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**REDACTED – FOR PUBLIC INSPECTION**

**VIA ECFS**

EX PARTE

July 28, 2015

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

Re: *In the Matter of Rates for Interstate Inmate Calling Service*, WC Docket No.  
12-375

Dear Ms. Dortch:

This letter is being submitted pursuant to Section 1.1206(b) of the Commission's rules and the Protective Order adopted by the Bureau on December 19, 2013. A redacted copy of this submission has been submitted via ECFS.

Some parties in this proceeding have proposed that the Commission cap rates for inmate calls from prisons at rates as low as \$0.08 per minute, while proposing a substantially higher cap for inmate calls from jails.<sup>1</sup> Such a low rate cap for inmate calls from prisons would be grossly unrealistic in light of the costs of providing these services. It would make provision of inmate calling services (ICS) at prisons uneconomic and put at risk the ready availability of ICS for prison inmates and their families.

An \$0.08 per minute rate would be significantly below CenturyLink's costs of providing service at the vast majority of the prisons it serves, even ignoring the legitimate expectations of correctional institutions for commissions or administrative cost recovery. Based on the 2014

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<sup>1</sup> See, e.g., Ex parte letter of Marcus W. Trathen, Counsel to Pay Tel Communications, Inc., to Marlene H. Dortch, WC Docket No. 12-375 (Jul. 15, 2015); Ex parte letter of Darrell A. Baker, Alabama Public Service Commission, to Marlene H. Dortch, WC Docket No. 12-375 (Jul. 12, 2015).

data summarized in CenturyLink's submission in response to the Commission's Mandatory Data Collection, CenturyLink's cost of service for calls at the prisons it served ranged from **[Begin Confidential** [REDACTED] **End Confidential]** depending on call type, excluding site commissions. The range of CenturyLink's per minute costs at prisons for collect, prepaid and debit calls for 2014 were as follows:

**[Begin Confidential**

<u>2014 per-minute costs</u>			
	<u>Collect</u>	<u>Prepaid</u>	<u>Debit</u>
<u>Prisons</u>			
Minimum cost	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Maximum cost	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

**End Confidential]**

If the Commission is to attempt to cap ICS rates, it must reflect real-world costs and allow sufficient headroom to ensure that facilities are economic to serve. Based on CenturyLink's cost data and allowing facilities the option of a reasonable site commission, CenturyLink believes that the record shows ICS rate caps for prisons would need to be at or near the level of the current interstate rate caps.

Pursuant to the Commission's Protective Order in WC Docket No. 12-375, CenturyLink is designating certain information contained herein as Confidential and thus requests that it not be made available for public inspection (an Appendix is attached for this purpose, which also provides justification for such treatment pursuant to 47 C.F.R. §§ 0.457 and 0.459). Also pursuant to the Protective Order, the non-redacted version of this ex parte letter is marked as follows: "**CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER IN WC DOCKET NO. 12-375 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION**". In accordance with paragraph 4 of the Protective Order, a copy of this ex parte letter is being transmitted to Lynne Engledow of the Wireline Competition Bureau.

Pursuant to the FCC's Instructions and consistent with paragraph 4 of the Protective Order, a redacted version of this ex parte letter, with the confidential information omitted, is being filed in WC Docket No. 12-375 via the Commission's Electronic Comment Filing System. As required, the redacted version of this ex parte letter is marked as follows: "**REDACTED – FOR PUBLIC INSPECTION**", with only the confidentiality and filing method annotations modified.

**REDACTED – FOR PUBLIC INSPECTION**

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Please contact the undersigned with any questions.

Sincerely,

/s/ Thomas M. Dethlefs

Copy via email to:

Lynne Engledow  
Rhonda Lien  
David Zesiger  
Thomas Parisi  
Rebekah Goodheart

**REDACTED – FOR PUBLIC INSPECTION**

## APPENDIX

### Confidentiality Request and Justification

#### 47 C.F.R. § 0.457

The information included with CenturyLink's July 28, 2015 ex parte notice is entitled to confidential treatment under 47 C.F.R. § 0.457 as well as under the Protective Order in WC Docket No. 12-375.<sup>2</sup> The information includes data on the per-minute costs of service (2014) for collect, prepaid and debit card calls made at the prisons CenturyLink serves. This information is the type of confidential and proprietary commercial and financial information that is protected from public disclosure under the Commission's FOIA implementing rules<sup>3</sup> and thus is also protected from public inspection under 47 C.F.R. § 0.457(d).

#### 47 C.F.R. § 0.459

CenturyLink also considers the confidential information submitted with its July 28, 2015 ex parte notice in WC Docket No. 12-375 as protected from public disclosure and inspection pursuant to 47 C.F.R. § 0.459(b) as described as follows.

#### Information for which confidential treatment is sought

CenturyLink seeks confidential treatment for information in its ex parte notice because it is confidential and proprietary commercial and financial information that is entitled to protection from public disclosure and availability. As such, this information is marked "**CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER IN WC DOCKET NO. 12-375 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION**".

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<sup>2</sup> 28 FCC Rcd 16954 ¶ 2 (Dec. 19, 2013). This type of information was similarly filed as confidential in 2014 pursuant to the Commission's Report and Order of September 26, 2013 in WC Docket No. 12-375, in accordance with the Public Notice of June 17, 2014 and the Commission's associated Instructions for the Mandatory Data Collection. *In the Matter of Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 14107 (Sept. 26, 2013), *appeals pending sub nom.*, *Securus Technologies, Inc. v. FCC*, No. 13-1280 (D.C. Cir., pet. for rev. filed Nov. 14, 2013, with Order granting motion to hold in abeyance, Dec. 16, 2014); Public Notice, 29 FCC Rcd 7326 (June 17, 2014); FCC Instructions for Inmate Calling Services Mandatory Data Collection.

<sup>3</sup> 47 C.F.R. §§ 0.457, 0.459; *see also* 5. U.S.C. § 552.

Commission proceeding in which the information was submitted

The information is being submitted with CenturyLink's July 28, 2015 ex parte notice in WC Docket No. 12-375, *In the Matter of Rates for Interstate Inmate Calling Services*.

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

The information that CenturyLink considers proprietary and confidential includes data on the per-minute costs of service (2014) for collect, prepaid and debit card calls made at the prisons CenturyLink serves. This confidential and proprietary commercial and financial information is not routinely available for public disclosure from CenturyLink and thus is protected from public availability and inspection 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 in CenturyLink's ex parte notice 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 types of services that CenturyLink provides, including inmate calling services, are competitive. The release of this confidential information would cause competitive harm by allowing competitors to become aware of sensitive financial and commercial information regarding CenturyLink's business and internal operations in the inmate calling services market.

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 confidential information disclosed in CenturyLink's ex parte notice as confidential, and has protected the information from public disclosure.

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 confidential information included with the ex parte notice should not be considered confidential or become stale for purposes of the current matter, except that it will be handled in conformity with CenturyLink's general records retention policy, absent any continuing legal hold.

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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**