

**BEFORE THE WASHINGTON  
UTILITIES & TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Complainant,

v.

THE CENTURYLINK COMPANIES - QWEST CORPORATION; CENTURYTEL OF  
WASHINGTON; CENTURYTEL OF INTERISLAND; CENTURYTEL OF COWICHE; AND  
UNITED TELEPHONE COMPANY OF THE NORTHWEST

Respondent.

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DOCKET UT-240029

**RESPONSE TESTIMONY OF DAVID BREVITZ, C.F.A.  
ON BEHALF OF THE  
WASHINGTON STATE OFFICE OF THE ATTORNEY GENERAL  
PUBLIC COUNSEL UNIT**

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**EXHIBIT DB-9T**

July 12, 2024

**RESPONSE TESTIMONY OF DAVID BREVITZ, C.F.A.**

**DOCKET UT-240029**

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**RESPONSE TESTIMONY OF DAVID BREVITZ, C.F.A.**

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**EXHIBITS LIST**

- Exhibit DB-10      Staff Email Response to Public Counsel June 12, 2024, Request for Price Point Analysis from Sean Bennett’s Enhanced Competition Study, with Attachment A
- Exhibit DB-11      Public Utilities Commission of the State of California Decision Dismissing with Prejudice, Pacific Bell Telephone Company’s Application for Targeted Relief from its Carrier of Last Resort Obligation
- Exhibit DB-12      CenturyLink’s Response to UTC Staff Data Request No. 9
- Exhibit DB-13      *Quest Corp., Petition for Statewide Exemption for Carrier of Last Resort Obligation*, Docket No. 23-049-01, Order (Pub. Serv. Comm’n Utah, Mar. 15, 2024)
- Exhibit DB-14      FCC Section 214 Discontinuances in 2022–2024

1 **I. INTRODUCTION & SUMMARY**

2 **Q. Please state your name and business address.**

3 A. My name is David Brevitz, and my business address is 5804 W. 124th St.,  
4 Overland Park, Kansas 66209.

5 **Q. Are you the same David Brevitz who prefiled Response Testimony in this**  
6 **matter on April 3, 2024, on behalf of the Public Counsel Unit of the**  
7 **Washington Attorney General’s Office (Public Counsel)?**

8 A. Yes.

9 **Q. What is the purpose of your additional response testimony in this**  
10 **proceeding?**

11 A. The purpose of this testimony is to respond to the settlement proposed by UTC  
12 Staff (Staff) and the CenturyLink Companies (the Company) in this matter, and  
13 their testimony filed in support of the proposed settlement. These are transitional  
14 times in the telecommunications industry, moving from legacy copper networks  
15 to broadband capable networks, but progress is uneven and there are pockets of  
16 Washington consumers still left behind. The Washington Utilities and  
17 Transportation Commission (Commission) protections are still warranted for  
18 telecommunications consumers in “thin markets” such as the rural areas of  
19 Washington until infrastructure investment programs such as the Broadband  
20 Equity Access and Deployment program results in actual service to actual  
21 customers in these unserved locations in these rural areas. The proposed process  
22 for discontinuance of public utility service contained in the proposed settlement

1 does not adequately protect unserved and underserved consumers in the  
2 CenturyLink certificated areas without modification by the Commission.

3 I participated in good faith in some of the settlement discussions between  
4 Staff, the Company, and Public Counsel. The proposed settlement includes a  
5 revised Alternative Form of Regulation (AFOR) as Attachment A.<sup>1</sup> This is  
6 recommended by Staff as, “the appropriate form of regulation for CenturyLink in  
7 today’s environment and continuing on for at least the next five years.”<sup>2</sup> I have  
8 reviewed the proposed settlement, the proposed AFOR, and Staff’s and the  
9 Company’s testimony in support of the settlement.

10 The main feature of the proposed settlement is a process for  
11 discontinuance of public utility service in areas of Washington without specified  
12 limits, for undefined reasons, and without using what is acknowledged to be the  
13 best data source for identifying served and underserved premises. Staff’s initial  
14 testimony identified more than 100,000 Washingtonians who do not have access  
15 to universal service. CenturyLink and Staff’s settlement proposal may protect as  
16 few as 1,200 Washingtonians. The legislature has indicated its policy objective to  
17 “preserve affordable universal telecommunication service.”<sup>3</sup> In considering an  
18 AFOR, the legislature directs the Commission to consider whether the proposed  
19 regulation will “facilitate the broad deployment of technological improvements  
20 and advanced telecommunications to underserved areas or underserved customer

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<sup>1</sup> Full Multiparty Settlement Agreement, Attachment A (Plan for Alternative Form of Regulation) (filed July 1, 2024). This is further referenced as *Proposed AFOR in Attachment A*.

<sup>2</sup> Direct Testimony of Sean Bennett, Exh. SB-1CT at 1:23.

<sup>3</sup> RCW 80.36.300(1).

1 classes.”<sup>4</sup> While I appreciate the attempt by Staff and the Commission to reach a  
2 compromise procedure to protect acknowledged underserved areas in  
3 Washington, the settlement procedures create a risk of a discontinuance without  
4 proper consideration and process by this Commission. Therefore, I recommend to  
5 the Commission that it not adopt the proposed settlement without modifications to  
6 mitigate these critical issues.

7 **Q. What exhibits are you sponsoring in this response testimony?**

8 A. I am sponsoring the following exhibits:

- 9 • Exhibit DB-10: Staff Email Response to Public Counsel June 12, 2024,  
10 Request for Price Point Analysis from Sean Bennett’s Enhanced  
11 Competition Study, with Attachment A
- 12 • Exhibit DB-11: Public Utilities Commission of the State of California  
13 Decision Dismissing with Prejudice, Pacific Bell Telephone Company’s  
14 Application for Targeted Relief from its Carrier of Last Resort Obligation
- 15 • Exhibit DB-12: CenturyLink’s Response to UTC Staff Data Request No. 9
- 16 • Exhibit DB-13: *Quest Corp., Petition for Statewide Exemption for Carrier*  
17 *of Last Resort Obligation*, Docket No. 23-049-01, Order (Pub. Serv.  
18 Comm’n Utah, Mar. 15, 2024)
- 19 • Exhibit DB-14: FCC Section 214 Discontinuances in 2022–2024

20 **Q. Please review and comment on each of the provisions of the proposed AFOR**  
21 **in Attachment A, in addition to the proposed service discontinuance process.**

22 A. Provision one is self-explanatory. Provision two states that the CenturyLink  
23 incumbent local exchange carriers (ILECs) will be treated as “competitively  
24 classified” using an AFOR. It refers to Appendix A which contains the specific  
25 statutory or rule provisions to be waived to effectuate the AFOR. These

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<sup>4</sup> RCW 80.36.135(2)(a).

