

**BEFORE THE WASHINGTON
UTILITIES & TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

v.

QWEST CORPORATION D/B/A CENTURYLINK QC

DOCKET UT-190209

**CROSS-ANSWERING TESTIMONY OF SUSAN M. BALDWIN
ON BEHALF OF
PUBLIC COUNSEL**

EXHIBIT SMB-11T

FEBRUARY 13, 2020

DOCKET UT-190209

CROSS-ANSWERING TESTIMONY OF SUSAN M. BALDWIN

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I. INTRODUCTION / SUMMARY

1 **Q. Are you the same Susan Baldwin who filed response testimony on January 9,**
2 **2020 on behalf of the Public Counsel Unit of the Attorney General’s Office of**
3 **Washington (“Public Counsel”)?**

4 A. Yes.

5 **Q. What is the purpose of your testimony at this time?**

6 A. On behalf of Public Counsel, I am responding to the testimony of Philip E. Grate¹
7 and Random Mills,² filed on January 9, 2020, on behalf of Qwest Corporation
8 d/b/a CenturyLink QC (“CenturyLink”).

9 **Q. Please summarize your testimony and recommendations.**

10 A. I continue to recommend that the Commission impose the maximum penalty of
11 \$220,000 on CenturyLink. I base this recommendation on: (1) my detailed
12 analysis and evaluation of events surrounding and including the 911 outage that
13 occurred on July 12, 2017, which I describe in my response testimony; (2) my
14 review of CenturyLink’s response testimony; and (3) my review of CenturyLink’s
15 responses to Public Counsel’s discovery.

16 The penalty is necessary so that CenturyLink bears responsibility for the
17 outage. As I stated in my initial testimony, the penalty will signal to present and
18 future 911 providers that they, too, are accountable to regulators and
19 policymakers, residents, and businesses in Washington to provide safe, reliable
20 911 service. I further recommend that 911 providers be required to submit
21 Network Outage Reporting System (NORS) reports to the Commission.

¹ Response Testimony of Philip E. Grate, Exh. PEG-1T.

² Response Testimony of Random Mills, Exh. RM-1T.

II. CENTURYLINK RESPONSE TESTIMONY

A. Overview of CenturyLink Response Testimony

1 **Q. Please identify the witnesses submitting response testimony on behalf of**
2 **CenturyLink.**

3 A. Mr. Grate is a government affairs director for CenturyLink,³ and Mr. Mills is a
4 senior voice engineer employed by Intrado Life & Safety, Inc. (f/k/a West Safety
5 Services, Inc.) (“Intrado”).⁴

6 **Q. In your view, do you and CenturyLink’s witnesses agree on the general facts**
7 **of the outage (e.g., the duration, the number of failed wireline and wireless**
8 **calls, the fact that a switch upgrade caused the outage)?**

9 A. Yes.⁵

10 **Q. What is the primary difference between your assessment of the outage and**
11 **CenturyLink’s assessment of the outage?**

12 A. We diverge regarding whether the outage violates the applicable rules and statute,
13 and also the implications of the Commission’s promulgation of WAC 480-120-450
14 in Rulemaking Docket No. 25 UT-990146. CenturyLink argues that applicable rules
15 do not apply because the Commission did not explicitly address the responsibilities
16 for those local exchange carriers (LECs) who provide enhanced 911 (“E911”) call
17 routing and data management services or Next Generation 911 (“NG911”) service
18 during the rulemaking.⁶ However, silence by the Commission regarding its
19 oversight of new technology that is used to provide 911 service does not equate to

³ Grate, Exh. PEG-1T, at 1.

⁴ Mills, Exh. RM-1T, at 1.

⁵ See, e.g., Grate, Exh. PEG-1T, at 2:21-3:4.

⁶ See *Id.*, at 3:6-12, and 7:22-8:10.

1 a determination by the Commission that it is either disinterested in or precluded
2 from such oversight.

