

**In the Matter of the Petition of the Centurylink
Companies**

Docket No. UT-240029 - Vol. VII

January 31, 2024



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of)
)
 THE CENTURLINK COMPANIES - QWEST)
 CORPORATION; CENTURYTEL OF)
 WASHINGTON; CENTURYTEL OF)
 INTERISLAND; CENTURYTEL OF COWICHE;)
 AND UNITED TELEPHONE COMPANY OF THE)
 NORTHWEST)
) DOCKET NO. UT-130477
 vs.)
)
 To be Regulated Under an Alternate)
 Form of Regulation Pursuant to RCW)
 80.36.135) PAGES 42 - 60
)

STATUS CONFERENCE - VOLUME VII

January 31, 2024

BEFORE ADMINISTRATIVE LAW JUDGE PAIGE DOYLE
and ADMINISTRATIVE LAW JUDGE GREGORY J. KOPTA

Washington Utilities and Transportation Commission
 621 Woodland Square Loop SE
 Lacey, Washington 98504

TRANSCRIBED BY: JAN-MARIE GLAZE, RPR, WA CCR 2491

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1 January 31, 2024

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3 JUDGE DOYLE: Thank you. We will be
4 recording this to be transcribed later by a court
5 reporter, and so if you continue to participate, you
6 are consenting to be recorded for that purpose.

7 Good morning. It's January 31st, 2024, at
8 9:31 a.m. This is a prehearing conference for Docket
9 UT-240029 in the Matter of the Petition of the
10 CenturyLink Companies -- QWEST Corporation, CenturyTel
11 of Washington, CenturyTel of Interisland, CenturyTel of
12 Cowiche, and the United Telephone Company of the
13 Northwest to be competitively classified pursuant to
14 RCW 80.36.320; also seeking relief in Docket UT-130477
15 in the Matter of the Petition of the same CenturyLink
16 Companies to be regulated under an alternative form of
17 regulation pursuant to RCW 80.36.135.

18 My name is Paige Doyle. I'm an administrative law
19 judge here at the Washington Utilities and
20 Transportation Commission. I am co-presiding in this
21 matter with Administrative Law Judge Gregory J. Kopta,
22 who is also present today, as well as the commissioners
23 of the Utilities and Transportation Commission who will
24 not be present today, as per usual.

25 Can we start please with appearances? Can I hear

1 from CenturyLink?

2 MR. SHERR: Yes. Good morning, Judge. Adam
3 Sherr on behalf of CenturyLink.

4 JUDGE DOYLE: And Staff?

5 MR. ROBERSON: Good morning. Jeff Roberson,
6 AAG, appearing for Staff.

7 JUDGE DOYLE: Public Counsel?

8 MR. O'NEILL: Good morning, Your Honors. Tad
9 Robinson O'Neill on behalf of Public Counsel.

10 JUDGE DOYLE: And do we have Charter
11 Fiberlink here?

12 MR. SUMNER: Good morning, Your Honor, this
13 is Skylar Sumner from the law firm McDowell Rackner
14 Gibson, and I'm here today on behalf of Charter.

15 JUDGE DOYLE: All right. So first, or next
16 rather, let's address -- is there any other party on
17 the line? Sorry. Is there anyone else that wants to
18 make an appearance? Hearing nothing, we will move to
19 petitions for intervention.

20 I know there is one written petition for
21 intervention that was submitted to the docket -- excuse
22 me, by Charter Fiberlink. Does any party object to
23 that petition for intervention?

24 MR. SHERR: Good morning, Your Honor. Yes,
25 CenturyLink does oppose the intervention of Charter.

1 Would you like me to address that?

2 JUDGE DOYLE: I would. Thank you.

3 MR. SHERR: Thank you. Yes. Good morning.

4 CenturyLink opposes the intervention of Charter in this
5 proceeding. Charter's interest, as they expressed in
6 their petition for intervention, relate to the
7 regulation of wholesale services. The concern that
8 our -- (audio problems) -- link's provision of
9 wholesale services under a petition, and by this
10 proceeding, they will not be. This petition has --
11 seeks competitive classification under RCW 80.36.320.

12 The question before the Commission is whether
13 CenturyLink is subject to effective competition in the
14 provision of retail services, whether we have a
15 substantial captive customer base. The issue of
16 wholesale services is not on the table in this
17 proceeding. We've made that clear in the petition as
18 well where we have committed to the fact that we will
19 not, through this proceeding, seek any change to our
20 status as a wholesale provider or to the Commission's
21 regulation of wholesale services. Any injection of
22 wholesale-related concerns or demands for
23 wholesale-related issues to be litigated would simply
24 broaden the scope of this proceeding.

25 I will note that the -- the commitment in the

1 petition to not touch wholesale services through this
2 petition is identical to the one that has existed
3 through the AFOR, the Alternative Form of Regulation,
4 since 2014, and before that in the prior AFOR. So
5 there's really no change to status here.

