CASE: UM 1908/UM 2206
WITNESS: PETER GOSE (CENTURYLINK)

PUBLIC UTILITY COMMISSION
OF
OREGON

CENTURYLINK EXHIBIT 200

Reply Testimony of CenturyLink in Support of the Stipulation

November 7, 2023

Q. Please state your name and employer.

A. My name is Peter Gose. I am employed by CenturyLink.

Q. Did you file Opening Testimony in this matter?

A. Yes, I filed joint testimony along with Russell Beitzel of Commission Staff on October 10, 2023. My qualifications are in Exhibit Stipulating Parties/101.

Q. What is the purpose of this Reply Testimony?

A. I will respond to the Objections to the Stipulation filed by CUB and Patricia Weaver and to some of the more significant points raised by Mr. Garrett of CUB and Ms. Weaver in their October 24, 2023 testimony in opposition to the Staff-CenturyLink Stipulation. More specifically, I will address three overarching issues. **First**, I will respond to Mr. Garrett's and Ms. Weaver's statements regarding the alleged inadequacy of the CenturyLink RDOF build in the Jacksonville area. **Second**, I will address Mr. Garrett's and Ms. Weaver's virulent opposition to the suspension and termination of the Jacksonville Orders, and their desire for them to remain in effect indefinitely or possibly permanently (notwithstanding a new Price Plan that hinges in many respects on CenturyLink's service quality performance). **Third**, I will address the Repair Clearing Time metric (found at OAR 860-023-0055), a rule that receives considerable attention from Mr. Garrett and Ms. Weaver, but is also an anachronistic, asymmetrical, monopoly-era rule that needs to be contextualized as the Commission considers the Stipulation.

Q. What is your overall impression of CUB's and Ms. Weaver's positions in this case?

A. While we appreciate how dedicated CUB and Ms. Weaver are to ensuring that the approximately 100 CenturyLink customers in rural areas near Jacksonville receive adequate service, their testimony largely ignores the tremendous amount of give and take reflected in the Stipulation, and essentially asks the Commission to treat the balanced Stipulation as a floor. They ask the Commission to take for granted all that CenturyLink is agreeing to via the Price Plan. Their position is also hyper-focused on approximately 100 residents of rural Jacksonville served by Qwest Corporation (one of four CenturyLink ILECs in Oregon), rather than on all 4,100 "Protected Customers" statewide (which category will include rural Jacksonville customers and all other CenturyLink customers who meet the definition of "Protected Customers"). They seem content to let the new statewide protections be scrapped in favor of indefinitely retaining the Jacksonville Orders, orders that were not intended to be permanent. The termination of the Jacksonville Orders is one of many vital Stipulation components, and CenturyLink does not to intend to move forward with the Stipulation should the Commission adopt CUB's proposal or Ms. Weaver's position.

I. JACKSONVILLE RDOF BUILD

Q. The Stipulation indicates that CenturyLink will be completing the RDOF construction project in the Jacksonville area. Do CUB and Ms. Weaver applaud that decision?

A. Their positions are somewhat inconsistent. While both seem to encourage a fiber buildout to rural Jacksonville, Ms. Weaver also derides the fiber construction project as some form of cash grab by the company. At page 2 of her Objection, Ms. Weaver states: "The years and years of miserable service quality that finally led to the entry the RJ Orders is only going to get worse *when CenturyLink turns its attention to installing the fiber optic cable that will enable Lumen to market pricey broadband and other products promising a higher profit.*" (Emphasis supplied.) This critique is confusing. It gives the impression that Ms. Weaver opposes the expansion of fiber to Jacksonville. In addition to being a modern, more reliable technology, CenturyLink fiber will offer high-speed broadband services to customers in rural Jacksonville. I cannot fathom why CUB or Ms. Weaver would oppose such a solution. Customers will retain the flexibility of receiving voice-only services (for those few customers not interested in broadband and other services) or packages that include broadband.[1]

Somewhat inconsistently, CUB seems concerned that CenturyLink's commitment *isn't firm enough*, and urges the Commission to *compel CenturyLink* to complete the RDOF build in conjunction with the Price Plan. (Garrett/7-8: "Notably and somewhat troubling, the Stipulation states the

[1] CenturyLink's fiber voice-only product (Quantum Fiber Connected Voice) is described here: https://www.quantumfiber.com/phone-service.html. Quantum Fiber packages (which include high speed internet service) are described here: https://www.quantumfiber.com/.

