

Docket No. UT-240029 - Vol. III

**In the Matter of the Petition of the Qwest Corporation,
et al.**

July 19, 2024



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

CENTURYLINK COMPANIES - QWEST)
CORPORATION; CENTURYTEL OF)
WASHINGTON; CENTURYTEL OF)
INTERISLAND; CENTURYTEL OF)
COWICHE; AND UNITED TELEPHONE) Docket No. UT-240029
COMPANY OF THE NORTHWEST)

)
to be Competitively)
Classified Pursuant to RCW)
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EVIDENTIARY HEARING
VOLUME III

Pages 59 - 316

TAKEN REMOTELY VIA VIDEOCONFERENCE

DATE TAKEN: July 19, 2024
REPORTED BY: Evelyn M. Adrean, RPR, CCR 22009424

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22 * * * * *

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1 JULY 19, 2024
 2 9:02 a.m.
 3 JUDGE HOWARD: Let's be on the record.
 4 Today is Friday, July 19th, 2024. The time is 9:02 a.m.
 5 My name is Michael Howard. I'm an administrative law
 6 judge with the Washington Utilities and Transportation
 7 Commission, and I am presiding in this matter along with
 8 Administrative Law Judge M. Haley Callahan and the
 9 commissioners themselves.
 10 We're here today for a hearing in Docket
 11 UT-240029 which is captioned in the Matter of
 12 CenturyLink Companies Petition for AFOR Classification.
 13 And when I say AFOR, A-F-O-R, which stands for
 14 alternative form of regulation. The commission convened
 15 this hearing to consider CenturyLink's Petition for
 16 Competitive Classification and specifically, CenturyLink
 17 and staff are requesting the commission approve a
 18 settlement providing for an updated alternative form of
 19 regulation or AFOR.
 20 Let's begin by taking short appearances
 21 starting with the company.
 22 MR. SHERR: Good morning, Your Honor. Adam
 23 Sherr on behalf the CenturyLink.
 24 JUDGE HOWARD: Thank you. Could we have an
 25 appearance for staff.

1 on-line, and I'm happy to see that they seem to have
 2 effective connections and we are seeing their video, but
 3 they can also feel free to turn off their video until it
 4 is their time to be tendered for cross.
 5 If you are having any technical issue or you
 6 observe that a party or a representative has dropped off
 7 the on-line meeting, please mention that in the Chat.
 8 The Chat should be reserved for technical issues and
 9 requests for breaks only.
 10 Are there any questions before we turn to
 11 the admission of exhibits? All right. Hearing none,
 12 let's turn to the admission of the exhibits. I
 13 circulated a updated -- a compiled exhibit list to the
 14 parties showing all the parties' exhibits filed so far
 15 up to and including cross-examination exhibits. And I
 16 understand the company does not intend to move for
 17 Dr. Weisman's testimony to be admitted. Is that still
 18 the case?
 19 MR. SHERR: Your Honor, Judge Howard, the --
 20 since Dr. Weisman was asked to be present today, the
 21 company will move for the admission of his testimony.
 22 Thank you.
 23 JUDGE HOWARD: All right. Thank you. To
 24 the parties -- with that understanding, do the parties
 25 stipulate to the admission of all the pre-filed exhibits

1 MR. ROBERSON: Good morning, Judge Howard,
 2 Judge Callahan. Jeff Roberson on behalf of staff. With
 3 me at the counsel table is my colleague, Cassie Jones.
 4 JUDGE HOWARD: Thank you. Could we have an
 5 appearance for Public Counsel.
 6 MR. O'NEILL: Good morning, Your Honors.
 7 Tad Robinson O'Neill on behalf of Public Counsel.
 8 JUDGE HOWARD: Thank you. So let's begin by
 9 talking about our plans for the hearing today. First we
 10 will touch on the admission of pre-filed exhibits and
 11 testimony which should be fairly brief, I expect. We
 12 will then allow for brief opening statements from each
 13 party limited to ten minutes each before we turn to the
 14 cross-examination of witnesses following the parties'
 15 agreed order of presentation.
 16 We will be taking all the witnesses
 17 individually. We won't be impaneling any witnesses
 18 today. I expect we will take a midmorning break and a
 19 lunch break, and if necessary, if -- depending on the
 20 length of this hearing, a midafternoon break as well.
 21 I just want to remind the parties to keep
 22 your microphones muted unless you are speaking. And if
 23 you are observing, I would certainly encourage you to
 24 keep your line muted as well. And I would also
 25 encourage -- I see that we have witnesses joining us

1 and testimony? Turning first to the company.
 2 MR. SHERR: Yes, Your Honor. CenturyLink
 3 stipulates.
 4 JUDGE HOWARD: Thank you. Staff.
 5 MR. ROBERSON: Staff will stipulate.
 6 JUDGE HOWARD: Thank you. Public counsel.
 7 MR. O'NEILL: Public counsel has no
 8 objection to the entry of all the exhibits listed in the
 9 exhibit list.
 10 JUDGE HOWARD: All right. Then I deem all
 11 the pre-filed exhibits and testimony admitted including
 12 the settlement agreement and the cross-examination
 13 exhibits recently filed.
 14 And I do note just as an aside that some of
 15 the testimony and exhibits as well as some of the cross
 16 exhibits are marked confidential. Normally, our
 17 confidential cross is that the commission deal with
 18 pricing information. It does seem that the
 19 confidentiality designations in this docket include some
 20 descriptions of customers' experiences. So I just ask
 21 that counsel be mindful when you're conducting your
 22 cross that of you are moving into discussing
 23 confidential information, that you let us know at the
 24 start of that, and we can take appropriate steps. And
 25 if possible -- if possible and if it does not impede

1 your cross, that we would refrain from referring to that
2 information directly.

3 MR. O'NEILL: This is public counsel. Some
4 of my cross-examining questions will touch on subject
5 matter that's confidential, but I do not intend to
6 elicit any of the numbers, and I will try to caution the
7 witnesses to stay away from mentioning the numbers that
8 have been actually designated confidential. It's the
9 principle that I am interested in questioning about. If
10 I transgress, I hope Mr. Sheer will make sure to help
11 watch that line both for myself and for the witnesses.

12 MR. SHERR: Of course.

13 JUDGE HOWARD: All right. And thank you,
14 Mr. O'Neill, for mentioning that. And if you do feel it
15 is necessary, we can take the steps to have a separate
16 transcript prepared and to confirm that we only have
17 appropriate individuals present for that portion of the
18 cross. And in those cases, I do rely in part on the
19 company to look at who's attending in person in the room
20 and on-line to make sure that we don't have anyone
21 attending who should -- should have signed a
22 confidentiality agreement and has not. So that is an
23 option, Mr. O'Neill, if you need it.

24 All right. With that, our next item would
25 be turning to opening statements. As I noted, we would

1 turn down an opportunity to speak, so thank you.

2 CenturyLink appreciates the opportunity to
3 appear today before the commission. The settlement
4 agreement we submitted on July 1st is the product of a
5 long process of negotiation and litigation. It
6 represents a good faith -- it is a product of good faith
7 engagement by the company, by staff, and by public
8 counsel, and it represents a fair and delicate balance
9 of a variety of interests raised by all the parties.

10 The agreement is in the public interest and
11 it recognizes the highly competitive nature of the
12 telecommunications market in Washington, something the
13 commission recognized over a decade ago in multiple
14 proceedings. We ask that the settlement be approved as
15 it was presented. And once again, thank for the
16 opportunity to appear today.

17 JUDGE HOWARD: Thank you. Allow staff the
18 same opportunity.

19 MR. ROBERSON: In the interest of time,
20 Staff will save its opening and just submit a closing
21 brief.

22 JUDGE HOWARD: All right. Certainly. And I
23 did overlook asking counsel to give short appearances
24 now that we have the commissioners joining us, so I will
25 backtrack slightly. Could we hear from the company.

1 allow for brief opening statements up to ten minutes per
2 party. And I'm going to ask that the commissioners join
3 us at this point. So let's go off the record for a
4 moment while we wait for the commissioners to join us.

5 (A break was taken from 9:09 to 9:11 a.m.)

6 JUDGE HOWARD: All right. Let's be back on
7 the record.

8 The commissioners are joining us in the
9 hearing room. We have Chair Dave Danner, Commissioner
10 Ann Rendahl, and Commissioner Milt Doumit joining us.
11 And we were about to move to opening statements from the
12 parties. And I will also let the commissioners know
13 that all of the pre-filed exhibits and testimony
14 including the cross exhibits have been admitted without
15 exception. Yes. Yes, the range is fairly short. I
16 will be aware of that.

17 So with that, let's turn to opening
18 statements beginning with the company.

19 MR. SHERR: Good morning, Commissioners and
20 Your Honors. Are you able to hear me okay through the
21 mic?

22 JUDGE HOWARD: Yes. You may want to lean
23 forward into the mic a little bit. There you go.

24 MR. SHERR: I will be very brief. I had not
25 intended to make any opening statements, but I can't

1 MR. SHERR: Good morning. Adam Sherr. I am
2 the attorney for CenturyLink appearing on behalf of the
3 company.

4 JUDGE HOWARD: Thank you. And Staff.

5 MR. ROBERSON: Good morning. Jeff Roberson,
6 AAG on behalf of Staff. With me at the counsel table is
7 my colleague, Cassie Jones.

8 JUDGE HOWARD: Thank you. And public
9 counsel.

10 MR. O'NEILL: Good morning, Your Honors and
11 Commissioners. Tad Robinson O'Neill on behalf of public
12 counsel.

13 JUDGE HOWARD: All right. Thank you. And
14 staff has waived their opening statement. Public
15 counsel, would you like to provide an opening statement.

16 MR. O'NEILL: I do have a short opening
17 statement prepared.

18 Public counsel believes that the facts will
19 demonstrate that in rural Washington, the market is
20 insufficient to provide reliable telecom service. The
21 question facing this commission and this proceeding is
22 whether the settlement proposal is sufficiently robust
23 that the commission can lay down its duty to rural
24 Washingtonians and whether or not continued oversight is
25 necessary to ensure that a 79-year-old woman from rural

1 Klickitat County keeps her landline connection to her
 2 family and friends.
 3 Staff company and public counsel have
 4 engaged in a good faith effort to come up with a
 5 workable big data definition and voluntary challenge
 6 process that will draw a safe line between the areas of
 7 Washington where there is competition and where the
 8 market does not work. And you will hear, and the
 9 question, really, is: Where that line is drawn, can the
 10 company allow CenturyLink to discontinue service without
 11 a staff investigation, without formal and informal
 12 discovery, without a public comment hearing, without a
 13 full hearing with public advocates such as this one.
 14 This hearing will focus on the flaws in the
 15 data, uncertainty about cell phone reliability
 16 particularly in the context of emergencies, radio
 17 propagation blind spots, the issue of service
 18 reliability, different -- difference in opinion over
 19 price points, and over the company's ability to self
 20 police.
 21 The evidence both in the direct testimony
 22 already admitted and in cross-examination will show that
 23 market forces have proven themselves deaf to the needs
 24 of rural Washington. Just as in this proceeding,
 25 CenturyLink complains that the cost of upkeep on old

1 I have a short period of time for him, and it may be
 2 less than 15 minutes.
 3 JUDGE HOWARD: All right. Certainly. And
 4 because the witness' testimony has been admitted into
 5 evidence, that is entirely appropriate.
 6 Dr. Weisman, are you on the line, and can
 7 you see and hear me all right?
 8 DR. WEISMAN: Yes and yes.
 9 JUDGE HOWARD: All right. Thank you. If
 10 you please raise your right hand, I'll swear you in.
 11 Do you swear or affirm that testimony you
 12 will give today is the truth, the whole truth, and
 13 nothing but the truth?
 14 THE WITNESS: I do.
 15 JUDGE HOWARD: All right. Thank you.
 16 Could the company please introduce the
 17 witness and tender them for cross.
 18 MR. SHERR: Yes, Your Honor. Good morning,
 19 Dr. Weisman.
 20 DR. WEISMAN: Good morning.
 21 MR. SHERR: Could you state your name for
 22 the record, sir?
 23 DR. WEISMAN: Dennis L. Weisman,
 24 W-e-i-s-m-a-n.
 25 MR. SHERR: And do you have before you

1 copper wire infrastructure that was officially created
 2 with federal investment is insufficient to justify
 3 continuing service to small rural populations.
 4 Broadband and cell phone companies will not
 5 engage in the kind of investment that's necessary to
 6 build the infrastructure to help those rural markets
 7 without government regulation. In this context, the
 8 commission should find that it needs to fulfill its duty
 9 by offering full due process for any requests for
 10 discontinuance so that the company, the staff, public
 11 counsel, and the public can be certain that nobody is
 12 left behind. Thank you.
 13 JUDGE HOWARD: All right. Thank you,
 14 Mr. O'Neill.
 15 So with that, we will turn to the
 16 examination of the witnesses unless there are any
 17 questions from the bench for any of the counsel. All
 18 right. Hearing none, our first witness on the order of
 19 presentation is Dr. Weisman. As I understand, public
 20 counsel has -- is intending to use their 15 minutes
 21 originally designated for Dr. Weisman and is intending
 22 to question, I believe, Peter Gose on those same issues?
 23 MR. O'NEILL: I can -- if Dr. Weisman's
 24 here, I think it would be better to ask him questions
 25 since he's available so that he can answer for himself.

1 exhibits that have been marked Exhibit DLW 1T AND DLW 2?
 2 DR. WEISMAN: I do.
 3 MR. SHERR: And DLW 1T is entitled Direct
 4 Testimony of Dr. Dennis L. Weisman; is that true?
 5 DR. WEISMAN: Correct.
 6 MR. SHERR: Were these exhibits prepared by
 7 you or at your direction?
 8 DR. WEISMAN: They were.
 9 MR. SHERR: Do you have any corrections to
 10 these exhibits?
 11 DR. WEISMAN: I do not.
 12 MR. SHERR: Are these exhibits true and
 13 correct to the best of your knowledge?
 14 DR. SHERR: Yes, they are.
 15 MR. SHERR: So Your Honor, since they've
 16 already been admitted, I will tender Dr. Weisman to
 17 public counsel.
 18 JUDGE HOWARD: All right. Thank you. And
 19 public counsel, you may proceed.
 20 CROSS-EXAMINATION
 21 BY MR. O'NEILL:
 22 **Q. Good morning, Dr. Weisman. We met before the**
 23 **proceeding began. I'm Tad Robinson O'Neill, the**
 24 **assistant attorney general for public counsel.**
 25 **You indicated that you do have a copy of**

1 **your testimony with you. Can you turn to page 3 of that**
 2 **testimony?**

3 JUDGE HOWARD: And Mr. O'Neill, could I
 4 confirm: Are we using the page numbers on the bottom
 5 right-hand corner, or are we using the page numbers of
 6 the PDF document.

7 MR. O'NEILL: I am referring to the page
 8 numbers on the bottom right-hand corner of your
 9 testimony, Dr. Weisman.

10 JUDGE HOWARD: Thank you.

11 THE WITNESS: Yes, Mr. O'Neill.

12 BY MR. O'NEILL:

13 **Q. At the bottom of the page, line 20, it states:**
 14 **"Economic regulation is a substitute for competition**
 15 **when market forces are deemed insufficient to provide**
 16 **the requisite market discipline." Did I read the**
 17 **correctly?**

18 A. That's what my evidence indicates, yes, sir.

19 **Q. And do you stand by that testimony?**

20 A. I do.

21 **Q. If you could turn to the next page, please. In**
 22 **the middle of the page starting at line 9, you write:**
 23 **"In the absence of significant barriers to entry, prices**
 24 **higher than competitive levels can be expected to**
 25 **attract new entrants." Did I read that correctly?**

1 expected to bring that competition into rural areas even
 2 in the absence of the numerous alternatives to
 3 CenturyLink service.

4 **Q. You're aware that the federal government has**
 5 **invested or it plans to invest over a -- just under two**
 6 **billion dollars in rural -- in Washington in order to**
 7 **expand broadband service to rural Washington?**

8 A. I've read that in Mr. Gose's testimony.

9 **Q. And that kind of government intervention is a**
 10 **symptom of the market that is insufficient to create**
 11 **those services, is it not?**

12 A. I wouldn't necessary conclude that since we're
 13 talking about voice services here alone which would not
 14 require broadband per se.

15 **Q. But you're not a specialist in**
 16 **telecommunication, you're an economist; correct?**

17 A. I'm a telecommunication economist. So whether
 18 that's a specialist or not I guess is a matter of
 19 interpretation.

20 **Q. Your testimony also did not address the**
 21 **technological barriers of radio propagation for cell**
 22 **service, did it?**

23 A. No, I did not look at that issue.

24 MR. O'NEILL: That's all the questions I've
 25 got for you, Dr. Weisman. Thank you.

1 A. Yes.

2 **Q. In your testimony, it is accurate that you did**
 3 **not address whether or not there are significant**
 4 **barriers to entry in Washington for rural markets; is**
 5 **that correct?**

6 A. Not directly, but I was aware that the
 7 provisions of the 1996 Telecommunications Act which
 8 allows for intramodal (phonetic) competition both
 9 resale, sale of CenturyLink's services and individual
 10 network elements can be used to replicate essentially
 11 CenturyLink's service in those areas. So the purpose of
 12 the act was in part, in large part to eliminate such
 13 barriers to entry.

14 **Q. And that's for the provision of ILEC services**
 15 **or copper wire services that you're referring to;**
 16 **correct?**

17 A. Yes.

18 **Q. But you haven't done any kind of analysis of**
 19 **whether or not the market is sufficiently robust to --**
 20 **for other technologies such as cell phone service or**
 21 **broadband to reach rural Washington, have you?**

22 A. No, I've not. But one of the constraints that
 23 CenturyLink has put in place is no further deaveraging.
 24 And as my evidence indicates, the competitive pressures
 25 in other parts of the company's territory would be

1 THE WITNESS: Thank you.

2 JUDGE HOWARD: Do we have any redirect from
 3 the company.

4 MR. SHERR: No, Your Honor.

5 JUDGE HOWARD: Thank you. Do we have any
 6 questions from the bench for Dr. Weisman? All right.
 7 We do not have any questions from the bench for this
 8 witness.

9 Dr. Weisman, thank you for your testimony
 10 today. You are excused from the remainder of the
 11 hearing.

12 DR. WEISMAN: Thank you.

13 JUDGE HOWARD: All right. Let's turn to our
 14 next witness, Peter Gose, for the company. If you --
 15 and Mr. Gose is with us here in the hearing room. Yes,
 16 certainly, if you'd like to take a seat. Anywhere on
 17 that table is great. And you may also need your laptop.

18 (Pause in the proceedings.)

19 JUDGE HOWARD: Mr. Gose, if you would please
 20 turn on your bench microphone, and if you would raise
 21 your right hand I will swear you in.

22 Do you swear or affirm the testimony you'll
 23 give today is the truth, the whole truth, and nothing
 24 but the truth?

25 THE WITNESS: I do.

1 JUDGE HOWARD: All right. Thank you.
 2 Please introduce the witness and tender them
 3 for cross.
 4 MR. SHERR: Of course.
 5 Good morning, Mr. Gose. Could you state and
 6 spell your name for the record, please?
 7 THE WITNESS: My name is Peter Gose, last
 8 name spelled G-o-s-e.
 9 MR. SHERR: Do you have before you what has
 10 been -- exhibits that have been marked Exhibit PJG 1T
 11 through PJG 29?
 12 THE WITNESS: Yes.
 13 MR. SHERR: And is that your direct
 14 testimony and accompanying exhibits?
 15 MR. GOSE: Yes.
 16 MR. SHERR: Okay. Were these prepared by
 17 you or at your direction?
 18 THE WITNESS: Yes.
 19 MR. SHERR: Do you have any corrections to
 20 those exhibits?
 21 THE WITNESS: Yes.
 22 MR. SHERR: What is -- what corrections do
 23 you have?
 24 THE WITNESS: If you'll turn to page 4.
 25 MR. SHERR: Of which document?

1 THE WITNESS: That I do.
 2 MR. SHERR: Okay. On what page?
 3 THE WITNESS: If you'll turn to pages 4
 4 and 5.
 5 MR. SHERR: Okay. Go ahead.
 6 THE WITNESS: The table there, and the
 7 numbering in the table is off. And in order to correct
 8 that, I would need to refer back to the --
 9 MR. SHERR: When you say "the numbering,"
 10 are you talking about the AFOR section column?
 11 THE WITNESS: Correct. AFOR section column.
 12 MR. SHERR: Okay.
 13 THE WITNESS: And I would correct that and
 14 refer back to attachment A of the full Multiparty
 15 Settlement Agreement. And in the table on page 4 and 5,
 16 the provisions for the AFOR No. 1 begins with a number
 17 listed item, alternative form of regulation. That did
 18 not appear in the table on page 4 and 5. So the
 19 numbering is off by one. So what is labeled No. 1 in
 20 the AFOR section column should be labeled No. 2 and so
 21 forth all the way down through what is labeled on page 5
 22 in the AFOR column as Section 8 should be Section 9.
 23 MR. SHERR: Okay. So just to be clear, what
 24 has been on page 4 and 5 of Exhibit PJG 30T in Table 1,
 25 the AFOR sections that are listed 1 through 8 should

1 THE WITNESS: PJG 30 T.
 2 MR. SHERR: Okay. We haven't gotten there
 3 quite yet. We're on your direct testimony.
 4 THE WITNESS: Okay.
 5 MR. SHERR: So with regard to your direct
 6 testimony and exhibits, do you have any corrections?
 7 THE WITNESS: No corrections on direct
 8 testimony.
 9 MR. SHERR: And were those exhibits -- and
 10 are those exhibits true and correct to the best of your
 11 knowledge?
 12 THE WITNESS: Yes.
 13 MR. SHERR: Having predicted our next
 14 testimony, can you please take a look at Exhibits PJG
 15 30T which is entitled Settlement Testimony, and
 16 accompany exhibits PJG 31 and 32?
 17 THE WITNESS: Yes, I have it.
 18 MR. SHERR: And that is your settlement
 19 testimony; correct?
 20 THE WITNESS: Correct.
 21 MR. SHERR: Was that prepared by you or at
 22 your direction?
 23 THE WITNESS: Yes.
 24 MR. SHERR: Do you have any corrections to
 25 that testimony?

1 actually be 2 through 9?
 2 THE WITNESS: Correct.
 3 MR. SHERR: Okay. Do you have any other
 4 corrections?
 5 THE WITNESS: No.
 6 MR. SHERR: Okay. With those corrections,
 7 is the testimony true and correct to the best of your
 8 knowledge?
 9 THE WITNESS: Yes.
 10 MR. SHERR: The testimony having been
 11 admitted, Mr. Gose is available for cross-examination.
 12 JUDGE HOWARD: Thank you. And public
 13 counsel indicated 60 minutes estimated for cross for
 14 this witness. I would just -- Mr. Gose, I would
 15 encourage you because our bench microphones have such a
 16 short range, to bring it more in front of you. That
 17 should work well.
 18 Mr. O'Neill, you may proceed.
 19 CROSS-EXAMINATION
 20 BY MR. O'NEILL:
 21 **Q. Good morning, Mr. Gose.**
 22 A. Good morning, Mr. O'Neill.
 23 **Q. You have in front of you the testimony in**
 24 **support of the settlement PJG 30T. It's also been**
 25 **designated PJG 34X for cross --**

1 A. Yes.
 2 **Q. Can you turn to page 2 of that document as**
 3 **denoted in the lower right?**
 4 A. I'm there.
 5 **Q. Actually, I'm sorry. Page 1. It starts on**
 6 **page 1.**
 7 **You testified that the settlement represents**
 8 **"a delicate balance of compromise that recognize the**
 9 **vibrancy of the competitive landscape in Washington,**
 10 **removes some regulatory burdens, CenturyLink, and**
 11 **preserves or adds protection for Washington consumers**
 12 **with the fewest service alternatives." Have I read that**
 13 **correctly?**
 14 A. Correct.
 15 **Q. You would agree that the commission here is**
 16 **faced with the choice between lessening the regulatory**
 17 **burden on the company and protection of Washington**
 18 **consumers who have less access to alternatives; is that**
 19 **correct?**
 20 A. That's a fair characterization, yes.
 21 **Q. And you understand that the primary component**
 22 **of the settlement that will be the focus of the**
 23 **testimony is Subsection 9 which is the discontinuation**
 24 **provisions; correct?**
 25 A. Yes.

1 There are certainly all the internal personnel that are
 2 involved and then external assistance as well such as
 3 Dr. Weisman who was with us today. Another.
 4 **Q. Now, that burden will be satisfied by the**
 5 **adoption of an AFOR that has the five year -- well, it's**
 6 **not expired; correct? I mean, the issue of litigating**
 7 **whether or not to have an AFOR will be resolved with**
 8 **that provision; correct?**
 9 A. I'm not certain I understood that question.
 10 Could I ask you to repeat it? I apologize.
 11 **Q. Sure. You've identified the burden of having**
 12 **to come in and prove that you're competitive or that**
 13 **you're either a competitive -- need to be competitively**
 14 **classified or that you need a specific AFOR. And that**
 15 **burden will be satisfied by the provision in this**
 16 **settlement of an indefinite period with a five-year**
 17 **lockout; correct?**
 18 A. Five year or possibly, you know, longer if
 19 no -- neither party came in. So yes, the burden to
 20 undertake all those expenses and all that effort could
 21 be shifted a little further into the future, thus
 22 economizing for not only the company but also the
 23 commission as well.
 24 **Q. So that benefit could be obtained without**
 25 **Section 9 of this provision -- of this settlement;**

1 **Q. Okay. Have you quantified the burden -- the**
 2 **administrative burden that will be saved if this**
 3 **settlement is adopted?**
 4 A. Can you be a little bit more specific with what
 5 you refer to as quantification?
 6 **Q. How much money is CenturyLink going to save if**
 7 **this settlement is approved?**
 8 A. That -- I have not undertaken that effort.
 9 **Q. In the next sentence you go on to identify two**
 10 **statutes, RCW 36.135 and 300. You're not a lawyer; is**
 11 **that correct?**
 12 A. Correct.
 13 **Q. But you would agree that those are the**
 14 **governing statutes that determine this matter?**
 15 A. Yes.
 16 **Q. Okay. Let's -- if you could turn to page -- at**
 17 **the bottom of page 2, line 17 to 19. You write: "The**
 18 **needs to relitigate whether Century has a monopoly power**
 19 **(imposes significant burdens and costs on both the**
 20 **company and the -- and the commission.)" Have I read**
 21 **that correctly?**
 22 A. You have, yes.
 23 **Q. Can you identify how much money CenturyLink**
 24 **incurs when it comes in for an AFOR?**
 25 A. Well, I haven't specifically quantified that.

1 **correct?**
 2 A. Potentially.
 3 **Q. Okay. If you could turn now to page 25 of your**
 4 **testimony. Again, lower right corner is the --**
 5 A. 25?
 6 **Q. 2-5, correct.**
 7 A. I'm there.
 8 **Q. In the middle of the page starting at around**
 9 **line 10 you write: "To the extent that CenturyLink is**
 10 **compelled to expend hundreds of thousands or millions of**
 11 **dollars on the uneconomic replacement of legacy**
 12 **technologies, for example, moving facilities at great**
 13 **cost to accommodate a road move when very few customers**
 14 **are even served by facilities, CenturyLink has less**
 15 **capital to focus on expanding its high speed fiber**
 16 **infrastructure." Did I read that correctly?**
 17 A. Yes.
 18 **Q. Now that is the real issue that CenturyLink**
 19 **wants in this settlement to address, which is your**
 20 **ability to discontinue service where the burdens of**
 21 **maintaining an infrastructure outweigh the benefits of**
 22 **an amount of money that you can extract from the**
 23 **customers; correct?**
 24 A. The rationale there is what some degree of
 25 regularity, the road moves discuss in their -- in the

1 testimony occur and -- those requirements occur and the
 2 necessity to spend tens if not hundreds of thousands of
 3 dollars to ensure that people on legacy copper retain
 4 their service. There may be three, four, five customers
 5 that are -- so say there's five and it's a \$250,000
 6 project, the company will have just spent \$50,000 per
 7 location to keep that customer on. And if that's the
 8 absolutely only alternative in that location, that will
 9 happen.

10 But the company seeks the ability, if this
 11 commission should permit it, to allow the company to
 12 consider the use of alternative sources, intramodal or
 13 intermodal, to bring service to that customer and then
 14 that \$250,000 or whatever the price tag might be for a
 15 particular project could be expended to ultimately bring
 16 fiber and high-speed broadband facilities to locations
 17 within the state.

18 **Q. And to be very specific, you're asking for**
 19 **permission to discontinue without UTC oversight in**
 20 **certain circumstances; correct?**

21 A. In some, but not all; correct.

22 **Q. In the last or the last two years, let's say**
 23 **2023 and 2024, how many road moves have you engaged in**
 24 **that would justify that, you know, CenturyLink would**
 25 **come to the commission because it was uneconomic?**

1 **Q. One option in the case of a need to replace**
 2 **copper wire or to move a wire center would be to replace**
 3 **it with fiber cable rather than the legacy technology.**
 4 **Have you explored that approach in Washington?**

5 A. Again -- and I apologize -- my hearing's not
 6 good this morning. You said to replace fiber with --
 7 I'm sorry, to replace legacy copper?

8 **Q. Right. So for example when you got a \$250,000**
 9 **road move, one option would be to replace the copper**
 10 **with your fiber internet at that time. Have you**
 11 **explored the feasibility of that approach?**

12 A. That's not the area of the company in which I
 13 serve, but I would presume that our planning and
 14 engineering functions would certainly do that.

15 **Q. Okay. I'd like to now shift focus to a**
 16 **discussion of the process that you and staff have**
 17 **negotiated for ensuring that there's reasonable**
 18 **alternatives when the company discontinues service**
 19 **without UTC oversight. If you could turn to page 13 of**
 20 **your testimony.**

21 A. I'm there.

22 **Q. Beginning on page 13 and going on to page 14,**
 23 **you describe four steps that CenturyLink is going to**
 24 **pledge itself to in order to justify no UTC oversight;**
 25 **correct?**

1 A. I don't have that figure with me today, but I
 2 could certainly provide it.

3 **Q. Do you have an estimate?**

4 A. No.

5 **Q. Is it more than one?**

6 A. Likely so.

7 **Q. More than five?**

8 A. At this juncture, this is just -- would be
 9 speculation, conjecture on my part, so --

10 **Q. You don't know, in other words?**

11 A. Correct.

12 **Q. Okay. You indicate here that you are**
 13 **attempting to expand high-speed fiber networks; is that**
 14 **correct?**

15 A. I'm having difficulty hearing. Can you repeat
 16 that?

17 **Q. You are intending to replace your copper**
 18 **technology with high-speed fiber connections; correct?**

19 A. The company is certainly engaged in that type
 20 of activity today. But to do it far and wide
 21 ubiquitously is -- will be a long and very
 22 capital-intensive process.

23 **Q. Have you applied for or received any federal**
 24 **funding for that project?**

25 A. Yes.

1 A. Correct.

2 **Q. The first step would be for CenturyLink to**
 3 **determine the precise boundaries of an area in which it**
 4 **seeks to discontinue service; is that correct?**

5 A. Yes.

6 **Q. What criteria will CenturyLink apply to**
 7 **determine where to discontinue service?**

8 A. At this juncture, I haven't been a party to any
 9 discussion whatsoever with respect to criteria because
 10 in all likelihood, I would not be the one making the
 11 decision.

12 **Q. Do you know what criteria CenturyLink will**
 13 **apply in making that determination?**

14 A. I do not.

15 **Q. Do you know whether it would take into account**
 16 **the rural or urban nature of the area?**

17 A. It potentially could. But again, whether
 18 that's one specific criteria box to be checked, I can't
 19 answer that today.

20 **Q. In any case, this settlement does not require**
 21 **CenturyLink to make such a determination before deciding**
 22 **on a discontinuance; correct?**

23 A. Are you referring to that distinction between
 24 urban and rural in your question?

25 **Q. That's correct.**

1 A. Well it may not require that distinction. The
 2 safeguards that are built into this process -- and it's
 3 a lengthy one -- would, you know, certainly cover that,
 4 whether it's a rural or an urban location.

5 **Q. In this first step, you provide an example of a**
 6 **\$250,000 road move and four customers --**

7 A. Okay.

8 **Q. -- and then you indicate approximately paying**
 9 **\$50 a month, so that's \$200 a month for a \$250,000 move.**
 10 **Do you have any kind of threshold or criteria for what**
 11 **the delta has to be before a move is uneconomic?**

12 A. The only information that I have been privy to
 13 is that within the financial organization of our
 14 company, we have specific periods in which we would like
 15 to see a recruitment of that investment over a number of
 16 years. What those numbers of years are, I don't know.

17 **Q. Does CenturyLink currently have any plans to**
 18 **discontinue service to any areas as defined in this**
 19 **testimony in Washington State?**

20 A. To the best of my knowledge, I have never had
 21 anyone raise that subject with me ever at any time.

22 **Q. Does CenturyLink have plans for discontinuing**
 23 **in the future, so let's say the next three to five**
 24 **years?**

25 A. Again, I've -- that's, you know, potentially

1 asking me to speculate. I will suggest that as you I
 2 think alluded to with Dr. Weisman, that there were a
 3 number of federal grant programs made available and
 4 that -- it may have been in your opening statement -- as
 5 much as, you know, 1.7 billion dollars coming into the
 6 State of Washington. And as those dollars flow and the
 7 Washington Broadband Office does apportion those to some
 8 grantees who will push broadband services deeper into
 9 the network in the state, the potential for legacy
 10 CenturyLink copper services to be overbuilt by
 11 competitors exists. And should that happen at some
 12 juncture in the future, instead of maintaining two
 13 networks, you know, we don't need two fibers to the
 14 farm, and so there could be a potential where another
 15 competitor who brings high-speed fiber internet services
 16 comes where we have older legacy copper and may no
 17 longer make sense to maintain two networks in that
 18 location.

19 **Q. And I guess the question for this commission is**
 20 **whether we should wait for that replacement to be in**
 21 **place before discontinuing or whether there are certain**
 22 **circumstances where we cannot wait; right?**

23 A. I don't know if I entirely agree with that
 24 premise because there may already be other alternatives
 25 in some locations today in addition to the new services

1 that may come in the future.

2 **Q. The second step that you engaged in is that the**
 3 **company will consult with the FCC's broadband data**
 4 **collection, or BDC data, as well as with wireless**
 5 **availability data, and I presume that's commercially**
 6 **available wireless availability data?**

7 A. I apologize, can you repeat that again, please?

8 **Q. Sure you're going to consult BDC data --**

9 A. Correct.

10 **Q. -- and wireless availability data?**

11 A. Which is contained within the BDC data.

12 **Q. Correct. And that data you will use to**
 13 **determine whether or not there's an alternative;**
 14 **correct?**

15 A. That in addition to a robust method of
 16 initially taking that data and then consulting with any
 17 potential customer that might be identified to ensure us
 18 that what the BDC data imparts is actually true and
 19 correct at that location.

