



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

July 18, 2022

***Via Electronic Filing***

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement v.  
The United Telephone Company of Pennsylvania LLC  
d/b/a CenturyLink  
Docket No. M-2022-3028754  
**Joint Petition for Approval of Settlement and Statements in Support**

Dear Secretary Chiavetta:

Enclosed for electronic filing is the **Joint Petition for Approval of Settlement and Statements in Support** in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads 'Kayla L. Rost'.

Kayla L. Rost  
Prosecutor  
Bureau of Investigation & Enforcement  
PA Attorney ID No. 322768  
(717) 787-1888  
[karost@pa.gov](mailto:karost@pa.gov)

KLR/ac  
Enclosures

cc: Per Certificate of Service  
Office of Special Assistants (*via email* – [ra-OSA@pa.gov](mailto:ra-OSA@pa.gov))

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. M-2022-3028754
	:	
The United Telephone Company of	:	
Pennsylvania d/b/a CenturyLink	:	

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**JOINT PETITION FOR APPROVAL OF SETTLEMENT**

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**TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

Pursuant to 52 Pa. Code §§ 5.41, 5.232 and 3.113(b)(3), the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”) and The United Telephone Company of Pennsylvania d/b/a/ CenturyLink (“CenturyLink” or “Company”) hereby submit this Joint Petition for Approval of Settlement (“Settlement” or “Settlement Agreement”) to resolve all issues related to an informal investigation initiated by I&E. I&E’s investigation was initiated based upon information provided by Senator Judy Ward, Senator John DiSanto, and Representative Perry Stambaugh who had received various email complaints relating to service outages and alleged unreliable service by CenturyLink customers.

As part of this Settlement Agreement, I&E and CenturyLink (hereinafter referred to collectively as the “Parties”) respectfully request that the Commission enter a Final Opinion and Order approving the Settlement, without modification. Statements in

Support of the Settlement expressing the individual views of I&E and CenturyLink are attached hereto as Appendix A and Appendix B, respectfully.

## **I. INTRODUCTION**

1. The Parties to this Settlement Agreement are the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement, by its prosecuting attorneys, 400 North Street, Commonwealth Keystone Building, Harrisburg, PA 17120, and CenturyLink, with headquarters at 100 CenturyLink Drive, Monroe, Louisiana and with a Pennsylvania place of business at 240 North Third Street, Suite 300, Harrisburg, PA, 17101.

2. The Pennsylvania Public Utility Commission is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within this Commonwealth, as well as other entities subject to its jurisdiction, pursuant to the Public Utility Code ("Code"), 66 Pa.C.S. §§ 101, *et seq.*

3. I&E is the entity established to prosecute complaints against public utilities and other entities subject to the Commission's jurisdiction pursuant to 66 Pa.C.S. § 308.2(a)(11); *see also Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011)(delegating authority to I&E to initiate proceedings that are prosecutorial in nature).

4. Section 501(a) of the Code, 66 Pa.C.S. § 501(a), authorizes and obligates the Commission to execute and enforce the provisions of the Code.

5. Section 701 of the Code, 66 Pa.C.S. § 701, authorizes the Commission, *inter alia*, to hear and determine complaints alleging a violation of any law, regulation, or order that the Commission has jurisdiction to administer.

6. Section 3301 of the Code, 66 Pa.C.S. § 3301, authorizes the Commission to impose civil penalties on any public utility or on any other person or corporation subject to the Commission's authority for violations of the Code, the Commission's regulations and orders. Section 3301 allows for the imposition of a fine for each violation and each day's continuance of such violation(s).

7. CenturyLink is a Rural Incumbent Local Exchange Carrier ("RLEC") as defined by Section 3012, 66 Pa.C.S. § 3012. *Petition for Amended Alternative Regulation and Network Modernization Plan of The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink*, Docket No. P-00981410F1000 (Order entered June 23, 2005), at page 2, fn. 3 ("Rural" is defined in section 3 of the Telecommunications Act of 1996, 47 U.S.C. §153, and includes all non-Verizon Pennsylvania ILECs."); *see also* Secretarial Letter dated July 12, 2005 at Docket No. P-00981410F1000, making corrections to certain pages in the aforementioned Order entered on June 23, 2005.

8. CenturyLink, as a certificated RLEC, is subject to the power and authority of the Commission pursuant to Sections 501 and 3011 of the Code, 66 Pa.C.S. §§ 501, 3011 *et seq.* *See also* 66 Pa.C.S. § 102 (Definition of Public Utility).

9. Pursuant to the provisions of applicable Commonwealth statutes and regulations, the Commission has jurisdiction over the subject matter and the actions of CenturyLink in its capacity as an RLEC serving customers in Pennsylvania.

10. This matter involves allegations related to outages, unreliable service, and general customer service complaints.

11. As a result of successful negotiations between I&E and CenturyLink, the parties have reached an agreement on an appropriate outcome to the investigation as encouraged by the Commission's policy to promote settlements. *See* 52 Pa. Code § 5.231. The duly authorized parties executing this Settlement Agreement agree to the settlement terms set forth herein and urge the Commission to approve the Settlement as submitted as being in the public interest.

## **II. STIPULATED FACTS**

12. The Commission has jurisdiction over the subject matter of and the parties to this proceeding to the extent authorized under applicable law. 66 Pa.C.S. §§ 102, 501, 3012.

13. "It is the policy of the Commission to encourage settlements." 52 Pa. Code § 5.231(a).

14. CenturyLink is a public utility, a RLEC, providing local exchange service in all or parts of twenty-five (25) counties located in central and western Pennsylvania. CenturyLink also provides access to broadband services in such portions of Pennsylvania, as set forth in Act 183 and CenturyLink's revised amended alternative regulation plan. *See*, paragraph 7, *supra*.

15. On or about August 28, 2021, Hurricane Ida brought heavy rain and winds to Pennsylvania and caused excessive flooding at a CenturyLink affiliate's switch located

outside of Philadelphia, Pennsylvania. The flood caused catastrophic damage and completely destroyed equipment inside the building and impacted long-distance calling.

16. CenturyLink asserts that the flood did not impact local calling or a customer's ability to call 911. CenturyLink made the necessary repairs so that long-distance calling was restored for all customers affected by September 10, 2021.

17. On September 17, 2021, Senator Judy Ward, Senator John DiSanto, and Representative Perry Stambaugh sent a letter to the Commission requesting an investigation be made as to the extended service outage and alleged unreliable service reported by customers of CenturyLink.

18. On September 27, 2021, the Commission responded to the September 17, 2021 letter by referring the matter to I&E. I&E subsequently received the emails of issues and/or complaints received by the legislators.

19. In or around November 2021, upon the request of I&E, the Commission's Bureau of Consumer Services ("BCS") provided informal consumer complaints related to internet or telephone outages, customer services issues, failure to respond to downed lines, no dial tone, and other services issues made against CenturyLink for the time period of 2019-2021. Specifically, BCS provided 3 complaints for 2019, 31 complaints for 2020, and 143 complaints for 2021 (January 2021 through November 8, 2021).<sup>1</sup>

20. By letter dated November 12, 2021, I&E issued an investigation letter with I&E Data Requests – Set I ("DR" or "Data Requests") requesting responses to I&E's

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<sup>1</sup> The Parties note that the complaints provided by BCS did not emanate solely from Perry County, Cumberland County, Franklin County, and Juniata County.

twelve (12) Data Requests. In light of the referral by the legislators, I&E limited its Data Requests to CenturyLink's customers in Perry County, Cumberland County, Franklin County, and Juniata County. CenturyLink's responses were due on December 2, 2021.

21. On or about November 15, 2021, counsel for CenturyLink sought an extension to provide responses, citing a mixture of the upcoming holidays, the volume and specific county-based nature of the information requested and to be gathered, and the pending litigation related to CenturyLink's acquisition by Apollo Global Management, Inc.<sup>2</sup> I&E granted the request and agreed to the new due date of January 7, 2022.

