

**Exh. BF-1T**  
**Docket UT-240078**  
**Witness: Bridgit Feeser**

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,**

**Complainant,**

**v.**

**CENTURYLINK COMMUNICATIONS  
LCC d/b/a LUMEN TECHNOLOGIES  
GROUP,**

**Respondent.**

**DOCKET UT-240078**

**REBUTTAL TESTIMONY OF**

**BRIDGIT FEESER**

**STAFF OF  
WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION**

*Staff's Investigation and Penalty Recommendation*

**August 8, 2024**

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## **LIST OF EXHIBITS**

Exh. BF-2      June 8, 2023 Staff Notes on Call with CenturyLink

1 I. INTRODUCTION

2

3 **Q. Please state your name and business address.**

4 A. My name is Bridgit Feeser, and my business address is 621 Woodland Square Loop  
5 SE, Lacey, Washington, 98503. My business mailing address is P.O. Box 47250,  
6 Olympia, Washington, 98504-7250. My business email address is  
7 Bridgit.feeser@utc.wa.gov.

8

9 **Q. By whom are you employed and in what capacity?**

10 A. I am employed by the Washington Utilities and Transportation Commission  
11 (Commission) as the Director of the Consumer Protection Division. I have been  
12 employed by the Commission since May 2016.

13

14 **Q. Please state your qualifications to provide testimony in this proceeding.**

15 A. I have a bachelor's degree from Evergreen State College and have taken investigator  
16 training through the Washington State Learning Center. I have approximately eight  
17 years of experience conducting investigations and over eight years of experience  
18 overseeing investigative work performed by consumer protection investigators. As the  
19 Consumer Protection Director, I supervise the compliance investigation team, manage  
20 investigations related to the business practices of regulated utility or transportation  
21 companies, and make decisions regarding whether to issue staff recommendations to  
22 the Commission about issuing penalties for non-compliance with Washington laws,  
23 rules, and company tariffs.

1 **Q. Are you familiar with the proceedings in this case?**

2 A. Yes. As the Consumer Protection Director and direct supervisor of the Commission's  
3 Consumer Protection Compliance Investigation Section, I have been overseeing the  
4 issues in this case and resulting investigations since January 2022. In January 2022,  
5 Staff conducted a compliance investigation into CenturyLink's business practices to  
6 determine if the Company was complying with the requirements of WAC 480-120-  
7 133. In December 2022, I gave Staff witness Sharmila Prabakaran the assignment of  
8 conducting a follow-up investigation into the same matter to determine if the  
9 Company had cured the violations discovered earlier that year. I regularly met with  
10 and provided Sharmila Prabakaran direction, discussed the merits of the case, and  
11 approved Staff's resulting penalty recommendation to the Commission.

12  
13 **Q. Have you previously testified before the Commission?**

14 A. Yes. I provided testimony on behalf of Commission Staff in the adjudicative  
15 proceeding in Docket UT-210902.

16  
17 **II. SCOPE AND SUMMARY OF TESTIMONY**

18  
19 **Q. What is the purpose and scope of your testimony?**

20 A. My rebuttal testimony responds to the testimony of CenturyLink's witness, Peter  
21 Gose, who recommends that the Commission impose the lowest penalty amount of  
22 \$100 per violation. I also reiterate Staff's penalty recommendation, as laid out in the  
23 testimony of Staff witness Prabakaran.

1     **Q.     Have you prepared any exhibits in support of your testimony?**

2     A.     Yes. I prepared Exhibit BF-2, a copy of Staff's notes regarding Staff's June 8, 2023  
3           telephone call with the Company.

4  
5                                   **III.     DISCUSSION**  
6

7     **Q.     Please briefly describe the complaint at issue in this case.**

8     A.     Following its receipt of customer complaints regarding wait times for calls placed to  
9           CenturyLink's customer service centers, Commission Staff instituted an  
10          investigation in January 2022 to determine if the Company had corrected its  
11          business practices to comply with WAC 480-120-133 after receiving technical  
12          assistance from Staff. After the close of that investigation, Staff concluded that  
13          CenturyLink continued to violate WAC 480-120-133(2)(c), again provided  
14          technical assistance to the Company, and informed the Company that Staff would  
15          conduct a follow-up investigation in December 2022. After the close of this follow-  
16          up investigation, Staff found the Company continued to violate WAC 480-120-  
17          133(2)(c) on nine occasions. During the course of this investigation, Staff sent the  
18          Company an initial request for information on December 29, 2022, as well as  
19          several follow-up requests during the following 14 months leading up the filing of  
20          the complaint. The Company did not provide a complete response to Staff's request  
21          for information, often ignoring Staff's follow-up communications for the entire  
22          duration of the investigation, resulting in 234 violations of WAC 480-07-175(2)(b).

