

**BEFORE THE WASHINGTON
UTILITIES & TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,

Complainant,

v.

QWEST CORPORATION D/B/A
CENTURY LINK QC

Respondent.

DOCKET UT-171082

CROSS-ANSWERING TESTIMONY OF SUSAN M. BALDWIN

ON BEHALF OF PUBLIC COUNSEL

EXHIBIT SMB-11T

JULY 3, 2018

CROSS-ANSWERING TESTIMONY OF SUSAN M. BALDWIN

EXHIBIT SMB-11T

DOCKET UT-171082

TABLE OF CONTENTS

- I. INTRODUCTION / SUMMARY 1
- II. CENTURYLINK’S RESPONSE TESTIMONY..... 1
 - A. Overview of CenturyLink’s Response Testimony..... 1
 - B. Competition and Its Impact on CenturyLink’s Revenues Have No Bearing on the
Complaint at Issue In this Proceeding 3
 - C. Federal Universal Service Fund Support and Federally Established Obligations to Serve. 7
 - D. Extension of Service 12
 - E. Penalties 15
- III. CONCLUSION 17

1 **I. INTRODUCTION / SUMMARY**

2 **Q: Are you the same Susan M. Baldwin who submitted testimony on**
3 **June 1, 2018, on behalf of the Public Counsel Unit of the Attorney General's**
4 **Office?**

5 A: Yes.

6 **Q: Are you sponsoring exhibits with this cross-answering testimony in addition**
7 **to those that you included with your response testimony?**

8 A: No.

9 **Q: What is the purpose of your cross-answering testimony?**

10 A: I respond to the testimony sponsored by Philip E. Grate, on behalf of Qwest
11 Corporation d/b/a CenturyLink QC (CenturyLink or Company), which was
12 submitted to the Washington Utilities and Transportation Commission's (WUTC
13 or Commission) on June 1, 2018.

14 **Q: Please summarize your cross-answering testimony.**

15 A: I first identify and discuss those issues raised by Mr. Grate that, in my view, have
16 no bearing on the complaint at issue in this case. I then discuss what I believe to
17 be the crux of the case. Finally, I address Mr. Grate's testimony regarding
18 penalties.

19 **II. CENTURYLINK'S RESPONSE TESTIMONY**

20 **A. Overview of CenturyLink's Response Testimony**

21 **Q: What, in your view, are the major points in CenturyLink's response**
22 **testimony?**

23 A: Mr. Grate asserts that, in refusing to extend service at no charge to Robert Saum,

1 CenturyLink did not violate statutory and Commission requirements
2 (RCW 80.36.090 and WAC 480-120-071) because, according to Mr. Grate, the
3 line extension rule does not apply to developments. By implication, Mr. Grate
4 contends that Mr. Saum's residence should be considered a development and,
5 therefore, ineligible for a line extension.¹ He further contends that "Staff's
6 complaint invents and applies its own definition of development."² Mr. Grate
7 also, in my view, seeks to inappropriately broaden the scope of this proceeding to
8 encompass public policy issues that, if addressed, should be deferred to a separate
9 proceeding. For example, he contends that "[t]he presence and effect of
10 competition is a crucial element to this case,"³ and "[t]he competitiveness of the
11 market for residential local exchange service in Washington" is important to an
12 understanding of the complaint at issue in this proceeding.⁴ As I explain below,
13 he raises arguments that the Commission explicitly dismissed when it adopted its
14 line extension rules. Finally, Mr. Grate disputes Staff's determination that the
15 Company violated the Commission's record retention rules.⁵

16 **Q: Does Mr. Grate's response testimony cause you to modify the analyses and**
17 **recommendations in your response testimony?**

¹ Response Testimony of Philip E. Grate on behalf of CenturyLink, Exh. PEG-1T at 3:4-8.

² Grate, Exh. PEG-1T at 3:9.

³ Grate, Exh. PEG-1T at 4:9.

⁴ Grate, Exh. PEG-1T at 3:16-20. See also, *id.*, at 4:1-2, in which Mr. Grate asserts that the impact of competition on CenturyLink's access lines and revenues is relevant to this case.

⁵ Grate, Exh. PEG-1T at 13:20-22.

