

**Exh. SB-28T
Docket UT-240029
Witness: Sean Bennett**

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of the

DOCKET UT-240029

**QWEST CORPORATION;
CENTURYTEL OF WASHINGTON;
CENTURYTEL OF INTERISLAND;
CENTURYTEL OF COWICHE; AND
UNITED TELEPHONE COMPANY OF
THE NORTHWEST**

**to be Competitively Classified Pursuant
to RCW 80.36.320**

TESTIMONY IN SUPPORT

OF SETTLEMENT

**ON BEHALF OF STAFF OF
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

July 1, 2024

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1 I. INTRODUCTION

2

3 **Q. Please state your name and provide your business address.**

4 A. My name is Sean Bennett, and my business address is 621 Woodland Square Loop SE,
5 Lacey, Washington, 98503. My business mailing address is P.O. Box 47250, Olympia,
6 Washington, 98504-7250. My email address is sean.bennett@utc.wa.gov.

7

8 **Q. Are you the same Sean Bennett who previously submitted testimony in this**
9 **docket?**

10 A. Yes. My professional and educational background was provided in testimony filed on
11 April 3, 2024.

12

13 II. SCOPE AND SUMMARY OF TESTIMONY

14

15 **Q. What is the purpose and scope of your testimony?**

16 A. Staff testimony explains and supports each provision of the *AFOR Settlement* agreed
17 upon by CenturyLink and Staff and filed with the Commission on July 1, 2024. The
18 parties agree that the Proposed Plan for Alternative Form of Regulation (Proposed
19 AFOR) is consistent with the public interest standard described in RCW 80.36.135 and I
20 recommend it be approved. Staff and CenturyLink request that the Commission enter an
21 order approving the Full Multiparty Settlement Agreement (Settlement), including the
22 Proposed AFOR as the appropriate form of regulation for CenturyLink in today's
23 environment and continuing on for at least the next five years.

1 **Q. Does Staff believe that an AFOR is a more appropriate regulatory framework for**
2 **CenturyLink than Competitive Classification at this time?**

3 A. Yes. In Staff’s opinion, a competitive classification is appropriate when there are
4 alternative services available as competition should bring lower prices and better service
5 quality. However, the need for federal support in the form of CAF-II Reverse Auction,
6 RDOF, BEAD, 5G Mobility Fund, and the potential for RDOF Phase II makes clear that
7 a competitive market has not developed throughout all of CenturyLink’s service area.
8 Recipients of CAF-II Reverse Auction and RDOF-I Auction support are in the process of
9 deploying their infrastructure. Additionally, support has not yet been awarded for BEAD,
10 the 5G Mobility Fund or the Potential RDOF Phase II program so the benefits of these
11 programs are not yet realized. While CenturyLink customers in certain areas do not have
12 reasonably available alternatives, CenturyLink faces substantial competition in other
13 areas which makes traditional rate of return regulation inappropriate. Staff believes that
14 the Proposed AFOR is appropriate considering a market environment in which
15 CenturyLink operates where it faces competition in some areas but is the sole
16 telecommunications provider in others. The proposed structure gives CenturyLink
17 enhanced flexibility within areas with competition while protecting consumers that do not
18 have reasonably available alternatives.¹ The parties agreed to a continuous term with the
19 ability to review any time after five years. This lookback period allows this structure to
20 continue absent action by any interested party and is in the public interest. All parties,
21 including the Commission, may act at any time after that if needed changes become

¹ See Bennett, Exh. SB-1CT for statistics on the areas where CenturyLink customers exist within each ILEC’s service territory, by wire-center.

1 evident. Staff supports the Settlement's terms and recommends that the Commission
2 adopt it in its entirety.

3
4 **Q. Please summarize your recommendations.**

5 A. I recommend that the Commission adopt the Settlement without condition.

6
7 **Q. What is the basis for Staff's recommendation.**

8 A. Staff's recommendation is the result of one round of testimony, months of discovery and
9 analysis, negotiations, and ongoing settlement discussions among the parties. The
10 Settling Parties' proposed Settlement provides a fair and reasonable regulatory structure
11 found within a revised Alternative Form of Regulation under RCW 80.36.135.

12
13 **Q. Please explain why Staff believes the Settlement is in the public interest.**

14 A. As part of its decision to join the Settlement, Staff considered the range of potential
15 outcomes of further litigation and concludes that this Settlement, taken as a whole,
16 resolves potentially contested issues and meets the requirements for Commission's
17 approval per WAC 480-07-700. Key policy issues include: (1) quality of service, (2)
18 service discontinuance, (3) determination of reasonable alternative services by
19 technology type and price charged, (4) consumer protections, and (5) the identification of
20 the appropriate regulatory structure in which CenturyLink will operate. Resolution of
21 these areas will protect consumers, and the Settlement Agreement also provides
22 CenturyLink with the flexibility to make long-term investment decisions, and defines a

1 A. CenturyLink operates under an alternative form of regulation (AFOR) that was
2 established in Docket UT-130477. CenturyLink’s AFOR provides that the Commission
3 will treat it as if it were competitively classified, subject to several conditions intended to
4 ensure the protection of consumers.

