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BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION

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In the Matter of the Petition of )  
 )  
 THE CENTURYLINK COMPANIES - )  
 QWEST CORPORATION; )  
 CENTURYTEL OF WASHINGTON; ) Docket UT-130477  
 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 )  
 )

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HEARING ON SETTLEMENT PROPOSALS, VOLUME III  
PAGES 72-134

ADMINISTRATIVE LAW JUDGE GREGORY J. KOPTA

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1:30 P.M.  
OCTOBER 16, 2013

Washington Utilities and Transportation Commission  
1300 South Evergreen Park Drive Southwest  
Olympia, Washington 98504-7250

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Chairman David Danner  
Commissioner Jeffrey Goltz  
Commissioner Philip Jones

10

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1 WITNESSES APPEARING VIA TELEPHONE:

2 Dr. Angus Ankim  
3 James Burt  
4 John Felz

5 WITNESSES APPEARING IN PERSON:

6 Stephanie Johnson  
7 Mark Reynolds  
8 Mark Vasconi

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OLYMPIA, WASHINGTON      OCTOBER 16, 2013

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1:40 P.M.

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JUDGE KOPTA:    Let's be on the record in  
6    Docket UT-130477, captioned In the Matter of Petition of the  
7    CenturyLink Companies, who I will not list, to be Regulated  
8    Under an Alternative Form of Regulation Pursuant to RCW  
9    80.36.135.

10

I am Gregory J. Kopta, the administrative law  
11    judge who is presiding.    With me is Stephany Watson.

12

The Commissioners also will be here, and they  
13    will come in shortly.

14

We are gathered here today to have an  
15    evidentiary hearing on the three settlement agreements  
16    between CenturyLink and the other parties, most of the other  
17    parties in this proceeding.

18

And let's begin by taking appearances.    Short  
19    form is fine, just name and company, beginning with the  
20    company.

21

MS. ANDERL:    Thank you, your Honor.    Lisa  
22    Anderl, inhouse attorney for CenturyLink, representing the  
23    petitioning companies.

24

MS. ENDEJAN:    Judith Endejan for Sprint.    I'm  
25    from Graham & Dunn.

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1 MR. DENNEY: Doug Denney, representing  
2 Integra.

3 THE COURT: Lisa Gafken, assistant attorney  
4 general on behalf of Public Counsel.

5 MS. CAMERON-RULKOWSKI: Jennifer  
6 Cameron-Rulkowski, assistant attorney general representing  
7 Staff.

8 MR. SMITH: Kyle Smith on behalf of the  
9 Department of Defense and all other federal executive  
10 agencies.

11 JUDGE KOPTA: And is there anyone on the  
12 bridge line that wishes to make an appearance?

13 Hearing none, that will be it.

14 So our first issue is exhibits. Based on our  
15 colloquy with counsel prior to this, I understand that  
16 everyone is willing to stipulate to the admission of the  
17 exhibits on the exhibit list. So I will go through them to  
18 identify them for the record and then admit them.

19 They are Exhibits MSR-1T through MSR-2,  
20 Exhibits JMF-1CT through JMF-7, Exhibits JT-1T through J-26,  
21 Exhibits AHA-1T through AHA-3, Exhibits JRB-1T through  
22 JRB-2, Exhibit MSR-3, and Exhibit DD1-T. All of those  
23 exhibits are admitted.

24 One issue arises with respect to Exhibit  
25 JT-5, which is the settlement agreement between CenturyLink,

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1 Staff, and Public Counsel. Attachment A to that settlement  
2 agreement is the Stipulated Plan for Alternative Form of  
3 Regulation.

4 The companies, or the settling parties, have  
5 amended that Stipulated Plan for Alternative Form of  
6 Regulation. They have provided a red line of that document  
7 for ease of reference for the Commission, but will be  
8 providing a clean copy of that document to be attached and  
9 substituted for Attachment A in Exhibit JT-5. But it will  
10 remain Exhibit JT-5.

11 MS. ANDERL: Your Honor, may I ask a  
12 question?

13 JUDGE KOPTA: You may.

14 MS. ANDERL: You indicated that for the joint  
15 testimony and exhibits, it went through JT-6?

16 JUDGE KOPTA: Yes.

17 MS. ANDERL: My list is missing 6. Could you  
18 tell me what 6 is?

19 JUDGE KOPTA: That's the CV of Mark Vasconi.  
20 That was a late filed exhibit because Mr. Vasconi will be  
21 substituting for Mr. Weinman on behalf of Commission Staff.

22 I revised that exhibit list once I got that  
23 document yesterday, I believe. So my apologies to counsel  
24 that I did not provide an updated exhibit list.

25 But that's the only change that I have made

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1 since you all have seen it when I circulated it late last  
2 week.

3 MS. ANDERL: Thank you.

4 JUDGE KOPTA: Any other questions at this  
5 point?

6 Then let's be off the record while we gather  
7 the witnesses.

8 (Pause in proceedings.)

9 JUDGE KOPTA: Dr. Ankum, are you on the  
10 phone?

11 DR. ANKUM: Yes, I am.

12 JUDGE KOPTA: And Mr. Burt, are you on the  
13 phone?

14 MR. BURT: Yes, I am.

15 JUDGE KOPTA: And Mr. Felz we've already  
16 established is on the phone?

17 MR. FELZ: Yes, sir.

18 JUDGE KOPTA: Great. This is everybody.

19 Why don't you go ahead and get the  
20 Commissioners.

21 (Pause in proceedings.)

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Whereupon, the witnesses were duly sworn

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on oath and gave testimony as follows:

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JUDGE KOPTA: And as I recounted earlier --

7

back on the record, by the way. As I recounted earlier, Mr.

8

Vasconi is substituting for Mr. Weinman.

9

And Ms. Cameron-Rulkowski, would you like to

10

do the introductory honors?

11

MS. CAMERON-RULKOWSKI: Yes, your Honor.

12

Could you please state your name, Mr.

13

Vasconi?

14

MR. VASCONI: Yes. My name is Mark Vasconi.

15

MS. CAMERON-RULKOWSKI: And where are you

16

employed?

17

MR. VASCONI: I'm employed at the Washington

18

Utilities and Transportation Commission in the capacity as

19

the Director of Regulatory Services.

20

MS. CAMERON-RULKOWSKI: Are you the same Mr.

21

Vasconi named in Exhibit JT-6 containing the curriculum

22

vitae of Mark Vasconi?

23

MR. VASCONI: Yes, I am.

24

MS. CAMERON-RULKOWSKI: Are you adopting the

25

joint and individual testimony and exhibits of William

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1 Weinman, JT-1, JT-2, JT-3, JT-4, and JT-5, which were filed  
2 in this proceeding in support of a settlement among  
3 CenturyLink, Public Counsel and Staff?

4 MR. VASCONI: I am.

5 MS. CAMERON-RULKOWSKI: Are you thoroughly  
6 familiar with the settlement and with the testimony and  
7 other exhibits that you are adopting?

8 MR. VASCONI: I am.

9 MS. CAMERON-RULKOWSKI: Are you aware of any  
10 corrections that need to be made to any of these exhibits?

11 MR. VASCONI: Yes. There's one correction.  
12 And let me page to it.

13 MS. CAMERON-RULKOWSKI: Your Honor, is it all  
14 right for me to do the correction at this time?

15 JUDGE KOPTA: Yes, that's fine.

16 Two of the three Commissioners have joined  
17 us, and I'm sure Commissioner Jones will be here in a  
18 moment.

19 MR. VASCONI: I'm ready to proceed.

20 In Exhibit JT-1, on page 22 at line 13, after  
21 the WAC that is cited, after the WAC that is cited, please  
22 input "and Exception 11."

23 JUDGE KOPTA: What page is that again, Mr.  
24 Vasconi?

25 MR. VASCONI: Page 22 in JT-1.

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1 JUDGE KOPTA: I believe that's JT-1T.

2 But page 22?

3 MR. VASCONI: Line 13. On that line there's  
4 a citation to Washington Administrative Code, which is WAC  
5 480-120-083. Immediately after that, please input "and  
6 Exception 11."

7 JUDGE KOPTA: Okay.

8 MS. CAMERON-RULKOWSKI: Thank you, Mr.  
9 Vasconi.

10 Mr. Vasconi is available to respond to  
11 questions from the bench.

12 JUDGE KOPTA: As I mentioned, all three  
13 Commissioners have joined us.

14 And the purpose of our hearing here today is  
15 to allow the Commissioners to question the witnesses  
16 supporting the three settlement agreements, between  
17 CenturyLink and Staff and Public Counsel, one; between  
18 CenturyLink and the Department of Defense and other federal  
19 executive agencies, number two; and then between CenturyLink  
20 and Sprint, number three.

