

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of

THE CENTURYLINK COMPANIES – QWEST
CORPORATION; CENTURYTEL OF
WASHINGTON; CENTURYTEL OF
INTERISLAND; CENTURYTEL OF COWICHE;
AND UNITED TELEPHONE COMPANY OF
THE NORTHWEST

To be Competitively Classified Pursuant to RCW
80.36.320

DOCKET UT-

**CENTURYLINK PETITION FOR
COMPETITIVE CLASSIFICATION**

January 8, 2024

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I. INTRODUCTION

1 This petition is filed by Qwest Corporation (“QC”), CenturyTel of Washington (“CTEL”), CenturyTel of Interisland (“CTEL-I”), CenturyTel of Cowiche (“CTEL-C”), and United Telephone Company of the Northwest (“United”) (collectively, “CenturyLink,” and individually, “the CenturyLink ILECs”), all of which are headquartered at 100 CenturyLink Drive, Monroe, LA, 71203. CenturyLink is represented in this matter by:

Adam L. Sherr
Assistant General Counsel, Lumen
120 Lenora Street, 5th Floor
Seattle, WA 98121

2 CenturyLink hereby petitions the Washington Utilities and Transportation Commission (“Commission”) to classify each of the CenturyLink ILECs as competitively classified companies pursuant to RCW 80.36.320 and WAC 480-121-061. CenturyLink requests all waivers identified in WAC 480-121-063,¹ except as modified by the additional conditions proposed by the company in Section V. below. The geographic area for which CenturyLink requests competitive classification includes all of its serving areas (221 wire centers) in the state of Washington. The request does not impact CenturyLink’s obligations with respect to: participation in low-income and hearing impaired programs; public safety, including NG-911; Eligible Telecommunications Carrier status; the obligation to serve under RCW 80.36.090; or Section 251 and 252 interconnection and wholesale obligations under the federal Telecommunications Act. CenturyLink remains committed to fulfilling these obligations.

¹ By rule, the Commission identifies twenty-four (24) statutes and rules that “are waived for competitively classified companies.” WAC 480-121-063(1) While the Commission is empowered to revoke one or more of these waivers (WAC 480-121-063(2)), it is presumed that all competitively classified companies are entitled to the elimination of these regulatory requirements.

3 By this Petition, CenturyLink demonstrates that each of the CenturyLink ILECs is subject to effective competition in the marketplace for voice communications in Washington, and that competitive classification in accordance with RCW 80.36.320 and WAC 480-120-061 is in the public interest.

II. STATUTORY AUTHORITY

4 The Commission's statutory authority to grant CenturyLink's Petition for Competitive Classification is set forth in RCW 80.36.320(1) (emphasis added):

(1) The commission shall classify a telecommunications company as a competitive telecommunications company if the services it offers are subject to effective competition. Effective competition means that the company's customers have reasonably available alternatives and that the company does not have a significant captive customer base. In determining whether a company is competitive, factors the commission shall consider include but are not limited to:

(a) The number and sizes of alternative providers of service;

(b) The extent to which services are available from alternative providers in the relevant market;

(c) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and

(d) Other indicators of market power which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.

The commission shall conduct the initial classification and any subsequent review of the classification in accordance with such procedures as the commission may establish by rule.

5 Pursuant to RCW 80.36.310, CenturyLink requests that this petition is granted effective June 1, 2024. Should the Commission suspend the effective date and schedule hearings, then pursuant to RCW 80.36.310(2), a final order should be entered within six months from the date of this filing.

III. POLICY CONSIDERATIONS

6 In accordance with RCW 80.36.300, it is the policy of the state to “(5) Promote diversity in the supply of telecommunications services and products in telecommunications markets throughout the state; and (6) Permit flexible regulation of competitive telecommunications companies and services.”

7 Twice in the past decade, the Commission has recognized that ILECs in Washington are subject to extreme competitive pressure and that traditional regulation is no longer appropriate. In July 2013, the Commission stated the following in its order granting Frontier competitive classification (Docket UT-121994; Order 06 (emphasis added)):

42. The analog technology of legacy telephone networks is also becoming antiquated as network signaling has gone digital. Copper wires are increasingly making way for fiber optic technology that enables infinitely greater capacities and speeds for telecommunications and broadband services. Regardless of provider or technology, access to reliable and ultra-fast networks now enables consumers and businesses to seamlessly connect computers, smartphones, tablets, global positioning satellite (GPS), and other digital devices to reach a myriad of Internet, video, voice, and data services and applications. These developments reflect a convergence toward an all-Internet protocol (IP) world in which voice service is increasingly viewed as yet another application that rides atop any broadband connection regardless of the underlying technology. The IP transition has become the underlying foundation for the availability of 21st Century digital services and applications for Washington’s residents and businesses. In short, we are in the midst of dramatic changes in the technologies employed by the communications industry, and the rapid evolution of data-driven services has transformed society in profound ways.

*43. Convergence of technologies, providers, and competition is making historic government regulation outdated, as voice, video, and data are quickly becoming just packets of information carried on the same networks. These changes offer the promise of large consumer benefits as well as important economic advantages such as increased jobs, investment, and national productivity. **However, these benefits increasingly hinge on the ability of telecommunication providers to meet the demands of consumers without unnecessary or outdated intervention by regulation. Indeed, other state regulators, including this Commission, have recognized that telecommunications markets are best served by public policies that are, to the maximum extent possible, technology and industry-neutral and that allow market forces to operate freely without unnecessary regulatory interference and that focus on core functions such as protecting consumers and promoting competition among diverse providers of communication services. (footnotes omitted)***

44. It is against this backdrop that we consider the merits of Frontier’s Petition and the various settlement agreements that have been presented to us for approval. While no one can dispute the consumer benefits and efficiencies that accrue from an increasingly diverse and competitive telecommunications marketplace, it is also true, and we accept, that these developments have implications for traditional telecommunications providers like Frontier. The long-established condition of imposing regulations, including full economic regulation, on the Company and the legacy voice services it provides, may no longer be reasonable or necessary given its smaller scope and scale in Washington’s telecommunications marketplace.

45. Although Frontier’s presence in the market remains significant, consumers are switching to alternative providers and platforms for their communications requirements, leaving the Company with the prospect of a diminished customer base and declining or stagnant revenue streams. Frontier’s historic business – on which regulators have relied to achieve certain public policy objectives such as the widespread availability of residential and business telephone services at affordable rates throughout the Company’s service area – is in jeopardy as a result of competition and technological change.

46. Accordingly, as this marketplace and technological transformation occurs, we recognize that the traditional role of incumbent telecommunications providers such as Frontier, and the regulatory construct that is applied to them, should be re-examined, and where appropriate, regulation should give way to the discipline of the competitive marketplace. Incumbent telephone companies are increasingly subject to a vigorous level of inter- and intra-modal competition from CLECs, cable companies, wireless companies, and Voice over Internet Protocol (VoIP) providers that serve both business and residential consumers. These providers are not subject to the same regulatory requirements that apply to Frontier, and to that degree, they have a distinct competitive advantage.

8 Soon after entering the Frontier order, the Commission entered Order 04 in Docket UT-130477, approving CenturyLink’s Alternative Form of Regulation (“AFOR”). In that order, the Commission made very similar findings (emphasis added):

3. All parties to this proceeding agree that CenturyLink faces strong competition for the majority of its services throughout most of the geographic area it serves. We agree and find that this docket affords the Commission the opportunity to continue to acknowledge the realities of the 21st Century marketplace by reducing unnecessary regulation and enhancing the ability of CenturyLink to compete more effectively to the ultimate benefit of this state’s consumers.

40. We find, as the legislature suggests, that changes in the telecommunications market in Washington have produced conditions under which traditional rate of return regulation of CenturyLink no longer provides the most efficient and effective means of achieving the

state's public policy goals. Since the breakup of the Bell System in 1984, competition in the telecommunications industry has increasingly taken root in all facets of the marketplace. In the provision of voice-based local telephone service, a variety of intra- and inter-modal alternatives have arisen, including remarkable technological advances and investment in mobile and broadband technologies that include voice-based service alternatives. It is widely recognized that wireless companies play an increasingly significant role in the voice and broadband competitive market, while cable companies and others utilize state-of-the-art voice over Internet protocol (VoIP) technology, either nomadic or fixed, to serve a major segment of the telephone market.

