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- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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Qwest Corporation d/b/a )  
CenturyLink QC Petition for )  
Statewide Exemption from )  
Carrier of Last Resort )  
Obligation )  
 ) DOCKET NO. 23-049-01  
 )  
\_\_\_\_\_ )

Public Hearing  
Taken on Thursday, February 8, 2024  
At 9:00 a.m. MT

At Heber M. Wells Building  
160 East 300 South  
Room 403  
Salt Lake City, Utah 84111

Reported by: Brooke Simms, RPR, CCR, CSR

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A P P E A R A N C E S

The Public Service Commission:  
Presiding Officer John Delaney  
Commissioner David R. Clark  
Commissioner Dr. John Harvey

For The Division of Public Utilities:

Patrick Grecu  
UTAH ATTORNEY GENERAL'S OFFICE

For The Office of Consumer Services:

Robert Moore  
UTAH ATTORNEY GENERAL'S OFFICE

For Qwest Corporation d/b/a CenturyLink:

Katie Wagner  
LUMEN

For Utah Rural Telecom Association:

Kira Slawson  
BLACKBURN & STOLL, LC

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1 PROCEEDINGS

2 -o0o-

3 COMMISSIONER CLARK: Good morning, ladies and  
4 gentlemen. My name is Commissioner David Clark. We're  
5 here this morning to take up Docket Number 23-049-01.  
6 This is Lumen's or CenturyLink's petition for exemption  
7 from the carrier of last resort obligation. And with me  
8 on the stand today are, to my immediate left, John  
9 Delaney, who we've designated as the presiding officer  
10 for this proceeding. And to his left, Commissioner John  
11 Harvey.

12 Some of you may know that we only have two  
13 commissioners currently serving with the recent  
14 resignation of Chair Thad LeVar. So we'll operate with  
15 Judge Delaney conducting the hearing. We may have  
16 questions as commissioners that will follow the  
17 examination of witnesses by the parties and by the  
18 administrative law judge.

19 So that said, I turn the gavel to our  
20 presiding officer.

21 PRESIDING OFFICER: Thank you very much,  
22 Commissioner Clark.

23 Good morning, everyone. Again, my name is  
24 John Delaney.

25 Why don't we -- I guess you -- you identified

1 the docket number. Okay. And this is the petition of  
2 Qwest Corporation DBA CenturyLink QC for statewide  
3 exemption from carrier of last resort obligations.

4 Why don't we start with appearances for  
5 CenturyLink?

6 MS. WAGNER: Katie Wagner for Qwest  
7 Corporation doing business as CenturyLink, and our  
8 witness today is Alan Lubeck.

9 PRESIDING OFFICER: Thank you very much.  
10 For the Division of Public Utilities?

11 MR. GRECU: Patrick Grecu, Assistant Attorney  
12 General, representing the Division of Public Utilities.  
13 The Division's witness today is Gary Smith.

14 PRESIDING OFFICER: Thank you very much.  
15 For the Office of Consumer Services?

16 MR. MOORE: Robert Moore of the Attorney  
17 General's Office representing the Office of Consumer  
18 Services. Our witness today is Ms. Alyson Anderson.

19 PRESIDING OFFICER: Thank you very much.  
20 And for the intervenor -- may I just refer to  
21 you as a URTA?

22 MS. SLAWSON: You may.

23 PRESIDING OFFICER: Okay. Thank you.

24 MS. SLAWSON: Kira Slawson representing the  
25 Utah Rural Telecom Association. We call it URTA, but

1 "ur-tah" is good also.

2 To my right is our witness Douglas Meredith.  
3 To his right is Brock Johansen, the current president of  
4 URTA, and to his right is Cameron Francis, the current  
5 first vice president of URTA.

6 PRESIDING OFFICER: Okay. Thank you very  
7 much.

8 So do any of the parties have any preliminary  
9 issues?

10 MS. WAGNER: I don't believe so. I mean, for  
11 purposes of the hearing today, I think we're trying not  
12 to get too into confidential documents. If we do, I  
13 assume we'll have to go off the record -- or not off the  
14 record, but stop recording if we get into any  
15 confidential information, but for purposes of what we're  
16 presenting, I don't think any of our exhibits are going  
17 to be confidential.

18 PRESIDING OFFICER: Okay. Thank you. That is  
19 on my list. I have a couple of things I'd like to raise  
20 very quickly.

21 First, I will note that on January 25th we got  
22 your legal briefing. So thank you very much for that.  
23 It was helpful. I'd also like to remind everybody that  
24 we have a public witness hearing tonight at 5:30, and it  
25 will be in this room. If you leave the room -- or if

1 you leave the building, you will be able to get in the  
2 building. If it's after hours, there'll be people  
3 downstairs. So -- and you can call if there's a  
4 problem, but 5:30 we'll reconvene for the -- we will  
5 convene for the public witness portion of this docket.

6 So the confidential information -- thank you  
7 for raising that because it is something I wanted to  
8 address. We all know this is an open proceeding, and  
9 there has been some information that's been designated  
10 as confidential. So I guess the first question would be  
11 do the parties anticipate that any of that information  
12 is going to be the subject of specific witness testimony  
13 or summary for example today?

14 MS. WAGNER: So for CenturyLink, we will be  
15 putting into the record, but I wasn't going to ask any  
16 specific questions drilling into the confidential  
17 information. So I don't think that it would be anything  
18 that's going to be heard publicly.

19 PRESIDING OFFICER: Okay. And I'm just going  
20 to refer to that quickly as CenturyLink's Exhibit 4. Is  
21 that --

22 MS. WAGNER: Correct.

23 PRESIDING OFFICER: Okay. You agree with  
24 that.

25 What about the other parties? The Division,



1 do you anticipate any testimony with respect  
2 specifically to what's in Exhibit 4?

3 MR. GRECU: We do not.

4 PRESIDING OFFICER: Okay. And Mr. Moore?

5 MR. MOORE: We'll have no testimony on that  
6 exhibit.

7 PRESIDING OFFICER: Okay. And then  
8 Ms. Slawson?

9 MS. SLAWSON: No. We'll have no testimony on  
10 that exhibit.

11 PRESIDING OFFICER: Okay. There was also  
12 another designated portion of some -- of a submission,  
13 and it seemed to me to be relating to personally  
14 identifiable information of an affiant and then also I  
15 think some names of wire sender locations is in response  
16 to a data request, and I'm looking over at the Office  
17 because that -- that seemed to come through your  
18 submissions. So let me ask you -- you that question.

19 Are either of those pieces of information  
20 going to be the subject of specific testimony?

21 MR. MOORE: I do not believe so. As a  
22 possibility, we might use the declaration. I can't say  
23 right now, but we have a redacted version of the  
24 declaration. So I don't think any personal  
25 identification information will be offered during this

1 hearing.

2 PRESIDING OFFICER: Okay. And CenturyLink,  
3 let me ask you that question about whether or not you  
4 plan on referring to or using any of what I've just  
5 identified as the Office's claimed confidential  
6 information.

7 MS. WAGNER: We -- excuse me. We may refer to  
8 the declaration, but it won't be in terms of any of the  
9 confidential information.

10 PRESIDING OFFICER: Okay.

11 MS. WAGNER: So it should not be an issue.

12 PRESIDING OFFICER: Okay. And just so we're  
13 clear, the confidential information, I think, is the  
14 address, not the name of the affiant, but the address;  
15 correct?

16 MR. MOORE: That's correct.

17 PRESIDING OFFICER: Okay. And so your  
18 testimony, Ms. Wagner, you anticipate would not address  
19 that address issue?

20 MS. WAGNER: Correct.

21 PRESIDING OFFICER: Thank you. Ms. Slawson,  
22 how about you with respect to the OCS confidential  
23 information?

24 MS. SLAWSON: We have no plans to use the  
25 confidential information from the OCS's affiant.

1           PRESIDING OFFICER: Thank you.

2           And, finally, Mr. Grecu, how about the  
3 Division's position?

4           MR. GRECU: The same. We do not expect to  
5 have any testimony that addresses the affiant's --

6           PRESIDING OFFICER: Okay. Great. Thank you.

7           MR. GRECU: -- information.

8           PRESIDING OFFICER: And I just wanted to get  
9 that out of the way upfront. So it took a little bit of  
10 time. Thanks for indulging me. I just want to restate,  
11 though, that if we get anywhere near any of this  
12 confidential information unwittingly or unknowingly,  
13 please be aware to raise it immediately. We are an open  
14 proceeding. We're streaming live, for example, and if  
15 that were to be disclosed in testimony, we can't unring  
16 that bell. So please let us know in advance, and then  
17 the Commissioners and I will confer as to whether or not  
18 closing the hearing would be appropriate.

19           Okay. Any -- anything else? That's all I  
20 have.

21           Okay. Why don't we begin. Ms. Wagner, if  
22 you'd like to call your first witness please.

23           MS. WAGNER: Sure. CenturyLink calls Alan  
24 Lubeck.

25           PRESIDING OFFICER: Good morning, Mr. Lubeck.

1 How are you?

2 MR. LUBECK: Good morning. Doing well.

3 Thanks.

4 PRESIDING OFFICER: Do you swear to tell the  
5 truth?

6 MR. LUBECK: I do.

7 PRESIDING OFFICER: Thank you very much.

8 Ms. Wagner, please proceed.

9 ALAN LUBECK

10 was sworn and testified as follows:

11 DIRECT EXAMINATION

12 BY MS. WAGNER:

13 Q. Okay. Mr. Lubeck, can you please state and  
14 spell your name for the record.

15 A. It's Alan Lubeck, A-l-a-n L-u-b-e-c-k.

16 Q. And can you please provide your business  
17 address.

18 A. It's 100 Centurylink Drive in Monroe,  
19 Louisiana 71203.

20 Q. Please describe your employment position and  
21 responsibilities at CenturyLink.

22 A. I'm the director of public policy. And in  
23 that, I provide assistance and work with state  
24 commissions across 25 states and Canada.

25 Q. Okay. And please provide your educational

1 experience.

2 A. I graduated from the University of Nebraska  
3 with a degree in accounting, and I've worked at --  
4 worked as a public -- as a CPA for six years and then  
5 joined Sprint and have been working at Sprint and its  
6 successors, including CenturyLink, for the last  
7 37 years.

8 Q. On August 1st and 2nd, 2023, CenturyLink filed  
9 testimony by your predecessor David Ziegler. Have you  
10 reviewed that filed testimony?

11 A. I have.

12 Q. Do you adopt the contents of that filing as  
13 part of your testimony here today?

14 A. Yes.

15 Q. On November 16th, 2023, CenturyLink filed your  
16 rebuttal testimony. Do you adopt the contents of that  
17 filing as part of your testimony here today?

18 A. Yes.

19 Q. And, finally, on January 24th, 2024,  
20 CenturyLink filed your surrebuttal testimony. Do you  
21 adopt the contents of that filing as part of your  
22 testimony here today?

23 A. Yes.

24 MS. WAGNER: CenturyLink moves for the  
25 admission of the testimony of David Ziegler, rebuttal

1 testimony of Alan Lubeck, and surrebuttal testimony of  
2 Alan Lubeck.

3 PRESIDING OFFICER: Any objections?

4 Hearing none, the motion is granted.

5 (CenturyLink's prefiled testimony with  
6 attached exhibits admitted into  
7 evidence.)

8 MS. WAGNER: Thank you.

9 Q. (BY MS. WAGNER) Mr. Lubeck, please summarize  
10 CenturyLink's position in this docket.

11 A. Good morning, Commissioners and Judge.  
12 CenturyLink requests that the Commission exempt it from  
13 the carrier of last resort obligation which requires  
14 CenturyLink to provide voice service to any new customer  
15 within its local exchange. The carrier of last resort  
16 obligation is outdated and uneconomic and it's  
17 unsustainable.

18 Significantly, the modern objective of  
19 broadband, complete with federal broadband funding,  
20 seeks to provide all Utah residents with high speed  
21 broadband. Broad -- or high speed broadband access,  
22 rather than traditional POT service, is generally  
23 associated with COLR obligations.

24 Utah's been allocated 317 million in BEAD  
25 funding, B-E-A-D, as a modern solution to connecting

1 Utah. Rather than doubling down on antiquated COLR  
2 obligation, this request seeks to embrace the BEAD  
3 expansion.

4 The Commission can grant the exemption if it  
5 finds that CenturyLink is subject to effective  
6 competition and that the exemption's in the public  
7 interest. CenturyLink has provided data on its  
8 declining market share, customer preferences for  
9 alternative technologies, competitor coverage to  
10 demonstrate the extent of competition, what some of  
11 those competitors provide as -- as their charges for  
12 their monthly service. We've also provided the presence  
13 of functionally equivalent services and the impact  
14 competition has had on CenturyLink's market share.

15 With respect to CenturyLink's market share,  
16 the data shows that CenturyLink has only a small market  
17 share and is no longer a dominant provider of voice  
18 service in its wire centers. The most recent publicly  
19 available FCC data shows that CenturyLink's service  
20 areas include about 884,000 locations across the state.  
21 Of those locations, when you include satellite, every  
22 location is also served by a competitor.

23 But even excluding satellite, the FCC data  
24 shows that, across the state, CenturyLink faces  
25 competition in 881,000 locations, or 99.7 percent of all

1 locations. The market share of captive customer  
2 locations, therefore, accounts for only a third of a  
3 single percent of all existing locations if satellite  
4 technology is included. Importantly, since all or  
5 nearly all of CenturyLink's .3 percent of captive  
6 customers are served by copper technology, most -- at  
7 least most of those captive locations will be overbuilt  
8 by CenturyLink or its competitor through BEAD.

9 With respect to what constitutes a  
10 functionally equivalent technology, the Commission  
11 can -- should consider data showing what services  
12 residents in Utah purchased as well as federal guidance.

13 As for the customer preference, my testimony  
14 shows that only 1.9 percent of Utah households use --  
15 use landline voice service only. On the other hand,  
16 72.8 percent of Utah households use wireless only, and  
17 another 15 percent are identified as wireless mostly,  
18 meaning that nearly 90 percent of Utah households are  
19 simply not using a landline phone anymore.

