

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

THE CENTURLINK COMPANIES –
QWEST CORPORATION;
CENTURYTEL OF WASHINGTON;
CENTURYTEL OF INTERISLAND;
CENTURYTEL OF COWICHE; AND
UNITED TELEPHONE COMPANY OF
THE NORTHWEST

To be Regulated Under an Alternative Form
of Regulation Pursuant to RCW 80.36.135.

Docket UT-130477

ORDER 10

GRANTING REFILED FOURTH
PETITION TO EXTEND
ALTERNATIVE FORM OF
REGULATION PLAN,
AMENDING ORDER 04, AND
ADOPTING ADDITIONAL
CONDITIONS

BACKGROUND

- 1 On January 9, 2014, the Washington Utilities and Transportation Commission (Commission) entered Order 04 approving and adopting settlement agreements between the CenturyLink Companies – Qwest Corporation, CenturyTel of Washington, CenturyTel of Inter Island, CenturyTel of Cowiche, and United Telephone Company of the Northwest (collectively referred to as CenturyLink or Company), Commission Staff (Staff), the Public Counsel Unit of the Office of the Attorney General (Public Counsel), Sprint Nextel Corporation, and the United States Department of Defense and other federal executive agencies. The settlement agreements established an alternative form of regulation (AFOR) for the Company pursuant to RCW 80.36.135.
- 2 On June 5, 2020, CenturyLink, Staff, and Public Counsel (collectively Stipulating Parties) filed a stipulation for a one-year extension of the current AFOR plan in this docket, and a petition to modify the settlement and order approving the settlement in accordance with the extension (Petition).
- 3 On June 18, 2020, the Commission entered Order 07, granting the Petition and amending Order 04 as the Stipulating Parties requested.
- 4 On June 15, 2021, the Stipulating Parties filed a stipulation for a second one-year extension of the amended AFOR plan and petition to modify Order 04 accordingly (Second Petition).
- 5 On June 18, 2021, the Commission entered Order 08, granting the Second Petition and amending Order 04.

- 6 On June 6, 2022, CenturyLink filed a third petition for another one-year extension of the amended AFOR plan and to modify Order 04 accordingly (Third Petition).
- 7 On June 13, 2022, the Commission entered Order 09, granting the Third Petition and amending Order 04.
- 8 On June 27, 2023, CenturyLink filed a fourth petition for yet another extension of the amended AFOR plan and to modify Order 04 accordingly (Fourth Petition).
- 9 On June 30, 2023, the Commission issued a Notice Suspending Filing Requirement, Rejecting Petition, and Requiring Refiling, and Notice of Hearing (Notice). The Notice provided that the Commission rejected the Fourth Petition, required CenturyLink to refile a petition in compliance with Commission rules, established a deadline for responses, and scheduled a hearing on any revised petition for July 26, 2023.
- 10 On July 7, 2023, CenturyLink filed a Refiled Petition for a Fourth Extension of the AFOR (Refiled Fourth Petition). As amended by Order 09, the AFOR plan expires on January 9, 2024, and requires Staff to review the plan beginning six months in advance of the plan's expiration, to determine whether changing conditions warrant modification of the plan. CenturyLink represents that it plans to file a petition for competitive classification and is negotiating with Staff and Public Counsel to prepare an agreed petition. Without an extension of the current AFOR, the Company claims it faces a potential return to full regulation that would effectively compel simultaneously consideration of competitive classification and a new AFOR, which would be an inefficient and wasteful use of party and Commission resources. CenturyLink thus seeks to extend the existing AFOR for another year or until the Company is competitively classified, whichever occurs first.
- 11 On July 14, 2023, Staff and Public Counsel each filed responses to the Refiled Fourth Petition. Both parties confirm that they are negotiating a competitive classification petition with CenturyLink and support the Company's request to extend the AFOR for another year.
- 12 On July 19, 2023, the Commission issued a notice converting the hearing scheduled for July 26, 2023, on the Refiled Fourth Petition to a prehearing conference. At that prehearing conference, the parties described the status of their negotiations and agreed to a target date of January 17, 2024, by which CenturyLink will file any petition for competitive classification. The parties also agreed to provide quarterly updates on the status of their negotiations beginning in mid-October.

13 CenturyLink proposes and the other parties support the following revisions to paragraph 2 of the Amended Stipulated Plan for Alternative Form of Regulation:¹

- 2) The terms of this plan for AFOR will be effective upon approval by the Commission and will remain in effect until January 9, ~~2024~~2025, unless extended or modified by Commission order, or unless CenturyLink shall become competitively classified before such date.
 - a) If the AFOR is still in effect, CenturyLink shall file a petition to open a new AFOR docket on ~~July 3, 2023~~July 1, 2024. CenturyLink will also provide the parties a new proposed plan of AFOR, without filing it in the docket, and the Commission's Staff will conduct a review of the provisions of this proposed AFOR to determine if changing conditions warrant new provisions. All parties to this AFOR proceeding will have access to the same material made available to Commission Staff by CenturyLink.
 - b) During the course of that review any of the parties to this AFOR proceeding may propose or oppose modifications for consideration by Commission Staff. Upon conclusion of the review but not later than January 9, ~~2024~~2025, CenturyLink will file the new plan, as either an agreed plan or a proposed plan, along with the plan it proposed to the parties on ~~July 3, 2023~~July 1, 2024, and the Commission will provide notice to the parties and hold a proceeding in which parties may advocate for or against the new plan.
 - c) While the Commission deliberates, the terms of this AFOR shall continue in force.²

DISCUSSION

14 We grant the Refiled Fourth Petition. CenturyLink reasonably seeks modifications to the regulation under which it operates, and no pressing issues or concerns with the existing AFOR have been brought to our attention. We agree that the most efficient way to explore such regulatory changes is to extend that AFOR for another year to enable the Company and the parties to negotiate, and if necessary litigate, competitive classification prior to considering a new AFOR. Absent extraordinary circumstances, however, this will

¹ Order 04, Appendix A (Staff/Public Counsel Settlement), Attachment A.

² Refiled Fourth Petition ¶ 10. Added text is underlined, and deleted text is stricken through.

be the last time we agree to another such extension. Accordingly, we modify Order 04 to incorporate CenturyLink's proposed revisions.

- 15 The Commission will also incorporate into this Order the parties' agreements at the prehearing conference. The Commission will schedule quarterly updates beginning in mid-October on the status of the parties' negotiations for a competitive classification petition or development of a new AFOR. By January 17, 2024, CenturyLink either will file a petition for competitive classification or a notification that the Company intends to pursue a new AFOR or take other action.

ORDER

THE COMMISSION ORDERS That

- 16 (1) The Commission grants the refiled fourth petition for a one-year extension of the current plan of alternative form of regulation the Commission approved in Order 04.
- 17 (2) The Commission amends paragraph 2 of the Amended Stipulated Plan for Alternative Form of Regulation attached as Appendix A, Attachment A, to Order 04, as amended in Order 09, as provided in paragraph 13 of this Order.
- 18 (3) The Commission will schedule quarterly prehearing conferences beginning in mid-October for the parties to update the Commission on the status of the parties' negotiations for a competitive classification petition or development of a new AFOR.
- 19 (4) By January 17, 2024, CenturyLink either will file a petition for competitive classification or a notification that the Company intends to pursue a new alternative form of regulation or take other action.
- 20 (5) The Commission retains jurisdiction to enforce the terms of the orders in this docket.

DATED at Lacey, Washington, and effective July 27, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

MILTON H. DOUMIT, Commissioner