1 A: No. Mr. Grate's testimony does not cause me to modify my analyses and
2 recommendations, which I describe in detail in my response testimony (Exhibit
3 SMB-1T). I address his major points below, and any silence on my part regarding
4 his testimony should not be viewed as agreement.

5 Although I cross-reference my response testimony in this testimony, I will
6 not repeat that testimony for efficiency.⁶ Therefore, this cross-answering
7 testimony should be considered along with my response testimony.

8 **B. Competition and Its Impact on CenturyLink's Revenues Have No**
9 **Bearing on the Complaint at Issue In this Proceeding**

10 **Q: Mr. Grate describes declining demand for the Company's access lines and**
11 **declining revenues,⁷ and represents these factors as providing "context"⁸ for**
12 **this proceeding. What impact do the changes in local markets have on this**
13 **proceeding?**

14 A: In my view, the portions of Mr. Grate's testimony that depict the status of local
15 competition and describe CenturyLink's revenues have no bearing on this
16 proceeding.⁹ It is my understanding that the scope of this proceeding concerns
17 whether CenturyLink complied with existing statutory and regulatory
18 requirements, and not whether changes in the structure of local markets have
19 affected the merits of these requirements.

⁶ Response Testimony of Susan M. Baldwin, Exh. SMB-1T and Exhs. SMB-2 through SMB-10.

⁷ Grate, Exh. PEG-1T at 4:19-6:6; Exhs. PG-2 through PG-5.

⁸ Grate, Exh. PEG-1T at 3:15.

⁹ See, e.g., Grate, Exh. PEG-1T at 3:16 – 4:2 and 4:19-6:6; Exhs. PG-2 through PG-5.

1 **Q: Are you persuaded by Mr. Grate’s contention that the language of**
2 **RCW 80.36.090 suggests the presence of competition makes an individual**
3 **like Mr. Saum no longer “reasonably entitled” to receive telephone service**
4 **from CenturyLink?¹⁰**

5 A: No. As I discuss in my response testimony, the Commission has explicitly
6 declined to limit the line extension rule to situations where no other eligible
7 telecommunications carrier (ETC) serves the location at which the consumer
8 applies for service.¹¹ This decision squarely puts the Company on notice that the
9 presence of competition could not be relied upon to justify refusal of service.
10 Instead, the Commission confirmed its preference for having companies file
11 location-specific waivers so that the Commission could consider whether an
12 exception to the rule was warranted. As I explained in my response testimony,
13 the Commission previously stated:

14 The Commission rejects the Industry Coalition’s proposed new
15 subsection (3)(d). The rule as drafted achieves a bright line standard
16 for companies concerning the obligation to construct a line
17 extension. Adding a waiver option would detract from this standard.
18 A company may seek a waiver under WAC 480-120-015 whenever
19 it thinks it appropriate and the Commission may consider any
20 pertinent information, including the existence of an ETC alternative,
21 without adding the suggested language.¹²

¹⁰ See, e.g., Grate, Exh. PEG-1T at 22:15-23.

¹¹ Exh. SMB-1T at 10:15-17 (citing *In re: Amending WAC 480-120-071 and WAC 480-120-103 Relating to Extension of Service and Application for Service*, Docket UT-073014, General Order R-551: Order Amending and Adopting Rules Permanently ¶ 28 (Sept. 3, 2008)).

¹² Exh. SMB-1T at 21:1-19 (citing *In re: Amending WAC 480-120-071 and WAC 480-120-103 Relating to Extension of Service and Application for Service*, Docket UT-073014, General Order R-551: Order Amending and Adopting Rules Permanently ¶ 28 (Sept. 3, 2008)).

1 The Company never requested a waiver and should not be deemed eligible to
2 receive one retroactively. It is hard to construct an interpretation of the
3 Commission’s directive that would allow the Company *first* to refuse service and
4 *then* to seek a waiver to do so.¹³ CenturyLink’s attempt to rely on the presence of
5 competition to justify its denial of service to Mr. Saum is misplaced.

