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EX PARTE

VIA ECFS

April 4, 2012

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

RE: *In the Matter of CenturyLink Contributions for MPLS-based Services –*
WC Docket No. 06-122

Dear Ms. Dortch:

In February, representatives from five companies met with FCC Wireline Competition Bureau personnel to discuss Universal Service Fund (USF) contribution reform and particularly contribution obligations related to services that incorporate Multi-Protocol Label Switching (MPLS).¹ The group discussed “the possibility of the Commission prospectively determining that a portion of revenues associated with MPLS-enabled services, for example revenues related to the access transmission component(s), is assessable for USF purposes” and the company representatives advocated that “[r]egardless of the regulatory classification of any particular MPLS-enabled service, the Commission could establish such a contribution requirement and a standardized proxy (similar to a safe harbor) for the access transmission component on a prospective basis using its permissive authority under 47 U.S.C. § 254(d).”² Last week the group met again with Bureau personnel providing further details of their proposal including the

¹ See *ex parte* Letter from Ms. Maggie McCready, Verizon, *et al.*, to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, dated Feb. 16, 2012, WC Docket No. 06-122. MPLS is a data packet switching technology that is widely used by service providers today to connect the data networks of organizations with multiple, dispersed locations while still allowing them to operate disparate protocols such as Frame Relay, ATM, and Ethernet. By encapsulating these varying protocols in “labels”, an MPLS network can make packet-forwarding decisions without understanding the contents of the packet. MPLS VPN’s are known to be protocol agnostic, interconnecting the networks independent of the underlying protocol. The technology’s unique attributes enable the creation of virtual circuits that can scale nationally and even globally to connect a large number of remote networks.

² *Id.*

establishment of MPLS Assessable Revenue Component (MARC) proxies that would be used to determine assessable revenues for MPLS-based services.³

CenturyLink views that such an approach to USF contributions for MPLS-enabled services has merit, so long as service providers retain the ability to contribute into the USF based on their actual revenues from the access transmission component where they separately charge customers for that component of the service. Such an approach would be similar to the FCC's treatment of contributions for other services such as mobile wireless service and interconnected VoIP services. In those instances, the Commission has provided a safe harbor percentage for contributions on the interstate portion of those services, but has also permitted or required contributions based on actual revenues for the interstate portion of those services, where the provider had such information.⁴

Mandating use of a standardized proxy could be difficult and expensive for providers to implement in their billing systems. And, requiring such burdensome changes only for an interim measure is not warranted. Instead, consistent with the manner in which the Commission has imposed interim contribution measures in the past, the Commission should only require that any standardized proxy be used as an alternative to actual revenues.⁵

Presumably, any mechanism that the Commission would implement now to address contributions on MPLS-enabled services would be interim in nature as it is expected that the

³ See *ex parte* Letter from Sprint Nextel Corporation, NTT, American Inc., Orange Business Services, BT Global Services, XO Communications and Verizon, to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, dated Mar. 29, 2012, WC Docket No. 06-122.

⁴ See 2011 Telecommunications Reporting Worksheet Instructions (FCC Form 499-A), revised Oct. 12, 2011 at 23-24.

⁵ See *In the Matter of Federal-State Joint Board on Universal Service*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 21252 (1998) (creating safe harbor as an interim methodology for wireless carriers to allocate their wireless telecommunication revenues between interstate and intrastate jurisdictions); *In the Matter of Universal Service Contribution Methodology; Federal-State Joint Board on Universal Service; 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms; Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990; Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size; Number Resource Optimization; Telephone Number Portability; Truth-in-Billing and Billing Format; IP-Enabled Services*, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518 (2006) (creating safe harbor as an interim methodology for interconnected VoIP providers to allocate their interconnected VoIP revenues between interstate and intrastate jurisdictions).

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Commission will be considering more comprehensive reform of the USF contribution methodology. CenturyLink supports comprehensive universal service contribution methodology reform. The existing USF contribution methodology is increasingly a patchwork of instruction clarifications and Commission decisions that leave too many gaps as to the proper contribution treatment of new services that are not easily classified as telecommunications service or information services, as interstate or intrastate.

The lack of clarity as to the appropriate universal service assessment on MPLS-based services, has resulted in varied assessment methodologies within the industry. Combining this with the appallingly high USF contribution factor of almost 18% has enabled some providers to use this assessment, or non-assessment, as a competitive pricing advantage. To immediately address this situation and enable proper enforcement of contributions on MPLS-enabled services, the Commission should implement an interim mechanism to enable more uniform contributions on MPLS-enabled services.

Sincerely,
/s/ Melissa E. Newman

Copy (via email) to:

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