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NOTICE OF EX PARTE

August 2, 2013

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

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

Dear Ms. Dortch:

On August 2, 2013, I spoke by telephone with Matthew Berry, Chief of Staff to Commissioner Pai.

In the call, I provided the results of an internal, ground-up cost study CenturyLink conducted of its inmate calling services, based on its actual portfolio of competitively awarded service contracts. In the absence of a protective order, CenturyLink is unable to provide its cost detail, but can provide its summary results.

CenturyLink determined its total costs to serve, allocated on a per-minute basis, including all costs except commissions paid to correctional authorities. These costs include all call types (collect, prepaid, and debit) allocated on a per-minute basis using facility-specific metrics. They are based on a 15-minute call duration and including all call-associated fees.

CenturyLink's analysis included the following steps. First, it identified all facilities currently served by CenturyLink that were awarded using a competitive bidding process, separating them into state prison systems, county adult detention facilities, and other facilities, such as secure adult treatment facilities and juvenile detention centers. Second, it determined the rated cost per minute paid by end-users, including per-call surcharges, then deducted contracted the commission rate to calculate the net per-minute cost before fees. Third, it calculated per-minute allocations of any billing or transaction fees for collect or prepaid collect charged per individual contract. Fourth, it calculated the respective totals for each facility, taking an average, median, low, and high total cost per-minute, as a blended rate across intrastate and interstate calls.

As noted in CenturyLink's July 26, 2013 ex parte filing, CenturyLink – in response to market demand – has integrated certain security features into its calling platform such as continuous voice biometrics, tracking location of cell phones receiving calls, link analysis software, audio word search, contraband cell phone extraction equipment and integration, and other security capabilities. These are provided through third-party specialized security firms, and royalties and/or other payments on these capabilities alone can add 4 to 5 cents per minute to the cost of carrying a call. Only one of CenturyLink's accounts currently incurs any significant costs for security features from third party software providers. That account is a larger county facility with total costs in the median range of CenturyLink's county portfolio. However, all new contracts realistically should expect to include these features, and accordingly, the Commission needs to include an allowance of \$0.040 in any interstate benchmark for the cost of these features.

CenturyLink urges the Commission to exercise caution in adopting any benchmark for inmate calling services. Any interstate benchmark, if adopted, should not be set lower than the top end of these cost figures per minute, plus an allowance of \$0.040 per minute for cost of current generation security features.

Thus, for state departments of corrections, I explained, a per-minute interstate benchmark rate should be no lower than \$0.228. For county jails of 100 beds or more, a benchmark should be no lower than \$0.260. I also explained that costs to serve small facilities vary widely but are much costlier to serve, with CenturyLink's costs to serve as high as \$0.709 per minute. Given the special circumstances of those facilities, and the risk that service would otherwise be unavailable, CenturyLink believes that facilities under 100 beds should be excluded from any interstate benchmark. Likewise, costs to serve juvenile correctional centers, secure mental health facilities, and other specialty locations vary widely but are significantly higher than state prisons or county jails. Accordingly, those facilities also should be excluded from any interstate benchmark. Were the Commission to include them, there is a very real risk that these facilities will be unable to provide interstate calling service.

For state departments of corrections, I outlined CenturyLink's total per-minute costs to serve, excluding commissions, as follows. These costs do not include allowance for current generation security features, which would typically add \$0.040 per minute in cost.

Average	\$0.116
Median	\$0.108
Low	\$0.058
High	<u>\$0.188</u>

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For county correctional accounts (excluding facilities with less than 100 beds), I outlined CenturyLink's total per-minute costs to serve, excluding commissions, as follows. Again, a \$0.040 per minute cost should be added for current generation security features.

Average	\$0.137
Median	\$0.135
Low	\$0.051
High	<u>\$0.220</u>

Importantly, CenturyLink's cost analysis includes no allowance for recovery of additional calling-related costs by the correctional facilities themselves. Commissions help cover such costs incurred by correctional authorities in making calling services available to inmates. A benchmark should include an additional allowance for these costs. CenturyLink is not in a position to suggest a specific figure, but would advise the Commission not to ignore the legitimate interests of correctional authorities in covering such calling-related costs through end-user rates charged through their contractors.

CenturyLink reiterated that any new Commission policy should apply only to new contracts. Contract terms are set, not negotiated, in competitive public procurements, and service providers may be unable to secure revisions or adjustments to existing contracts. Disrupting existing contracts could render them make them uneconomic, and could cause disruption in the availability of interstate calling for inmates. Allowing existing contracts to expire would allow service providers and correctional authorities time to transition to any newly ordered rate structure.

Pursuant to Section 1.1206(b) of the Commission's rules, a copy of this notice is being filed in the appropriate docket.

Sincerely,

/s/ John E. Benedict

Copy via email to:
Matthew Berry