

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Complainant,

v.

CENTURYLINK COMMUNICATIONS,
LLC., d/b/a LUMEN TECHNOLOGIES
GROUP; QWEST CORPORATION;
CENTURYTEL OF WASHINGTON,
INC.; CENTURYTEL OF INTER
ISLAND, INC.; CENTURYTEL OF
COWICHE, INC.; UNITED
TELEPHONE COMPANY OF THE
NORTHWEST,

Respondents.

DOCKET UT-240078

ORDER 04

ORDER GRANTING MOTION TO
AMEND POST-HEARING BRIEF AND
IMPOSING PENALITIES

BACKGROUND

- 1 On March 13, 2024, the Washington Utilities and Transportation Commission (Commission), on its own motion and through regulatory staff (Staff),¹ issued a complaint (Complaint) against CenturyLink Communications, LLC, d/b/a/ Lumen Technologies Group et. al.² (CenturyLink or Company), in the above-referenced Docket for alleged violations of state law and Commission rules (Complaint).
- 2 On January 2022, Staff opened an investigation to determine if CenturyLink’s automatic call answering system met the requirements of Washington Administrative Code (WAC)

¹ In formal proceedings such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. See RCW 34.05.455.

² Please see above referenced caption for complete listing of CenturyLink affiliates.

480-120-133,³ after receiving complaints from customers about the Company's "excessive call wait times," and the "inability to reach a customer service representative."⁴

- 3 On December 29, 2022, Staff sent a data request to CenturyLink by mail and requested monthly call data quantifying the average time the Company's automated system took: (1) to answer calls; (2) provide the caller with an option to speak to a live representative; and (3) to transfer the caller to a live representative from the time the caller selected the appropriate option to speak to a live representative.⁵ Staff requested that CenturyLink provide data from September 1, 2021 to November 30, 2022, for its business office and repair center and produce this information no later than January 12, 2023.⁶
- 4 On February 22, 2023, Staff sent a follow-up email to CenturyLink attaching the original letter and data request. In response, CenturyLink stated it had not received the initial data request, but it agreed to compile and provide the requested information.⁷
- 5 On March 16, 2023, Staff sent another follow-up email,⁸ and on March 30, 2023, CenturyLink provided monthly call data from January 2022 to November 2022.⁹ While this data showed that the monthly average time from when the caller selected the appropriate option to speak to a live representative until a representative answered exceeded 60 seconds, CenturyLink maintains it advised Staff that this was all the information it had readily available, due to the migration of its new customer care provisioning system.¹⁰
- 6 On May 8, 2023, Staff emailed CenturyLink requesting an explanation of the measures and processes it implemented since September 1, 2021, to ensure a live representative

³ WAC 480-120-133 (2)(b) requires that the automated system provided the call with an option to speak to a live representative within the first sixty seconds of the recorded message or that the caller be transferred to a live representative.

⁴ *Washington Utilities and Transportation Commission v. CenturyLink Communications LLC, d/b/a/ Lumen Technologies et. al.*, Docket UT-240078, Complaint at 2 ¶ 5 (March 13, 2024).

⁵ Docket UT-240078, Complaint at 2 ¶ 6.

⁶ *Id.*

⁷ Complaint at 2 ¶ 7.

⁸ Complaint at 2 ¶ 8.

⁹ Docket UT-240078, CenturyLink's Post-Hearing Brief, at 3 ¶ 10 (October 14, 2024).

¹⁰ *Id.* and Docket UT-240078, Testimony of Sharmila Prabakaran (Prabakaran) Exh. SP-7 at 1:3 CenturyLink Response to WUTC Staff Data Request (May 30, 2024).

answered the call within sixty seconds and requested the Company provide data for: (1) “the entire time frame requested – 09/01/2021 thru 3/1/02;” (2) the length of time that passed before the automated answering system connected to the network; and (3) the average time from the beginning of a call until the caller was provided with the option to speak to a live representative.¹¹

7 While CenturyLink asserts it provided all “readily available” information in its March 30, 2023, response, and “could not produce information it did not possess,” as it did not track “the average time from the beginning of a call until the moment at which the automated system answered,”¹² on June 8, 2023, the Company contacted Staff to clarify any misunderstandings. However, when CenturyLink did not provide the data the parties discussed in writing following the June 8, 2023, call, Staff sent emails on July 31, 2023, and September 19, 2023, reiterating their prior requests and extending the timeframe to include data from December 2022 to August 2023.¹³

