

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

RULEMAKING TO CONSIDER ADOPTING A	)	<b>DOCKET NO.: UT-170031</b>
RULE IN WAC 480-120, TELEPHONE	)	
COMPANIES, RELATING TO STANDARDS	)	<b>CENTURYLINK’S COMMENTS ON</b>
FOR RESTORING REGULATED	)	<b>PROPOSED RULEMAKING</b>
TELECOMMUNICATIONS SERVICES	)	(Sept 11, 2017)
FOLLOWING AN OUTAGE AND CUSTOMER	)	
NOTIFICATION OF PLANNED SERVICE	)	
INTERRUPTIONS, DOCKET UT-170031	)	

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**I. INTRODUCTION**

- 1 On February 7, 2017 the Commission filed a CR-101 with the Code Reviser, to consider adopting a rule to address repair standards for service interruptions. The industry responded to this inquiry, unanimously opposing the adoption of a rigid 48-hour standard.
  
- 2 Commenters pointed out that the rule is essentially a solution in search of a problem, as the volume of complaints filed with the Commission regarding out-of-service repair is remarkably small, illustrating that the industry is already complying with the existing rule which requires “prompt” repair but does not establish a rigid standard.
  
- 3 Commenters further observed that such a standard cannot reasonably be met all of the time, due to the wide variety of factors associated with service outages such as the myriad of company and non-company causes, resource allocation, and travel time to remote areas, just to name a few reasons. In addition, a rigid standard may drive perverse behaviors in terms of allocating resources and prioritizing restoration by products (regulated voice versus broadband products), and should not be imposed without consideration of how such a standard could actually be counterproductive.

4 CenturyLink argued that it is difficult to establish a reasonable benchmark given the variability of the factors that drive service restoral intervals. Furthermore, a benchmark that is attainable by one company or in certain geographic areas may not be attainable statewide. Setting the benchmark where it can be met all of the time creates a meaningless standard. Setting too strict a standard potentially creates a situation where companies incur unreasonable and unnecessary costs to meet the benchmark without increased revenues or customer satisfaction.

5 In requesting a second round of comments the Commission noted that although several stakeholders filed comments, the information received was inadequate in helping to determine a repair standard. Staff has thus prepared a draft rule incorporating the previously repealed 48-hour standard.

6 The Commission now seeks comments on the draft rule, and specifically seeks “comment or suggestion on alternatives to a firm repair interval that would enable consumers to receive timely restoration of impaired services while affording providers greater flexibility in addressing marketplace conditions.”

## II. DISCUSSION

7 CenturyLink appreciates the opportunity to respond to the Commission in this matter. CenturyLink will first address the need for a rule, then discuss the proposed rule, and then offer alternatives for the Commission’s consideration.

### A. *The rule is not needed.*

8 CenturyLink firmly believes that the proposed rule is unnecessary and should not be adopted. Three main reasons support this position, and those are (1) that the number of complaints/violations under the existing rule requiring “prompt” repair is miniscule, demonstrating that there is no problem that needs an additional rule to solve, (2) that

consumers in the state have competitive alternatives to landline service and therefore do not need regulatory protection on this issue, and (3) this rule would not be competitively neutral, subjecting only one subset of providers to a rigid standard while allowing other providers the freedom to tailor their repair operations to satisfy market expectations.

**(1) *The number of complaints regarding prompt repair is very small and does not suggest the need for additional regulation.***

- 9 By way of background it should be noted that an existing rule already requires “prompt” repair of out-of-service issues. Consistent with the Commission’s ruling in Docket No. UT-160196, Commission Staff interprets that rule to require restoral within 48 hours, absent circumstances beyond the company’s control. CenturyLink will discuss below why that rule is an adequate enforcement mechanism.
- 10 The prompt repair rule provides the Commission the means to check and see if the company is repeatedly taking an excessive amount of time to repair under ordinary circumstances. CenturyLink requested information from the Commission’s consumer affairs group regarding the number of complaints under that rule this year. The total number of consumer upheld complaints for 2017 year-to-date for CenturyLink is shown below, along with CenturyLink’s information regarding the total number of trouble tickets and the total number of out-of-service repairs during each month for voice service.

