

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

CENTURYLINK COMMUNICATIONS,
LLC 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

Respondents.

DOCKET UT-210902

INITIAL BRIEF OF COMMISSION STAFF

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I. INTRODUCTION

1 In March 2020, Governor Inslee declared a state of emergency due to the COVID-19
pandemic. Pursuant to that state of emergency, the Governor forbade utilities from disconnecting
service between late-March 2020, and the end of September 2021.

2 The named respondents (collectively “Lumen”) are telecommunications companies to
whom that prohibition on disconnections applied. Lumen nevertheless cut off service to 923
customers while the prohibition was in effect. The Commission has already determined, as a
matter of law, that each of those disconnections violated WAC 480-120-173(3)(a). The only
remaining issue, therefore, is the appropriate penalty.

3 The Commission should impose the maximum allowed penalty of \$1,000 for each of the
923 violations. Each violation involved shutting off a service deemed essential as part of the
public health response to the COVID-19 pandemic, and Lumen committed a startlingly large
number of them. A significant penalty is thus warranted here to focus Lumen’s attention on the
importance of complying with its regulatory obligations, especially during events like those
occurring between 2020 and 2021.

II. BACKGROUND

4 In April 2020, Governor Inslee issued Proclamation 20-23.2 to make certain findings and
order certain conduct.¹ Specifically, the Governor found that “telecommunications . . .
companies regulated by the Utilities and Transportation Commission under Title 80 RCW”
provided “essential utility services.”² He also found that “preserving and maintaining essential
utility services to vulnerable populations during” the COVID-19 pandemic would “support the

¹ See generally Proclamation by Governor Jay Inslee, No. 20-23.2, Ratepayer Assistance and Preservation of Essential Services, at 1 (Apr. 17, 2020) (Proclamation No. 20-23.2) (hereinafter Proclamation 20-23.2”).

² Proclamation 20-23.2 at 4.

fundamental public purpose of protecting public health and welfare.”³ Based on those findings, the Governor exercised the power vested in him by RCW 43.06.220(1)(h) to “prohibit . . . all . . . telecommunications . . . providers in Washington State” from “disconnecting any residential customers from . . . telecommunications . . . service due to non-payment.”⁴ The Governor made this prohibition retroactive to the start of the COVID-19 stay-at-home order,⁵ and it ultimately did not terminate until the end of September 2021.⁶

5 In the fall of 2021, Staff began reviewing telecommunications companies’ responses to the COVID-19 pandemic to determine whether customers would need further assistance.⁷ In the course of that review, Staff sent data requests to those telecommunications companies, including Lumen.⁸ One of these data requests asked Lumen to “provide the number of customers disconnected for late payment or lack of payment each month during the period from March 2020 to August 2021.”⁹ Lumen, in response, identified 407 disconnections.¹⁰ It also noted that it had suspended 243 of those disconnected customers before Proclamation 20-23.2 became effective, meaning that they experienced no new loss of service.¹¹

6 Staff followed up with further data requests to explore Lumen’s distinguishing of suspension and disconnection. One of these asked Lumen to “confirm that telephone services become unavailable to customers placed in suspended status.”¹² Another asked Lumen to

³ Proclamation 20-23.2 at 4.

⁴ Proclamation 20-23.2 at 4.

⁵ Proclamation 20-23.2 at 4.

⁶ Proclamation by Governor Jay Inslee, No. 20-23.16, Ratepayer Assistance and Preservation of Essential Services, at 3 (July 2, 2021).

⁷ See Feeser, Exh. BF-1T at 6:5-6.

⁸ Feeser, Exh. BF-2.

⁹ Feeser, Exh. BF-2 at 2-3.

¹⁰ Feeser, Exh. BF-2 at 2.

¹¹ Feeser, Exh. BF-2 at 2.

¹² Feeser, Exh. BF-3 at 2.

provide a breakdown of suspensions and disconnections, by operating company, while Proclamation 20-23.2 was in effect.¹³

7 Lumen confirmed the assumption embedded in the first data request, stating that “a ‘suspended’ customer is one whose service can’t be accessed/utilized, but who remains on the company’s network.”¹⁴ But it explained that it did not believe that suspensions were material because “the Governor’s Proclamations did not restrict utilities from suspending customers for non-payment.”¹⁵ Lumen provided the requested data in response to the second data request, revising the number of disconnections upward to 423, with those disconnections spread among the respondents, and specifying that it had suspended 743 customers, with the suspensions again spread among the respondents.¹⁶

8 The Commission, through its Staff (Staff), complained against Lumen for 923 violations of WAC 480-120-172(3)(a) for the disconnections.¹⁷ The parties filed cross-motions on the issue of Lumen’s liability.¹⁸ The Commission granted Staff’s and denied Lumen’s.¹⁹

¹³ Feeser, Exh. BF-3 at 3.

