**BEFORE THE**

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of )

)

THE CENTURYLINK COMPANIES – ) Docket No. UT-130477

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. )

**TESTIMONY**

**OF**

**AUGUST H. ANKUM, Ph.D.**

**IN SUPPORT OF SETTLEMENT AGREEMENT BETWEEN**

**CENTURYLINK**

**AND**

**THE U.S. DEPARTMENT OF DEFENSE**

**AND**

**ALL OTHER FEDERAL EXECUTIVE AGENCIES**

**SEPTEMBER 19, 2013**

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**EXHIBIT**

Exhibit AHA-2: CenturyLink/DoD-FEA Settlement Agreement

# I. INTRODUCTION

**Q. PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS.**

A. My name is August H. Ankum. I currently serve as Senior Vice President and Chief Economist of QSI Consulting, Inc. My business address is 429 North 13th Street, Apt. 2D, Philadelphia, Pennsylvania 19123.

**Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK EXPERIENCE.**

A. I have been employed as an expert consultant on telecommunications issues for the past 17 years, and have a total of 26 years of experience in the telecommunications industry. I co-founded QSI Consulting, Inc. (“QSI”) in 1999. QSI is a consulting firm specializing in regulatory and litigation support in regulated network industries, with a special emphasis in the telecommunications sector. QSI’s primary areas of expertise include economic and financial analysis, cost of service modeling, regulatory compliance, and public policy development. Prior to practicing as a telecommunications consultant, I worked for MCI Telecommunications Corporation (“MCI”) as a senior economist. At MCI, I provided expert witness testimony and conducted economic analyses for corporate decision making purposes. Before I joined MCI in early 1995, I worked for Teleport Communications Group, Inc. (“TCG”), as a Manager in the Regulatory and External Affairs Division. In this capacity, I testified on behalf of TCG in proceedings concerning local exchange competition issues. From 1987 until 1994, I was employed as an economist by the Public Utility Commission of Texas (“PUCT”) where I worked on a variety of electric power and telecommunications issues and testified as an expert witness in litigated proceedings. During my last year at the PUCT, I held the position of Chief Economist. Prior to joining the PUCT, I taught undergraduate courses in economics as an Assistant Instructor at the University of Texas from 1984 to 1986. I received a Ph.D. in Economics from the University of Texas at Austin in 1992, an M.A. in Economics from the University of Texas at Austin in 1987, and a B.A. in Economics from Quincy College, Illinois, in 1982.

**Q. HAVE YOU PREVIOUSLY TESTIFIED AS AN EXPERT BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION (“COMMISSION” OR “WUTC”)?**

A. Yes. I testified as an expert witness in WUTC Docket No. UT-100820 (CenturyLink/Qwest merger proceeding), WUTC Docket No. UT-090892 (Qwest complaint case), and WUTC Docket No. UT-121994 (Frontier request to be regulated as a competitive telecommunications company).

**Q. ON WHOSE BEHALF ARE YOU FILING THIS TESTIMONY?**

A. I am appearing on behalf of the consumer interests of the U.S. Department of Defense (“DoD”) and all other Federal Executive Agencies (“FEA”) in Washington.

# II. PURPOSE AND SUMMARY

**Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

A. The purpose of this testimony is to: (1) describe the Settlement Agreement and Stipulation reached between DoD/FEA and CenturyLink in this docket (hereafter referred to as the “Settlement Agreement”) and (2) explain why the Commission specifically should approve and adopt this Settlement Agreement. A copy of the Settlement Agreement is attached as Exhibit AHA-2 to this testimony. It is my understanding that CenturyLink has also reached separate settlements with Commission Staff/Public Counsel and Sprint. My testimony addresses only the Settlement Agreement between CenturyLink and DoD/FEA, and does not address settlements CenturyLink has entered into with other parties. This testimony is being filed pursuant to WAC § 480-07-740(2)(b) and the Administrative Law Judge’s Notice Suspending Procedural Schedule and Requiring Filing of Settlement Documents dated September 5, 2013.

**Q. BESIDES YOUR TESTIMONY AND THE SETTLEMENT AGREEMENT ITSELF, ARE THERE OTHER DOCUMENTS BEING FILED IN SUPPORT OF THE SETTLEMENT AND STIPULATION REACHED BETWEEN CENTURYLINK AND DOD/FEA?**

A. Yes. On August 23, 2013, the Settlement and Stipulation as well as a Narrative in Support of Settlement Agreement under WAC § 480-07-740(2)(a) were filed with the Commission.

**Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS.**

A. I recommend that the Commission approve and adopt the Settlement Agreement entered into between CenturyLink and DoD/FEA.

# III. DESCRIPTION OF CENTURYLINK/DOD-FEA SETTLEMENT AGREEMENT

**Q. PLEASE BRIEFLY DESCRIBE THE SETTLEMENT AGREEMENT BETWEEN CENTURYLINK AND DOD/FEA.**

A. The Settlement Agreement covers five areas: (1) administrative provisions; (2) rates, terms and conditions; (3) service availability; (4) service quality; and (5) general provisions. The substantive conditions related to rates, terms and conditions; service availability; service quality, and general provisions are contained within Attachment 1 to the Settlement Agreement.

**Q. PLEASE SUMMARIZE THE ADMINISTRATIVE PROVISIONS.**

A. There are twelve sections in the Settlement Agreement addressing administrative provisions. These administrative provisions (i) provide a description of the background of the proceeding and settlement discussions, (ii) define the Settlement Agreement as a “Multiparty Settlement” under § WAC 480-07-730(3); (iii) clarifies that, in reaching agreement, neither Party accepts any particular argument made by any other Party; (iv) states that the conditions in Attachment 1 to the Settlement Agreement will apply for five years following Commission approval unless otherwise stated in Attachment 1; (v) states that the effective date of the Settlement Agreement is the date it is approved without change by the Commission; (vi) describes the procedure for filing the Settlement Agreement with the Commission; (vii) describes the actions required of the Parties to support approval of the Settlement Agreement; (viii) establishes guidelines regarding any announcements or press releases about the Settlement Agreement; (ix) describes the procedures available to the Parties if the Commission rejects the Settlement Agreement or approves it subject to modifications not proposed by either Party; (x) clarifies that the Settlement Agreement does not mean that either Party has agreed to another Party’s legal or factual assertions, and states that: conduct, statements or documents discussed in negotiations shall not be admissible evidence in this or another proceeding and the Settlement Agreement or supporting documents may not be used as precedent in another proceeding ; (xi) explains that the Settlement Agreement constitutes the entire agreement between the Parties; and (xii) describes the procedures for executing the Settlement Agreement.

**Q. DESCRIBE THE SUBSTANTIVE SAFEGUARDS IN THE SETTLEMENT AGREEMENT.**

A. As discussed above, the substantive safeguards are contained in Attachment 1 to the Settlement Agreement. The safeguards cover four primary commitments: (1) Rate Protection Commitment, (2) Tariff Availability Commitment, (3) Service Quality Commitment, and (4) Revenue Commitment. Certain important terms are also defined in Attachment 1 (see Paragraph 1). For instance, the term “Rate Protection Period” is defined to mean a five-year period beginning on the Effective Date of the Settlement Agreement, and the term “Effective Date” is defined as the date the Settlement Agreement is approved without change by the Commission.

**Q. BRIEFLY DESCRIBE THE RATE PROTECTION COMMITMENT (ATTACHMENT 1, PARAGRAPH 2).**

A. This commitment consists of two primary safeguards. First, CenturyLink commits to bid on DoD/FEA procurements for telecommunications services solicited during the Rate Protection Period at Washington locations where CenturyLink is the incumbent local exchange carrier but not the existing contract awardee. Second, CenturyLink commits to bid on DoD/FEA procurements for telecommunications services solicited during the Rate Protection Period for the same location as a Current Contract[[1]](#footnote-1), and commits to offering rates, terms and conditions for Washington Regulated Services[[2]](#footnote-2) that are no higher or less advantageous that the rates, terms and conditions provided under the Current Contract.[[3]](#footnote-3) The Rate Protection Commitment clarifies that it is not intended to discourage CenturyLink from aggressively competing for new bid solicitations by, for example, offering lower prices or more favorable terms and conditions.