1 provisions by and large are oriented to rate base/rate of return regulation, with  
2 waiver of them to make clear that rate base/rate of return regulation no longer  
3 applies to the CenturyLink ILECs. Waiving these provisions is uncontroversial as  
4 far as I know and reasonable for the Commission to accept. Appendix A also  
5 proposes to reduce the Commission's jurisdiction over proposed transfers of  
6 CenturyLink property. This proposed modification is addressed in more detail in  
7 discussion of Provision six, below.

8 **Q. Please continue and address Provision three of the proposed AFOR in**  
9 **Attachment A.**

10 A. Provision three addresses the term of the AFOR contained in the proposed  
11 settlement. The settling parties propose that the AFOR term be indefinite, subject  
12 to CenturyLink petitions for amendment of the AFOR, petition for a new AFOR,  
13 petition for competitive classification, or any other relief or adjustments to its  
14 regulatory status any time after the initial five years of the proposed AFOR.  
15 Similarly, any time after the initial five years of the proposed AFOR any other  
16 party such as the Commission, Staff or Public Counsel may seek adjustments to or  
17 replacement of the proposed AFOR. This provision is uncontroversial as far as I  
18 know and reasonable for the Commission to accept. There is a good chance that  
19 the circumstances surrounding the most contentious issue—discontinuance of  
20 service in unserved or underserved areas—may work itself out over the initial term  
21 of the agreement (by 2029) given the state and federal focus on funding  
22 infrastructure deployment to areas unserved with broadband and other potential  
23 industry changes.

1 **Q. Please continue with Provision four of the proposed AFOR in Attachment A.**

2 A. Provision four of the proposed AFOR regards CenturyLink’s wholesale  
3 obligations under the Telecommunications Act of 1996. It is identical to the  
4 provisions contained in the 2014 Alternative Form of Regulation Plan. This  
5 provision is uncontroversial as far as I know, and reasonable for the Commission  
6 to accept.

7 **Q. Please continue with Provision five of the proposed AFOR in Attachment A.**

8 A. Provision five identifies CenturyLink services that will continue to be tariffed,  
9 which services are identical to those contained in the 2014 AFOR (except for the  
10 Washington Telephone Assistance Program, which has been removed from the  
11 statutes). This provision is uncontroversial as far as I know, and reasonable for the  
12 Commission to accept.

13 **Q. Please continue with Provision six of the proposed AFOR in Attachment A.**

14 A. Provision six states, “The waivers of the Transfer of Property provisions in  
15 Chapter 80.12 RCW and Chapter 480-143 WAC do not apply to the sale of  
16 exchanges (wire centers) or access lines.” This provision deletes a portion of the  
17 2014 AFOR as it pertains to transfer of property, which also required Commission  
18 approval for transactions “involving the merger or acquisition of the parent  
19 company or any of the ILEC operating companies by an unaffiliated entity.”  
20 Thus, for example, the Commission would have no authority to evaluate or  
21 approve the proposed new owner of any or all of the five certificated CenturyLink  
22 ILECs in Washington, or of Lumen itself.



1           The remaining transfer of property provisions for sale of exchanges or  
2 access lines require CenturyLink to obtain Commission approval prior to  
3 completing a sale, lease, assignment or merger/consolidation of CenturyLink’s  
4 property. “Applications must describe transfers in detail and must include the  
5 public service company's current financial statements and copies of all transfer  
6 instruments.”<sup>5</sup> The Commission’s rules require its approval of any disposition of  
7 property unless the property is replaced with items of equal or greater value or  
8 usefulness, unless the property is surplus or unneeded and full value is received,  
9 unless the property is obsolete, or excluded from rate base by Commission order.<sup>6</sup>

10           The Commission may wish to retain the provisions from the previous  
11 AFOR which also provided for Commission approval of “a transaction involving  
12 the merger or acquisition of the parent company or any of the ILEC operating  
13 companies by an affiliated entity.” In the alternative the language “of the parent  
14 company or” could be excluded while retaining the remainder of the previous  
15 AFOR provision. This would be particularly appropriate since CenturyLink has  
16 been the incumbent telecommunications provider for a century or more with the  
17 obligation to provide facilities to serve all consumers desiring service, and the  
18 Commission should be able to verify the suitability of a new owner and operator  
19 of the statewide network operated by the CenturyLink companies. The  
20 Commission can tailor the transfer of property proceeding to suit the  
21 circumstances of the application and may or may not hold a hearing in the matter.

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<sup>5</sup> WAC 480-142-120.

<sup>6</sup> WAC 480-143-180.

1 **Q. Please continue and address Provision seven of the proposed AFOR in**  
2 **Attachment A.**

3 A. Provision seven addresses continued averaging of rates. CenturyLink agrees to  
4 ensure that non-recurring and monthly rates for R1 are identical and non-recurring  
5 and monthly rates for B1 services are identical across the five CenturyLink  
6 ILECs, with the understanding that this does not affect CenturyLink’s ability to  
7 use Individual Case Basis contracting. This provision is comparable to the  
8 previous AFOR, uncontroversial as far as I know, and reasonable for the  
9 Commission to accept.

10 **Q. Please continue with provision eight of the proposed AFOR in Attachment A**  
11 **which addresses retail service quality.**

12 A. This provision contains an automatic credit mechanism which appears to seek an  
13 improvement over the existing service quality programs run by CenturyLink—the  
14 need for which is evidenced by the complaint data. What is missing from the  
15 settlement testimony is sufficient quantification or testimony for the Commission  
16 to conclude that this provision, which a rational company with CenturyLink’s  
17 complaint data should probably adopt in any case, will meaningfully incentivize  
18 change. Neither CenturyLink nor Staff quantify or estimate how many customers  
19 would benefit from the enhanced service quality framework. The fact that the  
20 number of affected customers is not quantified nor is the total amount of  
21 automatic credits estimated does not allow determination of the degree of  
22 increased consumer benefits and the incentive for changed behavior on  
23 CenturyLink’s part.

1       **Q.     Please continue with provision nine of the proposed AFOR in Attachment A**  
2               **addressing the proposed process for CenturyLink’s discontinuance of service**  
3               **to customers in the State of Washington.**

4       A.     Provision nine is the “ultimate term”<sup>7</sup> and the term within the proposed AFOR  
5               which I view as incomplete and problematic for the Commission to accept  
6               without modification. The proposed AFOR’s “Discontinuance of Local Exchange  
7               Service” provision is elaborate and requires five and a half pages of the 10 total  
8               pages of the AFOR. Peter Gose on behalf of the CenturyLink companies, and  
9               Sean Bennett on behalf of Staff, both describe the process in considerable detail in  
10              their testimonies and I will rely on those descriptions rather than describe the  
11              discontinuance of service provision in detail a third time.

12       **Q.     What were the discontinuance of service provisions sought by CenturyLink**  
13               **in its Petition?**

14       A.     Under the previous AFOR Commission approval was required before  
15               CenturyLink could discontinue residential or business service in any area.  
16               CenturyLink never sought such approval under the previous AFOR. In the Gose  
17               Direct Testimony supporting the Petition in this matter, CenturyLink proposed to  
18               agree to a condition that it would not discontinue service to residential exchange  
19               services in any area in which a “protected customer” resides without first  
20               obtaining Commission approval.<sup>8</sup> A “protected customer” is one who has access  
21               only to CenturyLink copper-based network services and commercial satellite  
22               service to make voice calls as determined by Geographic Information System

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<sup>7</sup> Bennett, Exh. SB-28T at 17:6.