20 **Q. Well that's the third step that you describe**
 21 **here, which is you will reach out to each existing**
 22 **customer in the discontinuance area with three things:**
 23 **A letter, an e-mail, and a phone call. Correct?**

24 A. Correct. To the extent that we have a working
 25 e-mail for the customer.

1 **Q. Correct. And the phone presumably will be the**
 2 **line that you maintain for them and you will, you've**
 3 **indicated, leave a voicemail. Is the phone call going**
 4 **to be a person or is it going to be a robo-call?**

5 A. Certainly be a person.

6 **Q. Okay. That will give the consumers the**
 7 **opportunity to indicate that they don't believe that**
 8 **they do have reasonable alternatives or that they do and**
 9 **they understand why you're leaving and they might**
 10 **complain, but as long as they have availability that's**
 11 **what you're checking for?**

12 A. Yes.

13 **Q. The fourth step would be an enhanced notice to**
 14 **the consumers as well as sharing data with staff and**
 15 **public counsel; correct?**

16 A. Correct.

17 **Q. And the idea behind that notice to staff and to**
 18 **public counsel is, that would allow those entities to**
 19 **check your -- your data and to object, presumably;**
 20 **correct?**

21 A. That's correct.

22 **Q. How much time before -- or how much time will**
 23 **you give the staff and public counsel before the**
 24 **discontinuance occurs?**

25 A. I think once we ever get to that juncture, and

1 again, I think the likelihood of that in my personal
 2 belief is very, very slight. But if we ever did get
 3 that far down the road in terms of time given, I think,
 4 you know, an informal procedural schedule would probably
 5 be agreed to at that juncture.

6 **Q. How much time are you going to give them before
 7 you initiate the FCC discontinuance 214 process?**

8 A. As I sit here today, that's not something I've
 9 contemplated. But again, that amount of time can
 10 certainly be negotiated.

11 **Q. That's not part of the settlement currently?**

12 A. We do have a 45-day period from the time that
 13 we do make contact with the customer to give them an
 14 opportunity to reach back out to the company with their
 15 response.

16 **Q. I think that's in your third step. I'm talking
 17 after you've decided to discontinue without UTC
 18 approval, do you know how much time you're going to give
 19 staff and public counsel to review your work?**

20 A. I'd like to, I just -- I don't have an answer
 21 for you as I sit here today.

22 **Q. Is this process that you've agreed to in the
 23 settlement any different than the process you would
 24 engage in if you were to seek UTC approval for a
 25 discontinuance?**

1 and would not be without some price tag.

2 **Q. Would you agree with me that the company's
 3 incentive to be thorough in that process would be
 4 greater if there were a formal UTC filing that had to be
 5 made?**

6 A. I don't know that I do. I would say no because
 7 if the company is seeking to discontinue a small
 8 location, small geographic area, in order for the
 9 request to pass muster in the first instance, the
 10 company is going to do its homework, we're going to be
 11 extremely thorough.

12 **Q. Do you have -- the settlement doesn't indicate
 13 this. Do you have an understanding of what challenge
 14 rights consumers would have if they simply disagreed
 15 with your decision to disconnect? Let's say there is
 16 reliable cell service but for some reason they believe
 17 that's not appropriate to the area. What challenge
 18 rights would they have under this settlement?**

19 A. The challenge rights, one of the items that we
 20 have listed and will have on the notice is that the
 21 consumer can approach the public counsel unit and all
 22 that contact information will be included there. And
 23 they can make their case that they believe that to be a
 24 correct scenario, and through the powers that are
 25 invested in the unit in which you work, you can help the

1 A. I didn't catch that word you said. What type
 2 of approval?

3 **Q. Is the process that you just described in this
 4 settlement any different from the process that you would
 5 engage in before seeking UTC approval of a
 6 discontinuance?**

7 A. I thought you said ETC, so I beg your pardon.
 8 I -- largely they would be one in the same,
 9 I would think.

10 **Q. How much time or expense does this process cost
 11 CenturyLink?**

12 A. It'll be -- the cost will be fairly substantial
 13 because if we go back to Step 1 and walk all the way
 14 through it, that, you know, kind of initial analysis of,
 15 you know, a potential area for discontinuation will
 16 require, number one, the identification of it, number
 17 two, a very close scrutiny and analysis of each and
 18 every customer living unit within that geographic
 19 boundary, if you will, of the area for discontinuance,
 20 and then performing those studies, reaching out to the
 21 customer by phone call, via e-mail, and etcetera, and
 22 then just kind of stepping through that process. As I
 23 sit here today, I don't have a precise quantification, a
 24 number for you, but the process is very thorough, it
 25 requires a lot of home working on the company's part,

1 customer to assert those rights if need be.

2 **Q. Where does the settlement envision public
 3 counsel or UTC staff that UTC staff also can receive
 4 complaints and advocate on behalf of consumers, where
 5 would they challenge a decision to disconnect that meets
 6 the criteria listed in the settlement?**

7 A. Again, we would -- the public counsel unit
 8 challenge?

9 **Q. That's correct. What the venue?**

10 A. Again as I testified earlier, I'm not an
 11 attorney, so that -- in my estimation, it requires a
 12 legal conclusion which I'm not prepared or qualified to
 13 give.

14 **Q. It's not described in the settlement, in any
 15 case?**

16 A. Not to my knowledge, other than in a multiparty
 17 settlement in the notice therein, it, again, lists how
 18 the customer can contact the public counsel unit. But
 19 beyond that and how the public counsel unit might
 20 proceed with any customer contact they have, I don't
 21 know that that was contemplated.

22 **Q. Let's turn now to data. You -- there is a data
 23 source out there CostQuest, it's also Fabric Broadband
 24 Data; is that correct?**

25 A. Correct.

1 Q. And I'm going to -- this is a situation where
2 I'm going to ask you not to talk about numbers
3 because --

4 A. Understood.

5 Q. All right. In the quote that you cite to in
6 your testimony which is on page 15, if you need to refer
7 to it, you indicate that quote is for the Fabric data,
8 CostQuest data, for all of the ILEC states in which
9 CenturyLink currently operates?

10 A. That's my understanding, yes.

11 Q. Did you explore with CostQuest whether there
12 was a cheaper price for Washington specific, CostQuest
13 data?

14 A. At the time of construction of the testimony,
15 no. Since that time, we have reached out to CostQuest
16 for that information, and to this juncture they've been
17 nonresponsive so I don't have a number for you at this
18 time.

19 Q. Do you know -- and again, don't say numbers.
20 Do you know how much staff paid for the --
21 their access to CostQuest?

22 A. I've heard Mr. Bennett make reference to that,
23 but that number escapes me right now. I do know that on
24 occasion, CostQuest will afford different rate
25 structures for industry versus state government, so what

1 UT 240029. Do you have that in front of you?

2 A. I do not.

3 Q. Okay.

4 A. What's -- oh.

5 MR. SHERR: Counsel, is that his direct
6 testimony in this case?

7 MR. O'NEILL: No. This is direct testimony
8 in -- it's 33X, direct testimony in UT 240078.

9 MR. SHERR: Counsel, I apologize. I read
10 that as his direct testimony in this case, and the
11 witness may not have a copy of that in front of him.

12 THE WITNESS: I do not.

13 MR. O'NEILL: Okay.

14 MR. SHERR: Apologies.

15 MR. O'NEILL: That's all right. I will
16 attempt to screen share because that is an option when
17 I'm remote. Otherwise, I would hand out a copy. I am
18 not there, and I apologize.

19 MR. SHERR: And I apologize for the
20 inconvenience.

21 JUDGE HOWARD: Mr. O'Neill, feel free to
22 share your screen. And if that is not sufficient, we
23 can wait a moment for the witness to receive a copy of
24 that, perhaps by e-mail.

25 MR. O'NEILL: I can send an e-mail

1 was provided or what staff -- the pricing that staff
2 provided might be different than what industry may be.

3 Q. Is there a threshold at which the access to
4 CostQuest data will no longer be cost prohibitive? So
5 let's say using the number, is it one-fourth of what is
6 listed there or one-half where it would no longer be
7 cost prohibitive?

8 A. Again, that's a difficult question to answer,
9 and I'm not trying to be evasive. But let's for the
10 sake of argument say it's one-fourth. So you and I can
11 kind of do the mental math of what that is. If I have
12 to purchase that for five years of the term of the
13 present AFOR, in each of five years that's more than the
14 amount today. That's a cost prohibitive number.

15 Q. Okay. So we roughly know not to refer to the
16 number, but if you get up to that number that's listed
17 in your document, whether it's over one year or over
18 five years, that's too much?

19 A. Again, as I -- that's not a final decision that
20 I can make for the company, but I -- in my estimation, I
21 would believe the answer to be yes today.

22 Q. Okay. Can you -- I'm now going to talk a
23 little bit about CenturyLink's staffing. Can you turn
24 to what's been designated as Exhibit 33X, PG -- I'm
25 sorry. PJG 33X, which is your testimony in case

1 immediately as well. But let me try the share screen.

2 I'm going to too zoom in because I'm
3 assuming you can't read that at that level?

4 THE WITNESS: Correct.

5 BY MR. O'NEILL:

6 Q. Can you see that this is your direct testimony
7 in 240029?

8 A. Yes.

9 Q. Okay. This is a penalty proceeding related to
10 phone call response times by CenturyLink. Does that
11 sound right to you?

12 JUDGE HOWARD: Mr. O'Neill, I hate to
13 interrupt, but I believe this is -- the first page
14 refers to the present docket number, but I believe the
15 exhibit itself is from UT 0078, I believe.

16 MR. O'NEILL: Yes. I see -- and that's --
17 it should be on your screen now if you want to look at
18 that number.

19 BY MR. O'NEILL:

20 Q. Are you able to see that?

21 A. I can see it, yes.

22 Q. Okay. What I'm interested in -- I'm not
23 interested in this proceeding, I'm interested in some
24 testimony that you gave in this matter on page 10 of
25 that, and I'm going to scroll down to that page. Do you

1 **see we're on page 10 here?**
 2 A. Yes.
 3 MR. O'NEILL: Let me make sure I have the
 4 right number and page.
 5 COMMISSIONER RENDAHL: Mr. O'Neill, this is
 6 Commissioner Rendahl. Are you on page 10 of the PDF
 7 document or page 10 of the original testimony?
 8 MR. O'NEILL: Page 10 of the original
 9 testimony.
 10 COMMISSIONER RENDAHL: Okay. Thank you.
 11 BY MR. O'NEILL:
 12 **Q. In the middle of that -- hold on one second.**
 13 **In the middle of this page starting at**
 14 **line 16 -- and I'm going to highlight it so that you can**
 15 **see what I'm looking at -- you write: "Likewise just**
 16 **like any other business must, CenturyLink must maintain**
 17 **staffing levels accounting for declining subscribership,**
 18 **revenues, and resources." Did I read that correctly?**
 19 A. Yes.
 20 **Q. Is that statement true in this proceeding as**
 21 **well?**
 22 A. Let's take that one at a time. So in the
 23 context of the key performance indicators testimony
 24 here, that's certainly a necessity when you staff seats
 25 in a call center, you don't want people to sit there

1 **numerous -- numerous other states. As noted above, I**
 2 **have compliance responsibility for over 26 ILEC and CLEC**
 3 **states. This is not offered as an excuse but merely as**
 4 **the reality we face with overwhelming competition,**
 5 **diminished reviews, and reduced staffing." Did I read**
 6 **that correctly?**
 7 A. Did you say diminished reviews or revenues?
 8 **Q. Revenues. Excuse me. Revenues.**
 9 A. With that, you did correctly, yes.
 10 **Q. Is that true, that CenturyLink has diminished**
 11 **staffing in its regulatory compliance, it's just you,**
 12 **Mr. Sherr, and one legal -- paralegal for multiple**
 13 **states?**
 14 A. That is correct.
 15 **Q. What protections in this settlement agreement**
 16 **are there that CenturyLink won't experience the kind of**
 17 **staffing shortage that caused the other proceeding**
 18 **related to call times?**
 19 MR. SHERR: Objection as to relevance.
 20 JUDGE HOWARD: I'll allow the question.
 21 A. With that, Mr. O'Neill, could I trouble you to
 22 repeat it, please?
 23 **Q. Sure?**
 24 **What assurance in this settlement agreement**
 25 **do we have that given the staffing shortages that you**

1 unutilized and incurring costs without calls coming in
 2 to handle. In the context of this particular matter,
 3 I'm not -- I'd like you to be a little more specific
 4 with the question what you mean with respect to that.
 5 **Q. Sure. I'm going to -- if you go down to the**
 6 **very last line that starts here: "The company has had a**
 7 **great" -- and I'll go on to the next page -- "deal of**
 8 **staffing changes and downsizing (in all departments) and**
 9 **has from time to time struggled to address every concern**
 10 **and inquiry raised by every public utilities commission**
 11 **in a preferred timeframe. Staffing levels are very**
 12 **tight, and this assignment fell through the cracks."**
 13 **Did the I read that correctly?**
 14 A. You did.
 15 **Q. Is it true that CenturyLink has had a great**
 16 **deal of staffing changes and downsizing in all**
 17 **departments?**
 18 A. Yes.
 19 **Q. I'm going to scroll down now to page 13 of the**
 20 **document as denoted in the lower right corner, and I'm**
 21 **going to direct your lines -- your attention to line 15**
 22 **here where you testify: "As discussed above,**
 23 **CenturyLink is short staffed, one attorney, one**
 24 **paralegal, legal assistant, and I are responsible for**
 25 **the regulatory affairs for Washington in addition to**

1 **have, that CenturyLink will maintain sufficient staffing**
 2 **to do a thorough job when discontinuing without UTC**
 3 **approval?**
 4 A. Thank you.
 5 So in the first part of the question, I
 6 understood you to say that as it had happened in the
 7 call -- in the matter of the call time case, we had one
 8 individual assigned to get those answers to staff as
 9 requested who left the company. He was not replaced.
 10 And so that, without question, simply did fall through
 11 the cracks. Regrettable, but that's how it is.
 12 In regard to this issue -- and again, I
 13 think we're talking about the likelihood of something
 14 that may rarely, if ever, occur. And when it does, if
 15 it does, that all required resources would be devoted to
 16 make certain that it is done with care, with
 17 consideration, and compassion for any subscriber that
 18 could potentially be impacted.
 19 **Q. It's possible that Mr. Sherr -- I'll convince**
 20 **Mr. Sherr to come join me in the public counsel and**
 21 **fight for the good fight, correct, and he won't be here**
 22 **next year and someone else will have to replace him.**
 23 **What assurances -- given the constraints that you're**
 24 **facing with staffing, with expensive legacy copper**
 25 **network that you will have sufficient staffing to allow**

1 **for discontinuance without UTC oversight?**
 2 MR. SHERR: I'm going to object that the
 3 question has been asked and answered.
 4 JUDGE HOWARD: I'll allow it.
 5 A. In terms of assurances, I can tell you that I
 6 have opined loudly within the company that, yeah, this
 7 could potentially be unsustainable, and I am in the
 8 process right now of seeking to hire some additional
 9 people to bring us back to a full strength playing team.
 10 **Q. Do you know when you will hear back from the**
 11 **company, whether they're going to provide those**
 12 **resources?**
 13 A. I am very hopeful that before the end of the
 14 third quarter of this year, if not before.
 15 **Q. Okay. Now I want to contrast this a little bit**
 16 **with the process in this particular case where there was**
 17 **a full and fulsome investigation by UTC staff, by public**
 18 **counsel, full investment by CenturyLink in examining the**
 19 **market in Washington, etcetera.**
 20 **In this case, you filed this original**
 21 **petition -- well, you first contacted the parties about**
 22 **this more than a year ago; is that correct?**
 23 A. I would think it was almost more than two years
 24 ago, actually, when first conversations began to occur.
 25 **Q. And then you filed this petition seven months**

1 A. I have not filed anything in Utah.
 2 **Q. Okay. The company hasn't filed -- Qwest hasn't**
 3 **filed a petition asking for similar relief in other**
 4 **states?**
 5 A. That's my understanding. Utah is not one of
 6 the states in which I have compliance oversight.
 7 **Q. Okay. In any case, can you quantify the amount**
 8 **of time, energy, and investment that CenturyLink put**
 9 **into this because of the formal process that we are now**
 10 **engaged in?**
 11 A. The energy and the resources that were devoted
 12 to this, really, as I mentioned a moment ago began long
 13 before this formal process with that broadbandnow.com
 14 analysis off and on for days over the course of two
 15 months. So I sat at my computer and looked at that
 16 because I didn't know and I wanted to understand it, so
 17 I went through that.
 18 When they -- excuse me. When the
 19 broadband -- I'm sorry when the BDC data came out, our
 20 business intelligence and geospatial folks, we tasked
 21 them with taking that data and helping us look at it to
 22 determine how many competitors we had wire center by
 23 wire center for both intra and intermodal competitors
 24 throughout the state. But it's been substantial.
 25 Again, when you ask how much or -- I can't attach or

1 **ago, and since then we've engaged in formal discovery;**
 2 **correct?**
 3 A. Correct.
 4 **Q. There have been multiple discussions that you**
 5 **and I have had, that we've had with staff; correct?**
 6 A. Agreed.
 7 **Q. Now the original filing included data from**
 8 **Broadband Data -- the BDC data and an argument that**
 9 **there was sufficient competition in all of Washington to**
 10 **justify a competitive classification; is that correct?**
 11 A. That is correct. And even prior to that, I
 12 constructed a pretty thorough analysis using something
 13 other than BDC first using a data source called
 14 broadbandnow.com and went through all 221 wire centers
 15 that the company has ZIP Code by ZIP Code for each of
 16 those wire services. Took a couple months to take
 17 place. That gave us a really good sense of the existing
 18 state of affairs of competition in Washington. But the
 19 BDC data was passing or granular, more reliable because
 20 it withstands a challenge process from the carriers.
 21 And so that was that data that we used to underpin this
 22 analysis, the BDC data.
 23 **Q. And this petition that you filed here in**
 24 **Washington is similar to one that you filed in Utah;**
 25 **correct?**

1 quantify a dollar figure precisely to it.
 2 **Q. Would you agree with me that CenturyLink has**
 3 **spent more than a hundred hours, probably hundreds of**
 4 **hours, really, on this proceeding?**
 5 A. This proceeding. That's probably fair, I would
 6 agree.
 7 **Q. Do you have any sense of the number of hours**
 8 **that public counsel or the UTC staff has spent on this**
 9 **proceeding to get where we are today?**
 10 A. I would say it's, you know, equal, possibly
 11 greater.
 12 **Q. And now that we are sitting here after this**
 13 **long process, you would agree that we have a much better**
 14 **understanding of the facts in Washington state than we**
 15 **did when we started this process; correct?**
 16 A. I think we improved our datasets and our
 17 understanding of them day by day, yes.
 18 **Q. And the good faith negotiations in trying to**
 19 **draw the line between areas where there isn't**
 20 **competition and is competition has been productive,**
 21 **would you agree with me?**
 22 A. Yeah. I would say the, you know, work that
 23 we've all done together, staff, public counsel, the
 24 commission has been, you know, very cooperative, in good
 25 faith and very productive.

1 **Q. And while it was, perhaps, cumbersome, this**
 2 **process has achieved the goal of getting closer to the**
 3 **truth; correct?**

4 A. Can you define "the truth"?

5 **Q. The true state of affairs in Washington when it**
 6 **comes to CenturyLink and its telecommunication**
 7 **competitors.**

8 A. I'll agree with that.

9 **Q. Let's talk a little bit about the FCC process**
 10 **which is the backup kind of here for approval.**

11 **You have to get approval by the UTC and FCC**
 12 **for discontinuation; is that correct?**

13 A. Correct.

14 **Q. And that's section 214, FCC 214; correct?**

15 A. That's my understanding where the process lies
 16 and is defined.

17 **Q. Do you know what the criteria is that the FCC**
 18 **applies when deciding to grant or not grant a**
 19 **continuance?**

20 A. I do not. That if a discontinuance process was
 21 ever sought in that, that would likely go through an
 22 entirely different legal team or group within our
 23 company, wouldn't be state, it would be a federal
 24 regulatory legal team.

25 **Q. Do you know whether the factors considered by**

1 there's mobile broadband, there's more than likely the
 2 likelihood that there's also cellular voice data as
 3 well.

4 **Q. So the example that you picked was kind of a**
 5 **liminal one, you've got three homes that are in a hex**
 6 **and then if you continue down that road which happens to**
 7 **follow a river into a gorge, there isn't mobile**
 8 **broadband service; correct?**

9 A. That is correct. Though the -- and this
 10 comes -- screenshot came from the FCC's broadband map,
 11 and the FCC broadband map depicts two things. You can
 12 either find fixed broadband or mobile broadband.
 13 However within the FCC's datasets that underpin this,
 14 the mobile voice can be discerned as well, it just can't
 15 be picked up with the publicly available FCC broadband
 16 data.

17 **Q. Have you been to this area of Washington?**

18 A. No, I have not.

19 **Q. Do you know anything about the topography of**
 20 **this particular road?**

21 A. I worked -- prior to including this example, I
 22 went to Google Earth, so I believe it's forested and the
 23 topo lines on the map would suggest that it's not flat.

24 **Q. Right. It's a river gorge; right?**

25 A. Uh-huh.

1 **the federal government overlap with the factors**
 2 **considered by the UTC?**

3 A. Again, because I'm not familiar with the
 4 entirety of the 214 process at the FCC, I can't give a
 5 precise answer to that question.

6 **Q. Okay. Let's turn now to page 21 of your**
 7 **testimony in support of -- in support of the settlement.**

8 A. I'm there.

9 **Q. This is the Yacolt example that you provided in**
 10 **your testimony; right?**

11 A. Correct.

12 **Q. I happen to be from that area of Washington, so**
 13 **I didn't know if you chose that for that purpose, but I**
 14 **know of the areas.**

15 A. I did not know that.

16 **Q. And if you look at the figure 5 which is**
 17 **actually on page 22?**

18 A. Yes, I'm there.

19 **Q. This is a -- that's a screenshot of the BDC**
 20 **data which these little hexes, right, where cell phone**
 21 **service, according to their data, is sufficient and then**
 22 **the kind of gray hexes are where it isn't; correct?**

23 A. Generally, I agree with that. You said -- you
 24 mentioned cell phone service. What this is depictive of
 25 is mobile broadband data. But I agree with you where

1 **Q. Okay. And that could explain why there's**
 2 **mobile broadband coverage except along that mobile**
 3 **gorge; correct?**

4 A. That's certainly a possibility.

5 **Q. Do you know that, by the way?**

6 A. Do I know?

7 **Q. Do you know -- did you -- you didn't go through**
 8 **the process of calling all these people to see if they**
 9 **had mobile service, did you?**

10 A. I didn't, though I pulled the addresses. When
 11 you click on each of those points in those hexagon
 12 polygons in there, it does populate an address, and I
 13 did gather all the addresses for every location in there
 14 and went through to determine whether or not they are a
 15 current CenturyLink subscriber.

16 **Q. How much time did you spend in putting together**
 17 **this example?**

18 A. Identifying the screenshot, less than 5
 19 minutes, probably took me 10 to 15 to click on each of
 20 the ones in the polygons or the hexagons there and
 21 dropped them into an Excel document. And then I
 22 provided that Excel file to my business intelligence
 23 folks who went through to determine whether or not
 24 they're a current CenturyLink customer. So I would say
 25 less than an hour.

1 **Q. It took you less than an hour to identify an**
 2 **area in Washington, to pull the data that you then**
 3 **presented in this testimony?**

4 A. That's fair.

5 **Q. Is that an approximate number that we could use**
 6 **for the first step of your process?**

7 MR. SHERR: I'm going to object that it
 8 calls for speculation.

9 JUDGE HOWARD: I'll allow the question.

10 A. Again, if I refer back to page 134 of my
 11 testimony, that first step is to determine the precise
 12 boundaries of the areas in which the company might at
 13 some point seek a discontinuance --

14 **Q. Right.**

15 A. -- I think substantially longer than an hour.

16 **Q. Do you know how much longer?**

17 A. I wouldn't be the person conducting that work
 18 in all likelihood, so -- but -- and to access a myriad
 19 of different facilities' databases and systems, it could
 20 take hours if not days, likely.

21 **Q. So even though you were able to put together a**
 22 **fairly compelling example in this testimony, it would**
 23 **take additional time in order to prepare the packet that**
 24 **you're describing in the settlement; is that fair?**

25 A. Correct.

1 you say the "size," are you talking about specifically
 2 the number of individuals or the geographic unit of
 3 measurement that we're studying?

4 **Q. This is one of those fun ones where it's both,**
 5 **which is why it's compound and it's a bad question.**

6 **But, I mean, yes, if we were -- under the**
 7 **current settlement there's no restriction either on the**
 8 **size, meaning geographic size, or on the number of**
 9 **customers.**

10 A. So I think an interesting consideration we have
 11 to make here is that the larger the size, whether it's
 12 number of customers or whether it's the size of a
 13 geographic area under study, the far greater of the
 14 likelihood that you're going to within that area
 15 encounter a challenging customer location. And when
 16 that happens, that triggers the company to come to the
 17 commission for approval and -- so.

18 **Q. And as you just said, until you see it, we**
 19 **don't know, do we?**

20 A. Right, correct.

21 **Q. Let's shift now to -- we've been talking about**
 22 **the administrative burden, both generally and of this**
 23 **settlement on the company. Now I want to shift to the**
 24 **impact on the consumers.**

25 You provided the 2022 National Health

1 **Q. And that would happen, according to settlement,**
 2 **every time; right?**

3 A. Any time there was an area under study for
 4 discontinuance, that would be required.

5 **Q. Okay. If the commission were to put a limit on**
 6 **the size of a non reviewed discontinuance, what would be**
 7 **the best workable limit for CenturyLink? So in this**
 8 **case, you provided us an example of three houses. If we**
 9 **were to limit it to, say, a hundred homes, would that be**
 10 **workable for -- is there a limit that you would be able**
 11 **to accept?**

12 A. In my mind, placing a limit like that at this
 13 juncture would be very arbitrary, and I don't know why
 14 we would.

15 **Q. Is there a maximum number of customers that you**
 16 **would accept as a limit, or is the answer the same, that**
 17 **that would be arbitrary?**

18 A. I believe so, yes.

19 **Q. And when you say "arbitrary" what you mean**
 20 **there is, you don't know until you look; correct?**

21 A. Correct.

22 **Q. And in this settlement, there's no maximum**
 23 **limit or size limit to the discontinuance that could be**
 24 **proposed under the settlement agreement; right?**

25 A. If I may ask a clarification question. When

1 **Interview Survey Early Release Program data -- updated**
 2 **data in -- in support of your settlement testimony; is**
 3 **that correct.**

4 A. Yes. I believe you're referring to Exhibit
 5 PJG 31?

6 **Q. Yeah. And I've also designated that as PJG**
 7 **35X, but yes. Do you have that in front of you?**

8 A. I have PJG 31. What was the second one,
 9 Mr. O'Neill?

10 **Q. It's the same document, just also designated**
 11 **as a cross --**

12 A. Oh, understood. Thanks. I do have that in
 13 front of me.

14 **Q. And the 35 X is really more for the record so**
 15 **we're clear.**

16 A. Understood.

17 **Q. If you go down to four lines up from the bottom**
 18 **there, there's a column for a road rather for**
 19 **Washington?**

20 A. Right.

21 **Q. And if you start from the landline only adults**
 22 **you get -- there's a 1.9 listed there, that's the**
 23 **percentage of Washingtonians who have only access to a**
 24 **landline; correct?**

25 A. Correct.

1 **Q. And the next column is 2.7 percent, and that's**
 2 **landline, mostly adults; correct?**
 3 A. Correct.
 4 **Q. And then the middle one is 6.3 percent which**
 5 **are individuals who are "dual users," which I take it**
 6 **means they use both with some frequency?**
 7 A. Yes.
 8 **Q. Okay. I had designated for you PJG 36XC. This**
 9 **is Mr. Webber's testimony. Do you have that?**
 10 A. I do.
 11 **Q. And if you turn to page 16 of that document,**
 12 **you will see --**
 13 COMMISSIONER RENDAHL: Excuse me. Counsel,
 14 what page number was that?
 15 MR. O'NEILL: Page 16 on the bottom right of
 16 Mr. Webber's testimony which is 36X.
 17 COMMISSIONER RENDAHL: Thank you.
 18 A. I'm on page 16, Mr. O'Neill.
 19 **Q. You'll see that Mr. Webber performed some**
 20 **calculations on the 2020 version of this survey**
 21 **estimating the numbers of adults who were in these**
 22 **categories. Do you see that?**
 23 A. Can you assist me with a line number or --
 24 **Q. Sure. If you look at 16, line 4 through**
 25 **line -- line 13.**

1 **mostly landline?**
 2 A. Again, subject to check, I'm with you.
 3 **Q. And that there were 379,555 Washingtonians that**
 4 **were dual users; correct?**
 5 COMMISSIONER RENDAHL: Mr. O'Neill, the end
 6 of your question dropped off. So what was the last
 7 question?
 8 **Q. It was: 379,555 Washingtonians who are dual**
 9 **use; correct?**
 10 A. That particular figure, is that on any of the
 11 lines 4 through 15 on page 16?
 12 **Q. No, no. So that's --**
 13 A. This is --
 14 **Q. -- the math --**
 15 A. Right.
 16 **Q. -- updated to the new --**
 17 A. Yeah.
 18 **Q. -- roughly -- go ahead.**
 19 A. Again, that math likely works out.
 20 THE REPORTER: Gentlemen, y'all are
 21 beginning to talk over each other a little bit. Would
 22 you be mindful of that, please. Thank you.
 23 MR. O'NEILL: That was the court reporter.
 24 Sorry.
 25

1 A. Apologies. I was on page 6-0 instead of 1-6.
 2 **Q. The problem and flaw of filing large testimony.**
 3 A. Yeah. I'm there on page 16, lines 4.
 4 **Q. So do you see where he did some calculations to**
 5 **try to estimate the size or number of Washingtonians**
 6 **that this survey reveals are dependent on land lines?**
 7 A. Yes.
 8 **Q. Now, you've provided updated numbers; correct?**
 9 **And if you look at the -- back to the exhibit that you**
 10 **provided, 1.9 is the percentage of Washingtonians in**
 11 **2022 who are landline only; correct?**
 12 A. That's correct, yes. From 2020 to 2022, that
 13 figure went down from 2.3 percent to 1.9, correct.
 14 **Q. And if you look at Mr. Webber's testimony,**
 15 **you'll see that there are as of 2022's census roughly**
 16 **6,024,689 adults in the state of Washington; correct?**
 17 A. I see that, yes.
 18 **Q. So it's just math.**
 19 **Would you agree with me that at one -- I**
 20 **mean, subject to check with a calculator later -- and**
 21 **I've used a calculator -- would you agree with me that**
 22 **this means that even in 2022, there were 114,469 adults**
 23 **that had only a landline in Washington state.**
 24 A. That's what the numbers would suggest.
 25 **Q. And that there were 162,666 adults that were**

1 BY MR. O'NEILL:
 2 **Q. If you add up the percentages of mostly**
 3 **landline and landline, it adds up to 4.6 percent;**
 4 **correct?**
 5 A. Yes.
 6 **Q. And that roughly squares with the 4 percent**
 7 **market share number that you've identified in your**
 8 **original testimony regarding the petition to be**
 9 **competitively classified; correct?**
 10 A. Are you referring to where I calculated what I
 11 believe to be CenturyLink's market share of voice
 12 connections in the state of Washington?
 13 **Q. Yes.**
 14 A. While those two numbers, you know, are
 15 fairly -- coincide fairly closely, that's not how I got
 16 there, but --
 17 **Q. Okay. Just a coincidence, then.**
 18 **Did you do any analysis to determine where**
 19 **these land lines -- landline only and landline mostly**
 20 **customers are concentrated in Washington?**
 21 A. I have not.
 22 **Q. Would you agree with me that it's likely that**
 23 **those landline only customers are generally going to be**
 24 **older? Older Washingtonians?**
 25 A. I believe that in some of the demographic data

1 that I've seen -- I believe it may have been -- Mr.
 2 Webber's testimony -- that that's, you know, certainly a
 3 preference for those 65 years and older.

4 **Q. And would you agree with me that it's also**
 5 **likely to be concentrated in rural Washington?**

6 A. If we're going to use the premise that age
 7 dictates, you know, adoption of wireless versus, you
 8 know, landline retention, I don't think we can suggest
 9 that the aged population of the state is entirely rural.
 10 They could be in core Seattle as well.

11 **Q. I wasn't inferring that there was a correlation**
 12 **between age and rural, I was just saying that there is a**
 13 **correlation between rural Washingtonians and more**
 14 **reliance on land lines; correct?**

15 A. Well, I'll accept your premise. Again, I
 16 haven't studied that and can't say with certainty that
 17 that is, in fact, the case, but --

18 MR. O'NEILL: Right. I'm now going to play
 19 Exhibit 38 X to your testimony. I have tested this with
 20 staff, so I hope this will work. You'll hear an audio
 21 presentation and I'm going to share screen so you'll
 22 also see a video as well. And then I have questions for
 23 you after I've played it. Okay? Let me know anybody if
 24 the -- if the technology doesn't work.
 25 (Video playing.)

1 location.

2 **Q. Do you know or can you quantify how much losing**
 3 **her ability to talk to family and friends would mean?**
 4 **Like what's the burden if we were to try to translate**
 5 **into a number so that we can compare it to CenturyLink's**
 6 **administrative burden?**

7 A. With apologies, I'm not following the question.
 8 Could you rephrase it a little bit, please?

9 **Q. Can you value her connection to her family and**
 10 **friends?**

11 A. Value her ability to communicate to family and
 12 friends?

13 **Q. Yeah.**

14 A. I -- I -- in my 30-plus years of doing this,
 15 I've never been tasked with coming up with that sort of
 16 a metric, so -- but, you know, obviously from her
 17 comments she makes, it is important, and I don't
 18 disagree with her.

19 **Q. Did you review the testimony of Mr. Brevitz's?**

20 A. Yes.

21 **Q. And you're aware that in response to informal**
 22 **data requests, staff has quantified the number of**
 23 **challenging -- consumer challenging locations that would**
 24 **be protected under the current definitions require UTC**
 25 **approval; correct?**

1 SPEAKER: This is Joy Margrav (phonetic).
 2 (Inaudible.)

3 SPEAKER: Yeah. I'm going to make this real
 4 short, but -- and I guess it's concerning Docket
 5 UT-240029. And I'm a citizen of rural Klickitat County,
 6 I'm 79 years old and living alone, and I've been paying
 7 my landline phone service to CenturyLink for 30 years.
 8 I don't have cell service at my residence. And if they
 9 don't -- if they drop my landline, what would I do in an
 10 emergency? And it would be very lonely without being
 11 able to talk to my family and friends. So please don't
 12 let CenturyLink take my landline away. Thank you very
 13 much.

14 (End of video playback.)