6 Moreover, Mr. Grate’s characterization of local markets as “brutally
7 competitive”¹⁴ is inconsistent with Comcast and CenturyLink’s actions to
8 implicitly carve up the market. CenturyLink relies, in part, on the fact that
9 Comcast serves Anna Marie Lane to justify CenturyLink’s unwillingness to offer
10 a competing service to Mr. Saum.¹⁵

11 **Q: What else persuades you that the qualifying language “reasonably entitled”**
12 **does not permit the incumbent local exchange carrier (ILEC) to withhold**
13 **service because a competing carrier offers service to the prospective**
14 **customer?**

15 A: As I read it, RCW 80.36.090 describes a broad common carrier obligation – the
16 obligation to serve on reasonable terms, without unreasonable discrimination.
17 Factors that would make a customer not “reasonably entitled” to receive service
18 are relatively few, and might include being too far outside of the ILEC’s service

¹³ Later in his testimony, Mr. Gates indicates that CenturyLink did not seek an exemption because it “had no reason to seek exemption from the extension of service rule because, by its own terms, it does not apply in developments, such as Anna Maria Lane Subdivision.” Exh. PEG-1T at 29:5-8. This argument is distinct, however, from Mr. Grate’s discussion of the presence of an alternative provider of service and does not affect the irrelevance of competition to this proceeding.

¹⁴ Grate, Exh. PEG-1T at 4:13.

¹⁵ Grate, Exh. PEG-1T at 22:6-14.

1 territory, for instance, or possibly being a customer who has repeatedly failed to
2 pay his or her bill. Otherwise, the presumption of being a common carrier (and an
3 ILEC with a defined service territory)¹⁶ is that the provider holds itself out to
4 serve everyone within the service territory. The line extension rule bears directly
5 on the standard of reasonableness in RCW 80.36.090 by making explicit that the
6 provider does not have to bear the entire cost of connecting a new customer at a
7 location more than 1000 feet from existing facilities.

8 Of course, at the time RCW 80.36.090 was enacted, there was no local
9 competition, so the notion that the presence of a competitor would relieve
10 CenturyLink of its obligation to serve (or, as Mr. Grate suggests, cause the
11 prospective customer to lose the entitlement to be served) could not have been
12 contemplated. As I noted above, by requiring a situation-specific waiver of the
13 line extension rule rather than an automatic exemption based on the presence of
14 another ETC, the Commission has indicated that competition does not provide
15 CenturyLink with immunity from its obligation to extend service to new
16 customers.

17 **Q: How do you respond to Mr. Grate’s contention that the “reasonably entitled”**
18 **standard requires the Commission to consider the “totality of**
19 **circumstances”?¹⁷**

¹⁶ See, e.g., Wash. Utils. & Transp. Comm’n, UTC Telecom Exchange Map 2017, <https://www.utc.wa.gov/regulatedIndustries/utilities/Documents/UTC%20Telecom%20Exchange%20Map%20Mar%2028%2c%202017.pdf> (last visited Jun. 27, 2018).

¹⁷ Grate, Exh. PEG-1T at 22:22-23.

1 A. Mr. Grate's intention when he refers to the "totality of circumstances" is unclear.
2 In any case, as I have discussed, the Commission specifically declined to adopt a
3 blanket exception to the line extension rule for situations where a competitor is
4 present.

5 **Q: Mr. Grate also, by way of background and context, briefly describes the**
6 **alternative form of regulation (AFOR) under which the Company operates.¹⁸**
7 **Have you addressed the relationship of the AFOR to this proceeding?**

8 A: Yes. In my response testimony, I explain that although CenturyLink's obligations
9 have been partially modified by the terms of the Alternative Form of Regulation
10 (AFOR) the Commission adopted in Docket UT-130477, the modifications do not
11 relax CenturyLink's service obligation, particularly in the case of residential voice
12 service customers.¹⁹

13 **C. Federal Universal Service Fund Support and Federally Established**
14 **Obligations to Serve**

15 **Q: What, according to CenturyLink, is the relationship of federal universal**
16 **service support to this case?**

17 A: Mr. Grate asserts that inasmuch as CenturyLink does not receive high cost
18 support for the census block in which the Anna Marie Lane homes are located,
19 CenturyLink does not have a federal high cost obligation to provide voice service
20 in that census block.²⁰ In support of this claim, he points to a Public Notice

¹⁸ Grate, Exh. PEG-1T at 6:8-14.

¹⁹ Baldwin, Exh. SMB-1T at 9:2-5. See also Exh. SMB-1T at 9 n.9.

²⁰ Grate, Exh. PEG-1T at 18:19-23. See also Exh. PG-10, in which Mr. Grate includes excerpts from the FCC's July 23, 2015 Public Notice.