*41. The telecommunications marketplace in Washington, including the local telephone market, is vastly different than the historic monopoly environment that existed throughout most of the 20th Century. Today, Washington's consumers have far more service options, most of which are available from companies using technologies that did not exist just a few decades ago. **No one can dispute the consumer benefits and efficiencies that accrue from an increasingly diverse and competitive telecommunications marketplace, but these developments have implications for traditional telecommunications providers like CenturyLink. The long-established condition of imposing full economic regulation on the Company and the legacy voice services it provides may no longer be reasonable or necessary given its reduced scope and scale in the marketplace.***

*42. **The new competitive dynamic warrants a shift in regulation from traditional economic restraints applied to monopoly providers, to more targeted oversight to prevent anticompetitive conduct and assure continued public safety, service quality, and consumer protection.** No party in this proceeding disputes that CenturyLink faces stiff competition for the majority of local telephone services throughout the vast majority of its service area. Indeed, the record contains ample evidence that although CenturyLink's presence in Washington's telecommunications market remains significant, many consumers are switching to alternative providers and platforms for their communications requirements, leaving the Company with the prospect of a diminished customer base and revenue streams. As we recognized in Docket UT-121994 for Frontier Communications Northwest Inc. (Frontier), the state's other large ILEC, CenturyLink's historic wireline business – on which we have historically relied to achieve certain public policy objectives such as the widespread availability of residential and business telephone services at affordable rates throughout the Company's service area – is in jeopardy as a result of competition and technological change.*

*43. **This proceeding affords the Commission and the Company the opportunity to acknowledge the realities of the 21st Century marketplace***

by reducing unnecessary regulation and bolstering the ability of CenturyLink and its competitors to provide effective competitive telecommunications services to the ultimate benefit of this state's consumers. We recognize the need to re-examine the traditional role of ILECs such as CenturyLink, and the regulatory construct that is applied to them, and where appropriate, reduce regulation in favor of the discipline of the competitive marketplace. The AFOR statute and this docket afford us the means to establish a regulatory framework that retains necessary aspects of the Commission's oversight while allowing CenturyLink the freedom to compete more aggressively with other telecommunications providers.

- 9** In the decade since the Commission unequivocally pronounced that sound public policy requires relaxed regulation of the state's largest ILECs, competition has only increased. The Commission's findings are no less true today.
- 10** Consistent with statutory and Commission policy, and as supported by the facts set forth in this petition, CenturyLink urges the Commission to approve this petition for competitive classification of each of the CenturyLink ILECs with the conditions set forth in Section V. This petition demonstrates what the Commission repeatedly concluded a decade ago – that CenturyLink ILEC services are subject to effective competition throughout their service territories by numerous alternative providers utilizing a host of technologies.² This competition has irreversibly created an environment in CenturyLink's service areas where customers have reasonably available service alternatives and CenturyLink does not have a significant (if any) captive customer base.
- 11** Alternative service provider competitors offer equivalent or substitute services that are comparable (if not superior, in the view of Washington residents) to CenturyLink's copper-based service offerings. The competitive landscape is more fully described and

² Under its AFOR, CenturyLink has been treated as if it was competitively classified since 2014. Docket UT-130477, Order 04, ¶¶ 2, 38. This petition largely seeks to make that status permanent, rather than requiring the company to renegotiate and relitigate the question of "effective competition" every few years. It also seeks to further streamline regulation consistent with RCW 80.36.320.

detailed in Section IV.

IV. FACTORS IN RCW 80.36.320 ARE EASILY SATISFIED

12 The Commission is required to “classify a telecommunications company as a competitive telecommunications company if the services it offers are subject to effective competition.” RCW 80.36.320(1). “Effective competition” is defined by the Legislature as meaning “that the company's customers have reasonably available alternatives and that the company does not have a significant captive customer base. In determining whether a company is competitive, factors the commission shall consider include but are not limited to:

(a) The number and sizes of alternative providers of service;

(b) The extent to which services are available from alternative providers in the relevant market;

(c) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and

(d) Other indicators of market power which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.”

13 CenturyLink addresses each of these factors in turn.

A. Overview of Competition in Washington

14 CenturyLink faces intense competition from alternative providers in each of its 221 wire centers across Washington. While decades ago the monopoly provider of voice services in the state, CenturyLink’s incumbent local exchange carrier operations now provide less than 4% of the voice connections in Washington. See Graphic 1 below. CenturyLink copper-based landline services have been challenged by and substituted for by customers by copper-based landline, fiber-based landline, commercial mobile radio (wireless) (“CMRS”), fixed wireless, cable and commercial satellite services. Graphic 1, based on

data drawn from the FCC’s Voice Telephone Services Report,³ demonstrates what is well known – that mobile wireless (CMRS) services are largely ubiquitous and dominate the voice telephony market. The Centers for Disease Control and Prevention estimate that (as of 2020) 65% of Washington adults utilize wireless services only.⁴ The same study shows that only 2.3% of Washington adults utilize wireline services only.

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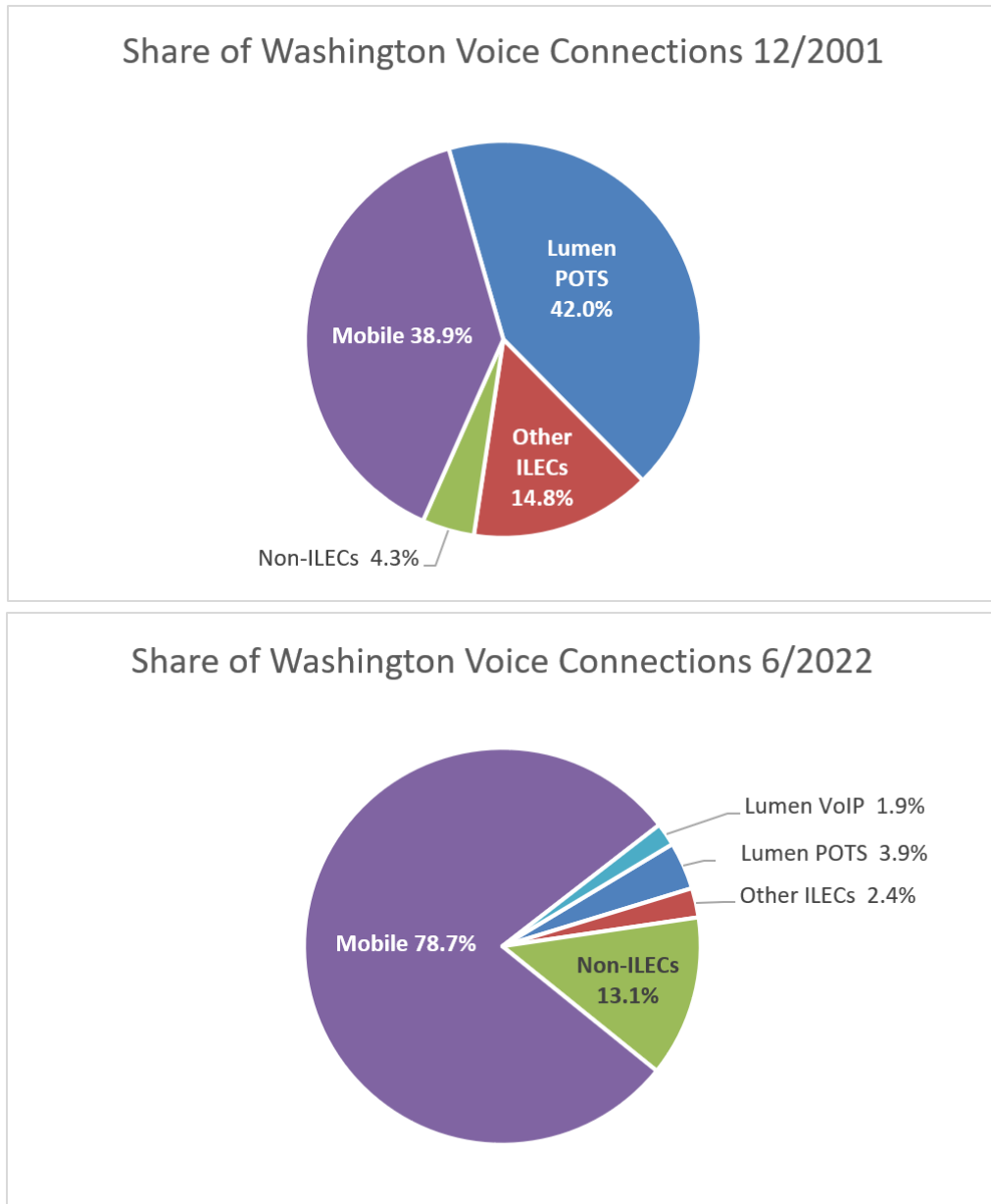
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³ [Voice Telephone Services Report | Federal Communications Commission \(fcc.gov\)](#)