21 In addition, we have the testimony of Doug  
22 Denney. As I understand it, Integra does not formally have  
23 any position on the settlement agreements, but I also  
24 understand Mr. Denney may have a question.

25 So why don't we begin, Mr. Denney, with your

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1 questions so that then we can go into the Commissioner  
2 questions after that.

3 MR. DENNEY: Thank you, your Honor.

4 This question involves the settlement  
5 agreement between CenturyLink, Staff and Public Counsel.  
6 And I'd like the opinion of all three of the witnesses, but  
7 Mr. Reynolds, start with you.

8 This settlement agreement, which is JT-5, in  
9 Provision 2 sets the term of the AFOR for seven years. And  
10 this term is different than what was filed in the original  
11 AFOR plan on May 8, which was five years; and the original  
12 AFOR, as you know, from 2007 had a four-year term.

13 And as I understand your testimony, the joint  
14 testimony on this kind of boiled down to that seven years  
15 did not seem to be unduly long. And I wondered if you could  
16 expand on this, if there were other reasons that you elected  
17 for a seven-year term vs. either a four- or a five-year  
18 term.

19 MR. REYNOLDS: I think, you know, some of the  
20 other reasons I believe that are given in the joint  
21 testimony are that the existing Qwest AFOR has actually been  
22 in effect now for six years, going on seven years. And it  
23 doesn't seem to have caused any issues, that length of an  
24 agreement.

25 And it also adds permanency, more permanency for

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1 planning purposes for the company to assure what its formal  
2 regulation is over a longer period of time.

3           And it's somewhat more consistent with the  
4 Commission's ruling in the Frontier case. It was a slightly  
5 different venue for bringing a deregulation case, but  
6 competitively classified services is a more or less  
7 permanent designation unless the Commission sees otherwise  
8 at some point in the future. But there is no term  
9 associated with competitive classification. And so we were  
10 trying to mirror that ruling a little bit by adding a little  
11 bit of length to the five-year -- the previous five-year  
12 agreement.

13           MR. DENNEY: And in your opinion, would four  
14 years be too short?

15           MR. REYNOLDS: Yes.

16           MR. DENNEY: Mr. Vasconi, do you have  
17 anything to add to that?

18           MR. VASCONI: No, I really don't have  
19 anything to add, other than maybe to amplify Mr. Reynolds'  
20 answer, which is that the Qwest -- the current AFOR under  
21 which Legacy Qwest operates under is over six years long,  
22 and that seems to have worked relatively well.

23           Frontier's competitive classification is, I  
24 think as Mr. Reynolds had indicated, permanent. So seven  
25 years doesn't seem to be out of bounds, if you will. And

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1 Staff was satisfied with the seven-year term.

2 MR. DENNEY: Thank you. Ms. Johnson?

3 MS. JOHNSON: I don't have anything to add  
4 beyond what they've already said.

5 MR. DENNEY: Thank you. That concludes  
6 Integra's questions.

7 CHAIRMAN DANNER: I'm just going to step in.

8 So Mr. Denney, I understand that in addition  
9 to being a lawyer today, you are also a witness today. And  
10 you are sworn in; is that correct?

11 MR. DENNEY: That's correct. I am.

12 And to be clear, I'm not an attorney for --

13 CHAIRMAN DANNER: You had me fooled. You're  
14 sitting with them, you're dressed like them.

15 MR. DENNEY: I read through the rules and it  
16 seems like I'm just not allowed to make a legal argument.  
17 But that never stopped me when I was a witness.

18 CHAIRMAN DANNER: But the question I want to  
19 basically push back, you asked the question about the seven  
20 years and asked, you know, if they considered whether that's  
21 too short or long enough, whatever.

22 I guess I'd like to know your views. Is  
23 seven years -- in your mind, are there some risks or some  
24 dangers to that length, or are there some concerns that you  
25 have?

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1                   MR. DENNEY: I don't think -- I don't have a  
2 concern with the seven-year term.

3                   I was -- I thought there was little support  
4 kind of in the written testimony for that, for the seven  
5 years, and wanted to get some clarification on that.

6                   And I think with the protections that are in  
7 place and as the AFOR is written, that seven -- we don't  
8 have an issue with the seven-year term.

9                   But I wanted to understand kind of the  
10 rationale for changing that.

11                  CHAIRMAN DANNER: Okay. And did your company  
12 have problems with the terms of the first AFOR that Qwest  
13 was under?

14                  MR. DENNEY: No, we didn't. But we do have  
15 issues often with the terms of our interconnection  
16 agreements, which is part of what prompted the question.

17                  CHAIRMAN DANNER: Okay. But there is  
18 language in the settlement about interconnection, and you're  
19 not opposed to -- you think -- does that address your  
20 concerns?

21                  MR. DENNEY: Yes, it does.

22                  CHAIRMAN DANNER: Okay. Thank you very much.

23                  JUDGE KOPTA: I actually also wanted to  
24 follow up on the substance of this. And this is a somewhat  
25 nice legal point, and it may be something that I need some

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1 guidance from counsel on.

2 But as I read the AFOR statute, it's kind of  
3 a one-way ratchet. If there are going to be any changes to  
4 the AFOR, the company needs to ask for it. The Commission  
5 can't initiate that.

6 Competitive classification, on the other  
7 hand, if the Commission were to find that there was some  
8 reason to revisit a competitive classification, then the  
9 Commission could initiate that particular proceeding.

10 Is it your anticipation that while this  
11 stipulated agreement says that CenturyLink will be treated  
12 as if it were competitively classified, which paradigm do  
13 you believe will be applicable?

14 Could the Commission, if it decided three  
15 years in that there were some issues with the company's  
16 operations for whatever reason, could it revisit the terms  
17 of this stipulation, or is it an AFOR in which the  
18 Commission would be precluded from doing anything other than  
19 enforcing its terms?

20 MR. REYNOLDS: I believe it's our position  
21 that the AFOR would govern. And it is the vehicle that  
22 we're using to bring this case.

23 We referred to the competitive classification  
24 as sort of a structure to lay out our case because we  
25 thought way back in 2007, with the original Qwest AFOR, that



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1 it simplified things greatly to make the statement that we  
2 would be treated like a competitively classified company  
3 with the following exceptions.

4 And you know, it seems to have worked well,  
5 that structure from 2007, and we picked that up, dusted it  
6 off, and used it as our structure this time.

7 But to answer your question directly, we  
8 believe that the AFOR would govern. So during that  
9 seven-year period we could petition the Commission for  
10 changes, but I don't believe that the Commission would have  
11 the authority that they would have under a competitive  
12 classification proceeding.

13 JUDGE KOPTA: Okay.

14 CHAIRMAN DANNER: But it's your understanding  
15 that at the end of seven years we could put you back under  
16 rate of return and call you back for a rate case if we  
17 wanted to?

18 MR. REYNOLDS: Yes.

19 JUDGE KOPTA: Is that your understanding,  
20 too, Mr. Vasconi and Ms. Johnson?

21 MR. VASCONI: Yes, that is my understanding  
22 as well.

23 MS. JOHNSON: Can I defer to my lawyer?

24 JUDGE KOPTA: Ms. Gafken, do you have  
25 anything to say on that?

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1 MS. GAFKEN: I think the witnesses have  
2 addressed it appropriately.

3 I will just note that there is a complaint  
4 proceeding that's tied to complying with the AFOR terms. So  
5 if the company were to run amok and not abide by the terms,  
6 then there could be a complaint proceeding. But I'm not  
7 sure if that complaint could also be to change the AFOR.

8 JUDGE KOPTA: Thank you.

9 CHAIRMAN DANNER: And my last question  
10 actually was a serious question. I mean, there's also what  
11 is your understanding if a customer has issues with service  
12 and service quality, what are their avenues for redress?

13 MR. REYNOLDS: I would say they're the same  
14 as they are today. The AFOR that is being proposed here  
15 does not change our service quality obligations. We're  
16 still required to report as a Class A company, and I don't  
17 believe that any of the service quality standards are waived  
18 in our AFOR proposal. So they could essentially bring a  
19 complaint and we would have to defend ourselves.