1 released by the Federal Communications Commission (FCC) in July 2015²¹ and
2 provides excerpts from that document.

3 **Q: What was the purpose of the FCC’s Public Notice?**

4 A: The Public Notice implements part of the FCC’s *December 2014 Connect*
5 *America Order*.²² While Mr. Grate’s excerpt from the Public Notice captures that
6 scope of the FCC’s forbearance from the requirements of Section 214(e)(1)(A)
7 (obligations added to Section 214 under the 1996 Telecommunications Act to
8 bolster the FCC’s ability to ensure that recipients of universal service support
9 offer the supported services “universally”), he omits other important language
10 from the 2014 Order. The FCC explicitly limits the scope of the forbearance to
11 Section 214(e)(1)(A), making certain to point out that key provisions of the
12 Communications Act of 1934, as amended, along with obligations under state
13 law, still apply.

14 Thus, in paragraph 58 (excerpted below), the FCC states that price cap
15 carriers will continue to be subject to sections 201 and 202 of the Act. Sections
16 201 and 202 are the foundation obligations of common carriers to provide service
17 “upon reasonable request,”²³ providing that “[a]ll charges, practices,

²¹ FCC, Public Notice, DA 15-851, Wireline Competition Bureau Releases List of Census Blocks where Price Cap Carriers Still Have Federal High-Cost Voice Obligations & Seeks to Refresh the Record on Pending Issues Regarding Eligible Telecommunications Carrier Designations and Obligations, WC Docket Nos. 10-90, 14-192, 11-42 and 09-197 (Jul. 23, 2015), available at https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwjY4I6X4fTbAhWJiVQKHf-yDaQQFggnMAA&url=https%3A%2F%2Fapps.fcc.gov%2Fedocs_public%2Fattachmatch%2FDA-15-851A1_Rcd.pdf&usg=AOvVaw3KK1_DK6zCyHKDpBskAzg0.

²² See Exh. PG-10, ¶ 2. Paragraph 2 cites to *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, 29 FCC Rcd 15644, 15663-71 ¶¶ 50-70 (2014) (hereinafter “December 2014 Connect America Order”).

²³ 47 U.S. Code § 201(a).

1 classifications, and regulations for and in connection with such communication
2 service, shall be just and reasonable,”²⁴ and making it “unlawful for any common
3 carrier to make any unjust or unreasonable discrimination in charges, practices,
4 classifications, regulations, facilities, or services for or in connection with like
5 communication service.”²⁵

6 Additionally, the FCC’s Order defers to states to ensure that the local rates
7 in those areas in which the FCC has decided to forbear are just and reasonable;
8 and requires price cap carriers that seek to cease offering voice service pursuant to
9 the forbearance granted in Section 214(e)(1)(a) to be subject to the section 214(a)
10 discontinuance process. In other words, while forbearance means that the FCC
11 will not (in specific cases) be enforcing the supplementary obligation imposed by
12 Section 214(e)(A)(1) obligating an ETC that received high cost support to make
13 the supported service universally available, such forbearance does not eliminate
14 the ETC’s service obligations under other applicable state and federal law.

15 Specifically, the FCC states in paragraph 58 (emphasis added, footnotes omitted):

16 Moreover, in all the census blocks where we grant forbearance, the
17 price cap carrier will remain subject to other Title II requirements
18 that ensure that voice telephony rates remain just and reasonable and
19 not unjustly or unreasonably discriminatory. *Price cap carriers will*
20 *continue to be subject to sections 201 and 202 of the Act*, which
21 *place nondiscrimination obligations on common carriers.*
22 *Additionally, we defer to the states’ judgment in assuring that the*
23 *local rates that price cap carriers offer in the areas from which we*
24 *forbear remain just and reasonable.* It also is reasonable to expect
25 that the rates that price cap carriers charge in these areas for voice
26 telephony will constrain the rates of other providers. *And finally, in*
27 *the event that the price cap carrier seeks to cease offering voice*

²⁴ 47 U.S. Code § 201(b).

²⁵ 47 U.S. Code § 202(a).