¹⁴ Feeser, Exh. BF-3 at 2.

¹⁵ Feeser, Exh. BF-3 at 2.

¹⁶ Feeser, Exh. BF-3 at 3.

¹⁷ See generally *Wash. Utils. & Transp. Comm’n v. CenturyLink Commc’ns LLC d/b/a Lumen Tech. Group*, Docket UT-210902, Order 01 (Apr. 6, 2022). The number of disconnections sums the “suspensions” and “disconnections” Lumen admitted to, then removed from the count the disconnections for which Lumen had already disconnected service. *Id.* at 5 ¶ 35.

¹⁸ See generally *Wash. Utils. & Transp. Comm’n v. CenturyLink Commc’ns LLC d/b/a Lumen Tech. Group*, Docket UT-210902, Lumen Companies’ (1) Opposition to Staff’s Motion for Partial Summary Determination and (2) Cross-Motion for Summary Determination (July 6, 2022); *Wash. Utils. & Transp. Comm’n v. CenturyLink Commc’ns LLC d/b/a Lumen Tech. Group*, Docket UT-210902, Commission Staff’s Motion to Partial Summary Determination of Lumen’s Liability for Violations of WAC 480-120-172(3)(a) (June 16, 2022).

¹⁹ *Wash. Utils. & Transp. Comm’n v. CenturyLink Commc’ns LLC d/b/a Lumen Tech. Group*, Docket UT-210902, Order 03, 4 ¶ 11, 8 ¶ 34, 9 ¶ 35 (July 29, 2022) (hereinafter “Order 03”).

III. DISCUSSION

9 The only issue remaining before the Commission is the appropriate penalty for Lumen’s violations of WAC 480-120-172(3)(a).²⁰ The Commission considers a number of factors when imposing penalties, and these, by a significant margin, suggest that the Commission should impose the maximum penalty, or \$1,000, for each of Lumen’s violations of the Commission’s discontinuation-of-service rule.

A. **Governing Legal Principles**

10 The Legislature created the Commission and delegated to it the power to regulate the “rates, services, facilities, and practices” of public service companies,²¹ including telecommunications companies.²² To ensure compliance with the Commission’s rules and orders, the Legislature authorized the Commission to penalize public service companies for violations thereof.²³

11 Since 2013, the Commission has exercised its discretion in imposing penalties according to the policy statement it issued in Docket A-120061.²⁴ Accordingly, when the Commission considers the imposition of penalties, it “will consider factors that include but are not limited to:

- (1) How serious or harmful the violation is to the public . . .
- (2) Whether the violation is intentional . . .
- (3) Whether the company self-reported the violation . . .
- (4) Whether the company was cooperative and responsive . . .
- (5) Whether the company promptly corrected the violations and remedied the impacts . . .

²⁰ Order 03 at 7 ¶ 21.

²¹ RCW 80.01.040(3).

²² RCW 80.04.010(23), (28).

²³ RCW 80.04.380.

²⁴ See generally *in re Enforcement Policy of the Wash. Utils. & Transp. Comm’n*, Docket A-120061, Enforcement Policy of the Wash. Utils. & Transp. Comm’n (Jan. 7, 2013) (hereinafter “Policy Statement”).

- (6) The number of violations . . .
- (7) The number of customers affected . . .
- (8) The likelihood of recurrence . . .
- (9) The company’s past performance regarding compliance, violations, and penalties . . .
- (10) The company’s existing compliance program . . . [and]
- (11) The size of the company.”²⁵

B. Lumen’s Violations Warrant the Maximum Penalty Allowed by Law

12 After evaluating the penalty factors, Staff recommends that the Commission impose the maximum penalty authorized by law.