5
6 **Q. Please explain CenturyLink’s place in Washington’s telecommunications landscape.**

7 A. CenturyLink comprises five legacy ILECs that have served Washington customers for
8 decades. These companies are the successors to the Pacific Northwest Bell Company
9 (which rebranded as US West, Qwest, CenturyLink, and most recently, Lumen) that
10 operated as a monopoly subject to rate-of-return price regulation in Washington state
11 prior to the Congressional Telecommunications Act of 1996.

12
13 **Q. What competition do the CenturyLink companies generally face?**

14 A. CenturyLink faces competition from resellers of its traditional local exchange service but
15 also faces competition from fixed internet providers (which use a variety of technological
16 solutions including fixed wireless, cable, fiber, satellite) and Commercial Mobile Radio
17 Service (mobile) providers in many areas of its service area.

18
19 **Q. What does Staff see when it looks at the competitive landscape?**

20 A. Although competition exists in some areas and federal funding has been available, there
21 remain areas throughout Washington that are underserved. In underserved areas, the
22 competitive market has not yet developed even though efforts to support competition
23 have been underway for decades.

1 **Q. Are there efforts underway to help underserved areas?**

2 A. Yes. The CAF-II Reverse Auction, RDOF Phase I, BEAD, and 5G Fund programs
3 discussed in the parties' testimony constitute the federal efforts to build out the
4 infrastructure to ensure competition and universal service.

5
6 **Q. What issues arise considering service availability is not universal?**

7 A. While Washington state is on the path towards a fully competitive landscape, it is not
8 there yet, so it is too early to designate CenturyLink as a competitive company as there
9 are significant areas in which there are not comparable services at competitive rates. As a
10 result, there is potential risk of leaving some customers without any form of
11 telecommunications service.

12
13 **Q. Does Staff think the funding provided by those programs will change the
14 competitive landscape?**

15 A. Yes. Staff hopes that when the infrastructure improvements funded by those programs
16 have been completed, the telecommunications landscape will look different than it does
17 today, with more mobile and fixed internet options (and competition) available to
18 Washington consumers.

19
20 **Q. What does that potential change to the competitive landscape mean for
21 CenturyLink's ILECs?**

22 A. In the future, the operating environment will be sufficiently competitive, and a
23 competitive classification designation will be appropriate for CenturyLink. Until that

1 time, the Proposed AFOR creates a structure in which CenturyLink can be flexible (with
2 guardrails to protect consumers where competition does not meaningfully exist) and is
3 encouraged to resolve impacted telephone service.
4

5 **V. THE SETTLEMENT TERMS, THE PUBLIC INTEREST**
6 **AND STAFF’S INTERESTS**
7

8 **Q. When Staff considered whether the Settlement was in the public interest, what**
9 **considerations did it apply?**

10 A. The Legislature set out the policy aims of the state’s telecommunications policy in RCW
11 80.36.300 and RCW 80.36.135 and staff approached the settlement through the policy
12 framework created by these statutes.
13

14 **Q. How does the Proposed AFOR satisfy the policy goals found in RCW 80.36.300?**

15 A. (1) *Preserve affordable universal telecommunications service* – The Proposed
16 AFOR allows CenturyLink to remain competitive in the marketplace in the areas in
17 which it faces competition and requires each company to maintain uniform rates
18 throughout its service area, including those locations in which there are not reasonably
19 available alternatives.

20 (2) *Maintain and advance the efficiency and availability of telecommunications*
21 *service* – The Proposed AFOR provides CenturyLink the regulatory certainty to make
22 long-term investment plans which gives the Company the ability to direct resources to

1 those areas which still have service. Streamlined reporting requirements and expanded
2 and systematic service credits further increase CenturyLink's efficiency.

3 (3) *Ensure that customers pay only reasonable charges for telecommunications*
4 *service* – Geographic averaging across the CenturyLink service area will help ensure that
5 the competitive market will continue to constrain CenturyLink's prices as any price
6 increase in competitive areas would lead to market share erosion.

7 (4) *Ensure that rates for noncompetitive telecommunications services do not*
8 *subsidize the competitive ventures of regulated telecommunications companies* –
9 CenturyLink has committed to comply with the requirements in RCW 80.36.330, this
10 includes the restriction against below-cost pricing which ensures that no service will be
11 sold below cost and will not be subsidized by competitive services.

