

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. QWEST CORPORATION D/B/A CENTURYLINK QC, Respondent.	DOCKET UT-171082 COMPLAINT
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1 The Washington Utilities and Transportation Commission (Commission), on its own motion, and through its Staff, alleges as follows:

I. INTRODUCTION

2 This Complaint arises from allegations that Qwest Corporation d/b/a CenturyLink QC (“CenturyLink” or “Company”) failed to extend service within its service area to a consumer who resides in a subdivision in Vancouver, Washington. In Washington, every telecommunications company has an obligation to provide service to all persons within its service area. When a consumer requests new local exchange service, and the telecommunications company does not have facilities at the location, a telecommunications company must comply with the Commission’s line extension rule, Washington Administrative Code (WAC) 480-120-071. The line extension rule requires all local exchange companies receiving federal high-cost universal support to provide extensions of service within their service territories up to 1,000 feet at no cost to the applicant. Although there is an exception in the rule for line extensions to developments, the allegations in this proceeding involve service to a property that is occupied rather than to land that is being developed. CenturyLink has failed to provide an allowance at no cost to the consumer for the 100-foot line extension to his property and has failed to serve the consumer.

II. BACKGROUND

3 On December 22, 2016, a consumer residing in the Anna Marie Lane subdivision in Vancouver, Washington, requested service from CenturyLink. The Anna Marie Lane subdivision is within CenturyLink’s service territory. The consumer initially asked to transfer service. He learned from CenturyLink, however, that there were no CenturyLink

facilities at his location and that he would have to provide a path for the facilities to his property, at his own expense, before CenturyLink would furnish service. CenturyLink did not provide the consumer with a cost estimate but later informed Commission Staff that the job cost would range from \$1,670 to \$3,000, not including the permit, which would cost approximately \$125, or installation of service.

- 4 A CenturyLink pedestal is located directly across the street from the consumer's property (a distance of approximately 45 feet). At one corner of the consumer's property, there is a Comcast pedestal. The distance of the path from the CenturyLink pedestal to the Comcast pedestal at the corner of the consumer's property is approximately 100 feet (45 feet across the street, and approximately 55 feet further up the street to the pedestal).
- 5 On February 3, 2017, the consumer filed an informal complaint with Commission Staff (Staff) against CenturyLink. Staff notified CenturyLink of the complaint. CenturyLink responded that the consumer is a CenturyLink retiree and had moved into what the Company calls a "no serve housing development." CenturyLink contends that, because service to developments is exempted from the line extension rule, the Company does not have to provide an allowance or extend service to any consumers in the Anna Marie Lane subdivision. Further, the Company claims that it is not obligated to provide service in this subdivision at all because the developer refused to enter into a contract with CenturyLink, which CenturyLink terms "Provisioning Agreement for Housing Development" or "PAHD."
- 6 Staff informed CenturyLink that the development exception does not apply here and the Company is in violation of the line extension rule for not allowing an extension of service within its service territory up to one thousand feet at no charge to the applicant. Staff explained that the consumer is not asking for an extension of service to "land which is divided or proposed to be divided," which is the relevant part of the definition of "development" in the line extension rule. In response, CenturyLink stated that it did not believe the line extension rule applied to this customer, and "[a]t this juncture, we will take the violation and then appeal."
- 7 Staff upheld the consumer's complaint and, on April 14, 2017, recorded two violations by CenturyLink of WAC 480-120-071, the line extension rule. Specifically, Staff recorded one violation of WAC 480-120-071(3) for failure to provide the consumer with an application for extension of service within seven business days, and one violation of WAC 480-120-071(4) for failure to allow an extension of service up to 1,000 feet at no charge to the consumer. Staff instructed CenturyLink to provide service to the consumer.
- 8 CenturyLink escalated the consumer complaint to the Commission's assistant director for Consumer Protection. After a meeting with CenturyLink and receipt of additional communications from the Company, the assistant director concluded that the consumer should be upheld. She sent CenturyLink a letter, dated May 5, 2017, explaining that, in

the line extension rule, “development” is defined as “land which is divided . . . for the purpose of disposition into four or more lots, parcels, or units,” and is not the same as an occupied home. Because the consumer is asking for service to his home and not to a “development,” she concluded, the line extension rule requires CenturyLink to extend service. Staff instructed CenturyLink on May 8, 2017 to move forward with providing service to this customer under WAC 480-120-071.