15 BY MR. O'NEILL:

16 **Q. As you sit here today, do you know whether**
 17 **Ms. Margrav exists in an area where there's a**
 18 **purple-shaded hex on some cell phone EDC data? I'm**
 19 **sorry, mobile wireless data?**

20 A. Yes.

21 **Q. You do know. Does she?**

22 A. I do.

23 **Q. Does she?**

24 A. She -- she does have commercial mobile radio
 25 service or cellular from as many as four carriers in her

1 A. I saw a number in Mr. Brevitz's testimony. I
 2 was unable to tie it back to staff analysis.

3 **Q. The number was 1,200. Do you have any reason**
 4 **to disagree that that's approximately the number of**
 5 **locations that's protected by this settlement proposal?**

6 A. As memory serves, I think it was specifically
 7 1,233.

8 **Q. I believe that's correct.**

9 A. And I think that was the number. I could --
 10 looking at the staffs' analysis, I couldn't quite get it
 11 back, so it's quite possible it's a typographical error
 12 in the testimony. But I don't have any reason to doubt
 13 that that number, you know, may be slightly -- the
 14 actual number could be slightly higher, could be
 15 slightly lower. But for the entirety of the state to
 16 have in the neighborhood of 1,000 challenging customer
 17 locations isn't surprising.

18 **Q. Does that -- or should that cause the**
 19 **commission any angst that there are several hundred**
 20 **thousand Washingtonians that rely on land lines and that**
 21 **this settlement would protect around 1,200 locations?**

22 A. I don't believe the commission should have
 23 angst because again, we've set up a very robust process
 24 to -- you know, that once the company and what I
 25 continue to believe to be an unlikely scenario

1 identifies location that, you know, ultimately, it will
 2 have to pass muster with the FCC and the 214
 3 discontinuance process.

4 But let's say everything in line in that was
 5 possible. The commission existence of any challenging
 6 customer locations in those areas trigger a number of
 7 things, one of which is, you know, seeking commission
 8 approval for that. And when we do that, we will be
 9 providing all of the information we have gathered to
 10 identify any potential customers in those discontinuance
 11 areas, and the commission at that juncture will
 12 certainly have the ability and authority to, you know,
 13 look into that to ascertain whether those customers are
 14 receiving adequate protection.

15 So I believe the safeguards that are in
 16 place within the constructs of the multiparty settlement
 17 should provide the commission with a comfort and
 18 assurance that, you know, any potential customers who
 19 may be discontinued will be cared for.

20 Throughout this entire process going back
 21 more than two years, so many -- almost every one of the
 22 stakeholders have, you know, put this forth as a primary
 23 concern of protection of customers who may have not have
 24 alternatives. CenturyLink has stepped through this
 25 process, staff as well, and have been very diligent to

1 yes, all those four carriers are in our area but to the
 2 best of my knowledge they don't work on the hill or
 3 wherever I live, we're going to create a ticket, we're
 4 going to dispatch a CenturyLink individual to go to
 5 those locations to make -- to ascertain that.

6 **Q. And if she disagrees, what's her remedy?**

7 A. If she disagrees with the --

8 **Q. Your assessment that a cell --**

9 A. Disagrees with the company's finding that cell
 10 service is available?

11 **Q. Correct.**

12 A. Again, on the notices she receives, her, you
 13 know, remedies will, you know, be that she's going to
 14 have access to public -- all of public counsel's contact
 15 information, and she can contact you and let us know
 16 CenturyLink has approached me, and we are -- I don't
 17 believe that I have any of these services here, they
 18 contend I do. And, you know, it's -- I'll take your
 19 phone call, we'll take, you know, anybody from your
 20 staff and say, you know, this is what -- help us
 21 understand.

22 **Q. And?**

23 A. Either I'll have that information or I won't.
 24 But if I dispatch a technician there to take a
 25 measurement of cell phone signal strength in that

1 make certain that those customers are properly looked at
 2 and cared for such that a discontinuance with absolutely
 3 no available alternatives within a set of parameters are
 4 taken care of.

5 **Q. Any time you design a process, what you're**
 6 **really talking about is allocating the risk of being**
 7 **wrong. What happens if we miss somebody? And in that**
 8 **context, how do you weigh Ms. Margrav's ability to speak**
 9 **with her family against your administrative burdens?**

10 A. Again, in her testimony at the public hearing,
 11 Ms. Margrav mentioned she doesn't have cell service at
 12 her location. My personal belief, what she meant by
 13 that is, she doesn't subscribe to it.

14 **Q. Okay.**

15 A. And so if -- you know, let's use this as an
 16 extremely unlikely hypothetical scenario that her area
 17 in rural Klickitat County where she lives was a
 18 consideration. And we approached her through telephone
 19 call, through e-mail, if she has it, through notice in
 20 the mail and said, you know, CenturyLink is considering
 21 this. We believe that you have AT&T wireless, we
 22 believe you have T-Mobile, we believe you have U.S.
 23 Cellular, and we believe you have Verizon at your
 24 location. If we're wrong, please let us know.

25 And if she reached back out to us and said

1 location, I'll be able to provide that information to
 2 you and say, you know, here's the quantitative findings
 3 that we did from some tests that we'll all agree upon.

4 JUDGE HOWARD: And Mr. O'Neill, if I could
 5 jump in. We're just a few minutes over your estimated
 6 cross time for this witness. Do you believe you'd be
 7 able to finish in the next minute or two? Do you have
 8 some final questions?

9 MR. O'NEILL: I have one last line of
 10 questions. Five minutes, max.

11 JUDGE HOWARD: Proceed.

12 BY MR. O'NEILL:

13 **Q. I just want to turn now to the other provision**
 14 **of the settlement that is pretty significant which is**
 15 **CenturyLink's agreement to provide automatic credits for**
 16 **outages. And I want to confirm that is with disregard**
 17 **to either force majeure or third-party theft incidents;**
 18 **is that correct?**

19 A. That's correct. When -- in a multiparty
 20 settlement agreement we have said that on a going
 21 forward basis, those credits will be afforded in both of
 22 those scenarios.

23 **Q. And that's for people who file trouble tickets**
 24 **in an -- where there's been an outage, they'll get an**
 25 **automatic credit?**

1 A. When they file a trouble ticket, correct.
 2 **Q. And the idea behind this is that it will**
 3 **incentivize the company by better customer service;**
 4 **correct?**
 5 A. By better customer service, if you mean, you
 6 know, rectification of, you know, if I have -- a van
 7 will come and take a 600 pair cable to get it spliced
 8 back in more quickly or, you know, forbid, you know, we
 9 have a wildlife like we did in, say, Madison Lake last
 10 summer, to get those facilities replaced more swiftly.
 11 **Q. Have you quantified in the last year how many**
 12 **incidents would have -- would have qualified for this**
 13 **provision or whether --**
 14 A. To some extent, yes.
 15 **Q. What -- how many in the -- what period of time**
 16 **did you review?**
 17 A. The entirety of 12 months of 2023.
 18 **Q. In 2023 how many incidents were there where**
 19 **this would apply?**
 20 A. The -- we took the -- I would have to back into
 21 the math. I can tell you that the credits based on a
 22 day's outage beyond the 24-hour threshold being 1/30th
 23 of the monthly rate which throughout 2023 was in the \$30
 24 range, so it would be about a dollar a day. It would
 25 have -- the additional credits that would have been

1 bit of a longer cross. If the other parties don't
 2 object, I'm fine with taking a break now.
 3 MR. O'NEILL: From my part, Your Honor, I
 4 would prefer a break now, if I could.
 5 MR. ROBERSON: Staff has no objection.
 6 JUDGE HOWARD: All right. Let's go off --
 7 we're going to take a break, we'll reconvene at 11:05 --
 8 wait, I'm sorry, 10:55 a.m. And we are off the record.
 9 (A break was taken from 10:40 to 10:56 a.m.)
 10 JUDGE HOWARD: All right. It is 10:56 a.m.
 11 Let's be back on the record. And we left off after the
 12 cross-examination of Mr. Gose, and we were going to turn
 13 to the redirect by the company.
 14 MR. SHERR: Thank you, Your Honor. I should
 15 be very brief.
 16 REDIRECT EXAMINATION
 17 BY MR. SHERR:
 18 **Q. Mr. Gose, do you recall at the beginning of his**
 19 **examination, Mr. O'Neill asked you whether the**
 20 **commission faced -- is faced with a choice of either**
 21 **decreasing regulation or -- or protecting customers?**
 22 A. I apologize. Mr. Sherr, I can't hear you.
 23 **Q. Okay. Thank you. Can you hear me better now?**
 24 A. Much better. Thank you.
 25 **Q. Okay. Do you recall at the beginning of his**

1 returned to customers would have been in the \$150,000
 2 range. I believe that on a going forward basis because
 3 of three things adding in force majeure situations
 4 including threats for theft, vandalism incidents, and
 5 also, perhaps most importantly, in the multiparty
 6 settlement agreement, we have agreed to on a quarterly
 7 basis, once every three months, bringing a bill message
 8 from the customer saying, hey, if you've had an outage,
 9 you are entitled to a credit. Please contact this
 10 number and, you know, we will look at your ticket and
 11 automatically apply that credit. So when you add in
 12 force majeure, theft, vandalism, and then more frequent
 13 notification to the customer, I think that number is
 14 likely to increase.
 15 **Q. By about 150 a year?**
 16 A. Yes. About 150, correct.
 17 MR. O'NEILL: Thank you. That's all the
 18 questions I have.
 19 JUDGE HOWARD: All right. Any redirect from
 20 the company?
 21 MR. SHERR: Yes. Your Honor, would it be
 22 possible to take a short break? Is that all right, or
 23 would you like to do that after redirect?
 24 JUDGE HOWARD: That's -- if -- I was
 25 preferring to stop after this witness, but that was a

1 **examination, Mr. O'Neill asked you if the commission in**
 2 **this proceeding is faced with a choice of decreasing**
 3 **regulation or protecting customers?**
 4 A. Yes, I do.
 5 **Q. Do you believe those two things are mutually**
 6 **exclusive?**
 7 A. No. I think the -- I believe that the
 8 multiparty settlement agreement is a very fair
 9 compromise and balance between the two.
 10 **Q. Mr. O'Neill also asked you a question -- and I**
 11 **hope it's right -- whether the company has explored**
 12 **replacing copper in the event of a road move with**
 13 **fiber optics instead. Do you recall that question?**
 14 A. I do.
 15 **Q. Is it -- would it be less expensive for the**
 16 **company to replace a random section of copper with**
 17 **fiber?**
 18 A. It all depends on the circumstances. The fiber
 19 material may be less expensive than copper but it
 20 requires more electronics on the end. But that's not
 21 the area of the company in which I serve. So to
 22 precisely answer, you would need to involve planning,
 23 engineering, and a number of others. But it's likely
 24 that it would be, you know, as much if not more.
 25 **Q. Okay. Near the end of his cross-examination,**

1 **Mr. O'Neill was walking you through the four steps that**
 2 **we would -- that the company would engage with in order**
 3 **to process a potentially hypothetical discontinuance.**
 4 **Do you recognize that?**

5 A. Yes.

6 **Q. And it started on page 13 of your Exhibit PJG**
 7 **30T?**

8 A. Yes, I'm there.

9 **Q. Mr. O'Neill asked you about Step 1 and whether**
 10 **you would expect that to take longer than the amount of**
 11 **time it took you to put together the diagrams that are**
 12 **-- begin on page 17. Do you recall that?**

13 A. I do.

14 **Q. Is Step 1 the equivalent to the diagrams that**
 15 **you placed in this -- in your testimony?**

16 A. Certainly not. The diagram that I placed was
 17 just one very hypothetical scenario that I envisioned
 18 and tried to model just for an example of how the
 19 process might work. But in reality for Step 1, the
 20 steps that we have to go through, all the different
 21 business units, finance, planning, engineering would all
 22 have to come together, bring multiple different systems
 23 and processes to construct that analysis, and it would
 24 take a very -- quite a long amount of time.

25 **Q. Okay. Because what is the analysis in Step 1**

1 **that we would be doing in that scenario?**

2 A. Just to look to see, you know, what are the,
 3 you know, business ramifications in terms of
 4 utilization, maintenance, repair, anything that has to
 5 occur in that particular area, and then ultimately the
 6 number of subscribers and certainly the -- ultimately,
 7 the alternatives that may or may not be available to
 8 them in that area.

9 **Q. Okay. Could you take a look at Exhibit PJG 31,**
 10 **which is the CDC survey. It says Early Release Program**
 11 **at the top?**

12 A. 31 or 32?

13 **Q. Excuse me. 31. 31?**

14 A. 31. Okay.

15 **Q. Do you have that?**

16 A. Yes.

17 **Q. Okay. Do you recall Mr. O'Neill asked you a**
 18 **series of questions about the column entitled Landline**
 19 **Only Adults?**

20 A. Yes, I do.

21 **Q. Okay. And you have that in front of you now?**

22 A. I do.

23 **Q. Mr. O'Neill used a variety of descriptors. He**
 24 **described -- and again, just to reorient, the CDC data**
 25 **which came out just recently shows 1.9 percent in the**

1 **Landline Only Adults column for Washington; correct?**

2 A. Correct.

3 **Q. And Mr. O'Neill referred to those individuals**
 4 **in three different ways. He said they are dependent on**
 5 **landlines, they have access -- they only have access to**
 6 **landlines, and that they have only landlines. Is it**
 7 **your understanding that this report, that 1.9 percent of**
 8 **Washingtonians that are listed in landline only, that**
 9 **that is the only technology for telecommunications that**
 10 **they have access to?**

11 A. No. I believe that that 1.9 percent is more
 12 likely reflective of just the customer taste and
 13 preferences and how they choose to consume their
 14 telecommunication services.

15 **Q. Okay. Is the 1.9 percent a identification of**
 16 **available services at locations or of customer use?**

17 A. It's not indicative of what's available there
 18 but just again how the consumer chooses to purchase and
 19 utilize telecommunication services.

20 MR. SHERR: Thank you. I have no further
 21 questions, Your Honor.

22 JUDGE HOWARD: All right. Thank you. Do we
 23 have any questions from the bench for this witness?
 24 Please proceed.

25 COMMISSIONER DANNER: All right. Thank you.

1 Good morning, Mr. Gose. Appreciate you being here.

2 EXAMINATION

3 BY COMMISSIONER DANNER:

4 **Q. I wanted to ask you: We talked a little bit**
 5 **about federal funding, and you gave the scenario where**
 6 **other carriers provide for state funding, BEAD funding,**
 7 **others. But can you tell me: Has CenturyLink, Lumen,**
 8 **or any of the companies, have they been awarded federal**
 9 **funding such as RDOF funding in the past for serving**
 10 **Washington service territories?**

11 A. Yes.

12 **Q. Lumen has. And can you tell me how much and**
 13 **over what period of time?**

14 A. So the RDOF program is a ten-year program, and
 15 they awarded the state of Washington, I believe -- this
 16 is subject to check -- about 42 million dollars over
 17 that time period to serve I think around -- a little
 18 more than 14,000 customer locations.

19 **Q. Okay. And you can tell me specifically: Is**
 20 **that serving existing locations, or is that reaching out**
 21 **to new locations? How has that money been used just**
 22 **generally speaking?**

23 A. It could be to bring broadband services to
 24 either new locations or existing locations that just
 25 have nothing but, you know, Pop's Copper Service

1 available at that location.

2 **Q. Okay. So -- and is it required that you reach**
 3 **out to rural areas, or could you focus on rural -- or on**
 4 **urban areas or highly dense areas when you're making**
 5 **those investments?**

6 A. Under the RDOF program, it looks at an unserved
 7 and underserved markets which are primarily in more
 8 rural locations.

9 **Q. Okay. So Ms. Margrav, for example, could be in**
 10 **an area where you would be reaching out and expanding**
 11 **your services and improving your service?**

12 A. Quite frankly, I really don't know. And I say
 13 that because when I look at FCC's broadband data
 14 collection map, she has some fixed wireless broadband
 15 alternatives at her location at 35 down and 7 up. So I
 16 don't even know if that's one of our RDOF locations
 17 today.

18 **Q. Okay. Are there other federal programs that**
 19 **you have taken money for serving Washington State?**

20 A. Looking back perspective, there was the Connect
 21 America Fund II program and then also there's been some
 22 funding from the American Rescue Plan Act, or the ARPA
 23 grants as well.

24 **Q. Okay. Are there any that are focused on tribal**
 25 **areas?**

1 A. I'm sorry, I didn't catch the --

2 **Q. Tribal. Tribal areas. Are there any programs**
 3 **that are specific to tribal areas?**

4 A. There are, and CenturyLink, even some of our
 5 RDOF areas spill over into tribal areas.

6 **Q. Okay. And BEAD funding, are you looking at**
 7 **applying for BEAD funding or any other state funding?**

8 A. Yes. CenturyLink is in the process today of
 9 going very thoroughly through the Washington Broadband
 10 Office's Volume 2 and completely understanding the rules
 11 and procedures for any sub grantees under that. But the
 12 company certainly has that under strong consideration at
 13 the moment.

14 **Q. Okay. Consideration about whether to apply?**

15 A. Correct.

16 **Q. Okay. And you said western broadband office?**

17 A. No. The Washington Broadband Office.

18 **Q. Washington Broadband Office. Okay. Thank you.**
 19 **I misheard that. All right.**

20 **So you're relying on the FCC's maps. Can**
 21 **you tell me: Are you confident that those maps are**
 22 **accurate.**

23 A. I have a fairly high degree of confidence
 24 because those maps are updated every six months and
 25 subject to numerous challenges. So when a carrier

1 submits the data and somebody doesn't believe that there
 2 are services available and either in the modality or the
 3 speeds, they can contact the FCC's broadband mapping
 4 team and let me them know. So those maps do become more
 5 and more accurate over time.

6 But you raise a very good point,
 7 Commissioner Danner, because when I look at those maps,
 8 say, for instance, I get in a very unlikely scenario
 9 that if we were go out and consider discontinuance and
 10 it shows somebody like Ms. Margrav has those services.
 11 There has been some conjecture that, you know, perhaps
 12 wireless coverage or mobile or fixed wireless, will have
 13 mobile or fixed, might be to some extent overstated.
 14 And so that's why we want to go through that validation
 15 process with the customer saying, do you believe you
 16 have service here? And if they say, no, we don't, it's
 17 a pretty easy task to dispatch somebody with the proper
 18 testing equipment to go and validate that.

19 **Q. Well, thank you.**

20 **So you talked about -- in your hypothetical**
 21 **about moving, you know, a road and then having four**
 22 **customers who are affected. But under this, I mean, you**
 23 **could decide just as a business decision that you don't**
 24 **want to serve the western part of county because it's**
 25 **too far to drive for the trucks to make repairs,**

1 **whatever, it's just not in your business case. You**
 2 **could make that decision and say we're not going to**
 3 **serve this area anymore; is that correct?**

4 A. I would agree to the extent that there are
 5 viable alternatives in that area. But in the western
 6 part of the county, if CenturyLink and commercial
 7 satellite services are the only available alternatives,
 8 I cannot.

9 **Q. But if they are there, you could make that**
 10 **business decision and say, we're just out of here, if**
 11 **you feel there are viable alternatives?**

12 A. If there are, you know, other available
 13 alternatives that meet the parameters that are the
 14 multiparty settlements in terms of speed and price, it's
 15 a possibility.

16 **Q. Okay. So it's just -- you would have the**
 17 **authority under this agreement, if we approve it, that**
 18 **you could do that. So the hypothetical of four people**
 19 **is one thing but making a business decision that is not**
 20 **based on outside forces but just your own business**
 21 **calculation, you could decide that --**

22 A. Again, I would reiterate, though, that that
 23 authority also has to pass muster with the FCC through
 24 their 214 discontinuance process as well.

25 **Q. Understood. But assuming that was a decision,**

1 **you could pursue it?**
 2 A. From my understanding -- though it's not the
 3 venue in which I serve -- the FCC is very, very stingy
 4 with that process.
 5 **Q. Yes. And FCC's change over time too, just**
 6 **like --**
 7 A. Yes.
 8 **Q. So I just want -- let's go back to the example**
 9 **of Ms. Margrav. She's 79 years old, she lives in a**
 10 **rural area of a county, and you tell her we're going to**
 11 **discontinue -- this is a hypothetical -- and you say**
 12 **you've got four other providers. Is it up to her to**
 13 **ascertain whether any of those four are viable so -- I**
 14 **mean, what is the process by -- if you put yourself in**
 15 **her shoes, how do you go about this? She's got to call**
 16 **these four providers on her landline, she has to call**
 17 **these four providers, and they all say, sure, we can.**
 18 **How does she test that they actually have service in her**
 19 **area as opposed to her having to get in her car and**
 20 **drive down to the city center to get cell coverage? I**
 21 **mean, how does she test it out or how do you help her?**
 22 **I mean, she's 79, but I -- I have been contacted by**
 23 **people in their 90s. And I just want to know how this**
 24 **works, because it seems like what you're doing is,**
 25 **you're saying you have to do all this stuff as opposed**

1 all the way down to the -- staff has asked us and we
 2 agree, yeah, I think it's important because we can get
 3 even more granular if we have the GPS coordinates for
 4 that location. So we would collect that.
 5 And then for all of wireless carriers in her
 6 location, which again the FCC's BDC maps show that there
 7 are four with as much as, you know, fixed wireless
 8 available 35 up and 7 down -- I'm sorry 35 down and
 9 7 up. We would gather the information in terms of who
 10 is there, what plans they offer, how much it costs, and
 11 when we provide her that information and reaching out
 12 via the notice, all that information will be there
 13 including how to contact the customer. To your point,
 14 it's a fair one. Are we asking her to do all that work?
 15 And so for any, you know, kind of elderly
 16 customers like that, we will certainly be more than
 17 willing to provide assistance to them to kind of help
 18 them make that decision. Beyond just that, you know,
 19 personal assistance, the multiparty settlement agreement
 20 also affords her financial in a number circumstances as
 21 well.
 22 **Q. Right. But my concern is that you are making**
 23 **her doing some -- making her do some heavy lifting. She**
 24 **has got to contact these other companies, she has to**
 25 **determine what plan she wants and -- believe me, my**

1 **to we will help you do all this stuff. So I just want**
 2 **you to put yourself in her shoes and tell me how this**
 3 **process works.**
 4 A. That's a very fair and good question. And
 5 certainly, we want to make certain that those customers
 6 are cared for should that, again, unlikely situation
 7 ever arise.
 8 But can I ask you to turn to page 21 of my
 9 testimony?
 10 **Q. This is your --**
 11 A. 30 T.
 12 **Q. You said page 25?**
 13 A. Yes.
 14 **Q. I'm there.**
 15 A. So if you see Table II there, so prior to even
 16 contacting, Ms. Margrav, we're going to collect --
 17 **Q. I'm sorry, you said this is 30 T, page 25?**
 18 A. Page 21.
 19 **Q. Oh, I'm sorry.**
 20 A. My apologies. I'm not sitting close enough to
 21 the microphone.
 22 **Q. All right. So there I am, Table II.**
 23 A. So in terms of instead of location 1 being in
 24 the Yacolt area, it would be the in the rural Klickitat
 25 County area. And we would have Ms. Margrav's address,

1 **father didn't know how to use the television remote, and**
 2 **I just -- you know, I'm trying to figure out how to --**
 3 **if we're going to approve this, that we are not going to**
 4 **be traumatizing a lot of seniors who really are not**
 5 **going to be able to negotiate this because they've been**
 6 **using their landline for the last 80 years.**
 7 **And, you know, so we -- you're going to have**
 8 **to introduce them to a cell phone, you're going to have**
 9 **to -- or I should say one is going to have to introduce**
 10 **a person to a cell phone, this is how it works, this is**
 11 **the plan -- all you're interested in is voice, what is**
 12 **the best plan for you. How do you provide that kind of**
 13 **advice to a senior, or is that something that is going**
 14 **to fall on the commission or to local service agencies?**
 15 A. I believe that that kind of assistance, you
 16 know, if we're asking for this, there's no reason why,
 17 you know, CenturyLink couldn't provide some amount of
 18 assistance to the customer. But I completely agree with
 19 you that, yeah, change, technological change especially
 20 for older citizens can be difficult.
 21 Just to provide a little bit of color,
 22 because I think it's kind of instructive is, I started
 23 my career in 1989 at the Missouri Public Service
 24 Commission. At that time, we were kind of at a
 25 crossroads like we are today because we were trying to

1 get all the electromechanical switches out of the
 2 network. And one of the byproducts of that was that the
 3 customers were going to lose their party line service.
 4 And many -- and especially in rural areas like where
 5 Ms. Margrav lives, cable TV wasn't very ubiquitous at
 6 that time. If you had internet at all, it was, you
 7 know, 1,200 bottom and dial up modem or less. And
 8 customers did not want to lose their party lines simply
 9 because of the entertainment value that it provided them
 10 to, you know, keep tabs on their neighbors' lives. And
 11 so I understand -- completely understand Ms. Margrav's
 12 position.

13 But change is inevitable, and so I'm not
 14 saying that it absolutely has to be dictated or forced
 15 upon her, and if comes to that we can provide a
 16 reasonable level of care and compassion to help her make
 17 that transition.

18 **Q. So is that something that you would**
 19 **affirmatively offer her, or is it something that she**
 20 **would have to know and to ask for. You say you're**
 21 **willing to, which is different than we will reach out**
 22 **and help you.**

23 A. So I don't have the authority as I sit here
 24 today to tell you I can commit the company to that, but
 25 I can advocate very strongly for it. And again, because

1 **help them with that so that Ms. Margrav is not basically**
 2 **in a panic because she has never used a cell phone and**
 3 **now she's going to be told sink or swim.**

4 **So that's what I'm looking for. And what I**
 5 **hear is, you don't have authority right now to commit to**
 6 **something like that but certainly it does concern me**
 7 **because this is a vulnerable population that is -- that**
 8 **there are a lot of older Americans who will be affected**
 9 **by a decision to discontinue service. And so I -- I**
 10 **need to be thinking about how we deal with those. And**
 11 **so that's why I was looking for your thoughts on that.**

12 A. As I think about it with respect to, you know,
 13 some of the other components of this multiparty
 14 settlement, let's take, for instance, the automatic
 15 credit that we'll be agreeing to. As part of the
 16 affects of it, that's a fairly heavy lift with respect
 17 to all the IT back office programming and training of
 18 the customer care agents to make certain that those
 19 tickets get established and all that happens correctly,
 20 to set up a hotline to assist that vulnerable population
 21 with this kind of a transition, I see that as a much,
 22 much easier task. And I would personally be glad to
 23 advocate for that within the company. Again, I can't
 24 commit to it, but would be glad to.

25 **Q. Okay. Lastly, I wanted to ask you if you have**

1 I see these type of scenarios as very limited in nature,
 2 and quite frankly pretty unlikely. And, you know,
 3 this --

4 **Q. Well --**

5 A. -- discontinuance portion has kind of become
 6 front and center a little bit in this process simply
 7 because we've been socializing this one particular
 8 aspect of it for several years now across a number of
 9 different stakeholders and --

10 **Q. And I understand that, you know, change is**
 11 **inevitable, it does happen, but it also disrupts**
 12 **people's lives, you know. And this is a little**
 13 **different than -- you know, I remember when I had to**
 14 **make the life changing decision whether I was going to**
 15 **use Word Perfect or WordStar, you know, and I know this**
 16 **kind of stuff comes up. But here we are talking about**
 17 **basically a vulnerable population that you're currently**
 18 **servicing, and we've got to figure out if we're going to**
 19 **approve this, I mean, we've got -- we're giving you the**
 20 **authority that you say is unlikely, but I think in terms**
 21 **of worse case scenarios, you could say, okay, we want to**
 22 **get out of this county or get out of this portion of the**
 23 **county, and there's going to be these people who are**
 24 **older Americans who are going to be asked to take on a**
 25 **technology that they're not familiar with. How do we**

1 **any customers in Washington that are on a price for life**
 2 **program?**

3 A. I haven't studied that, but it wouldn't
 4 surprise me.

5 **Q. Okay. That is a program where you have**
 6 **guaranteed them a price for life --**

7 A. Correct.

8 **Q. -- and so of an assumption below that would be**
 9 **that they would have service so that, you know, it would**
 10 **be service for life and just how you would deal with a**
 11 **price for life customer if you're going to abandon the**
 12 **geographic area in which that person resides? So maybe**
 13 **that will be a bench request.**

14 A. That's fair enough, because I don't have the
 15 information to respond. Although I want to, I just
 16 don't have that information today. I look forward to
 17 it.

18 COMMISSIONER DANNER: Okay. Thank you very
 19 much. All right. That's all the questions I have for
 20 now. I may have some in a moment.

21 COMMISSIONER RENDAHL: I'll say I have quite
 22 a number of questions, but I will try to focus on that
 23 that can't be asked in a bench request.
 24
 25

1 EXAMINATION
 2 BY COMMISSIONER RENDAHL:
 3 **Q. But first, in your -- in the cross-examination**
 4 **by Mr. O'Neill, in this question about how many road**
 5 **moves there are, you said you didn't know how many. But**
 6 **in terms of that, is it the CenturyLink companies that**
 7 **could potentially put in fiber, that was a question he**
 8 **had. Would it be the CenturyLink companies that are**
 9 **putting the fiber or would it be the Lumen wholesale**
 10 **nonregulated company that it would be likely to be**
 11 **putting in fiber?**

12 A. It could be both. Again in terms of that
 13 decision, though, how engineering and planning would
 14 construct that and connect it to the various portions,
 15 Commissioner Rendahl, I just don't know.

16 **Q. But it is possible is could be the unregulated**
 17 **entity that's putting in the fiber?**

18 A. It's certainly a possibility.

19 **Q. Okay. And the question about the various steps**
 20 **in the discontinuance process in your conversation about**
 21 **Step 3, one of those options -- you know, the company**
 22 **says they will make a call, it won't a robo-call, it**
 23 **occurred to me that we've had some testimony in this**
 24 **proceeding about folks being out of service for quite**
 25 **some time and not being able to get service. If that**

1 from the bench, we will certainly do a good job of
 2 getting you an answer.

3 **Q. Okay. In a bench request. Thank you.**

4 **And also in your responses to questions from**
 5 **Mr. O'Neill, you said you couldn't really describe the**
 6 **214 process because you're not a lawyer. But then in**
 7 **another response, you said that there's a rigorous 214**
 8 **process. So if you can't describe the criteria, how can**
 9 **you confirm that's a rigorous process?**

10 A. Fair question.

11 So I've heard our federal attorneys describe
 12 how getting a 214 process or application through the
 13 commission is a, you know, very kind of uphill task.

14 **Q. Okay. And moving to -- just in general, and I**
 15 **don't have a specific area, and so if I need to I will**
 16 **form this into a bench question.**

17 **But in the discontinuance process, those**
 18 **four steps, there's a reference both to, you know, in**
 19 **reference to a CCL customer -- omitting a customer or an**
 20 **area. And I'm confused about whether in particular if**
 21 **there's a dispute and that dispute is upheld about a**
 22 **customer's availability of alternative, CenturyLink will**
 23 **then consider the customer or the area a CCL?**

24 A. It could be both. So if a customer says I
 25 don't, we studied and we looked and we believe there was

1 **customer is one of those folks that has significant**
 2 **service quality issues and is not connected at the**
 3 **moment because CenturyLink has not fixed their service,**
 4 **how will you make sure you contact that customer in**
 5 **addition to a letter?**

6 A. So there was the letter, there was the call,
 7 and then was also the --

8 **Q. E-mail?**

9 A. -- e-mail. Potential e-mail.

10 **Q. But presumably if they don't have voice, they**
 11 **don't have e-mail, either. So how would you make sure**
 12 **in the event of those customers, you would actually**
 13 **contact them?**

14 A. So as I've mentioned before, number one, I
 15 state the likelihood of this as very limited and
 16 unlikely; secondly, in terms of the numbers, I can't
 17 imagine that they would be, you know, substantial. So
 18 and in that instance, if we reached out and you're
 19 unable to leave a voicemail, this isn't anything I've
 20 previously contemplated before, but we could, you know,
 21 certainly come up with possibly a fourth avenue of a
 22 technician call or something of that nature.

23 So if I could, you know -- because I don't
 24 have the authority to commit us to that, if, you know,
 25 you could, you know, submit that question in a request

1 an alternative at that location, we provided our
 2 information, and the council or the commission took a
 3 look at it and said, you know, we don't believe it and
 4 there was some ultimate decision that this customer is a
 5 CCL, we have a couple choices. Either we can remove the
 6 entire discontinuance request at that location or just
 7 remove that particular customer location and proceed
 8 with whatever might be left in the area.

9 **Q. Okay. So turning to the service credit portion**
 10 **of the settlement, and that would be Provision 8 of the**
 11 **settlement. Does the statement in Subsection 12 that**
 12 **references -- I'm looking for it right now -- in lieu of**
 13 **commission penalties associated with a failure to apply**
 14 **or not apply the correct credit amount, does that**
 15 **restrict the commission's ability to impose penalties in**
 16 **this specific scenario?**

17 A. It's my understanding that yes, that if for
 18 whatever reason CenturyLink didn't apply the credits
 19 accurately, that we would go back, and once that's
 20 identified apply twice the credit for the customer in
 21 lieu of the commission's enforcement authority there.

22 **Q. So that provision actually restricts -- is**
 23 **intended to restrict the commission's enforcement**
 24 **authority and preclude the commission from taking any**
 25 **action based on those service quality issues completely.**

1 **It's a complete preclusion of any action the commission**
 2 **might take about the company's -- the way the company is**
 3 **addressing the service quality?**

4 A. I think the -- that component was designed to
 5 say, you know, if I -- inadvertently the system does
 6 make a mistake and somebody -- if, say the -- just for
 7 the sake of easy math, the monthly rate is \$30 and they
 8 owe the customer \$2 worth of credit and the system has
 9 some kind of a malfunction and they don't get their \$2
 10 credit, it's designed to say, okay, we regret that
 11 happened, here's \$4 instead of the commission coming
 12 back for that one particular little misstep and fining
 13 up to \$1,000 for that.

14 **Q. So in that case -- and I think you referenced**
 15 **in your response to Mr. O'Neill's questions that for a**
 16 **months' worth of being out of service, that could be \$30**
 17 **that the company might pay for that particular customer;**
 18 **is that correct?**

19 A. Correct.

20 **Q. So under the commission's traditional**
 21 **enforcement authority, we can either -- as you said,**
 22 **there's penalty assessments for a \$100 a day --**

23 A. Correct.

24 **Q. -- or \$1,000 a day if we file a complaint. And**
 25 **so \$30 is significantly less than either \$100 or \$1,000.**

1 **So you said \$360 for three months. How much**
 2 **would a technician cost to send out per visit, if you**
 3 **know?**

4 A. I -- I don't have, like, a loaded hourly labor
 5 rate study available to me as I sit here. But, you
 6 know, 50 to \$100. I -- that's conjecture on my part.

7 **Q. Okay. And then depending on the cost of**
 8 **replacing the copper, that could be significantly more?**

9 A. Agreed.

10 **Q. So there is a calculus that the company makes**
 11 **in terms of not fixing a customer's service, correct, if**
 12 **we're just looking at the numbers, not the intent but**
 13 **just the numbers?**

14 A. I would think there could be. I don't know
 15 if -- again, it's not there, the company wants to serve,
 16 Commissioner Rendahl, so I don't know if that calculus
 17 was ever made, but could be.

