

August 23, 2018

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VIA ECFS and Hand Delivery

Marlene H. Dortch
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, D.C. 20554

Re: *CenturyLink Communications, LLC f/k/a Qwest Communications Company, LLC v. Verizon Services Corp., et al.*, EB Docket No. 18-33, File No. EB-18-MD-001

Dear Ms. Dortch:

CenturyLink Communications, LLC (“CenturyLink”) submits for filing this response to Verizon Services Corp., *et al.*’s (“Verizon”) August 13, 2018, filing in the above captioned pleading, pursuant to the Bureau’s July 30, 2018 email (and its July 25, 2018 email and related discussions) (collectively, the “Request”). Specifically, the Bureau requested that CenturyLink provide the following with respect to each of the six dispute categories in CenturyLink’s Formal Complaint: 1) the plan years and quarters of the 2009 and/or 2014 agreements applicable to each category; 2) the date that CenturyLink first submitted the claim to Verizon; and 3) the date that Verizon first substantively responded to CenturyLink’s claims.

In its August 6, 2018 filing (“CenturyLink Dispute Category Charts”), CenturyLink provided the requested information, including the dispute filing date and the date that Verizon provided a substantive response for each of the categories and quarters in dispute.¹ The dispute filing dates are the dates on which Verizon was on notice that CenturyLink was disputing an overcharge, and the substantive response dates are the dates on which Verizon provided a response to the substance of CenturyLink’s disputes. Accordingly, CenturyLink rejects Verizon’s assertion that Verizon’s initial cursory or unsupported statements that CenturyLink’s disputes were improper or “denied” should be considered substantive responses. CenturyLink’s charts showed that, with the exception of Category 1, Verizon did not substantively respond to

¹ See CenturyLink Dispute Category Charts nn. 2, 4, 11, 13, 30, 32, 46, 48, 52, 54, 71, 73 (filed August 6, 2018). In addition to the substantive response dates, CenturyLink also included the date it received Verizon’s automated denial. See CenturyLink Dispute Category Charts nn. 3, 12, 31, 46, 53, 72.

CenturyLink's claims until either 1) Verizon's May 31, 2016 letter rejecting CenturyLink's Demand Letter, or 2) Verizon's August 3, 2016 Answer to the Informal Complaint.²

By contrast, Verizon's August 13, 2018 filing did not provide a specific individual substantive response date for each claim as requested by the Bureau. Instead, Verizon created two new categories of dates it terms the "Contractual Response Date" and "Methodology Response Date," neither of which described Verizon's substantive response. For example, the October 2, 2015, email that Verizon relies on for its "Contractual Response Date" across multiple categories merely reflects Verizon's opinion at the time that it had no obligation to consider or correct errors.³ Ultimately, Verizon appears to treat both of its new categories collectively as substantive response dates.⁴ This makes it difficult to determine which date Verizon believes was its actual substantive response date, and nothing in Verizon's submission refutes the dates contained in CenturyLink's August 6, 2018 filing.

Rather than respond directly to the Bureau's narrow Request, Verizon's filing instead focuses on Verizon's long-running and inaccurate narrative that it lacked sufficient information to fully investigate its errors in a timely fashion. For example, in its Tables 1 through 6, Verizon provides multiple categories of information purporting to reflect the dates CenturyLink provided circuit IDs or claim descriptions for its dispute submissions. That information is factually inaccurate in addition to not being responsive to the Request. Consequently, with the exception of the parties' agreement on Verizon's substantive response date for Category 1, CenturyLink refutes the accuracy of Verizon's charts to the extent they contradict CenturyLink's August 6, 2018 filing. Additional errors in Verizon's tables are briefly discussed below.

Verizon Summary Table

CenturyLink disputes Verizon's characterization of CenturyLink's claim submissions and Verizon's subsequent substantive responses. For all of the dispute categories, Verizon routinely had immediate access to claim descriptions and had circuit IDs as soon as or shortly after CenturyLink and Verizon discussed the disputes.⁵ Further, for all categories except Category 1, Verizon did not provide a substantive response until years after CenturyLink's dispute filings, and did not provide a circuit-level analysis until Verizon's Answer to CenturyLink's Formal

² See CenturyLink Dispute Category Charts nn. 4, 13, 32, 48, 54, 73. CenturyLink notes that it appears that Verizon did not conduct a full circuit-level analysis until Verizon submitted its Answer to CenturyLink's Formal Complaint on April 12, 2018.

³ See VZ Ex. 43.

⁴ See Verizon Summary Chart (filed August 13, 2018) (listing separate purported contractual and methodology dates in rows for the "first" Verizon substantive response in each dispute category).

