

December 20, 2017

**VIA ECFS**

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

**Re: Ex Parte Notice**  
WC Docket Nos. 10-90 & 07-135; CC Docket No. 01-92

Dear Ms. Dortch:

This letter is respectfully submitted in response to a letter filing by West Telecom Services, LLC (“West”) in the above-referenced dockets on December 14, 2017.<sup>1</sup> In particular, this letter serves to address various unsubstantiated, off-the-record assertions *attributed to T-Mobile* by the December 14<sup>th</sup> Letter.

While the December 14<sup>th</sup> Letter suggests that the record “be reviewed and corrected as necessary,” the fact is that T-Mobile *has not made any representations in the record* of these proceedings in response to on-the-record filings of various carriers concerning T-Mobile’s conduct.<sup>2</sup> Indeed, T-Mobile failed to address this issue in its November 20, 2017 reply comments<sup>3</sup> filed in response to the Commission’s September 8, 2017 *Notice*.<sup>4</sup> T-Mobile likewise failed to

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<sup>1</sup> See Letter from Robert McCausland, VP, Regulatory and Government Affairs, West, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90 & 07-135, CC Docket No. 01-92 (dated Dec. 14, 2017) (“December 14<sup>th</sup> Letter”).

<sup>2</sup> See Comments of Peerless Network, Inc. *et al.*, WC Docket No. 10-90, CC Docket No. 01-92, at 14 n.27 & 17-18 (filed Oct. 26, 2017); *see also, e.g.*, Reply Comments of Peerless Network, Inc. *et al.*, WC Docket No. 10-90, CC Docket No. 01-92, at 11-14 n.12 (filed Nov. 20, 2017).

<sup>3</sup> See Reply Comments of T-Mobile USA, Inc., WC Docket No. 10-90, CC Docket No. 01-92, at 4-5 & 7 (filed Nov. 20, 2017) (stating only T-Mobile’s general opposition to a direct interconnection requirement).

<sup>4</sup> *Parties Asked to Refresh the Record on Intercarrier Compensation Reform Related to the Network Edge, Tandem Switching and Transport, and Transit*, WC Docket No. 10-90, CC Docket No. 01-92, Public Notice, 32 FCC Rcd 6856 (rel. Sept. 8, 2017) (“*Notice*”).

directly respond to the December 4, 2017 *Ex Parte* Notice.<sup>5</sup> As such, the record is *devoid* of any information that necessitates a “correction” of any of the statements that T-Mobile apparently now challenges.

It is critical to note that the statements in the *Ex Parte* Notice concerning T-Mobile specifically relate to the traffic of **Peerless Network, Inc.** (“Peerless”), not West. Indeed, the diagram submitted as Example 1 to the *Ex Parte* Notice (“Example 1 Diagram”) illustrates that T-Mobile has denied Peerless’s request for direct connects to deliver voice calls to T-Mobile’s end users.<sup>6</sup> This same issue was also recently raised in another carrier’s reply comments.<sup>7</sup>

Moreover, the Example 1 Diagram reflects T-Mobile’s requirement that it will only receive Peerless traffic if it is routed through T-Mobile’s intermediate carrier partner – which imposes excessive charges that, on information and belief, are shared with T-Mobile through a revenue sharing arrangement (which is in effect a compensation arrangement).<sup>8</sup> The existence of this T-

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<sup>5</sup> Letter from Philip Macres, Counsel for Peerless *et al.*, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90 & 07-135, CC Docket No. 01-92 (filed Dec. 4, 2017) (“*Ex Parte* Notice”).

<sup>6</sup> *Id.* at Attachment page 3 (diagram entitled “Example 1 of Why the FCC Needs to Adopt the ‘Direct Connect Requirement’”). While it is our understanding that T-Mobile allows direct connects for a carrier to send traffic from its own end users (*i.e.*, retail traffic that contains the carrier’s OCN), T-Mobile refuses to allow direct connects to carriers that need to send both retail and wholesale traffic (*i.e.*, traffic from both a carrier’s own end users and the end users of other carriers).

<sup>7</sup> See Reply Comments of O1 Communications, Inc., WC Docket No. 10-90; CC Docket No. 01-92, at 3-9 (filed Nov. 20, 2017) (urging a direct connect requirement and, among other things, explaining that “T-Mobile’s refusal to make direct connections to O1 and other carriers while simultaneously forcing the delivery of their traffic through one CLEC, which in turn shares the access charge revenues with T Mobile, constitutes an unlawful access arbitrage scheme. T-Mobile’s refusal to allow direct connections denies O1 (and other carriers) economically efficient interconnection in order to enrich itself by collecting revenues which it otherwise would not be legally entitled to collect.”), available at <https://ecfsapi.fcc.gov/file/112025414323/o1replycomments11202017.pdf>.

<sup>8</sup> Public filings show that T-Mobile entered into an agreement with Inteliquent, Inc. in 2015 under which Inteliquent provides “credits” to T-Mobile for traffic routed to T-Mobile. See Section 9.B and Schedule 4 of the PSTN Services Attachment to the Telecom Master Services Agreement Between T-Mobile USA, Inc. and Inteliquent, Inc. (dated June 23, 2015) (“2015 T-Mobile/Inteliquent Agreement”) (stating that “[f]or Inbound Tandem IXC Service, Outbound 8YY Service, and Inbound Wholesale Service, **Provider shall provide T-Mobile with the credit set forth in Schedule 4 (Provider Services Rates and Credits)**...” (emphasis added) and Schedule 4 specifying “Provider Services Rates and Credits”) [referenced redacted provisions filed on SEC’s EDGAR system are attached hereto as **Exhibit A** (with highlighting added); the complete redacted version of the Agreement and Service Schedule as filed on EDGAR are available at [https://www.sec.gov/Archives/edgar/data/1292653/000156459015008822/iqnt-ex101\\_201.htm](https://www.sec.gov/Archives/edgar/data/1292653/000156459015008822/iqnt-ex101_201.htm)

Mobile arrangement has also been brought to the Commission's attention in an informal complaint filed by CenturyLink that stated:

***T-Mobile is engaging in an unlawful arbitrage scheme*** by which it refuses to make available direct connections to CenturyLink and other interexchange IXCs when they seek to terminate access voice traffic to T-Mobile – ***and simultaneously forces them to deliver that traffic via the higher-priced, per-minute tandem services of intermediate carriers that, in turn, share their access charge revenue with T-Mobile.***<sup>9</sup>

Notably, the Commission has held that a “revenue sharing agreement” can include any arrangement between a LEC and another party, “whether express, implied, written or oral” that provides for “*the net payment of consideration of any kind, whether fixed fee or otherwise... ‘based upon the billing or collection of access charges.’*”<sup>10</sup> Thus, T-Mobile's purported off-the-record representation (referenced in the December 14<sup>th</sup> Letter) that it does not receive compensation for

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and [https://www.sec.gov/Archives/edgar/data/1292653/000156459015008822/iqnt-ex102\\_225.htm](https://www.sec.gov/Archives/edgar/data/1292653/000156459015008822/iqnt-ex102_225.htm), respectively].