<sup>8</sup> Direct Testimony of Peter J. Gose, Exh. PJG-1T, at 36:3–37:21.

1 (GIS) mapping of CenturyLink customers against the Federal Communications  
2 Commission (FCC) Broadband Data Collection data. CenturyLink identified  
3 approximately 800 residential local service customers that met this condition. The  
4 locations of these approximately 800 “protected” residential customers would be  
5 provided to the Commission on a confidential basis and updated annually.  
6 CenturyLink could discontinue service in areas without “protected customers”  
7 without Commission approval under the FCC’s Section 214 discontinuance of  
8 service provisions.

9 **Q. Please compare the discontinuance of service provision proposed by**  
10 **CenturyLink in its Petition to Provision nine of the proposed AFOR.**

11 A. Instead of “protected customer” the term “challenging customer location” or  
12 “CCL” is used. The alternative service test is changed from a “protected  
13 customer” having access only to CenturyLink’s copper-based network services  
14 and satellite service to a “challenging customer location” being “an existing  
15 CenturyLink local service customer location in Washington which lacks both (a)  
16 fixed internet availability from at least one provider at 25/3 speed or greater  
17 priced at \$61.13 per month or less, and (b) mobile wireless service at \$61.13 per  
18 month or less.” While the alternative service test provisions in the proposed  
19 AFOR add price/affordability and minimum internet speed, the substitution of  
20 mobile wireless service for satellite service is the most impactful component—  
21 under this test, the entire state can be argued to have an alternative service  
22 provider available. This alternative service test dismisses the question of which  
23 customer locations have alternative service available under the assumption that

1 the vast majority of premises have wireless mobile service indoors—under this  
2 definition of “alternative service” very little of the State does not have an  
3 “alternative service” delivered via radio waves. Note the discontinuance process  
4 applies only to “standalone residential or business services” and a “local service  
5 customer location.”<sup>9</sup> Lastly the proposed AFOR describes the determination  
6 process of what constitutes a “challenging customer location” in greater detail via  
7 the customer notice provisions.

8 **Q. Does the settlement testimony estimate how many such “challenging  
9 customer locations” may exist in Washington?**

10 A. No. But Staff provided an analysis indicating that there are only 1,233 such  
11 “challenging customer locations” when mobile wireless service is permitted as an  
12 alternative as required by the provisions of the proposed AFOR.<sup>10</sup> Furthermore,  
13 Staff’s analysis of CenturyLink’s competition study, contained in the Bennett  
14 Direct Testimony, can be used to estimate how many such locations there would  
15 be without inclusion of mobile wireless as an alternative service.

16 /  
17 //  
18 ///  
19 ////  
20 /////

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<sup>9</sup> Proposed AFOR in Attachment A, ¶ 9 (Discontinuance of Local Exchange Service).  
<sup>10</sup> David Brevitz, Exh. DB-10 (Staff Email Response to Public Counsel June 12, 2024, Request for Price Point Analysis from Sean Bennett’s Enhanced Competition Study).

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**Table 1.**  
**CenturyLink Locations Without Affordable Broadband, Percent Rural**

<b>CenturyLink ILECs</b>	<b>Non-RDOF Units</b>	<b>Percent</b>	<b>Source</b>
Total Non-RDOF Units	2,588,845		
Percent Rural, all units		14.53%	Bennett, Exh. SB-1CT at 74
Affordable 25/3, no mobile	103,813	4.01%	Bennett, Exh. SB-1CT at 64
<b>CTL of Cowiche</b>	<b>Non-RDOF Units</b>	<b>Percent</b>	<b>Source</b>
Total Non-RDOF Units	2,373		Bennett, Exh. SB-1CT at 65
Percent Rural, all units		100%	Bennett, Exh. SB-1CT at 75
Affordable 25/3, no mobile	259	10.91%	Bennett, Exh. SB-1CT at 65
<b>CTL of Inter Island</b>	<b>Non-RDOF Units</b>	<b>Percent</b>	<b>Source</b>
Total Non-RDOF Units	7,637		
Percent Rural, all units		66.51%	Bennett, Exh. SB-1CT at 75
Affordable 25/3, no mobile	2,880	37.71%	Bennett, Exh. SB-1CT at 66
<b>CTL of Washington</b>	<b>Non-RDOF Units</b>	<b>Percent</b>	<b>Source</b>
Total Non-RDOF Units	175,997		Bennett, Exh. SB-1CT at 67
Percent Rural, all units		58.80%	Bennett, Exh. SB-1CT at 75
Affordable 25/3, no mobile	31,594	17.95%	Bennett, Exh. SB-1CT at 67
<b>Qwest Corporation</b>	<b>Non-RDOF Units</b>	<b>Percent</b>	<b>Source</b>
Total Non-RDOF Units	2,327,266		Bennett, Exh. SB-1CT at 68
Percent Rural, all units		9.70%	Bennett, Exh. SB-1CT at 76
Affordable 25/3, no mobile	54,466	2.34%	Bennett, Exh. SB-1CT at 68
<b>United Tel of the Northwest</b>	<b>Non-RDOF Units</b>	<b>Percent</b>	<b>Source</b>
Total Non-RDOF Units	75,572		Bennett, Exh. SB-1CT at 68
Percent Rural, all units		52.24%	Bennett, Exh. SB-1CT at 76
Affordable 25/3, no mobile	14,614	19.34%	Bennett, Exh. SB-1CT at 68

1 **Q. What conclusions do you draw from this review of Staff’s analysis of**  
2 **CenturyLink’s competition study?**

3 A. As Staff expressed in its testimony,<sup>11</sup> when the individual CenturyLink ILECs are  
4 considered, the differences in territories and internet availability become more  
5 distinct. The smaller the ILEC, the more rural locations it serves and the larger the  
6 percentage of customer locations that lack affordable alternatives of service from  
7 CenturyLink.

8 **Q. What is the impact of determining “challenging customer locations”**  
9 **“utilizing GIS mapping of CenturyLink’s local customers and the most-**  
10 **current (at the time CenturyLink pursues discontinuance) FCC Broadband**  
11 **Data Collection (BDC)...mobile wireless data”<sup>12</sup>—thereby including mobile**  
12 **wireless as an alternative service?**

13 A. This provision means that mobile wireless service alone can be considered an  
14 alternative service for the customer and its presence alone means for the purposes  
15 of the proposed AFOR that it would not be a “challenging customer location” and  
16 thus CenturyLink would not be required to obtain Commission approval for  
17 service discontinuance to this and other similarly situated customer locations.  
18 Staff’s analysis indicates there are only 1,233 such “challenging customer  
19 locations” when mobile wireless service is considered to be an alternative.<sup>13</sup> This  
20 may be compared to the 800 “protected customers” when satellite service is  
21 considered to be an alternative. Comparing these few locations (between 800 and

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<sup>11</sup> Bennett, Exh. SB-1CT at 60:4.

