

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of the

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

to be Competitively Classified Pursuant
to RCW 80.36.320

DOCKET UT-240029

ORDER 06

REJECTING SETTLEMENT
AGREEMENT AND EXTENDING
TERM OF ALTERNATE FORM OF
REGULATION AGREEMENT

BACKGROUND

- 1 On January 8, 2024, the CenturyLink Companies – Qwest Corporation, CenturyTel of Washington, CenturyTel of Inter Island, CenturyTel of Cowiche, and United Telephone Company of the Northwest (collectively referred to as CenturyLink or Company)¹ filed with the Washington Utilities and Transportation Commission (Commission) a Petition for Competitive Classification (Petition) pursuant to Revised Code of Washington (RCW) 80.36.320 and Washington Administrative Code (WAC) 480-121-061 (Petition).²
- 2 In its Petition, CenturyLink submits that changes in the competitive landscape and technology of the telecommunications industry produce conditions that warrant competitive classification rather than traditional rate base, rate-of-return regulation. CenturyLink requests that it be subject to the same regulation as competitively classified telecommunications carriers with certain exceptions and conditions.
- 3 On January 25, 2024, the Commission suspended the effective date of the Petition and initiated this adjudicative proceeding.³

¹ These five companies are referred to as incumbent local exchange companies, or ILECs.

² *In re Petition of Qwest Corp.*, Docket UT-240029, CenturyLink Petition for Competitive Classification (Jan. 8, 2024).

³ *In re Petition of Qwest Corp.*, Docket UT-240029, Order 01 (Jan. 25, 2024).

- 4 On February 16, 2024, CenturyLink filed the direct testimony and exhibits of Peter J. Gose and Dr. Dennis L. Weisman in support of its Petition.
- 5 On April 3, 2024, Commission staff (Staff) filed response testimony and exhibits from witnesses Sean Bennett and James D. Webber. On the same date, the Public Counsel Unit of the Washington Office of the Attorney General (Public Counsel) filed response testimony and exhibits from Stephanie K. Chase and David Brevitz.
- 6 On April 22, 2024, the Commission issued a notice modifying procedural schedule to allow time for settlement discussions, setting an evidentiary hearing for June 14, 2024. The Company agreed to extend the effective date of its Petition to allow more time for entry of the final order. The Commission issued a second notice modifying the procedural schedule on May 16, 2024.
- 7 The Commission conducted public comment hearings on May 16, 2024, and June 6, 2024, to allow the public an opportunity to comment on CenturyLink's Petition.
- 8 On June 6, 2024, counsel for Staff contacted the presiding administrative law judges to inform them that Staff and the Company had reached a settlement in principle. The Commission issued a notice suspending the procedural schedule, with the exception of the hearing set for July 19, 2024, and requiring the filing of proposed schedules by CenturyLink, Staff, and Public Counsel (Parties) by June 14, 2024.
- 9 On June 14, 2024, the Commission issued a notice modifying procedural schedule, converting the July 19, 2024, evidentiary hearing to a settlement hearing and providing for other relevant deadlines for the disposition of this matter. The Company extended the effective date of its Petition once again and consented to entry of a final order by September 2, 2024.
- 10 On July 1, 2024, CenturyLink and Commission Staff filed a Stipulation and Settlement Agreement (Settlement Agreement or Settlement), along with supporting testimony from witnesses Gose and Bennett. Public Counsel was not a signatory to the Agreement.
- 11 On July 15, 2024, Public Counsel filed response testimony in opposition to the Settlement Agreement from witness Brevitz.
- 12 On July 19, 2024, the Commission convened a settlement hearing in this proceeding pursuant to WAC 480-07-750. During the July 19, 2024, settlement hearing the Parties

verbally agreed to further extend the effective date of its petition and consented to entry of a final order by September 9, 2024.⁴

