "cloaked" attacks on the lawfulness of contract provisions as attacks on Verizon's unjust and unreasonable practices, Verizon admits throughout its Answer that it made numerous and extensive billing errors—all of which are in violation of the agreements and the tariffs. In other words, Verizon is the party that by its own admission stands in breach of the agreements and the tariffs.

Assessing billing errors inherently involves the interpretation of a contract, not a challenge to the lawfulness or validity of a contract. In this dispute the issue is the Service Agreements, contract tariffs, and related agreements (as well as the implied duty of good faith and fair dealing), all of which required that Verizon provide CenturyLink with accurate calculations and a reasonable opportunity to concur. Yet in practice CenturyLink received erroneous calculations and none of the underlying information by which to verify the accuracy until after the 30-day period for concurrence expired. In short, Verizon's argument that

¹²⁴ See, e.g., Complaint Legal Analysis at 7-8 ("CenturyLink seeks to enforce the terms of the MSA, Attachments 11 and 13, and the Service Agreements, which incorporate by reference Verizon's Tariff No. 1 (among other tariffs). Because this dispute seeks to enforce Verizon's Tariff No. 1 and the contract tariffs as well as recover compensation that Verizon has retained in excess of its tariffs, CenturyLink's claim is a claim for 'overcharges' under Sections 415(c) and (g)."); 27 ("To be clear, Century Link is not seeking to modify the agreements or contract tariffs, but rather requests that the Commission enforce the Parties' agreements and the tariffs ..."). Verizon's cited cases are therefore simply inapplicable.

¹²⁵ Complaint ¶¶ 106-126; Complaint Legal Analysis at 28.

CenturyLink somehow violated the parties' joint waiver agreement is a red herring.

CenturyLink's position remains fully consistent with its representations to the Bureau on this matter, and demonstrably relates back to its Informal Complaint. Moreover, in the context of the parties' joint waiver requests, Verizon counsel stipulated to CenturyLink's counsel that CenturyLink did have the right to challenge how the agreements have been interpreted and applied by Verizon, without challenging the agreements or tariffs themselves. That was and remains the case.

C. Verizon Misreads the Tariffs and Is Wrong on the Merits.

Although CenturyLink first lodged its disputes with Verizon years ago, Verizon apparently did not undertake a full and detailed review until now. Having finally done so, Verizon now admits that (contrary to its prior assertions) it did significantly overcharge CenturyLink. Nonetheless, Verizon continues to deny the full scope of CenturyLink's valid claims. Verizon's arguments on the merits of the credit disputes are false as discussed below.

1. Dispute Category 1 (Miscalculating Equivalents for DS3 CLF Units)

Verizon does not rebut the fact that it billed zero dollars for DS3 CLF circuits in FMS LATAs at issue in Dispute Category 1. Verizon cannot rely on charges for other, non-DS3 circuits to state that the "\$0 DS3 CLF circuits" actually billed a monthly recurring charge.¹²⁶ CenturyLink has already produced direct evidence from Verizon's monthly billing for these circuits in Table 4 of the Formal Complaint. The circuits are in the DS3 CLF circuit format as defined in the related tariffs, and the circuits are billing **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** Verizon is not disputing that it charged **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** for these DS3 CLF circuits in the monthly

¹²⁶ Answer ¶ 42.

billing invoices.¹²⁷ Therefore they are “\$0 DS3 CLF circuits,” and do not qualify as units under the tariffs. Their exclusion from the unit count would have directly increased the amount of the quarterly billing credits remitted to CenturyLink.¹²⁸

CenturyLink agrees with Verizon’s statement that, “[u]nder the contracts, a DS3 CLF circuit either counted as a ‘unit’ or it did not; there was no middle ground.”¹²⁹ The \$0 DS3 CLF circuits did not qualify as a “unit” under the contracts because they did not bill a qualifying USOC as required under the related contracts and tariffs.¹³⁰ For example, circuit ID 1000T3ZNWRKNJ03K41NWRKNJ41W03 billed **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** on USOC CTG on January 20, 2014.¹³¹ No other USOC was billed.¹³² USOC CTG is not listed as a qualifying USOC under the 2009 Service Agreement and applicable tariffs.¹³³ Verizon thus counted this circuit as a unit in error, artificially depressing the amount of the billing credits and thus overcharging CenturyLink.

Verizon states that CenturyLink was charged on a DS0-equivalent basis on the monthly invoices, and Verizon counted those circuits as DS3 “units” when calculating the Billing Credits at the end of each quarter.¹³⁴ CenturyLink agrees that the circuits were billed on the monthly

¹²⁷ For example, the first DS3 circuit ID listed in Table 4 is

1000T3ZNWRKNJ03K41NWRKNJ41W03. **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]**

¹²⁸ Brown Decl. ¶¶ 7-8; Answer ¶ 37 (admitting that an increase in the number of “units” would decrease the credit amount due to CenturyLink).

¹²⁹ Answer ¶ 43.

¹³⁰ Brown Reply Decl. ¶¶ 43-57.

¹³¹ Brown Reply Decl. ¶ 44.

¹³² *Id.*

¹³³ 2009 Service Agreement, Ex. B, § 5(a)(ii).

¹³⁴ Mason Decl. ¶ 59.

invoices on a DS0-equivalent basis; however, they were billed on DS1 circuit IDs, not DS3 circuit IDs.¹³⁵ Verizon properly counted the DS1 circuit IDs as units in their calculations.¹³⁶ Verizon cannot also claim that the DS0-equivalent charges that billed on DS1 circuit IDs (and counted as DS1 units) should also be calculated as DS3 CLF units.¹³⁷ This does not align with the agreements and tariffs and would result in a double-counting windfall for Verizon.¹³⁸

Verizon asserts that it properly determined that DS3 CLF circuits deployed in FMS territories qualified as “Billed DS3 CLF Unit[s]” under the Service Agreements.¹³⁹ This is wholly inaccurate.¹⁴⁰ The 2009 Service Agreement defines a “Billed DS3 CLF Unit” as a DS3 CLF Unit for which one or more MRCs, using any of the applicable CoS-USOC combinations, was billed. The 2009 Service Agreement defines a “DS3 CLF Unit” as a Qualifying Service circuit of bandwidth 44.736 Mbps that both: (i) has a facilities formatted circuit identifier in accordance with the CLCI format administered by Telcordia (e.g., 967 T3Z PITBPADTHPE PITBPADTK18) and (ii) is billed using one or more of the USOCs specified in Section 5.a.ii. The DS1 circuit IDs billing the USOCs specified in Section 5.a.ii. did not qualify as DS3 CLF Units because they did not have a bandwidth of 44.736 Mbps and they did not have a facilities formatted circuit identifier in accordance with the CLCI format. Therefore, the DS1s billing the

¹³⁵ Brown Reply Decl. ¶¶ 48-53.

¹³⁶ *Id.*

¹³⁷ See also Brown Reply Decl. ¶ 47 (“Ms. Mason states that although Verizon charged for those circuits at the DS0 level, those charges remained monthly recurring charges for DS3 service. Again, Ms. Mason is incorrect. The charges billed at the DS0 level were monthly recurring charges for DS1 circuits, not DS3 circuits.”).

¹³⁸ Brown Reply Decl. ¶¶ 43-57.

¹³⁹ Mason Decl. ¶ 60.

¹⁴⁰ Brown Reply Decl. ¶ 43.

DS0-equivalent charges in the FMS LATAs did not qualify as DS3 CLF units.¹⁴¹ Thus, the DS3 circuit IDs billing **[[BEGIN CONFIDENTIAL]]** **■** **[[END CONFIDENTIAL]]** in the FMS LATAs did not qualify as DS3 CLF units because they were not billed using one or more of the USOCs specified in Section 5.a.ii.

There is no dispute that the DS0s in the FMS LATAs were riding the DS1s, which were billing the charges at the DS0-equivalent rates, and the DS1s were riding the example DS3.¹⁴² However, for the reasons stated above, these circuits did not satisfy the definitions of “DS3 CLF Qualifying Services” and “Billed DS3 CLF Unit” under the Flat Rate Price Flex Deal.¹⁴³ The tariffs contain no contractual provisions allowing DS3 CLF units to be counted solely because there were lower level circuits riding them.¹⁴⁴ Further, the DS3 that the DS1s were riding did not bill any of the USOCs required in the agreements and tariffs to qualify as a “Billed DS3 CLF Unit” or “DS3 CLF Qualifying Services.”¹⁴⁵ Instead, Verizon billed for the DS0-equivalent charges in the FMS LATAs on DS1 circuit IDs on Verizon’s monthly invoices, not the DS3 circuit IDs in dispute.¹⁴⁶

Verizon is correct that the 2009 and 2014 Service Agreements did not require CenturyLink to make DS3-equivalency calculations.¹⁴⁷ The DS3-equivalency calculations were developed in an attempt to give Verizon compensation for the DS0-equivalent capacity provided

¹⁴¹ Brown Reply Decl. ¶ 46.

¹⁴² Mason Decl. ¶ 61; Brown Reply Decl. ¶ 48.

¹⁴³ Brown Reply Decl. ¶¶ 49-52.

¹⁴⁴ *Id.*

¹⁴⁵ Brown Reply Decl. ¶¶ 49-52.

¹⁴⁶ *Id.*

¹⁴⁷ Answer ¶¶ 43-44.

to CenturyLink by Verizon.¹⁴⁸ However, as Verizon has pointed out, the DS0-equivalent capacity was already being included in Verizon's DS1 unit counts; therefore, the DS3-equivalency calculations were unnecessary. Verizon billed CenturyLink for the DS0-equivalent capacity on the DS1 circuits IDs, not the DS3s that the DS1s were riding, in the FMS LATAs on the monthly invoices. Verizon correctly included these DS1s in its unit count. Verizon was fully compensated for all DS0-equivalent capacity in the FMS LATAs through the DS1 units included in its count. The \$0 DS3 CLF circuits were not billing any charges on the monthly invoices from Verizon. Verizon's attempt to be compensated for the same DS0 in the DS1 unit counts and the DS3 unit counts was a double billing and was not allowed contractually. The DS1s were included in the unit count contractually; however, the DS3s should not have been included in the unit count contractually, because they did not bill a qualifying USOC.¹⁴⁹

Eliminating the DS3-equivalency calculations increases the dispute amount for Dispute Category 1 from **[[BEGIN CONFIDENTIAL]]** [REDACTED]¹⁵⁰ **[[END CONFIDENTIAL]]**

Verizon nonetheless attempts to sow confusion by conflating classes of service and USOCs. Verizon states that the 2009 Service Agreement identifies XDH3X as a qualifying Class of Service for DS3 CLF Units.¹⁵¹ CenturyLink agrees with this unadorned statement. In

¹⁴⁸ Complaint ¶¶ 43-44.

¹⁴⁹ Brown Reply Decl. ¶ 53.

¹⁵⁰ Brown Reply Decl. ¶ 54. CenturyLink's Category 1 disputes remain timely as submitted, and by adjusting its calculations based on Verizon's arguments and new information provided in Verizon's Answer, CenturyLink does not waive, withdraw, or otherwise dismiss its disputes and claims. CenturyLink reserves the right and ability to utilize the DS3-equivalency analysis in Category 1 should Verizon again shift its position in response to CenturyLink's Reply.

¹⁵¹ Answer ¶ 46.

fact, CenturyLink has never argued that XDH3X was not a qualifying Class of Service.¹⁵²

Instead, CenturyLink observed that XDH3X was not included in the list of qualifying USOCs

contained in the tariffs, and it is that list of USOCs that governs whether a circuit is to be

counted.¹⁵³ Verizon's assertion that it properly classified each circuit in Table 5 of the

Complaint as a DS3 CLF Unit under the 2009 Service Agreement is false. The circuits in Table

5 of the Complaint did not bill any USOCs contained within the DS3 USOC lists in the tariffs.¹⁵⁴

In sum, all of the monthly charges proportioned on a DS0-equivalent basis in the FMS territories were billed on the DS1 circuit IDs that Verizon included in its DS1 unit counts per the applicable tariffs. There were no monthly charges proportioned on a DS0-equivalent basis on the DS3 circuit IDs in dispute. Thus, Verizon owes CenturyLink **[[BEGIN CONFIDENTIAL]]**

155 [END CONFIDENTIAL]

2. Dispute Category 2 (Including Units Without USOCs)

Verizon admits that it erroneously counted circuits that did not bill a qualifying USOC, thus admitting CenturyLink's contentions.¹⁵⁶ Verizon was first notified of this error on June 19, 2014.¹⁵⁷ Verizon never corrected this error and continued to count circuits that did not bill either a qualifying USOC or an MRC for twelve quarters after CenturyLink notified Verizon of its error.¹⁵⁸ To date, Verizon has not issued any credits to CenturyLink for this error.

¹⁵² Brown Reply Decl. ¶ 55.

¹⁵³ Complaint ¶ 47.

¹⁵⁴ Brown Reply Decl. ¶ 55; Complaint ¶ 46.

¹⁵⁵ Brown Reply Decl. ¶ 57.

¹⁵⁶ Answer ¶¶ 48-51.

¹⁵⁷ CTL Ex. 40 (initial dispute submission); Brown Reply Decl. ¶ 59.

¹⁵⁸ Complaint ¶ 36, Table 3; Brown Reply Decl. ¶ 59.

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Upon review of Verizon's analysis, CenturyLink found certain units and circuits that it agrees should not be included in this dispute category, resulting in a reduction of the dispute amount for this category by **[[BEGIN CONFIDENTIAL]]** 159
[[END CONFIDENTIAL]] Verizon continues to dispute a portion of that **[[BEGIN CONFIDENTIAL]]** 160
[[END CONFIDENTIAL]]

Verizon highlights **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** DS3s that billed a proper USOC under the 2014 Service Agreement.¹⁶¹ CenturyLink agrees with Verizon's characterization of those circuits, and initially did not include them in its dispute amount for the quarters in question because CenturyLink did not include these circuits as units in its original analysis. After reviewing these circuits, CenturyLink now contends that the credits that should have been reflected in the original dispute packages for these circuits total **[[BEGIN CONFIDENTIAL]]** [REDACTED] 162 **[[END CONFIDENTIAL]]** Verizon cannot escape its obligations through its own mistakes in billing.

There are **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** DS3s in this category related to FMS billing, but these units were not properly counted by Verizon for the reasons stated in Dispute Category 1. The total dispute amount of **[[BEGIN**

¹⁵⁹ Brown Reply Decl. ¶¶ 58-75. CenturyLink agrees that it should not have included **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]**

¹⁶⁰ Brown Reply Decl. ¶ 74.

¹⁶¹ Verizon Ex. 60.

¹⁶² Brown Reply Decl. ¶ 62.

CONFIDENTIAL]] [REDACTED]¹⁶³ [[END

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Verizon states that there were [[BEGIN CONFIDENTIAL]] [REDACTED] [[END CONFIDENTIAL]] DS3s that were underbilling in the monthly invoices.¹⁶⁴ CenturyLink agrees in part with Verizon's calculations, and revises its dispute amount to [[BEGIN CONFIDENTIAL]] [REDACTED] [[END CONFIDENTIAL]] for these circuits that is owed to CenturyLink. To be clear, the disputes filed for the overcounting of these circuits are valid; however, due to Verizon's error in billing on the monthly invoices, CenturyLink agrees to adjust some of the dollars in this category.

Verizon does not contest certain DS1 unit errors in the credit calculations.¹⁶⁵ CenturyLink utilized the requirements outlined in the 2009 Service Agreement and tariffs to determine the actual DS1 unit count for each month in Plan Year 5. CenturyLink disputed the quantity of DS1s in Verizon's unit count that exceeded CenturyLink's calculations.¹⁶⁶ The total dispute amount of [[BEGIN CONFIDENTIAL]] [REDACTED] [[END CONFIDENTIAL]] for these circuits is owed to CenturyLink.¹⁶⁷

Regarding fractional circuit counts, Verizon is admitting that the [[BEGIN CONFIDENTIAL]] [REDACTED] [[END CONFIDENTIAL]] circuits in this category were included in

¹⁶³ Brown Reply Decl. ¶ 63.

¹⁶⁴ Brown Reply Decl. ¶ 64.

¹⁶⁵ Brown Reply Decl. ¶ 67.

¹⁶⁶ CenturyLink notes that Verizon never provided the DS1 circuit IDs being included in Verizon's DS1 unit counts under the 2009 Service Agreement. Verizon only provided the total count of DS1s; therefore, it was impossible for CenturyLink to determine which DS1s were being overcounted by Verizon. Brown Reply Decl. ¶ 67.

¹⁶⁷ Brown Reply Decl. ¶ 67.

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its unit count in error for the months in dispute.¹⁶⁸ Verizon counted these circuits as units in error in the months after the circuits were disconnected.¹⁶⁹ Verizon is attempting to discount this fact by stating that CenturyLink received a windfall in the fractional month's billing prior to the disconnection date due to Verizon's erroneous disconnect process. Verizon fails to give detail about CenturyLink's supposed windfall, in all likelihood because Verizon also received a windfall in Verizon's erroneous disconnect process.¹⁷⁰ The majority of the circuits in dispute in this category would have billed a lower dollar amount to CenturyLink if the fractional month was not included as part of the Service Agreements; therefore, Verizon received a windfall on these circuits beyond what CenturyLink has disputed.¹⁷¹

Verizon agrees that certain circuits with ineligible USOCs were counted in error.¹⁷² Verizon never corrected this error and continued to count circuits that did not bill a qualifying USOC, as required by the 2009 Service Agreement and tariffs, after CenturyLink notified Verizon of their error.¹⁷³ To date, Verizon has not issued credits to CenturyLink for this error. The total dispute amount agreed to by Verizon in this category is **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** and is owed to CenturyLink.¹⁷⁴

Verizon agrees that certain circuits without monthly recurring charges ("MRCs") were counted in error.¹⁷⁵ Verizon never corrected this error and continued to count circuits that did

¹⁶⁸ Verizon Ex. 60.

¹⁶⁹ Brown Reply Decl. ¶¶ 68-70.

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² Verizon Ex. 60.

¹⁷³ Brown Reply Decl. ¶ 71.

¹⁷⁴ *Id.*

¹⁷⁵ Verizon Ex. 60.

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not bill a MRC, as required by the 2014 Service Agreement and tariffs, after CenturyLink notified Verizon of their error.¹⁷⁶ To date, Verizon has not issued any credits to CenturyLink for this error. The total dispute amount agreed to by Verizon in this category is **[[BEGIN CONFIDENTIAL]] [REDACTED] [[END CONFIDENTIAL]]** and is owed to CenturyLink.¹⁷⁷ Verizon admits that it made errors in its credit calculations and that numerous circuits should not have been counted as units; yet, Verizon asserts that these CenturyLink should not be compensated for this overcharge.¹⁷⁸ One reason cited is that these circuits make up a small fraction of the overall number of DS3 circuits governed by the Flat Rate Price Flex Deal. However, there is nothing in the contracts or tariffs that allows Verizon to overbill CenturyLink for any fraction of charges. The units Verizon admits it counted in error total **[[BEGIN CONFIDENTIAL]] [REDACTED] [[END CONFIDENTIAL]]** Verizon's attempt to justify an overcharge of **[[BEGIN CONFIDENTIAL]] [REDACTED] [[END CONFIDENTIAL]]** by saying it is only a small percentage of circuits is unacceptable.¹⁷⁹

Verizon owes CenturyLink **[[BEGIN CONFIDENTIAL]] [REDACTED] [[END CONFIDENTIAL]]** for the circuits that were improperly counted as units in Dispute Category 2.¹⁸⁰

¹⁷⁶ Brown Reply Decl. ¶ 72-73.

¹⁷⁷ *Id.*

¹⁷⁸ Mason Decl. ¶ 78.

¹⁷⁹ Brown Reply Decl. ¶ 73.

¹⁸⁰ Brown Reply Decl. ¶ 75.

3. Dispute Category 3 (Double Counting Units)

Verizon admits it made a counting error of [[BEGIN CONFIDENTIAL]] [REDACTED] [REDACTED]¹⁸¹ [[END CONFIDENTIAL]] Verizon's arguments that it rightfully failed to credit CenturyLink [[BEGIN CONFIDENTIAL]] [REDACTED] [[END CONFIDENTIAL]] for this category are incorrect under the terms of the tariffs. Verizon indicates that both parties intended for meet-point circuits to be included in the Flat Rate Price Flex Deal.¹⁸² CenturyLink agrees. Verizon also states that the Service Agreements required that CenturyLink pay the full standard rate for a circuit before it could qualify for a discount. CenturyLink agrees with this statement as well. Verizon then asserts that if a meet-point circuit was viewed as a single, unitary individual circuit spanning multiple LATAs, each monthly interoffice transport charge for the circuit would have been a fractional charge ineligible for flat-rate pricing.

What Verizon fails to understand is that the requirement that CenturyLink pay the full standard rate for a circuit before it could qualify for a discount did not require that the full standard rate be billed on a single BAN.¹⁸³ The unitary individual meet-point circuits met all the requirements to be included in the Flat Rate Price Flex Deal.¹⁸⁴ The fact that the full standard rate was applied across multiple BANs is irrelevant.

Verizon's assumption that it had to treat a meet-point circuit that was billing across multiple BANs as multiple "units" in order for it to qualify under the Flat Rate Price Flex Deal is

¹⁸¹ Verizon Ex. 64.

¹⁸² Mason Decl. ¶ 81.

¹⁸³ Brown Reply Decl. ¶¶ 76-78.

¹⁸⁴ *Id.*

not valid because the agreements and tariffs define a unit as a singular circuit.¹⁸⁵ For example, in the 2009 Service Agreement, a DS1 Unit is defined as having a DS1 capacity and further states, “For the avoidance of any doubt, fractions of a ‘DS1 Unit’ are not counted as a “DS1 Unit”.”¹⁸⁶ Therefore, the fractions of a circuit billing on each BAN could not be counted as a unit. This means that only way (consistent with the tariff) to count the circuit as a unit is to look at the full circuit billing (across all BANs) and count the full circuit as a unit.¹⁸⁷

Verizon’s methodology of counting meet-point circuits as multiple units, one unit for each BAN under which Verizon billed the circuit, does not meet the criteria for a unit under the Flat Rate Price Flex Deal. Verizon owes CenturyLink the full **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** for this dispute category.¹⁸⁸

4. Dispute Category 4 (Misdesignating DS3 CLF Units)

Verizon agrees that the CLF vs. CLS classification issue cost CenturyLink a total of **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]**¹⁸⁹ Verizon indicates that the error was due to a formula that led to anomalies in the way the DS3 volumes were counted during the four months in question.¹⁹⁰ CenturyLink agrees. Verizon also indicates that the formula error classified more expensive DS3 CLS circuits as less expensive DS3 CLF circuits. CenturyLink agrees with this statement in concept, but believes Verizon meant to say that the more expensive DS3 CLF circuits were classified as less expensive DS3 CLS circuits.

¹⁸⁵ *Id*

¹⁸⁶ CenturyLink Ex. 3, 2009 Service Agreement, Ex. B § 2.

¹⁸⁷ Brown Reply Decl. ¶¶ 76-78.

¹⁸⁸ Brown Reply Decl. ¶ 78.

¹⁸⁹ Mason Decl. ¶ 89.

¹⁹⁰ *Id.* ¶ 87.

CenturyLink notified Verizon of the net overbilling and underbilling caused by the formula errors for the four months that were impacted.¹⁹¹ CenturyLink engaged in multiple calls with Verizon explaining the net overbilling and underbilling caused by this error.¹⁹² All of the dispute packages and dispute amounts CenturyLink filed with Verizon contained the net overbilling and underbilling of the circuits that were impacted by the error in Verizon's formula.¹⁹³ The Table of CenturyLink-Verizon Claims in the Legal Analysis in Support of CenturyLink's Formal Complaint contains the dispute amounts by claim number that were submitted to Verizon.¹⁹⁴ For the example claim CLINKFAC0377, the Table of CenturyLink-Verizon Claims shows the correct total dispute amount of **[[BEGIN CONFIDENTIAL]]** **██████████**¹⁹⁵ **[[END CONFIDENTIAL]]** This dispute amount contains a net debit to CenturyLink for the **[[BEGIN CONFIDENTIAL]]** **██████████** **[[END CONFIDENTIAL]]** DS3 CLF circuits that were improperly designated as less expensive DS3 CLS circuits.¹⁹⁶

Verizon agrees that the total **[[BEGIN CONFIDENTIAL]]** **██████████** **[[END CONFIDENTIAL]]** in dispute category 4 was overbilled to CenturyLink.¹⁹⁷

¹⁹¹ Brown Reply Decl. ¶ 80.

¹⁹² *Id.* ¶¶ at 80-82.

¹⁹³ *Id.*

¹⁹⁴ *Id.* ¶ at 81.

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ *Id.* ¶ 82. Although this debit of **[[BEGIN CONFIDENTIAL]]** **██████████** **[[END CONFIDENTIAL]]** is already reflected in the dispute amounts represented in the Table of CenturyLink-Verizon Claims, CenturyLink has reflected it as an amount CenturyLink agrees to close in Table 1 of Ms. Brown's Declaration. To be clear, this amount should not be backed out of the dispute amounts in the Table of CenturyLink-Verizon Claims because this debit is already reflected in the dispute amounts filed with Verizon.