8 Although CenturyLink provided a supplemental response on October 4, 2023, because it did not produce data for: (1) its repair center from September 2021 to March 2022, and December 2022 to August 2023; or (2) for its business office from December 2022 to August 2023; Staff sent several additional rounds of data requests on October 26, 2023, and February 8, 2024.¹⁴

9 On February 15, 2024, CenturyLink provided its second supplemental response and reiterated that requested data for its repair center from September 1, 2021, to March 30, 2022, was lost¹⁵ when the Company “migrated platforms utilized in the provision of customer care operations in January 2022.”¹⁶

10 On March 15, 2024, Staff submitted its Investigation Report providing background and the results of its examination, conclusions, and recommendations for penalties.¹⁷

¹¹ Prabakaran, Exh. SP-8 at 1:1-5.

¹² Docket UT-240078, CenturyLink’s Post-Hearing Brief, pg. 3-4 ¶ 10 (October 14, 2024).

¹³ Prabakaran, Exh. SP-9.

¹⁴ Prabakaran, Exh. SP-11, and Exh. SP-12. See also Docket UT-240078, Post-Hearing Brief of Commission Staff (Staff’s Post-Hearing Brief), pg. 4 ¶ 8 and ¶ 9 (October 14, 2024).

¹⁵ CenturyLink’s Post Hearing Brief pg. 5-6 ¶ 17.

¹⁶ Prabakaran, Exh. SP-13 ¶ 3.

¹⁷ Docket UT-240078. Investigation Report, pg. 12 (March 15, 2024).

- 11 On April 16, 2024, the Commission convened a prehearing conference and on April 19, 2024, entered a Prehearing Conference Order; Notice of Hearing and procedural schedule for this proceeding (Order 1),¹⁸ as well as a Protective Order (Order 2).¹⁹
- 12 On May 20, 2024, the former Presiding Officer, Paige Doyle, issued a Notice Canceling Evidentiary Hearing scheduled for September 13, 2024, after being informed by the parties that they conferred and agreed this matter was appropriate for decision on a paper record alone.²⁰ On this same date, a Notice Modifying Procedural Schedule was issued modifying the procedural schedule and removing the September 6, 2024, deadline for filing cross-examination exhibits, witness lists, and time estimates.²¹
- 13 On May 30, 2024, Staff filed an exhibit list, exhibits, and initial testimony of Sharmila Prabakaran.
- 14 On June 11, 2024, the Commission issued a Notice of Substitution of Presiding Officer, reassigning this matter to Administrative Law Judge Michael Howard.
- 15 On July 10, 2024, CenturyLink filed response testimony of Peter J. Gose, and on July 11, 2024, Public Counsel sent a letter indicating it would not be submitting testimony or taking a position in this matter.
- 16 On July 11, 2024, Staff filed a Motion to Amend the Complaint Caption and Named Parties to Include CenturyLink's Affiliates.
- 17 On August 8, 2024, Staff filed Rebuttal Testimony of Bridgit Feeser together with a supporting exhibit and exhibit list.²²
- 18 On August 15, 2024, the Commission issued a Second Notice of Substitution of Presiding Officer, reassigning this matter to Administrative Law Judge Amy Bonfrisco, and on August 22, 2024, Order 03 was issued granting Staff's above motion.²³

¹⁸ Docket UT-240078, Order 01, Appendix B (April 19, 2024).

¹⁹ Docket UT-240078, Order 02 (April 19, 2024).

²⁰ Docket UT-240078, Notice Cancelling Evidentiary (May 20, 2024).

²¹ Docket UT-240078, Notice Modifying Procedural Schedule (May 20, 2024).

²² Docket UT-240078, Rebuttal Testimony of Bridgit Feeser (August 8, 2024).

²³ Docket UT-240078, Notice of Substitution of Presiding Officer (August 15, 2024) and Order 03 (August 22, 2024).

19 On October 14, 2024, the parties filed post hearing briefs, and on October 16, 2024, Staff
filed a Motion to Amend their Post Hearing brief.

DISCUSSION

A. MOTION TO AMEND:

20 Staff moves to amend their post-hearing brief pursuant to WAC 480-07-395(5) and WAC
480-07-375, to correct a misstatement made regarding a penalty assessment imposed
against CenturyLink under docket UT-181051.