1 The Commission filed its complaint against CenturyLink Communications, LLC on  
2 March 13, 2024.

3  
4 **Q. Mr. Gose asserts that the Commission named the incorrect corporate entity as**  
5 **respondent in this case. Do you agree?**

6 A. In his testimony, Mr. Gose asserts that CenturyLink Communications, LLC does not  
7 operate business offices or repair centers for the purposes of WAC 480-120-133 and  
8 that these offices are instead operated by CenturyLink Communications, LLC's five  
9 local corporate affiliates.<sup>1</sup> To the extent he is correct, Staff has already filed a  
10 motion to amend the complaint to name these additional corporate entities as  
11 respondents. However, Staff believes CenturyLink Communications, LLC is indeed  
12 the correct respondent. First, Staff's December 29, 2022, data request was addressed  
13 to the State and Local Government Affairs Office of CenturyLink Communications,  
14 LLC.<sup>2</sup> CenturyLink Communications, LLC is therefore the correct respondent with  
15 regard to the alleged violations of WAC 480-07-175. Moreover, the record shows  
16 that Staff communicated with CenturyLink Communications, LLC through a series  
17 of data requests and other communications regarding the Company's operation of its  
18 customer service call centers over a period 14 months before the Commission filed  
19 its complaint in this case. At no point did CenturyLink Communications, LLC  
20 object to these requests or otherwise indicate that it was not the entity responsible for  
21 the operation of those call centers and in fact did provide information and data  
22 pertaining to its call centers.

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<sup>1</sup> Gose, Exh. PJG-1T at 4.

<sup>2</sup> Prabakaran, Exh. SP-3.

1     **Q.     What penalty did Staff recommend the Commission impose for the violations at**  
2     **issue in this case?**

3     A.     \$1,000 per violation.  
4

5     **Q.     What penalty does Mr. Gose recommend the Commission impose?**

6     A.     To either decline to penalize the Company or impose a \$100 per violation penalty.  
7

8     **Q.     Why does Mr. Gose recommend that penalty amount?**

9     A.     Mr. Gose's testimony walks through each of the Commission's 11 enforcement  
10     factors and explains how most weigh in favor of the lowest penalty amount. He  
11     asserts that factors 1 (degree of harm), 2 (intentionality), 5 (whether the company  
12     promptly corrected and remedied the violations), 6 (the number of violations), 7 (the  
13     number of customers affected), 8 (the likelihood of recurrence), 9 (CenturyLink's  
14     past performance), 10 (its existing compliance program), and 11 (the size of the  
15     company) all operate in favor of low penalties.  
16

17    **Q.     Do you agree with Mr. Gose's assessment of factor 1, *how serious or harmful the***  
18    ***violation is to the public?***

19    A.     No. Mr. Gose asserts that Staff inappropriately considered this factor because, by  
20    Staff's reasoning, any violations of Commission rules would be considered serious  
21    and harmful and deserving of the maximum penalty.<sup>3</sup> However, Staff does not assert  
22    that any violation of Commission rules is per se deserving of maximum penalties.

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<sup>3</sup> Gose, Exh. PJG-1T at 9.

1 Staff asserts that the Commission rules requiring that public service companies  
2 cooperate with Staff investigations exist specifically to protect consumers from  
3 harm. CenturyLink's conduct during Staff's investigation transcends far beyond the  
4 occasional missed deadline or incomplete response but is fairly characterized as a  
5 repeated pattern of total disregard towards Staff's requests for information and  
6 therefore complete indifference towards the public's interest in its cooperation. This  
7 is the significant harm Staff has identified.

8 Mr. Gose also asserts that the conduct at issue here did not rise to the level of  
9 harmfulness as in other cases in which the Commission assessed lesser penalties  
10 against CenturyLink. Specifically he identifies UT-181051, in which the  
11 Commission assessed \$100 per violation related to the December 2018 911 outage  
12 and UT-210902, in which the Commission assessed \$750 per violations related to  
13 illegal service disconnections.<sup>4</sup>

14 Staff does not believe that the Commission's assessment of penalties in an  
15 amount less than \$1,000 per violation in those cases indicates a lesser level of  
16 seriousness or harm to the customer. Mr. Gose points out that in Docket UT-181051,  
17 the Commission imposed a \$100 penalty for each of the 13,000 violations. Mr. Gose  
18 does not mention that the Commission also imposed a \$1,000 penalty for 15 other  
19 violations in that case.<sup>5</sup> Staff contends that the large number of violations in that  
20 case, 13,000, led to a more reasonable penalty amount of \$100 per violation being  
21 imposed – \$1.3 million is more reasonable than \$13 million. In UT-210902, Order

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<sup>4</sup> *Id.*

<sup>5</sup> *Wash. Utils. & Transp. Comm'n v. CenturyLink Communications, LLC*, Docket UT-181051, Final Order 08 at 21-22 (June 9, 2023).