Company 'intends' to move forward with the RDOF build, rather than offering a firm commitment to the project. CUB highly recommends this language be changed to make this commitment a requirement, using 'shall' or 'will.'"). (Footnote omitted.) While I am not providing legal analysis, I do not believe the Commission has jurisdiction to *order* CenturyLink to complete a federal broadband expansion project. It is also unnecessary, as the Price Plan contains a remedy if the project is not completed: the Jacksonville Orders will remain in place. Under the Stipulation, they are suspended only upon the commencement of construction, and terminated only upon completion of the RDOF build.

Q. Please comment on whether CenturyLink intends to move forward with the Jacksonville build. And, if that is already a federal commitment, why is CenturyLink's completion of the project significant to the Commission's consideration of the Stipulation?

A. Yes, as we have already stated, the company is moving forward despite the fact that the $650,000 (over 10 year) subsidy is woefully inadequate to cover the cost of the project. As a result of the Stipulation, CenturyLink will also be completing the project (Bid ID: OR-029-0030023) on a highly-expedited timeframe. Under the RDOF rules, the project need not be completed until 2029, yet CenturyLink has agreed to complete the project (in alignment with the incentive provided under the Stipulation) by the end of 2024, if not earlier. Mr. Garrett acknowledges the expedited timeframe. (Garrett/17-18.)

Q. Ms. Weaver dedicates extensive effort to identifying how many customers and locations are within and outside the RDOF build area. Can you please clarify that for the Commission?

A. Certainly. In opening joint testimony, an important distinction is drawn between the number of Oregonians in a new Protected Customer status and the approximately 100 subscribers covered under the Jacksonville Orders. Ms. Weaver, using the approximation of 100 subscribers covered by the Jacksonville Orders, attempts to extrapolate how many subscribers will remain served by copper facilities. Ms. Weaver's analysis misses the mark as it fails to acknowledge that the aging copper transport facilities connecting the remote terminals to the central office will be replaced with fiber.

Q. Ms. Weaver's analysis leans heavily on her understanding of subscribers on Little Applegate Road. What additional information can you supply regarding Little Applegate Road in response to Ms. Weaver's contentions?

A. Of the approximate 100 CenturyLink subscribers covered under the Jacksonville Orders, approximately 82[2] are served by the Remote Terminals located at 2600 Upper Applegate Road and 2900 Little Applegate Road ("2600 and 2900 RTs"), which are the locations addressed in the Jacksonville Orders. On Little Applegate Road alone, from the intersection of Upper Applegate Road to well beyond the intersection of Yale Creek Road, there are

[2] A review on November 6, 2023 shows only 79 customers as of that date, suggesting that 3 have recently disconnected.

approximately 100-125 addressable serving locations, but only 50 CenturyLink subscribers.[3] Said differently, more than half of the households along Little Applegate Road are meeting their telecommunications needs from other service providers utilizing other technologies. That fact is significant in light of contentions that rural Jacksonville residents are solely dependent on CenturyLink for their communications needs.

Of the approximately 82 CenturyLink customers served by the 2600 and 2900 RTs, 10 sit within the census blocks that are a part of the RDOF build, and 72 sit outside of the RDOF build area. CenturyLink will replace the 13-mile copper T1 feeder facility from the Jacksonville central office to the 2600 and 2900 RTs and will run fiber facilities past each customer location in the RDOF build area. The company will ask each current customer (and also potential customers who are not presently CenturyLink subscribers) whether CenturyLink can attach fiber cable to the dwelling, provide an optical network terminal at the residence, and whether or not the customer is interested in procuring voice service, data, or both services from CenturyLink. It is possible that some customers will decline, which is a circumstance CenturyLink cannot control.

[3] More generally, CenturyLink only serves 29% of all the households that could be served by the 2600 and 2900 RTs. More specifically, CenturyLink provides voice service to only 10 of 119 (8%) living units that could be served by the 2600 RT and 69 of the 157 (44%) living units could be served by the 2900 RT. 71% of households that could be served by the 2600 and 2900 RTs are meeting their communications needs from other service providers.

Q. Will the 72 current CenturyLink customers served by the 2600 and 2900 RTs who sit outside the RDOF area experience improved service as a result of the RDOF build?