22. On or about December 21, 2022, counsel for CenturyLink requested an additional two-week extension to respond to the Data Requests.<sup>3</sup> The parties agreed to a new due date of January 14, 2022.

23. On January 7, 2022, CenturyLink provided responses to many of the Data Requests.

24. On January 14, 2022, CenturyLink provided revised and supplemental responses to the Data Requests.

25. On February 7, 2022, I&E provided a list of eighteen (18) email complaints received by the legislature for CenturyLink to review and provide a direct response to.

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<sup>2</sup> *Joint Application of The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink; CenturyTel Broadband Services, LLC; Connect Holding LLC; and Lumen Technologies, Inc. for All Approvals of a General Rule of Transfer of Control and Registration of Securities*, Docket Nos. A-2021-3028668; A-2021-3028669 (Application filed September 22, 2021; Joint Petition filed February 10, 2022; Initial Decision entered March 29, 2022). By Final Order entered April 25, 2022, the Initial Decision became final without further Commission action.

<sup>3</sup> The Data Requests sought detailed information based upon political boundaries. Political boundaries, such as Pennsylvania's delineated counties, do not align with telecommunications exchanges and areas served, thus manual sorting of information was required to provide responsive answers to Data Requests.

26. On March 21, 2022, I&E contacted CenturyLink to specifically address some of the complaints received by BCS and to schedule a meeting. CenturyLink provided responses to the specific BCS complaints as the information became available.

27. On April 5, 2022, CenturyLink and I&E held an in-person meeting at the Commission. The meeting was attended by Attorney Sue Benedek (virtually through Teams), Mr. Josh Motzer, Mr. Brett Biggica, Prosecutor Kayla Rost, and Deputy Chief Prosecutor Michael Swindler.

28. Shortly after the April 5, 2022 meeting, I&E and CenturyLink began settlement discussions and held a virtual meeting on June 7, 2022. This Settlement Agreement is the result of the successful discussions held between I&E and CenturyLink.

29. The results of I&E's investigation, which included a review of the emails provided by the legislators, the informal complaints provided by BCS, and CenturyLink's responses to the data requests, form the basis for the instant Settlement Agreement.

30. The Parties note that the number of complaints described below is not indicative of the number of customers who filed complaints. Rather, some customers alleged multiple different violations in his/her complaint. In addition, as noted in footnote 1, *supra*, the Parties acknowledge that the complaints provided by BCS arose from various areas in CenturyLink's service territory and thereby should not be construed as emanating solely from Perry, Cumberland, Franklin, and Juniata Counties.



**A. Failure to provide reasonably continuous service**

31. Under Section 1501 of the Public Utility Code, every public utility shall provide service that is “reasonably continuous and without unreasonable interruptions or delay.” 66 Pa. C.S. § 1501; *see also* 66 Pa.C.S. § 102 (Definition of Public Utility).

32. Section 63.24 on the Commission’s regulations for telephone quality service standards in part states that a public utility shall endeavor to maintain its facilities in such a condition that it can provide continuous service and shall take reasonable measures to prevent interruptions and to restore service with minimum delay if interruptions occur. 52 Pa. Code § 63.24(a); *see also* 52 Pa. Code § 63.1.

a. BCS Complaints

33. Five (5) of the complaints received by BCS in 2020 alleged multiple incidents of service outages or unreliable telephone and/or internet service. One customer’s history included five (5) reports over a 6-month period, one customer’s history included three (3) reports over a 10-day period, one customer’s history included five (5) complaints in a month, one customer’s history included five (5) complaints over a 5-month period, and one customer’s history included ten (10) complaints over a period of 5 months.

34. Three (3) of the complaints received by BCS in 2021 alleged multiple incidents of service outages or unreliable telephone and/or internet service. One customer’s history included four (4) reports over a 3-month period, one customer’s history included four (4) reports of service issues over a 5-month period, and one customer’s history included eight (8) reports of service issues over a 6-month period.

b. Complaints received by the Legislature

35. I&E identified nine (9) complaints which alleged a violation of reasonably continuous telephone and/or internet service with unreasonable interruptions or delay and seventeen (17) which alleged a violation for continuous service for internet service. The complaints reported outages lasting for anywhere from every Friday to eight days to over a month for both internet and telephone services. The complaints related to internet consistently reported multiple outages throughout the day lasting for varying times.

**B. Failure to address outage or provide repair in a reasonable time.**

36. Section 63.57 of the Commission's regulations governing telephone quality service standards provides that a public utility, as defined at Section 63.1 of the regulations, shall respond to and take substantial action to clear out-of-service trouble within 24 hours of the report if the action does not require unusual repair. 52 Pa. Code § 63.57(b). The Commission's regulations for telephone quality service standards further provides that utilities shall keep commitments to its customers. 52 Pa. Code § 63.57(c).

37. Section 63.24 of the Commission's regulations for telephone quality service standards states that a public utility shall take reasonable measures to prevent interruptions and to restore service with minimum delay if interruptions occur. 52 Pa. Code § 63.24(a).

38. Section 1501 in part provides:

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the

accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission.

Pa.C.S. § 1501.

a. BCS Complaints

39. I&E identified twenty-two (22) complaints filed with BCS in 2021 which alleged a failure to address a telephone and/or internet service outage or an unreasonable time provided to repair/address the outage. The outages lasted anywhere from 5 days to more than a month.

b. Complaints received by the Legislature

40. I&E identified eight (8) complaints which alleged a failure to address a telephone and/or internet service outage or unreasonable time provided to repair/address the outage. The outages lasted anywhere from 8 days to over a month.

**C. Customer service**

41. Section 63.57 of the Commission's regulations governing telephone quality service standards provides that utilities shall keep commitments made to its customers. 52 Pa. Code § 63.57(c).

a. BCS Complaints

42. I&E identified one (1) BCS complaint filed in 2020 which alleged customer service issues. Specifically, the complainant reported no service to CenturyLink on February 14, 2020. The customer service agent who took the call did not create a ticket,

and ticket was not created for the customer until CenturyLink received the BCS complaint.

43. In reference to the BCS complaints filed in 2021, I&E identified approximately thirty-eight (38) service-related complaints in 2021. The crux of the complaints included unable to talk to a live person,<sup>4</sup> missed appointments, ticket not being created after reporting a service issue, long hold/wait times while trying to call CenturyLink, and general complaints (such as customer service agent and supervisor hanging up on the customer). One customer explained that he requested an additional DSL line on February 27, 2021 and that CenturyLink canceled or rescheduled the order on four (4) different occasions, and that he was still waiting for the installation as of the April 2021 BCS complaint.

b. Complaints received by the Legislature

44. I&E identified five (5) complaints which alleged various customer service-related complaints, including but not limited to long hold times and difficulty reaching a customer service agent.

**D. Failure to respond to downed wires/poles and/or broken poles in a reasonable time**

45. Section 1501 of the Public Utility Code provides that utilities shall “maintain adequate, efficient, safe, and reasonable . . . facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such . . . facilities as shall be necessary or proper for the accommodation, convenience, and

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<sup>4</sup> The Parties acknowledge that speaking with a live person is not a regulatory requirement.

safety of its patrons, employees, and the public.” 66 Pa.C.S. § 1501; *see also* 66 Pa.C.S. § 102 (Definition of Public Utility).

46. Section 63.23 of the Commission’s regulations for telephone quality service standards provides in relevant part that overhead facilities shall be constructed and maintained in accordance with the safe and reasonable standards of the National Electrical Safety Code, 1981 edition. 52 Pa. Code § 63.23.