<sup>9</sup> *Informal Complaint by CenturyLink Communications, LLC Against T-Mobile USA, Inc. and Request for Mediation*, File No. EB-16-MDIC-0020, at 2 (filed Nov. 10, 2016) (emphasis added), attached hereto as **Exhibit B**. *See also OI Communications, Inc. vs. T-Mobile USA, Inc., T-Mobile West, LLC and MetroPCS California, LLC dba Metro PCS, Verified Complaint of OI Communications, Inc.*, Cal. Pub. Utils. Comm'n C.15-11-018, ¶ 48 (filed Nov. 30, 2015) (stating that “[t]o the extent that Inteliquent and T-Mobile share the revenues that Inteliquent is able to collect from other carriers to terminate the traffic to T-Mobile, another form of intercarrier compensation arbitrage results. Inteliquent would act as the monopoly terminating CLEC for all traffic destined to T-Mobile end users. In exchange, T-Mobile could collect access charges without having an agreement with the originating carrier. Because wireless carriers are not permitted to tariff access charges, through revenue sharing with Inteliquent, T-Mobile would gain a revenue stream that it otherwise would not have absent agreements with all originating carriers.”), available at <http://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=156126895>.

<sup>10</sup> *In the Matter of Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Order, 27 FCC Rcd 605, ¶¶ 26-27 (2012) (emphasis added); *see also* 47 C.F.R. § 61.3(bbb) (explaining that an access revenue sharing agreement can be “express, implied, written or oral, that, over the course of the agreement, would directly or indirectly result in a net payment to the other party (including affiliates) to the agreement, in which payment by the rate-of-return local exchange carrier or Competitive Local Exchange Carrier is based on the billing or collection of access charges from interexchange carriers or wireless carriers. When determining whether there is a net payment under this rule, ***all payments, discounts, credits, services, features, functions, and other items of value, regardless of form, provided by the rate-of-return local exchange carrier or Competitive Local Exchange Carrier to the other party to the agreement shall be taken into account.***”) (emphasis added).

such traffic routing appears to be at odds with the 2015 T-Mobile/Inteliquent Agreement and is controverted in on-the-record filings by several carriers.

Finally, because we are not privy to all aspects of the business relationships between T-Mobile and others that may underpin the December 14<sup>th</sup> Letter, we invite T-Mobile to directly present its position on the record rather than to obliquely contradict record filings through others. Upon review of the record as it stands, we find nothing “inaccurate” or “misleading” about the Example 1 Diagram in the *Ex Parte* Notice that T-Mobile has indirectly called into question.

To the extent there are any questions or additional information is needed, please do not hesitate to contact me.

Respectfully submitted,



Philip J. Macres

Attachments

cc: Jay Schwarz (all via email)  
Claude Aiken  
Amy Bender  
Jamie Susskind  
Travis Litman  
Lisa Hone  
Pam Arluk  
Lynne Engledow  
Victoria Goldberg  
Gil Strobel

Peter Trachtenberg  
John Hunter  
Irina Asoskov  
William Andrie  
Gregory Capobianco  
Edward Krachmer  
Richard Kwiatkowski  
Rhonda Lien  
Joseph Price  
Douglas Slotten  
Shane Taylor

# Exhibit A

### PSTN SERVICES ATTACHMENT

This Public Switched Telephone Network ("PSTN") Services Attachment (this "Services Attachment" or "SA") is entered into this 23rd day of June, 2015 (the "SA Effective Date") by and between Inteliquent, Inc., a Delaware corporation having its principal place of business at 550 West Adams Street, Suite 900, Chicago Illinois 60661 ("Provider"), and T-Mobile USA, Inc., a Delaware corporation having its principal place of business at 12920 SE 38th St., Bellevue, WA 98006 ("T-Mobile"). Provider and T-Mobile are referred to collectively as the "Parties," and each individually as a "Party."

This SA, which consists of these terms and conditions and any attached exhibits or schedules, is made part of the Master Services Agreement between Provider and T-Mobile dated as of June, 2015 (the "GTCs"), and the terms of the GTCs are incorporated herein by this reference in accordance with the requirements of the GTCs. All capitalized terms used but not otherwise defined in this SA have the same meaning as the capitalized terms have in GTCs.

#### 1. Inapplicable Sections of the GTCs.

A. The following Sections of the GTCs or Schedules, as applicable, do not apply to this SA:

- i. Section 4.7(e) (Failure to Meet Transition Milestones);
- ii. Section 4.7(f) (Termination by T-Mobile for Cause);
- iii. Section 13.5 (Transfer of T-Mobile Personnel);
- iv. Section 14 (Software and Proprietary Rights); *provided, however,* that Section 14.8 (Ownership of Non-Software Materials), Section 14.9 (Works Made for Hire), Section 14.10 (Residual Knowledge), and Section 14.13 (License to Services) each individually apply to this SA;
- v. Section 15.4(b)(i) (Provider Facilities);
- vi. Section 15.5 (Procurement of Equipment and Software);
- vii. Section 15.6 (Disposal of Equipment); and
- viii. Sections 13.1, 13.2, 13.3 and Appendix F-2 of Schedule 8 (Governance).

B. The following Sections of the GTCs or Schedules, as applicable, do not apply to this SA during the Initial Term:

- i. Section 8.2 (Benchmarking) and Schedule 5; and
- ii. Section 10.6 (Adjustment of Service Levels).

\*\*\*] The confidential content of this Exhibit 10.2 has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

- B. Provider shall follow all industry standards, including, without limitation, those on signaling (Telcordia FR-15, FR-905, and GR-1100-CORE).
- C. Provider shall pass to the next provider all relevant signaling information that it receives from T-Mobile for outbound Services and pass to T-Mobile all relevant signaling information it receives from the provider handing the call to Provider. Provider will add to the signaling stream all information necessary for the inbound and outbound Service traffic to be routed, and will not fraudulently manipulate any signaling information.
- D. Upon request by T-Mobile, Provider and T-Mobile will jointly plan changes in the compressor/decompressor (“codec”) system or digital signal processing (“DSP”) used to provide any or all Services and implement a transcoder free service to deliver the calls to third parties using the same codec or DSP as received by T-Mobile. The changes will be implemented within mutually agreed upon test and implementation timeframes. Provider will support minor transcoding at no charge; *provided, however*, that if 10% or more of calls require transcoding (“DSP Resources”), then Provider and T-Mobile will negotiate in good faith commercial terms for the provision of these transcoding services.