04, the Commission imposed a \$1,000 penalty for each of the 923 violations and ruled to not suspend any portion of the penalty.<sup>6</sup> After the Company filed a Petition for Administrative Review, the Commission denied the Company's request to suspend all or part of the penalty, but found that Enforcement Policy Factor 8, the likelihood of recurrence, weighed in favor of mitigation and thus mitigated the assessed penalty down to \$750 per violation.<sup>7</sup> Staff finds no evidence that the less than \$1,000 penalty per violation in the two dockets Mr. Gose discusses are due to the degree of harm to customers caused by those violations.

**Q. Do you agree with Mr. Gose's assessment of factor 2, *whether the violation is intentional*?**

**A.** No. Mr. Gose states that the violations were not intentional because they were caused by numerous factors. First, the Company states that "the ability for a subscriber to reach a live operator withing (sp) 60 seconds can be largely dependent on the choices that subscriber makes in the CenturyLink interactive voice response ("IVR") system. Subscriber selections may add substantial time to the duration of a call and that is entirely out of the control of CenturyLink."<sup>8</sup> But this explanation does not comport with the technical nature of the violations Staff alleges. Staff alleges that CenturyLink failed to meet the standard that "[e]ach month, the average time until a live representative answers a call must not exceed sixty seconds *from the time a*

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<sup>6</sup> *Wash. Utils. & Transp. Comm'n v. CenturyLink Communications, LLC et al.*, Docket UT-210902, Order 04 at 13 (June 29, 2023).

<sup>7</sup> *Wash. Utils. & Transp. Comm'n v. CenturyLink Communications, LLC et al.*, Docket UT-210902, Order 05 at 7-8 (Oct. 23, 2023).

<sup>8</sup> Gose, Exh. PJG-1T at 10.

1        *caller selects the appropriate option to speak to a live representative.”* WAC 480-  
2        120-133(2)(c). The correct measure of a company’s compliance with this rule begins  
3        when the caller has made their selection to speak to a live representative and ends  
4        when the live representative answers the call. A caller’s prior selections should not  
5        affect this wait time. In addition, Staff provided the Company previous technical  
6        assistance regarding its non-compliance of WAC 480-120-133(2)(c) in July 2021  
7        and again in January 2022, but the Company did not take action to correct the  
8        violation until December 2022.

9                Mr. Gose also states that staffing issues and miscommunications with  
10        Commission Staff were the cause of many of its violations and therefore those  
11        violations were not intentional.<sup>9</sup> Furthermore, Mr. Gose states that it took significant  
12        time to pull and analyze the information Staff requested. However, I do not believe  
13        that the Company’s explanations demonstrate that the violations were unintentional.  
14        Staff contends the data request sent to the Company only asked for three data sets,  
15        one of which the company said they did not have. All three data sets were for  
16        average monthly call data, which should have been readily available since there are  
17        response time standards required by the WAC. The Company had actual notice of  
18        Staff’s original data request by February 22, 2023, at the latest. Over the course of  
19        the following year, Staff made several attempts to obtain that information, but  
20        CenturyLink either ignored those requests, or provided partial responses, stating that  
21        the information provided was that which was “readily available.” These violations  
22        are therefore appropriately characterized as intentional.

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<sup>9</sup> *Id.* at 10-11.

1     **Q.     Do you agree with Mr. Gose’s assessment of factor 5, *whether the company***  
2     ***promptly corrected the violations and remedied the impacts?***

3     A.     No. Mr. Gose states that this factor weighs in favor of lesser penalties because the  
4     Company became compliant with WAC 480-120-133(2)(c) by December 2022.<sup>10</sup> He  
5     is correct that the data CenturyLink provided Staff does indicate that the Company  
6     has achieved compliance since December 2022. However, technical assistance was  
7     first provided to the Company in July 2021 for its violations of WAC 480-120-  
8     133(2)(c), and again in May 2022. Therefore at least 17 months elapsed between  
9     when the Company was first made aware of the violations and when it corrected the  
10    violations. I do not believe this amount of time can be characterized as prompt.