47. Generally, and subject to applicability, the National Electrical Safety Code states that noncompliant facilities that can reasonably be expected to endanger life or property in the immediate future must be corrected immediately while noncompliant facilities that do not endanger life or property must be corrected in a reasonable time. N.E.S.C. Part 214A, Appendix F.

a. BCS Complaints

48. I&E identified six (6) complaints received in 2020 and twenty-one (21) complaints received in 2021 that alleged downed wires/poles. Some of the complaints required immediate correction, i.e., tree on wire blocking entrance to farm or downed wire on a customer’s garage and camper, while others noted downed wires/broken poles which were reported to CenturyLink but not addressed.

b. Complaints received by the Legislature

49. I&E identified four (4) complaints which alleged a lack of response by CenturyLink to calls or concerns of downed poles and/or wires. One reported a concern with a broke pole hanging over a mailbox and driveway of the customer while two others noted downed poles and wires which have remained in their damaged state for months.

One of the complaints noted that the local fire department waits hours to receive a response from CenturyLink when reporting downed wires and/or poles.

**E. Hurricane Ida related outages**

50. As stated above, on or about August 28, 2021, Hurricane Ida brought heavy rain and winds to Pennsylvania and caused one of the CenturyLink/Lumen locations in Philadelphia to sustain extensive flooding. The flood completely destroyed the equipment inside the building and impacted long-distance calling. The customers affected by the outage retained their ability to make local calls and to call 911, and only long-distance calling was affected.

51. CenturyLink made the necessary repairs so that long-distance calling was restored for all customers affected by September 10, 2021. Thus, the long-distance calling outage lasted approximately 13 days.

52. As a result of the outage, BCS received approximately forty-two (42) complaints/reports from CenturyLink customers.

53. CenturyLink self-reported that the outage affected approximately 288,306 customers.

54. Some of the BCS complaints included notes stating that CenturyLink provided a credit to those customers who were affected by the outage.

55. CenturyLink confirmed that any required automatic credit was given to applicable customers during and after Hurricane Ida (September and October 2021). In addition, courtesy credits were provided to some customers.

### III. ALLEGED VIOLATIONS

56. Had this matter been fully litigated, I&E would have proffered evidence and legal arguments to demonstrate that CenturyLink committed the following violations:

- a. The customer complaints allege that CenturyLink failed to provide reasonably continuous service, noting multiple incidents of service outages or unreliable service. If proven, I&E alleges that such conduct would have violated 52 Pa. Code § 63.24 and 66 Pa.C.S. § 1501 (multiple counts).
- b. The customer complaints alleged that CenturyLink failed to address service outages or provide repair in a reasonable time. If proven, I&E alleges that such conduct would have violated 52 Pa. Code § 63.24, 52 Pa. Code § 63.57, and 66 Pa.C.S. § 1501 (multiple counts).
- c. The customer complaints allege that CenturyLink failed to provide reasonable and adequate customer service to its customers, including a failure to meet commitments related to services issues/outages. If proven, I&E alleges that such conduct would have violated 52 Pa. Code § 63.57 and 66 Pa.C.S. § 1501 (multiple counts).
- d. The customer complaints allege that CenturyLink failed to respond to downed wires/poles and/or broke poles in a reasonable time. If proven, I&E alleges that such conduct would have violated 52 Pa. Code § 63.23, the National Electrical Safety Code, Part 214A, Appendix F, and 66 Pa.C.S. § 1501 (multiple counts).

57. In reference to the outages which resulted from Hurricane Ida, I&E did not find a violation for the outage. The circumstances surrounding the outage, including the massive amount of damage to CenturyLink facilities and the time needed to address the flooded facility, indicate that CenturyLink's actions and response, which resulted in a 13 day long-distance calling outage, was reasonable. Moreover, CenturyLink confirmed that applicable credits/refunds, as well as courtesy credits, were provided to those customers affected by the outage. The repair to the facilities was unusual and un-precedented, and thus I&E did not find a violation related to the outage occurring from August 28, 2021 to September 10, 2021.

58. Had this matter been fully litigated, CenturyLink would have denied each of the alleged violations of the Commission's regulations, the Code, or Commission's Orders, would have presented facts refuting each of the allegations, and would have raised defenses to each of these allegations at hearing.

59. Moreover, had this matter been fully litigated, CenturyLink would have vigorously disputed I&E's position that the Pennsylvania Public Utility Code (including Section 1501) and the Commission's regulations governing telephone service quality standards, including the regulations at Chapter 63, impose service quality requirements upon internet services provided by CenturyLink.

#### **IV. SETTLEMENT TERMS**

60. Pursuant to the Commission's policy of encouraging settlements that are reasonable and in the public interest, the Parties held a series of discussions that culminated in this Settlement. I&E and CenturyLink desire to (1) terminate I&E's



informal investigation; and (2) settle this matter completely without litigation. The Parties recognize that this is a disputed matter. Given the inherent unpredictability of the outcome of a contested proceeding, the Parties further recognize the benefits of amicably resolving the disputed issues. The terms and conditions of the Settlement, for which the Parties seek Commission approval, are set forth below.

61. CenturyLink shall pay a cumulative civil penalty of Forty-Five Thousand Dollars (\$45,000.00).

62. The civil penalty shall not be tax deductible or passed-through as an additional charge to CenturyLink's customers in Pennsylvania.

63. In addition to the civil penalty, CenturyLink agrees to complete the following remedial measures:<sup>5</sup>

- A. CenturyLink implemented a Quality Assurance Program ("QA Program") in January 2022 which provides CenturyLink the ability to analyze, audit, manage, and address customer repair service calls. CenturyLink will continue to implement the QA Program and shall modify the QA Program, as needed, to follow-up and audit customer service calls to ensure that repair tickets, as applicable, are created to address customer complaints. CenturyLink agrees to continue to

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<sup>5</sup> The Parties note that CenturyLink made a fiber build commitment in the *Joint Petition for Settlement filed in Joint Application of The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink; CenturyTel Broadband Services, LLC; Connect Holding LLC; and Lumen Technologies, Inc. for All Approvals of a General Rule of Transfer of Control and Registration of Securities*, Docket Nos. A-2021-3028668; A-2021-3028669 (Joint Petition filed February 10, 2022; Initial Decision entered March 29, 2022; Final Order entered April 25, 2022). The Initial Decision approving the Joint Petition become final without further Commission action on April 25, 2022.

utilize the QA Program, and/or to utilize other measures, programs, or systems, to audit and modify processes related to customer interfacing functions (e.g., call wait times, trouble tickets, etc.). In addition, as CenturyLink continues to modify its dispatch processes (e.g., the time between ticket being created and technician visit), CenturyLink will include in the summary report submitted at Remedial Measure B(ii) below an update of total Company responsiveness to voice out-of-service trouble tickets.<sup>6</sup>

- B. CenturyLink will meet with BCS by December 31, 2022 and again in 2023, as needed or requested by BCS, to review and address informal customer complaints received by BCS regarding repair tickets for Commission regulated voice services. In addition, CenturyLink will provide status reports to I&E of the following:
- i. A summary of the Company's meetings with BCS provided within fifteen (15) days of the meeting; and
  - ii. As to Perry, Cumberland, Franklin, and Juniata Counties, a summary of any preventative measures or additional facility buildouts, if any, undertaken by CenturyLink. Portions of the status report to I&E may be marked as confidential to the

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<sup>6</sup> The Parties note that CenturyLink also implemented a call-back feature in December 2021 to provide customers option when contacting CenturyLink for a repair. CenturyLink and I&E believe the QA Program and the call-back feature will address many of the complaints and concerns raised in this investigation.

extent it contains specific information regarding customers or Company facilities.