20 CHAIRMAN DANNER: Is that the understanding  
21 of the other witnesses?

22 MR. VASCONI: Yes, that's clearly Staff's  
23 understanding.

24 Staff is also, I think, somewhat comforted by  
25 the fact that this isn't the first time we've seen this.

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1 Qwest -- Legacy Qwest, excuse me; has operated under an AFOR  
2 for the bulk of their services for over six years now. And  
3 the consumer protection that has been in place will, I think  
4 in essence continue to be in place.

5 The Class A reporting is something that is  
6 there. And we believe that that offers protections that  
7 otherwise competitively classified companies may not  
8 necessarily offer.

9 CHAIRMAN DANNER: Mr. Nelson or Ms. Gafken?

10 MS. JOHNSON: I know my answer, but can you  
11 say the question again?

12 CHAIRMAN DANNER: I've been there. I know  
13 what she's talking about.

14 The question was basically what are the  
15 avenues of redress that a consumer would have if a consumer  
16 would have problems with the service or the service  
17 quality?

18 MS. JOHNSON: I agree with what Mr. Vasconi  
19 and Mr. Reynolds say. And this was actually a very  
20 important component of it for Public Counsel, that these  
21 would remain in place and customers would have access to  
22 that.

23 CHAIRMAN DANNER: Is it also the  
24 understanding that customers who are not satisfied with  
25 CenturyLink's services in most cases would have alternatives

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1 in the marketplace?

2 MS. JOHNSON: Well, our concern was actually  
3 more with customers who don't have alternatives. You know,  
4 I've been getting calls at my desk, I've been getting calls  
5 from customers concerned about this. So that was one of the  
6 stated concerns, was if they're not regulated anymore are  
7 they going to continue to serve me, are they going to fix  
8 things if they break, what if my service is bad. So we've  
9 been able to talk through some of those issues.

10 MR. REYNOLDS: I guess I would also add too,  
11 with our obligations as a Class A company, essentially  
12 overall this AFOR tried to mirror the same regulatory  
13 freedoms that our competitors have, but this Commission  
14 regulates. And there is a very large competitor that this  
15 Commission does regulate as a CLEC that has the same service  
16 quality obligations that we have.

17 Initially, if you read our initial proposal,  
18 we wanted to report like a Class B company, which is  
19 significantly less than a Class A company has to report.

20 And in our discussions with Staff and Public  
21 Counsel, we agreed that we are a Class A company in that we  
22 have a major competitor that is also required to report as a  
23 Class A company and actually abide by the obligation of  
24 service quality. Otherwise I think we would have sought  
25 more deregulatory freedoms along those lines. But I don't

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1 think it would have been fair to our competitor.

2 CHAIRMAN DANNER: A question for Mr. Vasconi:  
3 Are you aware that we have had, when Legacy Qwest went under  
4 the AFOR the first time and we've had an AFOR for the last  
5 six years, have you seen any kind of spike in service  
6 quality issues or complaints?

7 MR. VASCONI: I'm not aware of any. I have  
8 looked at statistics over the last year and a half. And  
9 they seem very stable. I'm -- on a monthly basis I'm not  
10 seeing any particular spikes. Now that's current.

11 That doesn't -- I haven't seen -- I didn't  
12 look at any data that goes back over the full six-year  
13 period.

14 CHAIRMAN DANNER: Let me ask the company,  
15 then, are you aware of any -- when the AFOR went into effect  
16 or during the term of the AFOR, were you seeing any customer  
17 backlash, as it were?

18 MR. REYNOLDS: No. In fact, as you know, the  
19 consumer affairs division conducts a periodic audit, sort of  
20 a random audit of different companies. And pre-AFOR, they  
21 conducted an audit, found some violations, and essentially  
22 we negotiated a settlement for penalties. The same thing  
23 happened during the AFOR.

24 But as far as trending month over month or  
25 year over year, you know, we do have rough springs and

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1 winters where our service quality will spike somewhat during  
2 the rainy season.

3 But other than sort of the normal cyclical  
4 trend, I haven't seen, you know, anything, nor have we heard  
5 from consumer affairs, which is wont to let us know when we  
6 would have spikes.

7 CHAIRMAN DANNER: Okay.

8 MS. JOHNSON: I would add that one of the  
9 things that I think is noteworthy about this AFOR is while  
10 Qwest had an AFOR before, CenturyLink didn't. And so some  
11 of these customers haven't been operating under the AFOR, so  
12 I think that's something that is of interest, to look at how  
13 the new company performs under the AFOR.

14 CHAIRMAN DANNER: And so while we're watching  
15 that, at the same time consumers who have problems will be  
16 able to avail themselves of the UTC process going forward.

17 There's no change to the performance  
18 assurance plan in this filing; is that correct?

19 MR. REYNOLDS: That is correct. I might add  
20 that we recently made a filing, in fact I think it came in  
21 today, that takes a look at the performance assurance plan.  
22 And it's -- it is a filing that we worked out with other  
23 CLECs. And in fact, Integra was a leading company that we  
24 worked the modifications out.

25 It's a more streamlined performance assurance

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1 plan. We filed it in Colorado; it was approved. We filed  
2 it in Utah; it was approved. We filed it in Idaho and it's  
3 been approved.

4 And we're filing it in Washington, I believe  
5 yesterday or today. And so --

6 CHAIRMAN DANNER: We'll look at it in due  
7 course.

8 MR. REYNOLDS: You'll look at it in due  
9 course.

10 And of course all the other CLECs can weigh  
11 in, but in every other state we have not had any negative  
12 comments on the filing, primarily because we sat down and  
13 sort of negotiated what the agreement would look like prior  
14 to filing.

15 MR. DENNEY: Chairman Danner, just to add to  
16 that, I negotiated that plan on behalf of Integra, and we  
17 knew the Washington report was in progress when we were  
18 having those discussions with CenturyLink on the new plan  
19 that Mr. Reynolds is referring to.

20 CHAIRMAN DANNER: Thank you. I have no  
21 further questions.

22 Mr. Jones?

23 COMMISSIONER JONES: Just going down the line  
24 here.

25 So again, Mr. Reynolds, what were the states

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1 that have approved the new PAP, the performance assurance  
2 plan?

3 MR. REYNOLDS: I believe it's Colorado, Utah,  
4 and Idaho.

5 It is filed now in Oregon. It is now filed  
6 in Washington. It's filed in Minnesota.

7 And Mr. Denney and I were talking before the  
8 proceeding, and I believe it comes up for review before the  
9 Commission next week or the week after.

10 COMMISSIONER JONES: Okay.

11 MR. REYNOLDS: There's been no opposition by  
12 Department of Commerce or any of the other parties in  
13 Minnesota at this time.

14 COMMISSIONER JONES: I remember the days when  
15 we used to go to ROC meetings, Regional Oversight Committee  
16 meetings and spend endless hours in committee time  
17 negotiating PAPs and all this stuff. But it seems to be  
18 being done more efficiently now state by state.

19 CHAIRMAN DANNER: Excuse me for interrupting.  
20 Does the ROC still exist, the Regional Oversight  
21 Committee?

22 MR. REYNOLDS: Not to my knowledge.

23 Perhaps Commissioner Jones has more insight.

24 COMMISSIONER JONES: I think it no longer  
25 exists. There were some activities that Staff -- I see



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1 Rebecca Beaton in the audience -- Staff was doing certain  
2 things, but I think from a Commissioner standpoint, no. We  
3 are not going to meetings, we aren't interacting with Steve  
4 Davis or Mr. Reynolds or executives of CenturyLink on a  
5 corporate basis. We used to do a lot of that.

6 CHAIRMAN DANNER: Thanks.

7 COMMISSIONER JONES: What I'm going to do is  
8 ask a few questions section by section based on the  
9 settlement agreement.

10 So I'll start with Attachment A, Exceptions,  
11 Wholesale Obligations. So Mr. Reynolds, on the wholesale  
12 obligations, the agreement states that this AFOR does not  
13 affect the Commission's authority. It refers to the TA of  
14 '96, the Telecommunications Act of 1996.

15 So which section of -- I'm most familiar with  
16 Section 251 and 252. Does this section primarily refer to  
17 that, or are there other sections of the Telecommunications  
18 Act that this is meant to implicate?

19 MR. REYNOLDS: Certainly Sections 251 and  
20 252; also the obligations that were laid out in 271, which  
21 would have included the introduction of the Performance  
22 Assurance Plan to insure against backsliding.

23 There are all kinds of other agreements, as  
24 you well know.

25 The merger agreement also speaks to the

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1 Performance Assurance Plan.

2 But I would say that overall any authority  
3 that's bestowed by the Act on the Commission and any  
4 obligations that we have, at least at this point in time,  
5 are untouched by this AFOR. We leave those in place.