13 The first factor, the violation’s harm, strongly indicates that the Commission should impose a significant penalty. The Legislature tasked the Commission with protecting public service company customers from those companies,²⁶ and Lumen’s alternative form of regulation does nothing to strip away that duty.²⁷ Lumen violated one of the rules the Commission put into place to protect consumers, WAC 480-120-172(3)(a), by unlawfully discontinuing their service.²⁸ And it did so at a time when the Governor had determined that keeping customers connected with Lumen’s service was essential to preserving public health and safety.²⁹ Lumen’s consumer protection violations were, consequently, “both serious and harmful to the public”³⁰ and should be punished accordingly.

²⁵ Policy Statement at 7-9 ¶ 15.

²⁶ *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Dockets UE-151871 & UG-151872, Order 06, 31 ¶ 107 (Nov. 16, 2016) (“[i]mplicit in the obligation to ensure that utility service rates, terms, and conditions are fair, just, and reasonable is the Commission’s duty to protect customers.”).

²⁷ *In re Petition of the CenturyLink Companies*, Docket UT-130677, Order 04, 15 ¶ 45 (Jan. 9, 2014).

²⁸ Order 03 at 4 ¶ 12.

²⁹ Proclamation 20-23.2 at 4; Feeser, Exh. BF-1T at 5:14-17 (Lumen’s violations involved cutting off service to “customers at a time when the Governor determined that public health and safety required access to those services.”).

³⁰ Feeser, Exh. BF-1T at 5:14-17.

The second factor, the company's state of mind, also indicates that the maximum penalty is warranted. The course of events, as well as Lumen's post-disconnection conduct strongly imply that some of the violations here, the ones related to "suspensions," were intentional. Lumen put into place the processes that led to the disconnections here (whether by what Lumen calls suspension or disconnection), and the company restarted those processes after the disconnection prohibitions in other jurisdictions terminated.³¹ Lumen then "repeatedly" told Staff that the Governor's prohibition did not prevent it from suspending customers.³² Those post-disconnection assertions of its right to suspend customers imply that the company intentionally suspended (meaning disconnected)³³ the relevant customers pursuant to a right that it incorrectly claimed that it had.³⁴ And Lumen's admission that some of its agents may have deliberately allowed the suspensions³⁵ (which, again, are legally disconnections)³⁶ reinforces the view that the suspensions were intentional given that Lumen is responsible, and thus liable, for those acts.³⁷

³¹ See Gose, Exh. PJG-1T at 8:1-3 (describing Lumen's resumption of "typical collections systems and practices" after the end of the national disconnection moratorium).

³² Feeser, Exh. BF-1T at 5:21-6:2.

³³ Order 03 at 2-3 ¶ 5.

³⁴ Feeser, Exh. BF-1T at 5:20-6:2; Feeser, Exh. BF-4T at 5:1-20.

³⁵ Gose, Exh. PJG-1T at 8:12-14 ("In some cases, the agent may have also misunderstood the instructions and allowed the suspension/disconnection to flow through.").

³⁶ Order 03 at 2-3 ¶ 5.

³⁷ Cf. e.g. *Scamphone v. Highland Park Care Center*, 618 Pa. 363, 57 A.3d 582 (2012) ("Vicarious liability, sometimes referred to as imputed negligence, means in its simplest form that, by reason of some relationship between A and B, the negligence of A is to be charged against B, although B has played no part in it, has done nothing whatsoever to aid or encourage it, or indeed has done all that he possibly can to prevent it. Once the requisite relationship (i.e., employment, agency) is demonstrated, the innocent victim has recourse against the principal, even if the ultimately responsible agent is unavailable or lacks the ability to pay . . . Where a corporation is concerned, the ready distinction between direct and vicarious liability is somewhat obscured because we accept the general premise that the corporation acts through its officers, employees, and other agents. The corporation, as principal, assumes the risk of individual agents' negligence under the theory of vicarious liability.") (internal citations and quotations omitted); *Scottsdale, Ins. Co. v. Subscription Plus, Inc.*, 299 F.3d 618, 622 (7th Cir. 2002) (internal quotation omitted) (employers are vicariously liable if a tortfeasor employee "think[s] (however misguidedly) that he is doing the employer's business in committing the wrong").