- C. During the remainder of calendar year 2022 and in year 2023, CenturyLink will meet with legislative representatives in the portions of the four counties (Perry, Cumberland, Franklin, and Juniata) served by CenturyLink to review potential CenturyLink customer issues. Finally, if applicable, CenturyLink will provide updated Company contact information to legislative representatives serving areas within CenturyLink's service territory. CenturyLink also will provide any update of progress regarding facility buildouts in applicable legislative districts.
- D. CenturyLink's downed pole protocols and practices will be circulated within internal company operations and customer care groups and will continue to be incorporated into trainings of employees involved with these groups. CenturyLink also will regularly circulate, within the communities served by CenturyLink, Public Service Announcements (PSAs) providing the general public with information to report downed poles, downed wires, or other damaged CenturyLink facilities. CenturyLink will review and revise, as needed, its internal processes regarding miscellaneous trouble tickets that are associated with downed poles, downed wires, and

damaged CenturyLink facilities to reasonably ensure that the trouble tickets are responded to within a reasonable time.

- E. CenturyLink will complete outreach and education efforts, no longer than sixty (60) calendar days after a Commission order approving this settlement, relative to organizations or groups which commonly report downed wires and/or poles to ensure that those organizations or groups have the latest contact information to report downed wires and/or poles. The organizations or groups include but are not limited to local fire departments, local police departments, 911 call centers, and local municipalities.
- F. CenturyLink agrees that it will begin implementing the foregoing Remedial Measures upon the filing of the Joint Petition for Settlement with the Commission. The foregoing Remedial Measures will remain effective through and until December 31, 2023. This provision shall not be construed as limiting continuation of Remedial Measure beyond the effective date should CenturyLink determine.

## **V. CONDITIONS OF SETTLEMENT**

64. The benefits and obligations of this Joint Petition for Approval of Settlement shall be binding upon the successors and assigns of the Parties to this Settlement.

65. This Settlement may be signed in counterparts and all signatures attached hereto will be considered as originals.

66. In order to effectuate the Parties' Joint Petition for Approval of Settlement, the undersigned parties request that the Commission issue a Secretarial Letter or Order approving the Petition without modification.

67. The Parties agree that any party may petition the Commission for rehearing or take other recourse allowed under the Commission's rules if the Commission Secretarial Letter or Order substantively modifies the terms of this Joint Petition for Approval of Settlement. In that event, any party may give notice to the other parties that it is withdrawing from this Joint Petition for Approval of Settlement. Such notice must be in writing and must be given within twenty (20) business days of the issuance of any Initial or Recommended Decision or any Commission Order or Secretarial Letter which adopts this Joint Petition for Approval of Settlement with substantive modifications of its terms. The consequence of any party withdrawing from this Joint Petition for Approval of Settlement as set forth above is that all issues associated with the requested relief presented in the proceeding will be fully litigated unless otherwise stipulated between the parties and all obligations of the parties to each other are terminated and of no force and effect. In the event that a Party withdraws from this Joint Petition for Approval of Settlement as set forth in this paragraph, I&E and CenturyLink jointly agree that nothing in this Settlement shall be construed as an admission against or as prejudice to any position which any party might adopt during litigation of this case.

68. I&E and CenturyLink jointly acknowledge that approval of this Settlement is in the public interest and is fully consistent with the Commission's Policy Statement for evaluating litigated and settled proceedings involving violations of the Code and

Commission regulations, 52 Pa. Code § 69.1201. The Commission will serve the public interest by adopting this Joint Petition for Approval of Settlement.

69. The Joint Petition for Approval of Settlement avoids the time and expense of litigation in this matter before the Commission, which likely would entail preparation for and attendance at hearings and the preparation and filing of briefs, reply briefs, exceptions, reply exceptions. The Parties further recognize that their positions and claims are disputed and, given the inherent unpredictability of the outcome of a contested proceeding, the Parties recognize the benefits of amicably resolving the disputed issues through settlement. Attached as Appendices A and B are Statements in Support submitted by I&E and CenturyLink, respectively, setting forth the bases upon which they believe the Settlement Agreement is in the public interest.

70. Since the Parties agree to the terms of the Joint Petition for Approval of Settlement, adopting it will eliminate the possibility of any appeal from the Commission Secretarial Letter or Order, thus avoiding the additional time and expense that they might incur in such an appeal.

71. This Settlement consists of the entire agreement between I&E and CenturyLink regarding the matters addressed herein. Moreover, this Settlement represents a complete settlement of I&E's investigation of CenturyLink's alleged violations of the Public Utility Code and the Commission's regulations for the time period up to and including November 12, 2021, which I&E issued its investigation letter, and fully satisfies I&E's investigation of the matters discussed herein. The Parties expressly acknowledge that this Settlement represents a compromise of positions and

does not in any way constitute as a finding, as an admission, or a finding of culpability on the part of CenturyLink concerning the alleged violations of the Public Utility Code, the Commission's regulations, or law.

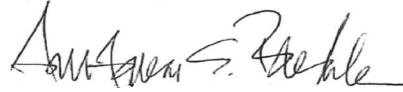
72. The Settlement contains a summary of alleged violations of the Public Utility Code and the Commission's regulations. *See*, Section III, Alleged Violations. In addition, the Settlement contains Proposed Settlement Terms. *See*, Section IV, Settlement Terms. This Settlement is presented without prejudice to any position that either Party may have advanced, and without prejudice to the position any party may advance, in the future on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of this Settlement.

**WHEREFORE**, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement and CenturyLink respectfully request that the Commission enter an Order approving the terms of the Joint Petition for Approval of Settlement in their entirety as being in the public interest.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, we have unto set our hands and seals on this 18th day  
of July 2022.

Date: 07/18/2022



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Zsuzsanna E. Benedek  
*Associate General Counsel for  
CenturyLink*

Date: \_\_\_\_\_

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Kayla L. Rost  
*Counsel for the Commission's  
Bureau of Investigation and Enforcement*



IN WITNESS WHEREOF, we have unto set our hands and seals on this 18th day  
of July 2022.

Date: \_\_\_\_\_

\_\_\_\_\_  
Zsuzsanna E. Benedek  
*Associate General Counsel for  
CenturyLink*

Date: July 18, 2022

*Kayla L Rost*  
\_\_\_\_\_  
Kayla L. Rost  
*Counsel for the Commission's  
Bureau of Investigation and Enforcement*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. M-2022-3028754
	:	
The United Telephone Company of	:	
Pennsylvania d/b/a CenturyLink	:	

**PROPOSED ORDERING PARAGRAPHS**

1. That the Joint Settlement Petition filed on July 18, 2022 between the Commission’s Bureau of Investigation and Enforcement and The United Telephone Company d/b/a CenturyLink (“CenturyLink”) is approved in its entirety without modifications.

2. That, in accordance with Section 3301 of the Public Utility Code, 66 Pa. C.S. § 3301, within sixty (60) days of the date this Order becomes final, CenturyLink shall pay Forty-Five Thousand Dollars (\$45,000.00), which consists of the entirety of the civil penalty amount. Said payment shall be made by certified check or money order payable to “Commonwealth of Pennsylvania” and shall be sent to:

Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

3. In addition to the civil penalty, CenturyLink agrees to complete the following remedial measures:

A. CenturyLink implemented a Quality Assurance Program (“QA Program”) in January 2022 which provides CenturyLink the ability

to analyze, audit, manage, and address customer repair service calls. CenturyLink will continue to implement the QA Program and shall modify the QA Program, as needed, to follow-up and audit customer service calls to ensure that repair tickets, as applicable, are created to address customer complaints. CenturyLink agrees to continue to utilize the QA Program, and/or to utilize other measures, programs, or systems, to audit and modify processes related to customer interfacing functions (e.g., call wait times, trouble tickets, etc.). In addition, as CenturyLink continues to modify its dispatch processes (e.g., the time between ticket being created and technician visit), CenturyLink will include in the summary report submitted at Remedial Measure B(ii) below an update of total Company responsiveness to voice out-of-service trouble tickets.