18 **Q. Okay. And one last question and then I will**
 19 **turn it to my colleague.**

20 **There is -- in the provision of No. 7 of the**
 21 **Attachment A, the provisions of the agreement, it talks**
 22 **about: "The provision does not modify or restrict**
 23 **CenturyLink's ability to enter into individual contracts**
 24 **for service that specify rates other than statewide**
 25 **average rates." Now I interpret that from my years of**

1 **What incentive does that penalty provide to the company**
 2 **to actually fix the customer's service? And we heard**
 3 **testimony in the public comment hearing about customers**
 4 **being out for months. So what is the incentive -- it**
 5 **may address the enforcement issue, but what incentive**
 6 **does that provide to the company to actually correct the**
 7 **service?**

8 A. It's -- in those instances, hypothetically,
 9 let's say that, you know, I hope this would never
 10 happen. But a customer was out for three months, would
 11 be \$180 of service credit. And if the system
 12 malfunctioned and they didn't get that accurately, that
 13 \$180 would double to 360. That's a fairly, you know,
 14 substantial financial penalty to the company for its
 15 system working inaccurately. And I think that in my
 16 mind, that's a very good incentive for the company to
 17 address that situation.

18 **Q. So would that amount -- I'm comparing it to the**
 19 **cost of sending a technician out. Is it going to cover**
 20 **the cost -- is it going to address, insense, not sending**
 21 **a technician out or is it going to actually insense the**
 22 **cost of getting the work done on the location?**

23 A. I -- can I ask you to rephrase that? I
 24 apologize.

25 **Q. Sure.**

1 **having done telecom work to refer to commercial**
 2 **services, when you would enter into an individual**
 3 **contract. Is that a correct assessment.**

4 A. Yes. And that would likely be more
 5 relationship to flat-rated business lines. But you
 6 might enter into individual case basis contact for a
 7 term agreement or something of that nature.

8 **Q. Does the company ever enter into the individual**
 9 **contracts with residential or 1FR customers?**

10 A. Not to my knowledge.

11 MS. RENDAHL: Okay. Thank you.

12 COMMISSIONER DOUMIT: Thank you. And
 13 Mr. Robinson O'Neill and my fellow commissioners asked
 14 many of the questions, but I have a few general ones,
 15 Mr. Gose, if I might.

16 EXAMINATION

17 BY COMMISSIONER DOUMIT:

18 **Q. So would you agree that the commission, we**
 19 **stand in the place of the market to the extent that**
 20 **there's no competition; is that right?**

21 A. I'm not hearing you.

22 **Q. I said: Would you concur that this commission**
 23 **stands in the place of the market in terms of regulating**
 24 **monopoly? Where there's no competition, we stand in the**
 25 **place of what would be competition; is that correct?**

1 A. That's correct. If I had, you know, 60 or
2 70 percent of the grid connection to the state of
3 Washington instead of less than 4, I would definitely
4 agree with that.

5 **Q. And even if -- even if you -- in this -- to my**
6 **knowledge this settlement agreement doesn't excuse you**
7 **from carrier of last resort obligation in places in**
8 **which you are the singular carrier where there's no**
9 **competition, is that your -- is that correct?**

10 A. I believe that's in the statute or the rules,
11 and so I agree with you, right.

12 **Q. So we're here in part to determine whether it's**
13 **in the public interest to agree with the settlement in**
14 **terms of how it developed a process for determining**
15 **where competition exists and where it doesn't exist --**

16 A. Agreed.

17 **Q. -- is that right? Okay.**

18 **So when -- public counsel's question, you**
19 **testified on page 25 of your settlement testimony in**
20 **relation to -- you can go there if you'd like. And I'll**
21 **paraphrase your -- what I think you said in response to**
22 **the question. Okay. Essentially that, look, if -- it**
23 **doesn't make capital sense for us -- we don't have our**
24 **urban base to subsidize, you know, ourselves in these,**
25 **you know, rural areas necessarily, so we -- it doesn't**

1 like this multiparty settlement or some other form
2 occurs, those areas where we are -- have a service
3 obligation, we will attend to.

4 I think it's important to realize, though,
5 that -- several folks have mentioned it today -- that,
6 you know, the state of Washington is going to see
7 1.75 billion dollars over the next six to ten years.
8 And whether or not that comes from, you know, incumbent
9 provider, it goes to new or current incumbent providers,
10 new providers, boards, public utility districts, rural
11 electric cooperatives, there -- it can be substantial
12 opportunity for additional services and broadband and
13 faster deployment of speeds to these rural areas the
14 like of which we've never seen before. And this is, you
15 know, perhaps a once in a lifetime, you know,
16 opportunity of that amount of capital infusion into the
17 state.

18 **Q. Well I hope that occurs, because as I'm sitting**
19 **here, you know, Commissioner Rendahl went through a very**
20 **high level cost benefit exercise into the credits versus**
21 **money spent, \$360 doesn't impress me as a penalty that**
22 **could sort of push the company to spend a great deal**
23 **more than that in terms of the capital that it needs to**
24 **spend in these areas. That's kind of what -- that was**
25 **comment.**

1 **make economic sense to spend capital to sort of, you**
2 **know, enhance those few customers. But in the case of**
3 **what we just determined that where a few customers who**
4 **don't otherwise have -- a competitive proposition exist,**
5 **you will have to spend the capital. I think you**
6 **testified if those are the -- if we're the only game in**
7 **town -- those are my words -- then yes, we'll do what we**
8 **have to do; is that right?**

9 A. Correct.

10 **Q. Okay. Will you do that? Will the company do**
11 **that? You don't -- you now have fewer customers in**
12 **those rural area, you'll have potentially disconnected**
13 **those who are -- you know have the opportunity for**
14 **competition, you don't as we said have the urban base.**
15 **Won't there be an irresistible sort of pull for those**
16 **making those decisions to say, look, there are only a**
17 **few people here, that's just not cost beneficial for us**
18 **to spend what we need to spend in these areas. Should**
19 **we be concerned about that, or is this just, no,**
20 **there -- if there are a few customers left who are**
21 **uncertain, we have repair obligations, we'll spend what**
22 **we need to spend to take care of those customers?**

23 A. So the company has a compact with the
24 commission that, you know, we're certificated to serve
25 certain areas. And until such time that a agreement

1 **The other thing I am concerned about --**
2 **Commissioner Danner brought this up as well and**
3 **Commissioner Rendahl -- is for those -- the customers**
4 **who -- for whom the decision is made to discontinue,**
5 **they'll be notified. What if they don't essentially**
6 **appeal? Then they're out of due process in that case;**
7 **right? We have to do, I would say, everything we can to**
8 **ensure that that process can take hold, not just a**
9 **letter or a call in the case they don't have service or**
10 **e-mail or a tech, you know, call, but I, you know,**
11 **everything, I would say. And would you concur with**
12 **that?**

13 A. I'm not sure if I followed the question.

14 **Q. Yeah. The question is -- the question is: Do**
15 **you agree that we -- we shouldn't leave any stone**
16 **unturned when it comes to these customers who under the**
17 **agreement will make the last determination of whether to**
18 **appeal the decision, your decision, whether they have a**
19 **competitor, okay. So if they don't appeal, then it's --**
20 **they're out of business, it's game over. So we have to**
21 **do everything we can possibly do to ensure that they are**
22 **notified of their rights because you might be wrong in**
23 **the case. Do you concur with that?**

24 A. To some extent. I certainly see your point,
25 and by and large I agree, yeah.

1 **Q. To what extent don't you agree?**
 2 A. That the customers kind of out of luck.
 3 You know, when they have, you know,
 4 telephone calls, e-mails, letters sent to them, possibly
 5 some item that we haven't contemplated yet, some of the
 6 fair questions. You know, I haven't heard from you, I
 7 dispatch a technician. I think, you know, in many
 8 locations, if gas or water service is going to be
 9 terminated for, say, nonpayment or something of that
 10 nature, they have the technical come and ring the
 11 doorbell and say, hey, we're sorry, you know, we need
 12 payment today or we're unfortunately going to have to
 13 turn your meter off or shut your water down.
 14 So a -- kind of a, for lack of a better
 15 term, welfare check to the customer if we haven't heard
 16 from them, that's something that can certainly be taken
 17 under advisement.
 18 COMMISSIONER DOUMIT: All right. Thanks.
 19 No -- nothing further from me. Thank you, Your Honor.
 20 COMMISSIONER DANNER: I have a few more,
 21 Mr. Gose. Thank you very much.
 22 REEXAMINATION
 23 BY MR. DANNER:
 24 **Q. So if we approve this settlement agreement,**
 25 **there's going to -- we're providing you with a degree of**

1 **decisions are made that are affecting investments by the**
 2 **various subsidiaries that are parties to this**
 3 **proceeding?**
 4 A. Correct.
 5 **Q. Okay. And one of the provisions that you have**
 6 **here would take away our authority to review or approve**
 7 **mergers if the company were to decide to sell or merge**
 8 **with another company, sale of the company. And as you**
 9 **know we have in the past found -- we have disapproved**
 10 **mergers because we have found that the buying, the**
 11 **purchasing company wasn't fit, willing, and able for**
 12 **whatever reason, the financials, or they were under the**
 13 **control of a separate government agency or something**
 14 **like that. Why should we approve a provision that does**
 15 **not allow us to review mergers? I'm just wondering what**
 16 **your thinking is there.**
 17 A. I think several things. Number one, as this
 18 AFOR is constructed, it's a very fair balance and
 19 compromise of all decisions here. Number two,
 20 CenturyLink is far from a monopoly service provider that
 21 may have been, you know, post divestiture. When I had,
 22 you know, close to three million subscribers 20-some
 23 years ago and today I have only 300,000 out of five or
 24 six million voice grade connections in the state of
 25 Washington, that likelihood is -- or necessity to have

1 **regulatory stability over the next five years. Are**
 2 **these settlement terms such as the stay-out period**
 3 **market base pricing, what effect are those going to have**
 4 **on the incentive to replace aging infrastructure? Do**
 5 **you see it as an incentive or a disincentive? You won't**
 6 **have the pressure from the regulator. So what -- how do**
 7 **you see that?**
 8 A. In terms -- I really don't see the incentives
 9 being that different than they are under the current
 10 AFOR today. Basically, with a few exceptions, the AFOR
 11 that we're agreeing to in the multiparty settlement
 12 largely is the same with a few exceptions.
 13 **Q. So you see no impact, your decisions are going**
 14 **to be basically business decisions, then, regardless?**
 15 A. I would probably agree with that.
 16 **Q. Yeah. In your testimony, some of the answers**
 17 **you gave to questions, you talked about having to -- you**
 18 **know, you couldn't commit, you would have to check with**
 19 **the company. When we're talking about "the company," is**
 20 **that within -- I mean, we've got several companies here.**
 21 **We've got all of the CenturyLink companies and then we**
 22 **have the umbrella of Lumen. Where is that decision**
 23 **being made? Is it at the Lumen level?**
 24 A. Yes.
 25 **Q. Okay. And that's basically where most**

1 authority over the company for those actions is very
 2 asymmetric. In terms of that authority, if any other
 3 similarly situated carrier, small carrier in the state
 4 of Washington, do -- to answer the question, do they
 5 operate under that same level of regulatory scrutiny.
 6 **Q. Yeah. I mean, what I'm struggling with is,**
 7 **I've read, you know, Dr. Weisman's testimony, I've -- I**
 8 **certainly am familiar with antitrust and market**
 9 **economics and the so forth, but this is a little bit**
 10 **different because for individuals, you are the monopoly**
 11 **provider, you know. Even though for the state as a**
 12 **whole, you have a smaller slice of the market share if**
 13 **we look at the state as a single unit, but, you know,**
 14 **for a particular citizen on a particular street, you're**
 15 **the only game in town. And so, you know, how do I**
 16 **balance that, you know? I love to here your comments on**
 17 **that if you have any to share.**
 18 A. The only things that really come to mind is,
 19 that citizen who has virtually no or very few other
 20 alternatives is very few relative to the population. If
 21 we've got a population in the state that's between six
 22 and seven million and I have 1,200 or so locations that
 23 fall under that bucket, that's pretty small. And if
 24 we're going to use that as the basis to look at, you
 25 know, merger activities and conditions for a company

1 that it has no market power, by and large. I hear loud
 2 and clear what you're saying with respect to some
 3 certain rural pockets of the state.
 4 **Q. Yeah. I mean, I just -- I worry about**
 5 **individuals who have -- are dealing with long wait times**
 6 **when they're trying to get service dealt with, those**
 7 **kinds of things, you know, do we want -- you know,**
 8 **should we have the authority to look and see that the**
 9 **purchase company or the acquiring company is going to**
 10 **have the commitment to service quality so that we don't**
 11 **get burned. And so it is, it might affect 1,000**
 12 **customers as opposed to 120,000 customers, but for those**
 13 **customers, it's a pretty important decision. So I'm**
 14 **just trying to figure out in my own head how to balance**
 15 **that.**

16 A. I completely hear what you're saying. I
 17 recently with my CRS carrier, I had an occasion, I
 18 needed to get in touch with their customer care
 19 department. I was on hold for 45 minutes until that
 20 occurred. Vexing? Absolutely. But what if that
 21 carrier were to merge with another, the commission's,
 22 you know, oversight over that is certainly not what it
 23 would be with us as a, you know, regulated carrier but
 24 one that's certainly no longer a monopoly.

25 COMMISSIONER DANNER: Now again, not a

1 quickly I can move through it as an estimate. I had
 2 originally estimated about 15 minutes, so that's kind of
 3 the scope.

4 JUDGE HOWARD: Would the parties have any
 5 concerns with taking Webber before lunch and then
 6 changing the witness order? All right. All right.
 7 Hearing no objections, let's take our next witness out
 8 of order. We're going to call James Webber.

9 Mr. Webber, are you on the call?

10 MR. WEBBER: Yes, I am, Your Honor.

11 JUDGE HOWARD: All right. And can you hear
 12 and see me all right?

13 MR. WEBBER: I can. Thank you.

14 JUDGE HOWARD: Great. If you'd please raise
 15 your right hand, I will swear you in.

16 Do you swear or affirm that the testimony
 17 you will give today is the truth, the whole truth, and
 18 nothing but the truth?

19 THE WITNESS: I do.

20 JUDGE HOWARD: All right. Please introduce
 21 the witness and tender them for cross. I'd ask staff to
 22 do that.

23 MR. ROBERSON: Good morning. Would you
 24 please state your name and spell your last name for the
 25 record.

1 monopoly statewide, but a monopoly on Elm Street is --
 2 there's -- I'm trying to figure out how I slice and dice
 3 this. So all right thank you very much. That's all I
 4 have.

5 COMMISSIONER RENDAHL: And I have a number
 6 of questions, but I think they can be turned into bench
 7 questions in the interest of time.

8 JUDGE HOWARD: All right. Thank you. Any
 9 further questions from the bench? All right. Thank
 10 you, Mr. Gose, for your testimony. And I will note that
 11 under commission rules, testimony subject to check as
 12 you had indicated earlier, I believe there's five
 13 business days to submit a letter if there is a
 14 correction.

15 And counsel for the company, will Mr. Gose
 16 be present the remainder of the afternoon? All right.
 17 Thank you.

18 Thank you for your testimony at this time,
 19 though I'd ask that you remain available just in case.
 20 So we -- we are at 11:47. I want to make fairly
 21 efficient use of the day. I would turn to Mr. O'Neill.
 22 Mr. O'Neill, do you plan to ask questions -- to cross
 23 James Webber at this point today? I mean --

24 MR. O'NEILL: Yeah, I do have a line of
 25 questions for Mr. Webber. I am looking over to see how

1 THE WITNESS: My name is James D. Webber,
 2 that's spelled W-e-b-b-e-r.

3 MR. ROBERSON: And did you sponsor
 4 Exhibits JW -- JDW-1T through JDW-19 in this proceeding?

5 THE WITNESS: That is correct, yes.

6 MR. ROBERSON: And if I asked you the
 7 questions asked in your testimony today, would your
 8 answers be the same?

9 THE WITNESS: Yes, they would.

10 MR. ROBERSON: Mr. Webber is available for
 11 cross.

12 JUDGE HOWARD: All right. Thank you.
 13 Public counsel, please proceed.

14 CROSS-EXAMINATION

15 BY MR. O'NEILL:

16 **Q. Mr. Webber, it's nice to meet you. I'm Tad**
 17 **Robinson O'Neill. I'm assistant attorney general with**
 18 **public counsel. I have a few questions.**

19 **In your original testimony filed back in**
 20 **April, you testified that there is a significant**
 21 **population in Washington that remains -- or that relies**
 22 **solely or primarily on landlines for their voice**
 23 **communication needs; is that correct?**

24 A. I recall that general topic. Would you mind
 25 giving me the page number so that I can look at it?

1 **Q. Page 15 of your testimony -- and that's the**
2 **numbers in the lower right corner -- lines 9 through 12.**

3 A. Yes, I see that. Thank you.

4 **Q. Do you stand by that testimony today that there**
5 **is a significant number of Washingtonians that rely**
6 **solely or primarily on landlines?**

7 A. The testimony as written, I stand by that as
8 being accurate. Though I will note in the conversation
9 you had with Mr. Gose, there -- there are updated data
10 as to the 2.3 percent figure which is now slightly
11 lower, I think it's 1.9. So the math would carry
12 through in follow-up.

13 **Q. And it's true that this population of -- not**
14 **from that data but generally from data, that people who**
15 **are older tend to -- people who relied on landlines tend**
16 **to be older. Is that correct?**

17 A. I do address the issue as to age in my
18 testimony and as it's written, I stand by that. But as
19 a general premise, it appears that the literature shows
20 preferences for older people are to retain landlines
21 versus switching completely to wireless. It's a higher
22 fraction of folks as they become older that have that
23 preference to retain their landlines.

24 **Q. And it's also true separately that rural**
25 **populations tend to have a high reliance on landlines**

1 **copper-based services and broadband providers who often**
2 **do not provide voice services along with their basic**
3 **offerings without additional charges unless required by**
4 **state or federal support programs." Did I read that**
5 **correctly?**

6 A. I believe you did. It looks like you're
7 reading from about lines 5 through 10.

8 **Q. Do you stand by your testimony that the 55.13**
9 **dollar amount is a conservative estimate for**
10 **affordability?**

11 A. Yeah. As I stated in my testimony when we're
12 looking at voice service in particular, it is a
13 relatively conservative figure. When you take a look at
14 the broadband flip side of that, FCC noticed that number
15 is about \$88. And so considering those two and where
16 the state is as a general matter, the 55.13 was pretty
17 conservative. And my point in stating that it's
18 conservative is that it -- for purposes of making
19 decisions in a cutpoint, if you will, as to what's
20 affordable and not, it's deemed reasonable to put the
21 company in the spot to look at that figure or a number
22 that might be a little bit higher or lower.

23 **Q. And if you -- do you have access to what's been**
24 **marked as Exhibit SB 31X?**

25 A. I don't know, to be quite honest.

1 **for their voice commission needs; correct?**

2 A. I also address that in my testimony, and I
3 believe it's accurately stated there.

4 **Q. And it's also true that there is a tribal**
5 **component, the tribal populations, again, it's a**
6 **tendency -- tend to have a slightly higher reliance on**
7 **landlines?**

8 A. Actually, I don't know that to be true. I
9 can't comment one way or the other.

10 **Q. Okay. Fair.**

11 **On -- if you turn to page 23 of your**
12 **testimony, at line 7 you talk about marketplace report**
13 **and associated FCC orders. And shows it that for many**
14 **low income customers which you quote as the "persistent**
15 **minority: "Services involving bundles, enhanced**
16 **functionality, etcetera, are not functionally equivalent**
17 **or readily available at competitive rates." Did I read**
18 **that portion correctly?**

19 A. Yes. You characterized that portion of the
20 testimony accurately.

21 **Q. And in the attached -- if you go to page 32 of**
22 **your testimony, line 12, you testify: "The 55.13 amount**
23 **should be considered even more conservative as a measure**
24 **for use in this case given the intermodal nature of the**
25 **comparisons Mr. Gose initially made to CenturyLink's**

1 **Q. It's the public notice that you cite for that**
2 **55.13 number from the FCC.**

3 A. Yeah, I recall the document, but frankly I
4 don't see it in the subdirectory that I have prepared to
5 testify today. Perhaps you could show it to me?

6 **Q. I will share screen.**

7 A. Yeah, exactly. Thank you.

8 MS. RENDAHL: Mr. Robinson O'Neill, is that
9 the same as his Exhibit JDW 5?

10 MR. O'NEILL: It is. It's the same at
11 JDW 5. You may have that.

12 MS. RENDAHL: Thank you.

13 MR. O'NEILL: That would be a good way of
14 doing it. Thank you.

15 THE WITNESS: Yes, I see that.

16 BY MR. O'NEILL:

17 **Q. Do you have that up in front of you?**

18 A. Yes.

19 **Q. All right. If you look on the first page, do**
20 **you see there under Voice Rates, it says: "Based on**
21 **survey results, the 2024 urban average monthly rate is**
22 **\$34.27." Do you see that?**

23 A. I do. And then it carries on and describes the
24 two standard deviations getting us to the 55.13 as the
25 figure used by the FCC for the rural areas.

1 **Q. And we've heard testimony that, in fact,**
 2 **CenturyLink's charge for voice services is around that**
 3 **\$35 here in Washington as well; correct? Well, I don't**
 4 **know if you were on the line, but did you hear that**
 5 **testimony?**

6 A. Let me see if I can answer your question
 7 directly.

8 I recall the CenturyLink figures being in
 9 the upper 30s, roughly 38, \$39 for residential, and then
 10 single line businesses is going to be in the \$50-ish
 11 neighborhood. I don't recall the numbers off of the top
 12 of my head, but that ballpark.

13 **Q. So this settlement at the -- if approved at**
 14 **55.13 for affordability would be almost double what the**
 15 **current rates are for voice only service?**

16 A. I'm sorry, I don't think I follow your
 17 question.

18 **Q. Well, if we were to adopt a 55.13 affordability**
 19 **and the actual price that's being paid now, we're in the**
 20 **30s, it's not quite double but it's a significant**
 21 **increase in the cost that a consumer would have to pay**
 22 **in order to receive voice service under the terms of the**
 23 **settlement; correct?**

24 A. So I make sure that I understand the scenario
 25 that you're looking at.

1 **where their actual -- like what their actual budgets**
 2 **are? Or we don't know that, right, that's unknown?**

3 A. That's not data that I have. That's about the
 4 best I can do to answer your question.

5 **Q. Right. We probably want to have an**
 6 **investigation into those individual people, maybe a**
 7 **proceeding about it in order to determine that; right?**

8 A. I -- I don't have an answer to the method by
 9 which you would want to get that information.

10 **Q. All right. I have one more line of questions.**
 11 **Now I want to shift focus to your analysis of the**
 12 **CenturyLink company's when it comes to service quality.**

13 A. Sure.

14 **Q. And I want to be clear here: I don't want you**
 15 **to talk about any numbers because a lot of the numbers**
 16 **that you cite are confidential. I'm really kind of**
 17 **talking about generalities. And if an answer requires**
 18 **you to look at numbers or answer with numbers, please**
 19 **let me know and I'll stop you there and see if I can**
 20 **work my way around having to share anything that's been**
 21 **designated confidential. Is that fair?**

22 A. It is. And thank you for the reminder.

23 **Q. Okay. You would agree with me that your review**
 24 **of trouble ticket data of the companies that are in**
 25 **front of the commission here is -- demonstrates a**

1 The test as I understand it is whether a
 2 consumer can obtain a service, if you will, whether it's
 3 bundled or not under the price structure that's in the
 4 agreement --

5 **Q. Correct.**

6 A. -- and there may be in many instances prices
 7 that are lower than the threshold. So I can't answer
 8 your question specifically without knowing what the
 9 number is for each individual customer. That's just not
 10 data that I have.

11 **Q. Okay. But it will be, at least from the**
 12 **CenturyLink numbers, mid, like 1230s, it's going to be a**
 13 **price increase for affordability considerations; right?**

14 A. For the consideration as to whether it's
 15 affordable, that's true.

16 **Q. And in your testimony, you indicated that there**
 17 **are consumers who make that choice for \$35 for voice**
 18 **only or \$39 for voice only because that's all they can**
 19 **afford; right?**

20 A. I don't recall phrasing it that way, but I do
 21 understand that customers make choices on affordability
 22 and also the product set that they prefer.

23 **Q. And do you -- or do you know whether staff has**
 24 **conducted any analysis of the individuals -- the 1,200**
 25 **individuals that are identified in their study as to**

1 **pattern of increasing service quality problems; correct?**

2 A. As a general matter, yes, it does. And
 3 obviously as written in testimony.

4 **Q. In fact, it's a fairly significant increase, as**
 5 **much as a fivefold increase for some of those companies;**
 6 **correct?**

7 A. I don't recall the exact numbers. But again, I
 8 was seeing trouble ticket activity increase.

9 **Q. And in addition to the number of overall**
 10 **complaints, you were able to identify categories of**
 11 **complaints where an individual made more than one**
 12 **complaint, as many as five complaints in the same -- in**
 13 **the time period that you were looking at; correct?**

14 A. Yes. And in fact, that's listed at page 49 of
 15 my testimony in Table II. There are groups of
 16 customers --

17 **Q. Which is confidential; right? We won't get**
 18 **into numbers.**

19 A. Understand. I'm just pointing to where it's
 20 located in the testimony.

21 **Q. Okay. And your assessment of the trouble**
 22 **tickets is that the cause of this increase is declining**
 23 **or deteriorating physical plants; in other words, their**
 24 **physical infrastructure is getting, old and it's**
 25 **breaking down?**

1 A. I wouldn't characterize the testimony exactly
 2 in that manner. What I -- what I did notice is that a
 3 large percentage of the trouble tickets all come back to
 4 a particular trouble code, and that code is for
 5 deteriorated plants. And in many cases, what happens in
 6 that circumstance is the line is "cut to clear." That
 7 is, at a point in the network, one cable is swapped out
 8 for another to continue the path out to the customer
 9 location.

10 **Q. In your opinion, are these service qualities**
 11 **going to ameliorate going into the future, or are they**
 12 **likely to get worse?**

13 A. I don't know. I mean, I don't have a crystal
 14 ball. I don't know of anything that would necessarily
 15 cause the trend to change except that I'll note in the
 16 agreement, as I understand it, the service credit
 17 mechanism acts as a penalty to the company where its
 18 service quality leaves customers out of service for a
 19 period of time and that expense line, if you will, on a
 20 budget internal to somebody in the company I expect is
 21 going to cause investigation and provide data available
 22 to the company to isolate those circumstances where
 23 problems are recurring and they're making payments. And
 24 it's by hope that it actually provides incentives to
 25 replace cables where most needed to resolve those

1 company an opportunity to A., you know, the expense; B.,
 2 to have an indication as to where the network is failing
 3 to provide the appropriate service. It also gives staff
 4 in the public counsel a base of data on which they can
 5 draw analyses, and if action needs to be taken, they
 6 could go to the commission and ask for corrective
 7 measures.

8 **Q. But as we sit here today, there's no way for us**
 9 **to know what effects such an incentive will have in the**
 10 **future. I mean, we're kind of speculating based off of**
 11 **what a logical company would do; right?**

12 A. Well, I wouldn't say we're speculating. I
 13 mean, we've talked about the fact that there will be
 14 penalties or, you know, financial incentives, and a line
 15 item is going to appear on somebody's budget at the
 16 company as an expense. My general experience shows that
 17 when expenses start to creep up into an area,
 18 management-type situation, they want to maintain their
 19 budgets and if they're expending monies, they have the
 20 incentive to stop that.

21 It will also provide for the data that the
 22 company can see internally and hopefully provide
 23 direction, if you will, as to whether efforts ought to
 24 be focused. And like I said, it should give the staff
 25 and the PC an opportunity to look at data and provide

1 issues.

2 **Q. Incentives beyond a fivefold increase in the**
 3 **number of complaints over the course of a few years?**

4 A. I'm sorry, I don't quite understand the
 5 question.

6 **Q. Well, wouldn't the increase -- a fivefold**
 7 **increase in complaints over a course of a few years be**
 8 **incentive for the company to investigate and determine**
 9 **why it is that they're unable to serve these**
 10 **populations?**

11 A. I -- again, I just -- I don't I think
 12 understand the question.

13 **Q. Okay. Did you or have you done any work to**
 14 **determine whether the incentive of \$360 a month or so**
 15 **will be sufficient to result in service quality**
 16 **improvements?**

17 A. Not quite sure I track your question. But when
 18 I look at the number of trouble tickets that are
 19 presented in Table II, there are -- well, in the third
 20 column of Table II there's a total number. I won't use
 21 that number. If credits were provided there based on
 22 the average number of hours, that would be significant
 23 dollar impact to the company. And it's my belief that
 24 that now becoming an explicit expense line with data
 25 related to where the customers are located gives the

1 additional oversight if necessary. So I wouldn't say
 2 it's speculative. You've got these forces, if you will,
 3 that will be working towards the benefit of the
 4 customer.

5 MR. O'NEILL: All right. I have no more
 6 questions. Thank you.

7 THE WITNESS: Thank you.

8 JUDGE HOWARD: Any redirect from staff.

9 MR. ROBERSON: I have some brief redirect if
 10 that's --

11 JUDGE HOWARD: Please go ahead.

12 MR. ROBERSON: Okay.

13 REDIRECT EXAMINATION

14 BY MR. ROBERSON:

15 **Q. So good afternoon, Mr. Webber.**

16 A. Good afternoon.

17 **Q. Do you recall being asked about kind of the**
 18 **price and affordability of CenturyLink's services?**

19 A. I do.

20 **Q. And Mr. Robinson O'Neill brought up the urban**
 21 **monthly average and CenturyLink's prices. Those are**
 22 **prices; correct?**

23 A. Correct.

24 **Q. They're not an affordability benchmark?**

25 A. That's correct.

1 **Q. And the FCC calculates that through averaging**
2 **urban prices and then making two standard deviations**
3 **about that; correct?**

4 A. Yes, that's correct. And I believe that's
5 outlined in that order or notice in JDW 5.

6 **Q. And that's the 55.13 number; correct?**

7 A. That is correct.

8 **Q. Okay. Do you recall Mr. Robinson O'Neill**
9 **asking you about CenturyLink's incentives?**

10 A. Yes.

11 **Q. And as you point out, the settlement contains**
12 **terms providing for an automatic credit; correct?**

13 A. That is correct.

14 **Q. Is that the sum total of CenturyLink's**
15 **incentive?**

16 A. No.

17 **Q. So staff or public counsel could complain**
18 **against the company for violation of the commission**
19 **service quality rules; correct?**

20 A. It could. And I would note that the process
21 that's established in the agreement will provide a base
22 of data that both staff and/or the PC could review and
23 have a good sense as to what's happening.

24 **Q. And so that would be penalties under**
25 **commission's standard authority; correct?**

1 BY MR. ROBERSON:

2 **Q. Mr. Webber, thank you for your forbearance.**
3 **So would you explain your understanding of**
4 **Section 8-D of the settlement agreement.**

5 A. Yes. As a former commissioned staffer and a
6 long time industry contract user -- I'm not an
7 attorney -- but my review of that section was that it
8 related to the credit mechanism that was created by the
9 agreement and nothing else. Whatever powers the
10 commission or the PC have to pursue service related
11 matters would not be impacted by the settlement
12 agreement, at least as I read it.

13 **Q. And the settlement agreement provides for staff**
14 **or for public counsel to access the trouble tickets at**
15 **any time; correct?**

16 A. It does.

17 **Q. Does staff or public counsel have access to the**
18 **trouble tickets kept by the company?**

19 A. That's -- that's my understanding, yes.

20 MR. ROBERSON: I probably should stop before
21 I get into further trouble, so --

22 JUDGE HOWARD: All right. Thank you. Do we
23 have any questions from the bench for this witness?
24
25

1 A. That's correct.

2 **Q. Were you on -- sorry.**

3 A. I'm just saying that's my understanding, yes.

4 **Q. Okay. Were you on earlier, did you hear**
5 **Commissioner Rendahl's questions about the preclusive**
6 **effect of that term in the settlement?**

7 A. Yes.

8 **Q. And are you familiar enough with the settlement**
9 **to answer the question, I guess, is the first question?**

10 A. I believe I am. I've read through it a couple
11 times.

12 **Q. And so that term, "the preclusive effect" --**
13 **its preclusive effect just applies to the calculation**
14 **and application of the penalty provision, right, it**
15 **doesn't grant the commission from enforcing any of its**
16 **other rules or service quality rules?**

17 JUDGE HOWARD: Mr. Roberson, could I just
18 jump in. I know would isn't an objection, but I just
19 wanted to remind you that open-ended questions are the
20 most persuasive for our own witnesses.

21 MR. ROBERSON: Fair enough. I don't
22 supposed you're going to go let me treat him as hostile.

23 JUDGE HOWARD: Not yet.

24 THE WITNESS: I'll try not to be hostile.
25

1 EXAMINATION

2 BY COMMISSIONER DANNER:

3 **Q. So I just want to ask: When we're talking**
4 **about these numbers like \$33 a month and so forth, this**
5 **company is currently under a restriction with regard to**
6 **the deaveraging of prices. So the prices that are**
7 **currently set are not based on cost in a particular**
8 **area, they are basically based on competitive pressures**
9 **that the company might be facing in its -- in its urban**
10 **area and so forth; is that correct?**

11 A. Yes, that's the way I see it. So let's talk
12 about Seattle, for example. Greater competition,
13 greater force on prices move prices down. But with
14 averaging across the entire state, the rural areas are
15 benefitting from that competition. Although they may
16 not see the competitors immediately in their backyard,
17 they're -- as many, they're benefitting from the hidden
18 pressure in the larger metro areas.

19 COMMISSIONER DANNER: Yeah. Okay. That's
20 what I wanted to clarify. Thank you.

21 THE WITNESS: You're welcome. Thank you.

22 COMMISSIONER DANNER: No further questions.

23 JUDGE HOWARD: All right. Thank you. With
24 that, let's take our lunch break -- well first, I will
25 thank the witness. Thank you, Mr. Webber, for your

1 testimony and you are excused from the remainder of the
2 hearing.

3 MR. WEBBER: Thank you.

4 JUDGE HOWARD: We will move to our lunch
5 break. We'll plan, I believe, on -- we'll take about a
6 45-minute lunch break and reconvene at 1:00. And just
7 looking at the remaining witnesses and the time
8 estimates, we have -- our two witnesses will pick up
9 with staff witness Bennett after lunch. And just
10 looking at the total time remaining, it does appear that
11 we will be fine in terms of completing the hearing
12 today, but I just would ask that all the parties be
13 mindful of trying to adhere to their cross time
14 estimates, and we'll move through this expeditiously so
15 we don't push the end of the hearing later today or have
16 to worry about trying to find time on the commissioners'
17 schedules so we can conclude on time today.

18 So with that, let's go off the record and
19 we'll reconvene at one. We're off the record.

20 (A lunch break was taken from 12:13 to 1:03 p.m.)

21 JUDGE HOWARD: Back on the record. It's
22 1:03 p.m. we're going to be resuming the
23 cross-examination of witnesses with our staff witness,
24 Sean Bennett. Mr. Bennett, are you on the line.

