



Investigation Report

CenturyLink

UT-121986

Rayne Pearson
Lynda Holloway
Compliance Investigations

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TABLE OF CONTENTS

Purpose, Scope, and Authority.....	3
Executive Summary	4
Compliance History	5
Background	7
Investigation.....	8
Published Rates to be Charged	8
Application for Service	13
Form of Bills	14
Consumer Complaints.....	16
Commission Referred Complaints	17
Discontinuing Service – Consumer Initiated	20
Discontinuing Service – Company Initiated	20
Payment Arrangements	21
Using Privacy Listings for Telephone Solicitation	22
Repair Standards for Service Interruptions	22
Recommendations	24
Appendices.....	27

PURPOSE, SCOPE, AND AUTHORITY

Purpose

The purpose of this investigation is to determine whether Qwest Corp. d/b/a CenturyLink CQ and Qwest Corp. LD d/b/a CenturyLink LD and CenturyLink Communications (CenturyLink), formerly Qwest Corporation, is in compliance with commission laws and rules.

Scope

The scope of this investigation focuses on CenturyLink's business practices as reflected in consumer complaints filed with the commission during the months of Sept. 2011 through Aug. 2012. Staff evaluated the company's compliance with each of the telecommunications laws and rules as they relate to CenturyLink complaints received during the investigation period.

Authority

Staff undertakes this investigation pursuant to Revised Code of Washington (RCW) 80.04.070, which grants the commission specific authority to conduct such an investigation.

Staff

Rayne Pearson, Consumer Protection Manager
(360) 664-1103
rpearson@utc.wa.gov

Lynda Holloway, Compliance Investigator
(360) 664-1129
lholloway@utc.wa.gov

EXECUTIVE SUMMARY

As a result of increased violations in 2011, staff determined a broad investigation was necessary to examine whether CenturyLink (formerly Qwest) is in compliance with commission laws and rules. Staff reviewed 144 consumer complaints for the one-year period of Sept. 1, 2011, to Aug. 31, 2012.

Staff found that CenturyLink violated a number of laws and commission rules, as follows:

- RCW 80.36.130, Published rates to be charged
- WAC 480-120-103, Application for service
- WAC 480-120-161, Form of bills
- WAC 480-120-165, Consumer complaints
- WAC 480-120-166, Commission-referred complaints
- WAC 480-120-171, Discontinuing service – Consumer requested
- WAC 480-120-172, Discontinuing service – Company initiated
- WAC 480-120-174, Payment arrangements
- WAC 480-120-217, Using privacy listings for telephone solicitation
- WAC 480-120-440, Repair standards

Recommendation

Staff recommends the commission issue a complaint and find that CenturyLink committed 2,644,014 violations of commission laws and rules. Staff also recommends the commission assess a total penalty of up to \$313,070 for the following violations:

- \$264,000 for 2,640,790 violations of RCW 80.36.130 in complaint 115043.
- \$32,070 for 3,207 violations of RCW 80.36.130 related to incorrect tax calculations in multiple consumer complaints.
- Up to \$7,000 for seven violations of RCW 80.36.130 related to incorrect WTAP calculations.
- Up to \$10,000 for ten violations of WAC 480-120-161.

Report Format

This investigation report is divided into sections by violation category. Staff's penalty recommendations appear in the last section.

COMPLIANCE HISTORY

2008 Investigation

In Aug. 2008, staff reviewed 212 commission-referred consumer complaints filed against Qwest between Jan. 1 and June 30, 2008, to determine Qwest's compliance with rules and laws enforced by the commission. Staff found that Qwest violated 11 consumer protection laws and rules, as follows:

- RCW 80.36.130, Published rates to be charged
- WAC 480-120-103, Application for service
- WAC 480-120-147, Changes in local exchange and intrastate toll services
- WAC 480-120-161, Form of bills
- WAC 480-120-165, Consumer Complaints
- WAC 480-120-166, Commission-referred complaints
- WAC 480-120-171, Discontinuing service – Consumer requested
- WAC 480-120-172, Discontinuing service – Company initiated
- WAC 480-120-173, Restoring service after disconnection
- WAC 480-120-174, Payment arrangements
- WAC 480-120-440, Repair standards

Staff provided Qwest with a copy of the investigation report and met with company representatives to discuss the findings and provide technical assistance.

2010 Investigation

Staff performed a follow-up investigation in March 2010, using 102 consumer complaints filed against Qwest between March 1 and June 30, 2009. Despite the company's assurance of future compliance and the ongoing technical assistance provided through the commission's consumer complaint process, staff found violations of ten statutes and rules, as follows:

- RCW 80.36.130, Published rates to be charged
- WAC 480-120-061, Refusing service
- WAC 480-120-122, Establishing credit – Residential services
- WAC 480-120-161, Form of bills
- WAC 480-120-163, Refunding an overcharge
- WAC 480-120-166, Commission-referred complaints
- WAC 480-120-172, Discontinuing service – Company initiated
- WAC 480-120-173, Restoring service after disconnection
- WAC 480-120-174, Payment arrangements
- WAC 480-120-440, Repair standards

Staff recommended the commission issue a formal complaint against Qwest for 69 violations of commission laws and rules, and recommended a penalty of \$69,000. On August 27, 2010, in Docket UT-091870, the commission approved a settlement agreement between staff and the company that reduced the penalty to \$34,500. The settlement also included commitments from Qwest to provide ongoing training and internal process improvements to increase compliance with commission service quality rules.

BACKGROUND

Merger

On May 13, 2010, Qwest Communications International, Inc. (QCII) and CenturyTel, Inc. (CenturyLink) filed with the commission a joint application for approval of the indirect transfer of control of QCII's operating subsidiaries Qwest Corporation, Qwest LD Corp. and Qwest Communications Company LLC to CenturyLink. On March 14, 2011 the commission issued Final Order 14 in Docket UT-100820, approving and adopting, subject to conditions, a multiparty settlement agreement authorizing CenturyLink to acquire indirect control of Qwest Corporation, Qwest LD Corp. and Qwest Communications Company LLC.¹ The chart directly below reflects the 2012 annual report information for each entity.