21 Given that the motion was timely filed and there were no objections raised by
CenturyLink, we agree with Staff that the sentence containing the misstatement regarding
the penalty assessment should be deleted from Staff’s post-hearing brief to ensure the
case is adjudicated based on “fair and accurate statements of the issues involved.”²⁴
Therefore, to correct any inaccuracies and promote a fair and just result, as allowed for in
our rules, we grant Staff’s motion to amend and adopt the clean version filed on October
15, 2024.

B. ALLEGED VIOLATIONS:

22 Staff’s Complaint alleges that CenturyLink violated several Commission rules and brings
two causes of action against the Company including:

- Nine (9) violations of WAC 480-120-133(2)(c)²⁵ for its failure to maintain an average
time of 60 seconds or less from the time a caller selects the appropriate option to
speak to a representative for the months of March 2022 to November 2022,²⁶ and

²⁴ Dockets UT-240078, Commission Staff’s Motion to Amend Post-Hearing Brief Pursuant to
WAC 480-07-395 (5) pg. 2 ¶ 7 (October 16, 2024).

²⁵ WAC 480-120-133(2)(c) provides that for telecommunication companies that use an automated
answering system to respond to customer calls “[e]ach month, the average time until a live
representative answers a call must not exceed sixty seconds from the time a caller selected the
appropriate option to speak to a live representative.”

²⁶ Complaint at pg. 6 ¶ 27.

- Two hundred and thirty-four (234) violations of WAC 480-07-175²⁷ for its failure to provide all the information requested by Staff in a letter dated December 29, 2022, and subsequent requests from March 2023 to February 2024.²⁸

23 Staff seeks the maximum penalty of \$1,000 for each of the nine alleged violations of WAC 480-120-133(2)(c), which amounts to \$9,000, and \$1,000 for each of the 234 alleged violations of WAC 480-07-175, which amounts to \$234,000, for a total combined penalty of \$243,000.²⁹

C. PARTIES POSITIONS

24 Staff argues maximum penalty amounts are warranted given the: “(1) 243 distinct violations of Commission rules, and (2) the circumstances surrounding these violations; particularly the Company’s conduct during Staff’s investigation.”³⁰ To support their argument, Staff highlights that for a nine-month period from March 2022 to November 2022, CenturyLink committed nine violations of WAC 480-120-133(2)(c) as shown in its March 30, 2023 response.³¹ Staff further maintains that because CenturyLink did not receive actual notice of the data request until February 22, 2023, they did not begin recording violations under WAC 480-07-175(2)(b) “until March 8, 2023, ten business days after” this date,³² and then “recorded a violation for every business day that passed until February 15, 2024,” when CenturyLink provided what Staff asserts was a “final incomplete response.”³³ Staff reasons that its “count of violations is accurate,” and concludes “there is no legitimate basis on which to reduce it,” given CenturyLink did not dispute the untimeliness of its response, object to, or request a waiver of its obligation to Staff’s requests for the requested information.³⁴

²⁷ WAC 480-07-175(2)(b) in relevant part provides that public service companies “must provide the required documents, or any objections to providing those documents, to the commission within ten business days of the date the commission serve the letter or writing unless the commission specifies a different deadline.

²⁸ *Id* at ¶ 30.

²⁹ Complaint at pg. 6 ¶ 31.

³⁰ Staff’s Post-Hearing Brief, pg. 6 ¶.

³¹ Prabakaran, Exh. SP-7.

³² Staff’s Post-Hearing Brief, pg. 7 ¶ 15 and ¶ 16.

³³ Staff’s Post-Hearing Brief, pg. 7 ¶ 16.

³⁴ Staff’s Post-Hearing Brief at pg. 8 ¶ 17.

25 Staff also argues that the testimony of Company witness Peter Gose is problematic because despite assertions that the March 30, 2023 response was complete, CenturyLink failed to communicate that it “did not have actual access to the missing information.”³⁵ Instead, CenturyLink stated that the information presented “is that which is readily available,” which Staff reasons led them to believe the missing information could be obtained with more time.³⁶ Finally, to support their contention that CenturyLink’s final response was incomplete, Staff argues it was well aware “the Commission expected it to track the requested information,” and that its failure to track this data does not excuse its obligations or satisfy the requirements of WAC 480-07-175(2)(b).³⁷ As such, Staff concludes maximum penalties are warranted under each of the eleven factors of the Commission’s Enforcement Policy,³⁸ except for factor seven, that involves the number of customers affected and will be addressed in further detail below.³⁹