<sup>12</sup> *Proposed AFOR in Attachment A*, ¶ 9.b (Determination of CCLs in Discontinuance Area).

<sup>13</sup> Brevitz, Exh. DB-10 (Staff Email Response to Public Counsel June 12, 2024, Request for Price Point Analysis from Sean Bennett’s Enhanced Competition Study).

1 1,233) to the results of the granular analysis in Staff's testimony (summarized  
2 above) shows the extent to which inclusion of mobile wireless as an alternative  
3 service almost completely undermines the proposed AFOR's CCL analysis and  
4 represents a major concession by Staff. Inclusion of mobile wireless as an  
5 alternative exposes the great majority of locations without competitive landline  
6 alternatives to loss of telecommunications service from CenturyLink. Per Staff's  
7 response to Public Counsel's informal data request, 103,813 customer households  
8 or businesses lack access to affordable broadband (\$55.13 benchmark) compared  
9 to the 1,233 households or businesses indicated when mobile wireless is included  
10 as a substitute alternative service. (There are 96,443 customer households or  
11 businesses that lack access to affordable broadband under the \$61.13  
12 benchmark.)<sup>14</sup>

13 **Q. Under the proposed AFOR, what conditions dictate the circumstances under**  
14 **which CenturyLink could seek to discontinue local exchange service**  
15 **provided to business and residential customers in Washington?**

16 A. The proposed AFOR contains no specific conditions limiting the discontinuance  
17 of local exchange service beyond the definition of a CCL, assuming mobile  
18 wireless is an alternative service in all cases. The proposed area of service  
19 discontinuance is unlimited (except, presumably, to locations served by copper  
20 network facilities), the number of customers which may be affected by a proposed  
21 discontinuance of service is unlimited, and the conditions or circumstances under  
22 which service discontinuance could be pursued are undefined. CenturyLink

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<sup>14</sup> Brevitz, Exh. DB-10 (Staff Email Response to Public Counsel June 12, 2024, Request for Price Point Analysis from Sean Bennett's Enhanced Competition Study).



1 provides an example of a specific circumstance where it might seek to discontinue  
2 service, but this is only one example against the backdrop of a local exchange  
3 provider (and an industry) seeking to eliminate the expense of maintaining and  
4 operating copper network facilities. It is unlikely that there would be an objection  
5 to discontinuance of service under the scenario described by CenturyLink where  
6 county road construction requires CenturyLink to relocate its copper network  
7 facilities serving only a few customers for a significant sum of money.<sup>15</sup> One can  
8 imagine a similar scenario in the case of a natural disaster, or perhaps in the case  
9 of significant vandalism or theft of copper. But there is no confirmation from  
10 CenturyLink that these are the only circumstances under which CenturyLink  
11 would pursue discontinuance of service.

12 The Commission should clarify whether it will allow CenturyLink to use  
13 these proposed procedures, for example, to exit areas of its current certificated  
14 territory without facilities impacting events, such as high costs of service versus  
15 revenues associated with a particular area. The Commission should determine  
16 whether CenturyLink will be allowed to discontinue public utility  
17 telecommunications services solely because it is no longer satisfied with financial  
18 results. If so, additional information could reasonably be required as part of the  
19 service discontinuance process.

20 Finally, the proposed AFOR provisions for discontinuance of service  
21 contain no limitations on the size of the service area within which service may be

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<sup>15</sup> Gose, Exh. PJG-30T at 13:6–15.

1 discontinued in terms of either the geographic area or the number of customers  
2 affected. Both dimensions are unlimited under the proposed AFOR.

3 **Q. How does the proposed AFOR address the earlier disagreement between**  
4 **Staff and CenturyLink regarding the mapping used to identify CCLs?**

5 A. The National Broadband Map administered by the FCC is intended to display all  
6 locations with a broadband-serviceable structure where mass market facilities-  
7 based internet service is available or could be installed based on data as reported  
8 by Internet Service Providers (ISPs)—“Broadband serviceable locations” (BSL).  
9 The proposed AFOR relies on BDC data (only BSL data for the National  
10 Broadband Map) rather than data available from the purchase of “a less restrictive  
11 version of the Broadband Serviceable Location Fabric (BSLF)”, “the foundational  
12 dataset used by the FCC in its National Broadband Maps” constructed by  
13 CostQuest Associates.<sup>16</sup> Staff had licensed additional data from CostQuest’s  
14 “commercial fabric” including location-specific data for its competition analysis  
15 contained in its Direct Testimony. These additional data surpass the specificity of  
16 BDC data, a difference which Staff explained was necessary for “understanding  
17 customer characteristics of these locations...to ensure vulnerable or  
18 disenfranchised populations are not disproportionately impacted.”<sup>17</sup> CenturyLink  
19 cites a cost (which is claimed confidential) “for BSLF access for the ILEC states  
20 in which it operates. The quoted price for *12 months of access* to that data was  
21 approximately [\$REDACTED] which is excessive relative to the value to be

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<sup>16</sup> Gose, Exh. PJG-30T at 15:9.

<sup>17</sup> Bennett, Exh. SB-1CT at 17:1–12.

1 derived from the data for a short period of time.”<sup>18</sup> Note that the quote was for all  
2 16 CenturyLink states, not just the state of Washington. The price for just the state  
3 of Washington may be expected to be considerably less, which changes the value  
4 equation such that it could be a reasonable expenditure, especially considering the  
5 issue is terminating public utility telecommunications services in rural areas of  
6 Washington.

7 **Q. Should the Commission modify the discontinuance process contained in the**  
8 **proposed AFOR in the public interest?**

9 A. Yes. The Commission should make several modifications to the proposed  
10 discontinuance process. Discontinuance of a century-old public utility service is  
11 not a minor matter. Telecommunications services are perhaps even more crucial  
12 in rural areas (where the process may be expected to be used) for public safety  
13 and connection to the world where other alternatives are unreliable or unavailable.  
14 The Commission should modify the discontinuance process since the extent and  
15 frequency with which CenturyLink will use the new proposed process is  
16 unknown. The Commission can reevaluate and modify the process at a later date  
17 once the Commission has gained sufficient experience applying the process in  
18 multiple cases.

19 **Q. What modifications should the Commission adopt?**

20 A. First, the Commission should require CenturyLink to obtain a CostQuest price  
21 quote for the less restrictive version of the broadband fabric data for only the state  
22 of Washington. CenturyLink should inform the Commission of that price and its

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<sup>18</sup> Gose, Exh. PJG-30T at 15:17–20.

1 contemplation of whether or not to purchase the less restrictive license for one  
2 year for the state of Washington’s discontinuance process. The Commission can  
3 then decide whether the use of that license is required by the circumstances.

