

Docket No. UT-181051 - Vol. III

WUTC v. Centurylink Communications, LLC

December 5, 2022



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND) DOCKET UT-181051
TRANSPORTATION COMMISSION,)
)
Complainant,)
)
vs.)
)
CENTURYLINK COMMUNICATIONS,)
LLC,)
)
Respondent.)

VIRTUAL EVIDENTIARY HEARING, VOLUME III
Pages 21-349

ADMINISTRATIVE LAW JUDGES GREGORY J. KOPTA
AND SAMANTHA DOYLE

* PORTIONS OF TESTIMONY ARE DESIGNATED CONFIDENTIAL
AND ARE SEALED UNDER SEPARATE COVER. *

December 5, 2022

9:00 a.m.

Washington Utilities and Transportation Commission
621 Woodland Square Loop Southeast
Lacey, Washington 98503

REPORTED BY: TAYLER GARLINGHOUSE, CCR 3358

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* * * * *

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Counsel Data Request No. 7, Attachments PC-7a and
PC-7b
BR-6 Comtech Response to Public Counsel Data Request
No. 25
BR-7C Comtech Confidential Response to Public Counsel
Data Request No. 2

EXHIBIT INDEX (cont.)

EXHIBITS FOR ADMISSION

- BR-8C Comtech Confidential Supplemental Response to Public Counsel Data Request No. 30
- BR-9C Comtech Root Cause Analysis, CenturyLink Network Outage and Related E-911 Call Routing Impairment, MOU Due Date 01-11-2019, Unredacted Version
- BR-10 WMD Response to CenturyLink Data Request No. 4, Attachment 'Re CenturyLink Outage 122718 (58)'
- BR-11C Comtech Confidential Response to Public Counsel Data Request No. 8
- BR-12C Comtech Confidential Response to Public Counsel Data Request No. 18
- BR-13 CenturyLink Response to Public Counsel Data Request No. 8
- BR-14 CenturyLink Response to Public Counsel Data Request no. 5, Attachment A, Second Revised Washington State Outage Communications Plan of CenturyLink
- BR-15C Comtech Confidential Response to Public Counsel Data Request No. 1, with Confidential Attachment A
- BR-16C Comtech Confidential Response to Public Counsel Data Request No. 3
- BR-17 Comtech Response and Supplemental Response to Public Counsel Data Request No. 26
- BR-18C Comtech Response to Public Counsel Data Request No. 4 with Confidential Attachment B.1(b)
- BR-19 CenturyLink Response to Public Counsel Data Request No. 23
- BR-20 CenturyLink Response to Public Counsel Data Request No. 9

- 1 EXHIBIT INDEX (cont.)
- 2 EXHIBITS FOR ADMISSION
- 3 BR-21C CenturyLink Response to WMD Data Request No. 1
4 with Confidential Attachments CLC-002938,
5 CLC-003101, CLC-003102
- 6 BR-22 CenturyLink Response to Public Counsel Data
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- 8 BR-23 CenturyLink Response to Public Counsel Data
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- 10 BR-24 CenturyLink Supplemental Response to Public
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- 14 BR-26 CenturyLink Response to Staff Data Request No. 9
- 15 BR-27 WMD Supplemental Response to Public Counsel Data
16 Request No. 7
- 17 BR-28 WMD Supplemental Response to Public Counsel Data
18 Request No. 6
- 19 BR-29C Comtech Confidential Response to Public Counsel
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- 23 BR-31 Public Counsel Response to CenturyLink Data
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1 EXHIBIT INDEX (cont.)
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7 Carl D. Klein
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1 LACEY, WASHINGTON; DECEMBER 5, 2022

2 9:00 A.M.

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4 P R O C E E D I N G S

5
6 JUDGE KOPTA: Let's be on the record in
7 Docket UT-181051, captioned Washington Utilities and
8 Transportation Commission v. CenturyLink Communications,
9 LLC.

10 I'm Gregory J. Kopta, one of the
11 administrative law judges who is presiding in this
12 proceeding along with Judge Samantha Doyle. And we will
13 also be joined by the Commissioners in a few moments.

14 We are here today for evidentiary hearings
15 in this docket, and we are addressing, at this point,
16 some preliminary issues. We will take appearances once
17 the Commissioners get here so that we don't have to do
18 it twice.

19 And so let's, at least in my mind, the first
20 issue that we need to address are the exhibits.

21 We have circulated an exhibit list to the
22 parties and gotten feedback on that. My intention is to
23 admit the exhibits on the exhibit list with the
24 exception of those to which the parties have not -- all
25 parties have not stipulated. But there are a couple of

1 clarifying things.

2 Mr. Sherr, I believe Exhibits CDK-4 is --
3 should be CDK-4C; is that correct?

4 MR. SHERR: That's correct, Your Honor. And
5 there's also a page that will need to be changed in
6 Exhibit CDK-1TC because it's a -- CDK-4C is a -- is a
7 diagram, and that diagram is reproduced on page 10, I
8 believe, of Mr. Klein's response testimony. So when we
9 submit updated copies of those to -- we will submit
10 copies -- updated copies of those documents to the
11 Commission.

12 JUDGE KOPTA: All right. That should be
13 acceptable. So the exhibit list should be amended to
14 reflect that CDK-4 is actually CDK-4C, and is a
15 confidential -- or a document that includes confidential
16 information.

17 The other change to the exhibit list that
18 I'm aware of is that Exhibits SKC-1X through 4X should
19 actually be numbered C -- I mean SKC-4X through 7X.
20 Just a minor numbering change.

21 Does anybody else have any corrections at
22 this time to the exhibit list that was circulated?

23 Hearing none, before I get to admitting
24 exhibits, one of the issues that I have is that several
25 documents have multiple exhibit numbers in the

1 cross-examination exhibits. I understand that this is
2 for the convenience of crossing witnesses so that they
3 know which documents they will be needing to address
4 during their testimony.

5 But at the same time, it is confusing for
6 the record because, for example, in this case, there are
7 objections to some exhibits, but then stipulations to
8 the same document that's labeled as a different exhibit.
9 So this causes a little bit of consternation.

10 At this point, I do not want to go back
11 through the exhibit list and purge duplicates, but for
12 future reference, I guess, it would be best to have a
13 document with only one exhibit number to it.

14 And please, when you are referring to
15 exhibits that have multiple exhibit numbers, both in
16 your cross-examination and in post-hearing briefing, try
17 to use the same one so that we're not continually
18 referring to the same document under different names.
19 It makes it confusing for us, and it makes it confusing
20 for everyone. So please keep that in mind.

21 MR. MCGINTY: I have a question about that,
22 Your Honor, if I may?

23 JUDGE KOPTA: Certainly, Mr. McGinty.

24 MR. MCGINTY: Do you have a preference as to
25 which exhibit number we use? For example, we have

1 several cross-exhibits are designated as cross-exhibits
2 that were first admitted as part of someone's testimony.
3 I would probably refer to that as the exhibit that was
4 attached to the testimony consistently throughout. But
5 do you have a different way of approaching that?

6 JUDGE KOPTA: That would be my preference,
7 is if it's a document that's already part of someone's
8 testimony or exhibits to their testimony to refer to it
9 in that manner.

10 And if it's a cross-exhibit that is just a
11 cross-exhibit that has multiple numbers, then just as a
12 rule of thumb, I would refer to it as whatever document
13 number it was when it was first discussed in the
14 hearing.

15 I mean, if it's one that was subject to an
16 objection and then admitted, then I would refer to it by
17 that number.

18 If it's just used in cross of a witness, the
19 first witness that it's used with, I would use that
20 number, I think.

21 As I say, it's a rule of thumb. It doesn't
22 necessarily have to be that way, but, again, we're
23 trying to minimize confusion. And, you know, short of
24 getting rid of all duplicates, which I don't think is
25 the best use of anyone's time, then I think that's the

1 best way to proceed. Does that make sense to you, Mr.
2 McGinty?

3 MR. MCGINTY: That does make sense. Thank
4 you for the clarification.

5 JUDGE KOPTA: All right. Sure.

6 And while we're talking about that, you did
7 not -- or you have an objection or are not willing to
8 stipulate to Exhibit JHJ-26CX, which is the same as
9 DW -- JDW-82CX. Are you objecting to both of those
10 exhibits or just the one?

11 MR. MCGINTY: I was objecting to both of
12 those exhibits. I was attempting to use the convention
13 you previously indicated, where I was only referring
14 it -- I was only referring to it by the exhibit number
15 that was -- it was first addressed as in the exhibit
16 list that was provided by CenturyLink. That was my
17 intention, but I intended to object to all
18 instantiations of that document.

19 JUDGE KOPTA: All right. Thank you.

20 And, Ms. Suetake, the same question to you.
21 Three of the exhibits that you have objected to are also
22 exhibits that have been marked for a witness other than
23 Mr. Rosen. Is it your intention that you are objecting
24 only to those documents that's used with Mr. Rosen or
25 are you objecting to those documents in their entirety

1 however they are labeled?

2 MS. SUETAKE: Judge Kopta, my co-counsel,
3 Lisa Gafken, will be addressing the objections to the
4 exhibits.

5 MS. GAFKEN: Judge Kopta, my intention is to
6 object to all exhibits -- of the exhibits. So each time
7 it's identified for any witness. And when we get to
8 that, I -- I have each one of the references. I was
9 also grappling with the reducing of confusion issue. So
10 I will probably just stick with the strategy of
11 identifying each.

12 So there's a couple of exhibits that are
13 identified three times. There's a couple of exhibits
14 that are identified twice. I'll probably just provide
15 both of those and all three of those references during
16 the argument, just for absolute clarity.

17 JUDGE KOPTA: Okay. Well, that poses a
18 little bit of a dilemma for me because I had intended to
19 admit all of the exhibits to which the parties
20 stipulated. And in labeling those to which you did not
21 stipulate, you simply used the BR exhibit numbers and
22 not any of the others.

23 So I don't -- at this point, I suppose, it
24 makes it a little bit -- I'm not sure what to do in
25 terms of admitting the exhibits. Perhaps what I will do

1 is admit the exhibits subject to any objections to
2 documents that are the same as the BR documents that you
3 have objected to. Does that -- does that -- would that
4 cover the waterfront from your perspective, Ms. Gafken?

5 MS. GAFKEN: I think that would cover the
6 waterfront from my perspective.

7 JUDGE KOPTA: All right. Well, that's what
8 I'll do, then.

9 So with respect to the exhibits, all of the
10 exhibits on the exhibit list that was circulated, which
11 include the prefiled testimony and associated exhibits
12 as well as the cross-examination exhibits, are admitted
13 subject to the limitation that I just discussed with
14 Ms. Gafken.

15 And with the exception of the following
16 documents, Exhibits BR-33X through 45X; BR-64X through
17 86X; Exhibit JHJ-26CX; Exhibit JHJ-27CX; Exhibit
18 JDW-82CX; Exhibit JDW-81CX; Exhibit JDW-68X through 72X;
19 Exhibit JDW-80X; and exhibit RA-9CX. I believe those
20 are all of the exhibits to which the parties did not
21 stipulate.

22 Are there any other exhibits at this point
23 that anyone can identify to which the parties -- one
24 party or another does not stipulate?

25 MS. GAFKEN: Judge Kopta, there is one more

1 exhibit. We did identify it in our initial email. It
2 was BR-87X. We -- we do have a copy of that now, and
3 that is one that I will be objecting to.

4 JUDGE KOPTA: All right. CR-87 or BR?

5 MS. GAFKEN: B as in Brian, BR.

6 JUDGE KOPTA: Okay. That's what I thought.
7 Just wanted to make sure we get the initials correct.

8 All right. So BR-87X is also not admitted.

9 And I understand that we can address the
10 objections to some of these exhibits at this time.

11 Mr. McGinty, all of those that are
12 identified for Staff witnesses are those that you
13 believe you can address at this point; is that correct?

14 MR. MCGINTY: I think that's correct.

15 JUDGE KOPTA: All right. Then why don't you
16 proceed. I don't know whether you can do them all at
17 once or whether we need to do one by one, but whatever
18 makes the most sense from your perspective.

19 MR. MCGINTY: I'm happy to go down the list
20 and provide our specific objections to the exhibits.
21 I'll probably lump them together to those that have
22 similar arguments that pertain to them.

23 So JHJ-26CX and JHJ-27CX, which are the same
24 as JDW-81CX and JDW-82CX, this is just a simple lack of
25 foundation issue. From the face of the document, it's

1 not clear what these are. It's not clear where the data
2 came from, who compiled them, what the headings to the
3 columns mean, anything along those lines.

4 If foundation is laid during the hearing,
5 happy to withdraw the objection. Although, not sure how
6 that will occur in cross-examination, but -- or if
7 foundation can be pointed out to me that it already
8 exists in the record, then, again, happy to withdraw the
9 objection.

10 But that's just a simple lack of foundation
11 objection.

12 JUDGE KOPTA: All right. Well, let's stop
13 there before you move on to the other ones and allow
14 CenturyLink to respond.

15 Mr. Sherr or Mr. Steese?

16 MR. STEESE: Your Honor, this is Chuck
17 Steese. I will address the exhibit issues.

18 Exhibits JHJ-26 and 27CX are also already in
19 the record as attachments to Mr. Webber's testimony,
20 specifically JDW-28C and JDW-30C.

21 So Mr. Webber already has those documents
22 attached to his testimony. And so the foundation, for
23 lack of a better term, of those documents has already
24 been established through their own witness.

25 JUDGE KOPTA: All right. Well, here we have

1 another example of why it's cumbersome to have documents
2 with multiple exhibit numbers.

3 MR. MCGINTY: Objection is withdrawn.

4 JUDGE KOPTA: All right. Thank you.

5 Then, just to be consistent, I admit those
6 four documents into the record.

7 Next.

8 MR. MCGINTY: So next is -- I'll address
9 JDW-68X to 72X. Now, 68X appears to be a filing with
10 the Securities and Exchange Commission with respect to
11 ComTech.

12 And then 69 to 72X are newspaper articles
13 and pleadings having to do with an out-of-state matter
14 involving an, I think, a South Dakota 911 system outage.

15 I just don't see the relevance of these.
16 The hearing, evidentiary hearing, today is on Staff's
17 complaint related to allegations made against
18 CenturyLink for a 911 outage that occurred in Washington
19 State. These potential exhibits are simply irrelevant
20 and make no fact at issue more or less likely to have
21 occurred.

22 JUDGE KOPTA: Mr. Steese?

23 MR. STEESE: Yes, I'll discuss JDW-68X
24 first. This is an SCC filing by ComTech. It provides
25 various background about ComTech. It provides

1 information about the fact that they're focused on 911
2 throughout the country. So to us, this simply provides
3 background about ComTech, and certainly meets the
4 relevance threshold since ComTech and its network are at
5 issue in this proceeding.

6 With respect to JDW-69X through 72X, ComTech
7 was the subject of complaint in South Dakota relating to
8 the fact that various 911 calls would not complete
9 there. The complaint is one of those exhibits bought by
10 the South Dakota Commission, and the various provisions
11 that it cites to in the complaint are essentially
12 identical to various points and problems that they
13 raised here.

14 So from our perspective, this is relevant to
15 show that ComTech's 911 network design is faulty. And
16 it has not only been faulty here, it's been faulty
17 somewhere else as well.

18 JUDGE KOPTA: Does this particular witness
19 have any knowledge or have any involvement in those
20 South Dakota proceedings?

21 MR. STEESE: Your Honor, I do not know.

22 JUDGE KOPTA: Well, unless there's some tie
23 between the witness and those documents, I don't see any
24 basis on which to admit them through cross of that
25 witness.

1 And as far as the SCC filing, same thing. I
2 don't know that there's any indication in that witness's
3 testimony that he had anything to do with that or has
4 any knowledge of that SCC filing.

5 And so therefore, I'm going to sustain the
6 objection. I don't -- through his testimony.

7 Next, Mr. McGinty.

8 MR. MCGINTY: So the next would be JDW-80X.
9 This appears to be labeled as a demonstrative -- I'm
10 getting some feedback. Oh, there we go.

11 It's labeled as a demonstrative exhibit. It
12 appears to be a timeline that was put together by
13 CenturyLink. It's overly argumentative. It'd be
14 appropriate for a brief, but it's not evidence that
15 ought to be admitted in order to prove any fact at
16 issue.

17 JUDGE KOPTA: Mr. Steese?

18 MR. STEESE: Your Honor, the document is
19 both a summary and a demonstrative. Evidentiary Rule
20 1003 permits this submission of summary exhibits so long
21 as each of the exhibits upon which the document is
22 created is referenced. It certainly is. This is a
23 timeline of events. The events themselves are directly
24 at issue, not only in Mr. Webber's testimony, but in
25 Mr. Rosen's testimony, Mr. Turner's testimony, a whole

1 series of witnesses. And so this goes directly to
2 Mr. Webber.

