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REDACTED – FOR PUBLIC INSPECTION

VIA COURIER (NON-REDACTED) AND ECFS (REDACTED)

December 7, 2012

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

Re: *In the Matter of Petition of CenturyLink for Forbearance Pursuant to 47 U.S.C. § 160(c) from Dominant Carrier and Certain Computer Inquiry Requirements on Enterprise Broadband Services*, WC Docket No. 12-60

Dear Ms. Dortch:

Enclosed with this correspondence is an Ex Parte of CenturyLink, to be filed in the above-referenced proceeding. This Ex Parte contains certain information in the text that is confidential.

For the non-redacted version of the Ex Parte, each page has been marked pursuant to the Protective Order of March 22, 2012,[1] as follows, "**CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER IN WC DOCKET NO. 12-60 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION – ADDITIONAL COPYING PROHIBITED**." As such, CenturyLink requests that the non-redacted version of the Ex Parte be withheld from public inspection. CenturyLink also requests that no further copies be made of the Ex Parte marked as confidential.

CenturyLink is submitting the non-redacted version of its Ex Parte pursuant to the Protective Order, consistent with the confidentiality request associated with its Petition for Forbearance, as filed on February 23, 2012 and amended on March 21, 2012, and under Commission rules 47 C.F.R. §§ 0.457 and 0.459. The confidential information included in these documents is competitively sensitive information and thus should not be available for public inspection, nor subject to further copying. Such information would not ordinarily be made available to the

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[1] 27 FCC Rcd 2895 (2012).

public. Release of the confidential information in the Ex Parte would have a substantial negative competitive impact on CenturyLink. Accordingly the non-redacted information in question is appropriate for non-disclosure pursuant to the Protective Order and under sections 0.457(d) and 0.459 of the Commission's rules. Pursuant to 47 C.F.R. § 0.459(b), CenturyLink provided justification for the confidential treatment of this type of information in the Appendix associated with its Petition for Forbearance, which applies with equal relevance to its Ex Parte.

Because it was not feasible to separate out the confidential information, *see* 47 C.F.R. § 0.459(a), without destroying the integrated nature of the information presented in the Ex Parte, CenturyLink is also submitting today under separate cover, via the Commission's Electronic Comment Filing System (ECFS), a redacted version of the Ex Parte. The redacted version of the Ex Parte is marked "**REDACTED – FOR PUBLIC INSPECTION**," with the confidential information redacted.

For the non-redacted version of the Ex Parte, pursuant to the Protective Order, CenturyLink is submitting to the Office of the Secretary one original hard copy, along with an extra copy to be stamped and returned to the courier. In addition, CenturyLink is providing via courier two hard copies of the non-redacted version, which includes the confidential information, to Jean Ann Collins of the Competition Policy Division of the Wireline Competition Bureau. As noted above, CenturyLink is filing the redacted version of the Ex Parte via ECFS.

This letter includes no confidential information and the text is the same in both the non-redacted and redacted versions except for the confidentiality markings.

Please contact me via the above contact information or Jeb Benedict in CenturyLink's Federal Regulatory Affairs office (202-429-3114) if you have any questions.

Sincerely,

/s/ Craig J. Brown

Enclosure

cc: Jean Ann Collins (via courier, two hard copies of non-redacted)

CenturyLink™

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REDACTED – FOR PUBLIC INSPECTION

VIA COURIER (NON-REDACTED) AND ECFS (REDACTED)

December 7, 2012

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

Re: **EX PARTE** -- *In the Matter of Petition of CenturyLink for Forbearance Pursuant to 47 U.S.C. § 160(c) from Dominant Carrier and Certain Computer Inquiry Requirements on Enterprise Broadband Services,* WC Docket No. 12-60

Dear Ms. Dortch:

On February 23, 2012, CenturyLink petitioned for forbearance from dominant carrier regulation and *Computer Inquiry* tariffing with respect to its enterprise broadband services that are still subject to those obligations.[1] Granting the petition is appropriate under applicable forbearance standards and is essential if CenturyLink is to compete on a level playing field against larger, established providers of enterprise broadband services, including AT&T, tw telecom and Verizon.