12 (5) *Promote diversity in the supply of telecommunications services and products*
13 *in telecommunications markets throughout the state* – Competition has increased
14 substantially in many areas of CenturyLink's service area. The structure of this Proposed
15 AFOR will help CenturyLink focus on enhancing services in the areas in which it
16 actively serves while also promoting a wider range of services to areas with and without
17 federal support.

18 (6) *Permit flexible regulation of competitive telecommunications companies and*
19 *services* – Competitors offer a variety of services with a number of different technologies
20 and the AFOR permits flexible regulation by creating a process in which CenturyLink
21 will be able to discontinue service to areas with effective competition, after going through

1 a rigorous validation process which may include customer credits, and only after the FCC
2 also grants a discontinuance under 47 U.S.C. § 214.²

3
4 **Q. How does the Proposed AFOR meet the public policy goals of RCW 80.36.135?**

5 A. The Proposed AFOR satisfies each of the requirements of RCW 80.36.135 as indicated
6 below.

7 (1) *Facilitate the broad deployment of technological improvements and advanced*
8 *telecommunications services to underserved areas or underserved customer classes. -*

9 CenturyLink has already met its CAF-II federal buildout requirement and deployed 10/1
10 Mbps to 63,335 locations. To meet these obligations, CenturyLink primarily enhanced its
11 copper service within areas of its service area. Since that time, the federal government
12 has implemented the RDOF Program, of which CenturyLink is a participant, and is
13 committed to meet its obligation to deploy 1,000/500 Mbps service to 14,875 locations.
14 This Proposed AFOR supports CenturyLink's ability to deploy enhanced infrastructure to
15 unserved and underserved areas of the state by treating it as if it were a competitive
16 telecommunications company for that purpose. The Washington State Broadband Office
17 (WSBO) is administering the BEAD Program which will provide companies the ability to
18 further deploy advanced telecommunications services to areas within the CenturyLink
19 service area.

² 47 U.S.C. § 214. Procedures for discontinuance by a domestic carrier is found in 47 CFR 63.71 accessible at: <https://www.ecfr.gov/current/title-47/chapter-I/subchapter-B/part-63> - Section 214(a) of the Communications Act of 1034, as amended, requires that a carrier seek FCC authorization before discontinuing, reducing, or impairing service to a community or part of a community. More information is available at the FCC's Consumer Guide, accessible at: <https://www.fcc.gov/consumers/guides/when-your-telephone-company-discontinues-service>. More information about Technology Transitions is accessible at: <https://www.fcc.gov/tech-transitions>

1 (2) *Improve the efficiency of the regulatory process.* – The Proposed AFOR
2 improves the efficiency of the regulatory process with continued streamlined financial
3 reporting, continued market-based rate setting, and creation of a mechanism through
4 which CenturyLink is able to discontinue service to those areas in which there is effective
5 competition.

6 (3) *Preserve or enhance the development of effective competition and protect*
7 *against the exercise of market power during its development.* Market forces within
8 competitive areas will continue to prevent CenturyLink from exercising excessive market
9 power as voice service prices are uniform within CenturyLink’s service area.

10 (4) *Preserve or enhance service quality and protect against the degradation of the*
11 *quality or availability of efficient telecommunications services.* Whether CenturyLink is
12 regulated under a traditional rate of return framework, is competitively classified, or
13 operates under an AFOR, the Company is subject to the same consumer protection rules
14 and regulations. However, the Proposed AFOR includes an expanded service credit when
15 a consumer is without service or its service is otherwise not in good working order. The
16 expanded service credit will incent CenturyLink to quickly repair and upgrade its
17 telecommunications infrastructure.

18 (5) *Provide for rates and charges that are fair, just, reasonable, sufficient, and*
19 *not unduly discriminatory or preferential.* - The Proposed AFOR continues to treat
20 several services as competitively classified as they are subject to competition and thus
21 constrained by market forces. CenturyLink commits to continue to average rates
22 throughout the CenturyLink service area which results in price parity for both urban and
23 rural subscribers.

