

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION  
COMMISSION,

Complainant,

v.

CENTURYLINK  
COMMUNICATIONS, LLC

Respondent.

DOCKET UT-181051

PUBLIC COUNSEL MOTION TO  
STRIKE UNTIMELY RESPONSE  
TESTIMONIES OF CENTURYLINK  
COMMUNICATIONS, LLC

**I. INTRODUCTION**

- I.* Pursuant to WAC 480-07-375(d), the Public Counsel Unit of the Washington State Attorney General’s Office (“Public Counsel”) hereby moves to strike the Response Testimonies and Exhibits of Stacy J. Harman, Carl D. Klein, Valerie Lobdell, Steven E. Turner, and Martin D. Valance on behalf of CenturyLink Communications, LLC (“CenturyLink”) from the record of this proceeding. Public Counsel objects to the admission of these testimonies because they were untimely filed and untimely served on parties including Public Counsel. CenturyLink failed to seek a continuance as required by rule, so its untimely filing should be barred. Under the Washington Utilities and Transportation Commission’s (“Commission”) September 3, 2021, Notice of Errata to Notice Revising Procedural Schedule, CenturyLink’s testimony and exhibits were due on March 30, 2022. CenturyLink filed its testimony and exhibits with the Commission on March 31, 2022. CenturyLink delayed service of the redacted testimony until 5:06 p.m. and

service of the confidential testimony until 8:37 p.m. on March 31, 2022, which effectively provides service on Public Counsel as of April 1, 2022.

## II. STANDARD

2. Under WAC 480-07-385, a party may seek to postpone or extend a deadline established by rule or order through an oral or written motion for continuance.<sup>1</sup> The requesting party must file and serve a written motion at least five business days prior to the deadline the party requests to continue<sup>2</sup> or make an oral request for continuance on the record at least two days prior to the deadline.<sup>3</sup> A party may request a continuance by email only if the party can accurately represent that all other parties either join or do not oppose the request.<sup>4</sup>
3. Under WAC 480-07-365, documents filed in an adjudicative proceeding must be submitted electronically no later than 5 p.m. on the date of the established deadline.<sup>5</sup> All documents submitted to the Commission through the web portal or by email on a filing deadline must be delivered to all parties and the administrative law judge at the same time the documents are submitted to the Commission or immediately thereafter.<sup>6</sup>

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<sup>1</sup> WAC 480-07-385(2)(a).

<sup>2</sup> WAC 480-07-385(3)(a).

<sup>3</sup> WAC 480-07-385(3)(b).

<sup>4</sup> WAC 480-07-385(2)(a).

<sup>5</sup> WAC 480-07-365(2).

<sup>6</sup> WAC 480-07-365(2)(c).

### III. ARGUMENT

4. The Commission issued a Notice of Errata to Notice Revising Procedural Schedule on September 3, 2021, which established a deadline of March 30, 2022, for CenturyLink's Responsive Testimony.<sup>7</sup> The Notice was served upon counsel for CenturyLink.<sup>8</sup>
5. CenturyLink failed to comply with the Commission's procedural schedule. CenturyLink filed its Responsive Testimony and exhibits on March 31, 2022. At no point before the March 30th deadline did CenturyLink submit a written request for a continuance or oral motion on the record, as required by rule. CenturyLink also did not seek to obtain Public Counsel's agreement to delay the filing in order to request a continuance by email.
6. CenturyLink failed to serve the testimonies and exhibits on the established due date. Moreover, CenturyLink also failed to serve all parties simultaneously with the filing when it was made on March 31st, despite the Commission's rule requiring simultaneous delivery of documents to all parties and the administrative law judge at the time of filing or immediately thereafter.<sup>9</sup> CenturyLink filed the testimonies between 3:49 p.m. and 4:33 p.m., but Public Counsel did not receive the redacted testimonies until 5:06 p.m. and the confidential testimonies until 8:37 p.m. This results in CenturyLink's service being effectuated on April 1, 2022, two days after the deadline set in the procedural schedule.
7. The Commission's rule are clear regarding filing and service of documents on the date required. This proceeding has been ongoing since December of 2020, and the current procedural schedule was established seven months ago. CenturyLink has had adequate notice of the deadline

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<sup>7</sup> Notice of Errata to Notice Revising Procedural Schedule (Sept. 3, 2021).

<sup>8</sup> See Proof of Service to Notice of Errata to Notice Revising Procedural Schedule (Sept. 3, 2021).

<sup>9</sup> WAC 480-07-365(2)(c).


and ample opportunities to request a continuance, yet the Company filed its testimony late with no acknowledgement of the Commission's rules or any admission that it missed the deadline. CenturyLink's failure to address the issue suggests it assumes it can ignore a deadline with impunity; this apparently nonchalant violation of the Commission's rules expresses a disrespect for the Commission and its rules as well as to parties in this proceeding, and if it is allowed can only encourage similar future behavior and place every party's discovery rights in jeopardy. As a result, the Commission should strike CenturyLink's testimony and exhibits from the record as untimely.

#### IV. CONCLUSION

8. For the reasons set forth above, Public Counsel respectfully requests that its Motion to Strike Untimely Response Testimonies of CenturyLink Communications, LLC be granted.

DATED this 1st day of April, 2022.

ROBERT W. FERGUSON  
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