20 That data is consistent with the loss of  
21 access lines CenturyLink has experienced. Between 2005  
22 and 2022, CenturyLink's line access line account  
23 declined over 87 percent.

24 In terms of price and equality, depending on  
25 what service the customer chooses, some competitors



1 offer faster service -- faster broadband services at  
2 lower prices than CenturyLink, and they also offer  
3 voice. While CenturyLink has provided some specific  
4 examples of speeds and pricing in my surrebuttal, it's  
5 also self-evident that Utah residents, as a whole, find  
6 competitor quality terms and pricing similar or better  
7 than CenturyLink, as demonstrated by our declining  
8 market share. The free market objectively demonstrates  
9 Utah residents' preferences.

10 And even satellite providers, like Hughesnet,  
11 offer comparable pricing. I looked at it yesterday on  
12 the Hughesnet website with a two-year --

13 MR. MOORE: Objection.

14 THE WITNESS: I'm sorry?

15 MR. MOORE: Objection. This is outside, I  
16 believe, his written testimony and, therefore, would  
17 constitute live surrebuttal --

18 PRESIDING OFFICER: Okay.

19 MR. MOORE: -- which is not called for in the  
20 scheduling order.

21 PRESIDING OFFICER: Your response?

22 MS. SLAWSON: We join in on that objection.

23 PRESIDING OFFICER: Join the objection?

24 MR. GRECU: I'll also join that objection.

25 MS. WAGNER: Yeah. I would respond that he

1 does address satellite -- satellite services in his  
2 testimony, and in his surrebuttal there is pricing  
3 testimony as well.

4 MR. MOORE: I may be wrong, but I believe the  
5 pricing -- well, could I have the -- the cite?

6 MS. WAGNER: The pricing testimony is with  
7 respect to, I believe, Xfinity, Comcast, as well as  
8 Google Fiber.

9 MR. MOORE: But not Hughesnet?

10 MS. WAGNER: Correct.

11 MR. MOORE: I restate my objection.

12 PRESIDING OFFICER: Thank you very much. One  
13 second.

14 (Commission confers.)

15 PRESIDING OFFICER: Okay. Ruling on the  
16 objection, the objection is sustained.

17 Please refrain from talking about information  
18 that has not been previously provided in your written  
19 testimony.

20 A. In terms of federal guidance on functionally  
21 equivalent technology, the FCC previously established  
22 the Connect America Fund to replace the traditional  
23 federal Universal Service Fund. Connect America Fund,  
24 or CAF, recognized that consumers demand broadband  
25 internet above traditional telephone service. CAF funds

1 could be used to construct broadband networks with a  
2 voice over the internet connection, which nearly all  
3 cable providers and numerous other companies use to  
4 provide voice service, both nationally and in Utah.

5 CAF has been replaced now by -- with the Rural  
6 Digital Opportunity Fund, RDOF, which also supports  
7 broadband at higher speeds than what CAF required.  
8 Satellite providers were eligible to receive -- or to  
9 participate in the CAF auction and in -- and for RDOF --  
10 and the RDOF auction.

11 A question arose from the OCS testimony  
12 witness Anderson related to Lifeline. In order to put  
13 Lifeline in perspective, the Universal Service  
14 Administrative company, or USAC, reported that the --  
15 that -- to the FCC that, for second quarter of 2023,  
16 CenturyLink served 1.1 percent of Utah Lifeline  
17 customers while wireless companies provide 95 percent of  
18 Lifeline services --

19 MR. MOORE: I'm going to object again. I'm  
20 not sure that this is in the testimony as well.

21 Ms. Wagner, am I mistaken?

22 MS. WAGNER: No. I would -- I would agree  
23 with him. This is in response.

24 A. I apologize.

25 The bigger picture for this docket is the

1 federal --

2 PRESIDING OFFICER: Let me -- excuse me one  
3 second. Let me -- let me rule on that objection on the  
4 record, and it's sustained for the same reason at this  
5 point.

6 A. I apologize.

7 The bigger picture for this docket is the  
8 federal ETC and Utah's COLR rules cover primarily the  
9 same services, basic POTS and Lifeline services. In my  
10 reading of the testimony in this document, CenturyLink  
11 is requesting that the Commission determine that  
12 effective competition exists and that we're requesting  
13 that it exist in all areas, and effective competition  
14 doesn't have to be complete. It only has to be  
15 developing.

16 A COLR exemption in the public interest, as  
17 it -- as it would -- it's in the public interest, as it  
18 would advance the policies of the state to encourage  
19 competition, allow flexible and reduced regulation, and  
20 most importantly, facilitate the deployment of advanced  
21 services.

22 This exemption would not harm the public  
23 interest because existing locations will continue to  
24 receive telephone service. In addition, future  
25 customers will have expanded options for both broadband

1 and voice service as broadband internet becomes more  
2 widely available with BEAD funding.

3 Please note that this is -- this petition is  
4 not a request for discontinuance of any existing  
5 customers; therefore, there's no impact on any captive  
6 customers that still exist. Anyone who is captive can  
7 continue using their service. Additionally, given the  
8 availability and pricing -- price comparability of  
9 alternative services like satellite that can provide  
10 service to any location in Utah, the concept of "captive  
11 customer" is outdated.

12 Finally, CenturyLink has obtained relief from  
13 COLR obligations in six states, either through  
14 Commission order or legislative change, and seven  
15 additional states where CenturyLink sold its assets to  
16 Brightspeed. CenturyLink no longer has carrier of last  
17 resort obligations in Colorado, Florida, Iowa, Nevada,  
18 Wisconsin, or Wyoming. In each of those states, the  
19 public interest was not harmed by COLR relief, even  
20 though none of the states required that other providers  
21 be the COLR.

22 I was in a witness in the effective  
23 competition docket for Wyoming and in Minnesota where  
24 the Commission determined that CenturyLink's service had  
25 effective competition in 104 of 109 wire centers in

1 2017.

2 MS. SLAWSON: I'm going to object. I don't  
3 think that was in his original testimony.

4 MS. WAGNER: Would you like me to check for a  
5 cite to --

6 PRESIDING OFFICER: Yeah. I'd like a response  
7 from you to the objection.

8 MS. WAGNER: I believe it was referenced in  
9 his testimony two previous states where we received COLR  
10 relief.

11 PRESIDING OFFICER: You want to reframe your  
12 objection?

13 MS. SLAWSON: I object to the numbers that  
14 were just provided. Those were -- I do not believe  
15 those were in the testimony. So while there may have  
16 been COLR relief in other states, the numbers that he  
17 just referred to in his summary, I do not believe those  
18 were in the testimony.

19 (The Commission confers.)

20 PRESIDING OFFICER: Okay. I'm going to  
21 sustain URTA's objection.

22 Sir, the objections are based, as you can  
23 tell, on what has been previously provided. You will be  
24 subject to some questioning as well. So if you can keep  
25 it as much to your written submission beforehand, that

1 would be better for everybody. But thank you for  
2 continuing on.

3 A. In closing, this petition is about improving  
4 and modernizing the telecom industry regulations, which  
5 is undoubtedly in the public interest. And with the  
6 implementation of BEAD funding and Utah's Digital  
7 Connectivity Plan, it's clear that Utah residents are  
8 more interested in obtaining accents -- access to  
9 broadband than they are in traditional landline service.  
10 The Commission can take a step towards modernizing its  
11 rules by approving CenturyLink's request.

12 This concludes my summary.

13 MS. WAGNER: The witness is now available for  
14 cross-examination and questions from the Commissioners.

15 PRESIDING OFFICER: Thank you very much.  
16 For the Division, any cross-examination?

17 MR. GRECU: No questions for this witness.

18 PRESIDING OFFICER: Thank you. Mr. Moore, for  
19 the office?

20 MR. MOORE: We have just a few.

21 PRESIDING OFFICER: Please proceed.

22 CROSS-EXAMINATION

23 BY MR. MOORE:

24 Q. Good morning, Mr. Lubeck.

25 A. Good morning.

1 Q. What CenturyLink is seeking in this docket is  
2 relief from the obligation to serve new customers with  
3 landline voice service; isn't that correct?

4 A. Could you restate that? I'm sorry.

5 Q. What CenturyLink is seeking in your petition  
6 is relief from the obligation to serve new customers --

7 A. Correct.

8 Q. -- with landline voice service; isn't that  
9 correct?

10 A. Correct.

11 Q. May I direct your attention to page 6, line 7  
12 of your direct testimony?

13 A. I didn't bring the direct testimony with me.  
14 If you could say what it -- tell me what it says.

15 Q. Sure.

16 PRESIDING OFFICER: Wait one second.

17 Counsel, do you have a copy for your witness?

18 MS. WAGNER: I have an electronic copy.

19 MR. MOORE: I have a copy. I won't have a  
20 copy for my reference, but it may be easier to provide  
21 him with my copy.

22 Do we have an extra copy?

23 PRESIDING OFFICER: I mean, Mr. Moore, if  
24 you're not going to have a whole lot of questions on  
25 this, but I would like the witness to read exactly what



1 it is that you're proposing.

2 MR. MOORE: Yes. I'm going to ask -- oh, you  
3 have that? Thank you. I'm going to have more than a  
4 few.

5 PRESIDING OFFICER: Okay. Thank you. The  
6 record will -- the record appreciates it.

7 MR. MOORE: May I approach?

8 PRESIDING OFFICER: You may. Thank you.

9 Q. (BY MR. MOORE) And if you've forgotten,  
10 line -- page 6, line 7 of your direct testimony.

11 A. Yes, sir.

12 Q. You state that only 1.9 percent of Utah  
13 households use landline service only; is that true?

14 A. Correct.

15 Q. And on page 14, line 22 of your direct  
16 testimony --

17 A. Mm-hmm, yes.

18 Q. -- you state, "New customers entering the  
19 market are not purchasing landline service."

20 Did I read that correctly?

21 A. "Most new" -- yes. I would -- I would say the  
22 majority of new customers are not -- not purchasing  
23 landline service.

24 Q. Given this testimony, it follows that you are  
25 arguing the obligation that you want to be exempt from,

1 by which I mean providing new customers with landline  
2 voice service, do not impact any or only a few new  
3 customers; isn't that right?

4 A. It doesn't impact all of our -- all the --  
5 any -- or all the new locations because some new  
6 locations don't request voice. Most -- most don't.

7 Q. May I direct your attention back to page 14 of  
8 your direct testimony, line 21.

9 A. Yes.

10 Q. You testified, "CenturyLink cannot modernize  
11 if it's required to fund antiquated modes of service the  
12 majority of Utah citizens no longer use or want -- no  
13 longer want or use."

14 Did I read that correctly?

15 A. Yes.

16 Q. My question to you is which is it? Is  
17 Century's request based on the view that these service  
18 are significant enough to place a large financial burden  
19 on your Company, or is Century's request based on the  
20 assertion that no or only a few customers will be  
21 impacted, in which case there should be no large  
22 financial impact on the Company caused by providing  
23 these services?

24 A. The request is that while we are -- while in  
25 Utah we are an ETC, we have federal obligations to

1 provide service as well as Utah obligations to provide  
2 service, and for a national company, having two sets of  
3 obligations makes it extremely difficult across 16 or 18  
4 states. And what we would -- what we are requesting is  
5 that the Commission eliminate our COLR obligation so  
6 that we just have a federal obligation.

7 MR. MOORE: I didn't object, but I'm not sure  
8 that your response to that question didn't violate Rule  
9 408, I believe, of the Rules of Evidence because it  
10 related to settlement negotiations.

11 I'd ask Ms. Wagner if --

12 MS. WAGNER: I believe that federal ETC  
13 obligations -- I think it's covered in the rebuttal --  
14 I'm sorry -- surrebuttal testimony as well.

15 MR. MOORE: All right.

16 Q. (BY MR. MOORE) Now, I would ask you to turn  
17 to page 6 of your surrebuttal testimony, lines 4 to 7.

18 A. Yes.

19 Q. You testified that according to FCC data  
20 collection, there are 2,688 locations that CenturyLink  
21 exclusively serves; is that correct?

22 A. Yes.

23 Q. Accordingly, if your petition is granted,  
24 there would be 200 and -- 2,688 locations where new  
25 customers in the location would have no option for

1 CenturyLink for phone service. CenturyLink would not  
2 require them -- be required to serve them; isn't that  
3 correct?

4 A. No. The -- for those 2,600 plus locations,  
5 CenturyLink would still be serving them. If a new  
6 location was added later, five years from now,  
7 CenturyLink may not -- wouldn't be required under Utah  
8 to build to that location.

9 Q. But new customers -- therefore, you agree with  
10 me that new customers moving into these locations would  
11 have no option but CenturyLink?

12 A. Would have no option but CenturyLink?

13 Q. And CenturyLink would not be required to serve  
14 them?

15 A. CenturyLink would still be -- would have --  
16 would follow the same process that we follow today,  
17 which is new customers, wherever they are in our service  
18 area, would request service, and we would see -- we  
19 would review our plant records to see whether service is  
20 available at that address. If service is available, we  
21 would provide it. If it's not, we would provide a quote  
22 on how much it would cost to provide the service.

23 Q. But your petition -- and I believe the purpose  
24 of this docket -- is to relieve you from that legal  
25 obligation under state law; isn't that correct?

1 A. Yes, but we still have federal obligation.

2 Q. Then what is the purpose of your petition?

3 A. The purpose is just what I said before, to  
4 eliminate the Utah obligation so that we don't have  
5 duplicate obligations in every state.

6 Q. Directing your attention back to your  
7 surrebuttal testimony page 6, line 8 and 9, you stated,  
8 "Adding satellite service" -- I'm sorry.

9 A. Yes.

10 Q. You stated, "Adding satellite service to the  
11 data set" -- and that's the data set resulting in the  
12 2,688 capital locations -- "the FCC data shows that  
13 competition exists in every location in Utah."

