

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of

THE CENTURLINK COMPANIES –
QWEST CORPORATION; CENTURYTEL OF
WASHINGTON; CENTURYTEL OF
INTERISLAND; CENTURYTEL OF
COWICHE; AND UNITED TELEPHONE
COMPANY OF THE NORTHWEST

To be Regulated Under an Alternative Form of
Regulation Pursuant to RCW 80.36.135.

Docket No. UT-130477

**STIPULATED PLAN FOR
ALTERNATIVE FORM OF
REGULATION**

TESTIMONY IN SUPPORT OF SETTLEMENT AGREEMENT

BY

**THE PETITIONING CENTURLINK ILECs
COMMISSION STAFF
PUBLIC COUNSEL**

September 19, 2013

1 **I. INTRODUCTION**

2 **Q. Who is sponsoring this testimony?**

3 **A.** This testimony is jointly sponsored by the petitioning CenturyLink companies
4 (“Petitioners” or “CenturyLink”), Commission Staff (“Staff”), and the Office of Public
5 Counsel (“Public Counsel”) (collectively “the Parties”) and is offered in support of the
6 AFOR Settlement Agreement entered into between Petitioners, Staff, and Public Counsel.
7

8 **Q. Please state your names.**

9 **A.** Our names are: Mark Reynolds (CenturyLink), William Weinman (Staff), and Stefanie
10 Johnson (Public Counsel).
11

12 **Q. Please describe your backgrounds and qualifications.**

13 **A.** Mark Reynolds previously filed direct testimony in this docket, and Mr. Reynolds’
14 testimony contains that information. For Mr. Weinman’s information, please see Section
15 V of this testimony. For Ms. Johnson’s information, please see Section VI of this
16 testimony.
17

18 **Q. What is the purpose of your testimony?**

19 **A.** Our testimony describes and supports all provisions of the AFOR Settlement Agreement
20 agreed upon by the Petitioners, Staff, and Public Counsel on August 22, 2013, and filed
21 with the Commission on that same date (“AFOR Settlement Agreement”).

22 As explained in greater detail below, under the AFOR Settlement Agreement, the Parties
23 agree that the AFOR, as set forth in Attachment/Appendix A to that agreement, is
24 consistent with the public interest standard described in RCW 80.36.135 and should be

1 approved. The Parties request that the Commission issue an order approving the AFOR
2 Settlement Agreement, including the AFOR as the new form of regulation for the
3 Petitioners.

4 5 **II. BACKGROUND**

6 **Q. Please briefly describe the history of the proceeding.**

7 **A.** When the Commission approved the merger of CenturyLink, Inc., and Qwest
8 Communications International Inc. on March 14, 2011, the approval incorporated the
9 terms of various settlement agreements. One of those terms was a requirement that the
10 five CenturyLink ILECs would petition the Commission for an AFOR during the period
11 of April 2014 and April 2015.¹

12 Subsequently, CenturyLink petitioned the Commission for a waiver or modification of
13 that condition to allow a filing in 2013. In Order 20 in the Merger proceeding, the
14 Commission granted the request to allow a filing immediately.

15 On April 1, 2013 CenturyLink filed the AFOR petition that is at issue in this case,
16 including the direct testimony of Mark Reynolds and John Felz.

17 On May 1, 2013 the Commission held a prehearing conference and established a
18 procedural schedule, including a date for a settlement conference which was held on
19 August 5, 2013. The Parties also engaged in informal discussions in furtherance of
20 settlement. These discussions resulted in the AFOR Settlement Agreement that is now
21 before the Commission. The AFOR Settlement Agreement was filed with the
22 Commission on August 22, 2013.

¹ Docket No. UT-100820, Order 14 – Appendix C, Condition 3.

1 The Parties agreed to file testimony in support of the AFOR Settlement Agreement no
2 later than September 19, 2013, and to ask the Commission to hold a settlement hearing on
3 the regularly scheduled hearing dates starting October 15, 2013.
4

5 **Q. Please Describe the Proposed Settlement Agreement.**

6 **A.** This AFOR Settlement Agreement provides that the CenturyLink companies' plan for an
7 AFOR, as set forth in Attachment/Appendix A, is consistent with the public interest
8 standard in RCW 80.36.135, and meets the other requirements of that statute.

9 The AFOR will generally allow the CenturyLink companies to operate as if they were
10 competitively classified, with certain exceptions and limitations.
11

12 **III. JOINT TESTIMONY**
13

14 **Q. What is the settling Parties' position on the requirements of the AFOR statute?**

15 **A.** The Parties agree that the AFOR meets the requirements of the AFOR statute. The
16 public policy goals cited by the statute include those declared in RCW 80.36.300 and
17 those listed in RCW 80.36.135. We will first address the public policy goals in RCW
18 80.36.300.
19

20 **1. Preserve affordable universal telecommunication service**

21 The AFOR addresses this goal in variety of ways. First, the AFOR allows
22 CenturyLink to be more competitive in the marketplace, which will help ensure its
23 survival and the survival of its services which provide customers with more choices at
24 affordable rates. Finally, for stand-alone residential services that would be treated as

1 competitively classified services as a result of the AFOR, CenturyLink commits to not
2 further geographically de-average the non-recurring and monthly recurring rates.
3 Other commitments regarding movement toward a statewide rate for stand-alone
4 residential service are discussed below in the point by point discussion of the AFOR
5 Plan.

6
7 **2. Maintain and advance the efficiency and availability of telecommunications service.**

8 CenturyLink's AFOR allows it to be more competitive in the market by enhancing its
9 efficiency which in turn increases its chances of survival and the survival of its services
10 that continuing to be able provide customers with more choices at affordable rates.
11 Efficiency gains directly attributable to the AFOR include streamlined reporting and
12 more efficient accounting and product management and pricing processes.