1 *telephony in these areas, it will be subject to the section 214(a)*
2 *discontinuance process that we address more fully below, during*
3 *which any concerns that may be raised by the price cap carrier's*
4 *decision to cease offering voice service can be addressed if*
5 *necessary. We conclude that these circumstances ensure just,*
6 *reasonable, and nondiscriminatory offerings in the areas where we*
7 *grant forbearance. For these reasons, we find that the first prong of*
8 *section 10(a) is met.*²⁶

9 **Q: Do the common carrier obligations described above differ between existing**
10 **service locations and new locations within the ILEC's service territory?**

11 A: No. In fact, Section 201 specifically contemplates a request for new service,
12 rather than the continuation of existing service. Moreover, Anna Marie Lane is
13 part of CenturyLink's existing territory, and a request to relinquish all or part of a
14 service territory would have to be reviewed by the FCC under 214(a).

15 **Q: Please summarize your points regarding CenturyLink's federal obligations**
16 **to offer voice service.**

17 A: Mr. Grate's statement that "[b]ecause the [Federal Universal Service Fund] no
18 longer provides high-cost support for local exchange telephone service the FCC
19 has relieved price cap carriers such as CenturyLink QC of the obligation to
20 provide voice telephony service in most census blocks in Washington, including

²⁶ *December 2014 Connect America Order* ¶ 58. See also, *id.* ¶ 60, stating (footnotes omitted):

First, there are several safeguards that will prevent the consumers living in these areas from losing access to voice telephony services. Not enforcing the high-cost ETC obligation of price cap carriers to offer voice telephony services in these areas does not mean that price cap carriers can immediately cease providing voice telephony service. Pursuant to section 214(a) of the Act and section 63.71 of the Commission's rules, all carriers must provide notice to their customers and the relevant states in writing that they plan to discontinue service and then file an application with the Commission before discontinuing voice telephony service in an area.

1 the census block where this subdivision is located”²⁷ presents an incomplete
2 picture of CenturyLink’s federal obligations.

3 I agree that as a result of the FCC’s forbearance from enforcing Section
4 214(e)(1)(a), CenturyLink has been relieved of the supplemental obligation
5 arising under that section, i.e., to offer the services subject to high-cost support in
6 areas that meet the criteria described in the Public Notice.²⁸ However, the FCC
7 carefully preserves all elements of the pre-existing common carrier framework
8 regarding price cap carriers’ (i.e., large ILECs’) service obligations. The FCC
9 also specifically relies on the states to ensure that reasonable conditions for
10 obtaining service are not disrupted by the FCC’s forbearance.

11 **Q: Does the FCC’s December 2014 Connect America Order limit states’**
12 **independent authority to require ILECs to offer voice service throughout**
13 **their ETC service areas?**

14 A: No. The FCC was quite explicit in preserving the authority of the states with
15 respect to ETCs and the designation of their service areas. Among other things,
16 the FCC states:

17 We do not take the further steps suggested by some commenters of
18 reinterpreting section 214(e)(1) to sunset all existing ETC
19 designations and require states to re-designate ETCs so that their
20 service areas include only high-cost funded areas, imposing rules on
21 state ETC designations, adopting a federal process to redefine
22 service areas, or preempting states. ... Our decision to grant limited
23 forbearance does not redefine price cap carriers’ service areas or
24 revoke price cap carriers’ ETC designations in these areas, and we
25 emphasize that it does not preempt price cap carriers’ obligation to

²⁷ Grate, Exh. PEG-1T at 28:16-19.

²⁸ 47 U.S. Code § 214 - Extension of lines or discontinuance of service; certificate of public convenience and necessity.

1 continue to comply with any state requirements, including carrier of
2 last resort obligations to the extent applicable.²⁹

3 **D. Extension of Service**

4 **Q: Ms. Baldwin, what is your understanding of the purpose of this proceeding?**

5 A: In my view, the crux of the case concerns the interpretation of the Commission's
6 line extension rule, specifically, whether that rule, which establishes key criteria
7 for a "reasonable" request for service within CenturyLink's service territory,
8 applies to Mr. Saum's situation. As I demonstrate in my response testimony,
9 CenturyLink has failed to comply with existing requirements to furnish service to
10 Mr. Saum.