25 MR. BENNETT: I am. Good afternoon, Your

1 THE WITNESS: They will be.

2 MR. ROBERSON: Mr. Bennett is available for
3 cross.

4 JUDGE HOWARD: All right. Mr. O'Neill, you
5 may proceed.

6 CROSS-EXAMINATION

7 BY MR. O'NEILL:

8 **Q. Good afternoon, Mr. Bennett.**

9 A. Good afternoon, Mr. O'Neill.

10 **Q. Would you agree with me that the market is**
11 **insufficient to provide reliable telecom service, at**
12 **least broadband telecom service to rural areas in**
13 **Washington?**

14 A. In some rural areas, yes.

15 **Q. And I think you testified one example of this**
16 **is that the federal government is planning to spend**
17 **almost two billion dollars in Washington to expand**
18 **broadband service to rural areas; is that correct?**

19 A. I don't know that -- the two million but, yes,
20 there are a number of programs both underway and very
21 well soon underway that will promote broadband
22 availability in rural areas.

23 **Q. And federal funding and grants were part of the**
24 **reason or part of the way in which telephone wires were**
25 **initially extended out to rural areas; is that right?**

1 Honor.

2 JUDGE HOWARD: Good afternoon. If you'd
3 please raise your right hand, I'll swear you in.

4 Do you swear or affirm the testimony you'll
5 give today is the truth, the whole truth, and nothing
6 but the truth?

7 THE WITNESS: I do.

8 JUDGE HOWARD: All right. Thank you. Staff
9 may please introduce the witness and ask if there are
10 any corrections to the pre-filed testimony.

11 MR. ROBERSON: Good afternoon. Would you
12 please state your name and spell your last name for the
13 record?

14 THE WITNESS: Sorry, say that one more time.

15 MR. ROBERSON: Would you please state your
16 name and spell your last for the record?

17 THE WITNESS: Sean Bennett. May last name
18 is spelled B-e-n-n-e-t-t.

19 MR. ROBERSON: And did you sponsor
20 Exhibits SB-1T through SB-2018.

21 THE WITNESS: I did and do, yes.

22 MR. ROBERSON: And if I asked you the
23 questions asked both in your direct testimony which is
24 Exhibit SB-1T and also your settlement testimony which
25 is Exhibit SB-28T, would your answers be the same today?

1 A. It is.

2 **Q. Now, in Washington, there are -- I mean, you**
3 **could describe this as being a barrier to entry that**
4 **prevents the expansion of the -- of broadband services**
5 **to rural areas; is that correct?**

6 A. Can you repeat or rephrase the question?

7 **Q. Sure.**

8 **There is a barrier to free competition in**
9 **rural Washington when it comes to telecom service, and**
10 **the significant investment to infrastructure that it**
11 **takes to expand and then maintain those networks;**
12 **correct.**

13 A. Yeah. It -- it can be challenging which
14 federal programs do help make it easier, although
15 individual companies if they have the financial
16 resources would be able to do it on their own. But
17 there are many areas where they have not.

18 **Q. And this is not an abstract problem, we know**
19 **this happens in Washington; right?**

20 A. We do. There's broadband availability data,
21 mobile availability data, American community survey data
22 that all helps kind of paint the picture of where
23 various telecommunication services are and are not.

24 **Q. Can you turn to what's been marked as SB-35X.**
25 **This is an excerpt transcript from a public comment**

1 **hearing from a Mr. Mederios, Joseph Mederios?**
 2 A. I am opening it. That's PC-7; correct? Yes.
 3 Joseph Mederios.
 4 **Q. Yeah. It's PC-7 but it's been designated as**
 5 **35X. Are you there?**
 6 A. I am.
 7 **Q. You'll see here that Mr. Mederios lives in**
 8 **rural Pierce County between South Prairie and Orting.**
 9 **Are you familiar with that area of Washington?**
 10 A. I know where Orting is, yes. I'm not sure
 11 exactly where South Prairie is, but I'm generally aware
 12 of that area.
 13 **Q. In 2021, according to Mr. Mederios, he**
 14 **recognized that the copper network was no longer**
 15 **sustainable, and he reached out to CenturyLink to**
 16 **replace the copper wiring with fiberoptic cable. Do you**
 17 **see that?**
 18 A. I do, yes.
 19 **Q. And he even applied for and received a grant to**
 20 **help pay for that; correct?**
 21 A. According to this, yes.
 22 **Q. And even with that grant, according to him,**
 23 **CenturyLink backed out because, according to him, they**
 24 **were a low revenue area?**
 25 A. Based on this comment, yes, that is what it

1 **your original testimony 1T. You testified that cell**
 2 **service was not an appropriate comparator for the voice**
 3 **services provided by copper network that CenturyLink**
 4 **maintained; is that correct?**
 5 A. Could you please point to that in my testimony?
 6 **Q. I don't have a specific area, but you did not**
 7 **include cell service in your original testimony as a**
 8 **comparator; correct?**
 9 A. No. I -- I'd say that's not correct.
 10 **Q. All right. Could you explain what your view**
 11 **was of cell service in that original testimony?**
 12 A. Yeah. It's included throughout various
 13 different areas both with respect to the mobile
 14 availability data which CenturyLink initially relied on
 15 in its competition study. In that study, it took the
 16 mobile availability data information that really is an
 17 absolute. But based on the FCC website, staff did not
 18 have the belief that it's necessarily shown what is
 19 definitely available within the home.
 20 So after voicing those considerations, what
 21 we did and what I did in my testimony is, identify the
 22 U.S. census' American Community Survey's data which does
 23 provide information about mobile internet access. And
 24 staffs' analysis also included data information, we
 25 broke it down on a wire center by wire center basis and

1 says.
 2 **Q. And that's the kind of barrier that we're**
 3 **talking about in Washington which is that that kind of**
 4 **investment, even with government grants, is not certain;**
 5 **correct?**
 6 A. Yeah.
 7 **Q. And as I understand the purpose of the**
 8 **settlement that you have negotiated with the company, it**
 9 **was to come up with a way to draw a line between the**
 10 **areas of Washington where there is an affordable service**
 11 **and the areas where there was and where there was**
 12 **affordable service, you could rely on the market to**
 13 **fulfill the need, and in the other areas you can't, and**
 14 **so continued regulation is necessary. Is that a fair**
 15 **description of the process that you were trying to**
 16 **achieve or the goal you were trying to achieve?**
 17 A. Generally speaking, yes. It's -- it's really
 18 about definitely the -- the discontinuance process was
 19 born out to protect consumers that may not have other
 20 available options available to them. That's not the
 21 only goal, because people will still be protected with
 22 the consumer protection standards and the credit, but
 23 generally, yes.
 24 **Q. Okay. And in your initial testimony in -- I**
 25 **have it designated as 20 -- sorry. As 29X. But it's**

1 ultimately found that based on that ACS data when you
 2 apportion it to the individual census tracks that
 3 overlap CenturyLink's study area, there are about
 4 248,000 households within the CenturyTel study area that
 5 don't have mobile internet access.
 6 And so the kind of two components from the
 7 both the BDC's mobile availability data which shows if
 8 it reports an area, it's not definitive that it's inside
 9 that area, however there is a possibility that it is,
 10 however we also know where it's not. And so if they
 11 didn't report that hex, you can essentially then draw
 12 it, okay, if it's not reporting availability, then it's
 13 not in that area.
 14 And so ultimately we have a lot of charts, a
 15 lot of tables. My testimony was rather exhaustive. But
 16 looking at fixed internet, we did also look at mobile
 17 because previous commission orders did recognize that
 18 not only are copper resellers competition, but that
 19 voice services as well as mobile wireless are also
 20 reasonably available alternatives.
 21 **Q. If you could turn to page 43 of your testimony?**
 22 **And that's 43 in the bottom right corner, not the PDF.**
 23 A. I am there.
 24 **Q. At line 5, you start with: "Unfortunately, the**
 25 **mobile BDC data does not measure availability inside**

1 **buildings, and staff therefore determined that it does**
 2 **not accurately measure the availability of an**
 3 **alternative service to fixed voice service. Staff did**
 4 **make several attempts to find mobile data that could be**
 5 **used to assess the availability and market concentration**
 6 **requesting subscribership information directly from**
 7 **mobile providers in Washington state was unsuccessful in**
 8 **obtaining information from most relevant providers."**
 9 **Did I read that correctly?**

10 A. You did.

11 **Q. Do you stand by your conclusion that the BDC**
 12 **data, that the -- is not sufficient to establish the**
 13 **availability of cell service inside of homes?**

14 A. In and of itself, yes.

15 **Q. All right. And in fact, you found no source of**
 16 **data that exists anywhere, even with CostQuest data that**
 17 **you ultimately purchased, that would allow you to make**
 18 **that determination purely on the data; is that right?**

19 A. The -- it depends on how location specific you
 20 want to -- if you're looking at a location-by-location
 21 basis or a general basis. We did find -- and I believe
 22 if you go down a page or a few pages, there is the ACS
 23 data which again does measure mobile internet access
 24 within areas and estimates the number of households
 25 without that mobile internet access within the

1 I -- well, there's the Fabric which is individual
 2 locations, there's broadband availability data which is
 3 really the provider reported availability data, whether
 4 it's fixed internet or mobile. Fixed internet is
 5 specific to an individual location, the mobile
 6 availability data, they -- the different mobile
 7 providers report availability at the hex level.

8 And with both of those what you are able to
 9 ultimately do is, if you don't have the underlying
 10 Fabric information, the FCC also does publish a
 11 hex-shaped file, and all of the broadband availability
 12 data components have an associated hex file associated
 13 with them, so you're essentially able to then tie that
 14 information to the hex kind of geographic area or the
 15 individual location data if you have an agreement to be
 16 able to use the Fabric dataset.

17 **Q. Did you negotiate an agreement to look at the**
 18 **Fabric dataset?**

19 A. We did, yes.

20 **Q. Did you purchase that data for Washington only**
 21 **or for all the states that CenturyLink serves?**

22 A. Washington only.

23 **Q. And I don't want you to -- I don't want you to**
 24 **disclose confidential information about the amount of**
 25 **money that's been quoted to the commission for**

1 households.

2 **Q. But it's an estimate, they don't -- I mean,**
 3 **they're estimating, they don't know the answer. And**
 4 **your estimate, I think you just said, was 248,000**
 5 **Washingtonians without access?**

6 A. Based on that ACS data within the CenturyLink
 7 study areas, yes.

8 **Q. Okay. Now in your study, you relied on a**
 9 **separate database, the -- it's called -- it's the**
 10 **CostQuest database which is a different database than**
 11 **BDC; is that correct?**

12 A. There's the Fabric, and then there's the
 13 broadband or mobile availability data, yes. They are --
 14 they are complimentary databases that work together, but
 15 they are separate.

16 **Q. And you used that data because it gave you some**
 17 **additional information about locations; is that correct?**

18 A. Yes. It gave us the ability to say based on
 19 availability data, what's reported at an individual
 20 location rather than generalized information that may or
 21 may not be applicable to a specific location.

22 **Q. And this is a supervisor layman description,**
 23 **but the BDC data gives you those little purple hexes,**
 24 **this cost Fabric would give you individual homes?**

25 A. Sort of. And please feel free to clarify if

1 **CenturyLink's purchase. Can you tell us whether the**
 2 **price the UTC paid -- the staff paid for the cost Fabric**
 3 **data, how it compares to the price that's quoted from**
 4 **CenturyLink?**

5 A. It is a fraction of it, although I think it's
 6 fairly imprecise.

7 **Q. And you heard testimony earlier today that**
 8 **CenturyLink really currently doesn't know how much that**
 9 **CostQuest Fabric data would be for Washington State;**
 10 **right?**

11 A. I did hear, yes.

12 **Q. Would you agree with me that access to that**
 13 **database would significantly improve the granularity of**
 14 **the data available if the settlement were to require its**
 15 **use?**

16 A. I'm not sure that I would. And if you'll allow
 17 me to elaborate. The reason we felt it was necessary to
 18 get access to the Fabric is because the initial petition
 19 essentially used that hex process. And that hex process
 20 isn't down to individual location. And in order for us
 21 to kind of take the competitive classification petition
 22 and really understand where it is and where it isn't, we
 23 wanted to be able to say are these two locations within
 24 this hex, is this information being reported to this one
 25 or vice versa or neither. So it was important to get

1 accurate information. And within this proceeding that
 2 was important. However, the terms of the settlement are
 3 substantially detailed and it does require a
 4 location-by-location analysis that Peter Gose and
 5 hopefully CenturyLink will do. They will -- yeah.

6 **Q. So I get what you're saying. So that's why in
 7 the agreement, CenturyLink was required to go and
 8 contact each of the customers in an area for
 9 discontinuance in order to supplement the inadequacies
 10 of the existing data in the BDC example?**

11 A. It's a different method. I think it's an
 12 appropriate method. They certainly could do the Fabric
 13 and that would also give them the ability to do that
 14 location-by-location analysis. But both methods, I
 15 believe, would give them the tools necessary to go
 16 through the enhanced discontinuance process.

17 **Q. And ultimately, that's why you aren't
 18 advocating for the requirement of cost Fabric, is
 19 because of the process that CenturyLink agreed to do
 20 which is an individual kind of survey of effected
 21 locations?**

22 A. It is.

23 **Q. Now, in the process that's been negotiated, UTC
 24 staff would not be the one reaching out to these
 25 individual locations; correct?**

1 as part of the settlement negotiation process. There
 2 are justifications and reasons for it which I can
 3 certainly elaborate on, but --

4 **Q. Okay. And the original number that you used
 5 was 55.13; correct?**

6 A. Yes, that is correct.

7 **Q. And you heard testimony from Mr. Webber that
 8 that was a conservative estimate of an affordability
 9 benchmark; right?**

10 A. I did.

11 **Q. And you're not changing or challenging that
 12 testimony, are you?**

13 A. Challenging what testimony?

14 **Q. That 55.13 is a conservative estimate of what
 15 affordability -- of an affordability rate?**

16 A. No. It -- it is reasonably conservative, yes.

17 **Q. I want to ask you now some questions about
 18 process. Mr. Gose presented an example, the Yacolt
 19 example, in his testimony, took him about an hour to put
 20 it together, he said. Do you know or do you have any
 21 information on how long it would take CenturyLink to put
 22 together the kind of information that they describe in
 23 Step 1 of their process that is negotiated in the
 24 settlement?**

25 A. Nothing other than what I've heard today.

1 A. That is correct.

2 **Q. Public counsel would not be the one reaching
 3 out to these individual locations; correct?**

4 A. That is correct.

5 **Q. And other than the certification from the
 6 company that they had done so, it's not clear that they
 7 would provide the answers or the data that they produced
 8 from the survey, is it?**

9 A. Can you repeat the question?

10 **Q. Well, we're going to be relying on CenturyLink
 11 to make sure that they do the survey appropriately,
 12 right, that's what this settlement comes down to?**

13 A. There are requirements for them to do the
 14 survey requirements correctly and then provide all the
 15 data associated with that discontinuance process to both
 16 public counsel and CenturyLink staff as well.

17 **Q. Okay. I want to switch a little bit to price
 18 considerations. Ultimately, the settlement adopts a
 19 price of -- it's -- I've drawn a blank.**

20 A. 61.13.

21 **Q. 61.13; correct?**

22 A. That is correct.

23 **Q. Is that number derived from a document or a
 24 cost study?**

25 A. It is de -- neither. It is ultimately derived

1 **Q. And although they've described a very robust
 2 process, there's nothing in this settlement that would
 3 hold them to using a robust process, is there?**

4 A. Can you elaborate? Because the overall process
 5 is rather robust.

6 **Q. I'm just talking about Step 1. Is there any
 7 restriction on the size -- geographic size of the
 8 location that they decide to discontinue?**

9 A. Outside of the work that CenturyLink would take
 10 upon itself to be able to do that and the increasing
 11 likelihood of the larger area, the more likely there are
 12 to be CCLs at first glance, yes.

13 **Q. There's no requirement about size in the
 14 agreement; correct? I mean it could be by 10,000 people,
 15 it could be 3?**

16 A. That's correct.

17 **Q. And there's no requirement or any kind of
 18 enforceable -- forcible requirement that they exert the
 19 kind of careful consideration that Mr. Gose described in
 20 his direct testimony, they could just look at a map and
 21 say, I don't know, that looks good to me, the math works
 22 out, I'm going to do it; right? There's nothing in
 23 Step 1 that's verifiable?**

24 A. There's the end result of the work and analysis
 25 that we see that we would work through to verify it,

1 but --
 2 **Q. And if we could be certain that Mr. Gose will**
 3 **be in his position for the next ten years and he will be**
 4 **the one doing the math, I think we'd feel comfortable.**
 5 **But do you have any concerns about the company being the**
 6 **one that makes this definition -- or makes these**
 7 **decisions without any oversight by the commission or**
 8 **explanation, really?**

9 A. The discontinuance process is really about
 10 making sure that those areas are unserved -- or that
 11 those areas that are unserved or underserved are
 12 protected. And so under a competitive classification
 13 proceeding, if that -- that was granted, the company
 14 would be able to kind of discontinue after it provided
 15 that discontinuance process that's required by rule.
 16 And so overall kind of the focus is on protecting those
 17 consumers, but the reasons for that decision are
 18 ultimately CenturyLink's.

19 **Q. Well let's talk about that process, then.**
 20 **How much time -- so their process is to**
 21 **design the area, then they're going to do the study, and**
 22 **then reach out to the individuals to do the survey, then**
 23 **when they decide to move forward with it, they're going**
 24 **to give staff and public counsel notice. How much time**
 25 **are they giving staff to review their documents and**

1 A. I know we do have standing to bring a complaint
 2 from working with the company through this -- I'm
 3 certainly not an attorney. But from discussing this
 4 process with the company, it's our understanding that as
 5 they kind of send out a notice to these individuals,
 6 that individuals are allowed to call either the company,
 7 public counsel, or staff and to ask questions.

8 And so as part of that, I assume consumer
 9 protection would definitely be receiving those calls,
 10 and then as consumer protection gets those and after the
 11 fact when we receive that notice, we would work through
 12 kind of that data to ensure that they followed the
 13 outline process, yes.

14 **Q. How many staff do you currently have that would**
 15 **be available for this work?**

16 A. I can only speak for the telecommunication
 17 staff. I'm currently the acting section manager, and
 18 then I currently do have three other individuals as
 19 well.

20 **Q. And you're responsible not just for CenturyLink**
 21 **but all the telecom cases, is that right, this unit?**

22 A. We are. Although, we are not also -- we're
 23 not -- also the consumer protection side, we do work
 24 closely with them. But yes.

25 **Q. And under the agreement, there's -- the**

1 **their data before the discontinuance?**

2 A. If it would be all right, I would appreciate
 3 pulling up the terms of the settlement. I do know that
 4 there is a 45-day window for consumers to respond --

5 **Q. Correct.**

6 A. -- and then that discontinuance process with
 7 the FCC can take several months. And I do believe that
 8 the terms of the settlement also allows staff and public
 9 counsel no less than essentially 60 days to be able to
 10 go through that process.

11 **Q. Do you know whether staff or public counsel**
 12 **will have resources to do an adequate review of the data**
 13 **presented in that 60 days to intervene before the**
 14 **discontinuance occurs or the FCC process goes forward?**

15 A. I wouldn't speculate as to public counsel's
 16 ability or inability to be able to do that. But at this
 17 point, staff -- as staff, I believe, yes, we do have the
 18 resources necessary to go through that process and to
 19 look at the enhanced discontinuance notice, work with
 20 the company if it looks like they -- if there are issues
 21 with that process, and then ultimately file comments
 22 with the FCC and their discontinuance process if staff
 23 felt strongly that that was warranted.

24 **Q. Is there any remedy allowed in the settlement**
 25 **for staff to bring the issue in front of the UTC?**

1 **consumer would have to complain to either the UTC or**
 2 **public counsel in order to trigger either of these**
 3 **entities to stand up on their behalf or to investigate;**
 4 **correct?**

5 A. We would -- if we receive a discontinuance --
 6 the enhanced discontinuance notice from CenturyLink, we
 7 would do our own kind of due diligence on that
 8 regardless of whether or not there were complaints or
 9 questions that came up.

10 **Q. Now, you don't know how this process is going**
 11 **to work because we've never gone through it; right?**

12 A. I don't know if I feel -- if I would
 13 necessarily agree with that statement. The process is
 14 very detailed and we do have a good understanding of
 15 what that would go through. We haven't lived it and
 16 experienced it to kind of go through that, but it is
 17 very detailed and that does give us a good framework.
 18 Along with the actual notification that is mailed out to
 19 the consumer, is e-mailed out to the consumer, we would
 20 use that as kind of the process or guide.

21 **Q. If CenturyLink went through this entire process**
 22 **and used the packet that they generated of data and**
 23 **filed a petition with the commission to discontinue**
 24 **showing that there were adequate -- there were adequate**
 25 **service alternatives in the area of discontinuance,**

1 would you agree with me that the most likely resolution
2 of that would be on an open docket meeting for the UTC?

3 A. Am I -- can I rephrase or, I guess, can you
4 clarify that? Are you saying at the kind of the very
5 end of the enhanced discontinuance process? Is that
6 your question?

7 **Q. Let's say CenturyLink went through this entire
8 process, and at the end they had a packet of information
9 about alternatives about the people in the area of
10 discontinuance, and if they put that together and they
11 filed on the strength of a petition -- in a petition to
12 discontinue for the UTC, that would allow staff to look
13 at it, that would allow counsel -- public counsel to
14 look at it, and wouldn't the most likely result in that
15 scenario be resolution on an open meeting docket?**

16 A. Sorry, you mentioned approval and a petition.
17 So are you saying that there's a petition which includes
18 CCLs, or are you saying enhanced discontinuance notice
19 with no initial CCLs?

20 **Q. It can either be either way. Either no CCLs or
21 one or two CCLs where they have spoken with them and
22 like Ms. Margrav, there are four different competitors
23 and, you know, it's just she needs to get on with the
24 times and we should be able to discontinue it because
25 it's going to cost us too much money to maintain her**

1 emergencies. Were you or did you listen to the open
2 public comment hearings?

3 A. I was in attendance, yes.

4 **Q. And are you an expert on the performance of
5 cell service during wildfires or other similar
6 emergencies?**

7 A. No, I am --

8 MR. ROBERSON: Objection. This goes a
9 little bit beyond the scope of Mr. Bennett's testimony
10 at any phase of this proceeding.

11 JUDGE HOWARD: Hmm. I'll allow the
12 question.

13 **Q. I think he said no, so --**

14 A. No, I'm not.

15 **Q. All right. Can you turn to what's been marked
16 as Exhibit 32X, SB-3X? This is an article called Five
17 Alarm, Assessing the Vulnerability of U.S. Cellular
18 Communication Infrastructure to Wildfires.**

19 A. I clicked on it. It's pulling up slowly. I
20 apologize. I did download it and I'm trying to open it,
21 but it's giving me a denied pop up.

22 **Q. That's not good.**

23 A. No.

24 **Q. I can share screen with you if that would help.**

25 A. Yeah. That -- that would be great. My

1 service, that kind of information could be assessed and
2 decided fairly quickly by the UTC on the open meeting
3 docket; right?

4 A. The normal discontinuance process for
5 competitive local exchange companies does go before the
6 commissioners at an open meeting generally as a bill
7 action item. And so we do kind of work through those
8 notification processes. And ultimately, if CenturyLink
9 did go through that enhanced discontinuance process, if
10 we found that CenturyLink worked through that entire
11 process appropriately, it would go through the open
12 meeting process like it does for -- for sea legs
13 (phonetic).

14 **Q. Do you have any experience or knowledge of the
15 FCC review process?**

16 A. The FCC review process for what?

17 **Q. Section 214 discontinuances?**

18 A. Very peripherally.

19 **Q. Do you know what the standards are in a
20 Section 214 discontinuance versus the standards in a
21 AFOR statute or in a commission decision?**

22 A. I do not, no.

23 **Q. I want to now shift focus a little bit to some
24 comments that we received during the public comments
25 having to do with availability of communication during**

1 apologies. Thank you.

2 **Q. Sure. I'm going to zoom in because there's no
3 way you're going to be able to read that at that level?**

4 **The page number I've turned to is 166 at the
5 bottom, and the question I want to ask you is about this
6 last paragraph here.**

7 MR. ROBERSON: Objection. Foundation.

8 MR. O'NEILL: I haven't asked the question
9 yet.

10 MR. ROBERSON: Sure.

11 MR. O'NEILL: Judge Howard, I can't hear
12 you.

13 JUDGE HOWARD: Mr. O'Neill, please proceed.

14 MR. O'NEILL: Okay.

15 BY MR. O'NEILL:

16 **Q. You can either read it quietly to yourself or I
17 can read it out loud so we're all on the same page, but
18 do you have any reason to doubt the findings of this
19 study, that the most vulnerable aspect of cell service
20 is the loss of power?**

21 A. I have not read this -- read or reviewed this
22 case study.

23 **Q. You have no reason to disagree with the finding
24 that it is the lack of power that is the most -- the
25 thing that makes cell service most vulnerable in the**

1 **case of a wildfire?**
 2 A. Looking at this, having not before seen it, can
 3 you repeat your question for me?
 4 **Q. Sure.**
 5 **Do you have any reason to doubt the**
 6 **conclusion of this study that in the case of a wildfire,**
 7 **the most striking vulnerability of cell service is**
 8 **power?**
 9 A. I don't have any reason to think that it is or
 10 that is isn't. I haven't reviewed this case study.
 11 **Q. Okay. Let's turn to what I marked as**
 12 **Exhibit 36X. This is a transcript of a public comment**
 13 **hearing for a Mr. Richard Johnson.**
 14 A. I have that one pulled up.
 15 **Q. So Mr. Johnson, according to this testimony,**
 16 **lives in Okanogan County, south of the town of Okanogan.**
 17 **Now, you agree with me that that is very likely a rural**
 18 **part of Washington?**
 19 A. Most likely, yes.
 20 **Q. And he says that when the electricity goes out,**
 21 **the telephone landline is the only way that we have to**
 22 **contact the PUD, it's the only means that they have of**
 23 **contacting a doctor or a hospital in a case of**
 24 **emergency, it's the only contact with the outside world.**
 25 **Do you agree with me that's what his testimony was?**

1 that would be their choice.
 2 My apologies, could you ask the question one
 3 more time?
 4 **Q. It would be their choice. And I'm asking you:**
 5 **Wouldn't it be rational for them to have a landline even**
 6 **though they might have cell service and for them to**
 7 **consider access to that landline something of a**
 8 **necessity living in rural Okanogan County?**
 9 A. It could be. I guess it -- it depends on
 10 whether or not they're ultimately -- services -- those
 11 wireless and fixed services are available. But if they
 12 chose to -- to only have a landline, then that would be
 13 their choice under the current circumstances which they
 14 exist.
 15 **Q. Nowhere in the current settlement agreement is**
 16 **there a provision for assessing whether or not a service**
 17 **is a necessity in spite of the fact that it might have**
 18 **access under the BDC data; right? There's no provision**
 19 **that allows or requires the company to consider that, is**
 20 **there?**
 21 A. The commission previously viewed both copper
 22 and voice as well as mobile wireless as readily
 23 available options. And this process, if approved, would
 24 take all of those different options into consideration,
 25 and CenturyLink would only be allowed to discontinue

1 A. That paragraph, yes.
 2 **Q. And furthermore, in rural Okanogan County,**
 3 **their electricity goes out when the snow is wet, when**
 4 **there's a strong wind, or when there's fire; correct?**
 5 A. Based on that sentence, yes.
 6 **Q. And in the particular area he's referring to,**
 7 **it started snowing in November, it didn't end until**
 8 **April, and every time the wind came up, the snow would**
 9 **drift across their driveway and the road, and they would**
 10 **lose power?**
 11 A. Yes.
 12 **Q. And they didn't have cell service even if they**
 13 **were within a hex that was purple on the FCC BDC data;**
 14 **correct?**
 15 A. I don't see that information in this.
 16 **Q. You don't see --**
 17 A. Can you show me where you're coming to that
 18 conclusion?
 19 **Q. They didn't have electricity; correct?**
 20 A. Based on this statement, yes.
 21 **Q. Is it possible that a person living in a rural**
 22 **area where there still would by access under the BDC**
 23 **data would rationally decide to have a landline because**
 24 **it's simply more reliable when conditions are adverse?**
 25 A. The -- to have one or not, if it's available,

1 service if there are verifiably available alternative
 2 services.
 3 **Q. But that could be a cell service where in rural**
 4 **Washington when they lose power, because cell towers**
 5 **require access to power to operate, that means they lose**
 6 **cell service; right? I mean, that -- you don't know,**
 7 **and there's no provision in this agreement, is there?**
 8 A. They -- they may lose cell service, they may
 9 not. There are a number of cellular companies here in
 10 Washington state that have previously been granted an
 11 ETC designation status, and as part of that review
 12 process they do have backup power. Many of the energy
 13 companies also do have plans in place to rectify it as
 14 quickly as possible.
 15 And so obviously, anytime anyone loses
 16 power, it's unfortunate, but there are rules and
 17 regulations that prompt energy companies to repair that
 18 service as quickly as possible. And just because an
 19 individual loses electricity service does not mean all
 20 of the infrastructure surrounding the area also loses
 21 that power as well. It's certainly possible that it
 22 does, but it's also possible that it's still functional
 23 as well. And if an individual had a backup battery,
 24 then they would still be able to use cellular service.
 25 **Q. Well it's not the individuals, it the cell**

1 **tower that has to have the backup power; right? It**
 2 **not -- it isn't a question of you being able to power**
 3 **your phone, it's question of whether or not the cell**
 4 **tower also lost power and can't give you a signal;**
 5 **right?**
 6 A. Yeah. And many of at least for those two
 7 entities have and do.
 8 **Q. If you go back to the article that I just**
 9 **showed you and you look onto the next page, what it says**
 10 **there is that the FCC proposed such a rule requiring**
 11 **cell towers to have that -- a battery, and it wasn't**
 12 **approved. Do you know whether or not cell companies are**
 13 **required to have battery power in rural areas so that**
 14 **they can operate when in rural Okanogan County the power**
 15 **is out for significant periods of time?**
 16 A. I'm sorry, what are you referring to? I
 17 currently have open the comment from --
 18 **Q. I'll withdraw the question.**
 19 A. Okay.
 20 **Q. Now I want to turn to service quality issues.**
 21 **If you turn to SBX 34, this is the testimony of Jean**
 22 **Marie Dreyer.**
 23 A. Yeah pulling it up now.
 24 **Q. If you turn to page 11 of that document on**
 25 **line 14: "In four years from 2019 to 2023, the UTC**

1 discontinuance process, they have to do the work. So if
 2 they don't have sufficient people to do the work, then I
 3 think that would probably be a moot point because we
 4 won't get to that point.
 5 **Q. It sounds to me like you are agreeing that**
 6 **somebody needs to be reviewing their work, and the**
 7 **question is whether it should be a formal process, that**
 8 **is, something like this process we've gone through in**
 9 **the last two years to get as much information as we**
 10 **have, or if it can be an informal process where your**
 11 **office and three individuals in my office and four**
 12 **individuals are the only line between discontinuance and**
 13 **somebody raising an argument that it shouldn't be done.**
 14 **Right? That's essentially what we're disagreeing about**
 15 **here?**
 16 A. The terms of the settlement are kind of greater
 17 than the sum of their parts. And yeah, one of those
 18 components is the discontinuance process that -- it's
 19 really based on -- it starts with the mobile and fixed
 20 internet availability data. And so, I mean, that data
 21 and the structure and the process along with having a
 22 maximum speed and a minimum -- or sorry, a maximum
 23 price, a minimum speed, and then validating that
 24 information is a -- is a very detailed methodological
 25 process which may or may not happen if CenturyLink

1 **consumer protection division received nearly 1,800**
 2 **complaints about CenturyLink. 1,300 of those involved**
 3 **quality of service with a higher proportion of that**
 4 **coming from rural areas, up to 32 percent." Did I read**
 5 **that correctly?**
 6 A. Yes, you did.
 7 **Q. And if you go to the next page, there's a chart**
 8 **there and then some text which indicates that the raw**
 9 **numbers complaints to CenturyLink has increased every**
 10 **year for the last five years and that the percentage of**
 11 **complaints that are specific to CenturyLink are an**
 12 **increasing percentage of all complaints received by UTC.**
 13 **In fact, CenturyLink has 89 percent -- CenturyLink's**
 14 **complaints compose 89 percent of all complaints about**
 15 **telecom. Right?**
 16 A. Based on this data, yes.
 17 **Q. Do you have any reason to doubt it?**
 18 A. Not to my knowledge, no.
 19 **Q. You heard testimony earlier today from Mr. Gose**
 20 **that they have staffing shortages, they have declining**
 21 **revenue, and -- do you have any concerns about the**
 22 **ability of CenturyLink to self police itself in this**
 23 **discontinuance process where they're the ones doing the**
 24 **work and collecting the data?**
 25 A. If they want to try to go through that

1 receives a competitive classification.
 2 And so this process is really -- it's
 3 created so that we can understand whether or not it is,
 4 and yes, it's definitely trust but verify. But staff
 5 definitely takes that verification process very
 6 seriously, and we would use the information that they
 7 provided to do that verification.
 8 **Q. And has the UTC always been fully staffed in**
 9 **the last couple of years?**
 10 A. I don't know the overall staffing levels of the
 11 commission for each individual division, but I know the
 12 telecoms section may be few but we're mighty, and we
 13 continue to do the work that's asked of us.
 14 **Q. You and I have had multiple discussions about**
 15 **this, you know my reservations. In spite of that, do**
 16 **you still recommend the commission adopt this**
 17 **settlement?**
 18 A. I do.
 19 **Q. You would agree with me that it would be**
 20 **safe -- it would be, let's say, more conservative to**
 21 **require CenturyLink to come in every time that they have**
 22 **a discontinuance, and if they have a persuasive packet**
 23 **like what they've described, it would probably be**
 24 **resolved in a no action docket; right? That would be a**
 25 **safer approach?**

1 A. I don't know if I necessarily agree with that
 2 characterization. I don't know if it would go as a no
 3 action item. There might be a few people that want to
 4 speak up about that discontinuance process. But we do
 5 have a process in front of us that has substantial
 6 safeguards for consumers. We do have and we really dug
 7 into this data. And the data is dynamic, it's not
 8 static, it's constantly changing. I think -- I'm trying
 9 to remember the time period. We worked on this, like,
 10 June 30th, 2024, broadband availability data as being
 11 reported to the FCC soon, and soon you would work on
 12 that data.

13 And the data that providers report is going
 14 to be changing just like the competitive landscape. And
 15 so it is competitive in an area. If there are
 16 reasonable alternatives, this process was worked on with
 17 painstaking detail because we want to get it right.
 18 Because we want to make sure that really no consumers
 19 are left behind, that they do have mobile or fixed
 20 interned service as an alternative.

21 **Q. And you -- I'm guessing that you spent at least**
 22 **hundreds of hours, that is the commission, on this,**
 23 **maybe even into thousands in the last two years getting**
 24 **to this stage; correct?**

25 A. It's been a lot. That's safe to say, yes.

1 analysis.
 2 So there still definitely would be a decent
 3 amount of time to go through that process, but I don't
 4 know if it would necessarily -- individual
 5 discontinuance would rise to the same hours of input for
 6 this entire proceeding over the last year or two years.