6 COMMISSIONER JONES: Okay. Now I don't know  
7 if it's -- Judge Kopta, I don't know if it's appropriate to  
8 ask -- is it appropriate to ask a question about the  
9 Sprint/CenturyLink agreement on the IP connection?

10 JUDGE KOPTA: Absolutely. The panel of  
11 witnesses that we have are for all three of the settlement  
12 agreements.

13 COMMISSIONER JONES: So this will be  
14 addressed both to Ms. Endejan and to CenturyLink. You've  
15 reached a separate agreement, correct?

16 I saw press reports on this?

17 MS. ENDEJAN: That's correct.

18 And Commissioner, we also have Jim Burt, who  
19 is the witness who testified in support of the settlement  
20 agreement. He's on the line. He couldn't physically be  
21 here.

22 COMMISSIONER JONES: So this could be for Mr.  
23 Burt or you, primarily. But I think it's more for you than  
24 for Mr. Reynolds of CenturyLink.

25 But the agreement as I see it establishes a

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1 process for an IP interconnection workshop with some sort of  
2 docket where we would examine these issues?

3 MS. ENDEJAN: That's correct. I think that  
4 the question is what sort of docket and how should it be  
5 looked at.

6 And I would like Mr. Burt to address that if  
7 possible.

8 MR. JONES: Sure. Mr. Burt, how would you --  
9 I mean my questions are -- I understand that this is teed up  
10 in many other states, not just with this company but with  
11 other large ILECs.

12 So what is the scope of such a workshop?

13 We have a lot of workshops in this Commission  
14 now, just to warn you, especially in the months of November  
15 and December. We have a lot on our plate right now.

16 And I think we need to be careful about how  
17 we scope it, when we set the timing of it, you know, and  
18 what sort of issues we tee up in it. So do you have any  
19 preliminary ideas on that?

20 MR. BURT: Well, it would be Sprint's  
21 preference that we actually have a proceeding such that we  
22 get a decision on the issue of, you know, the point of  
23 disagreement between ILECs and competitive riders that IP  
24 interconnection is a requirement.

25 As far as the scope of a workshop, we would

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1 like any workshop to be productive. And Sprint has  
2 experience with IP interconnection with non-ILEC, and we  
3 think we could bring and address issues that we have worked  
4 through with those other providers to the workshop and see  
5 how it would actually be implemented with an ILEC.

6 COMMISSIONER JONES: So would that mean  
7 perhaps just a single day workshop, we might bring in  
8 national experts on this issue both from the ILEC  
9 perspective and from the competitive perspective; we would  
10 address both the legal issues and some of the technical  
11 issues that are being debated nationally on the FCC docket  
12 on IP interconnection and what it is and how it works?

13 Would that be sufficient in your view?

14 MR. BURT: I think that's certainly the scope  
15 of the issues, yes.

16 I think bringing in other industry experts  
17 would be beneficial.

18 Maybe the only question would be whether or  
19 not those issues could be worked through in one day.

20 But I guess, you know, that -- if there is a  
21 limitation on time, we could probably make that happen.

22 MS. ENDEJAN: And Commissioner, if I might  
23 add on to that, to elaborate on Sprint's position, which  
24 differs from CenturyLink's -- and they're free to advocate  
25 their position, obviously -- but the workshop is a starting

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1 point.

2                   But in actuality, some form of proceeding, we  
3 believe and would advocate, would be required for the  
4 Commission to issue some sort of definitive ruling because  
5 as I understand it, workshops are good forums to debate  
6 public policy issues, but I don't -- I've never seen them  
7 produce, as an end product, for instance, rules or a ruling.

8                   And to do that, the Commission would have to  
9 actually institute some sort of formal proceeding. I don't  
10 know what it would be, an investigation, a rule making, an  
11 adjudicative proceeding, but I think that IP interconnection  
12 is a very serious substantive issue that will ultimately  
13 require a decision rather than just some sort of  
14 free-floating, gee, this is an interesting sort of concept  
15 from a workshop.

16                   JUDGE KOPTA: And just to be clear, that is  
17 not part of the settlement agreement; is that correct?

18                   MS. ENDEJAN: No. What is part of the  
19 settlement agreement, Judge Kopta, is that CenturyLink and  
20 Sprint have agreed that -- CenturyLink has agreed not to  
21 oppose any formal workshop. And we all agree that that's  
22 fine.

23                   Sprint wants to take it farther. But that is  
24 not part of the settlement agreement. We've reserved our  
25 rights to advocate our respective positions.

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1 JUDGE KOPTA: I would just caution you that  
2 we are here to take evidence on the settlement agreements  
3 and not going to advocacy positions. So I appreciate your  
4 zeal, but let's let the witnesses talk about what the  
5 settlement agreement terms are.

6 CHAIRMAN DANNER: Well, if I may, I think,  
7 you know, we have a workshop on this subject. And I think  
8 it is appropriate because that is one of the conditions in  
9 the settlement.

10 So if that is not enough or if that's more  
11 than enough, then I think we should let Ms. Endejan tell us.

12 MS. ENDEJAN: Well, I truly was trying to  
13 answer Commissioner Jones' question. I really was. I'm not  
14 trying to do an end run because not surprisingly, Ms. Anderl  
15 and I have had many discussions about this particular topic.

16 JUDGE KOPTA: I'm merely trying to forestall  
17 a debate which I could see coming.

18 CHAIRMAN DANNER: I was looking forward to  
19 it.

20 COMMISSIONER JONES: We have a lot of time  
21 this afternoon.

22 JUDGE KOPTA: If the Commissioners want to  
23 tee up a debate, that's up to them.

24 COMMISSIONER JONES: All I'm trying to do  
25 here is get a scope of this. And I haven't talked to Brian

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1 Thomas about this yet. I apologize.

2 But the scope of the hearing and what we're  
3 going to discuss, as all of you know, there's a tremendous  
4 amount of activity on this at the FCC now.

5 And I personally have been involved in the  
6 FCC technology transitional task force. We have a task  
7 force that reports out. We have pilot IP things going in  
8 around the country. So there's a lot we could talk about in  
9 a workshop, okay; not the legal issues, okay?

10 So I'm just trying to get a sense of what  
11 Sprint would like to see, you know, in the scope of let's  
12 say it's a one-day workshop, because we could spend -- I  
13 agree we could spend days talking about this. It is a very  
14 important issue, in my view, to explore. And I'm trying to  
15 be neutral now. I'm not coming down on one side or the  
16 other here.

17 MS. ENDEJAN: Sure. Are you clear, I think,  
18 on Sprint's position?

19 COMMISSIONER JONES: I think I am. I think I  
20 hear a general support for kind of a one-day workshop where  
21 we bring in national experts to tee up legal issues, the  
22 operational issues, the network interconnection issues.

23 And at the same time you're reserving your  
24 right to -- what did you say? -- to request that we do more  
25 in a formal proceeding. So I recognize that right.

0103

1                   So why don't we just -- I think that's enough  
2   said on that.

3                   MS. ENDEJAN: Thank you.

4                   COMMISSIONER JONES: Unless others have  
5   questions.

6                   Okay. Let me see. I'm okay on No. 2.

7                   On No. 5, on the accounting method, where we  
8   say CenturyLink will keep its books of accounts pursuant to  
9   WAC 48-120-355, I've been over this WAC. It says the  
10   accounts must allow for identification of revenues for  
11   Washington intrastate operations subject to Commission  
12   jurisdiction.

13                   Is it fair to read this as saying that  
14   CenturyLink still has to submit its reports under  
15   separations rules to the FCC and have -- if Staff needs to  
16   have information on what you submit to the FCC and the  
17   identification of interstate revenues that this obligation  
18   will continue?

19                   MR. REYNOLDS: My understanding is that it  
20   does not. In essence, we would report on a total company  
21   basis for the State of Washington similar to the way our  
22   competitors report today. They don't report separated  
23   results of operations.

24                   And what No. 5 means is that we will report  
25   our financial results, but we will report it on a total



0104

1 company basis in accordance with the FCC, the way that we  
2 filed those reports with the FCC.

3 Now I will hedge a little to the extent that  
4 if the Commission desired to see separated results at some  
5 point in time, I believe that the company would be required  
6 to provide that.

7 COMMISSIONER JONES: Okay. But your plan, if  
8 you will, resulting from this AFOR will be to submit reports  
9 to the FCC on a total company basis?

