

COVINGTON

BEIJING BRUSSELS LONDON LOS ANGELES
NEW YORK SAN FRANCISCO SEOUL
SHANGHAI SILICON VALLEY WASHINGTON

Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956
T +1 202 662 6000

October 9, 2015

BY ECFS

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

REDACTED FOR PUBLIC
INSPECTION

Re: WC Docket No. 14-228

REDACTED FOR PUBLIC INSPECTION

Dear Ms. Dortch:

The CenturyLink LECs, by counsel and pursuant to the Freedom of Information Act (“FOIA”) and sections 0.457 and 0.459 of the Commission’s rules,¹ have submitted today for confidential treatment a complete version of the transcript of oral argument proceedings held on September 18, 2015, before Judge Sidney Fitzwater in the United States District Court for the Northern District of Texas, Dallas Division. A redacted version of that document is being submitted herewith with the label “REDACTED FOR PUBLIC INSPECTION.” The oral argument pertained to the Motion to Dismiss filed by the Defendant Local Exchange Carriers in *In re IntraMTA Switched Access Charges Litigation*, MDL Docket No. 3:14-MD-2587-D (hereafter “MDL litigation”), which is the litigation that necessitated the filing of the Petition for Declaratory Ruling that is being considered by the Commission in the above-referenced docket.

Confidential treatment is not typically sought for transcripts of oral argument proceedings. However, this request presents unique circumstances. While this transcript has been made available for purchase, it will not be made an official part of the MDL litigation court record and publicly available on PACER until 90 days after the date of oral argument. This is because the parties have an opportunity during this time period to submit redactions, as set forth in the Notice of Filing of Official Electronic Transcript of Oral Argument Proceedings, docketed on September 19, 2015.

¹ 5 U.S.C. § 552, *et seq.*; 47 C.F.R. §§ 0.457 and 0.459.

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The arguments presented at oral argument are directly relevant to the Commission's active consideration of the issues in this docket and the CenturyLink LECs believe that the transcript is substantively accurate in its current form.

However, the CenturyLink LECs do not wish to undermine the protocol established in the District Court, and therefore have respectfully requested that the transcript be filed in the docket and made accessible to Commission staff but otherwise accorded confidential treatment until such time as the transcript becomes available publicly on PACER.

The CenturyLink LECs believe that, consistent with the Court's protocol, the FCC should maintain the confidentiality of the transcript until the time period expires for parties to propose redactions. As such, the submission should be afforded confidential treatment under 47 C.F.R. §§ 0.457 and 0.459 of the Commission's Rules, pending the transcript's public release on PACER on December 18, 2015, and CenturyLink provides its justification for such treatment in the attached Appendix.

Should the Commission conclude otherwise, the CenturyLink LECs respectfully request that the transcript be returned pursuant to section 0.459(e) of the Commission's rules. This request for confidential treatment should also not be construed as a waiver of any other protection from disclosure or confidential treatment accorded by law. Please contact the undersigned if you should have any questions concerning this request.

Respectfully submitted,



Yaron Dori
Counsel for the CenturyLink LECs

Enclosures

APPENDIX

Confidentiality Request and Justification

47 C.F.R. § 0.457

Pursuant to Section 0.457 of the Commission's Rules, 47 C.F.R. § 0.457, the CenturyLink LECs request confidential treatment of the attached transcript of oral argument proceedings held on September 18, 2015, before Judge Sidney Fitzwater in the United States District Court for the Northern District of Texas, Dallas Division. The oral argument pertained to the Motion to Dismiss filed by the Defendant Local Exchange Carriers in *In re IntraMTA Switched Access Charges Litigation*, MDL Docket No. 3:14-MD-2587-D (hereafter the "MDL litigation"), which is the litigation that necessitated the filing of the Petition for Declaratory Ruling that is being considered by the Commission in WC Docket No. 14-228. The substance of the transcript is confidential and proprietary information and is not routinely available for public inspection and thus is protected from public availability under Section 0.457(d). The transcript, for which confidential treatment is sought, bears the legend "**CONFIDENTIAL INFORMATION – NOT FOR PUBLIC INSPECTION.**"

47 C.F.R. § 0.459

Should the Commission not deem that this transcript is protected from public disclosure under 47 C.F.R. § 0.457, then the CenturyLink LECs request confidential treatment pursuant to 47 C.F.R. § 0.459(b), as described below.

Information for which confidential treatment is sought:

The CenturyLink LECs request confidential treatment under 47 C.F.R. § 0.459 of the attached oral argument transcript. The substance of the transcript constitutes confidential and proprietary information.. The transcript, for which confidential treatment is sought, bears the legend "**CONFIDENTIAL INFORMATION – NOT FOR PUBLIC INSPECTION.**"

Commission proceeding in which the information was submitted:

The information is being submitted in WC Docket No. 14-228.

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

The transcript has been made available for purchase, However, it will not be made available publicly on PACER until 90 days after the date of oral argument in the underlying court case. This is because the parties have an opportunity during this time period to submit redactions to the transcript. The CenturyLink LECs believe that the transcript is substantially accurate but do not wish to undermine the protocol established in the District Court. Confidential treatment will ensure that the transcript is filed in the docket and made accessible to Commission staff but otherwise accorded confidential treatment until such time as the transcript becomes available publicly on PACER.

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 CenturyLink LECs do not contend that this is a circumstance in which disclosure of the information could result in substantial competitive harm. Rather, the CenturyLink LECs contend that, in the unique circumstances presented here and described more fully above and below, the transcript is the type of information that is generally not subject to routine public inspection under the Commission's rules.

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

Although the transcript has been made available for purchase, it will not be made available publicly on PACER until 90 days after the date of oral argument in the underlying court case.

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

The transcript should not be available for public disclosure until it is made available publicly on PACER – which should be 90 days after the date of oral argument or approximately December 18, 2015.

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

The CenturyLink LECs believe that the transcript is substantively accurate in its current form, and that the arguments presented at oral argument (and thus reflected in the transcript) are directly relevant to the Commission's active consideration of the issues in this docket. CenturyLink LECs respectfully request that the attached transcript be filed in the docket and made accessible to Commission staff but otherwise accorded confidential treatment until such time as the transcript becomes available publicly on PACER. This treatment is necessary in order to make the transcript available to the Commission in a timely fashion while not undermining the protocol established in the District Court.