11           Mr. Gose also states that this factor weighs in favor of lesser penalties  
12    because CenturyLink has since taken steps to address issues the Company has had in  
13    timely responding to Washington UTC data requests.<sup>11</sup> Staff commends these efforts  
14    and appreciates the new procedures put into place. Nevertheless, it is Staff’s position  
15    that the length of time that Staff’s relatively simple 2022 data request remained open  
16    (14 months) establishes a lack of a prompt response to the staffing and workflow  
17    issues CenturyLink was experiencing as early as late 2022, which the Company  
18    asserts to be a primary cause of these violations.

19

20    **Q.     Do you agree with Mr. Gose’s assessment of factor 6, *the number of violations?***

21    A.     No. Mr. Gose states that Staff overestimated the number of days CenturyLink was  
22    delinquent in its response to Staff’s request for information because (1) its March 30,

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<sup>10</sup> *Id.* at 13.

<sup>11</sup> *Id.*

1 2023 response provided all relevant information that was available to the Company  
2 at the time and (2) it provided information via a telephone conversation with Staff's  
3 witness Prabakaran on June 8, 2023.<sup>12</sup> In regard to Mr. Gose's first point that the  
4 Company provided all of the data that was readily available on March 30, 2023, Staff  
5 agrees that the Company's late data request response on March 30, 2023, stated that  
6 they provided data that was readily available. However, Staff contends that 'readily  
7 available' is not the same as 'does not exist.' After several follow-up  
8 communications to the Company requesting the missing data, the Company did not  
9 state until over a year later, on February 7, 2024, that the requested data did not exist.  
10 In regard to Mr. Gose's second point, he states that after a June 8, 2023, phone  
11 conversation with Ms. Prabakaran, he believed Staff "had all it needed based on that  
12 discussion."<sup>13</sup> However, Ms. Prabakaran's contemporaneous notes on the  
13 conversation state that Mr. Gose would be sending an email with the data requested  
14 and he had requested an expedited service from his team to provide the  
15 information.<sup>14</sup> Ms. Prabakaran's documentation of her phone call with Mr. Gose  
16 does not support his claim that he believed Staff had all they needed.

17 Moreover, even accepting the Company's explanations as true, neither  
18 explanation indicates that Staff overestimated the number of days CenturyLink was  
19 delinquent in its response to Staff's request for information because neither satisfies  
20 the Company's obligations in cooperating with Staff investigations under WAC 480-  
21 07-175(2)(b). When the Commission makes a request for the production of

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<sup>12</sup> *Id.* at 14-15.

<sup>13</sup> *Id.* at 15.

<sup>14</sup> Feeser, Exh. BF-2.

1 documents in an investigation, “the public service company must provide the  
2 required documents, or any objections to providing those documents, to the  
3 commission within ten business days of the date the commission serves the letter or  
4 other writing unless the commission specifies a different deadline.”<sup>15</sup> I do not believe  
5 that a phone conversation or written response only containing information that is  
6 readily available satisfies this obligation. CenturyLink does not dispute that it did not  
7 provide a complete response to Staff’s December 2022 data request for the full 234  
8 days that the data request remained open. Nor does CenturyLink assert that it  
9 properly objected to the data request or requested an extension under the WAC.  
10 Staff’s assessed number of delinquent days is thus accurate and weighs in favor of  
11 the higher penalty amount.

12  
13 **Q. Do you agree with Mr. Gose’s assessment of factor 7, *the number of customers***  
14 ***affected?***

15 A. Mr. Gose is correct that, based on the data provided there is no way to accurately  
16 estimate the number of customers affected. However, in addition to the fact that the  
17 violations of WAC 480-07-175 do not implicate customer-facing behavior by the  
18 company, it is Staff’s position that this factor should weigh neutrally.

19  
20 **Q. Do you agree with Mr. Gose’s assessment of factor 8, *the likelihood of***  
21 ***recurrence?***

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<sup>15</sup> WAC 480-07-175(2)(b).

1 A. No. Mr. Gose characterizes Staff’s concern regarding CenturyLink’s continued  
2 compliance with WAC 480-120-133 as “unjustified.”<sup>16</sup> However, there are a number  
3 of different reasons justifying Staff’s wariness. CenturyLink has not provided a  
4 reasonable explanation for the dramatic drop in wait times that occurred at the  
5 Company’s business office between November 2022 (116 seconds) and December  
6 2022 (8 seconds). CenturyLink has repeatedly stated to Staff that it does not track  
7 data relevant to the requirements of WAC 480-120-133(2)(a) or (b) and therefore  
8 cannot establish its compliance with those provisions. Finally, Staff has received  
9 many customer complaints regarding the Company’s compliance with the provisions  
10 of WAC 480-120-133. Each of these reasons supports Staff’s assessment that this  
11 factor weighs in favor of higher penalties.