10 MR. REYNOLDS: To this Commission on an  
11 FCC-type methodology the way that we submit our report to  
12 the FCC.

13 COMMISSIONER JONES: Refresh my memory. What  
14 is that form called again, the separation?

15 MR. REYNOLDS: Part 36.

16 COMMISSIONER JONES: Part 36.

17 Is there a form associated with that, kind of  
18 like what we discussed the morning, the 481 for --

19 MR. REYNOLDS: If there is, I don't know.  
20 But we could certainly find that out.

21 COMMISSIONER JONES: Would you please,  
22 because I'd just like to be more precise about what goes to  
23 the FCC total company and what may or may not come to this  
24 Commission.

25 JUDGE KOPTA: We'll call that Bench Request

0105

1 No. 1.

2 Ms. Anderl, do you have that?

3 MS. ANDERL: Yes. I'm writing that down.

4 Let me see if I can repeat it back. And that is Bench  
5 Request No. 1 seeks a clarification on what methodology the  
6 companies use in reporting to the FCC so as to kind of  
7 illuminate what Condition No. 5 means.

8 JUDGE KOPTA: Does that respond to you?

9 COMMISSIONER JONES: I think so.

10 MS. ANDERL: I'll phrase it more artfully  
11 when we write it down.

12 JUDGE KOPTA: Understood.

13 COMMISSIONER JONES: Moving on to No. 7,  
14 "De-averaged Rates," does this restriction or these  
15 provisions on de-averaging, does this maintain pretty much  
16 -- let's talk about the high cost areas, Mr. Reynolds. It  
17 does nothing with study area boundaries, correct?

18 MR. REYNOLDS: That's correct.

19 COMMISSIONER JONES: And I think recently  
20 this summer our staff -- and I don't know if we used your  
21 maps or Staff had its own maps, if Mr. Zawislak was involved  
22 in that. But we -- I thought we had agreement with your  
23 company on what the study area boundaries were, and we  
24 submitted those to the FCC, right?

25 MR. REYNOLDS: That's correct.

0106

1                   COMMISSIONER JONES: Okay. Local calling  
2 areas, I see in the agreement earlier that you're still  
3 going to have tariff provisions on exchange areas, local  
4 calling areas, and maps. So this agreement does nothing to  
5 affect the local calling areas in the state of Washington?

6                   MR. REYNOLDS: That's correct.

7                   COMMISSIONER JONES: Okay. And then that  
8 last provision in No. 7, where it says does not modify or  
9 restrict your ability to enter into individual contracts for  
10 service, could you just give me a few examples?

11                   I think I know what these are. I think they  
12 come to the open meeting on certain discounted rates, or if  
13 you have a large corporate customer, is that what you mean  
14 by individual contracts?

15                   MR. REYNOLDS: I believe it is. And for  
16 companies that are -- that are not under an AFOR, Legacy  
17 Qwest has not filed individual contracts with this  
18 Commission as a result of its past AFOR and also as a result  
19 of the competitive classification proceedings that we took  
20 our business services through.

21                   So we do contract with our customers. We do  
22 not file those with the Commission.

23                   I believe that regulated -- more regulated  
24 companies probably do file those -- continue to file those  
25 contracts.

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1                   What this says is that we will take the  
2 course and processes associated with the former Qwest AFOR  
3 for all of our companies, and we will not file those  
4 contracts with the Commission in the future.

5                   COMMISSIONER JONES: Can you give me an  
6 example of such a contract?

7                   MR. REYNOLDS: Could be a business contract  
8 between CenturyLink and Microsoft for DS1 service or PRI or  
9 ethernet. That's more likely the case than individual  
10 contracts with consumers, which would be difficult to try to  
11 manage.

12                   COMMISSIONER JONES: Right. So more likely  
13 would be a small or large commercial.

14                   MR. REYNOLDS: That's correct.

15                   COMMISSIONER JONES: Okay. And lastly, I  
16 think No. 9 on the EIS charges and your flat-rated, you say  
17 that the maximum target or at least the initial target is  
18 going to be \$16.40, right?

19                   MR. REYNOLDS: That's correct.

20                   COMMISSIONER JONES: So that's an initial  
21 target.

22                   So just describe for me generally the process  
23 of, if we approve this, how quickly you would get to 16.40  
24 on the flat-rated service.

25                   MR. REYNOLDS: As a result of the merger with

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1 CenturyLink, we have five operating companies. And when we  
2 initially sat down for our discussions with Staff and Public  
3 Counsel, we looked at ways -- a particular rate plan  
4 proposal to bring -- to normalize our rates, if you will, to  
5 bring them closer together. And what No. 9 attempts to do  
6 is start that process.

7                   We have 21 different rate levels for our  
8 residential service and our business services amongst our  
9 companies. And those range from \$8.90 for our residential  
10 services all the way up to, I believe, 25-some dollars,  
11 25.90.

12                   What -- as an initial step, what No. 9 says  
13 is that we picked -- we had some outlier exchanges, five or  
14 six outlier exchanges, where we had a flat rate and then a  
15 very expensive EAS rate. I think it's in the neighborhood  
16 of a \$10.00 EAS rate. And when you added those together, it  
17 brought it up to 25.90.

18                   So the first thing we wanted to do is take  
19 the high ends, you know, the anomalies, out of our rate  
20 spread. And so one of the first things we'll do when we  
21 gain the freedoms that would be afforded us under the AFOR  
22 is to correct that anomaly. We would take those exchanges  
23 and reduce the rate down to the target rate.

24                   We had to pick a target rate initially just  
25 as a point of reference where we could bring our rates to.

0109

1 And especially since these were anomalous situations, they  
2 included EAS, we decided to simplify our rate structure by  
3 combining the EAS into the rate. And so for those  
4 exchanges, those exchanges will have \$16.40 rates after we  
5 make our filing with the exact same EAS routes that they  
6 have today.

7 Now, there may be offsetting filings. We  
8 have rates as low as \$8.90. So we might be bringing some  
9 rates up towards the norm.

10 By far the overriding rate that drives our  
11 revenues in these areas are the Qwest rates. You know,  
12 Qwest access lines among the five companies for residential  
13 service are about 82 percent, and for business services I  
14 believe are around 87, 89 percent. And so those rates are  
15 at \$13.50, and I believe \$30 for the business rates. So you  
16 know, those are right in the middle of those ranges.

17 And over time what we've agreed to do is not  
18 create more rate levels -- and that's a commitment that we  
19 made within the AFOR agreement -- and not to create greater  
20 differentials than exist between the rates today.

21 So it helps us over time, with our rate plan,  
22 bring those together. And this is not something that Staff  
23 and Public Counsel had to push on the company. We would  
24 like to do that as well. We would like to bring our rates  
25 more into harmony across all of the company.

0110

1                   And I might add one thing too, that this is  
2 not only a commitment we're making here, but it's also  
3 fulfilling a commitment we made during our merger. If you  
4 recall, during the merger the Commission was very  
5 interested, during the first AFOR that we negotiated, in us  
6 putting forward a rate plan that would help bring rates  
7 closer together.

8                   It's going to take some time with the spread  
9 that big. We don't want to cause rate shock for these  
10 customers. And if you've read our evidence in this case,  
11 you see that we have significant line loss in virtually all  
12 of our exchanges. And so we have to be very careful about  
13 how we go about doing this so we don't push more customers  
14 off our networks.

15                   COMMISSIONER JONES: Mr. Vasconi, Ms.  
16 Johnson, any time you change rates, rate levels essentially  
17 from lower levels to higher levels, there could be consumer  
18 complaints. So obviously you must have been concerned about  
19 this. Could you tell us why you're comfortable with this  
20 approach?

21                   MR. VASCONI: Well, I think there are a  
22 couple things that I'd like to discuss. There will be  
23 consumer complaints. We understand that.

24                   But there could likely also be a consumer  
25 reaction because in many places, in fact, across

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1 Qwest's/CenturyLink's operating territory, there are  
2 competitive alternatives available to most subscribers. So  
3 that may be one way that a customer registers their  
4 complaint. They vote with their feet and they go to another  
5 competitor.

6                   They could indeed call us. But because we do  
7 have the customer, sort of the customer protection still in  
8 place, we thought that even with the likelihood of  
9 increasing rates that that was something that the market  
10 could allow for, given the competitive landscape that we  
11 see.

12                   I might add that Frontier has been given this  
13 ability basically to raise rates, and I don't know whether  
14 we've seen any customer complaints from their recent dollar  
15 increase.

16                   But looking at it across the market, we  
17 thought that it was time to allow that kind of potential  
18 rate movement.