- 13 On July 25, 2024, the Commission issued bench requests to CenturyLink and Staff. CenturyLink and Staff later filed their responses on August 5, 2024.
- 14 On July 26, 2024, Public Counsel filed a Public Comment Exhibit. Public Counsel received a total of 122 comments regarding CenturyLink's Petition.
- 15 On August 14, 2024, the Commission received simultaneous post-hearing briefs from the Company, Staff, and Public Counsel. The Parties' arguments are discussed in more detail below.
- 16 Adam L. Scherr, Assistant General Counsel, Seattle, Washington, represents CenturyLink. Tad Robinson O'Neill, Assistant Attorney General, Seattle, Washington, represents Public Counsel. Jeff Roberson, Assistant Attorney General, Olympia, Washington, represents the Staff.⁵

PUBLIC COMMENTS

- 17 The Commission appreciates the comments submitted by members of the public in this matter. Public comments are a vital part of our regulatory process, and we are always grateful for public participation in our proceedings. The vast majority of commenters were opposed to the Petition, with 117 of 122 comments against it. There were no comments in favor of the Petition, and five comments were marked as undecided. Many commenters expressed concerns about losing landline service, potential rate increases, and lack of alternative service in rural areas. Common themes among those opposed included worries about emergency communications, reliability during power outages, and the importance of landline service for elderly and low-income customers. The undecided commenters generally requested more information before taking a position.

SETTLEMENT

⁴ Settlement Hearing Tr. 314:20-315:3. Administrative Law Judge Michael Howard confirming the change of the deadline for the final order in this matter from September 2, 2024, to September 9, 2024.

⁵ In formal proceedings such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all Parties to participate. See RCW 34.05.455.

18 The Settlement Agreement proposes a modified Alternative Form of Regulation (AFOR) for CenturyLink that would remain in effect continuously with no expiration date, subject to review after five years. Under this AFOR, CenturyLink would be treated as if competitively classified under RCW 80.36.320, with certain exceptions and conditions.

19 The Settlement Agreement maintains service quality reporting requirements and the Customer Service Guarantee Program, previously agreed to in the current AFOR agreement under which CenturyLink operates.⁶ Attachment A of the Settlement Agreement is further broken down into the following nine sections: 1) Alternative Form of Regulation; 2) company treated as if competitively classed; 3) duration of AFOR; 4) wholesale obligations; 5) services remaining in tariff; 6) transfers of property; 7) averaged rates; 8) retail service quality; and 9) discontinuance of local exchange services.

20 Each section is summarized as follows:

1. Alternative Form of Regulation: The settling Parties agree to the AFOR framework.
2. Treated as if Competitively Classed: For the duration of the AFOR, CenturyLink will be treated as if it is competitively classed subject to provisions four through nine listed below.
3. Duration of the AFOR: During the five-year AFOR period, no party that has agreed to the settlement terms may petition to amend or revise the AFOR or its terms.
4. Wholesale Obligations: The AFOR does not affect the Commission's authority to regulate CenturyLink's wholesale obligations under the Telecommunications Act of 1996, nor does it affect existing carrier-to-carrier service quality standards or performance measures for interconnection and appropriate enforcement of remedial provisions in the event CenturyLink fails to meet service quality standards or performance measures contained in tariffs, interconnection agreements, commercial agreements, or otherwise.

⁶ *In re Petition of the CenturyLink Companies - Qwest Corp.*, Docket UT-130477, CenturyLink Petition to be Regulated Under an Alternative Form of Regulation, Order 10 (July 27, 2023).

5. Services Remaining in Tariffs: The following services will remain in applicable tariffs:
 - (a) Exchange Areas, Local Calling Areas, and Maps;
 - (b) Lifeline and Link-up Programs;
 - (c) Basic and Enhanced 911 & E911;
 - (d) Interconnection and Interexchange Services;
 - (e) Resale Services;
 - (f) Switched Access Services;
 - (g) Wholesale Services.
6. Transfers of Property: The waiver of the transfer of property provisions in RCW 80.12 and WAC 480-143 do not apply to the sale of exchanges or access lines.
7. Averaged Rates: CenturyLink agrees to not geographically de-average the non-recurring rates for both standalone residential (1FR) and standalone business (1FB) customers. By January 31, 2025, CenturyLink will ensure standalone residential rates are the same across all five CenturyLink incumbent local exchange carriers (ILECs). The Company agrees to the same for standalone business rates across all five ILECs. This provision does not modify or restrict CenturyLink's ability to enter into individual contracts for service that specify rates other than statewide average rates.
8. Retail Service Quality: As part of the Settlement Agreement, CenturyLink intends to implement a systematic process to automatically award credits for service issued by January 31, 2025. As part of this process, CenturyLink will be obligated to automatically provide service credits for both residential (1FR) and business class (1FB) customers experiencing service outages or quality issues as defined in WAC 480-120-401(4) for more than 24 hours, including instances of force majeure, theft, and vandalism.