⁵ See, e.g., CTL Exs. 40.01, 40.01a, 40.13, 41.01, 42.02, 42.02d, 43.01, 43.01d, 44.01, 45.01, 45.01d, 46.01, 46.01d, 47.01, 47.01c, 48.01, 48.01d, 49.06, 49.07, 49.07b, 49.22, 50.01, 50.01d, 51.01, 51.01d, 52.01, 52.01d.

Complaint on April 12, 2018.⁶ As previously noted, and as discussed further below, Verizon's attempt to bifurcate its substantive response dates into new categories, as well as submit additional categories of extraneous information, does not relate to the information sought by the Bureau.

Verizon Table 1

Despite Verizon's implicit claims to the contrary, CenturyLink provided Verizon with all of the information it needed to investigate and correct its errors. Verizon's submission does not accurately reflect the parties' full communications and conduct during the course of the disputes. In particular, CenturyLink did provide its analysis of Verizon's erroneous unit counts (including circuit IDs) for each dispute and dispute category, including Category 1, to Verizon at Verizon's request.⁷ Verizon also lists incorrect dates for when CenturyLink provided circuit IDs.⁸

When initially filing its disputes, CenturyLink could not submit a circuit-level analysis because the Verizon dispute form did not allow for the circuit-level detail to be loaded into Verizon's system.⁹ Because Verizon counted the same circuits in error (and for the same erroneous reasons) every month of every quarter of Plan Year 5 under the 2009 Service Agreement, Verizon requested that CenturyLink send the circuit-level detail for a sample month only—February 2014.¹⁰ CenturyLink did so.

For example, on July 31, 2014, CenturyLink sent the DS3 circuit-level detail for Categories 1, 2, and 3 for February 2014.¹¹ Verizon subsequently requested that the DS1 circuit-

⁶ See VZ Exs. 60, 61, 64, 65, 67.

⁷ See Formal Complaint, Declaration of Tiffany Brown ("Brown Decl.") ¶ 50; VZ Ex. 36, Email from T. Brown (CenturyLink) to J. Aguilar (Verizon) dated July 31, 2014 (attaching file detailing CenturyLink's circuit-level analysis for February 2014); VZ Ex. 38.2B (native spreadsheet of circuit-level analysis); VZ Exs. 38.1A, 39.1A (additional analysis of FMS circuits). CTL Ex. 40.01 shows the conference call that took place on July 30, 2014, to discuss these disputes. CenturyLink detailed the categories of disputes for Verizon on that call. Specifically, the details for Dispute Categories 1, 2, 3, and 5 were discussed. See Brown Decl. ¶¶ 50-51.

⁸ CTL Ex. 40.01 shows the date of September 4, 2014, when the DS1 circuit level details were sent to Verizon by CenturyLink. The DS3 circuit level details had already been received by Verizon. See VZ Exs. 36, 38.1A, 38.2B, 39.1A.

⁹ See Brown Decl. ¶¶ 12-14.

¹⁰ CTL Ex. 40.01 shows the correspondence detailing the agreed upon sample month of February 2014. CTL Ex. 40.01, at 3-4 shows J. Aguilar (Verizon) confirming on September 9, 2014, that the information provided was sufficient for Verizon to investigate the disputes.

¹¹ See, e.g., VZ Exs. 36, Email from T. Brown (CenturyLink) to J. Aguilar (Verizon) dated July 31, 2014 (attaching file of circuit-level analysis for February 2014); 38.2B (native file of circuit-

level detail be provided for February 2014.¹² CenturyLink notified Verizon that the DS1 circuit-level detail was never provided by Verizon, so a circuit-level analysis was not possible at the DS1 level.¹³ Verizon then supplied the DS1 circuits that were included in Verizon's count for February 2014 (the only month for which Verizon supplied such detail), and CenturyLink subsequently provided the dispute details that ultimately constituted Dispute Category 5 on September 4, 2014.¹⁴ In short, CenturyLink provided all of the detail requested by Verizon.¹⁵ Verizon confirmed that it did not need further details to research the disputes submitted for Plan Year 5.¹⁶

Simply put, Verizon's implication that CenturyLink's dispute submissions were insufficient for Verizon to conduct a thorough review completely distorts the facts, as well as the manner in which Verizon itself had requested that CenturyLink submit the disputes. It is also not relevant to the matters the Bureau requested that the parties address.

Verizon Tables 2 & 2-1

Verizon's tables for Category 2 again assert that CenturyLink did not provide circuit IDs for Dispute Category 2 until various dates after CenturyLink submitted its disputes. That is not correct. In fact, the details regarding Verizon's erroneous unit counts for *all dispute types in Category 2* were included in the February 2014 circuit-level details and subsequent dispute filings provided to Verizon.¹⁷ Verizon also misstates that the circuit IDs were never provided for

level analysis); CTL Ex. 40.01 (correspondence between the parties discussing CenturyLink's analysis of February 2014 circuit counts); *see also* CTL Ex. 40.01a (CenturyLink's analysis of FMS circuits for February 2014, provided September 26, 2014); VZ Exs. 38.1A & 39.1A (same).

