

**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 B

**CenturyLink's Responses to Commission Staff Data Requests 44C, 45C, 48C, 49C
and Supplemental Response to Commission Staff Data Request 52**

REDACTED VERSION

Docket UT-181051

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UTC STAFF DATA REQUEST NO. 44:

In Exh. MDV-3C, at page 8, paragraph 20, Mr. McNealy states that ****Begin Confidential**
 [REDACTED]
End Confidential**

Please admit that the correspondence and documents included in Exh. MDV-4C do not refer to ****Begin Confidential** [REDACTED] **End Confidential****. If you do not admit, please identify which specific content in Exh. MDV-4C refers to ****Begin Confidential** [REDACTED] **End Confidential**** and explain your reasoning. As part of your response, provide all and all other documents, reports, or communications that supports your denial.

RESPONSE:

CLC objects to this data request on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence. This data request seeks to investigate an outage on CLC's national transport network. The outage did not directly affect CLC's or its affiliates' remaining 911 network in Washington. Instead, it affected CLC's national transport network. More specifically, the outage affected *interstate DS-3 circuits* purchased by a vendor of Comtech on behalf of Comtech (for the provision of SS7 functionality), the responsible Washington 911 provider for the PSAPs that experienced a 911 outage. The interstate and non-regulated services provided on CLC's national transport network, and the facilities utilized to provide such services, are not regulated by the Commission, and the Commission lacks jurisdiction over them. *In Re AT&T Commc'ns of the Pac. Nw.*, No. 04, 2003 WL 23341214 (Wash. U.T.C. Dec. 1, 2003) ("*AT&T's proposed language would encompass facilities-access purchased out of federal tariffs over which the Commission lacks jurisdiction.*") (citing 34th Supplemental Order; Order Regarding Qwest's Demonstration of Compliance with Commission Orders, *Investigation Into U S WEST Communications, Inc.'s Compliance With Section 271 of the Telecommunications Act of 1996*; *U S WEST Communications, Inc.'s Statement of Generally Available Terms Pursuant to Section 252(f) of the Telecommunications Act of 1996*, Dkt. Nos. UT-003022, UT-003040, ¶ 22 (May 2002)); *MilleniaNet Corp. v. Pennsylvania Pub. Util. Comm'n*, No. 990 C.D. 2008, 2009 WL 9104922 (Pa. Commw. Ct. Apr. 30, 2009) (complaint dismissed because the "the PUC does not have jurisdiction over interstate telecommunications services."). CenturyLink further objects to this data request on the basis that it is overly broad and unduly burdensome. Without waiving its objections, CLC responds as follows.

Denied. Software is created in versions. Mr. McNealy's affidavit (Exhibit MDV-3C) refers to [REDACTED]. However, as Mr. McNealy explains "[REDACTED]"
 [REDACTED]

REDACTED**Shaded Information is CONFIDENTIAL Per Protective Order in Docket UT-181051**

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[REDACTED]” McNeally Affidavit ¶ 14
(emphasis added).
[REDACTED]

Respondent(s): CenturyLink Legal

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UTC STAFF DATA REQUEST NO. 45:**Background to UTC Staff Data Request No. 45:**

In Staff Data Request 23 to CenturyLink, Staff asked in part:

The following questions are in reference to the Confidential Root Cause Analysis filed by CenturyLink in Docket UT-170042. This document is ****Begin**

Confidential Data [REDACTED]

End Confidential Data**

- a. Please provide all documents, emails, and other communications generated in the course of ****Begin Confidential Data** [REDACTED] **End Confidential Data****

CenturyLink responded:

Subject to its objections above, see CLC's response to Staff DR, Attachment 3c (Bates Nos. 1470-1495), which catalogs and summarizes Infinera's findings in the immediate aftermath of the December 2018 network event. CLC has also performed a diligent search of its records, and has not found additional correspondence or other documents in its possession beyond those already produced. It is CLC's recollection (acknowledging, of course, that three years have passed) that much of the discussion between Infinera and CLC was verbal and not in writing. Infinera is the manufacturer of the affected equipment and provides maintenance on the Green and Red Infinera networks. Infinera is obviously very familiar with both networks and did not require much, if any, information from CLC to effect that comparative analysis.

UTC Staff Data Request No. 45:

In Exh. MDV-1TC at 14:10-12, Mr. Valence states ****Begin Confidential** [REDACTED]

End Confidential**

Please admit that the quoted statement is referring to ****Begin Confidential** [REDACTED] **End Confidential**** If you do not admit, identify the specific content in Exh. MDV-4C that Mr. Valence relies on to support the claim that the statement refers to

REDACTED

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****Begin Confidential** [REDACTED] **End Confidential**** and explain your reasoning. As part of your response, provide all documents, reports, or communications that supports your denial.