9. **Rates, Credits and Billing**

- A. Provider shall charge T-Mobile the rate set forth in **Schedule 4 (Provider Services Rates and Credits)** in accordance with the requirements of the GTCs based on the actual conversation MOUs measured from receipt of answer supervision to receipt of disconnect supervision. Each call will be billed a minimum of six (6) seconds for duration and in six (6) second increments thereafter, with such time accumulated at the end of the billing period and rounded up or down to the next whole minute.
- B. For Inbound Tandem IXC Service, Outbound 8YY Service, and Inbound Wholesale Service, Provider shall provide T-Mobile with the credit set forth in **Schedule 4 (Provider Services Rates and Credits)** in accordance with the requirements of the GTCs based on the actual conversation MOUs measured from receipt of answer supervision to receipt of disconnect supervision. The credit amount for each call will be calculated using a minimum of one second for duration and in one second increments thereafter, with such time accumulated at the end of the billing period and rounded up or down to the next whole minute. The credit will be applied to the billing month following the month in which the credit is earned (*i.e.*, one month in arrears). During any month in which the credits that Provider owes T-Mobile under this SA exceeds the amounts that T-Mobile owes Provider under this SA, Provider shall pay T-Mobile the amount by which the credits exceed the amounts owed by T-Mobile no later than the due date set forth on such invoice, which shall be no later than the date by which T-Mobile would have been obligated under the GTCs and this SA to pay Provider for any amounts due for Services covered by such Invoice.
- C. If T-Mobile exercises a right under the GTCs or this SA to terminate the GTCs or this SA, in full or in part, Provider shall not impose, and T-Mobile has no obligation to pay, any termination fees, charges or penalties.
- D. Except as provided in Section 5 of this SA, all Services are subject to the Service Levels and Service Credit requirements set forth in this SA.

[\* \* \*] The confidential content of this Exhibit 10.2 has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

- E. Notwithstanding anything in this SA to the contrary, Provider shall not seek to collect from T-Mobile, and T-Mobile has no obligation to pay Provider, any rate, fee or charge that is not set forth in **Schedule 4 (Provider Services Rates and Credits)**.

10. **Reports.**

- A. In addition to any information T-Mobile request pursuant to the Regulatory Schedule, Provider shall, within ten (10) business days after Provider issues the monthly invoice to T-Mobile, provide T-Mobile with a report including the following information and in the form specified by T-Mobile:
- i. Daily summary information, including:
    - (1) Daily traffic summaries, and
    - (2) Daily quality of service reports;
  - ii. SLA performance summary information, reports for each SLA.
  - iii. Service Event (defined below) information, including:
    - (1) Reports on Service Event Trouble Tickets, containing:
      - (A) The number and categories of Service Event Trouble Tickets opened by T-Mobile, and
      - (B) The number and categories of Service Event Trouble Tickets opened by Provider;
    - (2) Reports on Provider's Service Event response performance, containing:
      - (A) Descriptions of any and all Service Events, defined as the period of time for which the Service is unavailable or degraded, as described in the table in Section 10.C. This information must include every Service Event occurring in the prior month affecting T-Mobile, even if it was resolved before Provider was required to contact T-Mobile;
      - (B) The actual or estimated timeframe to resolve the Service Event(s), and
      - (C) The average Service Event response time per month.
- B. A "Service Event" means a Service Outage or a Service Impairment as those terms are defined in Section 11.B below.
- C. In addition to any information that T-Mobile may request pursuant to the Regulatory Schedule, Provider shall, within forty-eight (48) hours following the occurrence of a Priority 1 Event, provide T-Mobile with a detailed analysis of the Service Outage, including time of occurrence and duration, and either an interim or final closed-loop corrective action report that includes a root cause analysis and corrective action plan detailing how the cause of the Service Outage will be addressed to prevent similar Service Outages from occurring in the future; *provided, however*, that, if Provider provides an interim report, Provider will provide a final report as soon as

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**Schedule 4**  
**Provider Services Rates and Credits**

| Service                                  | Rate or Credit       |   |   |                             |                            |                              |                                    |                                   |
|--|----------------------|---|---|-----------------------------|----------------------------|------------------------------|------------------------------------|-----------------------------------|
|  | Standard             | High Outbound<br>IntraMTA Trigger   | Low<br>Outbound<br>IntraMTA<br>Trigger  | High<br>Wireline<br>Trigger | Low<br>Wireline<br>Trigger | High Rural<br>OCN<br>Trigger | High<br>SWBT<br>Traffic<br>Trigger | Low<br>SWBT<br>Traffic<br>Trigger |
| <b>Outbound<br/>IntraMTA<br/>Service</b> | \$[* * *] per<br>MOU | \$[* * *] per<br>Standard MOU;<br>\$[* * *] per Excess<br>Outbound<br>IntraMTA Service<br>MOU | \$[* * *] per<br>MOU  | \$[* * *] per<br>MOU        | \$[* * *] per<br>MOU       | \$[* * *] per<br>MOU         | \$[* * *] per<br>MOU               | \$[* * *] per<br>MOU              |
| <b>Inbound<br/>IntraMTA<br/>Service</b>  | \$[* * *] per<br>MOU | \$[* * *] per MOU   | \$[* * *] per<br>MOU  | \$[* * *] per<br>MOU        | \$[* * *] per<br>MOU       | \$[* * *] per<br>MOU         | \$[* * *] per<br>MOU               | \$[* * *] per<br>MOU              |
| <b>Outbound<br/>8YY<br/>Service</b>      | \$[* * *] per<br>MOU | \$[* * *] per MOU   | \$[* * *] per<br>Standard<br>MOU; Credit<br>of \$[* * *] per<br>Excess<br>Outbound 8YY<br>Service MOU | \$[* * *] per<br>MOU        | \$[* * *] per<br>MOU       | \$[* * *] per<br>MOU         | \$[* * *] per<br>MOU               | \$[* * *] per<br>MOU              |