- B. CenturyLink will meet with BCS by December 31, 2022 and again in 2023, as needed or requested by BCS, to review and address informal customer complaints received by BCS regarding repair tickets for Commission regulated voice services. In addition, CenturyLink will provide status reports to I&E of the following:
- i. A summary of the Company's meetings with BCS provided within fifteen (15) days of the meeting; and
  - ii. As to Perry, Cumberland, Franklin, and Juniata Counties, a summary of any preventative measures or additional facility

buildouts, if any, undertaken by CenturyLink. Portions of the status report to I&E may be marked as confidential to the extent it contains specific information regarding customers or Company facilities.

- C. During the remainder of calendar year 2022 and in year 2023, CenturyLink will meet with legislative representatives in the portions of the four counties (Perry, Cumberland, Franklin, and Juniata) served by CenturyLink to review potential CenturyLink customer issues. Finally, if applicable, CenturyLink will provide updated Company contact information to legislative representatives serving areas within CenturyLink's service territory. CenturyLink also will provide any update of progress regarding facility buildouts in applicable legislative districts.
- D. CenturyLink's downed pole protocols and practices will be circulated within internal company operations and customer care groups and will continue to be incorporated into trainings of employees involved with these groups. CenturyLink also will regularly circulate, within the communities served by CenturyLink, Public Service Announcements (PSAs) providing the general public with information to report downed poles, downed wires, or other damaged CenturyLink facilities. CenturyLink will review and revise, as needed, its internal processes regarding miscellaneous trouble

tickets that are associated with downed poles, downed wires, and damaged CenturyLink facilities to reasonably ensure that the trouble tickets are responded to within a reasonable time.

- E. CenturyLink will complete outreach and education efforts, no longer than sixty (60) calendar days after a Commission order approving this settlement, relative to organizations or groups which commonly report downed wires and/or poles to ensure that those organizations or groups have the latest contact information to report downed wires and/or poles. The organizations or groups include but are not limited to local fire departments, local police departments, 911 call centers, and local municipalities.
- F. CenturyLink agrees that it will begin implementing the foregoing Remedial Measures upon the filing of the Joint Petition for Settlement with the Commission. The foregoing Remedial Measures will remain effective through and until December 31, 2023. This provision shall not be construed as limiting continuation of Remedial Measure beyond the effective date should CenturyLink determine.

4. The above-captioned matter shall be marked closed upon receipt of the civil penalty and completion of the remedial measures outlined above.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :  
Bureau of Investigation and Enforcement :  
 :  
v. : Docket No. M-2022-3028754  
 :  
The United Telephone Company of :  
Pennsylvania LLC d/b/a CenturyLink :

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**THE BUREAU OF INVESTIGATION AND ENFORCEMENT’S  
STATEMENT IN SUPPORT OF THE  
JOINT PETITION FOR APPROVAL OF SETTLEMENT**

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TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to 52 Pa. Code §§ 5.231, 5.232, and 69.1201, the Pennsylvania Public Utility Commission’s (“Commission” or “PUC”) Bureau of Investigation and Enforcement (“I&E”), a signatory party to the Joint Petition for Approval of Settlement (“Settlement” or “Settlement Agreement”) filed in the matter docketed above, submits this Statement in Support of the Settlement Agreement between I&E and The United Telephone Company of Pennsylvania, LLC d/b/a CenturyLink (“CenturyLink” or “Company”).<sup>1</sup> I&E avers that the terms and conditions of the Settlement are just and reasonable and in the public interest for the reasons set forth herein.

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<sup>1</sup> I&E and CenturyLink are collectively referred to herein as the “Parties.”

## **I. Background**

On or about August 28, 2021, Hurricane Ida brought heavy rain and winds to Pennsylvania and caused excessive flooding at a CenturyLink affiliate's switch located outside of Philadelphia, Pennsylvania. The flood caused catastrophic damage and completely destroyed equipment inside the building and impacted long-distance calling.

On September 17, 2021, Senator Judy Ward, Senator John DiSanto, and Representative Perry Stambaugh sent a letter to the Commission requesting an investigation be made in the weeks-long service outage and reports of unreliable service made by customers of CenturyLink.

On September 27, 2021, the Commission responded to the September 17, 2021 letter by referring the matter to I&E. I&E subsequently received the emails of issues and/or complaints received by the legislators.

In or around November 2021, upon the request of I&E, the Commission's Bureau of Consumer Services ("BCS") provided informal consumer complaints related to internet or telephone outages, customer services issues, failure to respond to downed lines, no dial tone, and other services issues made against CenturyLink for the time period of 2019-2021. Specifically, BCS provided 3 complaints for 2019, 31 complaints for 2020, and 143 complaints for 2021 (January 2021 through November 8, 2021).

By letter dated November 12, 2021, I&E issued an investigation letter with I&E Data Requests – Set I ("DR" or "Data Requests") requesting responses to I&E's twelve (12) Data Requests. In light of the referral by the legislators, I&E limited its Data

Requests to CenturyLink's customers in Perry County, Cumberland County, Franklin County, and Juniata County.

As a result of CenturyLink's responses, the BCS informal complaints, and the email complaints received by the legislature, I&E identified four (4) types of potential violations. Specifically, I&E alleged that CenturyLink failed to provide reasonably continuous service, failed to address an outage or provide a repair in a reasonable time, failed to keep commitments made to customers and other customer-related complaints, and failed to respond to downed wires/poles and/or broken poles in a reasonable time. *See generally* 52 Pa. Code § 63.23; 52 Pa. Code § 63.24(a); 52 Pa. Code § 63.57; and 66 Pa.C.S. § 1501.

Accordingly, I&E and CenturyLink began discussing settlement to amicably resolve the instant matter. On July 18, 2022, the Parties filed a Joint Petition for Approval of Settlement resolving all issues between I&E and CenturyLink in the instant matter. This Statement in Support is submitted in conjunction with the Settlement Agreement.

## **II. The Public Interest**

Pursuant to the Commission's policy of encouraging settlements that are reasonable and in the public interest, the Parties held a series of settlement discussions. These discussions culminated in this Settlement Agreement, which, once approved, will resolve all issues related to I&E informal investigation involving allegations that CenturyLink failed to provide reasonably continuous service, failed to address an outage or provide a repair in a reasonable time, failed to keep commitments made to customers and other customer-related complaints, and failed to respond to downed wires/poles



and/or broken poles in a reasonable time. Notably, CenturyLink implemented a Quality Assurance Program in January 2022 which provides CenturyLink the ability to analyze, audit, manage, and address customer repair service calls, and also implemented a call-back feature in December 2021 to provide customers the option to not wait on hold for a representative to become available. In addition to these programs, CenturyLink recently received Commission approval of a Joint Petition for Settlement which outlines CenturyLink's commitment to buildout fiber. *See generally Joint Application of The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink; CenturyTel Broadband Services, LLC; Connect Holding LLC; and Lumen Technologies, Inc. for All Approvals of a General Rule of Transfer of Control and Registration of Securities, Docket Nos. A-2021-3028668; A-2021-3028669.*

I&E intended to prove the factual allegations set forth in its investigation at hearing to which CenturyLink would have disputed. This Settlement Agreement results from the compromises of the Parties. I&E recognizes that, given the inherent unpredictability of the outcome of a contested proceeding, the benefits to amicably resolving the disputed issues through settlement outweigh the risks and expenditures of litigation. I&E submits that the Settlement constitutes a reasonable compromise of the issues presented and is in the public interest. As such, I&E respectfully requests that the Commission approve the Settlement without modification.