11 **Q: Mr. Grate contends that the Commission's extension of service rule does not**
12 **apply in Mr. Saum's case and that the Company properly followed its**
13 **process for the Provisioning Agreement for Housing Developments**
14 **(PAHD).³⁰ What is Mr. Grate's rationale for that position?**

15 A: Mr. Grate states:

16 In general, and as discussed in more detail below, the extension of
17 service rule does not mandate that CenturyLink QC provide
18 telephone service in this case. This is because the service requested
19 is in a development, and the rule has a specific exception which
20 excludes developments from being eligible for service under the
21 rule. Furthermore, Staff is incorrect in its suggestion that
22 CenturyLink QC fails to follow its PAHD process, or that
23 CenturyLink QC should have installed facilities in this development
24 without a PAHD.³¹

²⁹ December 2014 Connect America Order ¶ 67 (footnotes omitted).

³⁰ Grate, Exh. PEG-1T at 10:17-22.

³¹ Grate, Exh. PEG-1T at 10:17-22.

1 Mr. Grate quotes from the line extension rule: “Extension of service, as defined
2 in this rule, does not apply to extensions of service to developments or to
3 extensions of service for temporary occupancy or temporary service,” and asserts
4 that “[b]ecause the applicant resides in a development, and the developer did not
5 comply with CenturyLink QC’s process to enable CenturyLink QC to deploy
6 facilities in the development, the extension of service rule does not apply to the
7 applicant.”

8 As I understand Mr. Grate’s testimony, the essence of his position is that
9 Mr. Saum lives in a development and therefore his request for service is exempt
10 from the line extension rule.

11 **Q: Do you agree with Mr. Grate?**

12 A: No. Many homes in ILECs’ service territories may have originated as newly
13 constructed developments. The construction is now in the past, the homes have
14 been developed, and service has been requested. To exclude all homes that once
15 were newly developed as part of subdivisions from CenturyLink’s obligation to
16 serve would undermine the principle of universal service, and inappropriately
17 erode CenturyLink’s common carrier obligations.

18 Although I cannot speak to the Commission’s specific intent when it
19 adopted its line extension rule, in my view, for the reasons I set forth in detail in
20 my response testimony, Mr. Saum’s request triggered the Commission’s line
21 extension rule (WAC 480-120-071). CenturyLink failed to comply with that rule

1 and also failed to comply with the statutory requirement to furnish telephone
2 service as demanded (RCW 80.36.090).³²

3 **Q: How do you respond to Mr. Grate’s point that the “complaint substitutes its**
4 **own definition, ‘land that is being developed,’ for the actual definition in the**
5 **rule, ‘land which is divided...into four or more lots’”³³ and his subsequent**
6 **point that “if the validity of that definition evaporates after the properties**
7 **are sold, then the exemption for developments will be meaningless”?**³⁴

8 A: WAC 480-120-071 defines development as “land which is divided or is proposed
9 to be divided for the purpose of disposition into four or more lots, parcels, or
10 units.” The development has been completed and the location in question is now
11 a home fewer than 152 feet from CenturyLink’s network. The PAHD tariff
12 applies to negotiations between developers and CenturyLink, but should not be
13 interpreted to prevent a resident from obtaining telephone service within the
14 boundaries of an ILEC’s service territory.

15 Regarding Mr. Grate’s second point, in my response testimony I explain
16 why, contrary to his assertion, the exemption for developments is not meaningless
17 and, instead, the PAHD tariff provides an opportunity for developers to enhance
18 the marketability of subdivisions.³⁵

³² Baldwin, Exh. SMB-1T at 14:3-23:12.

³³ Grate, Exh. PEG-1T at 12:18-19.

³⁴ Grate, Exh. PEG-1T at 13:5-7.

³⁵ Baldwin, Exh. SMB-1T at 18:18-19:7.

1 **E. Penalties**

2 **Q: Mr. Grate contends that the Company should not be subject to any**
3 **penalties.³⁶ Please summarize briefly your understanding of his reasoning on**
4 **this point.**

5 A: Mr. Grate make several points regarding Staff’s recommended imposition of
6 penalties for the Company’s non-compliance with statutory and regulatory
7 requirements. He asserts that the Company complied with RCW 80.36.090 and,
8 therefore, no penalty should be assessed for violations of that statute.³⁷ Similarly,
9 Mr. Grate asserts that the Company complied with the line extension rule and,
10 therefore, no penalty should apply for violation of that rule.³⁸

11 Mr. Grate contends that the Company did not violate the records retention
12 rule because, according to Mr. Grate, WAC 480-120-349 refers to records
13 “required by ‘these rules or commission order’ for three years, not ‘all’ records
14 generally”; Staff did not point to any rule requiring retention of records
15 concerning service denials in no-build developments, and therefore the records
16 retention rule does not apply nor could the Company have known they would
17 apply, and therefore no penalty should apply.³⁹

18 He also contends that the Company did not violate WAC-120-166, and
19 therefore, no penalty should apply because, according to Mr. Grate, the Company

³⁶ Grate, Exh. PEG-1T at 27:5-30:20.