The credit formula will be equal to 1/30 of the customer's monthly recurring charge for each day the customer goes without service, after the initial 24-hour period. In the event CenturyLink fails to provide credits or misapplies any credit amounts, the customer is entitled to double the credit amount. CenturyLink will provide trouble ticket and applicable credit information to the Commission upon request to monitor service trends.

The Settlement Agreement requires CenturyLink to notify customers of these new service credit procedures within a minimum of 60 days of the effective date of the AFOR as well as at the beginning of each quarter for the five-year duration of the AFOR. This customer notice will be provided via a bill insert for the duration of

this agreement. The bill insert will be translated into Spanish and provide a link for additional translation services.

9. Discontinuance of Service The requirements for discontinuance of service under WAC 480-120-083 will apply to all services, except that CenturyLink will seek approval or provide enhanced notice in the event it seeks to discontinue standalone residential or business services to any area in Washington.

A Challenging Customer Location (CCL) is defined as an existing CenturyLink local service customer location in Washington that lacks both (a) fixed internet availability from at least one provider at 25/3 speed or greater priced at \$61.13 per month or less as set by the Federal Communications Commission (FCC),⁷ and (b) mobile wireless service at \$61.13 per month or less. For these purposes “fixed internet” service refers to copper, fiber, cable, and fixed wireless service and excludes commercial satellite service.

Prior to submitting any such petition, CenturyLink must perform due diligence in identifying CCLs in a proposed discontinuance area. CenturyLink will identify these customers and evaluate alternative service options that are reasonable and available for the customer(s).

If CenturyLink finds at least one CCL in this proposed area, it will either seek approval from the Commission or exclude this CCL from the request.

If CenturyLink does not find any CCLs in a proposed discontinuance area, it will reach out to each standalone residential and business class customer and notify them of its proposal to discontinue the services. The purpose of this notification is to provide information to customers who may dispute CenturyLink’s findings that there are reasonable alternatives in the CCL.

If a customer disputes CenturyLink’s evaluation, CenturyLink will dispatch a technician to the service address (or as close to the service address as possible) to verify if other alternatives are available. CenturyLink will then provide these findings to the customer as well as to Commission staff on request. If

⁷ See Federal Communications Commission Docket No. 10-90, DA23-1172 (“FCC Benchmark”). “25/3 speeds” refers to download speeds of 25 megabits per second and upload speeds of 3 megabits per second.

CenturyLink upholds the customer's dispute and determines reasonable alternatives are not available, CenturyLink will then consider the area a CCL.

In the event that a low-income customer has access only to mobile wireless services, and the customer does not currently subscribe to a wireless plan, CenturyLink will either (a) consider the area to have no reasonable alternative or (b) provide the customer with a credit offsetting any activation fee that may exceed \$50 and provide them with up to \$150 to purchase a handset if they are not already entitled to a free handset under a different low-income program.

If a low-income customer only has access to fixed internet services, CenturyLink will either (a) consider this area a CCL or (b) offer the customer a credit that offsets any activation fee that exceeds \$100. If the standalone internet provider in option b above is not affordable for the customer, CenturyLink will offer HughesNet Satellite internet services for the customer at the same rate as standalone residential phone service.

If neither wireless or fixed internet is reasonably available for a low-income customer, CenturyLink will provide the customer with a credit equal to the lowest amount of installation or handset setup costs by mailing the customer a prepaid debit card at least 30 days prior to the discontinuance date.

