

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

IN THE MATTER OF:

RULEMAKING TO CONSIDER AMENDING, ADOPTING, AND REPEALING CERTAIN RULES IN WAC 480-120, TELEPHONE COMPANIES, RELATING TO THE WASHINGTON TELEPHONE ASSISTANCE PROGRAM AND WASHINGTON EXCHANGE CARRIER ASSOCIATION, AND REPAIR STANDARDS FOR PLANNED SERVICE INTERRUPTIONS AND IMPAIRMENTS

**DOCKET NO. UT-160196**

CENTURYLINK'S APRIL 4, 2016 COMMENTS ON PROPOSED RULEMAKING

- 1* CenturyLink hereby submits its comments in this docket in which the Washington Utilities and Transportation Commission (“Commission”) has opened a rulemaking. The subject of the rulemaking is generally three-fold – first, to clean up errors in rule language related to cross-references; second, to eliminate unnecessary and outdated references to WTAP and WECA; and, third, to reinstate WAC 480-120-440 regarding repair intervals, which the Commission states was inadvertently repealed in Docket UT-140680. CenturyLink does not have any comments on or objections to the “clean-up” portions of the rulemaking.
- 2* CenturyLink does, however, oppose the reinstatement of WAC 480-120-440. CenturyLink respectfully disagrees that this rule was repealed inadvertently. Rather, it was repealed thoughtfully and correctly in response to competition and market forces that make it unnecessary. Docket UT-140680 contains ample evidence that this rule was thoroughly and thoughtfully considered as a part of a comprehensive rulemaking

intended to update the telecom WACs, and to eliminate those rules that are not competitively neutral, or for which market forces provide the same constraints and incentives.

**WAC 480-120-440 WAS NOT INADVERTENTLY REPEALED.**

3 Docket No. UT-140680 was specifically captioned as a rulemaking to consider amending rules “due to competitive changes within the telecommunications [industry] to meet consumer, commission and industry requirements no longer applicable under the existing WAC rules”.<sup>1</sup> The CR-101 that was issued on May 7, 2014 stated that the reason why a rulemaking might be necessary was “regulatory changes at both the federal and state commissions along with technological changes in the telecommunications industry have necessitated some changes to the existing WAC rules to make these rules competitively neutral among the incumbent local exchange carriers and competitive exchange carriers regulated by the commission.”<sup>2</sup> Thus, it is clear that the Commission intended to consider amending or repealing rules that were no longer necessary in the current competitive environment.

4 Commission Staff published a comprehensive draft of its proposed amendments on May 16, 2014. Included in that draft was a proposal to eliminate WAC 480-120-440, which was clearly shown in redline as being deleted. In addition, at that same time, Staff published a seven-page matrix summarizing the changes. Page 5 of that matrix shows 480-120-440 as a rule subject to change, the recommended change being “Delete” and the reason stated was that “competition is affecting all ILECs and CLECs and the market should dictate service quality.” Various parties filed comments subsequent to the issuance of the redlined draft. Public Counsel generally opposed the elimination of 480-

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<sup>1</sup> Commission Notices in Docket UT-140680 dated July 14, 2014 and March 30, 2015.

<sup>2</sup> Docket UT-140680 CR-101, filed with the code reviser May 7, 2014.

120-440 on June 9, 2014<sup>3</sup> and specifically opposed the elimination of the rule in its comments on July 24, 2014.<sup>4</sup>

5 The workshop was held on July 28, 2014. Subsequent to that workshop, the Commission issued a CR-102, filed with the code reviser on December 2, 2014. That CR-102 included a 43-page attachment showing the changes to Chapter 480-120 WAC. WAC 480-120-440 is shown as being repealed in its entirety on page 43.

6 The Commission considered an additional round of comments filed on January 6, 2015. On March 26, 2015 the Commission entered an order amending, adopting, and repealing rules permanently.<sup>5</sup> WAC 480-120-440 Repair standards for service interruptions and impairments, excluding major outages, is shown on page 4 of that Order as “Repealed”.

7 Thus, it is clear that the Commission carefully and thoughtfully considered whether this rule continued to be necessary in the current environment, and determined that it was not. The decision was correct and the repeal of the rule was clearly not inadvertent.

8 Further, even if the rule had been repealed in error, it is clear that it is no longer necessary and it should not be reinstated.