6 Should Charter's petition be granted, we would
7 ask -- which, of course, we don't think it should be,
8 but should it be granted, we would ask Your Honor to
9 limit their intervention to simply monitoring that
10 CenturyLink does not, in any way, go back on its
11 commitment not to seek an alteration of its wholesale
12 service regulation through this proceeding. Thank you.

13 JUDGE DOYLE: Thank you.

14 Mr. Sumner, would you like to respond?

15 MR. SUMNER: Certainly. As Charter stated in
16 its petition, the company does appreciate that
17 CenturyLink discusses some of these issues in its
18 petition, but due to the company's substantial interest
19 in these proceedings as a customer receiving -- or as a
20 company that receives these services, we would
21 appreciate an opportunity to participate to ensure that
22 these obligations, as stated in CenturyLink's petition,
23 do make it through to the final order in these
24 proceedings should the Commission grant -- or issue
25 such a final order.

1 And so, for that reason, and for the -- for the
2 reasons stated in Charter's petition, the Company does
3 request leave to intervene here.

4 JUDGE DOYLE: Would any of the other parties
5 like to weigh in on the petition?

6 MR. SUMNER: I apologize, Your Honor, if I
7 could make one more thing. If needed, the Company
8 would appreciate an opportunity to respond in writing
9 to an objection to its petition to intervene, if that
10 would help the Commission -- or if that would help the
11 ALJs in this proceeding make that determination.

12 JUDGE DOYLE: Okay. Thank you.

13 MR. ROBERSON: Staff has no objection to
14 granting Charter's intervenor status.

15 MR. O'NEILL: Public Counsel has no objection
16 to the intervention.

17 JUDGE DOYLE: Okay. Thank you. We will take
18 that under advisement and either issue a request for
19 further responses or a ruling in the prehearing
20 conference order.

21 Okay. Is there anyone else on the line who wishes
22 to make a petition for intervention here today?
23 Hearing nothing, seeing nothing, let's move on.

24 Do the parties wish to have the Commission's
25 discovery rules available in this proceeding?

1 MR. ROBERSON: Staff would appreciate them.

2 JUDGE DOYLE: Does anybody have a problem
3 with that?

4 MR. O'NEILL: Public Counsel would also
5 appreciate it.

6 MR. SHERR: Excuse me. No objection from
7 CenturyLink.

8 JUDGE DOYLE: We'll make those rules
9 available.

10 I know there's already been confidential material
11 filed in the docket, so I'm assuming a protection order
12 is requested and advisable, and so we will issue that
13 as well.

14 MR. SHERR: Thank you, Your Honor.

15 MR. ROBERSON: Judge Doyle, if I may speak
16 there?

17 JUDGE DOYLE: Yes.

18 MR. ROBERSON: At this point, Staff would
19 make a motion under WAC 4007, I believe it's, 422A for
20 a highly confidential protective order. There are
21 multiple companies in this proceeding, and it's
22 possible that Staff will get commercially sensitive
23 information for other companies. In such cases, it's
24 generally appropriate to prevent the companies from
25 seeing each other's competitively sensitive

1 information, and so Staff would ask for a highly
2 confidential treatment for that information, if it's so
3 designated.

4 MR. SHERR: No objection from CenturyLink,
5 and I appreciate that request from Staff. Thank you.

6 JUDGE DOYLE: Any objection to that request,
7 anyone?

8 MR. O'NEILL: No objection from Public
9 Counsel.

10 JUDGE DOYLE: Okay. All right. Next we have
11 come to the schedule portion of today's conference.
12 Have the parties had a chance to confer with each other
13 regarding schedule?

14 MR. SHERR: Your Honors, yesterday
15 CenturyLink circulated a proposed schedule, yesterday
16 afternoon, and then corrected yesterday evening. Staff
17 has indicated that it is -- it agrees with the schedule
18 suggested by CenturyLink. I don't believe I heard back
19 from Public Counsel or from Charter, so I don't know
20 where they stand.

21 JUDGE DOYLE: Would you like some time to
22 confer?

23 MR. O'NEILL: Public Counsel would request
24 some time to confer, yes.

25 JUDGE DOYLE: Okay. I will note that

1 Judge Kopta and I had a discussion about the schedule
2 considering it's such a shortened schedule. We don't
3 know, you know, if the Company plans to file additional
4 direct testimony. I'm assuming yes, but we don't know.
5 But we were looking at a hearing at around mid May.
6 Just to note, the Commissioners have NARUC late in May,
7 and so looking at the calendars myself, the preference
8 for us would be a hearing the week of May 13th is my
9 personal preference, but you're welcome to confer, and
10 I'll take under advisement any consented-to schedule
11 that you come back with.