5. Dispute Category 5 (Misdesignating DS0 Units)

Verizon claims that the disputed circuits are DS1s because of Verizon's Class of Service designation and the USOCs Verizon billed on these circuits.¹⁹⁸ Verizon assigned a DS1 Class of Service to the DS0 circuits in dispute in error.¹⁹⁹ CenturyLink ordered these circuits as DS0s, and the circuit IDs align with DS0 circuit IDs.²⁰⁰ Significantly, the DS0 circuits in dispute are channels on DS1 circuits.²⁰¹ Thus, Verizon should have assigned a DS0 Class of Service to these circuits.²⁰² It was not within CenturyLink's control nor was it CenturyLink's responsibility to assign the Class of Service to these circuits.²⁰³ Plain and simple, Verizon assigned the wrong Class of Service. Further, the DS1 USOCs being billed on these circuits in error and corresponding credit errors were triggered because of Verizon's Class of Service designation error.²⁰⁴ Verizon owes CenturyLink **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** for the DS0 circuits that were improperly designated as DS1 circuits in Dispute Category 5.²⁰⁵

6. Dispute Category 6 (Failure to Optimize Circuit Routing)

In its response to the Informal Complaint, Verizon argued that it only had responsibility to maximize network efficiencies for CenturyLink while CenturyLink was grandfathered under

¹⁹⁸ Mason Decl. ¶ 91; *see* Verizon Ex. 67 (listing Verizon's Class of Service designation and the USOCs Verizon billed on the circuits).

¹⁹⁹ Brown Reply Decl. ¶ 83.

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ *Id.*

²⁰⁵ *Id.* ¶ 84.

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FMS, and not afterwards.²⁰⁶ At this point it is not terribly surprising that Verizon now argues it had no obligations under FMS to CenturyLink at all, and that the real purpose of FMS was solely to benefit Verizon.²⁰⁷ Yet the very FMS Tariff Order that Verizon cites for this new proposition says the opposite: “FMS permits [Verizon] to optimize the configuration of special access circuits to minimize costs for the customers.”²⁰⁸ While FMS may have also had positive effects for the carrier, the overarching purpose was clear: to provide reduced costs to the customer. Instead, Verizon dramatically increased them by its inefficient network design and misleading reassurances to CenturyLink that it would not be impacted by the FMS transition.²⁰⁹

Verizon also cites a December 19, 2008 Public Notice for the proposition that CenturyLink supposedly knew it was responsible for rearranging its own network to facilitate the FMS transition.²¹⁰ That Public Notice says nothing about ending Verizon’s network optimization obligations. Rather, it acknowledges that “Verizon maintains that it will continue to provide FMS to existing customers through the expiration of each customer’s FMS term or, at the customer’s request, through a twelve-month extension of that term.”²¹¹

Verizon nonetheless claims that it provided CenturyLink with multiple years of notice regarding the FMS transition, and suggests such alleged notice somehow placed an obligation on CenturyLink to uncover and correct Verizon’s ongoing optimization failures while CenturyLink

²⁰⁶ Verizon Response to Informal Complaint at 14.

²⁰⁷ Verizon Legal Analysis at 60.

²⁰⁸ Transmittal No. 586, Order, Bell Atl. Tel. Cos. Tariff FCC No. 1 Facilities Mgmt, Serv., 8 FCC Rcd. 8214, ¶ 6 (CCB 1993) (“*FMS Tariff Order*”) (emphasis added).

²⁰⁹ Brown Reply Decl. ¶¶ 89-90.

²¹⁰ Verizon Answer ¶¶ 40 n.57, 66 n.107; *see also* Verizon Legal Analysis at 63.

²¹¹ FMS Public Notice at 2 (emphasis added).

was still grandfathered under FMS.²¹² Yet before CenturyLink transitioned in 2014, Verizon informed it that there would be “little to no impact on CenturyLink’s special access billing from the FMS conversion” because of CenturyLink’s “flat rated DS1 and DS3 pricing.”²¹³ Notably, that same Verizon communication also described FMS as follows: “FMS is designed to eliminate the complexity of ordering dedicated switched and special access services and allows Verizon to configure an access network that offers network optimization for customers that subscribe to FMS.”²¹⁴ Both of these prior Verizon statements directly contradict Verizon’s current argument.

Verizon previously acknowledged that CenturyLink continued to use FMS throughout the 2009 Agreement’s five-year term, and then converted off FMS in July 2014.²¹⁵ Therefore, Verizon had clear network-optimization obligations to CenturyLink during this period.²¹⁶ Of course, due to the pricing structure of FMS, Verizon and CenturyLink agree that Verizon’s failure to live up to this duty under its tariff did not immediately cause adverse effects to CenturyLink while under FMS. However, as soon as CenturyLink was transitioned off FMS in 2014, Verizon’s failures to meet its optimization duties in prior years caused the needless

²¹² Verizon Answer ¶¶ 40 n.57, 66 n.107, 67 n.114; *see also* Verizon Legal Analysis at 63. Verizon’s Declaration of Susan Fox and Marian Howell also makes several unsupported statements that Verizon supposedly “communicated regularly” with CenturyLink “during the transition period,” but provides no detail, supporting correspondence, or reference to CenturyLink employees allegedly involved. Declaration of Susan Fox and Marian Howell ¶ 8.

²¹³ *See* Brown Decl. ¶ 123; CTL Ex. 53.05, Email from Anna McDermott (Verizon) to Anne Grimm (CenturyLink), FMS Conversion - Impact (dated Apr. 23, 2014).

²¹⁴ CTL Ex. 53.05 at 4 (emphasis added). In addition, an express FMS benefit was that “[c]ustomers do not have to analyze standard special and switched access rates for economical cross-over points to determine the most cost effective facility and/or route or specify facility routing or hubbing locations when placing access orders.” *Id.*

²¹⁵ Verizon Response to Informal Complaint at 4; *see also* Verizon Legal Analysis at 60.

²¹⁶ Complaint ¶¶ 64-68.

inflation of charges, due to the inefficient ways that Verizon had spread DS0 and DS1 circuits across multiple DS3 facilities when it should have been trying to optimize the routings. At no point did Verizon actually try to meet its FMS optimization obligations, and it clearly did not “minimize costs” for CenturyLink by leaving it with a severely inefficient network. The injuries CenturyLink suffered are directly attributable to Verizon’s lapse.

Indeed, Verizon does not attempt to show that it made any effort to maximize network efficiencies or to optimize economic efficiencies over the many years that it was required to. Verizon now alleges that it simply optimized its network for itself, and that CenturyLink suffered no harm.²¹⁷ Verizon also contends that these are disputes related to the monthly recurring charges and not the Billing Credits.²¹⁸ None of these statements is true. The plain language of the tariff as well as Verizon’s own FMS literature indicates that Verizon’s network optimization obligation is to its *customer*.²¹⁹ Why would it be any other way? It does not stand to reason that the parties would add a requirement for Verizon to optimize its own network—Verizon is free to do that at any time without committing itself to network optimization in a contract with its customers. The entire premise of a “facilities management service” is for Verizon to manage the customer’s facilities. Indeed, the FMS Tariff Order explains that the typical quid pro quo for FMS was lower costs to the customer in exchange for a loss of control of its network configuration and the potential for occasional service disruptions.²²⁰ That the customer’s loss of

²¹⁷ Verizon Legal Analysis at 63-64.

²¹⁸ Verizon Legal Analysis at 64-65.

²¹⁹ CTL Ex. 53.05 at 4.

²²⁰ *Id.* ¶ 8.

control over network configuration was an express factor in the exchange only reinforces CenturyLink's point that that obligation shifted to Verizon under FMS.²²¹

Once CenturyLink transitioned off of FMS, Verizon continued to count spare and underutilized DS3s in the quarterly credit calculations. It is these units that CenturyLink disputes.²²² The fact that Verizon later transitioned CenturyLink off of FMS did not relieve Verizon of its duty to have optimally routed CenturyLink-dedicated circuits in the years before the transition. Verizon was the party with full knowledge of its failure to optimize for many years, and should have recalibrated the circuits CenturyLink was using for the transition during the years prior. Instead, Verizon simply left the unoptimized deployment as it was, so that after the FMS transition, it could immediately start billing CenturyLink for full DS3 circuits that were inefficiently and only partially used.

D. Verizon's Affirmative Defenses Do Not Bar or Offset CenturyLink's Claims.

Verizon's cursory and unsupported affirmative defenses are inapplicable,²²³ and do not bar CenturyLink's claims for the reasons set forth in the Complaint, this Reply, and as further discussed below. As a threshold matter, each of Verizon's affirmative defenses is barred by the

²²¹ See also Reply ¶ 65 (explaining that Verizon admits it had the obligation to deploy special-access circuits, and to do so to maximize network efficiencies and optimize economic efficiencies.).

²²² Verizon also argues that CenturyLink's FMS disputes are disputes of the monthly recurring charges, not the Billing Credits. Verizon Legal Analysis at 64-65. This is a false characterization of CenturyLink's disputes. Verizon also displayed this misunderstanding of CenturyLink's FMS Billing Credit disputes at the time they were filed. See CTL Ex. 53.04, Email from Joseph Aguilar (Verizon) to Joseph Romero (CenturyLink), *Claims FMS Joe Romero*, dated Oct. 2, 2015. Verizon is correct that the dispute of the underlying circuits was handled through the disconnect dispute process, through which Verizon was to credit erroneous circuit charges retroactive to July 1, 2014. *Id.* However, Verizon continued to erroneously count FMS units during and after this period, which necessitated CenturyLink filing disputes related to the Billing Credits. Thus, CenturyLink's FMS disputes are valid.

²²³ Answer ¶¶ 148-152.

filed rate doctrine because, as previously discussed, Verizon is simply not permitted to deviate from the filed tariff rates.²²⁴ Verizon admits this.²²⁵ Verizon's affirmative defenses also fail for the following additional reasons.

1. First Affirmative Defense – Release & Waiver of Disputes Concerning Billing Credits

Verizon cannot assert the doctrine of release as an affirmative defense, as it has not provided any evidence that CenturyLink affirmatively released Verizon in writing from any previously existing claims, or that CenturyLink received adequate compensation in exchange for any alleged release.²²⁶ As discussed above, Verizon's argument that CenturyLink somehow waived its claims in advance by agreeing to the tariffs also has no basis.²²⁷ The language of the tariffs as well as the interrelated agreements allows CenturyLink to raise disputes, including

²²⁴ See, e.g., *Int'l Telecommc'ns Exch. Corp.*, 892 F. Supp. at 1540-41 (filed rate doctrine bars affirmative defenses available in a standard contract dispute, including waiver, estoppel, breach, unclean hands, fraud, mistake, or accord and satisfaction) (collecting cases); *Nye v. Ingersoll Rand Co.*, 783 F. Supp. 2d 751, 762 (D.N.J. 2011) (doctrines of release, waiver, and accord and satisfaction are all related).

²²⁵ Verizon Legal Analysis at 46 n.232 (citing cases for proposition that filed rate doctrine bars affirmative defenses such as waiver).

²²⁶ A release is a "writing that manifests an intention to discharge another from an existing duty." *Nye*, 783 F. Supp. 2d at 762 (further noting that the scope of the release is determined by the intent of the parties to the release, with due consideration being given to whether the compensation paid was fully adequate, and "releases should be narrowly construed to avoid injustice and forfeiture of claims.") (emphasis added). Moreover, only individual claims specifically referenced in the writing are released, not theories of liability. See *AT&T Corp. v. Beehive Tel. Co.*, 2010 WL 376668, at *20.

²²⁷ See Reply Legal Analysis, *supra*, § II.B. Waiver is a doctrine that governs the unilateral surrender of a claim. *Nye*, 783 F. Supp. 2d at 762-63 (waiver requires the "intentional relinquishment of a known right" and to be effective "must be voluntary and there must be a clear act showing the intent to waive the right." Furthermore, 'waiver presupposes a full knowledge of the right and an intentional surrender; waiver cannot be predicated on consent given under a mistake of fact.'" (citations omitted)). For example, a letter that does not specifically state that a party relinquishes its rights under a sales plan does not trigger waiver, release, or accord and satisfaction. *Id.* at 763.

“after the determination of Billing Credits.”²²⁸ Verizon cannot rely on the doctrines of release and waiver as affirmative defenses.

2. Second Affirmative Defense – Release & Waiver of Right to Challenge Tariffs

Again, Verizon cannot assert the doctrine of release as an affirmative defense, as it has not provided any evidence that CenturyLink released Verizon in writing from any existing claims. Verizon’s argument that CenturyLink waived its right to challenge terms contained in the Service Agreements is irrelevant, because CenturyLink is not challenging the language of the tariffs or Service Agreements. CenturyLink is challenging Verizon’s violations and unreasonable practices regarding them.²²⁹ CenturyLink’s position supports and gives effect to the full scope of the agreements and tariffs, and thus supports the filed rate doctrine. For these reasons, Verizon cannot rely on the doctrines of release and waiver as an affirmative defense.

3. Third Affirmative Defense – Statute of Limitations – Overcharges

Verizon’s statute of limitations affirmative defenses fare no better. CenturyLink asserts claims to recover sums it paid in excess of the filed rate, *i.e.*, overcharges as defined in 47 U.S.C. § 415(g). Verizon has not disputed that the dispute packages sent to Verizon constitute requisite presentment under 47 U.S.C. § 415(c), thus extending the limitations period to two years from the time Verizon denied CenturyLink’s claims in writing.²³⁰ As CenturyLink noted in its Complaint and as acknowledged by Verizon in its Answer, Verizon also did not respond to numerous CenturyLink claims.²³¹ Verizon has now stated that it considers these claims

²²⁸ See Reply Legal Analysis, *supra*, § II.B.1.

²²⁹ See Reply Legal Analysis, *supra*, § II.B.2.f.

²³⁰ Brown Decl. ¶¶ 33-129.

²³¹ See Complaint Legal Analysis at 10 (Table of CenturyLink-Verizon Claims).

“denied.”²³² Thus, for many of CenturyLink’s claims, the limitations period started upon CenturyLink’s receipt of Verizon’s Answer. In sum, Verizon cannot rely on 47 U.S.C. § 415(b) as a defense.

Verizon’s other statute of limitation affirmative defense fails as well. CenturyLink makes no independent claim based on Verizon’s failure to pay Billing Credits within 60 days of the end of the quarter despite the clear tariff language requiring Verizon to issue those credits within the 60-day timeline. Instead, CenturyLink highlights Verizon’s lack of compliance with that provision to show the inconsistency in Verizon’s position with regard to allegedly clear “dispute timeframes.” Verizon’s selective and self-serving interpretation of some provisions in the tariffs while failing to abide by others, such as its decision to unilaterally ignore the 60-day requirement, is an unreasonable practice. In any event, even if CenturyLink were using Verizon’s failure to pay Billing Credits within 60 days of the end of the quarter as the singular basis for its claims, such claims would relate back to the Informal Complaint, which alleged violations of the plain contractual language of the tariffs.²³³ Further, such claims would be overcharges. As such, Verizon cannot rely on its third affirmative defense to reduce or bar CenturyLink’s claims.

4. Fourth Affirmative Defense – Setoff and Recoupment

Finally, CenturyLink denies that the doctrines of setoff or recoupment apply to, let alone bar, its claims.²³⁴ Verizon’s argument for setoff, to the extent it makes one, has not been

²³² Answer ¶ 71.

²³³ See Informal Complaint at 1, 9 (predicating complaint on Verizon’s violations of the contract tariffs); Reply to Verizon’s Response to the Informal Complaint at 15.

²³⁴ As a general matter, recoupment involves the reduction or counterbalancing of a plaintiff’s monetary claim because of a claim the defendant has against the plaintiff arising from the same transaction. *Miller v. U.S. Foodservice, Inc.*, 405 F. Supp. 2d 607, 618 (D. Md. 2005). Setoff

substantiated with any facts evidencing an independent claim it has against CenturyLink. At most, Verizon has identified errors in its own calculations involving certain circuits that may slightly reduce CenturyLink's claims in a few respects, while at the same time admissions in Verizon's Answer dramatically increase the overall amount CenturyLink is owed under the same calculations.²³⁵ In reality, Verizon's attempt to claim "recoupment" or "offset" for a narrow subset of the disputes is nothing more than an impermissible attempt to bring a counterclaim in this proceeding. Counterclaims "seeking any relief within the jurisdiction of the Commission against any carrier that is a party (complainant or defendant) to that proceeding" are expressly prohibited under 47 C.F.R. § 1.725.²³⁶ Thus, Verizon's affirmative defenses of setoff and recoupment are unavailable to reduce CenturyLink's claim.

involves the same reduction or counterbalancing because of a claim the defendant has against the plaintiff "arising from an independent transaction." *Id.* None of the citations relied upon by Verizon support the proposition that Verizon may reduce the amounts it owes to CenturyLink through offsets or recoupment. *See AT&T Commc'ns v. Northwestern Bell Tel. Co.*, 8 FCC Rcd. 1014, ¶ 21 (1993) (denying defendant's request for offsets); *Allnet Commc'n Servs., Inc. v. Wisconsin Bell, Inc.*, 7 FCC Rcd. 932, ¶ 3 (1992) (order specifically allowing offsets only in the context of a refund order under a rate of return regime). CenturyLink is not aware of any case in which the FCC has allowed offsets or recoupment in a formal complaint proceeding alleging overcharges in the context of the filed rate doctrine.

²³⁵ Brown Reply Decl. ¶¶ 43-57.

²³⁶ Verizon is also mistaken that interest is not available on its overcharges. The Commission has the authority to award interest in the context of overcharges. In *In the Matter of AT&T Commc'ns*, 8 FCC Rcd. 1014, the FCC awarded damages for defendant's violations of Section 201(b). *See also In the Matter of U.S. Sprint Commc'ns Ltd. P'ship v. Pac. N.W. Bell Tel. Co.*, 8 FCC Rcd. 1288, ¶ 51 (1993) ("We are persuaded that interest is required not only to effect a full and fair remedy for Sprint, which paid rates higher than it would have paid ... but also to avoid any unjust enrichment of defendant stemming from its charging rates that we have determined to be unjust and unreasonable under Section 201(b) of the Act."); *In the Matter of Telecom*USA v. Pac. Bell Tel. Co.*, 8 FCC Rcd. 1240 (1993). The tariff provisions Verizon relies on only apply to informal disputes with Verizon, not a formal complaint brought under the Communications Act. *See, e.g.*, CTL Ex. 20, Verizon FCC Tariff No. 1, Sections 2.4.1(B)(3)(c)(5), 2.4.1(B)(3)(c)(6). Moreover, Section 2 permits the payment of interest in various instances. *See, e.g., id.*, Section 2.4.1(B)(3)(c)(6) (permitting penalty interest).

CONCLUSION

For the above reasons, CenturyLink respectfully requests that the Commission find Verizon's practices in violation of Sections 201(b) and 203(c) of the Act, and order Verizon to remit all overcharges and sums due as a result of those violations, with interest.

Dated: April 23, 2018

Respectfully submitted,



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Attorneys for CenturyLink Communications, LLC

Tab B

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
CenturyLink Communications, LLC f/k/a Qwest)	
Communications Company, LLC,)	
)	
Complainant,)	Docket No. 10-33
v.)	File No. EB-18-MD-001
)	
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.,)	
)	
Defendants.)	

**CENTURYLINK'S REPLY TO VERIZON'S RESPONSE TO CENTURYLINK'S
SUMMARY OF GOVERNING AGREEMENTS**

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April 23, 2018

*Attorneys for CenturyLink
Communications, LLC*

CenturyLink Communications, LLC (“CenturyLink”), pursuant to 47 C.F.R. § 1.726 and the Enforcement Bureau’s February 9, 2018 and March 13, 2018 letter rulings,¹ submits this reply to Verizon’s response to the Summary of Governing Agreements attached (as Tab B) to the Verizon’s Answer (“Summary Response”) filed by the above-captioned Verizon entities (individually and collectively, “Verizon”) on April 12, 2018.

I. AGREEMENT STRUCTURE

1. CenturyLink denies that the 2006 Master Services Agreement (“MSA”) and its attachments do not, along with the Service Agreements (or the Flat Rate Price Flex Deal), govern the services at issue, or that aspects of the MSA or its attachments are inapplicable. CenturyLink admits that the MSA and its attachments provided a framework for Verizon’s provision of services but denies that those services were limited to forbearance services in general or Ethernet services specifically. The MSA incorporated its attachments (including Attachments 11 and 13) and Verizon’s FCC tariffs, including tariffs 1, 11, 14 which contained the terms of the Flat Rate Price Flex Deal.² The MSA’s dispute resolution process and claim submission procedure governs Verizon’s calculations of the Billing Credits at issue in this proceeding.³ Otherwise, Paragraph 1 of the Summary Response does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments

¹ Notice of Formal Complaint (Mar. 13, 2018); Letter from Lisa Saks, Assistant Division Chief, Market Disputes Resolution Division, to Brendon P. Fowler, Counsel for CenturyLink, and Curtis L. Groves, Counsel for Verizon (Feb. 9, 2018).

² CTL Ex. 1, MSA § 1 **[[BEGIN CONFIDENTIAL]]**

[[END CONFIDENTIAL]]

³ CTL Ex. 1, MSA § 1.

are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

2. CenturyLink denies the Verizon allegation that Attachment 2 and the Service Agreement are not intertwined. Amended and Restated Attachment 2 was made effective as of the effective date of the Flat Rate Price Flex Deal.⁴ The terms of Attachment 2 were part and parcel with Attachments 11 and 13, and the Service Agreements that effectuated the Flat Rate Price Flex Deal.⁵ Otherwise, Paragraph 2 of the Summary Response does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

3. Verizon has admitted CenturyLink's statements in Paragraph 3.

4. In Paragraph 4 of its Summary Response, Verizon does not deny that providing CenturyLink a rate discount was one of the purposes of the 2009 Service Agreement. CenturyLink denies that consideration for the 2009 Service Agreement included CenturyLink's relinquishment of any ability to challenge Verizon's calculations and thereby a relinquishment of the ability to receive the rate discount that was central to the agreement. CenturyLink admits that consideration for its discount rate was its commitment to minimum revenue amounts. Otherwise, Paragraph 4 of the Summary Response does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or

⁴ CTL Ex. 6, Amended and Restated Attachment 2 at 1.

⁵ See *id.* § 3; see also CTL Ex. 11, Sixth Amendment to Attachment 2, §§ 2, 4(k). **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** See *id.* § 5; CTL Ex. 4, Attachment 13, § 6. **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** See CTL Ex. 11, Sixth Amendment to Attachment 2, § 6.

arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

5. CenturyLink denies Verizon's contention that dispute resolution processes in Attachment 11 were not intended to include issues under the 2009 Service Agreement.⁶ Specifically, the dispute resolution section of Attachment 11 stated that it **[[BEGIN**

CONFIDENTIAL]] [REDACTED]

[REDACTED]⁷ **[[END CONFIDENTIAL]]** The plain language of Attachment 11 mandated that **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[REDACTED]⁸ **[[END CONFIDENTIAL]]** CenturyLink denies Verizon's contention that the Billing Credits could not be disputed for the reasons set forth in its Legal Analysis.⁹ Otherwise, Paragraph 5 of the Summary Response does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

6. Verizon has admitted CenturyLink's statements in Paragraph 6.

7. In Paragraph 7 of its Summary Response, Verizon does not deny that providing CenturyLink a rate discount was one of the purposes of the 2014 Service Agreement.

⁶ CTL Ex. 2, Attachment 11 to the MSA § 15.

⁷ *Id.*

⁸ *Id.*

⁹ CenturyLink Reply Legal Analysis § II.B.2.

CenturyLink denies that consideration for the 2014 Service Agreement included CenturyLink's relinquishment of any ability to challenge Verizon's inaccurate calculations and thereby a relinquishment of the ability to receive the filed rate that was central to the agreement.

CenturyLink admits that consideration for its discount rate was its commitment to minimum revenue amounts. Otherwise, Paragraph 7 of the Summary Response does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

8. CenturyLink denies Verizon's contention that dispute resolution processes in Attachment 13 were not intended to include issues under the 2014 Service Agreement.¹⁰

Specifically, the dispute resolution section of Attachment 13 stated that it governed **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]¹¹ **[[END CONFIDENTIAL]]** The plain language of Attachment 13 mandated that **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[REDACTED]

[REDACTED]¹² **[[END CONFIDENTIAL]]** CenturyLink denies Verizon's contention that the Billing Credits could not be disputed for the reasons set forth in its Legal Analysis.¹³ Otherwise, Paragraph 8 of the Summary Response does not contain specific factual

¹⁰ CTL Ex. 4, Attachment 13 to the MSA § 9.4.



