

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

v.

CENTURYLINK COMMUNICATIONS
LCC d/b/a LUMEN TECHNOLOGIES
GROUP; QWEST CORPORATION;
CENTURYTEL OF WASHINGTON, INC.;
CENTURYTEL OF INTER ISLAND, INC.;
CENTURYTEL OF COWICHE, INC.;
UNITED TELEPHONE COMPANY OF
THE NORTHWEST

DOCKET UT-210902

**UNOPPOSED MOTION TO
PROCEED ON PAPER RECORD AND
VACATE EVIDENTIARY HEARING**

I Pursuant to WAC 480-07-375(b) and (d), CenturyLink Communications LLC d/b/a Lumen Technologies Group; Qwest Corporation; CenturyTel of Washington, Inc.; CenturyTel of Inter Island, Inc.; CenturyTel of Cowiche, Inc., and United Telephone Company of the Northwest (collectively, “Lumen”) and Staff of the Washington Utilities and Transportation Commission (“Staff”) (collectively, “Moving Parties”) hereby move to (1) proceed on a paper record for the remainder of this proceeding, and (2) vacate the evidentiary hearing currently scheduled for March 24, 2023. The Public Counsel Unit of the Washington Attorney General’s Office (“Public Counsel”) has informed Staff and Lumen that it does not oppose this motion. Lumen, Staff, and Public Counsel represent all parties who have appeared in this proceeding.

I. BACKGROUND FACTS AND RELIEF REQUESTED

2 On April 6, 2022, the Washington Utilities and Transportation Commission (“Commission”) issued a complaint (“Complaint”) alleging that Lumen violated WAC 480-120-172(3)(a) by disconnecting service to a total of 923 customers during the period between March 23, 2020, and September 30, 2021, when the Governor’s Proclamation 20-23.2 was in effect. The Commission held a prehearing conference and issued an order setting a virtual evidentiary hearing for March 24, 2023. *See* Order 01 at ¶ 12. On July 29, 2022, the Commission issued Order 03, which granted Staff’s motion for partial summary determination of Lumen’s liability and declined Public Counsel’s request to expand the scope of allegations beyond those in the Complaint. Accordingly, the issue of liability has been resolved and the only remaining issue is a penalty determination. The parties subsequently engaged in discovery and filed written testimony pursuant to the schedule established in Order 01.

3 On March 3, 2023, counsel for Staff emailed counsel for Lumen and Public Counsel and indicated that Staff was comfortable asking the Commission to decide the remaining issue in this proceeding on a paper record. Lumen supports vacating the evidentiary hearing and agrees that proceeding with a paper record will conserve time and resources for all parties and the Commission. The Moving Parties therefore hereby request that the Commission vacate the evidentiary hearing scheduled for March 24, 2023, leaving in place the remaining processes and deadlines for cross-examination exhibits, exhibit lists, and briefing. The Moving Parties also

request that the Commission establish dates for (1) the parties to object to any proposed cross-examination exhibits, and (2) the presiding officer to rule on any such objections.¹

II. STATEMENT OF ISSUES

4 The Moving Parties raise the following issue for the Commission's determination:
Should the Commission dispose of the sole remaining issue in this proceeding on a paper record and vacate the evidentiary hearing when no party opposes such process and doing so conserves time and resources of the parties and the Commission?

III. EVIDENCE RELIED UPON

5 The Moving Parties rely on the existing record and documents on file with the
Commission in this docket.

IV. AUTHORITY AND ANALYSIS

6 State law and administrative rules provide guidance on minimum due process requirements. Under the Administrative Procedures Act, an agency must allow all parties an opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence. *See* RCW 34.05.437; RCW 34.05.449. The parties have been afforded the opportunity to provide direct and rebuttal evidence, and relying on a paper record for the remaining process in this case will not impede any parties' due process rights.

¹ In the event the Commissioners wish to examine any witnesses in this proceeding, the parties will of course make them available for oral cross-examination or will timely respond to any Bench Requests.

7 This unopposed motion is made pursuant to WAC 480-07-375(b) and (d), which authorize a party to request modification to an established procedural schedule and to make a request to limit or add to the evidentiary record in a proceeding. The Moving Parties hereby waive an evidentiary hearing and ask the Commission to decide this matter based on the paper record developed in this proceeding. The Moving Parties seek to conserve time and resources by waiving oral cross-examination for the sole remaining issue in this proceeding. By preserving opportunities to file and object to cross-examination exhibits and establishing a process for the presiding officer to rule on any such objections, the parties' due process rights will be preserved.

V. CONCLUSION

8 For the reasons stated above, the Commission should (1) vacate the evidentiary hearing scheduled for March 24, 2023, (2) set a deadline for objecting to cross-examination exhibits, (3) set a date for resolving any such objections, and (4) preserve the remaining procedural schedule so that the Commission may resolve the remaining issue in this case on a paper record.

Respectfully Submitted this 9th day of March, 2023.

ROBERT W. FERGUSON

Attorney General

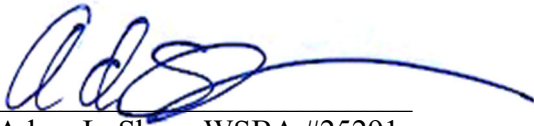
/s/ Jeff Roberson

Jeff Roberson, WSBA No. 45550
Assistant Attorney General Office of the
Attorney General
Utilities and Transportation Division
P.O. Box 40128
Olympia, WA 98504-0128
(360) 522-0614
jeff.roberson@utc.wa.gov

UNOPPOSED MOTION TO PROCEED
ON PAPER RECORD AND VACATE
EVIDENTIARY HEARING- 4

CENTURYLINK COMMUNICATIONS, LLC

PERKINS COIE LLP



Adam L. Sherr, WSBA #25291
Assistant General Counsel
1600 - 7th Ave., Room 1506
Seattle, WA 98191
206 398 2507
adam.sherr@lumen.com



Donna L. Barnett, WSBA #36794
10885 N.E. Fourth Street, Suite 700
Bellevue, WA 98004-5579
425 635 1400
dbarnett@perkinscoie.com

Attorneys for CenturyLink Communications, LLC
d/b/a Lumen Technologies Group