3 And the timeline itself, we think,
4 establishes very clearly a public connection between the
5 faulty network design and the outage on the 911 calling
6 in December 2018.

7 JUDGE KOPTA: Are all of the dates on this
8 timeline included in testimony or other exhibits that
9 have already been admitted to the record?

10 MR. STEESE: Yes, Your Honor.

11 JUDGE KOPTA: All right. Well, I see this
12 is cumulative of that information. I understand how
13 it's useful for you, but I agree with Mr. McGinty that,
14 certainly, it's more appropriate for a brief as opposed
15 to an exhibit for cross-examination. So I will sustain
16 that objection and not admit that exhibit.

17 Finally, RA-9CX, Mr. McGinty.

18 MR. MCGINTY: Yes, Your Honor. This is a
19 response to a data request that CenturyLink promulgated
20 to Staff as it was responded to in September of 2022.

21 The issue here that Staff supplemented this
22 response in October, and the supplemented version is not
23 the one that's being admitted. It prejudicial to Staff
24 to provide the unsupplemented response here.

25 JUDGE KOPTA: Mr. Steese?

1 MR. STEESE: Your Honor, Mr. McGinty is
2 correct. That was an error on our part. We'd like to
3 supplant the RA-9X with the supplemented version of the
4 request for admission. That was just a mistake in terms
5 of the version that was submitted.

6 JUDGE KOPTA: And, Mr. McGinty, do you have
7 any objection to --

8 MR. MCGINTY: No objection to that.

9 JUDGE KOPTA: All right. Then I will allow
10 that to be substituted, and I will admit that exhibit.

11 I believe that takes care of those to which
12 you have objected, Mr. McGinty?

13 MR. MCGINTY: That's correct.

14 JUDGE KOPTA: All right.

15 Ms. Gafken for Public Counsel.

16 MS. GAFKEN: Thank you. There are a number
17 of exhibits that we're objecting to, and I think it
18 makes sense to group them and take them separately as we
19 go.

20 The first two that I'll address is BR-33X
21 and BR-87X. BR-33X is a request from WMD or -- I'm
22 sorry -- a request to WMD for privileged communications
23 and protected work product. There is nothing relevant
24 that's contained in this exhibit. Any substance of
25 question would require an answer that includes the

1 either privileged attorney-client communications or
2 protective work product due to a common interest
3 agreement, Public Counsel, Commission Staff, and WMD.

4 As a result, Public Counsel objects to the
5 cross-exhibit contained in BR-33X and ask that it be
6 excluded.

7 I'll also address BR-87 as that appears to
8 be somewhat related. That appears to be a response to a
9 public records request and privilege log. The
10 information subject -- I'm sorry -- the information
11 contained in that exhibit is also subject to the same
12 attorney-client privilege and work product doctrine that
13 was established with the common interest agreement.
14 There's nothing relevant that's contained in the
15 unredacted portions of the exhibit. And as a result,
16 Public Counsel again asks that the cross-exhibit
17 contained as BR-87X be excluded.

18 JUDGE KOPTA: Mr. Steese?

19 MR. STEESE: With respect to these two
20 exhibits, Your Honor, the entire point is what
21 Ms. Gafken just said. And that is almost immediately
22 after the outage occurred, Public Counsel, WMD began
23 coordinating together.

24 And so the fact that the Public Counsel
25 witnesses are advocating positions taken by the WMD to

1 us is something that is important to establish that they
2 had been coordinating from, basically, day one.

3 So from our perspective, we're not intending
4 in any way, shape, or form to get into the common
5 interest discussions. The entire purpose is to show the
6 coordination that was taking place.

7 JUDGE KOPTA: I really don't see that as
8 something that the Commission needs to get involved
9 with. We're really more interested in the underlying
10 facts and what happened, not who is helping who. So I
11 don't see any basis on which that information is going
12 to be at all relevant to the Commission's determination.

13 So I will sustain the objection to those two
14 exhibits.

15 Next, Ms. Gafken.

16 MS. GAFKEN: Next, BR-39. BR-39 is an
17 exhibit that contains a public records request from
18 CenturyLink to WMD. And that public records request is
19 focused on ComTech. Also contained in that exhibit is a
20 letter from WMD to CenturyLink addressing certain
21 service credits under the contract.

22 Neither document is relevant to the
23 proceeding at hand. This proceeding is focused on
24 CenturyLink, not ComTech. The contract remedies are
25 also irrelevant to whether CenturyLink met its

1 regulatory liability. And as a result, Public Counsel
2 objects to the cross-exhibit contained in BR-39X and
3 asks that it be excluded.

4 JUDGE KOPTA: Mr. Steese?

5 MR. STEESE: Yes, Your Honor. BR-39X is
6 actually an attachment to the motion -- our response to
7 the motion for summary determination. Public Counsel's
8 argument is that CenturyLink breached the contract by
9 failing to provide various network and transport
10 responsibilities here. We think that that is
11 misdirected. This letter shows that they had an
12 opportunity to a certain breach of contract against
13 CenturyLink and, in fact, sent a letter demanding
14 service level credits. And -- and we objected, saying
15 that we were not the cause of the outage.

16 So this letter goes directly to the issues
17 that are at issue and placed at issue by Public Counsel.

18 MS. GAFKEN: If I may, Mr. Steese mistakes
19 what the basis of our motion for summary judgment is.
20 We are not alleging breach of contract, but we are
21 pointing to the contract as evidence of what
22 CenturyLink's duties were with respect to the 911.

23 JUDGE KOPTA: Well, again, this is something
24 I don't see any relationship to this in Mr. Rosen's
25 testimony, and certainly there's enough evidence in the

1 record to make the argument that you want to make,
2 Mr. Steese. I don't think the document is necessary for
3 that. So I sustain the objection to that document.

4 Next.

5 MS. GAFKEN: Okay. The next one is an
6 exhibit that has a couple of different exhibit
7 designation. BR-42CX, which has also been designated
8 JDW-52CX. This exhibit contains CenturyLink's vendor
9 agreements and a contract between CenturyLink and
10 ComTech related to ALI, the ALI transition.

11 JUDGE KOPTA: And ALI is A-L-I all caps?

12 MS. GAFKEN: Yeah. Okay.

13 JUDGE KOPTA: For the court reporter.

14 MS. GAFKEN: That's a good -- good reminder,
15 Judge Kopta. Public Counsel objects to the relevance of
16 this exhibit as the documents do not relate to questions
17 of this docket. As a result, Public Counsel objects to
18 Cross-Exhibit BR-42CX and JD-52CX and asks that these
19 exhibits be excluded.

20 JUDGE KOPTA: Mr. Steese?

21 MR. STEESE: The contracts between ComTech
22 and CenturyLink and -- all part of the transition
23 network. We think this is highly relevant to the
24 proceeding, and it should be included.

25 JUDGE KOPTA: I, again, do not see a

1 connection between these documents and Mr. Rosen's
2 testimony. If he has any personal knowledge about
3 these, that's one thing. If he does not, then there's
4 no basis to allow these in through his testimony.

5 Therefore, I will sustain the objection on
6 that basis.

7 Next, Ms. Gafken.

8 MS. GAFKEN: The next that three -- three BR
9 exhibits -- and they do have corresponding other
10 exhibits. So let me list those exhibits first and then
11 get into the argument.

12 BR-43X, which is also designated as JDW-53X;
13 the next set is BR-44X, which is also designated as
14 JDW-54X and JHJ-24X. And then the next one is BR-45CX,
15 which is also designated as JDW-55CX and JHJ-25CX.

16 And although one of these exhibits or one
17 set of exhibits is designated as confidential, I do not
18 need to talk about what the confidential information is
19 in that to make the objection.

20 So this set of exhibits addresses Commission
21 Staff's informal request for information directed at
22 ComTech during its investigation prior to filing the
23 complaint that we are here for the hearing for.

24 Public Counsel objections to these exhibits
25 as being irrelevant and beyond the scope of this

1 proceeding.

2 BR-43X, and JDW-53X is Staff's response to
3 CenturyLink Data Request No. 2, which asks Staff to
4 produce communications with ComTech.

5 BR-44X, JDW-54X and JHJ-24X contains the
6 questions that Staff asks ComTech. BR-45CX, JD-5CX and
7 JHJ-25CX contains ComTech's responses.

8 This proceeding is focused on CenturyLink,
9 not ComTech. And as a result, Public Counsel objects to
10 the exhibits that I've identified and asks that they be
11 excluded.

12 JUDGE KOPTA: Mr. Steese?

13 MR. STEESE: This proceeding absolutely
14 relates to ComTech's network design. Mr. Rosen talks at
15 great length about ComTech's network design and cites
16 repeatedly to ComTech data request responses.

17 So the fact that these responses are
18 directly from ComTech, discuss its network design, at
19 least some of them do, that the whole point is to look
20 at the ComTech network design and determine whether or
21 not it was or was not the cause of the outage, why 911
22 calls did not complete.

23 And, again, Mr. Rosen discusses at great
24 length in both his direct testimony as well as in his
25 responsive testimony ComTech data request responses and

1 whether or not that network was or was not designed
2 properly.

3 JUDGE KOPTA: Well, I note that the exhibits
4 as designated for witnesses other than Mr. Rosen are not
5 exhibits to which Mr. McGinty or Staff has objected.

6 I agree that ComTech's network is at issue
7 in this proceeding. Therefore, I will overrule the
8 objection with respect to the exhibits as designated for
9 witnesses other than Mr. Rosen.

10 If Public Counsel wants to make an objection
11 to the use of those -- you know, those documents during
12 Mr. Rosen's cross-examination based on any lack of
13 personal knowledge that he may have about the responses,
14 you are free to do so.

15 But at this point, I admit those exhibits
16 and overrule the objection.

17 Next.

18 MS. GAFKEN: Okay. The last two exhibits
19 that I'll talk about at this point are BR-64X and
20 BR-65X.

21 Both of those exhibits are Public Counsel
22 responses to CenturyLink data request asking about
23 ComTech's SS7 capabilities. Neither exhibit presents
24 relevant information, as ComTech SS7 capabilities are
25 not subject to this proceeding. Therefore, we object to

1 the admission of those Cross-Exhibit BR-64X and
2 Cross-Exhibit BR-65X.

3 JUDGE KOPTA: Mr. Steese?

4 MR. STEESE: Your Honor, this is -- the
5 response is the same. Comtech's network design and its
6 SS7 design and capabilities are directly at issue in
7 this proceeding.

8 And for the exact same reason as I
9 articulated moments ago, these documents go directly to
10 that network design.

11 JUDGE KOPTA: These are both responses to --
12 by Public Counsel, specifically Mr. Rosen, to data
13 requests from CenturyLink.

14 I agree with Mr. Steese that this is an
15 issue before the Commission. Therefore, I overrule the
16 objection and will admit those two documents.

17 Any other objections at this point that we
18 can address?

19 MR. STEESE: Your Honor, if I can briefly.
20 I understand that in an email from this morning, Public
21 Counsel said that they did not need to raise objections
22 to the other exhibits at this point in time.

23 In an effort to help the proceeding move
24 quickly, we would ask, if possible, that we address the
25 other remaining objections as well.

1 MS. GAFKEN: The other remaining objections
2 are going to be based on how the exhibits are used. So
3 the ones that I've already addressed and that Judge
4 Kopta ruled upon, those are ones that are more general
5 in nature. And the other exhibits, as I said, will
6 depend on how CenturyLink intends to use them with their
7 witness.

8 JUDGE KOPTA: I think that's a fair way of
9 proceeding. I agree, Mr. Steese, it would be beneficial
10 if we could address all objections at this point, but
11 that does not seem to be something that we can do. So
12 we will just await the use of those documents in
13 cross-examination of Mr. Rosen to determine whether they
14 will be admitted or not.

15 All right. I think that takes care of
16 exhibits. The other elephant in the room is
17 confidentiality.

18 Several of the parties and the Commission
19 itself have raised the issue of the extents to which we
20 need to close those hearings to those who have not
21 signed the confidentiality agreement or otherwise
22 entitled to review confidential information.

23 Mr. Steese, are you going to be addressing
24 this on behalf of CenturyLink?

25 MR. STEESE: Your Honor, yes, I will.

1 JUDGE KOPTA: All right. First question I
2 have for you, given that Mr. Sherr was the one who
3 raised this initially is, how much of the
4 cross-examination that you're anticipating would need to
5 be in a closed session?

6 MR. STEESE: That's obviously very witness
7 dependent, Your Honor. There are a couple of witnesses
8 that it will be minimal.

9 But in terms of Dr. Akl, it will be
10 virtually all of his examination. Mr. Webber will
11 probably be about 70 percent, and Mr. Rosen about --

12 JUDGE KOPTA: Sorry. I didn't hear the
13 percentage for Mr. Rosen.

14 MR. STEESE: About 50 percent.

15 And it's the -- kind of this thing where
16 there's two issues.

17 One is the details are almost always
18 identified as confidential, and the details are what we
19 need to discuss.

20 But the other is if we share a document on a
21 screen that has a line identified as confidential,
22 irrespective of whether or not I am asking about that
23 particular line, it is important for the witness to be
24 able to see the exhibit and for everyone to be on the
25 same page.

1 And so that only, in a couple of instances I
2 can think of, is going to pose an issue. We have tried
3 very hard to -- places or -- where it's a start and stop
4 with minimal public questions because you have to set
5 some foundation sometimes in the middle that would not
6 be confidential.

7 But it's going to be rather extensive, and
8 in that vein, too, we saw that WMD sent an email earlier
9 today. We want to make sure that we understand the
10 bounds of what is deemed confidential to make sure that
11 we don't cross a bridge that WMD does not want us to
12 cross in terms of the types of questions that we might
13 ask that might seem not confidential to us that they
14 would find to be confidential.

15 JUDGE KOPTA: Mr. McGinty, do you anticipate
16 delving into confidential information in your
17 cross-examination of CenturyLink witnesses?

18 MR. MCGINTY: Yes, I do. Particularly with
19 the clarification today that call flow information is
20 confidential.

21 I can't imagine -- you know, and obviously,
22 this is a difficult subject to talk about because you
23 might ask a question that you don't think imposes or
24 creates an opportunity for an answer with confidential
25 information, but then, you know, it does in an

1 unanticipated way.

2 So this is difficult for me to imagine a way
3 to delineate between a non-confidential cross and a
4 confidential cross of any of the witnesses I intend to
5 examine.

6 JUDGE KOPTA: And do you have any rough
7 estimate of the amount of your cross that might involve
8 confidential information?

9 MR. MCGINTY: I think it's virtually all or
10 could be all, especially with the clarification that WMD
11 made today, that their intention that anything that may
12 involve confidential information not to be in closed
13 session, I think that's got to be everything.
14 Everything may involve confidential information.

15 JUDGE KOPTA: Ms. Gafken or Ms. Suetake?

16 MS. GAFKEN: I will start with some
17 comments, and then I may need to pass the baton to
18 Mr. Nelson to address how much -- what portion of the
19 cross may or may not be confidential.

20 But I did want to say that certainly Public
21 Counsel supports using a closed session for those
22 portions that would cover confidential materials.
23 Commission does have a process that allows us to do this
24 when we can't conduct cross that does elicit a
25 confidential response or touches on confidential

1 information.

2 I do want to note that, of course, we would
3 prefer to have as much of this proceeding be open as
4 possible, understanding completely that there are some
5 very sensitive topics being talked about.

6 Regardless of how much of the proceeding
7 ends up being in a closed session, Public Counsel would
8 urge the Commission to, of course, write the order that
9 would clearly allow the public to understand what's
10 happened in this case. And I am confident that the
11 Commission will do that. I wanted to express that on
12 the record.

13 So in any event, we do recognize the need
14 to, most likely, close at least portions of this
15 proceeding. But, of course, always lean towards wanting
16 as much open to the public as possible.

17 I am going to ask Mr. Nelson to respond to
18 what portion of the cross that we anticipate might be
19 confidential.

20 MR. NELSON: Good morning, Your Honor. John
21 Nelson on behalf of Public Counsel. I both underscore
22 Ms. Gafken's comments about generally speaking the
23 preference for open tribunals.

24 However, I do also share Mr. McGinty's
25 comments about anticipating when or when not we may

1 delve into confidential matter. You know, for example,
2 question may not intend to delve into it, and the
3 response elicited from the witness may very well go down
4 confidential material, just given the technical nature
5 of this case.

6 So, you know, I normally would like to take
7 it on a witness-by-witness basis, but I do believe that
8 some portions -- it's reasonable to expect some portions
9 of the cross testimony to delve into confidential
10 material.

11 JUDGE KOPTA: Well, this is a dilemma
12 because this case does involve a much larger share of
13 information that's designated as confidential than most
14 hearings. And the fact that we're doing it virtually
15 makes it that much more challenging.

