



Testimony of

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“Breaking Down Barriers to Broadband Infrastructure Deployment”

Subcommittee on Communications and Technology,

Committee on Energy and Commerce

United States House of Representatives

October 28, 2015

Chairman Walden, Ranking Member Eshoo, and other distinguished Members of the Committee, thank you for having me here today.

My name is Jeb Benedict and I am Vice President of Federal Regulatory Affairs & Regulatory Counsel at CenturyLink. In my role at the company I have worked with many federal agencies over the years and encountered a wide array of issues relating to securing access to federal lands and facilities for broadband and telecommunications.

Let me start by saying thank you for your recent introduction of the Broadband Conduit Deployment Act of 2015. Measures such as this will help incrementally to make it easier, faster, and more cost-effective to connect more Americans to high-speed broadband. It is an excellent example of what Congress and federal agencies can do to help facilitate broadband deployment and network investment.

We encourage the subcommittee to consider ways to help facilitate broadband investment and deployment. One important area is by helping make it faster and less expensive to access federal lands.

CenturyLink owns and operates a nationwide broadband network and extensive local facilities in portions of 37 states, serving 12 million telephone lines, more than 6 million broadband connections, and dozens of data centers. Our local voice and broadband network covers nearly 600,000 square miles – an area roughly equal to 22 states, including many low density and difficult-to-serve areas and tribal lands. Between our local and national network and our Internet backbone, we have more than 250,000 miles of domestic fiber deployed and more a million miles of copper cable. We also provide the

essential voice and broadband connectivity for tens of thousands of wireless towers nationwide. Wireless providers across the country rely on our wired network to deliver their service.

Delivering the voice and broadband capabilities that Americans expect requires a huge and ongoing investment. With the dramatic growth in bandwidth demand, providers like CenturyLink must increase capacity by perhaps 30% every year simply to keep pace with rapidly rising bandwidth consumption, even apart from expanding or upgrading network in rural areas. CenturyLink alone invests hundreds of millions of dollars annually in its network.

Given that vast network, we have many right of way arrangements with federal land use agencies, and we pay substantial fees to federal agencies for access to federal lands and facilities. We have access arrangements with virtually every federal agency, often with history going back decades. Our employees work closely with federal land use employees around the nation. We know them as dedicated public servants, professionals who take their responsibilities seriously, and we value our constructive relationships with them. Even so, the costs and delays associated with access to federal lands for broadband deployment and upgrades pose a real and frustrating problem.

On federal lands, we have a wide range of network facilities. As you would expect, however, the vast majority are buried or aerial cable and fiber, typically in or adjacent to the shoulder of a road passing through federal lands. Our network is critical to the communities we serve, and we genuinely believe our facilities provide a pathway for economic prosperity.

We frequently seek to deploy a fiber run to our communities. For example, where an Idaho town's microwave connections were unable to keep pace with bandwidth needs, we sought a permit to

trench fiber in the shoulder of the U.S. highway into town to provide more robust capacity. Where a group of South Dakota wireless towers needed fiber upgrades to enable mobile broadband, we sought permission to add fiber to the existing telephone poles serving those community's towers with fiber for next generation connectivity.

The costs and difficulty of access to federal lands add to the costs of constructing, operating and upgrading network nationwide, especially when deploying or upgrading broadband in rural areas and tribal lands.

(1) Permitting delays. While fees and lease terms increase costs, the review and permitting processes, especially for new or upgraded facilities on federal lands, often impose unreasonable delays that add to costs and heavily impact the time to deploy and upgrade networks. Broadband deployment and needed upgrades to rural communities and urgently needed connections to wireless towers are routinely delayed because of the slow permitting and review process. In CenturyLink's experience, permits from the Bureau of Indian Affairs take more than 6 months. Those from the Bureau of Land Management and the U.S. Forest Service routinely take 12 to 15 months, even for renewals of existing rights of way. The National Park Service and Department of Defense are also troublingly slow. On state and private lands, in contrast, arrangements are completed in just weeks.

In one example, we sought to over-lash fiber on existing copper cable on existing poles along a U.S. highway – hardly a controversial installation. But after endless delays, we rerouted our fiber – using a longer and much costlier route over private land -- to bypass the federal land because we could simply wait no longer. But with 28% of U.S. acreage managed by the federal government, more often we cannot serve a community without waiting for access to federal agency right-of-way.

Our Connect America Fund commitments to the FCC reflect our eagerness to deploy broadband to very rural communities that are otherwise economically impractical to serve. We have committed to build to 1.2 million unserved or underserved households and businesses over 6 years. But in these economically challenging areas, the delays and costs of access to federal lands will have a bearing on how many people we can reach and how long they will need to wait. Other factors being equal, communities adjacent to federal lands will necessarily receive lower priority in broadband investment and will wait longer for deployment and upgrades. It should not have to be this way.

Working with these agencies, we realize that they face a challenge of resources. Even as overall agency funding has increased from prior years, the resources allocated to land use permitting staffs in the field have generally declined. Simply put, in allocating agency budgets, these agencies' headquarters have not been treating the permitting function as an internal priority. Offices are commonly under-staffed. But if agency heads in Washington cannot allocate them a larger share of department resources, then we at least believe that Congress can ask them to give broadband deployment applications priority over other permitting and land applications (like electric utilities commonly receive).

(2) Need for broader use of categorical exclusions. CenturyLink supports good stewardship of public lands and strives to follow responsible environmental practices. But too often process delays are for environmental reviews that are surely excessive.

