

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

CENTURYLINK COMMUNICATIONS,  
LLC,

Respondent.

**DOCKET NO. UT-181051**

**RESPONDENT CENTURYLINK  
COMMUNICATIONS, LLC'S  
MOTION FOR THIRD-PARTY  
DISCOVERY**

1. CenturyLink Communications, LLC (“CLC”), by and through its undersigned counsel, respectfully requests that the Commission issue subpoenas to two third-parties: TeleCommunication Systems, Inc. d/b/a Comtech Telecommunications Corp. (“Comtech”) and Transaction Network Services, Inc. (“TNS”). Both Comtech and TNS (a) have registered agents in the State of Washington and thus fall within the Commission’s subpoena power, and (b) possess information central to this dispute that CenturyLink cannot obtain from any other source. The requested subpoenas, which are attached as Exhibits A through D, thus fall squarely within the Commission’s discovery rules.
2. CLC respectfully requests that the Commission issue the attached subpoenas, which CLC will then serve on Comtech and TNS.

**I. BACKGROUND**

3. On December 27, 2018, an outage was experienced on portions of the 911 network in, among other places, the State of Washington. This outage led to some 911 calls not completing. After the outage, CenturyLink cooperated with the Federal Communications

Commission in an effort to bring to light the facts that led to this outage. While the 911 outage was an outgrowth of a network outage on CLC's national transport network, the transport network outage was not the proximate cause of the 911 failures in Washington. It appears as though those failures may have instead been due to the network design of the state's primary 911 provider at the time – Comtech.

4. At the time of the outage, the State of Washington was in the process of transitioning responsibility for 911 calling to Comtech. At the time of the outage, Comtech was responsible for routing calls to 47 of Washington's Public Safety Answer Points (PSAPs), and CenturyLink retained responsibility to route calls to Washington's 15 remaining PSAPs. During the December 2018 event, 911 calls to the CenturyLink PSAPs completed, but some calls to the Comtech PSAPs did not. The reason why CenturyLink's 911 calls completed, and some of Comtech's 911 calls did not, may be due to Comtech's failure to follow industry standards for delivering 911 calls. In addition, the design and maintenance of CLC's national fiber network was well within industry standards, and the issues that occurred on that network were not foreseeable or replicable.
5. Providers of 911 services are supposed to design their networks to ensure they provide service utilizing diverse SS7 links and audit their networks to ensure SS7 link diversity at least twice per year. The obvious reason for route diversity is to ensure that if one SS7 link goes down, an alternative SS7 link is available to set up and appropriately route the 911 call. Based on information available to CLC, it appears that Comtech may not have designed its 911 network to ensure diversity on its SS7 links, which may have led directly to dropped 911 calls in Washington in December 2018.
6. Comtech utilized TNS to provide Comtech's SS7 services in support of Comtech's 911 services in Washington. Specifically, TNS provided the SS7 links used to establish call

setup for the emergency services voice trunk connecting the CenturyLink and Comtech 911 networks. Comtech was responsible to design, deploy and maintain its 911 network and the SS7 network used to support 911 calling in Washington. It does not appear that Commission Staff, prior to filing the formal complaint herein, fully investigated Comtech's network design. As such, neither Staff nor CLC possess complete information. Based on available records, CLC believes the following to be true: TNS submitted orders to CLC for dedicated facilities to use as SS7 links, but did not inform CLC that these circuits would be used to provide SS7 service and/or to support 911 services. Likewise, TNS did not ask CLC to ensure diversity for these circuits. In addition, the dedicated facilities that TNS used as SS7 links on behalf of Comtech were all deployed by TNS on the same CLC transport network, and possibly even the same network ring or even the same host DS3 circuit. As such, when there was a problem experienced on affected the CLC transport network in December 2018, all of TNS's SS7 links experienced the same problem. If Comtech had followed industry guidelines, its twice-per-year validations should have uncovered this apparent lack of diversity, and should have led Comtech to modify its network.

7. Therefore, information concerning Comtech's/TNS's SS7 circuit diversity (or lack thereof) is necessarily related to the outage. It is also unobtainable absent a subpoena, as the information is within the exclusive possession, custody, and control of Comtech and TNS. TNS orders numerous circuits from CLC, and needs, among other things, to confirm (through third party discovery) which specific circuits it leased from CLC to provide SS7 functionality to Comtech.

## II. ARGUMENT

8. Pursuant to the Prehearing Conference Order served on February 24, 2021 (Order 01), discovery is to be conducted pursuant to the Commission's discovery rules, WAC 480-07-400–425. The Commission's discovery rules provide that “[s]ubpoenas are available as a means of discovery as provided in Title 80 ... RCW and chapter 34.05 RCW.” WAC 480-07-400(a).
9. Title 80 authorizes the issuance of a subpoena “for the attendance of witnesses and production of papers, books, accounts, documents, and testimony in any inquiry, investigation, hearing, or proceeding in any part of the state.” WAC 80.04.020. *See also* RCW 80.01.060(1). Similarly, Chapter 34.05 permits the issuance of subpoenas and provides for the enforceability thereof. *See* RCW 34.05.466.
10. The discovery rules also provide that “[t]he presiding officer may approve the deposition of a person who has not been identified as a potential witness on a finding that the person appears to possess information that is necessary to the party's case, the information cannot reasonably be obtained from another source, and the probative value of the information outweighs the burden on the person proposed to be deposed.” WAC 480-07-410(1).
11. In accordance with these statutes and rules, CLC seeks third-party discovery in the form of subpoenas for documents and deposition testimony from Comtech and TNS.
12. As detailed above, in December 2018 only those 911 calls to Comtech's PSAPs failed to complete, whereas the 911 calls to CenturyLink's PSAPs completed. Thus, information and documents from Comtech concerning the design of the network used to provide its 911 services within the State of Washington are central to the issues in this case, and the probative value of the information far outweighs any known burden. Moreover, the

information cannot be reasonably obtained from any other source. CLC has contacted Comtech to request the information informally, but Comtech has not responded to CLC's requests. *See* Declaration of Charles W. Steese, attached as Exhibit E.

13. Similarly, information and documents from TNS regarding transmission of calls and/or signaling used to pass call processing information to Comtech's PSAPs is necessary to understand the 911 outage, and the probative value of the information outweighs any known burden. Moreover, the information is within the exclusive possession of TNS, as TNS was the entity implementing the design of the SS7 network supporting Comtech's PSAPs. CLC also contacted TNS and requested the information informally, and TNS likewise did not cooperate with CLC's request. *See* Declaration of Adam Sherr, attached as Exhibit F.

14. Thus, CLC has tried to obtain this information through the only other vehicle available to it other than these subpoenas; namely, informal discovery directly to Comtech and TNS. Those attempts have not been fruitful.

15. Having no other vehicle to obtain this information, CLC respectfully requests that Commission issue the subpoenas to Comtech and TNS attached to this Motion as Exhibits A through D.

16. CLC has attempted to confer with the other parties regarding this motion. Staff responded that it opposes the motion (without explaining why). Public Counsel has not yet taken a firm position, and the Washington Military Department did not respond.

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### III. CONCLUSION

17. For the foregoing reasons, and pursuant to Order 01 and the Commission's discovery rules, CLC hereby respectfully moves for third-party discovery in the form of subpoenas for deposition testimony and documents from Comtech and TNS.

Dated this 9<sup>th</sup> day of July 2021.

CENTURYLINK COMMUNICATIONS, LLC



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