

**Exhibit No. \_\_\_ (SP-1T)**  
**Docket UT-140597**  
**Witness: Susie Paul**

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,**

**Complainant,**

**v.**

**QWEST CORPORATION d/b/a  
CENTURLINK QC,**

**Respondent.**

**DOCKET UT-140597**

**TESTIMONY OF**

**Susie Paul**

**STAFF OF  
WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION**

*Testimony in Support of Multiparty Settlement*

**October 13, 2015**

1  
2  
3 **I. INTRODUCTION**

4 **Q. Who is sponsoring this testimony?**

5 A. This testimony is sponsored by Susie Paul on behalf of the Staff of the Washington  
6 Utilities and Transportation Commission (Staff). It is intended to complement the  
7 testimony being filed in this docket today by CenturyLink QC (CenturyLink or  
8 Company). As used below, the term "Settling Parties" means Staff and CenturyLink.  
9 The term "Settling Parties" excludes the Public Counsel Unit of the Attorney  
10 General's Office (Public Counsel). Public Counsel intervened in this docket but has  
11 not joined the Settlement Agreement.

12 **Q. What is the purpose of the Settling Parties' testimony?**

13 A. Our testimony describes and supports all provisions of the Settlement Agreement  
14 filed with the Commission on September 10, 2015. The Settling Parties agree that the  
15 resolution of the Commission's complaint as reflected in the Settlement Agreement  
16 is consistent with the public interest and that the Settlement Agreement should be  
17 approved in full.  
18

19 **II. BACKGROUND**

20  
21 **Q. Please briefly describe the April 2014 911 outage.**

22 A. On April 9 and 10, 2014, Washington residents experienced a statewide 911 outage.  
23 The 911 system failed at 11:54 p.m., Pacific Daylight Time (PDT) on April 9, 2015,

1 and was restored by CenturyLink at 6:06 a.m., PDT, on April 10, 2014. The outage  
2 affected public safety answering points (PSAPs) in all 39 Washington counties. The  
3 outage therefore negatively impacted the health, safety, and welfare of all 6.9 million  
4 Washington residents. The outage also affected 911 services in California, Florida,  
5 Minnesota, North Carolina, South Carolina, and Pennsylvania.

6  
7 **Q. Please briefly describe Staff's investigation of the April 2014 outage.**

8 Between April and October 2014, Staff submitted approximately 80 data requests to  
9 CenturyLink. These data requests sought technical information regarding the April  
10 2014 outage and the state's 911 system. Staff received data request responses from  
11 CenturyLink and from the Company's network contractor, Intrado. Staff's  
12 investigation also included two in-person, full-day meetings with representatives  
13 from CenturyLink, Intrado, and the Washington Military Department.

14  
15 **Q. Please briefly summarize Staff's findings.**

16 Staff's investigation revealed that Intrado operated two Emergency Communications  
17 Management Centers (ECMC)—one in Englewood, Colorado, and one in Miami,  
18 Florida. During the April 2014 outage, the Colorado ECMC stopped processing  
19 certain 911 calls placed by Washington callers. Additionally, automatic traffic  
20 rerouting to the Florida ECMC did not occur as designed. During the outage,  
21 CenturyLink failed to provide timely notification to 51 Washington PSAPs  
22 (emergency call centers). In all, approximately 5,684 Washington 911 calls failed to  
23 reach public safety resources.

1 **Q. Did any other government agencies investigate the April 2014 outage?**

2 Yes. The Federal Communications Commission (FCC) conducted its own  
3 investigation of the April 2014 outage. The FCC considered the national impact of  
4 the outage. In April 2015, the FCC resolved its investigation by approving a Consent  
5 Decree entered into by the FCC's Enforcement Bureau and CenturyLink. A copy of  
6 the CenturyLink Consent Decree is attached as Exhibit SP-2. The FCC approved a  
7 separate Consent Decree between the Enforcement Bureau and Intrado. A copy of  
8 the Intrado Consent Decree is attached as Exhibit SP-3.

9  
10 **Q. Is the Settlement Agreement a "multiparty settlement" under WAC 480-07-**  
11 **730(3)?**

12 A. Yes. The Settlement Agreement filed on September 10, 2015, is a multiparty  
13 settlement involving Staff and CenturyLink. Public Counsel is a "nonsettling party."  
14

15 **Q. Please provide a brief overview of the Settlement Agreement.**

16 A. The Settlement Agreement has four primary elements: (1) stipulated facts;  
17 (2) admissions of liability; (3) a \$2,854,750 penalty; and (4) ongoing technical and  
18 reporting requirements.  
19

20 **III. STAFF TESTIMONY**

21  
22 **Q. Please state your name and business address.**

1 A. My name is Susie Paul. My business address is 1300 S. Evergreen Park Drive S.W.,  
2 P.O. Box 47250, Olympia, WA 98504.