⁴ https://www.cdc.gov/nchs/data/nhis/earlyrelease/Wireless_state_202212.pdf Not surprisingly, the trend in Washington is for greater wireless substitution. In 2018, 63% of Washington adults utilized wireless service only. https://www.cdc.gov/nchs/data/nhis/earlyrelease/Wireless_state_202108-508.pdf

Graphic 1: Washington Voice Telephone Subscriptions: 2001 and 2022⁵



B. Competition Study

15 In support of this petition, CenturyLink compiled a granular competition study, attached as Exhibit 1 to the Declaration of Peter Gose. The competition study identifies – by CenturyLink ILEC, wire center, technology type and carrier – the number and percentage

⁵ Note that CenturyLink ILEC access line counts for 2001 do not include Voice over Internet Protocol customers (if any) of the CenturyLink ILECs’ competitively classified affiliates. Those line counts (if any existed) are included among the “Non-ILEC” category.

of locations where service is available from copper, fiber, cable, CMRS, fixed wireless and commercial satellite competitors. As discussed in greater detail below, the competition study is based on the most recent (June 30, 2023) Broadband Data Collection (“BDC”) data collected and published by the Federal Communications Commission (“FCC”).⁶

16 The competition study, similar to Graphic 1 above, makes plain that Washington customers throughout CenturyLink’s service territory have access to multiple service alternatives from other providers. Table 1 summarizes the percentage of locations (or households, in the case of CMRS providers) in CenturyLink’s ILEC serving areas at which alternative services are available, by technology.⁷

Table 1 – Alternative Service Availability (All CTL ILEC Areas)

Service Area	Technology	Availability
All CTL ILEC Areas	Landline-Copper	0.7%
All CTL ILEC Areas	Landline-Fiber	7.6%
All CTL ILEC Areas	Cable	86.2%
All CTL ILEC Areas	CMRS (Households)	99.9%
All CTL ILEC Areas	Fixed Wireless	85.0%
All CTL ILEC Areas	Commercial Satellite	100.0%

⁶ The competition study utilizes a slightly different methodology for CMRS data than for landline (copper and fiber), cable, fixed wireless and commercial satellite providers. In CenturyLink’s competition study (Gose Declaration, Exhibit 1), CMRS service locations are estimated based on the information supplied by the wireless carriers to the FCC. CenturyLink’s wire center boundaries do not align perfectly with the hexagon geographic units (which are about the size of two football fields at the Hex8 level), requiring estimation to be used to assign CMRS coverages in areas in those cases where the FCC’s hexagons straddled a CenturyLink wire center boundary.

⁷ CenturyLink notes for the Commission that Voice over Internet Protocol (“VoIP”) is not listed as a serving technology. VoIP is not a serving architecture; it is an application that runs over various serving architectures, including landline cable, fixed wireless and satellite.

17 These findings are similar when broken out by CenturyLink ILEC. See Table 2.

Table 2 – Alternative Service Availability (By CTL ILEC)

Service Area	Total Locations	Landline-Copper Avail	Landline-Fiber Avail	Cable Avail	CMRS Avail (HH)	Fixed Wireless Avail	Commercial Satellite Avail
Qwest Corporation	1,518,123	0.8%	7.6%	91.1%	100.0%	85.9%	100.0%
CenturyTel of WA	160,792	0.0%	5.0%	58.9%	99.6%	77.2%	100.0%
Cowiche	2,152	0.0%	64.8%	33.6%	100.0%	91.6%	100.0%
Inter-Island	11,479	0.0%	30.4%	14.0%	95.1%	59.5%	100.0%
United Telephone	68,250	0.0%	7.0%	55.4%	99.7%	86.4%	100.0%

18 As noted above, the competition study (Gose Declaration, Exhibit 1) was compiled based on BDC data collected by the FCC. Through the BDC process, the FCC has developed an address-by-address map that “displays where internet services are available across the United States, as reported by Internet Service Providers (ISPs) to the FCC. The map will be updated continuously to improve its accuracy through a combination of FCC verification efforts, new data from Internet providers, updates to the location data, and—importantly—information from the public.”⁸ The BDC mapping tool displays, for any address in the United States, both fixed and mobile broadband services available. See Graphics 2 and 3.

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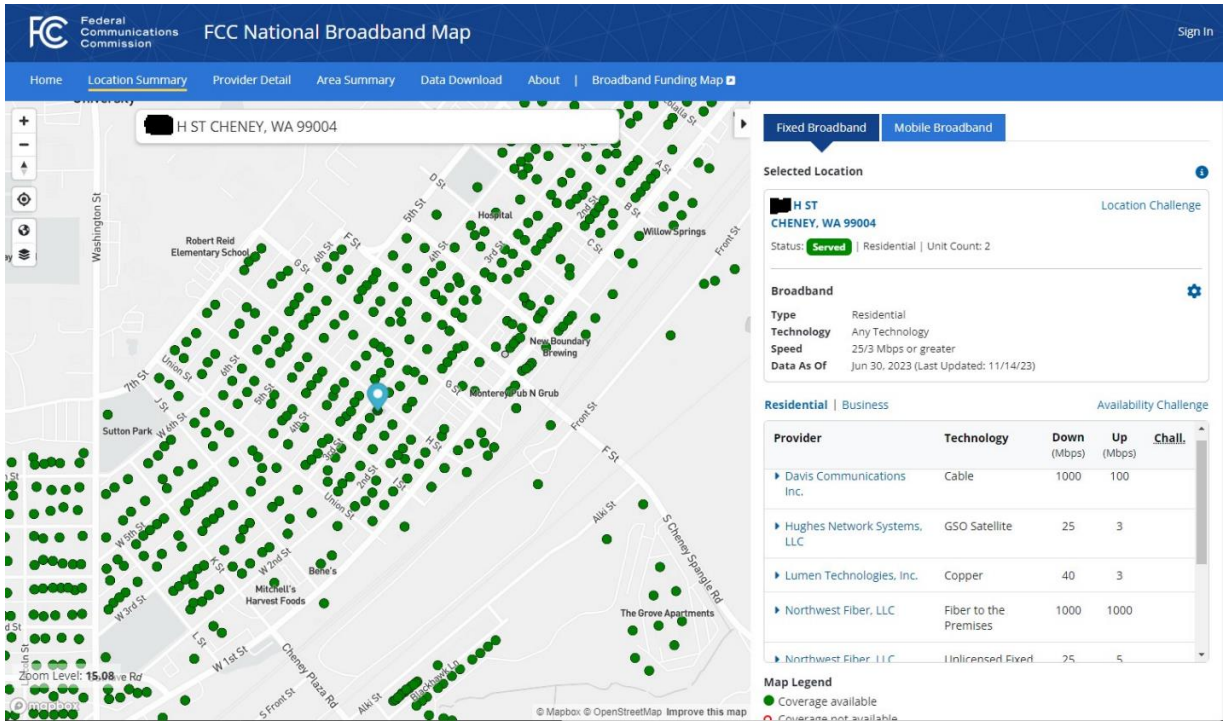
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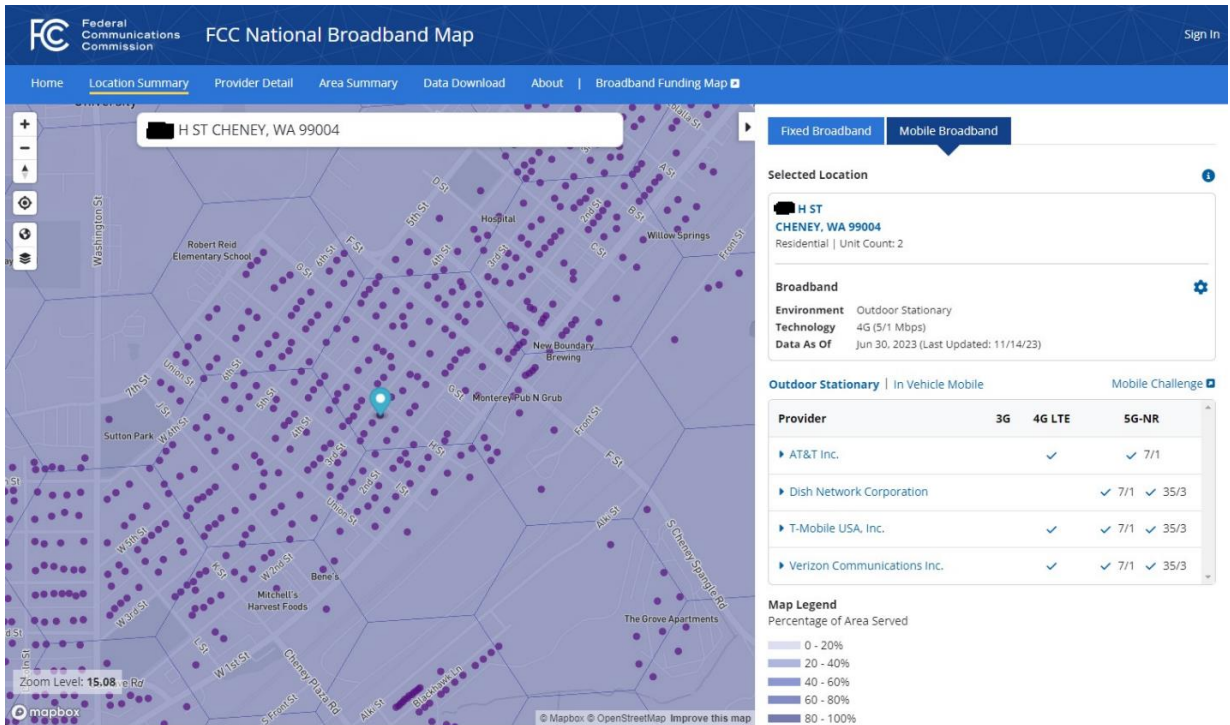
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⁸ <https://help.bdc.fcc.gov/hc/en-us/articles/13532984820379-What-s-on-the-National-Broadband-Map>. Graphics 2 and 3 were created on November 20, 2023. Note that the five fixed broadband options displayed represent only a subset of all fixed broadband options at the subject address (see the scroll bar on the right).