7 MR. O'NEILL: All right. I have no more
 8 questions. Thank you, Mr. Bennett.

9 THE WITNESS: Thank you.

10 JUDGE HOWARD: All right. Do we have an
 11 redirect? Please go ahead.

12 REDIRECT EXAMINATION
 13 BY MR. ROBERSON:

14 **Q. Good afternoon, Mr. Bennett.**

15 A. Afternoon.

16 **Q. Do you remember early on in your cross, you**
 17 **were asked about kind of the broadband data collection**
 18 **effort and you spoke about the ACS census data, and I**
 19 **believe you said that there were about 248,000 locations**
 20 **with no mobile service under the ACS study; correct?**

21 A. That's correct, yes. I remember it.

22 **Q. Does that mean that the service is unavailable**
 23 **at those locations?**

24 A. It's -- it's not defined. It -- I believe that
 25 it -- it may not be available. They also -- some of it

1 **Q. And your hope is that in the 60 days that you**
 2 **get from this settlement, you will be able to do a**
 3 **similar amount of working for the individuals that will**
 4 **be directly impacted by that future decision that will**
 5 **have no UTC process; right? That's your hope?**

6 A. Can you state that question, comment one more
 7 time?

8 **Q. It is your hope that in the 60 days of informal**
 9 **review that this settlement creates, that you will be**
 10 **able to recreate that amount of time and investment for**
 11 **those individuals who will be directly impacted by some**
 12 **future decision, the scope of which we don't know now,**
 13 **the dimensions of which we don't know now, we hope we**
 14 **get it right, that's what we're relying on in this**
 15 **process?**

16 A. I'm just trying to kind of reconcile the time
 17 estimate, because you mention putting that amount of
 18 time into this. And that was hundreds of hours and
 19 putting together the process to get there. I believe
 20 that process now that we have it flushed out, if it's
 21 approved, now that we have that process defined and laid
 22 out, it won't be to that same level. It won't be
 23 necessarily hundreds or thousands in totality on that
 24 because we have the structure laid out, we have it
 25 spelled out, and now it's just a matter of doing that

1 could be that they just don't have it. So it really
 2 could be both. But I do believe that the overall number
 3 of kind of CCLs will most likely increase substantially
 4 because it's not static, it is dynamic. And so I think
 5 that 1,200 number of CCLs that was previously mentioned
 6 is really a bare minimum, and as CenturyLink and as the
 7 individual consumers and staff goes through that
 8 process, that number of CCLs will increase. Because
 9 there are, based on that ACS data, a lot of people that
 10 don't have that mobile internet access.

11 **Q. Do you also being -- sorry.**

12 **Do you also recall being asked about staffs'**
 13 **negotiation for the Fabric data?**

14 A. I do, yes.

15 **Q. And did CostQuest offer staff, for lack of a**
 16 **better word, a government rate?**

17 A. Not to my knowledge.

18 **Q. Okay.**

19 A. To the best of my recollection, it was not.

20 **Q. A little later on in your cross, Mr. Robinson**
 21 **O'Neill was asking you about kind of discontinuance**
 22 **without staff or public counsel getting involved. Do**
 23 **you remember that? I believe he used the term**
 24 **"oversight."**

25 A. Yes, yes.

1 **Q. Did staff view the processes set out in the**
 2 **settlement as lacking oversight by the commission**
 3 **through its staff?**

4 A. Not at all. We -- we would be a significant
 5 component of it. We wouldn't be kind of starting off,
 6 that's on CenturyLink, which they may or may not do. To
 7 my knowledge, they've -- at least since I've been here,
 8 they haven't petitioned for a discontinuance in any
 9 area. But if they do decide at some point in the future
 10 if this process and the AFOR are ultimately accepted,
 11 then we would be a part of it after they'd began that
 12 process, and we would validate using the BDC data that
 13 there are services and that CenturyLink isn't
 14 discontinuing service to an unserved or underserved area
 15 so that no one is left behind.

16 And not only are they not left behind, but
 17 if CenturyLink does go through that process and an
 18 individual indicates that they do participate in a low
 19 income program, they could actually get help with
 20 transitioning to other services. In the terms of the
 21 settlement agreement CenturyLink would be willing to
 22 help cover the cost. I believe it's in excess of a \$100
 23 for fixed internet service to some extent, but also with
 24 mobile wireless services as well.

25 **Q. And what does staff view its role in kind of**

1 classification was granted without condition, it would
 2 be allowed to kind of discontinue at will. And by
 3 focusing and talking through and detailing this enhanced
 4 analysis, we substantially minimize litigation risk. To
 5 kind of get an overall terms of the settlement to look
 6 like this, through that litigation process we really
 7 would have had to win on almost every count. It is a
 8 very detailed process, the commission did previously
 9 consider mobile and voice service as alternative
 10 services. And so we did try to take that into account
 11 in this process.

12 But we're not just blindly relying on the
 13 broadband availability data for both broadband and
 14 fixed -- or sorry, mobile wireless, we're validating it.
 15 Which CenturyLink's petition, there is no validation.
 16 There's the 800 protected customers which are protected,
 17 but then everyone else, all the other subscribers,
 18 CenturyLink would potentially be able to just
 19 discontinue with no additional validation or
 20 verification.

21 But this mechanism, this process mitigates
 22 that and puts in place a chance for first CenturyLink to
 23 validate it, because not only are they going to the BDC
 24 data, they're also going to the provider's links but
 25 then they also have to have send out an enhanced notice.

1 **reviewing CenturyLink's -- the data it collects through**
 2 **the customer challenging validation processes?**

3 A. We're validating it, we're verifying it. We
 4 are ensuring that CenturyLink through that
 5 discontinuance process is doing exactly what they said
 6 they were going to do and that they are not
 7 discontinuing service to anyone that doesn't have either
 8 fixed wireless -- or sorry, mobile wireless or fixed
 9 internet availability.

10 **Q. And do you remember being asked about staffs'**
 11 **ability to bring a complaint?**

12 A. I do, yes.

13 **Q. And so if staff finds defects in CenturyLink's**
 14 **discontinuance dataset, would staff be able to complain**
 15 **to stop a discontinuance if the felt that it was**
 16 **unwarranted or inappropriate?**

17 A. Yes, we would.

18 **Q. One last question.**

19 **Mr. Robinson O'Neill asked you whether or**
 20 **not you still recommended an option of the settlement**
 21 **given his qualms. It was a yes or no question. You**
 22 **said that you did. Could you explain why you do?**

23 A. There are substantial benefits under the terms
 24 of the settlement. By its initial -- by "its," I mean
 25 CenturyLink. If CenturyLink's initial competitive

1 And that enhanced notice mentions that consumers may
 2 qualify for financial assistance. It also informs
 3 people about the Washington State Broadband Office's
 4 digital navigation program and language access services,
 5 and there are actually digital navigators to help people
 6 transition from -- or not necessarily help from
 7 transition from voice to broadband, but to help people
 8 understand and be able to set up and use those -- the
 9 modern technology with internet and mobile services.

10 And so overall, there just really are a lot
 11 of benefits. There's also the automatic service credit
 12 which from staff's understanding is above and beyond. I
 13 think earlier today, CenturyLink indicated that in 2023,
 14 it would have been about \$150,000. That's real and
 15 that's something that is going directly to the consumers
 16 and it includes force majeure and vandalism. And it's a
 17 automatic system upgrade once the trouble ticket has
 18 been created. Without that kind of automated system
 19 taking over, then it's just a whole bunch people. And
 20 so that also helps kind of mitigate some risk and
 21 increases the likelihood of that credit actually being
 22 applied. But if it's not applied, then they get double.
 23 And that double is meaningful too because staff did --
 24 was agreeable to --

25 MR. O'NEILL: I'm going to object at this

1 point. This is a narrative answer at this point, and I
 2 would ask that there be a question asked.
 3 THE WITNESS: Okay.
 4 JUDGE HOWARD: I will -- it was a broad
 5 question, but I will grant the objection just given to
 6 length of the testimony, the length of the answer.
 7 Any further questions on redirect?
 8 MR. ROBERSON: I think I can end there.
 9 Thank you.
 10 JUDGE HOWARD: All right. Thank you. Do we
 11 have any questions from the bench? Please proceed.
 12 MR. DANNER: I will start.
 13 EXAMINATION
 14 BY COMMISSIONER DANNER:
 15 **Q. First of all, just a clarifying question. In**
 16 **your testimony related to the settlement agreement, it's**
 17 **noted at SB 28T that CenturyLink will be providing the**
 18 **customer notification of the enhanced service credits**
 19 **within 30 days of the effective date of the AFOR, and**
 20 **then on page 4 of Attachment A, it says it will provide**
 21 **the notifications 60 days after the effective date of**
 22 **AFOR. Can you clarify if it's 30 or 60 days?**
 23 A. I can. I apologize. You were going a little
 24 faster than I was.
 25 **Q. All right. Well, I will slow down.**

1 **those accurate? In the past, there has been a lot of**
 2 **question about the accuracy of maps. I just -- are we**
 3 **at a point now where you're comfortable with them? And**
 4 **what's the basis for that?**
 5 A. It is, and we are. Each iteration will be
 6 better than the last. There is a challenge process that
 7 the FCC allows and really encourages consumers to
 8 challenge that information, and providers will update it
 9 based on that and the FCC will. So definitely benefits
 10 consumers to challenge it on their first and foremost.
 11 But ultimately, although we do want to rely
 12 on that, we don't want to rely on that exclusively which
 13 is why we built in this validation process. It really
 14 gives the consumer a chance to challenge it after
 15 CenturyLink has put in initial legwork where they've
 16 actually gone not only to the broadband availability
 17 dataset, but also gone to the providers' website and
 18 looked at each individual address. And they do provide
 19 within that enhanced notice that they send out to
 20 consumers the company's web link to help consumers be
 21 able to kind of find that service.
 22 So it's -- the mapping -- the initial
 23 broadband data collection map is a starting point, but
 24 it's not the ending point. There is that validation
 25 process that CenturyLink needs to do, consumers have the

1 **So basically, it's in your testimony where**
 2 **you said 30 days but Attachment A of the settlement**
 3 **agreement says 60 days. Just want your -- what is it?**
 4 A. And that 60 days -- sorry. On the settlement
 5 testimony, can you say what page that is? I'm just
 6 trying to --
 7 **Q. It's on page 16, line 4.**
 8 A. Okay. So 16, line 4 it states: CenturyLink
 9 will provide double the credit balance to consumers and
 10 then inform customers about this program via quarterly
 11 bill inserts starting within 30 days of the AFOR
 12 effective date. Okay. Thank you.
 13 **Q. And then in the settlement agreement, it says**
 14 **that the bill insert notifications will be provided**
 15 **within 60 days after the effective date of the AFOR.**
 16 A. Okay. I would probably go with the terms of
 17 the settlement agreement.
 18 **Q. Okay. So that would be notification 60 days**
 19 **after the effective date of the AFOR?**
 20 A. Yes.
 21 **Q. Okay. All right.**
 22 **Then I had a question -- you heard my**
 23 **question to Mr. Gose about the accuracy of maps. I**
 24 **wanted to get your view. Are they -- the maps that**
 25 **they'll be referring to the FCC is putting together, are**

1 ability to then challenge it and provide documentation.
 2 But even if they don't provide documentation,
 3 CenturyLink will then validate -- attempt to validate
 4 what they say, and then all that information will
 5 ultimately be given to commission staff for us to go to
 6 review.
 7 We have spent a lot of time kind of with the
 8 data and with the analysis and it will continue to get
 9 better. And at this point, it's my understanding that
 10 CenturyLink doesn't plan to discontinue service based on
 11 the data in front of us, so they would be using future
 12 iterations which will only get better with time as well.
 13 **Q. I thank you for that.**
 14 **You also heard my question about concerns**
 15 **about the UTC giving up authority to approve mergers and**
 16 **acquisitions as the settlement takes that out. When**
 17 **staff was agreeing to this settlement, did you have**
 18 **concerns about that provision?**
 19 A. The primary concern which was rectified with
 20 the current term was really about kind of CenturyLink's
 21 ability to kind of break up an individual company, one
 22 of the operating entities. Because there is language
 23 where essentially CenturyLink can't kind of break up one
 24 of its smaller companies even further. So then
 25 essentially maybe a provider could only buy the urban

1 and not the rural or vice versa.
 2 And so with that consideration, we do have
 3 the current language where if there is someone that is
 4 interested in buying one of these entities, they would
 5 be able to do that, and they would be able to do that
 6 and take -- taking on the entity as a whole. They're
 7 not just getting a component, so they're getting kind of
 8 the urban core along with the rural areas. And any
 9 purchasing entity would also be subject to the AFOR. So
 10 the AFOR still in is place, they wouldn't be relieved of
 11 any obligations that are created and sustained with this
 12 structure. So that was kind of thinking behind that
 13 language.

14 And like many of these individual areas, the
 15 sum really is greater than the parts. We're able to
 16 avoid litigation risk with this combined settlement, and
 17 overall the settlement does benefit consumers by only
 18 allowing CenturyLink to actually discontinue service if
 19 there are alternative services which are verified
 20 ultimately by staff.

21 **Q. Thank you. Now, you mentioned language,**
 22 **translation services as well. I was -- I saw in the --**
 23 **I think it's Attachment B that there are language**
 24 **services that are being offered by the broadband office.**
 25 **I didn't see any translation services by the company.**

1 **Q. Okay. But yeah, that is provided by broadband**
 2 **office. All right. Thank you.**

3 **And is it your understanding that cell**
 4 **towers need -- are required to have eight hours of**
 5 **battery backup?**

6 A. No, it's not. And I can expand a little bit if
 7 you'd like me to.

8 **Q. Please.**

9 A. AT&T and T-Mobile were both previously
 10 designated as high cost ETCs in the state of Washington
 11 at the -- and at that time when they received their
 12 designation, there was a rule in place that required
 13 them to have at least -- I believe it's four hours of
 14 backup battery power. However after that, the statute
 15 was changed -- or sorry, the rule was changed to just
 16 require them to have a sufficient amount of backup
 17 battery power but it's not -- "a sufficient" isn't
 18 necessarily defined.

19 **Q. So sufficient to do what?**

20 A. To provide backup battery. But it -- it's not
 21 defined as far as the length of time --

22 **Q. Okay.**

23 A. -- for cell towers. But -- yeah.

24 **Q. All right. Yeah, we may have to inquire**
 25 **further about that.**

1 **Is that your understanding as well?**

2 A. That -- that is. I believe there -- my
 3 apologies. I can try to find it. I do believe for the
 4 service quality credit will also be translated into
 5 Spanish. But everything else, yes, it is through a
 6 digital navigator that there would be language access
 7 assistance.

8 **Q. Through the --**

9 A. Through the kind of digital navigator.

10 **Q. By the company or by the -- who would be -- the**
 11 **digital navigator is -- is what?**

12 A. It's -- a grant ran by the Washington State
 13 Broadband Office --

14 **Q. Right.**

15 A. -- to help with the digital equity.

16 **Q. Right. Okay.**

17 **So the company's going to send out a**
 18 **postcard, people are going to get the postcard, so they**
 19 **would have to contact the broadband office to get those**
 20 **kinds of translation services then?**

21 A. They -- the discontinuance notice includes a
 22 link and a flyer for each of those languages for
 23 individuals to get that language assistance.

24 **Q. Okay.**

25 A. So it -- yeah.

1 **And my last question is: You heard Mr. Gose**
 2 **talk about -- my question to him about seeking state and**
 3 **federal funding. And he said that he was -- that his**
 4 **company was considering it, he did not say that they**
 5 **would or would not. If the company does not seek BEAD**
 6 **funding or other assistance funding, how is that going**
 7 **to impact some of the numbers we would see for areas**
 8 **where the company might want to discontinue services?**

9 A. Yeah. So let me answer it two separate ways.
 10 If they do seek it and then they don't seek it.

11 So if they don't seek it, the Washington
 12 State Broadband Office does that have a project area map
 13 where basically providers are -- will be going in and
 14 bidding on deploying broadband that needs at least 100
 15 down, 20 up to these different areas. Assuming they
 16 overlap CenturyLink's study area, these companies will
 17 start -- they will most likely be awarded the funding in
 18 2025 and start building out over the next several years.

19 So over that five years, there will be a lot
 20 more competition throughout CenturyLink's study areas
 21 not only because of the BEAD funding but also RDOF
 22 funding as well. And so as these other providers do
 23 roll out available alternative service and report that
 24 data to the FCC, those presumably would then be
 25 available alternative services in the future, and

1 CenturyLink would be able to then kind of go to that
 2 discontinuance process because they'd be able to point
 3 to, say, company ABC is now offering one gig to your
 4 location even though right now you have no one. So it
 5 does increase the competition in those areas, but it's
 6 going to take time. And this process was designed so
 7 that kind of -- that can be taken into consideration.

8 You did ask what if they do participate in
 9 the funding. And if they do participate in the funding,
 10 it is interesting, because the way we structured this,
 11 CenturyLink and its affiliates' information is not taken
 12 into consideration as a competitor. So if they receive
 13 that BEAD funding within their areas and no one else is
 14 offering available services, then they would not be able
 15 to point to themselves and say, look, there's
 16 competition. So if there is no one else that has
 17 otherwise deployed there on their own, then those
 18 locations would still be CCLs because although they may
 19 have one gig service, there's no other option, and so
 20 they wouldn't be able to discontinue that voice service.

21 **Q. Okay. And if the BEAD funding is not**
 22 **available, it's set up in such a way that they won't be**
 23 **funding two entities that would be overbuilding each**
 24 **other?**

25 A. Correct. There's a whole deed duplication

1 Mr. Robinson O'Neill.

2 EXAMINATION

3 BY COMMISSIONER RENDAHL:

4 **Q. You're were referring to the open meeting**
 5 **process, and I just want to clarify that the rules that**
 6 **you -- the rule you were referring to is referenced on**
 7 **page 10 of Attachment A to the settlement, and that's**
 8 **in -- that's in section -- it's in the discontinuance**
 9 **section which goes on for some time, but it's page 10.**
 10 **And that references WAC 481.20.083. Is that the rule**
 11 **that references the process that will apply here?**

12 A. For the -- that does reference kind of the
 13 normal discontinuance process which we use any time a
 14 CLEC discontinues service. There also is the enhanced
 15 discontinuance process but that -- in staffs' mind
 16 that's kind of a precursor to be able to get to that WAC
 17 that you referenced, yes.

18 **Q. Okay. Great. And then Attachment B to the**
 19 **settlement -- or Appendix B to the settlement is a**
 20 **proposed letter -- I see it as a proposed letter to go**
 21 **to customers. And is there going to be further work on**
 22 **this letter? Will public counsel and staff and the**
 23 **consumer protection division have an opportunity to work**
 24 **on this letter, or is this the letter that everyone's**
 25 **agreed to?**

1 process where basically of there's broadband enforceable
 2 commitment, then if it's funded by another program, then
 3 the BEAD funding wouldn't also offer support for that.
 4 They also do have qualifications on whether or not it's
 5 a reliable service. And so NTIA, not the FCC, because
 6 the FCC didn't necessarily find that one way or another.
 7 But NTIA defines "reliable service" as -- or they --
 8 they exclude unlicensed fixed wireless from that as well
 9 as satellite.

10 And so if there's only an unlicensed fixed
 11 wireless provider or a satellite provider that report
 12 availability, the Washington State Broadband Office will
 13 consider that as unserved or -- unserved or underserved
 14 and so then it would be eligible for BEAD funding as
 15 well.

16 COMMISSIONER DANNER: All right. Thank you
 17 very much for answering my questions. That's all I
 18 have. Thank you.

19 THE WITNESS: Thank you, Chair Danner.

20 COMMISSIONER RENDAHL: Thank you. Good
 21 afternoon, Mr. Bennett. This is Commissioner Rendahl.

22 THE WITNESS: Good afternoon, Commissioner
 23 Rendahl.

24 COMMISSIONER RENDAHL: Just to follow up on
 25 an answer you gave in response to questioning from

1 A. This is the letter that the settlement parties
 2 have agreed to. We did incorporate and work with
 3 consumer protection to work through this process and the
 4 company, however public counsel did not have any input
 5 on that. So it's my understanding that this is kind of
 6 the final product as a structure of this settlement.

7 **Q. Okay. So if the commission were to grant the**
 8 **settlement, it -- there are some things in here that I**
 9 **think could be made more clear. Would there be an**
 10 **objection to make this more clear? To require the**
 11 **parties to work together again on this letter?**

12 A. I -- staff works the settlement kind of in its
 13 entirety without condition. The -- kind of the letter
 14 is in front of us as far as I understand it. But I -- I
 15 can't speak for the company as far as what -- how they
 16 feel one way or another, but it -- they may be open and
 17 willing to kind of work through that in the process.

18 **Q. Okay. I'll leave that there.**

19 **You heard my questions for Mr. Gose;**
 20 **correct?**

21 A. I did, yes.

22 **Q. Okay. And I asked a question about the**
 23 **reference to individual case basis contracting, and it's**
 24 **your understanding as well that this does not apply to**
 25 **residential or one of our customers; correct?**

1 A. Correct, yes.
 2 **Q. Okay. So did you also hear the question I**
 3 **asked Mr. Gose about the impact of the Provision 8 in**
 4 **lieu of commission penalties question?**
 5 A. I did. I'd be happy to address that further.
 6 **Q. Okay. So in -- Provision 8 has just general**
 7 **provisions about service credits and then Subsection D**
 8 **speaks to the double service credits. And the question**
 9 **is: That statement, "in lieu of commission penalties**
 10 **associated with the failure to apply or not apply the**
 11 **correct amount," does that restrict the commission's**
 12 **ability to take enforcement action or assess penalties**
 13 **for these specific -- the specific facts of those**
 14 **specific service quality issues?**
 15 A. The waiver is only specific to the application
 16 of the credit. Staffs' understanding that the -- that
 17 it is not waiving the commission's ability to do quality
 18 of services penalties. So the commission has the
 19 ability if it finds -- if it goes through an
 20 investigation, it would be able to assess penalties on
 21 these, it only would not be able to assess a penalty
 22 because it missed that credit specifically, if that
 23 makes sense.
 24 So, I mean, if the line is out for a week
 25 and it missed the credit, then they're going to get

1 A. It would be, yeah.
 2 **Q. So I think we can -- sometimes we get hung up**
 3 **when there's not a regulation, we think this is not**
 4 **happening. But I think if we asked you, for example,**
 5 **procure for us and we took notice of that fact that**
 6 **wireless companies are, in fact, providing backup power,**
 7 **you could procure that information if we asked for that**
 8 **because just it's out there. I mean, it's -- it's -- to**
 9 **my knowledge, that's going on right now, so --**
 10 A. We can definitely if we got a bench request for
 11 that, we could definitely research it further and get
 12 response back to you.
 13 **Q. Thank you. And one of the question -- you**
 14 **mentioned earlier that your telecom shop, small but**
 15 **mighty, okay. I understand Mr. Robinson O'Neill's**
 16 **concern about are we working on a hope here, right, that**
 17 **folks aren't going to get left behind without service.**
 18 **We can't have that happen. So I -- I want you to go a**
 19 **little bit deeper if you could, and I'm looking at your**
 20 **direct testimony, page 4 but also page 1 of the bottom**
 21 **right, to give your background.**
 22 **Can you share some of your background in**
 23 **terms of the depth of your knowledge on rural broadband**
 24 **mapping granular data for the record.**
 25 A. Yeah.

1 approximately a \$6 credit plus the doubling of \$12 which
 2 directly benefits the consumer rather than a penalty
 3 permitting that application. However, nothing in this
 4 prevents the commission from being able to issue
 5 additional penalties for those six days whether it feels
 6 it's necessary based on the facts to do \$100 a day or
 7 \$1,000 a day or somewhere in between. Does that answer
 8 your question?
 9 COMMISSIONER RENDAHL: That does. That's
 10 very helpful. I defer to my colleague, and I may have
 11 more follow-up.
 12 THE WITNESS: Of course. Thank you.
 13 COMMISSIONER DOUMIT: Thank you,
 14 Mr. Bennett.
 15 EXAMINATION
 16 BY COMMISSIONER DOUMIT:
 17 **Q. So back to wireless battery backup, which**
 18 **you -- would you agree the wireless industry, unlike**
 19 **what we're talking here is a highly competitive**
 20 **enterprise?**
 21 A. Generally, yes.
 22 **Q. Okay. So whether there's a regulation on**
 23 **battery backup or not, would you believe it's a distinct**
 24 **competitive disadvantage to not maintain backup power in**
 25 **that industry?**

1 **Q. Just to have it.**
 2 A. Yeah. Most definitely. I've been here now
 3 with the commission since about 2016. This is my first
 4 kind of administering or overseeing the annual report
 5 process and came up to telecom in 2018. And from that
 6 time, I've helped administer the Small State Universal
 7 Communication Services Program which is about helping
 8 some of our small ILECs, maintaining enhanced and
 9 provide both voice and more recently broadband service.
 10 As a component of that, those companies --
 11 many of them did have a defined broadband build-out
 12 obligation. And a part of that is, they had to report
 13 to us their build-out. And so they did provide us with
 14 the shape files which we've analyzed, and also as a part
 15 of kind of confirming and truing up their reported
 16 information, also downloading reported broadband
 17 deployment obligations, that those same providers
 18 reported to the FCC. Because ETCs, Eligible
 19 Telecommunication Carriers, are required to hit their
 20 obligations, their broadband deployment obligations and
 21 report these to the FCC.
 22 That information is downloadable, and so I
 23 download that and compare it all just to make sure that
 24 what the companies are telling us matches what they're
 25 also telling the FCC so that there is not a kind of

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1 double reporting of, hey, we did this, we did this, and
 2 they're the same one. So just holding companies
 3 accountable.
 4 I've also worked with Washington State
 5 Broadband Office on their de-duplication process making
 6 sure that areas aren't double funded. These same small
 7 ILECs that I mentioned earlier do receive either a
 8 number of different federal high cost support program
 9 funds, broadband loop sort, ACAM, enhanced ACAM. I can
 10 go into the details, but I'll spare you that for now.
 11 But part of that is just making sure that if they do
 12 have a broadband deployment obligation, that the
 13 Washington State Broadband Office is aware of that and
 14 so that way, they can report those areas as not eligible
 15 for BEAD funding.
 16 Again with the small ILECs, we knew that the
 17 broadband data collection process was coming, and the
 18 commissioners knew that it was coming. And so when
 19 rules were developed, those small incumbent local
 20 exchange companies that the commission had the foresight
 21 to require those companies to provide that data to the
 22 staff. And staff did receive that data and kind of did
 23 an analysis and worked with each of the companies to
 24 just ensure that what they were reporting to the FCC and
 25 us is what they intended to report. And they have, and

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1 it's gotten better with time.
 2 So there's a lot of -- with broadband
 3 availability, understanding where it is and where it
 4 isn't so that policymakers can identify areas that are
 5 unserved, and we're just trying to kind of do our part
 6 to help Washington State Broadband Office have the best
 7 information available so that we can make sure that all
 8 unserved and underserved areas in the state of
 9 Washington do get that service because for too long,
 10 they haven't. Not for lack of trying.
 11 **Q. Thank you for that background.**
 12 **So based on your expertise and resources in**
 13 **your shop, then, are you fully confident -- it's an**
 14 **important question public counsel raises. We have**
 15 **not -- we can't go on faith here. Are you fully**
 16 **confident that you can verify and validate the data and**
 17 **the decisions -- disconnection decisions that**
 18 **CenturyLink brings to you and to your shop on behalf of**
 19 **the commission?**
 20 A. Yes. Definitely.
 21 COMMISSIONER DOUMIT: All right. Okay.
 22 Thank you. Nothing further. Thanks.
 23 COMMISSIONER RENDAHL: And I have nothing
 24 further.
 25 JUDGE HOWARD: All right. There being no

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1 further bench questions, Mr. Bennett, thank you for your
 2 testimony today, and you are excused from the remainder
 3 of the hearing.
 4 MR. BENNETT: Thank you.
 5 JUDGE HOWARD: Before we proceed to the next
 6 witness, I just want to note we would have about
 7 two-and-a-half hours remaining of hearing time minus ten
 8 minutes for a midafternoon break soon. Are we fine with
 9 proceeding to the company cross of Brevitz, or would the
 10 parties like to take a break now.
 11 MR. ROBERSON: Your Honor, a brief break
 12 would be great.
 13 JUDGE HOWARD: All right. We'll take a
 14 brief break. We'll be back at 2:42, and then we'll try
 15 to timely and efficiently move through the remaining
 16 part of the afternoon. So we are off the record.
 17 (A break was taken from 2:33 to 2:44 p.m.)
 18 JUDGE HOWARD: Let's be back on the record.
 19 We're going to continue with our last witness, David
 20 Brevitz, testifying on behalf of the public counsel.
 21 And I will turn it over to my colleague, Judge Callahan.
 22 JUDGE CALLAHAN: Mr. Brevitz --
 23 MR. BREVITZ: Yes.
 24 JUDGE CALLAHAN: -- can you hear me?
 25 MR. BREVITZ: Yes.

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1 JUDGE CALLAHAN: Please raise your right
 2 hand, and I will swear you in.
 3 Do you swear the testimony you testify today
 4 is the truth, the whole truth, nothing but the truth?
 5 THE WITNESS: Yes, I do.
 6 JUDGE CALLAHAN: Mr. O'Neill, please
 7 introduce the witness and tender him for cross.
 8 MR. O'NEILL: Good afternoon, Mr. Brevitz.
 9 Can you please state your name and spell your last name
 10 for the record?
 11 THE WITNESS: Yes. My name is David
 12 Brevitz. And the spelling of the last name is B-r-e-v,
 13 as in Victor, i-t-z, as in zebra.
 14 MR. O'NEILL: Mr. Brevitz, did you prepare
 15 and file with the commission what have been marked
 16 Exhibits DB 1T through DB 14?
 17 THE WITNESS: Yes, I did.
 18 MR. O'NEILL: Is the information contained
 19 in those exhibits true and accurate, and would you
 20 change any of that testimony today?
 21 THE WITNESS: It is true and accurate. I do
 22 have some corrections to 1T.
 23 MR. O'NEILL: All right. Can you go ahead
 24 and direct our attention to 1T and indicate on what page
 25 you have a correction?

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1 THE WITNESS: Yes. So this is my original
 2 response testimony, and contained within it was
 3 references to the testimony of Stephanie K. Chase on
 4 behalf of the public counsel's unit. Those references
 5 should be globally changed to Jean Marie Dreyer who has
 6 adopted her testimony on behalf of public counsel.
 7 That's the first one.
 8 And then on page 29, line 2 the word "less"
 9 should be changed to "more."
 10 SPEAKER: What line was that?
 11 THE WITNESS: That was line 2.
 12 MR. O'NEILL: Thank you.
 13 THE WITNESS: Page 29, line 2, "less" should
 14 be "more."
 15 MR. O'NEILL: With those changes, do you
 16 have any other changes?
 17 THE WITNESS: I have three more.
 18 MR. O'NEILL: Okay.
 19 THE WITNESS: On page 33, line 12 insert an
 20 end parenthesis after PD3 fiber. It's missing an end
 21 parens.
 22 And if we're ready, on page 39, line 20,
 23 delete the first appearance of the word "not."
 24 MR. O'NEILL: And the last change?
 25 MR. BREVITZ: And then lastly on page 43,

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1 line 9, at the end of the line "is" should be replaced
 2 with "its." And that's all the corrections I have.
 3 MR. O'NEILL: With those corrections, I
 4 tender the witness for cross-examination.
 5 JUDGE CALLAHAN: The company has cross for
 6 90 minutes. You may proceed.
 7 MR. SHERR: Thank you.
 8 CROSS-EXAMINATION
 9 BY MR. SHERR:
 10 **Q. Good afternoon, Mr. Brevitz.**
 11 A. Good afternoon.
 12 **Q. My name is Adam Sherr. I know we've spoken**
 13 **before, but I am the attorney for CenturyLink in this**
 14 **matter. It's a pleasure to see you again.**
 15 A. Yes.
 16 **Q. Does public counsel believe that the**
 17 **CenturyLink ILEC should be rate of return regulated in**
 18 **the state of Washington?**
 19 A. No.
 20 **Q. Why is that?**
 21 A. It's unnecessary. Rate of return regulation is
 22 a historical method of public utility regulation. I
 23 can't remember the last rate case for a telephone
 24 company I've seen. That's been decades. That's not an
 25 issue in this case and shouldn't be.

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1 **Q. And you favor an AFOR, an alternative form of**
 2 **regulation. You favor an AFOR as the vehicle for**
 3 **resolving CenturyLink's petition in this case rather**
 4 **than a granting of competitive classification; is that**
 5 **correct?**
 6 A. Yes. I think that's more appropriate. And to
 7 that extent, I agree with the settlement. It is the
 8 framework for a proposed AFOR that requires some
 9 modification, but it is an AFOR.
 10 **Q. You testified that broadband internet access**
 11 **service connections are the telecommunication**
 12 **connections chosen by consumers across the country. Do**
 13 **you recall that testimony?**
 14 A. I don't know where those exact words are, but
 15 that was certainly the thrust of my testimony.
 16 **Q. Okay. Is it in the public interest for**
 17 **broadband services to be expanded throughout Washington?**
 18 A. Yes.
 19 **Q. Do you understand that every dollar spent out**
 20 **of pocket on legacy copper facilities is a dollar**
 21 **potentially not available to expand broadband services**
 22 **further into Washington?**
 23 A. Well the way I would approach answering that
 24 question is to say yes, capital investment dollars are
 25 limited, companies have to make choices where they spend

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1 it. Lumen is making the choice to spend their capital
 2 expenditure dollars or quantum fiber and other
 3 enterprise services. And AT&T made a similar argument
 4 in California in support of its request to discontinue
 5 copper services in the state of California. It told the
 6 commission that interfact sellers (phonetic) are limited
 7 and if -- it would have more money to spend on other
 8 advanced services in the state if it didn't have to
 9 spend it on copper.
 10 **Q. And you agree with that, don't you?**
 11 A. I -- yeah, I don't know the dollars, but in
 12 theory that's true.
 13 **Q. Thank you.**
 14 **Could you take a look at Exhibit DB 19 which**
 15 **is your settlement response testimony --**
 16 A. Yes.
 17 **Q. -- and page 11, let me know when you're there.**
 18 COMMISSIONER RENDAHL: Counsel, do you mind
 19 getting a little closer to the mic?
 20 MR. SHERR: Yes. I apologize. Is this
 21 okay? Thank you.
 22 A. Page 11?
 23 **Q. Yes, sir. Page 11 of 32.**
 24 A. Yep.
 25 **Q. And on that page is Table 1. Do you see that?**

1 A. Yeah, yes.
 2 **Q. All of this information comes from**
 3 **Mr. Bennett's original response testimony and not his**
 4 **settlement testimony; correct?**
 5 A. Correct.
 6 **Q. And it excludes the consideration of mobile**
 7 **wireless, doesn't it?**
 8 A. I believe so, yes.
 9 **Q. Do you have any reason to believe that the**
 10 **Centers for Disease Control was incorrect that**
 11 **74.2 percent of adults in Washington use only wireless**
 12 **phones?**
 13 A. I don't have any reason to disbelieve that, no.
 14 **Q. Okay. Any reason to disbelieve the CDC's**
 15 **finding that 14 percent use mostly wireless?**
 16 A. I don't have any reason to disbelieve that, no.
 17 **Q. Okay. Any reason to disbelieve that CDC**
 18 **finding that another 6.3 percent of Washington adults**
 19 **use -- are dual users of both wireless and landline?**
 20 A. I don't challenge those statistics, no.
 21 **Q. Okay. So that's -- not to make you do math,**
 22 **but that's 94.5 percent of Washington adults have only**
 23 **or are exclusively using mobile wireless to communicate;**
 24 **correct?**
 25 A. If that's what the math adds up to, I agree.