**WAC 480-120-440 IS NOT NECESSARY.**

9 As Staff correctly noted in the prior rulemaking docket, competitive forces drive service quality in the current competitive environment. If CenturyLink or another telco does not provide good customer service, or does not repair service on a timeline that is satisfactory to the customer, the customer has many other choices. CenturyLink is driven by these choices to provide good customer service and should not be held to a rule standard that is

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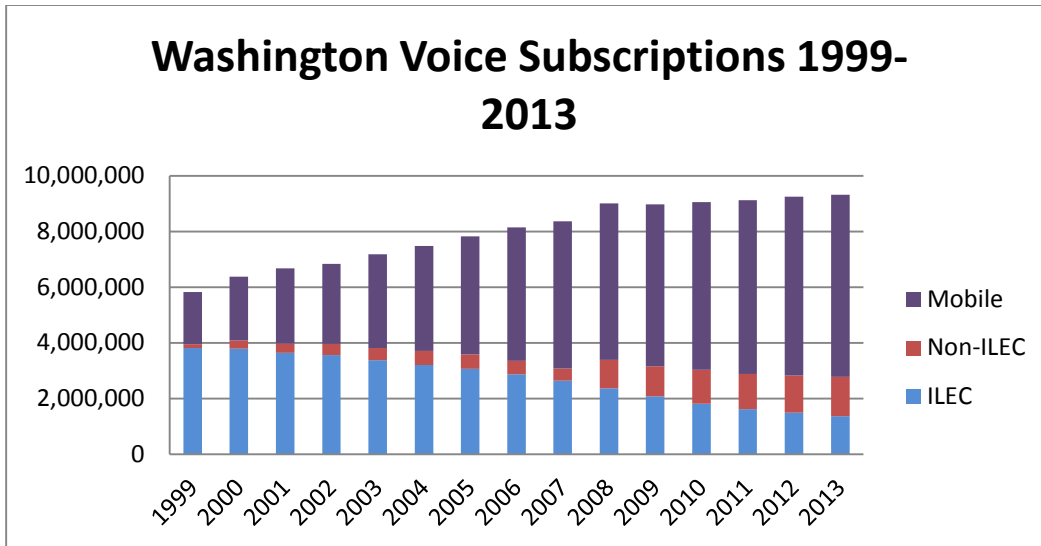
<sup>3</sup> Public Counsel's June 9, 2014 comments at page 7.

<sup>4</sup> Public Counsel's July 24, 2014 comments at page 5.

<sup>5</sup> Docket UT-140680, General Order R-580, March 26, 2015.

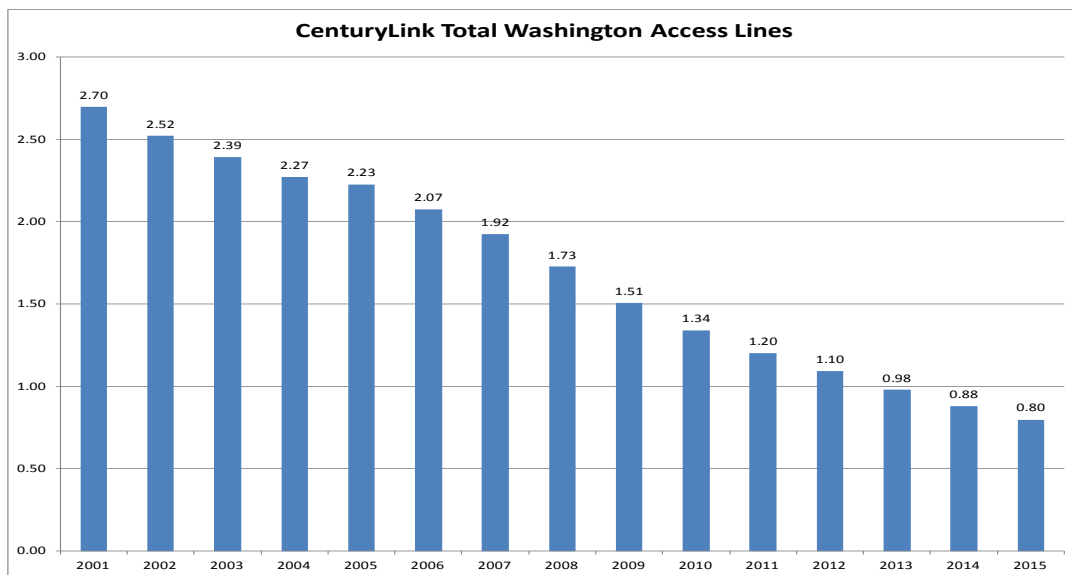
not driven by the market or consistent with the requirements imposed by the market on other companies who are not regulated by the Commission.

