

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

CENTURYLINK COMMUNICATIONS,
LLC

Respondent.

DOCKET UT-181051

DECLARATION OF NINA M.
SUETAKE

EXHIBIT A

CenturyLink's Response to Public Counsel Data Requests 67 and 68

Docket No. 181051

CenturyLink's Confidential Responses to PC DR Nos. 66-74

June 6, 2022

Page 2 of 10

PC-67 **Re: Martin D. Valence, Exh. MDV-3C.**

Explain the purpose of Thomas McNealy's affidavit. Why is Thomas McNealy presenting his information through a declaration and not through his own testimony?

RESPONSE:

CLC objects to the extent that this request seeks information protected by the attorney-client privilege, work product doctrine and/or common-interest doctrine. Without waiving its objections, CLC responds as follows.

The purpose of Mr. McNealy's affidavit is to document a technical explanation of the circumstances surrounding the third party service provider's network event and response. It was offered to correct Staff's testimony, which attempts to draw inferences based on Infinera's out-of-court statements (isolated communications between Lumen and Infinera).

Respondent: CenturyLink Legal

Docket No. 181051

CenturyLink's Confidential Responses to PC DR Nos. 66-74

June 6, 2022

Page 3 of 10

PC-68 Re: Martin D. Valence, Exh. MDV-3C.

Will Thomas McNealy testify at the evidentiary hearing in this docket? Please explain with particularity whether CenturyLink views Thomas McNealy as a witness in this case. Will Thomas McNealy be subject to cross-examination? If not, why not? If yes, why is Thomas McNealy's affidavit an exhibit to Martin Valence's testimony?

RESPONSE:

CLC objects to the extent that this request seeks information protected by the attorney-client privilege, work product doctrine and/or common-interest doctrine. Without waiving its objections, CLC responds as follows.

CLC does not presently intend to call Mr. McNealy as a witness. Mr. McNealy is an employee of Infinera, and CLC cannot direct him to testify. Should Public Counsel be interested in seeking information directly from Infinera, the Commission has mechanisms to formally request third party discovery.

The purpose of Mr. McNealy's affidavit is described in CLC's response to data request PC-67. CLC's expert witnesses are entitled to rely on Mr. McNealy's affidavit in support of their testimony. *See e.g., In re Detention of Leck*, 180 Wash. App. 492, 513 (2014) ("ER 703 permits an expert to base his opinion on facts that are not otherwise admissible if they are of a type reasonably relied on by experts in the particular field." (citation omitted)).

Respondent: CenturyLink Legal