

Docket No. UT-210902 - Vol. I

**WUTC v. CenturyLink Communications LCC d/b/a Lumen
Technologies Group, et al.**

May 23, 2022



206.287.9066 | 800.846.6989

1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101

www.buellrealtime.com

email: info@buellrealtime.com



BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,) DOCKET UT-210902)

vs.)

CENTURYLINK COMMUNICATIONS LLC) d/b/a LUMEN TECHNOLOGIES GROUP,) QWEST CORPORATION; CENTURYTEL) OF WASHINGTON, INC.; CENTURYTEL) OF INTER ISLAND, INC.;) CENTURYTEL OF COWICHE, INC.;) UNITED TELEPHONE COMPANY OF) THE NORTHWEST)

VIRTUAL PREHEARING CONFERENCE, VOLUME I Pages 1-11 ADMINISTRATIVE LAW JUDGE GREGORY J. KOPTA

May 23, 2022

1:30 p.m.

Washington Utilities and Transportation Commission 621 Woodland Square Loop Southeast Lacey, Washington 98503

REPORTED BY: TAYLER GARLINGHOUSE, CCR 3358

Buell Realtime Reporting, LLC 1325 Fourth Avenue, Suite 1840 Seattle, Washington 98101 (206) 287-9066 | Seattle (360) 534-9066 | Olympia (800) 846-6989 | National www.buellrealtime.com

LACEY, WASHINGTON; MAY 23, 2022

1:30 P.M.

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PROCEEDINGS

JUDGE KOPTA: Let's be on the record in Docket UT-210902, captioned Washington Utilities and Transportation Commission versus CenturyLink Communications LLC, d/b/a Lumen Technologies Group, et al.

It is Monday, May 23rd, 2022, a little after 1:30 in the afternoon, and we are here for a previously scheduled prehearing conference.

My name is Gregory J. Kopta. I am the administrative law judge who has been assigned to preside in this matter.

And we will begin by taking appearances, starting with Commission Staff.

MR. ROBERSON: Good afternoon, Judge Kopta. Jeff Roberson, AAG. My contact information is on file in this docket. With me at virtual counsel table is Staff's witness, Jacque Hawkins-Jones.

JUDGE KOPTA: All right. Thank you.

And on behalf of the Companies?

MR. SHERR: Good afternoon. Adam Sherr, on

APPEARANCES ADMINISTRATIVE LAW JUDGE: GREGORY J. KOPTA

FOR COMMISSION STAFF:

JEFF ROBERSON Office of the Attorney General P.O. Box 40128 Olympia, Washington 98504 (360) 664-1188 jeff.roberson@utc.wa.gov

FOR CENTURYLINK:

ADAM SHERR Assistant General Counsel 1600 - 7th Avenue, Room 1506 Seattle, Washington 98191 (206) 398-2507 adam.sherr@lumen.com

DONNA BARNETT Perkins Coie LLP 10885 NE Fourth Street, Suite 700 Bellevue, Washington 98004 (425) 635-1400 dbarnett@perkinscoie.com

FOR PUBLIC COUNSEL:

LISA GAFKEN Office of the Attorney General 800 - 5th Avenue, Suite 2000 Seattle, Washington 98104 (206) 464-6595 lisa.gafken@atg.wa.gov

* * * * *

behalf of Lumen. My contact information is also on file with the notice of appearance. Alongside me is Donna Barnett, Perkins Coie.

JUDGE KOPTA: All right. And for Public Counsel?

MS. GAFKEN: Good afternoon, Judge Kopta. My name is Lisa Gafken, Assistant Attorney General, appearing on behalf of Public Counsel. My contact information is also on file pursuant to a notice of appearance.

JUDGE KOPTA: All right. Thank you.

Is there anyone else who wishes to make an appearance at this point?

Hearing nothing, we will proceed.

The next order of business is to address an unusual circumstance in this case. I signed the complaint finding probable cause to proceed, and originally, Rayne Pearson was assigned as the presiding administrative law judge.

Due to internal circumstances at the Commission, there needed to be a change. And so the Commission designated me as the presiding administrative law judge.

That's not our usual practice. There is nothing in the rules that precludes me from presiding,

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1 but it's not what we usually do.
 2 So in the notice giving people the
 3 opportunity to -- the notice that we filed of the change
 4 in presiding administrative law judges, also provided an
 5 opportunity for any parties to lodge any objections.
 6 The Commission did not receive any written
 7 objections by last Friday, but the notice also presented
 8 the opportunity for folks, should they desire to do so,
 9 to raise any objections at this prehearing conference.
 10 So, as a result, I am giving parties the
 11 opportunity. Does anyone object to my presiding in this
 12 proceeding?
 13 MR. SHERR: Your Honor, the Company has no
 14 objection.
 15 MR. ROBERSON: Staff, likewise, has no
 16 objections.
 17 MS. GAFKEN: Public Counsel has no
 18 objections.
 19 JUDGE KOPTA: Great. Well, then, we will
 20 proceed.
 21 Are there any parties wishing to intervene
 22 in this? I know that Staff, Public Counsel are
 23 statutory parties, and the Company, obviously, is a
 24 party. I didn't hear any appearances and nor did the
 25 Commission receive any written petitions to intervene.