13
14 **3. Ensure that customers pay only reasonable charges for telecommunications service**

15 Whether CenturyLink's AFOR Petition is granted or not, its prices will remain
16 constrained by the competitive market.

17
18 **4. Ensure that rates for noncompetitive telecommunications services do not subsidize**
19 **the competitive ventures of regulated telecommunications companies**

20 CenturyLink has committed to comply with the restrictions against below-cost pricing in
21 RCW 80.36.330(3), which means that no services will be sold below cost. As such, they
22 will not be subsidized by other services.
23

1 **5. Promote diversity in the supply of telecommunications services and products in**
2 **telecommunications markets throughout the state**

3 As previously stated, the AFOR allows CenturyLink to be more competitive in the
4 marketplace which will help ensure its survival and the survival of its services which
5 provide customers with more choices at affordable rates. As Mr. Felz's testimony
6 explains, the past ten years have seen a tremendous increase in the number of
7 telecommunications related products and vendors available to consumers in all markets,
8 and that trend will certainly continue over the next five years. Regulating CenturyLink
9 much as the Commission regulates CLECs would help level the playing field among
10 carriers in this already diverse market. CenturyLink's AFOR is a significant step in that
11 direction.

12
13 **6. Permit flexible regulation of competitive telecommunications companies and**
14 **services**

15 The AFOR meets this goal. Recognizing that its competitors that utilize cable and
16 wireless networks are unregulated, the AFOR helps move the company in the direction of
17 regulatory parity.

18
19 **Q. Please address how CenturyLink's AFOR proposal addresses the public policy goals**
20 **of RCW 80.36.135.**

21 **A.** The following response addresses how CenturyLink's AFOR satisfies the public policy
22 goals listed for RCW 80.36.135.

23
24 **1. Facilitate the broad deployment of technological improvements and**
25 **advanced telecommunications services to underserved areas or underserved**
26 **customer classes**

27 Nothing in the AFOR affects CenturyLink's ongoing commitment to deploy quality and
28 technologically current products to its customers throughout its operating territory.

1 CenturyLink's commitment and performance in terms of deploying advanced services is
2 best illustrated by its recent deployment history. CenturyLink has met and exceeded its
3 merger commitments for broadband deployment.² CenturyLink expects to continue to
4 deploy facilities enabling advanced services in order to meet market demands and
5 competitive pressures. The Parties expect that regulation under an AFOR will facilitate
6 CenturyLink's ability to deploy advanced services to more effectively compete with other
7 providers.

8 **2. Improve the efficiency of the regulatory process**

9 CenturyLink's AFOR improves the efficiency of the regulatory process through
10 streamlined financial and service quality reporting and more efficient accounting and
11 product management and pricing processes. The AFOR would eliminate several
12 quarterly financial reports, which would make CenturyLink's reporting detail more
13 consistent with that of other similarly situated companies, and significantly reduce the
14 regulatory filings for a number of services that would be treated as competitively
15 classified services if the AFOR is approved.

16
17 **3. Preserve or enhance the development of effective competition and protect**
18 **against the exercise of market power during its development**

19 The AFOR will not denigrate the competition that exists in the market today. The Parties
20 believe that the market conditions will prevent CenturyLink from exercising undue
21 market power. In addition, the exceptions discussed below provide appropriate oversight

² In Docket UT-100820, the CenturyLink/Qwest merger docket, CenturyLink committed to invest \$80M in retail broadband infrastructure in Washington over a five year period. To date, CenturyLink has invested approximately \$115M towards that commitment, with a significant portion enabling or upgrading service in unserved and underserved areas. Additionally, in Docket UT-120128, the building sale docket, CenturyLink committed to invest \$11.1M in broadband deployment in currently unserved and underserved areas.

1 and protections while also providing CenturyLink with appropriate flexibility to respond
2 to market conditions.

3
4 **4. Preserve or enhance service quality and protect against the degradation of**
5 **the quality or availability of efficient telecommunications services**

6 Nothing in CenturyLink's AFOR affects its current retail or wholesale service quality
7 obligations. The competitive market is expected to ensure that customers receive high
8 quality and efficient telecommunications services. In today's competitive
9 telecommunications market, CenturyLink must provide a high quality product that is
10 efficiently provisioned in order to attract and retain customers.

11
12 **5. Provide for rates and charges that are fair, just reasonable, sufficient, and**
13 **not unduly discriminatory or preferential**

14 CenturyLink's AFOR proposes a number of its services be treated as competitively
15 classified service. These services are subject to competition which parties anticipate will
16 constrain rates and ensure that they are reasonable. In the AFOR, CenturyLink commits
17 to not further geographically de-average the rates for specific services which means that
18 rural customers will enjoy pricing benefits brought about by the highly competitive urban
19 markets. This also helps to ensure against undue discrimination or preference.

20
21 **6. Not unduly or unreasonably prejudice or disadvantage any particular**
22 **customer class**

23 Nothing in CenturyLink's AFOR results in unreasonable prejudice to or disadvantages
24 any particular class of customer. As has been previously explained, the AFOR includes
25 CenturyLink's commitment to not further de-average the rates of certain services that
26 would be treated as competitively classified services if the AFOR is approved.

1 Moreover, CenturyLink’s AFOR proposal does not change the current level of regulation
2 for wholesale services.

3
4 **Q. How does CenturyLink’s proposal satisfy the carrier-to-carrier service quality plan**
5 **statutory requirement?**

6 **A.** CenturyLink’s AFOR proposal does not disturb its current carrier-to-carrier obligations
7 under either state or federal law, including the service quality plan that was required in
8 the Qwest AFOR in 2007. Nor would it change any of CenturyLink’s interconnection
9 agreements with other carriers under Section 252 of the Telecommunications Act of
10 1996. Most, if not all, of these agreements contain a set of Performance Indicators,
11 coupled with the Commission-approved CenturyLink Performance Assurance Plan
12 (“QPAP”) that together operate as service quality standards and performance measures,
13 and provide appropriate enforcement and remedial provisions within their terms.
14 Because CenturyLink is proposing no change to the status quo in this area, and because
15 the status quo provides adequate protection for carrier-to-carrier service quality, no new
16 or addition provision are proposed in CenturyLink’s AFOR plan.