4 Second, the Commission should place limits on the size of the areas  
5 served only by CenturyLink copper networks that can be put forward for the  
6 discontinuance of service process in terms of geography and number of customers  
7 affected. Reasonable limits the Commission could consider include an area no  
8 larger than a wire center, a distribution area, or subjecting no more than 50 or 100  
9 customers to service discontinuance.

10 Third, the Commission should be cautious about the use of mobile service  
11 as an “alternative service” particularly in rural areas. Staff determined that “the  
12 Mobile BDC data does not measure availability inside buildings and Staff  
13 therefore determined that it does not accurately measure the availability of an  
14 alternative service to fixed voice service”.<sup>19</sup> There is a clear caution on the mobile  
15 wireless coverage data CenturyLink proposes to use contained on the FCC’s  
16 webpage “About the Data”:

17 Mobile providers generate the 3G, 4G LTE, and 5G-NR coverage  
18 areas shown on the map using propagation modeling, where the  
19 models include certain common settings for consistency. The  
20 coverage areas are meant to represent the areas where a user should  
21 be able to establish a mobile connection, either outdoors or moving  
22 in a vehicle, and achieve certain upload and download speeds.  
23 Please note that the map does not include information on the  
24 availability of mobile wireless broadband service while indoors.  
25 Moreover, because the coverage map is based on propagation  
26 modeling, a user’s actual, on-the-ground experience may vary due  
27 to factors such as the end-user device used to connect to the network,  
28 cell site capacity, and terrain. The coverage maps on mobile wireless  
29 service providers’ websites may be based on different parameters

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<sup>19</sup> Bennett, Exh. SB-1CT at 43:5.

1 and assumptions, such as service availability provided through  
2 roaming agreements, and therefore may differ from the information  
3 shown here.<sup>20</sup>

4 Staff concludes that “CenturyLink’s inclusion of this data misrepresents what the  
5 data are actually saying and overestimates the extent to which these services are  
6 reasonably available within a consumer’s home or business.”<sup>21</sup>

7 Jean Marie Dreyer also provides FCC data in her testimony, showing there  
8 are gaps in mobile wireless coverage.<sup>22</sup> Her testimony also provides customer  
9 complaint information indicating mobile wireless service is not available. For  
10 example, a customer on Mason Lake indicated that “the cell phone coverage is  
11 very sparse....”<sup>23</sup> Another customer in a rural area near Belfair indicated “cellular  
12 service is not available.”<sup>24</sup>

13 One clear implication of gaps in mobile wireless coverage is that  
14 CenturyLink and the Commission should take customers at their word when they  
15 state mobile wireless service is not an available alternative service in their home.  
16 The “validation” of the customer’s word that mobile wireless service is not an  
17 alternative service in their home is unnecessary and intrusive where it proposes to  
18 dispatch a CenturyLink technician to go into the customer’s home and perform  
19 testing against a currently unknown signal strength benchmark to validate that the  
20 customer is telling the truth. Nobody would know better than the customer  
21 whether mobile wireless service is available and reliable in their home, and they

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<sup>20</sup> Bennett, Exh. SB-8.

<sup>21</sup> Bennett, Exh. SB-1CT at 46:2.

<sup>22</sup> Response Testimony of Jean Marie Dreyer, Exh. JMD-1Tr at 5:7–6:6.

<sup>23</sup> *Id.* at 10:34.

<sup>24</sup> *Id.* at 10:3.

1 should be taken at their word—particularly in light of the clear disclaimer  
2 regarding the limits of the FCC’s coverage map. This validation process should be  
3 stricken and the location considered to be a CCL and thus the service  
4 discontinuance area should be taken to the Commission for review and further  
5 analysis.

6 Fourth, the circumstances under which the discontinuance process can be  
7 used should be more clearly defined by the Commission. It is not clear that  
8 CenturyLink has fully explained the circumstances under which it would seek to  
9 use the discontinuance process aside from a couple of examples that are relatively  
10 unobjectionable. CenturyLink’s complaints about maintenance costs for copper  
11 networks begs the question of whether CenturyLink intends to use the service  
12 discontinuance process primarily in circumstances where the Company is not  
13 satisfied with the profitability of a particular area. The Commission should be  
14 clear whether this is an allowed use of the service discontinuance process and  
15 consider requiring CenturyLink to provide an analysis of the incremental costs  
16 and revenues associated with the public utility telecommunications services  
17 proposed for discontinuation.

18 Fifth, the definition of a CCL to be used to discontinue “standalone  
19 residential or business services” refers to an “existing CenturyLink local service  
20 customer location.” It should be clear that a CCL includes locations where the  
21 customer may have DSL service from CenturyLink below the 25/3 threshold.

1       **Q.     Should the Commission require the customer trouble report history for each**  
2       **location to be provided by CenturyLink as part of the application to**  
3       **discontinue service?**

4       A.     Yes. The Webber (Staff) and Dreyer (PCU) testimonies document a concerning  
5       level of customer trouble complaints and trouble tickets for the CenturyLink  
6       companies. Trouble ticket data, including dates and resolution codes for the  
7       trouble, should be included in the analysis and application for the previous three  
8       to five years for each customer location which CenturyLink seeks to discontinue  
9       service. Trouble tickets and service quality issues may be an indicator the  
10      customer really does not have service alternatives at that location because  
11      dissatisfaction with service normally would lead the customer to change providers  
12      (as discussed below).

13      **Q.     Why are you cautious about the consideration of mobile wireless services as a**  
14      **substitute for landline telecommunications service (voice and broadband)?**

15      A.     Mobile wireless service is based on radio waves. The ability to make or receive  
16      calls or access the internet is affected by signal strength (the number of “bars”)  
17      and all the other factors enumerated in the FCC’s discussion of the mobile  
18      coverage contained in the discussion “About the Data” above. If a consumer has  
19      5G wireless service in an urban area that is relatively flat and without line-of-sight  
20      obstructions between the customer and the 5G cell site, chances are good that the  
21      wireless service works great for calls or accessing the internet. The more these  
22      factors change, however, the more signal strength and the availability and  
23      reliability of mobile wireless service for calls or internet access diminish.

1 Ultimately, as noted in the complaints received by the Attorney General’s  
2 Customer Resource Center (described below) wireless service is unavailable,  
3 particularly in rural areas, due to similar economics affecting replacement of  
4 copper network facilities—namely, a lack of density and revenues to justify  
5 placement of 5G or other cell sites to provide the signal strength and tower  
6 placement to overcome the terrain and other factors that affect propagation of  
7 radio waves. Therefore, the Commission should cautiously evaluate service  
8 discontinuance applications where wireless service is put forward as the only  
9 alternative service which likely will occur mostly in the rural areas of  
10 Washington.