14 Did I read that correctly?

15 A. Yes.

16 Q. Now, in your rebuttal testimony, page 2,  
17 line 15 to page 4, line 4.

18 A. Okay. Yes.

19 Q. There's a statutory analysis in this section  
20 concluding that satellite service constitutes  
21 functionally equivalent services to landline service as  
22 that term is used in Utah Code Section 54-8b-3(5)(b).  
23 I'm not asking about that analysis.

24 A. Okay.

25 Q. The lawyers in this case --

1 (Reporter clarification.)

2 Q. The lawyers in this case have had the  
3 opportunity to address the relevant statutory analysis  
4 and briefs; isn't that correct?

5 A. Yes.

6 Q. What I am going to ask you is that as an  
7 expert in the telecom industry, apart from any statutory  
8 context or any legal considerations, whether the common  
9 understanding in the telecom industry is that satellite  
10 service is a -- functionally equivalent to a landline  
11 voice service, taking into account pricing conditions of  
12 service?

13 A. Yes, it -- yes, it would be a functional  
14 equivalent.

15 Q. Are you aware that on page 13 of  
16 Mr. Meredith's direct testimony he states that  
17 CenturyLink offers a \$25 flat rate for basic local  
18 exchange service whereas Starlink, a satellite provider,  
19 charges a \$599 installation fee, a monthly service fee  
20 of 120 a month, excluding fees for VoIPs  
21 interconnection?

22 A. Yes, I'm aware of that, and he did pick out  
23 the most expensive satellite provider. Hughesnet, on  
24 the other hand, if you sign a --

25 MR. MOORE: Objection.

1           COMMISSIONER CLARK: What's the basis of the  
2 objection?

3           PRESIDING OFFICER: Yeah. Mr. Moore, what's  
4 the basis for your objection?

5           MR. MOORE: Basis of the objection is that  
6 it's -- it's not in his testimony. I don't think my  
7 question opened the door. I was asking about a specific  
8 satellite provider.

9           MS. WAGNER: If I can respond?

10          PRESIDING OFFICER: Yes, please.

11          MS. WAGNER: I would suggest that he did open  
12 the door by discussing satellite pricing.

13          PRESIDING OFFICER: The objection is  
14 overruled.

15          Please go ahead.

16          A. With a two-year agreement, Hughesnet offers  
17 service. No down -- no upfront cost. \$50 a month for  
18 broadband and \$10 a month for voice. And for eligible  
19 customers, they have the affordable connectivity program  
20 credit of \$30 a month. So they'd be offering voice and  
21 broadband for \$30 a month with no upfront cost. And  
22 CenturyLink offers voice service for \$31 a month.

23          Q. (BY MR. MOORE) Could I have you turn to  
24 page 2 of your surrebuttal, and I'd like you to read  
25 into the record the questions and answers beginning on

1 page 19 [sic] and ending on line 23, stopping at the  
2 period after the word "providers."

3 A. Starting on page -- on page 2, line 15?

4 Q. Starting on page 2, line 19 and ending on 23,  
5 stopping at the period after the word "providers."

6 A. Of my rebuttal testimony?

7 Q. Surrebuttal testimony.

8 A. I'm sorry. Surrebuttal.

9 I brought the wrong thing. I didn't -- I  
10 brought the brief instead of my surrebuttal testimony.  
11 I apologize. May I go to my --

12 PRESIDING OFFICER: Do you have it?

13 THE WITNESS: I think I do.

14 PRESIDING OFFICER: Please. Let's take a  
15 minute to see if you have it.

16 MS. WAGNER: Again, I do have an electronic  
17 copy if it's of any help.

18 THE WITNESS: I apologize.

19 PRESIDING OFFICER: That's okay. Do you not  
20 have a copy?

21 THE WITNESS: I don't have it with me. I left  
22 it in my room.

23 PRESIDING OFFICER: Okay. So, Ms. Wagner,  
24 you're offering to bring up your laptop and let him look  
25 at it?



1 MS. WAGNER: Unless there's any objections.

2 PRESIDING OFFICER: I will ask that. You are  
3 offering that?

4 MS. WAGNER: That is correct.

5 PRESIDING OFFICER: Any objections?

6 MR. LUBECK: No objection.

7 PRESIDING OFFICER: Mr. Grecu?

8 MR. GRECU: No objection.

9 PRESIDING OFFICER: Ms. Slawson?

10 MS. SLAWSON: No.

11 PRESIDING OFFICER: Okay.

12 A. "What appears to be the overarching concern of  
13 URTA? From his testimony, it appears the over-arching  
14 concern of Mr. Meredith and URTA is that a COLR is the  
15 only way that consumers will receive voice service."

16 Is that -- did you want me to add another  
17 sentence?

18 Q. (BY MR. MOORE) Could you read the next  
19 sentence?

20 A. "While this concern is already in Utah  
21 statute, this concern has been -- already been  
22 accomplished in CenturyLink areas by CenturyLink and  
23 multiple competitive providers."

24 Q. Thank you. Now, you testified that the  
25 concern that customers should have access to voice

1 service has been resolved, but we established if your  
2 petition is granted, there are, again, 2,688 locations  
3 where new customers moving to these locations have no  
4 legal right to obtain any phone service; isn't that  
5 true -- no state legal right to obtain phone service?

6 A. No, I don't think that -- that's accurate. I  
7 think what you said is they have no right in Utah to  
8 change competitors --

9 Q. No state right to obtaining phone service if  
10 they're new customers moving into captured locations.

11 A. I don't believe that that's what the rule  
12 anticipates. I believe the rule anticipates that no  
13 construction funding for new locations. If it's an  
14 existing location, I don't believe that that's part of  
15 what the rule -- it --

16 Q. You mentioned --

17 A. I'm not an attorney though but --

18 Q. You mentioned the rule. I'm talking about  
19 your petition.

20 A. Oh, in my petition. Yeah, that we don't have  
21 to -- that we don't have to construct to new locations?  
22 Or that we -- okay. Under Utah -- that we don't have to  
23 provide service to new -- new customers. Okay.

24 Q. And a new customer would be a customer moving  
25 into a location which is basically a captured location?

1 A. Yes. We would not have to under Utah law.

2 Q. Now, you testified that you would have to  
3 under the ETC designation?

4 A. Correct.

5 Q. And you testified the purpose of your  
6 petition, which I might add, is not in the petition, is  
7 to prevent you from having the burden of requiring with  
8 the state regulations as well as the federal  
9 regulations; isn't that true?

10 A. That's what I said, yes.

11 Q. Could you please delineate what extra burdens  
12 the state COLR regulations place on you that's not  
13 placed on you by the federal ETC regulations?

14 A. There -- it's not in my testimony or any of --  
15 any of my testimony, but in the -- when I -- as I  
16 reviewed the -- the different tariffs and catalogs of  
17 CenturyLink, there are a few additional services that it  
18 appears the Utah law requires, such as -- besides phone  
19 service and long distance service, there are private  
20 line services and ethernet in the Utah.

21 The private line services are very, very low  
22 speed, 64 kilobyte services that -- that have been in  
23 the tariff for a long time, and the ethernet service  
24 would be limited to a private network within Utah that  
25 doesn't connect outside of Utah or doesn't connect to

1 the internet.

2 Q. Are you suggesting that the COLR requirement  
3 in Utah requires ethernet services?

4 A. That's what witness Meredith said.

5 COMMISSIONER CLARK: This is Commissioner  
6 Clark. Could I just interject something? I just want  
7 to make sure, Mr. Lubeck, you understand that you're not  
8 restricted to material you covered in your testimony,  
9 your written testimony that was filed with us in  
10 answering the questions of counsel.

11 THE WITNESS: Thank you.

12 COMMISSIONER CLARK: You just provide whatever  
13 answer you think is -- is responsive to their questions.

14 THE WITNESS: Okay. Thank you very much. I  
15 appreciate that.

16 Q. (BY MR. MOORE) Now may I direct your  
17 attention to your rebuttal testimony page 7, line 4 to  
18 16 and ask you just to review that portion of your  
19 testimony.

20 A. Yes, sir.

21 Q. That section concerns a CenturyLink customer  
22 who's in a competitive wire center that had a long  
23 outage with CenturyLink service. During that outage,  
24 she contacted three competitive services listed in the  
25 FCC national broadband map at providing services to her

1 location, but none of these three services could provide  
2 any or adequate service; isn't that right?

3 A. I thought that one of the providers would --  
4 or that the providers would provide service, but she  
5 didn't determine that they were adequate or --

6 Q. To provide -- my memory -- and I have a copy  
7 of her declaration if we need to double check it -- is  
8 that two services were not available, and then a  
9 wireless service was inadequate due to dropped calls and  
10 bad -- bad connections and wasn't equivalent to landline  
11 service.

12 A. Okay. Yeah. My -- my recollection was that  
13 one of them was going to -- would provide service but  
14 with a charge, an upfront charge.

15 Q. Okay. Well, why don't we look at that  
16 affidavit, and that would be OCS Cross Exhibit Number 5.

17 (OCS's Cross Exhibit 5 introduced for  
18 examination.)

19 PRESIDING OFFICER: Mr. Moore, I'm not sure  
20 that the witness knows what that is. If you could --

21 THE WITNESS: I do.

22 PRESIDING OFFICER: Oh, you do? Okay. Okay.

23 Q. (BY MR. MOORE) Now, just to yourself, could  
24 you read paragraphs 9 to 13 on the second page of that  
25 declaration?

1           A.    Yes.  And I apologize.  I thought in  
2 paragraph 10 it said that they would extend but with a  
3 charge.  So I apologize for that.

4           Q.    No problem.  It's possible, then, that the FCC  
5 competitive choice designations could be incorrect in  
6 specific circumstances, like the circumstances that  
7 occurred with this customer?

8           A.    It's possible.  The FCC data continues to get  
9 better and better, and what they're doing now on mobile  
10 carriage is down to less than a third of a mile, closer  
11 to a quarter of a mile accuracy within that range.  For  
12 landline, it's a little bit larger than that.

13          Q.    But it's -- actually, it's more than possible  
14 because we know it occurred in this instance; isn't that  
15 true?

16          A.    It's -- it -- I don't -- I don't know  
17 personally what service would be adequate for this  
18 person.  So I -- it's hard for me to say.

19          Q.    All right.  But certainly the two that were  
20 not available at all --

21          A.    Yes, those --

22          Q.    -- that -- that they would be incorrect?

23          A.    I agree with that.

24          Q.    If the FCC data on competitive choice is  
25 incorrect, it means that there could be more than 2,688

1 captive locations in Utah; isn't that correct?

2 A. It's possible, but it's the best information  
3 that's available.

4 Q. Concerning this customer that we have been  
5 discussing, in your rebuttal testimony on page 7, lines  
6 14 to 15, you said, "It appears that alternative  
7 providers were available for this location, but the  
8 customer did not review all options"; correct?

9 A. Correct.

10 Q. Is it your testimony that all customers have  
11 knowledge and access to the FCC broadband map?

12 A. It -- that isn't my testimony. My testimony  
13 is that there are additional options that the customer  
14 didn't access, and so the question that we have before  
15 us isn't whether a customer knows that they have  
16 additional options. It's whether those options are  
17 available.

18 Q. The question I asked you is whether the  
19 customer knows -- whether you would expect customers  
20 to -- to know of the FCC broadband map?

21 A. In a competitive environment, it's -- it's up  
22 to the customer to find out, just like in buying any  
23 competitive service, you have to identify what you need  
24 and who can provide that service, and then you go find  
25 the service that you want, whether it's buying a car,

1 buying a -- buying food, buying anything that's  
2 particular to your needs.

3 Q. Are you aware that some of the providers  
4 require deposits to determine if they can provide  
5 services?

6 A. I'm not aware of that.

7 Q. Is it CenturyLink's position that a customer  
8 should pay as many deposits as is necessary to procure  
9 services, or do you think they should make requests  
10 sequentially even though working through each request  
11 would take weeks or longer?

12 A. Again, the -- the customer -- if the customer  
13 wants the best service for themselves, they have to  
14 identify what service they need and what they're willing  
15 to pay and who offers it.

16 Q. Are you aware that not all -- not all  
17 providers in the FCC broadband map offer a Lifeline  
18 subsidy?

19 A. Most do, but not all. I agree.

20 Q. Given what we went through, do you still  
21 believe that customers should be faulted for not  
22 contacting all providers in the FCC broadband map to  
23 locate competitive options?

24 A. No. Customers shouldn't be faulted. They're  
25 doing what they -- just what they have identified as



1 what they need to do. I'm just saying that in this --  
2 we're not talking about a specific customer and what  
3 alternatives they chose, whether or not the services are  
4 available.

5 Q. Changing topics now. Isn't it true that in  
6 several places in your testimony you state that  
7 CenturyLink does not receive state or federal funding to  
8 lessen the burden of your COLR obligations?

9 A. Correct.

10 Q. It's also true, isn't it, that as a  
11 non-rate-of-return COLR, you can apply for a one-time  
12 distribution from the UUSF under Utah Code  
13 54-8b-15(3)(d)?

14 A. Yes.

15 Q. I'm going to have a cross Exhibit -- OCS Cross  
16 Exhibit Number 2 handed to you.

17 (OCS's Exhibit Cross 2 introduced for  
18 examination.)

19 Q. (BY MR. MOORE) This is a copy of Section  
20 54-8b-15 with subsection 54-8b-15(3)(d), the provisions  
21 of one-time distribution from the USF highlighted.

22 A. Okay.

23 Q. Have you found the highlighted section?

24 A. I have.

25 Q. Now, throughout these proceedings you say that

1 COLR obligations are antiquated and that  
2 telecommunication should focus on broadband development;  
3 isn't that true?

4 A. Yes.

5 Q. May I direct your attention to  
6 54-8b-15(3)(d)(iii).

7 A. Yes.

8 Q. This provision provides for distributions  
9 through the U -- UUSF for broadband deployment; isn't  
10 that correct?

11 A. Yes.

12 Q. Do you know, other than CenturyLink, how many  
13 non-rate-of-return COLRs there are in Utah?

14 A. I do not.

15 Q. Would you be surprised to know that you're the  
16 only one?

17 A. No.

18 Q. Given that CenturyLink is the only  
19 non-rate-of-return COLR -- non-rate-of-return COLR, that  
20 means the one-time distribution provision applies only  
21 to CenturyLink; isn't that true?