12 MR. SHERR: Your Honor, may I ask you a
13 question about that?

14 JUDGE DOYLE: Yeah.

15 MR. SHERR: The proposed schedule that we
16 circulated suggested a hearing May 29th in an
17 attempt -- do you know if the commissioners will be at
18 NARUC during that time?

19 JUDGE DOYLE: Let me take a look. I think
20 they're back. As I understand it, a final order in
21 this docket needs to be filed no later than July 8th.
22 Is that everybody's understanding?

23 MR. SHERR: That's what I have, Your Honor.
24 Yes, Your Honor.

25 JUDGE DOYLE: All right. Yeah, the 29th is

1 not going to work.

2 MR. SHERR: Okay. Is there a time that week?

3 JUDGE DOYLE: Monday is a holiday. Actually,
4 no. Commissioner Rendahl is not going to be available
5 that week, and the week of the 20th is NARUC. So the
6 24th is a possibility. Otherwise, the previous week,
7 the week of the 13th, is pretty -- is almost completely
8 wide open.

9 MR. SHERR: Okay. Thank you for that. I
10 think the parties may have to get back together and
11 chat about it. This is a very compressed time frame,
12 we acknowledge for sure. One thing that we propose, in
13 order to try to compress this very compressed -- you
14 know, compress the typical components of the schedule
15 is a single post-hearing brief, simultaneous
16 post-hearing brief, rather than expending six weeks or
17 four weeks, or whatever, of the schedule on briefing.
18 So we know that we need to leave the commissioners
19 enough time to make a decision, and so that's one way
20 we think that we can cut some time out of the usual
21 schedule. But this does move the hearing up by a few
22 days from what we had, what CenturyLink and Staff had
23 agreed with, so I think we would have to toggle or, you
24 know, adjust the dates a little bit as to what we've
25 proposed internally.

1 JUDGE DOYLE: Okay. Well, Judge Kopta and I
2 will go ahead and leave the call. If someone can send
3 us a message when you're finished, and we'll rejoin.
4 Does that work? Okay.

5 MR. SHERR: Thank you.

6 (Off the record.)

7 JUDGE DOYLE: I want to give a minute to make
8 sure that Judge Kopta is back on the line. There we
9 go. Okay.

10 We are back on the record. So have we come to a
11 consensus on the schedule?

12 MR. ROBERSON: Not exactly.

13 JUDGE DOYLE: Okay.

14 MR. ROBERSON: We have a super, secret
15 surprise question for you actually.

16 JUDGE DOYLE: Okay.

17 MR. ROBERSON: In terms of moving dates, the
18 amount of lead time the Commission needs for, like,
19 cross estimates, the filing of cross exhibits, witness
20 lists, testimony errata, those kinds of things, if we
21 could shorten that a little bit and file those the
22 Monday before a Friday hearing on May 24th, if that
23 would be acceptable to you and Judge Kopta, I think
24 that that would make things a lot easier in terms of
25 the scheduling.

1 JUDGE DOYLE: I have no problem with that.

2 Judge Kopta, do you see an issue with that?

3 JUDGE KOPTA: No. That should be fine.

4 MR. SHERR: Thank you. With that, I think we
5 can then go back, if you don't mind, to conferring
6 offline.

7 JUDGE DOYLE: Oh, sure. No problem.

8 MR. SHERR: Yeah. This was a critical
9 question as we --

10 JUDGE DOYLE: Okay. Got it.

11 MR. SHERR: Thank you so much.

12 JUDGE DOYLE: No problem.

13 (Off the record.)

14 JUDGE DOYLE: All right. Who would like to
15 report in?

16 MR. SHERR: Judge, Adam Sherr. I can do so.
17 The parties have conferred and we've agreed upon a
18 proposed schedule for your determination. I'm happy to
19 read through the dates and then also send a follow-up
20 written communication if that would be helpful.

21 JUDGE DOYLE: Thank you. Yes, it would.

22 MR. SHERR: Okay. The direct testimony of
23 CenturyLink would be on February 16th, settlement
24 conference on March 20th. Response testimony would be
25 April 3rd. And, at that time, discovery response time

1 would be reduced to seven business days. On May 10th
2 would be the rebuttal and cross answering testimony.
3 And, at that point, discovery responses would be
4 reduced to five business days. The cutoff for
5 propounding discovery would be May 15th. The deadline
6 for exhibit lists, cross-examination exhibits, witness
7 lists, cross estimates, et cetera, would be on
8 May 20th.

9 May 24th, the Friday, would be the evidentiary
10 hearing. The simultaneous post-hearing brief, single
11 round of briefing, would be on June 12th. Deadline for
12 Commission decision, as you noted before, is July 8th,
13 and we are proposing two virtual public comment
14 hearings on May 16th and June 6th.