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|   |   |   |   |   |  |  |   |  |
|---|---|---|---|---|--|--|---|--|
| <b>Outbound<br/>InterMTA<br/>Service</b>      | \$[* * *] per<br>MOU during the<br>first 12<br>months of<br>the Term;<br>\$[* * *]<br>*] thereafter | \$[* * *] per<br>MOU during the<br>first 12<br>months of<br>the Term;<br>\$[* * *]<br>*] thereafter | \$[* * *] per<br>MOU during the<br>first 12<br>months of<br>the Term;<br>\$[* * *]<br>*] thereafter | \$[* * *] per<br>Standard<br>MOU during<br>the first 12<br>months of the<br>Term; \$[* * *]<br>*] thereafter;<br>\$[* * *] per<br>Excess<br>Wireline<br>MOU during<br>the first 12<br>months of the<br>Term;<br>\$[* * *]<br>thereafter | \$[* * *] per<br>Standard MOU<br>during the first 12<br>months of the<br>Term;<br>\$[* * *] thereafter;<br>\$[* * *] per Excess<br>Wireless MOU<br>during the first 12<br>months of the<br>Term; \$[* * *]<br>thereafter | \$[* * *] per<br>Standard MOU<br>during the first 12<br>months of the<br>Term;<br>\$[* * *] thereafter;<br>For each Excess<br>Rural MOU,<br>\$[* * *] until July<br>1, 2016, and then<br>\$[* * *] until July<br>1, 2017, and then<br>\$[* * *] thereafter | \$[* * *] per<br>MOU during the<br>first 12 months of<br>the Term;<br>\$[* * *] thereafter                    | \$[* * *] per<br>MOU during the<br>first 12 months of<br>the Term;<br>\$[* * *] thereafter                         |
|   | <b>Credit of</b><br>\$[* * *] per<br>MOU  | <b>Credit of</b><br>\$[* * *] per<br>MOU  | <b>Credit of</b><br>\$[* * *] per<br>MOU  | <b>Credit of</b><br>\$[* * *] per<br>MOU  | <b>Credit of</b><br>\$[* * *] per<br>MOU   | <b>Credit of</b><br>\$[* * *] per<br>MOU   | <b>Credit of</b><br>\$[* * *] per<br>Standard MOU;<br><b>Credit of</b><br>\$[* * *] per<br>Excess SWBT<br>MOU | <b>Credit of</b><br>\$[* * *] per<br>Standard MOU;<br><b>Credit of</b><br>\$[* * *] per<br>Excess Non-<br>SWBT MOU |
| <b>Inbound<br/>Tandem<br/>IXC<br/>Service</b> | <b>Credit of</b><br>\$[* * *] per<br>MOU  | <b>Credit of</b><br>\$[* * *] per<br>MOU  | <b>Credit of</b><br>\$[* * *] per<br>MOU  | <b>Credit of</b><br>\$[* * *] per<br>MOU  | <b>Credit of</b><br>\$[* * *] per<br>MOU   | <b>Credit of</b><br>\$[* * *] per<br>MOU   | <b>Credit of</b><br>\$[* * *] per<br>MOU  | <b>Credit of</b><br>\$[* * *] per<br>MOU   |
| <b>Inbound<br/>Wholesale<br/>Service</b>      | <b>Credit of</b><br>\$[* * *] per<br>MOU  | <b>Credit of</b><br>\$[* * *] per<br>MOU  | <b>Credit of</b><br>\$[* * *] per<br>MOU  | <b>Credit of</b><br>\$[* * *] per<br>MOU  | <b>Credit of</b><br>\$[* * *] per<br>MOU   | <b>Credit of</b><br>\$[* * *] per<br>MOU   | <b>Credit of</b><br>\$[* * *] per<br>MOU  | <b>Credit of</b><br>\$[* * *] per<br>MOU   |

#### Rate Triggers

- (1) **High Outbound IntraMTA Trigger:** The rates and credits for the High Outbound IntraMTA Trigger apply when the ratio of Outbound IntraMTA Service MOUs to Outbound 8YY Service MOUs is equal to or greater than [\* \* \*].
- (2) **Low Outbound IntraMTA Trigger:** The rates and credits for the Low Outbound IntraMTA Trigger apply when the ratio of Outbound IntraMTA Service MOUs to Outbound 8YY Service MOUs is equal to or less than [\* \* \*].

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[\* \* \*] The confidential content of this Exhibit 10.2 has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

- (3) **High Wireline Trigger:** The rates and credits for the High Wireline Trigger apply when the Outbound InterMTA Service MOUs sent to wireline destinations are greater than [ \* \* \* ] of the total Outbound InterMTA Service MOUs.
- (4) **Low Wireline Trigger:** The rates and credits for the Low Wireline Trigger apply when the Outbound InterMTA Service MOUs sent to wireline destinations is less than [ \* \* \* ] of the total Outbound InterMTA Service MOUs.
- (5) **High Rural OCN Trigger:** The rates and credits for the High Rural OCN Trigger apply when more than [ \* \* \* ] of all Outbound InterMTA Service MOUs terminate to Qualified Rural OCNs; *provided, however*, that Outbound InterMTA Service MOUs terminating to the following carriers or their affiliates shall not be deemed to be terminating to a Rural OCN for the purposes of this Rate Adjustment:
- a. [ \* \* \* ];
  - b. [ \* \* \* ];
  - c. [ \* \* \* ];
  - d. [ \* \* \* ];
  - e. [ \* \* \* ]; and
  - f. [ \* \* \* ].
- (6) **High SWBT Traffic Trigger:** The rates and credits for the High SWBT Traffic Trigger apply when the percentage of Inbound Tandem IXC Service MOUs in the SWBT territories of ATT is greater than [ \* \* \* ] of all Inbound Tandem IXC Service MOUs.
- (7) **Low SWBT Traffic Trigger:** The rates and credits for the Low SWBT Traffic Trigger apply when the percentage of Inbound Tandem IXC Service MOUs in the SWBT territories of ATT is less than [ \* \* \* ] of all Inbound Tandem IXC Service MOUs.

#### Rate Calculations and Definitions

- (1) **Standard MOUs:** Any MOU that does not meet one of the following Rate Definitions.
- (2) **Excess Outbound IntraMTA Service MOUs:** The total Outbound IntraMTA Service MOUs in a given month minus [ \* \* \* ] times the total Outbound 8YY Service MOUs in that month.
- (3) **Excess Outbound 8YY Service MOUs:** The total Outbound 8YY Service MOUs in a given month minus [ \* \* \* ] times the total Outbound IntraMTA Service MOUs in that month.
- (4) **Excess Wireline MOUs:** The number of Outbound InterMTA Service MOUs sent to wireline destinations in a given month that are equal to or greater than [ \* \* \* ] of the total Outbound InterMTA Service MOUs for that same month.