22 A. I'm not -- I'm not sure about that. From  
23 reading this, it says -- it says, "The Commission shall  
24 use funds in the Utah public telecom service support  
25 fund," and then it goes through (a) through (d), and I

1 don't see in there where it's only for  
2 non-rate-of-return carriers.

3 Q. On page 2, subsection (d).

4 A. Oh, it says -- okay. So I -- so, yes, we  
5 could -- we could get the funding from there.

6 Q. Despite having a statutory provision that only  
7 applies to CenturyLink that allows for distribution of a  
8 broadband development, you have never applied for a  
9 distribution under this provision; isn't that correct?

10 A. That's my understanding. Yes. But once we  
11 build, even if we built using this, we would have to  
12 maintain it with our own funding, and building for a  
13 single customer in a rural area is very uneconomic to  
14 build or maintain.

15 Q. Could I direct your attention back to OCS  
16 Cross Exhibit 2?

17 A. Yes, yes.

18 Q. Isn't it true that Section 54-8b-15(3)(d)  
19 states that a one-time distribution may be used for the  
20 deployment and management of networks?

21 A. Yes.

22 Q. Will you agree to me that the term  
23 "management" means the one-time distribution can be used  
24 for more than just development or building of networks?

25 A. I'm not familiar with the background of this.

1 So I couldn't really say that that's -- that's what it's  
2 supposed to be. My understanding is it's a one-time  
3 distribution. And so CenturyLink would that I -- I  
4 would assume from reading that that it was for  
5 deployment purposes.

6 Q. But the statute says "deployment and  
7 management."

8 A. But it's a one time, not an ongoing -- not an  
9 ongoing distribution. I'm not aware that CenturyLink  
10 would -- if a -- let's say it costs \$10,000 to build.  
11 I'm not aware that CenturyLink would ask for \$30,000 to  
12 build and manage a network over multiple years. I --  
13 I'd have to let the attorneys answer that question.

14 Q. As for federal funding, isn't it true that  
15 CenturyLink participated in the RDOF reverse auction but  
16 was not awarded any funding?

17 A. We were not awarded any funding in Utah, yes.

18 Q. Given what we just covered on the availability  
19 funding, CenturyLink certainly had an opportunity to  
20 receive state and federal funding; isn't that true?

21 A. It would be state and federal -- it would be  
22 federal -- yes -- state funding for building network and  
23 federal funding for building and network, yes.

24 Q. Now, it's true that in your rebuttal testimony  
25 you discuss the availability of new BEAD funding?

1 A. Correct.

2 Q. In fact, on page 5, line 20-21 in your  
3 rebuttal testimony --

4 A. Yes.

5 Q. -- you stated, "The solution to addressing  
6 pockets of Utahns that may not have access to  
7 competitive options is to provide them with broadband  
8 equity moving forward."

9 The context of this statement demonstrates the  
10 term "broadband equity" refers to the BEAD program;  
11 isn't that right?

12 A. Correct.

13 Q. Now may I direct your attention to page 8 of  
14 your rebuttal testimony and have you read the question  
15 and answer which begins on page 8, line 19, and goes to  
16 page 9, ending on line 2 with a period after the word  
17 "challenge."

18 A. "How do you respond to OCS's contention that  
19 unless a substitute carrier of last resort is secured,  
20 disconnection through attrition will occur?"

21 "Again, captive customers that do not have any  
22 option for service other than the COLR are not losing  
23 any service under this proceeding. See OCS Anderson  
24 testimony 6, lines 116 to 118. Notwithstanding this,  
25 from a policy perspective, CenturyLink disagrees

1 fundamentally with OCS's position that a substitute COLR  
2 is needed. The BEAD Program -- not expanding COLR -- is  
3 the answer to modernizing the universal service  
4 challenge."

5 Q. Thank you. Now I'd like you to turn to  
6 page 13 of your rebuttal testimony.

7 A. Yes.

8 Q. I'd have you -- I'd have you read the question  
9 and answer on lines 9 to 12.

10 A. "How do you respond to URTA's concerns  
11 regarding when a current customer moves out of their  
12 location?"

13 "I reiterate my earlier statements that BEAD  
14 is the solution to connectivity concerns in 2024 rather  
15 than additional antiquated COLR obligations."

16 Q. It's true, then, that your testimony provides  
17 that the BEAD program solves most, if not all, the  
18 issues raised by the parties opposing your petition?

19 A. BEAD will solve most of them, yes.

20 Q. You say "will" because you're aware that the  
21 broadband -- that according to the Utah Broadband  
22 Center, the BEAD Program will not be completely  
23 operational until 2029?

24 A. Yes.

25 Q. Even assuming the BEAD program offers services

1 equivalent to voice landline service, given that the  
2 BEAD program is not fully operational until 2029, the  
3 BEAD program will not solve all issues raised by the  
4 parties opposing your application, will it?

5 A. Not instantly, no.

6 MR. MOORE: I have no further questions.  
7 Thank you very much, Mr. Lubeck.

8 PRESIDING OFFICER: Thank you, Mr. Moore.  
9 Ms. Slawson, cross-examination?

10 MS. SLAWSON: Yes.

11 THE WITNESS: Would you mind if I get my  
12 water?

13 PRESIDING OFFICER: No. Please.

14 MS. SLAWSON: Sorry. The angle is a little  
15 awkward for you. I apologize. I didn't design the  
16 room.

17 CROSS-EXAMINATION

18 BY MS. SLAWSON:

19 Q. Good morning, Mr. Lubeck.

20 A. Good morning.

21 Q. My name is Kira Slawson. I represent URTA.  
22 I'm going to jump around a little bit, but I want to  
23 start with that last BEAD situation, the line of  
24 questioning that Mr. Moore was just asking you about.

25 The BEAD program is the Broadband Equity,

1 Access, and Deployment Program; correct?

2 A. Yes.

3 Q. There's no voice service required under the  
4 BEAD program; is that correct?

5 A. That is correct.

6 Q. Do broadband subscriptions, by definition,  
7 provide access to the public switched network?

8 A. Broadband subscriptions do not, but there are  
9 a wealth of opportunities for residents to access a  
10 voice service that does.

11 Q. Right. You talked about one. You talked  
12 about Hughesnet that was an add-on service of an  
13 additional \$10. So the -- adding the voice element to a  
14 broadband connection requires you to subscribe to a  
15 interconnected VoIP provider; correct?

16 A. Yes.

17 Q. Going back to that Hughesnet thing while I'm  
18 there, you indicated it was \$50 for the broadband and  
19 then \$10 for the voice. That was a promotional rate,  
20 was it not?

21 A. For two years, yes.

22 Q. And after the end of the promotional period,  
23 do you know what the rate is for Hughesnet?

24 A. I do not.

25 Q. Would it surprise you to know that it was \$75



1 plus the \$10 add-on?

2 A. It's very possible.

3 Q. And so you indicated that was a two-year  
4 commitment; correct?

5 A. Yes.

6 Q. And would it surprise you to know that  
7 reviewing the fine print of the Hughesnet offer,  
8 identify that it's a two-year commitment but a 12-month  
9 promotional period?

10 A. It's possible.

11 Q. Okay. You've indicated in your testimony that  
12 CenturyLink is petitioning for statewide relief from the  
13 obligation to provide voice service to non-CenturyLink  
14 served customer locations; is that correct?

15 A. Yes.

16 Q. And you further state that CenturyLink can no  
17 longer bear the financial burden its state COLR  
18 obligations -- of its state COLR obligations; is that  
19 correct?

20 A. Yes.

21 Q. You testify here, I think, that the  
22 difference, when asked by Mr. Moore what was the  
23 difference between the state COLR obligation and the  
24 federal ETC obligation, I believe you said it was the  
25 provision of private line services and ethernet

1 services; is that correct?

2 A. I believe that's correct, yes.

3 Q. Okay. So you're saying that the provision of  
4 private line services and ethernet services is the  
5 financial burden that CenturyLink bears by its state  
6 COLR obligations?

7 A. No, that's not what I was suggesting. I was  
8 suggesting that those services would be in addition to  
9 what the federal obligation requires.

10 Q. And you've testified that even if you're  
11 granted relief from your state COLR obligations, you're  
12 going to continue to meet your federal ETC obligations;  
13 is that correct?

14 A. Correct.

15 Q. And those obligations -- I think we've touched  
16 on it here, but those obligations require you to provide  
17 all services that are supported by federal universal  
18 service, including voice service; correct?

19 A. Correct.

20 Q. And the FCC says that you have to provide  
21 those services whether or not you're getting any federal  
22 USF support for those services?

23 A. That is correct.

24 Q. So in reality, there's no financial burden  
25 that's lifted from CenturyLink by being relieved of its

1 state COLR obligations so long as it still has its  
2 federal ETC obligations; isn't that correct?

3 A. I think that, yes, that would be correct.

4 Q. Okay. And, in fact, you've testified that  
5 you're not discontinuing service to your current  
6 customers in the state of Utah; is that correct?

7 A. Correct.

8 Q. And so not being obligated to serve your  
9 customers is not going to save you any money if you're  
10 going to not stop serving those customers; is that  
11 correct?

12 A. Correct.

13 Q. You didn't provide any data regarding the  
14 financial burden associated with CenturyLink's COLR's  
15 obligation in your testimony, did you?

16 A. No, I did not.

17 Q. And the Commission has not ordered you -- and  
18 I mean "you," the Company, CenturyLink -- to upgrade  
19 your service as a result of its COLR obligations, has  
20 it?

21 A. Can you say that again, please?

22 Q. Yes. There's been no Commission order to  
23 CenturyLink saying something to the effect of "you have  
24 COLR obligations; so you need to upgrade service to  
25 these customers"?

1 A. No.

2 Q. Okay. And you testified that you have line  
3 extension provisions in your terms and conditions; is  
4 that correct?

5 A. Yes.

6 Q. And those line extension provisions establish  
7 that a customer will need to pay for a portion of the  
8 line extension before CenturyLink would be obligated to  
9 extend the line to that customer; is that correct?

10 A. Yes. But that doesn't cover the maintenance  
11 once the service is in effect.

12 Q. Right. But we talked about the one-time USF  
13 distribution, and I believe you went over the Office's  
14 Cross Exhibit Number 2 --

15 A. Yes.

16 Q. -- Section 54-8b-15(3)(d) allows you to, as a  
17 non-rate-of-return regulated carrier of last resort, you  
18 can have one-time funding for deployment and management  
19 of networks capable of providing access lines,  
20 connections, or broadband internet service; is that  
21 correct?

22 A. That's what it says, yes.

23 Q. Let me ask you this. Has the Commission ever  
24 ordered you to extend a line to a customer without  
25 charging a line extension fee?

1           A.    Not to my knowledge.

2           Q.    Incidentally, if you were to -- if you were to  
3 be granted your relief requested here and -- so that you  
4 did not have carrier of last resort obligations, you  
5 would no longer qualify for the one-time distributions;  
6 correct?

7           A.    Correct.

8           Q.    Okay. You mentioned in your testimony that  
9 the FCC has established a process for ILEC to  
10 petition -- I actually believe it was in the petition  
11 that you -- that CenturyLink indicated that the FCC has  
12 established a process for ILEC to petition for  
13 elimination of the equivalent federal COLR obligations  
14 in areas where competitors provide service using RDOF  
15 funding; is that correct?

16          A.    Yes.

17          Q.    Under -- under the RDOF program, the federal  
18 COLR obligations are only eliminated at the exact time  
19 that the COLR obligations are assumed by another  
20 carrier; is that correct?

21          A.    No, I don't believe that's correct.

22          Q.    You think that the RDOF -- you think that a  
23 carrier can be relieved of its federal carrier of last  
24 resort obligations under RDOF before another carrier has  
25 assumed those RDOF obligations?

1           A.     Under RDOF, I don't believe a customer -- I  
2 don't believe a provider was required to offer voice  
3 service.

4           Q.     And in preparing for your testimony here and  
5 for this hearing --

6           PRESIDING OFFICER:  Ms. Slawson, I'm sorry to  
7 interrupt your pace here, but can we get a definition or  
8 can we spell out RDOF --

9           MS. SLAWSON:  Oh, sorry.

10          PRESIDING OFFICER:  -- in the first instance,  
11 please, for the court reporter.

12          MS. SLAWSON:  It's the Rural Digital  
13 Opportunity Fund.

14          PRESIDING OFFICER:  Thank you.

15          MS. SLAWSON:  And it's RDOF.  Yes, that's  
16 right.  When I've been dictating, I've had that same  
17 problem.  So --

18          Q.     (BY MS. SLAWSON)  Did you have an opportunity  
19 to review the testimony of Douglas Meredith in this  
20 proceeding?

21          A.     I did, yes.

22          Q.     Okay.  Can you turn to -- can you turn to  
23 page -- do you have that testimony in front of you?  
24 Surrebuttal.

25          A.     Surrebuttal?  No, I do not.

1 Q. Okay. On page 11 of the surrebuttal  
2 testimony, Mr. Meredith says, "The new provider  
3 receiving Rural Digital Opportunity Funds support should  
4 be prepared to provide voice service throughout its  
5 service territories, even through its own facilities or  
6 a combination of its own facilities and other ETC  
7 facilities, on the first day of that month." And the  
8 citation for that is the FCC's Rural Digital Opportunity  
9 Fund, Report and Order, WC Docket 19-126 at  
10 paragraph 139.

11 Do you have any reason to dispute  
12 Mr. Meredith's testimony and surrebuttal?

13 A. No. I -- I apologize. I agree with that.  
14 That is the accurate wording.

15 Q. Okay.

16 A. It's -- it's --

17 Q. So even under what you've, in the petition,  
18 have identified as a relaxed standard for eliminating  
19 federal COLR obligations in the RDOF program, no area  
20 would be left without a federal COLR or ETC; is that  
21 correct?

22 A. Correct.

23 Q. The data you provided in the testimony to show  
24 effective competition is broadband data taken from the  
25 FCC's national broadband map; is that correct?