Graphic 2 – BDC Map Example (Fixed Broadband)



Graphic 3 – BDC Map Example (Mobile Broadband)



Factor (a): The number and sizes of alternative providers of service

19 RCW 80.36.320(1)(a) first requires the Commission to consider “[t]he number and sizes of alternative providers of service.” CenturyLink faces intense competition across the state from scores of competitors, large and small. These extend from the smallest CLECs to the two largest telecommunications providers in the United States: Verizon and AT&T. See Tables 3 and 4 below (which are derived from Exhibit 1). CenturyLink faces between 8 and 28 competitors per wire center, with the average number of competitors sitting at 14.7 per wire center.⁹

Table 3 – Number of Alternative Providers (All CTL Areas)

Service Area	Technology	Number of Competitors
All CTL ILEC Areas	Landline-Copper	17
All CTL ILEC Areas	Landline-Fiber	53
All CTL ILEC Areas	Cable	16
All CTL ILEC Areas	CMRS (Households)	6
All CTL ILEC Areas	Fixed Wireless	43
All CTL ILEC Areas	Commercial Satellite	3

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⁹ Source: June 30, 2023 BDC data collection; see Gose Declaration, Exhibit 1 (Modality Counts Tab).

Table 4 – Number of Alternative Providers (By CTL ILEC)

Service Area	Landline-Copper Competitors	Landline-Fiber Competitors	Cable Competitors	CMRS Competitors	Fixed Wireless Competitors	Commercial Satellite Competitors
Qwest Corporation	19	49	13	6	37	3
CenturyTel of WA	6	21	7	6	28	3
Cowiche	0	2	2	4	7	3
Inter-Island	1	3	3	3	5	3
United Telephone	2	9	4	5	13	3

20 In addition to the number and size of CenturyLink’s many Washington competitors – who collectively provide the overwhelming majority of the voice connections in the state – the Commission should consider the numerous modalities of service available to Washington customers. In addition to competition from traditional copper-based landline providers, CenturyLink faces competition in the voice and broadband markets from providers using cable, CMRS, fixed wireless and commercial satellite technologies. This is true across each CenturyLink wire center. In ninety percent of CenturyLink’s 221 wire centers, customers have access to four, five or six different modalities. See Gose Declaration, Exhibit 1 (“Modality Counts” tab) and Graphic 4, which demonstrates the diversity of modalities available across CenturyLink’s Washington service areas.

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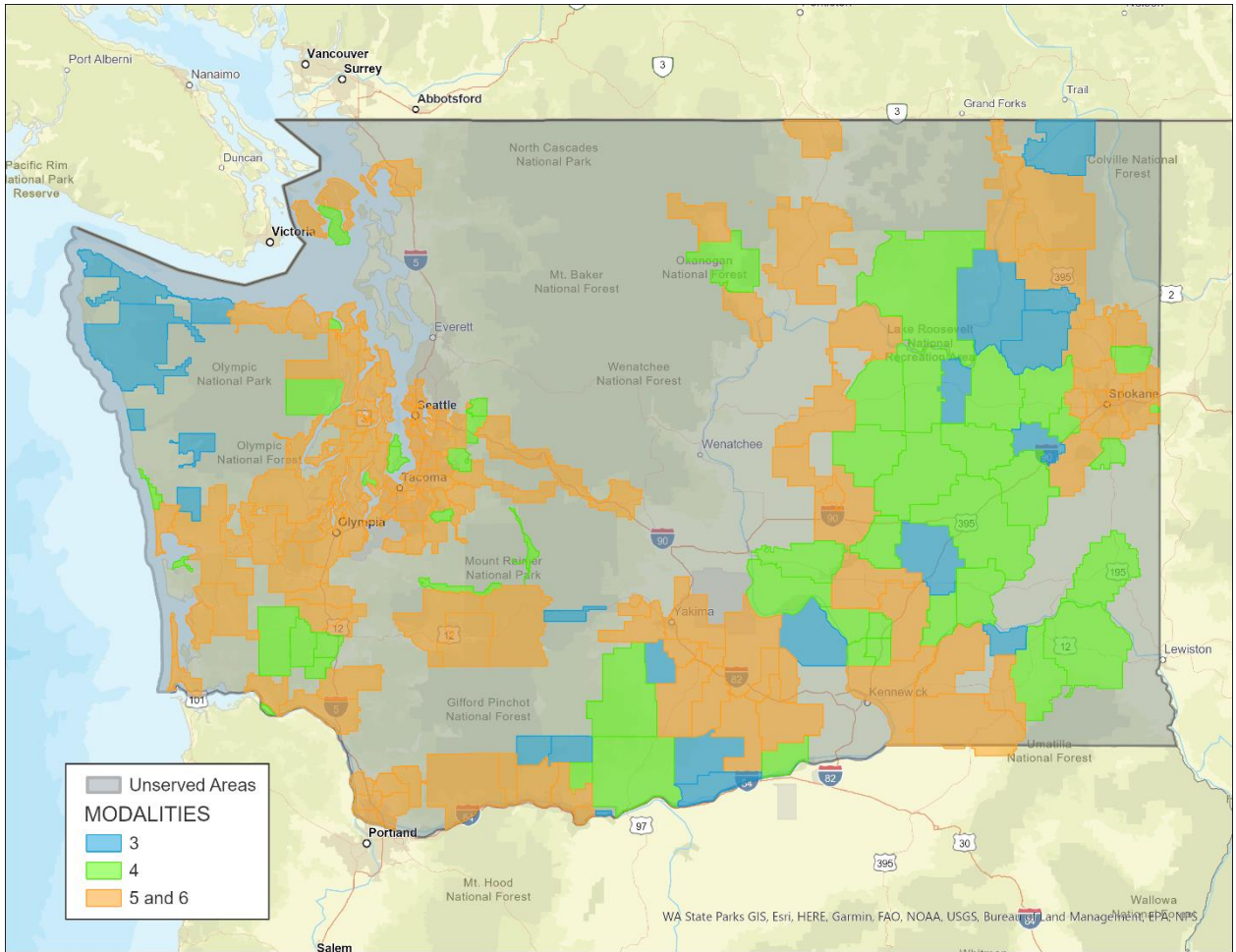
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Graphic 4 – Modality Diversity by CenturyLink Wire Center



Factor (b): The extent to which services are available from alternative providers in the relevant market

21 RCW 80.36.320(1)(b) requires the Commission to consider “[t]he extent to which services are available from alternative providers in the relevant market.” Landline, cable, CMRS, fixed wireless and commercial satellite providers all provide voice telephony alternatives, along with broadband options not regulated by the Commission and not necessarily available to all CenturyLink ILEC customers.

22 Landline competitors: 66 different competitive landline providers, many of which are competitive local exchange carriers (“CLECs”) or municipal public utilities districts

(“PUDs”) (discussed below), offer copper-based and fiber-based alternatives to CenturyLink services. See Exhibit 1 (Copper and Fiber tabs). Qwest Corporation has 182 active interconnection agreements with CLECs in Washington. As of September 2023, at least 73 CLECs were actively providing service in Qwest Corporation territory.¹⁰ CLEC service offerings are often exact replicas of CenturyLink ILEC service. In many cases, CLECs utilize CenturyLink wholesale services (whether individual service components or outright resale of CenturyLink service) to provide service to end users.

