

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

CENTURYLINK
COMMUNICATIONS, LLC,

Respondent

DOCKET UT-181051

ORDER 01

PREHEARING CONFERENCE
ORDER; NOTICE OF HEARING
(Evidentiary Hearing set for
January 10-11, 2022, at 9 a.m.)

- 1 **NATURE OF PROCEEDING.** On December 22, 2020, the Washington Utilities and Transportation Commission (Commission), on its own motion, and through its staff (Staff) issued a complaint against CenturyLink Communications, LLC (CenturyLink or Company) in Docket UT-181051.
- 2 On December 27, 2018, Washington residents experienced interruptions in telecommunications service, including 911 service. Residents attempting to call 911 encountered a fast busy signal and had their calls dropped. The service interruption affected all Washington residents and public safety answering points (PSAPs) intermittently for 49 hours and 32 minutes, over two days. The outage was a “major outage” as defined in WAC 480-120-021.
- 3 In the complaint, Staff alleges violations of RCW 80.30.080, RCW 80.36.220, Washington Administrative Code (WAC) 480-120-450(2), and WAC 480-120-412 arising from the outage.
- 4 **CONFERENCE.** The Commission convened a virtual prehearing conference in this docket on February 9, 2021, before Administrative Law Judge Samantha Doyle.
- 5 **APPEARANCES.** Adam Sherr, Assistant General Counsel, Seattle, Washington, represents CenturyLink. Lisa W. Gafken and Nina Suetake, Assistant Attorneys General, Seattle, Washington, represent the Public Counsel Unit of the Washington Office of the Attorney General (Public Counsel). Dawn Cortez, Assistant Attorney

General, Olympia, Washington, represents the Washington State Military Department, E911 Coordination Office (WMD). Harry Fukano and Sally Brown, Assistant Attorneys General, Lacey, Washington, represent the Commission's regulatory staff (Commission Staff or Staff).¹ Contact information provided at the conference for the parties' representatives is attached as Appendix A to this order.

6 **PETITIONS FOR INTERVENTION.** WMD timely filed a petition to intervene. No party objected to the petition.

7 Absent any objection to the petition to intervene, the Commission finds that WMD has established a substantial interest in this proceeding and that its participation will be in the public interest. Accordingly, the Commission grants the petition.

8 **PROTECTIVE ORDER.** The Company requested that the Commission enter a protective order in this docket under RCW 34.05.446, RCW 80.04.095, WAC 480-07-420, and WAC 480-07-423 to protect the confidentiality of proprietary information. The Commission granted the request and will enter a protective order in this docket.

9 **DISCOVERY.** Discovery will be conducted pursuant to the Commission's discovery rules, WAC 480-07-400 – 425. The Commission urges 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.

10 The Commission believes it will aid discovery in this case if all responses to data requests are shared with all parties. No party objects to the Commission making the exchange of data request responses with all parties a requirement for discovery in this case. Accordingly, the Commission requires the parties to share every data request

¹ 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.

response with all parties, subject to any confidentiality limitations contained in Commission rule or the protective order issued in this docket.

- 11 **PROCEDURAL SCHEDULE.** The parties presented an agreed procedural schedule at the prehearing conference. Under WAC 480-07-460(1)(b), a deadline for filing errata sheets to exhibits may be established in the prehearing conference order. The Commission adopts the parties' proposed procedural schedule, which is attached to this Order as Appendix B.
- 12 **DOCUMENT FILING AND SERVICE REQUIREMENTS.** Parties must file and serve all pleadings, motions, briefs, and other prefiled 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. Documents that include information designated as confidential must comply with the requirements in WAC 480-07-160 and the Protective Order in these dockets. 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 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).
 - (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) In light of the COVID-19 pandemic, the Commission is suspending requirements for paper filings in this case.