26 While CenturyLink acknowledges “it did not meet the average hold time metric from January 2022 [to] November 2022,” and that “there were inadvertent delays in its response to Staff data requests due to strains on company resources,”⁴⁰ the Company maintains “it provided the best response it could in its March 30, 2023, response.”⁴¹ To support this contention, CenturyLink argues that it: (1) “has been consistently compliant with WAC 480-120-133 since December 2022;”⁴² (2) “has taken effective remedial actions to prevent delinquency in responding to Staff data requests;” and that maximum penalties are not warranted under the Commission’s Enforcement Policy.⁴³ Namely, because WAC 480-120-133 “regulates customer convenience (not safety) and only applies to a tiny minority of the communication services provided to Washington

³⁵ *Id* at pg. 8 ¶ 18.

³⁶ *Id.*

³⁷ Staff’s Post-Hearing Brief at pg. 8 ¶18 and pg. 9 ¶ 19.

³⁸ Docket A-120061, *Enforcement Policy for the Washington Utilities and Transportation Commission* (Commission Enforcement Policy) pg. 7-9 ¶ 15 (Jan. 7, 2013).

³⁹ Staff’s Post-Hearing Brief at pg. 15 ¶ 33.

⁴⁰ CenturyLink’s Post Hearing Brief pg. 1-2 ¶ 4.

⁴¹ Docket UT-240078 Response Testimony of Peter Gose on behalf of CenturyLink Communications, LLC. et. al., Exh. PJG-1T, 3:21-22 (July 10, 2024).

⁴² CenturyLink’s Post Hearing Brief pg. 2 ¶ 6 and Exh. SP-1T pg. 14: 17-20.

⁴³ CenturyLink’s Post Hearing Brief at pg. 2 ¶ 6.

customers,”⁴⁴ which CenturyLink depicts as approximately “fewer than 4% of the voice connections”⁴⁵ in the state.

27 Instead, CenturyLink proposes that the Commission impose “a penalty in the amount of \$100 per violation” to more adequately and appropriately further its objectives, or alternatively “suspend all or a portion of the penalty contingent on the company abiding by these rules for a reasonable, specified period of time.”⁴⁶ To support its proposition for suspension of penalties, CenturyLink highlights that the Commission has broad discretionary authority to suspend and waive penalties upon conditional performance as outlined in the Commission Enforcement Policy,⁴⁷ and cites to Order 03 in Docket UT-132234,⁴⁸ as instructive.

D. PENALTIES:

28 Pursuant to RCW 80.04.380, the Commission may penalize a public service company that violates any provision of Title 80 RCW or any rule of the Commission, up to \$1,000 for each offense. Each day the violation continues is a separate and distinct offense.

29 In any enforcement proceeding, the Commission’s goal is to obtain compliance and ensure that services within the Commission’s jurisdiction are delivered safely, adequately, and efficiently,⁴⁹ not to simply punish businesses operating in Washington.

30 The Commission’s Enforcement Policy provides a list of eleven factors that are considered when assessing the appropriate penalty amount for violations of Commission rules, laws, and orders.⁵⁰ We will evaluate each factor here in turn.

1. The seriousness of the violation and the harm to the public.

31 As we noted in Dockets UT-132234, UT-180151, and UT-210902, telecommunications

⁴⁴ Gose, Exh. PJG-1T 8: 6-7.

⁴⁵ Gose, Exh. PJG-1t 6: 2-3.

⁴⁶ CenturyLink’s Post-Hearing Brief pg. 7 ¶ 22.

⁴⁷ Commission Enforcement Policy pg. 11 ¶ 20 (January 7, 2013).

⁴⁸ Docket UT-132234, *Wash. Utils. & Transp. Comm’n v. CenturyTel of Inter Island, Inc. d/b/a CenturyLink*, Order 03 at ¶ 51 (October 20, 2015).

⁴⁹ Commission Enforcement Policy pg. 7-9 ¶ 15.