15 Jeff, did I get that all right?

16 MR. ROBERSON: That's what I have.

17 MR. SHERR: Great.

18 JUDGE DOYLE: Okay.

19 MR. SHERR: Hopefully, I didn't go through
20 that too quickly, but I will follow up.

21 JUDGE DOYLE: I think I got it all, but I do
22 appreciate having it in writing just to confirm that I
23 got it all down correctly. Okay. Thank you. We will
24 confer about that and, obviously, release our decision
25 in the prehearing conference order.

1 One question I have -- so CenturyLink sought, in
2 the petition, alternative relief in Docket UT-130477.
3 Was there a vision of the timing of that relief, or are
4 you requesting an order immediately granting that sort
5 of conditional alternative relief, or are you content
6 to wait until later in the proceeding here? I realize
7 that there's a filing deadline on July 1st, which is
8 before the deadline for the final order in this docket,
9 so obviously it would need to be prior to July 1st.

10 MR. SHERR: Right. Yeah. I appreciate you
11 raising that question, as I had already forgotten, so
12 thank you for doing that. I don't believe -- I mean,
13 we'd certainly be interested to hear if other parties
14 have perspectives on the relief that we are requesting.
15 We're happy to rule upon that today. I don't think
16 there's an urgency that on July -- or excuse me, on
17 January 31st we know the answer to that question, but
18 probably in the near-ish term, we would like to have an
19 answer to that. As you indicated, July 1st is the
20 deadline, and we certainly want to be thinking about
21 that, if there is sort of a simultaneously running
22 obligation and deadline on this.

23 And, you know, just to be -- to briefly summarize,
24 you know, the goal here is to avoid us inadvertently
25 falling into rate-of-return regulation like it's 1958.

1 JUDGE DOYLE: Right.

2 MR. SHERR: And so that is -- that's the goal
3 that we're trying to simply avoid. We're not -- we're
4 not trying to kick the can down the road, as one might
5 suggest that we have done for the last few years, with
6 the -- in the AFOR proceeding.

7 We're simply trying to make sure that this -- this
8 proceeding can be resolved. We hope that it will be
9 approved as requested in the petition, but sometimes
10 that is not how things work out. Sometimes relief is
11 denied, sometimes conditions are imposed that we have
12 to decide whether we're going to agree to or not, and
13 we're simply trying to avoid there being a gap, because
14 I don't think there's anyone in the state who wants us
15 to return to full regulation. So that is the idea. If
16 there is a better way to do it, I'm all ears, but that
17 was the nature of the request.

18 JUDGE DOYLE: Does anybody else want to
19 comment -- any of the parties want to comment on that
20 aspect?

21 MR. ROBERSON: Speaking for Staff, I think
22 Staff doesn't see a need to address the issue
23 immediately. This proceeding might be over and done
24 with through settlement by that point, so it may just
25 be better to wait and see what happens.

1 JUDGE DOYLE: Anyone else? Public Counsel?

2 MR. O'NEILL: I don't have anything to offer
3 in terms of additional insight.

4 JUDGE DOYLE: Okay.

5 MR. SHERR: If I can just briefly respond to
6 Mr. Roberson. I understand that, and agree that we
7 don't have to resolve this today. If this case is
8 resolved, which I hope it is, prior to July 8th, then
9 the relief we're seeking would -- the alternative
10 relief we're seeking for purposes of the AFOR docket
11 would effectuate as well. So it would -- it would take
12 effect, and that is one of the contingencies really,
13 that is being -- I believe that is protected by that.

14 So it would be helpful from the Company's
15 perspective in the relatively near term to have an
16 understanding of whether it needs to simultaneously be
17 thinking of an AFOR proposal.

18 JUDGE DOYLE: Okay.

19 MR. SHERR: Thank you.

20 JUDGE DOYLE: We'll take that all under
21 advisement. I'm not going to make a decision on it
22 today, but, yeah, we will consider everyone's comments
23 and thoughts on that. I'm also cognizant of the fact
24 that, you know, ideally, and we always hope and
25 encourage a settlement will happen, and then it would

1 be a non-issue.

2 Okay. Judge Kopta, do you have anything else you
3 would like to address today?

4 JUDGE KOPTA: No. I think that covers the
5 waterfront.

6 JUDGE DOYLE: Okay. Thank you. Anyone else?
7 Any of the parties have anything else they would like
8 to address before we go off the record and adjourn?

9 All right. Hearing nothing, I think we're
10 finished and adjourned. Thank you all very much.

11 MR. SHERR: Thank you, Judge.

12 MR. ROBERSON: Thank you.

13 MR. O'NEILL: Thank you.

14 (Hearing adjourned.)

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C E R T I F I C A T E

STATE OF NEW HAMPSHIRE)
) SS
COUNTY OF MERRIMACK)

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IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of February, 2024.

Jan-Marie Glaze



JAN-MARIE GLAZE, RPR, WA CCR 2491