For any areas that CenturyLink proposes to discontinue either standalone residential or standalone business services, CenturyLink will provide both the Commission and Public Counsel with the appropriate notification, including datasets identifying customer locations at issue, alternative service providers, and CenturyLink's evaluation as to whether any CCLs are within the proposed discontinuance area. CenturyLink agrees to submit this information to the Parties five days after submitting the same proposal to the FCC.

A. Parties Testimony

1. Century Link's Testimony

21 Testifying on behalf of CenturyLink, Gose testifies that the Settlement Agreement aligns with the "hyper-competitive" nature of the telecommunications market in Washington.⁸

⁸ Gose, Exh. PJG-30TC at 2:13-17.

- 22 Gose presents a competition study showing the availability of alternative voice services across CenturyLink's service territory. Cable service is available to 86.2 percent of locations, mobile wireless service is available to 99.9 percent of households, and fixed wireless service is available to 85 percent of locations in CenturyLink's service areas.⁹ This data, derived from the FCC's Broadband Data Collection, demonstrates the widespread availability of competitive alternatives.
- 23 Furthermore, Gose emphasizes that CenturyLink's incumbent local exchange carrier operations now provide less than 4 percent of the voice connections in Washington, a dramatic shift from its historical position.¹⁰ He argues this small market share clearly indicates CenturyLink lacks market power and that customers have abundant alternatives.
- 24 Regarding the Settlement's provisions, Gose offers a detailed explanation of the CCL concept and the process for service discontinuance. He argues that the Settlement's approach provides robust protections for the small number of customers who truly lack alternatives, while allowing CenturyLink necessary flexibility in areas with effective competition.¹¹

2. Commission Staff Testimony

- 25 Bennett, testifying on behalf of Staff, submits that the Settlement is consistent with both statutory requirements and the public interest, more generally.¹²
- 26 Bennett argues that while the telecommunications market in Washington has become highly competitive in many areas, there are still regions where CenturyLink remains the primary provider. He contends that the proposed AFOR strikes an appropriate balance, providing CenturyLink with increased flexibility while maintaining necessary consumer protections.¹³
- 27 Regarding advanced services deployment, Bennett notes that federal initiatives like the Rural Digital Opportunity Fund (RDOF), American Rescue Plan Act (ARPA), and

⁹ Gose, Exh. PJG-1T at 16, Table 1 – Alternative Service Availability (All CTL ILEC Areas).

¹⁰ Gose, Exh. PJG-30TC at 2:17-19.

¹¹ Gose, Exh. PJG-30TC at 1:16-18; at 2:1-2.

¹² Bennett, Exh. SB-28T.

¹³ Bennett, Exh. SB-28T at 2: 16-18.

Broadband Equity Access and Deployment (BEAD) Program, will substantially improve broadband connectivity across the state.¹⁴

28 Bennett explains that the Settlement's approach to service quality, including maintaining Class A company reporting requirements and the Customer Service Guarantee Program, ensures continued oversight in this critical area. He argues that these provisions, coupled with competitive pressures, will maintain high service standards.¹⁵

29 On the issue of service discontinuance, Bennett provides a detailed explanation of the CCL concept and the associated approval process. He contends that this framework provides robust protections for vulnerable customers while allowing CenturyLink to respond to market changes where appropriate.¹⁶

30 Bennett also addresses the Settlement's rate provisions, arguing that relieving the Company from most rate regulation is reasonable given cost pressures and market conditions.¹⁷

31 Regarding wholesale services and carrier-to-carrier relationships, Bennett notes that the Settlement maintains existing obligations, which is appropriate given the maturity of the wholesale market.¹⁸

3. Public Counsel's Testimony

32 David Brevitz, testifying on behalf of Public Counsel, expresses significant concerns about the proposed Settlement Agreement and argues that it fails to adequately protect consumers and the public interest.¹⁹

33 Brevitz contends that the Settlement's approach to competitive classification is premature and overly broad. He argues that while competition has increased in some areas, CenturyLink still maintains a significant captive customer base, particularly in rural and

¹⁴ Bennett, Exh. SB-28T at 6.

¹⁵ Bennett, Exh. SB-28T at 12:6-9; at 15-17; *see also* Bennett TR, at 239:6-15; at 240:1-8.

