

Docket No. UT-170042 - Vol. II

In the Matter of CenturyLink

May 25, 2017



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BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Notice of )  
Transaction and Application of )  
)  
CENTURYLINK ) Docket No. UT-170042  
)  
For an Order Declining to Assert)  
Jurisdiction Over, or in the )  
Alternative, Expedited Approval )  
of the Indirect Transfer of )  
Control of Level 3 )  
Communications, LLC, Broadwing )  
Communications, LLC, Wiltel )  
Communications, LLC, Global )  
Crossing Telecommunications, )  
Inc., and Level 3 Telecom of )  
Washington, LLC to CenturyLink, )  
Inc. )

SETTLEMENT HEARING

VOLUME II, PAGES 37 - 104

ADMINISTRATIVE LAW JUDGE GREGORY J. KOPTA

9:27 a.m.

May 25, 2017

Washington Utilities and Transportation Commission  
1300 South Evergreen Park Drive Southwest  
Olympia, Washington 98504-7250

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Jing Roth  
Corey Dahl  
Mark S. Reynolds  
Michael J. Balhoff (via phone)  
Kristie C. Ince (via phone)

\* \* \* \* \*

## EVIDENTIARY HEARING

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\* \* \* \* \*

1 OLYMPIA, WASHINGTON, MAY 25, 2017

2 9:27 a.m.

3  
4 P R O C E E D I N G S

5  
6 JUDGE KOPTA: All right. Let's be on the  
7 record in Docket UT-170042, short-captioned In the  
8 Matter of the Notice of Transaction and Application of  
9 CenturyLink.

10 Today is Thursday, May 25th. We are here  
11 for a hearing on the proposed settlement agreement  
12 between the parties.

13 I'm Gregory J. Kopta, the administrative law  
14 judge who is presiding at this proceeding. We will be  
15 joined shortly by the commissioners. In the meantime,  
16 we will postpone appearances until the commissioners  
17 join us, as well as swearing in the witnesses.

18 But we want to, at this point, admit the  
19 exhibits. I have provided an exhibit list. All parties  
20 have stipulated to the admission of all of the exhibits  
21 on the list, and, therefore, all of those exhibits are  
22 admitted into the record.

23 (All exhibits were admitted.)

24 JUDGE KOPTA: And unless there's anything  
25 else that we need to discuss before the commissioners

1 come in, we are off the record.

2 (Brief pause in the proceedings.)

3 JUDGE KOPTA: All right. Let's be back on  
4 the record. I am now joined on the bench by Chairman  
5 Danner and Commissioners Rendahl and Balasbas.

6 And we will now take appearances from the  
7 parties, beginning with the Company.

8 MS. ANDERL: Thank you, your Honor. Good  
9 morning Chairman Danner, Commissioners. I'm Lisa  
10 Anderl, and I'm in-house counsel for CenturyLink. Do  
11 you want my --

12 JUDGE KOPTA: No, that's sufficient.

13 MS. ANDERL: -- all of the dog tag  
14 information, or just that?

15 JUDGE KOPTA: That's sufficient.

16 MS. ANDERL: Thank you.

17 JUDGE KOPTA: Mr. Trinchero?

18 MR. TRINCHERO: Thank you, your Honor. Mark  
19 Trinchero on behalf of Level 3 Communications.

20 JUDGE KOPTA: And for Commission staff?

21 MS. CAMERON-RULKOWSKI: Jennifer  
22 Cameron-Rulkowski, Assistant Attorney General.

23 JUDGE KOPTA: And Public Counsel?

24 MR. BRYANT: Armikka Bryant, Assistant  
25 Attorney General.

1 JUDGE KOPTA: Thank you. We have the  
2 witnesses empanelled. I will ask them at this point,  
3 including those who are on the bridge line, to stand and  
4 raise their right hand.

5 (All witnesses sworn.)

6 JUDGE KOPTA: You may be seated. All right.  
7 Counsel, do you want to introduce your  
8 witnesses?

9 MS. ANDERL: Yes, your Honor. I can either  
10 do it directly or through questions. We have, for the  
11 Company, Mark Reynolds here on the stand. And  
12 Mr. Balhoff, Mike Balhoff, on via phone.

13  
14 Mr. Reynolds and Mr. Balhoff both filed  
15 direct testimony, which has already been admitted into  
16 the record, and Mr. Reynolds is sponsoring the joint  
17 settlement testimony on behalf of the Company.

18 JUDGE KOPTA: All right.

19 And for Staff?

20 MS. CAMERON-RULKOWSKI: For Staff, we have  
21 Jing Roth. And Jing Roth filed joint testimony in  
22 support of the settlement, and that's Exhibit No. JT-1T.

23 JUDGE KOPTA: Thank you.

24 And Public Counsel?

25 MR. BRYANT: For Public Counsel, Corey Dahl



1 is testifying. Mr. Dahl also submitted joint testimony  
2 in his Exhibit JT-1T.

3 JUDGE KOPTA: All right. Thank you,  
4 Mr. Bryant.

5 MR. TRINCHERO: And your Honor, on behalf of  
6 Level 3 Communications, we have Kristie Ince on the  
7 bridge line.

8 JUDGE KOPTA: All right. Thank you.  
9 Ms. Ince and Mr. Balhoff, are you on the  
10 bridge line?

11 MS. INCE (via phone): We are -- I am.

12 MR. BALHOFF (via phone): I am.

13 JUDGE KOPTA: Great. Thank you. All right.

14 This is a multi-party settlement in which  
15 all parties have participated, so there's no  
16 cross-examination. We will just have questioning from  
17 the commissioners.

18 So I will turn to them and see which of you  
19 would like to begin questioning.

20 CHAIRMAN DANNER: Sure. All right. Good  
21 morning. First of all, I just want to make sure, what  
22 is the standard for approval of this -- of what's before  
23 us today? Is it a public interest standard? Is it a  
24 net benefit standard? Is it a no-harm standard?

25 JUDGE KOPTA: That might be a question --

1 CHAIRMAN DANNER: That might be a question  
2 for Counsel.

3 MS. ANDERL: Yes, your Honor. I believe we  
4 covered that in testimony. I'll try to do it from  
5 memory.

6 My understanding and recollection of the  
7 rules that apply are that the Commission shall approve  
8 the transaction unless they find it inconsistent with  
9 the public interest. It's an odd little double-negative  
10 but --

11 CHAIRMAN DANNER: Okay. So -- and that's  
12 why I'm asking the question, because I just -- I didn't  
13 recall the odd double-negative in the standard.

14 JUDGE KOPTA: Well, just for clarification,  
15 the rule does say that the Commission will approve it if  
16 it's lawful, supported by an adequate record and  
17 consistent with the public interest. That's what our  
18 rule states.

19 MS. CAMERON-RULKOWSKI: And I could jump in  
20 and let you know that it's WAC 480-143-170, and the  
21 exact language is, "If upon the examination of any  
22 application and accompanying exhibits, or upon a hearing  
23 concerning the same, the Commission finds the proposed  
24 transaction is not consistent with the public interest,  
25 it shall deny the application."

1 CHAIRMAN DANNER: Okay.

2 COMMISSIONER RENDAHL: So this is the --  
3 this is the settlement standard.

4 MS. CAMERON-RULKOWSKI: This is the standard  
5 for approving the merger. And then the general  
6 settlement standard, the Commission generally looks at  
7 the public interest.

8 COMMISSIONER RENDAHL: So the settlement --  
9 the merger standard, though, my understanding was that  
10 it's a net benefit to the customers of the company.

11 MS. ANDERL: Your Honor --

12 COMMISSIONER RENDAHL: And so --

13 MS. ANDERL: -- I think that that is true  
14 for gas and electric, but it has not been designated as  
15 such for telecommunications transactions.

16 COMMISSIONER RENDAHL: All right. So my  
17 understanding is that the standard in 80.12.020 was set  
18 in 2009, right? And so that 80.12.020 standard applies  
19 to all companies in Title 80, not just gas and electric.  
20 That was my understanding. So maybe we need a little  
21 discussion from counsel on this, but --

22 MS. ANDERL: Sure.

23 COMMISSIONER RENDAHL: -- we're also  
24 approving a settlement, and the settlement standard is  
25 public interest supported by evidence not contrary to

1 law, correct?

2 MS. ANDERL: Yes.

3 MS. CAMERON-RULKOWSKI: Your Honor, if I can  
4 add, RCW 80.12.020, which is Order required to sell  
5 merge, et cetera, the -- in that Section 1, the last  
6 paragraph, I believe that's what you're referring to,  
7 and that reads, "The Commission shall not approve any  
8 transaction under this section that would result in a  
9 person, directly or indirectly, acquiring a controlling  
10 interest in a gas or electric company without a finding  
11 that the transaction would provide a net benefit to the  
12 customers of the company."

13 COMMISSIONER RENDAHL: Thank you.

14 CHAIRMAN DANNER: Okay. Thank you.

15 MS. ANDERL: Ms. Cameron-Rulkowski advised  
16 me that she was going all electronic this morning, no  
17 paper, and I see that it's working to everyone's benefit  
18 that she can access these statutes.