As the petition explained, CenturyLink's enterprise broadband services currently are subject to a disjointed set of regulations that vary depending on the CenturyLink affiliate that provides those services. For example, while legacy Qwest can offer Metro Optical Ethernet (MOE) service through individually-negotiated commercial agreements, in the same manner as its competitors, legacy Embarq and CenturyTel can provide their comparable Ethernet service, Ethernet Virtual Private Line (EVPL), only subject to the constraints of the Commission's tariff rules.[2]

[1] *See* CenturyLink Petition for Forbearance, WC Docket No. 12-60, filed Feb. 23, 2012 and amended on Mar. 21, 2012 (Petition).

[2] While legacy Embarq has pricing flexibility enabling it to enter contract tariffs for channel terminations in 14 Metropolitan Statistical Areas (MSAs), it has entered into only two such agreements that cover EVPL services. *See* CenturyLink Operating Companies FCC Tariff #9, § 24. Legacy CenturyTel has no pricing flexibility.

This disparate regulation frequently precludes CenturyLink from entering into the streamlined, customized arrangements that purchasers of enterprise broadband services demand in today's highly competitive marketplace. Such purchasers include, in particular, wireless providers seeking Ethernet services to increase backhaul capacity to their cell sites, in order to keep up with exploding demand for mobile broadband services and to extend the reach of their mobile broadband networks. Wireless providers routinely solicit bids through requests for proposal (RFPs) to serve hundreds or even thousands of cell sites as a set, in order to command better prices and minimize the expense of managing their telecommunications suppliers.[3]

CenturyLink should be well positioned to offer such services, given its very large geographic footprint, which covers nearly 600,000 square miles in 37 states and includes many rural areas. CenturyLink is eager to win these competitive contracts, both for the needed revenue and for the opportunity to add traffic supporting additional broadband network investment in adjacent rural areas. Time and again, however, CenturyLink's inability to offer simple, customized arrangements has led wireless providers to decline CenturyLink's bids to provide service – whether company-wide or limited to areas served by legacy Embarq and CenturyTel.

In this key area of growth and demand, CenturyLink has lost at least **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** RFPs in the past two years, covering approximately **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** cell sites in areas served by legacy Embarq and CenturyTel. Based on very conservative estimates, these RFPs would have generated more than **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** in revenue for CenturyLink.[4] Each of these losses occurred to competitors that are authorized to negotiate customized service arrangements, with the uniform rates, terms and conditions demanded by wireless providers.

Legacy Embarq and CenturyTel's inability to negotiate such arrangements was a major factor in the loss of each of these RFPs. Indeed, one wireless provider – accounting for approximately **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** in lost revenue – told CenturyLink that its standard tariffed prices were too high, that the transaction was too complicated, and that it was giving its business to a competitor that could deliver the customized rates, terms and conditions that it sought. In that instance, legacy Qwest was

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[3] Petition at 18.

[4] This estimate assumes a total of **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** in monthly revenue over **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** years, which is a typical term for these types of agreements. This figure does not include the anticipated growth in bandwidth of the Ethernet services provided to each cell site, which could increase this revenue by **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]**.

nevertheless able to negotiate an agreement with this same wireless provider for Ethernet services in Qwest's service territory, because it was not burdened by the same outdated dominant carrier regulation. However, the total value of the opportunity was substantially lower than for the combined company. Another wireless provider that sought Ethernet services primarily in legacy CenturyTel's service area balked at the inflexibility of CenturyTel's tariffed offering and took its business to another provider that could meet its demands. In total, CenturyTel and Embarq lost more than **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** in potential revenue from that one provider alone.

These estimates of lost revenues account for just one segment of the intensely competitive enterprise broadband market. CenturyLink has suffered similar losses with other types of enterprise broadband customers and services, although those losses are understandably more difficult to quantify. That is because wireline carrier customers, for example, do not typically issue RFPs for Ethernet and other enterprise broadband services. Instead these carriers generally maintain a pricing tool that follows the prices available to that carrier from the various providers of enterprise broadband services in each given area. The prices listed for CenturyLink depend on whether CenturyLink's enterprise broadband services in that area are still subject to dominant carrier regulation. If they are, the pricing tool would list legacy Embarq or CenturyTel's standard tariffed prices, which generally would exceed those individually negotiated by other providers.[5] In contrast, where CenturyLink is free from dominant carrier regulation, and has negotiated a commercial agreement with a carrier, that carrier's pricing tool would list the rates negotiated with CenturyLink.