RESPONSE:

CLC objects to this data request on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence. This data request seeks to investigate an outage on CLC's national transport network. The outage did not directly affect CLC's or its affiliates' remaining 911 network in Washington. Instead, it affected CLC's national transport network. More specifically, the outage affected *interstate DS-3 circuits* purchased by a vendor of Comtech on behalf of Comtech (for the provision of SS7 functionality), the responsible Washington 911 provider for the PSAPs that experienced a 911 outage. The interstate and non-regulated services provided on CLC's national transport network, and the facilities utilized to provide such services, are not regulated by the Commission, and the Commission lacks jurisdiction over them. *In Re AT&T Comm'ns of the Pac. Nw.*, No. 04, 2003 WL 23341214 (Wash. U.T.C. Dec. 1, 2003) ("AT&T's proposed language would encompass facilities-access purchased out of federal tariffs over which the Commission lacks jurisdiction.") (citing 34th Supplemental Order; Order Regarding Qwest's Demonstration of Compliance with Commission Orders, *Investigation Into U S WEST Communications, Inc.'s Compliance With Section 271 of the Telecommunications Act of 1996*; *U S WEST Communications, Inc.'s Statement of Generally Available Terms Pursuant to Section 252(f) of the Telecommunications Act of 1996*, Dkt. Nos. UT-003022, UT-003040, ¶ 22 (May 2002)); *MilleniaNet Corp. v. Pennsylvania Pub. Util. Comm'n*, No. 990 C.D. 2008, 2009 WL 9104922 (Pa. Commw. Ct. Apr. 30, 2009) (complaint dismissed because the "the PUC does not have jurisdiction over interstate telecommunications services."). CenturyLink further objects to this data request on the basis that it is overly broad and unduly burdensome. Without waiving its objections, CLC responds as follows.

Denied. Software is created in versions. Mr. McNeally's affidavit (Exhibit MDV-3C) refers to [REDACTED]. However, as Mr. McNeally explains "[REDACTED]

" McNeally

Affidavit ¶ 14 (emphasis added).

REDACTED

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See also CLC's response to Staff DR Nos. 41-42, which CLC incorporates by reference. CLC notes that the source code is not in its possession, custody or control.

Respondent(s): **CenturyLink Legal**
 Morgan Pofahl, Principal Network Engineer

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UTC STAFF DATA REQUEST NO. 48:

In Exh. MDV-3C at pages 6-7, paragraphs 16-18, Mr. McNealy describes ****Begin Confidential**
[REDACTED]
End Confidential**

Please admit that ****Begin Confidential**
[REDACTED]
End Confidential** If you do not admit, please explain your denial and provide all documents, reports, or communications that support your denial.

RESPONSE:

CLC objects to this data request on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence. This data request seeks to investigate an outage on CLC's national transport network. The outage did not directly affect CLC's or its affiliates' remaining 911 network in Washington. Instead, it affected CLC's national transport network. More specifically, the outage affected *interstate DS-3 circuits* purchased by a vendor of Comtech on behalf of Comtech (for the provision of SS7 functionality), the responsible Washington 911 provider for the PSAPs that experienced a 911 outage. The interstate and non-regulated services provided on CLC's national transport network, and the facilities utilized to provide such services, are not regulated by the Commission, and the Commission lacks jurisdiction over them. *In Re AT&T Commc'ns of the Pac. Nw.*, No. 04, 2003 WL 23341214 (Wash. U.T.C. Dec. 1, 2003) ("AT&T's proposed language would encompass facilities-access purchased out of federal tariffs over which the Commission lacks jurisdiction.") (citing 34th Supplemental Order; Order Regarding Qwest's Demonstration of Compliance with Commission Orders, *Investigation Into U S WEST Communications, Inc.'s Compliance With Section 271 of the Telecommunications Act of 1996*; *U S WEST Communications, Inc.'s Statement of Generally Available Terms Pursuant to Section 252(f) of the Telecommunications Act of 1996*, Dkt. Nos. UT-003022, UT-003040, ¶ 22 (May 2002)); *MilleniaNet Corp. v. Pennsylvania Pub. Util. Comm'n*, No. 990 C.D. 2008, 2009 WL 9104922 (Pa. Commw. Ct. Apr. 30, 2009) (complaint dismissed because the "the PUC does not have jurisdiction over interstate telecommunications services."). CenturyLink further objects to this data request on the basis that it is overly broad and unduly burdensome. Without waiving its objections, CLC responds as follows.

Denied. This question is tautological. As Mr. McNealy described in his affidavit (Exhibit MDV-3C):

[REDACTED]

REDACTED

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McNeally Affidavit ¶ 17. Thus, it was the unique form of the packet malformation that created the ability for it to be propagated through the network.

Respondent(s): CenturyLink Legal

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UTC STAFF DATA REQUEST NO. 49:

In Exh. MDV-3C, at page 8, paragraph 21, Mr. McNealy describes ****Begin Confidential**

End

Confidential**

Please admit that ****Begin Confidential**

End Confidential** If you do not admit, please explain your denial

and provide all documents, reports, or communications that supports your denial.