17
18 **Q. Would you please discuss and explain each point in the AFOR Plan?**

19 **A.** Yes. The AFOR Plan as agreed upon by the Parties is somewhat different in content and
20 appearance than the Plan that CenturyLink originally filed. Therefore, we will walk
21 through the AFOR that the Parties have agreed upon and explain each of the provisions.

22

1 **GENERAL PROVISIONS**
2

3 **Provision 1/The Companies are Treated as Competitively Classified.** For the period
4 of the Alternative Form of Regulation (“AFOR”), CenturyLink³ will be treated as if it
5 were competitively classified, subject to certain exceptions under this Plan. CenturyLink
6 is also subject to the provisions specified in **Appendix A** which provides for regulation
7 similar to those companies who are competitively classified pursuant to RCW 80.36.320.
8 **Appendix A** provides an overview of specific waivers of regulatory requirements that
9 should be granted in order to effectuate the AFOR.
10

11 **Discussion of Provision 1:** This is the overarching principle of the AFOR, and is the
12 same principle upon which the Qwest AFOR was based in 2007. In general, for all retail
13 services, the CenturyLink ILECs will be treated as if they were competitively classified.
14 The specific exceptions are discussed later in the Plan. Consistent with this principle, the
15 statutes and rules that are waived for CLECs will be waived for CenturyLink, with
16 exceptions that are specifically noted.
17

18 **Provision 2/Duration.** The terms of this plan for AFOR will be effective upon approval
19 by the Washington Utilities and Transportation Commission (“Commission”) and will
20 remain in effect for seven years unless extended or modified by Commission order.
21

- 22 a) During the six months prior to the seven-year anniversary of the AFOR,
23 CenturyLink and the Commission’s Staff will conduct a review of the provisions
24 of this AFOR to determine if changing conditions warrant modifications to the
25 plan. All parties to the AFOR proceeding shall be entitled to participate in the
26 review and will have access to the same material made available to Commission
27 Staff by CenturyLink.
28
29 b) During the course of that review any of the parties to this AFOR proceeding may
30 propose or oppose modifications for consideration by Commission Staff. Upon
31 conclusion of the review but not later than the seven-year anniversary the

³ Unless specifically stated otherwise, the terms of the AFOR will apply equally to all five ILEC operating companies, Qwest Corporation d/b/a CenturyLink QC, CenturyTel of Washington, Inc. d/b/a CenturyLink, CenturyTel of Inter Island, Inc. d/b/a CenturyLink, CenturyTel of Cowiche, Inc. d/b/a CenturyLink, and United Telephone Company of the Northwest d/b/a CenturyLink.

1 Commission will provide notice to the parties and hold a proceeding in which
2 parties may advocate for or against proposed modifications.
3

- 4 c) While the Commission deliberates, the terms of this AFOR shall continue in
5 force.
6

7 **Discussion of Provision 2:** This term is administrative and provides for the duration of
8 the AFOR as being seven years. This is an extension from the original proposal of five
9 years, and is appropriate given the desirability of relative certainty over the coming years.
10 Qwest's 2007 AFOR was scheduled to last for only four years, through November of
11 2011, but the Parties recognize that it has been extended and will soon have been
12 effective for six years. Thus, a seven year term does not seem unduly long. Further,
13 although the Frontier case was different in that it provided for a competitive classification
14 of services which can be reversed if necessary, the change in regulatory treatment is
15 otherwise of unlimited duration.

16
17 ***EXCEPTIONS***
18

19 **Exception 1/Wholesale Obligations.** This AFOR does not affect the Commission's
20 authority to regulate CenturyLink's wholesale obligations under the Telecommunications
21 Act of 1996, nor does it affect existing carrier-to-carrier service quality requirements,
22 including service quality standards or performance measures for interconnection and
23 appropriate enforcement or remedial provisions in the event CenturyLink fails to meet
24 service quality standards or performance measures contained in tariffs, ICAs, commercial
25 agreements, or otherwise.
26

27 **Discussion of Exception 1:** CenturyLink has committed that the AFOR does not affect
28 its wholesale service quality obligations or other obligations under its ICAs. In addition,
29 only two CLECs intervened in this proceeding, and neither of those carriers is opposing
30 the AFOR, or proposing additional conditions. As the intermodal forms of competition
31 become more prevalent, carriers rely less on services offered by CenturyLink in terms of

1 resale or UNEs. Nevertheless, these obligations are unchanged under the AFOR, as are
2 the existing interconnection rights of competitors.

3
4 **Exception 2/Service Quality Reporting.** CenturyLink will provide service quality
5 reporting consistent with the ‘Class A’ company reporting requirements in WAC 480-
6 120-439(1). CenturyLink will no longer be required to file customer service guarantee
7 reports (either performance reports or payment reports) in accordance with the
8 Seventeenth Supplemental Order in Docket No. UT-991358 and Order 14 in Docket No.
9 UT-100820.
10

11 **Discussion of Exception 2:** CenturyLink had originally asked to be relieved of reporting
12 requirements under WAC 480-120-439(1). However, after settlement discussions,
13 CenturyLink agreed to withdraw that request from the AFOR. All Class A companies
14 must report under that rule, whether competitively classified or not. CenturyLink will be
15 relieved of reporting obligations not faced by its competitors under its Customer Service
16 Guarantee Plan (CSGP). CenturyLink’s service quality obligations are not otherwise
17 affected under the AFOR, as those apply to all carriers equally under the Commission’s
18 rules.

