

EXHIBIT A

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 REPLY
IN SUPPORT OF ITS MOTION FOR
THIRD-PARTY DISCOVERY**

1. CenturyLink Communications, LLC (“CLC”), by and through its undersigned counsel, submits this Reply in response to the Commission’ Staff’s Response to CLC’s Request for Third-Party Discovery from TeleCommunication Systems, Inc. d/b/a Comtech Telecommunications Corp. (“Comtech”) and Transaction Network Services, Inc. (“TNS”). No one—not even Staff— challenges the importance of the requested discovery. As such, CLC renews its request that the Commission issue the subpoenas, which CLC will then serve on Comtech¹ and TNS.

I. BACKGROUND

2. On July 9, 2021, CLC filed its Motion seeking third-party discovery. On July 20, 2021, Staff responded acknowledging that “under the specific circumstances of this case third party discovery may be warranted.” Response at ¶ 5.
3. Despite that, Staff opposes the Motion “because Staff will not have an opportunity to participate in and review the additional discovery of Comtech and TNS prior to filing its

¹ CLC notes that Comtech filed a Petition to Intervene on July 20, 2021. If Comtech is granted party status, CLC’s motion for deposition discovery from Comtech will remain appropriate, but its request for a subpoena for document discovery will become moot as to Comtech (as CLC will be free to issue discovery directly to Comtech). The subpoenas related to TNS will remain appropriate regardless of whether Comtech is granted party status.

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initial testimony.” *Id.* at ¶ 5. In the alternative, if the Commission authorizes the requested discovery, Staff requests an adjustment to the procedural schedule so Staff can study the information produced by Comtech and TNS before submitting its initial testimony. *Id.* at ¶ 6.

II. ARGUMENT

4. In December 2020, two years after an outage on the 911 network, Staff brought a complaint against CLC seeking millions of dollars in penalties stating that: “Based on its investigation, Staff determined that CenturyLink’s failure to properly configure the Infinera management channel, in combination with the malformed packets, was the root cause of the December 2018 outage, culminating in a feedback loop that consumed the CenturyLink network’s processing power and ability to properly route calls.” Complaint at ¶ 12.
5. CLC’s Motion for Third-Party Discovery calls Staff’s assertion into question as it recognized that “911 calls to the CenturyLink PSAPs completed, but some calls to the Comtech PSAPs did not.” Motion at ¶ 2. The Motion continues:

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 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.

Motion at ¶ 3.

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6. Staff had two years to complete its investigation before initiating this complaint case against CLC and has had months since the entry of Order No. 1 to conduct discovery. In that two and half years, it appears that Staff never scrutinized the design of Comtech's network. Staff's investigation should have evaluated the root cause of the outage, and the role of the State's primary 911 provider—Comtech—in that outage. CLC should not have to seek third-party discovery in order to bring these critical the facts to light, yet that is the position in which CLC finds itself.
7. That said, it is absolutely apparent that this case presents the unique circumstances that justify third-party discovery. No one challenges this fundamental point. As such, Commission rules and fundamental fairness amply demonstrate that the Commission should issue the subpoenas to Comtech and TNS.
8. The only question raised by the Staff's Response is whether the schedule should be adjusted. Given that the Staff had two and a half years to complete its investigation and discovery, CLC believes the Staff has not established good cause for a schedule adjustment. There is no requirement under Commission rule or Order No. 1 that all discovery be completed before Staff files its initial testimony. Staff will be able to participate in any depositions and will be able to make use in its Rebuttal Testimony and at hearing of materials produced by Comtech and TNS. Staff is not prejudiced.

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III. CONCLUSION

9. For the foregoing reasons as well as the reasons spelled out in its Motion, CLC respectfully renews its request for third-party discovery in the form of subpoenas for deposition testimony and documents from Comtech and TNS.

DATED this _____ day of July 2021.

CENTURYLINK COMMUNICATIONS, LLC



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