1 (6) *Not unduly or unreasonably prejudice or disadvantage any particular*
2 *customer class.* Nothing in the AFOR changes the regulatory structure of wholesale
3 services or disadvantages any particular class of customers.
4

5 **Q. How did the previous Commission decision on Frontier’s petition for competitive**
6 **classification (Docket UT-121994) and its decision on CenturyLink’s AFOR (Docket**
7 **UT-130477) influence Staff’s approach to the current filing?**

8 A. Both cases were very helpful in providing the context; however, since 2012 and 2013
9 respectively, there has been great strides in business intelligence, data processing,
10 mapping, and even greater technology transitions than were anticipated over a decade
11 ago. Consumer demand and government regulation including federal support both at the
12 FCC and at the state level which now includes the WSBO, necessitated a fresh look at the
13 meaning of significant captive customer base in the purview of the competitive
14 classification statutes. Detailed information allows analytics at a more granular and
15 specific level which gives all parties the ability to assess competitiveness at an entirely
16 new level. This resulted in a clear path forward under the AFOR statute, recognizing that
17 the Carrier of Last Resort (COLR) obligation(s) continue to play a role in the voice
18 market by ensuring that consumers are not stranded without a telecommunication serve,
19 regardless of the technology that is utilized.
20

21 **Q. With these policy considerations in mind, would you please describe the Settlement**
22 **in general terms?**

1 A. The Settlement consists of an agreement on a new AFOR for the Company. As with the
2 previous AFOR, under the proposed settlement terms, CenturyLink will be treated as if it
3 were competitively classified, subject to conditions meant to ensure consumer protection.
4

5 **Q. Why does Staff support that regulatory treatment of CenturyLink?**

6 A. Flexibility is a state policy within telecommunications regulation. Within the framework
7 of the Proposed AFOR CenturyLink has the freedom to compete within competitive
8 markets and there are protections for consumers to ensure that they receive adequate
9 service and are not stranded without alternative services.
10

11 **Q. What is the duration of the Proposed AFOR?**

12 A. The Proposed AFOR is continual and will not expire. The parties have agreed to a five-
13 year stay-out period; after that period, any party may seek modification or replacement of
14 the AFOR.
15

16 **Q. Why does Staff support the proposed, continuous AFOR, including the stay out
17 period?**

18 A. There are several reasons this structure is appropriate. From Staff's perspective,
19 regulatory certainty is important for CenturyLink as it provides the Company the ability
20 to invest for the long-term. Additionally, the stay-out period gives a chance for federal
21 support programs to start and infrastructure to be deployed before the Commission looks
22 at CenturyLink's regulatory regime again. The continuous nature of the Proposed AFOR
23 will allow the competitive market to take hold without requiring CenturyLink, Staff,

1 Public Counsel, or any other interested parties to take part in a time and resource
2 consuming proceeding, unless one party or another seeks to have the AFOR revised or
3 amended. Regulatory flexibility, reporting, financial constraints, protecting consumers all
4 make this term in the public interest.

5
6 **Q. What does the proposed AFOR provide with respect to CenturyLink's wholesale
7 obligations?**

8 A. The Proposed AFOR carries forward a term from the previous AFOR explicitly clarifying
9 that the AFOR, in and of itself, does not affect the Commission's ability to regulate
10 CenturyLink's wholesale obligations under the Telecommunications Act of 1996, the
11 company's carrier-to-carrier service quality requirements or the Commission's existing
12 abilities to enforce or remedy violations thereof.

13
14 **Q. Why does Staff support the wholesale obligation term?**

15 A. This term is within the public interest as this recognition is consistent with ensuring that
16 the Commission maintains full regulatory authority over issues within its jurisdiction.

17
18 **Q. What does the Proposed AFOR provide concerning CenturyLink services that
19 remain in tariff?**

20 A. Services that remain in tariff have been reduced to take into account changes in the
21 telecommunications market. Services Remaining in Tariff include:

- 22 • Exchange Areas, Local Calling Areas, and Maps
- 23 • Lifeline and Link-up Programs

- 1 • Basic and Enhanced Universal Emergency Number Services – 911 & E-911
- 2 • Interconnection Services
- 3 • Resale Services
- 4 • Switched Access Services
- 5 • Wholesale Services

6

7 **Q. Why does Staff support the term concerning services remaining in tariff?**

8 A. Retaining the tariffs will ensure that customers continue to have affordable, reliable, and
9 equitable services will continue to promote public health and safety. It will also maintain
10 and advance the efficiency and availability of telecommunications services. The
11 CenturyLink ILECs are critical to providing services to other carriers of last resort
12 (COLRs) and retaining these services in tariff will ensure ongoing stability in the
13 telecommunication network for the benefit of Washingtonians.

14

15 **Q. What does the Proposed AFOR provide regarding the transfer of property?**

16 A. The waiver of chapter 80.12 RCW and chapter 480-143 WAC do not apply to the sale of
17 exchanges (wire centers) or access lines.

18

19 **Q. Why does Staff support that term?**

20 A. By retaining the requirement for Commission approval for the sale of exchanges or
21 access lines, the Settlement Agreement retains for the Commission an important
22 consumer protection role. It may exercise oversight to ensure the protection of the public

1 interest by investigating and determining if a proposed sale of assets is within the public
2 interest and would protect and benefit Washington consumers.