19                   COMMISSIONER JONES: By competitive  
20 alternatives, you're including technologies like over the  
21 top VOIP, wireless, cable?

22                   MR. VASCONI: Yes, all of the above.

23                   COMMISSIONER JONES: All of the above.

24                   In all of the exchange areas, or just in more  
25 urban focused exchange areas?



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1                   MR. VASCONI: Well, there's been line loss  
2 across virtually all of the exchanges served by the combined  
3 CenturyLink.

4                   And in looking at the Frontier order, it  
5 struck us that the relevant market was a statewide market,  
6 that that was the relevant market by which to make the  
7 comparisons and to conduct the analysis, on a statewide  
8 basis across the whole market.

9                   Yes, we firmly believe that there are  
10 competitive alternatives available to end users that might  
11 be experiencing a price increase down the road.

12                  COMMISSIONER JONES: Thank you.

13                  Ms. Johnson?

14                  MS. JOHNSON: Based on the discussion that  
15 happened in the Frontier order that really coupled rate  
16 averaging and the competitive classification and that rates  
17 would be averaged across the state, we felt like we were  
18 concerned that with 21 different rates CenturyLink companies  
19 are a little bit de-averaged in some ways. Like within the  
20 operating company they're averaged, but across the company  
21 they're not.

22                  And so that was a challenge for to us try to  
23 figure out how, within the construct of using the  
24 competition from the urban areas, how do we make sure that  
25 the customers in the outlying areas are also going to

0113

1 benefit from that competition.

2                   And so I think part of it is this idea that  
3 they can come together and kind of work toward a statewide  
4 rate. But we've asked that they -- when they change a rate  
5 they would file, and they would file what all of the rates  
6 are for all of the exchanges to see what type of progress is  
7 being made. And so hopefully we can monitor it some.

8                   We didn't want to be -- we're sensitive to  
9 any restrictions on what prices things would need to be  
10 offered at for the company to be able to make enough money  
11 to survive.

12                   But we did definitely want to address -- I  
13 feel like the rate issue for us was primarily with the fact  
14 that these rates are de-averaged, and you need averaging in  
15 order to protect those customers. So this is what we were  
16 able to come up with.

17                   MR. REYNOLDS: I might add one more thing.  
18 Ms. Johnson brought this to my mind. In addition to the  
19 rate plan to try to gain normalization, we've also made a  
20 commitment here not to geographically de-average our rates  
21 any further than they already are.

22                   What that means is the Legacy Qwest company  
23 has average rates. It's very similar to the Frontier. And  
24 what that means is that we could not take that 13.50 rate up  
25 to 15.50 in the more rural areas of the state and leave it

0114

1 at 13.50 in the urban areas. If we want to raise those  
2 rates, we have to raise them uniformly.

3 And what that allows for is the competitive  
4 pressures, that the stronger competitive pressures in the  
5 urban areas keep rates low throughout the entire state.

6 So I believe also in the Frontier order there  
7 was a similar commitment not to geographically de-average.  
8 And that does protect, it seems to me, your rural areas from  
9 that type of de-averaging approach.

10 COMMISSIONER JONES: And then there's no  
11 effect of any of this on carrier of last resort obligations,  
12 is there?

13 MR. REYNOLDS: No, there is not.

14 COMMISSIONER GOLTZ: Thank you.

15 So Mr. Reynolds, and maybe others can chime  
16 in as well, looking at first of all, the first provision in  
17 the AFOR plan, it says that CenturyLink will be treated as  
18 if it were competitively classified subject to certain  
19 exceptions and then the exceptions are listed, numbered 1  
20 through 11.

21 So am I to conclude that de facto you're  
22 competitively classified with eleven stated exceptions?

23 MR. REYNOLDS: That's correct.

24 COMMISSIONER GOLTZ: So one of the areas --  
25 that may clarify my next question. As I understand the

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1 consumer protections in our telecommunications statutes, a  
2 regulated company, totally regulated, is exempt from the  
3 Consumer Protection Act because the state Consumer  
4 Protection Act exempts actions or transactions -- no;  
5 actions that are otherwise permitted, prohibited or  
6 regulated by the Commission.

7                   So one of the small companies that's not  
8 subject to AFOR or competitive classification is not subject  
9 to the Consumer Protection Act, but is subject to our  
10 consumer protection staff and rules.

11                   However, a company subject to an AFOR is also  
12 not subject to the Consumer Protection Act. It still falls  
13 within that exemption. And so an AFOR regulated company is  
14 subject to the Commission's consumer protection regulation.

15                   A competitively classified company or the  
16 services of a competitively classified are, pursuant to  
17 80.36.360, subject to both. They're subject to our consumer  
18 protection regulations and the exemption from the Consumer  
19 Protection Act is exempted for them. So they're now back  
20 subject to this CPA.

21                   So how is it going forward, if we approve  
22 this, with CenturyLink?

23                   It is an alternate form of regulation, but it  
24 says you will be treated as if it were competitively  
25 classified. So it's among that treatment that you will be

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1 subject to the state Consumer Protection Act?

2 MR. REYNOLDS: I think I'd have to defer to  
3 my counsel on that.

4 COMMISSIONER GOLTZ: As an aside, this is  
5 another one of the perils of passive voice in settlement  
6 agreements. It says it will be treated. It doesn't say who  
7 treats it.

8 MS. ANDERL: Understood, your Honor. And  
9 this is language that was of course a holdover from the  
10 Qwest days. And it was an attempt to, as opposed to going  
11 through the many, many pages of statutes and regulations and  
12 saying which ones were going to be exempted and which ones  
13 were not, the -- philosophically, they would be treated as  
14 if they were competitively classified.

15 That said, that is a condition under the  
16 AFOR. And so I think the fact that the company is regulated  
17 under an AFOR is really what controls.

18 Now to slice it and dice it more finely, it  
19 may be that under the AFOR you no longer regulate prices,  
20 and so maybe the pricing provisions that are not under  
21 tariff any longer are subject to Consumer Protection Act  
22 actions. But service quality, billing and other things that  
23 are still regulated by the Commission would not be.

24 COMMISSIONER GOLTZ: Did you say it may be?

25 In other words, are we looking at an

0117

1 ambiguity here?

2 MS. ANDERL: Excuse me?

3 COMMISSIONER GOLTZ: Would we be approving an  
4 ambiguity here?

5 MS. ANDERL: No, I don't think you're  
6 approving an ambiguity. I just don't think the issue has  
7 ever been decided.

8 COMMISSIONER GOLTZ: What's the difference?

9 MS. ANDERL: There may be a clear answer  
10 removing the ambiguity. I may need more time to think of  
11 what it is.

12 Well, no, I see what you're saying. I think  
13 we have typically thought that for those things the  
14 Commission no longer regulates, either under an AFOR or  
15 competitive classification, the Consumer Protection Act  
16 would apply. It's always been our thinking once services  
17 are no longer tariffed, it was the tariff that exempted you  
18 from Consumer Protection Act risks.

19 COMMISSIONER GOLTZ: Was this in the  
20 contemplation of either Commission Staff or the Public  
21 Counsel, whether or not the Consumer Protection Act applies  
22 to the treatment of CenturyLink as competitively  
23 classified?

24 MS. CAMERON-RULKOWSKI: Mr. Goltz, we had not  
25 discussed it.

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1 MS. JOHNSON: I would say I think that this  
2 opening language actually came from the previous AFOR's. So  
3 it might be part of a cut and paste and wasn't thought  
4 through very closely.

5 MR. REYNOLDS: Ms. Anderl touched on  
6 something in suggesting that using -- I guess it's not  
7 necessarily a term of art, but competitive classification  
8 for a service, but if you look at what we have here, even  
9 though retail services would be price de-regulated, they  
10 would still be subject to all of the service quality rules  
11 of this Commission and service quality reporting.

12 And so to me, it's not exactly the same as a  
13 competitive classified company or a completely competitively  
14 classified service. There are still certain, it seems to  
15 me, certain rules and statutes apply that would not apply to  
16 a company that's completely competitively classified.

17 COMMISSIONER GOLTZ: I might be wrong on  
18 this, but my view of the law has always been if you're a  
19 totally competitive classified company, you're still subject  
20 to our consumer protection regulations but you're also  
21 pursuant to statute, pursuant to the Consumer Protection  
22 Act.

23 So it's a question of how many sheriffs there  
24 are in town and what the criteria are and how tough they  
25 are.

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1 MR. REYNOLDS: Right.