⁵⁰ Commission Enforcement Policy at pg. 6 ¶ 9.

and broadband services are essential services that facilitate effective interactions, foster social welfare, drive efficient economies, and protect the health and welfare of Washington residents by maintaining access to such service.⁵¹

32 First, regarding the seriousness of the violations, we find it disconcerting that for approximately ten months, CenturyLink failed to meet the 60-second requirement under WAC 480-120-133(2)(c), and that its average monthly response time took up to 291 seconds.⁵² We also agree with Staff that CenturyLink’s lack of cooperation in their investigation, demonstrated an indifference towards the public interest, and that its repeated pattern of failing to timely respond to data requests impeded Staff’s efforts to ensure customers were treated fairly and consistently.⁵³

33 However with respect to the impact of the harm to the public, we are persuaded by CenturyLink’s argument that the underlying rule violations of WAC 480-120-133(2)(c), cannot be characterized as harms that raise health and safety concerns, endanger customers, or interrupt access to critical services.⁵⁴ Rather, we find that the harms can be more aptly characterized as undermining the Company’s reputation, public trust, responsiveness, reliability, and overall level of customer service. For this reason, in balancing the seriousness of the violations and harm to the public, we do not believe the maximum penalty is warranted for this factor but are in favor of a larger penalty.

2. Whether the violation is intentional.

34 CenturyLink argues that the violations were unintentional. While it is undisputed that CenturyLink did not meet the 60-second requirement under WAC 480-120-133(2)(c) from January to November 2022, the Company maintains its business office and repair center have been in compliance with WAC 480-120-133 since December 2022.⁵⁵ CenturyLink further contends that it did not hide or obscure the facts, but rather that the data Staff requested from September 2021 to March 2022 could not be produced because

⁵¹ Docket UT-132234, Order 3 at pg. 11 ¶ 23, Docket UT-181051, *Wash. Utils. & Transp. Comm’n v. CenturyLink Communications, LLC.*, Order 08, pg. 19 ¶ (June 9, 2023) and Docket UT-210902, *Wash. Utils. & Transp. Comm’n v. CenturyLink Communications d/b/a Lumen Technologies et. al.*, Order 04, pg. 3 ¶ 11 (June 29, 2023).

⁵² Prabakaran, Exh. SP-14 8-9.

⁵³ Staff’s Post-Hearing Brief at pg. 10-11 ¶ 22.

⁵⁴ CenturyLink Post Hearing Brief at pg. 9 ¶ 26-27.

⁵⁵ CenturyLink’s Post-Hearing Brief at pg. 11 ¶ 32.

it was not in its possession due to its migration to a new customer care provisioning system.⁵⁶ Finally, although delayed, CenturyLink maintains it was responsive and produced the requested data on March 30, 2023, October 4, 2023 and on February 15, 2024, in compliance with WAC 480-120-133 and WAC 480-07-175.⁵⁷

35 In contrast, Staff argues that CenturyLink acted with intent and on multiple occasions, “ignored Staff’s follow-ups after receiving actual notice” of their requests for information, and that when the Company did respond, its responses were “months late and incomplete.”⁵⁸ Staff further argues that CenturyLink had the option to request an extension or object to rather than disregard their data requests.⁵⁹

36 While the record clearly establishes that CenturyLink was delayed and untimely when handling Staff’s data requests, we agree with the Company that no evidence was provided in the record suggesting that the Company willfully hid or obscured facts, or blatantly ignored Staff’s data requests and technical assistance provided. For this reason, we do not find that the Company’s conduct rises to the level of an intentional violation but rather should be treated as demonstrative of its negligence. We thus weigh this factor in favor of a larger penalty.

3. Whether the Company self-reported the violation.

37 CenturyLink did not self-report the violations of WAC 480-120-133 and maintains it was not aware of the alleged violations until responding to Staff’s data requests. CenturyLink also asserts that self-reporting does not logically apply to violations of WAC 480-07-175 on the basis that its failure to timely respond was the violation, and did not require a separate disclosure. Given the Company did not self-report, we are not persuaded by its lack of awareness or argument that there must be an explicit requirement in place to respond to a regulatory agency. We thus weigh this factor in favor of a large penalty.

4. Whether the company was cooperative and responsive.

38 Although CenturyLink maintains it was cooperative and responsive, we disagree and

⁵⁶ CenturyLink’s Post-Hearing Brief at pg. 11 -12 ¶ 32 -34.

⁵⁷ CenturyLink’s Post-Hearing Brief at pg. 12 ¶ 33-35.

⁵⁸ Staff’s Post-Hearing Brief at pg.12 ¶ 24.

⁵⁹ *Id.*

find that the Company failed to take the appropriate steps at the outset to proactively, effectively, and timely resolve this matter to ensure its responses accurately and thoroughly addressed Staffs' inquiries regarding the requested data. We also agree with Staff that the facts supporting their "allegations that CenturyLink violated WAC 480-07-175 establish this factor as a matter of fact,"⁶⁰ especially since Staff performed the investigation. Therefore, we weigh this factor in favor of a larger penalty.