¹⁶ Bennett, Exh. SB-29XC.

¹⁷ Bennett, Exh. SB-28T at 12:18-23; at 13:1-4.

¹⁸ Bennett, Exh. SB-28T at 13:8-12.

¹⁹ Brevitz, Exh. DB-1T at 9:1-6.

underserved areas. He challenges the reliability and comprehensiveness of the data used to assess competitive alternatives.²⁰

34 Brevitz also disputes whether recent federal initiatives will result in greater connectivity throughout the state.²¹

35 Brevitz criticizes the CCL framework and service discontinuance process as inadequate to protect vulnerable customers. He argues that the criteria for defining CCLs are too narrow and that the process could leave many customers without reliable, affordable service alternatives.²²

36 On service quality, Brevitz contends that the Settlement's provisions are insufficient to ensure continued high-quality service, particularly in areas where CenturyLink faces limited competition. He advocates for stronger, more specific service quality standards and enforcement mechanisms.

37 Brevitz also raises concerns about the potential for rate increases under a competitively classified framework. He argues that without explicit rate constraints, CenturyLink could significantly increase prices for captive customers who lack meaningful alternatives.²³

38 Regarding wholesale services and carrier-to-carrier relationships, Brevitz argues that the Settlement should include more specific provisions to ensure fair competition and protect smaller providers' access to essential facilities.

39 Brevitz asserts that the proposed Settlement does not adequately meet the statutory requirements for an AFOR and fails to sufficiently protect consumers, particularly those in rural and underserved areas. He recommends that the Commission reject the Settlement Agreement and maintain stronger regulatory oversight of CenturyLink.²⁴

B. Parties' Post Hearing Briefs

1. CenturyLink's Post Hearing Brief

²⁰ Brevitz, Exh. DB-1T at 42:10-22.

²¹ Brevitz, Exh. DB-9T at 18:1-14.

²² Brevitz, Exh. DB-9T at 12:1-8.

²³ Brevitz, Exh. DB-1T at 50:1-12.

²⁴ Brevitz, Exh. DB-9T at 3:4-6.

40 In its post-hearing brief, CenturyLink argues that the Settlement Agreement should be approved without conditions.²⁵ The Company contends that the telecommunications market in Washington is highly competitive, with CenturyLink now providing less than 4 percent of voice connections in the state.²⁶ CenturyLink presents data showing widespread availability of alternative voice services, including cable, mobile wireless, and fixed wireless options across its service territory.²⁷ The Company argues that the Settlement appropriately balances regulatory flexibility with consumer protections, particularly through the CCL framework for service discontinuance.²⁸ CenturyLink maintains that the CCL process, along with other Settlement provisions, adequately protects vulnerable customers while allowing the Company to respond to market realities.²⁹ The Company asserts that the Settlement meets all statutory requirements for an AFOR and serves the public interest by promoting competition, encouraging investment in advanced services, and maintaining necessary consumer safeguards.³⁰

2. Commission Staff's Post Hearing Brief

41 In its brief, Staff argues that the Settlement Agreement should be approved without conditions. Staff contends that the proposed AFOR appropriately balances CenturyLink's need for regulatory flexibility with protections for consumers, particularly those lacking affordable alternatives.³¹ Staff asserts that the Settlement is consistent with statutory requirements and public policy goals concerning access to service, fair pricing, service quality, competition, and regulatory flexibility.³² Key provisions highlighted by Staff include the CCL framework for service discontinuance, which Staff argues provides robust protections for vulnerable customers. Staff maintains that the Settlement's approach to service quality, including maintaining Class A reporting requirements and the Customer Service Guarantee Program, ensures continued oversight in this critical area.³³ Staff also argues that the Settlement improves regulatory efficiency while preserving the Commission's ability to protect consumers and promote competition. Staff

²⁵ CenturyLink Post-Hearing Brief ¶22.

²⁶ CenturyLink Post-Hearing Brief ¶15.

²⁷ *Id.*

²⁸ CenturyLink Post-Hearing Brief ¶62.

²⁹ CenturyLink Post-Hearing Brief ¶11.

³⁰ CenturyLink Post-Hearing Brief ¶21.