- 10** The 48 hour out-of-service metric in WAC 480-120-440 is a measurement that tracks the average amount of time it takes a technician to: (1) arrive at the customer premises; (2) isolate the source of the trouble; and, (3) correct the problem to restore service. Time-to-clear metrics can be adversely impacted by weather events, access limitations, and road conditions which create situations beyond the control of the utility that delay or prevent the technician from reaching the customer premise, isolating the issue and clearing the trouble within the specified timeframe.
- 11** When the time-to-clear metrics were initiated, the landline was the single source of communication available to the general public and the ILEC served the vast majority of the serving-area population. Today, the landline is no longer the sole source, much less the primary source of communication for the vast majority of the population. As the Commission is well aware it is being supplanted with various options including cellular communication, voice communication over the internet and cable, internet mail, online contact via websites, Facebook, instant messaging, Twitter, etc. Technology is rapidly evolving away from the copper-based landline communications, and even those subscribers who retain a landline likely also have some sort of a wireless device.
- 12** While Washington's state population has grown, Washington's ILEC access lines and voice market share have declined steadily. The following chart graphs voice connection data from the FCC's Telephone Competition Reports through 2013.



The chart shows the steady decline in voice connections of ILECs such as CenturyLink and Frontier and concomitant increases in the voice connections of non-ILEC and mobile voice service providers over the same time period.

**13** CenturyLink is significantly affected by this competition and is, if anything, more exposed to it than other Washington ILECs. In the 14 years between the end of 2001 and the end of 2015, CenturyLink has suffered an overall 70% decline in access lines as



shown in the following chart.

- 14** The decline has resulted in longer distance traveled per service incident, adding more time required for each repair call. It also requires more stops in metropolitan areas where, when the majority of access lines were held by the ILEC, afforded a greater efficiency in dispatching a technician to one area to resolve multiple tickets. Thus, the drive time, setup time, and tear-down time could be distributed across multiple tickets (economies of scale) which is now lost. As such, there is no basis to reinstate what is essentially a monopoly-era requirement.
- 15** At the same time, the number of trouble reports experienced has decreased dramatically. The incident rate of service outages (in other words, the trouble report rate for service outages) has decreased over the years beyond the access line loss. In 2006, the average monthly rate of service outages was 0.86 per hundred access lines. By 2015, the average incident rate was 0.25 per hundred access lines. The low service-outage incident rate indicates the overall health of the network. The decline in the per-access-line number of outages through the years demonstrates the continued maintenance of the facilities. Out-of-service incidents are relatively rare, but all repairs simply cannot be accomplished in 48 hours.
- 16** For the reasons stated herein, a rigid 48-hour mean-time-to-repair requirement in a rule serves no purpose, and artificially regulates behavior that should be and is actually driven by market forces.

**THE COMMISSION SHOULD ALSO REPEAL WAC 480-120-133**

- 17* Finally, for reasons similar to why WAC 480-120-440 should not be reinstated, the Commission should consider repeal of WAC 480-120-133.
- 18* WAC 480-120-133 governs the “Response Time for Calls to Business Office or Repair Center During Regular Business Hours.” CenturyLink recommends that this rule be eliminated, consistent with the prior repeal of rules because market forces regulate this type of behavior better than metrics can. Non-regulated competitors, such as cable and wireless companies, are not held to these standards. A number of rules have already been repealed on the basis that “competition is affecting all ILECs and CLECs and the market should dictate service quality.” CenturyLink agrees that that philosophy should drive the consideration of whether a rule is necessary.
- 19* The customers’ experience when they call with questions or concerns is very important to CenturyLink, and competitive alternatives to CenturyLink’s service dictate that CenturyLink must manage this portion of its business in a way that is customer-friendly and provides good service quality. Regulation of things such as wait times, and what menu options should be offered, is simply out of date and no longer needed. In addition, the rule uses outmoded metrics, which do not reflect the current (much more sophisticated) options such as live chat, e-mail, etc. that a customer has to complete many types of service orders and inquiries without speaking to a live operator at all.

**20** The Commission should adopt the “clean-up” amendments proposed in this docket, should reject the request to reinstate WAC 480-120-440, and should repeal WAC 480-120-133.

Submitted this 4<sup>th</sup> day of April 2016.

CENTURYLINK

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