³⁷ Grate, Exh. PEG-1T at 27:13-20.

³⁸ Grate, Exh. PEG-1T at 28:1-29:10.

³⁹ Grate, Exh. PEG-1T at 29:11-21.

1 does retain records of Commission-referred complaints for at least two years and
2 that when the Company had stated that it kept complaint records going back only
3 to early January 2016, the Company had been “referring to a searchable database
4 of both internal and Commission-referred complaints, and where the search
5 parameters are categorized by the type of issue complained of as opposed to
6 specific customer-identifying information such as phone number, name, or
7 address.” Mr. Grate asserts that the Company did not violate WAC 480-120-166
8 because it retains records for Commission-referred complaints about rates and
9 service for at least two years.⁴⁰

10 **Q: Please respond to Mr. Grate’s arguments.**

11 A: For the reasons that I discuss in my response testimony and in this
12 cross-answering testimony, the Commission should find that the Company
13 violated RCW 80.36.090 and WAC 480-120-071 and, accordingly, penalties
14 should apply. Mr. Grate’s testimony regarding its retention of information does
15 not address the points that I discuss in my response testimony, which demonstrate
16 that the Company also violated WAC-120-349⁴¹ and WAC 480-120-166.⁴² As a

⁴⁰ Grate, Exh. PEG-1T at 30:1-20.

⁴¹ Baldwin, Exh. SMB-1T at 25:4-26:9. As I explain in my response testimony, Part VIII of the Commission’s rules for telephone companies (Chapter 480-120) encompasses various rules for “financial records and reporting,” one of which concerns retaining and preserving records and reports (WAC 480-120-349). CenturyLink’s actions regarding denial of service has financial implications for the Company, including avoided cost and foregone revenues. Therefore, records of such requests and denials should be included in CenturyLink’s record-keeping system.

⁴² Mr. Grate’s answer testimony “splits hairs” when he contends that the Company *did* retain records of consumer complaints but was unable to conduct an issue-specific search on them. It is reasonable to expect the Company to be able to search a database of complaints based on the issue in question so that it can address issue-specific concerns with its customer service; by contrast, a mere stockpiling of unsearchable consumer complaints offers little value to CenturyLink or to the Commission. Moreover, if CenturyLink is

1 result, penalties should also apply for these violations. In sum, the Commission
2 should penalize CenturyLink as follows:

- 3 • \$1,000 per day for each of the 174 days the Company violated
4 RCW 80.36.090 by refusing to provide service on demand.
- 5 • \$1,000 for one violation of WAC 480-120-071(3) for failing to provide a
6 customer an application for extension of service within seven days.
- 7 • \$1,000 per day for each of the 174 days the Company violated
8 WAC 480-120-071(4) by failing to allow an extension of service up to
9 1,000 feet at no charge to the customer.
- 10 • \$1,000 for one violation of WAC 480-120-349, for failing to keep all
11 records and reports for three years.
- 12 • Up to \$1,000 for one violation of WAC 480-120-166, for failing to keep
13 Commission-referred complaints for at least two years.

14 III. CONCLUSION

15 **Q: Please summarize your cross-answering testimony.**

16 A: My review of Mr. Grate's response testimony does not alter the analyses and
17 recommendations that I set forth in detail in my response testimony. The
18 Commission should hold CenturyLink accountable for providing service to
19 Mr. Saum as requested. Because CenturyLink failed to provide the requested
20 service and failed to maintain proper records, the Commission should impose the
21 penalties identified above.

truly interested in competing effectively in local markets, one could reasonably expect it to be able to analyze readily the issues that are the focus of consumer complaints.

1 **Q: Does this conclude your cross-answer testimony?**

2 A: Yes.