1 A. Yes.

2 Q. None of that data shows where voice service is  
3 provided; is that correct?

4 A. No, but wherever broadband service is  
5 provided, voice service would be available.

6 Q. Are you suggesting that every broadband  
7 provider provides interconnected VoIP to their  
8 customers?

9 A. Whether they provide it or not, VoIP service  
10 would be available.

11 Q. At an add-on cost?

12 A. At an add-on cost.

13 Q. In -- in your testimony, you indicate that  
14 CenturyLink has lost 87 percent of their access lines  
15 and has -- and so has retained 13 percent of the access  
16 lines. You say that demonstrates there is effective  
17 competition, but, in fact, it could also demonstrate  
18 that for 13 percent of the customers, there's no  
19 meaningful competition or choice for voice service; is  
20 that correct?

21 A. For some portion of them, they may not think  
22 that they have an available service, but just saying  
23 flat-out that 13 percent do not have -- is not -- I  
24 would not agree with that.

25 Q. But some portion of them may not have a



1 choice?

2 A. It's possible. We said that there was 2,600  
3 plus locations.

4 Q. Those were broadband locations; though?

5 A. Yes.

6 Q. Okay. Would you agree that the ability to  
7 serve a customer is not the same as an obligation to  
8 serve a customer?

9 A. Yes.

10 Q. And only a carrier of last resort in Utah has  
11 an obligation to actually serve a customer; is that  
12 correct?

13 A. No. A carrier -- an ETC would also be  
14 obligated to serve.

15 Q. And in Utah, all carriers of last resorts are  
16 federal ETCs; is that correct?

17 A. I don't know the answer to that.

18 Q. You have no reason to dispute that?

19 A. I just don't know if there are any carriers of  
20 last resort in Utah that are not also federal.

21 Q. Okay. In fact, one of the complaints that  
22 ILECs, such as CenturyLink, have made throughout the  
23 years is that competitive local exchange carriers get to  
24 cherrypick the customers. They get to come into areas  
25 and choose the customers they want to serve; is that

1 correct?

2 A. I have no reason to doubt that. I haven't  
3 seen that, but, yes, the competition begins in the  
4 central part of the city and then works its way out.

5 Q. So the customers -- the competitive  
6 exchange -- local exchange carriers -- they come in.  
7 They take the low-cost customers for the highest return.  
8 They leave the high-cost outlying customers with the  
9 lower return for the incumbent carrier of last resort to  
10 serve. Is that your experience?

11 A. Yes. That was the experience with competition  
12 going back to 1996. That's been changed somewhat with  
13 newer competitors.

14 Q. But it hasn't been changed by statute?

15 A. It has not been -- well, statute --

16 Q. In Utah.

17 A. Please ask me the question again. I'm sorry.

18 Q. Is there any statutory obligation for a  
19 competitive local exchange carrier to serve every  
20 carry -- every customer or class of customers that  
21 requests service in the local exchange?

22 A. No.

23 Q. You indicated in your petition that  
24 CenturyLink is hampered in its ability to continue to  
25 deploy broadband and other advanced services throughout

1 its markets, negatively impacting its customers and that  
2 it is not possible to both maintain a statewide network  
3 for traditional voice service and make the significant  
4 investments necessary to deploy new enhanced networks  
5 capable of providing high speed internet access.

6 Do you recall saying that in your testimony?

7 A. Yes.

8 Q. If CenturyLink is granted relief from its COLR  
9 obligations by this Commission, will CenturyLink commit  
10 to modernizing its facilities and providing high-speed  
11 access to the internet in its rural areas as a condition  
12 of that release?

13 MS. WAGNER: I'm going to object to that  
14 question. It's outside the scope of our petition.

15 MS. SLAWSON: You put it in your petition that  
16 you were going to -- that this is a requirement, that  
17 you are unable to modernize your -- your facilities  
18 because of these overly burdensome carrier of last  
19 resort obligations, which are exactly the same as the  
20 federal obligations, and I'm just asking that if you are  
21 relieved of that obligation, will you, in fact, commit  
22 to providing the services to rural Utah?

23 MS. WAGNER: The question is, as I heard it,  
24 are we willing to commit here on the record today that  
25 business strategy as moving forward.

1                   PRESIDING OFFICER: Yeah. I'm going to say  
2 that I -- I think it's a -- it's a relevant line of  
3 questioning, but I think to get a commitment from this  
4 witness is -- I don't think it's appropriate.

5                   If you would like to rephrase the question to  
6 get to the same point without a commitment, that would  
7 be completely appropriate, I think.

8                   MS. SLAWSON: I might come back to that. I  
9 need to noodle on that for just a minute. So I'm going  
10 to -- rather than waste everyone's time on it while I  
11 sit here staring at my paper, I'm going to move on to  
12 another question.

13                  Q.     (BY MS. SLAWSON) You say on page 2, line 21  
14 of your surrebuttal testimony that URTA is saying that a  
15 COLR is the only way that consumers will receive voice  
16 service. Isn't what URTA is actually saying is that the  
17 requiring a carrier of last resort in an area is the  
18 only way that consumers in that area will be guaranteed  
19 to be able to receive voice service?

20                  A.     No. I don't think, even with a COLR, anyone  
21 is guaranteed to receive voice service.

22                  Q.     They could receive voice service subject to  
23 line extension tariffs; correct?

24                  A.     Correct.

25                  Q.     Okay. You indicate on page 14 of your direct

1 testimony that CenturyLink cannot modernize if it is  
2 required to fund antiquated modes of service. Do you  
3 recall saying that in your testimony?

4 A. Yes.

5 Q. Is CenturyLink suggesting that the only way to  
6 satisfy its COLR obligations is with plain old telephone  
7 service?

8 A. No. But that is the -- what -- that's the  
9 type of services we have available in most rural  
10 locations.

11 Q. You could satisfy your COLR obligations with  
12 modernized fiber optic facilities; correct?

13 A. That's what CenturyLink would -- would  
14 suggest -- that's what CenturyLink says.

15 Q. Okay. On page -- and you -- and you could  
16 receive one-time USF distributions to help you modernize  
17 your facilities to fiber optic facilities; is that  
18 correct?

19 A. I don't believe we could modernize -- I don't  
20 know. I'd have to -- I'm not familiar enough with  
21 the -- how the rules were put together to know whether  
22 or not we could overbuild our own network with a  
23 one-time distribution.

24 Q. Okay. On page 14 of the CenturyLink petition,  
25 CenturyLink argues that the legislature has declared

1 that it is the policy of the state of Utah to allow  
2 flexible and reduced regulation and to facilitate the  
3 deployment of advanced services. Then CenturyLink  
4 quotes 54-8b-1.1. Do you recall that in the petition?

5 A. Yes.

6 Q. The quoted language in the petition begins  
7 with number three in the legislative list of policies.  
8 Isn't it true that the first policy declaration in  
9 54-8b-1.1 is to endeavor to achieve the universal  
10 service objectives of the state as set forth in Section  
11 54-8b-11?

12 A. I believe so.

13 Q. Okay. And number two in the list of  
14 legislative policies set forth in Section 54-8b-1.1 is  
15 to facilitate high quality affordable public  
16 telecommunication services to all residents and  
17 businesses in the state; is that correct?

18 A. Yes.

19 Q. Isn't it true that the only way to guarantee  
20 service to all residents and businesses of the state is  
21 to ensure that there is a carrier that is obligated, not  
22 available, but obligated to provide those services?

23 A. Again, I'll take -- take -- there's no -- no  
24 guarantee.

25 Q. But if -- if a customer or class of customers

1 requests service to a carrier -- from a carrier of last  
2 resort, the carrier of last resort is obligated to  
3 provide those services, subject, of course, to line  
4 extension fees; correct?

5 A. Yes. And CenturyLink will -- even if the  
6 Commission grants this, CenturyLink will still offer  
7 those line extension terms.

8 Q. Okay. But if a customer who is a current  
9 customer of CenturyLink moves out of a location,  
10 CenturyLink will no longer have an obligation to serve  
11 that customer, the new customer, at that location if  
12 they are -- if this petition is granted; is that  
13 correct?

14 A. It will not have an obligation -- or an  
15 obligation from Utah but still will have a federal  
16 obligation, yes.

17 Q. CenturyLink has stated that it needs relief  
18 from its COLR responsibilities to modernize its  
19 networks. Would it be reasonable for the Commission to  
20 require such modernization to its current rural  
21 customers as a condition of the COLR relief?

22 A. No, I don't believe so.

23 Q. Why not?

24 A. Because, number one, there's BEAD funding  
25 available that CenturyLink is reviewing where we

1     could -- where we could make applications within Utah,  
2     but the -- the -- the federal government has determined  
3     that providing new networks to -- to the entire country  
4     is not economic and won't happen without federal  
5     funding, and that's why BEAD happened, and so it's not a  
6     CenturyLink issue. It's not a Utah issue. It's a  
7     national issue to get broadband to all -- to all  
8     residents. And it -- it is not -- it's not something  
9     that the Utah Commission would put on a single carrier  
10    without providing funding necessary to do so.

11           Q.     Right. But if -- if the Commission -- if it  
12    were a condition of your COLR exemption, you would  
13    still -- you -- you wouldn't be available -- able to  
14    seek one-time USF funding because you would no longer be  
15    a COLR, but you could apply for the BEAD funding and use  
16    those funds to modernize your network. Although we've  
17    already established that the BEAD network has no voice  
18    requirement; is that correct?

19           A.     We could apply for it, but there's no  
20    guarantee that we would win it everywhere in our service  
21    areas in Utah.

22           Q.     So the COLR relief -- if I'm understanding you  
23    correctly -- the COLR relief is required. It's  
24    necessary to allow you to modernize your networks; is  
25    that correct? Is that --



1           A.    It will help us in modernizing our networks,  
2    yes.

3           Q.    How?  You'll be losing the ability to get Utah  
4    USF support.  So that funding source will go away.  How  
5    is that going to assist you in modernizing your network?

6           A.    Where our network -- for one, right now we  
7    are -- where we've already built fiber, we are  
8    maintaining two networks, and without COLR, we could  
9    request the customers that are still on copper to move  
10   to our -- our fiber network.  And then we could -- once  
11   they've moved to our fiber network, then we could  
12   eliminate the copper network.  We would still be  
13   providing service to those customers, just not over  
14   copper.

15          Q.    You are aware that fiber networks can carry  
16    voice traffic?

17          A.    Yes.

18          Q.    All right.  So you don't need to maintain two  
19    separate networks.  You could provide the same voice  
20    service that you're providing over the fiber network; is  
21    that correct?

22          A.    Not the -- we wouldn't be providing the same  
23    voice service.  It would be a voice over the internet  
24    protocol.

25          Q.    Functionally equivalent service?

1 A. Functionally equivalent, yes.

2 Q. Okay. And you also have COLR --

3 (Reporter clarification.)

4 Q. (BY MS. SLAWSON) COLR notwithstanding, you  
5 still have the obligation under the federal ETC program  
6 to provide voice service?

7 A. Yes.

8 Q. And it can be provided over fiber; correct?

9 A. Yes.

10 Q. Copper?

11 A. Yes.

12 Q. Okay. Are you aware of CenturyLink's  
13 obligation under Section 54-8b-2.3, when it was granted  
14 pricing flexibility, are you aware of CenturyLink's  
15 obligation to offer basic residential service throughout  
16 the area in which the incumbent telephone corporation is  
17 authorized by certificate to provide basic residential  
18 service?

19 A. Yes.

20 Q. CenturyLink -- in your testimony and in its  
21 petition, CenturyLink has not requested to be exempted  
22 from 54-8b-2.3, has it?

23 A. No.

24 Q. Okay. So you'll still have a state obligation  
25 to provide basic residential service; is that correct?

1           A.    I'm not an attorney, but it would appear as  
2 such.

3           MS. SLAWSON:  I have no other questions.  
4 Thanks.

5           PRESIDING OFFICER:  Thank you very much.  
6           Before we continue, I'd like to take a --  
7 let's take a break for --

8           COMMISSIONER CLARK:  Twenty till.

9           PRESIDING OFFICER:  Yeah.  Let's come back at  
10 20 minutes to by this clock, to step down, talk to  
11 counsel, whatever.  We'll be back in about 13 minutes.  
12 Okay?  We're in recess.

13                               (Recess taken from 10:27 to 10:40.)

14           PRESIDING OFFICER:  Okay.  Why don't we go  
15 back on.  Docket Number 23-049-01.  When we took a  
16 break, the URTA had completed its cross-examination.  So  
17 I will ask Ms. Wagner if you have any redirect  
18 questions.

19           MS. WAGNER:  I do.  Just a few.

20           PRESIDING OFFICER:  Please go ahead.

21                               REDIRECT EXAMINATION

22 BY MS. WAGNER:

23           Q.    Okay.  Mr. Lubeck, Mr. Moore asked if not all  
24 providers in FCC broadband offer Lifeline subsidies.  
25 Can you tell me a little about what providers in Utah do

1 receive those Lifeline subsidies?

2 A. Well, not all providers offer Lifeline. The  
3 ones that do range from free service to discounted  
4 service, like CenturyLink offers. And, in fact, in the  
5 FC -- in the Universal Service Administrative Company  
6 that -- that works on -- that does service on behalf  
7 of -- of the FCC -- in their report last June to -- or  
8 for the second quarter of last year, wireless providers  
9 receive 95 percent of the subsidies for Lifeline in  
10 Utah, and most of those providers, maybe not all, but  
11 most of them offer free service to Lifeline recipients,  
12 and that makes a huge difference between a reduction in  
13 cost to low-income people compared to free service.

14 And, secondly, frankly, life -- wireless  
15 providers offer something that CenturyLink can't, and  
16 that is mobility.

17 Q. Thank you. And a lot was said about funding  
18 and financial obligation. In reviewing the effective  
19 competition statute, can you tell me what it says, if  
20 anything, about the Commission looking at financial  
21 burden as a factor of effective competition?

22 A. It's not one of the specific factors that the  
23 Commission -- that the law deals with. Although the  
24 Commission can look at other factors, but that was --  
25 financial burden is more of a rate-of-return type issue,

1 and CenturyLink's no longer a rate-of-return provider.