¹¹ *Id.*

¹² *Id.*

¹³ CenturyLink Reply Legal Analysis § II.B.2.

allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

II. CONTRACTUAL DISPUTE PROVISIONS

9. In Paragraph 9 of its Summary Response, Verizon admits to the interrelationship between Attachments (Nos. 11 and 13, respectively), the 2009 and 2014 Service Agreements, and the 2006 MSA between the parties.¹⁴ Verizon does not deny that, collectively, agreements provided for flexible dispute resolution procedures and recognize that a party would be compensated for prevailing in a dispute after the distribution of credits in a particular quarter. CenturyLink denies that it had previously alleged that the Attachments “abolish[ed] the distinction between non-tariffed Ethernet services and tariffed special-access services.” Summary Response ¶ 9. CenturyLink denies that the dispute process in the Service Agreements conflicts with the dispute resolution process in the Attachments. CenturyLink denies that the 2009 and 2014 Service Agreements bar it from disputing the Billing Credits. CenturyLink denies that prefatory language in Attachment 13 § 9 overrides the clear statement in Attachment 13 § 9.4 that the dispute resolution procedure applied to **[[BEGIN CONFIDENTIAL]]** 
 **[[END**

CONFIDENTIAL]] Otherwise, Paragraph 9 of the Summary Response does not contain specific factual allegations or legal arguments to which a response is required. If it does,

¹⁴ CTL Ex. 4, Attachment 13, at 1; *see also* CTL Ex. 2, Attachment 11, at 2 **[[BEGIN CONFIDENTIAL]]** 

[[END CONFIDENTIAL]]

however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

10. Verizon has admitted CenturyLink's statements in Paragraph 10.

11. CenturyLink denies Verizon's contention in Paragraph 11 that the MSA did not apply to the payment of Billing Credits under the Service Agreements because **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[REDACTED] **[[END CONFIDENTIAL]]** The Billing Credits appeared on the monthly invoices, which contained charges and credits under the Flat Rate Price Flex Deal—a part of the MSA. The Billing Credits are thus **[[BEGIN CONFIDENTIAL]]**

[REDACTED]

[REDACTED]

[REDACTED]¹⁶ **[[END CONFIDENTIAL]]**

CenturyLink denies Verizon's contention that Verizon's actions did not hamper CenturyLink's ability to detect and dispute the credit calculations at issue. Otherwise, Paragraph 11 of the Summary Response does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

III. QUALIFYING MONTHLY RECURRING CHARGES

12. CenturyLink denies Verizon's characterization of the 2009 Service Agreement and tariffs. Under the 2009 Service Agreement, Verizon was not allowed to reduce the Billing Credits, and thus increase CenturyLink's tariffed rate, by including units in its credit calculations

¹⁵ MSA § 11.3.

¹⁶ *Id.*

for services that did not qualify under the agreement.¹⁷ Otherwise, Paragraph 12 of the Summary Response does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

13. CenturyLink denies similarly Verizon's characterization of the 2014 Service Agreement and tariffs. Under the 2014 Service Agreement, Verizon was not allowed to reduce the Billing Credits, and thus increase CenturyLink's tariffed rate, through including units in its credit calculations for services that did not qualify under the agreement.¹⁸ Otherwise, Paragraph 13 of the Summary Response does not contain specific factual allegations or legal arguments to which a response is required. If it does, however, those allegations or arguments are denied for the reasons given in the Complaint, this Reply, and their accompanying legal analyses.

¹⁷ See CTL Ex. 14, Verizon FCC Tariff No. 1 § 21, Option 57(B)(16), (19) and Option 57(E).

¹⁸ CTL Ex. 17, Verizon FCC Tariff No. 1 § 21, Option 65(B)(4), (5), (9), (10); CTL Ex. 18, Verizon FCC Tariff No. 11 § 32, Option 65(B)(4), (5), (9), (10); CTL Ex. 19, Verizon FCC Tariff No. 14 § 21, Option 34(B)(4), (5), (9), (10).

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Dated: April 23, 2018

Respectfully submitted,



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Tab C

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Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
CenturyLink Communications, LLC)	
f/k/a Qwest Communications Company,)	
LLC,)	
)	Docket No. 18-33
Complainant,)	File No. EB-18-MD-001
)	
v.)	
)	
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.,)	
)	
Defendants.)	

REPLY DECLARATION OF TIFFANY BROWN

I, Tiffany Brown, of full age, hereby declare and certify as follows:

1. I currently serve as Vice President of Audit for Sage Management, Inc., a technology and audit firm, and as a Telecom Billing Subject Matter Expert, [[BEGIN

CONFIDENTIAL]] [REDACTED]

[REDACTED]

[REDACTED]

[[END

CONFIDENTIAL]] I have helped various telecommunication providers and Fortune 100 companies recover more than \$1 billion in overcharges on telecommunications invoices. My career, which spans twenty years, has included positions at Winstar, TEOCO, and Sage Management. The responses below are based on my personal knowledge.

2. In Sage's history with its clients, including CenturyLink and others, Sage has routinely conducted audits of its telecommunications invoices and created dispute packages based on the billing errors it detected. Sage's relationship with CenturyLink is not unique or unusual. Most large and many small telecommunications companies use the services of third party billing auditors precisely because the many billing systems, tariffs and service agreements across the industry are complex and resource intensive.

3. Sage works to do the more complicated and time-consuming audits for its clients. Sage is a back-stop audit firm, meaning that our clients always audit the invoices first and Sage comes in after to help in areas that are not easily covered in the normal course of business. This case is an example of the value of our back-stop audit services.

4. Those dispute packages are sent to the client for review and approval to file with the vendor, in this case Verizon. Sage explains the audit logic and the nature of the dispute to its clients comprehensively and provides spreadsheets and Word documents that contain detail underlying the billing errors. The client then approves the dispute prior to the dispute filing with its vendor. This is the process that I went through with CenturyLink to file disputes with Verizon.

5. CenturyLink reviewed and approved every dispute and the methodology prior to their submission to Verizon. CenturyLink also supported these claims through its finance team

(see Mr. Welch's declaration) and its account management team (see Mr. Montenegro's Reply declaration).¹

6. Sage runs hundreds and hundreds of various audits on behalf of its clients across the industry. Based on my experience in the industry, I expected that there would be some counting errors made by Verizon. But I was surprised by the volume of counting errors made by Verizon and the dollars associated with those errors. These amounts were significantly higher than what I had previously seen in the industry.

7. Additionally, Verizon's handling of these disputes was a surprise to me. Based on my personal experience in the industry with similar counting issues under Custom Solutions Plans with Verizon, I expected Verizon to evaluate the counting errors it made and agree to resolve them.

8. Mr. Szol characterizes Sage as having a long history of raising questionable disputes.² This characterization is not accurate. Sage has saved its clients in excess of \$1 billion in erroneous charges on their telecommunications invoices.

I. THE PARTIES' COURSE OF DEALING

A. CenturyLink Was Diligent in Submitting Disputes and Believed Verizon Would Genuinely Review the Disputes.

9. Mr. Szol states that CenturyLink was free to dispute Verizon's calculations before the parties agreed on a final credit amount.³ I disagree. CenturyLink attempted to dispute Verizon's calculations on many occasions before credits were issued. However, Verizon refused to seriously consider the disputes presented, and held the much larger undisputed credits until

¹ Declaration of Patrick Welch ("Welch Decl.") ¶¶ 16-19; Reply Declaration of Robert Montenegro ("Montenegro Reply Decl.") ¶¶ 1, 16-22.

² Declaration of David Szol ("Szol Decl.") ¶ 33.

³ Szol Decl. ¶ 9.

CenturyLink “concurred.” Verizon could have remitted the much larger undisputed credit amounts and worked with CenturyLink to correct the counting issues that Verizon acknowledged. It did so for several quarters, but (following the filing of the Informal Complaint) reverted to holding all credit amounts, including very large undisputed credit amounts for Plan Year 3. In effect, Verizon refused to address these issues at a detailed level until now.

10. CenturyLink filed its first disputes in June 2014. Verizon should at least have been aware that its credit calculations contained errors from that point forward, but still did not address the substance of the disputes. To my knowledge, contrary to Mr. Szol’s assertions, neither he nor any other person at Verizon responded to the substance of the disputes. Here are the following responses that Verizon and Mr. Szol’s team actually provided in chronological order, as described in the timelines provided in the Formal Complaint:⁴

- “Auto resolved due to invalid circuit. This line item is being denied because the Circuit ID/CLLI/WTN is invalid or the BAN, Circuit ID/CLLI/WTN, Bill Date combination is invalid.”
- After reviewing the information we provided, Verizon responded that there was “nothing in the tariff ... to avoid a double-count.”
- Verizon’s only other response was that its “stance remains the same.”

11. Mr. Szol states that CenturyLink could have used the ordinary dispute submission system to file disputes of the quarterly credits, but it had to do so before it concurred in

⁴ CONFIDENTIAL CenturyLink Ex. 30 - CenturyLink Verizon Timeline.

Verizon's credit calculations and received the credit.⁵ But Verizon's dispute submission system rejected the claims that CenturyLink attempted to file prior to the quarterly credits being issued.⁶

12. As I have previously explained, Verizon participated in a meeting with CenturyLink and Sage regarding the disputes on August 5, 2014.⁷ The nature of the meeting was two-fold. First, we discussed with Verizon the way to submit the disputes associated with the 2009 and 2014 agreements in order to have them successfully loaded and reviewed by Verizon, since Verizon had not actually posted the credits in dispute, which made the BAN and bill date impossible to populate into the form. Second, we provided an overview of our dispute findings to help facilitate Verizon's review. In Mr. Szol's declaration, he omits the fact that one of the purposes of the meeting was to work with Joe Aguilar and Karen Rose from Verizon on how to get the claims submitted considering that the relevant data required in Verizon's dispute submission form was not available to CenturyLink.

13. Additionally, Mr. Szol states that Verizon understood that the paid credit amount was no longer subject to dispute – through Verizon's standard dispute system or otherwise – and that CenturyLink had abandoned any previously submitted disputes.⁸ That is not what actually happened in the reconciliation process of these claims. Verizon met with CenturyLink on multiple occasions to discuss the filing procedures of these claims and the detail behind the claims, and knew that the disputes were related to the Billing Credits for the quarters in question. Verizon assured CenturyLink that these claims were being reviewed internally by the appropriate teams within Verizon and their findings would be forthcoming. In addition, Verizon worked

⁵ Szol Decl. ¶ 10.

⁶ See, e.g., Brown Decl. ¶ 48.

⁷ Brown Decl. ¶ 49.

⁸ Szol Decl. ¶ 10.

with CenturyLink to manually get the disputes filed in their systems since the required information was not available. At no time, during the reconciliation process, did Verizon say or give the impression that Verizon believed CenturyLink had abandoned its rights to file these claims. To my knowledge, Verizon only took that position after CenturyLink requested to begin the more formal dispute resolution procedures in 2016.

14. Mr. Szol now suggests that CenturyLink could have simply explained the disputes and handed the counting issues off to Ms. Mason's team.⁹ Yet when we discussed these specific claims with Mr. Aguilar, who worked for Mr. Szol and was responsible for facilitating discussions around these disputes, he advised that he and Mr. Szol would meet internally with Ms. Mason and the other relevant Verizon personnel to review the issues we raised. To my knowledge, Mr. Szol never offered to help reconcile the errors we brought forward, never suggested we work with Ms. Mason, and now seems to be suggesting he is not responsible for working with Verizon's customers to resolve billing issues. It is difficult to reconcile those statements with paragraph 2 of Mr. Szol's declaration where he states: "My team has also been responsible for working disputes filed by CenturyLink concerning special-access DS1 and DS3 circuits, including the ones at issue in this litigation."¹⁰

15. Although Mr. Szol characterizes CenturyLink's actions listing BAN as the "Circuit ID" on the form as CenturyLink's mistake, it was Mr. Szol's team who advised CenturyLink to populate the BAN as the "Circuit ID" on the form in order to submit the disputes.¹¹ The credits were not issued at the circuit level, so providing a circuit ID was not possible. Verizon's internal team chose a random circuit ID associated with the BAN we had

⁹ Szol Decl. ¶ 11.

¹⁰ Compare Szol Decl. ¶ 2 with ¶ 11.

¹¹ Szol Decl. ¶ 12.

disputed in order to manually push these claims into Verizon's system. CenturyLink had no access to Verizon's system to manipulate the forms to manually get them loaded. CenturyLink relied on guidance from Mr. Szol's team to populate the forms the way it did.

16. Additionally, Mr. Szol states that Verizon denied these disputes on the merits.¹² Yet a circuit level response was not provided until ten days ago when Verizon filed its Answer. One of the denials addressed the FMS circuits and claimed that the tariffs didn't prevent Verizon from double counting circuits.¹³ However, none of the denials addressed the merits of the non-FMS circuits in dispute. Mr. Szol's characterization that Verizon's denials addressed the merits of these claims is inaccurate.

17. Throughout his declaration, Mr. Szol appears misinformed about the functioning of Verizon's Receivables Management System ("RMS") system and the requirements of its dispute submission form.¹⁴ Mr. Szol suggests that the form only requires a BAN and a Bill Date. Mr. Szol further asserts that RMS did not automatically deny these claims. But the responses CenturyLink received from Verizon's system are clearly automatic denials and explicitly state that a valid circuit ID is required: "Auto resolved due to invalid circuit. This line item is being denied because the Circuit ID/CLLI/WTN is invalid or the BAN, Circuit ID/CLLI/WTN, Bill Date combination is invalid."¹⁵

18. Mr. Szol describes the files that CenturyLink submitted with each dispute accurately.¹⁶ These files provided all required detail with written explanations in order for

¹² Szol Decl. ¶ 12.

¹³ CONFIDENTIAL CenturyLink Ex. 30 - CenturyLink Verizon Timeline.

¹⁴ Szol Decl. ¶ 13; *see generally* Szol Decl.

¹⁵ *See, e.g.*, Brown Decl. ¶ 48.

¹⁶ Szol Decl. ¶¶ 15, 16.

Verizon to investigate and review the disputes. Mr. Szol contends that the Verizon claims submission form is the key form that helped Verizon load each claim into its RMS system. Verizon's dispute submission form, however, had a number of limitations such as character limits, which forced CenturyLink to provide additional supporting detail and explanations as accompanying documents in each submission. Through multiple conversations with Verizon about Verizon's claim submission form, Verizon confirmed that certain data points were required to be populated, namely a valid BAN, Circuit ID and Bill date, in order to be accepted. But that information was largely unavailable until after Verizon issued the credits, rendering Verizon's suggested approach impossible.

19. Mr. Szol accurately describes that CenturyLink would sometimes resend a claim a few minutes after filing.¹⁷ The claims were re-sent per Verizon's request for manual load. CenturyLink diligently pursued its claims, and would call Verizon if it received an automated rejection. Verizon usually requested a resend in order to manually load the claim. Despite CenturyLink's efforts, it appears that Verizon did not proceed to review these disputes until CenturyLink filed its case before the FCC.

20. Mr. Szol continues throughout his declaration to describe how CenturyLink did not use a valid circuit ID in its filings and more specifically that CenturyLink populated a BAN in the circuit ID field.¹⁸ As has been discussed, this was the practice of CenturyLink because the actual circuit ID was not available.

¹⁷ Szol Decl. ¶ 18.

¹⁸ Szol Decl. ¶¶ 19-25, 37, 39-45.

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21. In Paragraph 29 of his Declaration, Mr. Szol omits the part of Verizon's response when it admitted to double-counting.¹⁹ As of September 15, 2014, Verizon had reviewed the merits of the dispute and concluded Verizon was, in fact, double-counting.²⁰ I note that Mr. Szol goes on to say that the claims lacked merit, even though Verizon's response affirmed the double-counting and Verizon has now admitted to multiple counting issues in its calculations.

22. In Paragraph 30 of his Declaration, Mr. Szol accurately describes Mr. Lowell's objection, especially in light of Verizon's admission to double-counting.²¹ Mr. Szol also accurately describes the logical method by which CenturyLink counted, dividing the number of DS3s by 672, since there are 672 DS0 channels on a DS3. I do not share his characterization of the discussion at this point as "good faith efforts to understand the position of a valued client," given Verizon's conduct throughout this process.

23. In Paragraph 30 of his Declaration, Mr. Szol describes how Verizon had internal calls to discuss the matters brought forth by CenturyLink.²² It is important to note that to my knowledge Verizon never revealed to CenturyLink the outcomes of those internal calls, as had been promised for months. Mr. Szol describes how Sage representatives, on behalf of CenturyLink, continued to contact Verizon for an update on its internal investigation. CenturyLink believed that Verizon was reviewing the circuits being counted incorrectly in order to fix the calculations going forward and resolve the billing disputes put forth. Verizon led CenturyLink to believe that it was working in good faith to evaluate and resolve the errors.

¹⁹ Szol Decl. ¶ 29; *see* Brown Decl. ¶ 49.

²⁰ CONFIDENTIAL CenturyLink Ex. 30 - CenturyLink Verizon Timeline.

²¹ Szol Decl. ¶ 30.

²² Szol Decl. ¶ 30.

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24. In Paragraph 32 of his Declaration, Mr. Szol describes the call held between Mr. Aguilar, Sage representatives and CenturyLink, but omits that on that call, Mr. Aguilar promised to get the appropriate parties from Verizon on a subsequent meeting with representatives from Sage and CenturyLink to discuss and work through the issues.²³ At that point, it was clear to me that Mr. Aguilar could not speak to the dispute, nor defend Verizon's billing practices. It also seemed to me that Verizon was purposefully stalling. Overall, it seemed Verizon was avoiding having a follow up conversation, contrary to Mr. Szol's consistent claims of valuing customer concern.

25. I disagree with Mr. Szol's characterization of Sage as the dispute "architect," for the reasons discussed above regarding Sage's role and relationship with CenturyLink.²⁴ There is an ample record of CenturyLink's direct correspondence with Verizon on these issues as set forth in the Complaint and its exhibits.

26. I also note that Mr. Szol's statement regarding the details of claim CLINKFAC0610B in Paragraph 48 of his Declaration is false. Mr. Romero of CenturyLink submitted claim, CLINKFAC0610B, not a Sage representative. I have reviewed the email submission by Mr. Romero and it also did include the attachment form that Mr. Szol claims was omitted.²⁵ Furthermore, the fields "adjustment serial number" and "customer audit number" that Mr. Szol now claims were required and also a part of the rejection, were in fact not required per Verizon's own instructions contained within its form.

²³ Szol Decl. ¶ 32.

²⁴ Szol Decl. ¶ 33.

²⁵ CONFIDENTIAL CenturyLink Ex. 49.07, Email from Joseph Romero (CenturyLink) to submit.claims@verizon.com, *FW: CLINKFAC0610B Verizon FRP Credit Calculation (Mar'16-May'16) 08-17-16*, dated Jan. 11, 2017.

27. In Paragraph 49 of his Declaration, Mr. Szol states that “Verizon has not been able to determine why RMS did not resolve the dispute submission automatically based on an invalid circuit ID,” but that he believes it was “likely due to a glitch in the RMS system.” I believe it more likely that Verizon’s personnel manually loaded these claims, but Mr. Szol’s remarks about potential glitches in the RMS raise questions about its functionality, reliability, and the expertise of Verizon personnel who use it.

B. Verizon Has Not Been Diligent in Correcting Known Errors.

28. It is unfortunate that despite our attempts to get Verizon to give CenturyLink the rates agreed upon in the contracts and tariffs, Verizon refused to substantively respond to or correct the calculation errors we showed them for 12 straight quarters. Verizon was notified of the calculation errors and had years to make the necessary corrections to its quarterly credit calculations. But it was not until now that we received even a partially material response from Verizon addressing at least some of the known calculation errors for the circuits we have been disputing since June 2014 (other than Verizon’s response claiming that there is nothing in the tariffs to prevent double-counting).

29. In Mr. Alston’s declaration, Verizon asserts that CenturyLink received steeply discounted special-access pricing from Verizon in the 2009 and 2014 Service Agreements.²⁶ I do not agree. Based on my experience in the industry, as well as my knowledge of the rates being provided to CenturyLink by Verizon, the discounted rates Verizon offered CenturyLink were industry standard rates for the volumes being purchased by CenturyLink.

²⁶ See, e.g., Declaration of Christopher Alston (“Alston Decl.”) ¶ 8.

30. I agree with Mr. Alston that a core component of the rates being offered was the minimum revenue guarantees.²⁷ In my experience, this type of guarantee is common in the industry for receiving discounted rates.

31. The rates and the minimum revenue guarantees contained in the 2009 and 2014 Service Agreements are industry standard; however, Verizon's abusive billing practices are not. Mr. Alston claims that Verizon insisted on procedures to sharply restrict CenturyLink's ability to dispute Verizon's calculation of CenturyLink's pricing.²⁸ Verizon also claims that CenturyLink was required to concur in the Billing Credits before they were issued, and claimed CenturyLink could not ever dispute errors once Billing Credits had been issued.²⁹ In my experience, these sorts of billing practices are not industry standard.

32. In Table 2 of her declaration, Ms. Mason admits that Verizon failed to issue credits for Plan Year 3 until February 16, 2018. Plan Year 3 Quarter 1 ended May 31, 2016. Verizon held the credits for over 20 months because CenturyLink was raising concerns over a relatively small amount of additional credits. This same coercive practice was repeated for Plan Year, Quarters 2, 3 and 4, leading Verizon to hold over **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** in undisputed credits for years, Verizon finally released these credits just prior to the Formal Complaint being filed in February 2018. Verizon was made aware of the errors in their calculations on these same circuits in 2014.

33. In the dispute reconciliation process, it was my understanding that Verizon was keeping these claims open and reviewing the claims on their merits. Instead Verizon was refusing to address its calculation errors, now stating in its Answer that CenturyLink was barred

²⁷ Alston Decl. ¶ 8.

²⁸ Alston Decl. ¶ 8.

²⁹ Answer ¶¶ 31, 102.

from disputing them. And, Verizon continued to force CenturyLink to send unequivocal concurrence to the calculations CenturyLink had already proven were invalid, in order to receive the pricing agreed to in the Service Agreements.

34. Through Mr. Alston's declaration, Verizon explains that the discounts grew, and with them CenturyLink's special access purchases increased over time.³⁰ It is standard in the industry that discounts would increase as volume increases. Verizon's claim that even if Verizon improperly classified all of the circuits in the Complaint, the amount in dispute is less than the overall value that CenturyLink received from the Price Flex Deal is not a valid excuse for overcharges.³¹ The agreements and tariffs do not grant Verizon an acceptable percentage of overcharges or any other "generally correct" immunity.

35. I agree with Mr. Alston's statement that in negotiating the Service Agreements, the parties agreed first on the per-unit flat rates and then negotiated the rest of the Service Agreement – including the broader formula for calculating the Billing Credits – so that it would match up with those agreed-upon flat rates.³² I do not agree with Mr. Alston's assertions in paragraphs 18-31 that these flat rates were negotiated based on complicated formulas related to ARPU and unit counts.³³ **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

³⁰ Alston Decl. ¶¶ 13-14.

³¹ Alston Decl. ¶ 14.

³² Alston Decl. ¶ 15.

³³ Alston Decl. ¶¶ 18-31.

[REDACTED]. **[[END CONFIDENTIAL]]** Mr. Montenegro addresses the negotiations in his Reply Declaration.

36. These reductions were industry standard because of the increased volumes being purchased by CenturyLink year over year and the amount of money for the same TDM network that Verizon had already been compensated for by CenturyLink many times over. These reductions required simple math. **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **[[END CONFIDENTIAL]]**

37. Verizon asserts that the flat rates that were negotiated were predicated on the circuit counting methodology that CenturyLink is now disputing.³⁴ Verizon is incorrect. The flat rates were obviously negotiated between the parties based on industry standard rates for the volumes being purchased by CenturyLink, as explained in the Reply Declaration of Mr. Montenegro. The circuit counting methodology was described in detail in the Service Agreements. Verizon did not adhere to the methodology described in the Service Agreements (e.g. only counting circuits that were billing qualifying USOCs under the 2009 Service Agreement).

³⁴ Answer ¶ 4.

38. Even more unbelievable is Verizon's repeated assertions that a slightly lower unit count would have resulted in higher negotiated rates between CenturyLink and Verizon.³⁵

[[BEGIN CONFIDENTIAL]]

[[END CONFIDENTIAL]]

II. VERIZON'S CREDIT CALCULATION ERRORS

39. Based on the information provided in Verizon's Answer and the discussion below, CenturyLink agrees to adjust the dispute amounts for three of the Dispute Categories.

40. Table 1 summarizes the 6 Dispute Categories with the amounts agreed to by Verizon, the amounts CenturyLink agrees to adjust, and the adjusted dispute amounts based on our analysis of Verizon's response.

Table 1 [[BEGIN CONFIDENTIAL]]

Dispute Category	Original Dispute Amount	Amount Verizon Agrees is Owed	Amount CenturyLink Agrees to Adjust	Final Dispute Amount
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³⁵ Alston Decl. ¶ 29; Verizon Exhibit 73; Declaration of Patricia Mason ("Mason Decl.") ¶¶ 96-101.

³⁶ Alston Decl. ¶ 31.

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1 - Miscalculating Equivalents for DS3 CLF Units				
2 - Including Units Without USOCs				
3 - Double Counting Units				
4 - Misdesignating DS3 CLF Units				
5 - Misdesignating DS0 Units				
6 - Failure to Optimize Circuit Routing				

[[END CONFIDENTIAL]]

41. Verizon argues that CenturyLink has inaccurately quantified the overcharges in its Formal Complaint.³⁷ Formal Complaint Tables 2 and 3 contain the dollar amounts associated with the circuits that were miscounted by Verizon for each of the six dispute categories. The Table of CenturyLink-Verizon Claims in CenturyLink's Complaint Legal Analysis contains the dispute amounts by claim number that were submitted to Verizon.³⁸ There is no duplication of dispute amounts in the Table of CenturyLink-Verizon Claims, although certain circuits are listed twice in Complaint Tables 2 and 3, as had been explained to Verizon previously, because certain circuits were counted erroneously as units by Verizon for multiple reasons.

42. For example, in PY5Q2, for August 2013, Verizon erroneously double counted circuit ID 81HFGS726507GTEW. That circuit did not qualify as a unit under the 2009 Service Agreement and related tariffs because it did not bill a qualifying USOC listed in the related tariffs. Circuit ID 81HFGS726507GTEW is included in Dispute Category 3 for Double Counting Units as well as Dispute Category 2 for Including Units Without USOCs; therefore, the

³⁷ Answer ¶ 36.