Month/year	Total # of trouble reports relating to out-of-service conditions <sup>1</sup>	Total # of complaints upheld by consumer affairs for delayed repair > 48 hours <sup>2</sup>
Jan 2017	1407	2
Feb 2017	1600	2
March 2017	1596	3
April 2017	1597	See FN 2
May 2017	1488	See FN 2
June 2017	1265	See FN 2
July 2017	1065	See FN 2
<b>Total</b>	10,018	19

11 The small number of complaints that were upheld (some or all of which CenturyLink would contest in a formal proceeding) demonstrates the absence of a problem requiring regulatory intervention. CenturyLink repairs literally thousands of issues every month, including those listed above, and the complaints each month are consistently in the single digits. Under these circumstances it is hard to argue that there is a problem with CenturyLink's performance that a rigid standard would somehow fix.

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<sup>1</sup> This number represents only the number of out-of-service conditions reported to the company by way of a customer calling to open a repair ticket. Some of these individual reports reflect larger outages, and restoration of service to the customer reporting the trouble in fact restores service to hundreds or thousands of customers who have not called to report an out-of-service condition.

<sup>2</sup> The information provided by Staff indicated that there were two complaints in January, two in February, and three in March. Counts for the other months were not provided, but it appears that there are a total of 19 upheld complaints for the period of January – August 2017. This includes complaints opened as long ago as August of 2016 but not closed until 2017, so the number may in fact be overstated.

(2) *Consumers have alternatives if providers do not offer good service, including prompt repairs.*

- 12 It is beyond debate that consumers have multiple choices of providers for voice service. Cable and wireless companies have taken the vast majority of market share for these services, leaving traditional landline providers with a fraction of their former market shares.
- 13 In Washington, landline subscriptions have declined 71% since 1999.<sup>3</sup> Only 6% of the households in Washington are landline-only, with at least half of the voice subscribers relying on wireless-only for their voice service.<sup>4</sup> But the benefits of the competitive market in fact flow out to all customers, even if they are in the miniscule percentage where no competitive alternative is present.
- 14 CenturyLink does not prioritize repairs based on whether a customer has a competitive alternative available – all customers receive the same treatment in terms of scheduling and efforts toward prompt restoral. This is so even when the cause of the outage is beyond the company’s control such as a third party cable cut. A new rule prioritizing some repairs over others would actually worsen the situation by compelling companies to manage their workforces to hit a 48-hour standard in some cases but not all. This is complicated by the fact that companies may not know, prior to dispatching a technician, whether the repair is mandated within or outside the 48-hour standard.

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<sup>3</sup> Data from FCC Voice Telephone Services Report at <https://www.fcc.gov/voice-telephone-services-report> and FCC Local Telephone Competition Reports at <https://www.fcc.gov/general/local-telephone-competition-reports>.

<sup>4</sup> U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistic, National Health Interview Survey Early Release Program, Table 1, Modeled estimates (with standard errors) of the percent distribution of household telephone status for adults aged 18 and over, by state: United States, 2015, Released 08/2016, available at: [https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless\\_state\\_201608.pdf](https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless_state_201608.pdf).

- 15 Nearly four years ago the Commission recognized the significant competition in the market, and granted all of the CenturyLink operating companies historic regulatory freedom under an Alternative Form of Regulation (AFOR).
- 16 For example, the Commission recognized that the AFOR proceeding afforded the Commission “the opportunity to continue to acknowledge the realities of the 21st Century marketplace by reducing unnecessary regulation and enhancing the ability of CenturyLink to compete more effectively to the ultimate benefit of this state’s consumers.”<sup>5</sup>
- 17 The Commission went on to note that “[n]o party in this proceeding disputes that CenturyLink faces stiff competition for the majority of local telephone services throughout the vast majority of its service area” concluding that “CenturyLink’s historic wireline business . . . is in jeopardy as a result of competition and technological change.”<sup>6</sup>
- 18 Finally, the Commission stated that it recognized “the need to re-examine the traditional role of ILECs such as CenturyLink, and the regulatory construct that is applied to them, and where appropriate, reduce regulation in favor of the discipline of the competitive marketplace.”<sup>7</sup>
- 19 The Commission also emphasized in the AFOR that it retained regulation of service quality, and found that regardless of regulatory freedoms granted, the Commission would retain such oversight. Nevertheless, subsequent to the AFOR, the Commission repealed the 48-hour rule for all carriers, noting that such a regulation was not necessary in light of

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<sup>5</sup> Docket No. UT-130477, Order 04; ¶ 3.