2 COMMISSIONER GOLTZ: And so competitively, if  
3 you've gone completely competitively classified, then I  
4 think you would be subject to the Consumer Protection Act,  
5 you know, no unfair practices and what goes along with that.

6 And there would be the attorney general's  
7 authority to investigate as well.

8 And I'm not quite sure where we are in this,  
9 and I think it probably is an ambiguity. But we can think  
10 about that.

11 So my other set of questions has to do with  
12 de-averaged rates. And so I can get clear in my mind, if I  
13 can refer you to Exhibit JT-2. And I have a black and white  
14 and gray copy. I'm sure the original was in color. So I  
15 see there they have different -- five shades of gray.

16 This line of questioning wasn't intended to  
17 get to that, actually. But it shows the different -- the  
18 five operating units; is that correct?

19 MR. REYNOLDS: Yes.

20 COMMISSIONER GOLTZ: Essentially CenturyTel  
21 Cowiche, CenturyTel of Interisland, CenturyTel of  
22 Washington, United Telephone, and Qwest d/b/a CenturyLink?

23 MR. REYNOLDS: That's correct.

24 COMMISSIONER GOLTZ: So for each of those  
25 five shades here, within each one is the residential rate



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1 the same?

2 MR. REYNOLDS: No.

3 COMMISSIONER GOLTZ: So there's de-averaging  
4 within these?

5 MR. REYNOLDS: That's correct.

6 COMMISSIONER GOLTZ: Okay. So --

7 MR. REYNOLDS: In fact, I could give you a  
8 rate spread for each company.

9 COMMISSIONER GOLTZ: Sure.

10 MR. REYNOLDS: As I suggested before, Qwest  
11 has an average rate for 1FR service of 13.50.

12 COMMISSIONER GOLTZ: When you say "average,"  
13 you mean --

14 MR. REYNOLDS: There's the rate for  
15 residential exchange service, a flat rate, yes.

16 And I can also give you some additional  
17 information.

18 That represents -- CenturyLink access lines,  
19 that represents 82 percent.

20 On business it's \$30. That represents 87  
21 percent.

22 For Century, Century has a range between  
23 \$9.50 and I believe \$25.10 before the adjustments that we  
24 talk about in our testimony in the plan of bringing the  
25 \$25.10 rates down to a target rate of 16.40.

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1 So this will give you an idea of the range.

2 JUDGE KOPTA: You said just Century.

3 Which--

4 MR. REYNOLDS: I was throwing Century Cowiche  
5 and Century Northwest in together.

6 Separately, United, the Embarq company, it  
7 has a range of \$8.90 to \$6.40.

8 COMMISSIONER GOLTZ: 16.40?

9 MR. REYNOLDS: 16.40, yeah.

10 And the number of access lines for United is  
11 4.55 percent of the total.

12 And for Century it's 12.18 percent of the  
13 total access lines in the state that CenturyLink overall  
14 has.

15 COMMISSIONER GOLTZ: So when you say, then,  
16 going back to the agreement and plan, I should say, so  
17 Exception 7, de-averaged rates, so CenturyLink agrees not to  
18 further geographically de-average, that means -- I don't  
19 know how many different rate geographic areas you have, but  
20 let's say there's 30. You aren't going to create more?

21 MR. REYNOLDS: That's right.

22 COMMISSIONER GOLTZ: But you are going to  
23 have pricing flexibility for residential rates?

24 MR. REYNOLDS: That's correct.

25 COMMISSIONER GOLTZ: So is it possible under

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1 the plan for you to pick those geographic areas that are  
2 rural and higher cost and perhaps subject to less  
3 competition and still without de-average -- but raise those  
4 rates, but leave the rates in the Legacy Qwest territory the  
5 way they are?

6 MR. REYNOLDS: That would be possible under  
7 the plan.

8 In fact, it would be -- I would say it would  
9 be envisioned under the plan to the extent that we have  
10 super high cost areas where the exchange rate is currently  
11 \$8.90, and this morning we discussed the changes in  
12 universal service funding and other things that are  
13 transitioning and going away. You know, it seems to me only  
14 logical that we get our services to more closely reflect the  
15 cost.

16 Now having said that, there are protections  
17 built in here for, you know, creating greater differentials  
18 than exist today. Essentially we will try to bring our  
19 rates together, and just de-average -- or the power of the  
20 numbers of Qwest, Qwest drives everything because it's such  
21 a huge percentage of our access lines and our revenues. And  
22 it is right in the middle.

23 And so to the extent that we have changes in  
24 our access line rates, it seems to me that you'll see a  
25 coalescence of those, where we bring rates up in some areas

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1 and bring rates down in other areas to try to achieve the  
2 uniformity that I think we would like to see in our  
3 business, and I think the Commission would like to see as  
4 well, as we try to rationalize our rates and rate structures  
5 among the companies.

6 COMMISSIONER GOLTZ: So I think I heard two  
7 different things.

8 I heard on one hand, you said -- my original  
9 question was would it be possible under the plan to take the  
10 rates in those higher cost, more rural areas, where they --  
11 a geographic area with currently an average rate of, say,  
12 \$20 and raise that to 25, say, and leave all the Qwest  
13 rates, the Legacy Qwest areas, the same.

14 And I think you said that was actually  
15 envisioned.

16 But the Exception 8, residential rate  
17 normalization, seems to tell me that's not envisioned. As a  
18 matter of fact, just the opposite is envisioned; that over  
19 time the rates would coalesce around a given number. Maybe  
20 Qwest rates go up a little bit, maybe the Cowiche rates go  
21 down a little bit, and eventually they're going to coalesce  
22 around 18 or some other number.

23 So which is it?

24 MR. REYNOLDS: We agreed not to create more  
25 rate levels than we currently have. We currently have, as I

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1 think I previously testified, 21 of each.

2                   And this initial step of taking a certain  
3 number of centers down to target rates will create, I  
4 believe, 18 levels.

5                   And we also agreed not to exacerbate the  
6 differentials between these. And so as we move -- in your  
7 last example of could we take rates in rural areas up to \$25  
8 if we wanted to, it seems to me that that would violate the  
9 differential commitment that we made.

10                   COMMISSIONER GOLTZ: Where do I see that,  
11 that you won't exacerbate the differential? Where do I see  
12 that?

13                   Or is it implicit in the normalization  
14 paragraph 8?

15                   MR. REYNOLDS: It's actually in 8 towards the  
16 end, where to the extent CenturyLink makes changes to  
17 flat-rated stand alone residential or business rates,  
18 "CenturyLink's goal will be to reduce the rate differentials  
19 between the rates for its ILEC operating companies."

20                   COMMISSIONER GOLTZ: So focusing on that for  
21 a second, I noticed, then, over in the joint testimony on  
22 page 16, where you go through these exceptions one by one  
23 and then have some comment areas, in the discussion of  
24 Exception 8, it basically restates what you said.

25                   But I wanted to focus on the last -- the last

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1 sentence there starting at line 12, "While Exception 7  
2 commits that rates will not become more geographically  
3 deaveraged, this exception is an affirmative commitment that  
4 when these rate levels change, CenturyLink will work in good  
5 faith to move toward a common rate, as market and other  
6 conditions allow."

7                   And the term "market and other conditions  
8 allow" isn't in the actual condition.

9                   So tell me how that would work. What would  
10 be an example where you're working in good faith to move  
11 toward a common rate but something wouldn't allow it, either  
12 a market or other condition wouldn't allow that? What would  
13 be examples of that?

14                   MR. REYNOLDS: If we have an exchange where  
15 we have a real strong presence of a cable company that  
16 serves most of our footprint, and a wireless company, and  
17 they offer rates that are either at or below our level, it  
18 seems to me that market conditions probably would not allow  
19 us to take those rates up at that point in time.

20                   I mean, essentially we would be constrained  
21 by the competition that's in those areas.

22                   COMMISSIONER GOLTZ: I see. Okay.

23                   MR. REYNOLDS: And if you've looked at our  
24 evidence, we don't have any areas that aren't like that. We  
25 are fairly well constrained.

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1                   Now I'll be honest with you, to the extent  
2   that we have exchanges today where we have an \$8.90  
3   stand-alone rate or even a \$10.00 rate, there's probably  
4   room to move in those areas.

5                   And that's what competitive companies do, is  
6   they gain the regulatory freedom to be able to move; but you  
7   can only move so far, obviously, with price elasticity  
8   before you start to lose additional access.

9                   COMMISSIONER GOLTZ: So see if my  
10   interpretation of this is correct. And I'll pick an  
11   example. You've got Qwest, you said at 13.60?