3
4 **Q. What does the settlement provide with regard to CenturyLink's averaged rates?**

5 A. CenturyLink agrees to geographically average (by January 31, 2025) the non- recurring
6 and monthly recurring rates for residential (R1) and business (B1) local exchange
7 services for all entities covered by this agreement. This provision does not modify or
8 restrict CenturyLink's ability to enter into individual contracts for service that specify
9 rates other than statewide average rates.

10
11 **Q. What are Staff's thoughts on that term?**

12 A. This term protects and expands upon a similar term from the 2013 AFOR that was
13 implemented over the last decade. Now that the companies have achieved near-uniform
14 rates throughout the state, this term will ensure that customers in rural, insular, and high-
15 cost areas will continue to enjoy the same pricing discipline driven by the market in the
16 more urban areas. The Washington State Legislature's Policy Declaration in RCW
17 80.36.300 (1) through (6) are satisfied while at the same time producing administrative
18 efficiencies for the companies.

19
20 **Q. Does the Settlement contain terms about retail service quality?**

21 A. It does. CenturyLink is implementing a systematic process to automatically award a
22 service credit to consumers that have established a trouble ticket related to their single
23 line, flat rated residential or business local exchange service if it is out of service for

1 more than 24 hours or has static or noise and is not meeting the requirements of WAC
2 480-120-401(4) and 480-120-411. Staff agreed that in lieu of a penalty for CenturyLink
3 for failing to automatically issue the credit, CenturyLink would provide double the credit
4 balance to consumers. CenturyLink will inform customers about this program via
5 quarterly bill inserts starting within 30 days of the AFOR effective date, the mailers will
6 include information about language access services will be emailed to customers with a
7 valid email address on file.

8
9 **Q. Was this term important to Staff?**

10 A. Yes.

11
12 **Q. Why so?**

13 A. CenturyLink's petition raised whether its customers had reasonably available alternatives
14 and whether it had a significant captive customer base. To look for captive customers,
15 Staff looked for customers that had lengthy or repeated service quality problems. It found
16 a number of customers that experienced lengthy, repeated, or lengthy and repeated
17 service quality problems. This term is intended to encourage CenturyLink to quickly
18 resolve issues experienced by CenturyLink customers. CenturyLink is implementing a
19 systematic process once a customer files a trouble ticket which streamlines the process
20 for both CenturyLink and the customer.

1 **Q. Is there anything else this term provides?**

2 A. Yes. This term also requires CenturyLink to provide trouble ticket and credit data to
3 Commission Staff upon request. Having access to this information will help Staff monitor
4 service quality trends and if necessary, take action to remedy ongoing service issues.

5
6 **Q. Now we reach the ultimate term, which concerns discontinuance of service, correct?**

7 A. That is correct.

8

9 **Q. How is creating a process for CenturyLink to potentially discontinue service in the
10 public interest?**

11 A. Competitively classified companies are allowed to discontinue service to customers after
12 providing notice. This would be true for CenturyLink if the Commission granted its
13 Petition without condition. A proscribed discontinuance process that sets a minimum
14 internet speed, maximum price, validates mobile availability coverage data, potential
15 service credits and a robust challenge process is in the public interest as without these
16 factors, consumers could be left without reasonably available alternatives.

17

18 **Q. Would it be fair to call this term a delicate balance of interests?**

19 A. Definitely and unequivocally, yes. The importance of this term to all parties to the
20 settlement shows in the fact that most of the agreement (in terms of page length) consists
21 of this term's provisions. It is incredibly detailed to ensure that this term is in the public
22 interest by benefiting both consumers and CenturyLink.

23

1 **Q. What basic framework does this term set up?**

2 A. This term creates a new concept, the challenging customer location (CCL), which the
3 Proposed AFOR defines as a location without either 25 down and 3 up Mbps fixed
4 internet speeds (or faster) or mobile wireless offered at a mass-market price below a
5 specified affordability threshold. That threshold is initially set at \$61.13, although that
6 number adjusts based on the FCC's reasonable comparability benchmark for voice
7 services, which is calculated annually and is a benchmark that all Eligible
8 Telecommunication Carriers offer voice services below.³ If the Company seeks to
9 discontinue service in an area with a CCL, it must seek the Commission's approval. The
10 approval process requires CenturyLink to provide notice to Public Counsel, UTC Staff,
11 and the customer located at the CCL. The notice must provide availability data for that
12 specific location, information about the Commission's processes, its authority, and how
13 the customer may participate in the process, including how to reach Public Counsel.