³¹ Staff Post-Hearing Brief ¶69.

³² Staff Post-Hearing Brief ¶19.

³³ Staff Post-Hearing Brief ¶¶24-26.

contends that, overall, the Settlement represents the most appropriate regulatory framework for CenturyLink given the current competitive telecommunications market in Washington.

3. Public Counsel's Post Hearing Brief

42 Public Counsel opposes the Settlement Agreement and argues that it fails to adequately protect consumers and the public interest.³⁴ Public Counsel contends that the proposed AFOR is premature and overly broad, asserting that CenturyLink still maintains a significant captive customer base, particularly in rural and underserved areas.³⁵ Public Counsel criticizes the CCL framework and service discontinuance process as inadequate to protect vulnerable customers, arguing that the criteria for defining CCLs are too narrow.³⁶ Public Counsel expresses concern about potential rate increases under the proposed framework and argues for stronger, more specific service quality standards and enforcement mechanisms.³⁷ On wholesale services and carrier-to-carrier relationships, Public Counsel contends the Settlement Agreement should include more specific provisions to ensure fair competition. Overall, Public Counsel asserts that the proposed Settlement Agreement does not adequately meet the statutory requirements for an AFOR and fails to sufficiently protect consumers, particularly those in rural and underserved areas.³⁸ Public Counsel recommends that the Commission reject the Settlement Agreement and maintain stronger regulatory oversight of CenturyLink.³⁹

DISCUSSION

43 We must determine whether the Settlement Agreement meets all pertinent legal and policy standards. The Commission will approve a settlement “when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission.”⁴⁰

³⁴ Public Counsel Post-Hearing Brief ¶37.

³⁵ Public Counsel Post-Hearing Brief ¶54.

³⁶ Public Counsel Post-Hearing Brief ¶19.

³⁷ Public Counsel Post-Hearing Brief ¶16.

³⁸ Public Counsel Post-Hearing Brief ¶40.

³⁹ Public Counsel Post-Hearing Brief ¶2.

⁴⁰ WAC 480-07-750(2).

44 The standards for approval of an AFOR are set forth in RCW 80.36.135, which directs the Commission to “order implementation of the alternative plan of regulation unless it finds that, on balance, an alternative plan as proposed or modified fails to meet the considerations stated in subsection (2) of this section.”⁴¹ Those considerations require that the plan:

- Facilitate the broad deployment of technological improvements and advanced telecommunications services to underserved areas or underserved customer classes;
- Improve the efficiency of the regulatory process;
- Preserve or enhance the development of effective competition and protect against the exercise of market power during its development;
- Preserve or enhance service quality and protect against the degradation of the quality or availability of efficient telecommunications services;
- Provide for rates and charges that are fair, just, reasonable, sufficient, and not unduly discriminatory or preferential; and
- Not unduly or unreasonably prejudice or disadvantage any particular customer class.⁴²

45 In addition, we must consider the State’s public policies set forth in RCW 80.36.300:

- Preserve affordable universal telecommunications service;
- Maintain and advance the efficiency and availability of telecommunications service;
- Ensure that customers pay only reasonable charges for telecommunications service;
- Ensure that rates for noncompetitive telecommunications service do not subsidize the competitive ventures of regulated telecommunications companies;

⁴¹ RCW 80.36.135(3).

⁴² RCW 80.36.135(2)(a)-(f).

- Promote diversity in the supply of telecommunications services and products in telecommunications markets throughout the state; and
- Permit flexible regulation of competitive telecommunications companies and services.⁴³

46 RCW 80.36.135(3) also requires the AFOR to include a proposal for ensuring adequate carrier-to-carrier service quality, including service quality standards or performance measures for interconnection and appropriate enforcement or remedial provisions.

47 When evaluating a proposed settlement, we must address these statutory goals and policy considerations. We are to approve the proposed AFOR unless we determine that, on balance, it fails to further these goals.⁴⁴ Our analysis will be organized around these statutory requirements, addressing how the proposed Settlement Agreement meets or fails to meet each requirement.