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[ \* \* \* ] The confidential content of this Exhibit 10.2 has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions.

- (5) **Excess Wireless MOUs:** The number of Outbound InterMTA Service MOUs sent to wireless destinations in a given month that are equal to or greater than [\* \* \*] of the total Outbound InterMTA Service MOUs for that same month.
- (6) **Excess Rural MOUs:** The number of Outbound InterMTA Service MOUs sent to a Rural OCN in a given month that are equal to or greater than [\* \* \*] of the total Outbound InterMTA Service MOUs during that same month.
- (7) **Excess SWBT MOUs:** The number of Inbound Tandem IXC Service MOUs to the SWBT territories of ATT in a given month that are equal to or greater than [\* \* \*] of all Inbound Tandem IXC Service MOUs for that same month.
- (8) **Excess Non-SWBT MOUs:** The number of Inbound Tandem IXC Service MOUs to the SWBT territories of ATT in a given month that are equal to or less than [\* \* \*] of all Inbound Tandem IXC Service MOUs for that same month.

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# Exhibit B



Timothy M. Boucher  
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Facsimile 303-896-1107

Associate General Counsel

**REDACTED -- FOR PUBLIC INSPECTION**

November 10, 2016

***VIA COURIER***

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**Accepted / Filed**

NOV 10 2016

Federal Communications Commission  
Office of the Secretary

***VIA COURIER & ELECTRONIC MAIL***

Mr. Christopher Killion  
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Chief, Market Disputes Resolution Division  
Enforcement Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**RE: Informal Complaint by CenturyLink Communications, LLC Against  
T-Mobile USA, Inc. and Request for Mediation**

Dear Mr. Killion:

Pursuant to 47 C.F.R. § 1.716, *et seq.*, CenturyLink Communications, LLC (CenturyLink) brings this informal complaint against T-Mobile USA, Inc. (T-Mobile).<sup>1</sup>

CenturyLink believes that confidential mediation may be helpful in resolving this dispute and, therefore, also suggests that the parties schedule an FCC-sponsored mediation as soon as possible.

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<sup>1</sup> Attached hereto is a Confidentiality Appendix wherein CenturyLink provides justification for confidential treatment of certain information included in this submission.

## I. SUMMARY OF COMPLAINT

As described more fully below, T-Mobile is engaging in an unlawful arbitrage scheme by which it refuses to make available direct connections to CenturyLink and other interexchange carriers (IXCs) when they seek to terminate access voice traffic to T-Mobile – and simultaneously forces them to deliver that traffic via the higher-priced, per-minute tandem services of intermediate carriers that, in turn, share their access charge revenue with T-Mobile.

By doing so, T-Mobile denies CenturyLink (and other IXCs) economically efficient and legally mandated interconnection options in order to enrich itself.

The sole purpose of T-Mobile's actions is, in fact, to create a revenue stream for itself. There is no added value of any kind in forcing this type of interconnection. Nor does T-Mobile incur any added cost that would justify the resulting revenue stream that flows to them.

Moreover, T-Mobile is imposing these forced metering charges and added-cost in the wake of the *Transformation Order*<sup>2</sup> where the Commission sought to establish a framework for intercarrier compensation that mandates the elimination of many remaining tariffed terminating carrier access charges – including all remaining end office and tandem switching and transport charges provided by a terminating carrier or its affiliate for traffic terminated to that carrier.

Of course, Commercial Mobile Radio Service (CMRS) providers have historically been precluded from imposing tariffed access charges in the first place – a result left unchanged by the *Transformation Order*.

But, by its unlawful conduct, T-Mobile is now forcing CenturyLink to route traffic in a manner that accomplishes the same thing indirectly for itself that the *Transformation Order* framework expressly sought to eliminate across the industry – i.e. to provide T-Mobile with revenue associated with the switched access functions used to terminate traffic to its end users.

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<sup>2</sup> *In the Matter of Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform - Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd 17663 (2011) (*Transformation Order*) (subsequent regulatory history omitted), *aff'd sub nom.*, *In re: FCC 11-161*, Nos. 11-9900, *et al.*, 753 F.3d 1015 (10th Cir. 2014), *petitions for rehearing en banc denied*, Orders, Aug. 27, 2014, *cert. denied*, 135 S. Ct. 2072, May 4, 2015 (Nos. 14-610, *et al.*).

T-Mobile's conduct violates 47 U.S.C. Sections 332, 201, and 202 as well as Commission rules and precedents.

CenturyLink has attempted to resolve this matter without need of a complaint proceeding, but T-Mobile has rejected CenturyLink's efforts.

Through this complaint, CenturyLink respectfully requests that the Commission:

- (1) Enter a declaratory ruling directing T-Mobile to provide direct connection arrangements in the manner sought by CenturyLink – permitting CenturyLink to use such arrangements for both its retail and wholesale traffic.
- (2) Award CenturyLink damages in an amount to be determined, plus interest and reasonable attorney fees.

## **II. CONDUCT AT ISSUE**

### **A. General Background And High Level Description of Scheme At Issue**

CenturyLink is an IXC that provides a variety of services which necessitate the origination and/or termination of access voice traffic from, or to, a variety of different telecommunications carriers (and ultimately from, or to, the local end user customers of those carriers).

CenturyLink's services include both retail services (where CenturyLink provides long distance service to another carrier's local end user customer) and wholesale services (where CenturyLink agrees to carry a call that was originated by another IXC's retail customer and assumes responsibility for the termination of the call). For call flows arising from its retail services, CenturyLink historically compensates the calling party's local carrier (the originating carrier) via the payment of originating access charges and compensates the called party's local carrier (the terminating carrier) via the payment of terminating access charges.<sup>3</sup> For call flows arising from its wholesale services, CenturyLink historically compensates the called party's local carrier (the terminating carrier) via the payment of terminating access charges.

In both scenarios (retail and wholesale), CenturyLink must ultimately, in order to provide its services and complete phone calls, accomplish a connection to the terminating carrier in order to terminate traffic. And, historically, it does so via a variety of different relationships – depending upon the location of the called party for a given call flow.

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<sup>3</sup> Under the *Transformation Order*, the rates for many of these terminating charges are being reduced to zero over a multi-year transition.



In some locations, CenturyLink may choose to connect to the terminating carrier via an incumbent local exchange carrier (ILEC) tandem or via the tandem of a competing tandem provider. In this instance, the ILEC or competing tandem provider ultimately delivers the call to the terminating carrier and CenturyLink pays the ILEC/competing tandem provider's tandem switching and transport charges as well as the terminating carriers' terminating access charges if applicable (at least so long as the *Transformation Order* permits such charges).