19 CHAIRMAN DANNER: All right. Well, thank  
20 you for that preliminary matter.

21 A question for Mr. Reynolds. On page 3 of  
22 your direct testimony, you indicate that the transaction  
23 will improve services to enterprise customers and the  
24 financial condition of the combined company. And then  
25 you say, with respect to the residential customers, that

1 the merger will not adversely harm these consumers.

2 So the question is, is it possible -- I  
3 mean, you're using the modifier "adversely" with the  
4 word "harm," and I'm just wondering, is it possible  
5 there will be harm to residential consumers in the  
6 Company's view? I mean, why did you say "adversely  
7 harm" as opposed to "harm"?

8 MR. REYNOLDS: Poor wording.

9 CHAIRMAN DANNER: Okay. So there's no  
10 significance in your -- to that addition?

11 MR. REYNOLDS: No. And in fact, you know,  
12 all of our commitments and all of our regulations that  
13 govern us as a regulated entity in this state will  
14 continue after the transaction's over. We still have  
15 UTC obligations to support the residential and business  
16 customers that have exchange services in this state, so  
17 nothing changes there.

18 CHAIRMAN DANNER: Okay. So we're -- you're  
19 proposing the Company will take on considerable new debt  
20 to finance this acquisition. And so what I'd like you  
21 to address is, how can we be assured there will be no  
22 harm or adverse harm to residential customers when the  
23 Company -- when the Company essentially admits that it's  
24 going to be taking on this new debt?

25 MR. REYNOLDS: Well, I think a lot of

1 that -- and I might defer to Mr. Balhoff here in a  
2 minute to talk a little bit about the run rate synergies  
3 that this transaction accompanies. And our run rate  
4 synergies, after everything is paid, are still double  
5 the increased debt burden or interest on the debt.

6 And we do not expect any impact on any of  
7 our services; in fact, we expect just the opposite.  
8 With the revenue growth, the run rate synergies, we  
9 think that this will be accretive to our net cash flow.  
10 Level 3 comes with significant net operating loss  
11 credits that we can use against revenues in future  
12 years. And it's really quite -- I'm not saying it's  
13 ironclad, but it's about as close as you can get in a  
14 transaction like this.

15 Also involved is the \$2 billion revolving  
16 credit facility, and CenturyLink has carried such a  
17 facility with it from the last transaction, and that's  
18 a -- that's a safety net on top of all of the financials  
19 that I just shared with you.

20 You know, I do not think residential service  
21 will be impacted by this. The type of transaction that  
22 it is is that -- it's the marrying of an enterprise-only  
23 company, a fiber-based company that does not sell to  
24 residential exchange service customers, and really the  
25 enterprise portion of CenturyLink, those -- those two

1 entities are merging. Our regulated exchange service  
2 should remain untouched during this entire transaction  
3 in the years that follow.

4 CHAIRMAN DANNER: Okay. So I think what I'm  
5 driving at, and I'd just like to have this in the  
6 record, is that I don't -- these -- a lot of the  
7 efficiencies you're talking about, and essentially a lot  
8 of that's going to be job cuts, right?

9 MR. REYNOLDS: It will be job cuts maybe, to  
10 a certain extent, but I don't think it will -- it will  
11 affect the operations, per se. Level 3 is right-sized  
12 to serve its enterprise customers. CenturyLink is  
13 right-sized to serve its residential business and  
14 enterprise customers. Those are critical functions to  
15 maintain the service levels as they currently exist.

16 I think the synergies are going to be found  
17 in duplicate systems, HR systems, back office systems,  
18 payroll, accounting systems, and that's typically where,  
19 you know, the type of synergies that we're talking about  
20 are achieved during a transaction like this.

21 CHAIRMAN DANNER: Okay. So my concern, and  
22 what I'm driving at is, I don't want to -- I need to be  
23 comfortable that you're not going to be moving the  
24 investment over to the enterprise side at the expense of  
25 the residential customers.

1           Are the residential customers going to  
2 continue to receive the service that we have  
3 historically required? Are these job cuts that you're  
4 talking about, are they going to -- is this going to be  
5 at the expense of residential, while the enterprise,  
6 which is probably the area the company is more focused  
7 on, moves forward?

8           MR. REYNOLDS: Well, we take our obligation  
9 to satisfy our regulations, our service quality metrics  
10 very seriously, and there is teeth in most of those  
11 obligations both at the FCC level and the state if we  
12 miss our metrics. And so we have all the incentive in  
13 the world to continue to offer the same level of service  
14 to our residential and business exchange service-type  
15 customers.

16           I would add one thing relative to the state  
17 of Washington. Level 3 employs approximately 105  
18 employees in the state of Washington. CenturyLink  
19 employs probably 1500 to 2000 employees. I'm assuming  
20 that Level 3 is pretty right-sized and that there is  
21 really no back office operations, per se, in the state  
22 of Washington.

23           And I know that for CenturyLink, we do have  
24 some supporting administrative operations, but most of  
25 those operations are located in Monroe or Denver,



1 Colorado. And I think that's where you'll see, you  
2 know, the right-sizing and ensuring that we don't have  
3 duplicate functions occurring, and the majority of the  
4 synergies will come from those areas.

5 MR. BALHOFF: Commissioner, this is Mike  
6 Balhoff representing CenturyLink also. The estimates  
7 with respect to head count synergies are less than  
8 one-third of the entire synergies that were expected,  
9 and that included the network capital expenditures that  
10 are expected out there, so just to provide some detail.

11 CHAIRMAN DANNER: Okay. So if we approve  
12 this merger and we begin running into service problems  
13 for residential customers, like delayed installs or  
14 service deterioration, what are the tools that -- I  
15 mean, are we going to continue to have the tools to  
16 enforce --

17 MR. REYNOLDS: Absolutely. I don't think  
18 anything changes there. And I'll go back, you know,  
19 roughly contemporaneous with the CenturyLink acquisition  
20 of Qwest, we had, you know, some service issues. Staff  
21 called us in, we took a look at it, we explained many of  
22 them as being weather related. And those that didn't,  
23 we've -- you know, we essentially put processes in place  
24 to improve service quality in those areas.

25 I see it functioning the same way, and, you

1 know, the Commission has authority over service quality.  
2 They can call us in and, you know, we will react to fix  
3 whatever issues that we have.

4 CHAIRMAN DANNER: Okay.

5 COMMISSIONER RENDAHL: Just to follow up on  
6 that line of questions, Mr. Reynolds and Mr. Balhoff,  
7 first you, Mr. Balhoff, in your Exhibit MJB-4 -- do you  
8 have that in front of you?

9 MR. BALHOFF: Yes, I do.

10 COMMISSIONER RENDAHL: Okay. And if you  
11 turn to what's at the top right, it says Page 6, and at  
12 the bottom of the page it's actually Page 10 of the --  
13 of the transcript.

14 At the bottom, it talks about some of these  
15 employee reduction and employee expenses or  
16 employee-related costs. And just to clarify, what is  
17 your understanding of where those employee-related cost  
18 reductions will come from?

19 MR. BALHOFF: I have been informed that none  
20 of those are going to be coming out of the ILEC  
21 operations, that there are administrative and billing  
22 and various other functions that are being provided, so  
23 that when I indicate that the total head count  
24 reductions are supposed to be less than one-third, my  
25 understanding is it has nothing to do with the ILEC

1 operations.

2 COMMISSIONER RENDAHL: Okay.

3 And Mr. Reynolds, that's your understanding  
4 as well?

5 MR. REYNOLDS: It is.

6 COMMISSIONER RENDAHL: Okay.

7 Mr. Balhoff, you also -- in your testimony,  
8 you indicate that the initial effect of the transaction  
9 on net leverage would increase the Company's traditional  
10 target of 3 to 3.7 or more, but you have confidence that  
11 that leverage will improve over a few years.

12 Is that a correct understanding of your  
13 testimony?

14 MR. BALHOFF: Commissioner, that is correct.

15 COMMISSIONER RENDAHL: And so what happens  
16 if you're wrong and the Company doesn't achieve its  
17 financial objectives? How would this -- will this  
18 affect the Company's service obligations to its  
19 Washington ILEC customers?

20 MR. BALHOFF: Commissioner, I would expect  
21 not, but let me provide a little bit of detail.

22 First of all, I was an analyst that followed  
23 this company for an extended period of time when I was a  
24 publishing sell-side analyst at Legg Mason, and I have  
25 followed virtually every one of their transactions. And

1 they have, in every single instance, beaten the synergy  
2 estimates, so I would expect that that track record  
3 would be continued going forward.

4 With respect to how they would handle  
5 managing to the targets that they have, there are a lot  
6 of different variables or levers that the Company could  
7 pull, and those levers include the fact that the  
8 Company, as Mr. Reynolds has pointed out, has a \$2  
9 billion revolver that they should be able to handle  
10 shortfalls. They can manage discretionary spending,  
11 such as new projects, or expansion into new markets,  
12 research and development, advertising, personnel costs.

13 There are always capital expenditure issues.  
14 And it's interesting, the data center sale that was  
15 closed on May 1st, in that particular case, the Company  
16 made quite clear that it was too capital intensive, and,  
17 therefore, they wanted to manage their cash better, and  
18 so that's another way to do it.