16 If, for example, a witness you anticipate
17 that 70 percent of the cross is going to be
18 confidential, I don't see any basis for having a
19 non-confidential and a confidential session for that
20 witness. Rather just have the whole thing under a
21 confidential session.

22 The question then arises as to whether we do
23 this on a witness-by-witness basis or we do it on a more
24 global basis so that all confidential testimony, for
25 example, of one party's witnesses would be in a closed

1 session while the nonconfidential portion would be
2 conducted outside of that in the more open proceeding.

3 Do parties have any suggestions or comments
4 on which method would be most efficient?

5 MR. STEESE: Your Honor, I have a question
6 first.

7 When I looked at and Mr. Sherr looked at
8 WMD's comments earlier today, they were talking about
9 network design and call flows. They were talking about,
10 as we understood it, the current 911 network design.

11 Obviously, the network design at issue here is the
12 transition network design, which is no longer in place.

13 So the question that we have for WMD is, if
14 we're focussing on the transition network design, we
15 don't know -- CenturyLink does not know which portions,
16 if any, still are part of the existing network design.

17 So might be that what we're talking about
18 here is a vestige of the past, and we don't need to
19 worry about the confidential portions.

20 But if, in fact, WMD says the opposite, and
21 that is any call flow information, which is what
22 Mr. McGinty interpreted and I thought might be possibly
23 what was intended, then CenturyLink's thought is we do
24 the entire witness examination, if there is a
25 significant portion that is confidential and

1 confidential setting. And then what we can do is have
2 the various parties, within some period of time
3 afterwards, go through the transcript and identify the
4 portions that are public. And then the Commission can
5 post the public portions on its website.

6 JUDGE KOPTA: Well, first of all,
7 confidential information needs to be designated. And so
8 I'm assuming that the parties have designated
9 information that they believe is confidential.

10 If someone wants to ask a question that
11 elicits a response for information outside of the
12 testimony that may be confidential, then I would expect
13 that either counsel for that witness or Ms. Cortez would
14 object, if we are in open session, to any response to
15 that question.

16 That having been said, that still leaves
17 open the question of whether it makes sense to have to
18 go witness by witness in terms of confidential session
19 or whether we have a more global closed hearing.

20 MR. STEESE: I think witness by witness.
21 That's going, at least from us, there's going to be some
22 that have a significant portion that are public, as I
23 understand it. And so it makes sense to do witness by
24 witness.

25 JUDGE KOPTA: Ms. Gafken?

1 MS. GAFKEN: Thank you. I did want to
2 underscore that Public Counsel certainly does rely on
3 the confidential designations in most instances. In
4 most cases, confidential information is the Company's.
5 Here we have an entity that also has a pretty strong
6 confidential interest.

7 But we -- it's not our information, and so
8 we do rely on those designations. I do think that we
9 would have to go through ours again, our presentation
10 again and, perhaps, we'll need to refile certain things
11 to mark things that look to be not confidential as
12 confidential after the hearing.

13 Having said that, I do think that a
14 witness-by-witness approach would be appropriate and
15 preferred instead of doing something more global.

16 For example, I know that the -- there are
17 some witnesses that will likely not need to touch on
18 confidential information. For example, I don't believe
19 that Public Counsel witness Stephanie Chase will have to
20 touch on confidential information. And so I think, for
21 those witnesses, we certainly do want an open process.

22 But there are other witnesses that will, and
23 I agree with what's been stated by the other parties.
24 But if there's a large percentage of a witness's cross
25 that is confidential, then the entire portion can -- can

1 be done in a closed -- closed session.

2 So those are our preferences.

3 JUDGE KOPTA: All right.

4 Judge Doyle, you had something that you
5 wanted to add?

6 JUDGE DOYLE: Yeah. Just a quick logistical
7 matter. Our coordinator, Ryan Smith, put in the chat we
8 have a number of entities on the call that are not
9 properly identified. So when we do go into confidential
10 proceedings, it will be a breakout room that's been
11 designated by those who have been pre-identified as
12 signing the confidentiality agreement.

13 And so for instance, Room Audio 1, we can't
14 admit that and guarantee confidentiality without knowing
15 all the participants being clearly identified.

16 So if you could either reidentify your --
17 your connection or in the chat identify clearly exactly
18 who is in that room so we can guarantee confidentiality.
19 Thank you.

20 MR. SHERR: Judge Doyle, I can respond to
21 that briefly. This is Adam Sherr on behalf of
22 CenturyLink.

23 The CenturyLink team, which is rather
24 significant for the hearing, is in downtown law office
25 space. We are -- we are occupying two conference rooms.

1 The conference room that we're speaking from, I believe,
2 is identified as CLC Room 1. So we have a connection
3 for the room, but our individual connections are on our
4 computers.

5 And there is another -- what is the other
6 room identified as? There's another room identified
7 by -- it's just as -- I think there's a room that is
8 identified as Perkins Coie, and that contains -- there
9 are several members of our team that are there.

10 Everyone that is here on behalf of
11 CenturyLink Communications has signed the protective
12 order. So there is no one in either of those rooms that
13 has not signed the protective order.

14 If you need -- if you would like us to
15 provide a list and put it in the chat, I can. But you
16 can rest assured that everyone here has signed the
17 protective order.

18 JUDGE DOYLE: But I think that would be
19 appropriate so that all the parties can guarantee that
20 there's a list of those who are present.

21 We still have Room Audio 1, then a caller
22 (508) 654-2013 -- oh, excuse me. The caller has been
23 identified. So I guess it's just Room Audio 1. Is that
24 also --

25 MR. SHERR: Yes. That's us. As I speak,

1 you'll see that it identifies. So we're using the audio
2 from the room in this high-tech setting. So that's
3 why -- it has its own connection.

4 JUDGE DOYLE: Okay. So yeah. If you can
5 make that list available so that all the parties can
6 be -- rest assured that -- that everyone has signed that
7 agreement. Thank you.

8 MR. SHERR: You bet. Thank you.

9 JUDGE KOPTA: Ms. Cortez?

10 MS. CORTEZ: Thank you. Yes. I agree
11 with -- turning back to how the proceedings should be
12 handled, and I agree with everything that's been said.
13 I certainly can object when a question is asked.
14 However, I don't know what the witness will say, and I
15 think it's -- we've all indicated it could be that a
16 witness will misunderstand what is confidential and what
17 is not. And once information is out there, especially
18 as it relates to the security of the network, you know,
19 it's impossible to pull that back.

20 So I do think that the witness-by-witness
21 approach is best, and with the, you know, interest in
22 the open administration of justice, I think Mr. Steese's
23 suggestion is a good one, that we could release the
24 transcript later with an agreement of things that are
25 not confidential rather than taking the risk of having

1 them disclosed in the live and open presentation. Thank
2 you.

3 JUDGE KOPTA: Ms. Ornstein?

4 MS. ORNSTEIN: Thank you, Judge. I just
5 wanted to note that while we are discussing the
6 transition 911 system in the state of Washington, there
7 are many elements that are still in place today in the
8 state of Washington as well as in other states' 911
9 system. So that requires just an extra degree of
10 consideration when addressing us. We don't have an
11 objection to having a witness-by-witness approach, but
12 we'd ask all the parties to be particularly careful in
13 any of the details that are designated as confidential
14 now remaining. So it's not just the state of Washington
15 that may be impacted if something was to be a security
16 risk.

17 JUDGE KOPTA: All right. Well, it sounds
18 like the best approach is go witness by witness. So
19 what we will do is at the beginning of each witness's
20 testimony, go as far as we can with non-confidential or
21 if it's a witness that, essentially, there's very
22 little, if any, that is not confidential, then we can
23 identify -- then I would appreciate counsel conducting
24 the cross to inform us of that fact and we can
25 immediately, then, go into a confidential session.

1 I don't know about trying to do a review of
2 the transcript afterwards. We can talk about that at
3 the end of the hearing to see whether that makes sense.
4 I mean, we share Public Counsel's concern that as much
5 of our proceedings as possible should be open to the
6 public.

7 At the same time, we also are very aware
8 that much of this information is extremely sensitive,
9 and we do not want it to be available to those who are
10 not entitled to see it.

11 So we're trying to balance those two things.
12 And we will do what we can as we go forward. But I
13 think that's the best that we can do at the moment.

14 So are there any other preliminary matters
15 that we need to address before the Commissioners join us
16 and we begin the cross-examination?

17 Hearing none, I see that Commissioner Doumit
18 is --

19 MR. SHERR: Excuse me. Excuse me, Your
20 Honor. This is Adam Sherr. I'm sorry. I muted myself
21 for the benefit of all, but I am now off mute.

22 Just one brief preliminary matter, and that
23 is I believe asked on Friday if Commission knows if CLC
24 witness Lobdell would be excused or would be expected to
25 appear to receive questions from the judges -- from Your

1 Honor or from the Commissioners. Do you happen to know?

2 JUDGE KOPTA: We do not yet know at this
3 point. I mean, some of it may depend on what the other
4 witnesses' testimonies are and the extent to which
5 Ms. Lobdell's take on some of the information or some of
6 the information that comes up as it references to her
7 testimony may be useful.

8 So --

9 MR. SHERR: Thank you.

10 JUDGE KOPTA: -- I hate to have her sit
11 around and wait and only not to have to do it, but the
12 only thing I hate worse than that is us needing to ask
13 her questions and she's not available.

14 MR. SHERR: It's all good. Thank you for
15 responding. Appreciate it.

16 JUDGE KOPTA: All right. Sure.

17 I see that the Commissioners have joined us.
18 So at this point, let's take appearances for the record,
19 beginning with Commission Staff.

20 MR. MCGINTY: William McGinty on behalf of
21 Commission Staff.

22 JUDGE KOPTA: And Public Counsel.

23 MS. SUETAKE: Public Counsel. This is Nina
24 Suetake for Public Counsel, and I'm joined by
25 co-counsels Lisa Gafken and John Nelson.

1 JUDGE KOPTA: And for the Company?

2 MR. SHERR: Morning. Adam Sherr on behalf
3 of CLC.

4 MR. STEESE: And Chuck Steese on behalf of
5 CLC, Your Honor.

6 JUDGE KOPTA: And for the Washington
7 Military Department?

8 MS. CORTEZ: Dawn Cortez on behalf of the
9 Washington State Military Department.

10 JUDGE KOPTA: And on behalf of ComTech?

11 MS. ORNSTEIN: Susan Ornstein on behalf of
12 Telecommunications Systems, Inc.

13 JUDGE KOPTA: Any other appearances?

14 All right. Hearing none, just a brief
15 technical observation. Please mute your phones if you
16 are not speaking or in the middle of doing the cross or
17 being responded to cross questions.

18 In addition, I don't think we need the
19 cameras on, except for those who are directly involved
20 in the cross-examination, just to sort of reduce the
21 clutter a little bit. I mean, it's always nice to see
22 people, but our focus is on the witness who is
23 testifying.

24 I will be on camera. I'm assuming the
25 Commissioners will also be on camera and will be

1 unmuted. So I think that should take care of
2 everything.

3 And with that, we begin with Staff
4 witnesses. Mr. McGinty, do you want to introduce your
5 first witness?

6 MR. SHERR: Your Honor, can I interject?
7 I'm sorry. This is Adam Sherr again. One more -- one
8 more question.

9 Do we know if everyone in the meeting room
10 here has signed the protective order? There was an
11 issue regarding confidentiality that just struck my mind
12 that I don't think we need -- I think we touched on, but
13 didn't address directly. And that is with regard to
14 screen sharing. There may be a need to put onto the
15 screen, for convenience of the witness, the document
16 that's been marked confidential and to ask that witness
17 a question, not necessarily about the confidential part,
18 but that confidential information will then appear on
19 the screen. If everyone in the room has signed the
20 protective order, there isn't an issue with that, but if
21 not, that may be an issue.

22 JUDGE KOPTA: Well, my understanding is that
23 we will only be addressing or disclosing confidential
24 information in closed sessions. So if there's a need to
25 screen share a portion of testimony that includes

1 confidential information, then that should be in a
2 closed session.

3 The other option would be to use a redacted
4 version that redacts the confidential portion to the
5 extent that that's not germane to the questions that are
6 being asked of that witness. Does that make sense,
7 Mr. Sherr?

8 MR. SHERR: It does. It does.

9 JUDGE KOPTA: All right. Well, then, we
10 will proceed along those lines.

11 Mr. McGinty.

12 MR. MCGINTY: Yes, Your Honor. First Staff
13 witness is Jacque Hawkins-Jones, whose testimony has
14 been prefiled with the Commission.

15 COMMISSIONER DOUMIT: Your Honor -- if I
16 may. Apologize.

17 JUDGE KOPTA: That's right. Commissioner
18 Doumit, I neglected to allow you to speak first. So
19 please do.

20 COMMISSIONER DOUMIT: I apologize for that,
21 Your Honor. I have two statements for the record that I
22 wanted to make, Your Honor. Both relate to the
23 potential sort of, you know, involvements -- but in the
24 matter.

25 The first is that I worked for Verizon until

1 I came to the Commission, and I learned from their
2 record that Verizon as an originating provider was
3 impacted in some degree by -- by the outage. I
4 wanted to say I don't recall that incident, and I don't
5 recall having anything to do with it sort of at the
6 time. But I wanted to state that for the record and
7 want, you know, to ask whether there will be any
8 objections to my participation based on that prior
9 affiliation.

10 JUDGE KOPTA: All right. So are there any
11 objections to Commissioner Doumit participating in this
12 proceeding under -- with that understanding?

13 MR. MCGINTY: No objections from Staff.

14 JUDGE KOPTA: I hear no other objections,
15 and therefore, there are none. So we are -- second
16 point.

17 COMMISSIONER DOUMIT: Second point, yes --
18 thank you, Your Honor -- is that my son works for Delta
19 Partners, which is a wholly owned subsidiary of FTI
20 Consulting, one of the Company's witnesses, expert
21 witnesses, and works with -- for FTI Consulting. I have
22 not discussed this case in substance with my son
23 whatsoever, but I did, again, want to make that
24 statement for the record to discern whether there may be
25 objections based upon my relationship with my son.

1 JUDGE KOPTA: Are there any objections?

2 MR. MCGINTY: No objections from Staff.

3 MS. GAFKEN: No objections from Public
4 Counsel.

5 JUDGE KOPTA: All right.

6 COMMISSIONER DOUMIT: Thank you, Your Honor.
7 Sorry for the interruption. Thank you.

8 JUDGE KOPTA: No, not at all. I'm glad you
9 clarified that.

10 (Jacque Hawkins-Jones sworn.)

11 (Main session.)

12

13 E X A M I N A T I O N

14 BY MR. MCGINTY:

15 Q. Ms. Hawkins-Jones, so you previously filed
16 testimony with the Commission; is that right?

17 A. Correct.

18 Q. And is all of that testimony still true and
19 correct, to the best of your knowledge?

20 A. Correct.

21 Q. And you adopt it today?

22 A. Yes.

23 Q. Including the cross answering testimony that you
24 filed?

25 A. Yes.

1 MR. MCGINTY: No further questions.

2 JUDGE KOPTA: All right. Your testimony has
3 previously been admitted, and therefore, we will move to
4 cross-examination. Who is going to be doing that,
5 Mr. Sherr or Mr. Steese?

6 MR. SHERR: This is Adam Sherr, Your Honor.
7 I will be.

8 JUDGE KOPTA: All right. Proceed,
9 Mr. Sherr.

10 C R O S S - E X A M I N A T I O N

11 BY MR. SHERR:

12 Q. Good morning, Ms. Hawkins-Jones. Nice to see
13 you. I think we've spoken a couple times on the phone,
14 but nice to meet you, well, sort of in person here.

15 You were not a Commission employee at the time
16 of the December 2018 outage; is that correct?

17 A. Correct.

18 Q. You joined the Commission in August of 2019?

19 A. Correct.

20 Q. When were you assigned to investigate the outage
21 at question in this case?

22 A. In August of 2019.

23 Q. Okay. Immediately upon joining the Commission?

24 A. Correct.

25 Q. Okay. Were you assigned to head the

1 investigation on behalf of Staff?

2 A. I was assigned as the lead investigator of this
3 investigation.

4 Q. Okay. Who was the lead investigator prior to
5 you?

6 A. Susie Paul.

7 Q. Okay. Is Ms. Paul still an employee of the
8 Commission?

9 A. No, she is not.

10 Q. When you were assigned to investigate the outage
11 in August of 2019, were you told that the investigation
12 was focused solely on CenturyLink?

13 A. No, I was not.

14 Q. When did that -- when was that decision made?

15 A. In consultation with Commission Staff and our
16 then expert. After review of all the evidence, Staff
17 made a determination in their investigative report.