12 In regard to WAC 480-07-175, Mr. Gose states the Company has put into  
13 place corrective actions, is taking reasonable steps to prevent a recurrence, and Staff  
14 did not indicate the Company has been delinquent on any other data requests. Staff  
15 appreciates steps the Company has taken to respond timely to Commission data  
16 requests. However, this is not the first investigation where the Company has been  
17 non-responsive to Staff’s requests for information and it is premature for Staff to  
18 know if steps the Company has put into place will lead to consistent improvement  
19 in the future.

20  
21 **Q. Do you agree with Mr. Gose’s assessment of factor 9, *the company’s past***  
22 ***performance regarding compliance, violations, and penalties?***

---

<sup>16</sup> Gose, PJG-1T at 16.

1 A. No. Mr. Gose states that the cases Staff has identified illustrating the Company's  
2 history of non-compliance do not concern WAC 480-120-133 or WAC 480-07-175  
3 and thus do not weigh in favor of maximum penalties.<sup>17</sup> However, Staff's  
4 assessment of this enforcement factor is not limited to only the violations identified  
5 in this case. The Commission will deal more harshly with companies that have a  
6 history of non-compliance and previous penalties. The Commission has filed  
7 numerous complaints against CenturyLink, resulting in penalty assessments ranging  
8 from \$173,210 to \$2,854,750. There have also been several dig law penalty  
9 assessment cases against CenturyLink with penalties ranging from \$5,000 to  
10 \$15,000.

11

12 **Q. Do you agree with Mr. Gose's assessment of factor 10, *the company's existing***  
13 ***compliance program*?**

14 A. No. Mr. Gose asserts that CenturyLink has been in compliance with WAC 480-120-  
15 133 since December 2022 and has taken remedial actions to prevent delinquency in  
16 responding to Staff data requests.<sup>18</sup> However, as I explained in my assessment of  
17 factor 8, above, CenturyLink has not explained what measures it put into place to  
18 achieve the dramatic drop in call wait times that occurred in December 2022 and the  
19 success of the Company's remedial program addressing responses Staff requests for  
20 information has yet to be established. In addition, it is premature for Staff to know if  
21 steps the Company says it has put in place to comply with WAC 480-07-175 will  
22 lead to consistent improvement in the future.

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<sup>17</sup> *Id.* at 17.

<sup>18</sup> *Id.*

1     **Q.     Do you agree with Mr. Gose’s assessment of factor 11, *the size of the company*?**

2     A.     No. Staff’s assessment included considerations of CenturyLink Communications,  
3            LLC’s gross intrastate annual revenue.<sup>19</sup> Mr. Gose asserts this was a mistake  
4            because CenturyLink Communications, LLC is the incorrect respondent.<sup>20</sup> However,  
5            as I explained above, Staff believes CenturyLink Communications, LLC to be the  
6            correct respondent as the recipient of Staff’s December 29, 2022, request for  
7            information pertaining to its operation of customer call centers. Staff therefore  
8            appropriately weighed this factor in favor of higher penalties.

9

10    **Q.     What is your assessment of the remaining factors?**

11    A.     Mr. Gose admits that CenturyLink did not self-report the violations at issue (factor  
12            3) and acknowledges that the Company provided delayed responses to Staff’s  
13            requests for information (factor 4).<sup>21</sup> I will add that the facts supporting Staff’s  
14            allegations that CenturyLink violated WAC 480-07-175 establish this factor as to the  
15            first cause of action (violations of WAC 480-120-133(2)(c)). As for the second  
16            cause of action, unresponsiveness is the central element of that claim. This factor  
17            therefore weighs heavily in favor of higher penalties.

18

19    **Q.     Taken together, what does Staff’s application of the Commission’s enforcement**  
20    **factors indicate in this case?**

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<sup>19</sup> Prabakaran, Exh. SP-1T at 19.

<sup>20</sup> Gose, PJG-1T at 18.

<sup>21</sup> *Id.* at 12.

1     A.     10 out of the 11 enforcement factors weigh in favor of harsher penalties while one,  
2           enforcement factor 7, only weighs neutrally. This analysis support's Staff's  
3           recommended penalties of \$1,000 per violation.

4

5     **Q.     Does this conclude your testimony?**

6     A.     Yes.