2 Q. And in your opinion, what's -- what's more  
3 significant in considering what -- what factors are  
4 relevant to effective competition?

5 A. The factors -- the factor that's most --  
6 that's of most import -- that is most important would be  
7 where competition is and how -- how significantly has it  
8 overbuilt CenturyLink's surface.

9 Q. Okay. URTA asked whether broadband  
10 subscription provides access to the public switched  
11 telephone network. Can you explain a little bit about  
12 how voice service is available through broadband?

13 A. So when a broadband provider offers service,  
14 they're doing it through internet protocol, if they're  
15 offering the service through fiber, for example, or  
16 through the cable, and cable providers also offer  
17 service broadband over their network.

18 They offer voice over internet protocol, and  
19 that voice over internet protocol can connect to the  
20 public switched telephone network. So that means a call  
21 from a cable subscriber can go to a -- to a CenturyLink  
22 subscriber or a call from a wireless provider can get to  
23 a cable customer. And so the public switched telephone  
24 network is the term that's -- that's used historically,  
25 and as competition developed, other providers came in

1 with other types of networks, but they -- to connect to  
2 Century -- to connect to everybody, they use the term  
3 public switched telephone network.

4 Q. And in your opinion, is it common for  
5 broadband to be bundled with VoIP service?

6 A. It's common that the providers offer a VoIP  
7 service. In Utah, 70 -- almost 73 percent of households  
8 use wireless only. So all the customers that are not --  
9 all the providers that are not wireless are competing  
10 for that other 27 percent of the -- of the market.

11 Q. Thank you. URTA asked if COLR is the only way  
12 to guarantee service in Utah. Can you tell me a little  
13 bit about how COLR relief in other states played out?

14 A. So for the six states where we do not have  
15 COLR responsibilities, none of -- none of the other  
16 Public Service Commissions asked someone else to offer  
17 to be the COLR. They recognize that the COLR -- the  
18 COLR rules for an ETC provide the -- substantially the  
19 same obligations, and so they didn't require anyone else  
20 to be a COLR.

21 And over the -- it's been at least five years.  
22 It was five years ago in Wyoming and longer than that  
23 in -- it was 2022, I believe, in Colorado, and it was  
24 before that in Nevada. There's been no complaints that  
25 COLR isn't effective. If there was -- or that COLR

1 wasn't being provided. If there was, the FCC could open  
2 a docket to investigate, because as an ETC we're  
3 obligated to offer services.

4 Q. Okay. URTA also went through legislative  
5 policy declarations. The fourth policy declaration  
6 reads, "Legislature declares it the policy of this state  
7 to allow flexible and reduced regulation for  
8 telecommunication corporations and public  
9 telecommunication services as competition develops."

10 What do you believe is the significance of  
11 that policy?

12 A. I think the significance of that -- of that  
13 statement is that it's as competition develops. It's  
14 not as when provider has a hundred percent of the  
15 locations covered when -- against CenturyLink so that  
16 all locations are covered by some other provider, and  
17 it's not when CenturyLink loses all its customers. It's  
18 as competition develops, and we've been developing  
19 competition since 1996.

20 Q. And, finally, what percentage of  
21 competitive -- competitive market share do you believe  
22 shows effective competition and why?

23 A. In -- in Wyoming, they didn't have a  
24 specific -- they weren't talking specifically about  
25 competitive percentages, but in Minnesota, the effective

1 competition was set in -- in law as 50 percent. We  
2 offered 50 percent as a guideline in our application.

3 MS. WAGNER: Okay. I don't have anything  
4 further.

5 PRESIDING OFFICER: Thank you very much. Any  
6 limited recross from the Office?

7 MR. MOORE: Yes, just a couple questions.

8 RECCROSS-EXAMINATION

9 BY MR. MOORE:

10 Q. You mentioned states where you received COLR  
11 relief?

12 A. Yes.

13 Q. How many of those states did you receive  
14 relief through statutory changes, either in part or in  
15 whole?

16 A. In -- in my -- in my -- I don't -- I haven't  
17 reviewed each one, but my understanding is that even if  
18 a statute was involved, the -- they delegated the  
19 decision to the Commission. And so -- and in Utah, the  
20 statute has -- has been -- has delegated to the  
21 Commission that as competition develops, they should  
22 reduce regulation.

23 Q. Yes, but the commission has to -- whatever  
24 commission we're talking about -- has to follow the law?

25 A. Correct. And I don't believe we're asking for



1 anything that's above the law or different than the law.

2 Q. You said that the ETC says substantially the  
3 same obligations as the COLR relief in your redirect?

4 A. Yes.

5 Q. If you receive your relief from COLR, the Utah  
6 Commission will lose its jurisdiction over complaints  
7 with regards to requests for services. Is that your  
8 understanding?

9 MS. WAGNER: I'm going to object to that as  
10 outside the scope of my redirect.

11 MR. MOORE: He said that they were  
12 substantially the same and I'm --

13 MS. WAGNER: Correct. But your question is  
14 will -- will the Commission lose jurisdiction?

15 MR. MOORE: Well, they're not substantially  
16 the same if the Commission loses jurisdiction.

17 PRESIDING OFFICER: I think -- let me -- is  
18 the question "Do you know the answer to this question?"

19 MR. MOORE: Yes.

20 PRESIDING OFFICER: Okay. I'm going -- I'm  
21 going to allow that.

22 MS. WAGNER: Thank you.

23 A. I don't know, but in other states, the  
24 commissions -- depending on the statute, the commissions  
25 continue to -- are continuing to resolve complaints. I

1 don't know the statute in Utah, whether it -- whether  
2 the statute delegates that to the Commission.

3 Q. (BY MR. MOORE) All right. Thank you. One  
4 last question. If federal law changes and you're  
5 relieved from your COLR obligation, the assertion that  
6 the FCC ETC [sic] and the COLR obligation of the change  
7 could in the future be incorrect; isn't that true?

8 A. Could you ask that again, please.

9 Q. Yeah. Federal law can change. And if  
10 federal -- and if we relieve you from COLR today and  
11 federal law changes tomorrow, there may be problems with  
12 stranded customers or customers without the ability to  
13 have a telephone service required to offer services?  
14 It's a hypothetical question.

15 A. Hypothetically, there won't be any need for  
16 COLR once BEAD is done. So in five years and BEAD is  
17 built out fully, there would be no need for a COLR.

18 And so, in between, could -- could they  
19 change, anything is possible, but I don't -- the FCC has  
20 not, to my knowledge, ever even indicated a belief that  
21 they need to update their ETC requirements.

22 MR. MOORE: That's all I have. Thank you.

23 PRESIDING OFFICER: Thank you, Mr. Moore.

24 Ms. Slawson, any redirect?

25 MS. SLAWSON: I do have a little bit.

1                   PRESIDING OFFICER: Or recross. Pardon me.

2                                   RE CROSS-EXAMINATION

3 BY MS. SLAWSON:

4           Q.     Regarding the BEAD program, are you aware that  
5 the Broadband Advisory Center does not believe they will  
6 be able to fund projects that address underserved areas?  
7 We're not even going to be able to get through -- we're  
8 barely -- we couldn't get through the unserved areas  
9 with fiber. We're not even going to get to the  
10 underserved areas. Are you aware of that?

11                   MS. WAGNER: I'm going to object to that to  
12 the extent it calls for speculation.

13                   PRESIDING OFFICER: Well, I think the question  
14 is "does he know," and the answer is whether or not he  
15 knows. So I'm going to overrule that objection, subject  
16 to my understanding of that question.

17           A.     I'm not -- I don't know the specifics in Utah,  
18 but that does -- that has happened in other states, but  
19 the BEAD program specifically allows for other  
20 service -- other types of service, like satellite, to be  
21 provided to meet the obligations that the -- that Utah  
22 would have under BEAD. And even if in an underserved  
23 area, the -- that would mean the customers get at least  
24 25 meg of broadband, and that's -- that is more than  
25 adequate to provide VoIP service over.

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1 Q. (BY MS. SLAWSON) But, again, the BEAD program  
2 does not address voice service; correct?

3 A. It does not require voice service. I agree.

4 Q. And it is not going to be completed in Utah,  
5 to the extent that it is -- whatever that completion  
6 looks like, it's not going to be completed until 2029;  
7 correct?

8 A. That's when the carriers would be required to  
9 have it.

10 Q. You talked about other states and the -- the  
11 relief from COLR obligation. Did the other states that  
12 you -- where you received relief from your COLR  
13 obligation have state USF programs?

14 A. Yes. Wyoming has -- has one. Minnesota does  
15 not. Nevada does. Let's see. Wisconsin does. Iowa  
16 does not. I can't remember if I hit all the states.

17 Q. And did the other states have, as a condition  
18 of price flexibility, that CenturyLink offer services  
19 under state laws like we have in 54-8b-2.3?

20 A. I don't know the answer to that.

21 Q. Okay. You mentioned both in your -- you've  
22 said it twice here that the competition doesn't have to  
23 be complete, just has to be developing, but that's not  
24 in the statute 54-8b-3 where we find the exemption --  
25 what the Commission has to find in order to exempt you

1 from a provision in the Title 54; is that correct?

2 A. It's part of the same section of the law.

3 Q. It's part of the legislative policy

4 objections --

5 A. Yes.

6 Q. -- objectives; correct?

7 But the code which directs the Commission to  
8 grant exemption from Title 54 requires that the  
9 Commission find that there is competing -- that there is  
10 effective competition and that the exemption is in the  
11 public interest; correct?

12 A. Yes. And as -- as I --

13 Q. Hold on. There's -- you said yes. Just a  
14 follow-up there. And in Section 5 -- 54-8b-3,  
15 subsection (5)(b), when talking about competing  
16 telecommunication services, the code says they are  
17 functionally equivalent or substitutable. It doesn't  
18 say anything about development -- developing in that  
19 section, does it?

20 A. No, but it also doesn't say that the effective  
21 competition is 100 percent. It goes back to the policy  
22 of the -- of the state of Utah that, as competition  
23 develops, regulation should be relaxed.

24 Q. But it has to be substitutable. So if you're  
25 able to originate and terminate phone calls to the

1 public switched telephone network, an effective  
2 competitor must also allow you to originate and  
3 terminate telephone calls to the public switched  
4 network; is that correct?

5 A. That -- so to the extent that it -- that a  
6 competitor builds service, broadband service or voice  
7 service, yes, they would -- as a matter of marketing,  
8 they would make sure that they can connect to the public  
9 switched telephone network.

10 Q. But not all broadband internet access service  
11 providers are interconnected VoIP providers; is that  
12 correct?

13 A. The vast majority are, but I couldn't say that  
14 a hundred percent are, but even if they're not, there  
15 are other type -- there are other voice over internet  
16 providers that would be able to connect over the  
17 broadband network.

18 Q. You're talking about over the top -- what we  
19 call over-the-top providers; correct?

20 A. Yes.

21 Q. And you would pay an additional fee for that;  
22 correct?

23 A. Yes.

24 Q. Okay.

25 A. You'd pay an additional fee from CenturyLink

1 if you have broadband and voice.

2 Q. Right. So if somebody only wants voice and  
3 they don't want to pay for broadband internet access  
4 connection, if there's no carrier of last resort,  
5 they're not going to be able to get that voice service,  
6 are they? There's no guarantee?

7 A. They would still be able to get it. They'd  
8 have to decide whether they wanted to pay for broadband  
9 and voice.

10 Q. Okay. Are you aware of the recent rule  
11 adopted by this Commission regarding when -- when there  
12 are two carriers of last resort in an area?

13 A. I am not aware of that.

14 MS. SLAWSON: I don't have any other  
15 questions.

16 PRESIDING OFFICER: Thank you very much. I  
17 don't have any questions either, but the Commissioners  
18 may. So I will ask Commissioner Harvey, if you have any  
19 questions.

20 COMMISSIONER HARVEY: Yes.

21 EXAMINATION

22 BY COMMISSIONER HARVEY:

23 Q. Good morning, still.

24 A. Good morning. Yes.

25 Q. I want to understand what Qwest -- or

1 CenturyLink -- which do you prefer we use?

2 A. I know both. So either one is fine.

3 Q. The CPN -- CPCN is with Qwest; so we'll go  
4 with Qwest.

5 A. Okay.

6 Q. I want to understand what Qwest's thinking is  
7 as to what a utility without a carrier of last resort  
8 obligation, I guess, is, for lack of a better word.

9 A. Well, in -- in six states currently, we do not  
10 have that obligation, and we still offer the same  
11 services. We still have the line extension in each of  
12 them, and we still identify whether or not we can serve  
13 a customer in the same way.

14 The -- the carrier of last resort, as  
15 competition develops for wireless and for broadband, it  
16 changes -- and a COLR was a -- started off as a -- as  
17 something that carriers -- utility carriers had to do,  
18 not just -- not just telephone but water and gas and  
19 electric. As competition develops, those providers --  
20 our providers -- we don't think that we need to have a  
21 COLR exemption in order to provide -- or a COLR -- we  
22 need a COLR exemption, but we'll still provide service  
23 to as many as we economically can, and if the customers  
24 are willing to help us with that, we'll provide for even  
25 more.



1 Q. Okay. So aren't you essentially saying you'll  
2 be migrating to a CLEC status in terms of functional  
3 equivalent? Not functional equivalent in terms of the  
4 services --

5 A. Sure.

6 Q. -- but in terms of the two entities.

7 A. That's exactly what we've done in other  
8 states. In this state, we're just asking for exemption  
9 from one -- we would still be a carrier of the last  
10 resort regarding discontinuance of service. So we  
11 wouldn't be exactly like a CLEC in Utah, but in other  
12 states, that's exactly where we ended up because we're  
13 treated just like a CLEC.

14 Q. Going back to the CPCN, the certificate of  
15 public convenience and necessity, what services does  
16 that authorize Qwest to provide, in general, broad  
17 terms.

18 A. It allows us -- it's based on what we have  
19 requested, and I believe it's voice and long distance,  
20 intraLATA long distance service.