2012 Annual Report	Gross Intrastate Revenues
Qwest Corporation, d/b/a CenturyLink QC	\$413,294,084
Qwest Communications Company LLC, d/b/a CenturyLink QCC	\$19,086,526
Qwest LD Corp. d/b/a CenturyLink LD	\$14,336,264
CenturyTel Long Distance, LLC, d/b/a CenturyLink Long Distance	\$6,657,972
CenturyLink Communications	\$2,388,224
TOTAL	\$455,763,070

Consumer Complaints and Violations

According to commission informal complaint data, consumer protection staff received consumer complaints and recorded violations of commission laws and rules against Qwest and CenturyLink as follows:

Year	Total Number of Complaints	Violations Recorded
2012	283	3,419 ²
2011	334	457
2010	412	315

For the remainder of the report, the company is referred to as "CenturyLink."

¹ See Appendix A for a copy of the cover of Order 14 issued in Docket UT-100820.

² 3,150 violations of RCW 80.36.130(1) were recorded against CenturyLink in complaint 113431 for incorrectly billed tax rates.

INVESTIGATION

Scope of Investigation

A routine analysis of CenturyLink complaints revealed that while the number of complaints had decreased approximately 23 percent between 2010 and 2011, the number of violations recorded increased by 45 percent. The increase in violations was due in part to incorrect billing, late responses to staff requests, and failing to restore service in a timely manner.³

Due to the increase in violations, staff initiated an investigation to determine whether CenturyLink is in compliance with commission laws and rules. Staff reviewed 144 consumer complaints for the one-year period of Sept. 1, 2011, to Aug. 31, 2012.

Published Rates to be Charged

RCW 80.36.130 provides, in part: “Except as provided in RCW 80.04.130 and 80.36.150, no telecommunications company shall charge, demand, collect or receive different compensation for any service rendered or to be rendered than the charge applicable to such service as specified in its schedule on file and in effect at that time . . .”

In 12 consumer complaints, staff found CenturyLink billed incorrect rates in violation of RCW 80.36.130 a total of 2,644,004 times, as follows:

- 3,207 violations of RCW 80.36.130 for billing improper taxes to 355 customers
- 2,640,790 violations of RCW 80.36.130 for billing improper rates for Access Recovery charges, Federal Access charges, Federal Telecommunications Relay Service Fund charges, and Washington Telephone Relay Service Fund charges a total of 2,640,790 times during the months of July and August 2012
- Seven violations of RCW 80.36.130 for improperly billing five Washington Telephone Assistance Program (WTAP) eligible consumers

Complaint 113431

In this complaint, the consumer, a resident of Grays Harbor County, was incorrectly billed King County taxes. In an earlier complaint filed by the same consumer, CenturyLink represented that the problem had been corrected. At that time, staff asked the company if there were other affected customers. CenturyLink stated that it was an isolated incident.

The consumer contacted the commission a second time when her January through March 2012 bills continued to show King County taxes. CenturyLink responded to commission staff on Dec. 16, 2011, that the company experienced another system error that again changed the tax coding from Grays Harbor to King County. Commission staff again asked CenturyLink how many consumers had been incorrectly billed King County taxes. The company responded that 350 consumers were affected. Staff used that number to calculate violations based on three incorrect taxes billed to 350 consumers for three months, for a total of 3,150 violations of RCW 80.36.130(1).

³ There were 795 violations recorded in Complaint 107947 that were not included in the 2010 statistics.

Complaint 113437

In this complaint, the consumer, a resident of Lewis County, was incorrectly billed King County taxes from November 2011 through February 2012. Five violations of RCW 80.36.130(1) were recorded.

Complaints 113739 and 114087

A consumer filed two complaints against CenturyLink for billing incorrect tax rates. The consumer, who does not live within city limits, was billed city taxes in error due to the billing system conversion that occurred on July 13, 2011. The issue was not corrected, and the consumer filed a second complaint one month after his first complaint was closed. Between the two complaints, staff recorded 19 violations of RCW 80.36.130(1).

Complaint 113874

In this complaint, the consumer, who has lived in at the same address since 2002 and does not live within city limits, was billed a city occupation tax on his May 2012 statement. Staff recorded one violation of RCW 80.36.130(1).

Complaint 113993

In this complaint, the consumer was incorrectly billed Long Beach city taxes for 32 months, from October 2009 through May 2012. The consumer lives in unincorporated Pacific County, which is not within city limits. Staff recorded 32 violations of RCW 80.36.130(1).

Complaint 115043

In this complaint, First Baptist Church of Olympia (First Baptist) alleged that CenturyLink charged monthly taxes in excess of the amount originally quoted by the company.

Consumer protection staff passed the complaint to CenturyLink on Aug. 16, 2012. On Aug. 23, the company provided information related to the customer's account, including a breakdown of taxes by charge category. CenturyLink informed staff that although federal tax rates changed on July 1, 2012, the company did not implement the new rates in its billing system until Aug. 1. As a result, several of First Baptist's services were taxed at an incorrect rate for July and August, as follows:

- **Access Recovery Charge:** First Baptist's four access lines were each billed Access Recovery Charges of \$1.00. Each Access Recovery Charge is subject to a Federal Universal Service Fund (FUSF) tax. On July 1, 2012, the FUSF rate for Access Recovery Charges decreased from 17.4% to 15.7%. CenturyLink continued to bill First Baptist at the 17.4% rate for the months of July and August.
- **Federal Access Charge:** First Baptist's four access lines were billed Federal Access Charges of \$5.77 per line, or \$23.08 total. Each Federal Access Charge is subject to a FUSF tax. On July 1, 2012, the FUSF rate for the multi-line business Federal Access Charge decreased from 19.3419% to 17.4747%. CenturyLink continued to bill First Baptist at the 19.3419% rate for the months of July and August.