15 Lumen faults Staff for concluding that the suspensions were intentional, but that the disconnections were not.³⁸ There is no contradiction, despite what Lumen argues. As just stated, Lumen “held fast” to the claim that it could suspend customers until deep into Staff’s investigation.³⁹ In contrast, it acknowledged its duty to prevent customer disconnections.⁴⁰ That distinction makes all the difference to Staff, which infers from it that Lumen suspended customers based on its belief that it could do so, but refrained from disconnecting customers given its admission that it could not.⁴¹

16 Lumen also urges the Commission to disregard its statements concerning the applicability of the Governor’s prohibitions to suspensions when evaluating the intentionality of its actions.⁴² But while Lumen dismisses the statements at issue, it does not contend that they did not reflect company policy,⁴³ and Lumen is, in any event, bound by them given that Lumen’s representative made them in the course and scope of employment.⁴⁴

17 The third factor, self-reporting, militates in favor of a heavy penalty. While the Commission will show “lenien[cy]” to companies that self-report violations,⁴⁵ Lumen did not.⁴⁶

18 Lumen appears to argue that the Commission should weigh the third factor in its favor because neither it nor Staff knew that Lumen had committed violations until Lumen answered Staff’s data requests.⁴⁷ Under that logic, the Commission could never impose a heavy penalty

³⁸ Gose, Exh. LJG-1T at 5:8-6:2.618.

³⁹ Feeser, Exh. BF-4T at 5:7-11.

⁴⁰ Dahl, Exh. CJD-1Tr at 14:15-16:3.

⁴¹ Feeser, Exh. BF-4T at 5:1-20.

⁴² Gose, Exh. PJG-3T at 4:9-11.

⁴³ See Gose, Exh. PJG-3T at 4:9-11.

⁴⁴ RESTATEMENT (THIRD) OF AGENCY § 2.02 (2006).

⁴⁵ Policy Statement at 8 ¶ 15.

⁴⁶ Feeser, BF-1T at 6:4-8. Indeed, Lumen admits as much. Gose, Exh. PJG-1T at 15-18.

⁴⁷ Gose, Exh. PJG-1T at 6:15-18 (“Therefore, while Ms. Feeser is correct that CenturyLink did not self-report, neither Staff nor CenturyLink was aware of the few disconnections until CenturyLink discovered them and then reported them in its responses to Staff’s inquiries.”). Staff takes issue with CenturyLink’s use of the term “few” in Mr. Gose’s testimony, as discussed further below.

unless a company failed to report violations that Staff was already aware of through means independent of the company. Lumen's interpretation of this factor would have crippling effects on the Commission's ability to incent compliance through penalties, and thus cannot be the law.

19 The fourth factor, cooperation, counsels for a more lenient penalty. Staff concluded that the company was reasonably cooperative and responsive during the investigation.⁴⁸

20 The fifth factor, redress, seems to warrant neither a more lenient nor a heavier penalty. While Lumen describes its attempts to remedy the disconnections,⁴⁹ by its own admission it did not reconnect all disconnected customers,⁵⁰ nor did it do anything to compensate the customers for the lost service.⁵¹

21 The sixth factor, the number of violations, indicates that the Commission should impose a significant penalty. Lumen committed 923 violations of WAC 480-120-172(3)(a).⁵² Nearly 1,000 violations is a significant number.⁵³

22 The seventh factor, the number of affected customers, indicates that the Commission should impose a significant penalty. While the number of customers and the number of violations will not always be identical, here they are, and, much like the number of violations, the number of customers affected is significant.⁵⁴

23 Lumen, however, urges the Commission to find that its conduct affected a small percentage of its overall customer base,⁵⁵ and to thus impose only a minimal penalty. By Lumen's logic, if a larger and a smaller utility commit the same number of violations, the smaller

⁴⁸ Feeser, Exh. BF-1T at 6:12.

⁴⁹ Gose, Exh. PJG-1T at 9:3-8.

⁵⁰ Gose, Exh. PJG-1T at 9:3-8.

⁵¹ See Gose, Exh. PJG-1T at 9:3-8.

⁵² Order 03 at 3 ¶ 11.

⁵³ See Feeser, Exh. BF-1T at 8:15-9:5.

⁵⁴ See Feeser, Exh. BF-1T at 8:15-9:5.

⁵⁵ Gose, Exh. PJG-3T at 12:1-8.

utility's violations will always be more culpable, in spite of the fact that the larger utility is theoretically better funded and more sophisticated. That cannot be the law. The Commission should instead focus on the absolute number of violations, which, as just mentioned, is a large number here.