19 Obviously, if they fell short, they could  
20 disconnect nonstrategic assets as they've done. They  
21 could obviously just simply refinance their debt at  
22 lower rates, which is exactly what's occurring at the  
23 present where their rates were around 6.7 and now the --  
24 I don't know what the blended rate's going to be, but  
25 the new financings have generally been coming in in the

1 4 percent range, and in extreme circumstances, if push  
2 came to shove, that they have dividends that they're  
3 paying that they would not want to alter because those  
4 investors should get an appropriate return on their  
5 capital. But that remains a possibility, too.

6 So I would be very, very surprised, with all  
7 the levers that they can pull, if they were not able to  
8 achieve the targets that they've indicated, and they've  
9 done so very consistently over the last 20 years.

10 COMMISSIONER RENDAHL: Thank you.

11 So Ms. Roth and Mr. Dahl, you've heard these  
12 questions and the answers. In Section 5.1 of the  
13 settlement, you've agreed to some provisions relating to  
14 maintenance of the network. Can you describe why this  
15 is -- why this was important to you all to include in  
16 the settlement and, in particular, what you're going to  
17 do if things differ from what you expect?

18 MS. ROTH: This is very important to Staff.  
19 You just heard the Company says that the -- this  
20 transaction doesn't impact ILEC, their expenditures for  
21 network maintenance. So Staff will also have a report  
22 every year to make sure they don't fall below the  
23 average expenditures per line on yearly basis [sic].

24 What we will do, Staff will review the  
25 information filed by the Company. And also in our

1 settlement conditions, we have also said the Company  
2 need to provide an explanation if they fall below that  
3 level of expenditure. We will also review that  
4 explanation, do some follow-ups.

5 Our current plan is, if the Company's filed  
6 report fall below the average expenditures per month, if  
7 that cause sufficiently Staff's concern, we will inform  
8 the Commission. We also have rules today to make sure  
9 the Company has network reliability and safety.

10 COMMISSIONER RENDAHL: Okay.

11 And can you -- well, Mr. Dahl, do you have  
12 anything to add to Ms. Roth's statements?

13 MR. DAHL: No. From the perspective of  
14 Public Counsel, you know, network reliability and  
15 service quality is obviously of great importance to  
16 ratepayers, so we are mindful of that, which is why we  
17 joined Staff on this particular commitment from the  
18 Company. And we will you, know, work with Staff as  
19 appropriate if we do see any inconsistencies or changes  
20 in investments in the network.

21 COMMISSIONER RENDAHL: Okay.

22 And for all the panelists, why is this  
23 measure for only three years? Why doesn't this go  
24 beyond three years?

25 Ms. Roth, you're raising your hand.

1 MS. ROTH: I want to make sure they don't  
2 want to -- I said, I want to answer it.

3 COMMISSIONER RENDAHL: You go ahead first  
4 and then they can add on if they want to.

5 MS. ROTH: The three years is because of  
6 CenturyLink's AFOR. The AFOR expires in January -- I  
7 should say on January 9, 2021. So we will have a report  
8 coming in for two thousand seven -- well, I don't know  
9 if they're coming in 2017 or not, because it's the  
10 date -- so 2018, 2019 and 2020.

11 COMMISSIONER RENDAHL: Okay.

12 So the various provisions in the settlement  
13 that extends through the end of 2020 are set to sync up  
14 with the timing on the AFOR, and should we want to --  
15 should the Company seek to extend its AFOR, then we can  
16 bring this issue up later?

17 MS. ROTH: You are correct.

18 COMMISSIONER RENDAHL: Okay.

19 Mr. Reynolds?

20 MR. REYNOLDS: I would also add that that  
21 three-year period -- and Mr. Balhoff can weigh in as  
22 well -- but that typically is the period of time to  
23 evaluate the run rate synergies and it -- you know, is  
24 the Company essentially coming together as planned.

25 So, you know, if we see anything during that

1 three-year period, there might be cause for concern,  
2 there might not be, you know, we'll have to explain that  
3 to the extent that this report shows that we're below  
4 average on our -- on our expenses.

5 So I think three years was a reasonable  
6 period of time. It does sync up with the AFOR. It  
7 gives the Commission the ability, if there's anything  
8 there, when we're negotiating the next AFOR.

9 COMMISSIONER RENDAHL: And just one -- just  
10 clarification for the record. So the term "run rate  
11 synergies" is used in the -- in the testimony, and you  
12 all have used it this morning. And not being a  
13 financial analyst, I had to actually look that up.

14 So to make sure it's in the record, can you  
15 explain it for the record?

16 MR. REYNOLDS: You know, I think I might let  
17 Mike Balhoff do that.

18 COMMISSIONER RENDAHL: Thank you.

19 MR. REYNOLDS: He gets paid the big bucks  
20 for that.

21 MR. BALHOFF: I didn't hear about that.

22 The run rate is typically when you try to  
23 normalize the financial figures, so sometimes costs are  
24 too high and so you try to normalize for that.

25 And in this particular case, the way it is



1 being used is that the Company is assuming \$975 million  
2 worth of annual benefits, or cash flow synergies, that  
3 it will be able to realize. So each year, \$975 million.

4 However, that will not really be realized in  
5 year one or year two, but the Company's indication at  
6 this particular time is that it should have realized  
7 80 percent of the operating run rates or operating  
8 synergies by year three. And it expects to realize  
9 100 percent of the 125 million capital expenditure  
10 synergies by year three.

11 So to Mr. Reynolds' point, by that  
12 particular point in time, we should have a pretty good  
13 idea how the Company's performing on its synergies.  
14 When we use run rate in that initial period and we say  
15 3.7 times, we're assuming that they are realizing 975  
16 million in order to generate that particular ratio, but  
17 they will not realize it quite up to that point in time.

18 I should point out, however, from year one,  
19 the Company expects to be cash flow accretive, so better  
20 off per share as of the first year, and significantly so  
21 by the second year. So during this three-year period,  
22 we should have a much better idea of whether or not  
23 they're actually on target to realize their synergies.

24 COMMISSIONER RENDAHL: Thank you very much.  
25 Appreciate it.

1 MS. ANDERL: And Mr. Balhoff, I think you're  
2 talking clearly and slowly, but it is still -- I can  
3 tell from the court reporter's face -- a bit of a  
4 challenge to pick you up on just by phone. So if you  
5 can actually slow it down a little bit more and speak  
6 more directly into the handset, that would be great.  
7 Thank you.

8 MR. BALHOFF: Okay. That would be great.

9 COMMISSIONER BALASBAS: So Ms. Roth, I want  
10 to follow up on the questions that Commissioner Rendahl  
11 asked a minute ago about the reports that Staff will  
12 receive over the next three years.

13 And while the report is looking for  
14 maintenance expenses based on the most recent three-year  
15 average, what -- what would happen if the report comes  
16 in and the expenses are below the three-year average,  
17 but there are no issues of service reliability or  
18 network issues, and that's the Company's explanation,  
19 what would Staff do with that explanation? And would  
20 that be a cause -- as you say, something of concern?

21 MS. ROTH: So if the expenditure fell below  
22 the average of the three years, Staff would be asking,  
23 you know, why, but the Company's explanation could be  
24 because of some technology breakthrough. And the  
25 efficiency gains from that technology could be

1 sufficient that we don't have any concerns.

2 COMMISSIONER BALASBAS: Okay.

3 So would you agree, then, if the Company did  
4 report expenses coming in below that, and it's due to  
5 efficiencies without any service or network quality,  
6 that that is also in the interest of ratepayers?

7 MS. ROTH: That's right.

8 COMMISSIONER BALASBAS: Okay.

9 Mr. Reynolds, do you have any comment to add  
10 to that?

11 MR. REYNOLDS: No. I think Ms. Roth covered  
12 it very well.

13 COMMISSIONER BALASBAS: Mr. Dahl, do you  
14 have anything to add?

15 MR. DAHL: I don't.

16 COMMISSIONER BALASBAS: Okay.

17 My next question is for Mr. Balhoff, and  
18 this goes to the financing of the -- the proposed  
19 financing of the acquisition.

20 One of the pieces in the -- in the financing  
21 is the pledge of Qwest Corporation stock to -- I  
22 believe, if I understand correctly, that is to help the  
23 guarantee of the debt; is that correct?

24 MR. BALHOFF: That is correct.

25 COMMISSIONER BALASBAS: So -- and in your

1 testimony, you stated that no ILEC assets are being  
2 pledged to the financing of -- or to help pledge to the  
3 financing of the acquisition.

4 Isn't the pledge of the Qwest Corporation  
5 stock -- I mean, that's a big exception to that -- to  
6 that general statement?

7 MR. BALHOFF: No, that's not correct,  
8 Commissioner. The reality is that they're pledging the  
9 stock, but no assets. So when assets are pledged, it's  
10 possible in a default to capture certain assets of the  
11 company in order to resolve that particular obligation.  
12 In this case, it would be the stock that could be  
13 captured theoretically, but not the assets of the  
14 company.

15 COMMISSIONER BALASBAS: So am I correct in  
16 hearing your answer to that, that in the event of a debt  
17 default, it would be the stock of Qwest Corporation,  
18 none of the ILEC assets, so it aligns with sort of any  
19 other assets of the company?