11 **Q. Are you also cautious about the consideration of fixed wireless services as a**  
12 **substitute for landline telecommunications service (voice and broadband)?**

13 A. Yes, for similar reasons. Fixed wireless service as a radio-based service is  
14 affected by the same factors affecting propagation of radio signals. This is  
15 recognized in the “fine print” of each of the 5G fixed wireless offerings from the  
16 major wireless providers, AT&T Wireless, Verizon, and T-Mobile, which require  
17 as a first step checking availability at the customer’s address. AT&T describes its  
18 “Internet Air” offering as “a fixed wireless access product that provides home  
19 internet services delivered over our 5G network where available.”<sup>25</sup> AT&T’s  
20 Internet Air webpage indicates “5G coverage not available everywhere.”<sup>26</sup>  
21 T-Mobile and Verizon have similar offerings with similar geographic limitations

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<sup>25</sup> AT&T, *Annual Report for 2024* at 4 (Form 10-K) (Feb. 23, 2024)

<https://otp.tools.investis.com/clients/us/atnt2/sec/sec-outline.aspx?FilingId=17303532&Cik=0000732717&PaperOnly=0&HasOriginal=1>.

<sup>26</sup> AT&T *Sign up for Internet Air* <https://www.att.com/internet/internet-air/> (last accessed July 12, 2024).



1 based on the extent of their 5G network (T-Mobile Home Internet and Verizon 5G  
2 Home Internet, respectively). The first step for all these service offerings is to  
3 check availability by putting in the address for the customer's location. The  
4 availability of these home internet fixed wireless services tracks with the 5G  
5 coverage of each wireless provider which tends to be in and around large  
6 metropolitan areas.

7 **Q. Shouldn't the Commission take comfort from CenturyLink's statement that**  
8 **it "does not currently have an affirmative plan to discontinue services"?**<sup>27</sup>

9 A. No. The statement is conditioned on the witness's knowledge and is questionable  
10 considering the central focus CenturyLink has placed on this issue in this  
11 proceeding. Additionally, elimination of copper telecommunications networks is a  
12 prominent industry issue. The Commission should approach its decision on  
13 discontinuance of service from the perspective that CenturyLink will use the  
14 process. The emphasis CenturyLink has placed on this process as a key policy  
15 position during this proceeding belies a lack of intent to use it.

16 **Q. Do modifications to the service discontinuance process unfairly expose**  
17 **CenturyLink to competition?**

18 A. No. The modifications are aimed at reasonably scoping and defining the  
19 alternative service provider test used in the service discontinuance process. As  
20 shown in my previous response testimony and Staff's response testimony,  
21 CenturyLink's competition claims are exaggerated. CenturyLink's competition  
22 study gives the impression that competition is uniform across the state. This is not

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<sup>27</sup> Gose, Exh. PJG-1T at 40:4.

1 accurate; the number of competitive providers varies significantly by CenturyLink  
2 ILEC company.<sup>28</sup> This is indicative of regional differences such that each  
3 company serves separate and distinct markets.<sup>29</sup> The number of competitors  
4 shrinks significantly if affordability is included and as speed increases such that  
5 CenturyLink of Cowiche has one fixed provider alternative providing affordable  
6 internet at speeds above the FCC 25/3 benchmark, CenturyLink of Interisland has  
7 two, and United Telephone of the Northwest has 4.<sup>30</sup> The proposed modifications  
8 are most relevant where customers lack alternative service providers which tends  
9 to be in rural areas.

10 Furthermore, CenturyLink has “competition” from its own Lumen  
11 affiliates which have been replacing CenturyLink voice and DSL services with  
12 Quantum fiber broadband service. Some unknown number of CenturyLink  
13 “standalone voice service” customers have been replaced by Lumen’s own  
14 services provided through unregulated affiliates. CenturyLink’s purported low  
15 market share for voice services has been caused in part by Lumen’s own actions,  
16 transferring customers from CenturyLink voice offerings to unregulated fiber  
17 internet offerings from Lumen affiliates.

18 Finally, these proposed modifications recognize that whether a customer  
19 has alternative broadband providers is a very location-specific question. The  
20 importance of customer location to whether broadband service options exist is  
21 described in detail in my Response Testimony in several places.<sup>31</sup>

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<sup>28</sup> Bennett, Exh. SB-1CT at 28, Table 7.

<sup>29</sup> *Id.* at 32:21.

<sup>30</sup> *Id.* at 29, Tables 8 and 9.

<sup>31</sup> Brevitz, Exh. DB-1T at 7:1–18; 10:1–9; 14:12–25; and 27:12–25.

1       **Q.     There is substantial testimony in this matter regarding customer complaints**  
2       **and quality of service problems in CenturyLink’s Washington territories.**  
3       **What does that indicate regarding the effectiveness of competition in the**  
4       **state of Washington?**

5       A.     Substantial testimony has been provided in this matter that CenturyLink  
6       customers are experiencing significant quality of service problems as indicated by  
7       the level of complaints and analysis of trouble report tickets. Jean Marie Dreyer  
8       provides testimony on pages 8–13 on consumer service quality concerns based on  
9       CenturyLink complaint data from the Attorney General’s Consumer Resource  
10      Center, from the Commission’s Consumer Protection Division, and service  
11      quality issues in other CenturyLink states. Mr. Webber, on behalf of Staff,  
12      provides an assessment of CenturyLink’s service quality performance and  
13      concludes that it should be considered by the Commission in evaluating whether  
14      “effective competition” exists.<sup>32</sup> Mr. Webber notes that CenturyLink’s testimony  
15      is silent on the subject of service quality.<sup>33</sup> Mr. Webber recommends that before  
16      undertaking competitive reclassification, “the Commission should consider  
17      evidence concerning the ILEC’s basic telephone service quality and determine  
18      whether a change in the status quo would be contrary to the public interest by  
19      freeing CenturyLink to provide basic telephone service customers with continued,  
20      and perhaps perpetual, inadequate service quality.”<sup>34</sup> Mr. Webber performs  
21      substantial analysis of CenturyLink’s chronic trouble ticket data and rank orders

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<sup>32</sup> Direct Testimony of John D. Webber, Exh. JDW-1CT at 40:13.

<sup>33</sup> *Id.* at 42:11.

<sup>34</sup> *Id.* at 41:4.

1 Qwest’s worst performing wire centers in terms of chronic troubles.<sup>35</sup> Mr.  
2 Webber found “similar patterns of trouble ticket histories and causation related to  
3 deteriorated outside plant”<sup>36</sup> among all five of the CenturyLink ILECs.

4 In its testimony supporting the present AFOR in 2013, CenturyLink  
5 espoused the view that if customers are not satisfied with CenturyLink’s quality  
6 of service, effective competition allows the customer to simply move to a  
7 competitor.