- (d) If any of the exhibits contain information designated as confidential, parties must file an electronic copy of the redacted version in searchable PDF (Adobe Acrobat or comparable software) of each such exhibit.
- (e) Parties must electronically serve the other parties and provide courtesy electronic copies of filings to the presiding administrative law judge (samantha.doyle@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.

- 13 **EXHIBITS FOR CROSS-EXAMINATION.** Parties are required to file with the Commission and serve all proposed cross-examination exhibits by **5 p.m. on November 18, 2021**. The Commission requires electronic copies (in searchable Adobe Acrobat (.pdf)). If any of the exhibits contain information that is designated as confidential or highly confidential, the party must also file one electronic copy (in Adobe Acrobat (.pdf)) of the redacted version of each such exhibit. The exhibits must be grouped according to the witness the party intends to cross examine with the exhibits.
- 14 **EXHIBIT LISTS.** With each submission of prefiled testimony and exhibits, the party making the submission must include a preliminary exhibit list that identifies each submitted exhibit in the format the Commission uses for the exhibit lists it prepares for evidentiary hearings. The Company will prepare and file its preliminary exhibit list for its initial filing in this docket. Each party must file and serve a final list of all exhibits the part intends to introduce into the evidentiary record, including all prefiled testimony and exhibits, as well as cross-examination exhibits, by **5 p.m., January 3, 2022**.
- 15 **CROSS-EXAMINATION TIME ESTIMATES.** Each party must provide a list of witnesses the party intends to cross-examine at the evidentiary hearing and an estimate of the time that party anticipates the cross-examination of that witness will take. Parties should not file witness lists or cross-examination time estimates but must provide them to the administrative law judge (samantha.doyle@utc.wa.gov) and the other parties by **5 p.m., January 3, 2022**.
- 16 **NOTICE OF EVIDENTIARY HEARING.** The Commission will hold an evidentiary hearing in this docket on **January 10-11, 2022, at 9 a.m.**, in the Commission’s Hearing Room, First Floor, 621 Woodland Square Loop S.E., Lacey, Washington, or virtually,

depending on the public health restrictions in effect at that time. In the event the hearing must be held virtually, the Commission will provide notice at least 20 days prior to the hearing date with meeting information for Microsoft Teams.

- 17 **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 (rayne.pearson@utc.wa.gov or (360) 664-1136).
- 18 **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 matter, subject to Commission review.**

Dated at Lacey, Washington, and effective February 24, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Samantha Doyle
SAMANTHA DOYLE
Administrative Law Judge

APPENDIX A
PARTIES' REPRESENTATIVES
DOCKET UT-181051

PARTY	REPRESENTATIVE	PHONE	E-MAIL
CenturyLink	Adam Sherr Assistant General Counsel 1600 – 7th Ave., Room 1506 Seattle, WA 98191	(206)-398-2507	adam.sherr@lumen.com
Commission Staff	Harry Fukano Assistant Attorney General Office of the Attorney General Utilities and Transportation Division P.O. Box 40128 Olympia, WA 98504		
	Sally Brown	(360) 664-1193	sally.brown@utc.wa.gov
	Betsy DeMarco		bdemarco@utc.wa.gov
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	(206) 389-2055	NinaS@atg.wa.gov
	Chanda Mak	(206) 389-3972	chandam@atg.wa.gov
WMD	Dawn 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

**APPENDIX B
PROCEDURAL SCHEDULE
DOCKET UT-181051**

EVENT	DATE
Settlement Conference (parties only)	June 30, 2021
Initial/Direct Testimony (Staff, Public Counsel)	July 29, 2021
Responsive Testimony (CenturyLink/Lumen)	October 7, 2021
Cross-Answering Testimony (All Parties)	November 18, 2021
Discovery Deadline	December 9, 2021
Deadline to file exhibits for Evidentiary Hearing	January 2, 2022
Evidentiary Hearing	January 10-11, 2022
Simultaneous Post-Hearing Briefs	February 8, 2022
Simultaneous Reply Briefs	March 1, 2022