Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Amendments to the FCC's Good-Faith Bargaining Rules	)	MB Docket No. ________
	)	RM - 11720

COMMENTS OF CENTURYLINK

CenturyLink files these comments in support of Block Communications Inc.'s (Block) petition for rulemaking.[1] CenturyLink agrees with many of the points raised by Block and views that further consideration of these issues by the Commission and the video distribution industry is warranted.

I. RETRANSMISSION CONSENT NEGOTIATIONS REMAIN LOPSIDED TO THE ULTIMATE DETRIMENT OF CONSUMERS.

Retransmission consent negotiations continue to be a lopsided endeavor with minimal true negotiating. Especially between owners of multiple broadcast stations and smaller multichannel video programming distributors (MVPDs), negotiations can be little more than an initial offer to provide content under specific terms at an exceedingly high price that is "negotiated" to an agreement to provide content under the same specific terms at a slightly lower – but still unjustifiably high – price. Retransmission consent fees continue to rise on a pace well beyond any reasonable escalation.[2]

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[1] Petition for Rulemaking, filed by Block Communications, Inc. on May 6, 2014. Public Notice, Report No. 3003 (May 20, 2014)

[2] *See, e.g.,* Roger Yu, *Retransmission fee race poses questions for TV viewers*, USA Today (Aug. 2, 2013) (describing the growth in retransmission consent fees and noting that the "fee increases continue to accelerate"), *available at* http://www.usatoday.com/story/money/business/2013/07/14/tv-retrans-fees/2512233/ ;

When retransmission consent agreements reach an impasse, blackouts continue to manifest, which is an unfortunate result for all involved – broadcaster, distributor and consumers. While the threat of blackouts is extremely concerning for smaller MVPDs, an actual blackout for a smaller MVPD is nothing short of a nuclear option that is simply not viable. In turn, for smaller, competitive MVPDs, the only true option is to take the unjustifiably high content rates in order to obtain programming that is highly valued by consumers. This in turn creates a need to absorb or recover those increased content costs which puts an additional strain on these MVPDs' ability to compete and provide choices to consumers at attractive prices.

It is not surprising then, that already large video distributors are proposing mergers to become larger and touting that the benefits of such mergers include significant reduction in content fees.[3] Meanwhile, broadcasters will likely look to recover their lost retransmission consent fees from larger providers elsewhere, including higher fees for smaller MVPDs. In turn, the strain on smaller video distributors to remain competitive will only increase as the differential between what larger MVPDs and smaller MVPDs pay for broadcast content increases. Ultimately the competitive viability of smaller MVPDs is increasingly a concern. If the Commission does not take further steps to address the impact of its rules regarding

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Harry Jessell, *Retrans Rev Seen Hitting $7.6B By 2019*, TVNewsCheck (Jun. 3, 2014) (describing the continued growth in retransmission consent fees as a share of broadcast station revenues as analyzed by SNL Kagan), *available at* http://www.tvnewscheck.com/article/76755/retrans-rev-seen-hitting-76b-by-2019 .

[3] AT&T Inc. Form 8-K filing for merger with DirecTV, Item 8.01 ("Programming cost reductions are the most significant part of the expected cost synergies. At this time, AT&T's U-verse content costs represent approximately 60% of its subscriber video revenues. With the scale this transaction provides, we estimate AT&T's U-verse content costs after the completion of the transaction will be reduced by approximately 20% or more as compared with our forecasted standalone content costs.") filed on Jun. 3, 2014, *available at* http://www.sec.gov/Archives/edgar/data/732717/000073271714000048/qa8k.htm ; *see also* Joe Flint, Jim Puzzanghera, *AT&T deal for DirecTV driven by desire to pare programming costs*, Los Angeles Times (May 19, 2014), *available at* http://www.latimes.com/business/la-fi-ct-att-directv-video-20140520-story.html#page=1.

retransmission consent negotiations on smaller MVPDs, then those smaller MVPDs and the consumer choices and competitive pressure on prices that their competitive presence affords may soon be lost.

II. THE COMMISSION NEEDS TO TAKE FURTHER STEPS TO IMPROVE ITS RULES THAT IMPACT RETRANSMISSION CONSENT NEGOTIATIONS.

CenturyLink agrees that the Commission needs to take further steps to improve its rules that affect retransmission consent negotiations in order to restore balance and flexibility to those negotiations which are harmfully lopsided and rigid today. CenturyLink recognizes and appreciates that the Commission has taken and continues to take steps to review and modify some of those rules. Earlier this year the Commission addressed joint negotiations by broadcasters in the retransmission consent context and amended its rules such that joint negotiations by broadcast stations that are ranked among the top four stations in a market as measured by audience share and are not commonly owned constitutes a violation of the statutory duty to negotiate retransmission consent in good faith.[4] Also, currently, the Commission has a Further Notice of Proposed Rulemaking open seeking comment on whether to eliminate or otherwise modify its non-duplication and syndicated exclusivity rules.[5] While these are important steps towards restoring balance to the retransmission consent negotiating table, the Commission can and should do more.

CenturyLink agrees with Block that consolidation among broadcast stations and MVPDs is increasingly removing more localized marketplace considerations from retransmission consent negotiation discussions to the detriment of consumers in those markets. The Commission should

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[4] *In the Matter of Amendment of the Commission's Rules Related to Retransmission Consent*, Report and Order and Further Notice of Proposed Rulemaking, MB Docket No. 10-71, FCC 14-29 (rel. Mar. 31, 2014).

[5] *Id.*

take a more focused look at how the current retransmission consent rules impact smaller, competitive MVPDs and broadcast stations and modify its rules to promote fair retransmission consent negotiations involving these entities. Additionally, the Commission should modify its rules to promote fair retransmission consent negotiations for the relevant local marketplace at issue.

III. CONCLUSION.

The Commission should continue to take steps to facilitate fair retransmission consent negotiations by seeking public comment on Block's proposals. While the proposals may not be exactly what the Commission should adopt, they warrant serious consideration by the Commission and the industry. The Commission should consider these proposals intended to protect competition in the video distribution marketplace and in turn benefit consumers by enabling more choices for video content and distribution at competitive prices that better reflect the local markets in which those consumers live.

Respectfully submitted,

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Its Attorney

June 19, 2014

CERTIFICATE OF SERVICE

I, Margie Herlth, do hereby certify that I have caused the foregoing **COMMENTS OF CENTURYLINK** to be served on Block Communications, Inc. via first-class United States Mail (postage prepaid) as indicated below:

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/s/ Marjorie Herlth

June 19, 2014