

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. QWEST CORPORATION, d/b/a CENTURYLINK QC Respondent.	DOCKET UT-190262 <i>(Consolidated)</i>
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. CENTURYTEL OF COWICHE, INC. d/b/a/ CENTURYLINK, Respondent.	DOCKET UT-190263 <i>(Consolidated)</i>
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. CENTURYTEL OF WASHINGTON, INC. d/b/a/ CENTURYLINK, Respondent.	DOCKET UT-190264 <i>(Consolidated)</i>
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v.	DOCKET UT-190265 <i>(Consolidated)</i>

CENTURYTEL OF WASHINGTON, INC. d/b/a/ CENTURYLINK, Respondent.	
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. UNITED TELEPHONE COMPANY OF THE NORTHWEST d/b/a/ CENTURYLINK, Respondent.	DOCKET UT-190266 (Consolidated) ORDER 03 DENYING MOTIONS TO WITHDRAW; PREHEARING CONFERENCE ORDER

- 1 **NATURE OF PROCEEDING.** On April 8, 2019, the above-captioned CenturyLink companies¹ filed with the Washington Utilities and Transportation Commission (Commission) revisions to their currently effective tariffs to discontinue private switch/automatic location identification (PS/ALI) services, currently described in the Emergency 9-1-1 service sections of the CenturyLink Companies’ tariffs. The PS/ALI database is used to direct first responders to the exact location from which a call is placed.
- 2 The Commission consolidated these dockets and suspended operation of the tariffs on April 25, 2019, by Order 01 entered in this docket.
- 3 **CONFERENCE.** The Commission convened a prehearing conference at Olympia, Washington on May 13, 2019, before Administrative Law Judge Nelli Doroshkin.
- 4 **APPEARANCES.** Lisa A. Anderl, Seattle, Washington, represents the CenturyLink Companies. Nash Callaghan, Assistant Attorney General, Olympia, Washington,

¹ Qwest Corporation d/b/a CenturyLink QC, CenturyTel of Cowiche d/b/a CenturyLink, CenturyTel of Washington, Inc. d/b/a CenturyLink, and United Telephone Company of the Northwest d/b/a CenturyLink (collectively, “CenturyLink Companies” or “Companies”).

represents Commission staff (Staff).² Lisa W. Gafken and Nina Suetake, Assistant Attorneys General, Seattle, Washington, represent the Public Counsel Unit of the Attorney General’s Office (Public Counsel). Dawn C. Cortez, Assistant Attorney General, represents the Washington State Military Department, E911 Coordination Office (SECO). Susan Ornstein, Annapolis, Maryland, represents TeleCommunication Systems, Inc. (TeleCommunication Systems).³ Contact information for the representatives of those granted party status is attached as Appendix A to this Order.

5 **PETITIONS FOR INTERVENTION.** SECO and TeleCommunication Systems timely filed petitions to intervene.

6 Absent objections to the petitions to intervene, we find that these petitioners have established a substantial interest in this proceeding and that their participation will be in the public interest. Accordingly, we grant these petitions.

7 As provided in the April 26, 2019, Prehearing Conference Notice, petitions to intervene may be filed until May 28, 2019. Responses to petitions to intervene may be filed within five days of the relevant petition.

8 **CUSTOMER NOTICE.** Telecommunications companies proposing changes to tariffs, including discontinuation of a service, must provide customers with notice of the change. WAC 480-120-194. Notices issued to customers must contain, *inter alia*, the Commission’s contact information and an explanation of how to participate in the Commission’s tariff revision review process. WAC 480-120-194(4)(j). The customer notices that the CenturyLink Companies issued on April 8, 2019, do not meet the requirements of the rule.

² 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.