Outside Santa Fe, New Mexico, CenturyLink applied to the Bureau of Land Management to run fiber in a highway shoulder. BLM advised us that our permit requires a detailed biological study -- despite the fact that the fiber will be installed 18 inches from the pavement. The agency's Biological

Study identified the region as potential habitat for the "Hookless Cactus." Prior to the permit being issued, a biologist indicated that the study could only be completed when the plant is in bloom – which is limited to late April or early May. If the study was not completed then (and the company was cautioned it easily might not), CenturyLink would need to wait for the following year until a new study could be completed.

Now, we do not advocate ignoring statutory requirements such as the National Environmental Policy Act. But in this example – as in virtually all of our applications -- we are talking about requesting permits in areas that have already been previously disturbed by construction and use of a highway. The incremental impact of our facilities on federal lands is truly minimal, yet we have incurred environmental delays even when requesting to overlay new fiber over existing copper wire on existing telephone poles along the roadway.

To facilitate broadband infrastructure, federal land use agencies should be directed to expand use of categorical exclusions under NEPA, as the Federal Highway Administration and the Federal Transit Administration have done, to exempt previously-disturbed areas from detailed environmental review.

(3) Lease costs. Lease costs have a meaningful impact, as a dollar spent on fees or right of way is a dollar unavailable for actual network. Our projects are budget-limited, so added costs for right of way can mean some households in borderline neighborhoods – those where the economics of deployment are marginal -- will not be connected or upgraded, when they otherwise could be.

While it is understandable that some agency officers seek to maximize lease revenue, we believe broadband infrastructure is a public service distinct from other commercial uses. We would

recommend that access be at no cost or minimal cost, rather than at some ostensible commercial valuation charged per square foot.

We had one agency assess CenturyLink separate charges for fiber and copper located in the same right of way (even on the same poles), threatening to double the costs of access. To its credit, the agency eventually agreed that copper and fiber facilities are not separate uses warranting separate assessment. In another case, a local military based delayed broadband availability to military offices and families by imposing unreasonable fees and permitting demands. This needlessly delayed delivery of service to base offices and residents.

Even apart from cost concerns, lease terms vary widely and too often broadband providers face unreasonable demands or regulatory interpretations.

(4) Lack of interagency coordination. Federal permitting delays are particularly frustrating because a fiber route often crosses several agency lands, or more than one agency must approve our request. We are held hostage to whichever review is slowest. Outside Las Vegas, Nevada, CenturyLink has an existing U.S. Forest Service permit to provide telecom services to the mountain communities just outside the metropolitan area. The company's facilities were placed at an interim site but need to move to a more permanent location nearby. The Forest Service determined the area to be a habitat for the Blue Winged Butterfly, so we have been told that an amended permit will require approval from both the U.S. Forest Service and the U.S. Fish and Wildlife Agency. The Forest Service, although sympathetic, cannot tell us how long it will take for this amended permit to be issued but, because of multiple agencies need to sign-off, its rough estimate is 3-5 years.

We cannot justify investing in temporary facilities, so broadband upgrades will be denied to homes and businesses in that community for a period of years -- all because two agencies do not coordinate their efforts.

We have seen some hints of improvement on land use issues, as more people begin to recognize the importance of broadband infrastructure and access to federal lands and facilities. We welcomed the President's June 14, 2012 Executive Order and appreciated the White House Office of Science & Technology Policy's review of categorical exclusions and the Broadband Opportunity Council's attention to access and permitting. We also valued the Federal Highway Administration's and Federal Transit Authority's January 2014 expansion of their categorical exclusions to exempt previously-disturbed roadway shoulders and medians from detailed environmental review. But these positive steps have had little real impact yet.

CenturyLink supports legislative efforts undertaken by the Committee to lower the cost of broadband deployment by removing delays and uncertainty about access to federal lands and facilities and from the federal-permitting processes. In particular, CenturyLink would welcome legislation that:

- 1) Speeds access to rights of way, by directing federal agencies to make broadband infrastructure applications a priority and requiring permitting shot-clocks.
- 2) Expands categorical exclusions for previously-disturbed areas.
- 3) Minimizes or eliminates permitting fees and lease rental for rights of way or access for broadband facilities.
- 4) Encourages inter-agency coordination.



CenturyLink also encourages the Committee to examine some of the many other barriers to broadband deployment. It should consider legislation that:

- Ensures equal and nondiscriminatory access for commercial broadband providers to municipal and cooperative poles, under reasonable and comparable terms and conditions. CenturyLink is compelled by law to make its poles available to other providers, even competitors, at modest cost-based rates. Yet coops, munis, and public utility districts routinely deny us access and demand grossly unreasonable fees. Congress should act to create a level playing field, and consequently CenturyLink supports the Committee's plans for legislation on access to poles, ducts and conduit.
- Ensures municipalities cannot discriminate in access and terms and conditions for public rights of way. Too many jurisdictions charge us unreasonable rates for permission to place our broadband facilities in the public rights of way, handicapping our ability to deploy fiber. It is especially galling when other providers, especially as municipal broadband systems, receive access at no cost, while competitors like CenturyLink are assessed discriminatory license or franchise fees, local taxes, permitting requirements, and rights-of-way fees.
- Clarifies the limited rights of railroad rights-of-way granted by the government, to confirm that other users have reasonable, cost-effective access to those public corridors. Railroads too often have unrealistic views about their rights to these public corridors, and impose unreasonable rates and conditions on broadband network providers like CenturyLink.

Through our products and services, CenturyLink connects communities and helps strengthen businesses from Main Street to Wall Street. CenturyLink is proud of the breadth of its network across America, and it values its relationship with federal agencies. Indeed, we are fortunate to count many federal agencies as our customers. But federal land use and rights of way policies should not be the obstacle they are to the timely and efficient deployment of the nation's needed advanced telecommunications infrastructure.

We look forward to working with Congress, federal agencies, and the White House to address and advance these important issues. I thank the Committee for allowing me to appear before you today and look forward to answering any questions you all may have.