19
20 **Exception 3/Services Remaining in Tariff.** The following services will remain in
21 CenturyLink’s tariffs:

- 22
23 a) Exchange Areas, Local Calling Areas, and Maps
24 b) Washington Telephone Assistance Program (WTAP)
25 c) Lifeline and Link-up Programs
26 d) Basic and Enhanced Universal Emergency Number Services – 911 & E-911
27 e) Interconnection Services
28 f) Resale Services
29 g) Switched Access Services
30 h) Wholesale Services
31

1 **Discussion of Exception 3:** These services reflect the CenturyLink commitment
2 regarding wholesale services, and also reflect the commitment to maintain low income
3 services in the tariff. There are two main differences between the exception in the AFOR
4 Plan and the originally filed AFOR.

5 First, the Parties have agreed to allow all residential services (including measured service,
6 which was in the original filing as remaining in the tariff) and Directory Assistance
7 (“DA”) to move out of the tariff and be treated as competitively classified. This is
8 consistent with the Frontier case, and, after settlement discussions, and a review of the
9 measured service option (including the fact that not all CenturyLink companies even
10 offer a measured service option), the Parties concluded that it did not serve the public
11 interest to require these services to remain in the tariff. Second, for purposes of the
12 Settlement AFOR, the Parties determined to remove the tariff citations from the AFOR
13 Plan document. These references are really only necessary at the initiation of the AFOR,
14 when CenturyLink will withdraw other tariff provisions – these cites represent the
15 services that Staff and Public Counsel will expect to remain in the tariff for purposes of
16 reviewing compliance filings. Thus, they are not necessary to include in the AFOR Plan,
17 which is a seven year plan. The Parties do not intend to signify anything other than this
18 simplification by removing the tariff cites from the Settlement AFOR.

19
20 **Exception 4/Pricing to Cover Costs.** CenturyLink agrees to be bound by the provisions
21 of RCW 80.36.330(3), and the Commission’s implementing regulations, in connection
22 with below-cost pricing.

23 **Discussion of Exception 4:** This provision ensures that CenturyLink does not price
24 services below cost, and is consistent with both the existing Qwest AFOR and the
25 Frontier case.

1
2 **Exception 5/Accounting Method.** CenturyLink will keep its books of accounts pursuant
3 to WAC 480-120-355. However, instead of keeping its accounts in accordance with
4 generally accepted accounting principles, CenturyLink will use the same accounting
5 method that it uses to maintain its books for Federal Communications Commission
6 purposes.
7

8 **Discussion of Exception 5:** This provision is not exactly an exception, but a
9 clarification. WAC 480-120-355 applies to competitively classified companies, so it
10 would apply to the CenturyLink companies without explicitly stating it in the Plan.
11 However, the rule provides for GAAP accounting “or any other accounting method
12 acceptable to the commission.” This provision therefore clarifies that the Parties agree
13 that the stated method should be accepted for the AFOR. This provision is consistent
14 with what was decided in the Qwest AFOR.

15
16 **Exception 6/Transfer of Property.** The waiver of the Transfer of Property provisions in
17 Chapter 80.12 RCW and Chapter 480-143 WAC does not apply to the sale of exchanges
18 or access lines, and does not apply to a transaction involving the merger or acquisition of
19 the parent company or any of the ILEC operating companies by an unaffiliated entity.
20

21 **Discussion of Exception 6:** The Parties have agreed that the statutes and rules governing
22 transfers of property should be waived for the CenturyLink companies, as they are for
23 CLECs. However, the Parties have agreed to an exception that would allow the
24 Commission to review merger proceedings with unaffiliated companies, and/or
25 transactions involving the sale of exchanges.

26 As noted, the waiver is consistent with how CLECs are treated. The exception to this
27 waiver allows the Commission to consider major transactions involving changes in
28 control of the companies. In the Qwest AFOR the transfer of property provisions were

1 waived up to a cap of \$15 million. The Parties have agreed in this case that greater
2 flexibility will not harm the public interest.

3
4 **Exception 7/De-Averaged Rates.** Notwithstanding that CenturyLink’s stand alone
5 business exchange service and stand alone residential exchange service will be treated as
6 competitively classified services in accordance with Provision 1, CenturyLink agrees not
7 to further geographically de-average the non-recurring and monthly recurring rates for
8 these services. This means that CenturyLink will not increase the number of rate levels
9 for stand alone local exchange service. With respect to stand alone residential exchange
10 service, CenturyLink will reduce the number of these rate levels pursuant to Exception 9
11 below, and CenturyLink further agrees not to exceed the reduced number of rate levels
12 for stand alone residential exchange service that will exist following the rate restructuring
13 described in Exception 9. This provision does not modify or restrict CenturyLink’s
14 ability to enter into individual contracts for service that specify rates other than statewide
15 average rates.
16

17 **Discussion of Exception 7:** Exceptions 7, 8 and 9 are all related and address
18 commitments that CenturyLink has made regarding rate levels during the AFOR.
19 Exception 7 was crafted to memorialize a commitment against further geographic
20 deaveraging of CenturyLink’s stand alone residential and business rates. The
21 commitment against deaveraging was first made in the Qwest AFOR, where the issue
22 was simple – Qwest had a single rate for residential service and a single rate for business
23 service, so saying “no geographic deaveraging” did not really require additional
24 explanation. The Frontier case was the same situation, with statewide average rates
25 already in place. However, in this case, CenturyLink residential rates are already
26 deaveraged in the sense that most of the legacy operating companies that comprise
27 CenturyLink have different rates. Additionally, rates are deaveraged within each of the
28 companies with the exception of Qwest. So, the issue became one of how to memorialize
29 a commitment against further widening the rate spread, and having CenturyLink behave
30 in a manner that is consistent with the rate restructuring agreement in Exception 9. The

1 Parties settled on this language as a way to accomplish that goal without unnecessarily
2 dictating absolute rate levels.