In its initial response to the complaint, CenturyLink provided information about the FUSF tax errors for both the Access Recovery charge and Federal Access charge, as follows:

“ACCESS RECOVERY CHARGE

The Access Recovery Charges (recurring charge) of \$4.00 (4 access lines * \$1.00 = \$4.00) and the prorated charge of \$3.07 (4 access lines * \$.7675 = \$3.07) are subject to the following taxes, fees, and surcharges:

1. FET (at 3%),
2. Washington State Sales Tax (at 6.5%),
3. Olympia City Sales Tax (at 2.2%), and
4. Federal Universal Service Fund (at 17.4%) – See note below.

FUSF Note: There are different FUSF rates based on the service type and state. For example, for Washington the FUSF rates on 7/1/2012 were as follows:

1. Federal Access Line Charge - Residential and Small Business = 17.4%
2. Federal Access Line Charge - Multi-Line Business = 19.3419%
3. Federal Access Line Charge - Centrex = 2.1491%
4. Access Recovery Charges – All Services = 17.4%

On 7/3/2012, the FUSF rates were changed to the following:

1. Federal Access Line Charge - Residential and Small Business = 15.7%
2. Federal Access Line Charge - Multi-Line Business = 17.4747%
3. Federal Access Line Charge - Centrex = 1.9416%
4. Access Recovery Charges – All Services = 15.7%

The Tax Department identified a program problem with in the CRIS billing system where some FUSF rate changes were not applied and unfortunately this customer account was one of them. We are working with IT to correct this account (as well as others impacted) – this customer should see a FUSF credit on either their September or October 2012 bill.

FEDERAL ACCESS CHARGE

The Federal Access Charges of \$23.08 (4 access lines * \$5.77 = \$23.08) are subject to the following taxes, fees, and surcharges:

1. FET (at 3%),
2. Washington State Sales Tax (at 6.5%),
3. Olympia City Sales Tax (at 2.2%), and
4. Federal Universal Service Fund (at 19.3419%) – See note below.

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On Aug. 29, consumer protection staff followed up with the company and requested information about the affected billing periods and the total number of Washington consumers affected by the billing error. On Sept. 7, 2012, CenturyLink responded that 731,814 access lines were billed incorrectly in the month of July, and 895,628 access lines were billed incorrectly in the month of August.

Between Sept. 2012 and Feb. 2013, CenturyLink continued to research the number of affected access lines. On Feb. 4, CenturyLink provided the following data, which included additional incorrect tax rates not identified in the company’s initial response to the complaint:

“We had two separate refund issues for WA state customers – the WA TRS overbilling, which was credited 12/7/2012 and had the credits posted to customer bills through 1/7/2013; and we had the Federal TRS/USF overbilling, for which credits were posted in November 2012 and showed on customer bills through December 2012. All credits have been posted to customer accounts and have appeared on customer bills for both the Federal USF/TRS credits and the WA TRS credits.

For the Federal USF/Federal TRS credits:

There were a total of 818,128 distinct WA TNs affected by the Federal USF and Federal TRS overbilling.

The credits for the Federal TRS totaled \$227.00

The credits for the Federal USF totaled \$130,158.75.

For the WA TRS Billing (if they should ask):

There were 1,173,831 distinct WA TNs affected by the WA TRS overbilling.

The total credits for WA TRS totaled \$32,539.98”

That same day, consumer protection staff responded with the following email:

“Your response today states there were a total of 818,128 distinct WA TNs affected by the Federal USF and Federal TRS overbilling. Please provide the separate total number of access lines incorrectly billed for July and the separate total number of access lines incorrectly billed for August. You’d previously stated the number of access lines billed an incorrect Access Recovery Charge and Federal Access Charge is 731,814 for July 2012 and 895,628 for August 2012. Please verify. Please provide the number of access

lines incorrectly billed for each separate month.

Also, your response today states there were 1,173,831 distinct WA TNs affected by the WA TRS overbilling. This issue was not identified in your response on August 23, 2012. Please provide the separate total number of access lines incorrectly billed for July and the separate total number of access lines incorrectly billed for August. Thank you.”

On Feb. 7, CenturyLink provided consumer protection staff with final counts for Access Recovery charges, Federal Access charges, Federal Telephone Relay Service Fund charges, and Washington Telephone Relay Service Fund charges billed in error, as follows:

“FUSF Overbilling

July 2012	585,503 Lines = \$102,142.08 Refund
<u>August 2012</u>	<u>233,625 Lines = \$28,016.67 Refund</u>
Total	818,128 Lines = \$130,158.75 Refund

FTRS Overbilling

July 2012	144,871 Lines = \$175.22 Refund
<u>August 2012</u>	<u>50,349 Lines = \$51.78 Refund</u>
Total	195,220 Lines = \$227.00 Refund

WA TRS Overbilling

July 2012	731,814 Lines = \$14,633.05 Refund
<u>August 2012</u>	<u>895,628 Lines = \$17,907.40 Refund</u>
Total	1,627,442 Lines = \$32,540.45 Refund”

Based on this information, staff recorded 2,640,790 violations of RCW 80.36.130(1) for 2,640,790 incorrect charges in the months of July and August 2012.

Complaint 113199

In this complaint, a consumer who was eligible for WTAP discounts did not receive two WTAP credits when her service was transferred. Staff recorded two violations of RCW 80.36.130(1).

Complaint 113488

In this complaint, the consumer did not receive WTAP credits for two months after re-establishing service with the company on Dec. 5, 2011. CenturyLink manually issued an adjustment to the account for the February and March 2012 WTAP credits. Staff recorded two violations of RCW 80.36.130(1).