³⁸ Legal Analysis in Support of CenturyLink's Formal Complaint at 9-11.

disputed amounts are listed in both Tables 2 and 3 for this circuit. However, the inclusion of that circuit in both dispute categories does not mean that CenturyLink is seeking double recovery. CenturyLink clearly explained this in connection with its Informal Complaint and supporting materials.

A. Dispute Category 1: Verizon Overcounted Equivalents of DS3 CLS Units in FMS LATAs

43. In response to Dispute Category 1, Verizon contends that it is inaccurate to refer to these circuits as “\$0 DS3 CLF circuits.”³⁹ Table 4 in the Formal Complaint shows example monthly billing from Verizon for these circuits.⁴⁰ The circuits are in the DS3 CLF circuit format as defined in the related tariffs, and **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** For example, the first DS3 circuit ID listed in Table 4 is 1000T3ZNRKKNJ03K41NRKKNJ41W03. **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** Therefore, they are properly characterized as “\$0 DS3 CLF circuits.”

44. CenturyLink agrees with Verizon’s statement that, under the contracts, a DS3 CLF circuit either counted as a “unit” or it did not; there was no middle ground.⁴¹ The \$0 DS3 CLF circuits did not qualify as a “unit” under the contracts because they did not bill a qualifying USOC as required under the related contracts and tariffs. For example, circuit ID 1000T3ZNRKKNJ03K41NRKKNJ41W03 billed **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** on USOC CTG on January 20, 2014. No other USOC was billed. USOC

³⁹ Answer ¶ 42.

⁴⁰ Complaint ¶ 45.

⁴¹ Answer ¶ 43.

CTG is not listed as a qualifying USOC under the 2009 Service Agreement and applicable tariffs. Verizon counted 1000T3ZNRKNJ03K41NRKNJ41W03 as a unit in error.

45. Ms. Mason argues that CenturyLink was charged on a DS0-equivalent basis on the monthly invoices, and Verizon counted those circuits as DS3 “units” when calculating the Billing Credits at the end of each quarter.⁴² I agree that the circuits were billed on the monthly invoices on a DS0-equivalent basis; however, they were billed on DS1 circuit IDs, not DS3 circuit IDs. Verizon properly counted the DS1 circuit IDs as units in its calculations. The problem is that Verizon also counted as billing units (thus reducing CenturyLink’s quarterly credits) the DS3 circuit the DS1 circuit rode on. Verizon’s claim that the DS0-equivalent charges that billed on DS1 circuit IDs should also be calculated as DS3 CLF units does not align with the agreements and tariffs.

46. Ms. Mason also states that Verizon properly determined that DS3 CLF circuits deployed in FMS territories qualified as “Billed DS3 CLF Unit[s]” under the Service Agreements.⁴³ Ms. Mason is incorrect. The 2009 Service Agreement defines a “Billed DS3 CLF Unit” as a DS3 CLF Unit for which one or more MRCs, using any of the applicable CoS-USOC combinations, was billed.⁴⁴ The 2009 Service Agreement defines a “DS3 CLF Unit” as a Qualifying Service circuit of bandwidth 44.736 Mbps that both: (i) has a facilities formatted circuit identifier in accordance with the CLCI format administered by Telcordia (e.g., 967 T3Z PITBPADTHPE PITBPADTK18) and (ii) is billed using one or more of the USOCs specified in

⁴² Mason Decl. ¶ 59.

⁴³ Mason Decl. ¶ 60.

⁴⁴ CenturyLink Ex. 3, 2009 Service Agreement, Ex. B § 2.

§ 5(a)(ii).⁴⁵ The DS1 circuit IDs billing the USOCs specified in § 5(a)(ii) did not qualify as DS3 CLF Units because they did not have a bandwidth of 44.736 Mbps and they did not have a facilities formatted circuit identifier in accordance with the CLCI format.⁴⁶ Therefore, the DS1s that billed the DS0-equivalent charges in the FMS LATAs did not qualify as DS3 CLF units. The DS3 circuit IDs billing \$0 in the FMS LATAs also did not qualify as DS3 CLF units because they were not billed using one or more of the USOCs specified in § 5(a)(ii).⁴⁷

47. Ms. Mason states that although Verizon charged for those circuits at the DS0 level, those charges remained monthly recurring charges for DS3 service.⁴⁸ Again, Ms. Mason is incorrect. The charges billed at the DS0 level were monthly recurring charges for DS1 circuits, not DS3 circuits.

48. Ms. Mason indicates that the example circuit 4508 T3Z WRCMACEK31 WRCSMAVIW01 was set at DS0-equivalent rates, **[[BEGIN CONFIDENTIAL]]** [REDACTED]
[REDACTED]
[REDACTED] **[[END CONFIDENTIAL]]** Ms. Mason's example actually proves that the DS0s were riding the DS1s, which were billing the charges at the DS0-equivalent rates, and the DS1s were riding the example DS3. I agree with that.

49. However, Ms. Mason's conclusion that this satisfied the definitions of "DS3 CLF Qualifying Services" and "Billed DS3 CLF Unit" under the Price Flex Deal is not accurate. The

⁴⁵ CenturyLink Ex. 3, 2009 Service Agreement, Ex. B § 5(a)(ii).

⁴⁶ *Id.*

⁴⁷ *Id.*

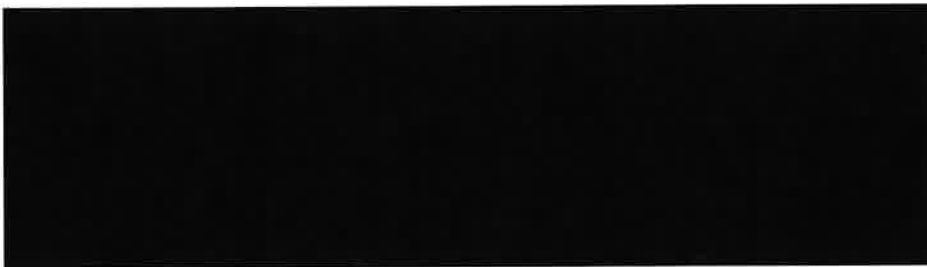
⁴⁸ Mason Decl. ¶ 70.

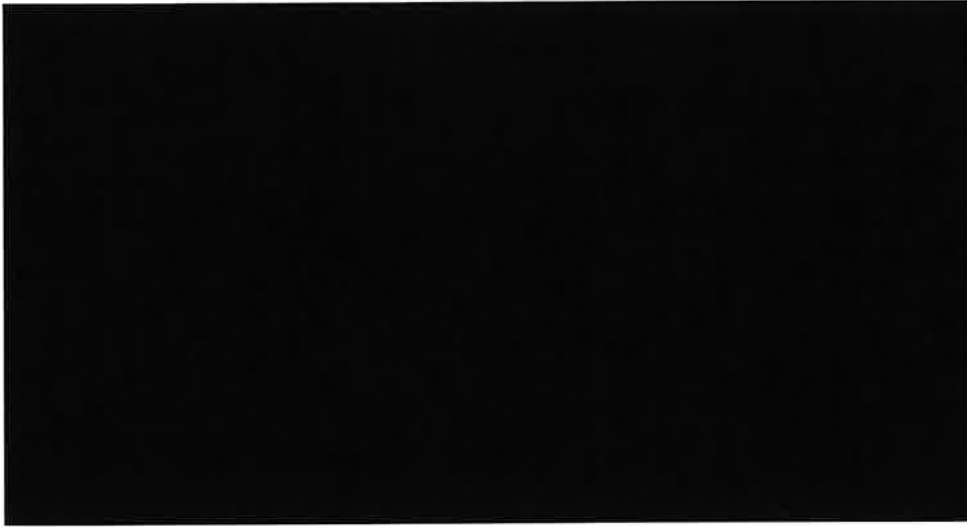
⁴⁹ Mason Decl. ¶ 61.

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Price Flex Deal did not allow for DS3 CLF units to be counted just because there were lower level circuits riding them. The lower level circuits, the two DS1s in this example, were billing the DS0-equivalent rates and were being counted as DS1 units by Verizon. The DS3 that the DS1s were riding did not bill any of the USOCs required in the agreements and tariffs to qualify as a “Billed DS3 CLF Unit” or “DS3 CLF Qualifying Services.” This makes logical sense and is consistent with FMS. Under FMS, CenturyLink was not supposed to be financially harmed by Verizon’s network design. Because CenturyLink was only supposed to be charged on a DS0 basis, regardless of how many DS3s Verizon unilaterally chose to use to carry CenturyLink’s services, it makes no sense that Verizon now claims it was correct to lower CenturyLink’s credits based on the number of DS3s Verizon used.

50. Verizon’s Exhibits 55-59 further demonstrate this point. Verizon Exhibits 55 and 58 list DS1 circuit IDs that are riding example DS3s. Verizon Exhibits 56, 57 and 59 show the DS3 circuit IDs billing **[[BEGIN CONFIDENTIAL]]** **■** **[[END CONFIDENTIAL]]** with no qualifying USOCs and the DS1 circuit IDs billing all of the DS0-equivalent charges. The excerpt below from Verizon Exhibit 56 shows the DS3 circuit ID 1000 T3Z NWRKNJ03K41 NWRKNJ41W03 billing **[[BEGIN CONFIDENTIAL]]** **■** **[[END CONFIDENTIAL]]** with no qualifying USOCs. **[[BEGIN CONFIDENTIAL]]**





[Redacted line of text]

[Redacted line of text]

[Redacted line of text]



51. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[[BEGIN CONFIDENTIAL]]

Table 2

[illegible]

[[END CONFIDENTIAL]]

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52. An example from PY1Q1 under the 2014 Service Agreement is listed below. The nine DS1 circuit IDs below were included in the March 2014 DS1 unit count by Verizon. These nine DS1s rode the DS3 CLF higher capacity facility 3142 T3Z EDTNPAEDHVA

EDTNPAEDK31. **[[BEGIN CONFIDENTIAL]]**

[[END CONFIDENTIAL]] ⁵⁰

Table 3

Circuit ID	Mar 2014 DS1 Channel Terms wo Miles
11.HCGS.288423..PA	1
11.HCGS.288424..PA	1
11.HCGS.288425..PA	1
11.HCGS.289973..PA	1
11.HCGS.289976..PA	1
11.HCGS.289977..PA	1
11.HCGS.289978..PA	1
11.HCGS.319187..PA	1
11.HCGS.323545..PA	1

53. Verizon claims that the 2009 and 2014 Service Agreements contain no support for CenturyLink's DS3-equivalency calculations.⁵¹ It also characterizes the DS3-equivalency calculations as a brand-new formula devised by CenturyLink.⁵² The DS3-equivalency calculations were developed in an attempt to give Verizon compensation for the DS0-equivalent

⁵⁰ CONFIDENTIAL CenturyLink Ex. 41.15 - Centurylink PY1Q1 DS1 wo Miles.

⁵¹ Answer ¶ 43.

⁵² Answer ¶ 44.

capacity provided to CenturyLink by Verizon. CenturyLink's perspective was that Verizon was owed some amount of compensation for the DS0-equivalent capacity that Verizon was providing. CenturyLink devised a logically sound mechanism to compensate Verizon for the DS0-equivalent capacity without knowing that Verizon had already taken the liberty of including the related DS1 circuit IDs in its DS1 unit count. Verizon never provided the DS1 circuit level detail to allow CenturyLink the ability to audit the DS1s at the circuit level. Since the DS0-equivalent capacity was already being included in Verizon's DS1 unit counts, the DS3-equivalency calculations were unnecessary. Verizon billed CenturyLink for the DS0-equivalent capacity on the DS1 circuits IDs, not the DS3s that the DS1s were riding, in the FMS LATAs on the monthly invoices. Verizon correctly included these DS1s in their unit count. Verizon was fully compensated for all DS0-equivalent capacity in the FMS LATAs through the DS1 units included in their count. The \$0 DS3 CLF circuits were not billing any charges on the monthly invoices from Verizon. Verizon's attempt to be compensated for the same DS0 in the DS1 unit counts and the DS3 unit counts was a double billing and was not allowed contractually. The DS1s were included in the unit count contractually; however, the DS3s should not have been included in the unit count, because they did not bill a qualifying USOC.

54. Eliminating the DS3-equivalency calculations, as requested by Verizon, increases the dispute amount for Dispute Category 1 from **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]**

55. Verizon states that the 2009 Service Agreement identifies XDH3X as a qualifying Class of Service for DS3 CLF Units.⁵³ I agree with Verizon that XDH3X is a qualifying Class of

⁵³ Answer ¶ 46.

Service, but they seem to be missing the point. CenturyLink did not claim that XDH3X was not a qualifying Class of Service.⁵⁴ CenturyLink accurately stated that XDH3X was not included in the list of qualifying USOCs contained in the tariffs.⁵⁵ Verizon's assertion that it properly classified each circuit in Table 5 as a DS3 CLF Unit under the 2009 Service Agreement is wrong.⁵⁶ The circuits in Table 5 did not bill any USOCs contained within the DS3 USOC lists in the tariffs.⁵⁷ The 2009 Service Agreement and tariffs require that a DS3 must have a qualifying Class of Service and bill a qualifying USOC. The DS3s in Table 5 have the correct Class of Service, but do not bill a qualifying USOC; therefore, they do not qualify as DS3 units under the tariffs. Thus, Verizon counted them in error.

56. Verizon concludes that, even though the DS3 CLF circuits in the FMS territories billed monthly charges proportioned on a DS0-equivalent basis, the charges remained for qualifying DS3 service under the 2009 Service Agreement.⁵⁸ This is false. All of the monthly charges proportioned on a DS0-equivalent basis in the FMS territories were billed on the DS1 circuit IDs that Verizon included in its DS1 unit counts per the applicable tariffs. There were no monthly charges "proportioned" on a DS0-equivalent basis on the DS3 circuit IDs in dispute.

57. Applying the interpretation of the agreements that Verizon prefers, Verizon owes CenturyLink **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** for the DS3 CLF circuits that were improperly counted as units in the FMS LATAs in Dispute

⁵⁴ Complaint ¶ 46.

⁵⁵ Complaint ¶ 46.

⁵⁶ Complaint ¶ 46.

⁵⁷ Complaint ¶ 46.

⁵⁸ Answer ¶ 47.

Category 1.⁵⁹ A detailed revised accounting of this category is attached as CenturyLink Reply Exhibit 71.

B. Dispute Category 2: Verizon Counted Units Without Qualifying USOCs or MRCs in the Quarterly Credit Calculation in Non-FMS LATAs

58. As to Dispute Category 2, Verizon admits that it counted circuits in error that did not bill a qualifying USOC or MRC.⁶⁰ These undisputed overcharges total **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]**

59. Verizon was first notified of this category of error on June 19, 2014. Verizon never corrected this error and continued to count circuits that did not bill either a qualifying USOC or an MRC for twelve quarters after CenturyLink notified Verizon of their error. To date, Verizon has not issued credits to CenturyLink for this error, but instead seems to be hiding behind its erroneous interpretation of the dispute resolution provisions to argue that CenturyLink abandoned the right to be charged the tariff rate.

60. Verizon Exhibit 60 contains the circuit level detail indicated in Mason's declaration. Verizon categorized their response in the following eight categories, each of which I address: **[[BEGIN CONFIDENTIAL]]**

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

⁵⁹ By updating these calculations based on Verizon's arguments and new information provided in Verizon's Answer, I am not waiving, withdrawing, or otherwise dismissing CenturyLink's disputes and claims.

⁶⁰ Answer ¶¶ 48-51.

62. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **[[END CONFIDENTIAL]]** After further analysis of the new contract, we concluded that the USOC requirement had been removed in the 2014 Service Agreement. We should have included these circuits in our calculations for the Billing Credits for the quarters in question. We also should have included the monthly recurring charge revenue in our revenue calculations for those quarters. These circuits billed a total of **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** in interstate revenue for the months listed in Verizon Exhibit 60 as “Proper MRC (2014 Plan)”. Applying the appropriate flat rate to each of these DS3 units for the applicable months would result in a calculated charge of **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[REDACTED] **[[END**

CONFIDENTIAL]] We did not include this Billing Credit in our dispute packages for the quarters in question because we did not include these circuits as units in our original analysis. Thus, our dispute packages submitted to Verizon did not include the **[[BEGIN**

CONFIDENTIAL]] [REDACTED] **[[END CONFIDENTIAL]]** in net credits that should have been issued on these circuits. I agree to close the original dispute amount of **[[BEGIN**

CONFIDENTIAL]] [REDACTED] **[[END CONFIDENTIAL]]** and replace it with the net credits that should have been issued on these circuits had they been counted as units in our original analysis. The credits that should have been reflected in our original dispute packages for these

circuits total **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** for the DS3s and **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** for the DS1s).

63. **FMS Billing –** **[[BEGIN CONFIDENTIAL]]**

[[END CONFIDENTIAL]] These units were not properly counted by Verizon for the reasons stated in Dispute Category 1. The total dispute amount of **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** for these circuits is owed to CenturyLink. These circuits are also included in Dispute Category 1 because Verizon made multiple errors on these circuits. Ultimately, CenturyLink is seeking compensation for these circuits once, either in Dispute Category 1 or 2.

Underbilling – **[[BEGIN CONFIDENTIAL]]**

[[END CONFIDENTIAL]] CenturyLink would have to audit the monthly billing that Verizon proposes on these circuits in order to evaluate the validity of Verizon's position. I reviewed the circuits cited in Ms. Mason's declaration and the results of my findings are below. Ms. Mason gives one example circuit 24.HFGS.70011..PA.⁶¹ I agree that this circuit should have been billing under several DS3 USOCs, including TRG and 1LFSX. This circuit was counted in error by Verizon because it did not meet the requirements in the agreements and tariffs to be counted as a unit; however, I agree that the amount in dispute for this circuit should be closed due to the undercharges made by Verizon. The total dispute amount that should be closed for this circuit is **[[BEGIN CONFIDENTIAL]]**

⁶¹ Mason Decl. ¶ 74.

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[REDACTED]

[REDACTED]

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- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **[[END**

CONFIDENTIAL]]

66. The total dispute amount that should be closed due to Verizon's undercharges is **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** The remaining dispute amount of **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** for these circuits is owed to CenturyLink. To be clear, the disputes filed for the overcounting of these circuits are valid; however, due to additional errors made by Verizon that have now been brought to our attention, related to billing on the monthly invoices, CenturyLink agrees to adjust the amounts accordingly. Ironically, Verizon is bringing to light new billing errors made by Verizon in order to defend its flawed billing practices.

67. **No Circuit IDs** – Verizon never provided CenturyLink with the DS1 circuit IDs being included in Verizon's DS1 unit counts under the 2009 Service Agreement; therefore, it was impossible for CenturyLink to determine what was being overcounted by Verizon. The total dispute amount of **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** is owed to CenturyLink.

68. **Fractional Circuits** – **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[REDACTED]

[[END CONFIDENTIAL]] Verizon counted these circuits as units in error in the months after

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the circuits were disconnected. Verizon is attempting to discount this fact by stating that CenturyLink received a windfall in the fractional month's billing prior to the disconnection date due to Verizon's erroneous disconnect process. Again, Verizon is using its own billing errors to contest its other billing errors. Verizon does not give any detail on the windfall it believes CenturyLink received. In addition, many of the circuits in this category should never have been counted as units by Verizon (e.g. FMS DS3s). For those circuits, the net overcharge and undercharge that occurred in the fractional month prior to the disconnection date are already being accounted for in our dispute packages. Most importantly, Verizon fails to mention that Verizon also received a windfall in Verizon's erroneous disconnect process. The majority of the circuits in dispute in this category would have billed a lower dollar amount to CenturyLink if the fractional month was not included as part of the Service Agreements; therefore, Verizon received a windfall on these circuits beyond what CenturyLink has disputed.

69. For example, circuit ID 32HFGS658864NY billed **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** on the September 19, 2016 monthly invoice. This circuit was then disconnected on October 12, 2016, and given a credit of **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** on the October 19, 2016, monthly invoice.

Table 4 **[[BEGIN CONFIDENTIAL]]**

Circuit ID	BAN	Bill Date	USOC	Billed Amt

[[END CONFIDENTIAL]]

70. If Verizon had not included this circuit as part of the Service Agreements for the fractional disconnect month of September 2016, CenturyLink would have paid a total of

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USOC, as required by the 2009 Service Agreement and tariffs, after CenturyLink notified Verizon of its error in June 2014. To date, Verizon has not issued credits to CenturyLink for this error. The total dispute amount agreed to by Verizon in this category is **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** and is owed to CenturyLink.

72. **No MRCs** – Verizon admits that these circuits were counted in error. Verizon never corrected this error and continued to count circuits that did not bill a Monthly Recurring Charge, as required by the 2014 Service Agreement and tariffs, after CenturyLink notified Verizon of its error in September 2015. To date, Verizon has not issued credits to CenturyLink for this error. The total dispute amount agreed to by Verizon in this category is **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** and is owed to CenturyLink.

73. Verizon admits that the final three categories above (fractional circuits, ineligible USOCs, and No MRCs) should not have been counted as units; however, Verizon nevertheless asserts that these issues should not be credited.⁶³ Verizon suggests that these circuits make up a small portion of the overall number of DS3 circuits governed by the Price Flex Deal and that 1-2% in overcharges is acceptable – even to be expected and simply swallowed by CenturyLink. I do not agree or consider that suggestion to be typical in the industry. In my opinion there is also nothing in the contracts or tariffs that allows Verizon to overcharge CenturyLink for any amount, including 1-2% of its charges. The final three categories, all of which Verizon admits it counted in error, total **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]**. Verizon's attempt to justify an overcharge of **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** by saying it's just a small percentage of circuits or that its billings were "generally correct," is unacceptable.

⁶³ Answer ¶¶ 48-51; Mason Decl. ¶ 78.

74. The table below summarizes the categories, as broken out by Verizon, for Dispute Category 2 with the amounts agreed to by Verizon and the amounts CenturyLink agrees to close:

[[BEGIN CONFIDENTIAL]]

Verizon Category	Original Dispute Amount	Amount Verizon Agrees is Owed	Amount CenturyLink Agrees to Adjust	Final Dispute Amount

[[END CONFIDENTIAL]]

75. Verizon owes CenturyLink [[BEGIN CONFIDENTIAL]] [REDACTED] [[END CONFIDENTIAL]] for the circuits that were improperly counted as units in Dispute Category 2. It's important to note that until Verizon's Response to the Formal Complaint was received, CenturyLink had never received a response at the circuit level from Verizon. Had CenturyLink been made aware of the other billing issues made by Verizon that negated a portion of the dispute amounts in this category, CenturyLink would have closed those amounts immediately. A detailed revised accounting of this category is attached as CenturyLink Reply Exhibit 72.

C. Dispute Category 3: Double-Counting of "Meet-Point" Circuits

76. Ms. Mason indicates that both parties intended for meet-point circuits to be included in the Price Flex Deal.⁶⁴ I agree. Ms. Mason also states that the Service Agreements

⁶⁴ Mason Decl. ¶ 81.

required that CenturyLink initially pay the full standard rate for a circuit before it could qualify for the discounted flat rates.⁶⁵ I agree. Ms. Mason then asserts that if a meet-point circuit was viewed as a single, unitary individual circuit spanning multiple LATAs, each monthly interoffice transport charge for the circuit would have been a fractional charge ineligible for flat-rate pricing.⁶⁶ Ms. Mason is incorrect. The requirement that CenturyLink pay the full standard rate for a circuit before it could qualify for the discounted flat rate did not require that the full standard rate be billed on a single BAN. The unitary individual meet-point circuits met all the requirements to be included in the Price Flex Deal. The fact that the full standard rate was applied across multiple BANs is irrelevant. Verizon's assumption that it had to treat a single meet-point circuit that was billing across multiple BANs as multiple "units" in order for it to qualify under the Price Flex Deal ignores the terms of the agreements, which define a unit as a singular circuit.⁶⁷ By dissecting a singular circuit into multiple units, Verizon is accounting for these circuits in error and is in clear violation of the agreements and tariffs.

77. In the 2009 Service Agreement, a DS1 Unit is defined as having a DS1 capacity. It further states, "For the avoidance of any doubt, fractions of a "DS1 Unit" are not counted as a "DS1 Unit."⁶⁸ Therefore, the fractions of a circuit billing on each BAN should not be counted as individual units. Verizon's methodology of counting meet-point circuits as multiple units, one unit for each BAN under which Verizon billed the circuit, does not meet the criteria for a unit under the Price Flex Deal.

⁶⁵ Mason Decl. ¶ 81.

⁶⁶ Mason Decl. ¶ 81.

⁶⁷ See CenturyLink Ex. 14(B)(16), (19); Ex. 15(B)(16), (19); Ex. 16(B)(16), (19); Ex. 17(B)(9), (10); Ex. 18(B)(9), (10); Ex. 19(B)(9), (10).

⁶⁸ CenturyLink Ex. 3, 2009 Service Agreement, Ex. B § 2.

78. Verizon owes CenturyLink **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** for the circuits that were improperly double counted as units in Dispute Category 3.⁶⁹

D. Dispute Category 4: Misdesignating DS3 CLF Units as DS3 CLS Units

79. Ms. Mason admits that the CLF vs. CLS classification issue cost CenturyLink a total of **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]**⁷⁰ She indicates that the error was due to a formula that led to anomalies in the way the DS3 volumes were counted during the four months in question.⁷¹ Ms. Mason also indicates that the formula error classified more expensive DS3 CLS circuits as less expensive DS3 CLF circuits. I agree in principle with Ms. Mason, but I believe Verizon meant to say that the more expensive DS3 CLF circuits were classified as less expensive DS3 CLS circuits.