³ In its petition to intervene, TeleCommunication Systems states that it “is contracted by [SECO] to provide the State of Washington’s Emergency Service IP network, which includes maintenance of the State’s Automatic Location Identification (ALI) database,” but that the contract “does not impose any responsibility on TeleCommunication Systems to manage the commercial [PS/ALI] database,” which is incorporated into the ALI database. Petition to Intervene of TeleCommunication Systems, Inc., ¶¶ 5-6.

9 At the prehearing conference, the CenturyLink Companies confirmed that they would issue corrected customer notices that contain the Commission's contact information and describe how to participate in this proceeding during the week of May 13, 2019.

10 **MOTIONS TO WITHDRAW.** We deny the CenturyLink Companies' motions to withdraw the tariff revisions, finding that withdrawal is not in the public interest.

11 On May 10, 2019, the CenturyLink Companies filed letters requesting to withdraw the tariff filings in each of the captioned dockets. The letters did not provide any reasons supporting the requests. Because the Commission has commenced an adjudicative proceeding in these consolidated matters,⁴ we construe these requests as motions to withdraw under WAC 480-07-380(3). Under WAC 480-07-380(3)(b), the Commission will grant a motion to withdraw if doing so is in the public interest.

12 At the prehearing conference, the CenturyLink Companies were allowed to supplement their motions to demonstrate how withdrawing the tariff revisions would be in the public interest.⁵ Other parties were authorized to respond to the motions to withdraw. The CenturyLink Companies stated their intent to later refile substantially similar tariff revisions or a petition for an order declaring PS/ALI services competitive, and argued that withdrawing the proposed tariff revisions would: (1) provide customers more time to transition to alternative PS/ALI service providers; (2) allow the CenturyLink Companies to provide more complete notice to customers of the change; and (3) ensure that all affected customers would continue to have PS/ALI services.

13 Staff, Public Counsel, and SECO oppose the CenturyLink Companies' motions to withdraw. Staff argues that all stakeholders should be involved in customers' transitions to new PS/ALI service providers; Public Counsel and SECO agree with Staff's position. Public Counsel also expressed concern with the notices that the CenturyLink Companies issued to their customers regarding the proposed tariff revisions and requests that the Companies issue corrected notices. SECO notes that withdrawing the proposed tariff revisions would conclude this proceeding, thus eliminating its opportunity to monitor customers' transitions to new PS/ALI service providers.

⁴ See RCW 34.05.413(5) and WAC 480-07-305.

⁵ See, e.g., *In re Petition of Rupp et al. v. Verizon Northwest Inc.*, Docket UT-050778, Order 06, ¶ 13 (May 8, 2006).

- 14 We find that the CenturyLink Companies have not met the movant's burden of demonstrating that withdrawing the tariff filings and concluding this proceeding is in the public interest. We address each of the Companies' arguments below.
- 15 First, the CenturyLink Companies argue that withdrawal and conclusion of this proceeding would allow customers more time to transition to new PS/ALI database management service providers before the tariff revisions are re-filed, but do not assert that customers would have more time to transition to a new provider if the CenturyLink Companies withdrew the proposed tariff revisions than they would if this proceeding continues. That is, the CenturyLink Companies suggest that the 10-month suspension period in this proceeding is insufficient for customers to transition to a new PS/ALI data management service provider. Indeed, it is likely that customers would have greater opportunity to transition to new providers within the timeframe afforded by this proceeding in light of the fact that the CenturyLink Companies stated they may refile the proposed tariff revisions in as soon as 90 days.
- 16 Second, the CenturyLink Companies' customer notice argument is moot because, as noted in paragraphs 8-9, *supra*, the CenturyLink Companies will issue complete customer notices during the pendency of this proceeding. Any notice provided to customers upon refileing would not be of greater informational value to customers than that issued in this proceeding, and may, in fact, create confusion for customers.
- 17 Finally, the CenturyLink Companies' argument that withdrawal would ensure that all customers have a PS/ALI service provider in place is rendered ineffective by the CenturyLink Companies' failure to provide assurance at the prehearing conference that customers will have transitioned to new providers of PS/ALI service prior to the Companies refileing tariff revisions at a later date if the motions to withdraw were granted. Upon refileing, the CenturyLink Companies would only certify that customers have had the opportunity to contract with alternative service providers. Because this does not ensure successful transitions to new PS/ALI service providers, the Companies fail to support this justification for the conclusion of this proceeding.
- 18 Thus, we find that withdrawal and termination of this proceeding would not advance the public interest for any of the reasons offered by the CenturyLink Companies. Moreover, it would be detrimental to the public interest to exclude the parties to this proceeding from participating in, and aiding, customers' transition to new PS/ALI information management service providers. It is particularly vital to ensure that SECO is able to participate in the customer transition because SECO's duties include coordinating and