Complaint 113786

In this complaint, the consumer requested a telephone number change. CenturyLink did not apply the consumer’s WTAP discounts to her new phone number until she filed a complaint with the commission. Staff recorded one violation of RCW 80.36.130(1).

Complaint 113912

In this complaint, the consumer's order to transfer her service was processed on April 17, 2012, without applying WTAP discounts. On May 22, 2012, CenturyLink issued credits for the non-recurring transfer charge. On June 25, 2012, CenturyLink issued additional credits based on the compliance agreement with Merger Condition 26b in Docket No. UT-100820. Staff recorded one violation of RCW 80.36.130(1).

Complaint 113942

In this complaint, the consumer's request for WTAP on a new order for service was not processed correctly by CenturyLink, and the WTAP discounts were not applied to the account. Staff recorded one violation of RCW 80.36.130(1).

Findings

In the 2010 investigation, staff noted that the company significantly increased its compliance by reducing the number of violations of RCW 80.36.130 from 19 to 1. Accordingly, staff regarded the 2010 investigation as technical assistance, and did not recommend a penalty. Staff cautioned, however, "If future violations are found, staff may recommend penalties or other sanctions."

In the 2013 investigation, staff finds that CenturyLink improperly billed incorrect taxes a total of 2,643,997 times in violation of RCW 80.36.130(1). In some cases, CenturyLink failed to resolve the issue after it was brought to the company's attention. CenturyLink also billed five WTAP eligible consumers incorrectly by failing to issue proper credits. In each of these complaints, staff notified CenturyLink of the violations and provided technical assistance. Staff finds that CenturyLink violated RCW 80.36.130(1) a total of 2,644,004 times.

Application for Service

WAC 480-120-103(1)(a) provides: that when contacted by an applicant, or when a company contacts a person, a company must: "Accept and process applications when an applicant for service for a particular location has met all tariff requirements and applicable commission rules."

During the review period, staff found that CenturyLink incorrectly processed WTAP applications on three occasions. Staff provided the company with technical assistance through the informal complaint process.

Complaint 112236

In this complaint, the consumer told CenturyLink she was eligible for WTAP discounts and requested they be applied to her existing service. CenturyLink did not take the consumer's client identification number or verify eligibility until the consumer filed a complaint with the commission. Staff recorded one violation of WAC 480-120-103(1)(a) for failing to process the consumer's application for service with the WTAP discount.

Complaint 112638

In this complaint, the consumer called CenturyLink to apply for new service with the WTAP discount. CenturyLink refused to accept his application because he had a prior balance from 2008. In addition to denying the customer's request, CenturyLink failed to offer payment arrangements for the 2008 final bill, as required by rule. Staff recorded one violation of WAC 480-120-103(1)(a) for failing to process the consumer's application for service with the WTAP discount.

Complaint 112758

In this complaint, the consumer contacted CenturyLink to apply for new service with the WTAP discount. CenturyLink's representative failed to take the appropriate action to apply the WTAP discounts, instead attempting to sell the consumer additional services. The consumer was incorrectly billed without the WTAP discount for two months. Staff recorded two violations of WAC 480-120-103(1)(a) for failing to process the consumer's application for service with WTAP discounts for the first two months of service.

Findings

Staff finds four violations of WAC 480-120-103(1)(a) in three consumer complaints. Because no violations were cited in the 2010 investigation related to WTAP, staff considers this investigation the company's technical assistance related to WAC 480-120-103(1)(a). Future violations will result in additional enforcement action, including penalties.

Form of bills

WAC 480-120-161 provides, in part:

- (2) Length of time for payment of a bill. Bill due dates must reflect a date which at a minimum allows a consumer fifteen days from the date of mailing for payment.
- (a) Upon showing of good cause, a consumer may request and the company must allow a consumer to pay by a date that is not the normally designated payment date on their bill.
- (4) Bill organization. Telephone bills must be clearly organized and must comply with the following requirements:
 - (a) Bills may only include charges for services that have been requested by the consumer or other individuals authorized to request such services on behalf of the consumer, and that have been provided by the company.

CenturyLink has continued to improperly bill its customers. Staff recorded ten violations of WAC 480-120-161 in eight consumer complaints.

Complaint 113625

In this complaint, the consumer contacted CenturyLink to request a due date change to coincide with monthly board meetings, when funds for payment were approved. CenturyLink refused to change the bill due date, instead assessing late fees. As a result of the complaint, CenturyLink credited the late fees and moved the bill print date. Staff recorded one violation of WAC 480-120-161(2)(a).

Complaint 114072

In this complaint, the consumer requested a change in her bill due date to coincide with receipt of her monthly Social Security check. CenturyLink stated in response to the complaint that, “We do not change billing dates to accommodate change bill date requests, rather we offer a telephone number change to fit the time frame that our consumer is able to pay their bills.” CenturyLink went on to say they would have a “no treatment” flag added to the consumer’s account to show her preferred bill due date, thereby preventing notices and calls to the consumer when the payment is made past the original due date. Staff recorded one violation of WAC 480-120-161(2)(a).

Complaint 112880

In this complaint, the consumer called CenturyLink to change her service to a plan with a bundled discount. CenturyLink did not properly implement the order, and the discount was not applied to her account. Staff recorded one violation of WAC 480-120-161(4)(a).

Complaint 113168

In this complaint, the consumer was offered a free modem if she upgraded her service to a bundled package. CenturyLink instead billed her \$99.99 for the modem. Staff recorded one violation of WAC 480-120-161(4)(a).

Complaint 113504

In this complaint, CenturyLink added additional features to the consumer’s telephone service without his consent. The consumer made several calls to CenturyLink before the unwanted services were removed. Staff recorded one violation of WAC 480-120-161(4)(a).