23 Landline competition is increasingly furnished over fiber to the premises. Fiber customers have access to extremely high-speed broadband offerings (at speeds not available from CenturyLink depending upon the location) and, of course, voice services.

24 Fiber-based competition will also continue to grow by virtue of massive federal government broadband expansion programs, including the Rural Digital Opportunity Fund (“RDOF”), the American Rescue Plan (“ARPA”) and the Broadband Equity Access and Deployment Program (“BEAD”). The federal government is investing very large sums of money to expand broadband to underserved and unserved areas across the country. Over the next decade, Washington will receive nearly \$1.76 billion in broadband grant funding from the federal government.¹¹ Washington received \$222.7 million in RDOF grants, \$195.7 million in ARPA funds for facilities construction, \$11.8 million¹² in middle mile funds under the Enabling Middle Mile Broadband Infrastructure

¹⁰ This total (73) is likely understated, as it only counts CLECs in Qwest Corporation territory who had (as of September 2023) active services still subject to the Qwest Corporation Performance Indicator Definitions (“PIDs”) and Performance Assurance Plan (“PAP”) before the PIDs/PAP were terminated by the Commission in Docket UT-230520. CLECs obtain numerous services from CenturyLink that were long ago excluded from the PIDs/PAP.

¹¹ The \$1.76 billion figure is based on currently awarded programs. Certain programs such as RDOF and the NTIA Tribal Broadband Connectivity programs contemplate future new tranches of funding which have the potential to provide additional funding to Washington.

¹² NTIA selected grant winners across the nation for the \$1 billion program that is part of President Biden’s Investing in America agenda. Washington’s winner was Whidbey Telephone company, who identified a project purpose to add 47.6 miles of new terrestrial fiber and 63.1 miles of undersea fiber. This middle mile project will provide infrastructure to the underserved community of Point Roberts, Washington and surrounding areas.

Program, and \$97.5 million from the first tranche of the NTIA’s Tribal Award grants.¹³ Washington is also expected to receive \$1.228 billion from the BEAD Program.¹⁴

- 25 The RDOF program includes broadband expansion to approximately 100,000 locations in Washington; CenturyLink won 14,875 of those locations, with competitors and other carriers winning the rest. See Graphic 6 below, which overlays RDOF census blocks, Port Districts and Public Utility Districts on top of Graphic 5. Critically, each RDOF winner is obligated to have a standalone voice service offering available day 1 after final FCC approval. Thus, every overlapping, federally-subsidized RDOF participant is competing with CenturyLink in census blocks located in CenturyLink ILEC territory. In Washington, besides CenturyLink, eight other providers were awarded RDOF grants.¹⁵
- 26 ARPA (created in 2021) included a Capital Projects Fund (CPF), which was designed to expand broadband access within states. The State of Washington was awarded \$195.7 million to bring affordable broadband service to 33,000 locations.¹⁶
- 27 BEAD, which is administered by the federal National Telecommunications and Infrastructure Administration (“NTIA”), will allocate \$42.45 billion for broadband investment within the United States. The State of Washington’s share of that allocation

See [Funding Recipients | BroadbandUSA \(ntia.gov\)](#)

¹³ The NTIA’s Tribal Broadband Connectivity Program is a \$3 billion program directed to tribal governments to be used for broadband deployment on tribal lands, as well as for telehealth, distance learning, broadband affordability, and digital inclusion. In the first funding round for this program, the NTIA awarded grant funding to 19 tribal entities in Washington. See [Round One Award Recipients | BroadbandUSA \(doc.gov\)](#)

¹⁴ The BEAD program is part of the federal Infrastructure Investment and Jobs Act (IIJA) signed into law during 2021. See [Biden-Harris Administration Announces State Allocations for \\$42.45 Billion High-Speed Internet Grant Program as Part of Investing in America Agenda | National Telecommunications and Information Administration \(ntia.gov\)](#)

¹⁵ See [Attachment A, Auction 904 Winning Bidders | Federal Communications Commission \(fcc.gov\)](#) See also [Biden-Harris Administration Announces State Allocations for \\$42.45 Billion High-Speed Internet Grant Program as Part of Investing in America Agenda | National Telecommunications and Information Administration \(ntia.gov\)](#)

¹⁶ See <https://home.treasury.gov/news/press-releases/jv1574>

is \$1.227 billion.¹⁷

28 Port Districts and Public Utility Districts (“PUDs”) are a growing area of broadband and voice competition in Washington.¹⁸ PUDs are community-owned utilities provisioning on a not-for-profit basis energy, water, sewer, and wholesale telecommunications services. In total, 15 PUDs in Washington are currently providing broadband and/or voice services. According to the Washington Public Utility Districts Association,¹⁹ PUDs invested over \$607 million on their broadband networks in Washington. Washington PUDs have installed nearly 9,000 miles of fiber and connect more than 64,000 end-user to broadband services. PUDs likewise lease fiber to 160 retail internet service providers (“ISPs”). Graphic 5 identifies the PUDs already competing in the broadband/voice market.

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¹⁷ [Biden-Harris Administration Announces State Allocations for \\$42.45 Billion High-Speed Internet Grant Program as Part of Investing in America Agenda | National Telecommunications and Information Administration \(ntia.gov\)](#)

¹⁸ See <https://www.jeffpud.org/new-laws-allow-wa-puds-ports-to-be-internet-service-providers/>

¹⁹ See [WPUDA Fact Sheet](#)

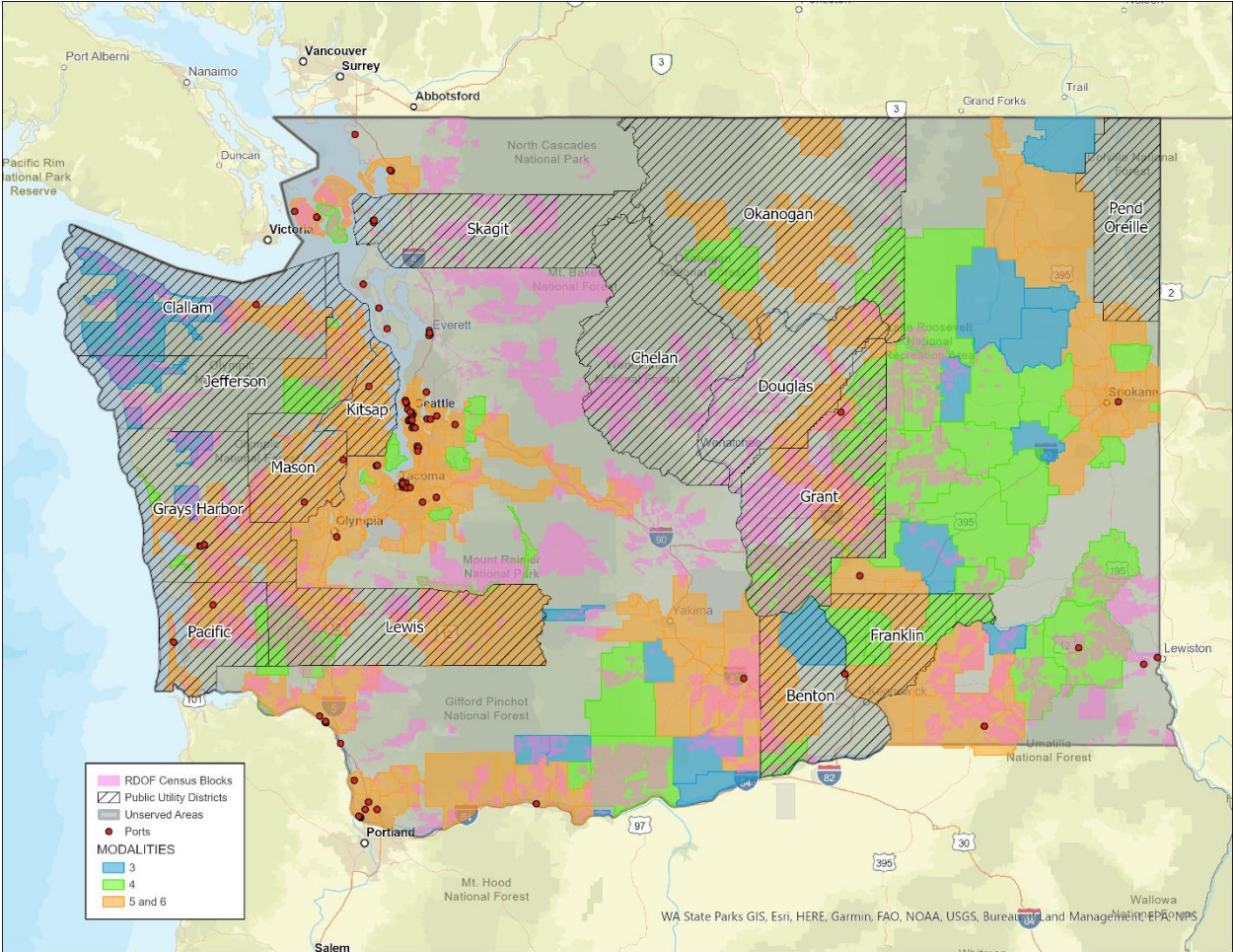
Graphic 5 – Washington PUDs Providing Broadband Services²⁰



29 Port districts within Washington are focused on economic development through the construction and operation of marine terminals, marinas, railroads, industrial parks, and airports.²¹ Presently, there are 75 ports throughout Washington and only 6 of state's 39 counties do not contain a port. Port districts within Washington are authorized to establish separate utility functions for the provision of wholesale and retail telecommunications services.²² The Seattle-Tacoma International Airport, which is owned and operated by the Port of Seattle, appears to be entering the telecommunications space. The Port of Seattle is actively engaged in construction of a consolidated telecommunications facility for other service providers and will be constructing its own telecommunications infrastructure.²³

30 Graphic 6 overlays RDOF census blocks, Ports and PUDs and visually represents the expansion of competitive alternatives from entities previously not directly engaged in the provision of telecommunications services.

