

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

NOTICE OF PENALTIES INCURRED AND DUE
FOR VIOLATIONS OF COMMISSION ORDER

PENALTY ASSESSMENT: **UT-220397**

PENALTY AMOUNT: \$226,600

Qwest Corporation;
CenturyTel of Washington;
CenturyTel of Inter Island;
CenturyTel of Cowiche; and
United Telephone Company of the Northwest

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The Washington Utilities and Transportation Commission (Commission) believes that the CenturyLink Companies – Qwest Corporation, CenturyTel of Washington, CenturyTel of Inter Island, CenturyTel of Cowiche, and United Telephone Company of the Northwest (Companies or CenturyLink ILECs) violated Order 04 in Docket UT-130477 (Order 04)¹ with respect to the “Rate Change Notification” requirement.

Revised Code of Washington (RCW) 80.04.405 allows penalties of \$100 for each violation. In the case of an ongoing violation, every day’s continuance is considered a separate and distinct violation.

Order 04 approved an alternative form of regulation plan (AFOR Plan) for each of the five CenturyLink ILECs. The AFOR Plan includes the following term:

Rate Change Notification

CenturyLink will provide notice to the Commission via an electronic-only filing in this

¹ *In the Matter of the Petition of The CenturyLink Companies – Qwest Corporation; CenturyTel of Washington; CenturyTel of Inter Island; CenturyTel of Cowiche; and United Telephone Company of the Northwest, Docket UT-130477, Order 04 (Jan. 9, 2014).*

docket, with a copy to Public Counsel, of any changes to its flat-rated stand-alone residential rates **at the same time** the company notifies its customers of the rate change. The filing will identify the rate to be increased and will include all of the then-current rates of the ILEC operating companies. (*Emphasis added.*)

On February 22, 2022, Commission staff (Staff) requested information from the CenturyLink ILECs concerning increases to their flat-rated stand-alone residential rates in Washington announced or implemented since the last time a rate change notification had been filed in Docket UT-130477, which was for rate changes that became effective August 1, 2020. On March 1, 2022, the Companies acknowledged that an oversight had occurred and submitted to the Commission late-filed Rate Change Notifications for all five CenturyLink ILECs for rate changes in 2021 and 2022.

The March 1, 2022, late-filed Rate Change Notification shows the dates of the rate changes of each of the CenturyLink ILECs in 2021 and 2022. The filing documents the following violations:

- **2,266 violations of Order 04 in Docket UT-130477**, representing the cumulative number of days (2,266) between the filing of the Rate Change Notifications for the CenturyLink ILEC rate changes occurring in 2021 and 2022 and the dates that notification of those rate changes should have been filed pursuant to Order 04.

The Commission considered the following factors to determine the appropriate penalty for this violation:

1. **How serious or harmful the violation is to the public.** The violation noted is serious and harmful because, by impairing the Commission's monitoring of the consumer protection and pricing structure provisions incorporated into the AFOR Plan, the CenturyLink ILECs undermined the Commission's ability to protect consumers in a timely and meaningful way.
2. **Whether the violation was intentional.** The CenturyLink ILECs should have known about these requirements and had complied in the past. While the Companies have experienced staffing changes upstream, the CenturyLink ILECs had institutional knowledge of these requirements and are responsible for training their staff accordingly.
3. **Whether the company self-reported the violation.** The CenturyLink ILECs did not self-report this violation and only complied after contact from Commission Staff.
4. **Whether the company was cooperative and responsive.** The CenturyLink ILECs were cooperative and timely responded to Commission Staff's data request.
5. **Whether the company promptly corrected the violation and remedied the impacts.** The Companies came into compliance promptly by filing the Rate Change Notifications, although the notifications were up to more than a year late.
6. **The number of violations.** The total number of violations is 2,266, which is a large number of violations, even for five operating companies.

7. **The number of customers affected.** All CenturyLink ILEC customers subscribing to flat-rated residential service forewent the protection of the Commission's oversight provided for by the terms of the AFOR Plan.
8. **The likelihood of recurrence.** The Companies were cooperative throughout the investigation and have stated that protections are now in place to prevent a recurrence. The imposition of a penalty will likely facilitate future compliance. In light of these factors, Staff believes the likelihood of recurrence is low.
9. **The company's past performance regarding compliance, violations, and penalties.** The CenturyLink ILECs and their parent company have had recent compliance challenges in other areas over the past few years.
10. **The company's existing compliance program.** The Commission does not have current information about the Companies' compliance program. Peter Gose (Regulatory Affairs Director) signed the March 1, 2022, compliance filing.
11. **The size of the company.** The CenturyLink ILECs reported an aggregated total of \$271 million in gross intrastate revenue for 2020.