In other locations, CenturyLink chooses to forego the ILEC's intermediate tandem services (and related tandem charges) by establishing its own direct connections with the terminating carrier. Direct connection arrangements typically offer the most efficient, least costly, way to route large volumes of traffic to a terminating carrier. They also provide the terminating carrier the same opportunity to ensure efficient use of its own network, as parties negotiate traffic exchange points and can directly deal with any traffic issues that present themselves.

In still other locations, CenturyLink hands the call to another IXC, with whom CenturyLink enters into a wholesale service arrangement pursuant to which the other IXC terminates the traffic via its own direct connections to the terminating carrier.

The ultimate routing for termination of phone calls arising in either of these retail or wholesale contexts must be dictated by competitive market forces. Otherwise, the correct market signals do not occur and the resulting network costs incurred to terminate traffic rise.

Consistent with these principles, the Commission's rules and precedents are intended to ensure that the determination of which method of termination is used for a given location is driven by network efficiencies and economics – i.e. what method is the most economically efficient. For some locations, CenturyLink may decide to utilize intermediate carrier tandem services and incur the usage-based costs of those tandem services. But, it does so because other options are either not available or are cost-prohibitive. In other locations, it chooses to establish direct connections because the volume of traffic that it terminates to a given carrier warrants the build-out of that direct network connectivity. In other locations, it is most efficient for CenturyLink to make use of the direct connections of other carriers who have invested to enable their existence.

Mirroring these market forces, it is industry practice for terminating carriers to permit termination of call flows via either indirect or direct interconnection.

More recently, however, certain CMRS providers have engaged in arbitrage schemes whereby, when acting as terminating carriers, they refuse to extend direct connection arrangements to CenturyLink or other IXCs and/or they terminate existing direct connection arrangements that they may already have with IXCs.

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By doing so, these CMRS providers force IXC's to terminate all traffic through a single intermediate carrier designated by the CMRS provider. And, when this occurs IXC's are forced to pay the tariffed access rates of these intermediate carriers.

Upon information and belief, these CMRS providers typically also simultaneously enter into agreements with this intermediate carrier designated to terminate their traffic – by which the CMRS provider obtains a revenue share in the access charges imposed by those intermediate carriers on the IXC's for these tandem services.

In other words, by these schemes, CMRS providers seek to unlawfully avoid the intercarrier compensation framework established by the *Transformation Order*. As noted above, the *Transformation Order* mandated the elimination of many of the remaining terminating carrier tariffed access charges by 2018 – including the remaining tandem switching and transport charges provided by a terminating carrier or its affiliate. And, of course, CMRS providers have historically been precluded from imposing tariffed access charges in the first place – a result left unchanged by the *Transformation Order*. By the unlawful scheme described above, CMRS providers accomplish the same thing indirectly. That is, they seek to obtain revenue associated with switched access functions used to terminate traffic to their end users.

#### **B. Specific T-Mobile Conduct At Issue**

This complaint arises because T-Mobile has engaged in this very conduct vis-à-vis CenturyLink.

Beginning in approximately October of 2015, T-Mobile began associating its telephone numbers in industry routing systems – which established how all traffic bound to T-Mobile end users is routed through a specific third party tandem provider. On information and belief, T-Mobile also, beginning approximately at this time, established revenue sharing arrangements with these intermediate carriers whereby it is compensated for all traffic that is routed in this manner. And, beginning approximately at this time, T-Mobile started to gradually eliminate all pre-existing direct connection arrangements with IXC's.

As a result, since that time, CenturyLink has increasingly been unable to terminate traffic bound for T-Mobile end user customers via the connections it previously utilized for doing so – largely, via other IXC's who maintained direct connections with T-Mobile.

When CenturyLink thereafter sought to obtain its own direct interconnection arrangements with T-Mobile that would also have allowed it to avoid these intermediary charges, T-Mobile refused. T-Mobile purported to base its refusal on the fact that CenturyLink would need to deliver both its retail and wholesale traffic via these direct connections. T-Mobile took the position that it would only make direct connection available to CenturyLink for the termination of CenturyLink's retail traffic. It took this position even though, previously, T-Mobile had allowed termination of CenturyLink's wholesale traffic via the direct connections

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of other IXC's, and even though T-Mobile seeks to continue to be able to hand its own wholesale traffic that it originates to CenturyLink over these same direct connections (i.e. reseller and roaming traffic from other carriers that is handed-off by T-Mobile to CenturyLink).

Moreover, as T-Mobile is well aware, it is highly impractical for CenturyLink to separate its retail and wholesale traffic. In order to do so, CenturyLink would have to invest considerable resources in new network routing capabilities. Nor is there any material difference between CenturyLink's retail and wholesale traffic that would warrant T-Mobile's refusal to provide direct connection based on the fact that a carrier may also be terminating wholesale traffic. Indeed, it is customary in the industry for terminating carriers to permit direct connection arrangements to be used for the purpose of terminating an IXC's retail and wholesale traffic. And to do so is, of course, consistent with the overall policies that have always driven the Commission's historical interconnection rules under Sections 201 and 251 – where traffic is not normally separated and where there is not normally a distinct cost structure for terminating wholesale versus retail traffic.

In other words, T-Mobile's refusal to permit CenturyLink to establish direct connections unless it agreed to limit their use to retail traffic is, on its face, pure pretext. Along these lines, it is noteworthy that, even with its arbitrage scheme, this same un-segregated mix of retail and wholesale traffic is still delivered to T-Mobile at the end of the day – it is just sent via the forced metering arrangements of T-Mobile's tandem partner.

It is also customary in the industry for terminating carriers of different types to permit direct connection arrangements.

And, on information and belief, T-Mobile continues to make direct connection arrangements available to certain carriers, though it may limit such arrangements to a connecting carrier's retail traffic.

Thus, T-Mobile's refusal to make available direct connections to CenturyLink and other IXC's while simultaneously forcing the delivery of their traffic via intermediate carriers that, in turn, share the access charge revenue with T-Mobile, constitutes an unlawful arbitrage scheme.

By doing so, T-Mobile denies CenturyLink (and other IXC's) economically efficient and legally mandated interconnection options in order to enrich itself.

The sole purpose of T-Mobile's actions is to, in fact, create a revenue stream for itself. There is no added value of any kind in forcing this type of interconnection. Nor does T-Mobile incur any added cost that would justify the resulting revenue stream that flows to it.