1 A. Yes. Area in terms of geography and the number
 2 of customers affected.
 3 **Q. Okay. And did you mention frequency as well?**
 4 A. I don't recall that. I may have.
 5 **Q. Okay. Those -- let me rephrase.**
 6 **The 2014 AFOR, the one that's still**
 7 **effective, didn't limit CenturyLink's ability to seek**
 8 **discontinuance in terms of area size or number of**
 9 **customers, did it?**
 10 A. I recall that provision. The size of the area
 11 at that time was unlimited, yes.
 12 **Q. Okay. And public counsel is a party to the**
 13 **settlement that led to that AFOR, wasn't it?**
 14 A. Ten years ago, yes, they were.
 15 **Q. So you -- you urged the commission to consider**
 16 **placing limitations on the reasons CenturyLink can seek**
 17 **to discontinue service in Washington, don't you?**
 18 A. I don't know about limits, but at least be
 19 explicit. Right now they're -- the reasons are
 20 unstated. We have testimony from the company indicating
 21 that they expect us to be rarely, if ever, applied and
 22 yet that belies the effort that the company put to
 23 getting this provision as it is in the settlement, and
 24 it's also occurring at a time when the largest company
 25 in the country is pursuing discontinuance of service

1 That leaves 5 or 6 percent in the state that don't,
 2 which is a nontrivial number in absolute terms.
 3 **Q. And the CDC also shows that more than**
 4 **90 percent of U.S. citizens in nonmetropolitan areas use**
 5 **wireless only, mostly wireless, or dual users; isn't**
 6 **that correct?**
 7 A. I'll take your figure. And again, that leaves
 8 10 percent that don't, which is a nontrivial figure.
 9 And those are the people we're talking about here, I
 10 think, in this proceeding.
 11 **Q. And if a customer chooses to use mostly**
 12 **landline service or only landline service, that may be**
 13 **as a result of their choice and preference; correct?**
 14 A. It may be a result of availability too.
 15 **Q. Okay.**
 16 A. Again, that's why we're here today.
 17 **Q. Okay. But also, it may be a result of them**
 18 **choosing to stick with landline service or subscribe to**
 19 **landline service, not because they lack alternatives?**
 20 A. Sure.
 21 **Q. On page 13 to 15 of the same exhibit, this is**
 22 **Exhibit DB 9T from pages 13 to 15, you express concern**
 23 **that there are no limits on CenturyLink's ability to**
 24 **seek discontinuance in Washington in terms of frequency**
 25 **or area size. Correct?**

1 over copper in California and other states, and it is
 2 also occurring at a time when Lumen has told investors
 3 that it's managing the CenturyLink operations for cash
 4 flow. So I think there's ample reason for the
 5 commission to be concerned about unlimited
 6 discontinuance of what has been a public utility
 7 service, particularly in the rural areas of Washington.
 8 **Q. Are you aware of any other telecommunications**
 9 **provider in Washington which faces a restriction based**
 10 **on their reasons they seek to discontinue?**
 11 A. I'm not aware of a provider in Washington
 12 that's seeking to discontinue service.
 13 **Q. Okay. Well, I appreciate that. That wasn't my**
 14 **question.**
 15 **Are you aware of any other**
 16 **telecommunications provider in Washington who has to**
 17 **justify or explain the reasons they may seek to**
 18 **discontinue service?**
 19 A. It seems to me that if another ILEC in the
 20 state was to come and ask to discontinue service, they'd
 21 have to justify why. So in that respect, CenturyLink
 22 wouldn't be treated differently.
 23 **Q. Do you know that for sure?**
 24 A. I don't.
 25 **Q. Okay. Are you aware of a statute -- I know**

1 **you're not an attorney, but are you aware of a statute**
 2 **or rule in the commission that requires explanation of**
 3 **justification of the reasons for discontinuance?**
 4 A. I believe commission approval is required, and
 5 that likely would -- that seems logical that there would
 6 be some sort of explanation for why required. So it may
 7 not be in black and white, but it seems to me that would
 8 be part of the process.
 9 **Q. Are you aware that the overwhelming majority of**
 10 **telecommunications service providers in Washington have**
 11 **to do nothing other than provide notice to the**
 12 **commission and customers if they choose to discontinue**
 13 **service?**
 14 A. Majority -- are you including ILECs in that
 15 majority?
 16 **Q. Well, that's a fair question.**
 17 **In terms of voice connections, the providers**
 18 **of the vast majority of voice connections in the state**
 19 **if they have to do anything, don't have to do anything**
 20 **other than provide notice to the commission and**
 21 **customers that they intend to discontinue service; true?**
 22 A. Again, are you including ILECs in that vast
 23 majority?
 24 **Q. Sure. Well, I'm not testifying, sir.**
 25 A. Well, I'm just trying to clarify the question

1 commission to see whether it was necessary to continue
 2 to require that.
 3 **Q. So under your concept, CenturyLink would obtain**
 4 **that license, whatever the cost, within the -- as soon**
 5 **as the AFOR becomes effective?**
 6 A. Well, certainly before any petition for
 7 discontinuance was filed.
 8 **Q. Right.**
 9 **There's no -- you understand that there's no**
 10 **specified timeframe whether it's year one, year two,**
 11 **year three, whenever, when CenturyLink might actually**
 12 **pursue discontinuance in Washington, if ever?**
 13 A. I'll agree the circumstances are completely
 14 unspecified and vague at this point. We don't know what
 15 CenturyLink might do or not do for the next five years
 16 with regard to discontinuance.
 17 **Q. But you're --**
 18 A. I think it's hardly coincidental that this has
 19 turned to such a big issue in this case at the same time
 20 that discontinuance of service over copper facilities is
 21 a significant issue nationwide.
 22 **Q. And you mentioned -- you referred to AT&T**
 23 **earlier in California?**
 24 A. Yes.
 25 **Q. You understand AT&T and CenturyLink are not**

1 so I know what I'm answering.
 2 **Q. Sure. I'll move on.**
 3 **Do you agree that the larger the area of**
 4 **hypothetical discontinuance, the more likely it is that**
 5 **there will be one or more CCLs in that area?**
 6 A. I think that could very well be the case, yes.
 7 **Q. And if there's at least -- if there's just one**
 8 **CCL in that area, small and large, that proposed AFOR**
 9 **requires CenturyLink to submit that discontinuance for**
 10 **affirmative approval by the commission; right?**
 11 A. I believe that is what the settlement says,
 12 yes.
 13 **Q. You urged the commission to require CenturyLink**
 14 **to obtain a quote from CostQuest for a one-year license;**
 15 **true?**
 16 A. Yes.
 17 **Q. Okay. You understand that the proposed AFOR is**
 18 **for at least five years?**
 19 A. Yes.
 20 **Q. So are you really urging the commission to**
 21 **require CenturyLink to pay for up to five years of a**
 22 **license?**
 23 A. Well, the reason I recommended one year was to
 24 get the -- get the cost, get some experience with the
 25 process, and then it would be much easier for the

1 **affiliates; correct?**
 2 A. Absolutely.
 3 **Q. Okay. So going back to the question I asked,**
 4 **are -- you -- it's not clear when CenturyLink might, if**
 5 **ever, seek discontinuance to an area of Washington but**
 6 **you're urging the commission to require CenturyLink to**
 7 **obtain a one-year CostQuest license now?**
 8 A. Yes. Because I think the urgency with which
 9 CenturyLink has pursued this issue in this case in this
 10 settlement suggests that the company intends to use the
 11 process.
 12 **Q. Would you take a look at page 17 of the same**
 13 **exhibit, Exhibit DD 19?**
 14 A. Sure.
 15 **Q. Thank you.**
 16 A. I'm there.
 17 **Q. Great. Could you look -- there's a sentence**
 18 **that starts on line 4 that I'm going to read to you and**
 19 **then ask you a question. You say: "Second, the**
 20 **commission should place limits on the size that the area**
 21 **served only by CenturyLink copper networks that could be**
 22 **put forward for the discontinuance of service process in**
 23 **terms of geography and the number of customers**
 24 **affected." Did I read that correctly?**
 25 A. Yes.

1 **Q. Okay. Are you using "served only by**
 2 **CenturyLink copper networks" as a synonym for**
 3 **CenturyLink's ILEC service territory?**

4 A. No. That means -- that's a smaller area than
 5 probably CenturyLink's statewide footprint in that it
 6 would exclude areas where Century has both fiber and
 7 copper routes in the same area in parallel.

8 **Q. Okay. I was just trying to understand what you**
 9 **were referring to.**

10 A. Right.

11 **Q. So you're referring to areas here where**
 12 **CenturyLink has copper but does not have fiber?**

13 A. Right.

14 **Q. Okay. Thank you for that clarification.**

15 **You suggest the commission should consider**
 16 **precluding CenturyLink from seeking discontinuance in an**
 17 **area larger than a wire center, a distribution area, or**
 18 **to more than 50 or 100 customers; correct?**

19 A. Well, that sentence is food for thought for the
 20 commission to put some flesh on the bones of some
 21 possibilities for reasonable limits in the absence of
 22 any limits whatsoever in the settlement agreement. I'm
 23 not sure that I would necessarily advocate any one of
 24 those specifically, but those are the kind of
 25 limitations that the commission could add to settlement

1 **voice service in any rural portion of the state?**

2 A. No. It's very location specific. It's where
 3 the customer is, and do they have a decent wireless
 4 signal to carry data at high speed.

5 **Q. Okay. And as we discussed before, the CDC**
 6 **shows that more than 90 percent of the U.S. citizens in**
 7 **nonmetropolitan areas use wireless only, mostly,**
 8 **wireless, or dual users?**

9 A. Right. Which leaves the other 10 percent which
 10 I think the commission needs to be concerned about.

11 **Q. Okay. And some part of that 10 percent or**
 12 **maybe all that 10 percent may actually have other**
 13 **alternatives available to them, but they may choose not**
 14 **to pursue those alternatives?**

15 A. Perhaps. I don't know.

16 **Q. Is it public counsel's position that in**
 17 **CenturyLink's service territory, CenturyLink had market**
 18 **power over the 72.9 percent of nonurban citizens who use**
 19 **wireless only?**

20 **MR. O'NEILL: I'm going to object here just**
 21 **briefly. That's the second time it's happened.**

22 **Mr. Brevitz is not public counsel, he's a**
 23 **witness. And you can ask him his opinion, but I would**
 24 **object to any question about public counsel's position.**

25 **JUDGE CALLAHAN: Counsel, can you rephrase**

1 as a modification.

2 **Q. Okay. And again, no other telecommunications**
 3 **provider in Washington is subject to those types of**
 4 **restrictions, are they?**

5 A. As far as I'm aware, no other ILEC in
 6 Washington is seeking authority to discontinue service
 7 without commission approval. So yes, it's tailored to
 8 this case.

9 **Q. You urged the commission to be skeptical about**
 10 **the reach of mobile wireless in rural areas of**
 11 **Washington?**

12 A. Yes.

13 **Q. Before we get to your concerns about rural**
 14 **areas, let me ask you a couple threshold questions.**

15 **Do you believe mobile wireless is an**
 16 **adequate substitute for CenturyLink landline service.**

17 A. It can be in certain places. And again, that
 18 kind of falls along the rural/urban split. Mobile
 19 wireless signal is much more robust and reliable in the
 20 urban areas, even though there's spots in urban areas
 21 where you can't get a decent signal. But as a general
 22 rule, more so in urban areas, mobile wireless is used as
 23 broadband substitute.

24 **Q. Is it your testimony that wireless service is**
 25 **not an adequate substitute for CenturyLink landline**

1 your question?

2 **MR. SHERR: Absolutely.**

3 **BY MR. SHERR:**

4 **Q. Is it your position that in CenturyLink's**
 5 **service territory, CenturyLink has market power over the**
 6 **72.9 percent of nonurban citizens who only use service?**

7 A. My testimony would be that CenturyLink has
 8 market power where the customer does not have an
 9 adequate alternative service. And those locations tend
 10 to be, it appears, in a rural areas.

11 **Q. But you would agree if a customer's not even**
 12 **using landline service, CenturyLink can't possibly have**
 13 **market power over that customer?**

14 A. Would you repeat that?

15 **Q. Sure.**

16 **You would agree, though, that if a customer**
 17 **is not using landline service at all, that CenturyLink**
 18 **can't be deemed to have market power over that customer?**

19 A. Right.

20 **Q. Same question as to nonurban -- the 13 percent**
 21 **of nonurban citizens who mostly use wireless. Would you**
 22 **agree with me that CenturyLink doesn't have market power**
 23 **over the 13 percent of nonurban customers who mostly use**
 24 **wireless?**

25 A. I guess it's not clear to me what additional

1 service those wireless customers might be using.
 2 They're mostly in wireless. What the other service
 3 they're using?

4 **Q. So your answer is you don't know?**

5 A. Right.

6 **Q. Okay. Thank you.**

7 **And same question for the dual users which**
 8 **is 5 percent according to CDC of nonurban citizens are**
 9 **dual users of wireless and landline. Do you believe**
 10 **that CenturyLink has market power over that 5 percent in**
 11 **its service territory?**

12 A. Well again, I don't know. I don't know what
 13 alternative services they are using in addition to the
 14 mobile wireless and what they're using the mobile
 15 service for.

16 **Q. Have you conducted or provided any studies as**
 17 **to how many rural Washington customers appear to have**
 18 **access to mobile wireless service based on FCC data but**
 19 **in reality lack functional service?**

20 A. I have not.

21 **Q. Do you have any data indicating that mobile**
 22 **wireless service isn't suitable in rural areas of**
 23 **Washington?**

24 A. No. But that's a location-by-location
 25 question. That's a very customer specific question.

1 **Q. Same question: Does the FCC limit Section 214**
 2 **discontinuance as to particular geographic sizes or**
 3 **numbers of customers?**

4 A. No, not to my knowledge, which again increases
 5 the importance of a commission review of these kinds of
 6 discontinuances.

7 **Q. Are you aware of how infrequently the FCC has**
 8 **permitted an ILEC to discontinue voice service in its**
 9 **legacy territory?**

10 A. I have, yes. From what I've reviewed with --
 11 the 2022 through '24 applications, most of those
 12 applications are CLECs. And for the ILECs, I didn't
 13 review each and every one, but the ones I reviewed, it
 14 was situations like a road move or in some cases, again,
 15 AT&T was applying for broad scale service
 16 discontinuance. There's one where it applied for
 17 discontinuance in 60 exchanges and 14 states, something
 18 like that.

19 **Q. Was that approved by the FCC?**

20 A. It's hard to tell. They don't really act on
 21 them. They put out a public notice, and that's the last
 22 thing you see in the file. They're deemed granted
 23 within 31 days if it's a discontinuance, I think, if
 24 there's no objection.

25 **Q. Do you want to -- I'm so sorry to talk over**

1 Some premises will have decent wireless access, others
 2 will not.

3 **Q. Public counsel submitted a few customer**
 4 **comments as cross-examination exhibits. Were you**
 5 **involved in reviewing those comments and/or selecting**
 6 **those for review by the commission?**

7 A. I was not.

8 **Q. You also urged the commission to more clearly**
 9 **define the circumstances under which the discontinuance**
 10 **process can be used?**

11 A. Yes.

12 **Q. Are you familiar with the FCC Section 214**
 13 **process?**

14 A. In a working level, yes. I attached an exhibit
 15 showing a list of the applications from -- for 2022,
 16 2023, and 2024.

17 **Q. Thank you.**

18 **Have you worked on any Section 214**
 19 **applications for reviews?**

20 A. I have not.

21 **Q. Does the FCC limit Section 214 discontinuances**
 22 **to particular reasons or justifications?**

23 A. No, they do not. Which I think increases the
 24 importance of the commission review and approval of
 25 service discontinuance.

1 **you. I apologize. Do you want to finish your answer?**

2 A. That was it.

3 **Q. Okay. Do you believe that this -- the AT&T**
 4 **application you're talking about was deemed granted by**
 5 **the FCC?**

6 A. I wouldn't be surprised, but I don't know.

7 **Q. At page 19 of the same testimony, you state:**
 8 **"it should be clear that a CCL -- a CCL includes a**
 9 **location where the customer may have DSL service from**
 10 **CenturyLink below the 25/3 threshold?"**

11 A. Yes.

12 **Q. I'll admit that I didn't quite understand what**
 13 **you were referencing, so I want to try to clarify that.**

14 **In the hypothetical you're proposing, does**
 15 **the CenturyLink DSL customer also subscribe to local**
 16 **voice service from CenturyLink?**

17 A. Let's see.

18 **Q. And for -- to help follow along, this is page**
 19 **19, lines 20 and 21.**

20 A. Right.

21 **Q. If you need me to ask the question again, I**
 22 **certainly can.**

23 A. Yeah, go ahead, please.

24 **Q. In the hypothetical you're presenting there for**
 25 **commission consideration, does the CenturyLink DSL**

1 customer also subscribe to local voice service from
 2 CenturyLink?
 3 A. I'm suggesting that's what needs to be clear,
 4 whether they do or not.
 5 **Q. If -- okay. Well, let's go one at a time.**
 6 **If -- if there's a CenturyLink voice**
 7 **customer who also has DSL service from CenturyLink, and**
 8 **I guess according to your hypothetical the DSL would be**
 9 **provided at below 25 over 3, are you suggesting that**
 10 **should be a different process than what is set out in**
 11 **Section 9 of the settlement agreement?**
 12 A. No, not a different process, just information
 13 provided as to whether or not any of these customer have
 14 DSL in addition to voice service.
 15 **Q. What is the value of providing that**
 16 **information?**
 17 A. A broader picture of what the alternatives are?
 18 **Q. CenturyLink is not going to be considering its**
 19 **own affiliate broadband services as a competitive rate**
 20 **services in the CCL analysis, is it?**
 21 A. No. This is CenturyLink ILEC service. As I
 22 understand CenturyLink offers DSL on an unregulated
 23 basis.
 24 **Q. Okay. Let me ask it a different way because**
 25 **you raised a really good distinction.**

1 **Q. Well, there's only one customer location that**
 2 **we're talking about, so the customer -- go ahead.**
 3 A. So the hypothetical is that customer has access
 4 to cable TV over 25, 3, cable internet?
 5 **Q. Cable internet, that's right.**
 6 A. And has access to CenturyLink DSL below 25, 3?
 7 **Q. Correct. And actually purchases that service.**
 8 A. Okay.
 9 **Q. But does not purchase voice service from**
 10 **CenturyLink.**
 11 A. Okay.
 12 **Q. So I'm wondering if you're suggesting that this**
 13 **could should be considered a CCL location?**
 14 A. Well, I think the answer would be no if the
 15 customer location has cable internet above 25/3
 16 available.
 17 **Q. Thank you.**
 18 **You urged caution about consideration of**
 19 **fixed wireless as a substitute for landline service?**
 20 A. Yes.
 21 **Q. And that's on page 21 and 22 of your testimony.**
 22 A. Okay.
 23 **Q. Under the proposed AFOR, the discontinuance**
 24 **process requires CenturyLink to communicate in multiple**
 25 **ways to solicit input on the alternative services shown**

1 **You understand that the CCL analysis will**
 2 **not count as a competitor in broadband service provided**
 3 **by any CenturyLink affiliate including the ILEC; true?**
 4 A. I do. But again, this is information as
 5 disclosure to the extent it pertains for commission
 6 consideration.
 7 **Q. Staying with your concern about CenturyLink**
 8 **DSL, I want to give you a short hypothetical which I**
 9 **think will be very understandable. And what I want to**
 10 **know is whether you believe this customer location**
 11 **should be considered as CCL. Is that okay?**
 12 A. Okay.
 13 **Q. Okay. So the three facets: One, the customer**
 14 **does not use CenturyLink voice service at all. They're**
 15 **not a 1FR customer, they don't have voice service from**
 16 **us.**
 17 A. Okay.
 18 **Q. The customer does use CenturyLink DSL at a**
 19 **speed under 25 over 3.**
 20 A. Okay.
 21 **Q. And third, the customer has access if it so**
 22 **chooses to cable internet service at greater than 25**
 23 **over 3 at \$50 a month. Would you consider that customer**
 24 **a CCL?**
 25 A. Which one?

1 **by the FCC, doesn't it?**
 2 A. That's what the settlement says, yes.
 3 **Q. Okay. So it that customer fears that fixed**
 4 **wireless doesn't actually operate at their house, they**
 5 **can advise CenturyLink and CenturyLink can attempt to**
 6 **validate that?**
 7 A. That's -- that's right. That assumes that the
 8 process works perfectly and that customers respond to
 9 what's basically a regulatory inquiry that they probably
 10 don't understand anything except that they might lose
 11 their service.
 12 **Q. And staff and public counsel will both be given**
 13 **that information from CenturyLink and will have an**
 14 **opportunity to validate and investigate any concerns**
 15 **they may independently have or that are raised by the**
 16 **customer.**
 17 A. To the extent the customer responds at all,
 18 yes, that's true.
 19 **Q. Were you in the hearing room when Mr. Bennett**
 20 **testified?**
 21 A. Yes.
 22 **Q. Did you hear Mr. Bennett testify that staff**
 23 **would affirm, validate the CCL findings regardless of**
 24 **customer input?**
 25 A. I -- I guess I missed that, but I'm not sure

1 how staff would do that unless it's just a reference to
 2 the mapping.
 3 **Q. You testified -- this is at page 23 of your**
 4 **testimony, Exhibit DB 19.**
 5 A. Okay.
 6 **Q. You testified about quantum fiber, which --**
 7 A. Yes.
 8 **Q. -- is a broadband service provided by an**
 9 **affiliate of CenturyLink ILECs?**
 10 A. Yes.
 11 **Q. What, if you know, is the total number of**
 12 **customers CenturyLink has transferred from voice**
 13 **offerings to unregulated fiber internet offerings from**
 14 **Lumen affiliates?**
 15 A. We ask that they request, and CenturyLink
 16 objected to answering, so we don't know.
 17 **Q. And do you know the total percentage of**
 18 **customers that you allege have been transferred from**
 19 **voice offerings to unrelated fiber internet offerings?**
 20 A. We got no answer, so we have no idea.
 21 **Q. And when you discuss transferring of customers**
 22 **from voice to unregulated fiber internet offerings, are**
 23 **you suggesting a voice customer was moved to a broadband**
 24 **service without their consent?**
 25 A. That's what some of the complaint data

1 level of the complaints, it suggests that at least some
 2 of these customers do not have an alternative provider
 3 that they can move to, and Mr. Webber made the same
 4 point in this testimony.
 5 **Q. Okay. Well let me focus on your focus on the**
 6 **words "effective competition." You understand that**
 7 **CenturyLink backed away for purposes of the settlement**
 8 **from its litigation position that it seeks competitive**
 9 **classification?**
 10 A. Yes, I do.
 11 **Q. Is it your position that the commission must**
 12 **find effective competition exists in order to improve an**
 13 **AFOR?**
 14 A. It is not. The AFOR -- the statute lists I
 15 think six criteria that the commission has to consider
 16 in approving a -- an AFOR.
 17 **Q. Okay. And is it your understanding that**
 18 **commissions' authority over CenturyLink's retail service**
 19 **quality will change from today and the previous proposed**
 20 **AFOR?**
 21 A. No. I believe the jurisdiction stays the same,
 22 and based on level of complaint data that we've
 23 observed, we believe that there's sufficient grounds for
 24 the commission to look further into these service
 25 quality issues.

1 suggested. Customers were complaining that they were
 2 transferred from CenturyLink to quantum without their
 3 knowledge and they didn't particularly understand what
 4 was happening, and the deal may have changed. There's a
 5 whole series of complaints that is listed in
 6 Ms. Dreyer's testimony.
 7 **Q. Well speaking of customer complaints, you -- in**
 8 **the same piece of testimony, you call into question**
 9 **whether there is effective competition? This is on page**
 10 **24 through 26.**
 11 A. Well, that testimony is in the context of what
 12 a customer complaints and quality service problem
 13 suggest about the existence of effective competition.
 14 **Q. Okay. Are you testifying that there's a lack**
 15 **of effective competition?**
 16 A. Not globally.
 17 **Q. Okay. But when you're talking about the**
 18 **service quality complaints, you're making the point that**
 19 **there's a lack of effective competition for those**
 20 **customers?**
 21 A. The existence of that volume of complaints goes
 22 contrary to what commissions around the country have
 23 been told for decades about the benefits of competition
 24 and everything will be better, cheaper, faster, or the
 25 customer will move to a different provider. With this

1 **Q. Okay. But your testimony is that the purview**
 2 **of the commission will not change as a result of the**
 3 **proposed AFOR?**
 4 A. From the last AFOR, no. The last AFOR
 5 referenced the service quality -- the existing service
 6 quality statute and then -- and regulations and then
 7 subsequent to that, certain regulations were deleted,
 8 leaving the commission with just a general service
 9 quality regulation to operate under.
 10 **Q. Is it your position that if a customer**
 11 **complains to the company about a service interruption or**
 12 **issue, that it is compelled to change providers?**
 13 A. No.
 14 **Q. Is it your position that it's unreasonable for**
 15 **a customer to experience service issue and still remain**
 16 **with the provider?**
 17 A. No. I've had service issues with my own
 18 service, and I stick with the providers usually.
 19 **Q. So it's possible that a customer can experience**
 20 **a single or even multiple service issues and still**
 21 **choose not to change available -- change to available**
 22 **alternative services; right?**
 23 A. It's possible. I've also seen in my experience
 24 circumstances where the customers are just worn out of
 25 complaining and they quit complaining, but they still

1 have the same service quality problems.
 2 **Q. So if a customer experiences a service quality**
 3 **problem once or even multiple times and they choose to**
 4 **stay with -- in this case CenturyLink -- it may just be**
 5 **that they have a preference as opposed to not having**
 6 **alternatives; correct?**
 7 A. I don't know. That doesn't -- that doesn't
 8 make a lot of sense to me.
 9 **Q. But you just testified, didn't you, that it's**
 10 **not unreasonable for a customer to experience a service**
 11 **issue and still remain with the same provider?**
 12 A. It's not, but there's a question of the
 13 magnitude and the frequency of those service quality
 14 issues.
 15 **Q. Okay.**
 16 A. That was the focus, again, of Mr. Webber's
 17 testimony where he focused on recurring complaints,
 18 recurring complaint data that, just the onesie, twosie
 19 sort of complaints.
 20 **Q. Are you familiar -- I know you're not an**
 21 **attorney. Are you familiar with RCW 80.36.090 which is**
 22 **entitled Service to be Furnished on Demand?**
 23 A. Yes. I've read it.
 24 **Q. Can you explain your understanding of what that**
 25 **statute requires?**

1 MR. O'NEILL: Okay.
 2 MR. ROBERSON: And just as that expectation,
 3 going last, much of what I was going to cover has
 4 already been covered, so I think I can do this in
 5 significantly less than 75 minutes.
 6 JUDGE CALLAHAN: How much time do you
 7 anticipate?
 8 MR. ROBERSON: 20 minutes at the most.
 9 CROSS-EXAMINATION
 10 BY MR. ROBERSON:
 11 **Q. Good afternoon, Mr. Brevitz. Would you please**
 12 **turn to Exhibit 9T, which is your settlement**
 13 **testimony --**
 14 A. Yes, I'm there.
 15 **Q. -- page 30, about line 6.**
 16 A. Okay. Okay.
 17 **Q. You've been asked questions about this by**
 18 **Mr. Sherr. And this is the portion of your testimony**
 19 **where you talk about the FCC's discontinuance process;**
 20 **correct?**
 21 A. Yes.
 22 **Q. And you've read the settlement; correct?**
 23 A. Yes.
 24 **Q. So the settlement contains provisions that**
 25 **require CenturyLink to provide notice of a**

1 A. Can you share a copy of that?
 2 **Q. Unfortunately, I don't have a copy in front of**
 3 **me. If you don't know, that's okay.**
 4 A. I don't. I remember reviewing it, but I'm not
 5 sure I have --
 6 **Q. Okay.**
 7 A. I certainly don't have it handy.
 8 **Q. If I get a chance to cross-examine your**
 9 **attorney, I'll ask him. I probably won't.**
 10 **Do you know if the proposed AFOR purports to**
 11 **repeal or otherwise modify or neuter that statute?**
 12 A. I don't see any provisions in the AFOR in the
 13 settlement that implicate that statute or refer to it.
 14 MR. SHERR: Okay. Sir, thank you so much
 15 for your time. I have no further questions.
 16 JUDGE CALLAHAN: Any redirect? Hearing
 17 none. Staff indicated cross was 75 minutes. You may
 18 proceed.
 19 MR. O'NEILL: I apologize. I was under the
 20 impression that we were going to redirect at the end of
 21 both the cross-examination period, but I can -- I do
 22 have questions. I could do it here, or I could reserve
 23 to the end. And I think more efficient to reserve to
 24 the end, so if I could do that.
 25 JUDGE CALLAHAN: That would be fine.

1 **discontinuance filing along with some data to staff and**
 2 **public counsel; correct?**
 3 A. Yes.
 4 **Q. And that's meant to enable participation in**
 5 **that FCC process; correct?**
 6 A. I'm having a little trouble hearing you.
 7 **Q. My apologies. Rephrase, perhaps, more**
 8 **appropriately.**
 9 **That data allows staff and public counsel to**
 10 **meaningfully participate in the FCC's 214 discontinuance**
 11 **process; correct?**
 12 A. It should be very, very similar data to what's
 13 filed at the FCC, I think. To me, the best course would
 14 be for the company to run through the discontinuance
 15 process at the Washington commission first, get an
 16 outcome, and then take that to the FCC rather than
 17 having them proceed in parallel for the most meaningful
 18 input. Ideally, the Washington process would yield a
 19 result that could be taken to the FCC and there wouldn't
 20 be a need for further participation at the FCC level.
 21 **Q. Okay. With that in mind, staff does have the**
 22 **opportunity or the commission has the opportunity to**
 23 **participate at the FCC level; correct?**
 24 A. That's correct.
 25 **Q. And public counsel has that same opportunity?**

1 A. That's correct. When the -- as I understand
 2 it, when the FCC staff gets these applications, they
 3 review them first for completeness under the rule,
 4 communicate with the company to fill any gaps, or get --
 5 I've seen -- there are a number of filings there that
 6 were withdrawn, then re-filed with more information,
 7 that kind of thing. And there was -- one of the AT&T
 8 applications involved the state of Michigan, and the
 9 Michigan commission filed objections. And AT&T in the
 10 Michigan commission kind of went offline for a while,
 11 and AT&T came back with a joint application in which the
 12 Michigan commission approved or exceeded to.

13 **Q. So I guess based on that case, it seems like PC**
 14 **participation in the FCC process has -- it's meaningful,**
 15 **correct, it affects the outcome?**

16 A. Well, I think it's a little too early to say
 17 because from what I can tell, there have not been very
 18 many full-blown discontinuance residential and business
 19 service legacy voice. It's -- most of the applications
 20 are for other things or for kind of naturally limited
 21 things like a CenturyLink application with regard to
 22 Florida to discontinue service to avoid having to
 23 rebuild after the hurricane around Naples with copper.

24 **Q. Okay. Do you have any reason to believe that**
 25 **the FCC wouldn't consider the commission's position if**

1 **discontinuance application; correct?**

2 A. Yes.

3 **Q. Okay. And I believe Mr. Sherr asked you about**
 4 **limits on area. But you did talk about limits on the**
 5 **number of customers; correct?**

6 A. Yes.

7 **Q. And is it fair to say that the more customers**
 8 **for whom a CenturyLink company seeks to discontinue**
 9 **service, the greater the likelihood that there's a CCL**
 10 **that's one of the customers?**

11 A. I can see that being likely, yes.

12 **Q. Do you know if CenturyLink has ever sought to**
 13 **discontinue service in an area the size of a wire**
 14 **center?**

15 A. To my knowledge, they have not.

16 **Q. Do you know if they've ever sought to**
 17 **discontinue service in an area larger than a wire**
 18 **center?**

19 A. Well, I don't know if sale of 20 state
 20 operations counts, but Lumen has certainly sold off
 21 entire states.

22 **Q. Fair enough.**

23 **In Washington are you aware of the company**
 24 **or any of the ILECs seeking to discontinue service to an**
 25 **area greater than a wire center.**

1 **it did comment on a discontinuance application?**

2 A. No. I think -- I think it's open public
 3 comment, and the FCC staff would consider the comments
 4 that they get and probably be more interested in what a
 5 state utility commission had to say, perhaps, than an
 6 individual commenter.

7 **Q. Well, do you think the FCC would afford kind of**
 8 **a similar weight to an attorney's general office that**
 9 **makes comments through a public counsel unit?**

10 **MR. O'NEILL: I'm going to object to we're**
 11 **kind of speculating or calling for speculation.**

12 **MR. ROBERSON: All right. Fair enough.**

13 **BY MR. ROBERSON:**

14 **Q. Turning to page 17 of your testimony.**

15 A. The original or the --

16 **Q. All of my questions will deal with your**
 17 **settlement testimony --**

18 A. Okay.

19 **Q. -- if that helps.**

20 A. 17?

21 **Q. Yeah. And all the pages are the actual page in**
 22 **the testimony, not the PDF.**

23 A. Right. Got it.

24 **Q. Here is the portion of your testimony where you**
 25 **recommend limiting kind of the scope of the**

1 A. No. And again, this is an issue -- an industry
 2 issue that is just culminating now in front of utility
 3 commissions probably around the country, certainly in
 4 California, here in Washington. And if you look at the
 5 company's investor filing, the FCC 10-Ks and those sorts
 6 of documents, it's clear why discontinuing service in
 7 areas served by copper networks might be of interest to
 8 the company. So I think it's a looming issue. We
 9 shouldn't take comfort from the fact that it hasn't
 10 happened yet or hasn't really happened in the past.

11 **Q. Do you know how many wire centers don't have at**
 12 **least one CCL?**

13 A. No real idea.

14 **Q. Okay. I believe it's around page 17 of your**
 15 **testimony, if you turn there.**

16 A. Yes, I'm there.

17 **Q. Actually, it's page 18. Sorry.**

18 A. Okay.

19 **Q. There you recommend striking the validation**
 20 **process and accepting customers' determinations that**
 21 **they don't have an alternative service; correct?**

22 A. Yeah. Basically --

23 **MR. DANNER: I'm sorry. Counsel, what line**
 24 **are you on?**

25 **MR. ROBERSON: On my notes I have page 18**

1 through page 19. I'm sorry I can't be more precise.
 2 From what I remember, it's near the bottom of the page,
 3 like maybe the second paragraph from the bottom.

