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VIA ECFS

December 29, 2014

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

Attn: Wireline Competition Bureau
Competition Policy Division

Re: EX PARTE – In the Matter of Section 63.71 Application of CenturyLink, Inc. f/k/a CenturyTel, Inc. For Authority Pursuant to Section 214 of the Communications Act, As Amended, to Discontinue the Provision of Service, WC Docket No. 14-169, Comp. Pol. File No. 1169

Dear Ms. Dortch:

In this letter, CenturyLink, Inc. f/k/a CenturyTel, Inc. (CenturyLink) responds to MH Telecom's ex parte submission, dated December 22, 2014, in the above-captioned proceeding.¹ Nothing in that submission should cause the Commission to hesitate to allow CenturyLink's Application to be automatically granted, pursuant to the terms of its October 31, 2014 Public Notice.²

In its latest filing, MH Telecom continues its misguided argument that CenturyLink's Application somehow applies to the DSL aggregation services it purchases from CenturyLink. It

¹ See Letter from John Dunbar, MH Telecom, to Marlene H. Dortch, FCC, WC Docket No. 14-169, Comp. Pol. File No. 1169 (dated Dec. 22, 2014) (December 22 Ex Parte).

² See *In the Matter of Section 63.71 Application of CenturyLink, Inc. f/k/a CenturyTel, Inc. For Authority Pursuant to Section 214 of the Communications Act of 1934, As Amended, to Discontinue the Provision of Service*, Section 63.71 Application, WC Docket No. 14-169 (filed Aug. 26, 2014) (Application); *In the Matter of Section 63.71 Application of CenturyLink, Inc. f/k/a CenturyTel, Inc. for Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended to Discontinue the Provision of Telecommunications Services*, Public Notice, WC Docket No. 14-169 (Oct. 31, 2014) (Public Notice).

does not. As noted in the Public Notice, CenturyLink’s Application seeks to discontinue certain “domestic telecommunications services” offered in Wisconsin and 24 other states—specifically its CenturyTel Frame Relay and CenturyTel ATM services.³ MH Telecom does not subscribe to either of these telecommunications services. Instead, and as it acknowledges, MH Telecom purchases CenturyLink’s ATM-based aggregation service,⁴ which is provided to ISPs such as MH Telecom on a private carriage basis outside the scope of Title II, including Section 214’s discontinuance requirements.⁵

MH Telecom appears to argue that because CenturyLink happened to be upgrading its DSL aggregation services around the same time it was discontinuing its CenturyTel ATM service in the Platteville market, and both used ATM technology, CenturyLink’s Application applies to both. While such confusion may be understandable, the DSL aggregation services purchased by MH Telecom are simply not covered by the Application.

The Commission’s recent clarification in the *Section 214 Declaratory Ruling* does not change that fact. In that ruling, the Commission stated that it “looks beyond the terms of a carrier’s tariff, and instead . . . applies a functional test that takes into account the totality of the circumstances from the perspective of the relevant community or part of a community, when analyzing whether a service is discontinued, reduced, or impaired under section 214.”⁶ Here, there is no question that CenturyLink is discontinuing its CenturyTel Frame Relay and ATM services, which is why it filed the Application after providing notice of the proposed discontinuance to the subscribers of those services, as required by the Commission’s rules.

Because MH Telecom is not a subscriber of those services, it did not receive that notice. But, as it acknowledges, MH Telecom separately received approximately 45 days’ notice that CenturyLink would be ceasing, as of December 15, 2014, to provide the DSL aggregation services purchased by MH Telecom.⁷ On November 13, 2014, MH Telecom filed comments on CenturyLink’s Application, in particular asking the Commission to direct CenturyLink to allow MH Telecom until March 1, 2015 to transition its end user customers, “to allow a fair and proper time for end user customers an opportunity to evaluate their provider options and implement a

³ Public Notice at 1.

⁴ December 22 Ex Parte at 1.

⁵ See Reply of CenturyLink at 2.

⁶ *In the Matter of Ensuring Customer Premises Equipment Backup Power for Continuity of Communications; Technology Transitions; Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers; Special Access for Price Cap Local Exchange Carriers; AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, Notice of Proposed Rulemaking and Declaratory Ruling, PS Docket No. 14-174, GN Docket No. 13-5, RM-11358, WC Docket No. 05-25, RM-10593, FCC 14-185, ¶ 117 (rel. Nov. 25, 2014); Erratum (Dec. 17, 2014).

⁷ December 22 Ex Parte at 2.

smooth transition to a new service provider.”⁸ On November 20, CenturyLink agreed to the extra time requested by MH Telecom.⁹ MH Telecom now unreasonably complains that the extra time came too late, because, just a day after it filed its comments asking for that extra time, it notified its end users of a December 15, 2014 cutoff. CenturyLink regrets any inconvenience to MH Telecom or its end users caused by the upgrading of CenturyLink’s DSL aggregation services, which is why it agreed to the extra transitional time requested by MH Telecom. While CenturyLink cannot force MH Telecom to use that extra time, it also cannot reasonably be blamed for MH Telecom’s decision not to do so.

In any case, none of MH Telecom’s allegations or complaints provides a legitimate basis to suspend automatic grant of the Application or initiate an “investigation,” as MH Telecom requests.¹⁰ In short, there is nothing to investigate. None of the subscribers of CenturyTel Frame Relay or CenturyTel ATM services has objected to CenturyLink’s proposed grandfathering and discontinuance of those services.

Additionally, as explained in the Application, discontinuance of those services is warranted and in the public interest, as part of CenturyLink’s initiative to transition customers to more current and capable technologies. ATM services typically are decommissioned as the current generation of more capable and cost-effective Ethernet services are deployed. CenturyLink is not in an economic position to maintain both technologies side by side in most central offices. Consequently, delaying discontinuance of these obsolete services would mean delaying Ethernet availability in those smaller and more rural communities where it has not yet been deployed, including Mt. Horeb, Wisconsin. It is worth noting, too, that the broadest possible availability of commercial Ethernet services is essential to meeting the Commission’s connectivity goals for schools and libraries. And because of the annual E-rate procurement calendar, even a short delay could mean some rural school and library districts may lose the opportunity to purchase fiber-based Ethernet service for another year or more.

We understand MH Telecom’s frustration and regret that improving technology may cause it and some of its end users inconvenience. However, for all the reasons outlined here, the Commission should permit the Application to be automatically granted as of December 31, 2014, pursuant to the terms of the Public Notice.

⁸ Comments of MH Telecom at 2, WC Docket No. 14-169 (Nov. 13, 2014). *See also* Reply of CenturyLink at 2-3.

⁹ *See* December 22 Ex Parte at 2.

¹⁰ *See* December 22 Ex Parte at 4.

Ms. Marlene H. Dortch

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Please contact me or Jeb Benedict ((202) 429-3114) if there are any additional questions about this matter.

Sincerely,

/s/ Craig J. Brown

Copy (via email) to:

Kimberly Jackson (Kimberly.Jackson@fcc.gov)

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John Dunbar (John.Dunbar@mhtcinc.com)