3 CenturyLink contends further that the relevant rule “[R]equires all LECs
4 [local exchange carriers] to deliver 911 calls to the selective router. The calls in
5 question here were in fact delivered to that point but failed due to a maintenance
6 issue further into the network.”⁷ As I explain below, I disagree with
7 CenturyLink’s view that the Commission’s rules absolve CenturyLink from
8 responsibility for the 911 outage.

9 **Q. Please explain further.**

10 A. Ultimately, of course, it is the Commission that is best positioned to assess
11 whether CenturyLink’s interpretation of the Commission’s rules has merit, but in
12 my view, CenturyLink is “splitting hairs” and in so doing, ignores the seemingly
13 clear intent of the Commission to ensure that consumers have safe, adequate and
14 reliable 911 service. The fact that the calls were delivered to the selective router
15 and then failed downstream of that router, in my view, is an interesting but
16 ultimately irrelevant fact.⁸ Above all, CenturyLink was responsible for providing
17 adequate and reliable 911 service, and they failed to do so in this instance.

⁷ *Id.* at 3:8-10.

⁸ See Grate, Exh. PEG-1T at 7:16-22, stating: “The failure occurred in West’s 911 call routing system downstream of the NG911 selective router. But that failure did not violate WAC 480-120-450(1) because WAC 480-120-450(1) does not prescribe standards applicable to 911 call routing and database management services downstream of the NG911 selective router.”

1 **Q. According to CenturyLink, the Commission was presented with the**
2 **opportunity to define 911 more explicitly and expansively when it established**
3 **rules.⁹ Should that put an end to the question of CenturyLink’s**
4 **responsibilities in this case?**

5 A. No. The Commission has previously and unambiguously pointed to the
6 importance of reliable 911 service to public health, safety and welfare,¹⁰ and,
7 therefore, it is reasonable to assume that the Commission, in promulgating rules,
8 has the same objective. In my view, to accomplish this, the Commission is
9 entitled to interpret its rules in a manner that holds the incumbent local exchange
10 carrier (ILEC) responsible for a failure of 911 service and is not limited by a
11 technical demarcation point, such as this particular router.

12 **Q. Please respond to CenturyLink’s position regarding the magnitude of the**
13 **penalty that should apply if the Commission chooses to impose a penalty.**

14 A. According to CenturyLink, even if the Commission were to find a violation,
15 CenturyLink asserts that, at most, two violations occurred -- namely a single
16 maintenance error and the one failed call that originated with CenturyLink in its
17 capacity as an originating service provider.¹¹ CenturyLink’s reasoning is
18 unpersuasive. It is undisputed that 222 calls failed to reach 911 service; that is
19 why, as I explain in my response testimony, the penalty should be \$220,000.

⁹ *Id.* at 3:8-10.

¹⁰ *Wash. Utils. & Transp. Comm’n v. Qwest Corp.*, Docket UT-140597, Order 03: Final Order Approving Settlement Agreement, ¶ 9 (Feb. 22, 2016).

¹¹ *Grate, Exh. PEG-1T*, at 10:7-15.

1 **Q. Please summarize your cross-answering testimony as it pertains to Mr.**
2 **Grate’s assertions.**

3 A. I recommend that the Commission reject CenturyLink’s attempt to evade
4 responsibility for the July 2017 outage. I recommend that the Commission reject
5 CenturyLink’s attempt to sidestep its responsibility for the outage by invoking a
6 narrow interpretation of the scope of the rulemaking process and Commission
7 rule.

8 **Q. Please respond to the testimony of Mr. Mills, but first describe his role in the**
9 **outage.**

10 A. Mr. Mills states that he was “the technician at Intrado that immediately noticed
11 the incident and started reverting the changes back to resolve the 911
12 interruption,” and that he “worked with [its] switch vendor to find a solution to
13 the issue.” He also “participated in drafting the Reason for Outage (RFO)
14 document provided to CenturyLink.”¹² Mr. Mills explains how the error occurred,
15 and his description of events¹³ is consistent with my description in my response
16 testimony.¹⁴ However, we diverge in the determination of the appropriate
17 consequence for CenturyLink of the events. He asserts that, “[T]he rule would be
18 violated if calls did not reach the selective router, but the rule does not address a
19 situation where the calls fail after reaching the selective router. As a simple matter
20 of fact, all affected calls reached the selective router during the 911
21 interruption.”¹⁵

¹² Mills, Exh. RM-1T, at 2:10-14.