Graphic 6 – Modality Diversity, Including RDOF, Ports and PUDs²⁴



31 Cable competitors: 16 different cable companies provide service in CenturyLink’s service territory in Washington, reaching over 1.5 million (over 85%) of eligible locations.

²⁰ Id.
²¹ [Find Your Port — Washington Public Ports Association \(washingtonports.org\)](https://www.washingtonports.org)
²² See [RCW 53.08.370: Telecommunications facilities—Construct, purchase, acquire, etc.—Purposes—Limitations—Eminent domain. \(wa.gov\)](https://leg.wa.gov/RCW/default.aspx?cite=53.08.370)
²³ See [RFQ Telecom Meet Me Room - Building - Design-Build, SeaTac, WA \(constructionbids.com\)](https://www.constructionbids.com)
²⁴ Modality counts derived from 6/30/2023 FCC BDC data collection. See Gose Declaration, Exhibit 1 (“Modality Counts” tab). PUD data derived from [https://www.wpuda.org/telecommunications#:~:text=Fast%20Facts%20\(based%20on%202021,fiber%20to%20serve%20their%20customers](https://www.wpuda.org/telecommunications#:~:text=Fast%20Facts%20(based%20on%202021,fiber%20to%20serve%20their%20customers). Port data derived from [Find Your Port — Washington Public Ports Association \(washingtonports.org\)](https://www.washingtonports.org)

Xfinity is the largest cable provider, alone potentially providing service at 70% of locations in CenturyLink ILEC areas. In addition to cable television and various internet services, Xfinity offers a digital home voice product (which includes 200MB internet) for \$35/month. Its features are comparable to CenturyLink residential landline service, albeit provided via different facilities and technology.²⁵ Voice service requires only 64 KB, and thus customers can utilize voice services across any cable broadband connection.

- 32** CMRS competitors: 5 different mobile wireless companies provide service in CenturyLink’s service territory in Washington, reaching over 2.21 million households. This represents over 99% of all households in CenturyLink’s service territory. In addition to these 5 companies (AT&T, Verizon, T-Mobile, Inland Cellular, TDS Telecom), there are a number of resellers (known as mobile virtual network operators or MVNOs) which offer Washington customers flexible and inexpensive options.²⁶ Examples of those MVNOs include Cricket Wireless, Metro, Tracfone, Mint Mobile and a host of others.
- 33** Fixed wireless competitors: Similar to CMRS alternatives, fixed wireless providers utilize radio spectrum, instead of traditional cable and wire facilities, to deliver a broadband signal to the end user. Fixed wireless services make use of either external outdoor antennas or internal indoor devices, depending on the strength of the wireless signal. Subscribers of fixed wireless services may purchase voice service offerings from the provider, or in the alternative they may use the fixed wireless broadband connections for an over-the-top voice solution from another provider of their choosing. As set forth in Exhibit 1 (“Fixed Wireless” tab) the FCC’s BDC data indicates that 43 fixed wireless providers have reported serviceable locations within Washington. Those offerings

²⁵ <https://www.xfinity.com/learn/home-phone-services> (viewed Oct. 24, 2023)

²⁶ See <https://www.moneysavingpro.com/coverage/wa/>

include Verizon's 5G Home Internet product and T-Mobile's Home Internet service.

- 34** Commercial satellite competitors: Commercial satellite internet services are made available from providers such as HughesNet, Viasat, and Starlink. These offerings include high-speed internet services and voice services. Satellite broadband services are ideal for rural and remote locations where terrestrial internet services are less available. Satellite broadband products are increasing in adoption. Starlink, for example, recently exceeded 2 million subscribers worldwide.²⁷

Factor (c): The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions.

- 35** Since 94% of voice connections in Washington are provided by carriers other than the CenturyLink ILECs or CenturyLink CLECs, there can be no credible doubt that these many competitors' services are functionally equivalent, reasonable substitutes or being provided at rates, terms and conditions that are competitive. Customers have voted with their feet (and their wallets), and are taking services from other providers, mostly via different technologies. CenturyLink's tiny market share of the voice market overwhelmingly demonstrates that customers find alternative services to be functionally equivalent substitutes and that the services are available on competitive rates and terms. If these competitive services were unaffordable, 94% of the voice connections would not be provided by alternative carriers.
- 36** Admittedly, an apples-to-apples comparison between CenturyLink standalone residential service (1FR) and fiber-based landline, cable, CMRS, fixed wireless or commercial satellite services is a challenge. These other technologies afford customers much greater functionality than does a 1FR, including most notably access to high-speed internet/broadband. While an attempt to price-compare the CenturyLink 1FR to the

²⁷ See [19 Incredible Starlink Statistics & Facts \(starlinkinsider.com\)](#)

competitive alternatives which nearly all Washington consumers have chosen is somewhat of a fool’s errand – as only 2.3% of Washington residents use wireline service exclusively²⁸ (and that number may include customers who also procure broadband service) – Table 5 below summarizes CenturyLink’s best attempt at comparing “voice only” services.

Table 5 – Voice Only Price Comparison

Service Provider	Technology	Voice Only Pricing	Notes
CenturyLink ILECs	Landline-Copper (1FR)	\$37.00 (inclusive of \$6.50 Subscriber Line Charge) ²⁹	The 1FR price includes no features (e.g., call waiting, caller ID, voice mail)
Wave Broadband (Astound)	Landline-Fiber	Starting at \$25.00 ³⁰ (first year pricing)	Call plans include 17 features (including call waiting, caller ID, 3-way calling and voice mail), and customers may also procure battery backup. ³¹ Voice calling also mobile; simultaneous ringing on multiple TNs. ³²
Xfinity	Cable	\$35.00 ³³	Includes 200 Mbps internet. Includes

²⁸ See footnote 4. Beyond any doubt, many if not most of CenturyLink’s 1FR customers likewise purchase broadband and/or mobile voice services from other providers in addition to their CenturyLink 1FR, and thus there are likely very few CenturyLink landline customers whose telephony needs are being met solely via a standalone residential line. CenturyLink’s 1FR customers span across the state, as evidenced by the number of residential access lines reported by wire center in Exhibit 1 (“WA Household Data” tab).

²⁹ https://www.centurylink.com/content/dam/home/about-us/tariff/documents/wa_qc_ens_c_no_2.pdf (Section 5.2.4.B., 12th Revised Sheet 32)

³⁰ <https://www.astound.com/washington/phone/#plans> (viewed Oct. 24, 2023)

³¹ <https://www.astound.com/support/phone/features/> (viewed Oct. 24, 2023)

³² <https://www.astound.com/washington/phone/#plans> (viewed Oct. 24, 2023)

³³ <https://www.xfinity.com/learn/home-phone-services> (viewed Oct. 24, 2023)

Service Provider	Technology	Voice Only Pricing	Notes
			features; backup battery available. ³⁴
Mint Mobile	CMRS	\$15.00 ³⁵	Includes 5GB internet/mo, unlimited talk and text. Prepaid.
T-Mobile	Fixed Wireless	\$50.00 ³⁶	33-188 Mbps internet; unlimited usage. ³⁷ Note: T-Mobile fixed wireless internet \$10-20/mo. less when bundled with cell service. ³⁸
Hughesnet	Commercial Satellite	\$49.99 ³⁹	Includes 50 GB/25Mbps Internet.

Factor (d): Other indicators of market power which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.