### **III. Terms of Settlement**

Under the terms of the Settlement Agreement, I&E and CenturyLink have agreed to the following:

1. CenturyLink shall pay a cumulative civil penalty of Forty-Five Thousand Dollars (\$45,000.00).
2. In addition to the civil penalty, CenturyLink agrees to complete the following remedial measures:
  - A. CenturyLink implemented a Quality Assurance Program (“QA Program”) in January 2022 which provides CenturyLink the ability to analyze, audit, manage, and address customer repair service calls. CenturyLink will continue to implement the QA Program and shall modify the QA Program, as needed, to follow-up and audit customer service calls to ensure that repair tickets, as applicable, are created to address customer complaints. CenturyLink agrees to continue to utilize the QA Program, and/or to utilize other measures, programs, or systems, to audit and modify processes related to customer interfacing functions (e.g., call wait times, trouble tickets, etc.). In addition, as CenturyLink continues to modify its dispatch processes (e.g., the time between ticket being created and technician visit), CenturyLink will include in the summary report submitted at Remedial Measure B(ii) below an update of total Company responsiveness to voice out-of-service trouble tickets.
  - B. CenturyLink will meet with BCS by December 31, 2022 and again in 2023, as needed or requested by BCS, to review and address informal customer complaints received by BCS regarding repair

tickets for Commission regulated voice services. In addition,

CenturyLink will provide status reports to I&E of the following:

- i. A summary of the Company's meetings with BCS provided within fifteen (15) days of the meeting; and
- ii. As to Perry, Cumberland, Franklin, and Juniata Counties, a summary of any preventative measures or additional facility buildouts, if any, undertaken by CenturyLink. Portions of the status report to I&E may be marked as confidential to the extent it contains specific information regarding customers or Company facilities.

C. During the remainder of calendar year 2022 and in year 2023, CenturyLink will meet with legislative representatives in the portions of the four counties (Perry, Cumberland, Franklin, and Juniata) served by CenturyLink to review potential CenturyLink customer issues. Finally, if applicable, CenturyLink will provide updated Company contact information to legislative representatives serving areas within CenturyLink's service territory. CenturyLink also will provide any update of progress regarding facility buildouts in applicable legislative districts.

D. CenturyLink's downed pole protocols and practices will be circulated within internal company operations and customer care groups and will continue to be incorporated into trainings of

employees involved with these groups. CenturyLink also will regularly circulate, within the communities served by CenturyLink, Public Service Announcements (PSAs) providing the general public with information to report downed poles, downed wires, or other damaged CenturyLink facilities. CenturyLink will review and revise, as needed, its internal processes regarding miscellaneous trouble tickets that are associated with downed poles, downed wires, and damaged CenturyLink facilities to reasonably ensure that the trouble tickets are responded to within a reasonable time.

- E. CenturyLink will complete outreach and education efforts, no longer than sixty (60) calendar days after a Commission order approving this settlement, relative to organizations or groups which commonly report downed wires and/or poles to ensure that those organizations or groups have the latest contact information to report downed wires and/or poles. The organizations or groups include but are not limited to local fire departments, local police departments, 911 call centers, and local municipalities.
- F. CenturyLink agrees that it will begin implementing the foregoing Remedial Measures upon the filing of the Joint Petition for Settlement with the Commission. The foregoing Remedial Measures will remain effective through and until December 31, 2023. This

provision shall not be construed as limiting continuation of Remedial Measure beyond the effective date should CenturyLink determine.

The civil penalty shall not be tax deductible pursuant to Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 162(f). Furthermore, the civil penalty shall not be passed through as an additional charge to CenturyLink's customers in Pennsylvania.

In consideration of CenturyLink's payment of a monetary civil penalty and the remedial measures outlined above, I&E agrees that its informal investigation relating to CenturyLink's conduct as described in the Settlement Agreement referenced herein shall be terminated and marked closed upon approval by the Commission of the Settlement Agreement without modification, payment of the civil penalty, and completion of the remedial measures.

Upon Commission approval of the Settlement in its entirety without modification, I&E will not file any complaints or initiate other action against CenturyLink at the Commission with respect to the violations that were the subject of I&E's instant investigation and described in more detail in the Joint Petition for Settlement.

#### **IV. Legal Standard for Settlement Agreements**

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. Settlements lessen the time and expense that the parties must expend litigating a case and, at the same time, conserve precious administrative resources. Settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. "The focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a 'burden of proof' standard, as is utilized for contested matters." *Pa. Pub. Util.*

*Comm'n, et al. v. City of Lancaster – Bureau of Water*, Docket Nos. R-2010-2179103, *et al.* (Order entered July 14, 2011) at p. 11. Instead, the benchmark for determining the acceptability of a settlement is whether the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Docket No. M-00031768 (Order entered January 7, 2004).

I&E submits that approval of the Settlement Agreement in the above-captioned matter is consistent with the Commission's Policy Statement regarding *Factors and Standards for Evaluating Litigated and Settled Proceedings Involving Violations of the Public Utility Code and Commission Regulations* ("Policy Statement"), 52 Pa. Code § 69.1201; *see also Joseph A. Rosi v. Bell-Atlantic-Pennsylvania, Inc.*, Docket No. C-00992409 (Order entered March 16, 2000). The Commission's Policy Statement sets forth ten (10) factors that the Commission may consider in evaluating whether a civil penalty for violating a Commission order, regulation, or statute is appropriate, as well as whether a proposed settlement for a violation is reasonable and in the public interest. 52 Pa. Code § 69.1201.

The Commission will not apply the factors as strictly in settled cases as in litigated cases. 52 Pa. Code § 69.1201(b). While many of the same factors may still be considered, in settled cases, the parties "will be afforded flexibility in reaching amicable resolutions to complaints and other matters as long as the settlement is in the public interest." *Id.*

The first factor considers whether the conduct at issue was of a serious nature, such as willful fraud or misrepresentation, or if the conduct was less egregious, such as an administrative or technical error. Conduct of a more serious nature may warrant a

higher civil penalty while conduct that is less egregious warrants a lower amount. 52 Pa. Code § 69.1201(c)(1). I&E alleges that the conduct in this matter was not of a serious nature, such as willful fraud or misrepresentation. Consequently, the less egregious nature of the conduct was considered in arriving at the civil penalty amount in the Settlement Agreement.

The second factor considers whether the resulting consequences of CenturyLink's alleged conduct were of a serious nature. When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty. 52 Pa. Code § 69.1201(c)(2). I&E submits that no personal injury or property damage occurred as a result of the alleged violations, noting that there is no evidence that any property damage which occurred from a downed pole and/or wire was a direct result of CenturyLink's conduct. Nonetheless, the consequences of the alleged actions resulted in customers having unreliable access to telephone and internet services for extended periods of time which could impact the customer's access to education, medical or emergency services, work, and/or personal communications and interactions. I&E asserts that access to telephone and internet services is critical to everyday life and lack of access could have a serious impact, thus the consequences of CenturyLink's alleged conduct should be deemed serious.

The third factor to be considered under the Policy Statement is whether the alleged conduct was intentional or negligent. 52 Pa. Code § 69.1201(c)(3). "This factor may only be considered in evaluating litigated cases." *Id.* Whether CenturyLink's alleged conduct

was intentional or negligent does not apply since this matter is being resolved by settlement of the Parties.

The fourth factor to be considered is whether CenturyLink has made efforts to change its practices and procedures to prevent similar conduct in the future. 52 Pa. Code § 69.1201(c)(4). As stated above, CenturyLink implemented a new Quality Assurance Program in January 2022 and a call-back option in December 2021 to address the various customer service and repair complaints. Additionally, CenturyLink has committed to completing a fiber buildout pursuant to the Joint Petition for Settlement in Docket Nos. A-2021-3028668 and A-2021-3028669, which should address the reliable service complaints. Thus, CenturyLink made efforts to ensure that these issues do not reoccur in the future.