A. Absolutely, contrary to Mr. Garrett's testimony (Garrett/22: "Third, the Stipulating Parties have not presented evidence that the RDOF build will remedy the service quality issues for all customers [sic] its service territory covering Jacksonville and surrounding areas."). The replacement of the 13-mile copper T-1 with a fiber facility *will improve service reliability for all customers served off the 2600 and 2900 RTs*, even those who do not receive FTTP services from CenturyLink. (Stipulating Parties 100/26.)[4] In the past year, there have been 84 trouble tickets associated with customers served by the 2600 and 2900 RTs. Of those 84 trouble tickets, at least 45 have been directly attributable to malfunctions with the copper T-1 facility. Replacing that facility with fiber will significantly improve service to all customers, even those who retain copper last-mile connections for the time being.

Q. Is it possible that CenturyLink will also expand FTTP to other Jacksonville customers who sit outside the RDOF area?

A. Yes, it is possible and something the company is seriously investigating, depending on the availability of public funding. CenturyLink is presently conducting detailed planning to bring fiber service to approximately 850 to 1,050 additional households (beyond the company's RDOF commitment) of

[4] In Joint Opening Testimony, I explain that the replacement of the copper T-1 with fiber will improve service reliability. In addition, I explain that CenturyLink is likewise evaluating replacing the existing remote terminals with more current technology and facilities. (Stipulating Parties 100/26-27.)

which only 219 are currently CenturyLink customers, in and around the Little Applegate area. The company has preliminarily determined this to be a several million-dollar project that could be completed by December 31, 2026 if the company seeks American Rescue Plan Act ("ARPA") funding and is awarded through a successful grant application. While this price point would be cost prohibitive for the company absent public broadband grant funding, this project is a top priority for the company once it obtains a better understanding of the Oregon Broadband Office's RFP associated with federal ARPA funds. While the company is not in a position to guarantee that it will seek or be awarded ARPA funding for these adjoining areas, it is conducting extensive diligence work to determine the viability of applying for ARPA grant funding to push broadband services further into rural areas south of Jacksonville.

Q. In its testimony in opposition to the Stipulation, CUB opines that CenturyLink's RDOF project in the Jacksonville area does not meet the full expectations of the RDOF Program, or provide fiber to all customers. (Garrett/16-17.) Please comment on CUB's observations.

A. While Mr. Garrett correctly observes that 139 locations in the census blocks that comprise the Jacksonville RDOF project were initially identified by the FCC (Garrett/17.), he fails to indicate that those were merely estimates by the FCC in 2020, as was the initial support reserve of $1.08 million for this project. Current analysis of the living units within the Jacksonville RDOF project footprint stands at 130. Of those 130 locations, 15 were in extremely high-cost locations that would have cost **[START CONFIDENTIAL]**

[END CONFIDENTIAL]

II. JACKSONVILLE ORDERS

Q. What does the Stipulation propose regarding the Commission's disposition of the Jacksonville Orders?

A. The Jacksonville Orders (Orders 22-340 and 22-422) will remain in full force and effect until CenturyLink commences construction of the Jacksonville RDOF build, and as an incentive to motivate CenturyLink to begin construction as soon as possible, will be suspended once construction begins. When construction is complete – expected to be before the end of 2024 – the Jacksonville Orders will be terminated. If for some unforeseen reason CenturyLink does not complete the Jacksonville RDOF build in the manner described in Attachment C to the Stipulation, the Jacksonville Orders will remain in place.

Q. Do CUB and Ms. Weaver support the Stipulation's disposition of the Jacksonville Orders?

A. No, they vehemently oppose this provision. They implore the Commission to ignore the Stipulation's balance of compromises, and to leave the Jacksonville Orders in place for an indefinite period, if not permanently. CUB asks the Commission to leave the orders in effect until, at minimum, six months after the RDOF build is complete. That is assuredly an understatement as to their

desired timeframe (given that CUB urges that CenturyLink not even be allowed to seek termination of the Jacksonville Orders until that six-month milestone), and gives no assurance that CUB and Ms. Weaver will not then simply urge the Commission to extend the orders further or leave them in place forever.

Q. Why do you infer that CUB and Ms. Weaver actually aim for the Jacksonville Orders to be permanent?

A. Their testimony makes their intentions and perspective pretty clear. Both set up a "heads I win, tails you lose" paradigm. If, between now and completion of the RDOF build service quality to Jacksonville continues to be improved or improves even more, CUB and Ms. Weaver are likely to argue that the orders are working and need to remain in place. Mr. Garrett testifies that "CUB argues that the Jacksonville Orders are the reason the Company is moving toward compliance with the Commission's service quality rules in its Jacksonville area service territory." (Garrett/10.)[5] Ms. Weaver is even clearer. "The fact that Staff and Lumen came up with two different levels of protection within the Price Plan is not the RJ Orders' customers' fault. We did not ask for it and we do not think it works for us and we most assuredly do not believe it is a reason to strip from us the efficient and demonstrably effective protections of the RJ Orders." (Weaver/20; see also Weaver/3, 13.)