Complaint 113642

In this complaint, CenturyLink billed the consumer for three months of internet services that were not received. Staff recorded three violations of WAC 480-120-161(4)(a)

Complaint 113706

In this complaint, the consumer, who has a bundled home phone package with CenturyLink that includes unlimited long distance, was incorrectly billed casual calling rates for long distance calls. Staff recorded one violation of WAC 480-120-161(4)(a).

Complaint 113707

In this complaint, the consumer changed her service from two telephone lines with DSL and long distance to one residential line and DSL only. Due to a system error, CenturyLink incorrectly billed the consumer for services not provided. Staff recorded one violation of WAC 480-120-161(4)(a).

CenturyLink is cautioned that telling consumers they must change their telephone number in order to change their bill due date violates WAC 480-120-161(2)(a). Flagging a customer’s account does not comply with the rule, which states that customers may choose a preferred billing date upon a showing of good cause. Receipt of income or monthly board meetings where payments are approved both constitute good cause.

Findings

Staff finds ten violations of WAC 480-120-161(4)(a) in eight consumer complaints.

Consumer Complaints

WAC 480-120-165(2) provides, in part:

When a company receives an oral or written complaint from an applicant or consumer regarding its service or regarding another company's service for which it provides billing, collection, or responses to inquiries, the company must acknowledge the complaint as follows:

- (d) Take corrective action, if warranted, as soon as appropriate under the circumstances;
- (e) Inform the complainant that the decision may be appealed to a supervisor at the company;
- (f) Inform the complainant, if still dissatisfied after speaking to a supervisor, of the right to file a complaint with the commission and provide the commission address and toll-free telephone number.

Staff found nine violations of WAC 480-120-165(2) in eight consumer complaints for CenturyLink's failure to take action to resolve a complaint, failing to allow a consumer to speak to a supervisor, and failing to provide the commission's telephone number to a consumer.

Complaint 113333

In this complaint, CenturyLink failed to take corrective action to resolve the consumer's complaint. CenturyLink informed consumer protection staff that it failed to repair the consumer's loss of dial tone for seven days because a technician was not dispatched to the service address. The consumer was out of service for seven days. Staff recorded one violation of WAC 480-120-165(2)(d).

Complaint 112987

In this complaint, the consumer told commission staff that a CenturyLink representative in the company's Boise office refused to allow her to speak to a supervisor. Staff recorded one violation of WAC 480-120-165(2)(e).

Complaint 113160

In this complaint, the consumer was denied the opportunity to speak to a supervisor on two occasions. CenturyLink responded to the complaint by stating that the issue had been addressed internally with the applicable management team. Staff recorded two violations of WAC 480-120-165(2)(e).

Complaint 113453

In this complaint, the consumer requested a supervisor callback, and was told by a CenturyLink representative that he would receive a call back in two minutes. The consumer never received a call back from a supervisor. Staff recorded one violation of WAC 480-120-165(2)(e).

Complaint 112613

In this complaint, the consumer called CenturyLink to request a refund of an overpayment on his account. When the consumer asked the CenturyLink representative who to contact to file a complaint, the representative told him to “look it up.” Staff recorded one violation of WAC 480-120-165(2)(f).

Complaint 112771

In this complaint, the consumer asked a CenturyLink representative for the commission’s telephone number. Instead of providing the commission’s contact number, the CenturyLink employee told the consumer he could look it up on the internet. Staff recorded one violation of WAC 480-120-165(2)(f).

Complaint 112917

In this complaint, the consumer was not provided the commission’s address and toll-free telephone number. The CenturyLink representative told him that he did not have the commission’s telephone number, and suggested the consumer look it up in the phone book. Staff recorded one violation of WAC 480-120-165(2)(f).

Complaint 113337

In this complaint, CenturyLink did not provide the consumer with any information about how to contact the commission or file a complaint when he told a CenturyLink supervisor he was dissatisfied. Staff recorded one violation of WAC 480-120-165(2)(f).

Findings

Staff finds nine violations of WAC 480-120-165(2) in eight consumer complaints. Because no violations of this rule were cited in the 2010 investigation, staff considers this investigation the company’s technical assistance related to WAC 480-120-165(2). Future violations will result in additional enforcement action, including penalties.

Commission Referred Complaints

WAC 480-120-166 provides, in part:

- (4) When the commission staff refers an informal complaint to a company, the company must:
 - (a) Stop any pending action involving the issues raised in the complaint provided any amounts in dispute are paid when due (e.g., if the complaint involves a disconnect threat or collection action, the disconnect or collection must be stopped);
 - (b) Thoroughly investigate all issues raised in the complaint and provide a complete report of the results of its investigation to the commission, including, if applicable information that demonstrates that the company’s action was in compliance with commission rules.
- (8) Unless another time is specified in this rule or unless commission staff specifies a later date, the company must provide complete responses to request from commission staff for additional information on pending informal complaints within three business days.

Although the 2010 investigation showed increased compliance this area, staff found a marked increase in the number of violations of WAC 480-120-166 in 2012. In 13 complaints, staff recorded 19 violations of WAC 480-120-166 for disconnecting a customer's service during a complaint investigation; incomplete or late initial responses; and incomplete or late responses to requests for additional information.

Complaint 112624

In this complaint, the consumer's service was disconnected during the complaint investigation. CenturyLink told commission staff that the interruption was due to an "auto treatment" on the consumer's account. Staff recorded one violation of WAC 480-120-166(4)(a).

Complaint 112602

In this complaint, CenturyLink's initial response to staff's request for consumer account information contained inaccurate data. Because the response did not designate \$0.02 as a credit, the account history did not match the information provided by the company. Staff also found that the bill mailing dates noted in the initial response were incorrect. Staff recorded one violation of WAC 480-120-166(4)(a).

Complaint 113420

In this complaint, CenturyLink did not provide copies of all of the documents requested by staff in its initial response to the complaint. CenturyLink also failed to provide copies of all of the disconnect notices sent to the consumer, which were requested by staff when the complaint was opened. Staff recorded two violations of WAC 480-120-166(4)(b).