**Q. BRIEFLY DESCRIBE THE TARIFF AVAILABILITY COMMITMENT (ATTACHMENT 1, PARAGRAPH 3).**

A. One result of the Commission approving CenturyLink’s AFOR plan is that business services that currently remain in existing Washington tariffs[[4]](#footnote-4) will be removed from the tariffs and be placed in product catalogs. CenturyLink commits to providing to DoD/FEA a copy of the tariffs that were in effect immediately preceding to their withdrawal. In addition, during the Rate Protection Period, if DoD/FEA solicits bids for Washington Regulated services for the same locations as Current Contracts or procures Washington Regulated services via CenturyLink tariffs or catalogs where CenturyLink is the incumbent local exchange carrier, then CenturyLink commits to offer rates, terms and conditions to DoD/FEA that are no higher or less advantageous than those provided under the contracts, tariffs or catalogs in effect immediately preceding the Effective Date of the Settlement Agreement.

**Q. BRIEFLY DESCRIBE THE SERVICE QUALITY COMMITMENT (ATTACHMENT 1, PARAGRAPH 4).**

A. CenturyLink commits that all service quality requirements that are a part of DoD/FEA contract or applicable Commission rule or order shall be applicable to the service provided to DoD/FEA under the Settlement Agreement.

**Q. BRIEFLY DESCRIBE THE REVENUE COMMITMENT (ATTACHMENT 1, PARAGRAPH 5).**

A. DoD/FEA has agreed to a revenue commitment wherein the Settlement Agreement is contingent upon the DoD/FEA entities in Washington collectively maintaining total service levels that result in billings by CenturyLink that are at least 90% of average current levels.[[5]](#footnote-5)

**Q. WHAT IF DoD/FEA DOES NOT MAINTAIN THE 90% TOTAL SERVICE LEVEL THRESHOLD?**

A. If DoD/FEA falls below the 90% threshold, CenturyLink provides notice to DoD/FEA, and total service levels remain continuously below an 80% threshold level for 180 days, then CenturyLink may (at its option) terminate the Settlement Agreement.

# IV. THE SETTLEMENT AGREEMENT IS IN THE PUBLIC INTEREST

**Q. HOW ARE THE SAFEGUARDS IN THE SETTLEMENT AGREEMENT IN THE PUBLIC INTEREST?**

A. The Settlement Agreement is in the public interest because it fairly balances CenturyLink’s desire for additional regulatory flexibility with the need to protect DoD/FEA customers, which still rely on CenturyLink’s services in the State of Washington. The Settlement Agreement provides stability for DoD/FEA about what services will be available and at what rates, terms, conditions, and service levels, and also provides stability for CenturyLink related to its local exchange services revenues for planning and investment purposes – while not discouraging competition from potential alternative providers that may want to provide business services to DoD/FEA in competition with CenturyLink in the future. Furthermore, the Settlement Agreement avoids trial risks and conserves resources – time, effort and costs of litigation – for the Parties as well as the Commission.

**Q. PLEASE SUMMARIZE YOUR CONCLUSIONS AND RECOMMENDATIONS?**

A. The Settlement Agreement (and safeguards therein) resolves DoD/FEA’s concerns about CenturyLink’s request to be regulated under an Alternative Form of Regulation (“AFOR”) in the State of Washington. Therefore, from DoD/FEA’s perspective, CenturyLink’s proposed AFOR plan, as conditioned upon the approval of this Settlement Agreement by the Commission) is in the public interest and should be approved.

**Q. DOES THIS CONCLUDE YOUR TESTIMONY REGARDING THE SETTLEMENT AGREEMENT?**

A. Yes.

1. The term “Current Contract” is defined in Attachment 1 as: “any contract now in effect between CenturyLink that is limited to providing Washington Regulated Services to DoD/FEA locations in the State of Washington.” [↑](#footnote-ref-1)
2. The term “Washington Regulated Services” is defined in Attachment 1 as: “intrastate telecommunications services that are contained in CenturyLink’s effective tariffs on file at the Washington Utilities and Transportation Commission (‘Commission’) as of the Effective Date.” [↑](#footnote-ref-2)
3. This commitment does not apply to mandatory fees and charges ordered by the WUTC and Federal Communications Commission authorized charges. [↑](#footnote-ref-3)
4. Business services in the legacy Qwest territory in Washington were previously moved to product catalogs. [↑](#footnote-ref-4)
5. Pursuant to the Revenue Commitment, the 90% threshold is calculated as 90% of the average quarterly billings for the four quarters preceding the date of the Settlement Agreement. [↑](#footnote-ref-5)