facilitating the implementation and operation of enhanced 911 emergency communications systems throughout the state.⁶

19 Although we are mindful of the burden that participating in this proceeding will create for the CenturyLink Companies, that burden is outweighed by the value of full stakeholder participation in the PS/ALI service transition. Discovery is necessary for the parties to have access to information that will aid customers in their transition to new PS/ALI service providers. In addition, the burden of filing an implementation plan is relatively small because the CenturyLink Companies likely would need to gather the information contained in the plan in order to present a compelling case for approving the proposed tariff revisions at a later date.

20 We find that the value of SECO's, Public Counsel's, and Staff's participation in the transition process outweighs the CenturyLink Companies' limited burden of participation in this proceeding, and there are no compelling reasons demonstrating that withdrawal of the tariff revisions would be in the public interest. Therefore, the CenturyLink Companies' motions to withdraw the tariff revisions are denied.

21 **PROTECTIVE ORDER.** A protective order was entered in this docket as Order 02 on May 20, 2019.

22 **DISCOVERY.** To facilitate the sharing of information necessary to the creation of the PS/ALI transition implementation plan that will be filed in this proceeding, we immediately authorize discovery pursuant to the Commission's discovery rules in WAC 480-07-400 – 425. We urge the parties to work cooperatively together to avoid having to bring discovery matters forward for formal resolution. Response times to data requests will be adjusted as set forth in Appendix B based on the parties' agreement.

23 It will aid discovery in this case if all responses to data requests are shared with all parties. No party objects to making the exchange of data request responses with all parties a requirement for discovery in this case. Accordingly, we require the parties to share every data request response with all parties, subject to any confidentiality limitations contained in Commission rule or the protective order issued in these dockets.

24 **PROCEDURAL SCHEDULE.** The parties agreed on a preliminary procedural schedule at the prehearing conference that includes a June 7, 2019, settlement conference followed by a status conference that will be scheduled after this Order is entered to determine

⁶ See RCW 38.52.520.

further scheduling needs. We adopt the parties' proposed preliminary procedural schedule, which is attached to this Order as Appendix B.

25 **DOCUMENT FILING AND SERVICE REQUIREMENTS.** Parties must file and serve all pleadings, motions, and other pre-filed materials in compliance with all of the following requirements:

- (a) Parties must submit electronic copies of all documents by 5 p.m. on the filing deadline established in the procedural schedule (or other deadline as applicable) unless the Commission orders otherwise. Parties must comply with WAC 480-07-140(6) in formatting, organizing, and identifying electronic files.
- (b) The Commission accepts only electronic versions of documents for formal filing. Parties must submit documents electronically through the Commission's web portal (www.utc.wa.gov/e-filing). If a party is unable to use the web portal to submit documents for filing, the Commission will accept a submission via email to records@utc.wa.gov, provided that the email:
 - (1) explains the reason the documents are not being submitted via the web portal, and
 - (2) complies with the requirements in WAC 480-07-140(5)(b).
- (c) Documents filed with the Commission must conform to the formatting and other requirements in WAC 480-07-395, and must comply with the requirements in WAC 480-07-160 and the Protective Order in this docket for documents that include information designated as confidential.
- (d) Parties must electronically serve the other parties and provide courtesy electronic copies of filings to the presiding administrative law judge (nelly.doroshkin@utc.wa.gov) by 5 p.m. on the filing deadline unless the Commission orders otherwise. If parties are unable to email copies, they may furnish electronic copies by delivering them on a flash drive only.