RESPONSE:

CLC objects to this data request on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence. This data request seeks to investigate an outage on CLC's national transport network. The outage did not directly affect CLC's or its affiliates' remaining 911 network in Washington. Instead, it affected CLC's national transport network. More specifically, the outage affected *interstate DS-3 circuits* purchased by a vendor of Comtech on behalf of Comtech (for the provision of SS7 functionality), the responsible Washington 911 provider for the PSAPs that experienced a 911 outage. The interstate and non-regulated services provided on CLC's national transport network, and the facilities utilized to provide such services, are not regulated by the Commission, and the Commission lacks jurisdiction over them. *In Re AT&T Commc'ns of the Pac. Nw.*, No. 04, 2003 WL 23341214 (Wash. U.T.C. Dec. 1, 2003) ("AT&T's proposed language would encompass facilities-access purchased out of federal tariffs over which the Commission lacks jurisdiction.") (citing 34th Supplemental Order; Order Regarding Qwest's Demonstration of Compliance with Commission Orders, *Investigation Into U S WEST Communications, Inc.'s Compliance With Section 271 of the Telecommunications Act of 1996*; *U S WEST Communications, Inc.'s Statement of Generally Available Terms Pursuant to Section 252(f) of the Telecommunications Act of 1996*, Dkt. Nos. UT-003022, UT-003040, ¶ 22 (May 2002)); *MilleniaNet Corp. v. Pennsylvania Pub. Util. Comm'n*, No. 990 C.D. 2008, 2009 WL 9104922 (Pa. Commw. Ct. Apr. 30, 2009) (complaint dismissed because the "the PUC does not have jurisdiction over interstate telecommunications services."). CenturyLink further objects to this data request on the basis that it is overly broad and unduly burdensome. Without waiving its objections, CLC responds as follows.

Denied. This question is again tautological. As Mr. McNealy described in his affidavit (Exhibit MDV-3C):

[REDACTED]

REDACTED

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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Respondent(s): CenturyLink Legal

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UTC STAFF DATA REQUEST NO. 52:

Please provide:

- a. All documents and communications in Mr. McNealy's possession, custody, or control related to docket UT-181051, including any documents and communications that support Mr. McNealy's statements in Exh. MDV-3C.
- b. A copy of Mr. McNealy's resume or curriculum vitae.

RESPONSE:

CLC objects to this data request on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence. This data request seeks to investigate an outage on CLC's national transport network. The outage did not directly affect CLC's or its affiliates' remaining 911 network in Washington. Instead, it affected CLC's national transport network. More specifically, the outage affected *interstate DS-3 circuits* purchased by a vendor of Comtech on behalf of Comtech (for the provision of SS7 functionality), the responsible Washington 911 provider for the PSAPs that experienced a 911 outage. The interstate and non-regulated services provided on CLC's national transport network, and the facilities utilized to provide such services, are not regulated by the Commission, and the Commission lacks jurisdiction over them. *In Re AT&T Commc'ns of the Pac. Nw.*, No. 04, 2003 WL 23341214 (Wash. U.T.C. Dec. 1, 2003) ("AT&T's proposed language would encompass facilities-access purchased out of federal tariffs over which the Commission lacks jurisdiction.") (citing 34th Supplemental Order; Order Regarding Qwest's Demonstration of Compliance with Commission Orders, *Investigation Into U S WEST Communications, Inc.'s Compliance With Section 271 of the Telecommunications Act of 1996*; *U S WEST Communications, Inc.'s Statement of Generally Available Terms Pursuant to Section 252(f) of the Telecommunications Act of 1996*, Dkt. Nos. UT-003022, UT-003040, ¶ 22 (May 2002)); *MilleniaNet Corp. v. Pennsylvania Pub. Util. Comm'n*, No. 990 C.D. 2008, 2009 WL 9104922 (Pa. Commw. Ct. Apr. 30, 2009) (complaint dismissed because the "the PUC does not have jurisdiction over interstate telecommunications services."). CenturyLink further objects to this data request on the basis that it is overly broad and unduly burdensome. Without waiving its objections, CLC responds as follows.

CLC has been attempting to coordinate with Infinera to address this data request, and will supplement this response.

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SUPPLEMENTAL RESPONSE (05/27/22):

- a. CLC is unaware if Mr. McNealy has any documents in his possession, custody, or control related to Docket UT-181051. Mr. McNealy can be reached via Infinera's outside counsel:

Heather Curlee
Senior Counsel
Wilson Sonsini Goodrich & Rosati, P.C.
701 Fifth Ave, Suite 5100
Seattle, WA 98104
(206) 883-2522

- b. Mr. McNealy's resume is attached as Confidential Attachment Staff 52 (Bates Nos. CLC-007123-007125)

Respondent(s): CenturyLink Legal