Complaint 113661

In this complaint, staff requested that CenturyLink provide additional information related to a \$34.27 charge in its initial response. CenturyLink did not provide the answer until staff asked the question a second time. Staff recorded one violation of WAC 480-120-166(4)(b).

Complaint 113703

In its initial response to the complaint, CenturyLink failed to address a consumer's claim that he was denied the opportunity to speak to a CenturyLink supervisor. Staff recorded one violation of WAC 480-120-166(4)(b).

Complaint 112794

On Jan. 13, 2012, staff requested additional information about whether the consumer was required to be home for the CenturyLink technician to repair his line. The response was due on Jan. 19. CenturyLink did not provide the information to staff until Jan. 23. Staff recorded three violations of WAC 480-120-166(8).

Complaint 112880

In this complaint, staff sent CenturyLink a request for additional information regarding taxes, fees and surcharges on the consumer's bill. The response was due by 5:00 p.m. on Feb. 13, 2012. Commission staff received the response at 5:34 p.m. Staff recorded one violation of WAC 480-120-166(8).

Complaint 112980

In this complaint, staff sent CenturyLink an email on Feb. 8, 2012, requesting bill copies and additional information for the consumer's account. CenturyLink responded timely by providing copies of the requested bills; however, the company did not provide the requested information related to the consumer's account history until Feb. 16. Staff recorded three violations of WAC 480-120-166(8).

Complaint 113081

In this complaint, staff requested that CenturyLink credit the consumer for loss of service. CenturyLink's reply to staff was one day late. Staff recorded one violation of WAC 480-120-166(8).

Complaint 113168

In this complaint, staff requested additional information regarding a charge for a modem. CenturyLink failed to provide a response until staff sent an email notifying the company that daily violations were being recorded. Staff recorded one violation of WAC 480-120-166(8).

Complaint 113301

Following receipt of the initial response to this complaint, staff requested additional information and confirmation of certain services. The company's response was due on March 23, 2012. CenturyLink did not respond completely until March 26. Staff recorded one violation of WAC 480-120-166(8).

Complaint 113439

In this complaint, additional information was requested when staff noticed the consumer's February 2012 statement was \$20 higher than his other statements. The company response was due on April 5, 2012. CenturyLink responded on April 9, stating response was delayed because the responding party had been on vacation. Staff recorded two violations of WAC 480-120-166(8).

Complaint 113547

On April 18, 2012, staff requested a copy of the welcome letter the company sends to new consumers. CenturyLink did not respond until staff sent a subsequent request on March 25. In response to the second request, CenturyLink provided a copy of the letter. Staff recorded one violation of WAC 480-120-166(8).

Findings

Staff finds 19 violations of WAC 480-120-166(8). Because the company demonstrated increased compliance with this rule in the 2010 investigation, staff considers this investigation the company's technical assistance related to WAC 480-120-166(8). Future violations will result in additional enforcement action, including penalties.

Discontinuing Service – Consumer Initiated

WAC 480-120-171(2) states, in part: “A company must stop a consumer’s monthly recurring or minimum charges effective on the requested disconnection date.”

In one consumer complaint, staff found that CenturyLink failed to cease billing the monthly recurring charges when a consumer requested a disconnection of service. Staff provided technical assistance to CenturyLink through the informal complaint process.

Complaint 113441

In this complaint, the consumer ported her business service to another company in August 2010, and followed up with CenturyLink on Nov. 19, 2010, to ensure all services were canceled. The consumer found a toll-free administration fee was still active and billing to her account. A CenturyLink representative told the consumer that an order was written at that time for cancellation, effective December 2010. CenturyLink continued to bill the fee until March 20, 2012. Staff recorded 15 violations of WAC 480-120-171(2).

Findings

Staff finds 15 violations of WAC 480-120-171(2) in one consumer complaint. Because no violations of this rule were reported in the 2008 or 2010 investigations, staff considers this report the company’s technical assistance related to WAC 480-120-171(2). Future violations will result in penalties or other enforcement action.

Discontinuing Service – Company Initiated

WAC 480-120-172 states, in part:

(3) A company may discontinue service after providing proper notice, or may issue a discontinuation notice, if, and only if:

(c) The company determines the consumer has not paid regulated charges or has not paid a deposit as provided in the tariff or rates, terms and conditions of competitively classified service of the company or another company with which it has a billing and collection agreement, except for nonpayment of charges incurred from information delivery services as provided for in WAC 480-120-254 (Telephone Solicitation) or disputed third party-billed charges.

(8) . . . a company must attempt to make personal contact with a consumer prior to discontinuing service. Any of the following methods will satisfy the personal contact requirement:

(d) Telephone Notice. A company must attempt at least two times to contact the consumer during regular business hours. If the company is unable to reach the consumer on the first attempt, the company must attempt to contact the consumer using any business or message number provided by the consumer as a contact number. The company must keep a log or record of the calls for a minimum of ninety calendar days showing the telephone number called, the time of the call, and details of the results of each attempted call.

During the review period, staff found two violations of WAC 480-120-172 in two consumer complaints.

Complaint 113341

In this complaint, staff found that CenturyLink suspended the consumer's service on Nov. 7, 2011, which was the due date on the consumer's past due notice. Staff recorded one violation of WAC 480-120-172(3)(2).

Complaint 112734

In this complaint, CenturyLink failed to make two attempts to reach the consumer by telephone, as required by rule, prior to disconnecting service. Staff recorded one violation of WAC 480-120-172(8)(d).

Findings

Staff finds two violations of WAC 480-120-172 in two consumer complaints for suspending or disconnecting service without proper notification. Because the company has substantially increased compliance in this area, staff considers this investigation the company's technical assistance related to WAC 480-120-172. Future violations will result in additional enforcement action, including penalties.