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1 Just wanted to make sure there's no one on the line
 2 currently who wishes to intervene in this matter.
 3 Apparently not, so we will proceed to the
 4 next issue, which is discovery. Do the parties want the
 5 Commission to make the discovery rules available?
 6 MS. GAFKEN: Public Counsel would like the
 7 discovery rules to be available.
 8 JUDGE KOPTA: Any objections?
 9 MR. ROBERSON: None from Staff.
 10 MR. SHERR: No, Judge.
 11 JUDGE KOPTA: All right. Then the
 12 Commission will make the discovery rules available in
 13 this proceeding.
 14 Is there a need for a protective order?
 15 MR. SHERR: Yes, Judge, the Company would
 16 request a protective order.
 17 JUDGE KOPTA: Seems appropriate in these
 18 circumstances, so yes, the Commission will issue its
 19 standard protective order in this docket. I'm assuming
 20 that that will be sufficient. Obviously, if there's
 21 some reason to request higher protection for any
 22 information, that can be raised at a later time.
 23 And I think that brings us to a proposed
 24 schedule. Have the parties been in discussions about a
 25 schedule for this docket?

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1 MR. ROBERSON: We have, Judge Kopta.
 2 Pending your approval, we have a proposed schedule.
 3 JUDGE KOPTA: All right. What is it?
 4 MR. ROBERSON: Staff's opening testimony
 5 would be due August 26th, 2022; response testimony from
 6 the Company and from Public Counsel would be due
 7 November 18th, 2022; and on that date,
 8 November 18th, 2022, DR response time would be reduced
 9 from seven to ten business days.
 10 We've marked January 16th, 2023, as a
 11 placeholder for a settlement conference; however,
 12 recently, the Commission has allowed the parties to set
 13 a placeholder and then move the date as appropriate with
 14 an email to the ALJ.
 15 We would request the ability to do that here
 16 because there are two sizable GRCs -- excuse me -- and
 17 that 911 case, which some combination thereof, all the
 18 attorneys here are assigned to. And depending what
 19 happens with those cases, we might be able to move the
 20 settlement conference earlier or later. So we'd just
 21 like that ability, if possible.
 22 The next date would be rebuttal from Staff
 23 and cross-answering testimony from Lumen and PC, that
 24 would be due February 17th, 2023. On that same date,
 25 February 17th, 2023, DR response times would reduce from

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1 seven to five business days.
 2 We have a discovery cutoff set for
 3 March 6th, 2023; cross-examination exhibits and
 4 cross-examination estimate times would be due on
 5 March 17th, 2023. The hearing would be
 6 March 24th, 2023, and depending on the Commission's
 7 preferences, we have placeholders for post-hearing
 8 briefs, two rounds, depending on your preference or the
 9 Commission's preference.
 10 The first, the initial post-hearing briefs
 11 simultaneously would be due April 21st, 2023, and then
 12 reply briefs, if requested, would be due May 12th, 2023.
 13 JUDGE KOPTA: All right. Well, other than
 14 the fact that the hearing -- proposed hearing date is my
 15 daughter's birthday, I don't have any issues with any of
 16 these dates.
 17 I'm assuming, at this point, that I will be
 18 presiding without the Commissioners. I don't know
 19 whether the parties want to request the Commissioners
 20 sit in. I'm pretty sure this far in advance that I can
 21 say that my calendar will be clear on March 24th, 2023.
 22 And with respect to settlement, I have no
 23 problem with the parties, you know, coming up with a
 24 different date than what we have established in the
 25 schedule with just a notice to me about when that date

1 will be.
 2 I absolutely agree that there's a lot going
 3 on between now and January 16th, and I think everyone
 4 would benefit from having some flexibility in terms of
 5 when the parties can get together and have those
 6 discussions.
 7 So in creating the schedule, I will make a
 8 notation that the settlement conference date is a
 9 proposed date subject to change by the parties with
 10 notification to me.
 11 I will go ahead -- oh, yes, go ahead.
 12 MS. GAFKEN: If I may, that settlement
 13 conference date actually needs to be moved to January
 14 19th. The 16th is Martin Luther King Jr. Day. It was
 15 something we had discussed earlier.
 16 MR. ROBERSON: I apologize, Judge Kopta. I
 17 misread what I had written down. Ms. Gafken is
 18 absolutely correct.
 19 JUDGE KOPTA: I agree that a settlement
 20 conference on Martin Luther King Day is probably not a
 21 good date. So yes, I will change that to the 19th.
 22 I will go ahead and put in the briefing
 23 dates. This far in advance, who knows. But we can
 24 certainly discuss at the hearing whether there needs to
 25 be any change to those dates. And I suppose two rounds

1 CERTIFICATE
 2
 3 STATE OF WASHINGTON
 4 COUNTY OF THURSTON
 5
 6 I, Tayler Garlinghouse, a Certified Shorthand
 7 Reporter in and for the State of Washington, do hereby
 8 certify that the foregoing transcript is true and
 9 accurate to the best of my knowledge, skill and ability.
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Tayler Garlinghouse
 Tayler Garlinghouse, CCR 3358

1 is fine. Again, we'll see what happens at the hearing
 2 as to how much legal briefing I will need to render a
 3 determination in this matter and the extent to which
 4 reply briefs are necessary. But that's a decision for a
 5 future date.
 6 So I think we can go with this proposed
 7 schedule, at least for now.
 8 And is there anything else that needs to be
 9 discussed for this prehearing conference?
 10 Seeing head shaking, and so I will take that
 11 as a no. Then I think we've covered our bases. I will
 12 be issuing both a protective order and a prehearing
 13 conference order establishing this schedule. And
 14 barring any further issues that arise, we will carry on
 15 as scheduled.
 16 So thank you all for being here this
 17 afternoon and for, as usual, a prompt and efficient
 18 prehearing conference. So we will be adjourned.
 19 (Adjourned at 1:41 p.m.)
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