4 THE WITNESS: Yeah, page 18, line 16.

5 BY MR. ROBERSON:

6 **Q. Just so I'm clear, you're not suggesting that**
 7 **the settlement process allowing customers to challenge**
 8 **whether or not they have wireless goes away, right, it's**
 9 **just you don't think they should have to do anything**
 10 **more than a test if they don't have service; is that**
 11 **correct?**

12 A. I think we and the commission should be taking
 13 the customers at their word. They've lived in that
 14 premise for how long they've lived in it, they know what
 15 options they have or don't have. And if they speak up
 16 and say they don't have adequate service, that could be
 17 good enough, and that should be packaged up and
 18 presented to the commission for the commission's review
 19 and decision.

20 I think that withdrawal of public utility
 21 service is an important enough issue that the commission
 22 should be having a look at each circumstance. And some
 23 may be pretty routine. I don't know of anybody that's
 24 going to argue much about a road move, but that's
 25 another aspect of the settlement that is silent, is the

1 in their premise. They know that they don't have
 2 adequate broadband service or other alternatives. And
 3 speaking up and saying so should be good enough.

4 **Q. Hypothetically, if a location were to go**
 5 **through the process twice and in between, the original**
 6 **customer moved, without changes to the signal being**
 7 **provided to the property, if one customer thinks the**
 8 **service is acceptable and second doesn't, you would**
 9 **reach a different conclusion as to whether or not**
 10 **location is a CCL; correct?**

11 A. Under the terms of your hypothetical, that
 12 drives that conclusion, yes.

13 **Q. So wouldn't that necessarily mean that you're**
 14 **looking at a subjective determination by the customer?**

15 A. I don't think so, but I guess we have to agree
 16 to disagree.

17 **Q. Okay. On page 18 you describe the validation**
 18 **process as intrusive; correct?**

19 A. What I'm referring to there is the notion that
 20 a customer's already told the company that they don't
 21 have adequate service and then get a knock at the door
 22 and somebody wanting to come in the house that they
 23 don't know.

24 **Q. The customer wouldn't necessarily have to allow**
 25 **the tech into the house; correct?**

1 different circumstances that could apply. A road move
 2 is one thing, discontinuing service in a broader area
 3 because the numbers don't look good is a different
 4 thing. And the commission should be clear about what is
 5 and isn't an appropriate reason to discontinue service.

6 **Q. Okay. So whether or not a customer actually**
 7 **has service, there's objective data for that, correct,**
 8 **measures of signal strength or something like that?**

9 A. There can be. But I think the accuracy of the
 10 data can be questionable at times too.

11 **Q. Are you an engineer?**

12 A. I am not an engineer. I've been accused of
 13 playing one, but I am not.

14 **Q. Okay. So you don't have any engineering**
 15 **background to deal with whether or not the data is**
 16 **acceptable or not?**

17 A. Well, hardcore engineering, but 40-plus years
 18 of telecom experience.

19 **Q. Okay. Can you think of another area of kind of**
 20 **public policy where a customer's subjective feelings are**
 21 **used for determining eligibility if there's kind of an**
 22 **objective benchmark?**

23 A. I would argue that in this case, it's not
 24 subjective feelings about the customer from the
 25 customer, it's what they know and they have experienced

1 A. If the testing is going to be what signal
 2 strength is received in the house where the customer is
 3 sitting at the kitchen table using a device, yes, it
 4 would have to be. The kitchen table test.

5 **Q. It's possible the workgroup would be able to**
 6 **figure out to decrement a signal strength based on**
 7 **distance from a publicly available point that tech could**
 8 **measure the signal strength; correct?**

9 A. I suppose. I don't know if that would be
 10 subjective or objective or not.

11 **Q. Do you know if public counsel received any**
 12 **complaints from customers about visits from CenturyLink**
 13 **technicians?**

14 A. Well, certainly not with this process because
 15 it's not in effect.

16 **Q. Okay. Did public counsel receive any comments**
 17 **from customers stating that they thought that the**
 18 **process was intrusive?**

19 A. This has been a relatively late-breaking
 20 development. It's filing at the commission. I'm not
 21 sure that any customers have their eyes on this yet.

22 **Q. Are you familiar with the FCC's BDC program?**

23 A. Yes.

24 **Q. And does that include a challenge process?**

25 A. Yes.

1 **Q. And does it allow challenges based on self**
 2 **attestation?**
 3 A. No. The challenges have -- the challenges are
 4 presented, then other parties review the challenges, the
 5 FCC staff and CostQuest.
 6 **Q. Are you aware of the Washington State Broadband**
 7 **Office is in the process for building out that program**
 8 **for administering BEAD funding?**
 9 A. Yes.
 10 **Q. Are you aware that the WSBO is also building a**
 11 **challenge process?**
 12 A. Yes.
 13 **Q. Does it allow -- excuse me.**
 14 **Does it allow challenges based on self**
 15 **attestation.**
 16 A. I doubt it. But that's for an entirely
 17 different purpose. This -- at stake here as whether or
 18 not the customer continues to have public utility
 19 service at their location.
 20 **Q. On pages 10 through 13 of your testimony, you**
 21 **discuss kind of the number of CCLs; correct?**
 22 A. Let's see. You said 10 to 13? Yes.
 23 **Q. And on page 10 in here, I do have lines 18**
 24 **through 19, you say there are roughly 1,200 CCLs when**
 25 **mobile service is considered; correct?**

1 **Q. I don't have the order. It's the old**
 2 **CenturyLink and Frontier AFORs, I believe.**
 3 A. Yeah.
 4 **Q. If you don't know, you don't know. That's**
 5 **fair.**
 6 A. Well, I've read those -- I've read the entire
 7 order including the cited provisions, and I'm not sure
 8 it's as unequivocal as you're suggesting. From what I
 9 read, the commission did make some extensive statements
 10 about the advance of technology and what different
 11 things customers are doing with telecommunication
 12 technologies now. But I don't read the language that
 13 goes so far as the commission saying that mobile
 14 wireless is an alternative service across the entire
 15 state of Washington. And that's our point.
 16 **Q. So in the settlement, CenturyLink has to**
 17 **determine the number of CCLs in the area for which it**
 18 **seeks to discontinue service at the time it moves**
 19 **forward with the discontinuance process; correct?**
 20 A. Yes.
 21 **Q. So is it fair to say that the number of CCLs**
 22 **isn't truly fixed until CenturyLink actually starts the**
 23 **process?**
 24 A. Well, yes. But under the assumptions in the
 25 settlement, there will be relatively few CCLs given that

1 A. I cite the figure that staff provided in their
 2 informal response to our informal question.
 3 **Q. Did you do any kind of analysis of your own to**
 4 **determine the number of CCLs?**
 5 A. I did not.
 6 **Q. Do you have any reason to disagree with**
 7 **Mr. Bennett's numbers?**
 8 A. That there may be 1,233 CCLs if mobile is an
 9 alternative?
 10 **Q. Yeah.**
 11 A. No. I have no reason to disagree. I think his
 12 analysis is very good.
 13 **Q. And so to get there, I guess, page 13,**
 14 **lines 4 to 6, you basically say that the largest things**
 15 **affecting the number of CCLs is the inclusion of mobile**
 16 **wireless service; correct?**
 17 A. I think I say that inclusion of mobile as an
 18 alternative gravely reduces the number of CCLs from
 19 somewhere over 100,000 to 1,233, just that one
 20 assumption.
 21 **Q. And you are aware that the commission has**
 22 **determined that mobile service is an alternative service**
 23 **for CenturyLink service; correct?**
 24 A. I'm not sure I go that far. Can you point me
 25 to a cite?

1 mobile wireless is considered to be an alternative
 2 service and the comparing somewhere around 100,000
 3 unserved locations without wireless -- mobile wireless
 4 considered to 1,233 with it considered gives you an idea
 5 of the ones -- the CCLs that'll be left aside by the
 6 analysis.
 7 **Q. Okay. But the process also provides for**
 8 **challenge and validation; correct? For every address**
 9 **that -- or every location that CenturyLink seeks to**
 10 **discontinue service, the business or the person living**
 11 **there has the opportunity to challenge whether or not**
 12 **they have reasonably available, affordable service;**
 13 **correct?**
 14 A. Yes. But I don't think that corrects for a
 15 structurally flawed process.
 16 **Q. But doesn't that process also mean that**
 17 **literally every location that CenturyLink would include**
 18 **in its application is a potential CCL?**
 19 A. What process? I'm not -- I don't understand
 20 your question.
 21 **Q. So if we're talking about the discontinuance**
 22 **process, if CenturyLink has to verify or allow**
 23 **customers, business or residential, to challenge whether**
 24 **or not they have reasonably available, affordable**
 25 **service, doesn't that transform every location involved**

1 in the discontinuance application into a potential CCL?
2 A. No. And I don't think that we're required --
3 we're suggesting requiring the customer verify every
4 location.

5 **Q. No. But the company does have to verify every
6 location; right? It has to send out the notice to every
7 customer?**

8 A. The company does have to send out notice. The
9 customer response is to be seen. We don't know how
10 robust the customer response to these kind of mailings
11 will be.

12 **Q. But every customer has the built-in option to
13 challenge the availability of those alternative services
14 and their affordability; correct?**

15 A. Yes. But this really kind of resembles all the
16 negative selection practices that have been issues from
17 time to time in the industry. If you don't complain,
18 you're in.

19 **Q. But given that, it's fair to say that the 1,200
20 is a floor for the number of CCLs; correct?**

21 A. I think it's a very low and unrepresentative
22 floor.

23 **Q. But it's a floor, right, the number could go up
24 quite a bit?**

25 A. Yeah. Depending on what happens in the

1 they could order staff to get it at any time; correct?

2 A. Yes. But again, why set up an incomplete
3 process right off the bat and come back and try and fix
4 it later? This ought to be part of the whole package
5 that's submitted. I'm sure that CenturyLink has the --
6 has any data on maintenance tickets and so forth for the
7 locations and provide that along with the other data
8 that's going to be provided with regard to alternatives.

9 **Q. Last thing I'd like to talk about is page 7,
10 which is your testimony about the service quality
11 credits.**

12 A. Yes.

13 **Q. Do you believe this term is in the public
14 interest?**

15 A. I think it's better than where we are today. I
16 continue to question whether or not it will -- I
17 couldn't swear that this will actually be an incentive
18 for CenturyLink to improve facilities and reverse the
19 trend of service quality complaints. I don't know that.
20 But it's -- it's better than what we had before.

21 **Q. So it's better than what we had before. Does
22 that mean it is in the public interest?**

23 A. I think it's worthwhile to at least refund the
24 money to the customer for service that they are paying
25 for that doesn't work. So it accomplishes that

1 process. But again, I don't see why -- I don't
2 recommend that the commission adopt a flawed structure
3 right off the bat and hope that the customer challenge
4 process cures it.

5 **Q. Fair enough.**

6 **I'd like to talk about the top of page 20
7 which is your recommendation that CenturyLink file the
8 trouble tickets in any application to discontinue
9 service.**

10 A. Yes.

11 **Q. The settlement -- sorry.**

12 A. Sorry.

13 **Q. The settlement requires CenturyLink to keep
14 those tickets and produce them to staff or public
15 counsel on demand; correct?**

16 A. As far as I know, yes.

17 **Q. And that means that staff or public counsel
18 could access them at any time?**

19 A. Yes. But this is in the context of a
20 discontinuance process with fast-ticking clock and it
21 seems to me that this is the sort of information that
22 should be reviewed along with the other data to present
23 a complete picture regarding the area where the
24 company's seeking to discontinue service.

25 **Q. Okay. If the commissioners wanted the data,**

1 objective and returns the funds that the customer was
2 otherwise paying for service that doesn't work.

3 **Q. Does the terms "worthwhile" mean that it's in
4 the public interest?**

5 A. Well, I'm just going to stick with worthwhile.
6 It's -- we're ahead of where we were before with this
7 provision.

8 **Q. Okay. Do you believe that this term precludes
9 the commission from investigating CenturyLink's service
10 quality issues?**

11 A. I don't think it does. But that's not a legal
12 opinion.

13 **Q. Fair enough.**

14 **But if you're correct, this would mean that
15 the service quality process would operate independently
16 of any complaint or penalty assessment process of the
17 commission; correct?**

18 A. That's right. We do recommend that the
19 commission have a look at the service quality issues in
20 their testimony.

21 **Q. And public counsel could complain about those
22 service quality issues at any time; correct?**

23 A. I don't know why they couldn't.

24 **Q. Do you know if penalties paid for a commission
25 finding of a service quality violation are paid to the**

1 **public service revolving (inaudible) like the consumer?**
 2 A. I don't know where the penalties go in the
 3 state of Washington.
 4 **Q. But the settlement, the service quality credit**
 5 **that goes directly to the consumer; correct?**
 6 A. Yes.
 7 **Q. Near the bottom of page 7 at lines 18 through**
 8 **19, you sort of fault staff for failing to estimate or**
 9 **quantify the number of consumers who would benefit from**
 10 **the program; correct?**
 11 A. I don't know that I'm faulting anybody. I do
 12 believe all parties were operating in good faith. But I
 13 do point out that neither of the parties estimated the
 14 dollars or the customers that would benefit as part of
 15 this. So that's all to reach the conclusion that we
 16 really don't have good, firm information to think about
 17 whether or not this really is an incentive for the
 18 company to improve service or not.
 19 **Q. If you would turn to page 20.**
 20 A. Okay.
 21 **Q. And in the first Q and A on that page, you**
 22 **quote public counsel witness Dreyer as providing**
 23 **testimony about: "A concerning level of customer**
 24 **trouble complaints." Correct?**
 25 A. Yes.

1 **correlation between the number of complaints for service**
 2 **quality issues and the number of credits?**
 3 A. Well, the credits go for trouble tickets, not a
 4 service. The complaints are not necessarily one in the
 5 same. Looking at line 7 on page 24 as indicated by the
 6 level of complaints, number one, and analysis of trouble
 7 report tickets, number two, the credits are based on
 8 trouble reports.
 9 MR. ROBERSON: Fair enough. I think I'm
 10 done. Thank you.
 11 JUDGE CALLAHAN: Mr. O'Neill, you may
 12 redirect.
 13 REDIRECT EXAMINATION
 14 BY MR. O'NEILL:
 15 **Q. Mr. Brevitz, I'm going to start on that last**
 16 **point of the weighing the benefits of Condition 8**
 17 **against the potential harm of Condition 9 for**
 18 **discontinuance. How do you weigh the \$150,000 per year**
 19 **of customer credits against the possibility of a**
 20 **79-year-old woman losing the ability to speak with her**
 21 **family?**
 22 A. That's a really difficult question, and that's
 23 the kind of question that commissions have to evaluate.
 24 When I -- further, when I hear \$150,000 annual in the
 25 context of a company with the size of the operation that

1 **Q. And on page 24 --**
 2 A. Okay.
 3 **Q. -- again in that first answer you quote**
 4 **Ms. Dreyer -- well, you reference her testimony and you**
 5 **note that: "Substantial testimony has been provided in**
 6 **this matter that CenturyLink customers are experiencing**
 7 **significant quality of service problems." Correct?**
 8 A. Yes.
 9 **Q. So just anecdotally, there's plenty of evidence**
 10 **that there are widespread service quality problems;**
 11 **correct?**
 12 A. I -- what I'm saying here is, I believe that
 13 the testimony documents a significant enough level of
 14 customer service quality of service issues that it would
 15 warrant commission investigation.
 16 **Q. And given that fact, is there any reason to**
 17 **believe that the credits would involve a substantial**
 18 **number of customers or a substantial amount of money?**
 19 A. I'm not sure the two go together.
 20 **Q. Well, if there --**
 21 A. The credits are refunding a dollar a day,
 22 basically, for being out of service for what is a
 23 declining base of residential service customers.
 24 Residential and business.
 25 **Q. Would you agree that there's a direct**

1 CenturyLink has in Washington, 150,000 is a lot to all
 2 of us individually, but there's materiality
 3 consideration considerations with regards to the
 4 company. Does 150,000 really incent any different
 5 behavior for a company that's making however much Lumen
 6 is making in the state of Washington.
 7 **Q. Do you recall questions about the challenge**
 8 **process under the settlement agreement?**
 9 A. Yes.
 10 **Q. And just so that we're on the same page, I**
 11 **believe I understand the proposed settlement would**
 12 **require the consumers to challenge to the company that**
 13 **they have adequate service and then the company would**
 14 **then decide based off of either testing or some other**
 15 **decisionmaking that they did have adequate service.**
 16 **Do you have any concerns about allowing a**
 17 **telecom company to be arbiter of whether or not there's**
 18 **some competition that justifies a discontinuance?**
 19 A. I do. The --
 20 **Q. Could you explain?**
 21 A. The company is the same -- the company has the
 22 motivation to support its petition. It wouldn't have
 23 started the process if it didn't want and intend to
 24 terminate service in the area. So there's, I think, a
 25 bit of a conflict there. The customers may be somewhat

1 inhibited in whether and what they say to the company on
 2 the whole subject, and it's -- to me it's just better --
 3 a better structure to have the information go straight
 4 to the commission for evaluation, decision, if needed,
 5 without all this extra process from a company that's
 6 indicated it's already short staffed.

7 **Q. Under the current regulation, the current AFOR**
 8 **where every discontinuance has to come before the**
 9 **commission, if a person like Ms. Margrav were to object,**
 10 **who would be the factfinder to determine whether or not**
 11 **her objections were unreasonable or warranted?**

12 A. Under the settlement agreement, it filters
 13 through the company first.

14 **Q. I know. But right now without the settlement**
 15 **agreement under the current regulation, who is the**
 16 **arbiter? I mean, who makes the factual -- when there's**
 17 **a factual dispute in front of the commission, who's the**
 18 **one that resolves that?**

19 A. Yeah. Goes straight to the commission.

20 **Q. You talked about -- when you said in -- with**
 21 **respect to whether or not CenturyLink was seeking or had**
 22 **sought to discontinue service, you talked about a**
 23 **looming issue in -- not just in Washington but**
 24 **nationally about the discontinuance in --**
 25 **(Audio reverberation.)**

1 **broadband was complete, should the commission be paying**
 2 **more or less attention to requests to discontinue?**

3 A. I think the commission should be paying more
 4 attention to requests to discontinue. We're in a
 5 transitional time in between the -- while there's two
 6 networks in place. Transitionally, we could have some
 7 hope that all this infrastructure investment will
 8 address most of the issue and bring adequate broadband
 9 service to the unserved and underserved locations. But
 10 I think it would be a mistake to pull service from
 11 consumers before that they have actually available
 12 service to subscribe to.

13 **Q. You mention that we're in the midst of a**
 14 **transition process. Could your testimony on this point**
 15 **change in the next five to ten years as federal**
 16 **government money is expended in Washington to expand**
 17 **broadband service?**

18 A. Yes. My testimony would keep up with what the
 19 actual facts on the ground are, and to the extent
 20 there's successful deployment of fiber networks that hit
 21 these unserved and underserved areas, the concerns
 22 obviously are much less significant.

23 **Q. But we're faced with that question now. And**
 24 **what is your recommendation to the commission on the**
 25 **facts and the data that we have available today about**

1 **MR. O'NEIL: I don't know if that's on my**
 2 **part.**

3 THE WITNESS: I don't know either. I heard
 4 it. Go ahead.

5 BY MR. O'NEILL:

6 **Q. I'm just trying to orient. You understand**
 7 **where I -- you remember that testimony?**

8 A. I didn't hear because of the background.

9 **Q. You had testified there is a looming issue**
 10 **nationally about the retirement of the copper network.**
 11 **And I wanted to ask you to explain more fully: What is**
 12 **the looming national issue about the copper network, the**
 13 **legacy system from the old AT&T days?**

14 A. Well, it's -- it's old, it's manufacture
 15 discontinued, it's harder to maintain, there's two work
 16 forces. The copper network, the legacy network is not
 17 scaleable, well-suited to future broadband. And it's a
 18 network that was built over a century, and it's a public
 19 utility infrastructure that's very difficult to or
 20 expensive to replace. And so there's -- it's certainly
 21 a dilemma for the companies that operate both networks,
 22 what to do, how to make the transition. And the
 23 industry response seems to be coming down to we want to
 24 discontinue service.

25 **Q. Until the transition to the new technology of**

1 **whether it is wise to allow a company to discontinue**
 2 **without UTC oversight?**

3 A. My recommendation is that incumbent local
 4 exchange carriers particularly should not be allowed to
 5 discontinue service without commission review to ensure
 6 that there is, in fact, adequate alternative service
 7 functioning and available that the customer can
 8 subscribe to.

9 **Q. Is the market sufficiently well developed in**
 10 **rural Washington to support the expansion of broadband**
 11 **without regulation or federal investment?**

12 A. I think the data that we've seen here in -- in
 13 this matter that we've been reviewing for the better
 14 part of a year or two demonstrates the limits of market
 15 competition. The areas that we're talking about that
 16 we're focused on have had, in theory, the availability
 17 market competition, but the reality is these areas do
 18 not universally uniformly have other service
 19 alternatives available.

20 **Q. Would you -- or would you oppose the**
 21 **discontinuance of copper wire in a downtown Seattle wire**
 22 **center or, you know, neighborhood?**

23 A. No. And I think, you know, there's a separate
 24 FCC provision for that technology transition where a
 25 service provider's allowed to discontinue service over

1 copper when they have moved over, invested in fiberoptic
2 facilities.

3 **Q. Okay.**

4 A. And that obviously makes sense for a lot of
5 reasons.

6 **Q. So is it fair to say that your concern is in
7 the liminal areas of Washington, the transitional both
8 in terms of technology and from urban to rural spaces
9 where the market is not currently sufficient?**

10 A. Yes. My -- in my testimony I refer to "thin
11 markets." My concerns are for the thin markets that are
12 thin in terms of up-to-date capital investment and
13 technology and thin in terms of a customer base. Those
14 are the areas where public utility regulation was
15 designed to provide necessary service to customers and
16 to protect them from high rates, which is not really an
17 issue here, but available availability and adequate and
18 reliable service which is a concern here.

19 MR. O'NEILL: Okay. I have no more
20 questions. Thank you.

21 JUDGE CALLAHAN: Any questions from the
22 bench?

23 COMMISSIONER DOUMIT: Thank you. Thank you,
24 Mr. Brevitz, for your testimony.
25

1 inquiry that would -- if we had the information, would
2 show the extent of it.

3 And, you know, I think the bottom line is,
4 there's a lot of copper out in the rural areas, that's
5 the primary technology serving the end user customer,
6 and those are the ones that are potentially exposed to
7 service discontinuance of fewer options. If there's
8 copper -- if the network is copper, it's copper for a
9 reason, because the business case doesn't exist to
10 upgrade it.

11 **Q. Okay. And in Washington we said, you know,
12 without wireless, 100,000 CCLs and CenturyLink testimony
13 with wireless 1,213 or whatever it was, that -- I mean,
14 does that not say to you that there is a robust sort of
15 wireless build-out in these territories as well, in
16 CenturyLink's territory?**

17 A. Well, that's -- that's the map that -- that's
18 the model propagation for the wireless. And whether or
19 not individual customer locations actually have decent
20 coverage or not is to be seen. There's a concern in all
21 this mapping that how much is marketing versus how much
22 is actually service. We're in the process of finding
23 out, but I think it's going to take years.

24 **Q. For us, though, we don't have years. We have
25 this, you know, petition before us to decide on, one way**

1 EXAMINATION
2 BY COMMISSIONER DOUMIT:

3 **Q. Just -- I'm trying to sort of figure out the
4 relevance of this what you call "looming issue" of the
5 copper to -- because I -- I will accept it, for example,
6 AT&T, California is going through this, but we -- in
7 Washington state, to my knowledge, and I might be, you
8 know, incorrect, but maybe you can correct me if I am.
9 To your knowledge, haven't essentially the remainder of
10 the ILECs already moved to fiber, made that transition
11 that you say is a looming issue now. And again, I don't
12 know if this is necessarily relevant I'm just trying to
13 elicit some more information.**

14 A. Sure. I think it's a bigger issue for the
15 larger holding companies like Verizon, Lumen, and AT&T,
16 the rural companies have, you know, different business,
17 different business plans, and they've been able to
18 upgrade to fiber, and they don't have the same issue.
19 But it is a significant issue, I think, for the larger
20 holding companies that tend to have a blend of urban and
21 rural territory. The urban areas have kept up with the
22 newer technology while the rural areas have lagged
23 behind. And we didn't -- we asked for information on a
24 number and the location of customers served just by
25 copper. We didn't get it. But that's the kind of

1 **or the other, the settlement.**

2 A. Right.

3 **Q. And so we are -- would you agree that we're
4 determining whether this settlement is in the public
5 interest based on whether this process that's before us
6 will accurately determine whether CenturyLink's
7 customers are served -- unserved by other than
8 CenturyLink?**

9 A. Yes, I agree with that. I think the
10 commission needs -- I think the commission would be
11 better served by handling these applications themselves
12 and getting the actual data in. We -- in truth, we
13 don't know exactly how many or for what circumstances
14 will come in front of the commission for company.
15 That's -- we don't have any information on that. If
16 it's just a road move, as the company's example
17 suggests, those will be relatively easy to dispose of.
18 But if there are discontinuances for larger areas for
19 other purposes, just improve the cash flow of the
20 operation, then that's a different circumstance. That's
21 something that the commission, I think, should have a
22 say so on what's allowed and what's not, what's a valid
23 reason for discontinuing service, public utility
24 service, and what is not.

25 COMMISSIONER DOUMIT: All right. Thank you

1 very much. Thank you. That's it.
 2 THE WITNESS: Uh-huh.
 3 COMMISSIONER RENDAHL: Good afternoon,
 4 Mr. Brevitz.
 5 THE WITNESS: Good afternoon.
 6 EXAMINATION
 7 BY COMMISSIONER RENDAHL:
 8 **Q. So in looking at your testimony response**
 9 **testimony (inaudible) -- excuse me, 9T, do you have that**
 10 **still in front of you?**
 11 A. I do or I will.
 12 **Q. All right. If you'll to go page 7 of 32**
 13 **starting on line 12. And in this testimony, you speak**
 14 **to public counsel's position or what appears to be**
 15 **public counsel's position on Provision 8 which is**
 16 **relating to the automatic credits. And you discuss the**
 17 **need for more quantifiable data from the company to help**
 18 **the commission evaluate the degree to which this**
 19 **provision benefits consumers or incentivizes the**
 20 **company. However, there's no explicit indication as to**
 21 **whether public counsel supports or you support or oppose**
 22 **this provision. Is that support conditional on some --**
 23 **is that -- if there is support, is it conditional on**
 24 **something in particular? Just trying to determine**
 25 **exactly your position on behalf of the public counsel.**

1 public counsel. We agreed that one week from today
 2 would be the -- close of business one week from today, I
 3 believe. That's my memory, is that we would -- so are
 4 you asking for an extension of that, then?
 5 MR. O'NEILL: I am. And so today the record
 6 closes for public comments, and then we have a week to
 7 assemble it. And I just wanted -- I wanted to confirm
 8 prior to this proceeding that we are on course to do so,
 9 because I think there's over 200. And I haven't had a
 10 chance so, so I am -- I will ask for a continuance if I
 11 get information from the staff that it's going to take
 12 more time. So let's -- I'll keep it as a goal, and
 13 unless you hear from me, we will make it. But I don't
 14 want to throw my staff under the bus.
 15 JUDGE CALLAHAN: Let's go one week from now.
 16 So in your public comments exhibit, you can mark it
 17 Badge Exhibit 1.
 18 MR. O'NEILL: I'm sorry, I missed the
 19 number.
 20 JUDGE CALLAHAN: Badge Exhibit 1. So we
 21 have one round of post-hearing briefs due
 22 August 7th, 2024. We ask the parties to limit your
 23 post-hearing briefs to 60 pages. Please include in your
 24 briefing the issues of whether Provision 8, penalty,
 25 which requires the company to award automatic credits

1 A. Yeah. I -- I certainly don't object to this
 2 provision, but I think it's a stretch based on the
 3 information we have to conclude that it actually
 4 provides adequate incentive to the company to improve
 5 facilities and improve service quality.
 6 MS. RENDAHL: Thank you. That's all I have.
 7 JUDGE CALLAHAN: Mr. Brevitz, you are
 8 excused. That brings us to the end of the
 9 cross-examinations. I have a few other housekeeping
 10 items before we adjourn. Mr. O'Neill, is one week
 11 enough for you to submit the public comments?
 12 MR. O'NEILL: There have been a lot of
 13 public comments filed in this matter, and I really want
 14 to confer with staff to be sure that they are able to
 15 pull it all together within a week. I'd ask my
 16 assistant, Mr. Bryce Hardman (phonetic), to contact Ryan
 17 to make sure that was the case and then I got COVID, and
 18 I have been laid low.
 19 So I don't know the answer to the question.
 20 I don't know if Ryan is on or -- I know Mr. Harmon is
 21 not.
 22 JUDGE CALLAHAN: Any objections from other
 23 parties?
 24 COMMISSIONER DANNER: I just want to note
 25 that at the public comment hearing, we did speak with

1 for out of service or service that is not in working
 2 order. And Subsection D of Provision 8 specifically,
 3 which indicates the automatic credits are in lieu of
 4 commission assessed penalties associated with the
 5 failure to apply or not apply credit amounts, to include
 6 the commission from any enforcement action related to
 7 the same service quantity issue.
 8 If you argue that preclusion applies, please
 9 explain the basis for the claim and whether preclusion
 10 applies retroactively prior to the date of the
 11 commission's order if the commission approves the
 12 settlement.
 13 Is there any questions from parties?
 14 MR. SHERR: Yes, Your Honor. Adam Sherr
 15 from CenturyLink. Given the complexity of the hearing
 16 today and the matters we've discussed, CenturyLink's
 17 position that it might be helpful to the commission,
 18 although the commission can decide for itself, to have
 19 two rounds of briefs, opening briefs and response
 20 briefs, so that the issues can be joined and so we're
 21 not all just speaking at the same time without anyone
 22 responding. That may be beneficial to the commission;
 23 and if so, we would support that.
 24 It's sounds like other bench requests may be
 25 issued, and so to ensure that we have -- I'm not sure

1 when that will be. But to ensure that we have adequate
 2 time to deal with that and the briefs, CenturyLink would
 3 suggest moving the -- what would now be the opening
 4 brief by a week to August 14th, and then provide the
 5 parties two weeks to respond in a simultaneous
 6 post-hearing response brief, and then, of course, the
 7 statutory deadline would then move three weeks to
 8 accommodate the extra time for briefing.

9 COMMISSIONER DANNER: Judge, may I ask:
 10 What is the expiration date of the current AFOR?

11 MR. SHERR: The expiration of the AFOR is
 12 roughly at the end of this calendar year. As part of
 13 our petition for competitive classification back in
 14 January, we asked the commission to deal with that issue
 15 because this would be pending to ensure that this
 16 doesn't run out of time. Obviously, we need a new
 17 direction before we fall into, you know 1968 rate of
 18 return regulation. So yeah, I think we have until the
 19 end of the year. We had -- under orders in the AFOR, we
 20 had to make a presentation or file for competitive
 21 classification as of a particular date. And so yeah,
 22 that it expires.

23 To the extent that this may -- we have
 24 plenty of time to resolve this, and obviously if
 25 something goes awry and there isn't an order confirming

1 COMMISSIONER DANNER: I'll leave that to the
 2 Judge.

3 MR. O'NEILL: For what it's worth, public
 4 counsel would support the move to the 14th, not -- I
 5 mean, I will also receive the bench requests and the
 6 answers, but it would be easier for my own schedule, but
 7 that's -- that has to do with deadlines with PSE and not
 8 with this matter, as the commission may know.

9 JUDGE HOWARD: Judge Howard, briefly here.
 10 Sorry, Mr. Chair, if I missed your addressing this, but
 11 if we did move the deadline for the post-hearing briefs,
 12 I would be concerned if we did not also move the
 13 deadline for entry of the final order in this docket.

14 MR. SHERR: Absolutely. In lockstep, yes.

15 JUDGE HOWARD: But that would be my primary
 16 concern. But I, you know, of course I'm not a
 17 commissioner, but I share Commissioner's Rendahl's
 18 concerns with pancaking workloads if this is moved any
 19 later. But I defer to what's helpful to the
 20 commissioners.

21 COMMISSIONER DANNER: Thank you. If we were
 22 to delay this to August 14th for the briefing, that
 23 means we're pushing the effective date out by a week.
 24 What is that date?

25 JUDGE HOWARD: I think that would be

1 the AFOR one way or the other, we may come back to you
 2 and say we need more time for this proceeding to get
 3 resolved. But for now, that's not an issue.

4 MS. RENDAHL: So I will say my only concern
 5 here is that this is not the only case the commission
 6 has on its docket, and fall is very, very busy and
 7 including late August is very busy. So I guess I don't
 8 see the need for two rounds of briefs. I think we can
 9 get any bench requests out next week. And so I guess I
 10 defer on the question of delaying the opening brief, but
 11 I don't know that we need two rounds, and I do think we
 12 just have a lot of other things that we're going to have
 13 to turn to, and having two rounds of briefs and
 14 extending the date is going to just pancake a lot of
 15 other things for the commission.

16 MR. SHERR: Understood, Commissioner. The
 17 concept was really to benefit commission. If you don't
 18 find it beneficial, that's fine.

19 COMMISSIONER DANNER: But it does sound like
 20 you are asking for another week from the 7th to the
 21 14th. Do you need more time?

22 MR. SHERR: In light of bench requests --
 23 obviously, I don't know the volume of them -- that would
 24 be appreciated. If that doesn't, again, work, then
 25 we'll work with what we have.

1 September 9th if the deadline for the final order is
 2 currently September 2nd in this docket.

3 MR. SHERR: And CenturyLink would consent.

4 COMMISSIONER DANNER: So that gives us less
 5 than a month to complete that order. I think that
 6 should be sufficient.

7 MS. RENDAHL: I have no objection to that.

8 JUDGE HOWARD: If -- it sounds like the
 9 commissioners and the company are agreeable to extending
 10 the deadline for the post-hearing briefs to August 14th.

11 THE REPORTER: I'm sorry, excuse me. I hate
 12 to interrupt, but I cannot see who's talking, and it
 13 just has "record," so I'm having a really difficult time
 14 identifying who's speaking right now. I'm trying to
 15 guess because I cannot see.

16 JUDGE HOWARD: Oh, apologies. This is Judge
 17 Howard again.

18 THE REPORTER: Thank you.

19 JUDGE HOWARD: Yes.

20 So we are -- this is an oral ruling here on
 21 the record. We are moving the deadline for the single
 22 round of post-hearing briefs to August 14th. And per
 23 the company's consent, moving the deadline for the final
 24 order in this case from September 2nd to September 9th.
 25 And I would -- okay.

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Are there any other questions from the parties before we adjourn? Hearing none, we are off the record, and we are adjourned. Thank you all.
(Hearing adjourned at 4:29 p.m.)


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CERTIFICATE

STATE OF WASHINGTON
COUNTY OF WHATCOM

I, Evelyn M. Adrean, RPR, a Certified Shorthand Reporter in and for the State of Washington, do hereby certify that the foregoing transcript of the hearing, having been duly sworn on JULY 19, 2024, is true and accurate to the best of my knowledge, skill, and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 31st day of July 2024.


EVELYN M. ADREAN, RPR, CCR-WA



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