5. Whether the company promptly corrected the violations and remedied the impacts.

39 CenturyLink argues that this factor weighs in favor of minimum or no penalties because the Company: (1) has been in compliance with the 60 second average requirement for approximately 18 months since December 2022; and (2) has not been delinquent in responding to Staff data requests since implementing additional safeguards through its new calendaring system, which auto-generates multiple reminders.⁶¹ Staff, however opposes this request and argues that harsher penalties are warranted since 17 months elapsed between July 2021, when the Company received actual notice of its violations of WAC 480-120-133(2)(c), until it came into compliance with the rule December 2022.⁶² Staff also notes that over 14 months transpired until they received a final response to their original data request.⁶³

40 Although Staff focused their arguments and testimony on CenturyLink's undue delays and the accuracy and thoroughness of the Company's responses, they did not address whether the impacts of the violation were remedied, which is a key factor that cannot be ignored. For this reason, since CenturyLink has been in compliance with WAC 480-120-133(2)(c) since December 2022 and appears to have instituted additional safeguards to ensure it is responsive to Staff, this factor has a mitigating impact and weighs in favor of leniency.

6. The number of violations.

41 CenturyLink argues that Staff "overstated the number of delinquent days underlying [their] claim under WAC 480-07-175 by 65 days" since Staff interpreted the Company's

⁶⁰ Staff's Post-Hearing Brief at pg. 12 ¶ 25.

⁶¹ CenturyLink's Post-Hearing Brief at pg. 14 ¶ 40-41 and Gose, Exh. PJG-1T at 13:19-14:2.

⁶² Staff's Post-Hearing Brief at pg. 12-13 ¶ 26.

⁶³ *Id.*

March 30, 2023, response as incomplete, despite providing all the information in its possession.⁶⁴ CenturyLink further requests that we credit the Company: (1) for responding to Staff's data request on March 30, 2023, to eliminate 28 of the 234 delinquent violations; and (2) for its telephone discussion with Staff on June 8, 2023, and treat this communication as responsive to Staff's May 8, 2023 data request to eliminate an additional 37 delinquency days from June 8 to July 31, 2023.⁶⁵ In sum, CenturyLink is requesting that we reduce the total number of days of delinquency under WAC 480-07-175 from 234 to 169.

42 In evaluating this factor, the Commission does not focus on the absolute number of violations but rather the most appropriate enforcement action based on the underlying violations. Although CenturyLink accrued numerous violations in recent proceedings involving 13,000 violations related to a December 2018 911 outage, and 923 violations for unlawfully disconnecting customers' services during the Covid-19 pandemic,⁶⁶ in those cases the Commission imposed lesser penalties for more harmful violations. More importantly, because it is difficult to ascertain the adverse impacts caused to customers by CenturyLink's delays, we agree with the Company that the penalty for this factor must not be disproportional to the underlying violation. As such, we grant CenturyLink's request to reduce the total number of delinquency days from 234 to 169.

7. The number of customers affected.

43 Although Staff ultimately conceded with CenturyLink "that there is no way to accurately estimate the number of customers affected by the Company's delayed response times,"⁶⁷ and the Company maintains that there is no way to accurately gauge hold time durations for each call,⁶⁸ we adopt Staff's recommendation. Therefore, we will treat this factor neutrally absent the availability of the necessary data needed to assess this factor.

8. The likelihood of recurrence.

⁶⁴ CenturyLink's Post-Hearing Brief at pg. 15 ¶ 42 and Gose, Exh. PJG-1T at 14:7-9.

⁶⁵ CenturyLink's Post-Hearing Brief at pg. 15 ¶ 42 and Gose, Exh. PJG-1T at 14:7-9.

⁶⁶ *Washington Utilities and Transportation Commission v. CenturyLink Communications LLC.*, Docket UT-181051, Order 08 (June 9, 2023) and Docket 210902, Order 04, pg. 3 ¶ 11 (June 29, 2023).

⁶⁷ Staff's Post-Hearing Brief at pg. 13 ¶ 28.

