

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. CENTURYLINK COMMUNICATIONS, LLC, Respondent.	DOCKET UT-181051 ORDER 09 GRANTING STAY OF EFFECTIVENESS OF FINAL ORDER 08; NOTICE OF OPPORTUNITY TO FILE RESPONSE TO PETITION FOR RECONSIDERATION; NOTICE OF INTENT TO CORRECT ORDER 08
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BACKGROUND

- 1 On December 22, 2020, the Washington Utilities and Transportation Commission (Commission) on its own motion and through its regulatory staff (Staff)¹ issued a complaint against CenturyLink Communications, LLC, (CenturyLink or Company) regarding interruptions in 911 service that occurred in December 2018.
- 2 On December 5-6, 2022, an evidentiary hearing was convened virtually before Chair David Danner, Commissioner Ann Rendahl, Commissioner Milt Doumit, Administrative Law Judge Gregory Kopta, and Administrative Law Judge Samantha Doyle.
- 3 On June 9, 2023, the Commission issued Final Order 08, Granting Motion to Strike; Imposing Penalties (Final Order 08).
- 4 On June 14, 2023, CenturyLink filed a Petition to Stay Effectiveness of Final Order (Petition to Stay) requesting that the Commission stay the penalty assessed by Final Order 08 while the Commission considers the Company's forthcoming petition for

¹ In formal proceedings such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

reconsideration.² CenturyLink argues that a stay is appropriate while the Commission considers the Company's petition for reconsideration.³

5 On June 16, 2023, CenturyLink filed its Petition for Reconsideration (CenturyLink's Petition). In its Petition, the Company challenges the accuracy of multiple findings in Final Order 08, including the finding that CenturyLink did not fulfill its obligations to TeleCommunications Systems, Inc., d/b/a Comtech TeleCommunications Corp. (Comtech) during the 911 Network transition.⁴ The Company argues that the Commission additionally overlooked certain evidence that shows CenturyLink acted reasonably to ensure that the 911 network developed during the transition would function properly.⁵ CenturyLink requests the Commission reconsider Final Order 08, reverse the finding that the Company violated RCW 80.36.080, and withdraw the \$1,315,000 penalty assessed for those violations.⁶

6 On June 20, 2023, Public Counsel filed a Petition for Reconsideration; Petition for Leave to Address Materials Subject to Official Notice in Final Order 08 (Public Counsel's Petition). Public Counsel argues that the Commission erred when it cited evidence not in the record to determine CenturyLink's gross operating revenue and failed to take official notice of that evidence.⁷ Public Counsel therefore requests the Commission grant leave to parties to address the annual report the Commission cited in Final Order 08.⁸

7 Public Counsel further argues that the Company's revenue is significantly more than was stated in Final Order 08, and that the Commission should assess higher penalties given the severity of the outage, the seriousness of the violations, and previous Commission decisions.⁹ Public Counsel recommends the Commission modify Final Order 08 to impose the maximum statutory penalty, totaling \$13,015,000, based on the number of violations the Commission found.¹⁰

² CenturyLink's Petition to Stay, ¶ 7.

³ *Id.* at ¶ 5-6.

⁴ CenturyLink's Petition for Reconsideration, ¶¶ 18-35.

⁵ *Id.* at ¶ 38-40.

⁶ *Id.* at ¶ 41.

⁷ Public Counsel's Petition for Reconsideration, at ¶ 3-7.

⁸ *Id.*

⁹ *Id.* at ¶ 13-16.

¹⁰ *Id.* at ¶ 17.

DISCUSSION

8 *Petition to Stay.* We grant CenturyLink’s petition to stay the effectiveness of Final Order
08 pending the Commission’s resolution of Century Link’s and Public Counsel’s
Petitions.

9 Pursuant to WAC 480-07-860 the Commission may grant a petition to stay the
effectiveness of a final order. Both Century Link’s and Public Counsel’s Petitions request
the Commission reconsider the penalty assessed in Final Order 08. As such, we find that
staying the effectiveness of Final Order 08 until both Petitions are resolved is reasonable,
and that granting the Company’s request will not prejudice the Commission or any party.

10 *Petitions for Reconsideration.* Pursuant WAC 480-07-850(1)(c) no party may respond to
a petition for reconsideration unless the Commission issues a notice establishing the
deadline for submitting responses. By this Order, the Commission gives notice that **the
parties may respond to Century Link’s and Public Counsel’s Petitions by 5 p.m. on
Friday, July 14, 2023.** The Commission gives further notice that it will enter an order
resolving Century Link’s and Public Counsel’s Petitions by Wednesday, August 23,
2023.

11 *Notice of Correction.* Pursuant to WAC 480-07-875(2), the Commission may correct
obvious or ministerial errors in orders without providing notice or an opportunity to
respond unless due process requires such notice and opportunity. Public Counsel’s
Petition brought to the Commission’s attention that Final Order 08 contains a ministerial
error. In paragraph 82, the Commission misstated the Company’s gross operating revenue
as \$17,619,947.63. Public Counsel’s Petition correctly observes that Staff’s investigation
report identifies the Company’s 2019 total revenues as \$245 million.

12 Although the error was ministerial in nature, it nonetheless formed the basis for a portion
of the Commission’s analysis. Accordingly, the Commission determines that due process
requires notice to the parties and an opportunity to respond to the Commission’s intent to
correct Final Order 08. The Commission hereby gives notice that it intends to correct this
error by amending paragraph 82 in Final Order 08 to reflect the Company’s 2019 annual
revenue of \$245 million and by modifying its analysis accordingly. **The parties may
respond to this notice by 5 p.m. on Friday, July 14, 2023.**

13 *Petition for Leave to Address Materials Subject to Official Notice.* Public Counsel seeks
leave to address the Company’s annual operating revenue cited in Final Order 08 in error.
This request is rendered moot by the Commission’s decision to correct Final Order 08 to
reflect the Company’s 2019 total revenues of \$245 million.

ORDER

THE COMMISSION ORDERS:

- 14 (1) CenturyLink Communications, LLC's, Petition to Stay Effectiveness of the Final Order is GRANTED.
- 15 (2) The parties may respond to the Petitions for Reconsideration and the Notice of Correction by 5 p.m. on July 14, 2023.
- 16 (3) The Commission will enter an order correcting Final Order 08 and resolving the Petitions for Reconsideration by August 23, 2023.

Dated at Lacey, Washington, and effective June 22, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

MILTON H. DOUMIT, Commissioner