8 If customers are unhappy with CenturyLink prices or service  
9 quality, they may easily move to a competitor’s service – whether  
10 cable, another CLEC, wireless or VoIP. This is the way competitive  
11 markets work, and this disciplines CenturyLink’s prices. If  
12 CenturyLink sets rates too high or provides poor service quality,  
13 then customers will simply leave CenturyLink for another option. In  
14 this way, the competitive market protects Washington retail  
15 consumers...<sup>37</sup>

16 If the CenturyLink testimony in 2013 is accurate, then the complaint and  
17 trouble ticket analysis suggest there are areas of the state where competition is not  
18 effective. Mr. Webber’s concern is that “Qwest Corp.’s does not feel the practical  
19 effect of competitive pressure in many of its service territories and that its  
20 arguments that “competitive pressure is intense throughout all of its services areas  
21 is belied by the examples of repeating troubles I have demonstrated here.”<sup>38</sup>

22 Clearly, if competitors were providing functionally equivalent alternatives at  
23 competitive rates, customers would not stand for such poor service quality.

24 Rather, customers would be changing providers at an increasing rate.

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<sup>35</sup> *Id.* at 58, Table 5.

<sup>36</sup> *Id.* at 63:12.

<sup>37</sup> Direct Testimony of John M. Felz, Exh. JMF-1CT at 43:17–22 (filed Apr. 1, 2013).

<sup>38</sup> Webber, Exh. JDW-1CT at 59:18.

1                   The Commission clearly retained jurisdiction over retail service quality  
2 requirements in Washington in the present AFOR.

3                   *Retail Service Quality.* With the exception of certain conditions in  
4 past merger agreements, the Stipulated AFOR also retains all  
5 existing retail service quality requirements required in Washington  
6 for the provision of local telephone service. We find these  
7 provisions also to be indispensable to our approval of the stipulated  
8 AFOR. The recent Century Link service outage in the San Juan  
9 Islands is a reminder that even in a competitive marketplace, the  
10 Commission plays a vital role in protecting consumers, including  
11 ensuring public safety. All regulated telecommunications  
12 companies, including those that are competitively classified, remain  
13 subject to statutory and Commission rule requirements governing  
14 retail service quality, and the Commission does not relinquish its  
15 authority to ensure that all regulated companies provide good  
16 service quality to their customers. As we stated above with respect  
17 to wholesale services, we will remain vigilant in our enforcement of  
18 the existing retail service quality standards that apply to  
19 CenturyLink, and we approve the Stipulated AFOR only with the  
20 understanding that it does not preclude future Commission adoption,  
21 if and as necessary, of additional retail service quality standards or  
22 performance measures and remedies applicable to the Company.<sup>39</sup>

23                   The Commission should consider further investigation of whether  
24 CenturyLink is not meeting its quality-of-service obligations and should reiterate  
25 in this matter that it does not relinquish authority and retains jurisdiction over  
26 retail service quality requirements.

27                   **Q.    What does the forgoing substantial testimony on retail service quality suggest**  
28                   **regarding the service discontinuance process?**

29                   A.    It suggests that CenturyLink should include information for each trouble ticket  
30                   and related disposition code for each customer location in the proposed service  
31                   discontinuance area for consideration by Staff and Public Counsel as potential

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<sup>39</sup> *In re CenturyLink Companies to be Regulated Under an Alternative Form of Regulation*, Docket UT-130477, Order 4: Final Order ¶ 55 (Jan. 9, 2014).

1 evidence of the presence or absence of service alternatives available at that  
2 customer's location.

3 **Q. Is discontinuance of service over copper network facilities an industry issue**  
4 **only in the state of Washington?**

5 A. No. It is a national industry issue and occurs under different procedural  
6 approaches in different states. Perhaps the broadest application to discontinue  
7 service over copper network facilities is the AT&T application before the  
8 California Public Utilities Commission (CPUC) to withdraw as a carrier of last  
9 resort (COLR)<sup>40</sup> where a COLR is “a local exchange service provider that stands  
10 ready to provide basic service to any customer requesting such service in a  
11 specific area.”<sup>41</sup> CPUC rules require a designated COLR to retain its obligations  
12 until another COLR is designated and include a procedure to replace the last  
13 remaining COLR in an area.<sup>42</sup> “The purpose of the Commission’s COLR rules is  
14 to ensure that there is a public utility which is obligated to serve all the customers  
15 that request service in its service area.”<sup>43</sup> AT&T’s request included relief from its  
16 COLR obligations where there are “voice alternatives” that offer voice service,  
17 and authority to use the Advice Letter process for areas currently without  
18 alternatives when those areas have access to voice alternatives.<sup>44</sup> AT&T’s  
19 assertions in support of its request are similar, if not identical, to those made by  
20 CenturyLink before the Commission in this proceeding.

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<sup>40</sup> See, Brevitz, Exh. DB-11 (CPUC AT&T COLR Decision).

<sup>41</sup> *Id.* at 4 fn.1.

<sup>42</sup> *Id.* at 6.

<sup>43</sup> *Id.* at 15.

<sup>44</sup> *Id.* at 7.

1 AT&T contends the COLR obligation made sense during an era of  
2 monopolies, but makes no sense today, given the current  
3 marketplace. AT&T asserts its COLR customers have a number of  
4 alternatives for voice services, including VoIP service from cable  
5 companies such as Comcast or Cox, and mobile voice service from  
6 providers such as Verizon, T-Mobile, and AT&T Mobility.<sup>45</sup>

7 The CPUC found these claimed alternatives do not meet the definition of  
8 COLR:

9 In the case of the mobile voice providers, many comments at public  
10 participation hearings and on the Docket Card for this proceeding  
11 call into question whether the companies are able to offer service to  
12 every potential customer that requests it, given the gaps in these  
13 wireless providers' coverage due to changes in terrain, dense  
14 foliage, geographic or structural obstacles and other characteristics  
15 that limit wireless signal propagation.<sup>46</sup>

16 The CPUC cites its own previous findings in Eligible Telecommunications  
17 Carrier applications including,

18 Although wireless phone service offers great mobility for  
19 consumers, there are safety concerns related to wireless mobile  
20 phone service and E-911 and/or 911 connection limitations. Where  
21 there is a lack of coverage, poor signal strength, or atmospheric or  
22 terrain conditions that affect connections, emergency calls may not  
23 be completed. In rural areas, for example, with spotty connectivity  
24 or interference (e.g. due to geographic or structural obstacles),  
25 wireless mobile resellers of wholesale facilities service cannot  
26 guarantee full, accessible emergency connections for their own  
27 direct customers.<sup>47</sup>

28 Also,

29 CD staff has safety concerns in two main areas of wireless phone  
30 service: the coverage of wireless mobile phone service and the  
31 ability of emergency first responders to find the location of the caller  
32 when using a mobile phone. Where there is a lack of coverage, poor  
33 signal strength, or atmospheric or terrain conditions that affect  
34 connections, emergency calls may not be completed. In rural areas,  
35 for example, with spotty connectivity or interference (e.g. due to

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<sup>45</sup> *Id.*

<sup>46</sup> *Id.* at 18–20.

<sup>47</sup> Brevitz, Exh. DB-11 at 20 fn.49.

1 geographic or structural obstacles), wireless mobile resellers of  
2 wholesale facilities service cannot guarantee full, accessible  
3 emergency connections for their own customers. An incomplete  
4 emergency call can have devastating results.<sup>48</sup>

5 After public hearings and evaluation of comments from the parties, the  
6 CPUC’s COLR decision rejected AT&T’s request with prejudice.