37 CenturyLink lacks any semblance of market power in Washington, and has no captive customers, let alone a “significant captive customer base.” The above Tables and Graphics, along with the competition study appended as Exhibit 1, conclusively demonstrate that Washington customers have scores of alternative providers and technologies to choose among. RCW 80.36.320(1)(d) requires the Commission to consider other indicators of market power, which may include market share, growth in market share, ease of entry, and the affiliation of providers of service. Each will be

³⁴ <https://www.xfinity.com/planbuilder#Pricing&otherinfo> (viewed Oct. 24, 2023)

³⁵ <https://www.mintmobile.com/product/03-month-small-sim-card-plan/> (viewed Oct. 24, 2023). Mint Mobile resells T-Mobile wireless service. <https://www.techradar.com/news/mint-mobile-vs-verizon-which-carrier-is-best-and-which-is-right-for-you>

³⁶ <https://www.t-mobile.com/home-internet/plans?INTNAV=tNav%3APlans%3AHomeInternetPlan> (viewed Oct. 30, 2023) If a customer chooses not to purchase a voice plan from a fixed wireless or satellite provider, free or low-cost voice of internet protocol (“VoIP”) applications are available. <https://www.forbes.com/advisor/business/services/best-free-voip-services/>

³⁷ <https://consumerrating.org/internet-providers/reviews/t-mobile/>

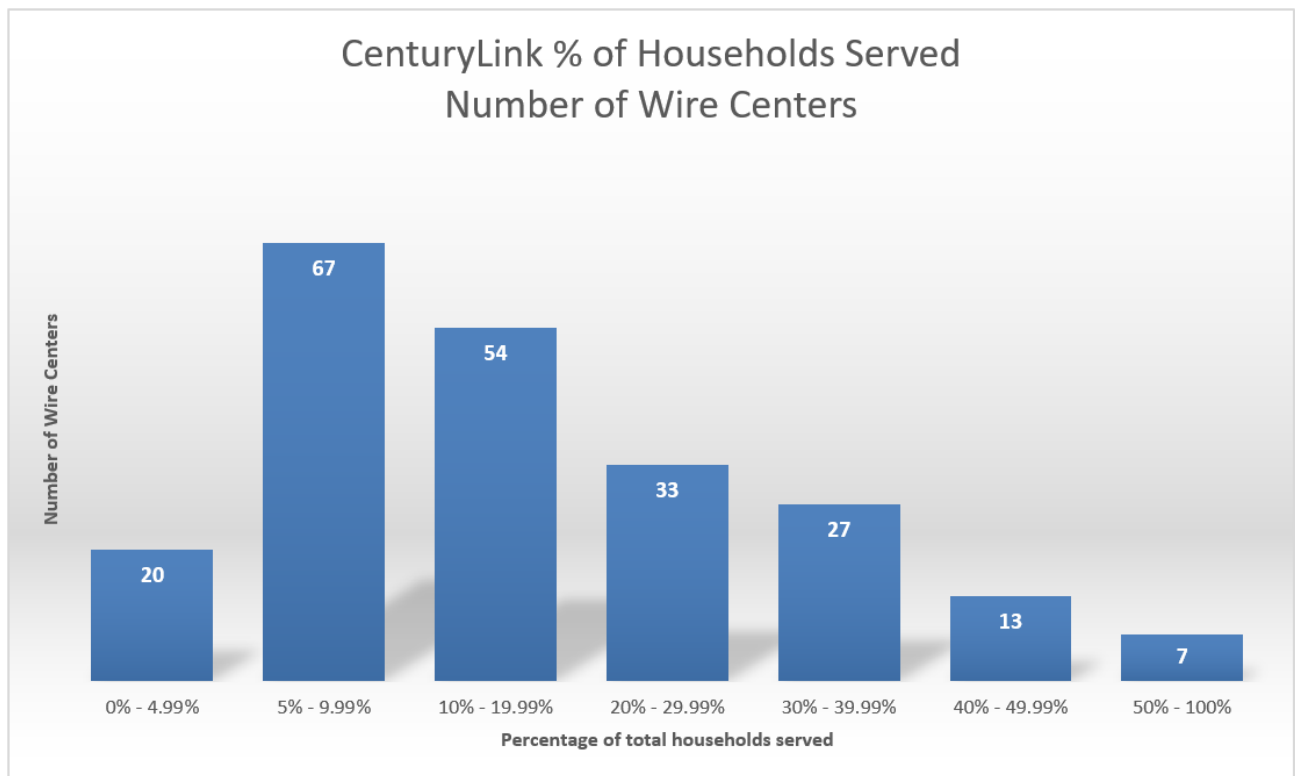
³⁸ <https://www.t-mobile.com/home-internet/plans?INTNAV=tNav%3APlans%3AHomeInternetPlan> (viewed Oct. 30, 2023).

³⁹ [Product selection \(hughesnet.com\)](https://www.forbes.com/advisor/business/services/best-free-voip-services/) (viewed Oct. 27, 2023). If a customer chooses not to purchase a voice plan from a fixed wireless or satellite provider, free or low-cost voice of internet protocol (“VoIP”) applications are available. <https://www.forbes.com/advisor/business/services/best-free-voip-services/>

discussed in turn.

38 Market share. From a residential consumer perspective, CenturyLink’s market share has precipitously declined for more than two decades and is greatly diminished. See Graphic 1 above. For example, CenturyLink reaches fewer than 50% of households in only 4% of its 221 wire centers. CenturyLink’s “market share” is even lower than households reached given that most landline customers likewise utilize CMRS and possibly other technologies. Graphic 7 below represents the fact that 201 CenturyLink wire centers, or 91%, have a residential household penetration of less than 40%.

Graphic 7 – Households Served Analysis⁴⁰

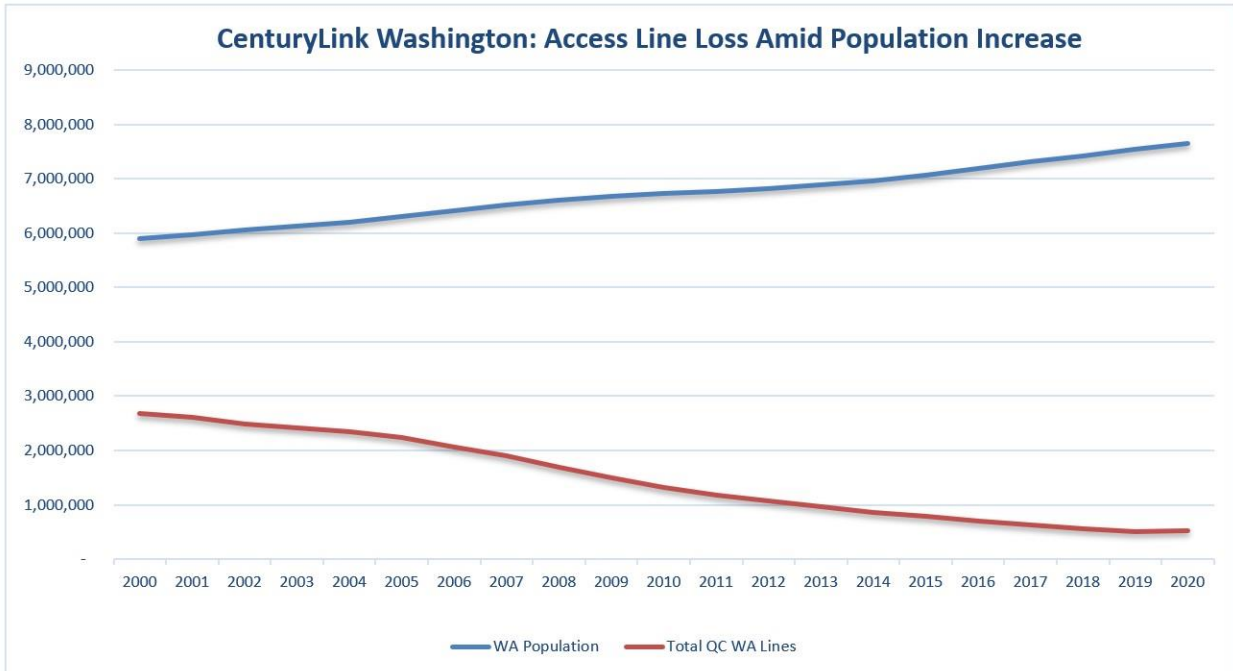


39 Growth in market share. CenturyLink has not achieved access line growth for over two decades, but rather has experienced significant access line loss in Washington over that time

⁴⁰ See Gose Declaration, Exhibit 1 (“WA Household Data” tab).

horizon. Graphic 8 below sets forth the drastic line loss the company has endured while during the same time period the population of Washington has substantially risen.