⁶⁸ CenturyLink's Post-Hearing Brief at pg. 16 ¶ 45

44 Staff argues that although the Company provided data indicating “a dramatic reduction in the monthly wait times for calls placed to the business office between November 2022 (116 seconds) and December 2022 (8 seconds),” it did not explain what caused it to drop or the steps it took to remain in compliance with WAC 480-120-133(2)(c).⁶⁹ Staff further highlights that due to the undue delays CenturyLink “admittedly lost a portion of the requested data,” and acknowledged it did not track the data they requested.⁷⁰

45 However, CenturyLink argues that the likelihood of reoccurrence is extremely low because it has put corrective action in place to prevent reoccurrence and has complied with WAC 480-07-175 for over a year since Staff filed its March 13, 2024, complaint.⁷¹ The Company further argues that Staff incorrectly broadened the standard of this factor by stating that it was “premature...to know if the steps the Company put in place will lead to consistent improvement in the future,” and disregarded its dramatic decrease in wait times since December 2022.⁷²

46 Despite CenturyLink’s assertions of the steps it implemented, we are not convinced that the Company’s improvement will remain consistent absent additional data in the record substantiating what factors led to the Company’s “dramatic decrease in its wait times,” or other metrics that illustrate it is collecting all the requisite data required by statute. For this reason, we weigh this factor in favor of a larger penalty.

9. The company’s past performance regarding compliance, violations, and penalties.

47 Staff argues that CenturyLink’s recent and lengthy compliance history weigh strongly in favor of a heavy penalty and they cite several Commission dockets where the Company was found to have committed regulatory violations and incurred penalties ranging from \$226,600 up to \$2,854,750.⁷³ While CenturyLink acknowledges that it has been the subject of a number of previous complaints and investigations over the past decade, it

⁶⁹ Staff’s Post-Hearing Brief at pg. 13 ¶ 29.

⁷⁰ Staff’s Post-Hearing Brief at pg.14 ¶ 29.

⁷¹ CenturyLink’s Post-Hearing Brief at pg. 17 ¶ 48-49.

⁷² *Id.*

⁷³ Staff’s Post-Hearing Brief at pg.14 ¶ 30 and Prabakaran, Exh. SP-1T, pgs. 17-19.

argues that none of the cases involved violations to either WAC 480-120-133 or WAC 480-07-175.⁷⁴

48 Given CenturyLink's compliance history and the intent of the Commission's Enforcement Policy "to deal more harshly with companies that have a history of non-compliance, repeated violations of the same or other regulations, and previous penalties,"⁷⁵ we are not persuaded by the Company's arguments. This factor therefore weighs in favor of a larger penalty.

10. The Company's existing compliance program.

49 While CenturyLink argues that "no compliance program is needed or appropriate,"⁷⁶ we disagree. Namely, because the plain terms of the Commission Enforcement Policy require that the Company "have an active and adequate program in place," and to correct any identified deficiencies.⁷⁷ Therefore, despite the Company's compliance with WAC 480-120-133 since December 2022 and the improvements it has made after implementing its new calendaring system, this system alone does not demonstrate that all the deficiencies identified in the record have been corrected and remedied, or that the Company has existing compliance procedures in place. For these reasons, we weigh this factor in favor of a larger penalty.

11. The size of the Company.

50 Although CenturyLink disputes the 2022 gross intra-state revenue amount of \$17,619,947.63 Staff cites to in their testimony, it is not a small Company. That said, we agree with the Company that this factor does not weigh heavily in our analysis in either direction in determining the appropriate enforcement actions to take in this matter.

12. Suspension

51 CenturyLink suggests that should the Commission decide to impose penalties, that a penalty amount of \$100 per violation would be adequate, or alternatively that we should

⁷⁴ CenturyLink's Post-Hearing Brief at pg. 19 ¶ 53.

⁷⁵ Commission Enforcement Policy at pg. 9 ¶ 15 (9).

⁷⁶ CenturyLink's Post-Hearing Brief at pg. 20 ¶ 57.