### **III. RESULTING DAMAGES TO CENTURYLINK**

As a result, among other damages, CenturyLink has been forced to incur greater expenses in terminating its traffic to T-Mobile than it would otherwise incur. CenturyLink estimates that the difference in expense resulting from its inability to terminate traffic bound for T-Mobile end user customers via the industry connections it previously utilized is on an order of magnitude of [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] dollars per year.

### **IV. CLAIMS**

T-Mobile's conduct violates 47 U.S.C. Sections 332, 201, and 202 of the Communications Act, as amended, as well as Commission rules and precedents.

#### **A. Section 332 Provides That T-Mobile, In Its Conduct Regarding Connecting Carriers, Is A Common Carrier Subject To Sections 201 and 202**

Section 332(c)(1)(A) provides that T-Mobile, as a CMRS provider, is a common carrier subject to the obligations of Sections 201 and 202.<sup>4</sup> And, as the Commission has recognized, these obligations govern T-Mobile's conduct with regard to carriers that seek interconnection for the purpose of originating or terminating traffic bound from, or to, T-Mobile end users.<sup>5</sup>

#### **B. T-Mobile's Conduct Violates Section 201 Of The Communications Act**

Section 201(b) of the Communications Act requires that "[a]ll charges, practices, classifications, and regulations for and in connection with [interstate] communication service, shall be just and reasonable[.]"<sup>6</sup>

T-Mobile's refusal to make available direct connections to CenturyLink and other IXCs while simultaneously forcing delivery of that traffic via intermediate carriers that engage in revenue sharing with T-Mobile violates Section 201(b) of the Communications Act and the Commission's Orders and rules. As discussed above, direct connections avoid the need to incur any tandem switching or per-minute tandem switched transport costs. T-Mobile has refused to provide a direct connection to CenturyLink and has simultaneously prevented CenturyLink from being able to utilize the direct connections of other IXCs to terminate its traffic bound for T-Mobile end user customers. This forces CenturyLink to deliver large volumes of traffic to

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<sup>4</sup> 47 U.S.C. § 332(c)(1)(A).

<sup>5</sup> *In the Matter of Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services*, CC Docket No. 94-54, 10 FCC Rcd 10666, 10681-88 ¶¶ 28-44 (1995) (hereafter "CMRS Interconnection Order").

<sup>6</sup> 47 U.S.C. § 201.

other intermediary carriers and to incur the associated costs for tandem switching and per minute tandem switched transport for those carriers' services. CenturyLink estimates that a direct connection arrangement would have significantly reduced CenturyLink's costs for delivering traffic bound to T-Mobile end user customers. T-Mobile's conduct denies CenturyLink this type of arrangement, which is customary in the industry, in order to inflate its own revenues. And, in doing so, it seeks to obtain indirectly what the intercarrier compensation framework established by the *Transformation Order* prohibits – the ability of a terminating carrier to impose charges for tandem switching and transport that it or its affiliates provide.<sup>7</sup> T-Mobile's conduct is, thus, an unreasonable practice in violation of Section 201(b).

T-Mobile's conduct also violates Section 201(a). Section 201(a) states that: "It shall be the duty of every common carrier ... to furnish ... communication service upon reasonable request therefore ... and ... in cases where the Commission, after opportunity for hearing, finds such action necessary or desirable in the public interest, to establish physical connections with other carriers, to establish through routes and charges applicable thereto and the divisions of such charges, and to establish and provide facilities and regulations for operating such through routes."<sup>8</sup>

T-Mobile's conduct also constitutes a refusal of communication service reasonably requested by CenturyLink in violation of Section 201(a). In addition, or in the alternative, the Commission should order that T-Mobile be required to establish the direct connection arrangements sought by CenturyLink pursuant to Section 201(a).

As a direct and proximate result of T-Mobile's violations of Sections 201(b) and 201(a) of the Communications Act described above, CenturyLink is being unjustly and unreasonably billed for unnecessary high-priced tandem transport arrangements.

### **C. T-Mobile's Conduct Also Violates Section 202**

Section 202(a) of the Act prohibits any unjust or unreasonable discrimination in charges, practices, etc.<sup>9</sup>

T-Mobile's refusal to make available direct connections to CenturyLink and other IXC's under the circumstances described above also violates Section 202(a). As noted above, on information and belief, T-Mobile continues to make direct connection arrangements available to certain carriers, though it may limit such arrangements to a connecting carrier's retail traffic. Regardless of whether T-Mobile so limits its offerings, T-Mobile's conduct constitutes unreasonable discrimination pursuant to Section 202(a). There is no material distinction between

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<sup>7</sup> *Transformation Order*; 47 U.S.C. §§ 332, 201 and 202.

<sup>8</sup> 47 U.S.C. § 201.

<sup>9</sup> 47 U.S.C. § 202.

the types of carriers that T-Mobile permits to utilize direct connection arrangements and those, like CenturyLink, to whom it denies direct interconnection that would justify its different treatment for different carriers. Nor is its discrimination justified based upon the types of traffic that relevant carriers terminate to T-Mobile.

As a direct and proximate result of T-Mobile's violations of Section 202(a) described above, CenturyLink is being unjustly and unreasonably billed for unnecessary high-priced tandem transport arrangements.

**D. The CMRS Interconnection Order Makes Clear That  
T-Mobile's Conduct Is Unlawful**

That T-Mobile's conduct violates these statutory provisions as well as the Commission's rules and associated precedents is made unequivocally clear by reference to the Commission's *CMRS Interconnection Order* itself.

In the *CMRS Interconnection Order*, the Commission, while choosing to not establish specific new interconnection standards for CMRS providers, provided critical guidance about how the Commission would view CMRS conduct in this area. That guidance fully supports this complaint.