3
4 **Exception 8/Residential Rate Normalization.** CenturyLink commits to work in good
5 faith toward normalizing rates for flat-rated stand alone residential exchange service
6 among the five ILEC operating companies. To the extent that CenturyLink makes
7 changes to flat-rated stand alone residential rates, CenturyLink's goal will be to reduce
8 the rate differentials between rate levels for its ILEC operating companies.

9
10 **Discussion of Exception 8:** This exception also addresses the current situation where the
11 CenturyLink companies have different rate levels for stand alone residential service.

12 While Exception 7 commits that rates will not become more geographically deaveraged,
13 this exception is an affirmative commitment that when these rate levels change,
14 CenturyLink will work in good faith to move toward a common rate, as market and other
15 conditions allow.

16
17 **Exception 9/Incorporation of EAS Charges Into Residential Rates.** The five ILEC
18 operating companies have various rates for flat-rated stand alone residential exchange
19 service, varying from \$8.90 to \$15.90, and some exchanges for some companies include
20 Extended Area Service (EAS) additive charges that result in effective monthly rates of
21 \$8.90 to \$25.90. Treating stand alone residential exchange service as competitively
22 classified under the AFOR will grant CenturyLink pricing flexibility. As a step toward
23 achieving structurally similar rates for flat-rated stand alone residential exchange service,
24 CenturyLink commits that coincident with the first time residential rates are changed
25 under the AFOR (and no later than 12 months after approval) it will restructure the flat-
26 rated stand alone residential rates to combine the access line rate and any flat-rated EAS
27 additives, not to exceed an initial target rate of \$16.40. This rate restructuring will not
28 reduce or eliminate existing EAS routes.

29
30 **Discussion of Exception 9:** Exception 9 addresses the specific issue of the existing
31 residential rate structure in the CenturyLink companies, and is a commitment regarding
32 the first step toward the rate normalization discussed in Exception 8. Many exchanges

1 have residential rates consisting of a flat-rated access line and an additional flat or
2 measured charge for Extended Area Service (EAS). This exception states that
3 CenturyLink will move to restructure those rates within the first 12 months of the AFOR,
4 and will combine the access line and any flat-rated EAS adders to achieve a flat rate for
5 the service, and for those exchanges where the resulting rate would be more than \$16.40,
6 the rate will be reduced to the \$16.40 level. At that time, and thereafter, CenturyLink
7 would be free to make other rate changes that are not inconsistent with this and other
8 exceptions. The same concept that is used for one-party combined residential rates will
9 be applied to one-party business rates. To the extent the combined one-party local
10 exchange business rate plus the EAS rate is higher than the initial business target rate, the
11 combined one-party business rate will be lowered to the initial business target rate.

12
13 **Exception 10/Rate Change Notification.** CenturyLink will provide notice to the
14 Commission via an electronic-only filing in this docket, with a copy to Public Counsel, of
15 any changes to its flat-rated stand alone residential rates at the same time the company
16 notifies its customers of the rate change. The filing will identify the rate to be increased
17 and will include all of the then-current rates of the ILEC operating companies.
18

19 **Discussion of Exception 10:** A competitively classified company is not required to
20 provide notice to the Commission of any rate changes. This exception to that general
21 requirement clarifies that for stand alone flat-rated residential services, CenturyLink will
22 provide an electronic notice to the Commission and a copy to Public Counsel of rate
23 changes, as a way to facilitate monitoring of the AFOR requirements.

24
25 **Exception 11/Discontinuance of Local Exchange Service.** The parties further agree
26 that the requirements for discontinuance of service under WAC 480-120-083 will apply
27 to all services that are treated as competitively classified, except that CenturyLink will
28 file a petition for approval of such discontinuance if flat-rated stand alone residential or
29 business exchange services are to be discontinued.

1
2 **Discussion of Exception 11:** This provision clarifies that CenturyLink will continue to
3 offer flat-rated stand alone service in all of its exchanges unless and until it petitions the
4 Commission for relief from that requirement, and the Commission grants that relief.
5 CenturyLink does not foresee making this request at this time, but the Parties believed
6 that it was important for the Commission to have an opportunity to review this issue if it
7 arises, rather than simply having the company follow the notice procedures outlined in
8 the cessation of service rule cited in the Exception.

9
10 **IV. CENTURYLINK TESTIMONY**

11
12 **Q. Mr. Reynolds, please provide information pertaining to your educational**
13 **background and professional experience.**

14 **A.** My name is Mark S. Reynolds. The requested information is found in my direct
15 testimony filed on April 1, 2013 in this docket.

16
17 **Q. Why does CenturyLink support the Settlement Agreement?**

18 **A.** The Settlement Agreement results in a form of regulation for CenturyLink that
19 approaches the flexibility granted to CLECs. This flexibility is also appropriate for the
20 CenturyLink companies, given the pervasive competition they face statewide. The
21 evidence of this pervasive competition is provided in detail in Mr. Felz's testimony, and
22 will not be repeated here. However, the line loss suffered by the CenturyLink companies,
23 and the presence of cable, wireless, and VoIP providers is uncontested in this docket.
24 CenturyLink believes that the competitive constraints imposed by these other service
25 providers means that the CenturyLink companies do not have significant market power.

1 **Q. By whom are you employed and in what capacity?**

2 A. I am employed by the Washington Utilities and Transportation Commission (UTC or
3 Commission) as the Assistant Director - Telecommunications.

4 **Q. How long have you been employed by the Commission?**

5 A. I have been employed with the UTC since June 2007. I was also employed by the
6 Commission in a regulatory analyst position from 1974 to 1978. I have been in the acting
7 assistant director or assistant director positions of the Telecommunications Section since
8 October 1, 2008. Between my prior and current employments with the Commission, I
9 was employed in the telecommunications industry with assignments in both accounting
10 and operations.