12                   MR. REYNOLDS: 13.50.

13                   COMMISSIONER GOLTZ: And you have some  
14   CenturyTel pricing area at 22.

15                   That Exception 8 would state that you will  
16   work in good faith to bring those closer together where  
17   market or other conditions allow you to do that.

18                   MR. REYNOLDS: Right.

19                   COMMISSIONER GOLTZ: I understand that, and  
20   that seems reasonable.

21                   My question is the flip side, which is what's  
22   to keep you from taking the Century from 22 to 28.

23                   And I think what you said was that would be  
24   violating the spirit of Exception 8.

25                   MR. REYNOLDS: It would be creating a greater

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1 differential.

2                   And I might also add that there is very  
3 little economic incentive for CenturyLink to take 4 percent  
4 of its access lines, 12 percent of its access lines, and  
5 raise those rates exorbitantly, because there's no money in  
6 it.

7                   As I said before, the revenues in this  
8 company today are Legacy Qwest. If we need additional  
9 revenues, it will be by raising the Legacy Qwest 13.50 rate.  
10 And taking the opportunity at the same time, it's only  
11 rational to maybe bring down the rates where they're higher  
12 than the Legacy Qwest.

13                   COMMISSIONER GOLTZ: And I think this goes to  
14 what Ms. Gafken was talking about earlier, I think, if  
15 there's a problem with implementation of the plan that the  
16 remedy is a complaint, I believe she said.

17                   And so if this -- if you were to sort of in  
18 your markets do something, you know, and raise rates  
19 contrary to what you just said, is the -- is a possible  
20 process a complaint process?

21                   How does that work and where do I see that?  
22 And maybe someone else can help me.

23                   MR. REYNOLDS: I would say that there's  
24 another provision that we put into the AFOR, and that is  
25 that when we make rate changes, normally a competitively



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1 classified company does not have to notify the Commission or  
2 other parties of what it's doing.

3 We've agreed to do that so that Staff and  
4 Public Counsel and really any other party can monitor our  
5 activity.

6 And they not only want to see our rate change  
7 level, but they want to see all of our rates throughout our  
8 territory at the same time.

9 So I envision that we will provide a grid.  
10 We'll show the rates that are changing. They can quickly  
11 look at them to see if they fall within the agreement.

12 COMMISSIONER GOLTZ: I guess --

13 MR. REYNOLDS: I'm sorry, I don't think I  
14 answered your --it was more of a legal question.

15 I would defer to Ms. Gafken about their  
16 ability to bring a complaint.

17 COMMISSIONER GOLTZ: Well, let me answer my  
18 own question. I think the answer is that you just file a  
19 complaint because there's a complaint statute that says if  
20 the company violates an order, then you file a complaint.

21 MR. REYNOLDS: That's probably true.

22 COMMISSIONER GOLTZ: That's all I have.

23 JUDGE KOPTA: I'd like to follow up on a  
24 couple of things you just talked about with Commissioner  
25 Goltz.

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1                   And I draw your attention to Condition No. 9  
2 and Attachment A to JT-5. And there it says that you can  
3 raise rates, but -- or modify these rates not to exceed an  
4 initial target rate of \$16.40. And in the context of that  
5 sentence, it's talking about the first time you change  
6 rates.

7                   Is my reading of this correct that only the  
8 first time you can't go beyond that \$16.40, or is this for  
9 the life of the agreement you're not going to go beyond that  
10 \$16.40?

11                   MR. REYNOLDS: The first time.

12                   JUDGE KOPTA: The first time. So in  
13 subsequent rate changes it could go above \$16.40?

14                   MR. REYNOLDS: That's correct. Otherwise the  
15 initial target rate -- and we wrestled with how to name that  
16 -- would not serve as a rate cap because essentially we're  
17 trying to achieve competitive classification. We're trying  
18 to achieve pricing flexibility.

19                   But as an initial, you know, movement in  
20 rationalizing rates, we did pick target rates for both  
21 business and residential services. And our first filing  
22 essentially would help us do some cleanup of sort of certain  
23 anomalies where rates, we believe, are priced too high right  
24 now.

25                   JUDGE KOPTA: And then also on the term

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1 "initial target rate," that implies that that's going to be  
2 where you start, but it could change; is that correct?

3 MR. REYNOLDS: That's correct.

4 JUDGE KOPTA: And is there any mechanism in  
5 the settlement agreement that determines what and how the  
6 company could change that target rate?

7 MR. REYNOLDS: We would make a filing. And  
8 as I've suggested, we've agreed to file our changes with the  
9 Commission and also with the other parties. And they  
10 essentially can watch us attempt to normalize our rates over  
11 time.

12 It is a little bit more difficult situation  
13 than what the Commission faced in the Frontier proceeding  
14 because you were dealing with one rate.

15 We're dealing with 18 rates throughout our  
16 company. And the best we can do is agree not to create  
17 greater differentials, not to geographically de-average  
18 within the company, and also use our best efforts to drive  
19 towards a common rate throughout the state.

20 And that's essentially what the AFOR  
21 memorializes and what the parties could agree to without  
22 constricting, without really putting caps in place, because  
23 we don't think that's where we are right now in our  
24 competitive environment.

25 JUDGE KOPTA: So you could -- I mean, you're

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1 going to make these filings and it will be transparent what  
2 you're doing, but there's nothing in the settlement  
3 agreement by which Staff or Public Counsel can say, Wait a  
4 minute; we didn't know the target was going up to \$18.00?

5 MR. REYNOLDS: That's correct.

6 JUDGE KOPTA: So you're relying on market  
7 factors, essentially, to make sure the target rate stays at  
8 a reasonable level.

9 MR. REYNOLDS: That's correct.

10 COMMISSIONER JONES: Just to follow up on  
11 that, what's your customer notification right now for this  
12 rate normalization?

13 Are you going to do mailing inserts?

14 Are you going to do a lot on the web?

15 I would encourage you folks, because I agree  
16 with you, 18 different rate levels is complicated as opposed  
17 to Frontier.

18 MR. REYNOLDS: Yes.

19 COMMISSIONER JONES: So what sort of consumer  
20 education outreach strategy do you have?

21 MR. REYNOLDS: We typically use a bill insert  
22 or bill message when customers' rates are changing,  
23 typically when they're increasing.

24 We don't -- I don't think we typically notify  
25 customers when we're actually decreasing rates.

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1                   But that's our standard practice and we'll  
2 continue that practice.

3                   COMMISSIONER JONES: I've received a few of  
4 those myself. I'm a customer. I must confess I don't  
5 always read them. So I would encourage you to do more  
6 because it could be quite confusing.

7                   JUDGE KOPTA: Anything further from the  
8 Commissioners?

9                   I will just remind you that we have a  
10 settlement agreement also between DOD/FEA and CenturyLink,  
11 so if you have any questions with respect to that settlement  
12 agreement, now would be the time. If we don't have any,  
13 then we don't have any. Looks like we have none.

14                   Any questions from Counsel based on the  
15 Commission's questioning? Apparently not.

16                   Then I believe we are done.

17                   Ms. Cameron-Rulkowski did you have  
18 something? You just looked like you did.

19                   MS. CAMERON-RULKOWSKI: I guess I could  
20 mention, your Honor, that some of the Commissioners -- from  
21 the bench there were some questions about what happens when  
22 the EAS additives are consolidated with rates and what  
23 happens with that first rate change.

24                   And I would just draw your attention to  
25 Exhibit JT-3 and that may be informative.

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1 JUDGE KOPTA: All right. Well, if we have  
2 nothing further, then I will thank all of the witnesses for  
3 their testimony and counsel for your appearance. And we're  
4 adjourned.

5 (Discussion off the record.)

6 JUDGE KOPTA: Let's be back on the record.  
7 We needed to take account of a couple of  
8 different issues. One is the date by which CenturyLink will  
9 respond to Bench Request No. 1. I believe the company  
10 agreed to provide a response to that request by October 25;  
11 is that correct, Ms. Anderl?

12 MS. ANDERL: Yes.

13 JUDGE KOPTA: And we also have Public  
14 Counsel's exhibits of the public comments that we have  
15 received.

16 And Ms. Gafken, I believe you endeavored to  
17 have that filed with the Commission by October 29; is that  
18 correct?

19 MS. GAFKEN: That's correct.

20 JUDGE KOPTA: We will have those dates.

21 And with that I believe we are now finished.  
22 Thank you very much.

23 (Whereupon, the proceedings were  
24 adjourned at 3:00 p.m.)

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3 CERTIFICATE OF REPORTER)

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