18 Q. And when was -- when was the decision made that
19 the investigation would be solely focused on
20 CenturyLink?

21 MR. MCGINTY: Objection. Asked and
22 answered.

23 MR. SHERR: Well, with respect, I asked
24 when, and I don't believe Ms. Hawkins-Jones responded.

25 JUDGE KOPTA: I'll allow the question.

1 A. I wouldn't be able to tell you when exactly that
2 occurred.

3 BY MR. SHERR:

4 Q. Okay. And you mentioned a prior expert. That
5 was Mr. Wheeler, correct?

6 A. Correct.

7 Q. Over the course of the two years Staff
8 investigated the outage, Staff issued five sets of
9 informal data requests to the Company; is that true?

10 A. I believe so. I would have to look to confirm.

11 Q. Could you take a look at Exhibit JHJ-3C, which
12 was attached to your direct testimony. Let me know when
13 you're there.

14 A. Okay. What was the number again?

15 Q. It's JHJ-3C. And this was the narrative portion
16 of the Staff investigation report that you just alluded
17 to.

18 A. And then what -- was this provided to the Staff?

19 Q. This is attached to your direct testimony.

20 A. So that's Staff investigation report?

21 Q. That's right. That's Exhibit JHJ-3C. Do you
22 have access to that now?

23 A. Yes, I do.

24 Q. Okay. If you're -- are you looking at it
25 electronically?

1 A. Yes, I am.

2 Q. Great. So it's a 28-page PDF. Could you look
3 at page 12 of the PDF. If you go to the very bottom, it
4 says page 10. I will note that in this case, most
5 documents have multiple numbers on them. So that can be
6 a little confusing, but let me know when you're there.

7 A. I am looking at page 10 of the report.

8 Q. Great.

9 So if you look at the bottom -- the bottom --
10 the very, very end of that page, it says 2018
11 investigation information. Could you just read to
12 yourself the first sentence?

13 A. Okay.

14 Q. Does that refresh your recollection as to how
15 many sets of data requests the Staff sent to CenturyLink
16 during the course of the investigation?

17 A. Yes.

18 Q. Okay. It was five; is that correct?

19 A. Correct. It says five.

20 Q. Great.

21 In your response to Staff's final set of
22 informal data requests to CenturyLink, that was from
23 August of 2020, CenturyLink produced 911 call logs, one
24 for CenturyLink, one for ComTech. Do you recall those?

25 A. I do recall seeing call logs, yes.

1 Q. Okay. And those have been -- just for your
2 reference, those have been identified as
3 Cross-Exhibits JHJ-26CX and 27CX?

4 A. Yes.

5 Q. You remember receiving these.

6 And those call logs were broken out by hour by
7 the total number of calls during that hour and by how
8 many successful and failed calls to 911 there were; is
9 that accurate?

10 A. Yes.

11 Q. Okay. And there was, again, there was one for
12 CenturyLink and one for ComTech?

13 A. Correct.

14 Q. Okay. And if the calls -- if for each row,
15 which was an hour of the day, the number -- for the
16 number of failed calls, an error code was given as to
17 the nature of the error. Do you recall that?

18 A. Correct.

19 Q. And CenturyLink in its cover email that -- that
20 accompanied those call logs defined the various --
21 various error codes. Do you recall that?

22 A. Yes, I do.

23 Q. And these logs showed thousands of failed 911
24 calls during the time frame to ComTech, sort of PSAPs.
25 Do you recall that?

1 A. Correct.

2 Q. And virtually no unsuccessful calls to
3 CenturyLink PSAPs. Do you recall that?

4 A. That's how it was presented, yes.

5 Q. Okay. And CenturyLink explained that the small
6 number of uncompleted calls did not actually fail as a
7 result of the network outage. Do you recall that?

8 A. I believe that's how it was presented, yes.

9 Q. Okay. After receiving that data -- and let me
10 go back.

11 So this was -- you received the data several
12 months before the complaint was filed in this case
13 against CenturyLink, true?

14 A. Yes.

15 Q. Okay. After receiving the data that we just
16 discussed, did Staff send any follow-up questions to
17 ComTech?

18 A. I don't believe so, no.

19 Q. None to explore whether something specific in
20 ComTech's practices or network design caused 911 calls
21 to fail in Washington?

22 A. So we didn't send any follow-up after receiving
23 these.

24 Q. Okay. And over the course of the same two-year
25 investigation, Staff sent one set of data requests,

1 informal data requests, to ComTech. That was in
2 February of 2019, and another brief follow-up -- set of
3 follow-up questions in August of 2019. Do you recall
4 those?

5 A. I recall sending data requests to CenturyLink
6 during those times. I don't recall exactly what was on
7 them.

8 Q. Okay. Well, fair enough. Let me clarify. I'm
9 talking about sending data requests to ComTech, not
10 CenturyLink.

11 A. Correct, yes.

12 Q. Okay. So there was an -- and if -- for your
13 reference -- and this isn't a memory test -- so for your
14 reference, Exhibit JHJ-24X and JHJ-25CX are the two sets
15 of questions.

16 A. Yes.

17 Q. Just to clarify, you recall that there were --
18 there was one set of questions sent in February '19 --
19 of 2019 and then a brief follow-up sent in August of
20 2019?

21 A. Correct.

22 Q. Let's take a look at Exhibit 24X. Let me know
23 when you have that on your screen.

24 A. I have it available.

25 Q. This document -- excuse me. Go ahead.

1 A. I have it available.

2 Q. I'm sorry. I spoke over you. Can you say that
3 again?

4 A. I have the document JHJ-24X open.

5 Q. Thank you.

6 And these are Staff's initial questions to
7 ComTech in February of 2019?

8 A. Correct.

9 Q. And Staff doesn't ask any questions here about
10 ComTech's network design, does it?

11 A. I didn't draft these questions. These were
12 drafted by Susie Paul. So these are the questions that
13 she asked at that time.

14 Q. Okay. Can you take a -- just take a look. I
15 understand that you didn't draft them. Can you take a
16 look through the questions. Let me know when you
17 proceeded reading through them.

18 A. Yes.

19 Q. Okay. Are there any questions about ComTech's
20 network design?

21 A. No.

22 Q. Thank you.

23 Let's look at Exhibit 25CX. Now, I will note
24 this document has been identified as confidential. And
25 so be careful to the extent that your answer -- you

1 don't want your answer to include anything that's been
2 identified as confidential.

3 But do you have Exhibit JHJ-25CX in front of
4 you?

5 A. Yes, I do.

6 Q. Okay. And these are the August 2019 follow-up
7 question from Staff to ComTech as well as their
8 September 12, 2019 responses; is that correct?

9 A. That is correct.

10 Q. Okay. And, again, you have this electronically
11 in front of you?

12 A. Yes, I do.

13 Q. If you could take a look at page 4 of the PDF.
14 I want to direct your attention specifically to the
15 question, the Data Request No. RS-3A. It appears about
16 halfway, two-thirds down the page.

17 A. Yes, I'm there.

18 Q. Can you just read the question and answer to
19 yourself, and let me know when you've done so.

20 A. Okay.

21 Q. Okay. So here ComTech explains that its SS7
22 connectivity was impacted by the outage and that it
23 experienced intermittent lack of redundancy -- excuse
24 me -- intermittent lack of circuit redundancy, correct?

25 A. Correct.

1 Q. And Staff received these responses 15 months
2 before filing the complaint against CenturyLink, true?

3 A. They received them in September of 2019.

4 Q. And the complaint was filed in December of 2020?

5 A. Correct.

6 Q. Okay. Any time within those 15 months -- at any
7 time during those 15 months did Staff follow up to
8 investigate how ComTech design constructed or maintained
9 its SS7 network supporting 911 calling in Washington?

10 A. Staff was constantly reviewing information as
11 far as the data responses received from ComTech, and in
12 consultation with our experts on the -- how the network
13 was designed. And so that -- so I don't know if I would
14 be able to answer your question exactly.

15 Q. Well, let me ask a more specific question.

16 Did Staff follow up with ComTech to investigate
17 how ComTech's network was designed, constructed, or
18 maintained?

19 A. If there was no data request provided, then no,
20 Staff did not follow up with ComTech.

21 Q. Great.

22 And you reviewed the prefiled testimony of
23 CenturyLink witness Stacey Hartman, which has since been
24 adopted by Jeanne Stockman, correct?

25 A. That's correct.

1 Q. Okay. And you saw that that, among other
2 things, that attached to that testimony were emails and
3 documents gathered by CenturyLink through discovery in
4 this case?

5 A. Yes.

6 MR. SHERR: Your Honor, I think this is
7 where we may have to go into confidential concession for
8 one brief segment of questions.

9 JUDGE KOPTA: All right. Is it -- will you
10 be finished with your cross after this?

11 MR. SHERR: I will not. This is new. Would
12 you like me to -- would it be preferable I skip this and
13 come back to it?

14 JUDGE KOPTA: That would be my preference,
15 yes.

16 MR. SHERR: Okay.

17 JUDGE KOPTA: I don't want to have to go
18 back and forth. That's the concern I have. If this
19 comes up again, then we have to go into another session.
20 So let's get them all at one time.

21 MR. SHERR: Okay. Sounds good, Your Honor.

22 BY MR. SHERR:

23 Q. Let me change subjects.

24 Looking back at Exhibit 25X.

25 A. Okay.

1 Q. Could you scroll down to this is page 6 of the
2 PDF and, again, these are the follow-up questions from
3 ComTech to Staff, correct?

4 A. These are their responses, yes.

5 Q. Okay. So the follow-up questions, the questions
6 were issued in August of '19, these responses from
7 September of '19?

8 A. Correct.

9 Q. Okay. Looking specifically at the response to
10 question identified as RS-3C, which is the only -- the
11 only question that appears on that last page of the
12 document?

13 A. Correct.

14 Q. Okay. And I'll note that there is information
15 that is identified as confidential here. So please do
16 not read that information out loud.

17 Do you see that within that confidential
18 information, without identifying specifics to it --

19 MR. SHERR: And I'll be honest, Your Honor.
20 I'm not sure if this information is still considered
21 confidential, but it's identified as such here. So I
22 will treat it as such.

23 BY MR. SHERR:

24 Q. Seeing that -- where -- the information that is
25 identified as confidential, there are four circuit A and

1 Z locations identified. Do you see those --

2 A. Yes.

3 Q. These are the circuits -- this is your
4 understanding that these are the circuits that ComTech
5 was leasing from CenturyLink for its use, for ComTech's
6 use, as SS7 links in support of its 911 network?

7 A. That is ComTech's response, yes.

8 Q. Okay. Do any of these four connections
9 originate and terminate within the state of Washington?

10 A. I wouldn't be able to answer that.

11 Q. Okay. Well, look at that, which is identified
12 as No. 1 here. I don't want you to read it out loud.
13 It identifies two locations.

14 A. Correct.

15 MS. CORTEZ: Objection. If I may, I'm -- I
16 guess I'm a little confused. One of the things that I
17 asked not to be raised in the open sessions were
18 locations. These seem to be locations that relate, one,
19 to the transition, but, two, these two entities may
20 still be in place today. So I thought these things
21 would be addressed in the closed session.

22 JUDGE KOPTA: Well, they are designated as
23 confidential. So it sounds like you need to reserve
24 that for the confidential session, Mr. Sherr.

25 MR. SHERR: Understood. Thank you.

1 MS. CORTEZ: Thank you.

2 BY MR. SHERR:

3 Q. Ms. Hawkins-Jones, let's look again at
4 Exhibit 3C, which is attached to your direct testimony.
5 This is the Staff investigation report.

6 A. Give me one minute to pull it up.

7 Q. Okay.

8 A. Okay. I am there.

9 Q. Okay. And this is the investigation report that
10 was filed on the -- with the Commission by Staff on the
11 same day as the complaint was filed in December of 2020,
12 true?

13 A. I believe so, yes.

14 Q. Did you draft the report?

15 A. I did draft the report, yes.

16 Q. Okay. Obviously, you were familiar with its
17 contents, then, before it was submitted by Staff?

18 A. Yes, I am familiar with it.

19 Q. Okay. And this 28-page document is merely the
20 narrative portion of the report, but the report also
21 contained voluminous exhibits as well, true?

22 A. Correct.

23 Q. Okay. And those have been filed with Commission
24 in this proceeding?

25 A. Correct.

1 Q. Okay. If you could take -- and each of those
2 attachments were identified as Appendix A through -- I
3 can't remember -- but A through some letter; is that
4 true? N or O? That's how they were identified?

5 A. Yes.

6 Q. Okay. Can you please open, on your screen, the
7 document that's been marked as Exhibit JHJ-28CX?

8 A. Okay. I'm there.

9 Q. Okay. And this was marked, as you can tell from
10 the upper left-hand corner of the first page, this was
11 identified as Appendix G to the Staff investigation
12 report?

13 A. Correct.

14 Q. Okay. And what this document is is the root
15 cause analysis document compiled by ComTech just a
16 couple weeks after the outage; is that your
17 understanding?

18 A. Correct.

19 Q. When did Staff receive this document?

20 A. I would have to look to confirm the date.

21 Q. Do you know approximately when?

22 A. I believe sometime in January of 2019.

23 Q. Good enough. Thank you.

24 And you've read this document before, correct?

25 A. Correct.

1 Q. Could you look at the very last page, which is
2 page 6. Let me know when you're there.

3 A. I am there.

4 Q. Okay. The page 6 contains a table. The table
5 is entitled "Corrective and Preventative Actions." Do
6 you see that?

7 A. Yes.

8 Q. Would you read No. 4 to yourself. Again, it's
9 not clear to me what portions of these documents are
10 confidential. So I don't want you to read it aloud.
11 But can you just read what's been identified as No. 4 to
12 yourself, and let me know when you've done that.

13 A. Okay.

14 Q. Okay. At any point after receiving this root
15 cause analysis and before filing the complaint nearly
16 two years later, did Staff investigate whether ComTech
17 had sufficient circuit diversity for its SS7 links?

18 A. I wouldn't be able to say, given that this was
19 provided when I was not an employee of the Commission.

20 Q. Are you aware of any data requests or inquiries
21 sent by Staff to ComTech, at any point after this
22 document was received by Staff, where Staff inquired and
23 investigated as to whether ComTech had sufficient
24 circuit diversity in December of 2018 for its SS7 links?

25 A. Not to my knowledge.

1 Q. Do you agree that ComTech was responsible for
2 designing, constructing, and maintaining its own SS7
3 network?

4 MR. MCGINTY: Objection. Beyond the scope.

5 JUDGE KOPTA: Mr. Sherr?

6 MR. SHERR: I'm simply asking if
7 Ms. Hawkins-Jones, who led the investigation, has an
8 opinion as to whether ComTech had responsibility for its
9 own network.

10 JUDGE KOPTA: I will allow the question.

11 A. I am not a network design expert, and so I
12 wouldn't be able to speak on that. We worked in
13 consultation with our technical experts.

14 BY MR. SHERR:

15 Q. Does the Staff investigation report, which was
16 Exhibit JHJ-3C, does the Staff investigation report
17 address the sufficiency of ComTech's SS7 network design?

18 A. Staff's investigation report goes over the
19 recommendations provided to the Commission. And in that
20 case, it is regarding CenturyLink, not ComTech.

21 Q. Thank you.

22 I'm going to have you look back at your direct
23 testimony, which is Exhibit JHJ-1CT. Let me know when
24 you're there.

25 A. I am there.

1 Q. Okay. Great.

2 Can you look at page 5 of your testimony. Let
3 me know when you get to page 5.

4 A. I am there.

5 Q. Starting at line 4, there's a question, Please
6 briefly describe the December outage.

7 So here you briefly describe the outage to the
8 911 system in Washington, correct?

9 A. Correct.

10 Q. And you're aware that no part of CenturyLink's
11 911 system failed as a result of the Infinera outage,
12 aren't you?

13 A. Can you repeat the question?

14 Q. I can.

15 Are you aware that no part of CenturyLink's 911
16 system failed as a result of the Infinera outage?

17 A. I don't know if I would be able to agree with
18 that statement.

19 Q. Are you aware of any interference with calls
20 going between originating service providers and Intrado
21 gateway?

22 A. Could you rephrase?

23 Q. Sure. I'm simply asking your awareness. Are
24 you aware of any interference, any issues, with calls
25 traversing between originating service providers and the

1 Intrado gateway?

2 A. Yes, I am aware.

3 Q. Okay. What issues were there between -- well,
4 let me ask you this: Do you testify regarding problems
5 with calls traversing between originating service
6 providers and the Intrado gateway?

7 A. The information that Staff has and what I have
8 testified to has been in consultation with our technical
9 experts. And -- which is why we have what our
10 determination and recommendation was in our report.

11 So what I -- what I have testified to is what my
12 recollection and knowledge is in the matter.

13 Q. Okay. I want to make sure that the question was
14 clear enough because it may not have been to you.

15 Are you aware that Intrado, I'm not speaking
16 about ComTech and I'm not speaking about Infinera, that
17 Intrado was the underlying 911 provider for CenturyLink
18 in Washington at the time?

