

**Exhibit No. ___T (CTL-2RT)
Docket UT-140597**

Witness: Mark Reynolds

**BEFORE THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

**QWEST CORPORATION D/B/A
CENTURYLINK QC,**

Respondent.

DOCKET UT-140597

REBUTTAL TESTIMONY OF CENTURYLINK

CenturyLink's Rebuttal Testimony in Support of Settlement

December 8, 2015

1 **Q. What is CenturyLink’s position on the issues in this case after having read the**
2 **testimony filed by Public Counsel?**

3 A. CenturyLink disagrees with Mr. Bergmann’s testimony and strongly supports
4 acceptance of the Settlement Agreement. The Settlement Agreement is in the public
5 interest as it recognizes and reflects that 911 is a critical service, and it includes a
6 serious punishment for the outage. CenturyLink recognizes and takes seriously its
7 responsibility for this important public safety service. The outage suffered in April
8 2014 was unacceptable, and CenturyLink is not seeking to minimize or mitigate the
9 consequences in any way. For these reasons, CenturyLink agreed to the full amount
10 of the penalty recommended by Staff.

11
12 On the other hand, Mr. Bergmann has done no independent research into the facts of
13 this case, and has not shown himself to have any particular expertise in 911 issues.
14 As such, he is simply asking the Commission to accept his opinion on the amount of
15 the penalty, in place of the comprehensive analysis and investigation undertaken by
16 staff and the negotiated agreement between the parties. Basically he is asking the
17 Commission to let him decide the case. There is no basis for the Commission to do
18 so.

19
20 **Q. What about Mr. Bergmann’s analysis of the Commission’s policy statement on**
21 **enforcement matters?**

22 A. This discussion should carry no weight with the Commission. Mr. Bergmann does
23 not have a comprehensive understanding of the Commission’s enforcement policy or

1 history. Staff does, and Staff’s analysis should be persuasive to the Commission
2 based on Staff’s experience. Mr. Bergmann did nothing more than go through each
3 of the factors in a very conclusory way and say, essentially, “this factor warrants the
4 maximum penalty.” His analysis is neither fair nor unbiased and should be
5 disregarded in favor of the comprehensive investigation and evaluation conducted by
6 Staff.

7
8 **Q. Has CenturyLink reviewed the rebuttal testimony of Commission Staff, also**
9 **filed today?**

10 A. Yes, we have. CenturyLink agrees with Staff’s conclusions supporting the
11 Settlement Agreement and opposing Mr. Bergmann’s conclusions.¹

12
13 **Q. What would be the impact of a maximum penalty in this case?**

14 A. A maximum penalty in this case would be unacceptable. CenturyLink believes that
15 the maximum penalty would be unduly harsh and punitive, with no increased public
16 interest benefit. Make no mistake about it, the \$2.855 million that CenturyLink has
17 already agreed to pay represents a substantial and significant penalty for the
18 company, especially in light of already having paid \$16 million to the FCC and
19 committing to a significant compliance plan for the same event. Public Counsel’s
20 testimony ignores the significance of the penalty that has been agreed to in the
21 Settlement Agreement.

22

¹ CenturyLink also agrees with Staff that there are in fact 68 PSAPs in the state of Washington - 55 primary and 13 secondary or back up locations. The figure used by Mr. Bergmann of 127 is incorrect.

1 Importantly, this is not a case where CenturyLink is asking to pay nothing. Nor is it
2 a case where the recommended penalty has been negotiated down or compromised in
3 any way. CenturyLink has accepted that a penalty is warranted and has agreed to the
4 full amount in the Staff Investigation. In addition, CenturyLink and Intrado are
5 already undertaking many additional steps to improve 911 Service in the state and a
6 higher penalty would not encourage any further or better compliance.

7
8 **Q. How does this penalty compare with other penalties assessed by the**
9 **Commission?**

10 A. Based on our research, it appears that the \$2.855 million penalty is the largest
11 penalty ever assessed or paid in an enforcement matter that had violations
12 implicating public safety issues.

13
14 **Q. Are there other factors the Commission should consider in reviewing the**
15 **Settlement Agreement?**

16 A. Yes. As more fully described in the direct testimony of Mr. Betsch, significant
17 improvements to processes, communications, and outage reporting have already been
18 implemented. These changes were made because the companies recognized that
19 they were necessary consistent with our responsibilities as 911 providers. In our
20 view, these improvements decrease the likelihood of another outage, and increase the
21 likelihood that response to any future outage will be well-coordinated.

1 CenturyLink also believes that it is important that the Commission take into
2 consideration the fact that 911 is a complex and multifaceted business, with NG911
3 being the most advanced and complex of the 911 systems. NG911 offers capabilities
4 not available in older systems, such as text to 911, and other features. However, as
5 with any software based system, there is the possibility of an outage, and with
6 software based systems in particular, those outages are more likely to be widespread
7 as opposed to localized. No one wants to resign themselves to outages as being
8 inevitable, but the reality is that software-based systems simply don't run at 100%.²
9 The software error that occurred in this case was related to a counter located in an
10 extremely complex software program, containing over 56,000 lines of code. The
11 limit on the counter was intended to be self-correcting, but did not re-set correctly,
12 which caused the issue. As previously discussed, protocols are in place so that the
13 counter issue will not recur, and the counter itself is scheduled to be eliminated at the
14 start of 2016.

15
16 **Q. Does this conclude your Rebuttal Testimony?**

17 **A.** Yes.

18

² Software-based systems such as the NYSE and United Airlines' flight systems have both suffered software based failures this year.