20 MR. BALHOFF: That would be correct. So it  
21 would be like I invest in US West stock, I personally, I  
22 could never capture, by virtue of that stock, the assets  
23 of the corporation, but I could sell my shares, or I  
24 could enlarge the number of shares that I have ownership  
25 over.

1 But in this particular case, there would not  
2 be a seizing of the assets or a -- some sort of  
3 prejudice of the operations.

4 CHAIRMAN DANNER: I just want to make sure I  
5 understand how that works. So if there's a bankruptcy  
6 that requires a sale or a change of control, how -- so  
7 the only thing that would be at issue there would be the  
8 stock and not the assets of the corporation?

9 MR. BALHOFF: That would be correct. Again,  
10 I want to step back and simply say that I have trouble  
11 imagining a scenario in which the stock would actually  
12 be conveyed to the lender in this particular case,  
13 because there are so many different ways in which the  
14 Company could resolve it.

15 So let me pick the extreme situation that I  
16 mentioned earlier, and that is that the Company is going  
17 to be paying approximately 2.3 billion in dividends to  
18 equity shareholders. I would expect, if there were any  
19 problem meeting the obligations, that the dividend would  
20 be -- would be eliminated or would be curtailed  
21 significantly.

22 And there are many different ways in which  
23 the Company could manage that problem, including the  
24 fact that there are other obligations associated with  
25 other subsidiaries of Century, so I think that the

1 scenario associated with this would be extremely  
2 unlikely.

3 CHAIRMAN DANNER: Yeah. We sometimes like  
4 to delve into worst-case scenarios here just to make  
5 sure we know what could arise, however unlikely.

6 And I'm trying to imagine, in such a  
7 circumstance, what's the Commission's role? I mean, it  
8 would be a -- if there's a change in control, I would  
9 expect that would come before us as well.

10 Is that your understanding, Mr. Reynolds?

11 MR. REYNOLDS: Yes, it is.

12 CHAIRMAN DANNER: And Mr. Dahl and Mr.  
13 Balhoff?

14 MR. BALHOFF: Yes.

15 MR. DAHL: Yes.

16 CHAIRMAN DANNER: Okay.

17 Mr. Dahl, I neglected when I was asking  
18 Mr. Reynolds questions earlier, I wanted to get your  
19 view on that, too. Is it your view that what's before  
20 us today, if we approve it, is not going to adversely  
21 harm or harm residential customers?

22 MR. DAHL: Based on our understanding, we  
23 did retain an economist earlier as an analyst, and he  
24 looked at the numbers, and it -- it seems to be  
25 consistent.

1 CHAIRMAN DANNER: Okay.

2 So you're not seeing that there would be a  
3 shift of resources towards the enterprise that would be  
4 at the expense of the residential customers or services?

5 MR. DAHL: Not in my understanding.

6 CHAIRMAN DANNER: Okay. Thank you.

7 I now want to ask you about provision 5.2,  
8 the Major Outage Reporting. What -- what prompted you  
9 to put this provision in the settlement, Mr. Dahl or  
10 Ms. Roth, or any of the three of you?

11 MS. ROTH: Well, major reporting is an  
12 issue -- has been an issue for the Commission for a  
13 while. As you know, in the 911 docket and the Simon  
14 (phonetic) docket, we established a -- the Commission  
15 established a communication plan.

16 Staff's recent experience with the outages  
17 in CenturyLink exchanges are not as good as they should  
18 be, so we would like to use this opportunity to make  
19 sure that we clarify our rule, what it means to notify  
20 Staff. In our rule, we say as soon as possible. We'd  
21 like to clarify that to say, we would like to have a  
22 phone call within 30 minutes.

23 CHAIRMAN DANNER: Okay.

24 So it actually doesn't say phone call, and  
25 that was my next question. How is the communication

1 going to occur?

2 MS. ROTH: Well, the settlement itself says  
3 notify the Commission staff. That word was used to try  
4 to capture possible future technology breakthrough like  
5 fax or some other way of communications that you and me  
6 do not know about today.

7 In my testimony, we say we prefer a phone  
8 call because that's the most efficient way, and it makes  
9 sense, and most of the other company [sic] do so.  
10 That's why it's in my testimony we say, we prefer a  
11 phone call.

12 CHAIRMAN DANNER: Judge, I'm hearing some  
13 noise.

14 JUDGE KOPTA: Yes. We're experiencing some  
15 interference on the bridge line. I'm not sure why. If  
16 you're not speaking, would you please mute your phone?  
17 No, that's still not doing it.

18 CHAIRMAN DANNER: This might be a  
19 CenturyLink problem.

20 MS. ANDERL: I don't think so.

21 MS. INCE: Would you like us to hang up and  
22 call back in?

23 CHAIRMAN DANNER: Yeah. We're hearing a  
24 pretty distracting scratching noise.

25 MS. INCE: Yeah, I'm hearing it.



1 JUDGE KOPTA: If everyone on the bridge line  
2 would please hang up and then call back in, then that  
3 might be helpful.

4 MS. INCE: All right. Will do.

5 JUDGE KOPTA: Thank you.

6 CHAIRMAN DANNER: Let's give them a moment  
7 to call in.

8 JUDGE KOPTA: We're off the record.

9 (Brief pause in the proceedings.)

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

11 CHAIRMAN DANNER: Okay.

12 So with regard to provision 5.2, why is  
13 there a time limit on this provision? It extends only  
14 through 2020. Is that also just due to the AFOR and  
15 syncing it up with the AFOR?

16 MS. ROTH: Yes, we would like to see how the  
17 Company have been doing, and it's possible during the  
18 next three years we would ask the Commission to clarify  
19 our rule to apply a standard to all the companies.

20 Also, we considered the AFOR, and six months  
21 prior to the expiration date of January, the Company  
22 issuing that settlement in the AFOR docket, the company  
23 will petition the Commission for either continue or  
24 discontinue negotiating another form of -- alternating  
25 form of regulation [sic].

1 CHAIRMAN DANNER: Okay.

2 And also with regard to 5.2.2, why isn't the  
3 Company required to make the confidential designation  
4 under WAC 480-07-160? Why are we doing this  
5 differently?

6 MS. ROTH: Well, I can give a try, but maybe  
7 the attorney from CenturyLink can answer that.

8 First of all, the NORS report filed at FCC  
9 are confidential, designated confidential. And it is  
10 automated system, so if we want that -- we receive that  
11 at the same time that FCC without going through, for  
12 instance, Lisa Anderl's office to designate them each  
13 page, you know, we want it at the same time as FCC, so  
14 we would want to have basically exemption from the new  
15 480-07- --

16 MS. CAMERON-RULKOWSKI: 160.

17 MS. ROTH: Exemption from that so Staff can  
18 get the same time. Otherwise, it takes some time out of  
19 this process before Staff receive the NORS report.

20 JUDGE KOPTA: We're having interference on  
21 the bridge line again. And one of the problems may be  
22 if someone is using a cordless phone. If you are using  
23 a cordless phone, would you please hang up and either  
24 use a landline or a cell phone, please? Thank you.

25 CHAIRMAN DANNER: So I'm trying to figure

1 out logistics of this. If it goes -- if the records  
2 center is to receive a document, are they going to know  
3 that this is confidential and treat it accordingly if  
4 it's not designated as such?

5 MS. ANDERL: Your Honor, if I could maybe  
6 give this a try, because it was kind of a legal issue in  
7 terms of complying with the confidentiality rule. I  
8 think that that's addressed by virtue of the fact that  
9 it's actually not going to the records center, it's  
10 going to the email that is designated in 5.2.2.

11 And we have separately agreed that we would,  
12 if public records requests ever came for a document of  
13 this nature, we could resubmit it with the appropriate  
14 confidentiality designation once the time sensitivity is  
15 gone, and we could also provide a redacted version, and  
16 so kind of retroactively comply with the rule.

17 But Ms. Roth is correct that the mechanics  
18 of designating it as confidential would interfere with  
19 the automated submission and timing coincident with the  
20 submission to the FCC, and that's why we've asked for an  
21 exception to be made.

22 CHAIRMAN DANNER: Okay.

23 So even if it's not going to the records  
24 center, though, it comes into us, it gets handed back  
25 and forth with Staff. Does Staff have the knowledge --

1 are they going to know that this is confidential? And  
2 what happens if they share this information?

3 MS. ROTH: Well, the NORS report filed at  
4 FCC is designated by the federal government  
5 confidential. We have been receiving those in our --

6 JUDGE KOPTA: Once again, we're having  
7 problems with the bridge line. If this continues, I'm  
8 not sure what we're going to be able to do except to  
9 have only the witnesses participate on the bridge line.

10 So please, if you are using a cordless  
11 phone, hang up; otherwise, mute your phone so that  
12 hopefully we can get rid of that noise.

13 CHAIRMAN DANNER: All right.

14 So we have been doing that in the past. We  
15 have not had an issue of this being shared outside the  
16 building where it's not supposed to be shared if it's  
17 confidential?

18 MS. ROTH: As far as I know, that's the  
19 case.

20 CHAIRMAN DANNER: Okay.

21 And even under the current system, which has  
22 been working, again, thinking about unlikely scenarios  
23 or worst-case scenarios, what is the Commission's  
24 liability or the Company's liability if the information  
25 is released?