[5] Inconsistently, Mr. Garrett also testifies "[y]et, they have not shown any evidence that service quality has improved in the Jacksonville and surrounding areas to warrant suspending or terminating the Jacksonville Orders." (Garrett/7.) CenturyLink is unclear how to reconcile this statement with Mr. Garrett's other statements and CUB's proposal that it is imperative that the Jacksonville Orders remain in place indefinitely or permanently.

If, on the other hand, service quality performance slips in the interim period, CUB and Ms. Weaver will assuredly argue that the Jacksonville Orders must remain in place, and that the Commission should impose penalties, to discipline CenturyLink's practices.

Q. Is CUB's proposal for the disposition of the Jacksonville Orders reasonable and appropriate from CenturyLink's perspective?

A. It is not. Through the Stipulation, which was transparently negotiated in good faith and in great detail over many months (with the involvement of and input from CUB and Ms. Weaver, in addition to Staff), CenturyLink seeks *finality and certainty*. CUB's proposal shatters the finality of the Stipulation and invariably will lead to continued, perhaps perpetual litigation with uncertain outcomes for the company. It took *extensive effort* to obtain internal approval from responsible CenturyLink business units, executives and other stakeholders to get approval of the complex, unprecedented and finely-balanced Stipulation, and that balance will be unacceptably lost if the Commission adopts CUB's proposal.

III. REPAIR CLEARING TIME METRIC

Q. You mentioned in your introduction that you want to provide the Commission some perspective on the Repair Clearing Time ("RCT") metric. Why is that?

A. Both CUB and Ms. Weaver emphasize[6] the company's performance under the RCT metric, as set forth in OAR 860-023-0055(6).[7] Because CenturyLink is not compliant with the 90% within 48-hour metric, they suggest that CenturyLink's service quality is unacceptable. I believe that more context would be useful as the Commission considers the Stipulation. CenturyLink's service quality should not be evaluated exclusively (or at all) based on its ability to clear all trouble reports within 48 hours. The rule is antiquated, asymmetrical and practically impossible to comply with under current market conditions. The company believes the rule should be eliminated or at minimum updated – something the Commission could and should take up in an open proceeding (such as AR 624). The RCT metric in and of itself should not be held as a sole guiding principle for evaluating CenturyLink's service quality in Oregon.

Q. You mentioned that the RCT metric is antiquated. Please explain.

A. The RCT metric was first added to OAR 860-023-0055, a rule that dates back to 1974, in 1996.[8] Prior to the Telecommunications Act of 1996 which