Payment Arrangements

WAC 480-120-174 provides, in part:

(1) **General.** Applicants or customers, excluding telecommunications companies as defined in RCW 80.04.010, are entitled to, and a company must allow, an initial use, and then, once every five years dating from the customer's most recent use of the option, an option to pay a prior obligation over not less than a six-month period. The company must restore service upon payment of the first installment if an applicant is entitled to the payment arrangement provided for in this section and, if applicable, the first installment of a deposit is paid as provided for in WAC 480-120-122 (Establishing credit -- Residential services).

(2) **Restoring service based on Washington telephone assistance program (WTAP) or federal enhanced tribal lifeline program eligibility.** Local exchange companies (LECs) must restore service for any consumer who has had basic service discontinued for nonpayment under WAC 480-120-172 (Discontinuing service -- Company initiated) if the consumer was not a participant in either the Washington telephone assistance program (WTAP) or the federal enhanced tribal lifeline program at the time service was discontinued and if the consumer is eligible to participate in WTAP or the federal enhanced tribal lifeline program at the time the restoration of service is requested. To have service restored under this subsection, a consumer must establish eligibility for either WTAP or the federal enhanced tribal lifeline program, agree to continuing participation in WTAP or the federal enhanced tribal lifeline program, agree to pay unpaid basic service and ancillary service amounts due to the LEC at the monthly rate of no more than one and one-half times the telephone assistance rate required to be paid by WTAP participants....

Complaint 112638

In this complaint, the consumer was denied home telephone service with a WTAP discount because of an unpaid balance on a prior account. CenturyLink told the consumer that the previous balance would need to be paid in full before he could obtain new service, and failed to offer him payment arrangements. Staff recorded one violation of WAC 480-120-174(2).

Findings

Staff found one violation of WAC 480-120-174(2) in one consumer complaint. Because the company has substantially increased compliance in this area, staff considers this investigation the company's technical assistance related to WAC 480-120-174(2). Future violations will result in additional enforcement action, including penalties.

Using privacy listings for telephone solicitation

WAC 480-120-217 provides, in part:

A local exchange company may not make telephone solicitation or telemarketing calls using its list of consumers with nonpublished or unlisted numbers unless it has notified each such consumer at least once in the past year that the company makes such calls to its consumers with nonpublished or unlisted numbers and that the consumer has a right to direct that the company make no such calls.

(3) When the company provides the notice in subsection (1) of this section by phone call, the consumer must be informed that inclusion in a solicitation list may be declined and if declined, the company must not make any additional solicitation.

In one complaint, staff found that CenturyLink continued to make solicitation calls to a consumer with a nonpublished number who requested that the company stop.

Complaint 113501

In this complaint, CenturyLink repeatedly called the consumer to solicit a variety of services. The consumer, who has a nonpublished number, told CenturyLink she was not interested. CenturyLink continued to solicit her until she opened a complaint with the commission. Staff recorded two violations of WAC 480-120-217(3).

Findings

Staff finds two violations of WAC 480-120-217(3). Because no violations of this rule were found in the 2008 or 2010 investigations, staff considers this investigation as the company's technical assistance related to WAC 480-120-217(3). Future violations will result in penalties or other enforcement action.

Repair standards for service interruptions

WAC 480-120-440 provides, in part:

(1) A company must repair all out-of-service interruptions within forty-eight hours, unless the company is unable to make the repair because it is physically obstructed from doing so or because of force majeure, in which case the repair must be made as soon as practicable. The forty-eight hour requirement does not apply to out-of-service interruptions that are part of a major outage under WAC 480-120-412.

Staff found six violations of WAC 480-120-440 in three consumer complaints related to CenturyLink's failure to repair a customer's out-of-service interruption within 48-hours.

Complaint 112613

In this complaint, the consumer originally contacted the commission for help with a refund for an overpayment on his bill. Staff found three violations of WAC 480-120-440 in the consumer's account repair history. One violation was recorded because the company did not restore the consumer's service within 48-hours in October 2011. Two additional violations were recorded when the consumer contacted CenturyLink to report no dial tone on Dec. 2, 2011, and service was not repaired until Dec. 6. Staff recorded a total of three violations of WAC 480-120-440(1).

Complaint 113081

In this complaint, the consumer first contacted CenturyLink on Feb. 8, 2012, to report that she did not have a dial tone, and contacted the company again when the issue was not resolved. The CenturyLink representatives referred her to the company's website to submit her repair request. The consumer's service was not restored until Feb. 11. Staff recorded one violation of WAC 480-120-440(1).

Complaint 113333

In this complaint, the consumer called CenturyLink three times to report loud static, the inability to dial long distance, and no dial tone. CenturyLink admitted in its response to the commission staff that it did not dispatch a technician in response to the consumer's repair requests. Staff recorded two violations of WAC 480-120-440(1).

Findings

Staff found six violations of WAC 480-120-440(1) in three consumer complaints. Because the violation count has decreased since 2010, staff considers this investigation as the company's technical assistance related to WAC 480-120-440(1). Future violations will result in penalties or other enforcement action.

RECOMMENDATIONS

Penalty

Staff typically recommends a “per violation” penalty against a regulated company where the violations result in serious consumer harm; for repeat violations of a rule after the company receives technical assistance; or for intentional violations of commission laws or rules. The commission has the authority to assess penalties of \$100 per violation, per day against a regulated company without providing the opportunity for a hearing.⁴ The commission also has the authority to assess penalties of up to \$1,000 per violation, per day following a formal complaint and hearing.⁵

In this investigation, staff documented 2,644,014 violations of commission laws and rules, and recommends penalties for a portion of those violations in four categories. Staff considered the following factors to determine the recommended penalty amount:

1. How serious or harmful the violation is to the public.

Each of the violations cited in this report directly impacted consumers; none were technical errors. Denying WTAP credits to eligible consumers, charging incorrect taxes, and continuing to charge for services no longer provided are violations with significant and potentially far-reaching impacts.