Compliance with Commission orders is critical to the Commission's ability to regulate effectively. One of the Commission's core areas of regulation is consumer protection, and the CenturyLink ILECs' failure to comply with the consumer protections of Order 04 deprived the Companies' customers of the full protections they should have had under the order. Although the Commission believes that the likelihood of recurrence is low, a meaningful penalty is important to reflect the seriousness of these violations.

After considering all of these factors, the Commission has determined that it should penalize the CenturyLink ILECs \$226,600. This amount represents a penalty of \$100 for each cumulative day's violation assessed for the total number of violations, as shown in the table below.

	(A)	(B)	(C)
	Effective Dates	Compliance Dates	Number of Days
2021 Rate Increases:			
Qwest Corporation, dba CenturyLink QC	1/8/2021	3/1/2022	417
CenturyTel of Washington, Inc. dba CenturyLink	1/22/2021	3/1/2022	403
CenturyTel of Inter Island, Inc. dba CenturyLink	1/22/2021	3/1/2022	403
CenturyTel of Cowiche, Inc. dba CenturyLink	1/22/2021	3/1/2022	403
United Telephone Company of the Northwest, Inc. dba CenturyLink	1/22/2021	3/1/2022	403
2022 Rate Increases:			
Qwest Corporation, dba CenturyLink QC	1/7/2022	3/1/2022	53
CenturyTel of Washington, Inc. dba CenturyLink	1/14/2022	3/1/2022	46
CenturyTel of Inter Island, Inc. dba CenturyLink	1/14/2022	3/1/2022	46
CenturyTel of Cowiche, Inc. dba CenturyLink	1/14/2022	3/1/2022	46
United Telephone Company of the Northwest, Inc. dba CenturyLink	1/14/2022	3/1/2022	46
GRAND TOTAL VIOLATIONS (cumulative number of days)			2,266

This information, if proved at a hearing and not rebutted or explained, is sufficient to support the penalty assessment.

Your penalty is due and payable now. If you believe the violation(s) did not occur, you may deny committing the violation(s) and contest the penalty through evidence presented at a hearing or in writing. Alternatively, if there is a reason for the violation(s) that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of the penalty through evidence presented at a hearing or in writing. The Commission will grant a request for hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request to contest the violation(s) or for mitigation of the penalty must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. *See* RCW 80.04.405.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation(s) or application for mitigation in a Brief Adjudicative Proceeding before an administrative law judge. The administrative law judge will consider the evidence and will notify you of their decision.

You must act within 15 days after receiving this Penalty Assessment to do one of the following:

- Pay the amount due.
- Contest the occurrence of the violation(s).
- Admit the violation but request mitigation of the penalty amount.

Please indicate your selection on the enclosed form and submit it electronically through the Commission’s web portal **within FIFTEEN (15) days** after you receive this notice. If you are unable to use the web portal, you may submit it via email to records@utc.wa.gov. If you are

unable to submit the form electronically, you may send a paper copy to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, Washington 98504-7250.

If you do not act within 15 days, the Commission may take additional enforcement action, including but not necessarily limited to assessing additional penalties, formal complaint, or referring this matter to the Office of the Attorney General for collection.

DATED at Lacey, Washington, and effective June 1, 2022.

/s/Rayne Pearson
RAYNE PEARSON
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT UT-220397

PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed. I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

- 1. **Payment of penalty.** I admit that the violation occurred and enclose \$226,600 in payment of the penalty.
- 2. **Contest the violation.** I believe that the alleged violation did not occur for the reasons I describe below (**if you do not include reasons supporting your contest here, your request will be denied**):

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision.

OR b) I ask for a Commission decision based solely on the information I provide above.

- 3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reasons set out below (**if you do not include reasons supporting your application here, your request will be denied**):

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision.

OR b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: _____ [month/day/year], at _____ [city, state]

Name of Respondent (company) – please print

Signature of Applicant

RCW 9A.72.020 "Perjury in the first degree."

- (1) A person is guilty of perjury in the first degree if in any official proceeding he or she makes a materially false statement which he or she knows to be false under an oath required or authorized by law.
- (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his or her statement was not material is not a defense to a prosecution under this section.
- (3) Perjury in the first degree is a class B felony.