7 **Q. Has CenturyLink made similar requests in other states?**

8 A. I am aware of one proceeding in Utah where a CenturyLink affiliate—Qwest  
9 Corporation—filed a petition for a statewide exemption from COLR obligations.<sup>49</sup>  
10 Qwest sought “prospective relief from the ‘obligation to provide voice service to  
11 every new customer location regardless of cost of service.’”<sup>50</sup> Qwest did not seek  
12 relief from the Utah PSC’s discontinuance regulations governing termination of  
13 service to existing customers. Qwest asserted (as it does in this proceeding),

14 that effective competition exists throughout CenturyLink’s service  
15 territory and competing telecommunications carriers are available to  
16 provide functionally equivalent services. CenturyLink cites its  
17 decline in market share, stating that “alone shows that competition  
18 is both effective and thriving, and alternatives are readily available  
19 in every wire center in [CenturyLink’s] service territory.”<sup>51</sup>

20 Qwest cited the same statistics in Utah as it did here in Washington, e.g.,  
21 the percent of consumers without landlines, the percent that rely solely on  
22 landline service, and CenturyLink’s loss of fixed voice subscription service.

23 The relevant factors for deciding whether effective competition exists are  
24 essentially the same for Utah PSC. The Utah PSC found CenturyLink did not

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<sup>48</sup> *Id.*

<sup>49</sup> Brevitz, Exh. DB-12 (CenturyLink Response to UTC Staff Data Request No. 9).

<sup>50</sup> Brevitz, Exh. DB-13. (*Qwest Corporation d/b/a CenturyLink Petition for Statewide Exemption from Carrier of Last Resort Obligations* Docket No. 23-049-01, Order (Utah Pub. Serv. Comm’n, Mar. 15, 2024)).

<sup>51</sup> *Id.* at 3.



1 provide sufficient evidence to show that there is effective competition for  
2 telecommunications services statewide, or enough location-specific evidence to  
3 grant a COLR exemption for part of the Qwest service territory.<sup>52</sup> “The evidence  
4 also did not adequately support the availability of competing telecommunications  
5 services in Utah at comparable prices, terms, quality, and conditions.”<sup>53</sup>

6 **Q. Does the FCC have a service discontinuance process?**

7 A. Yes. The FCC’s service discontinuance process for domestic telecommunications  
8 services is addressed under the FCC’s authority for certificates of public  
9 convenience and necessity in 47 USC § 214 (a). Section 214 includes provision  
10 for discontinuance of service where it states, “no carrier shall discontinue, reduce,  
11 or impair service to a community, or part of a community, unless and until there  
12 shall first have been obtained from the Commission a certificate that neither the  
13 present nor future public convenience and necessity will be adversely affected  
14 thereby.” The FCC’s rules at §63.71 provide more detailed procedures for carriers  
15 to file applications for service discontinuance, including separate provisions for  
16 “legacy voice services.” These provisions permit either “grandfathering” service  
17 availability only to existing customers or discontinuing “legacy voice services”  
18 entirely. Under the rules the FCC will automatically grant applications to  
19 grandfather legacy voice services automatically 25 days after filing unless the  
20 FCC notifies the carrier otherwise. Similarly, the FCC will automatically grant  
21 applications to discontinue legacy voice services 31 days after filing unless the  
22 FCC notifies the carrier otherwise. The circumstances under which the FCC

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<sup>52</sup> *Id.* at 17–19.

<sup>53</sup> *Id.* at 19.

1 would not automatically grant the application to discontinue or grandfather legacy  
2 voice services are not stated in the rules.

3 Staff references this discontinuance process in its Settlement Testimony,<sup>54</sup>  
4 while CenturyLink references the Section 214 process in Gose’s testimony where  
5 it states, “If CenturyLink finds that reasonable service alternatives exist for its  
6 current customers...it may proceed, in parallel with following the FCC Section  
7 214 discontinuance process, to provide this Commission enhanced notice of its  
8 intention to discontinue service.”<sup>55</sup> The FCC’s website contains an index of  
9 domestic Section 214 discontinuances.<sup>56</sup> I attach the indexes for 2022, 2023 and  
10 2024 to date to show most current Section 2014 activity.<sup>57</sup> The filings appear to  
11 me to be mostly from Competitive Local Exchange carriers with relatively few  
12 from Incumbent Local Exchange Carriers such as CenturyLink. Of the ILE filings  
13 many appear to be grandfathering services rather than discontinuing, including  
14 some services such as ISDN.

15 **Q. Where and how does the proposed AFOR fail to meet the requirements of**  
16 **RCW 80.36.320 and RCW 80.36.135?**

17 A. The Staff-CenturyLink Settlement Agreement is embodied in Attachment A,  
18 which is the “Plan for AFOR of CenturyLink ILECs”. While I am not an attorney  
19 and the following doesn’t constitute a legal opinion, it appears to me to be  
20 appropriate for the Commission to consider the proposed settlement under the

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<sup>54</sup> Bennett, Exh. SB-28T at 9:2 and fn.2.

<sup>55</sup> Gose, Exh. PJG-30T at 23:23.

<sup>56</sup> Fed. Comm’n Comm’n, *Domestic Section 214 Discontinuance of Service*,  
<https://www.fcc.gov/general/domestic-section-214-discontinuance-service> (last accessed July 12, 2024).

<sup>57</sup> Brevitz, Exh. DB-14 (Applications to Discontinue or Grandfather Domestic Telecommunications Services filed before the Federal Communications Commission under Section 214 in 2022–2024).

1 provisions of RCW 80.36.135 which governs establishment of alternative forms  
2 of regulation. Without modification, the proposed settlement fails to “facilitate the  
3 broad deployment of technological improvements and advanced  
4 telecommunications services to underserved areas or underserved customer  
5 classes”. In fact, the proposed settlement allows withdrawal of services from these  
6 underserved areas or underserved customer classes. The proposed settlement may  
7 not “improve the efficiency of the regulatory process” in that there are undefined  
8 and unspecified aspects of the determination of a “challenging customer location”  
9 and the alternative service provider test. The proposed settlement does not  
10 “protect against the exercise of market power” in thin markets since without  
11 modification it allows withdrawal of services from underserved areas or  
12 underserved customer classes. It is not clear the proposed settlement “preserve[s]  
13 or enhance[s] service quality and protect[s] against the degradation of the quality  
14 or availability of efficient telecommunications services” when existing service  
15 quality issues have been demonstrated to warrant investigation. The proposed  
16 settlement likely cannot meet the AFOR requirement that it “not unduly or  
17 unreasonably prejudice or disadvantage any particular customer class” without  
18 modification to temper the potential for withdrawal of services from underserved  
19 areas or underserved customer classes in rural areas lacking reasonable service  
20 alternatives.

21 **Q. Does this conclude your Response Testimony?**

22 A. Yes.