¹² *See* CTL Ex. 40.01 at 3 (Email from T. Brown (CenturyLink) to J. Agular (Verizon) dated September 4, 2014).

¹³ *See id.*

¹⁴ *See id.*

¹⁵ *See* Brown Decl. ¶¶ 50-51; CTL Ex. 40.01 (correspondence between the parties discussing CenturyLink's analysis of February 2014 circuit counts).

¹⁶ *See* CTL Ex. 40.01, at 3-4.

¹⁷ *See, e.g.*, CTL Ex. 40.01. Verizon's inclusion of its own subcategories only serves to sow confusion with regard to the Bureau's request. None of Verizon's subcategories for "Ineligible USOCs (2009 Plan)", "No MRCs (2014 Plan)", "FMS Billing", "No Circuit IDs", and "Fractional Circuits" is relevant to the purpose of the current charts. Each of these subcategories involves Verizon counting ineligible units in the quarterly credits—claims which CenturyLink made clear in its original dispute submissions. For example, CenturyLink provided circuit IDs for ineligible USOCs in the analysis Verizon requested of the February 2014 circuits. *See* VZ Ex. 36; CTL Ex. 40.01; VZ Ex. 38.2B (Tab "VZ tagged as CLF but not CLINK" and included as "DS3 CLF - NOT FMS - NOT FRP" in column B). CenturyLink's dispute submissions also discussed FMS billing. *See* CTL Ex. 40.13a. The "No Circuit IDs" category was included in the

the DS1 units in dispute. CenturyLink provided the DS1 circuit-level detail for February 2014 after Verizon provided the circuit detail in September 2014.¹⁸ This was the only month that Verizon provided the DS1 circuit details to CenturyLink.¹⁹ In short, Verizon had the circuit-level detail for Dispute Category 2 from CenturyLink as of September 4, 2014, and for each quarter thereafter.²⁰ Nonetheless, Verizon did not substantively respond to the disputes until its answer to the informal complaint on August 3, 2016 with respect to some circuits, and did not provide a full circuit-level analysis until Verizon's Answer to CenturyLink's Formal Complaint on April 12, 2018.

Verizon Table 3

Dispute Category 3 was included in the original dispute packages sent to Verizon for Plan Year 5 under the 2009 Service Agreement. This category was discussed in detail with Verizon on July 30, 2014.²¹ Verizon's errors in this table mirror those in its tables for Categories 1 & 2. The claim description and circuits for Dispute Category 3 were included in the February 2014 circuit-level details provided to Verizon by CenturyLink.²² The same circuits were disputed for the same reasons for each month in Dispute Category 3.

original dispute packages sent to Verizon for Plan Year 5 under the 2009 Service Agreement and in the circuit-level detail provided in September 2014. *See* CTL Ex. 40.01 (CenturyLink sent DS1 circuit analysis after receiving DS1 circuits from Verizon). The "Fractional Circuits" category was included in the original dispute packages sent to Verizon for Plan Year 5 under the 2009 Service Agreement and included in the circuit-level detail provided in September 2014. *See, e.g.*, VZ Ex. 38.2B. For the quarters under the 2014 Service Agreement, CenturyLink provided a claim description of their findings at the circuit level in the "CKT COMPARISON" tab of the original dispute filings. *See, e.g.*, CTL Ex. 42.02d. The fact that CenturyLink has since updated its Category 2 claims based on subsequent information provided by Verizon for the first time in its 2016 and 2018 Answer filings (updates which could have been made years before had Verizon actually conducted an inquiry into its errors and provided that information in a timely fashion) does not mean that Verizon lacked notice of the nature of those disputes from the outset.

¹⁸ *See* CTL Ex. 40.01.

¹⁹ CTL Ex. 40.01 shows the sample month of February 2014 only. The quarterly reports provided by Verizon did not contain DS1 circuit level details under the 2009 Service Agreement. Brown Decl. ¶ 12.

²⁰ *See, e.g.*, CTL Exs. 40.01, 40.01a, 40.13, 41.01, 42.02, 42.02d, 43.01, 43.01d, 44.01, 45.01, 45.01d, 46.01, 46.01d, 47.01c, 48.01, 48.01d, 49.06, 49.07, 49.07b, 49.22, 50.01, 50.01d, 51.01, 51.01d, 52.01, 52.01d.

²¹ *See* CTL Ex. 40.01; Brown Decl. ¶¶ 50-51.