11 **Q. Would you please state your educational and professional background?**

12 A. I graduated from Washington State University in 1971 receiving a Bachelor of Arts in
13 business administration with a major in accounting. I am a member of the American
14 Institute of Certified Public Accountants.

15 My current responsibilities at the UTC generally consist of working on all issues in the
16 Telecommunications Section as well as directing the work of the section; including, for
17 example, assigning dockets to staff, analyzing financial and accounting issues, reviewing
18 interconnection contracts between carriers, ensuring compliance with Commission
19 orders, reviewing intrastate access matters, and providing analysis in general rate

1 proceedings. I provided testimony in the Embarq Corporation and CenturyTel, Inc.
2 petition to approve a transfer of control, Docket UT-082119. I also provided testimony in
3 the Verizon Communications Inc. and Frontier Communications Corporation petition to
4 approve an indirect transfer of control, Docket UT-090842, and in the Frontier petition
5 for competitive classification, Docket UT-121994.

6
7 **Q. Does Staff support the AFOR Settlement Agreement entered into by the Parties and**
8 **filed with the Commission on August 23, 2013?**

9 A. Yes, Staff agrees the settlement resolves all issues that concerned Staff and that the filing
10 is in the public interest and should be approved by the Commission.
11

12 **Q. What were Staff's key concerns in the review of the proposed AFOR?**

13 A. Staff's review of the proposed AFOR was based on three general concerns. First, Staff
14 was concerned that the proposed AFOR met the public policy requirements in RCW
15 80.36.135. Second, Staff viewed the proposed AFOR in light of the Commission's Order
16 6 in Docket UT-121994 concerning Frontier Communications Northwest, Inc. (Frontier)
17 dated July 22, 2013. Third, Staff was concerned that the AFOR provide a path to
18 unifying rates across all of its five ILECs in Washington⁵ for single party, stand alone,
19 flat- rated residential and business service. These five operating entities have 21 different
20 single party, stand alone, residential rates (including EAS surcharges) and 21 different
21 single party, stand alone, business rates (including EAS surcharges). Given the numerous
22 rates for both residential and business flat-rated, single party service Staff was concerned

⁵ Qwest Corporation d/b/a CenturyLink, CenturyTel of Washington, Inc. d/b/a CenturyLink, CenturyTel of Inter Island, Inc. d/b/a CenturyLink, CenturyTel of Cowiche, Inc. d/b/a CenturyLink and United Telephone Company of the Northwest d/b/a CenturyLink.

1 with the manner by which these rates would be normalized to reduce the number of
2 distinct rates and move toward a unified statewide rate.

3
4 **Q. Is Staff satisfied that the proposed AFOR will meet the requirements of RCW**
5 **80.36.135?**

6 A. Yes, Staff is satisfied that the proposed AFOR resolves Staff's concerns regarding RCW
7 80.36.135. Briefly, there are six critical elements in RCW 80.36.135 (2) (a-f) that must
8 be considered in determining the appropriateness of an AFOR. Staff believes that the
9 proposed AFOR is warranted because of the company's performance regarding
10 broadband deployment; the proliferation and geographical extent of competing services
11 offered by competing entities; the company's continuing commitments to service quality
12 reporting; its commitment to reduce rate differentials across its five ILECs and its
13 agreement to adhere to WAC 480-120-083 if it wishes to discontinue local exchange
14 service.

15
16 **Q. How did the recent Commission decision on Frontier's petition for competitive**
17 **classification under RCW 80.36.320 influence Staff's approach with respect to**
18 **CenturyLink's filing?**

19 A. Staff reviewed Order 6 in the Frontier proceeding and found that the situation confronting
20 CenturyLink is very similar to Frontier. Thus CenturyLink faces effective competition
21 for stand alone, flat-rated residential and business offerings across all of its five ILECs.

22
23 As background, the Frontier decision granted Frontier competitive classification for a
24 majority of its tariff services under RCW 80.36.330. The Commission's analysis in the
25 Frontier decision provides guidance for the analysis of market power under the AFOR
26 statute, specifically RCW 80.36.135(2)(c). In its order, the Commission made important

1 statements regarding two critically important considerations when determining if
2 effective competition exists in a market. Those two considerations address the relevant
3 service market and second, whether the company provides service to a significant captive
4 customer base.⁶

5
6 First, regarding service markets, the Commission found that “[w]ireless, VoIP, and
7 bundled service options to basic single-line service place competitive pressures on
8 providers of such basic service.”⁷ In other words, the relevant service market is not
9 defined as being only those services that are exactly the same relative to an offering such
10 as stand alone, single party, flat-rated service, but rather a service market is defined by
11 those services that are functionally equivalent and can be considered alternatives or
12 substitutes (i.e., VoIP, wireless, Cable Telephony, etc).⁸ Therefore, while wireless
13 service may not have exactly the same attributes of single party flat-rated, residential
14 service, its attributes and functionality are at least equivalent to a flat-rated residential
15 access line and are seen by consumers as functionally equivalent alternatives that
16 constrain the price movements of flat-rated, stand alone service.

17
18 In applying the consideration of a relevant service market to CenturyLink, it is clear that
19 functional equivalents have emerged and have been successful in eroding CenturyLink’s
20 customer base. Over the period 2001 through 2012, CenturyLink lost 64 percent of its
21 residential access lines and 48 percent of its business lines.⁹ These losses have been to

⁶ Order 06, ¶ 55.

⁷ Order 06, ¶ 57.

⁸ Order 06, ¶ 58.

⁹ Felz, Exh. No. ___ (JMF-2C).

1 Cable TV companies offering VoIP services, wireless companies and CLECS. With
2 respect to wireless competition alone, CenturyLink's wireline connections dropped from
3 2.7 million lines in December of 2001 to 1.1 million in 2012 while wireless connections
4 have grown from roughly 2.7 million connections to over 6 million in the same period.¹⁰
5 Clearly, in considering the relevant service market, CenturyLink's residential and
6 business offerings are facing competition from VoIP and wireless carriers as their
7 services are functionally equivalent to flat-rated, stand alone single line business or
8 residential service.