24 The eighth factor, the likelihood of recurrence, also points to the need for a serious penalty. The Commission considers whether a company has “changed its practices” or committed repeat violations when looking at this factor.⁵⁶ Lumen has not taken steps to change the processes that broke down here,⁵⁷ and the Commission should impose penalties in light of that fact.

25 Lumen, citing the ALJ's order in *Washington Utilities and Transportation Commission v. Qwest Corporation d/b/a CenturyLink QC*,⁵⁸ argues that no penalty is warranted here because the lapsing of Proclamation 20-23.2 means that it cannot commit repeat violations.⁵⁹ There are three fundamental problems with that argument.

26 First, *Qwest* is inapposite, and doubly so.

27 Initially, Lumen oversimplifies the ALJ's reasoning in *Qwest*. In full, the passage cited by Lumen reads:

Even if we were to conclude that the outage violated RCW 80.36.080 and WAC 480-120- 450(1), we would not assess a penalty for the violations. “The Commission’s ultimate objective in any enforcement action is to obtain compliance with applicable law.” Penalties primarily provide an incentive to comply with legal requirements. For such an incentive to be effective, the Commission should inform the transgressor of the actions it needs to take to bring its services, network, or operations into line with its obligations. The record in this proceeding is devoid of any such changes CenturyLink or Intrado should have made or need to make. CenturyLink no longer even provides 911 service under

⁵⁶ Policy Statement at 9 ¶ 15.

⁵⁷ Feeser, Exh. BF-4T at 7:3-9.

⁵⁸ Docket UT-190209, Order 03 (June 25, 2020). That order is not precedential. WAC 480-07-825(1)(c).

⁵⁹ Gose, Exh. PJG-1T at 9:13-10:17.

contract with WMD. Assessing penalties under these circumstances would provide no incentive whatsoever for CenturyLink to comply with applicable law.⁶⁰

That passage thus stands for three propositions: that (1) the Commission should impose penalties “primarily” to incent compliance with the law, (2) penalties incent this compliance when the Commission’s enforcement action makes clear what the public service company must do to act in conformity with the law, and (3) where the public service company no longer provides the service underlying the penalty, the incentive may be meaningless.⁶¹

28 But the facts before the Commission here differ materially from those in *Qwest*. Lumen still provides the service associated with the penalty, telephone service, unlike the 911 service at issue in *Qwest*. And the Governor could very well declare another state of emergency and issue an order like Proclamation 20-23.2, which would govern Lumen’s provision of that service.⁶² The record here contains clear evidence of what Lumen needs to address to avoid future penalties (fix its broken processes for preventing disconnections), unlike the record in *Qwest*. Penalties here will thus incent Lumen to alter the business practices that resulted in these violations in case there is another disconnection prohibition, or something similar. Accordingly, the Commission should distinguish *Qwest* and impose penalties here to incent Lumen’s compliance with the law.

29 Further, the ALJ in *Qwest* recognized that, whatever their primary purpose, penalties can also punish lawbreaking.⁶³ The ALJ, however, declined to impose penalties there as a punitive measure because the conduct at issue was not unlawful.⁶⁴ Here, however, penalties *would* serve

⁶⁰ *Qwest Corp.*, Docket UT-190209, Order 03, at 13 ¶ 30 (citations omitted) (emphasis added).

⁶¹ *See id.*

⁶² Feeser, Exh. BF-4T at 6:4-9.

⁶³ *Qwest Corp.*, Docket UT-190209, Order 03, at 13 ¶ 14 (“Penalties also punish unlawful behavior.”).

⁶⁴ *Qwest Corp.*, Docket UT-190209, Order 03, at 13 ¶ 14 (“Again, however, Staff and Public Counsel complain only about the results of the malfunction that occurred during CenturyLink’s switch migration project in Washington, not

a punitive purpose. The Commission has already concluded, as a matter of law, that Lumen committed 923 violations of its rules. Under the ALJ's analysis in *Qwest*, the Commission may impose penalties to punish that kind of lawbreaking, and it should do so.

30 Second, as the Commission stated in *Qwest*, its overriding interest is in compliance, and penalties are a means to ensure compliance with the law.⁶⁵ It has recognized that penalties can ensure compliance with the law through their deterrent effect.⁶⁶ A penalty here will impress on not only Lumen, but other public service companies, the importance of complying with the Commission's rules during a state of emergency, or another, similar event, and the Commission should impose a significant penalty to underline that deterrent effect.