48 ***Commission Determination.*** We have carefully evaluated the proposed Settlement Agreement against the statutory factors for AFORs set forth in RCW 80.36.135 and RCW 80.36.300. On balance, we find that the Settlement does not meet these requirements, and it is not in the public interest. While the testimony of witnesses Bennett and Gose provide support for the Settlement, we agree with witness Brevitz's concerns, which ultimately outweigh the benefits of the proposed AFOR.

49 ***Discontinuance of service in Challenging Customer Locations (CCLs)*** A key provision of the Settlement concerns the process for discontinuing service in CCLs. The Settlement Agreement defines a CCL as an existing CenturyLink local service customer location in Washington that lacks both fixed internet availability from at least one provider at 25/3 speed or greater priced at \$61.13 per month or less, and mobile wireless service at \$61.13 per month or less.

50 Under the Settlement Agreement, CenturyLink must obtain Commission approval before discontinuing standalone residential or business exchange service to any area that includes a CCL. This requirement, CenturyLink and Staff contend, provides a crucial safeguard for customers in areas with limited alternatives.

51 Bennett testifies that this provision strikes an appropriate balance between allowing CenturyLink to respond to market changes and protecting vulnerable customers. He

⁴³ RCW 80.36.300(1)-(6).

⁴⁴ See RCW 80.36.135(3).

argues that the detailed process for identifying CCLs, including the use of FCC Broadband Data Collection data and a customer validation process, ensures that no customers will be left without service options.

52 Gose provides extensive data demonstrating that most of the CenturyLink's service area has multiple alternative providers available. He contends that the CCL protections are more than adequate to safeguard the small number of customers who truly lack alternatives.

53 Brevitz, on the other hand, expresses concern that the CCL definition is too narrow, and that the discontinuance process could leave some customers without adequate service. He argues for broader protections and a more stringent approval process. We agree.

54 We appreciate the Parties' work on this Settlement. We also appreciate the direction that the Settlement Agreement is headed. However, we reject the Settlement Agreement as filed because the Commission does not find that Section 9, summarized above, is in the public interest. First, we must point out that the Company has accepted federal money to provide service to customers that do not have a competitive option, and, in any event, in addition to statutory requirements, the burden and duty are with the Company to provide that service. During our analysis of Section 9, the language in that provision gave us pause. Specifically, Section 9.a.iii provides:

“In the event CenturyLink files a petition for approval to discontinue service, it will provide notice to Public Counsel, and will notify each CCL customer of the petition and will inform them of the formal Commission review process for the Company's request and that the Commission has the authority to approve, reject, or modify the Company's petition, explain how the customer can reach out to Public Counsel and how the customer can participate in this process.” [Section 9, Paragraph a, subsection iii]

Furthermore, Section 9.a.iv of the Settlement Agreement states that CenturyLink will not file more than three petitions for discontinuance in a calendar year.

55 This language in Section 9 places the burden during disconnection on the customers and Commission staff. For example, while the language cited above may limit CenturyLink to a maximum of three discontinuance of service petitions per year, the number of impacted customers represents a stark unknown. The proposition of an unknown number of impacted customers does not provide this Commission with much comfort. We believe that such language will result in a high number of affected customers overwhelming

Public Counsel and the Commission's Consumer Protection section with requests from customers for advice on how to navigate the obstacle of discontinued service, when more thought and consideration of the potential impact can avoid such an outcome in the first place. This process also shifts the burden to the customer and Commission Staff to disprove the Company's finding of adequate service.

56 Moreover, we find the customer notice CenturyLink drafted, marked as Appendix B to the Settlement Agreement, insufficient. First, we are puzzled by the different font styles of the letter that CenturyLink chose, which makes it hard to read and follow. More importantly, the content is not clear and fails to carefully articulate the implications of this process. The notice requires the customers to confirm service availability within 45 days or else CenturyLink will discontinue their services. This threatening ultimatum shifts CenturyLink's work to the customers. The notice also refers customers to Public Counsel and to the UTC's Consumer Protection Section without adequate description of their role in the process.