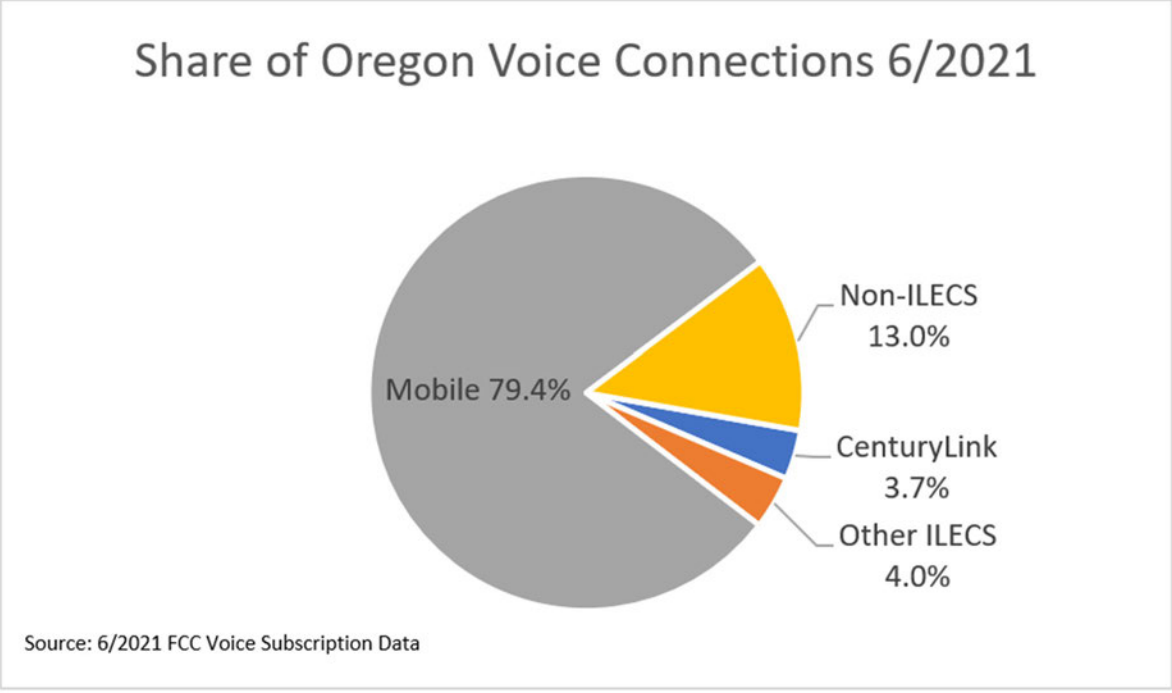
[6] See, e.g., Garrett/8 ("The Stipulation continues to expose customers to the risk of Lumen's noncompliance with Commission rules. This testimony will explain why suspending Order No. 22-340, as modified by Order No. 22-422, and as affirmed by Order No. 23-109 ('the Jacksonville Orders') and allowing the Company to increase its rates while remaining in noncompliance with service quality rules is fundamentally not in the public interest."); and Garrett/20 ("Allowing Lumen to receive rate increases while they remain in violation of the safety and service quality rules is a concession made on the backs of customers in order to try to incentivize compliance."). Ms. Weaver takes this further, suggesting that the only appropriate metric to protect Jacksonville customers is that CenturyLink be required to repair 100% of trouble reports within 48 hours. Weaver/8 ("But I can list the facts that demonstrate why the Price Plan's metrics simply are not a sufficient way to measure service quality in my community. *Only the straightforward 'fix it within 48 hours or pay a fine' can assure we are vulnerable to no more than 2 days when our phones go out*." (emphasis added)).

[7] The rule currently provides that "[a] large telecommunications utility must clear at least 90 percent of all trouble reports within 48 hours of receiving a report for each repair center."

[8] Order No. 96-332.

introduced competition into incumbent local exchange carrier markets, and also before cellular telephone service became widely adopted, CenturyLink retained a near (if not actual) monopoly on the local service market in its Oregon service territories. While a small number of customers may have had wireless mobile connections in 1996, the overwhelming majority of Oregonians were limited to their local exchange carrier (whether it be CenturyLink's predecessors or one of many independent LECs) for local service, including access to 911. That is, beyond any credible doubt, not the case anymore.

CenturyLink has lost 90% of its regulated access lines in Oregon from 2001 to present (and likely many more since 1996, although that data no longer exists) and has but a tiny percent of the state's voice connections (estimated below 4% as of 2021 as depicted in the chart below).



In such a purely competitive market, customers are free to vote with their feet and there is no reason for the Commission to regulate, and potentially assess large fines, based on the length of time it takes CenturyLink to repair a particular service interruption, measured across large repair centers. If dissatisfied with CenturyLink's service quality or repair times, customers can change carriers and have numerous technologies to choose among. Even in rural Jacksonville, only approximately 50% of the customers along Little Applegate Road who could be served by the 2600 and 2900 RTs receive CenturyLink service, meaning that approximately half of the addressable locations along Little Applegate Road meet their telephony needs from other carriers using other technologies.

Q. You also mentioned that the RCT metric is "asymmetrical." Please explain.

A. The RCT metric rule (as it exists today) is a clear example of asymmetric regulation. As depicted in the chart above, CenturyLink has less than 4% of the voice connections in Oregon, yet CenturyLink is the only carrier in its service areas to whom the RCT rule applies. Asymmetric regulation represents unsound public policy and does not advance the public interest. If a provider having a mere fraction of addressable customers in an area is the only carrier in that locale burdened with a potentially punitive and burdensome regulation, its operations will be even more burdened and its ability to compete will be further impaired in a dynamically competitive market. Mobile wireless

companies hold almost 80% of the voice connections and VoIP/cable companies another 13% in Oregon as of 2021 (see chart above), yet the RCT metric does not apply to them. How is this in any way fair, just, reasonable or sound public policy? Again, by providing this perspective, I'm not asking the Commission to revise or eliminate the RCT rule in this proceeding, but I do believe the rule needs to be contextualized given the hyper focus it is receiving in this case.