80. We notified Verizon of the net overcharges and undercharges caused by the formula errors for the four months that were impacted. First, we included the net overcharges and undercharges in our dispute packages. Then, we had multiple calls with Verizon explaining the net overcharges and undercharges caused by this error. All of the dispute packages and dispute amounts we filed with Verizon contained the net overcharges and undercharges of the circuits that were impacted by the error in Verizon's formula. **[[BEGIN CONFIDENTIAL]]**

[[END CONFIDENTIAL]]

⁶⁹ In Verizon Exhibit 64, Verizon admits it made a counting error of **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** for Dispute Category 3. The remaining **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** is categorized by Verizon as being counted correctly. Verizon is incorrect—it owes CenturyLink the full amount for this category of **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]**

⁷⁰ Mason Decl. ¶ 89.

⁷¹ Mason Decl. ¶ 87.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] **[[END CONFIDENTIAL]]** ⁷⁴

81. The net overcharges and undercharges contained in each of our dispute packages match the details contained in Verizon's Exhibits 65 and 66. In all of our dispute packages, the net overcharges and undercharges impact was reflected in the total dollars filed with Verizon. The Table of CenturyLink-Verizon Claims in the Legal Analysis in Support of CenturyLink's Formal Complaint contains the dispute amounts by claim number that were submitted to Verizon.⁷⁵ For the example claim CLINKFAC0377, the Table of CenturyLink-Verizon Claims shows the correct total dispute amount of **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[REDACTED]
[REDACTED] **[[END CONFIDENTIAL]]**

82. Verizon admits that the total **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** in Dispute Category 4 was overcharged to CenturyLink. The net undercharges of **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** that

⁷² CONFIDENTIAL CenturyLink Ex. 42.02d - CLINKFAC0377 Verizon FRP Credit Calculation (Jun'14-Aug'14) 09-10-15" file, the sixth tab is **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]**

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ Legal Analysis in Support of CenturyLink's Formal Complaint at 9-11.

⁷⁶ *Id.* at 9.

Verizon cites was already accounted for in our dispute packages. [[BEGIN

CONFIDENTIAL]] [REDACTED]

[REDACTED] [[END CONFIDENTIAL]]

I have reflected it as an amount CenturyLink agrees to adjust in Table 1 of this Declaration. To be clear, this amount should not be backed out of the dispute amounts in the Table of CenturyLink-Verizon Claims because this debit is already reflected in the dispute amounts filed with Verizon. This is another example of Verizon using its other billing errors to defend the billing errors in dispute. A detailed revised accounting of this category is attached as CenturyLink Reply Exhibit 73.

E. Dispute Category 5: Misdesignating DS0 Circuits as DS1 Units

83. Ms. Mason claims that the disputed circuits are DS1s because of Verizon's Class of Service designation and the USOCs Verizon billed on these circuits.⁷⁷ Verizon Exhibit 67 further lists Verizon's Class of Service designation and the USOCs Verizon billed on the circuits. However, Verizon assigned a DS1 Class of Service to the DS0 circuits in dispute in error. CenturyLink ordered these circuits as DS0s. The circuit ID format indicates these are DS0 circuit IDs, not DS1 circuit IDs. In addition, the DS0 circuits in dispute are singular channels on DS1 circuits. Verizon should have assigned a DS0 Class of Service to these circuits. CenturyLink did not assign the Class of Service to these circuits; Verizon did, and it assigned the wrong Class of Service. The DS1 USOCs being billed on these circuits in error were triggered to bill because of Verizon's Class of Service designation error. It's my understanding that Verizon's billing system uses the Class of Service designated to a circuit to determine the USOCs that should bill; therefore, Ms. Mason's explanation is unreasoned because Verizon

⁷⁷ Mason Decl. ¶ 91.

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assigned the wrong Class of Service which triggered this billing error and has done nothing to correct it. The DS1 USOCs are billing because Verizon assigned a DS1 Class of Service to DS0 circuits in error.

84. Verizon alleges that CenturyLink's Billing Credits would have been lower if Verizon had properly classified these circuits as DS0s.⁷⁸ Verizon is incorrect. The standard rates for DS0s are cheaper than the flat rates for DS1s under the Service Agreements. For example, after the Custom Solutions Plan ended, Verizon fixed their categorization for DS0 circuit ID 11XHGS131582PA. CenturyLink had disputed that circuit ID because Verizon had counted it as a DS1 in error. **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **[[END CONFIDENTIAL]]**

⁷⁸ Answer ¶ 61.

F. Dispute Category 6: Failing to Optimize FMS for CenturyLink

85. Verizon admits that, under FMS, CenturyLink did not determine how to assign DS0s and DS1s to particular Verizon DS3s.⁷⁹ Verizon further admits that, under FMS, Verizon determined how to distribute CenturyLink's DS0 and DS1 circuits throughout Verizon's network and that this enabled Verizon to engineer and design its network in light of its own needs and assessment of network and economic efficiencies.⁸⁰ This obviously brought a great benefit to Verizon. CenturyLink paid for Facilities Management Services for many years and Verizon designed CenturyLink's entire network in the FMS LATAs throughout the course of those years. After Verizon benefited from its design of CenturyLink's network, in light of its own needs, Verizon notified the industry that it would not be accepting requests for new FMS plans, effective May 1, 2009.⁸¹ Verizon noted that it would continue to provide service on existing FMS plans, but would not accept new FMS plans. To redesign this entire network (following the FMS conversion in 2014), full of gross inefficiencies designed by Verizon, CenturyLink had to utilize teams of people to coordinate the disconnection of spare DS3s and move the DS1s off underutilized DS3s, before it was able to finally disconnect the unnecessary remaining DS3s. This coordination took significant efforts on CenturyLink's part and CenturyLink was not aware that it would need to coordinate the optimization of the network in the FMS LATAs until Verizon sent the circuit level tracking reports and proposed quarterly credits for PY1Q2 on December 18, 2014.

⁷⁹ Answer ¶ 66.

⁸⁰ Answer ¶ 65.

⁸¹ CenturyLink Ex. 22, Verizon FCC Tariff No. 1 Section 7.2.13(#).

86. Verizon states that CenturyLink admits that CenturyLink could have optimized the network and argues that CenturyLink identifies no reason that it failed to do so prior to incurring charges, in light of the notice Verizon provided regarding the FMS transition.⁸² This argument is wrong for the following reasons:

87. Verizon's Industry Notice did not provide an FMS conversion date for CenturyLink – Verizon noted in its tariffs that new FMS plans would not be accepted as of May 1, 2009.⁸³ However, the existing plan would still be supported by Verizon as FMS until the existing plan was converted off FMS. Verizon did not give a conversion date for the existing FMS plan and CenturyLink continued to order FMS circuits under the FMS plan until July 2014. Based on my discussions with CenturyLink in early 2014, CenturyLink still did not have a conversion date from Verizon at that time.

88. CenturyLink could not have optimized the network prior to the conversion in July 2014 – Per the tariffed guidelines for FMS, Verizon was managing and designing the network, not CenturyLink. Verizon admits that, under FMS, Verizon determined how to distribute CenturyLink's DS0 and DS1 circuits throughout Verizon's network.⁸⁴ Despite what Verizon alleges, CenturyLink did not have the right to make those determinations under the tariffed regulations for FMS.⁸⁵

89. CenturyLink was misled by Verizon about the impacts that the FMS conversion would have on its billing – In 2014, based on my experience in the industry with other clients migrating off FMS, I asked CenturyLink whether it had inquired about new costs from Verizon

⁸² Answer ¶ 67.

⁸³ Legal Analysis in Support of CenturyLink's Formal Complaint § II.C.6.

⁸⁴ Answer ¶ 66.

⁸⁵ Fox-Howell Decl. ¶ 7.

after the conversion. I had seen across the industry how inefficient the FMS networks were that Verizon designed, and my own experience was that others had seen costs increase significantly immediately after their conversion off FMS as a direct result of their network having been designed in a grossly inefficient way by Verizon under FMS.

90. I learned that Verizon had assured CenturyLink in April 2014 that the costs would not actually increase. In fact, Verizon told CenturyLink that the costs would continue to be regulated by the 2014 Service Agreement and tariffs, which were based on unit counts, not monthly billing, so there would be little to no impact to CenturyLink.⁸⁶ Specifically, Verizon informed CenturyLink that the FMS conversion would not cause a material increase in DS3 counts.⁸⁷ Based on these assurances from Verizon, CenturyLink did not think that it would need to undergo a massive coordination effort to optimize this network. Moreover, although the conversion off FMS took place in July 2014, Verizon did not supply the proposed quarterly credits for the first months post-FMS (PY1Q2) until December 18, 2014—six months later. Until that date, CenturyLink had no way to know that its costs had in fact dramatically increased due to the FMS migration, contrary to Verizon's statements. CenturyLink then began the significant coordination efforts it took to optimize the network to eliminate the inefficiencies designed by Verizon. CenturyLink completed those efforts in November 2015. Mr. Szol's suggestions that in hindsight CenturyLink should have handled these optimization claims as business as usual are contrary to the evidence that Verizon misled CenturyLink about the impacts that the FMS conversion would have on its billing, and CenturyLink did not learn that Verizon's

⁸⁶ CenturyLink Ex. 53.05, FMS CLINKFAC0391, Email from Anna McDermott (Verizon) to Anne Grimm (CenturyLink), *FMS Conversion - Impact*, dated Apr. 23, 2014.

⁸⁷ *Id.*

assurances were false until the quarterly reports were provided by Verizon six months after the conversion.⁸⁸

91. I note that Verizon alleges that Verizon had no duty to optimize circuit routing for CenturyLink's benefit under FMS and retained the prerogative to configure the network for its own benefit.⁸⁹ But there is no basis in the tariffs or in industry practice for Verizon's argument that FMS was intended to solely benefit Verizon without regard to the customers paying for the service. The per-DS0 rate for FMS was higher than the effective per-DS0 rate for a traditional Special Access DS3 because Verizon was offering to manage the customer's network. **[[BEGIN**

CONFIDENTIAL]] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **[[END CONFIDENTIAL]]** Verizon billed their FMS customers these

higher rates on a per-DS0 basis so that their customers would not have to manage this network and would not have to pay for excess capacity in this network. Verizon's assertion that this allowed Verizon to only consider its own interests in maximizing this network does not align with the tariffs nor industry standard practice to serve the customer who is paying for the service, especially when the customer is paying higher rates to Verizon so that Verizon would manage the network.

⁸⁸ Szol Decl. ¶¶ 56-59.

⁸⁹ Answer ¶ 68.

⁹⁰ CTL Reply Ex. 74, Verizon FCC Tariff No. 11, Section 30.7.18(B)(3), effective May 15, 2012.

92. Verizon's FMS customers were paying a premium for FMS in exchange for the right to only be charged for the capacity they were utilizing and to not have to manage their own network. Verizon in turn benefited by the higher per-DS0 rates, as customers paid these premium rates for many years. I acknowledge that Verizon's choice to maximize its own network efficiencies during the FMS arrangement had no additional immediate financial impact on its FMS customers at the time (with the exception of overcharges for DS3s) because its FMS customers were only paying for the capacity they were utilizing.

93. However, when Verizon pulled the plug on FMS, CenturyLink was immediately stuck with a grossly inefficient and costly network that was a surprise based on the contrary representations from Verizon.

94. Verizon owes CenturyLink **[[BEGIN CONFIDENTIAL]]** [REDACTED] **[[END CONFIDENTIAL]]** for the circuits that Verizon designed inefficiently and failed to optimize in Dispute Category 6.

III. VERIZON'S UNJUST AND UNREASONABLE PROCESSES AND PROCEDURES

95. In its Complaint, supporting declarations, and exhibits, CenturyLink has described in detail the various issues with Verizon's processes and procedures in executing the Flat Rate Price Flex Deal. But I note that Verizon still erroneously claims that its monthly reports contained specific or complete circuit level details.⁹¹ Verizon is simply not correct. As I already explained, Verizon did not send circuit-level details with the monthly reports.⁹² Instead, each month of the quarter, Verizon would supply summary level information to CenturyLink in files

⁹¹ Answer ¶ 72.

⁹² Brown Decl. ¶¶ 9-14.

labeled as monthly tracking reports. Those monthly reports did not contain circuit level detail. Verizon specifically cites PY1Q1 stating that Verizon sent circuit-level details with a monthly report for that quarter. The monthly reports for PY1Q1 do not contain circuit level details.⁹³ Verizon relies on Ms. Mason's declaration for support.⁹⁴ But Ms. Mason does not discuss PY1Q1 in paragraph 12 of her Declaration.⁹⁵ Ms. Mason discusses an exchange she had with Anne Grimm of CenturyLink regarding PY5Q4, where she sent the third monthly tracking report for February 2014 on March 14, 2014.⁹⁶ I agree that she sent the monthly tracking report for February 2014, but that report did not contain circuit level detail.⁹⁷

96. Ms. Grimm then requested the circuit level detail and Ms. Mason supplied the quarterly DS3 file for PY5Q4.⁹⁸ The quarterly DS3 file did contain the circuit level details for the DS3s. The monthly tracking reports did not. The only time CenturyLink received circuit level details from Verizon was at the end of each quarter. On many occasions, these files were not provided by Verizon until after the purported 30-day timeframe. The circuit level details for the DS3s, under the 2009 Service Agreement, came in files labeled as DS3 CLF_CLS Billed Units. The circuit level details for the DS1s were never provided by Verizon under the 2009 Service Agreement. The circuit level details for the DS3s, under the 2014 Service Agreement, came in files labeled as DS3 CLF CLS. The circuit level details for the DS1s without mileage,

⁹³ CONFIDENTIAL CenturyLink Ex. 41.02a - 2014_05 Centurylink Monthly. TrackReport_PY1Q1.

⁹⁴ Answer ¶¶ 72, 75; Mason Decl. ¶ 12.

⁹⁵ Mason Decl. ¶ 12.

⁹⁶ Mason Decl. ¶ 12.

⁹⁷ See CONFIDENTIAL CenturyLink Ex. 40.16 - Centurylink(QWEST) Monthly Tracking Report_Feb 2014.

⁹⁸ See CONFIDENTIAL CenturyLink Ex. 40.09b - PY5Q4_Centurylink DS3 CLF_CLS Billed Units.

under the 2014 Service Agreement, came in files labeled as DS1 wo Miles. The circuit level details for DS1s with mileage were never provided by Verizon under the 2014 Service Agreement. At no time did the monthly tracking reports contain circuit level details.

97. In addition, Verizon claims that the monthly invoices and the monthly tracking reports contained enough detail to discover any discrepancies in the billing. Verizon is incorrect. Without having the circuit level detail to determine how Verizon was classifying the circuits, CenturyLink could not identify the discrepancies nor provide Verizon a reason for the discrepancies, as required in Verizon's dispute submission forms. Verizon's claims in paragraph 72 of the Answer are not correct.

98. Verizon states that the reason Verizon didn't provide circuit level detail for DS1s under the 2009 Service Agreement was because Verizon was counting DS1 units by channel terminations rather than by circuit IDs.⁹⁹ That has no bearing on the fact that CenturyLink needed circuit level detail to determine which channel terminations were correct and which ones were not correct in Verizon's unit counts. The circuit level detail was necessary and it should have been provided by Verizon. Verizon further asserts that it did not provide circuit level detail for DS1s with mileage under the 2014 Service Agreement because CenturyLink never asked for it. Verizon's assertion is incorrect. It was Verizon's responsibility to substantiate its credit calculations, and thus its billing. In addition, as previously discussed in this Declaration with respect to the statements from Mr. Szol, I personally explained to Joe Aguilar at Verizon on conference calls held in July and August 2014 that Verizon had not provided the DS1 circuit level detail to CenturyLink and that we were not disputing the DS1 count because CenturyLink could not affectively audit the DS1 count without the circuit level detail. Mr. Aguilar told me to

⁹⁹ Answer ¶ 120.

go to CenturyLink to get those files. I reiterated that CenturyLink never received the DS1 circuit level detail from Verizon. After those calls, Mr. Aguilar provided the February 2014 DS1 circuit level detail. Verizon did not supply that file for any other month.

99. Verizon claims that Verizon rejected CenturyLink's disputes because the billing credits weren't subject to dispute.¹⁰⁰ Verizon is incorrect. As is shown in CenturyLink's timeline, Verizon rejected CenturyLink's disputes for many reasons, none of which indicated that the billing credits weren't subject to dispute.¹⁰¹ For example, on claim CLINKFAC0168, Verizon initially rejected the dispute on June 19, 2014, stating that the "line item is being denied because the Circuit ID/CLLI/WTN is invalid or the BAN, Circuit ID/CLLI/WTN, Bill Date combination is invalid." I attended a call on July 21, 2014 with Verizon to discuss the dispute. Verizon did not state that the billing credits at issue weren't subject to dispute. On August 5, 2014, I attended a call to discuss the details of the claim with Verizon. On August 26, 2014, Verizon requested additional information regarding this claim. On September 4, 2014, I supplied the answers to Verizon's questions.

100. On September 9, 2014, Patrick Lowell (Sage) asked why the dispute was denied as we were working together to reconcile the dispute. On that same day, Joe Aguilar (Verizon) responded that the dispute would not be closed and would remain open based on the information we provided. On September 15, 2014, Mr. Aguilar responded to the dispute stating that there was nothing in the tariff to avoid a double counting of circuits. From that point forward, through all of the many e-mail exchanges and conference calls, Verizon never denied the claim by stating that it was not subject to dispute. This position by Verizon was taken after the Informal

¹⁰⁰ Answer ¶ 73.

¹⁰¹ CONFIDENTIAL CenturyLink Ex. 30 - CenturyLink Verizon Timeline.

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Complaint filing in June 2016. Based on Verizon's assurances, CenturyLink believed that Verizon was working in good faith to reconcile these disputes and counting errors in the quarterly credit calculations.

101. Verizon asserts further that CenturyLink could have successfully submitted disputes without the information CenturyLink says was necessary for filing and alleges that on some occasions did successfully submit disputes without such information.¹⁰² Verizon is incorrect. The disputes that CenturyLink filed for the billing credit calculations were rejected by Verizon's system. The disputes that were loaded in Verizon's system without Verizon's manual intervention were the FMS optimization claims. The quarterly billing credit disputes were all rejected.

CERTIFICATION

I certify under penalty of perjury that the foregoing is true and correct. Executed on April 23, 2018.


Tiffany Brown

¹⁰² Answer ¶ 73.

Tab D

PUBLIC VERSION — CONFIDENTIAL MATERIAL OMITTED

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
CenturyLink Communications, LLC)	
f/k/a Qwest Communications Company,)	
LLC,)	
)	
Complainant,)	
v.)	Docket No. 18-33
)	File No. EB-18-MD-001
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.,)	
)	
Defendants.)	

REPLY DECLARATION OF ROBERT MONTENEGRO

I, Robert Montenegro, of full age, hereby declare and certify as follows:

1. I have been employed with CenturyLink for over 21 years, and currently serve as Senior Lead Carrier Relations Consultant in the Carrier Relations group at CenturyLink Communications, LLC (“CenturyLink”), a position I have held since 2006. In that position, I have extensive experience with carrier relations with Verizon. I also have extensive experience with the Price Flex Deal at issue in this proceeding, including the various agreements and

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contract tariffs. I have knowledge of the negotiation of the 2009 and 2014 Service Agreements, as well as the related attachments to the MSA, including negotiation of the specific flat rates at issue. I also have knowledge of the Billing Credits provided by Verizon under the Service Agreements.

I. The Parties Negotiated Specific Flat Rates Under the Service Agreements

2. Verizon admits that the negotiation of the specific flat rates in the Service Agreements was the centerpiece of the deal.¹ But I disagree with Verizon's assertions suggesting that other aspects of the Service Agreements somehow later produced or controlled the flat rates the parties had negotiated, including Verizon's assertion that the flat rates were the result of "percentage discounts" off of ARPU benchmarks rather than simply agreed to between the parties.²

3. At no point did the parties negotiate abstract formulas that then coincidentally happened to produce the specific flat rates under the Service Agreements. To the contrary, as Verizon acknowledges, the specific flat rates themselves were negotiated between the parties first, at their actual dollar values, before the formulas supporting them were created.

4. This is reflected in the negotiations and business proposals exchanged between CenturyLink and Verizon. For example, in 2013 Verizon and CenturyLink exchanged a series of business proposals to negotiate what would become the 2014 Service Agreement. Verizon characterizes the parties' negotiations at length, including in the Alston Declaration at ¶¶ 8-31.

¹ Declaration of Christopher Alston ("Alston Decl.") ¶ 15 ("In negotiating the Service Agreements, the parties agreed first on the per-unit flat rates and then negotiated the rest of the Service Agreement ...").

² Alston Decl. ¶ 18.

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5. [[BEGIN CONFIDENTIAL]]

[REDACTED]

6.

[REDACTED]

7.

[REDACTED]. [[END CONFIDENTIAL]]

8. In relation to the negotiations, CenturyLink did look at the undiscounted rates it had been billed for various circuits in the preceding months in order to assess the value of potential new flat rates. But it did not “tether” rates or formula to those earlier amounts; CenturyLink negotiated new flat rates at specific dollar values going forward. From CenturyLink’s perspective, it had already paid many thousands of dollars for each of these

³ Copies of the parties’ proposals are not included as exhibits due to confidentiality concerns, but are potentially available on request.

⁴ TLS is Verizon’s switched Ethernet offering.

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circuits, fully subsidizing their construction and operation many times over. It was unreasonable for Verizon to demand “full” rates, because Verizon’s cost for these circuits was negligible.

9. Similarly, Verizon’s claims that the formulas were negotiated and actually represented the flat rates is belied by the fact that the rates decreased [[BEGIN

CONFIDENTIAL]] [REDACTED]

[REDACTED]

[REDACTED] [[BEGIN CONFIDENTIAL]]

10. This overall approach was taken because it is much easier to negotiate flat rates at their actual dollar value, rather than as the output of complex formulas. This approach also avoided disclosing the specific amount paid by CenturyLink for these circuits in the public contract tariffs, which both parties viewed as commercially sensitive. The specific negotiated flat rates could be reflected in the Service Agreements themselves, while the formulas later created to support them would be publicly disclosed as part of the contract tariff filings to comply with the FCC’s rules.

11. This is why the commercially sensitive dollar values of the specific flat rates CenturyLink received appear only in the Service Agreements, while the contract tariffs only describe the formula.⁶

12. Consequently, Verizon’s claims that correct circuit counts or designations would have “yielded” higher flat rates under the formula are incorrect.⁷ The specific rates themselves have always governed, as evidenced by the negotiation between the parties.

⁵ Complaint ¶ 30, Table 1.

⁶ Compare 2014 Service Agreement, Exhibit B, Attachment 1 *with, e.g.*, CenturyLink Ex. 17, Verizon FCC Tariff No. 1, Section 21, Option 65(G)(1).

⁷ Verizon Answer ¶ 52.

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13. Correctly counting and designating circuits in the first place would therefore not have retroactively generated flat rates that were higher or “less favorable” to CenturyLink than those contained in the Service Agreements.⁸

14. Verizon’s erroneous credit calculations did not influence the flat rate, and had Verizon attempted to rely on them, the parties would have changed the formula to reflect the agreed-to flat rate, not simply kept obsolete formula for earlier rates and used them to generate new rates that neither party had negotiated or agreed to. Nevertheless, Verizon did not rely on its erroneous circuit counts when negotiating or calculating the flat rates.

15. Accordingly, Verizon using the correct credit calculation methodology and properly categorizing circuits would not alter the original flat rates the parties negotiated. Instead, Verizon’s errors meant CenturyLink was not receiving the actual flat rates it had negotiated, that the parties had agreed to, and that the formula had been retroactively crafted by Verizon to reflect.

II. Verizon Did Not Insist on Concessions Regarding Dispute Resolution

16. I also disagree with Verizon’s claims that it negotiated for “concessions” from CenturyLink regarding dispute resolution processes, or that the back-end dispute mechanisms in the agreements were “a central part of the bargain.”⁹

17. As discussed above, **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

⁸ Verizon Answer ¶ 4; Declaration of Patricia Mason ¶¶ 96-101; Alston Decl. ¶ 29.

⁹ Alston Decl. ¶¶ 8-10.

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18. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. **[[END CONFIDENTIAL]]** It is also important to note that, as of the time of the negotiation of the 2014 Service Agreement, CenturyLink had not yet discovered the full scope of Verizon's large billing errors. As such, dispute resolution was not yet a meaningful issue, let alone a central one, as Verizon now claims.

19. The benefit to Verizon under the Service Agreements was the revenue commitments CenturyLink agreed to provide, not a limited back end dispute resolution process that Verizon claims gave it "finality" for errors that upended the flat rates the parties negotiated.

20. Nor has Verizon in practice held itself to this stance of finality. At various points during CenturyLink's dispute submissions with Verizon, Verizon agreed to keep disputes open, requested additional information, and held meetings with CenturyLink despite its position today (many years later) that those activities were foreclosed by the contract dispute provisions that it reads in a vacuum.

III. CenturyLink's "Concurrences" Did Not Involve a Review of Underlying Circuits

21. I also have knowledge of the review of Verizon's proposed quarterly billing credit calculations under the Service Agreements. As CenturyLink has explained, upon receipt of Verizon's proposed credit calculation, CenturyLink would confirm that Verizon's

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characterization of the unit counts added up to the dollar amount of Verizon's proposed billing credit.¹⁰ Verizon's practice of refusing to issue any amounts, even large undisputed amounts, until CenturyLink "concurred" in its proposed billing credit calculations also had a coercive effect on CenturyLink.