3

4 **Q. By whom are you employed and in what capacity?**

5 A. I am employed by the Washington Utilities and Transportation Commission as a  
6 Compliance Investigator in the Consumer Protection and Communications Section.

7

8 **Q. How long have you been employed by the Commission?**

9 A. I have been employed by the Commission since April 16, 2013.

10

11 **Q. Would you please describe your educational and professional background?**

12 A. I have a Bachelor of Arts degree in criminal justice from St. Martin's University. I  
13 have more than ten years of experience as an investigator with the State of  
14 Washington in a regulatory capacity. I am a certified Washington state investigator  
15 and have completed the core and advanced trainings required of state investigators.  
16 These training are designed for investigators who regularly conduct civil  
17 administrative investigations dealing with regulations or misconduct. I am also a  
18 member of the Pacific Northwest License and Tax Fraud Association that provides  
19 continuing education for Washington investigators.

20

21 **Q. How did you become familiar with the matters in this proceeding?**

22 A. I was assigned to work with the Commission's Telecommunications Staff to  
23 investigate whether CenturyLink violated any state laws or regulations in connection

1 with the April 2014 911 outage. I am one of the co-authors of the Staff Investigation  
2 Report that provided the evidentiary basis for the Commission's complaint.

3  
4 **Q. Does Staff support the Settlement Agreement?**

5 A. Yes. Staff agrees that the Settlement Agreement resolves the issues raised in the  
6 Commission's complaint, and that the filing is in the public interest and should be  
7 approved by the Commission.

8  
9 **Q. Please explain why Staff believes that the proposed \$2,854,750 penalty is  
10 appropriate for Commission approval.**

11 A. Put simply, the proposed penalty is an exceptional penalty for an exceptional case.  
12 As detailed in the Settlement Agreement, the outage severely constrained the  
13 public's access to public safety resources. All Washington PSAPs were affected.  
14 Although fortunately no deaths were directly attributed to the outage, loss of life was  
15 certainly a possibility. To make matters worse, this was a "sunny day" outage—call  
16 processing was disrupted not by a natural disaster but by a preventable software  
17 glitch. Finally, CenturyLink's response was unacceptably slow. While the magnitude  
18 of the problem slowly dawned on the Company, Washington's public safety  
19 community was essentially left to its own devices.

20 Although the outage affected 911 callers in seven states, Washington  
21 residents were by far the hardest hit. All 39 Washington counties were impacted, and  
22 all Washington PSAPs experienced some loss of functionality. Ultimately, all 6.9

1 million Washington residents were affected, since the ability to access public safety  
2 resources by dialing 911 was almost nonexistent.

3 Facts like these warrant a severe penalty. From Staff's perspective, the  
4 proposed \$2,854,750 penalty is sufficiently punitive. It is, in fact, the maximum  
5 penalty supported by Staff's Investigation Report.<sup>1</sup> Seldom in Commission  
6 proceedings does a settlement reflect the maximum penalty sought by Staff at the  
7 outset of the case.

8  
9 **Q. Why is it in the public interest to penalize CenturyLink?**

10 A. Staff believes that the April 2014 outage seriously damaged the public's faith in  
11 CenturyLink's ability to provide reliable 911 services. A severe penalty is needed to  
12 restore that trust. Staff believes that the proposed \$2,854,750 penalty is appropriately  
13 punitive.

14  
15 **Q. Does the proposed penalty accomplish any other objectives?**

16 A. Yes. From Staff's perspective, the penalty also promotes 911 reliability by  
17 encouraging CenturyLink to maintain its network and to plan for any future outages.  
18 In this way, the penalty also acts a deterrent against future violations.

19  
20 **Q. How does the proposed penalty compare with past enforcement penalties**  
21 **imposed by the Commission?**

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<sup>1</sup> As explained below, the penalty proposed in the Settlement Agreement is slightly lower than the penalty proposed in Staff's Investigation Report. This reduction arose from a recalculation of the number of 911 calls that failed during the April 2014 outage.