21 Q. Okay. So traditional telecommunication  
22 service?

23 A. Yes.

24 Q. Okay. And given the history that you've  
25 recounted on the stand of your experience, I'm assuming

1 that you can elaborate for me on the difference between  
2 a telecommunication service versus an information  
3 service?

4 A. That's a definition that the FCC has provided,  
5 and a telecom service right now is voice. Voice service  
6 does not include voice over internet protocol. That's  
7 considered by the FCC to be a -- an information service  
8 as well as broadband.

9 Q. So is there anything in Utah law that  
10 prohibits Qwest from offering any information services  
11 anywhere they want without even checking in with the  
12 Commission?

13 A. I'm not positive about that. Some -- some  
14 states require voice over internet provider to have a  
15 special designation or special -- I'm not sure if Utah  
16 does that -- a special registration.

17 Q. Okay.

18 A. For example, Nebraska does and Texas does.

19 Q. Okay. Would you be willing to accept, subject  
20 to check, or just my say so, that there aren't any  
21 restrictions with respect to information services?

22 A. I would be willing to accept that, yes.

23 Q. Okay. So in terms of Qwest's business plan,  
24 all of the modernizing of the network and any other  
25 services you wanted to offer as a result of that, you

1 could do without the Commission's permission?

2 A. I believe -- according to -- based on what you  
3 said, yes.

4 Q. Okay. Thank you. All right. I'd like to  
5 talk a little bit about POTS --

6 A. Okay.

7 Q. -- and PANS. So my understanding that the  
8 industry acronym means "plain old telephone service" for  
9 POTS and "pretty amazing new stuff" for PANS. Is that  
10 your understanding?

11 A. I'm not familiar with PANS, but I am familiar  
12 with POTS.

13 Q. That's what I heard 25 years ago when we were  
14 just starting down this path. Okay. So POTS and PANS.

15 POTS has unique capabilities with respect to  
16 certain types of equipment that customers might have  
17 used. Specifically, the deaf relay service has various  
18 types of equipment that require POTS to function  
19 correctly and certain medical devices also require a  
20 POTS line. Would you agree with that, or do you have  
21 information to dispute that?

22 A. While I agree those services can be provided  
23 over POTS, the FCC requires voice over internet  
24 providers to also offer TRS service, or the service for  
25 deaf and hard of hearing or blind people. So they -- in

1 order -- they would also be required to offer those  
2 services.

3 And in terms of health care, we -- I'm sure  
4 that -- we don't offer any of those kind of services,  
5 but I'm sure that some use it for that, but most -- when  
6 my wife had a medical need, it was all over a cellular  
7 network, not over a wire line. So there are  
8 alternatives available for each of those services.

9 Q. So your testimony would be that there are  
10 alternatives?

11 A. Yes.

12 Q. Okay. Let's see here. So your background --  
13 I understand from what you've said and you've written in  
14 the testimony is that you started your career as an  
15 accountant?

16 A. Yes.

17 Q. Became a CPA, showing a level of advancement  
18 there, and then that your time in the industry has -- I  
19 assume, has been in some type of either accounting or  
20 management function within the Company; is that correct?

21 A. That's how I started. After -- after the 1996  
22 act, I moved to a different -- away from accounting and  
23 I am -- and starting then, I negotiated interconnection  
24 agreements with CLEC and wireless providers. And then  
25 after I did that for ten years, I moved into more of a

1 regulatory position, and I've been doing state  
2 regulatory since 2015.

3 Q. Okay. Thank you. So my questions -- the next  
4 few have to do with the competition and what some of  
5 these very specific terms that have been used several  
6 times this morning mean. And to give you fair warning,  
7 I am an economist, and most of those terms are terms of  
8 art that economic -- economists -- typically those are  
9 involved in the regulation of antitrust and public  
10 economics have very specific meanings for. So I want to  
11 kind of compare what has been said with what my  
12 understanding of those meanings are.

13 So, first of all, for market share -- tell me  
14 if I've got this right. Your presentation has been  
15 that, at some point in time, Qwest had a certain number  
16 of lines. There's been a very significant decrease in  
17 the number. 87 percent was the number cited?

18 A. Yes.

19 Q. And that that is evidence that you lost market  
20 share?

21 A. Correct.

22 Q. Okay. I want to give an alternative way of  
23 thinking of market share and have you respond to it.

24 A. Okay.

25 Q. All right? One way of looking at market share

1 is to say what are the relevant products that still  
2 exist, and what percentage of the customers that are  
3 buying those relevant products does a particular company  
4 have.

5 Would you think that's a reasonable or  
6 unreasonable definition?

7 A. That's seems to fit with what I've -- what I  
8 understand, yes.

9 Q. Okay. So if one is looking at telephone  
10 service -- sorry -- telecommunications services and not  
11 information services, how many competitors would Qwest  
12 currently have in Utah in its service territories?

13 A. If you're looking at just telecommunication  
14 services, you would have, I believe, all of -- or many  
15 of the CLECs that offer -- because, basically, you're  
16 asking how many offer POTS or earlier generations of  
17 wireless service. So POTS would be many of the -- some  
18 of the CLECs, not all. And for wireless, it would be, I  
19 believe, before 4G or 5G. I'm not as familiar with  
20 wireless, but I know at some point they start using  
21 internet protocol for their voice services.

22 Q. Okay. And any -- do you have knowledge -- and  
23 saying "no" is certainly fine -- of how many lines or  
24 accounts would be in that type of a market?

25 A. I don't. Again, that's just a portion of the

1 market of competition that we face, but, no, I don't.

2 Q. Okay. And do you have any information about  
3 how many of those competitors that you just mentioned  
4 would be facility-based competitors versus resell  
5 competitors?

6 A. Well, all the wireless -- there are four --  
7 well, three now major wireless networks, and there  
8 are -- I don't know how many. There are a number of --  
9 of competitors who have their own networks primarily in  
10 urban areas in Utah.

11 Q. Okay.

12 A. I don't know how many.

13 Q. All right. Thank you. With respect to  
14 treatment of current customers versus future customers,  
15 a tenant that's often mentioned to me -- in dealing with  
16 regulation is that we treat similar customers, who we  
17 typically call a customer class, the same way, that we  
18 don't have different sets of regulations for people in  
19 similar circumstances.

20 A. Okay.

21 Q. What Qwest is proposing here is to say we're  
22 going to have a line between now and the past and now  
23 and the future in terms of what obligations they would  
24 have with respect to customers; is that correct? Or --  
25 or am I misunderstanding that?

1           A.    Well, if you're thinking about future, they're  
2 not customers today.  They're residents or future  
3 residents, and I've -- I've noted that -- well -- and so  
4 there's no way for us to plan on future customers and  
5 plan exactly where any future customer might build  
6 something or where we would have to provide services in  
7 the future.  And like I said, there's no requirement  
8 that they request service from us, if there are  
9 alternatives available, and most do have alternatives  
10 available.

11                 We have provided -- we do provide service to  
12 new locations, and we have -- we still would, according  
13 to our -- I think it's a catalog that we offer service  
14 under today, and we would continue to offer that service  
15 tomorrow.  We just wouldn't be required to under Utah  
16 law, but we would under federal law, federal rules.

17           Q.    So Qwest wouldn't -- I'm going to ask you  
18 about a price list in Utah.

19           A.    Okay.

20           Q.    Qwest is not -- let me rephrase this.

21                 According to what you know or understand,  
22 Qwest is not currently planning on changing the terms of  
23 its price lists with respect to what they would offer to  
24 customers, only changing it with respect to what the  
25 obligation is?



1           A.     That's my -- yes.  That's my understanding,  
2     and we -- that's exactly what we've done in the six  
3     states where we've gotten state COLR relief.

4           Q.     Okay.  There was a line of questioning earlier  
5     where they talked about private line and ethernet being  
6     in Qwest's tariff.  Is Qwest free at any time to propose  
7     revisions to its tariff?

8           A.     Yes.

9           COMMISSIONER HARVEY:  Okay.  All right.  
10    That's all the questions I have.  Thank you.

11           PRESIDING OFFICER:  Thank you, Commissioner  
12    Harvey.

13           Commissioner Clark?

14           COMMISSIONER CLARK:  No questions.  Thank you.

15           PRESIDING OFFICER:  Okay.  Well, thank you  
16    very much -- thank you very much, Mr. Lubeck.  You may  
17    step down.

18           THE WITNESS:  Thank you.

19           PRESIDING OFFICER:  Ms. Wagner, no further  
20    witnesses; correct?

21           MS. WAGNER:  Correct.

22           PRESIDING OFFICER:  Okay.  Thank you.

23           For the Division, would you like to call your  
24    first witness?

25           MR. GRECU:  Thank you.  The Division would

1 like to call Gary Smith.

2 PRESIDING OFFICER: Good morning, Mr. Smith.

3 MR. SMITH: Good morning.

4 PRESIDING OFFICER: Do you swear to tell the  
5 truth?

6 MR. SMITH: I do.

7 PRESIDING OFFICER: Thank you very much.

8 GARY SMITH

9 was sworn and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. GRECU:

12 Q. Mr. Smith, could you please state and spell  
13 your name for the record.

14 A. Gary Smith, G-a-r-y S-m-i-t-h.

15 Q. By whom are you employed, and what is your  
16 position?

17 A. I'm employed by the Utah Division of Public  
18 Utilities, and my position is utility technical  
19 consultant.

20 Q. And what is your business address?

21 A. It is 160 East 300 South, Salt Lake City,  
22 Utah.

23 Q. Can you provide a brief overview of your  
24 educational background and relevant experience?

25 A. Yes. I hold a bachelor's of economics and a

1 minor in French, and I've been employed with the  
2 Division since 2017.

3 Q. And have you participated in this docket on  
4 behalf of the Division?

5 A. I have, and I'm adopting the testimony of  
6 Ronald Slusher.

7 Q. Okay. So you reviewed the Company's  
8 application, exhibits, supporting testimony, and the  
9 responses to data requests?

10 A. Yes.

11 Q. And I think you said the Division filed the  
12 confidential direct testimony of Ronald Slusher, and so  
13 you've reviewed that testimony?

14 A. I have.

15 Q. And you adopt that as your own today?

16 A. I do.

17 Q. Do you have any changes or corrections to that  
18 testimony?

19 A. No.

20 MR. GRECU: At this point I'd like to move to  
21 admit the Division's confidential direct testimony of  
22 Ronald Slusher which was filed on October 19th, 2023.

23 PRESIDING OFFICER: Thank you very much.

24 Any objections to the motion?

25 MS. WAGNER: No objection.

1 MR. MOORE: No objection.

2 MS. SLAWSON: None.

3 PRESIDING OFFICER: Okay. Hearing "no  
4 objections" from everybody now, your motion is granted.

5 (DPU's prefiled testimony admitted into  
6 evidence.)

7 MR. GRECU: Thank you.

8 Q. (BY MR. GRECU) Mr. Smith, do you have a  
9 summary to share today?

10 A. I do.

11 Q. Please proceed.

12 A. Thank you. Good morning, Commissioners.  
13 Thank you for the opportunity to address Qwest  
14 Corporation's, doing business as CenturyLink or the  
15 Company, petition to exemption in whole or in part from  
16 its carrier of last resort or COLR obligation.

17 CenturyLink is seeking relief from its  
18 obligation to provide landline voice service in its  
19 designated service area because the Company is no longer  
20 receiving federal or state funding and believes it is  
21 subject to effective competition. CenturyLink clarified  
22 that it is seeking an exemption from new customer  
23 support and not petitioning to terminate service to  
24 existing customers.

25 As detailed in Utah Code 54-8b-15, and as

1 CenturyLink noted in this docket, it currently has  
2 access to state funding support through one-time Utah  
3 Universal Service Fund distributions. In a data request  
4 response to the Office of Consumer Services, CenturyLink  
5 confirmed that it has not applied for a one-time Utah  
6 Universal Service Fund distribution.

7 The Company also recognized that it has some  
8 financial relief in servicing new customers through its  
9 line-extension tariff by assigning customer  
10 responsibility for new service access. However, the  
11 expense of maintaining a new access line remains the  
12 responsibility of a COLR or carrier of last resort.  
13 CenturyLink stated that it should be exempted as the  
14 construction and maintenance expense dedicated to  
15 landline service requires the diversion of resources  
16 away from other projects.

17 In support of its petition, the Company  
18 provided publicly available historical facts to  
19 demonstrate the existence of competition in Utah.  
20 Although there are likely some areas where effective  
21 competition exists and where it would be likely in the  
22 public interest to provide CenturyLink an exemption from  
23 its COLR obligation, more information is still needed to  
24 evaluate and clearly identify these areas.

25 Section 54-b-3 [sic] requires a company

1 seeking an exemption to demonstrate it is subject to  
2 effective compensation and that the exemption is in the  
3 public interest. While some of what CenturyLink has  
4 filed provides evidence of the existence of competition,  
5 with CenturyLink's relatively low market share in some  
6 places, CenturyLink has not provided substantial  
7 evidence detailing the extent of statewide competition  
8 or the functional equivalence of alternative services  
9 for a sufficient or representative share of its  
10 territory to allow a statewide exemption.

11 The evidence submitted likewise does not  
12 provide enough location-specific evidence to grant the  
13 request for exemption for only a portion of its service  
14 territory. The Division does not recommend a statewide  
15 in whole exemption of CenturyLink's COLR obligation.

16 And this concludes my summary.

17 Q. I just had one follow-up for you. I believe  
18 you referenced Section 54-4b-3. Did you mean to  
19 reference 54-8b-3?

20 A. Yes.

21 Q. Okay. Thank you. I just wanted to clarify  
22 that.

23 MR. GRECU: The witness is now available for  
24 cross-examination and questions from the presiding  
25 officer and the Commissioners.