22. In that situation, we only confirmed whether Verizon's credit calculation was accurate based on Verizon's own submitted numbers.

¹⁰ *See, e.g.*, Complaint ¶¶ 77, 83; Declaration of Tiffany Brown ¶ 36.

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CERTIFICATION

I certify under penalty of perjury that the foregoing is true and correct. Executed on April 23
2018.


Robert Montenegro

Tab E

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**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
CenturyLink Communications, LLC)	
f/k/a Qwest Communications Company,)	
LLC,)	
)	
Complainant,)	Docket No. 18-33
)	File No. EB-18-MD-001
v.)	
)	
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.,)	
)	
Defendants.)	

REPLY INFORMATION DESIGNATION

CenturyLink Communications LLC, f/k/a Qwest Communications Company, LLC (“CenturyLink”), through its attorneys, submits this supplemental information designation in connection with the above-captioned formal complaint against Verizon Services Corp., et al. (“Verizon”), in accordance with Section 1.726(d)(1) of the Federal Communications

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Commission's ("Commission") Rules, 47 C.F.R. § 1.726(d)(1) and with the Commission's February 9, 2018 order granting related waivers.¹

I. INDIVIDUALS BELIEVED TO HAVE FIRST-HAND KNOWLEDGE

Pursuant to 47 C.F.R. § 1.726(d)(1), CenturyLink has set forth below the additional names, addresses, and positions of the principal individuals at CenturyLink and its third-party vendors or, to CenturyLink's knowledge, at Verizon, who CenturyLink believes to have first-hand knowledge of the facts alleged with particularity in CenturyLink's Formal Complaint and Reply, along with a general description of the facts within such individual's knowledge.

CenturyLink reserves the right to further amend this list as appropriate based on discovery or additional information.

1. Name: Anna McDermott
Address: Verizon, One Verizon Way, Basking Ridge, NJ 07920
Position: Sr. Account Manager, Americas Sales
Description of facts within this person's knowledge: Knowledge of the billing credits in relation to FMS.

II. DOCUMENTS, DATA COMPILATIONS, AND TANGIBLE THINGS

Pursuant to Section 1.726(f) of the Commission's Rules, 47 C.F.R. § 1.726(f), and the Commission's February 9, 2018 Letter Ruling granting the parties' joint request for a waiver in connection with that provision, CenturyLink states that, in lieu of the requirements of stated in

¹ The Commission has waived the requirement in Section 1.721(a)(10)(ii) of the Rules, 47 C.F.R. § 1.721(a)(10)(ii), for the complainant to provide a description of all documents and other information in its possession that are relevant to the facts alleged in the complaint. *See* February 9 Letter Ruling. Pursuant to the Commission's letter ruling, and as more fully described in this Reply Information Designation, CenturyLink has attached as exhibits to its pleadings copies of the affidavits, documents, data compilations and tangible things in its possession, custody, or control, upon which it relies or intends to rely to support the facts alleged and legal arguments made in its pleadings.

Rule 1.726(d)(2), CenturyLink is relying on the Exhibits submitted with its Formal Complaint and its Reply.²

III. IDENTIFICATION OF PERSONS AND THE RELEVANT DOCUMENTS, DATA COMPILATIONS AND TANGIBLE THINGS

Pursuant to Section 1.726(d)(3) of the Commission's rules, CenturyLink provides that this information designation was prepared by CenturyLink's outside counsel, Perkins Coie LLP, in cooperation with CenturyLink's in-house counsel, and CenturyLink's employees and consultants (collectively, "CenturyLink"). Perkins Coie LLP, in coordination with CenturyLink, identified the primary persons with first-hand knowledge of the relevant facts. CenturyLink identified the relevant documents and data compilations attached to this Reply based on a review of the documents and data compilations, and other tangible things created, identified and/or gathered through the identification of billing errors and the filing of disputes with Verizon prior to the commencement of the Formal Complaint. Certain of the materials included among CenturyLink's Exhibits to the Formal Complaint and Reply were collected from the following sources: the files of Tiffany Brown; the files of Patrick Welch; the files of Joe Romero; and the files of Anne Grimm. Other material was obtained (i) from independent research of publicly available documents, and (ii) otherwise in connection with preparing CenturyLink's Formal Complaint.

Documents Relied Upon, Rule 1.726(e)

Pursuant to Section 1.726(e) of the Commission's Rules, 47 C.F.R. § 1.726(e), attached as exhibits to the Reply are copies of the declarations, documents, data compilations and tangible things in CenturyLink's possession, custody, or control, upon which CenturyLink relies or

² See Documents Relied Upon pursuant to Rule 1.721(a)(11), *infra*.

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intends to rely to support the facts alleged and legal arguments made in its Formal Complaint and Reply. As a result of the number, duration, and complexity of the billing issues, disputes, and correspondence between the parties, certain exhibits (such as native excel spreadsheets) are being provided in duplicate in order to provide a more complete record. The Formal Complaint and Reply cite to the parties' correspondence attaching those files where possible. Certain oversized exhibits are also being provided in electronic format. These exhibits have been served, along with the Reply, upon Verizon's counsel.

Dated: April 23, 2018

Respectfully submitted,



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Attorneys for CenturyLink Communications, LLC

Tab F

**PUBLIC VERSION
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**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
CenturyLink Communications, LLC f/k/a Qwest)	
Communications Company, LLC,)	
)	
Complainant,)	Docket No. 10-33
v.)	File No. EB-18-MD-001
)	
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.,)	
)	
Defendants.)	

**CENTURYLINK COMMUNICATIONS, LLC'S OPPOSITION AND OBJECTIONS TO
VERIZON'S FIRST SET OF INTERROGATORIES**

Pursuant to 47 C.F.R. § 1.729(c), and the Commission’s March 13, 2018 Notice of Formal Complaint, CenturyLink Communications LLC, f/k/a Qwest Communications Company, LLC (“CenturyLink”), hereby submits to the Commission, and concurrently serves on the above-captioned defendants (individually and collectively, “Verizon”), this Opposition and Objections to Verizon’s First Set of Interrogatories (“Interrogatories”).¹

GENERAL OBJECTIONS

CenturyLink asserts the following General Objections to each and every Interrogatory set forth below, including Verizon’s Explanations, and the General Objections are hereby incorporated into each of CenturyLink’s Specific Objections as set forth below. CenturyLink generally objects as follows:

1. CenturyLink objects to the Interrogatories, Instructions, Explanations, and Definitions to the extent they seek any information that is neither relevant to the subject matter of this proceeding nor reasonably calculated to lead to the discovery of admissible evidence and exceeds the bounds of the legitimate purposes of discovery; is duplicative, is not both necessary to the resolution of the dispute and unavailable from any other source, are otherwise inconsistent with 47 C.F.R. § 1.729 or other Commission rules pertaining to discovery, or seek to impose upon CenturyLink any obligation not imposed by the Commission’s rules.

¹ The March 13, 2018 Notice of Formal Complaint provided in relevant part that CenturyLink file and serve any opposition and objections to Verizon’s request for interrogatories by April 23, 2018. CenturyLink consequently denies it has an obligation to respond to these Interrogatories “in writing and under oath, in the time provided by 47 C.F.R. § 1.729(b),” *see* Interrogatories at 1. CenturyLink’s Opposition and Objections are timely filed pursuant to the Notice of Formal Complaint.

2. CenturyLink objects to the Interrogatories, Instructions, Explanations, and Definitions to the extent they seek information protected by applicable privileges (including, but not limited to, the attorney-client privilege, joint defense or common interest privilege, and attorney work product privilege) or otherwise protected under applicable law. In the event such information is disclosed in response to these Interrogatories, such disclosure shall not constitute a waiver of any privilege, doctrine, or other applicable ground for protecting such documents from disclosure.

3. CenturyLink objects to the Interrogatories, Instructions, Explanations, and Definitions to the extent they call for proprietary and confidential information and/or trade secrets. If the Commission determines such information is necessary to the resolution of the dispute, CenturyLink agrees to provide such information only pursuant to the terms of the Protective Order entered by the Commission in this proceeding on February 9, 2018.

4. CenturyLink objects to the Interrogatories, Instructions, Explanations, and Definitions to the extent that they seek information not currently in CenturyLink's possession, custody, or control.

5. CenturyLink objects to the Interrogatories, Instructions, Explanations, and Definitions to the extent that the requested information is already within Verizon's possession, or available to Verizon from other sources.

6. CenturyLink objects to the Interrogatories, Instructions, Explanations, and Definitions to the extent they are not proportional to the needs of the case considering the importance of the issues at stake in the proceeding, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in

resolving the issues, and the burden and expense of the proposed discovery outweighs its likely benefit.

7. CenturyLink objects to the Interrogatories, Instructions, Explanations, and Definitions to the extent they imply the existence of facts or circumstances that do not or did not exist, to the extent they state or assume legal conclusions, and to the extent they attempt to or allegedly resolve any fact, issue, or legal matter in dispute. CenturyLink does not admit or concede the factual or legal premise of any of the Interrogatories. By responding to any Interrogatory or utilizing any Definition or defined term, CenturyLink shall not be construed to have agreed to any such legal or factual interpretation, or to have waived its right to dispute any such conclusion of law, purported finding or statement of fact, or have waived any of its claims and arguments as set forth in its Complaint and Reply, all of which are expressly reserved and reaffirmed. By way of nonexclusive example, CenturyLink objects to the definition of “Billing Credits” or “Credits” in Definition 15 to the extent it is intended to suggest that CenturyLink in fact received the full and proper credits it should have from Verizon, and further objects to that Definition as ambiguous and as improperly suggesting that flat rates were not on file with the Commission.

8. CenturyLink objects generally to the Interrogatories, Instructions, Explanations, and Definitions to the extent that (a) they are overbroad, vague, ambiguous, compound, cumulative, or harassing; or (b) compliance would be oppressive and unduly burdensome.

9. CenturyLink objects to the Interrogatories, Instructions, Explanations, and Definitions to the extent they impermissibly seek document production by means of written interrogatories. The Commission’s rules allow a defendant to serve on a complainant,

concurrently with its answer, “a request for up to ten written interrogatories.” 47 C.F.R. § 1.729(a). Other forms of discovery such as document production may not be served without leave of the Commission. *See id.* § 1.729(h). CenturyLink further objects to any request for document production as premature.

10. CenturyLink objects to the Interrogatories, Instructions, Explanations, and Definitions to the extent that they seek information regarding how and from whom CenturyLink learned of quantitative calculation errors or substantive errors of overinclusion or underinclusion which Verizon has admitted in its Answer. To the extent that Verizon has admitted to any such errors, as further detailed in CenturyLink’s Complaint, Reply, Reply Legal Analysis, Declarations or Reply Declarations, or other submissions, it is irrelevant how or by whom such errors were identified.

11. This Opposition and Objections is submitted without waiving in any way, and to the contrary reserving, the right to amend or supplement any and all oppositions, objections, or other responses or other information provided herein at any time upon the receipt of additional information, and the right to object on any grounds to the use of evidence or other use of this opposition, objections, responses or other information provided herein in this or any other proceeding by these parties or any parties or non-parties.

12. Objections, responses, or other information provided to specific Interrogatories, or in subsequent responses to specific Interrogatories if any, are subject to and without waiver of these General Objections and those specific objections raised with respect to particular Interrogatories. Accordingly, the provision of substantive responses to any Interrogatory either

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now or subsequently shall not be construed as an admission or used as the basis for a contention that Verizon is entitled to any response more specific than that provided.

OBJECTIONS TO SPECIFIC INTERROGATORIES

In addition to the General Objections set forth above and hereby incorporated into each of the following objections as if set forth in full, CenturyLink specifically objects to Verizon's First Request for Interrogatories as follows:

INTERROGATORY NO. 1: Describe, explain, and produce documents sufficient to identify the ways in which the methodology used by Frontier in calculating Billing Credits differed from that used by Verizon with respect to each of the six Dispute Categories.

OBJECTION TO INTERROGATORY NO. 1: CenturyLink objects to Interrogatory No. 1 to the extent it impermissibly seeks document production by means of written interrogatories. The Commission's rules allow a defendant to serve on a complainant, concurrently with its answer, "a request for up to ten written interrogatories." 47 C.F.R. § 1.729(a). As Verizon itself has asserted, other forms of discovery such as document production may not be served without leave of the Commission. *See id.* § 1.729(h). CenturyLink further objects to any request for document production as premature.

CenturyLink also objects to Interrogatory No. 1 as vague and ambiguous with respect to what Verizon might subjectively view as "sufficient" to identify the ways in which Frontier's methodology "differed" from Verizon's. As discussed below, CenturyLink's Complaint already provided information CenturyLink believes was sufficient, by way of example, to show

Frontier's **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[[END CONFIDENTIAL]] Complaint, ¶ 38;

Brown Decl. ¶¶ 30-32. In its Answer, Verizon does not deny this assertion, but only claims that it "lacks knowledge or information sufficient to form a belief as to whether Frontier counted circuits differently than Verizon." Answer ¶ 30. There is no indication that Verizon has since undertaken any independent investigation of this issue upon receipt of the information CenturyLink already provided in the Complaint, or what type or amount of additional explanations or descriptions would be "sufficient" to persuade Verizon.

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CenturyLink also objects to Interrogatory No. 1 as overly broad, unduly burdensome, and improper to the extent it seeks analysis or legal conclusions, or would require CenturyLink to create or prepare documents or analyses.

CenturyLink also objects to Interrogatory No. 1 as overbroad and unduly burdensome to the extent it seeks information not within CenturyLink's possession, custody, or control, or which is more or equally available to Verizon.

CenturyLink also objects to Interrogatory No. 1 as overly broad, and unduly burdensome because CenturyLink's Complaint already gave examples of how Frontier **[[BEGIN**

CONFIDENTIAL]] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] **[[END CONFIDENTIAL]]** Complaint, ¶ 38; Brown Decl. ¶¶

30-32.

Subject to the forgoing objections, including general objections, upon resolution of the Parties' respective Interrogatories and Objections by the Commission staff pursuant to 47 C.F.R. § 1.729(d), CenturyLink agrees to provide by the response date established by the staff that relevant, non-privileged information within its possession that supports its assertion with respect to Frontier in Paragraph 38 of the Complaint.

INTERROGATORY NO. 2: Describe, explain, and produce documents sufficient to identify when, how, and from whom CenturyLink first became aware of the alleged errors in Verizon's calculation of the Billing Credits with respect to each of the six Dispute Categories.

OBJECTION TO INTERROGATORY NO. 2: CenturyLink objects to Interrogatory No. 2 to the extent it impermissibly seeks document production by means of written interrogatories. The Commission's rules allow a defendant to serve on a complainant, concurrently with its answer, "a request for up to ten written interrogatories." 47 C.F.R. § 1.729(a). As Verizon itself has asserted, other forms of discovery such as document production may not be served without leave of the Commission. *See id.* § 1.729(h). CenturyLink further objects to any request for document production as premature.

CenturyLink also objects on the grounds that Interrogatory No. 2 is overly broad, unduly burdensome, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence. To the extent that Verizon seeks information regarding the method and source of CenturyLink's discovery of Verizon's errors, it is irrelevant how and from whom CenturyLink became aware of such errors. This discovery request is geared to reveal information unrelated to the merits of the dispute, but rather related to the process of discovering Verizon's errors, including errors it admits to. Such information is not necessary to the resolution of the issues in this case because it does not matter who identified Verizon's errors, or how.

CenturyLink further objects to Interrogatory No. 2 on the basis that it is vague and ambiguous to the extent that it seeks information regarding when CenturyLink "first became aware of the alleged errors," because as explained in CenturyLink's Reply, Verizon has admitted CenturyLink's claims are for overcharges, and as such are timely under Section 415(c). Thus to

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the extent Verizon is seeking information related to a limitations period defense, this request is without valid basis.

CenturyLink further objects to Interrogatory No. 2 on the basis that Information sought is duplicative, and is not both necessary to the resolution of the dispute and unavailable from any other source. For example, as part of its Answer, Verizon produced exhibits that it claims reflect the entire credit history and dispute history of the proceeding. *See Answer, Confidential Exhibits 1 & 2.*

INTERROGATORY NO. 3: Describe the basis for the assertion that CenturyLink's concurrences in Verizon's credit calculations reflected merely a "check of Verizon's underlying math, but not analysis of whether Verizon had properly counted units" In doing so, describe and explain in detail any review or analysis of Verizon's proposed Billing Credits that CenturyLink conducted before concurring in those credits, including who performed the analysis, what software or other tools, if any, were used, and the results of such analysis.

OBJECTION TO INTERROGATORY NO. 3: CenturyLink objects on the grounds that Interrogatory No. 3 seeks information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence because the quoted portion of CenturyLink's Complaint speaks for itself and contrary to Verizon's suggestion is supported by competent evidence as set forth in the Complaint. *See Reply*, ¶ 83.

CenturyLink also objects because Interrogatory No. 3 also seeks confidential information about CenturyLink's internal review and analysis process that is not necessary to the resolution of the dispute. To the extent that Verizon seeks information regarding the method and source of CenturyLink's discovery of Verizon's errors, it is irrelevant how, from whom, and with what software or other tools CenturyLink became aware of such errors. The discovery request is geared to reveal information unrelated to the merits of the dispute, but rather related to the process of discovering Verizon's errors, including errors Verizon now admits to. Such information is not necessary to the resolution of the issues in this case because it is irrelevant how and by who those errors were uncovered.

CenturyLink also objects to Interrogatory No. 3 on the grounds that it is vague, ambiguous, overly broad and unduly burdensome to the extent it characterizes alleged "concurrences" or "concurring," and seeks a description and explanation "in detail" of any "review" or "analysis" of billing credits.

INTERROGATORY NO. 4: Identify which of the circuits for which Verizon billed CenturyLink during the three-month benchmark period of January, February, and March 2009 CenturyLink believes were “DS3 CLS Billed Units” or “DS1 Billed Units” under the 2009 Service Agreement. *See* 2009 Service Agreement, Ex. B Att. 1.

OBJECTION TO INTERROGATORY NO. 4: CenturyLink objects on the grounds that Interrogatory No. 4 is overly broad, unduly burdensome, and seeks information that is not reasonably calculated to lead to the discovery of admissible evidence because CenturyLink’s claims do not reach back to January, February, or March 2009. That time period is also beyond the scope of Verizon’s defined Relevant Period for the purposes of these Interrogatories (March 1, 2013 to February 28, 2017). Consequently, the information sought, if any, is beyond the scope of these disputes.

CenturyLink also objects to the extent Interrogatory No. 4 suggests the purported “benchmark period” has any bearing on the later overcharges owed to CenturyLink based on the filed contract tariff rates. As explained in CenturyLink’s Complaint, Reply, and supporting Declarations, including the Declaration of Robert Montenegro, the parties negotiated specific flat rates germane to CenturyLink’s claims. This is confirmed in the Declaration of Christopher Alston, ¶ 15 (explaining that “flat rates were the focus of the parties’ negotiations” and that the “parties agreed first on the per-unit flat rates”). Thus, the information sought is not necessary to the resolution of the dispute and unavailable from any other source.

CenturyLink also objects to Interrogatory No. 4 on the grounds that it seeks information that is either in Verizon’s control, or equally available to Verizon. To the extent Verizon seeks information about circuits dating back to January, February, or March 2009, it should consult its own internal systems.

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CenturyLink also objects to Interrogatory No. 4 to the extent it seeks information that is irrelevant or would not be admissible.

CenturyLink also objects to Interrogatory No. 4 as vague, overbroad, and unduly burdensome to the extent it seeks to compel CenturyLink to generate new analyses or take actions outside the proper scope of the Commission's rules for discovery.

INTERROGATORY NO. 5: For each of the twenty-five (25) quarters from March 2009 to May 2015, explain why CenturyLink concurred in the Billing Credit amounts without identifying any of the alleged errors CenturyLink now claims existed.

OBJECTION TO INTERROGATORY NO. 5:

CenturyLink objects to Interrogatory No. 5 on the grounds that it is argumentative and assumes facts not in evidence or that are in dispute.

CenturyLink also objects to Interrogatory No. 5 on the grounds it is overly broad, unduly burdensome, and seeks information that is not reasonably calculated to lead to the discovery of admissible evidence because CenturyLink's claims do not reach back before Plan Year 5 of the 2009 Service Agreement, namely March 2013. *See, e.g.,* Complaint ¶ 78 (Table 10). The time period of Interrogatory No. 5 also extends beyond the scope of Verizon's defined Relevant Period for the purposes of these Interrogatories (March 1, 2013 to February 28, 2017). Consequently, the information sought, if any, is beyond the scope of these disputes.

CenturyLink also objects on the grounds that Interrogatory No. 5 is overly broad, unduly burdensome, and seeks information that is not reasonably calculated to lead to the discovery of admissible evidence because the Interrogatory rests on the erroneous factual assumption that CenturyLink failed to dispute the billing credit with Verizon in a timely fashion and that CenturyLink concurred to the billing credit totals Verizon provided.

CenturyLink also objects to Interrogatory No. 5 because it rests on the erroneous factual assumption that CenturyLink concurred in and did not dispute the billing credit amounts. To the contrary, Century did dispute Verizon's extensive errors as set forth in the Complaint, Reply, and their supporting legal analyses, declarations, and exhibits, and as a result this Interrogatory will not lead to the discovery of relevant information.

CenturyLink also objects to Interrogatory No. 5 on the grounds that it incorrectly suggests that CenturyLink had an obligation to sleuth out Verizon's wrongful behavior and absent that Verizon's errors could somehow be waived, rather than that Verizon had an affirmative duty to provide the correct flat rate. As explained at length in the Complaint, Reply, and accompanying materials, CenturyLink's "concurrence" did not and does not constitute acceptance of errors contained therein, or absolve Verizon from culpability for its errors. Nor does it help Verizon escape the filed rate doctrine.

Finally, CenturyLink objects to Interrogatory No. 5 on the grounds that it is burdensome and duplicative. During the long course of these disputes, CenturyLink has submitted numerous disputes to Verizon, attempted to initiate additional contractual dispute resolution processes, filed an Informal Complaint with subsequent briefing, engaged in Staff-managed mediation, and most recently filed its Formal Complaint and its Reply exhaustively detailing its claims as well as the current known extent of Verizon's admitted errors. The Information sought, if any, is duplicative, and is not both necessary to the resolution of the dispute and unavailable from any other source.

INTERROGATORY NO. 6: Identify the contractual basis for CenturyLink's argument that Verizon should have calculated the number of DS3 CLS "units" in FMS territories by dividing the total number of DS0-equivalent channels by 672 and rounding up to the nearest whole number.

OBJECTION TO INTERROGATORY NO. 6: CenturyLink objects to Interrogatory No. 6 because it seeks information already within Verizon's possession, namely the agreements and contract tariffs. CenturyLink further objects because Interrogatory No. 6 calls for a legal conclusion.

CenturyLink also objects to Interrogatory No. 6 on the basis that Interrogatory No. 6 is vague and ambiguous to the extent that it asks CenturyLink to "identify the contractual basis" for CenturyLink's position. CenturyLink directs Verizon to its Complaint, Reply, and their supporting materials.

CenturyLink also objects to Interrogatory No. 6 to the extent it suggests CenturyLink engaged in some sort of untoward act. As explained in the Declaration of Tiffany Brown, CenturyLink employed this methodology because it determined that despite Verizon's errors, Verizon should be *compensated* in some fashion for what CenturyLink was utilizing, and hence used this methodology to convert DS0s to DS3 CLF equivalent units. Complaint, Declaration of Tiffany Brown ¶ 18. Since Verizon is critical of this approach even though it was to Verizon's benefit, and has developed alternate methodologies, CenturyLink has adjusted Category 1 as further discussed in and subject to the Reply and its supporting materials. The Information sought, if any, is therefore not both necessary to the resolution of the dispute and unavailable from any other source.

INTERROGATORY NO. 7: Describe, explain, and produce documents sufficient to identify any actions, prior to November 2015, that CenturyLink took to optimize its network after Verizon gave notice in December 2008 that it would cease to offer FMS.

OBJECTION TO INTERROGATORY NO. 7: CenturyLink objects to Interrogatory No. 7 to the extent it impermissibly seeks document production by means of written interrogatories. The Commission's rules allow a defendant to serve on a complainant, concurrently with its answer, "a request for up to ten written interrogatories." 47 C.F.R. § 1.729(a). Other forms of discovery such as document production may not be served without leave of the Commission. *See id.* § 1.729(h). CenturyLink further objects to any request for document production as premature.

CenturyLink also objects because Interrogatory No. 7 is vague and ambiguous to the extent that it asks CenturyLink to "identify any actions" taken "to optimize its network" between December 2008 and November 2015.

CenturyLink further objects to Interrogatory No. 7 because it is not reasonably calculated to lead to the discovery of admissible evidence. CenturyLink's claims do not reach back before Plan Year 5 of the 2009 Service Agreement, namely March 2013. *See, e.g.,* Complaint ¶ 78 (Table 10). The time period of Interrogatory No. 7 also extends beyond the scope of Verizon's defined Relevant Period for the purposes of these Interrogatories (March 1, 2013 to February 28, 2017).

CenturyLink also objects to Interrogatory No. 7 on the grounds that it is based on disputed legal conclusions and disputed statements of purported fact. As explained in CenturyLink's Complaint, Reply, and supporting materials, CenturyLink disputes and denies Verizon's characterization of a "notice in December 2008" that it would "cease to offer FMS," as well as any implication Verizon states or suggests those ambiguous and contested references

might have for CenturyLink, such as the apparent allegation that CenturyLink should have “optimize[d] its network” (or was even allowed to do so in FMS territory) at some point based on that purported notice.