- 9 Subsequently, CenturyLink escalated the consumer complaint to the Commission’s director of Safety and Consumer Protection. After meeting with CenturyLink and reviewing written materials provided by the Company, the director also concluded that the consumer should be upheld. In her letter to the Company, dated June 9, 2017, the director noted that the rule does not relieve a company from its obligation to serve based on the actions of a developer and, to the extent that the Company believes market changes render the line extension rule unreasonable, the proper action is to file a petition for rule exemption under WAC 480-120-015.
- 10 To date, CenturyLink has not filed a petition for an exemption from the requirements of extending service to this consumer under WAC 480-120-071.
- 11 On June 21, 2017, Staff opened an investigation into CenturyLink’s refusal to extend service to the Vancouver consumer. Staff requested information from CenturyLink on requests for service that the company has denied based on lack of facilities. CenturyLink responded July 25, 2017, that it does not retain records of service denials of this nature in a searchable database and that it is possible that other customers have contacted CenturyLink asking for service and have been told that service is not available in a development where the developer has refused to enter into a PAHD.
- 12 On October 9, 2017, Staff asked CenturyLink if the Company had included consumer complaints in its response to the June 21 data request. CenturyLink responded October 12, 2017, that it had not considered consumer complaints in its response. The Company reviewed its complaint database, stating in its response that its database goes back only to the beginning of 2016. The Company located one complaint that would have been responsive but had been opened after Staff propounded the data request.

III. PARTIES

- 13 The Commission is an agency of the State of Washington, authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including telecommunications companies, under Revised Code of Washington (RCW) Title 80.
- 14 CenturyLink is a telecommunications company providing service in the state of Washington and is a wholly owned subsidiary of CenturyLink, Inc. CenturyLink is a local exchange company certified in Washington as a wireline Eligible

Telecommunications Carrier (ETC) that receives federal high-cost universal service support.

IV. JURISDICTION

- 15 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 80.04.110, RCW 80.04.380, RCW 80.36, and WAC 480-120.
- 16 The Commission has jurisdiction over the Company because CenturyLink is subject to supervision and regulation by the Commission as a telecommunications company under RCW 80.36; and as a public service company under RCW 80.04.010 and RCW 80.04.

V. APPLICABLE LAW

- 17 Telecommunications companies providing service in the state of Washington must furnish service to all persons who apply for service and are reasonably entitled to it. RCW 80.36.090.
- 18 Local exchange companies receiving federal high-cost universal service support are subject to the Commission's line extension rule, WAC 480-120-071. Under WAC 480-120-071(3), each wireline ETC must, within seven business days of an applicant's initial request, provide the applicant with an application for extension of service. Under WAC 480-120-071(4), a company must allow for an extension of service within its service territory up to one thousand feet at no charge to the applicant.
- 19 Extension of service under WAC 480-120-071(2) does not apply to an extension of service to a "development," which is defined in the rule as "land which is divided or is proposed to be divided for the purpose of disposition into four or more lots, parcels or units." An "applicant" is defined under this subsection as "any person applying to a telecommunications company for new residential basic local exchange service," and the definition specifically excludes "developers requesting service for developments."
- 20 The Commission requires telecommunications companies to retain certain records. Under WAC 480-120-166, each company must keep a record of all complaints concerning service or rates for at least two years and, on request, make them readily available for Commission review. Telecommunications companies must retain a broader category of records under RCW WAC 480-120-349, which requires companies generally to keep all records and reports required by these rules or Commission order for three years, and to follow the retention requirements of the Federal Communications Commission as well.
- 21 The Commission may penalize a public service company that violates any Commission rule or law enforced by the Commission up to \$1,000 for each and every offense. RCW 80.04.380. Under the statute, every violation is considered a separate and distinct offense,

and, in the case of a continuing violation, every day's continued violation is deemed to be a separate and distinct offense.