1 MS. ROTH: Well, my counsel want to grab --

2 CHAIRMAN DANNER: It might be a question for  
3 Counsel.

4 MS. CAMERON-RULKOWSKI: So Chairman, this  
5 is -- this is always a possibility with confidential  
6 information, whether it's marked or not. I think that,  
7 in this case, the telecom staff is generally familiar  
8 with the NORS reports, and they know that they're  
9 confidential. And this is a risk that the Company, that  
10 CenturyLink is willing to take.

11 MS. ANDERL: I was going to say -- thank  
12 you -- that's correct. We understand that we may not  
13 have the same claim of protection as if we were to  
14 follow the letter of the rule in terms of the  
15 designation, but, you know, in an effort to reach an  
16 agreement and cooperate and provide the information in a  
17 timely way, we would -- we want to see it done this way,  
18 and we're willing to take a chance that it is shared.

19 Staff knows that it's confidential. NORS  
20 reports have been shared with Staff previously. There's  
21 nothing magical about the footer designation. If  
22 information is not going to be properly handled, it's  
23 not going to be properly handled whether there's a  
24 footer on it or not, I think. But we trust Staff and  
25 the Commission to preserve these appropriately.

1 I do think, as well, the sensitivity of the  
2 documents ages off. As they get older and the outage  
3 becomes further in the past, the degree of concern that  
4 we would have about it being released declines.

5 COMMISSIONER RENDAHL: So your comfort level  
6 if -- so an outage occurs, the designated staff person  
7 will receive this NORS report at the same time as the  
8 Company files it with the FCC. Given that this  
9 settlement agreement is public, and if a member of the  
10 press wanted to receive a copy of the NORS report after  
11 it had been filed with the Commission, how would we  
12 protect that if it hasn't been properly designated as  
13 confidential? Do you think that the statute would  
14 protect that and allow the Commission to go through the  
15 process of requiring the ten-day review without having  
16 it been designated as confidential under the statute?

17 MS. ANDERL: Yes, your Honor, because I  
18 think -- we're not asking you to ignore your rule here.  
19 We're asking for an exception -- an exemption from the  
20 confidentiality rule so that the material would still be  
21 considered confidential. I believe it's still going to  
22 say "Confidential" on it. It's just not going to have  
23 the citation to the WAC.

24 COMMISSIONER RENDAHL: So it wouldn't have a  
25 footer, which is what the requirement is in the WAC, but

1 it would still be designated as confidential by statute  
2 and, hence, we would still follow the process.

3 CHAIRMAN DANNER: So this wouldn't be a case  
4 where we'd be retroactively designated as confidential  
5 after we receive a request from public records  
6 because --

7 JUDGE KOPTA: Again, we're going -- we may  
8 have to mute the bridge line if we cannot resolve this.  
9 So please -- it stopped now, so whatever somebody did  
10 helped. Please continue to do that.

11 MS. ANDERL: Your Honor, can you mute the  
12 bridge from right there?

13 JUDGE KOPTA: We can.

14 MS. ANDERL: Maybe everyone on could still  
15 hear, they just couldn't be heard here. So maybe we  
16 could unmute [sic] it if Mr. Balhoff or Ms. Ince get any  
17 questions. Maybe it's the bridge.

18 (Brief pause in the proceedings.)

19 CHAIRMAN DANNER: All right. Let's proceed  
20 at this point.

21 So my question was, this is a different  
22 case -- this is not the same case, then, if we had a  
23 document that was not designated as confidential and  
24 then we get a public records request and then we, after  
25 the fact, designate it as confidential?

1 MS. ANDERL: Yeah, that's right. And when I  
2 said retroactively, that was probably a poor choice of  
3 words.

4 CHAIRMAN DANNER: I think I said it first.

5 MS. ANDERL: Well, then it was a great  
6 choice of words.

7 JUDGE KOPTA: So the document would be  
8 marked as confidential, it just would not have the  
9 citation to the rule; is that correct?

10 MS. ANDERL: That's my understanding, yes.

11 JUDGE KOPTA: And is this -- would it be  
12 submitted to Commission staff simultaneously with its  
13 submission to the FCC?

14 MS. ANDERL: Yes. That's what we're trying  
15 to achieve here, so that we can have our automated  
16 system file it with the FCC and file it with Staff at  
17 the same time without having to pass through my office  
18 to have the little blurb put on it.

19 JUDGE KOPTA: Given that there's not as much  
20 of a time sensitivity to having a redacted copy, could  
21 you at least comply with that aspect of the rule and  
22 subsequently provide a redacted copy?

23 MS. ANDERL: Sure. Yeah, I think we could.

24 JUDGE KOPTA: We like to keep waivers of our  
25 rules limited to what is really necessary for the



1 purposes that are identified. So I'm thinking that that  
2 is one that is not necessary to waive given the time  
3 sensitivity basis on what you're asking for the waiver.

4 MS. ANDERL: Yeah. As long as the redacted  
5 version didn't have to be submitted simultaneously, we  
6 could comply with that within a couple of business days.

7 JUDGE KOPTA: Okay.

8 COMMISSIONER RENDAHL: And who is the  
9 regular designated staff person, or is that going to  
10 change over time?

11 MS. ROTH: For now, we may have a name,  
12 Rebecca Beaton on Staff. The reason we left that, it  
13 could, you know, change to -- over time, it could be  
14 somebody else. We have a -- the Commission maintain a  
15 list of emergency contact staff. If you go down the  
16 list, Rebecca, then me, and then other staff. I have  
17 that list if the Bench needs it.

18 COMMISSIONER RENDAHL: Okay. No, I just  
19 appreciate it.

20 MS. ROTH: Okay.

21 CHAIRMAN DANNER: Okay.

22 And just, again, following up on the  
23 outages, you -- Mr. Reynolds, you heard Ms. Roth say  
24 that there have been some problems with outage reporting  
25 recently. How can we -- I mean, we have this provision

1 here, but how can we be comfortable that we're not going  
2 to continue to have these problems? I mean, the fact  
3 that we -- you know, we have these new provisions, are  
4 they going to be followed?

5 MR. REYNOLDS: Yes. To the best of our  
6 ability, we have a standard outage reporting system that  
7 serves all of our jurisdictions. And I know that  
8 there's been a very heightened sensitivity in the state  
9 of Washington due to the statewide 911 outage and some  
10 other major outages, and I think, thus, Staff's interest  
11 in ensuring that they get immediate notification.

12 And to the extent that we discover something  
13 that we can correct, we've sat down with Staff and  
14 negotiated a different way to do things. For example,  
15 we had an outage about a year and a half ago that  
16 originated in The Dalles, Oregon, but also served out of  
17 that switch were PSAPs in the state of Washington. And  
18 we timely issued an outage report to the state of  
19 Oregon, and the state of Washington did not receive one.

20 When we sat down with Staff and we went  
21 through, you know, the process that the Company went  
22 through, we found a way that, for any Oregon switch  
23 outage that affects Washington PSAPs, they will now get  
24 a major outage report in the timeframe that's been  
25 agreed upon.

1           So it's an evolving thing, but I think that,  
2           with this particular provision, and with some of the  
3           other steps we've taken to tighten up our outage  
4           reporting, I think we're definitely on the right track.  
5           We may discover something new, and if we do, we'll  
6           correct it.

7           CHAIRMAN DANNER: Okay.

8           And again, Mr. Dahl, that's -- you're  
9           comfortable that this provision will be adhered to?

10          MR. DAHL: Yeah. We agreed to the  
11          settlement as it stands, and understand that having the  
12          Commission aware of these major outages is in the public  
13          interest.

14          CHAIRMAN DANNER: All right. Thank you.

15          JUDGE KOPTA: Follow-up?

16          CHAIRMAN DANNER: Yes.

17          JUDGE KOPTA: So in the event that there's a  
18          problem, the 30-minute time limit, if it's -- if the  
19          Company doesn't meet it, if this is just a violation of  
20          a Commission order, then the maximum penalty is a  
21          thousand dollars.

22          Is that enough of an incentive for the  
23          Company to comply with this aspect of the settlement  
24          agreement in Staff's view? I'll ask you first.

25          MS. ROTH: Yes. It's per occurrence, per

1 customer, per line, so it add up [sic].

2 JUDGE KOPTA: So you would consider the lack  
3 of a notification in this settlement agreement to apply  
4 to each customer or each PSAP that's affected?

5 MS. ROTH: Each PSAP, Commission, 911  
6 office, yes.

7 JUDGE KOPTA: Is that how the Company  
8 interprets the agreement?

9 MR. REYNOLDS: To tell you the truth, I  
10 hadn't really thought about it. Staff and the Company  
11 have gone back and forth about how the penalty  
12 assessment has been applied, but we've always found a  
13 way to either settle or essentially pay the penalty  
14 that's been assessed.

15 I would add that the Company has not really  
16 had a problem notifying PSAPs in recent history. And  
17 what this is set out to do is to ensure that the  
18 Commission is on the same footing as the PSAPs and the  
19 FCC.

