

**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

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

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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

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20 MDV-95CX Response Testimony of Martin D. Valence  
21 (filed as MDV-1TC) (27 pages)  
(Confidential)  
22 MDV-96CX Comtech Ordering Documents (filed as MDV-8C)  
23 (7 pages)  
(Confidential)  
24 MDV-97CX Correspondence Between Infinera and  
25 CenturyLink (filed as MDV-4C) (18 pages)  
(Confidential)

EXHIBIT INDEX (cont.)

EXHIBITS FOR ADMISSION

- MDV-98CX CenturyLink Response to Staff Data Request 41 (filed as Staff's proposed TJM- CX) (2 pages)  
(Confidential)
- CDK-99CX Response Testimony of Carl D. Klein (filed as CDK-1TC) (16 pages)  
(Confidential)
- CDK-100CX "St of WA Comtech NG911" Transaction Summary (filed as CDK-2C) (12 pages)  
(Confidential)
- CDK-101CX Washington Network Design (filed as CDK-3) (1 page)  
(Confidential)
- CDK-102CX Attachment to CenturyLink Response to Staff Data Request 20 (filed as JDW-31C) (2,203 pages)  
(Confidential)
- BR-1CTr Direct Testimony of Brian Rosen on behalf of Public Counsel
- BR-2 Resume of Brian Rosen
- BR-3C WMD Response to Public Counsel Data Request No. 2 with Confidential
- BR-4C WMD Response to Public Counsel Data Request No. 3, Attachment Washington State Military Department Contract E09-196 and Confidential Attachment Washington State Military
- BR-5 CenturyLink Supplemental Response to Public 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  
7 Request No. 10
- 8 BR-23 CenturyLink Response to Public Counsel Data  
9 Request No. 1
- 10 BR-24 CenturyLink Supplemental Response to Public  
11 Counsel Data Request No. 35
- 12 BR-25 Comtech Response to Public Counsel Data Request  
13 No. 17
- 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  
20 Data Request No. 9
- 21 BR-30CT Cross-Answering Testimony of Brian Rosen  
22 (Confidential)
- 23 BR-31 Public Counsel Response to CenturyLink Data  
24 Request No. 17 with Attachments
- 25 BR-32C Comtech Response to Public Counsel Data Request  
No. 31 with Confidential Attachment
- SKC-1Tr Direct Testimony of Stephanie K. Chase
- SKC-2 CenturyLink's Response to Public Counsel Data  
Request No. 2
- SKC-3T Cross-Answering Testimony of Stephanie Chase
- AW-1T Direct Testimony of Angela White



1 EXHIBIT INDEX (cont.)  
2 EXHIBITS FOR ADMISSION  
3 DW-1T Direct Testimony of David White  
4 SH-1T Direct Testimony of Samantha Hovey  
5 VB-1T Direct Testimony of Victor Barajas  
6 CDK-103CX Transcript of August 19, 2022, Deposition of  
7 Carl D. Klein  
(Confidential)

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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.)

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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