14
15 **Q. Please explain the Settlement term for the setting the minimum fixed internet speed
16 at 25/3 Mbps to be considered a reasonably available alternative in Section 9.b.**

17 A. In the spirit of Settlement, CenturyLink agreed to the 25/3 Mbps thresholds even though
18 VoIP service is technically possible with a 56 Kbps internet connection (with no other
19 simultaneous functions). This ensures that customers are able to simultaneously call 911
20 while streaming a movie, or engaging in some other bandwidth-intense activity. While
21 both the WSBO and the FCC recently established 100/20 Mbps as the necessary speed

³ Incidentally, ETCs must also offer internet service below the FCC's reasonable comparability benchmark for broadband services which is currently \$87.87, which is \$26.74 more (or 43.7 percent higher) than the settlement rate of \$61.13.

1 for broadband, the FCC's 2024 Section 706 Report found that 78.7 percent of subscribers
2 elect service at 25/3 Mbps or more whereas only 41.7 percent of locations in the United
3 States elect 100/20 Mbps or more, which indicates that 25/3 Mbps speed is sufficient for
4 voice service along with or two other functions simultaneously.⁴ 25/3 Mbps is certainly
5 capable of providing quality VoIP service and speeds and competition will likely increase
6 as RDOF providers continue to buildout out their infrastructure and BEAD funding starts
7 flowing into Washington over the next five years.

8
9 **Q. Please explain the Settlement term for setting the competitive rate benchmark at**
10 **\$61.13.**

11 A. This is a true compromise between Staff and the Company. The agreement takes both the
12 Company's and Staff's testimony or proposal into consideration. The Company initially
13 indicated that the market should decide what is competitive rate. In testimony, Staff set
14 the rate at \$55.13 as a competitive rate as all Eligible Telecommunication Carriers (ETC)
15 are required to offer standalone voice service below this price. The Company had
16 indicated that if a benchmark must be set, using the FCC's price of \$87.87 for 25/3 Mbps
17 internet service price as the benchmark as it believes that if a company is required to offer
18 a faster speed, the benchmark for that speed should be used. Ultimately, the two parties
19 agreed to a benchmark somewhere in between. Staff's affordability survey included the
20 highest identifiable price for every mass market service within the CenturyLink service
21 area and calculated that the average price for 25/3 Mbps (or faster) this service is \$66.64.

⁴ *In re Inquiry Concerning the Deployment of Advanced Telecommc'ns Capability to All Americans in a Reasonable & Timely Manner*, GN Docket No. 22-270, 2024 § 706 Report, 66 Fig. 21 (released Mar. 18, 2024), available at [https:// docs.fcc.gov/public/attachments/FCC-24-27A1.pdf](https://docs.fcc.gov/public/attachments/FCC-24-27A1.pdf) (last visited June 26, 2024).

1 The \$61.13 benchmark (which may adjust annually) is below the average consumer price
2 within the CenturyLink service area and is ultimately more affordable than CenturyLink
3 had initially proposed.
4

5 **Q. Is there any reason for Staff to believe that there will be future downward pressure**
6 **on consumer prices?**

7 A. Yes, the WSBO is overseeing the BEAD program and participating companies are
8 required to have a low income plan at 100/20 Mbps service at a price no higher than \$30.
9 Additionally, the WSBO Initial plan includes all providers to offer an “affordable” plan
10 to middle income households and to explain a company’s position detailing why it is
11 “affordable”. While affordable is not defined, these two requirements will bring more
12 competition to the CenturyLink service area and is expected to lower prices further.
13

14 **Q. Is that everything of note?**

15 A. No. The Settlement Agreement also specifies the process for determining whether a
16 customer is a CCL or a non-CCL. If CenturyLink seeks to discontinue service, it must
17 evaluate whether the locations in the potential disconnection area have alternative
18 providers of service using GIS mapping of its customers and the most recent FCC
19 Broadband Data Collection fixed internet and mobile wireless data. CenturyLink must
20 determine whether the alternative providers disclosed through this analysis offer publicly
21 posted, non-promotional, mass market prices that are below the price benchmark for
22 services that exceed the 25/3 Mbps speed requirement.
23

1 **Q. Staff used the FCC’s Broadband Fabric for its analysis. Why does the Settlement**
2 **allow CenturyLink to use the FCC’s BDC data instead?**