19 A. Yes, I am aware.

20 Q. Okay. So I am talking about the portion of the
21 call that went between the originating service provider
22 and Intrado's gateway.

23 Do you have evidence that there were -- there
24 were problems with calls going between the originating
25 service provider and the Intrado gateway?

1 A. I believe that I would not be the -- this -- can
2 you rephrase the question?

3 Q. Sure. I can.

4 Are you aware of any problems -- now this -- let
5 me take you back. This is December of 2018, during the
6 network event, during the outage.

7 Are you aware of any calls failing, if you're
8 thinking about the call flow, between the originating
9 service provider and the Intrado gateway?

10 A. I'm not aware of calls failing.

11 Q. Okay. Are you aware of any issues with calls
12 traveling between the Intrado gateway and the Intrado
13 selected router?

14 A. Again, I'm not a network design expert, and we
15 relied on them for their consultation in this
16 investigation.

17 Q. Understood. But I'm asking about your
18 awareness.

19 Are you aware of any issues with calls traveling
20 between the Intrado gateway and the Intrado selected
21 router?

22 MR. MCGINTY: Objection. Lack of
23 foundation. I'm not sure this witness is familiar with
24 the call flow details counsel is asking about.

25 MR. SHERR: Again, Your Honor,

1 Ms. Hawkins-Jones led the investigation that led to a
2 complaint for millions of dollars against CenturyLink.
3 The determination of that complaint, the key
4 determination of that complaint, which is about 911
5 failure, is whether CenturyLink was responsible for
6 calls failing.

7 And so I'm simply exploring
8 Ms. Hawkins-Jones' knowledge, if she has any, as to the
9 existence of problems at various portions of the call
10 flow.

11 JUDGE KOPTA: This witness does discuss the
12 Commission Staff's investigation. So I think it's a
13 proper inquiry, and if Ms. Hawkins-Jones doesn't know,
14 she can say that she doesn't know.

15 A. And I think I have stated that I am not a
16 technical network design expert, and we did rely on our
17 experts for that specific knowledge.

18 BY MR. SHERR:

19 Q. Okay. So you don't know is your answer to the
20 question?

21 A. Yes.

22 Q. Okay. Are you aware of any issues with the
23 operation of the Intrado selective router at the time of
24 the outage?

25 A. Could you restate the question?

1 Q. Sure.

2 Are you aware of any issues with the operation
3 of the Intrado selective router at the time of the
4 outage?

5 JUDGE KOPTA: Mr. Sherr, I understand where
6 you're going with this. But I think we've pretty well
7 established that Ms. Hawkins-Jones is not a technical
8 expert. She's going to give you the same answer each
9 time. So I don't know that it's terribly productive to
10 continue down this road.

11 MR. SHERR: I understand, Your Honor. I can
12 move on.

13 BY MR. SHERR:

14 Q. Ms. Hawkins-Jones, you understand that this
15 complaint addresses not an outage on CenturyLink's 911
16 network, but on an outage affecting one of CenturyLink's
17 national transport networks; is that correct?

18 A. Correct.

19 Q. I'm going to have you change your screen one
20 more time. If you take a look at Exhibit JHJ-4. Let me
21 know when you're there.

22 A. You said JHJ-4?

23 Q. Yeah, 4. This was an attachment to your direct
24 testimony as well.

25 A. I would need a minute to pull that up.

1 Q. If you're not able to, I can also share my
2 screen.

3 A. That would be great. Thank you.

4 Q. Sure. Sorry. I could have said that earlier.
5 Are you able to see my screen?

6 A. Yes.

7 Q. Great.

8 And so Exhibit 4, JHJ-4, to your testimony was
9 the narrative of the FCC's investigation report from
10 August of 2019; is that correct?

11 A. Correct.

12 Q. Okay. And this is also Appendix C to the Staff
13 investigation report on file with the Commission, true?

14 A. Correct.

15 Q. Are you aware that CenturyLink, as a result of
16 this investigation, CenturyLink was fined a total of
17 \$500,000 for the nationwide impact of the outage by the
18 FCC?

19 A. Yes.

20 Q. And the FCC found only 11 failed calls on
21 CenturyLink's 911 network. And all of those were in
22 Arizona, none in Washington; is that correct?

23 A. If that's what they reported, yes.

24 Q. You don't have any reason to disagree with that?

25 A. I do not.

1 Q. Okay.

2 MR. SHERR: Your Honor, the remaining
3 questions I'll go back to all need to be in confidential
4 session.

5 JUDGE KOPTA: All right. How long do you
6 anticipate your cross continuing?

7 MR. SHERR: Oh, probably about ten minutes.

8 JUDGE KOPTA: Okay. All right. I just want
9 to make sure we're still under our time limits.

10 It is currently 10:30. So why don't we take
11 our morning break. I would like to keep it to ten
12 minutes, if possible. So if we would -- well, in this
13 case, since it's 10:28, if we can resume at 20 until
14 11:00, and at that time we will go into confidential
15 session to allow you to ask questions that pertain to
16 information designated as confidential.

17 MR. SHERR: Thank you.

18 JUDGE KOPTA: Let's be off the record.

19 (A break was taken from
20 10:29 to 10:43.)
21 (Confidential session.)

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19 *CONFIDENTIAL TESTIMONY*]

20 (Pause in the proceedings.)

21 (Main session.)

22 JUDGE KOPTA: Let's be back on the record.

23 Understand that the Commissioners have no questions for

24 Ms. Hawkins-Jones.

25 Mr. McGinty, do you have redirect?

1 MR. MCGINTY: Yes, very briefly, Your Honor.

2

3 R E D I R E C T E X A M I N A T I O N

4 BY MR. MCGINTY:

5 Q. First of all, Ms. Hawkins-Jones, you testified
6 that you rely on consultation with experts in your
7 investigation in this case. Could you describe that
8 process?

9 A. Sure. So the -- I don't know if I glitched out
10 for a second -- Staff did consult and hire the
11 consultants to provide us with the technical expertise
12 regarding the network, if we had questions, what that
13 looked like, walk us through, explain those things to us
14 to use and encapsulate that information into our
15 investigative report.

16 Q. And what's the reason for that?

17 A. That is because on Staff -- or -- yeah. On
18 Staff, the Commission Staff, did not have that in-depth
19 technical knowledge readily available.

20 Q. Thank you.

21 Now secondly, you testified that the outage that
22 occurred in this case occurred on a CenturyLink national
23 transport network and not on its 911 system. Do you
24 recall that testimony?

25 A. Yes.

1 Q. Did CenturyLink use that national transport
2 network to fulfill any 911 related responsibilities that
3 it had?

4 A. Can you restate the question?

5 Q. Sure.

6 So did CenturyLink use the national transport
7 network to fulfill any 911-related responsibilities that
8 it had?

9 A. Yes.

10 Q. And what were those responsibilities?

11 A. To provide 911 service to the state of
12 Washington.

13 MR. MCGINTY: Okay. No further questions.

14 JUDGE KOPTA: All right. Thank you,
15 Ms. Hawkins-Jones. We appreciate your testimony. You
16 are excused.

17 Mr. McGinty, would you like to call your
18 next witness?

19 MR. MCGINTY: Yes. I think next witness in
20 the order is James Webber.

21 JUDGE KOPTA: All right. Mr. Webber, if you
22 could turn your camera on so we can see you.

23 THE WITNESS: Hopefully you can see me and
24 hear me now.

25 JUDGE KOPTA: I can both see you and hear

1 you.

2 THE WITNESS: Excellent.

3 (James Webber sworn.)

4 JUDGE KOPTA: Mr. McGinty, do you have any
5 questions for Mr. Webber?

6 MR. MCGINTY: No. His testimony is
7 prefiled. As long as that's adopted and admitted into
8 the proceeding, no questions.

9 JUDGE KOPTA: It has been admitted with
10 certain caveats, but none that are germane to exhibits
11 that he filed.

12 So who on behalf of CenturyLink will be
13 questioning Mr. Webber?

14 MR. STEESE: Your Honor, it will be Chuck
15 Steese that's questioning Mr. Webber.

16 JUDGE KOPTA: Do you have a significant
17 amount of questions that do not involve confidential
18 information?

19 MR. STEESE: Very little, but some. I tried
20 to organize it where the first 20 minutes or so is
21 non-confidential, Your Honor, and then we would go into
22 confidential setting after that.

23 JUDGE KOPTA: Well, let's do it that way. I
24 want to make sure that we have as much on the public
25 record as possible. So, Mr. Steese, you may proceed.

1 And when you get to the point where you are aware that
2 confidential information is likely to be discussed,
3 please let us know so that we can then go into
4 confidential session.

5 MR. STEESE: Of course, Your Honor.

6 (Main session.)

7

8 C R O S S - E X A M I N A T I O N

9 BY MR. STEESE:

10 Q. Good morning, Mr. Webber.

11 A. Good afternoon here in Chicago.

12 Q. Thank you.

13 And we have met before in a different
14 proceeding, correct?

15 A. We have.

16 Q. Let's start with a little bit about your
17 background.

18 You're not an engineer, correct, Mr. Webber?

19 A. That's correct.

20 Q. And I reviewed your CV, which is MDW-2, and it's
21 several pages long, correct?

22 A. I don't have the exact page count, but it is
23 several pages long. That's true.

24 Q. And in that CV you identify the various
25 proceedings that you have acted as an expert in your

1 career, correct?

2 A. That is my intent, yes.

3 Q. And I searched that, and the word 911 is nowhere
4 in your CV. So have you ever been involved in a 911
5 dispute before?

6 A. Frankly, I don't recall if I've been involved in
7 a 911 dispute, but I've certainly been involved in 911
8 from a technical and a cost perspective assisting
9 establishing 911 connectivity for at least one
10 competitive local exchange carrier.

11 So I do have experience with the costs, the
12 equipment, the routing, the standards, and practical
13 application.

14 Q. But you have not designed a 911 network,
15 correct?

16 A. I don't know that I would say it -- that
17 definitively. As you'll note in my CV, I was a member
18 manager of the competitive local exchange carrier. And
19 in that scenario, it was my responsibility to identify
20 the signaling vendor, purchase the equipment, and
21 establish the 911 functionality.

22 So in that regard, yes, I have been involved in
23 that, but that has not been the preponderance of my
24 career.

25 Q. So let's talk about that. You're talking about

1 911 connecting as originating service provider, not as a
2 911 provider, correct?

3 A. That's fair.

4 Q. And so when I'm talking about designing a 911
5 network, I'm talking about designing a 911 network for
6 911 providers. You've never done that, correct?

7 A. Well, when you talk about designing a network,
8 there's a lot involved in designing a network. And I've
9 been involved in analyzing network design and costs for
10 all sorts of purposes. And I have been involved in the
11 implementation of 911 from the perspective, as you
12 mentioned, of a local exchange carrier, which involves
13 switching connectivity, signalling connectivity,
14 decisions regarding SIGTRAN, SS7, direct interconnection
15 via IP, et cetera.

16 So a lot of the issues comingle and overlap.
17 And I think it's, to be fair to your question,
18 inaccurate to just blanket, make a statement that I've
19 not been involved in issues related thereto.

20 Q. That wasn't my question, though, Mr. Webber. My
21 question was you were never involved in design of a 911
22 network for a 911 provider. And you identified several
23 things that you have done, but given that you didn't
24 identify that you had worked for a 911 provider helping
25 to design their network, I take it you have not done

1 that, correct?

2 A. I have not designed the totality of a 911
3 network in the past. No, I have not.

4 Q. So let's turn and focus on diversity for a bit,
5 and let's make sure we're defining the issue here.

6 You were aware that CenturyLink says in a 911
7 network you should have circuits that are geographically
8 diverse, network diverse, and provider diverse. That's
9 what CenturyLink says, correct?

10 A. Can you show me that?

11 Q. You've read the testimony of Mr. Turner,
12 correct?

13 A. I have. It's been a while.

14 Q. Do you not recall him saying that in his
15 testimony?

16 A. Not the three phrases that you identified
17 together. So I would like to see that.

18 Q. Are you aware that Mr. Rosen from Public
19 Counsel's witness, who has designed 911 networks, says
20 that circuits should be geographically, network, and
21 provider diverse. Do you remember him saying that?

22 A. Again, I don't recall the exact words. If you'd
23 like to show it to me, I'd be happy to read it.

24 Q. Okay. And your testimony is the only obligation
25 is to be geographically diverse with your circuits if

1 you're a 911 provider, correct?

2 A. I don't think that's fair to say. If you take a
3 look at the back end of my first piece of testimony, I
4 identified the quad scenario, if you will. My
5 understanding that ComTech or TSYS was employing for
6 signalling with CenturyLink's chosen provider, which was
7 then TNS, that provides for physical diversity, it
8 provides for geographic diversity, and it also provides
9 for route diversity.

10 Q. Okay. Perfect.

11 So what CenturyLink and Mr. Rosen are saying is
12 a lack of network or provider diversity was a flaw in
13 ComTech's design, and you disagree with that, correct?

14 A. I don't see any standard that was applicable,
15 whether under the Commission's rules or the
16 administrative codes in Washington, at the time of the
17 outage that required the additional of, as you'll say
18 it, provider diversity in addition to the terms that I
19 previously identified.

20 Q. Okay. Perfect.

21 So let's focus -- I'm going to do share screen,
22 and we will move things along faster. So I'm going to
23 bring up JDW-16, which is attached to your testimony.
24 Do you recognize this document? I have some words
25 highlighted to draw your attention to, but do you just

1 recognize this as an FCC release from October 15 of
2 2019, relating to the outage on the Green Network?

3 A. I see that.

4 Q. And do you see a paragraph highlighted, the
5 first bullet. The FCC says, as of at least October 15
6 of 2019, ensure sufficient circuit diversity including
7 provider diversity; do you see that?

8 A. Yes. So a year later the FCC is making
9 recommendations that describe adding provider diversity.
10 I do see that.

11 Q. And the reason is, quote, "To ensure that a
12 single outage won't simultaneously affect different
13 circuits," correct?

14 A. Can you show me that?

15 Q. It's highlighted right below.

16 A. I do see that, yes. Again, this is a year after
17 the outage, and this is adding, as I recall, additional
18 recommendations to the industry after this outage, not
19 prior to.

20 Q. We'll get to that in a minute.

21 But the whole point here is to make sure that
22 there is no single point of failure that can cause 911
23 calls to not complete. That's the reason for provider
24 diversity, correct?

25 A. It says -- well, the words speak for themselves,

1 but it says a single outage, not a single point of
2 failure.

3 Q. And here the way that ComTech designed its
4 network, the Green CenturyLink Network provided the
5 potential for a single point of failure, correct?

6 A. No, I don't believe that's true. I think the
7 words "network" and "single point" in the statement that
8 you just identified are being conflated.

9 A single point is typically considered to be a
10 physical single point, whereas that Green Network that
11 failed, failed at multiple nodes simultaneously, and the
12 whole network went down, which traverses thousands of
13 miles, not a particular single point.

14 So it was more than just a cut at a particular
15 point in cable or a failure of a particular card that
16 wasn't redundant or another failure of a piece of
17 equipment that wasn't redundant, but rather the packet
18 storm that propagated through that IGCC's brought down
19 the entirety of the entire Green Network. So I can't
20 agree that it's a single point.

21 Q. Are you aware that Mr. Rosen has identified
22 software failures in the past as being, quote, "Single
23 points of failure." You don't recall him testifying to
24 that?

25 A. I don't recall his testimony verbatim, no.

1 Q. Now, you said that --

2 A. And let me -- let me be clear. I don't intend
3 to be argumentative in this regard. We've got thousands
4 of pages at issue in this case. I don't remember
5 Mr. Rosen's testimony verbatim, and that's my point. It
6 says what it says.

7 Q. So your point with respect to Exhibit JDW-16 was
8 this was a year after the outage. There was no standard
9 that you can think of that created network or provider
10 diversity for 911 providers before the incident. That's
11 your testimony, correct?

12 A. Can you show me that phrase?

13 Q. I just think that's what you testified to,
14 correct?

15 A. I don't recall saying that in my written
16 testimony the way you've described it.

17 Q. I thought you just said that a moment ago; did
18 you not?

19 A. We can go back and read the entirety of what I
20 said a moment ago. My general point here is this is
21 something that the FCC is seeking to do a year after the
22 outage because the industry has matured and learned more
23 and is now seeking guidance and establishing more
24 information for the industry to consider as to
25 reliability.

1 You'll notice that this CSRIC standards are
2 identified immediately above the highlighted language.
3 They did not include the language that's below, and the
4 FCC here is looking into that issue and establishing
5 additional industry guidance.