To begin with, the Commission confirmed that "CMRS providers from whom interconnection is sought ... are common carriers subject to the basic commands of Sections 201 and 202 of the Communications Act."<sup>10</sup> It stressed in particular, that this included obligations by CMRS providers to comply with Section 201(b)'s prohibition against unreasonable practices, with Section 201(a)'s obligations to furnish communications service upon reasonable request and to "establish physical connections with other carriers" as are deemed "necessary or desirable in the public interest," and with Section 202(a)'s prohibition against unreasonable discrimination.<sup>11</sup>

The *CMRS Interconnection Order* also made clear that the Commission would stand ready to intervene to address potential problems in this area via the Section 208 complaint process and that the overarching policy at stake in such a proceeding would be to ensure "efficient interconnection" that will "serve the public interest by promoting the efficient provision of service to consumers at reasonable prices and by fostering competition."<sup>12</sup>

Finally, in a particularly prescient discussion, the Commission, in the *CMRS Interconnection Order*, essentially prejudged as unlawful conduct analogous to T-Mobile's

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<sup>10</sup> *CMRS Interconnection Order*, 10 FCC Rcd at 10685 ¶ 38.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*, at 10686-87 ¶¶ 40-41.

conduct here – where a CMRS provider might deny direct interconnection for the purpose of forcing other carriers to route traffic to affiliated (LEC) entities. In pertinent part, it stated:

We reiterate that the Commission stands ready to intercede in the event a CMRS provider refuses a reasonable request to interconnect. We will be particularly vigilant in policing, where they exist, any efforts by CMRS providers to deny interconnection in order to gain an unfair competitive advantage. For example, we would find LEC investment in, and affiliation with, the party denying interconnection an important factor in assessing whether such denial was motivated by an anticompetitive animus. Unlike independent CMRS carriers, LEC-affiliated CMRS carriers may have a unique incentive to deny interconnection so as to keep CMRS-to-CMRS traffic interconnected through the local exchange landline network, and to continue to collect CMRS interconnection charges from both sets of CMRS providers through their access charge structure. Such LEC ownership interests may play an important role in assessing whether a denial of interconnection is a reasonable business decision or a form of anticompetitive conduct intended to raise rivals' costs of doing business and hence hinder competition.<sup>13</sup>

T-Mobile accomplishes this very same thing when it forces the traffic at issue here to be interconnected through the tandem services of entities with whom T-Mobile has an affiliation in the form of a revenue sharing agreement.

#### **V. RELIEF REQUESTED**

As explained above, T-Mobile's conduct violates Sections 332, 201, and 202 of the Communications Act, Commission precedent and Commission policy. Accordingly, the Commission should find that T-Mobile's conduct is unreasonable and unlawful.

Complainant CenturyLink respectfully requests that the Commission:

(1) Enter a declaratory ruling directing T-Mobile to provide direct connection arrangements in the manner sought by CenturyLink – permitting CenturyLink to use such arrangements for both its retail and wholesale traffic.

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<sup>13</sup> *Id.*, at 10687-88 ¶ 43.

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November 10, 2016  
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(2) Award CenturyLink damages in an amount to be determined, plus interest and reasonable attorney fees.

Sincerely,

/s/ Timothy M. Boucher

cc: Dan Williams, Esq., Counsel for T-Mobile  
(via electronic mail at Dan.Williams@T-Mobile.com)

Corporation Services Com, DC Service Agent for T-Mobile  
(via U.S. Mail and electronic mail at info@cscinfo.com)

**REDACTED -- FOR PUBLIC INSPECTION**



**REDACTED -- FOR PUBLIC INSPECTION**

**CONFIDENTIALITY APPENDIX**

47 C.F.R. § 0.457

Information included with the Informal Complaint and Request for Mediation of CenturyLink Communications, LLC (CenturyLink) against T-Mobile USA, Inc., as filed on November 10, 2016, is entitled to confidential treatment under 47 C.F.R. § 0.457.<sup>1</sup>

The type of confidential information being submitted includes a numerical expense estimation relating to CenturyLink's inability to terminate traffic bound for T-Mobile end user customers via industry connections it previously utilized. This information is sensitive commercial and financial information regarding CenturyLink's business operations and service offerings that is not accessible via publicly available sources. This confidential proprietary commercial and financial information also is not routinely available from CenturyLink,<sup>2</sup> nor is it available for public inspection from the Commission and thus is protected from public availability under 47 C.F.R. § 0.457(d).

47 C.F.R. § 0.459

CenturyLink also considers the confidential information submitted with its Informal Complaint and Request for Mediation as protected from public disclosure pursuant to 47 C.F.R. § 0.459(b)<sup>3</sup> as described as follows.

Information for which confidential treatment is sought

CenturyLink seeks confidential treatment for information included with its November 10, 2016 Informal Complaint and Request for Mediation, which is highly sensitive commercial and financial information regarding CenturyLink's business operations and service offerings that is protected from public disclosure and availability.

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<sup>1</sup> 47 C.F.R. § 0.457.

<sup>2</sup> CenturyLink is also filing with the Office of the Secretary on November 10, 2016 a redacted version of its Informal Complaint and Request for Mediation, which includes the same text except for the confidentiality markings on each page and the omission of the confidential information. CenturyLink is providing a copy of the redacted version of its Informal Complaint and Request for Mediation on November 10, 2016 to counsel for T-Mobile and its Washington, D.C. agent for service of process, as indicated on the last page of the Informal Complaint.

<sup>3</sup> 47 C.F.R. § 0.459(b).

Commission proceeding in which the information was submitted

The Informal Complaint and Request for Mediation is being filed with the Office of the Secretary of the FCC and with the Market Disputes Resolution Division of the Enforcement Bureau of the FCC. A File Number is not yet assigned to the Informal Complaint and Request for Mediation being filed by CenturyLink on November 10, 2016.

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

The confidential information included with CenturyLink's Informal Complaint and Request for Mediation that it considers commercially and financially sensitive and proprietary includes a numerical expense estimation relating to CenturyLink's inability to terminate traffic bound for T-Mobile end user customers via industry connections it previously utilized.

This information is highly sensitive commercial and financial information regarding CenturyLink's business operations and service offerings that is not accessible via publicly available sources. This confidential proprietary commercial and financial information also is not routinely available from CenturyLink nor is it available for public inspection from the Commission and thus is protected from public availability under 47 C.F.R. § 0.457(d).

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

The type of confidential information included with CenturyLink's Informal Complaint and Request for Mediation would generally not be subject to routine public inspection under the Commission's rules (47 C.F.R. § 0.457(d)), demonstrating that the Commission already anticipates that its release likely would produce competitive harm. The telecommunications services CenturyLink provides – including the interexchange services that are the subject of this Informal Complaint – are all competitive. The release of this confidential proprietary information would cause competitive harm by allowing competitors to become aware of sensitive commercial and financial information regarding CenturyLink's business and internal operations, and the competitive markets in which CenturyLink operates.

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

CenturyLink has treated and treats the sensitive commercial and financial information disclosed in its Informal Complaint and Request for Mediation as confidential, and has protected it from public disclosure.

**REDACTED -- FOR PUBLIC INSPECTION**

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

At this time, CenturyLink cannot determine any date on which the sensitive commercial and financial information included with its submission should not be considered confidential.

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

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

**REDACTED -- FOR PUBLIC INSPECTION**