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EX PARTE NOTICE

December 3, 2014

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: *Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; High-Cost Universal Service Support, WC Docket No. 05-337; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Petition of CenturyLink for Forbearance Pursuant to 47 U.S.C. § 160(c) from Dominant Carrier and Certain Computer Inquiry Requirements on Enterprise Broadband Services, WC Docket No. 14-9*

Dear Ms. Dortch:

On December 1, 2014, Melissa Newman and I met on behalf of CenturyLink with Priscilla Argeris, Legal Advisor to Commissioner Rosenworcel, and Nick Degani, Legal Advisor to Commissioner Pai. On December 2, 2014, we met with Rebekah Goodheart, Legal Advisor to Commissioner Clyburn, and Amy Bender, Legal Advisor to Commissioner O’Rielly. In all four meetings, we discussed the draft Order regarding the Connect America Fund that is on the tentative agenda for the Commission’s next open meeting scheduled for Thursday, December 11, 2014. In addition, we discussed CenturyLink’s forbearance petition with Priscilla Argeris, Legal Advisor to Commissioner Rosenworcel.

Rural America needs broadband, and rural broadband needs the Second Phase of the Connect America Fund (CAF II) as 80% of all unserved households live in price-cap areas—this is where the digital divide is found. The scale and scope of the CAF II project is unprecedented; it is many times larger than were the BIP & BTOP (Stimulus programs) combined, and the CAF II eligible Census Blocks cover 18% of the land mass of the United States. The CAF II program has the potential to bring access to broadband to over 4 million rural American households, which explains why there is broad public support for the changes to CAF II advocated by CenturyLink and other price-cap carriers. This support is evidenced by over 300 letters to the Commission, with 110 from Congress.

CenturyLink recognizes that it may be appropriate to increase the CAF II obligation to 10 Mbps downstream, but only if the Commission also adopts commensurate changes in the construction period, after-tax funding, and deployment flexibility to meet the increased cost associated with the increased speed. Based on the information currently available to it,

CenturyLink estimates that it will cost between \$5 billion and \$6 billion in incremental capital expenditure alone to provide 10 Mbps to the required number of CAF II households in its service areas. This is vastly more than the CAF II funding that would be made available over even 7 years of support, and it does not include any provision for operating expense or replacement capital expenditure in these sparsely-populated, high-cost areas. Accordingly, it is likely that CenturyLink would find that it could accept such statewide offers of support in some states but not in others.

CenturyLink also discussed the consequences where CAF II funding is distributed through auctions rather than statewide offers of support. There will be considerable delays in broadband deployment as it will take many months to adopt rules, conduct auctions, and issue certifications before construction can begin. In addition, by their nature, auctions will lead to “cherry picking” by providers, leaving many areas behind without any CAF II provider. We also observed that, although all CAF II-eligible Census Blocks were made available for Rural Experiments, just 10% received bids and only 5% of CAF II funding was sought, indicating that bidding was concentrated in the relatively least-costly CAF II areas.

It is vital that CAF II recipients have the opportunity, but not the obligation, to treat CAF II support as contributions to capital for tax purposes (under Section 118 of the tax code). Providers that pay income taxes will have to devote at the outset approximately 40% of CAF II funding to cover tax liabilities, which will reduce their ability to accept funding and deploy broadband. Importantly, the requested capital contribution opportunity will not affect the opportunity other CAF II recipients may have to select the appropriate GAAP treatment of CAF II funds, contrary to some arguments in the record. We also noted that taxes would be paid in full under either approach, the issue is one of the appropriate timing.

Finally, we reiterated that ETC obligations must be matched with support for all providers. CAF II recipients cannot meet their obligations in CAF II supported areas if they are required to carry extra burdens there or anywhere else.

With respect to the discussion of CenturyLink’s forbearance petition with Ms Argeris, we explained that petition affords the Commission the opportunity to promote competition and remedy a regulatory injustice that has harmed, and continues to harm, American consumers. CenturyLink is the only significant provider of enterprise broadband services that remains subject to tariffing and the Computer Inquiry requirements. The continued application of these dominant-carrier regulations, which do not apply to other incumbent local exchange carriers in the enterprise broadband marketplace, incumbent cable providers, large competitive fiber providers, and others, prevents CenturyLink from offering would-be customers the rates and terms they demand.

Ms. Marlene H. Dortch
December 3, 2014

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Pursuant to Section 1.1206(b) of the Commission's rules, a copy of this notice is being filed in the above-referenced dockets. Please contact me if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey D. Lanzetta". The signature is written in a cursive style with a large, stylized initial "J".

Copies via email to:

Priscilla Argeris
Amy Bender
Nick Degani
Rebekah Goodheart