¹³ *Id.*, at 2:15-3:17.

¹⁴ Baldwin, Exh. SMB-1CT, at 6:16-7:20.

¹⁵ Mills, Exh. RM-1T, at 4:14-17.

1 As I explain above, this interpretation ignores the purpose of the 911 rules
2 as a means to protect consumers.

3 **Q. How do you respond to Mr. Mills’ discussion of the enhancements to the**
4 **functioning of the 911 network that resulted from the switch upgrade?**

5 A. Of course, well-functioning 911 networks are important. However, even taking at
6 face value his assertion that the replaced switches were “aging, end-of-life
7 hardware with no future support available,”¹⁶ that enhancement does not justify
8 an outage. In my view, whether the investment in new 911-related equipment was
9 prudent should be irrelevant to the scope of this proceeding.

10 **Q. What is your understanding of Mr. Mills’ view of the relationship between**
11 **the switch upgrade and the outage?**

12 A. Mr. Mills observes that if the switch upgrade had not occurred, then the outage
13 also would not have occurred.¹⁷ If Mr. Mills is implying that the enhancement to
14 the 911 system justified the outage, I am not persuaded that this is a mitigating
15 factor. This is not an “either-or” situation. Of course, 911 systems should be
16 upgraded if and as needed (with such determinations subject to independent
17 assessments), but the wisdom of upgrading the 911 system is not the issue in this
18 case. Upgrades need to be well-planned, and the process for making the changes
19 should be sufficiently robust to ensure that the integrity of the system is fully
20 maintained during the changeover. The integrity of the 911 system is an
21 overriding public safety priority – if an upgrade is needed, all those involved in its
22 implementation should take all of the necessary steps to make sure that system’s

¹⁶ *Id.*, at 6:4-6.

¹⁷ *Id.*, at 6:17-18.

1 integrity and operability is preserved throughout the upgrade process. The notion
2 that holding CenturyLink accountable for the 911 failure would “discourage”¹⁸
3 reasonable upgrade projects should be resoundingly dismissed as a tactic to scare
4 regulators from exercising their oversight of 911.

5 **Q. Does Mr. Mills raise the prospect of other related dire outcomes presumably**
6 **linked to the Commission holding CenturyLink accountable for the**
7 **undisputed 911 outage?**

8 A. Yes. Mr. Mills continues in a similar vein, stating:

9 Had Intrado instead decided to maintain its legacy [REDACTED] switches,
10 there would have been no ongoing manufacturer support for this
11 dated and end-of-life equipment. Consequently, any issues with the
12 [REDACTED] switches after end-of-life would have resulted in a
13 significantly longer time of repair and outage restoration, which
14 presents an indefensible threat of harm to public safety.¹⁹

15 Again, the question is not whether CenturyLink should have been
16 permitted to modernize equipment associated with 911 or whether the system
17 would have been less robust without the change. The fact that things could have
18 been worse (had the old equipment been retained) is also irrelevant. In the final
19 analysis, even if the decision to upgrade 911 technology is completely prudent
20 and necessary to maintain adequate service, the adverse consequences of failing to
21 implement the change without disruption to the 911 system remains
22 CenturyLink’s responsibility. Neither Mr. Grate nor Mr. Mills has provided any
23 new information that would alter my recommendation that the Commission
24 impose a penalty of \$220,000 on CenturyLink.

¹⁸ Mills, Exh. RM-1T, at 6:20.

¹⁹ *Id.*, at 7:1-5.

1 **Q.** **Does this conclude your testimony?**

2 **A.** **Yes.**