CenturyLink also objects to Interrogatory No. 7 as overly broad and unduly burdensome because it purports to require CenturyLink to “[d]escribe, explain, and produce documents” covering general network practices over a seven (7) year period. Moreover, as explained in CenturyLink’s Complaint, Reply, and supporting materials, CenturyLink was subscribed to Verizon’s FMS until July 2014, and prior to that period Verizon was the party responsible for optimizing CenturyLink’s network.

INTERROGATORY NO. 8: Describe the circumstances in which CenturyLink retained Synchronoss Technologies Inc. and/or Sage Management Inc. (collectively, “Sage”) in connection with this matter, including by identifying any financial interest that those entities have in the outcome of this case.

OBJECTION TO INTERROGATORY NO. 8: CenturyLink objects to Interrogatory No. 8 because it is overly broad, unduly burdensome, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence because it is irrelevant how and from whom CenturyLink became aware of the errors that form the basis of this proceeding. This discovery request is geared to reveal information unrelated to the merits of the dispute, but rather to harass the individuals and entities that were involved with the identification of errors, including errors which Verizon has admitted. Such information is not necessary to the resolution of the issues in this case because it has no relevance to whether the identified errors exist. In addition, CenturyLink objects to the extent that Verizon seeks confidential or proprietary information regarding the agreement between the parties that is irrelevant to the claims in this matter.

CenturyLink also objects because Interrogatory No. 8 is vague and ambiguous to the extent it seeks a description of “the circumstances in which” Sage was retained “in connection with” this matter. CenturyLink further objects on the grounds that Interrogatory No. 8 seeks information regarding the financial interests of third parties that is not within the possession, custody, or control of CenturyLink.

Finally, CenturyLink objects to Interrogatory No. 8 as vague, ambiguous, overly broad and unduly burdensome to the extent with respect to the request for “any financial interest” that Sage may have in the outcome of this case.

INTERROGATORY NO. 9: Describe and produce documents sufficient to identify Sage's earliest communications with CenturyLink about the six Dispute Categories, including the date on which those communications took place and Sage's preliminary evaluation of the substance of those disputes.

OBJECTION TO INTERROGATORY NO. 9: CenturyLink objects to Interrogatory No. 9 to the extent it impermissibly seeks document production by means of written interrogatories. The Commission's rules allow a defendant to serve on a complainant, concurrently with its answer, "a request for up to ten written interrogatories." 47 C.F.R. § 1.729(a). Other forms of discovery such as document production may not be served without leave of the Commission. *See id.* § 1.729(h). CenturyLink further objects to any request for document production as premature.

CenturyLink further objects to Interrogatory No. 9 because it is overly broad, unduly burdensome, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence because CenturyLink's claims are already detailed in its Complaint, Reply, and supporting materials as required by the Commission's formal dispute process. To the extent that Verizon seeks information regarding CenturyLink's retention of and early communications with Sage, such information is irrelevant to the merits of the disputes and to the determination of the total extent of Verizon's admitted errors. It is not relevant how, when, or from whom CenturyLink learned of Verizon's errors, all that matters is the errors exist and are verifiable as set forth in CenturyLink's submissions in this proceeding. This discovery request plainly does not seek information related to the merits of the dispute, but rather seeks information to harass the individuals and entities that were involved with the identification of errors, including errors which Verizon has admitted. Such information is not necessary to the resolution of the issues in this case because it has no relevance to whether the identified errors

exist. Rather, it is intended to harass litigants and third parties. In addition, CenturyLink objects to the extent that Verizon seeks confidential information regarding the agreement between the parties that is irrelevant to the claims in this matter.

CenturyLink also objects because Interrogatory No. 9 is vague and ambiguous to the extent it seeks a description of Sage's "preliminary evaluation" of Verizon's errors. CenturyLink further objects on the grounds that Interrogatory No. 9 seeks information that is not within the possession, custody, or control of CenturyLink.

Finally, CenturyLink objects to Interrogatory No. 9 to the extent it seeks privileged, sensitive, or proprietary information or communications.

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CONFIDENTIAL MATERIAL OMITTED

Dated: April 23, 2018

Respectfully submitted,



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Attorneys for CenturyLink Communications, LLC

Tab G

**PUBLIC VERSION
CONFIDENTIAL MATERIALS OMITTED**

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
CenturyLink Communications, LLC f/k/a Qwest)	
Communications Company, LLC,)	
)	
Complainant,)	Docket No. 10-33
v.)	File No. No. EB-18-MD-001
)	
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.,)	
)	
Defendants.)	

**CENTURYLINK COMMUNICATIONS, LLC'S SECOND REQUEST FOR
INTERROGATORIES TO VERIZON**

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Pursuant to 47 C.F.R. § 1.729(a), the Commission’s February 9, 2018, Letter Order waiving certain complaint rules, and the Commission’s March 13, 2018, Notice of Formal Complaint establishing deadlines including for additional interrogatories, CenturyLink Communications LLC, f/k/a Qwest Communications Company, LLC (“CenturyLink”), hereby submits to the Federal Communications Commission, and concurrently serves on the above-captioned defendants (individually and collectively, “Verizon”), this Second Request for Interrogatories (“Interrogatories”). As further discussed below, the Interrogatories seek information necessary to the resolution of the disputes raised in CenturyLink’s Reply, 47 C.F.R. § 1.729(a), and that is not available from any other source. 47 C.F.R. § 1.729(b). Verizon shall respond to these Interrogatories in the time provided by 47 C.F.R. § 1.729, in writing, under oath, and in accordance with the Commission’s rules and the Instructions and Definitions set forth herein.

DEFINITIONS

1. All terms used herein shall be construed in an ordinary, common sense manner, and not in a hyper-technical, strained, overly-literal, or otherwise restrictive manner; however, acronyms and other terms of art in the telecommunications industry shall have the meaning typically ascribed to them by the industry.

2. “Agreements” means the 2009 Agreement and the 2014 Agreement.

3. “Any” means each, every, and all persons, places, or things to which the term refers.

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CONFIDENTIAL MATERIALS OMITTED**

4. “Communication” means any transfer of information, whether written, printed, electronic, oral, pictorial, or otherwise transmitted by any means or manner whatsoever.

5. “Concerning” means relating to, involving, reflecting, identifying, stating, referring to, evidencing, constituting, analyzing, underlying, commenting upon, mentioning, or connected with, in any way, the subject matter of the request.

6. “Contract Tariffs” mean the filed FCC tariff options implementing the 2009 Agreement (Tariff No. 1, § 21, Option 57; Tariff No. 11 § 32, Option 55; and Tariff No. 14 § 21, Option 29); and the 2014 Agreement (Tariff No. 1 § 21, Option 65; Tariff No. 11 § 32, Option 65; and Tariff No. 14 § 21, Option 34).

7. “Copy” means any reproduction, in whole or in part, of an original document and includes, but is not limited to, non-identical copies made from copies.

8. “Describe” and “description” means to set forth fully, in detail, and unambiguously each and every fact of which you have knowledge related to answering the Interrogatory.

9. “Document” means any written, drawn, recorded, transcribed, filed, or graphic matter, including scientific or researchers’ notebooks, raw data, calculations, information stored in computers, computer programs, surveys, tests and their results, however produced or reproduced. With respect to any document that is not exactly identical to another document for any reason, including but not limited to marginal notations, deletions, or redrafts, or rewrites, separate documents should be provided.

10. “FMS” or “FMS arrangement” means the Facilities Management Service

[[BEGIN CONFIDENTIAL]] [REDACTED]

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[[END CONFIDENTIAL]] under Verizon Tariff FCC No. 1, Section 7.2.13(A), and Tariff No. 11, Section 7.2.16(A).

11. **[[BEGIN CONFIDENTIAL]]** [REDACTED]

[REDACTED] **[[END CONFIDENTIAL]]**

12. “Identify,” “identity,” or “identification,” when used in relation to “person” or “persons,” means to state the full name and present or last known address of such person or persons and, if a natural person, his or her present or last known job title, the name and address of his or her present or last known employer, and the nature of the relationship or association of such person to you.

13. “Identify,” “identity,” or “identification,” when used in relation to “document” or “documents,” means to state the date, subject matter, name(s) of person(s) that wrote, signed, initialed, dictated, or otherwise participated in the creation of the same, the name(s) of the addressee(s) (if any), and the name(s) and address(es) (if any) of each person or persons who have possession, custody, or control of said document or documents.

14. “Identify” when used in relation to a “communication” means to identify the participants in each communication and, if such communication is not contained in a document, the date, place, and content of such communication.

15. “Including” means including but not limited to.

16. “MSA” means the Master Services Agreement between the parties effective August 10, 2016.

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17. “Original” means the first archetypal document produced, that is, the document itself, not a copy.

18. “Person” or “persons” means any natural person or persons, group of natural persons acting as individuals, group of natural persons acting as a group (*e.g.*, as a board of directors, a committee, *etc.*), or any firm, corporate entity, partnership, association, joint venture, business, enterprise, cooperative, municipality, commission, or governmental body or agency.

19. “Relevant Period” means March 1, 2009, to the present, unless otherwise specified.

20. “Tariff Filings” or “Contract Tariffs” means the contract tariffs filed with the Commission by Verizon via Transmittal No. 1261 (February 12, 2014) and Transmittal No. 1016 (May 15, 2009) which relate to the 2014 Service Agreement and the 2009 Service Agreement respectively.

21. “2014 Agreement” means the Service Agreement between the parties dated February 14, 2014, **[[BEGIN CONFIDENTIAL]]** [REDACTED]
[REDACTED] **[[END CONFIDENTIAL]]**

22. “2009 Agreement” means the Service Agreement between the parties dated May 6, 2009, **[[BEGIN CONFIDENTIAL]]** [REDACTED]
[REDACTED] **[[END CONFIDENTIAL]]**

23. “You,” “your,” or “Verizon” means Verizon Services Corporation and/or each of the above-captioned Verizon operating entities, as well as any parent, affiliated, or subsidiary companies; and employees, officers, directors, agents, representatives, and all other persons or entities acting or purporting to act on their behalf, including without limitation any outside

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consultant or witness retained by them. In that regard, each and every interrogatory contained herein is directed at you.

INSTRUCTIONS

When responding to the following interrogatories, please comply with the instructions below:

1. Each interrogatory is continuing in nature and requires supplemental responses as soon as new, different, or further information is obtained that is related to answering the interrogatory.
2. Provide all information, including all documents, related to answering the interrogatory that are in your possession, custody, or control, regardless of whether such documents are possessed directly by you or by your employees, officers, directors, agents, representatives, or any other person or entity acting or purporting to act on their behalf.
3. In lieu of producing any requested information or documents that were previously provided to CenturyLink in the informal complaint process, identify when and how such information or documents were previously provided to CenturyLink.
4. In any interrogatory, the present tense shall be read to include the past tense, and the past tense shall be read to include the present tense.
5. In any interrogatory, the singular shall be read to include the plural, and the plural shall be read to include the singular.
6. In any interrogatory, the use of the conjunctive shall be read to include the disjunctive, and the use of the disjunctive shall be read to include the conjunctive.

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CONFIDENTIAL MATERIALS OMITTED**

7. Any document withheld from production on the grounds of a privilege is to be specifically identified by author(s), addressee(s), length, and date, with a brief description of the subject matter or nature of the document, and a statement of the privilege asserted.

8. If you contend that any part of your response to a particular Interrogatory contains trade secrets or other proprietary or confidential business or personal information, such contention shall not provide a basis for refusing to respond within the time required by the applicable rules. You shall respond according to and consistent with the terms of the Protective Order entered by the Commission in this proceeding on February 9, 2018.

9. Please begin the response to each request on a separate page.

10. Please restate each interrogatory before providing the response or objection.

11. Please specify the interrogatory in response to which any document, narrative response, or objection is provided. If a document, narrative response, or objection relates to more than one request, please cross reference.

12. For each separate interrogatory, identify the person(s) under whose supervision the response was prepared.

13. If applicable, for any interrogatory consisting of separate subparts or portions, a complete response is required to each subpart as if the subpart or portion were propounded separately.

14. Produce any documents in the form of legible, complete, and true copies of the original documents as “original” is defined herein. To the extent that excel spreadsheets are produced, they should be provided in native format.

15. Please provide all documents in their native format, together with all metadata.

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CONFIDENTIAL MATERIALS OMITTED**

16. If you assert that documents or information related to answering an interrogatory are unavailable or have been discarded or destroyed, state when and explain in detail why any such document or information was unavailable, discarded, or destroyed, and identify the person directing the discarding or destruction. If a claim is made that the discarding or destruction occurred pursuant to a discarding or destruction program, identify and produce the criteria, policy, or procedures under which such program was undertaken.

17. If any interrogatory cannot be answered in full after reasonable inquiry, provide the response to the extent available, state why the interrogatory cannot be answered in full, and provide any information within your knowledge concerning the description, existence, availability, and custody of any unanswered portions.

INTERROGATORIES

CTL-VZ 11: Please fully describe the extent to which David Szol, other team members of the Wholesale Claims and Collections Group, and/or any other Verizon employee who has filed a declaration in this proceeding, been identified by either party on their respective Information Designations, or has been directly involved in the negotiation or litigation of this dispute, receives contingent compensation, bonuses, positive performance reviews, incentives, or other types of rewards (monetary or otherwise) based in whole or in part on the successful defense of billing disputes lodged by Verizon customers. In responding, please clearly identify with specificity how such compensation is calculated and remitted to each relevant employee.

Explanation:

The information sought in this interrogatory is directly relevant to Verizon's unjust and unreasonable billing practices in this dispute. Verizon claimed in its Answer that CenturyLink could have used a "number of avenues" to pursue disputes with Verizon, including "working with Verizon employees to bypass the system altogether." Answer ¶ 77. As discussed in its Reply, CenturyLink in fact often attempted to circumvent Verizon's automated billing system, including direct outreach to Verizon employees, yet was consistently stonewalled. The information sought in CTL-VZ 11 is directly relevant to whether there was, in fact, any way to solve Verizon's maze of billing and dispute processes, and whether Verizon instead incentivizes its employees to resist and deny disputes from the outset rather than undertake a good faith

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review of customer disputes. The information is also relevant to Verizon's refusal to engage in contractual dispute resolution processes, including its allegation that contractual dispute processes "do not apply to quarterly Billing Credits." Answer ¶ 20. This information is also relevant to Verizon's efforts to disparage and undermine the credibility of Sage Management (and impugn CenturyLink's engagement of Sage) based on the implication that Sage is only compensated based on overcharges recovered from vendors such as Verizon and has a supposed history of "raising questionable disputes." Szol Decl. ¶ 33. This information is not available to CenturyLink through any other source than Verizon, and Verizon is the only source of information as to how it rewards employees for denying disputes or not repaying overbillings or overcharges to customers.

CTL-VZ 12: Please fully identify each outside billing auditor (including, but not limited to, TEOCO, Sage Management, Inc., Razorsight and/or Synchronoss Technologies, Inc.) that Verizon has employed, retained, or otherwise engaged to consult, audit, or otherwise assist Verizon in reviewing, auditing, investigating and/or disputing the monthly charges of other telecommunications providers (whether or not those charges are based on contract or tariff). For each such outside billing auditor, please include a description of the purpose and subject matter of any such engagement and describe how that auditor was compensated (whether by flat rate, by hourly rate and/or by contingent compensation).

Explanation:

The information sought in this interrogatory is directly relevant to Verizon's various attempts to impugn CenturyLink's auditing consultants, and to suggest that CenturyLink does not believe its own claims. Throughout its Answer and supporting materials, including its own Interrogatories, Verizon makes a variety of unsupported and argumentative assertions against Sage Management. *See, e.g.*, Answer ¶ 87 (claiming "the driving force behind the disputes was the outside consultant Sage rather than CenturyLink itself"); Verizon Legal Analysis at 16-17 (complaining that "things changed" after Sage helped CenturyLink identify Verizon's errors); Szol Decl. ¶ 33 (claiming that Sage supposedly is the true "architect" of CenturyLink's disputes and is a "consultant that had a long history of raising questionable disputes"). In actuality, Sage Management and Synchronoss Technologies, Inc. worked closely with CenturyLink and previously Qwest for many years, *see, e.g.*, Welch Decl., ¶ 3, including throughout the Informal

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Complaint process and related mediation with the Commission with respect to this matter. It is common in the industry for carriers to utilize auditing consultants, including with respect to complex billing and tariffing matters such as this. If Verizon has also done so, particularly with the entities it now impugns, that is directly relevant to its current attacks on CenturyLink and Sage's credibility and so-called "questionable disputes" that in many cases Verizon has since admitted.

CTL-VZ 13: For each Claim identified in Table 9 of the Formal Complaint (Paragraph 70) please identify when Verizon first conducted a circuit-level analysis to determine whether it had correctly calculated the quarterly credit owed to CenturyLink, and for each such circuit-level review, please identify all steps Verizon took to prospectively correct and/or compensate CenturyLink for any counting errors it identified therein.

Explanation:

The information sought in this interrogatory is directly relevant to Verizon's assertions throughout its Answer that it correctly calculated CenturyLink's billing credits, its assertions that it properly considered CenturyLink's disputes when raised, and Verizon's contentions that CenturyLink could have workably withheld any "concurrence" until Verizon and CenturyLink could resolve each quarterly credit calculation. CenturyLink first raised the claims underlying this Complaint in 2014, and Verizon made no adjustments to its billing practices or calculations thereafter. In response to the Informal Complaint, Verizon acknowledged a total of [[BEGIN

CONFIDENTIAL]] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [[END CONFIDENTIAL]] CenturyLink

infers that Verizon never engaged in circuit-level analysis of CenturyLink's claims until after CenturyLink filed its Formal Complaint.

CTL-VZ 14: Identify which of the following Verizon representatives has been directly or indirectly involved in the investigation, negotiation and/or resolution of billing disputes premised on the miscalculation of billable units for purposes of calculating quarterly billing credits, lodged by customers (other than CenturyLink) that subscribe to the tariff options referenced in the complaint related to the 2009 Agreement or the 2014 Agreement, or that subscribe to a similar Flat Rate Pricing option in another tariff: Patricia A. Mason; David Szol; Christopher A. Alston; Susan Fox; Marian Howell.

Explanation:

The information sought in this interrogatory is directly relevant to CenturyLink's overcharge disputes in that it will demonstrate that Verizon's employees, and even the employees who have submitted Declarations in support of Verizon's Answer, have familiarity with Verizon's billing system and in particular billing system errors, and could and should have intervened to assist CenturyLink to ensure that CenturyLink was not being overcharged through the denial of quarterly billing credits at levels guaranteed by the contract tariff and related agreements.

Verizon's answer to this Interrogatory, in conjunction with its answer to Interrogatory CTL-VZ 10, is also directly relevant to whether Verizon's key employees were aware of similar counting issues as to other Flat Rate Plan customers, and may have even corrected those errors as to other customers, but did not do so for CenturyLink.

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If that is the case, it is also directly relevant to Verizon's allegations in the Answer that it correctly billed CenturyLink – and more specifically that it correctly calculated CenturyLink's quarterly billing credits – which would be further undermined.

CTL-VZ 15: Describe whether and to what extent Verizon contends that its billing systems and processes accurately bill customers (like CenturyLink) of Flat Rate Plans (such as the 2009 and 2014 agreements at issue in this case), including accurately calculating quarterly billing credits, and explain what steps Verizon regularly or periodically takes to ensure the accuracy of its billing systems (in the context of Flat Rate Plans) and to correct any recurring errors or deficiencies.

Explanation:

The information sought in this interrogatory is directly relevant to CenturyLink's overcharge disputes in that it will demonstrate whether Verizon takes any care to ensure accuracy in billing. Verizon's Answer and supporting materials demonstrate disdain for any obligation to accurately bill. Verizon asserts that a 1-2% error rate is acceptable and should in fact be an error level that CenturyLink could agree to forego. (Verizon Legal Analysis, at 3-4) Further, Verizon has been wildly inconsistent as to its own perception of its billing accuracy. From 2014 until 2016, Verizon took the position that it had billed CenturyLink accurately. In response to the 2016 Informal Complaint, Verizon acknowledged errors totaling **[[BEGIN**

CONFIDENTIAL]] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **[[END CONFIDENTIAL]]**

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In this proceeding, CenturyLink contends that Verizon's billing practices are unjust and unreasonable. This interrogatory explores Verizon's efforts, if any, to ensure accurate billing. Its own admissions of overcharges in the Answer suggest that Verizon is acutely aware of widespread inaccuracies. While Mr. Szol may wish to write off those errors as the occasional "glitch" (Szol Declaration, ¶ 49), both CenturyLink and the Commission have a right to be concerned that Verizon is not taking seriously its obligation under its tariffs and the filed rate doctrine to accurately bill its customers of tariff services.

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Dated: April 23, 2018

Respectfully submitted,



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Attorneys for CenturyLink Communications, LLC

Tab H

PUBLIC VERSION

TABLE OF EXHIBITS

Ex. No.	Document Description
71	Dispute Category 1 - Miscalculating Equivalents for DS3 CLF Units (modified)
72	Dispute Category 2 - Including Units Without USOCs (modified)
73	Dispute Category 4 - Misdesignating DS3 CLF Units (modified)
74	Verizon Tariff F.C.C. No. 11, Section 30.7.18, Facilities Management Service (May 15, 2012)

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**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
CenturyLink Communications, LLC f/k/a Qwest)	
Communications Company, LLC,)	
)	
Complainant,)	Docket No. 10-33
v.)	File No. EB-18-MD-001
)	
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.,)	
)	
Defendants.)	

**CENTURYLINK COMMUNICATIONS, LLC'S
PUBLIC REPLY EXHIBITS**

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February 26, 2018

*Attorneys for CenturyLink
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PUBLIC VERSION

TABLE OF EXHIBITS

Ex. No.	Document Description
71	Dispute Category 1 - Miscalculating Equivalents for DS3 CLF Units (modified)
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73	Dispute Category 4 - Misdesignating DS3 CLF Units (modified)
74	Verizon Tariff F.C.C. No. 11, Section 30.7.18, Facilities Management Service (May 15, 2012)

PUBLIC VERSION

CONFIDENTIAL EXHIBIT 71

Dispute Category 1 - Miscalculating Equivalents for
DS3 CLF Units (modified)

CONFIDENTIAL Reply Ex. 71 - Dispute Category 1 -
Miscalculating Equivalents for DS3 CLF Units (modified).xlsx

(Excel “Summary” sheet provided in
hard copy herein; “Summary” and “Detail” sheets
provided in native format on DVD)

CONFIDENTIAL
MATERIAL OMITTED

PUBLIC VERSION

CONFIDENTIAL EXHIBIT 72

**Dispute Category 2 - Including Units Without
USOCs (modified)**

**CONFIDENTIAL Reply Ex. 72 - Dispute Category 2 -
Including Units Without USOCs (modified).xlsx**

**(Excel “Summary” sheet provided in
hard copy herein; “Summary” and “Detail” sheets
provided in native format on DVD)**

**CONFIDENTIAL
MATERIAL OMITTED**

PUBLIC VERSION

CONFIDENTIAL EXHIBIT 73

**Dispute Category 4 - Misdesignating DS3 CLF
Units (modified)**

**CONFIDENTIAL Reply Ex. 73 - Dispute Category 4 -
Misdesignating DS3 CLF Units (modified).xlsx**

**(Excel “Summary” sheet provided in
hard copy herein; “Summary” and “Detail” sheets
provided in native format on DVD)**

**CONFIDENTIAL
MATERIAL OMITTED**

EXHIBIT 74

Verizon Tariff F.C.C. No. 11,
Section 30.7.18, Facilities Management Service
(May 15, 2012)

ACCESS SERVICE

30. The Verizon Telephone Companies Price Band Rates and Charges (Cont'd)30.7 Special Access Service (Cont'd)30.7.18 Facilities Management Service#

(A) Month-to-Month Billing

(1) Primary Premises Channel Terminations,
per point of termination

	USOC	Monthly Rate	
Standard Channel Terminations			
DS1 Interface			
Price Band 4			
- Initial 0 to 144 DS0 Equivalent Channels	TNW6X	\$1,276.14	(x)
- DS0 Equivalent Channels Over 144, per DS0	TNW6X	8.86	(x)
Price Band 5			
- Initial 0 to 144 DS0 Equivalent Channels	TNW6X	1,276.14	(x)
- DS0 Equivalent Channels Over 144, per DS0	TNW6X	8.86	(x)
Price Band 6			
- Initial 0 to 144 DS0 Equivalent Channels	TNW6X	1,276.14	(x)
- DS0 Equivalent Channels	TNW6X	8.86	(x)
DS3 Electrical Interface			
Price Band 4			
- Initial 0 to 672 DS0 Equivalent Channels	TNWZX	2,307.69	(x)
- DS0 Equivalent Channels Over 672, per DS0	TNWZX	3.43	(x)
Price Band 5			
- Initial 0 to 672 DS0 Equivalent Channels	TNWZX	2,307.69	(x)
- DS0 Equivalent Channels Over 672, per DS0	TNWZX	3.43	(x)
Price Band 6			
- Initial 0 to 672 DS0 Equivalent Channels	TNWZX	2,307.69	(x)
- DS0 Equivalent Channels Over 672, per DS0	TNWZX	3.43	(x)

Service availability limited. Refer to # footnote on Page 7-154.