⁷⁷ Commission Enforcement Policy at pg. 9 ¶ 15 (10).

suspend some or all that penalty contingent on the Company abiding by these rules for a reasonable and specified time.⁷⁸

52 To aid in determining whether to suspend a portion of a penalty, the Commission Policy Statement provides five factors to consider, which include:

1. Whether this is a first-time penalty for this or a similar violation.
2. Whether the company has taken specific actions to remedy the violations and avoid the same or similar violations in the future. Examples include purchasing new technology, making system changes, or training company personnel.
3. Whether the company agrees to a specific compliance plan that will guarantee future compliance in exchange for suspended penalties.
4. Whether Staff and the company have agreed that Staff will conduct a follow-up investigation at the end of the suspension period and that if a repeat violation is found, the suspended penalties are re-imposed.
5. Whether the company can demonstrate other circumstances exist that convince the Commission to suspend the penalties.⁷⁹

53 Although these are first time penalties for violations of WAC 480-120-133 and WAC 480-07-175 for CenturyLink, we find that the majority of the factors weigh against suspension in this case. We also find it unsettling that the Company maintains that it is in full compliance when it has failed to establish a specific compliance plan or work with Staff to address the outstanding deficiencies identified in the record. However, because the Company is currently complying with Commission rules and the penalties issued should not be disproportional to the underlying violations, as indicated above in paragraph 42, we reduce the total violations alleged under WAC 480-07-175 from 234 to 169 violations.

54 Accordingly, in light of these mitigating factors, we will impose penalties against CenturyLink for 9 violations of WAC 480-120-133(2)(c), and 169 violations of WAC 480-07-175(2)(b), for a total of 178 violations. Additionally, in balancing the weight of each of the factors discussed above, we are persuaded to impose a penalty of \$750 per violation, for a total penalty of \$133,500. We find this penalty reasonable given the nature of the violations, adequacy of the compliance program, likelihood of recurrence, and the company's past performance regarding compliance, violations and penalties.

⁷⁸ CenturyLink's Post-Hearing Brief at pg. 7 ¶ 22.

⁷⁹ Commission Enforcement Policy at pg. 11 ¶ 19.

55 We also find that suspension of any portion of the penalty would not be appropriate and
therefore will not suspend the penalty.

FINDINGS AND CONCLUSIONS

- 56 (1) The Commission is an agency of the state of Washington, vested by statute with
authority to regulate rates, rules, regulations, and practices of public service
companies, including telecommunications companies and has jurisdiction over the
parties and subject matter of this proceeding pursuant to the Revised Code of
Washington (RCW), Chapters 34.05, 80.01, 80.04, and 80.36.⁸⁰
- 57 (2) CenturyLink is a public service company regulated by the Commission, providing
service as a telecommunications company.
- 58 (3) Pursuant to RCW 80.36.080, telecommunications companies must render prompt,
expeditious, and efficient service; keep its facilities, instrumentalities, and
equipment in good condition and repair; and ensure that its appliances,
instrumentalities, and services are modern, adequate, sufficient, and efficient.
- 59 (4) The Commission should impose and not suspend a penalty of \$133,500 for 178
violations of WAC 480-120-133(2)(c) and WAC 480-07-175(2)(b).

ORDER

THE COMMISSION ORDERS that:

- 60 (1) A total penalty of \$133,500 be assessed against CenturyLink Communications,
LLC d/b/a Lumen Technologies Group; Quest Corporation; CenturyTel of
Washington, Inc.; CenturyTel of Inter Island, Inc; CenturyTel of Cowiche, Inc.;
Unities Telephone Company of the Northwest for 178 violations of WAC 480-
120-133(2)(c) and WAC 480-07-175 (2)(b). The penalty is due and payable
within 10 days of the effective date of this Order.
- 61 (2) Staff's Motion to Amend Post-Hearing Brief as reflected in their clean version of
such amended brief is granted.

⁸⁰ RCW 80.01.040, RCW 80.01.060, 80.04.110, RCW 80.04.160, and 80.04.380.

DATED at Lacey, Washington, and effective December 20, 2024

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Amy Bonfrisco
Amy Bonfrisco
Administrative Law Judge

NOTICE TO PARTIES

This is an initial order. The action proposed in this initial order is not yet effective. If you disagree with this initial order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this initial order, and you would like the order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2)(a) provides that any party to this proceeding has 20 days after the entry of this initial order to file a petition for administrative review (Petition). Section (2)(b) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-825(2)(c) states that any party may file an answer (Answer) to a Petition within 10 days after service of the petition.

WAC 480-07-830 provides that before the Commission enters a final order any party may file a petition to reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. The Commission will not accept answers to a petition to reopen unless the Commission requests answers by written notice.

RCW 80.01.060(3) provides that an initial order will become final without further Commission action if no party seeks administrative review of the initial order and if the Commission fails to exercise administrative review on its own motion.

Any Petition or Response must be electronically filed through the Commission's web portal as required by WAC 480-07-140(5).