The fifth factor to be considered relates to the number of customers affected by the Company's actions and the duration of the violations. 52 Pa. Code § 69.1201(c)(5). I&E identified approximately seventy-nine (79) customers who filed informal complaints with BCS and approximately twenty-seven (27) individuals who submitted email complaints to the legislature. Of the complaints which alleged service outages, the complaints alleged a duration ranging from five (5) days to over a month. These facts were considered when calculating the civil penalty.

The sixth factor to be considered relates to the compliance history of CenturyLink. 52 Pa. Code § 69.1201(c)(6). An isolated incident from an otherwise compliant company may result in a lower penalty, whereas frequent, recurrent violations by a company may result in a higher penalty. *Id.* To date, I&E is aware of one formal complaint which



alleged unreliable telephone service, *Sharon Eash v. The United Telephone Company of Pennsylvania LLC, d/b/a CenturyLink*, Docket No. C-2021-3028204 (Certificate of Satisfaction filed January 31, 2022). However, I&E notes that the Parties entered into a settlement agreement in a prior informal investigation which related to CenturyLink's alleged failure to timely install services in accordance with the Public Utility Code and the Commission's regulations, and the alleged failure to meet Chapter 30 requirements due to technical issues in implementing a new dispatch system, *Pennsylvania Public Utility Commission, Bureau of Investigation and enforcement v. The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink*, Docket No. M-2020-3012956 (Opinion and Order entered January 14, 2021).

The seventh factor to be considered relates to whether the Company cooperated with the Commission's investigation. 52 Pa. Code § 69.1201(c)(7). I&E submits that CenturyLink fully cooperated in the investigation of this matter, including cooperating in both informal discovery as well as settlement discussions.

The eighth factor to be considered is the appropriate settlement amount necessary to deter future violations. 52 Pa. Code § 69.1201(c)(8). I&E submits that a civil penalty amount of \$45,000.00, which is not tax deductible, is substantial and sufficient to deter CenturyLink from committing future violations.

The ninth factor to be considered relates to past Commission decisions in similar situations. 52 Pa. Code § 69.1201(c)(9). I&E submits that the instant Settlement Agreement should be viewed on its merits as there are no past Commission decisions that are directly responsive to this matter. *See generally Ken Eernisse v. Verizon Pennsylvania*

*LLC*, C-2012-2287023 (December 5, 2013 Opinion and Order) (Commission assessed a civil penalty of \$20,050 for failure to provide reasonable and adequate service to one customer for an extended period of time, resulting in multiple violations and service outages.); *Curt Eckroth v. Verizon Pennsylvania Inc.* Docket No. C-2011-2279168 (April 18, 2013, Opinion and Order) (Commission assessed a civil penalty of \$1,000.00 for various service outages.); *Larry L. Wolfe v. Verizon North LLP*, Docket No. C-2011-2266224 (Order entered December 20, 2012) (Commission assessed a civil penalty of \$1,250 for various violations involving service interruptions of one customer.). However, I&E notes that the Parties agreed to a civil penalty of \$32,050.00 in the settlement filed at Docket No. M-2020-3012956.

The tenth factor considers “other relevant factors.” 52 Pa. Code § 69.1201(c)(10). I&E submits that an additional relevant factor – whether the case was settled or litigated – is of pivotal importance to this Settlement Agreement. A settlement avoids the necessity for the governmental agency to prove elements of each allegation. In return, the opposing party in a settlement agrees to a lesser penalty or other remedial action. Both parties negotiate from their initial litigation positions. The penalties and other remedial actions resulting from a fully litigated proceeding are difficult to predict and can differ from those that result from a settlement. Reasonable settlement terms can represent economic and programmatic compromise while allowing the parties to move forward and to focus on implementing the agreed upon remedial actions.

In conclusion, I&E fully supports the terms and conditions of the Settlement Agreement. The terms of the Settlement Agreement reflect a carefully balanced

compromise of the interests of the Parties in this proceeding. The Parties believe that approval of this Settlement Agreement is in the public interest. Acceptance of this Settlement Agreement avoids the necessity of further administrative and potential appellate proceedings at what would have been a substantial cost to the Parties.

WHEREFORE, I&E supports the Settlement Agreement as being in the public interest and respectfully requests that the Commission approve the Settlement in its entirety without modification.

Respectfully submitted,

A handwritten signature in blue ink that reads "Kayla L. Rost".

Kayla L. Rost  
Prosecutor  
PA Attorney ID No. 322768

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
(717) 787-1888  
[karost@pa.gov](mailto:karost@pa.gov)

Dated: July 18, 2022

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement

v.

Docket No. M-2022-3028754

The United Telephone Company of  
Pennsylvania LLC, d/b/a CenturyLink

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**STATEMENT IN SUPPORT  
THE UNITED TELEPHONE COMPANY OF PENNSYLVANIA LLC  
D/B/A CENTURYLINK**

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The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink (“CenturyLink” or “Company”), a signatory to the Joint Petition for Approval of Settlement Agreement (Settlement”), submits this Statement in Support of the Settlement between CenturyLink and the Commission’s Bureau of Investigation and Enforcement (“I&E”). The Settlement fully resolves all issues relating to I&E’s initiated investigation of certain legislative complaints and other informal consumer complaints alleging service quality issues.

CenturyLink respectfully submits the Settlement is in the public interest and requests that the Commission approve the Settlement without modification. Commission policy promotes settlements. 52 Pa. Code § 5.231. Settlements decrease the time, expense, and risks of litigation, while at the same time, conserve administrative resources.

The proposed Settlement is reasonable. While certain allegations and applications of law and regulations remain disputed, the benefits of amicably resolving these disputed issues outweighs the time, expense, and risks of protracted litigation, including the possibility of appeals.

The proposed Settlement represents an efficient compromise of the parties' respective litigation positions.

The proposed Settlement is appropriate given the unprecedented circumstances. While certain disputed legal issues remain, the Company seeks to move forward as the nation begins to emerge from the lingering impacts of the COVID-19 pandemic and given restrictions with supply chain matters. These unprecedented national issues created myriad downstream impacts which coupled with unexpected cable cuts and greater-than-usual seasonal storm activity starting in June/July, 2021. In addition, the Company looks forward to focusing on implementing the Commission-approved settlement in a pending transaction<sup>1</sup> once the transaction closes. Given these circumstances, the Settlement is appropriate as the benefits of the Settlement far outweigh continued litigation of disputed issues.

The Settlement is consistent with the Commission's Policy for Litigated and Settled Proceedings Involving Violations of the Code and Commission Regulations ("Policy Statement"). 52 Pa. Code § 69.1201. The policy Statement sets forth ten factors that the Commission may consider in evaluating settlements a civil penalty for violating a Commission order, regulation, or statute is appropriate, as well as whether a proposed settlement for a violation is reasonable and in the public interest.<sup>2</sup>

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<sup>1</sup> *Joint Application of The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink; CenturyTel Broadband Services, LLC; Connect Holding LLC; and Lumen Technologies, Inc. for All Approvals of a General Rule of Transfer of Control and Registration of Securities*, Docket Nos. A-2021-3028668; A-2021-3028669 (Application filed September 22, 2021; Joint Petition filed February 10, 2022; Initial Decision entered March 29, 2022). By Final Order entered April 25, 2022, the Initial Decision became final without further Commission action.

<sup>2</sup> The Policy Statement's ten factors are: (i) Whether the conduct at issue was of a serious nature; (ii) Whether the resulting consequences of the conduct at issue were of a serious nature; (iii) Whether the conduct at issue was deemed intentional or negligent; (iv) Whether the regulated entity made efforts to modify internal policies and procedures to address the conduct at issue and prevent similar conduct in the future; (v) The number of customers affected and the duration of the violation; (vi) The compliance history of the regulated entity that committed the violation; (vii) Whether the regulated entity cooperated with the Commission's investigation; (viii) The amount of the civil penalty or fine necessary to deter future violations; (ix) Past Commission decisions in similar situations; and (x) Other relevant factors. 52 Pa. Code § 69.1201(c) (1) — (10).