VI. CLAIMS AND CAUSES OF ACTION

A. FIRST CAUSE OF ACTION (Violation of RCW 80.36.090, obligation to serve)

- 22 The Commission, through its Staff, realleges the allegations contained in paragraphs 2 through 16 above.
- 23 RCW 80.36.090 requires telecommunications companies subject to Commission regulation to furnish to all persons who may apply therefor and be reasonably entitled thereto suitable and proper facilities and connections for telephonic communication and furnish telephone service as demanded.
- 24 CenturyLink violated RCW 80.36.090 174 times when it failed, for 174 days from the final resolution of the informal consumer complaint, on June 9, 2017, to provide service to a consumer who requested service within the Company's service territory.

B. SECOND CAUSE OF ACTION (Violation of WAC 480-120-071(3), provision of application for extension of service)

- 25 The Commission, through its Staff, realleges the allegations contained in paragraphs 2 through 12 above.
- 26 Pursuant to WAC 480-120-071(3), each wire line ETC must, within seven business days of an applicant's initial request, provide the applicant with an application for extension of service.
- 27 CenturyLink violated WAC 480-120-071(3) when it when it failed to provide an application for extension of service to a consumer who requested new service within the Company's service territory. CenturyLink failed to provide an application within seven business days of the applicant's initial request for service and still has not provided an application.

C. THIRD CAUSE OF ACTION (Violation of WAC 480-120-071(4), allowance of extension of service up to 1,000 feet)

- 28 The Commission, through its Staff, realleges the allegations contained in paragraphs 2 through 12 above.

29 WAC 480-120-071(4) requires an ETC to allow for an extension of service within its
service territory up to one thousand feet at no charge to the applicant.

30 CenturyLink violated WAC 480-120-071(4) 174 times when it failed, for 174 days from
the final resolution of the informal consumer complaint, on June 9, 2017, to provide any
allowance for extension of service at no charge to a consumer requesting service within
the Company's service territory.

D. FOURTH CAUSE OF ACTION
(Violation of WAC 480-120-166, retention of Commission-referred complaints)

31 The Commission, through its Staff, realleges the allegations contained in paragraphs 2
through 12 above.

32 WAC 480-120-166 requires telecommunications companies subject to Commission
regulation to keep a record of all complaints concerning service or rates for at least two
years and, on request, make them readily available for Commission review.

33 On October 12, 2017, CenturyLink stated that it kept complaint records going back only
to "early January of 2016." CenturyLink violated WAC 480-120-166 because the cut-off
date of "early January of 2016" results in a retention period that is less than two years.

E. FIFTH CAUSE OF ACTION
(Violation of WAC 480-120-349, retaining and preserving records)

34 The Commission, through its Staff, realleges the allegations contained in paragraphs 2
through 12 above.

35 WAC 480-120-349 requires telecommunications companies subject to Commission
regulation to keep all records and reports required by the Commission's
telecommunications rules or commission order for three years.

36 CenturyLink violated WAC 480-120-349 by failing to keep records related to compliance
with the line extension rule, WAC 480-120-071.

VII. REQUEST FOR RELIEF

37 Staff requests that the Commission find that CenturyLink committed 174 violations of
RCW 80.36.090, which requires service to be furnished on demand; 175 violations of
WAC 480-120-071, the line extension rule; one violation of WAC 480-120-349, the
records retention rule; and one violation of WAC 480-120-166, the complaint retention
rule; as set forth in the allegations above.

38 Staff further requests that the Commission impose monetary penalties on CenturyLink
under RCW 80.04.380 of up to \$1,000 for each violation.

39 In addition, Staff requests that the Commission order CenturyLink to retain records of all requests for new service within the Company's service territory for three years, consistent with WAC 480-120-349(1).

40 Finally, Staff requests that the Commission order such other or further relief as is appropriate under the circumstances.

VIII. PROBABLE CAUSE

41 Based on a review of Staff's report on its investigation of CenturyLink, dated November 2017, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this complaint.

DATED at Olympia, Washington, and effective December 8, 2017.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON
Administrative Law Judge

Inquiries may be addressed to:
Executive Director and Secretary
Washington Utilities and
Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160