Q. Finally, you mentioned that the RCT metric is, as a practical matter, impossible to comply with. Please explain.

A. There is no economically reasonable way to comply with the RCT rule. CenturyLink's service territory in Oregon is geographically immense and its customer base has significantly shrunk. As customers and revenues shrink, expenditures (including staffing of technicians) must be similarly aligned. In order to even attempt to comply with the RCT rule, CenturyLink estimates that it would have to hire an additional 50 technicians (and of course purchase all the necessary equipment, including trucks and sophisticated test equipment). With those technicians spread out across the state and largely sitting idle, there simply aren't enough service issues to justify this number of technicians. CenturyLink estimates the cost of these hirings (if enough technicians could even be found, hired, and retained) to be $5 million per year, plus a one-time $5 million upfront expenditure for equipment costs (vehicles, etc.).

Q. Earlier in your testimony you mentioned declining subscribership. Please frame that up in relation to the RCT metric.

A. With fewer customers, there are *far fewer* network troubles to fix. For example, hiring a technician to sit 24/7 in Cannon Beach would be a monumentally imprudent expenditure[9] given that the company experiences only a handful of service issues in Cannon Beach *each year*. From June 2022 through May 2023, there were only 21 trouble tickets in the entire Cannon Beach wire center. Hiring a full time Cannon Beach technician (and outfitting him or her with all the necessary equipment) is not financially viable. Forcing CenturyLink to make such unreasonable expenditures is not only unfair and asymmetrical, but it would also impair the Commission's and CenturyLink's goal of expanding broadband in Oregon. Every dollar unwisely expended to comply with the anachronistic RCT rule is a dollar not available to be spent to deploy fiber-based facilities and services.

Q. Are there any other reasons you believe the RCT metric is less relevant in today's market?

A. Yes. The RCT metric is not a meaningful measure of service quality, especially in a competitive environment where the company has so few customers per wire center. Given the near perfection required (90% in 48 hours per month per repair center), CenturyLink is often "out of compliance" in

[9] In AR 624, Commission Staff recognized that access line loss necessarily leads to company staffing reductions, including the company maintaining fewer technicians. AR 624, Staff Report (Sept. 20, 2018), at 3 ("Further, because companies were, and are continuing to experience customer decline, they likely can afford fewer skilled technicians.").

the event that *any* repair takes longer than 48 hours. This is the problem of small numbers. If 9 or fewer trouble reports are submitted in a given wire center in a month (a good sign, by the way, that the network is operating properly), CenturyLink must go 9 for 9 or its success rate is under 90%. This is an unreasonable expectation in light of the size of the state and the company's need to right size its staffing to its customer base and revenues.

A much more meaningful and accurate measurement of service quality is *how often the network actually requires repair*. In Oregon, Commission rule permits up to 3 troubles per 100 access lines in smaller wire centers and 2 troubles per 100 access lines in larger wire centers ("TT/100" metric).[10] On this metric, CenturyLink has been very successful, and has averaged 85% compliance over the past year. Across the state, on average CenturyLink experiences approximately 1 trouble report per 100 access lines.

The TT/100 metric is the most meaningful metric to indicate how often Oregon customers experience service difficulties, perhaps in some cases also losing access to 911 service via their landline. Those customers may still have access to 911 service via their mobile phone or other services. As noted above, CenturyLink has performed well under the Commission's TT/100 measurements. There is no evidence in the record that rural Oregon customers are experiencing widespread difficulties accessing 911.

[10] 860-023-0055(5); OAR 860-034-0390(5).

Q. If CenturyLink believes the RCT metric is no longer appropriate, why did it agree to its inclusion in the Stipulation's price flexibility and service quality enforcement provisions?

A. We agreed to the inclusion of the RCT metric in the Price Plan as a matter of compromise. We want to be sensitive to concerns about service quality in Oregon, and worked hard to forge a workable and fair (even if not ideal) middle ground to meet the company's needs, as well as the concerns of Staff. The company will likely address its many concerns with the RCT metric via rulemaking, and as such was willing to move forward with the Price Plan, given the overall balance of its provisions.

Q. Does this conclude your testimony?

A. Yes.