Not surprisingly, negotiating a commercial agreement with a carrier customer frequently results in a significant increase in sales to that customer, because CenturyLink rates, terms and conditions are now comparable to those offered by other providers in the eyes of the customer's pricing tool.[6] This has been legacy Qwest's experience with its sales of MOE services. Over the past two years, after a customer signs a commercial agreement for these services, its monthly growth in purchases of these services typically is at least **[BEGIN CONFIDENTIAL]** [redacted] times **[END CONFIDENTIAL]** higher than it was prior to the execution of the agreement. Thus, as a result of these agreements, customers benefit from lower prices and CenturyLink benefits from increased growth in its sale of enterprise broadband services. At the same time, continued outdated dominant carrier regulation means that CenturyLink is artificially disadvantaged in the marketplace, and customers are denied the

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[5] If Embarq has negotiated a contract tariff with the carrier, that carrier's pricing tool would list the rates in the contract tariff for the MSAs in which Embarq has pricing flexibility. As noted, however, Embarq has negotiated only two contract tariffs that cover EVPL.

[6] At the time the Petition was filed, legacy Qwest and Embarq had negotiated approximately 270 commercial agreements for enterprise broadband services. Petition at 18. These agreements include customized terms and conditions, as well as individually-negotiated rates. For example, customers have negotiated service level agreements (SLAs) and network architectures that differ from those found in CenturyLink's standard offerings.

full benefits of competition, because CenturyLink's competitors routinely price their offerings just under the tariff pricing umbrella. Adding insult to injury, CenturyLink is denied the ability to operate and invest efficiently in the many locations where the legacy companies have adjacent service territories.

Even when CenturyLink has been able to win opportunities to provide enterprise broadband services that span its service footprint, dominant carrier regulation needlessly complicates the provision of these services. Frequently it is necessary to modify CenturyLink's tariffs to reflect the SLAs and other technical specifications sought by a particular enterprise broadband customer, because those specifications differ from the standard terms in CenturyLink's tariffs. In such cases, the parties memorialize the material terms of the transaction in a commercial agreement and then undertake the painstaking and time-consuming process of modifying its tariffs to conform to the terms of the agreement. This process entails significant work and time – generally requiring numerous steps and sometimes months to complete.[7] In a transaction with one wireless provider, for example, it took five months from the execution of the agreement to put revised tariffs in place so that CenturyLink could turn up service to the customer. In addition to creating customer frustration, such complications delay the deployment and upgrade of broadband services to end users.

As things currently stand, CenturyLink is able to offer customized arrangements for all enterprise broadband services provided by legacy Qwest, some enterprise broadband services provided by legacy Embarq, and no services provided by legacy CenturyTel. Yet it must compete as a smaller player against companies that either already appropriately received this forbearance or have never been subject to this regulation in the first place. By granting CenturyLink's Petition, the Commission will enable CenturyLink to offer the customized arrangements throughout its service footprint, as today's enterprise broadband customers demand. And, by enabling CenturyLink to compete more effectively, and eliminating its tariffs as a pricing umbrella, forbearance will put downward pricing pressure on prices for these broadband services. The requested relief therefore will benefit all customers and further the goals articulated in the National Broadband Plan. Accordingly, the Commission should grant CenturyLink's Petition without undue delay.

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[7] Petition at 37.

Pursuant to Section 1.1206(b) of the Commission's rules, CenturyLink is filing a copy of this notice in the appropriate docket. As this submission includes material designated as confidential under the Commission's Protective Order,[8] CenturyLink is also filing a redacted copy.

Sincerely,

/s/ Melissa E. Newman

Copy via e-mail to:
Julie Veach (julie.veach@fcc.gov)
Lisa Gelb (lisa.gelb@fcc.gov)

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[8] *See In the Matter of CenturyLink Petition for Forbearance Pursuant to 47 U.S.C. § 160(c) from Dominant Carrier and Certain Computer Inquiry Requirements on Enterprise Broadband Services,* Protective Order, 27 FCC Rcd 2895 (2012).