²² CTL Ex. 40.01 shows that Verizon received the DS3 circuit-level detail from CenturyLink. *See also* VZ Exs. 36 & 38.2B (email correspondence and native file showing same).

Verizon Table 4

Dispute Category 4 was included in the original dispute packages sent to Verizon for Plan Year 1 Quarters 1 and 2 and Plan Year 2 Quarter 1 under the 2014 Service Agreement. This category was discussed in detail with Verizon during various calls between the parties.²³ The claim descriptions were provided in each submission for Dispute Category 4, and the circuits were included in the Plan Year 1 Quarter 2 and Plan Year 2 Quarter 1 circuit-level details provided to Verizon by CenturyLink.²⁴ Most of the same circuits were disputed for the same reasons for each month in Dispute Category 4. Thus, although CenturyLink did not provide circuit IDs for Plan Year 1 Quarter 1, it did provide them for Plan Year 1 Quarter 2 and Plan Year 2 Quarter 1 (nearly all of the same circuits), and Verizon was on notice of its errors through CenturyLink's emails and other communications.

Verizon Table 5

Verizon's errors in this table also mirror those in its tables for Categories 1, 2 and 3. Although Verizon claims that circuit IDs were not provided for Category 5 until September 15, 2015 or thereafter, Dispute Category 5 was included in the circuit-level detail sent to Verizon on September 4, 2014 (along with Categories 1, 2, and 3).²⁵ This category was also discussed in detail with Verizon on July 30, 2014.²⁶ The claim description and circuits for Dispute Category 5 were included in the February 2014 circuit-level details provided to Verizon by CenturyLink.²⁷ The same circuits were also disputed for the same reasons for each month in Dispute Category 5. In short, Verizon had the circuit-level detail from CenturyLink as of September 4, 2014, however, Verizon did not respond substantively to Category 5 until its Response to the Notice of

²³ Verizon claims that for certain quarters CenturyLink did not "explain" all categories of disputes for that quarter. Verizon Table 4, n. 71. These unit count errors in Dispute Category 4 resulted from a formula error in Verizon's Excel spreadsheet that it used to calculate the quarterly credits. For example, see CTL Ex. 45.05c Tab 2, Column "CLS/CLF" for sample circuit 119 T3Z WLBRPAWBHPA WLBRPAWBK13. Verizon correctly categorized this circuit as a CLF for April and May 2015. However, Verizon categorized this circuit as CLS for March 2015 in error. The majority of the circuits in this category were the same and were disputed in each of the three quarters. See CTL Ex. 34 for sample circuit 119T3ZWLBRPAWBHPAWLBRPAWBK13 disputed in all three quarters. CTL Ex. 45.01d and CTL Ex. 42.02d lists the circuit as being misclassified in the "CKT Comparison" tabs. Verizon cannot maintain that it was unaware of the reasons that CenturyLink was disputing the unit counts for this category or was unaware of which circuits were erroneously counted.

²⁴ CTL Exs. 45.01d & 42.02d.

²⁵ See Brown Decl. ¶¶ 50-51; CTL Ex. 40.01.

²⁶ See CTL Ex. 40.01.

²⁷ *Id.*

Informal Complaint on August 3, 2016, and did not respond to the disputes at the circuit level until Verizon's Answer to CenturyLink's Formal Complaint on April 12, 2018.

Verizon Table 6

Verizon did not substantively respond to CenturyLink's FMS claims for Verizon's failure to optimize circuit routing until May 31, 2016. Verizon's responses on October 29, 2015 were not substantive responses.²⁸ These responses were generated because CenturyLink had accidentally loaded the disputes twice into Verizon's system—they had nothing to do with Verizon's "methodology" for Dispute Category 6. In addition, Verizon's responses on November 30, 2015 showed no analysis of CenturyLink's claims.²⁹ Verizon stated that the FMS circuits were being counted as described in the tariffs.³⁰ However, Verizon did not address the dispute itself that Verizon had failed to optimize the circuit routing under FMS. Similarly, the cursory "resolution notes" detailed in Verizon Ex. 2 do not address the disputes in a substantive way or provide any supporting information regarding Verizon's underlying methodology.

Ultimately, Verizon protests too much by exploiting the Bureau's narrow information request into an opportunity to argue it was unaware of or would not correct its errors. As CenturyLink explained in greater detail in its Formal Complaint and Reply, Verizon has been on notice of the same erroneous unit counts for the same circuits from the very beginning of this dispute, and many of these disputes could have been resolved long ago had Verizon simply undertaken a timely analysis of them rather than reject them out of hand.

Sincerely,



Marc S. Martin

cc: Lisa Saks, Market Disputes Resolution Div., Federal Communications Commission
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²⁸ See Brown Decl. ¶¶ 125-26.

²⁹ See *id.*

³⁰ See *id.*