20 And there's an additional layer of  
21 protection built in there because the NORS reports go  
22 out automatically, and they're part of the requirement  
23 that came about as a result of the big 911 outage. And  
24 so, you know, that's an additional notification  
25 protection in addition to our requirement to personally

1 contact Staff.

2 So you know, we intend to comply. To the  
3 extent we don't, then it's at our peril.

4 JUDGE KOPTA: So just from a legal  
5 perspective, Ms. Cameron-Rulkowski, if the Company were  
6 not to notify Commission staff within 30 minutes, would  
7 you consider that a violation not just of the settlement  
8 agreement but also of the rule that requires  
9 notification to the Commission in the event of an  
10 outage?

11 MS. CAMERON-RULKOWSKI: Your Honor, I think  
12 that would depend. It would definitely be a violation  
13 of the settlement agreement, and then it's -- they're  
14 always context-based. So I think it would depend if --  
15 you know, did the Commission get notification in  
16 40 minutes and that was a violation of the settlement  
17 agreement, or did everyone else hear about it and the  
18 Commission didn't hear about it until the next day? And  
19 that probably wouldn't meet the rule and that would  
20 probably be a violation under -- under the major outage  
21 reporting rule.

22 JUDGE KOPTA: Okay.

23 I'm just sort of keying off of Ms. Roth's  
24 testimony that the 30 minutes in the settlement  
25 agreement is to give some time parameter to the "as soon

1 as possible" language in the rule.

2 Is that how, from a legal perspective, you  
3 are viewing this aspect of the settlement agreement?

4 MS. CAMERON-RULKOWSKI: So I would view that  
5 as the time obligation for the Company to notify the  
6 Commission. Does that answer your question? There are  
7 other notification requirements in the major outage  
8 rule.

9 JUDGE KOPTA: Well, and that, again, sort of  
10 leads me back to the question I had before. If this is  
11 only notification to the Commission, then it's not  
12 notification to anyone else, and so the maximum penalty  
13 would be \$1,000.

14 MS. CAMERON-RULKOWSKI: I think possibly --  
15 I would disagree with Ms. Roth here, and I think that  
16 probably is the case, that under this particular  
17 settlement agreement, and any order approving it, that  
18 it would just apply to notification of the Commission.

19 JUDGE KOPTA: So Ms. Roth, if that is  
20 correct, is \$1,000 enough of an incentive for the  
21 Company to comply with this aspect of the settlement  
22 agreement?

23 MS. ROTH: I think I'll agree with my  
24 counsel. You know, \$1,000, I want to say it's, you  
25 know, just notify the Commission, but sometimes the

1 outages have -- you know, we say major outages, and the  
2 definition of major outages have multiple services and  
3 just not 911. It could be trunk. It can be switch. So  
4 yes, the major outage, the typical standard is 1,000  
5 customer [sic] over 30 minutes in duration, basically.  
6 That is the basic definition.

7 So yeah, this provision is written, if they  
8 don't notify the Staff for 30 minutes, the Commission,  
9 they will be violating Commission rule. But it is a  
10 Commission order. But in our rule, it says they must  
11 notify as soon as possible all the PSAPs, the Commission  
12 and everywhere else. I can't recall the rule, but I can  
13 pull it up if you're interested.

14 JUDGE KOPTA: No, I'm -- at this point I'm  
15 focused on the settlement agreement.

16 MS. ROTH: The settlement, right.

17 JUDGE KOPTA: And if the Commission is going  
18 to adopt these provisions, then we would want to make  
19 sure that everything -- it would have an effective way  
20 of enforcing, and that's where my questions are coming  
21 to.

22 And that's why I'm asking you, focused  
23 solely on the settlement agreement --

24 MS. ROTH: Okay.

25 JUDGE KOPTA: -- whether that level of

1 potential penalty is enough to ensure that the Company  
2 will provide the 30-minute notification that's required  
3 under the settlement agreement.

4 MS. ROTH: That's the intention that we're  
5 doing is notify the Commission. If they fail, we would  
6 say the violation of Commission order, but -- yeah, if  
7 that's what the settlement says. My mind goes through  
8 our rules of we can assess different type of penalties  
9 and per occurrence, per line, per customer.

10 But in addition to a major outage, there's  
11 other ways, like, within two days they must give us a  
12 report of whether an outage or not, complete and so  
13 forth [sic], and we can -- you know, there's other  
14 provisions in the rule.

15 This -- another thing is -- I want to add to  
16 that is that CenturyLink does providing [sic] the NORS  
17 report within 30 minutes at the FCC, so that's where our  
18 30 minutes come from, so there's a base [sic] for it.

19 And I do not know what FCC does if they  
20 don't get a NORS report within 30 minutes of major  
21 outage. We could look into that. But that's our basis  
22 with the 30 minutes, and we didn't think about the  
23 penalty, thinking that the Company will do it.

24 JUDGE KOPTA: We're looking at  
25 eventualities.



1 Mr. Dahl, is this Public Counsel's view as  
2 well, that this is sufficient?

3 MR. DAHL: We support the settlement as it  
4 is, and I guess I don't have enough familiarity with the  
5 penalties and enforcement to speak up.

6 JUDGE KOPTA: Mr. Reynolds, is it your  
7 understanding that this is an automated process where  
8 Commission staff would receive the report the same time  
9 as the FCC?

10 MR. REYNOLDS: That's my understanding. And  
11 I guess I'd just like to add, to put it in perspective,  
12 and with something that counsel for Staff said, is that  
13 if we have violations in accordance with the rule and we  
14 do not timely notify a PSAP and other emergency  
15 management people, that's covered under the rule, and  
16 the penalties there are stiff.

17 And so the public safety protection is  
18 already in place. What we're trying to correct here is  
19 notifying the Commission, because we understand Staff  
20 and the commissioners get calls almost immediately after  
21 a major outage occurs, but the public safety is  
22 protected also by a whole other layer of protections in  
23 the rule.

24 So I'd just put it into perspective. And  
25 your question about, is \$1,000 enough? It is for us. I

1 mean, we want to fix this. We don't want, you know, to  
2 have this be Groundhog's Day every time we have a major  
3 outage. So we are working hard internally to  
4 essentially accommodate this type of provision and make  
5 sure the Commission understands what's going on when  
6 it's happening.

7 JUDGE KOPTA: All right.

8 I don't want to belabor the point. It's  
9 just that this issue has been one that's been lingering  
10 in other dockets over time, and so we are sensitive to  
11 it.

12 MR. REYNOLDS: And so am I.

13 MS. ANDERL: And your Honor, your  
14 question -- I just wanted to clarify -- the 5.2.1 and  
15 5.2.2 are two separate things. And the NORS report is  
16 an analysis of the outage, a description of what  
17 happened, and it gets submitted to the FCC.

18 The phone call to Staff is going to be  
19 something separate that is going to happen when we  
20 think -- within 30 minutes after we think we've made a  
21 determination that a major outage is occurring.

22 And so they're not the same thing, and maybe  
23 you didn't intend to mix them up in your question, or  
24 maybe I just misheard it, but I did want to make sure  
25 that we understood that these were two separate things.

1 One's an email of the document and the other one is a  
2 phone call.

3 JUDGE KOPTA: I appreciate the  
4 clarification, because I was unclear, based on the  
5 testimony, as to what was, in fact, provided within that  
6 30 minutes, and whether it was the NORS report or  
7 whether it was something different. So I think that's  
8 helpful to have that clarification.

9 COMMISSIONER RENDAHL: So turning to another  
10 topic, and that's Section 5.6 of the settlement  
11 agreement, so the parties have agreed that -- or  
12 CenturyLink's agreed to provide a dedicated project  
13 manager to work on the 911 transition with the military  
14 department and the successor vendor, and agrees to  
15 continue with good faith negotiations.

16 Mr. Dahl, this is clearly something in your  
17 testimony that you highlighted was important to Public  
18 Counsel. And are there concerns that you have about the  
19 progress of this transition that prompted you to make  
20 sure this is in the agreement?

21 MR. DAHL: You know, we brought this issue  
22 forward because we know the public is aware of this as  
23 an issue, and it's in the public interest to bring money  
24 to it, and included it in this settlement in order to  
25 ensure that the Company continues to work in good faith

1 in the transition.

2 COMMISSIONER RENDAHL: So do you have  
3 concerns right now about the transition?

4 MR. DAHL: We believe that the terms that we  
5 have included in the settlement will help address any  
6 concerns moving forward.

7 COMMISSIONER RENDAHL: So have you read the  
8 Amendment M to the contract?

9 MR. DAHL: I have not.

10 COMMISSIONER RENDAHL: Okay.

11 So Mr. Reynolds, can you give us an update  
12 of what's going on with this contract?

13 MR. REYNOLDS: Yes. It's my understanding  
14 that, I believe, along about the end of this month,  
15 May 31st through early June, all the parties will meet  
16 to sit down and finalize an Amendment M, which  
17 essentially will be a scope of work, a transition plan  
18 and a timeline, and that that really has -- is what has  
19 been lacking in this whole process. We feel somewhat  
20 hamstrung not being able to move forward with the  
21 transition because we don't have the road map to  
22 complete it, and so I think things are moving ahead.