9
10 Second, regarding the issue of a significant captive customer base, the Commission
11 indicted that while "significant captive customer base" is not defined in statute, the
12 Commission considers the term to mean "a group of customers without service
13 alternatives that is sufficiently large to enable the service provider to raise prices without
14 losing market share."¹¹ When one examines whether or not CenturyLink serves a
15 significant captive customer base, the evidence in support of finding a competitive
16 market is as compelling as it is in examining the relevant service market. Of the 186
17 exchanges served by CenturyLink, only three have seen an increase in access lines from
18 2001 to 2012. In 2012, these three exchanges totaled 766 access lines, or .07 percent of a
19 total of just over 1.1 million lines served by the company.¹² Given that 99.92 percent of
20 CenturyLink's current access lines are in 183 exchanges that have experienced access
21 line losses, it is impossible to credibly suggest that there remains a customer base that is

¹⁰ Felz, Exh. No. ___ (JMF 1TC) 28:17.

¹¹ Order 06, ¶ 60.

¹² Felz, Exh. No. ___ (JMF 1-TC) 4:10, and Exh. No. ___ (JMF-2C).

1 sufficiently large to enable the service provider, in this case CenturyLink, to increase
2 prices without losing market share.

3
4 When applying the two considerations of relevant service market and whether the
5 company provides service to a significant captive customer base in that service market to
6 the case of CenturyLink, it is clear that effective competition has developed across
7 CenturyLink's service area. Functionally equivalent services offered by cable providers
8 and wireless carriers have made substantial gains into the telecommunications market
9 served by CenturyLink. These competitive alternatives are significant from two
10 perspectives. First, these competitive offerings serve to greatly constrain CenturyLink's
11 ability to increase prices and greatly reduce its market power. Second, wireless, cable
12 offerings and CLEC services ensure that service quality is maintained because customers
13 now have other viable options if CenturyLink's service quality is found lacking.

14
15 **Q. Please provide a review of the current regulatory status of the CenturyLink ILECs**
16 **in Washington.**

17 A. Qwest Corporation d/b/a CenturyLink QC's (Qwest) business services are competitively
18 classified by the Commission and those services are offered to customers via price
19 catalog. Qwest's residential services—stand alone, one party flat-rated residential service,
20 one party measured rate residential service, directory services, operator services,
21 customer guarantee program, tribal lifeline, link-up programs and 911 services as well as
22 intrastate access services are offered to Washington customers under tariff. Qwest has
23 offered service under an AFOR since 2007.

24

1 The other four ILECs of CenturyLink in Washington have been offering residential,
2 business and intrastate access services to customers under tariff. None of the services
3 offered by these legal entities are competitively classified or offered under an AFOR,
4 though packages/bundles are offered pursuant to minimal regulation under RCW
5 80.36.332.

6
7 Exhibit No. ___ (JT-2) is a copy of the Commission's exchange map showing
8 CenturyLink exchanges by ILEC. The legend at the bottom of the map identifies the
9 operating entity of the company.

10
11 **Q. Please describe the rates offered by the various ILECs for stand alone, single party**
12 **residential and business services respectively.**

13 A. Residential and business rates for stand alone, single party, flat-rated service are shown in
14 Exhibit No. __ (JT-3) and Exhibit No. __ (JT-4), respectively. Qwest's rate for stand
15 alone, one party residential flat-rated service is \$13.50 per month across all of its 68
16 legacy exchanges. CenturyLink's other four ILECs offer stand alone, monthly residential
17 rates in 118 exchanges that range from a low of \$8.90 for one exchange to \$25.90 which
18 includes an EAS surcharge.

19
20 Legacy Qwest's single party, stand alone business service rate does not vary across
21 exchanges and is \$30 per month. In CenturyLink's other four ILECs, rates for business
22 services vary substantially within each of these four operating entities and range from
23 \$17.85 to \$41.80 per month, which includes an EAS surcharge.

24

1 **Q. In the Frontier proceeding, the Commission required that Frontier maintain**
2 **statewide average rates for business and residential flat-rated, single party service.**
3 **Does the AFOR Settlement Agreement have a provision that CenturyLink must**
4 **maintain a statewide average for one party residential and one party business**
5 **customers?**

6 A. There is an initial target rate of \$16.40 per month for stand alone, single party residential
7 service. The initial target rate is a company estimate of a statewide residential rate goal to
8 guide the movement of residential rates during the AFOR period. The initial target rate
9 can be changed or updated by the company at any time and the manner by which this rate
10 is achieved differs according to what rate is currently in place. For those seven exchanges
11 (See Exhibit No. ___ (JT-3), where the single party rate, combined with an EAS
12 surcharge, exceeds the initial target rate of \$16.40, the company will reduce those
13 combined rates to the initial target rate of \$16.40.

14
15 For those exchanges where single party service rates are below the initial target, the
16 parties are cognizant that market pressures could restrict the CenturyLink's ability to
17 increase residential rates toward the initial target rate. Given effective competition
18 offered by other services, moving residential rates to the initial target rate could result in
19 a situation where the company could experience a net revenue loss because of market
20 competition in individual exchanges. Therefore, in recognition of the competitive setting,
21 the AFOR Settlement Agreement has flexibility that allows the company to consider
22 market pressures in those exchanges where the residential rate is below the initial target
23 rate. Therefore, given market pressures, the agreement does not specify a time frame by
24 which the company must achieve a statewide rate. However, in Exception 7 presented
25 above, CenturyLink agrees not to further deaverage the non-recurring and monthly
26 recurring rates for stand alone residential and business services. Exception 7 affirms that

1 statewide stand alone rates are desirable for both CenturyLink and its customers while
2 recognizing market pressures may not allow for a flash cut to statewide rates.