31 Third, accepting Lumen's argument would create perverse incentives. If the Commission cannot, or will not, impose penalties for violations of statutes or rules that have lapsed or been amended to eliminate substantive requirements, public service companies have little or no reason to comply with a law or rule just before its repeal or lapse. Worse still, public service companies will also have an incentive to hide violations committed as the last days of a law or rule run, so as to avoid enforcement action before a substantive legal requirement ends. The Commission should avoid incenting that kind of behavior by imposing penalties here.

32 The ninth factor, compliance history, also runs against Lumen. In multiple instances over the last decade, the Commission has imposed penalties on Lumen after the company admitted or the Commission has found that it committed regulatory violations.⁶⁷ And, in one instance where

any particular aspects of the project planning or implementation. Punishment is not appropriate for an unforeseeable event that the Company took all reasonable measures to minimize, detect, and quickly remedy.”).

⁶⁵ *Qwest Corp.*, Docket UT-190209, Order 03, at 13 ¶ 30.

⁶⁶ *Wash. Utils. & Transp. Comm'n v. Advanced Telecom Group, Inc.*, Docket UT-033011, Order 21 (Feb. 28, 2005).

⁶⁷ *E.g.*, *In re Penalty Assessment Against CenturyLink*, Docket UT-220397, Penalty Assessment, Order 02 (June 1, 2022); *In re Penalty Assessment Against CenturyLink*, Docket D-210811, Order 01 (Nov. 23, 2021) (order issued by the Commission's Executive Director pursuant to delegated authority); *Wash. Utils. & Transp. Comm'n v. Qwest*

the Commission showed leniency by suspending a portion of the penalty, it later had to impose the suspended penalty because Lumen committed repeat violations.⁶⁸ That history justifies a large penalty as smaller measures do not seem to be sufficing to ensure Lumen's compliance with the applicable laws.

33 The tenth factor, Lumen's compliance program, neither favors a substantial penalty nor cuts against it. Lumen credibly argues that it has a compliance program.⁶⁹ But the Commission should not credit Lumen too much for that program given that it failed on multiple occasions to prevent the violations during the pandemic.⁷⁰

34 The eleventh factor, proportionality, warrants a substantial penalty. The Commission strives to impose penalties that are proportionate to a company's revenues.⁷¹ Lumen reported \$262,954,027 in revenues for 2021. The large size of the company calls for a large penalty.

35 Lumen, however, urges the Commission to consider its size by looking to the number of states in which it operates. The Commission should decline that invitation for two reasons. First, Lumen chose to structure its business in a way that did not segregate its Washington operating companies from its interstate operations, and it should not benefit from its decision to do so. Second, Lumen would have the Commission treat large, sophisticated interstate operations more leniently than it treats small intrastate operations. That perverts the proportionality inquiry the Commission set out in the eleventh factor.

Corp., Docket UT-140597, Order 03 (Feb. 22, 2016); *Wash. Utils & Transp. Comm'n v. CenturyTel of Inter Island, Inc.*, Docket UT-132234, Order 03 (Oct. 20, 2015).

⁶⁸ See generally *Wash. Utils & Transp. Comm'n v. CenturyTel of Inter Island, Inc.*, Docket UT-132234, Order 06 (June 1, 2017).

⁶⁹ Gose, Exh. PJG-1T at 6:18-7:5.

⁷⁰ Feeser, Exh. BF-4T at 6:9-15 (the violations at issue here); see generally *in re Penalty Assessment Against CenturyLink*, Docket UT-220397, Penalty Assessment, Order 02 (violations for failure to notify the Commission of rate changes during the pandemic).

⁷¹ Policy Statement at 9 ¶ 15.

36 All told, eight of the penalty factors weigh against Lumen, one weighs in its favor, and two weigh neither for nor against it. Given that weighting, the Commission should conclude that Lumen's violations warrant the maximum penalty and impose a penalty of \$1,000 per violation, for a total of \$923,000 for the violations at issue.

IV. CONCLUSION

37 The Commission should impose a penalty of \$1,000 for each of Lumen's 923 violations, for a total penalty of \$923,000.

Respectfully submitted, this 21st day of April, 2023.

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