<sup>6</sup> *Id.* at ¶ 42

<sup>7</sup> *Id.* at ¶ 43.

competitive pressures in the marketplace. To re-adopt that rule now would be to walk backwards from the conclusions the Commission made in 2014 in the AFOR, and in 2015 in the rulemaking that abolished the standard, with no supporting rationale.

**(3) *A rule would not be competitively neutral and would disadvantage wireline carriers.***

- 20 As noted above, the vast majority of voice customers in the state receive service from entities such as cable and wireless companies, which are not regulated by the Commission. Imposing a repair interval on only a small segment of the market works a competitive disadvantage on wireline companies.
- 21 Most of CenturyLink’s operational costs are employee related—salaries, wages, benefits, trucks, tools, operating locations. Thus, the costs to restore service are primarily labor-driven. Shorter intervals would drive additional costs in the form of mandatory overtime, the possibility of using contractors hired to assist, and the possibility of hiring additional technicians. Additional labor costs without additional revenue would harm the company’s overall financial health, in a way that competitors would not be harmed.
- 22 From a policy perspective, CenturyLink believes that the market should (and does) regulate this type of performance. CenturyLink’s record with consumer complaints at the Commission is good, even without a set standard – service restoral intervals are simply not a significant subject of customer complaints.
- 23 Driving a specific benchmark for voice restoral could actually be a disservice to customers. The periods with the longest restoration times are typically those where demand exceeds capacity. During these times, our customers express the more concern about internet repair, so the market prioritizes that over voice repair. This is not surprising. Most customers also have cellular voice service. If a specific benchmark

were established for voice, it could impose non-market allocations of resources that customers would find unresponsive to their needs and wants.

***B. The proposed rule is flawed in several respects and should not be adopted.***

24 As noted above, the proposed rule is not necessary and should not be adopted. However, even if the Commission were to consider adopting the rule, it is flawed in major respects. For example, the rule as written purports to establish a repair standard for outages related to inside wire or customer equipment (WAC 480-120-411(1)(e)(ii)). However, the Commission does not have jurisdiction over inside wire or customer equipment, and customers are free to either ask CenturyLink to perform the repair or to hire a third party to do so. This provision would have to be removed if any rule were to be adopted.

25 Another flawed provision is WAC 480-120-411(1)(e)(iv). This provision addresses circumstances where construction, or other activities that require government approval, is necessary. The provision requires that the repair be made within 48-hours of receiving the approval. This deadline is simply not attainable when construction is required. The company cannot know when a permit will be granted and have crews standing by to immediately perform the work. Sometimes the construction itself will take more than 48 hours. There is simply no basis to impose such an unattainable and ill-conceived repair standard under these circumstances.

***C. CenturyLink's alternative proposal.***

26 The Commission sought comments or suggestions “on alternatives to a firm repair interval that would enable consumers to receive timely restoration of impaired services while affording providers greater flexibility in addressing marketplace conditions.”

27 CenturyLink proposes that the Commission retain the current rule, WAC 480-120-411, which already contains an out-of-service repair standard. The existing rule requires



“prompt” service restoral. CenturyLink is not opposed to the interpretation currently employed by Staff, which makes “prompt” the equivalent of “48-hours”. This standard remains superior to a rigid “X number of hours” standard because it allows consideration of the circumstances of the outage and what was necessary for a repair on a case by case basis.

28 Furthermore, the Commission retains a number of other tools to ensure adequate service quality, should the need arise. Commission Staff has, in the past, requested data to perform comprehensive service quality reviews to ensure that standards are being met. The Commission has the authority to request additional information, and to create new standards for service quality when and if regulated providers do not consistently meet reasonable expectations with regard to prompt restoral of services. However, evidence of consistent failure to meet prompt repair intervals is not present in this proceeding.

### **III. CONCLUSION**

29 All of the information in this docket points to the existing standard as being more than sufficient. Company performance is good under this rule, and the Commission nevertheless retains enforcement mechanisms should performance decline. The Commission should decline to adopt the proposed rule and close this docket.

Submitted this 11<sup>th</sup> day of September, 2017.

**CENTURYLINK**

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