1 A. To the best of Staff's knowledge, the proposed \$2,854,750 penalty, if approved,  
2 would be the second largest enforcement penalty ever imposed by the Commission.<sup>2</sup>

3  
4 **Q. Staff's Investigation Report asserts that CenturyLink failed to complete 5,840**  
5 **calls during the April 2014 outage. In the Settlement Agreement, however, the**  
6 **Settling Parties stipulated that CenturyLink failed to complete 5,684 calls. Why**  
7 **did the number drop?**

8 A. The number dropped because Staff discovered during the settlement process that it  
9 misinterpreted a chart provided by CenturyLink in a data request response. Staff  
10 initially believed that the chart, which listed 5,840 failed calls, referred exclusively to  
11 calls originating in Washington state. Staff later discovered that the chart included  
12 156 out-of-state calls. Based on this discovery, Staff revised the number of failed  
13 calls downward to 5,684. Staff and CenturyLink have stipulated to the revised  
14 number (Settlement Agreement ¶ 7).

15  
16 **Q. Staff's Investigation Report recommends a penalty of \$2,932,750. The**  
17 **Settlement Agreement, however, proposes a \$2,854,750 penalty. Why the**  
18 **reduction?**

19 A. The penalty reduction is tied to the reduction in failed calls discussed in my previous  
20 answer. Staff initially calculated its penalty recommendation for the first and second  
21 causes of action, respectively, by multiplying the number of failed calls (believed at  
22 the time to be 5,840) by \$250 per call. Using updated information, Staff recalculated

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<sup>2</sup> In Docket UT-033011, the Commission approved a \$7,824,000 penalty against Qwest Corporation. That docket, unlike the present docket, involved allegations of fraud and intentional illegal activity.



1 the proposed penalty for these causes of action by multiplying 5,684 failed calls (the  
2 revised number) by \$250 per call. This recalculation reduced the total proposed  
3 penalty from \$2,932,750 to \$2,854,750.<sup>3</sup>  
4

5 **Q. Does the fact that the FCC imposed a \$16 million fine on CenturyLink impact**  
6 **Staff's view of the Settlement Agreement in the present docket?**

7 A. Yes and no. The magnitude of the FCC's penalty reinforces Staff's view that the  
8 April 2014 outage was an exceptional event that warrants a strong response from  
9 government regulators. However, it is important to note that Staff published its \$2.9  
10 million penalty recommendation long before the FCC approved CenturyLink's \$16  
11 million fine (Staff published its Investigation Report in December 2014, whereas the  
12 FCC approved CenturyLink's \$16 million fine in April 2015). In addition, the FCC's  
13 investigation considered the outage's seven-state impact. Staff, on the other hand,  
14 focused on impacts to Washington residents. Finally, the FCC evaluated  
15 CenturyLink's liability under federal law. Staff considered Washington law only.  
16

17 **Q. Apart from the monetary penalty, what compliance obligations does the**  
18 **Settlement Agreement impose on CenturyLink?**

19 A. The Settlement Agreement requires CenturyLink to assume several ongoing  
20 reporting obligations. It also requires the Company to designate a compliance officer  
21 responsible for monitoring the Company's compliance with these obligations (along

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<sup>3</sup> The full equation is as follows: [first cause of action] 5,684 failed calls x \$250 per call + [second cause of action] 5,840 x \$250 per call + [third cause of action] 51 PSAPs notified untimely x \$250 per untimely notification = [total penalty] \$2,854,750.

1 with the Company's obligation to pay the agreed monetary penalty). Details  
2 concerning the Company's reporting obligations can be found in the Company's  
3 settlement testimony.

4  
5 **Q. Why did Staff require CenturyLink to assume ongoing reporting obligations?**

6 A. From a regulatory perspective, it is essential that Staff stays informed regarding  
7 CenturyLink's ongoing efforts to ensure 911 reliability and to enhance outage-  
8 response capabilities. As detailed in the Company's settlement testimony, the  
9 Company is in the process of upgrading its network and is also implementing new  
10 policies to ensure better coordination with the public safety community during any  
11 future outages. Staff needs written documentation of these efforts to ensure their  
12 sufficiency, both from a technical standpoint and from a consumer protection  
13 perspective.

14  
15 **Q. Is the Commission's approval of the Settlement Agreement consistent with the  
16 public interest?**

17 A. Yes. The Settlement Agreement is appropriately punitive, and the reporting  
18 requirements imposed on the Company will help prevent future outages. Overall,  
19 approval of the Settlement Agreement will help restore the public's trust in the  
20 state's 911 system.

V. CONCLUSION

1

2

3 **Q. Ms. Paul, does this conclude your testimony?**

4 **A. Yes.**

5

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