6 JUDGE KOPTA: I just want to interrupt for
7 the court reporter's benefits. CSRIC is all caps
8 C-S-R-I-C, correct?

9 MR. STEESE: That is correct.

10 THE WITNESS: Thank you, Your Honor. And
11 I'll try to be more specific when I speak. I forget the
12 acronyms are so plentiful in our industry.

13 JUDGE KOPTA: Yes, they are, indeed. And I
14 believe you also said something about SIGTRANS.

15 THE WITNESS: I did.

16 MR. STEESE: S-I-G-T-R-A-N, all caps.

17 JUDGE KOPTA: All right.

18 THE WITNESS: And it's shorthand for
19 signalling transport.

20 JUDGE KOPTA: Okay. Again, we're just
21 trying to make sure that everybody can know what is
22 going to be down on the page.

23 BY MR. STEESE:

24 Q. Well, Let's look at Exhibit JDW-67X -- CX,
25 excuse me. But the page I'm going to be talking about

1 will not have any confidential setting.

2 And do you see on page 31 of that PDF is
3 something entitled "Emergency Services IP Network Design
4 Information Document From NENA." Do you see that?

5 A. Right now you've got the -- the title page up.
6 I would like to open up that document. So give me a
7 moment.

8 Do you recall the original exhibit number to my
9 direct?

10 Q. This wasn't in your direct testimony, sir.

11 A. Was it in my rebuttal testimony?

12 Q. Nope. This is a cross-examination exhibit.

13 A. Okay.

14 Q. And do you see that -- do you know what NENA is?

15 A. It's the emergency numbering administration.

16 Falls under the FCC's guidance.

17 Q. And NENA is --

18 A. I'm still looking for that document. So I would
19 like a moment.

20 JUDGE KOPTA: And, again, for the court
21 reporter's benefit, NENA is all caps, N-E-N-A.

22 BY MR. STEESE:

23 Q. If you want me to move the page down or a few
24 pages, I will. My first question is going to be
25 relatively general, and then...

1 MS. GAFKEN: Judge Kopta, if I may, it
2 sounds to me like the witness doesn't know which exhibit
3 it is that Mr. Steese is referring to. So providing
4 that exhibit number, it's JDW-67CX.

5 MR. MCGINTY: This is on page 31 of the PDF.
6 So it won't -- if you're just opening up PDFs, it won't
7 be apparent from the first page.

8 THE WITNESS: Okay. And I apologize for the
9 technical -- here.

10 BY MR. STEESE:

11 Q. I'll ask you my first question. Do you see that
12 this NENA document was approved by the NENA executive
13 board April 5, 2018, eight months before the outage?

14 MR. MCGINTY: I'm going to object. Witness
15 has indicated he'd like to be able to open the whole
16 exhibit that earlier was approved. I'd like to give him
17 the opportunity to do that. Can we take a short recess
18 to make that happen? Maybe that's what we need to do?

19 JUDGE KOPTA: All right. Let's be off the
20 record while we address this technical issue.

21 (Pause in the proceedings.)

22 JUDGE KOPTA: Let's be back on the record.
23 And, Mr. Steese, you may proceed. I believe Mr. Webber
24 has at least a portion of the document to which you are
25 referring.

1 THE WITNESS: I do.

2 BY MR. STEESE:

3 Q. Mr. Webber, you can see that this is NENA
4 document that received executive approval on April 5 of
5 2018, correct?

6 A. I agree with that.

7 Q. And NENA is the industry body that is
8 exclusively responsible for overseeing 911 network
9 design, correct?

10 A. It's one of the industry bodies that relates to
11 911 design, reliability, et cetera. There are CSRIC,
12 for example, under the FCC has a guidance as well,
13 but -- but it is certainly one of the premier bodies.

14 Q. Let's turn to page 40 of the PDF. Do you see
15 section 2.1.2 ESInet design considerations?

16 A. 2.12 ESInet design, I do.

17 Q. And it's talking about ESInet, Emergency Service
18 Infrastructure, the mission critical infrastructure
19 systems that support NG911 must be established with the
20 very highest degree of security reliability, resiliency,
21 redundancy, survivability, and diversity. And it
22 continues. Do you see that?

23 A. I do.

24 Q. And it says it is important to point out that
25 even when redundant physical circuits are quartered, for

1 the most part Legacy PSAPs do not have dual
2 facilities -- dual entrance facilities. Do you see
3 that?

4 A. Yes, and a PSAP is capitalized, P as in Paul,
5 Sam as in Simon, A as in apple, P as in Paul, little S.
6 And that would be the center at which the calls are
7 answered.

8 Q. It next talks about further these systems and
9 networks will remain fully operational during regular
10 daily operations as well as during and immediately
11 following a major natural or manmade disaster on a local
12 region and even -- and even nationwide basis. Do you
13 see that? Do you see that, sir?

14 A. No, not yet.

15 Q. Did you see it highlighted? It's in the
16 bottom -- last sentence of paragraph 1.

17 A. Not in the version that I have. Oh, I see
18 you've highlighted a different document. Yes, I see
19 that.

20 Q. And --

21 A. Again, we're talking about the PSAP facilities
22 at their locations where they're answering calls.

23 Q. The next it says, When feasible, alternate
24 network access paths are highly desirable to consider
25 during the ESInet design process.

1 Do you see that?

2 A. I do, and that's similar to the quad design that
3 was used by ComTech that we had talked about earlier.

4 Here, we're talking about alternate entrance
5 facilities, if you will, into a building where a PSAP is
6 located. So you might have a cable entering on the
7 north side of the building. And, if you're lucky, a
8 cable that enters on the south side of the building in
9 case something happens.

10 On one side of the building, at least, the
11 circuits into that building has one -- or one of the
12 circuits entering that building may not have been
13 damaged.

14 Q. The next paragraph says, The same level of care
15 should be taken when purchasing circuits from vendors.
16 In many instances, multiple circuits from providers is
17 assumed to create greater diversity and redundancy.

18 Do you see that?

19 A. I do.

20 Q. So here NENA is specifically talking about
21 provider diversity, correct?

22 A. Within the context of the PSAP buildings where
23 the calls are answered, they are, yes.

24 Q. And are you saying that the entrance into the
25 PSAP facility should have greater protections than the

1 rest of the 911 network? Is that what you're saying?

2 A. My answer is that I've stated.

3 Q. And several vendors may interconnect upstream
4 and, essentially, use the same backbone. And so it is
5 important to understand where vendors may interconnect
6 and how they interconnect and design an ESInet to
7 minimize or avoid situations that lack redundancy
8 throughout the network.

9 Do you see that?

10 JUDGE KOPTA: Mr. Steese, I'm going to
11 interrupt you at this point. I'm having a hard time
12 understanding how it's useful to have Mr. Webber and you
13 read all of these portions of this document and ask
14 Mr. Webber about them. I don't understand what you're
15 getting at here, and we seem to be using a lot of time
16 to take up that particular line of inquiry.

17 MR. STEESE: Mr. Webber is specifically
18 testifying that there was no standard that he was aware
19 of that suggested provider diversity was critical to
20 consider. And here is a document from NENA, one of the
21 leading industry bodies by his own admission, that talks
22 about supplier diversity and talks about how you should
23 manage supplier diversity.

24 And I'm going to ask him when -- because
25 it's obvious he has not looked at this critical

1 document, and I want to be able to make sure he
2 understands what's here and then ask him some questions
3 that go directly to his testimony.

4 JUDGE KOPTA: Mr. Steese, that's not your
5 job to educate Mr. Webber on this document. If he's not
6 familiar with it, it's not an appropriate area to cross
7 him. Establish that he has not seen this before, if you
8 can establish that, and then we move on.

9 I just don't see that it's useful to have
10 him read a document that he -- is not part of his
11 testimony and with which he may or may not be familiar,
12 only to get to a series of questions. I would say get
13 to the series of questions after you establish whether
14 or not he is familiar with this document and the
15 information it contains.

16 MR. STEESE: So I'll ask Mr. Webber a very
17 specific question.

18 BY MR. STEESE:

19 Q. Were you aware of this document when you were
20 drafting your testimony? Did you consider it?

21 A. Not to my recollection, no.

22 Q. And isn't it true --

23 A. And previously, you and I discussed the CSRIC
24 recommendations from the FCC that came out a year after
25 this incident that we're talking about in 2018. A year

1 later, in 2019, the FCC came out with additional
2 guidance for resiliency for networks of the type that
3 we're talking about. I was familiar with that, and I
4 cited that information.

5 But, again, that was a year after this incident.

6 Q. And so eight months before the incident, NENA,
7 the leading, one of the leading organizations,
8 specifically recommends getting provider diversity as
9 part of the ESInet design; isn't that true?

10 A. I would have to read this document in its
11 entirety. Here, we're talking about entrance and exits
12 to PSAPs, which is different than designing the entirety
13 of the network. And without having studied this entire
14 document, I'm not going to further guess.

15 Q. Is a connection into an ESInet only from a PSAP?

16 A. I -- I don't understand your question.

17 Q. When you talk about an ESInet, an ESInet is the
18 entire network that forms 911, the entire 911 network,
19 correct?

20 A. It is described as a 911 network. I wouldn't
21 say it's in the entirety because there are other facets
22 to 911 capabilities.

23 Q. And an ESInet has connections from selective
24 routers into switches, and it eventually makes its way
25 into PSAPs, correct?

1 A. Sure.

2 Q. And the ESInet is far more than just the
3 straight connection into the PSAP, correct?

4 A. Again, we're getting outside of my testimony.
5 But I would accept that premise. And, again, I would
6 accept this document says what it says, but I haven't
7 read it.

8 Q. Let's look at Mr. Rosen's testimony, which is
9 BR-1C, bottom of page 20, continuing over to 21. You
10 looked at Mr. Rosen's testimony as part of your
11 preparation of your own materials, correct?

12 A. Which testimony is this?

13 Q. Mr. Rosen, Public Counsel's --

14 A. Which testimony?

15 Q. Oh, I'm sorry. His direct testimony.

16 A. I don't recall responding to Mr. Rosen in my
17 reply testimony. And I don't recall whether I
18 considered this paragraph or not.

19 Q. So you don't recall Mr. Rosen testifying on the
20 bottom of page 20, line 19, In building 911 systems, I
21 generally advise that supplier diversity be used to
22 guard against the kind of failure that occurred here.

23 You never remember looking at that?

24 A. I -- I read it and I see that you read it
25 accurately. I don't --

1 Q. I'm just asking did you consider it?

2 A. No.

3 Q. Let's look at Exhibit WMD-70.

4 JUDGE KOPTA: Before we -- before we read, I
5 notice some of that information was highlighted. Is
6 that designated as confidential?

7 MR. STEESE: Your Honor, I was trying to
8 keep the highlights off the screen. If it was there, I
9 apologize. I am trying very hard to not do that.

10 JUDGE KOPTA: All right. Well, I just want
11 to caution everyone that we are not in confidential
12 session. So if you're sharing your screen, please do
13 not include information that's designated as
14 confidential.

15 MR. STEESE: I apologize, Your Honor. Thank
16 you.

17 BY MR. STEESE:

18 Q. Let's look at JDW-75X. Do you see that JDW-75X
19 is the June 24, 2016, statement of work from ComTech to
20 the Washington State Military Department?

21 A. That appears to be true, yes.

22 Q. And this entire document, there's redactions in
23 it. This is the redacted version. We never got the
24 nonredacted version from ComTech. So I'm going to show
25 you the portions here that begin on page 177 of that

1 PDF.

2 MS. CORTEZ: Objection. Even though there
3 are redactions, there appear to be highlighting that
4 would signify confidential information that is exposed.

5 MR. STEESE: That's not accurate. The
6 highlights are my highlights to draw his attention.

7 MS. CORTEZ: Oh, got it. Thank you.

8 MR. STEESE: Yes.

9 BY MR. STEESE:

10 Q. So when you look at Exhibit 75X, did you ever
11 consider, Mr. Webber, in providing your testimony what
12 ComTech promised to deliver to Washington State Military
13 Department when -- with its 911 design? Did you ever
14 look at this?

15 A. I don't recall talking about this document in my
16 testimony at all, whether in my initial testimony or my
17 reply. And I -- I don't recall having reviewed this
18 document. I may have, but I don't recall it.

19 Q. Oh, sorry. I thought you were finished.

20 So in looking to see what ComTech promised to
21 deliver the State of Washington, you didn't consider the
22 document that identified, considered, or described what
23 they were going to deliver to the state?

24 A. I think that mischaracterizes what I stated
25 previously.

1 What I indicated was I did not talk about this
2 document, whether in my direct testimony or in my reply
3 testimony. I don't recall whether I read this document,
4 and I don't recall statements, either in my direct or my
5 reply testimony, where I had analyzed what ComTech
6 promised to provide to WMD. That's simply not within
7 the scope of what I had done.

8 Q. So you did not -- did you recall ComTech
9 promising that its network would eliminate all single
10 points of failure? Were you aware of that?

11 A. I don't recall that. I see a document right
12 here that says something to that effect, but I don't
13 recall that.

14 Q. Do you recall ComTech promising network
15 redundancy, similar diversity and redundancy influence
16 all network build-out aspects to consider. Did you --
17 were you aware of that?

18 A. As I sit here, as I said before, I don't recall
19 having seen this document. I don't recall these phrases
20 particular -- particularly, but I don't dispute that
21 they exist.

22 Q. And do you recall ComTech saying that it
23 implements redundancy through, quote, "Carrier
24 diversity," closed quote. Were you aware that they gave
25 that assurance to the state?

1 A. I don't recall that in this document. I do
2 recall seeing that in responses to discovery. In TSYS's
3 or ComTech's answers to both the Staff and to PC I
4 recall that being identified, but I don't recall this
5 particular document.

6 Q. You say PC, the Public Counsel?

7 A. I do.

8 Q. So then let's look at Exhibit 75X -- excuse
9 me -- 74X.

10 Did you look at the contract between the
11 Washington Military Department and ComTech in looking to
12 see what ComTech was contractually obligated to provide
13 to the State of Washington?

14 A. I recall looking at a lot of the contract
15 documents to understand the network, and I forget the
16 exact question that you asked. So maybe you could
17 rephrase that.

18 Q. I just want to make sure that there's a contract
19 between WMD and CenturyLink that you reference in your
20 testimony.

21 There's also a contract between WMD and ComTech,
22 and I'm asking whether you considered the contract
23 between WMD and ComTech?

24 A. Yes, I looked at both.

25 Q. Okay. Thank you. I just didn't know if I

1 understood.

2 So let's look at page 56 of that document 74X.

3 A. You're going to have to make that a lot bigger.
4 Sorry.

5 Q. I'm -- it's page 56. It is PDF page 62, and, of
6 course, I'll make it bigger. Happy to do it.

7 And were you aware that the contract says that a
8 service level agreement failure occurs when there is
9 vulnerability to a single point of failure? Were you
10 aware of that?

11 A. I -- I don't recall that being in that contract,
12 but it doesn't surprise me.

13 Q. So then if we look at page 38, the force majeure
14 provisions of the contract. Why don't you take your
15 time and just read that provision to yourself, and then
16 I'm going to ask a few questions.

17 A. Okay. I've read that.

18 Q. So in this particular provision, the Washington
19 Military Department tells ComTech that if there is an
20 outage that could have been avoided utilizing applicable
21 redundancy requirements, then they are not -- they are
22 still responsible if they did not employ applicable
23 redundancy requirements, correct?

24 A. I'm not an attorney, but I do see applicable
25 redundancy requirements as a phrase in the force majeure

1 paragraph 1105.

2 Q. And so if ComTech had designed its network in
3 accordance with NENA standards and employed carrier or
4 network diversity, this particular outage on the Green
5 Network would not have impacted their ability to
6 complete 911 calls, would it?

7 A. I don't understand your question as it relates
8 to this paragraph. You've switched from redundancy to
9 some other term, and you're talking about the Green
10 Network outage.

11 Q. Sorry?

12 A. Well, I don't understand your question.

13 Q. Fair enough.

14 A. You're asking me to give a legal interpretation
15 on a question that I don't understand. So I think we're
16 going to have to back up and start with a new question.

17 Q. NENA said that when designing a 911 network, one
18 is supposed to employ carrier diversity, correct?

19 A. The portion of that contract that -- or the
20 portion of that NENA document you showed me was talking
21 about connectivity into the PSAPs, and I do recall
22 seeing the words "diversity" or the word "diversity" in
23 there, but I'm not going to interpret that whole
24 document right now. I haven't studied it. I told you
25 that previously.

1 Q. I'll ask a separate question, then, just a very
2 direct one. This is not looking at the contract.

3 Had ComTech deployed circuit diversity on its
4 signalling links -- strike that.

5 Had ComTech employed carrier diversity on its
6 signalling links and used something other than the
7 CenturyLink Green Network to deploy two of its
8 signalling links, the 911 calls to PSAPs served by
9 ComTech would have completed during the December outage,
10 true?