57 Also, we take notice of public comments CenturyLink's customers made during the adjudicative proceeding. We are concerned that a number of customers could be confused by the proposed AFOR. A number of those providing public comment indicated that they are seniors with few options and may not be able to handle the changes well. As we emphasize above, CenturyLink owes its customers a duty of care, and the burden to ensure the customers will not be left without services ultimately lies with the Company, not with the Commission staff, and definitely not with the customers themselves.

58 While we acknowledge Bennett and Gose's arguments, we find Section 9 of the Settlement Agreement problematic. That section is not in the public interest, and we believe CenturyLink, a profitable company that has previously accepted federal money to provide these services to customers needs to do more to meet the needs of its most vulnerable customers who would be affected by the inequities of this proposal.

59 We also find CenturyLink's reliance on the service area maps not helpful or effective as our review of them lead us to conclude that they may not be accurate to date, such that reliance on them could result in customers being unnecessarily affected with discontinued service. As noted in testimony, the FCC Broadband Data Collection maps do not provide individual location data to the desired specificity and additional Fabric data would be required for a party to accurately verify service at an individual location.⁴⁵

⁴⁵ Bennett, TR. 196:22-197:16.

- 60 The Settlement Agreement places an inordinate degree of trust in the Company to effectively notify impacted customers and succinctly advise the most vulnerable customers through this process. Although the Company indicates it can be trusted to assist customers throughout this process, the Commission takes note of the large number of consumer complaints it has received from CenturyLink customers. As noted by Public Counsel, in 2023, 89 percent of all telecommunications complaints and 52 percent of complaints against all regulated companies in Washington received by Commission staff were against CenturyLink.⁴⁶ Many of these complaints are for service quality issues or inability to speak with a customer service representative to submit a repair ticket.
- 61 This significant number of consumer complaints received by Commission Staff provides the Commission little confidence that the Company will effectively respond to any consumer inquiries about the discontinuance process, and gives the Commission pause when assessing the trust it should afford the Company to fulfill its obligations specified in the Settlement Agreement. We also have concerns about Section 6 of the Settlement Agreement that covers transfer of property. Under the proposed AFOR, the Commission would not have the authority to consider whether to allow the transfer of the Company's property.
- 62 Finally, we note that the rejection of the Settlement Agreement will result in a temporary extension of the current AFOR until such time as the Commission resolves the Company's Petition, which allows the Parties time to work on a settlement that is acceptable and in the public interest. We remind the Parties that the expiration date for the current AFOR is January 9, 2025.⁴⁷
- 63 After careful consideration of the testimony and evidence presented, we find that the current Settlement Agreement does not serve the public interest. Therefore, we reject the Settlement Agreement before this Commission. We encourage the Parties to resubmit a Settlement Agreement that addresses the concerns set forth in this order.

FINDINGS AND CONCLUSIONS

- 64 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including telecommunications companies.

⁴⁶ Dreyer, Exh. JMD-1Tr at 12, Table 1.

⁴⁷ Docket UT-130477, Order 10 at ¶ 13.

- 65 (2) The Washington Utilities and Transportation Commission has jurisdiction over
the subject matter of, and Parties to, this proceeding.
- 66 (3) The Settlement Agreement is not consistent with the public interest, and that
agreement is rejected.
- 67 (4) The Parties should continue work on the concerns raised within this Order and
resubmit a Settlement Agreement to the Commission.
- 68 (5) CenturyLink's current AFOR should be temporarily extended to allow the Parties
to work on the settlement, and until such time as the Commission resolves the
Company's Petition.

ORDER

THE COMMISSION ORDERS THAT:

- 69 (1) The Settlement Agreement among the CenturyLink companies Qwest
Corporation, CenturyTel of Washington, CenturyTel of Inter Island, CenturyTel
of Cowiche, and United Telephone Company of the Northwest – and Commission
Staff, is rejected.
- 70 (2) The Parties shall submit a Settlement Agreement addressing the concerns raised
within this order, reflective of the public interest.
- 71 (3) CenturyLink's current AFOR shall be temporarily extended to allow the Parties to
work on the settlement, and until such time as the Commission resolves the
Company's Petition.

Dated at Lacey, Washington, and effective September 6, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

MILTON H. DOUMIT, Commissioner