3 A. Staff signed a license agreement with CostQuest Associates to utilize granular location
4 data that can be associated with the broadband availability data. The price of the license
5 is an annual cost and changes based on the geographic area. CenturyLink would incur
6 very significant and ongoing costs in order to use this data each and every year in which
7 it wanted to assess internet availability in Washington state. While Staff was initially
8 concerned about the Company’s plan that would not rely on use of the Fabric, the
9 Proposed AFOR and customer notice includes a process that CenturyLink will use and it
10 is focused on location-by-location analysis. If CenturyLink identifies an area in which it
11 might seek discontinuance, the company will pair each individual subscriber with an
12 address on the FCC’s Broadband availability map using address mapping and spatial
13 overlay tools. Once locations are paired within CenturyLink’s datasets and the FCC
14 Broadband Map, CenturyLink will identify (for each subscriber) the competitively priced
15 services with the necessary speeds (25/3 Mbps or faster for fixed internet) and prepare a
16 Consumer Notice to be mailed, provided verbally, and emailed to the individual location
17 for validation. This process is acceptable to Staff in lieu of use of the Fabric because
18 CenturyLink will be manually viewing each location one at a time and will not be
19 generalizing any of the data over a larger geographic area which eliminates the risk of
20 CenturyLink misapplying one location’s data to the wrong location. Ultimately,
21 CenturyLink will keep and provide this data to UTC Staff and Public Counsel which will
22 allow both parties to validate that CenturyLink is using the prescribed process.

1 **Q. The settling parties agreed to consider mobile phone service in the discontinuance**
2 **analysis. Why should mobile availability data be included?**

3 A. In the Commission’s Frontier Order, the Commission recognized that consumers view
4 mobile service as a reasonably available alternative and this is even truer today.⁵ The
5 caveat is that mobile service has to actually be available. The FCC’s mobile availability
6 dataset does not report whether or not service is available within the home, however, it is
7 suggestive that mobile service definitely is not available if it is not reported as available
8 by a provider. Alternatively, while not definitive, it is potentially available within
9 buildings if a mobile provider reports availability to a specific area. In other words, a
10 CCL is a location to which no mobile provider reported availability (as well as a fixed
11 internet provider), meanwhile, a non-CCL may have a mobile provider that reports
12 availability to an area that contains one or more CenturyLink subscribers. If mobile
13 service is available, and at a competitive rate, CenturyLink will include that as a readily
14 available alternative to each specific subscriber in the discontinuance notice which also
15 includes a validation component further described below.

16

17 **Q. The settling parties agreed to consider prepaid phone service in the discontinuance**
18 **analysis for mobile affordability. How and why?**

19 A. The only and primary consideration for why it should be excluded is that a subscriber
20 would have to pay for their existing service and new service at the same time and this
21 would be an affordability issue. However, under the terms of the Proposed AFOR, if a
22 subscriber does not have mobile service or internet service, CenturyLink will issue a one-

⁵ Docket UT-121994, Order 06, ¶¶ 57 and 58.

1 time service credit that would eliminate the hardship of paying for two services at once
2 and help CenturyLink subscribers transition to an alternative service if the Company
3 moves forward with the discontinuance process and it is ultimately allowed by the FCC.
4

5 **Q. You mentioned the verification process above. How would that work?**

6 A. The process is explained in detail in the Proposed AFOR and Customer Notice
7 attachment. CenturyLink will send the notice to every non-CCL CenturyLink subscriber
8 that is within an area in which it seeks to discontinue service. It will send the notice to
9 each subscriber via mail, advise the subscriber over the phone, and send the customer an
10 email. As mentioned earlier, CenturyLink will manually verify the available service
11 options to each individual CenturyLink subscriber and include this information, along
12 with the provider's website link, in the notice. Customers will have 45 days from the date
13 the notice was mailed to reply and indicate if they do not have readily available service
14 alternatives.

15 If a customer indicates that fixed service is not available, there are two possible
16 outcomes before a decision is made.

- 17 1. If the subscriber provides evidence that service is not available (screenshot or
18 other documentation showing address and service is NOT available or there is
19 an excessive installation price) then CenturyLink will consider them a CCL (if
20 mobile service is not available), remove them from the discontinuance area, or
21 cover the installation charges in excess of \$100 if the subscriber does not
22 currently have other services

1 2. If the subscriber does not provide any evidence, CenturyLink will attempt to
2 validate their concern by accessing each provider’s website and seeing if
3 service is available. If service shows as available then CenturyLink is able to
4 move forward with the discontinuance process. If the service is available and
5 installation charges are in excess of \$100, CenturyLink will issue a credit to
6 the customer for the excess installation charge more than \$100. If
7 CenturyLink determines that service is not available (including mobile) then
8 CenturyLink will treat them as a CCL.

9 A customer can indicate that mobile service is not available inside
10 their home or business. CenturyLink will complete an in-home mobile service
11 test to measure signal strength using a recently tested and reliable unit. The
12 Settling parties have not identified an appropriate signal strength
13 benchmark(s) and believe it would be in the public interest to create a robust
14 record prior to CenturyLink starting the discontinuance process. Once
15 CenturyLink provides notice to the Commission, the Commission will hold a
16 workshop to identify a signal strength benchmark(s) which would be
17 considered available to a location. If a customer refuses CenturyLink entry,
18 the company will perform the test on public property closest to the
19 subscriber’s location and will adjust the signal strength to account for
20 common building materials. If neither fixed internet service nor mobile
21 service is available, the location will be considered a CCL.