3
4 The net effect of Exception 7 is that residential customers who are being charged rates
5 over \$16.40 per month will see a reduction in their rates while customers paying less than
6 the initial target rate will probably experience rate increases trending towards the initial
7 target rate during the seven-year AFOR period, but only to the extent market pressures
8 allow an increase in those rates.

9
10 **Q. What will happen to stand alone one party business rates?**

11 A. The same concept that is used for one party combined residential rates will be applied to
12 one party business rates. To the extent the combined one party local exchange business
13 rate plus the EAS rate is higher than the initial business target rate (which is \$32.10), the
14 combined one party business rate will be lowered to the initial business target rate.

15
16 **Q. Do you have any other comments concerning the settlement agreement?**

17 A. The AFOR Settlement Agreement is generally consistent with the principles the
18 Commission adopted in the recent Frontier order. The notable exception is that
19 CenturyLink is not required to offer one statewide rate for one party residential and
20 business services respectively, as discussed above. Given the CenturyLink context, with
21 its recent acquisitions of various ILECs that each offer different rates, coupled with the
22 competitive nature of the market, the solution in this agreement is sound and well thought
23 out based upon regulatory principles and market pressures.

1 The waivers of laws and rules in Appendix A generally conform to those waivers recently
2 granted by the Commission to Frontier with the following exceptions:

- 3 • Accounting, WAC 480-120-359. The company will use the same accounting
4 method it uses to maintain books for Federal Communications Commission
5 purposes. This waiver was previously granted to Qwest in its first AFOR
6 proceeding in Docket UT-161625, Order 06, dated July 24, 2007.
7
- 8 • Customer Service Guarantee Program, 17th Supplemental Order in UT-991358
9 and Order 14 in UT-100820. The Parties agree that, given the level of
10 competition CenturyLink faces in its Washington market, this regulatory mandate
11 is no longer necessary.
12

13 **Q. Does this conclude Staff's discussion of the AFOR Settlement Agreement?**

14 **A.** Yes it does.
15

16 VI. PUBLIC COUNSEL TESTIMONY

17
18 **Q. Ms. Johnson, please provide information pertaining to your educational**
19 **background and professional experience.**

20 **A.** My name is Stefanie Johnson and my business address is 800 Fifth Avenue, Suite 2000,
21 Seattle, Washington, 98104. I am employed as a Regulatory Analyst with the Public
22 Counsel Section of the Washington Attorney General's Office.
23 I received a B.A. in Political Studies and History from Whitworth University in 2002. In
24 2005, I received a Master of Public Administration degree from the Evans School of
25 Public Affairs at the University of Washington. Since joining Public Counsel in

1 December 2005, I have worked on a wide range of energy and telecommunication issues
2 and cases.

3 I testified before the Commission as part of settlement panel in support of the Settlement
4 Agreement in the CenturyTel/Embarq merger (Docket No. UT-082119), Avista Utilities'
5 2010 General Rate Case (Dockets UE-100467 and UG-100468), the CenturyLink/Qwest
6 Merger (Docket UT-100820), Frontier's Petition for Competitive Classification (Docket
7 UT-121944), and the Puget Sound Energy 2013 Power Cost Only Rate Case (Docket UE-
8 130617, et al). I have also presented before this Commission at Open Meetings on
9 various issues.

10

11 **Q. Please explain Public Counsel's involvement in this case.**

12 **A.** Public Counsel actively participated in this case, reviewing testimony, issuing data
13 requests, reviewing discovery by Staff and other parties, communicating with other
14 parties about issues, and participating in settlement discussions.

15

16 **Q. What were some of the key issues and concerns Public Counsel considered in the**
17 **review of the proposed transaction?**

18 **A.** While CenturyLink has experienced increased competition and line loss, the market for
19 alternative providers of residential services is geographically segmented. Public Counsel
20 was interested in maintaining protections for customers for whom alternative services are
21 not available, reasonable or reliable option. Public Counsel was particularly concerned
22 with balancing the need for increased flexibility with the need for important consumer
23 protections.

24

1 **Q. Why does Public Counsel support the Settlement Agreement?**

2 **A.** The Settlement Agreement grants CenturyLink flexibility, and also contains several
3 elements that maintain important consumer protections, including the following:

- 4 • **Service quality reporting.** CenturyLink will provide service quality reporting
5 consistent with the ‘Class A’ company reporting requirements in WAC 480-120-
6 439(1).
- 7 • **Stand-alone voice service.** CenturyLink cannot discontinue flat-rated stand alone
8 residential or business exchange services without Commission approval.
- 9 • **Public interest services.** WTAP, Lifeline and Link-up programs, 911 and E-911
10 will remain in tariff.
- 11 • **Limitation on geographic de-averaging.** Under the Settlement, CenturyLink
12 agrees not to further geographically de-average the rates for stand alone business
13 and residential service.

14 Additionally, CenturyLink has committed to work toward normalizing rates for flat-rated
15 stand alone residential exchange service among its five ILEC operating companies. This
16 rate normalization will help provide customers without competitive options to benefit
17 from the rates set in competitive areas. We are pleased that any rate changes for this
18 service will be provided to the Commission and all parties, as well as up-to-date
19 information about all then-current rates of the ILEC operating companies This will
20 allow parties to be able to monitor CenturyLink’s progress toward rate normalization.

21

22 **Q. Is the Settlement Agreement in the Public Interest?**

23 **A.** Yes. Public Counsel believes that because of the protections for consumers, the
24 Settlement Agreement is in the public interest.

1

2 **Q. Does this conclude your testimony on behalf of Public Counsel?**

3 **A.** Yes.

4

5

VII. CONCLUSION

6 **Q. What is the Parties' overall recommendation in this case?**

7 **A.** The Parties request that the Commission issue an order approving the Settlement
8 Agreement and the AFOR.

9