23 We successfully, you know, negotiated  
24 meetings to sit down and explain our side of the story,  
25 and the State has had an opportunity to discuss what

1 they want, and now that there's an actual meeting set up  
2 to essentially give us what we need to help -- to help  
3 complete the transition. You know, I think we're  
4 satisfied that things are moving forward at a decent  
5 pace, so --

6 COMMISSIONER RENDAHL: So is there a hard  
7 stop under your contract right now as to when  
8 CenturyLink ceases service, or is it when the other --  
9 the successor is up and running?

10 MR. REYNOLDS: I believe we negotiated a  
11 continuation to support the system. The last thing in  
12 the world we would do is pull the plug on public safety,  
13 so that's not going to happen. There may be some back  
14 and forth discussions that we need to negotiate  
15 continuation of providing services, but even if there  
16 was a hard stop, we wouldn't honor it, you know. We're  
17 not going to leave the public high and dry.

18 COMMISSIONER RENDAHL: Thank you.

19 COMMISSIONER BALASBAS: So Mr. Reynolds,  
20 just following up on that, the meetings that you  
21 referenced for next week, do you expect to come out of  
22 these meetings with a finalized and signed Amendment M?

23 MR. REYNOLDS: We are very hopeful that we  
24 will.

25 COMMISSIONER BALASBAS: And if not, do you

1 have a timeline in mind when you would like to have  
2 Amendment M finalized?

3 MR. REYNOLDS: We would have liked to have  
4 had it finalized last year, but to the extent that we're  
5 making progress now, we're very hopeful that we can  
6 close this thing out at the end of the month.

7 CHAIRMAN DANNER: Okay.

8 So it sounds from your testimony that we  
9 don't need to be concerned up here that 911 services at  
10 any point will cease prior to a handoff?

11 MR. REYNOLDS: That's correct.

12 CHAIRMAN DANNER: Okay.

13 And we can be confident that, when there is  
14 a handoff, that services will continue to be provided.

15 MR. REYNOLDS: And that's really, I think,  
16 what's taken a long time in the planning. The new  
17 vendor has a different system and different model, and  
18 it requires working out exactly how that handoff takes  
19 place in a flawless and seamless manner, such that the  
20 public is not impacted.

21 And even though I know that the State's been  
22 frustrated, we've been frustrated, the last thing either  
23 one of us want to do is endanger the public.

24 COMMISSIONER RENDAHL: So is any member of  
25 the UTC staff involved in overseeing any of this

1 process?

2 MR. REYNOLDS: Not to my knowledge.

3 COMMISSIONER RENDAHL: Okay.

4 Ms. Roth, I know we have representatives --

5 MS. ROTH: Yes, but we're not involved in --  
6 we're not at the table.

7 COMMISSIONER RENDAHL: Okay. Thank you.

8 CHAIRMAN DANNER: And also just when -- when  
9 the successor is in place and operating the 911 system,  
10 our jurisdiction, does it cease or does it continue  
11 after that time?

12 MS. ROTH: We have a letter from AG's  
13 opinion [sic] that's issued to the new successor. We do  
14 have oversight on this new successor, correct, Counsel?

15 MS. CAMERON-RULKOWSKI: I believe that's  
16 correct.

17 COMMISSIONER RENDAHL: Is that something we  
18 could have in the record?

19 MS. CAMERON-RULKOWSKI: Certainly. We could  
20 provide that pursuant to a bench request or however you  
21 would like to have it come in.

22 CHAIRMAN DANNER: Okay.

23 Would there be any objections from anybody  
24 if that were -- you don't know what letter we're talking  
25 about?

1 MS. ANDERL: I do not. I can't imagine that  
2 I would object to it. I wouldn't mind seeing it before  
3 it was filed, but if counsel for Staff wants to file it  
4 in this docket, I would not object.

5 MR. TRINCHERO: No objection.

6 COMMISSIONER RENDAHL: Is that a formal AG's  
7 opinion or is it a letter opinion, do you know?

8 MS. ROTH: I believe -- I'm looking at Mark  
9 Vasconi. I believe it's sended [sic] to the successors  
10 by Steve King's signature.

11 COMMISSIONER RENDAHL: So it's a Commission  
12 letter, not a --

13 MS. ROTH: Not an AG opinion. But it is  
14 based on an AG opinion, I believe.

15 COMMISSIONER RENDAHL: All right.

16 Well, I think --

17 CHAIRMAN DANNER: Well, that means somewhere  
18 there's an AG opinion.

19 MS. CAMERON-RULKOWSKI: Based on AG advice,  
20 internal and formal AG advice.

21 CHAIRMAN DANNER: Okay.

22 Maybe we should gather the documents and  
23 share them with the parties and go from there.

24 COMMISSIONER RENDAHL: I think it would be  
25 useful to have that letter in the record, if the parties



1 don't object, but they don't seem to object, at least,  
2 to have something in the record.

3 MS. ROTH: That letter is addressed to the  
4 newcomer, it's not a party to this case, so the  
5 successor. So just so you know, the letter is intended  
6 for -- so, like, the new 911 provider knows the  
7 Commission have jurisdiction authority, they must follow  
8 our rule as well.

9 COMMISSIONER RENDAHL: No, I understand  
10 that, but I think it's relevant to the topic in this  
11 settlement.

12 MS. ROTH: Yeah, I just wanted to clarify  
13 that.

14 JUDGE KOPTA: So is there a separate  
15 document coming from the AG's office to the Commission  
16 with the legal advice?

17 MS. CAMERON-RULKOWSKI: So I think what we  
18 would -- what we would file in this docket would be that  
19 letter from Steve King addressed to the new provider.

20 JUDGE KOPTA: All right. We'll that make  
21 that Bench Request No. 1.

22 And while we're on that, section 5.6, again,  
23 my concern is enforcement. How will the Commission  
24 determine whether CenturyLink is providing sufficient  
25 support personnel to complete tasks assigned by the

1 Washington military department to CenturyLink?

2 Mr. Reynolds?

3 MR. REYNOLDS: I believe that the response  
4 that CenturyLink filed last night speaks to the effort  
5 that we're putting in to ensure that that transition  
6 goes smoothly and that at no time customers are in  
7 peril.

8 If the Commission -- it is a private  
9 contract negotiation, and I'm uncertain as to what  
10 authority the Commission has over that with its  
11 overriding authority. I guess I would defer to my  
12 counsel.

13 JUDGE KOPTA: Well, again, the concern that  
14 I have is that, if this is going to be a provision in  
15 the settlement agreement, we need to find some way to be  
16 able to enforce it, so I'm questioning how we can do  
17 that.

18 CHAIRMAN DANNER: So I guess my question to  
19 you is, it would appear that we would have some  
20 enforcement under this settlement if we were to  
21 determine that you were not continuing good faith  
22 negotiations. At the same time, we are comforted by the  
23 fact that 911 services will continue until there  
24 actually is an agreement reached and a succession -- a  
25 successor operating the 911 system.

1           So in your view, would that be sufficient?

2           MR. REYNOLDS: Well, it would certainly be  
3 sufficient to protect the public safety. And I don't  
4 think the public safety at any time up to this point or  
5 in the future is going to be in peril. These parties  
6 will get this right or they won't go forward. And I've  
7 got a feeling that everything is going to be worked out  
8 ultimately.

9           To the other part of your question of  
10 exactly how do you enforce this particular provision,  
11 because this is a provision that I understand offers our  
12 good faith effort to continue this process, to continue  
13 to work, I think we provided some information to you.  
14 And you know, I'll leave it to counsel as to what more  
15 assurances we could provide if the Commission somehow  
16 deems that we're not negotiating in good faith.

17           CHAIRMAN DANNER: Well, personally, my  
18 concern is that we don't have a cessation of 911  
19 services, and that's the primary concern. However, if  
20 this takes, you know, longer or shorter, I guess, you  
21 know, you've made a commitment to continue in good faith  
22 negotiations, but we're not at the table, so I'm not  
23 sure how we enforce that.

24           So my concern, then, is really just making  
25 sure that, whether these talks go slow or whether they

1 go fast, that the public is not endangered by lack of a  
2 911 system.

3 MR. REYNOLDS: And I think you have our  
4 commitment that won't happen.

5 MS. ANDERL: Yes. I think, your Honor, we  
6 represented in the letter that we filed yesterday that  
7 we have already extended the 911 contract with the State  
8 of Washington once, maybe twice, at the same rates as we  
9 had originally been providing service.

10 It is in our interest to see that this  
11 transition goes both smoothly and as quickly as  
12 possible, because we are no longer going to be the  
13 vendor, and we would like to hand that off as soon as we  
14 can, honestly, and not have a prolonged process.

15 But for as long as the process takes, under  
16 the terms and conditions that we intend to negotiate in  
17 Amendment M, that doesn't exist yet but is in draft  
18 form, we will make sure that we do what we can on our  
19 side to ensure a smooth transition. And we will not  
20 cease providing 911 services until the successor vendor  
21 tells us they're ready.

22 JUDGE KOPTA: And how will we know how  
23 that's going, the relationship with the military  
24 department?

25 MS. ANDERL: Well, if it is -- again, you

1 know, if we have a dispute with the military department,  
2 that is a private contract arrangement and there are  
3 remedies in that contract that the military can pursue  
4 on their own.