1 This process is detailed and involves outreach, customer input, validation, and ultimately
2 review by both Public Counsel and UTC Staff. Affordability is another consideration as
3 well.

4
5 **Q. Does the process take special consideration of low-income customers?**

6 A. Yes. If a CenturyLink subscriber attests that they participate in a low-income program
7 and does not already subscribe to mobile wireless service, CenturyLink will provide a
8 customer credit equal to the activation fee (if any) exceeding \$50 and will provide a
9 customer credit up to \$150 to assist in purchasing a mobile phone if the customer is not
10 otherwise entitled to one under a low-income program. If a subscriber participates in a
11 low-income program and only has access to fixed internet service, and indicates that the
12 cost would be a financial hardship, CenturyLink will make its standalone HughesNet
13 satellite phone service available to this location at the same rate as its CenturyLink's R1
14 service.

15
16 **Q. It can be expensive to start service with an alternative provider. How does the
17 settlement address that issue?**

18 A. If CenturyLink moves forward with its discontinuance process and a subscriber does not
19 otherwise have other options available, CenturyLink will issue a credit consistent with
20 the amounts detailed within the Proposed AFOR to help offset the cost of setting up
21 either mobile or fixed internet services.

1 **Q. Are there any other provisions that Staff would like to call attention to?**

2 A. CenturyLink will provide UTC Staff and Public Counsel with the datasets and
3 workpapers the company used to identify CCLs and non-CCLs which will provide all
4 parties to any Commission proceeding the ability to validate and ensure that the process
5 is being followed as required. CenturyLink will also keep all logs, datasets, workpapers,
6 and communications that are associated with the consumer notice process for
7 discontinuance and will provide this data to UTC Staff and Public Counsel for analysis
8 and confirmation of the detailed process. The entire process for discontinuance is detailed
9 and forward looking and will ensure that CenturyLink does not discontinue service in an
10 area unless 100% of that area is subject to effective competition or it has obtained the
11 Commission's approval. Nothing in this process waives CenturyLink's requirement to
12 first get approval from the FCC, nor waives the UTC's ability to comment on a §214
13 discontinuance request that is filed with the FCC.

14

15 **Q. How do these conditions comport with the public interest?**

16 A. The enhanced service quality credits will incent CenturyLink to better maintain its
17 network and more quickly repair service outages as they occur. Moreover, the enhanced
18 service quality credits will start accruing once a customer opens a trouble ticket.
19 Competitively classified companies are allowed to discontinue service to customers after
20 notice. This would be true for CenturyLink if the Commission granted its Petition without
21 condition. A proscribed discontinuance process that sets a minimum internet speed,
22 maximum price, validates mobile availability coverage data, and creates a robust
23 challenge process is in the public interest as without these factors, consumers could be

1 left without reasonably available alternatives. This structure better ensures that the goal
2 of universal service remains front and center and that no one is left without service. This
3 is ensured thanks to proscribed granular checks on both CenturyLink's data as well as its
4 actions and ultimately helps customers with the costs necessary to transition to newer
5 technologies.

6
7 **Q. Does Staff view the settlement overall as advancing its interests?**

8 A. Most definitely. Staff believes that an AFOR is the appropriate form of regulation
9 considering the current form of the market in rural and urban areas within the
10 CenturyLink service area. Both Staff and CenturyLink eliminated litigation risk with the
11 settlement, recognizing that there was a wide range of potential outcomes and proposing
12 this structure provided a fair and balanced approach. To achieve this structure without
13 settlement, Staff would have had to win on every issue at hearing in order to negotiate
14 something that further incents CenturyLink to repair service to customers, prescribes a
15 detailed discontinuance process with validation, confirmation, and credits (when
16 appropriate) to help consumers transition to new technologies.

17
18 **Q. Does Staff believe that the settlement, as a whole, advances the public interest?**

19 A. Yes. Staff supports the Settlement as a significant accomplishment because of, and in
20 spite of, the significant amount of data currently available within the public domain and
21 available to each of the parties. The breadth of the detailed data could lead to many
22 possible outcomes that could conceivably be viewed as in the public interest. The final
23 structure of the settlement is a true compromise for all settling parties and consists of

1 each conceding in some areas and gaining in others, which ultimately paved the way to
2 move forward with the current structure which is very much in the public interest. Staff
3 recommends that the Commission accept the Settlement in its entirety without condition.

4

5 **Q. Does this conclude your testimony?**

6 A. Yes.

7

8