

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

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WASHINGTON UTILITIES AND)	DOCKET UT-132234
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	
)	ORDER 04
)	
v.)	
)	
)	ORDER GRANTING
CENTURYTEL OF INTER ISLAND,)	PETITION TO CLARIFY
INC. D/B/A CENTURLINK,)	FINAL ORDER
)	
Respondent.)	
.....)	

MEMORANDUM

1 **PROCEEDING:** The Commission entered Order 03 in these proceedings on October 20, 2015, fully resolving the issues in Docket UT-132234. Order 03, among other things, assessed the full original penalty of \$173,210 against CenturyTel of Inter Island, Inc. d/b/a CenturyLink (CenturyLink or the Company) and suspended all but \$50,000 for one year following the Commission’s approval of the Emergency Communications Plans.¹ The Commission would waive the suspended penalty, \$123,210, after this one year period if CenturyLink was not found to have violated WAC 480-120-412 or the provisions of either Emergency Communications Plan during the time.

¹ CenturyLink, the Commission’s regulatory staff (Staff), and the Public Counsel Section of the Washington Office of the Attorney General (Public Counsel) filed a full settlement stipulation (Settlement) with the Commission on June 2, 2015. The Settlement established a framework for development and implementation of two Emergency Communications Plans, one to address San Juan County and the other to address the entire state. Collectively the Washington State Emergency Communications Plan and the San Juan County Emergency Communications Plan will be referred to in this Order as the Emergency Communications Plans.

- 2 **MOTION:** On October 30, 2015, CenturyLink filed a Petition for Clarification of Order 03. Specifically, CenturyLink notes a potential ambiguity in paragraphs 51 and 55, the latter of which reads:

The remaining \$123,210 penalty will be suspended for one year following the Commission's approval of both Emergency Communications Plans. If, during that annum, the Commission has not found CenturyLink to have violated either WAC 480-120-412 or the details of the emergency communications plan, the \$123,210 will be waived. Conversely, if the Commission finds the Company has violated WAC 480-120-412 or the details of the emergency communications plan during the year following Commission approval of the Emergency Communications Plans, the Commission will impose the remaining \$123,210 penalty.²

- 3 The Company seeks confirmation of its interpretation of Order 03 that the suspended penalty amount will be triggered only based on when that violation actually occurred, not on the timing of a Commission finding of a violation. CenturyLink contends that the suspended penalty provision is meant to apply only to violations that might occur after the submission of the Emergency Communications Plans, and not to violations that may be found during the upcoming year based on prior conduct such as the recent settlement agreement filed in Docket UT-140597, which pertains to a separate matter.
- 4 CenturyLink suggests that it was not the Commission's intent to automatically impose the suspended penalty in this proceeding based on pending matters in other proceedings at the time Order 03 was adopted. Instead, CenturyLink contends that the Commission's true intent in adopting the suspended penalty provision of Order 03 was to deter future violations and encourage compliance with WAC 480-120-412 and the Emergency Communications Plans. CenturyLink thus seeks clarification that paragraphs 51 and 55 of Order 03 will operate only prospectively.
- 5 **COMMISSION DETERMINATION:** We agree with CenturyLink's interpretation of Order 03. When the Commission imposed the potential application of the suspended penalty in this proceeding, it did so as a means to encourage compliance with our major outage rules prospectively and subsequent to adoption of the emergency communications

² Both paragraph 51 and paragraph 55 impose the same condition upon the Commission's approval of the Settlement, albeit with slightly different language.

plans to be developed and implemented in this proceeding. The Commission's decision to impose the condition did not include or encompass other potential violations of rules that were pending, under consideration, or had already been agreed to by the Company in other Commission proceedings. Accordingly, we approve CenturyLink's Petition for Clarification.

ORDER

THE COMMISSION ORDERS THAT:

- 6 (1) The Petition for Clarification filed by CenturyTel of Inter Island, Inc. d/b/a CenturyLink on October 30, 2015, is granted.
- 7 (2) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective November 17, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

ANN E. RENDAHL, Commissioner