The Commission will not apply its standards as strictly in settled cases as in litigated cases. 52 Pa. Code § 69.1201(b). While many of the same factors may still be considered, in settled cases, the parties “will be afforded flexibility in reaching amicable resolutions to complaints and other matters so long as the settlement is in the public interest.” 52 Pa. Code § 69.1201(b).

The first factor considers whether the conduct at issue was of a serious nature, such as willful fraud or misrepresentation, which may warrant a higher penalty. 52 Pa. Code § 69.1201(c)(1). The conduct at issue in this matter did not involve willful or egregious conduct fraud or misrepresentation. While some of the complaints involved unexpected delays in responding to customer service issues, CenturyLink believes that its conduct was not of a serious nature when considering the unprecedented context and the efforts undertaken by the Company.

The majority of BCS complaints and the legislative complaints started in June/July 2021, which is when seasonal storm activity starts to occur in Pennsylvania, and peaked during the aftermath of Hurricane Ida, arriving on September 1, 2021. In addition, fiber cuts impacting CenturyLink unexpectedly occurred in January, late June, and September 2021. The penalty amount agreed upon in the Settlement does not include complaints directly associated with the unexpected and significant flooding of a CenturyLink facility; however, the impact of Hurricane Ida coupled with the challenges of managing resources amidst COVID-19 and supply chain issues indirectly created unanticipated delays with the Company’s recovery efforts. Notwithstanding these challenges, CenturyLink did not fall below the Commission’s service quality metrics applicable to telephone service. CenturyLink also provided applicable credits to customers (as well a courtesy credits) and, by early December 2021, voluntarily implemented a call-back feature to enhance customer experience.

As to the complaints alleging slow internet speeds and internet service outages, CenturyLink maintains that the Commission's regulations governing telephone service quality do not apply to internet services. Relative to the period November 2019 through November 2021, CenturyLink has not identified any complaints from retail customers claiming internet speeds lower than 1.544 Mbps downstream or 128 Kbps upstream. CenturyLink has complied with its Chapter 30 requirements. Absent Chapter 30 requirements, the Commission does not have authority to regulate the quality of internet services provided by CenturyLink – or, as provided by any of the numerous competitors providing internet services in CenturyLink's service territory as noted in responses to I&E data requests.<sup>3</sup> When focusing solely on complaints of alleged telephone service issues, CenturyLink in a litigated proceeding would have presented facts to demonstrate that its actions were reasonable under the unprecedented circumstances.

The second factor is whether the resulting consequences of the conduct in question were of a serious nature. 52 Pa. Code § 69.1201(c)(2). The policy Statement provides that when consequences of a serious nature are involved, such as personal injury or property damage, it may warrant a high penalty. *Id.* To the best of CenturyLink's knowledge, no damage to property or customers occurred. CenturyLink's intent and conduct aimed to comply with the applicable Commission regulations.

The third factor considers whether the conduct at issue was deemed intentional or negligent. This factor is only to be considered when evaluating litigated cases. 52 Pa. Code §

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<sup>3</sup> Moreover, broadband speeds can vary by many overlapping factors, including factors that are outside CenturyLink's network, such as Wi-Fi connectivity and coverage, number of connected devices, and quality of inside wire. Moreover, broadband speeds also can vary by other factors such as customer proximity to the serving devices, number of customers per serving device, and customer choice. As a result, there could be various, often overlapping, reasons for claimed slow internet speeds – all of which are completely unrelated to CenturyLink or its offering of internet services. A response to the question would unduly burdensome, duplicative of FCC's jurisdictional efforts, and could result in misleading, unfounded conclusions.

69.1201(c)(3). This factor does not apply to the present case as it is a settled matter. Moreover, there is no allegation of intentional conduct.

The fourth factor in the Commission's Policy Statement regards the regulated entity's efforts to modify internal policies and procedures to address the alleged conduct at issue and to prevent similar conduct in the future. 52 Pa. Code § 69.1201(c)(4). As noted above, CenturyLink voluntarily implemented a customer call-back feature in early December 2021 and has agreed to implement several Remedial Measures in the proposed Settlement, including implementing additional internal and external measures for downed poles and legislative-related complaints so that customer issues are properly ticketed. For example, the use of public service announcements in the proposed Settlement should facilitate recovery efforts for downed or damaged poles, cable, or other facilities due to significant weather events.

The fifth factor considers the number of customers affected and the duration of the violation. 52 Pa. Code § 69.1201(c)(5). CenturyLink supports the Settlement and submits that the number of impacted customers and the duration of the alleged violations were limited. In addition, CenturyLink submits the Settlement does not include countervailing facts and mitigation efforts which would have been addressed in litigation and thus which may have reduced the total working days.

The sixth factor considers the compliance history of the Company. 52 Pa. Code § 69.1201(c)(6). The policy Statement further provides: "An isolated incident from an otherwise compliant utility may result in a lower penalty, whereas frequent, recurrent violations by a utility may result in a high penalty. *Id.* CenturyLink submits that its compliance history overall has been very good.



The seventh factor to be considered is whether the regulated entity cooperated with I&E's investigation. 52 Pa. Code § 69.1201(c)(7). CenturyLink fully cooperated with I&E throughout the investigation and the process leading to the proposed Settlement.

The eighth factor considers whether the amount of the civil penalty or fine is necessary to deter future violations. 52 Pa. Code § 69.1201(c)(8). CenturyLink respectfully submits that it fully intends to comply with applicable regulations and plans to begin implementing the Remedial Measures upon filing of the Petition for Settlement. The cumulative penalty agreed to in the proposed Settlement is reasonable given the circumstances. 66 Pa.C.S. § 1501.

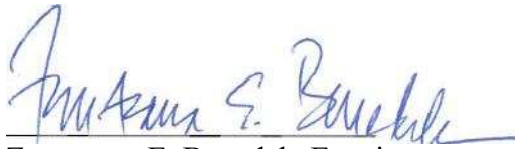
The ninth factor examines past Commission decisions in similar situations. 52 Pa. Code § 69.1201(c)(9). While there have been litigated Commission cases involving individual complainants and telecommunications companies, CenturyLink is unaware of any recent cases or matters addressed by the Commission with facts substantially similar to the allegations in this investigation. CenturyLink respectfully submits that the terms of the proposed Settlement represent a reasonable outcome for the circumstances in this matter.

Finally, the tenth factor involves consideration of any other relevant factors. 52 Pa. Code § 69.1201(c)(10). There are no additional factors of relevance beyond what is addressed herein and in the Petition for Settlement.

CenturyLink respectfully submits that the proposed Settlement applies the Policy Statement's factors and complies with the standards set forth in the Policy Statement. The Settlement efficiently brings I&E's investigation to a reasonable and prompt conclusion and is in the public interest.

WHEREFORE, CenturyLink fully supports the proposed Settlement and respectfully requests that the Commission adopt an order approving the Settlement in its entirety. For the reasons set forth above, the Settlement is a reasonable outcome in this matter and reflects a carefully balanced compromise of competing interests.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Zsuzsanna E. Benedek". The signature is written in a cursive style and is positioned above the printed name.

Zsuzsanna E. Benedek, Esquire

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Counsel for The United Telephone Company  
of Pennsylvania d/b/a CenturyLink

DATED: July 18, 2022

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**


Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. M-2022-3028754
	:	
The United Telephone Company of	:	
Pennsylvania LLC d/b/a CenturyLink	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing **Joint Petition for Approval of Settlement and Statements in Support** dated July 18, 2022, upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**Service by Electronic Mail:**

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