Graphic 8 – Qwest Corporation Line Loss History / WA Population Increases⁴¹



40 Ease of entry. RCW 80.36.320 dates back to 1985, at a time when a competitor of CenturyLink’s ILEC predecessor would have had to overbuild a copper network in CenturyLink territory. In the four decades that followed, numerous new technologies have rolled out and overwhelmed CenturyLink’s legacy base of customers. Even in the copper-based wireline market (albeit that being a tiny portion of voice connections, inclusive of CenturyLink), new entrants have few if any barriers to entry. They can lease CenturyLink service elements and facilities at low costs and compete with CenturyLink for retail customers. The market itself demonstrates that there are not meaningful barriers to entry for intermodal competitors, as those providers now supply 92% of the voice

⁴¹ See Gose Declaration, Exhibit 1 (“WA Pop Data” tab).

connections in the state.

- 41** Affiliation of service providers. None of the 83 competitors (inclusive of all technologies) identified in Attachment 1 is a corporate affiliate of CenturyLink.

V. ADDITIONAL CONDITIONS

- 42** As a matter of statute, CenturyLink is entitled to competitive classification, without further conditions, pursuant to RCW 80.36.320(1), as it is clear that the CenturyLink ILECs are subject to effective competition and lack a substantial (if any) captive customer base. Nevertheless, CenturyLink has listened to stakeholder concerns from prior proceedings⁴² regarding potential risks related to diminished regulation and, in an effort to proactively address such concerns, CenturyLink proposes that competitive classification be granted to each CenturyLink ILEC subject to the following conditions:

- 43** Geographic Deaveraging:⁴³ The CenturyLink ILECs agree not to further geographically de-average the non-recurring and monthly rates for standalone residential exchange service and standalone business exchange service. This provision does not modify or restrict the CenturyLink ILECs' ability to enter into individual contracts for service that specify rates other than statewide average rates.

- 44** Discontinuance of Standalone Residential Services: Washington law does not require Commission approval before an ILEC discontinues service to any service area in the state. WAC 480-120-083 requires notice only. Under CenturyLink's expiring AFOR, Commission approval is required before CenturyLink can discontinue stand-alone residential or business services in an area. CenturyLink has not sought such approval from the Commission during the pendency of the current AFOR or the prior AFOR.

⁴² See Docket UT-130477.

⁴³ This provision is consistent with the geographic deaveraging condition contained in CenturyLink's 2014 AFOR, Order 04, Docket UT-130477 ("AFOR Order"), Appendix A, Attachment A, Exception 7.

CenturyLink’s proposal herein carriers forward a modified version of the expiring AFOR commitment, notwithstanding that (1) the Commission cannot and/or does not impose such an approval requirement on the carriers that provide the overwhelming majority of voice connections in Washington, and (2) a Commission approval requirement will often be duplicative of the Federal Communications Commission’s Section 214 approval process, assuming CenturyLink ever seeks to discontinue service to an area.

- a. Commission Approval: The CenturyLink ILECs will not discontinue stand-alone residential exchange services to any area in which a “Protected Customer” resides without obtaining Commission approval.
 - i. Definition of “Protected Customer”: “Protected Customer” means those CenturyLink residential local service customers in Washington who, at their residences, have access to only CenturyLink ILEC copper-based wireline service and commercial satellite services to make voice calls, as determined by GIS mapping of CenturyLink’s local residential customers and the FCC’s Broadband Data Collection (BDC) data. Residential customers with access to fiber-based CenturyLink wireline service or mobile wireless, fixed wireless, cable or wireline competitive alternatives at their residences are not “Protected Customers.” “Access to” means the customers are able to subscribe to such services regardless of whether they actually do subscribe. CenturyLink has identified approximately 800 residential local service customers in Washington who meet this definition as of June 2023. This number could increase or decrease over time based on whether the company adds or loses customers, and also based on whether other fiber-based wireline services and/or competitive alternatives become available for customers.
 - ii. List of Protected Customers: Within sixty (60) days of approval of this Petition and the CenturyLink ILECs becoming competitively classified, CenturyLink will provide Commission Staff an updated list of Protected Customers on a confidential basis. CenturyLink will provide Commission Staff updated Protected Customer lists at least once per year for four (4) years thereafter.
- b. Where Commission Approval is Not Required: For any discontinuance of stand-alone residential exchange services to an area where Commission approval is not required pursuant to subsection a. above:
 - i. Timing of Notice: While WAC 480-120-083 requires 30 days advance notice to the Commission and others, CenturyLink agrees that it will provide notice to the Commission within ten (10) days after it files for

discontinuance with the Federal Communications Commission pursuant to 47 USC § 214.

- ii. Additional Information Provided: In addition to the information required to be provided pursuant to WAC 480-120-083, in the event a CenturyLink ILEC gives notice of discontinuance regarding standalone residential or business exchange service to an area, the CenturyLink ILEC will also identify a list of known competitors in the area affected by the notice.

45 Specified Services to Remain in Tariff.⁴⁴ The CenturyLink ILECs will continue to tariff public safety network services to state and county public safety entities necessary for routing and transmission of emergency service (911) calls. These are the same services that remained in tariff in connection with Order 04 in Docket UT-130477.⁴⁵

46 Wholesale Obligations.⁴⁶ The CenturyLink ILECs' wholesale obligations will remain unaffected by competitive classification. More specifically, competitive classification will not affect the Commission's authority to regulate the CenturyLink ILECs' wholesale obligations under the Telecommunications Act of 1996, or its authority to enforce applicable service quality or performances measures (if any) contained in tariffs, interconnection agreements, commercial agreements, or otherwise.

VI. EFFECT ON EXISTING ALTERNATIVE FORM OF REGULATION

47 CenturyLink is currently regulated pursuant to an AFOR, approved by the Commission in Docket UT-130477. The AFOR was originally set to expire in January 2021,⁴⁷ but has been extended several times. In Order 10 in Docket UT-130477, the Commission indicated that the AFOR would not be further extended.⁴⁸ The AFOR is set to expire

⁴⁴ This provision is consistent with the tariff condition contained in CenturyLink's 2014 AFOR. AFOR Order, Appendix A, Attachment A, Exception 3.

⁴⁵ See https://www.centurylink.com/content/dam/home/about-us/tariff/documents/wa_qc_ens_t_no_49.pdf

⁴⁶ This provision is consistent with the wholesale condition contained in the AFOR. Order, Appendix A, Attachment A, Exception 1.

⁴⁷ AFOR Order, Appendix A, Attachment A, ¶ 2.

⁴⁸ Docket UT-130477, Order 10, ¶ 14 ("Absent extraordinary circumstances, however, this will be the last time we agree to another such extension.").

January 9, 2025,⁴⁹ at which point CenturyLink returns to full rate of return regulation if a new regulatory status has not been ordered by the Commission in the interim.

48 Pursuant to RCW 80.36.310(2), the Commission must enter its final order on this petition within six months of this filing if the petition is suspended. While the requirements of RCW 80.36.320 are plainly satisfied in this case, there is of course some risk that the Commission will deny the petition or impose conditions that are not acceptable to or workable for CenturyLink, technically creating a risk that CenturyLink will fall back into rate of return regulation, a status that would be wholly inappropriate for many reasons. Approval of this petition as filed will go the furthest to protecting the status quo, a status that has proven successful for a decade.

49 To prevent the possibility of CenturyLink temporarily falling back into a fully regulated status, CenturyLink requests that the Commission enter an order in Docket UT-130477 temporarily and further extending CenturyLink's current AFOR as follows:

- a. The AFOR in Docket UT-130477 shall terminate upon entry of an order in this proceeding (1) approving the petition without further conditions and competitively classifying the CenturyLink ILECs, (2) or approving the petition subject to additional conditions that CenturyLink accepts and the CenturyLink ILECs become competitively classified.
- b. If the Commission denies this petition, CenturyLink will either file a new petition for competitive classification or a petition for a new AFOR within sixty (60) days of the final order in this proceeding. The existing AFOR (Docket UT-130477) will be extended until such time as CenturyLink's new petition is resolved by the

⁴⁹ Id., ¶ 13. Order 10 requires CenturyLink to file a petition for a new AFOR by July 1, 2024. Id. CenturyLink does not intend to pursue a new AFOR, as it seeks and is entitled to be competitively classified.

Commission.

- c. If the Commission approves this petition with additional conditions that CenturyLink rejects, CenturyLink will either file a new petition for competitive classification or a petition for a new AFOR within sixty (60) days of the final order in this proceeding. The existing AFOR (Docket UT-130477) will be extended until such time as CenturyLink's new petition is resolved by the Commission.

Submitted this 8th day of January 2024.

CENTURYLINK



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