11 A. I can't say that with certainty. When you look
12 at the FCC's report, the FCC identifies people who were
13 impacted by the CenturyLink Green Network outage as a
14 general matter. When I say "people," I mean companies.
15 Two of those companies were West. Another one was TNS,
16 and if you had different circuits, if you will,
17 connected from ComTech to TNS, and TNS is in the middle
18 of ComTech and CenturyLink for the remaining
19 provisioning of the totality of the 911 services in the
20 state, and TNS is impacted, I don't know whether
21 different circuits connecting TNS to ComTech would or
22 would not have resolved the problem. I simply don't
23 have an answer to that. My answer is I don't know.

24 Q. But ComTech certainly did not have network
25 diversity on its signalling links, did it?

1 A. I would disagree with that. When -- when you
2 look at my direct testimony, for the tail end of that
3 testimony, I identify the quad links. That basically
4 means there are two sets of STPs on both sides.

5 MS. CORTEZ: Objection. I -- I can't tell
6 where this testimony is going. I don't know if it's
7 going to stray into the various technical aspects of the
8 network that I've -- that I've indicated that we need to
9 protect. And so we've already mentioned several of the
10 providers that we'd hoped to avoid bringing out as well.
11 So maybe this would be better in the private session.

12 MR. STEESE: Your Honor, I was on the verge
13 of going into confidential setting so CenturyLink would
14 not oppose.

15 JUDGE KOPTA: All right. Then we will await
16 any further response to that question until we're in
17 confidential session.

18 Do you have anything else that we can
19 discuss in open session, Mr. Steese?

20 MR. STEESE: Your Honor, everything else is
21 going to be in and out of confidential.

22 JUDGE KOPTA: All right. Can you stop
23 sharing your screen for just a moment, Mr. Steese.

24 Let's be off the record for a moment.

25 (Pause in the proceedings.)

1 (Confidential session.)

2 [*CONFIDENTIAL TESTIMONY*

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15 (A break was taken from

16 2:38 p.m. to 2:52 p.m.)

17 (Main session.)

18 JUDGE KOPTA: Let's be on the record after

19 our afternoon break.

20 We are ready for Staff's next and last

21 witness, Mr. McGinty. Do you want to call him?

22 MR. MCGINTY: Yes, next witness is Robert

23 Akl.

24 (Robert Akl sworn.)

25 JUDGE KOPTA: Thank you.

1 Mr. McGinty, anything further for him?

2 MR. MCGINTY: No.

3 JUDGE KOPTA: Your prefiled testimony and
4 exhibits have been admitted, and you are available for
5 cross. Mr. Steese, I assume, will be asking you
6 questions.

7 MR. STEESE: That's correct, Your Honor.

8

9 C R O S S - E X A M I N A T I O N

10 BY MR. STEESE:

11 Q. Good afternoon, Dr. Akl. How are you today?

12 A. Good, thank you.

13 Q. And we met before virtually during your
14 deposition, correct?

15 A. Yes.

16 Q. In this matter, the Commission Staff is paying
17 you \$850 per hour, correct?

18 A. Yes.

19 Q. All right. Let's talk about your experience.
20 One of the things you do as a professor is you teach
21 network design, correct?

22 A. Yes.

23 Q. And one type of network that you teach your
24 students how to design is an SS7 network, correct?

25 A. Yes.

1 Q. And you teach your students that when designing
2 an SS7 network, it's essential to design the network so
3 there is no single point of failure, correct?

4 A. Yes.

5 Q. And link diversity is a critical ingredient in
6 network reliability and requires provisioning links in
7 such a manner that a single failure will not cause the
8 disruption of services, correct?

9 A. That is fair, yes.

10 Q. And because of the critical nature of SS7 links,
11 physical, electrical, and architectural diversity are
12 necessary, correct?

13 A. Yes.

14 Q. And you teach students, when you're teaching
15 them how to design an SS7 network, that that network is
16 critical to stay up because if it's down, calls don't
17 complete, correct?

18 A. Yes.

19 Q. And, again, it's always important when designing
20 an SS7 network to ensure there's no one single point of
21 failure, correct?

22 A. And not just an SS7, but, yes. It would apply
23 to SS7 also.

24 Q. And for providing your opinions that are
25 contained in your testimony, I think it's RA-1C, you

1 only reviewed the materials that are referenced in your
2 testimony, correct?

3 A. Yes.

4 Q. And you weren't aware that the State of
5 Washington was going through a transition to a new 911
6 provider during the outage, were you?

7 A. I -- I was aware at some point, but I wasn't
8 aware -- that was not something I was asked to look
9 into.

10 Q. And you weren't aware that ComTech was the
11 covered 911 service provider for the PSAPs that had 911
12 calls fail during the outage, were you?

13 A. I was not -- I did not provide any opinions on
14 that, but I was aware there were other parties that are
15 involved, but I did not provide any opinions on ComTech
16 or 911.

17 Q. Wasn't my question. I want to make sure I
18 understand. My question is: You weren't aware that
19 ComTech was the covered 911 service provider for the
20 PSAPs that had 911 calls fail during the outage, were
21 you?

22 MR. MCGINTY: I'm going to object as beyond
23 the scope. Dr. Akl's testimony was very limited to the
24 Red and Green networks. So I'm not sure what the
25 questioning regarding ComTech has to do with Dr. Akl's

1 testimony.

2 JUDGE KOPTA: Mr. Steese, do you want to
3 give a reference in Mr. Akl's testimony to the question
4 you're asking?

5 MR. STEESE: On page 1, he talks about the
6 cause. And, to me, when you're talking about the cause
7 of an outage, it's important to understand what he knows
8 and doesn't know about who's involved. So he's here to
9 talk about causation and, certainly, ComTech and its
10 network design is central to the cause in question.

11 JUDGE KOPTA: To the extent that he has
12 reviewed it, and I believe that may be the basis of a
13 question of him. But I don't think assuming or going
14 beyond his testimony is appropriate at this juncture.

15 MR. STEESE: I don't understand, Your Honor.
16 How can one testify about cause if there's a number of
17 facts you haven't considered? By definition, that is
18 appropriate cross-examination of an expert, to show that
19 the testimony should be discounted completely because
20 they didn't consider a number of facts that led to the
21 causal question.

22 JUDGE KOPTA: Well, Mr. Steese, you can make
23 that argument in your brief. But if you're going beyond
24 his testimony, you're going outside of the scope of a
25 permissible cross-examination.

1 MR. STEESE: Just give me one moment, Your
2 Honor.

3 JUDGE KOPTA: Sure.

4 BY MR. STEESE:

5 Q. So turn to your testimony at page 5. Let me
6 know when you're there.

7 A. I am there.

8 Q. And you reference a specific exhibit, correct?
9 You have Mr. Webber's Exhibit 4, correct?

10 A. Yes, there are multiple exhibits that I
11 reference on that page. One of them is JDW-4.

12 Q. Correct. And if we look at JDW-4, which I'll
13 pull up on the screen. Just one moment. JDW-4 is the
14 FCC report about the outage, correct?

15 A. Yes.

16 Q. And in looking at this particular -- oops,
17 excuse me -- this particular exhibit, this particular
18 exhibit talks about, in paragraph 6, covered 911 service
19 providers are required to take reasonable measures to
20 provide reliable 911 service in three specific respects,
21 including, No. 1, circuit diversity, correct?

22 A. Yes, I see the word that you are pointing to or
23 reading.

24 Q. And when you look, it says that they are
25 required to do this. And required is mandatory,

1 correct? It's a mandatory word. Thou shall --

2 A. I see the words you are reading. That is
3 correct.

4 Q. And when it's talking about, in the next
5 sentence, they must certify annually, whether they audit
6 physical diversity. The word is "must," again, a
7 mandatory word, correct?

8 A. Yes. I see the word that you are reading.

9 Q. Now, in this particular case, if you go to your
10 testimony at page 1, just let me bring that up quickly.
11 You see your testimony. Your CV. Sorry. Testimony is
12 not there. I know how to do this. Just give me one
13 second.

14 Page 1 of your testimony, correct?

15 A. Yes.

16 Q. I changed to page 2 right when you said --

17 A. Yes. I didn't mean to do that.

18 Q. And if you look at your testimony, point No. 1
19 says that you focused on the causes of the outages on
20 the Red Network and the Green Network as well as the
21 relationship between the two events, correct?

22 A. Yes. I only looked at, not outages in general,
23 not 911, but I only looked at CenturyLink's Red Network
24 and Green Network, those outages. And the relationship
25 between the Red's outage would have given us insight to

1 prevent the Green Network outage.

2 Q. So you were not asked to give an opinion one way
3 or the other about what caused 911 calls to complete.
4 You were just looking at the relationship between the
5 outage on the Red Network in February of 2018 to the
6 outage on the Green Network in December of 2018; is that
7 correct?

8 A. Yes, that is fair. I did not look or analyze
9 anything outside the CenturyLink's Red and Green Network
10 outages and their relationship.

11 Q. Forgive me. I'm going to ask the question
12 again. I didn't completely understand your answer.

13 So you were not asked to give an opinion as to
14 why 911 calls did not complete during the outage on the
15 Green Network; is that correct?

16 A. I would agree that I did not look at the 911
17 aspect of it. I only looked at the outage on a Green
18 Network as a result of packet storm.

19 Q. So I'm going to round this out to make sure I
20 understand.

21 So you did not look to see if the reason why 911
22 calls did not complete is because there was a lack of
23 diversity on the ComTech network. That's not something
24 you ever evaluated, correct?

25 A. That is correct.

1 Q. Okay. Let's focus, then, on this packet storm
2 that occurred on the Red and Green Networks.

3 So first, you have never been retained by a
4 client, until here, to evaluate what caused a packet
5 storm to occur, correct?

6 A. Regarding causes of a packet storm as it relates
7 to what happened here, that is correct.

8 But as -- but as you've asked me in my
9 deposition, I have looked at packet storms before and
10 how to prevent them.

11 Q. You were retained by a client who had -- was
12 involved in a patent infringement case that had
13 technology that theoretically was described to prevent
14 packet storms. That's been your involvement with packet
15 storms, correct?

16 A. My involvement in packet storms in litigation
17 related to a patent that relates to packet storms as
18 well as teaching my students on the technology of what
19 causes packet storms, how to avoid packet storms. That
20 is why I was an expert retained relating to patents
21 related to packet storms. And that's my understanding
22 of why I am retained in this matter, to render opinions
23 on the packet storms on the Green Network.

24 Q. And you've never written an article on packet
25 storms, correct?

1 A. No, I've written articles on networks in
2 general, but not specifically on packet storms.

3 Q. But you've read articles written by others about
4 packet storms, correct?

5 A. Yes.

6 Q. And none of those articles that you can recall
7 involved an evaluation of what caused that packet storm,
8 correct?

9 A. Well, a lot of times, we don't know the cause of
10 a packet storm. That is the point, is we try to
11 prevent -- we try to design the network to prevent
12 packet storms; if they happen, to minimize their effect.
13 They aren't something that's normally you anticipate or,
14 rather, they're something that you assume can happen,
15 but you design to try to prevent or minimize their
16 damage in a couple of different ways.

17 Q. Thank you.

18 MR. STEESE: Your Honor, at this point I'd
19 like to go into confidential session, and I would remain
20 there for the rest of my time.

21 And just so you know, it's going to be
22 significantly less than my two hour projected.

23 JUDGE KOPTA: Well, I appreciate that,
24 Mr. Steese. Whatever time we can save will be
25 beneficial all the way around.

1 So, Ryan, are you still here? Ryan? Oh,
2 no.

3 MR. SMITH: Sorry. I'm here. My computer
4 was freezing up a little bit. Ready for me to send you
5 back?

6 JUDGE KOPTA: Yes, please do.

7 MR. SMITH: All right. I'm on it.

8 (Pause in the proceedings.)

9 (Confidential session.)

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20 (Main session.)

21 JUDGE KOPTA: All right. It seems that
22 everyone is back. I believe that takes care of all of
23 Staff's witnesses.

24 Am I correct, Mr. McGinty?

25 MR. MCGINTY: That's correct.

1 JUDGE KOPTA: Then we will move to Public
2 Counsel.

3 Ms. Gafken or Ms. Suetake, do you want to
4 call your next witness? Or, Mr. Nelson, I don't mean to
5 leave you out.

6 MS. GAFKEN: Public Counsel calls Stephanie
7 Chase.

8 JUDGE KOPTA: All right.

9 (Stephanie Chase sworn.)

10 JUDGE KOPTA: Ms. Gafken, any questions for
11 Ms. Chase?

12 MS. GAFKEN: Sure. I have a few preliminary
13 questions.

14

15 E X A M I N A T I O N

16 BY MS. GAFKEN:

17 Q. Ms. Chase, on whose behalf are you testifying
18 for today?

19 A. Public Counsel.

20 Q. Were your testimony and exhibits prepared by you
21 or under your instruction and supervision?

22 A. Yes, they were prepared by me.

23 Q. Do you have any changes to your testimony or
24 exhibits?

25 A. Yes, I have one correction to make to my

1 initial -- to my direct testimony, the revised version.

2 On page 18, lines 10 and 11, I transposed the
3 total numbers. And so the -- the number at the end of
4 line 10 should be 5,376,000.

5 And the total number for at the end of line 11
6 should be \$10,753,000.

7 Q. So the number on those two lines were just
8 transposed?

9 A. Yeah. Just the -- sorry. I'm sorry about that.
10 Just the total numbers were transposed.

11 Q. And that error didn't -- would not change your
12 testimony, correct?

13 A. No. It would not change the total.

14 MS. GAFKEN: With that, Stephanie Chase is
15 available for cross-examination.

16 JUDGE KOPTA: All right. Thank you,
17 Ms. Gafken.

18 Ms. Chase, your exhibits and testimony have
19 already been admitted as well as the cross-examination
20 exhibits. So we're ready for cross.

21 I'm assuming, Mr. Sherr, that is up to you.

22 MR. SHERR: Yes, Your Honor.

23 /////

24 /////

25 /////

1 C R O S S - E X A M I N A T I O N

2 BY MR. SHERR:

3 Q. Good afternoon, Ms. Chase. I'm Adam Sherr,
4 CenturyLink. Nice to meet you.

5 A. Nice to meet you as well.

6 Q. You've been with Public Counsel since January of
7 2020, correct?

8 A. Yes, that's true.

9 Q. You were not with Public Counsel at the time of
10 the outage?

11 A. I was not.

12 Q. Let's take a look -- do you have in front of you
13 Exhibit 1 -- SKC-1TC, your direct testimony?

14 A. Yes.

15 Q. Would you take a look at page 3 of your
16 testimony, specifically lines 5 through 8?

17 A. Okay. I'm there.

18 Q. Okay. And there you reference an outage on
19 CenturyLink's national network, correct?

20 A. Yes.

21 Q. Okay. Same page, line 18, you make reference to
22 a failure on CenturyLink's nationwide fiberoptic
23 network?

24 A. Yes.

25 Q. Do you understand that the specific circuits

1 that ComTech was leasing from CenturyLink that
2 experienced the outage in December of 2018 were on
3 CenturyLink's national network, true?

4 A. Yes. They were on the national transport
5 network, but impacted the 911 service that was being
6 transitioned to ComTech.

7 Q. Okay. And you understand that these were
8 interstate circuits and not intrastate circuits?

9 A. Yes.

10 Q. Let's look back at page 3 starting on line 19.

11 A. Okay.

12 Q. And carrying over to page 4, line 5. You
13 briefly discuss the packet storm event, correct?

14 A. I do.

15 Q. Okay. Did you evaluate the probability of the
16 particular packet malformation that preceded the packet
17 storm event?

18 A. I did not.

19 Q. In your view, is it important for the Commission
20 to evaluate the probability of the particular packet
21 malformation?

22 A. I can't really address that, I don't think. But
23 that's a better question for our technical expert,
24 Mr. Rosen.

25 Q. Do you -- from your perspective, is it important

1 for the Commission to evaluate the foreseeability of the
2 particular packet malformation?

3 A. Well, that is one of the Commission's
4 enforcement criteria, is one of the 11 enforcement
5 criteria, is to consider the foreseeability of the
6 event.

7 Q. Let's look at pages 5 to 6, 5 and 6 of your
8 testimony, specifically line 7.

9 A. On page 5 or on page 6?

10 Q. I'm so sorry. Yeah. Starting on page 5.

11 A. Okay.

12 Q. There you discuss CenturyLink's past 911
13 outages, correct?

14 A. Yes.

15 Q. Do you understand that the outage that occurred
16 in December of 2018 did not involve any aspect of the
17 CenturyLink 911 network in Washington?

18 A. I understand that the outage was on the national
19 transport network, but I also understand that that
20 outage impacted the way that the interconnection was set
21 up between ComTech and CenturyLink.