(x) Issued under authority of Special Permission No. 12-010 of the Federal Communications Commission to withdraw material pending under Transmittal No. 1187 and to reinstate material currently in effect.

(TR 1188)

Issued: May 14, 2012

Effective: May 15, 2012

Vice President, Federal Regulatory
1300 I Street, NW, Washington, D.C. 20005

ACCESS SERVICE

30. The Verizon Telephone Companies Price Band Rates and Charges (Cont'd)30.7 Special Access Service (Cont'd)30.7.18 Facilities Management Service# (Cont'd) (T)

(A) Month-to-Month Billing (Cont'd)

(1) Primary Premises Channel Terminations, (Cont'd)
per point of termination

	<u>USOC</u>	<u>Monthly Rate</u>
Office Channel Terminations*	Rates and charges are set are set forth in Section 31.7.18 following.	

Service availability limited. Refer to # footnote on Page 7-154. (N)

* Effective November 28, 2000, cross connection to an Expanded Interconnection multiplexing node in the states of New York and Connecticut is also subject to the rates set forth in Section 31.28.1(C) and (D).

(TR 1005)

Issued: April 16, 2009

Effective: May 1, 2009

Vice President, Federal Regulatory (T)
1300 I Street, NW, Washington, D.C. 20005 (T)

ACCESS SERVICE

30. The Verizon Telephone Companies Price Band Rates and Charges (Cont'd)30.7 Special Access Service (Cont'd)30.7.18 Facilities Management Service# (Cont'd)

(A) Month-to-Month Billing (Cont'd)

(2) FMS Channel Mileage,
per DS0 equivalent channel

	USOC	Monthly Rate	
		Fixed	Per Mile
DS1 Interface at Primary Premises			
Price Band 4	1A6US	\$2.08 (x)	\$1.22 (x)
Price Band 5	1A6US	2.08 (x)	1.22 (x)
Price Band 5	1A6US	2.08 (x)	1.22 (x)
DS3 Interface at Primary Premises			
Price Band 4			
Basic Channel Mileage	1A5YS	1.65 (x)	0.62 (x)
Direct Channel Mileage	1A87S	1.26 (x)	0.23 (x)
Price Band 5			
Basic Channel Mileage	1A5YS	1.65 (x)	0.62 (x)
Direct Channel Mileage	1A87S	1.26 (x)	0.23 (x)
Price Band 6			
Basic Channel Mileage	1A5YS	1.65 (x)	0.62 (x)
Direct Channel Mileage	1A87S	1.26 (x)	0.23 (x)

(3) FMS Multiplexing,
per DS0 equivalent channel

	USOC	Monthly Rate	
DS3 to DS1 Multiplexing			
Price Band 4	MXNMX	\$ 3.52	(x)
Price Band 5	MXNMX	3.52	(x)
Price Band 6	MXNMX	3.52	(x)
DS1 to DS0 Multiplexing			
Price Band 4	MXNFX	17.63	(x)
Price Band 5	MXNFX	17.63	(x)
Price Band 6	MXNFX	17.63	(x)

Service availability limited. Refer to # footnote on Page 7-154.

(x) Issued under authority of Special Permission No. 12-010 of the Federal Communications Commission to withdraw material pending under Transmittal No. 1187 and to reinstate material currently in effect.

(TR 1188)

Issued: May 14, 2012

Effective: May 15, 2012

Vice President, Federal Regulatory
1300 I Street, NW, Washington, D.C. 20005

ACCESS SERVICE

30. The Verizon Telephone Companies Price Band Rates and Charges (Cont'd)30.7 Special Access Service (Cont'd)30.7.18 Facilities Management Service# (Cont'd)

(A) Month-to-Month Billing (Cont'd)

(4) FMS Administration,
per DS0 equivalent channel

	USOC	Monthly Rate	
DS1 Interface at Primary Premises			
Price Band 4	N2M1X	\$2.70	(x)
Price Band 5	N2M1X	2.70	(x)
Price Band 6	N2M1X	2.70	(x)
DS3 Interface at Primary Premises			
Price Band 4	N2M	0.55	(x)
Price Band 5	N2M	0.55	(x)
Price Band 6	N2M	0.55	(x)

Service availability limited. Refer to # footnote on Page 7-154.

(x) Issued under authority of Special Permission No. 12-010 of the Federal Communications Commission to withdraw material pending under Transmittal No. 1187 and to reinstate material currently in effect.

(TR 1188)

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Effective: May 15, 2012

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ACCESS SERVICE

30. The Verizon Telephone Companies Price Band Rates and Charges (Cont'd)30.7 Special Access Service (Cont'd)30.7.18 Facilities Management Service# (Cont'd)

(B) Term Plan Billing

(1) Primary Premises Channel Terminations,
per point of termination

Standard Channel Termination	USOC	Monthly Rate	
DS1 Interface			
Price Band 4			
- Initial 0 to 144 DS0 Equivalent Channels			
3 year term	TNW7X	\$1,020.90	(x)
5 year term	TNW8X	893.28	(x)
- DS0 Equivalent Channels Over 144, per DS0			
3 year term	TNW7X	7.09	(x)
5 year term	TNW8X	6.20	(x)
Price Band 5			
- Initial 0 to 144 DS0 Equivalent Channels			
3 year term	TNW7X	1,020.90	(x)
5 year term	TNW8X	893.28	(x)
- DS0 Equivalent Channels Over 144, per DS0			
3 year term	TNW7X	7.09	(x)
5 year term	TNW8X	6.20	(x)
Price Band 6			
- Initial 0 to 144 DS0 Equivalent Channels			
3 year term	TNW7X	1,020.90	(x)
5 year term	TNW8X	893.28	(x)
- DS0 Equivalent Channels Over 144, per DS0			
3 year term	TNW7X	7.09	(x)
5 year term	TNW8X	6.20	(x)

Service availability limited. Refer to # footnote on Page 7-154.

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(TR 1188)

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Effective: May 15, 2012

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ACCESS SERVICE

30. The Verizon Telephone Companies Price Band Rates and Charges (Cont'd)30.7 Special Access Service (Cont'd)30.7.18 Facilities Management Service# (Cont'd)

(B) Term Plan Billing (Cont'd)

(1) Primary Premises Channel Terminations, (Cont'd)

Standard Channel Terminations (Cont'd),
per point of termination

DS3 and IEF Standard Channel Terminations - Price Band 4		Monthly Rate		
		USOC: TNW3X	USOC: TNW5X	
Rate Band*	# of DS0s	3 Year Term	5 Year Term	
1	1- 672	\$2.79	\$1.93	(x)
2	673-1,344	2.28	1.56	(x)
3	1,345-2,016	1.76	1.19	(x)
4	2,017-2,688	1.65	1.11	(x)
5	2,689-3,360	1.59	1.06	(x)
6	3,361-4,032	1.53	1.02	(x)
7	4,033-4,704	1.47	0.98	(x)
8	4,705-5,376	1.42	0.94	(x)
9	5,377-6,048	1.36	0.90	(x)
10	6,049-6,720	1.30	0.85	(x)
11	6,721-7,392	1.25	0.82	(x)
12	7,393-8,064	1.24	0.67	(x)
13	8,065-8,736	1.24	0.38	(x)
14	8,737-9,408	1.24	0.38	(x)
15	9,409-10,080	1.24	0.38	(x)
16	10,081-10,752	1.24	0.38	(x)
17	10,753-11,424	1.24	0.37	(x)
18	11,425-12,096	1.17	0.37	(x)
19	12,097-12,768	1.17	0.37	(x)
20	12,769-13,440	1.11	0.37	(x)
21	13,441-14,112	1.07	0.36	(x)
22	14,113-14,784	1.03	0.36	(x)
23	14,785-15,456	0.99	0.36	(x)
24	15,457-16,128	0.95	0.35	(x)

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* Rate applies per DS0 equivalent channel for each Rate Band.

(TR 1188)

Issued: May 14, 2012

Effective: May 15, 2012

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ACCESS SERVICE

30. The Verizon Telephone Companies Price Band Rates and Charges (Cont'd)30.7 Special Access Service (Cont'd)30.7.18 Facilities Management Service# (Cont'd)

(B) Term Plan Billing (Cont'd)

(1) Primary Premises Channel Terminations, (Cont'd)

Standard Channel Terminations (Cont'd),
per point of termination

DS3 and IEF Standard Channel Terminations - Price Band 4 (Cont'd)		Monthly Rate		
		USOC: TNW3X	USOC: TNW5X	
Rate Band*	# of DS0s	3 Year Term	5 Year Term	
25	16,129-16,800	\$0.95	\$0.35	(x)
26	16,801-17,472	0.95	0.35	(x)
27	17,473-18,144	0.95	0.34	(x)
28	18,145-18,816	0.95	0.34	(x)
29	18,817-19,488	0.95	0.34	(x)
30	19,489-20,160	0.95	0.33	(x)
31	20,161-20,832	0.93	0.32	(x)
32	20,833-21,504	0.92	0.32	(x)
33	21,505-22,176	0.91	0.32	(x)
34	22,177-22,848	0.90	0.32	(x)
35	22,849-23,520	0.89	0.31	(x)
36	23,521-24,192	0.86	0.31	(x)
37	24,193-24,864	0.85	0.31	(x)
38	24,865-25,536	0.84	0.31	(x)
39	25,537-26,208	0.83	0.30	(x)
40	26,209-26,880	0.81	0.29	(x)
41	26,881-27,552	0.79	0.28	(x)
42	27,553-28,224	0.79	0.28	(x)
43	28,225-28,896	0.77	0.27	(x)
44	28,897-29,568	0.76	0.26	(x)
45	29,569-30,240	0.75	0.25	(x)
46	30,241-30,912	0.74	0.25	(x)
47	30,913-31,584	0.73	0.24	(x)
48	31,585 and above	0.72	0.23	(x)

* Rate applies per DS0 equivalent channel for each Rate Band.

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Service availability limited. Refer to # footnote on Page 7-154.

(TR 1188)

Issued: May 14, 2012

Effective: May 15, 2012

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ACCESS SERVICE

30. The Verizon Telephone Companies Price Band Rates and Charges (Cont'd)30.7 Special Access Service (Cont'd)30.7.18 Facilities Management Service# (Cont'd)

(B) Term Plan Billing (Cont'd)

(1) Primary Premises Channel Terminations, (Cont'd)

Standard Channel Terminations (Cont'd),
per point of termination

DS3 and IEF Standard Channel Terminations - Price Band 5		Monthly Rate		
		USOC: TNW3X	USOC: TNW5X	
Rate Band*	# of DS0s	3 Year Term	5 Year Term	
1	1- 672	\$2.79	\$1.93	(x)
2	673-1,344	2.28	1.56	(x)
3	1,345-2,016	1.76	1.19	(x)
4	2,017-2,688	1.65	1.11	(x)
5	2,689-3,360	1.59	1.06	(x)
6	3,361-4,032	1.53	1.02	(x)
7	4,033-4,704	1.47	0.98	(x)
8	4,705-5,376	1.42	0.94	(x)
9	5,377-6,048	1.36	0.90	(x)
10	6,049-6,720	1.30	0.85	(x)
11	6,721-7,392	1.25	0.82	(x)
12	7,393-8,064	1.24	0.67	(x)
13	8,065-8,736	1.24	0.38	(x)
14	8,737-9,408	1.24	0.38	(x)
15	9,409-10,080	1.24	0.38	(x)
16	10,081-10,752	1.24	0.38	(x)
17	10,753-11,424	1.24	0.37	(x)
18	11,425-12,096	1.17	0.37	(x)
19	12,097-12,768	1.17	0.37	(x)
20	12,769-13,440	1.11	0.37	(x)
21	13,441-14,112	1.07	0.36	(x)
22	14,113-14,784	1.03	0.36	(x)
23	14,785-15,456	0.99	0.36	(x)
24	15,457-16,128	0.95	0.35	(x)

Service availability limited. Refer to # footnote on Page 7-154.

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* Rate applies per DS0 equivalent channel for each Rate Band.

(TR 1188)

Issued: May 14, 2012

Effective: May 15, 2012

Vice President, Federal Regulatory
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ACCESS SERVICE

30. The Verizon Telephone Companies Price Band Rates and Charges (Cont'd)30.7 Special Access Service (Cont'd)30.7.18 Facilities Management Service# (Cont'd)

(B) Term Plan Billing (Cont'd)

(1) Primary Premises Channel Terminations, (Cont'd)

Standard Channel Terminations (Cont'd),
per point of termination

DS3 and IEF Standard Channel Terminations - Price Band 5 (Cont'd)		Monthly Rate		
		USOC: TNW3X	USOC: TNW5X	
Rate Band*	# of DS0s	3 Year Term	5 Year Term	
25	16,129-16,800	\$0.95	\$0.35	(x)
26	16,801-17,472	0.95	0.35	(x)
27	17,473-18,144	0.95	0.34	(x)
28	18,145-18,816	0.95	0.34	(x)
29	18,817-19,488	0.95	0.34	(x)
30	19,489-20,160	0.95	0.33	(x)
31	20,161-20,832	0.93	0.32	(x)
32	20,833-21,504	0.92	0.32	(x)
33	21,505-22,176	0.91	0.32	(x)
34	22,177-22,848	0.90	0.32	(x)
35	22,849-23,520	0.89	0.31	(x)
36	23,521-24,192	0.86	0.31	(x)
37	24,193-24,864	0.85	0.31	(x)
38	24,865-25,536	0.84	0.31	(x)
39	25,537-26,208	0.83	0.30	(x)
40	26,209-26,880	0.81	0.29	(x)
41	26,881-27,552	0.79	0.28	(x)
42	27,553-28,224	0.79	0.28	(x)
43	28,225-28,896	0.77	0.27	(x)
44	28,897-29,568	0.76	0.26	(x)
45	29,569-30,240	0.75	0.25	(x)
46	30,241-30,912	0.74	0.25	(x)
47	30,913-31,584	0.73	0.24	(x)
48	31,585 and above	0.72	0.23	(x)

* Rate applies per DS0 equivalent channel for each Rate Band.

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(TR 1188)

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Effective: May 15, 2012

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ACCESS SERVICE

30. The Verizon Telephone Companies Price Band Rates and Charges (Cont'd)30.7 Special Access Service (Cont'd)30.7.18 Facilities Management Service# (Cont'd)

(B) Term Plan Billing (Cont'd)

(1) Primary Premises Channel Terminations, (Cont'd)

Standard Channel Terminations (Cont'd),
per point of termination

DS3 and IEF Standard Channel Terminations - Price Band 6		Monthly Rate		
		USOC: TNW3X	USOC: TNW5X	
Rate Band*	# of DS0s	3 Year Term	5 Year Term	
1	1- 672	\$2.79	\$1.93	(x)
2	673-1,344	2.28	1.56	(x)
3	1,345-2,016	1.76	1.19	(x)
4	2,017-2,688	1.65	1.11	(x)
5	2,689-3,360	1.59	1.06	(x)
6	3,361-4,032	1.53	1.02	(x)
7	4,033-4,704	1.47	0.98	(x)
8	4,705-5,376	1.42	0.94	(x)
9	5,377-6,048	1.36	0.90	(x)
10	6,049-6,720	1.30	0.85	(x)
11	6,721-7,392	1.25	0.82	(x)
12	7,393-8,064	1.24	0.67	(x)
13	8,065-8,736	1.24	0.38	(x)
14	8,737-9,408	1.24	0.38	(x)
15	9,409-10,080	1.24	0.38	(x)
16	10,081-10,752	1.24	0.38	(x)
17	10,753-11,424	1.24	0.37	(x)
18	11,425-12,096	1.17	0.37	(x)
19	12,097-12,768	1.17	0.37	(x)
20	12,769-13,440	1.11	0.37	(x)
21	13,441-14,112	1.07	0.36	(x)
22	14,113-14,784	1.03	0.36	(x)
23	14,785-15,456	0.99	0.36	(x)
24	15,457-16,128	0.95	0.35	(x)

* Rate applies per DS0 equivalent channel for each Rate Band.

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(TR 1188)

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Effective: May 15, 2012

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ACCESS SERVICE

30. The Verizon Telephone Companies Price Band Rates and Charges (Cont'd)30.7 Special Access Service (Cont'd)30.7.18 Facilities Management Service# (Cont'd)

(B) Term Plan Billing (Cont'd)

(1) Primary Premises Channel Terminations, (Cont'd)

Standard Channel Terminations (Cont'd),
per point of termination

DS3 and IEF Standard Channel Terminations - Price Band 6 (Cont'd)		Monthly Rate		
		USOC: TNW3X	USOC: TNW5X	
Rate Band*	# of DS0s	3 Year Term	5 Year Term	
25	16,129-16,800	\$0.95	\$0.35	(x)
26	16,801-17,472	0.95	0.35	(x)
27	17,473-18,144	0.95	0.34	(x)
28	18,145-18,816	0.95	0.34	(x)
29	18,817-19,488	0.95	0.34	(x)
30	19,489-20,160	0.95	0.33	(x)
31	20,161-20,832	0.93	0.32	(x)
32	20,833-21,504	0.92	0.32	(x)
33	21,505-22,176	0.91	0.32	(x)
34	22,177-22,848	0.90	0.32	(x)
35	22,849-23,520	0.89	0.31	(x)
36	23,521-24,192	0.86	0.31	(x)
37	24,193-24,864	0.85	0.31	(x)
38	24,865-25,536	0.84	0.31	(x)
39	25,537-26,208	0.83	0.30	(x)
40	26,209-26,880	0.81	0.29	(x)
41	26,881-27,552	0.79	0.28	(x)
42	27,553-28,224	0.79	0.28	(x)
43	28,225-28,896	0.77	0.27	(x)
44	28,897-29,568	0.76	0.26	(x)
45	29,569-30,240	0.75	0.25	(x)
46	30,241-30,912	0.74	0.25	(x)
47	30,913-31,584	0.73	0.24	(x)
48	31,585 and above	0.72	0.23	(x)

* Rate applies per DS0 equivalent channel for each Rate Band.

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Service availability limited. Refer to # footnote on Page 7-154.

(TR 1188)

Issued: May 14, 2012

Effective: May 15, 2012

Vice President, Federal Regulatory
1300 I Street, NW, Washington, D.C. 20005

ACCESS SERVICE

30. The Verizon Telephone Companies Price Band Rates and Charges (Cont'd)30.7 Special Access Service (Cont'd)30.7.18 Facilities Management Service# (Cont'd) (T)

(B) Term Plan Billing (Cont'd)

(1) Primary Premises Channel Terminations, (Cont'd)

	<u>USOC</u>	<u>Monthly Rate</u>
Office Channel Terminations*	Rates and charges are set are set forth in Section 31.7.18 following.	

Service availability limited. Refer to # footnote on Page 7-154. (N)

* Effective November 28, 2000, cross connection to an Expanded Interconnection multiplexing node in the states of New York and Connecticut is also subject to the rates set forth in Section 31.28.1(C) and (D).

(TR 1005)

Issued: April 16, 2009

Effective: May 1, 2009

Vice President, Federal Regulatory (T)
1300 I Street, NW, Washington, D.C. 20005 (T)

ACCESS SERVICE

30. The Verizon Telephone Companies Price Band Rates and Charges (Cont'd)30.7 Special Access Service (Cont'd)30.7.18 Facilities Management Service# (Cont'd)

(B) Term Plan Billing (Cont'd)

(2) FMS Channel Mileage,
per DS0 equivalent channel

	USOC	Monthly Rate Fixed	Per Mile
DS1 Interface at Primary Premises			
Price Band 4			
3 Year Term	1A6VS	\$1.67 (x)	\$1.01 (x)
5 Year Term	1A64S	1.46 (x)	0.88 (x)
Price Band 5			
3 Year Term	1A6VS	\$1.67 (x)	1.01 (x)
5 Year Term	1A64S	1.46 (x)	0.88 (x)
Price Band 6			
3 Year Term	1A6VS	\$1.67 (x)	1.01 (x)
5 Year Term	1A64S	1.46 (x)	0.88 (x)
DS3 Interface at Primary Premises			
Price Band 4			
Basic Channel Mileage			
3 Year Term	1YAMS	1.61 (x)	0.51 (x)
5 Year Term	1A59S	1.13 (x)	0.43 (x)
Direct Channel Mileage			
3 Year Term	1A88S	1.13 (x)	0.21 (x)
5 Year Term	1A89S	0.82 (x)	0.15 (x)
Price Band 5			
Basic Channel Mileage			
3 Year Term	1YAMS	1.61 (x)	0.51 (x)
5 Year Term	1A59S	1.13 (x)	0.43 (x)
Direct Channel Mileage			
3 Year Term	1A88S	1.13 (x)	0.21 (x)
5 Year Term	1A89S	0.82 (x)	0.15 (x)
Price Band 6			
Basic Channel Mileage			
3 Year Term	1YAMS	1.61 (x)	0.51 (x)
5 Year Term	1A59S	1.13 (x)	0.43 (x)
Direct Channel Mileage			
3 Year Term	1A88S	1.13 (x)	0.21 (x)
5 Year Term	1A89S	0.82 (x)	0.15 (x)

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Service availability limited. Refer to # footnote on Page 7-154.

(TR 1188)

Issued: May 14, 2012

Effective: May 15, 2012

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ACCESS SERVICE

30. The Verizon Telephone Companies Price Band Rates and Charges (Cont'd)30.7 Special Access Service (Cont'd)30.7.18 Facilities Management Service# (Cont'd) (T)

(B) Term Plan Billing (Cont'd)

(2) FMS Channel Mileage, (Cont'd)
per DS0 equivalent channel

	<u>USOC</u>	<u>Monthly Rate</u>	
		<u>Fixed</u>	<u>Per Mile</u>
IEF Interface at Primary Premises			
Price Band 4			
OC3 IEF Interface			
3 Year Term	1YANS	\$1.15	\$0.17
5 Year Term	1YAPS	0.99	0.10
OC12 IEF Interface			
3 Year Term	1YAQS	0.63	0.14
5 Year Term	1YARS	0.43	0.06
Price Band 5			
OC3 IEF Interface			
3 Year Term	1YANS	1.15	0.17
5 Year Term	1YAPS	0.99	0.10
OC12 IEF Interface			
3 Year Term	1YAQS	0.63	0.14
5 Year Term	1YARS	0.43	0.06
Price Band 6			
OC3 IEF Interface			
3 Year Term	1YANS	1.15	0.17
5 Year Term	1YAPS	0.99	0.10
OC12 IEF Interface			
3 Year Term	1YAQS	0.63	0.14
5 Year Term	1YARS	0.43	0.06

Service availability limited. Refer to # footnote on Page 7-154. (N)

(TR 1005)

Issued: April 16, 2009

Effective: May 1, 2009

Vice President, Federal Regulatory (T)
1300 I Street, NW, Washington, D.C. 20005 (T)

ACCESS SERVICE

30. The Verizon Telephone Companies Price Band Rates and Charges (Cont'd)30.7 Special Access Service (Cont'd)30.7.18 Facilities Management Service# (Cont'd)

(B) Term Plan Billing (Cont'd)

(3) FMS Multiplexing,
per DS0 equivalent channel

	USOC	Monthly Rate	
DS3/STS1 to DS1 Multiplexing			
Price Band 4			
3 year term	MXNM3	\$ 2.92	(x)
5 year term	MXNM5	2.00	(x)
Price Band 5			
3 year term	MXNM3	2.92	(x)
5 year term	MXNM5	2.00	(x)
Price Band 6			
3 year term	MXNM3	2.92	(x)
5 year term	MXNM5	2.00	(x)
DS1 to DS0 Multiplexing			
Price Band 4			
3 year term	MXNF3	13.90	(x)
5 year term	MXNF5	12.04	(x)
Price Band 5			
3 year term	MXNF3	13.90	(x)
5 year term	MXNF5	12.04	(x)
Price Band 6			
3 year term	MXNF3	13.90	(x)
5 year term	MXNF5	12.04	(x)

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(x) Issued under authority of Special Permission No. 12-010 of the Federal Communications Commission to withdraw material pending under Transmittal No. 1187 and to reinstate material currently in effect.

(TR 1188)

Issued: May 14, 2012

Effective: May 15, 2012

Vice President, Federal Regulatory
1300 I Street, NW, Washington, D.C. 20005

ACCESS SERVICE

30. The Verizon Telephone Companies Price Band Rates and Charges (Cont'd)30.7 Special Access Service (Cont'd)30.7.18 Facilities Management Service# (Cont'd)

(B) Term Plan Billing (Cont'd)

(4) FMS Administration,
per DS0 equivalent channel

	USOC	Monthly Rate	
DS1 Interface at Primary Premises			
Price Band 4			
3 year term	N2M1X	\$2.70	(x)
5 year term	N2M1X	2.70	(x)
Price Band 5			
3 year term	N2M1X	2.70	(x)
5 year term	N2M1X	2.70	(x)
Price Band 6			
3 year term	N2M1X	2.70	(x)
5 year term	N2M1X	2.70	(x)
DS3 or IEF Interface at Primary Premises			
Price Band 4			
3 year term	N2M	0.55	(x)
5 year term	N2M	0.55	(x)
Price Band 5			
3 year term	N2M	0.55	(x)
5 year term	N2M	0.55	(x)
Price Band 6			
3 year term	N2M	0.55	(x)
5 year term	N2M	0.55	(x)

Service availability limited. Refer to # footnote on Page 7-154.

(x) Issued under authority of Special Permission No. 12-010 of the Federal Communications Commission to withdraw material pending under Transmittal No. 1187 and to reinstate material currently in effect.

(TR 1188)

Issued: May 14, 2012

Effective: May 15, 2012

Vice President, Federal Regulatory
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