5 Should the Commission wish to have an active  
6 role, I would guess that either Staff or Public Counsel  
7 could, through their contacts at Military, keep track of  
8 what's going on. And should they have a concern, they  
9 could raise that to the Commission.

10 JUDGE KOPTA: Well, part of my question  
11 comes from the fact that the parties are proposing to  
12 put the Commission in the middle of that discussion  
13 through paragraph 5.6.

14 Are we supposed to evaluate the sufficiency  
15 of the support that CenturyLink provides, and whether  
16 there are good faith negotiations, and whether you've  
17 provided adequate notification to the military  
18 department?

19 MS. ANDERL: I think if there were -- I  
20 don't think you are obligated to do that sua sponte. I  
21 think that if someone were to bring a complaint for  
22 enforcement of paragraph 5.6, then you would be involved  
23 in that way.

24 JUDGE KOPTA: And --

25 COMMISSIONER RENDAHL: So Mr. Dahl, maybe

1 you can explain what your thoughts are in terms of how  
2 the Commission would be -- how -- what is Public  
3 Counsel's plan in terms of monitoring the compliance  
4 with this provision of the settlement, and how do you  
5 suggest the Commission do so?

6 MR. DAHL: I understand it the way that  
7 Ms. Anderl suggested, that if there are issues, there  
8 are mechanisms to bring a complaint forward. And that  
9 the terms of the settlement are narrow enough that, if  
10 there are any issues outside the terms of the settlement  
11 itself as it stands, there are other remedies outside  
12 that could be --

13 COMMISSIONER RENDAHL: So is Public Counsel  
14 planning to, along with Staff -- and maybe, Ms. Roth,  
15 you have a perspective on this -- to monitor this, and  
16 how do you plan to monitor the status of the contract?

17 MR. DAHL: I'm not sure.

18 JUDGE KOPTA: Okay.

19 Ms. Roth?

20 MS. ROTH: At this juncture, the Staff do  
21 not have a plan to monitor the progress of this  
22 negotiation. For the 22 years I've been at the  
23 Commission, this type of contract have never been [sic]  
24 filed for our approval. We never monitor it, it never  
25 had an issue, it never get to the level that we're aware

1 of today. Of course, we'll do whatever the Commission  
2 tell us to do in their order [sic].

3 CHAIRMAN DANNER: So Ms. Roth and Mr. Dahl,  
4 a question for you, in your view, is there any incentive  
5 for CenturyLink not to proceed as expeditiously as  
6 possible in getting these contracts developed and  
7 implemented and a successive plan in place?

8 MR. DAHL: I mean, I think, as Mr. Reynolds  
9 indicated, it's, you know, in the interest of the public  
10 and the Company and everyone involved to move forward as  
11 fast as possible since the -- you know, the public  
12 relies on its service.

13 CHAIRMAN DANNER: Well, we've got a  
14 commitment that the service won't be -- won't be  
15 affected, that 911 service will continue, so public  
16 safety is not the issue here. It's just that we have a  
17 provision here that CenturyLink will continue its good  
18 faith negotiation for a reasonable transition.

19 My question to you is, do you see any  
20 incentive that CenturyLink has not to do just what it's  
21 saying in this contract, or in this paragraph 5.6?

22 MR. DAHL: No.

23 MS. ROTH: I do not know. I have not --  
24 Staff has not investigated this issue, and we're not  
25 familiar with the original contract. There's the

1 contract and then there's Amendment M where Staff is  
2 not -- Staff didn't review that contract.

3 CHAIRMAN DANNER: Okay.

4 So you -- all right.

5 MS. ROTH: Well --

6 CHAIRMAN DANNER: Thank you.

7 JUDGE KOPTA: You've referenced the letter  
8 that you filed with the Commission in response to the  
9 military department's comments. That is not part of the  
10 evidentiary record in this case. Do you want the  
11 Commission to rely on any portion of that letter?

12 MS. ANDERL: Well, your Honor, I was  
13 assuming that at some point we would talk about what  
14 evidentiary status the letter from the military  
15 department might have. And I think my answer to your  
16 question depends on how the Commission intends to treat  
17 the military department's letter.

18 JUDGE KOPTA: Well, I'm referring to the  
19 discussion that we just had in which you were  
20 referencing certain commitments that the Company was  
21 making in terms of its dealings with the military  
22 department. And if you simply referenced the letter,  
23 then we don't have anything other than what we discussed  
24 in this hearing today. So that's why I'm asking if  
25 you're asking us to rely on any portion of that letter.



1 MS. ANDERL: I think I only referenced the  
2 letter to say that we said in the letter, and I now said  
3 in this -- in the proceeding that we had already  
4 extended the contract for 911 service on the same terms  
5 and conditions and the same rates with Military at least  
6 one time already, just as a way to tell you that we  
7 could have already said the contract's up, but we're not  
8 going to do that. So I don't think you need to rely on  
9 the letter for that.

10 JUDGE KOPTA: Okay.

11 And while we're talking about evidentiary  
12 issues, the settlement agreement does refer to Amendment  
13 M. Would the Company have any objection to providing  
14 that to the Commission once it has been executed?

15 MS. ANDERL: We do not object to doing that.  
16 We will do that as a compliance filing.

17 JUDGE KOPTA: All right.

18 I think that would be helpful since it is  
19 referenced in the September agreement so that we know  
20 exactly what it is that we are looking at in terms of  
21 the terms of the settlement.

22 MS. ANDERL: Yes. I think typically these  
23 contracts being with public entities are public record.  
24 I don't think there are going to be any terms that are  
25 confidential. There may be -- the pricing may be

1 confidential, but I don't even think that is, so -- but  
2 we'll treat it appropriately and we'll file it, and if  
3 there needs to be redactions, we'll do that.

4 JUDGE KOPTA: All right.

5 But given that it is not yet in existence,  
6 we won't make it a bench request, but we will take  
7 administrative notice after you've filed it.

8 MS. ANDERL: Thank you, your Honor.

9 CHAIRMAN DANNER: One more question.

10 Regarding paragraph 5.5, Customer Notice of  
11 Merger, basically CenturyLink will issue a press  
12 release, which, of course, with the state of journalism  
13 today, may or may not be covered in the media.

14 But regardless, the question I have is, how  
15 does any of this affect the residential or business  
16 consumer? Are they going to see any change in their  
17 service? Are they -- without seeing the press release,  
18 are they even going to know that this has happened?

19 MR. REYNOLDS: No.

20 CHAIRMAN DANNER: Okay.

21 And so as far as they're concerned, the  
22 phone -- they can still pick up the phone and get a dial  
23 tone, and they have access to 911, and so if, in fact,  
24 the News Tribune does not report that this merger has  
25 taken place, then from the point of view of the

1 consumer, life just goes on?

2 MR. REYNOLDS: That's correct. And the way  
3 that this acquisition is being put together, similar to  
4 the way that the Century and Qwest merger was put  
5 together, the operating companies will continue. And at  
6 such time as there may or may not be a name change, we  
7 would certainly notify our customers.

8 But to our customers, both our enterprise  
9 customers that have contracts with Level 3 and with us,  
10 the billing will remain the same, at least.

11 CHAIRMAN DANNER: In other words, a Level 3  
12 customer gets a bill from Level 3, a CenturyLink  
13 customer gets a --

14 MR. REYNOLDS: Yes, exactly. The contracts  
15 are not altered, our regulatory obligations are not  
16 altered, and it will be relatively transparent to the  
17 public.

18 CHAIRMAN DANNER: Okay. I think that's all  
19 I have.

20 JUDGE KOPTA: Okay. I have one more  
21 follow-up.

22 There was a discussion earlier, I believe,  
23 with Commissioner Balasbas and Mr. Balhoff about the  
24 remote possibility that Qwest stock would somehow need  
25 to change hands as a result of any default.

1 Is the Company willing to commit to  
2 notifying the Commission if that provision is triggered  
3 and a transfer is likely?

4 MR. REYNOLDS: It's my understanding, and  
5 I'll let my counsel correct me if I'm wrong here, but  
6 it's -- my understanding is we really have no choice,  
7 that this Commission still retains authority over a  
8 change in control. And so to the extent we got to that  
9 point, this Commission would have authority over that  
10 proceeding.

11 JUDGE KOPTA: And you would notify us of  
12 that event happening?

13 MR. REYNOLDS: Yes.

14 MS. ANDERL: Yes.

15 JUDGE KOPTA: All right. Thank you.

16 I believe that concludes our questioning,  
17 and unless there's anything further, we will take the  
18 matter under advisement and enter an order in due  
19 course.

20 Is there anything else that we need to  
21 discuss on the record while we are here today?

22 Then we are adjourned. Thank you.

23 MS. CAMERON-RULKOWSKI: Thank you.

24 (Hearing concluded at 11:00 a.m.)

25 -o0o-

## C E R T I F I C A T E

STATE OF WASHINGTON     )  
                                  ) ss.  
COUNTY OF KING         )

I, ANITA W. SELF, 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.

IN WITNESS WHEREOF, I have hereunto set my hand  
and seal this 9th day of June, 2017.

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ANITA W. SELF, RPR, CCR #3032