22 Q. So it's your understanding, just to make sure
23 I'm following you, that the impact of the outage on the
24 national network affected the signalling network, the
25 SS7 network, that was used in support of 911 calling in

1 Washington; is that accurate?

2 A. Yes.

3 Q. Okay. Do you understand the distinction between
4 the 911 network and the SS7 network?

5 A. Yes, I understand that there are -- that there
6 are multiple levels to sort of layer the cake for
7 these -- for this system.

8 Q. Okay. Are you aware of this outage affecting
9 any component -- I'll ask again -- of CenturyLink's 911
10 network in Washington?

11 MS. GAFKEN: Objection. Asked and answered.

12 JUDGE KOPTA: Overruled. I'll let her
13 answer that.

14 A. So I -- I am aware that CenturyLink's national
15 transport outage impacted the interconnection between
16 ComTech and CenturyLink at the state level.

17 And I've sort of forgotten your question. I'm
18 sorry, Mr. Sherr. Can you rephrase it?

19 BY MR. SHERR:

20 Q. Sure. I will ask it again.

21 Are you aware of any of the packet storm on the
22 national transport network affecting any aspect of
23 CenturyLink's 911 network?

24 A. Could you be more specific about what you mean
25 by CenturyLink's 911 network?

1 Q. Sure. Well, let me ask you: Do you
2 understand -- again, do you understand the difference
3 between the 911 network and the SS7 network?

4 A. Yes.

5 Q. This outage affected the SS7 network, correct?

6 A. Yes.

7 Q. The SS7 network of ComTech, not the SS7 network
8 utilized by CenturyLink, correct?

9 A. I think that's correct, yes.

10 Q. Okay. Let's jump to page 16 of your testimony.

11 A. Okay. Okay. I'm there.

12 Q. I'm almost there.

13 A. Oh, sorry.

14 Q. Specifically, if you look at page 16, starting
15 on line 19, and the sentence that carries over to
16 page 17, line 1, you say, Additionally, CenturyLink
17 created this network without vendor diversity where a
18 single software error could take down an entire system.

19 Did I read that correctly?

20 A. Yes.

21 Q. What system were you referring to there?

22 A. To the 911 system as a whole.

23 Q. But -- okay. Again, there was no direct affect
24 to CenturyLink's 911 system, only the SS7 network
25 utilized by ComTech?

1 A. If by 911 -- do you mean -- by 911 system, do
2 you mean an impact to CenturyLink's PSAPs?

3 Q. Well, I don't want to testify for you. So I
4 leave it there. I think we got the answer.

5 Did you read miss -- did you read CenturyLink's
6 response testimony?

7 A. Yes.

8 Q. Okay. Including the testimony and exhibits of
9 Stacy Hartman, which has since been adopted by Jeanne
10 Stockman and Steven Turner?

11 A. Yes.

12 Q. Okay. Are you now aware that ComTech lacked
13 vendor diversity for its SS7 links at the time of the
14 December 2018 outage?

15 A. I'm going to defer that question to Mr. Rosen.

16 Q. So you don't know?

17 A. I do not recall offhand.

18 Q. Okay. Are you aware that ComTech designed,
19 constructed, and managed its own SS7 network?

20 A. I'm not sure that I can answer that, either.

21 Q. Okay. Are you aware that ComTech placed all
22 four of its SS7 links on the same CenturyLink national
23 network?

24 A. Again, I think that's a better question for
25 Mr. Rosen.

1 Q. You're not sure?

2 A. I'm not sure.

3 Q. Are you aware that CenturyLink Communications,
4 CLC, was unaware until the outage that ComTech had
5 placed all of its SS7 links on the CLC Infinera Green
6 Network?

7 MS. GAFKEN: I'm going to object. This is
8 beyond the scope of Ms. Chase's testimony.

9 JUDGE KOPTA: Yes, Mr. Sherr, if you would
10 point to a particular point in Ms. Chase's testimony,
11 that would be helpful.

12 MR. SHERR: Sure. I can move on, Your
13 Honor. Ms. Chase testified regarding the outage. So
14 I'm asking for her understanding of some of the
15 underlying facts relevant to the outage, but I can move
16 on.

17 JUDGE KOPTA: Thank you.

18 BY MR. SHERR:

19 Q. Ms. Chase, are you aware that if ComTech had
20 placed two of its four SS7 links on another CenturyLink
21 network or on the network of another provider that 911
22 calls -- ComTech -- or PSAPs would not have failed
23 during the outage?

24 A. I can't answer that, but I think that would be a
25 better question for Mr. Rosen.

1 Q. Let's take a look at page 18, which I think you
2 advised us just a moment ago.

3 A. Yes.

4 Q. Okay. So I don't have to ask you about
5 transposing the numbers.

6 A. Right.

7 Q. Thank you for that.

8 A. Mm-hmm.

9 Q. On page 18, you specifically, at line 10, you
10 recommend that the Commission penalize CenturyLink
11 Communications, as revised, \$5,376,000 for violation of
12 RCW 80.36.220; is that correct?

13 A. Yes, that's correct.

14 Q. That statute deals with the duty to transmit
15 messages, true?

16 A. That is true.

17 Q. Do you or Mr. Rosen testify about the substance
18 of that claim at all?

19 A. No. There is not anything in my testimony that
20 addresses the -- or makes a legal conclusion about that
21 statute.

22 Q. Okay. Do you make any policy arguments
23 concerning that particular violation that you allege?

24 A. I -- I don't make a specific reference to that
25 statute. My -- my testimony focuses on the -- more on

1 the criteria, enforcement criteria, that the Commission
2 has set out in their policy statements.

3 Q. Okay. Any evidence? Are you aware of any
4 evidence that CenturyLink refused to transmit messages
5 of another telecommunications provider?

6 A. I'm not sure that I can answer that question.

7 Q. Okay. Are you aware of any evidence that
8 CenturyLink discriminated in transmitting messages?

9 A. CenturyLink had a responsibility under the
10 contract to transmit and -- and provide 911 services
11 for -- to the state of Washington. And because of the
12 outage, that didn't happen. So that is a violation of
13 what the statute requires.

14 Q. Okay. Let me ask my question again because I
15 think that may not have been clear.

16 Do you have any evidence that CenturyLink
17 discriminated in transmitting messages?

18 A. I do not have evidence of discrimination
19 specifically.

20 Q. Okay. Any evidence that CenturyLink neglected
21 to transmit message of another telecommunications
22 provider?

23 A. I do not have evidence of neglect.

24 Q. Same page, the next line, so as corrected,
25 Public Counsel -- you specifically recommend a penalty

1 of \$10,752,000 for violation of WAC 480.120.450. Do you
2 see that?

3 A. Yes.

4 Q. And this rule relates to E911 obligations of
5 local exchange carriers, true?

6 A. Yes.

7 Q. Do you or Mr. Rosen testify about the substance
8 or merits of that particular claim?

9 A. I don't address the specific -- the requirements
10 of the specific WAC in my testimony.

11 Q. Are you aware of any evidence that CenturyLink
12 acting as an originating service provider -- let me
13 start over.

14 Are you aware of any evidence that CenturyLink
15 Communications, the respondent in this case, acting as
16 an originating service provider, failed to offer 911
17 dialling functionality to its customers?

18 A. Again, I'm aware of CenturyLink's obligations
19 under the contract to provide 911 service, and that
20 didn't happen because of the outage. So they failed to
21 fulfill those obligations.

22 Q. Are you aware, in general, if a CenturyLink
23 Communications local customer -- so in CenturyLink's
24 capacity as an originating service provider, are you
25 aware of any CenturyLink Communications customer who, in

1 general, could not reach emergency services by dialling
2 911, if they did not have that functionality on their
3 telephone?

4 A. I am not aware of a CenturyLink identified
5 customer specifically, but many other customers in
6 Washington who had difficulty reaching 911 services and
7 in the case of many emergencies.

8 Q. Okay. Is it your understanding, then, of this
9 rule that any failed 911 call creates liability as a
10 violation of WAC 480.120.450?

11 A. It's my position and Public Counsel's position
12 that CenturyLink had an obligation as a 911 provider,
13 under the contract, to provide and, you know, from the
14 caller to the PSAP, and that was not -- that obligation
15 was not met.

16 Q. Okay. Public Counsel's allegations in this
17 case, and as articulated in your testimony and
18 Mr. Rosen's testimony, focus on CenturyLink
19 Communications' role as interexchange carrier, not as an
20 originating service provider; is that correct?

21 A. Yes, I believe that's correct.

22 Q. Okay. Thank you.

23 MR. SHERR: I have no further questions.

24 JUDGE KOPTA: All right. Thank you,
25 Mr. Sherr.

1 Any questions for Ms. Chase from the
2 Commissioners?

3 COMMISSIONER RENDAHL: None from me. Thank
4 you, Your Honor.

5 CHAIR DANNER: No questions, Your Honor.

6 COMMISSIONER DOUMIT: No questions. Thank
7 you.

8 JUDGE KOPTA: All right.

9 Redirect, Ms. Gafken?

10 MS. GAFKEN: I have some brief redirect.

11

12 R E D I R E C T E X A M I N A T I O N

13 BY MS. GAFKEN:

14 Q. Ms. Chase, you were asked questions about the
15 SS7 network and the 911 network. Do you recall that
16 line of questioning?

17 A. I do.

18 Q. Is your understanding that the SS7 network is
19 part of the Washington 911 network?

20 A. It is. Because all -- there are multiple parts
21 that, you know, make up these networks, not just the --
22 the signalling path, but also the voice calls.

23 Q. You were asked questions about your analysis in
24 your testimony about the outage. Do you recall those
25 questions?

1 A. I do.

2 Q. Is your testimony about the outage based on your
3 analysis or the analysis of another witness?

4 A. About the outage itself, to -- with my
5 testimony, I relied both on this Staff investigation
6 report as well as analysis from our witness, Brian
7 Rosen.

8 Q. And Mr. Rosen analyzed the circumstances of the
9 outage; is that correct?

10 A. It is.

11 Q. You were asked questions about CenturyLink's
12 role, and Mr. Sherr asked about CenturyLink as the
13 originating service provider. Is the originating
14 service provider the same as the 911 service provider?

15 A. I'm sorry, Lisa. Could you rephrase the
16 question?

17 Q. Sure.

18 Is CenturyLink's role as the -- an originating
19 service provider the same as its role as the 911 service
20 provider?

21 A. No.

22 Q. How do they differ?

23 A. The role as the 911 service provider is more
24 serious, I would say, and substantive role. They have
25 an obligation to connect persons in need of help with

1 the PSAP to provide them that help in an emergency
2 situation.

3 Q. So in the role as the originating service
4 provider, they have a relationship with the caller to
5 provide telephone service, correct?

6 A. Yes.

7 Q. And their role as the 911 service provider for
8 the state of Washington, how does that role come about?

9 A. That role came about because they have a
10 contract with the Washington -- or because they had a
11 contract with the Washington Military Department.

12 Q. Okay.

13 MS. GAFKEN: Thank you. I have no further
14 questions.

15 JUDGE KOPTA: All right. Thank you,
16 Ms. Chase, for your testimony. We appreciate it, and
17 you are excused.

18 Ms. Gafken, do you have another --

19 MR. STEESE: Your Honor, before we proceed,
20 this is Chuck Steese. Since we're going to go late, do
21 you mind if we take a five-minute health break before we
22 begin with Mr. Rosen?

23 JUDGE KOPTA: No. I think that would be
24 fine. So it's now 4:19. If we could have folks come
25 back at 4:24. Then we can give Mr. Rosen -- my

1 expectation is we will finish with Mr. Rosen this
2 evening. And so keep that in mind as we are
3 progressing. But anyway, we will be off the record.

4 (A break was taken from
5 4:19 p.m. to 4:24 p.m.)

6 JUDGE KOPTA: Let's be on the record again.
7 And Ms. Gafken is going to call your
8 second-to-last witness.

9 MS. GAFKEN: We would like to call Brian
10 Rosen.

11 (Brian Rosen sworn.)

12 JUDGE KOPTA: Thank you.
13 Ms. Gafken, you may proceed.

14 MS. GAFKEN: Thank you.

15

16 E X A M I N A T I O N

17 BY MS. GAFKEN:

18 Q. Mr. Rosen, how are you employed?

19 A. I'm an independent consultant.

20 Q. What is your occupation? What do you do?

21 A. I an engineer. I'm a -- I work on the 911
22 system and have for 20 years. Generally speaking, I've
23 been involved in packet network since the mid '70s.
24 I've been designing networks and working with networks
25 all the way through. I have extensive experience in

1 network design, specifically IP networks, the SIP
2 protocol, which is used for carrying telephone calls
3 over IP networks, where I'm the cochair of the ITF SIP
4 core working group, which is the standards organization
5 for SIP.

6 I'm also heavily involved in Next Generation 911
7 and have been since the inception of that project. I'm
8 currently the cochair of the I3 Architecture working
9 group in NENA, which developed the technical standards
10 for Next Generation 911.

11 Q. And are you testifying on behalf of Public
12 Counsel today?

13 A. I am.

14 Q. Were the testimony and exhibits prepared by you
15 or under your instruction and supervision?

16 A. They were.

17 Q. Do you have any changes to your testimony or
18 exhibits?

19 A. Yes. Apparently, I have created a typo. In my
20 rebuttal testimony, on page 21, there's a diagram and a
21 piece of text above it. And in the middle of that
22 paragraph, it says, Is beyond where Intrado connects to
23 TNS and before CenturyLink connects to TNS. And that is
24 erroneous. It's and before ComTech connects to TNS. So
25 that's an unfortunate typo.

1 Q. Okay. Thank you.

2 MS. GAFKEN: Mr. Rosen is available for
3 cross-examination.

4 JUDGE KOPTA: All right. Mr. Rosen, your
5 testimony and exhibits have been admitted, as have been
6 some of the cross-examination exhibits. So we will
7 proceed with cross-examination.

8 Mr. Steese, your witness.

9 MR. STEESE: Your Honor, before I begin,
10 Mr. Rosen made his correction, and I did not get that
11 down. So if he could just, please, identify the page
12 one more time. I apologize, Mr. Rosen.

13 THE WITNESS: It was page 21 of my rebuttal
14 testimony.

15 MR. STEESE: And say that one more time, the
16 correction, please.

17 THE WITNESS: In the middle of the paragraph
18 above the diagram, there's a line that starts, Is beyond
19 where Intrado connects to TNS. And the --

20 MR. STEESE: I'm sorry. Just one moment.
21 You said page 21 of your rebuttal?

22 THE WITNESS: Yes.

23 MS. GAFKEN: So Exhibit BR-30T, page 21,
24 lines 10 to 11.

25 MR. STEESE: Say it again. I'm sorry.

1 THE WITNESS: The correction is beyond where
2 Intrada connects to the TNS. The phrase and before
3 CenturyLink connects to TNS is an error. It should be
4 and before ComTech connects to TNS.

5 MR. STEESE: I apologize for that. I just
6 wanted to make sure I got it down. Thank you.

7 JUDGE KOPTA: Just a moment, Mr. Steese.
8 Commissioner Rendahl?

9 COMMISSIONER RENDAHL: Right. So I just
10 wanted to clarify. Mr. Rosen, you said there's a figure
11 on that page. I don't have a figure on my page at all
12 on page 21.

13 THE WITNESS: Sorry. It's not on that page.
14 It's --

15 COMMISSIONER RENDAHL: Thank you for that
16 clarification. I wanted to make sure I had the right --
17 thank you.

18 JUDGE KOPTA: Okay. Mr. Rosen --

19 MR. STEESE: That's why I was struggling
20 too.

21 JUDGE KOPTA: I'm going to caution everybody
22 to talk one at a time because we're starting to talk
23 over each other. It's getting towards the end of the
24 day. It's an easy thing to do, but it makes our court
25 reporter's job much harder. So please wait until each

1 of us has finished before we talk.

2 Mr. Steese, please proceed.

3 MR. STEESE: Thank you, Your Honor.

4

5 C R O S S - E X A M I N A T I O N

6 BY MR. STEESE:

7 Q. Mr. Rosen, it's a pleasure meeting you. I'm
8 Chuck Steese. I represent CenturyLink Communication,
9 LLC, in this matter.

10 MR. STEESE: So, Your Honor, virtually
11 everything is going to be -- especially with the
12 guidance given to me or us by WMD -- it's going to be in
13 a confidential setting. I would just recommend we go
14 straight away into the confidential setting.

15 JUDGE KOPTA: All right. Let's be off the
16 record.

17 (Pause in the proceedings.)

18 (Confidential session.)

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C E R T I F I C A T E

STATE OF WASHINGTON
COUNTY OF THURSTON

I, Tayler Garlinghouse, a Certified Shorthand Reporter in and for the State of Washington, do hereby certify that the foregoing transcript is true and accurate to the best of my knowledge, skill and ability.

Tayler Garlinghouse
Tayler Garlinghouse, CCR 3358

