

March 2, 2015

**VIA ECFS**

***NOTICE OF EX PARTE***

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW, Room TW-A325  
Washington, DC 20554

**Re: *CenturyLink's Petition for Forbearance Pursuant to 47 U.S.C. § 160(c) from Dominant Carrier and Computer Inquiry Tariffing Requirements on Enterprise Broadband Services, WC Dkt. No. 14-9; Special Access for Price Cap Local Exchange Carriers, WC Dkt. No. 05-25***

Dear Ms. Dortch:

On Friday, February 27, 2015, the undersigned, representing Level 3 Communications, LLC, Integra Telecom, Inc., and Birch Communications, Inc. (collectively, the "Joint Commenters"), spoke via telephone with Julie Veach, Chief of the Wireline Competition Bureau, regarding the above-referenced proceedings.

We urged the Commission to apply the traditional market power framework employed in the *Phoenix Order*<sup>1</sup> to CenturyLink's pending forbearance petition and to deny the petition.<sup>2</sup> We further explained that even if the Commission were to grant the petition, such an outcome should not affect the ongoing special access rulemaking proceeding. For example, a grant of CenturyLink's forbearance petition should not preclude the Commission from employing a market power analysis in the special

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<sup>1</sup> *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Phoenix, Arizona Metropolitan Statistical Area*, Memorandum Opinion and Order, 25 FCC Rcd. 8622 (2010).

<sup>2</sup> See Opposition of tw telecom, Level 3, Integra, EarthLink and Cbeyond to CenturyLink's Forbearance Petition, WC Dkt. No. 14-9 (filed Feb. 14, 2014); Letter from Thomas Jones, Counsel for tw telecom inc., Level 3 Communications, LLC, Integra Telecom, Inc., and Cbeyond Communications, LLC, to Marlene H. Dortch, Secretary, FCC, WC Dkt. No. 14-9 (filed Aug. 20, 2014); Letter from Thomas Jones, Counsel for Level 3 Communications, LLC, Integra Telecom, Inc., and Birch Communications, Inc., to Marlene H. Dortch, Secretary, FCC, WC Dkt. No. 14-9 (filed Jan. 30, 2015).

access rulemaking or from reversing the forbearance granted in the *Enterprise Broadband Forbearance Orders*.<sup>3</sup>

Finally, we pointed out that while CenturyLink asserts in its February 18, 2015 *ex parte* letter in WC Dkt. No. 14-9 that the Joint Commenters “misstate[d] CenturyLink’s market position by conflating ‘physical addresses’ with ‘buildings,’”<sup>4</sup> the Joint Commenters did no such thing. In fact, when CenturyLink submitted the data cited by the Joint Commenters, CenturyLink expressly stated that “Attachment 11.B identifies the number of *commercial buildings* in each exchange covered by CenturyLink’s Petition to which the company provides . . . the following defined services,” and that “[i]n an effort to identify unique *buildings*, CenturyLink geocoded the addresses to which these services are offered and eliminated those with duplicate coordinates.”<sup>5</sup>

Please do not hesitate to contact the undersigned if you have any questions regarding this submission.

Respectfully submitted,

/s/ Thomas Jones

Thomas Jones

Nirali Patel

*Counsel for Level 3 Communications, LLC,  
Integra Telecom, Inc., and Birch Communications, Inc.*

cc (via email): Julie Veach

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<sup>3</sup> *Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Its Broadband Services; Petition of BellSouth Corporation for Forbearance Under Section 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Its Broadband Services*, Memorandum Opinion and Order, 22 FCC Rcd. 18705 (2007); *Petition of the Embarq Local Operating Companies for Forbearance Under 47 U.S.C. § 160(c) from Application of Computer Inquiry and Certain Title II Common-Carriage Requirements, et al.*, Memorandum Opinion and Order, 22 FCC Rcd. 19478 (2007); *Qwest Petition for Forbearance Under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Broadband Services*, Memorandum Opinion and Order, 23 FCC Rcd. 12260 (2008).

<sup>4</sup> Letter from Russell P. Hanser, Counsel for CenturyLink, Inc., to Marlene H. Dortch, Secretary, FCC, WC Dkt. No. 14-9, at 3 (filed Feb. 18, 2015); *see also id.* at 4.

<sup>5</sup> Letter from Craig J. Brown, Senior Associate General Counsel, CenturyLink, to Marlene H. Dortch, Secretary, FCC, WC Dkt. No. 14-9, at 2 (filed Nov. 5, 2014) (emphasis added); *see also id.*, Attachment 11.B (listing “*Commercial Buildings with Defined Business Services*”) (emphasis added).