26 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission has limited ability to provide dispute resolution services. If you wish to explore those services, please contact Rayne Pearson, Director, Administrative Law Division (360-664-1136).

27 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order,**

pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of this Order, in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this docket, subject to Commission review.

Dated at Olympia, Washington, and effective May 20, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

NELLI DOROSHKIN
Administrative Law Judge

APPENDIX A
PARTIES' REPRESENTATIVES
 DOCKETS UT-190262, UT-190263, UT-190264, UT-190265, and UT-190266
 (Consolidated)

PARTY	REPRESENTATIVE	PHONE	E-MAIL
CenturyLink Companies ⁷	Lisa A. Anderl Associate General Counsel 1600 7 th Ave Rm 1506 Seattle, WA 98191	(206) 345-1574	Lisa.Anderl@CenturyLink.com
	Phil Grate		Phil.grate@centurylink.com
Commission Staff	Nash Callaghan Assistant Attorney General Office of the Attorney General Utilities and Transportation Division 1400 S. Evergreen Park Drive S.W. P.O. Box 40128 Olympia, WA 98504	(360) 664-1194	nash.callaghan@utc.wa.gov
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Public Counsel	Lisa Gafken Assistant Attorney General Washington Attorney General's Office Public Counsel Unit 800 Fifth Avenue, Suite 2000 Seattle, WA 98104-3188	(206) 464-6595	Lisa.Gafken@atg.wa.gov
	Nina Suetake Assistant Attorney General	(206) 389-2055	NinaS@atg.wa.gov
	Carla Colamonici Regulatory Analyst	(206) 389-3040	Carla.Colamonici@atg.wa.gov
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⁷ Qwest Corporation d/b/a CenturyLink QC, CenturyTel of Cowiche d/b/a CenturyLink, CenturyTel of Washington, Inc. d/b/a CenturyLink, and United Telephone Company of the Northwest d/b/a CenturyLink.

PARTY	REPRESENTATIVE	PHONE	E-MAIL
Washington State Military Department E911 Coordination Office	Dawn C. Cortez Assistant Attorney General Office of the Attorney General Transportation and Public Construction Division P.O. Box 40113 Olympia, WA 98504-0113	(360) 586-2436	dawn.cortez@atg.wa.gov
	Adam Wasserman State E911 Coordinator		adam.wasserman@mil.wa.gov
	Maudelle Padilla Legal Assistant	(360) 753-1622	maudelle.padilla@atg.wa.gov
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TeleCommunication Systems, Inc.	Susan Ornstein Senior Director, Legal & Regulatory Affairs	(202) 794-4102	susan.ornstein@comtechtel.com
	Jay Nohl General Counsel	(720) 592-3372	jay.nohl@comtechtel.com
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APPENDIX B
PRELIMINARY PROCEDURAL SCHEDULE
DOCKETS UT-190262, UT-190263, UT-190264, UT-190265, and UT-190266
(Consolidated)

EVENT	DATE
Proposed Tariff Change Filing	Monday, April 8, 2019
Proposed Tariff Change Suspension	Thursday, April 25, 2019
Prehearing Conference	Monday, May 13, 2019
Prehearing Conference Order¹	Monday, May 20, 2019
CenturyLink Companies File Implementation Plan Information	Friday, May 24, 2019
First Settlement Conference	Friday, June 7, 2019
Status Conference	TBD
Suspension Date	Sunday, March 8, 2020²

¹ Response time to data requests will be 7 business days.

² Based on a 10-month suspension from the stated effective date of May 8, 2019, on the as-filed tariff sheets, per RCW 80.04.130.