2. Whether the violation is intentional.

Staff does not believe the evidence supports a finding that the violations were intentional.

3. Whether the company self-reported the violation.

The company did not self-report any of the violations cited in this report.

4. Whether the company was cooperative and responsive.

Staff believes that the company has been cooperative, and has responded timely to staff requests for information.

5. Whether the company promptly corrected the violations and remedied the impacts.

In some complaints addressed in this report, CenturyLink failed to resolve the issue related to billing incorrect taxes or tax rates after it was brought to the company’s attention. CenturyLink also billed five WTAP eligible consumers incorrectly by failing to issue proper credits. In each of these complaints, staff notified CenturyLink of the violations and provided technical assistance.

In consumer complaint 115043, staff discovered that 2,640,790 access lines were

⁴ RCW 80.04.405 allows the commission to assess an administrative penalty for any violation by a regulated company of a statute, rule, the company’s own tariff, or commission order.

⁵ RCW 80.04.380 allows the commission to assess a penalty of up to \$1,000 for each violation following a hearing.

improperly assessed Access Recovery charges, Federal Access charges, Federal Telecommunications Relay Service Fund charges, and Washington Telephone Relay Service Fund charges during the months of July and August 2012. As a result of the complaint, the company credited \$162,926.20 to affected customers.

6. The number of violations and the number of customers affected.

Staff cited 2,644,014 violations in this report. In six consumer complaints, 355 customers were affected; in consumer complaint 115043, CenturyLink assessed 2,640,790 incorrect charges over a two month period. Between 50,000 and 895,000 access lines were affected by each charge.

7. The likelihood of recurrence.

Absent a comprehensive compliance plan, the violations are likely to recur.

8. The company's past performance regarding compliance, violations and penalties.

In Aug. 2008, staff reviewed 212 commission-referred consumer complaints filed against Qwest between January 1 and June 30, 2008, to determine Qwest's compliance with rules and laws enforced by the commission. Staff found that Qwest violated 11 consumer protection laws and rules. Staff provided Qwest with a copy of the investigation report and met with company representatives to discuss the findings and provide technical assistance.

Staff performed a follow-up investigation in March 2010, using 102 consumer complaints filed against Qwest between March 1 and June 30, 2009. Despite the company's assurance of future compliance and the ongoing technical assistance provided through the commission's consumer complaint process, staff found violations of ten statutes and rules. Staff recommended the commission issue a formal complaint against Qwest for 69 violations of laws and rules enforced by the commission, and recommended a penalty of \$69,000.

9. The company's existing compliance program.

Staff is not aware of any existing compliance program. The volume and recurring nature of the violations create a presumption that the company does not have a compliance program in place to prevent taxation errors.

10. The size of the company.

The company reported total operating revenues of \$455,763,070 in 2012.

Recommendation

Staff recommends the commission issue a complaint and find that CenturyLink committed 2,644,014 violations of commission laws and rules. Staff also recommends the commission assess a total penalty of up to \$313,070 for the following violations:

- \$264,000 for the 2,640,790 violations of RCW 80.36.130 in complaint 115043. While staff could recommend penalties of \$100 or more for each of the 2,640,790 violations, staff believes that it would be disproportionately punitive to do so. This recommendation represents a \$100 penalty for 2,640 violations, or one percent of the total.
- \$32,070 for the 3,207 violations of RCW 80.36.130 related to incorrect tax calculations in multiple consumer complaints. While staff could recommend penalties of up to \$1,000 per violation, staff believes that it would be disproportionately punitive to do so. This recommendation represents a \$10 penalty for each violation.
- Up to \$7,000 for the seven violations of RCW 80.36.130 related to incorrect WTAP calculations. The company received comprehensive technical assistance in this area as a result of the 2008 and 2010 investigations, and these violations have a significant impact on a vulnerable group of consumers. This recommendation represents the maximum penalty for each violation.
- Up to \$10,000 for the ten violations of WAC 480-120-161. The company received comprehensive technical assistance in this area as a result of the 2008 and 2010 investigations, and these violations resulted in customer overcharges and misapplied credits. This recommendation represents the maximum penalty for each violation.

Additionally, Staff recommends that CenturyLink closely review this report and the violations cited herein, which constitute technical assistance. Future violations will result in additional enforcement action, including penalties.

APPENDIX A

[Service Date March 14, 2011]

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Joint Application of)	DOCKET UT-100820
)	
QWEST COMMUNICATIONS)	ORDER 14
INTERNATIONAL INC. AND)	
CENTURYTEL, INC.)	
)	FINAL ORDER APPROVING AND
For Approval of Indirect Transfer of)	ADOPTING, SUBJECT TO
Control of Qwest Corporation, Qwest)	CONDITIONS, MULTIPARTY
Communications Company LLC, and)	SETTLEMENT AGREEMENTS AND
Qwest LD Corp.)	AUTHORIZING TRANSACTION
.....)	

Synopsis: The Washington Utilities and Transportation Commission (Commission) approves and adopts, subject to conditions, five multiparty settlement agreements resolving all of the disputed issues among Qwest Communications International Inc. and CenturyTel, Inc.(CenturyLink) and 360networks(USA), Integra Telecom, Commission Staff, Public Counsel, the Department of Defense, and tw telecom. The five settlement agreements contain commitments that expand broadband service to unserved and underserved areas of Washington, protect consumers from merger-related costs, and provide rate stability for residential and business retail customers. The agreements also protect service quality performance and provide advanced notice of any modifications to operational support systems. The commitments, together with settlement modifications and additional conditions imposed in this Order, provide sufficient assurance that the proposed merger will be in the public interest. As a result, the Commission authorizes CenturyLink to acquire indirect control of Qwest Corporation, Qwest Communications Company LLC, and Qwest LD Corp.