1                   PRESIDING OFFICER: Thank you very much.

2                   Mr. Moore, any cross-examination?

3                   MR. MOORE: No cross. Thank you.

4                   PRESIDING OFFICER: Ms. Slawson, any  
5 cross-examination?

6                   MS. SLAWSON: No cross.

7                   PRESIDING OFFICER: Ms. Wagner?

8                   MS. WAGNER: I have just a few.

9                   PRESIDING OFFICER: Please.

10   CROSS-EXAMINATION

11 BY MS. WAGNER:

12                   Q. Excuse me. Mr. Smith, at line 148 of DPU's  
13 direct testimony, DPU states, "There are likely areas  
14 where effective competition clearly exists that is  
15 likely in the public interest to provide CenturyLink an  
16 exemption in some areas and suggest CenturyLink provide  
17 additional data regarding competition."

18   On January 18th, CenturyLink supplemented its  
19 evidence to include an updated competitive presence by  
20 provider. That data was also attached to CenturyLink's  
21 surrebuttal testimony that has been entered into the  
22 record here today. That supplemental data source from  
23 the FCC shows the total number of voice locations in  
24 CenturyLink's wire centers as well as contrasting data  
25 that shows the number of locations being served by a

1 competitor within CenturyLink's wire centers.

2 If you include satellite providers such as  
3 Hughesnet, which Mr. Lubeck testified about earlier, do  
4 you have any data to contradict CenturyLink's evidence  
5 of a marketplace where 100 percent of locations are  
6 served by a competitor?

7 A. So as you had stated, that was -- the date of  
8 that was January 18th. The hearing was set for the  
9 31st. It didn't allow adequate time to sufficiently  
10 review that information. That information actually was  
11 mentioned, as you read, in Ronald Slusher's direct  
12 testimony, and subsequent DR requests did not provide  
13 anything further than what was established in the  
14 petition and subsequent testimony filings by the  
15 Company. And so we haven't had a chance to adequately  
16 review that.

17 Q. Okay. Thank you, Mr. Smith, but my question  
18 is do you have any data to contradict the evidence that  
19 we've put forward?

20 A. Data to contradict? We -- we don't have any  
21 data to contradict nor confirm at this time, I would  
22 say.

23 Q. Okay. And, alternately, if we exclude  
24 satellite --

25 (Reporter clarification.)



1 Q. If we exclude satellite from the analysis, the  
2 same question, do you have any data to contradict  
3 CenturyLink's evidence that, statewide, only one-third  
4 of a single percent of customers in CenturyLink's wire  
5 centers do not have an alternate provider?

6 A. We don't have any data to contradict or  
7 confirm.

8 MS. WAGNER: Thank you. That's all I have.

9 PRESIDING OFFICER: Thank you very much.  
10 Mr. Grecu, any limited redirect?

11 MR. GRECU: No redirect.

12 PRESIDING OFFICER: Okay. I don't have any  
13 questions for you, Mr. Smith, but the Commissioners may.

14 Commissioner Clark, any questions for  
15 Mr. Smith?

16 COMMISSIONER CLARK: No questions. Thank you.

17 PRESIDING OFFICER: Thank you.

18 Commissioner Harvey?

19 COMMISSIONER HARVEY: Just a few.

20 EXAMINATION

21 BY COMMISSIONER HARVEY:

22 Q. We can still say good morning. All right.  
23 Making great time.

24 Regarding the statement in Mr. Slusher's  
25 testimony that you've adopted that there does seem to be

1 competition in some places -- this is paraphrasing --  
2 some places in the state where removing the COLR  
3 obligation might be justified. You're familiar with  
4 that part of his testimony?

5 A. Yes.

6 Q. What type of information would the DPU want to  
7 see to make that type of a determination?

8 A. Well, obviously we need to understand what  
9 level of competition, what services are provided, and at  
10 a level that does not exclude some outliers that could  
11 be presented if the -- you know, if you take a broader  
12 and broader approach or look at it, it could possibly  
13 miss the purpose of what this is actually trying to do,  
14 and that is to serve those that can't adequately receive  
15 the service under question without some assistance from  
16 the Commission and the establishment of the COLR.

17 Did I answer that?

18 Q. I think you got a good start.

19 A. Okay.

20 Q. So are you saying it would be a household  
21 level data?

22 A. I don't know. You know, I don't know that it  
23 has to go that far. I realize that, you know, it might  
24 take an extra work on the Company to provide that. If  
25 we could get that, that would be great, and, you know,

1 we would evaluate it in that way, but it has to be at a  
2 level at least that we aren't missing a good portion  
3 of -- of the possible customers or the existing  
4 situation as it stands.

5 Q. Okay. What does the DPU, Division of Public  
6 Utilities, consider to be effective competition?

7 A. That's a good question. So the Company did  
8 mention what -- a 50 percent shares, something like  
9 that. I think it's just, you know, we have to look at  
10 the details of that. Is the competition really a full  
11 blown player in the market who can really support the  
12 way that the Commission would probably hope? So there  
13 would be some analysis on, you know, what the -- who the  
14 company is, what they're proposing, and what they're  
15 doing, that kind of thing, to see if it's effective  
16 enough to -- to replace possibly what CenturyLink is  
17 asking to repeal.

18 Q. Okay. There's been a lot of discussion about  
19 voice services, including POTS versus VoIP, V-o-I-P, and  
20 broadband services. Which of those would the DPU  
21 consider relevant for this analysis?

22 A. As -- as has been brought up in -- so far at  
23 this hearing, there are possible services that require  
24 potentially the landed line service. If -- if it's  
25 shown that those would adequately be served, I think

1 looking at these other options are viable, assuming that  
2 it meets the criterias spelled out, with it being cost  
3 and availability and usability and those factors taken  
4 into consideration. So I would say that anything  
5 that -- that you mentioned, if it fit those things and  
6 according to the code that's set out, we would probably  
7 review as acceptable.

8 Q. And regarding those types of equipment that  
9 you just mentioned, the testimony of Qwest's witness was  
10 that there were alternatives available to using those  
11 equipments on the POT. Does DPU have any information  
12 either supporting that or contesting that?

13 A. We do not.

14 COMMISSIONER HARVEY: Okay. Thank you.  
15 That's all the questions.

16 PRESIDING OFFICER: Okay. Thank you very  
17 much. You may step down.

18 Mr. Moore, would you like to call your  
19 witness? Well -- excuse me.

20 Mr. Grecu, no further witnesses; correct?

21 MR. GRECU: Correct.

22 PRESIDING OFFICER: Okay. Thank you.

23 Mr. Moore, sorry.

24 MR. MOORE: Yes. Thank you. The Office of  
25 Consumer Services calls Alyson Anderson to the stand and

1 asks that she be sworn.

2 PRESIDING OFFICER: Thank you.

3 Good morning, Mrs. Anderson -- Ms. Anderson.

4 Do you swear to tell the truth?

5 MS. ANDERSON: I do.

6 PRESIDING OFFICER: Thank you very much.

7 ALYSON ANDERSON

8 was sworn and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. MOORE:

11 Q. Could you please state your name for the  
12 record and state your occupation and business address.

13 A. My name is Alyson Anderson, and I am a utility  
14 analyst for the Office of Consumer Services. Our  
15 address is 160 East 300 South, Salt Lake City, Utah.

16 Q. In your capacity as a utility analyst, have  
17 you reviewed the petition and the other filings in this  
18 docket?

19 A. I did.

20 Q. Did you prepare and cause to be filed direct  
21 testimony together with a confidential exhibit in this  
22 docket on October 19th, 2023?

23 A. Yes.

24 Q. Did you prepare and cause to be filed  
25 surrebuttal testimony together with a confidential

1 exhibit in this docket on January 24th, 2024?

2 A. I did.

3 Q. Do you have any changes you'd like to make to  
4 this testimony at this time?

5 A. Yes, I do. I have one change to my direct  
6 testimony. On page 2 of my direct at line 40, it  
7 states, "Utah Code Section 54-8b-3(5) outlines" -- I  
8 would like to delete "the criteria." So then it would  
9 say, "The PSC should consider" and then insert "all  
10 relative factors when determining if CenturyLink is  
11 subject to competition." And then add, "These may  
12 include." So add the word "may."

13 Q. Apart from that change, if I asked you the  
14 same questions as in your written testimony, would your  
15 answers be the same?

16 A. It would.

17 COMMISSIONER CLARK: Could you just read the  
18 way you'd like it to read?

19 THE WITNESS: Yes. Sorry. Utah Code -- at  
20 line 40, "Utah Code Section 54-8b-3(5) outlines the PSC  
21 should consider all relevant factors when determining if  
22 CenturyLink is subject effective competition. These may  
23 include --"

24 COMMISSIONER CLARK: Thanks.

25 Q. (BY MR. MOORE) Do you adopt your written

1 testimony as your testimony in this docket today?

2 A. I do.

3 MR. MOORE: At this point the OCS would like  
4 to move for admission of the January 24th, 2024,  
5 testimony and confidential exhibit and the October 19th,  
6 2023, confidential direct testimony together with the  
7 confidential exhibit.

8 PRESIDING OFFICER: Thank you very much.

9 Any objection?

10 MR. GRECU: No objection.

11 MS. WAGNER: No objection.

12 MS. SLAWSON: No.

13 PRESIDING OFFICER: Hearing no objection, your  
14 motion is granted.

15 (OCS's prefiled testimony with attached  
16 exhibits admitted into evidence.)

17 Q. (BY MR. MOORE) Have you prepared a summary of  
18 the OCS's position in this docket?

19 A. I have.

20 Q. Please proceed.

21 A. Good morning. My testimony provides the OCS's  
22 recommendation regarding CenturyLink's petition for  
23 statewide exemption from carrier of last resort  
24 obligations. CenturyLink requested an exemption, either  
25 in whole or in part, from Utah's COLR obligation that

1 requires CenturyLink to provide public voice  
2 telecommunication service to any customer that requests  
3 service within its local exchange. The PSC may grant  
4 the exemption if it determines that CenturyLink is  
5 subject to effective competition and that the exemption  
6 is in the public interest.

7 In its petition and testimony, CenturyLink  
8 stated that it is subject to effective competition in  
9 all of its Utah wire centers. In my testimony, I  
10 express concern -- the OCS's concern over the effect of  
11 an exemption from COLR obligations on individual or  
12 pockets of captive customers that cannot access  
13 competitive services within a CenturyLink wire center.

14 If a current CenturyLink customer transfers  
15 ownership of an existing location, the new owner would  
16 be considered a new customer, and without the COLR  
17 obligation, CenturyLink would not have to serve this  
18 customer. This is especially concerning for captive  
19 locations without the competitive options available  
20 within a wire center.

21 Additionally, not all competitive providers  
22 identified by CenturyLink in Utah provide service that  
23 is reasonably available at comparable prices, terms,  
24 quality, and conditions, and cannot be considered  
25 effective competition. CenturyLink has not addressed



1 these concerns, which means they have not met their  
2 burden of proof, and until there is some protection for  
3 customers without competitive choice, the OCS recommends  
4 the PSC deny CenturyLink's petition.

5 This concludes my summary.

6 MR. MOORE: Ms. Anderson is available for  
7 cross and questions from the Commission and the  
8 presiding officer.

9 PRESIDING OFFICER: Thank you very much.

10 Mr. Grecu, any cross-examination for this  
11 witness?

12 MR. GRECU: No questions.

13 PRESIDING OFFICER: Ms. Slawson?

14 MS. SLAWSON: No questions.

15 PRESIDING OFFICER: Ms. Wagner?

16 MS. WAGNER: Just a few.

17 PRESIDING OFFICER: Please.

18 CROSS-EXAMINATION

19 BY MS. WAGNER:

20 Q. Ms. Anderson, in your October 19th direct  
21 testimony, beginning at line 52, you state that  
22 "CenturyLink testimony and exhibits seem to show the  
23 existence of competition in most of the wire centers  
24 through a decline in CenturyLink market share, as well  
25 as a general decline in traditional landline service

1 throughout Utah," and that you do agree with CenturyLink  
2 that many customers have chosen competing services that  
3 are available and comparable -- that are comparable in  
4 terms of price.

5 I realize that you are not an attorney, but in  
6 formulating the opinions held in your testimony, did you  
7 review the effective competition statute?

8 A. Yes.

9 Q. And did you see anything in that statute  
10 setting an objective and concrete threshold, for  
11 instance, requiring X percentage of competitive service  
12 to establish effective competition?

13 A. No.

14 Q. Is it fair to say that in choosing not to set  
15 an exact threshold for what constitutes effective  
16 competition, Utah legislature left open the possibility  
17 that effective competition may not require a full  
18 100 percent market saturation?

19 MR. MOORE: I'm going to object at this point.  
20 She's talking about the interpretation of statutes.  
21 This is a legal question. She's not a qualified to  
22 answer.

23 PRESIDING OFFICER: Response?

24 MS. WAGNER: I would respond I do understand  
25 she's not an attorney, but in her testimony here she's

1 interpreting whether or not there's effective  
2 competition under the statute.

3 (The Commission confers.)

4 PRESIDING OFFICER: So I'm going to -- I'm  
5 going to grant the objection, but I'm going to ask you  
6 to rephrase it because I understand what you're trying  
7 to get at, but what I heard you ask her is what the  
8 legislature meant, and she doesn't know what the  
9 legislature meant, but perhaps she has an opinion about  
10 what you want her to opine about.

11 MS. WAGNER: Okay.

12 Q. (BY MS. WAGNER) In -- in reviewing the  
13 effective competition statute, would you agree that  
14 there is no requirement that a full 100 percent market  
15 saturation be present to define effective competition?

16 MR. MOORE: Same objection. I -- I think she  
17 could restate it to take the statute out of it, but  
18 she's still asking her to interpret the statute rather  
19 than say what she believes effective competition is.

20 PRESIDING OFFICER: Well, I'm going to  
21 overrule the objection because I think it's -- there's  
22 foundation that she's not asking this as a legal  
23 question, and I think there's foundation that's  
24 established that this was the baseline from which  
25 Ms. Anderson drew her conclusions, and so to the extent

1 she can answer as it relates to her conclusions that  
2 were drawn as a non-lawyer based on what happens to be a  
3 legal device, I think that's appropriate.

4 So, please, if you would like it reread --

5 THE WITNESS: Yes, please.

6 Q. (BY MS. WAGNER) Or I can just summarize.  
7 What I'm trying to get at is there anything in the  
8 statute that you reviewed in preparing your testimony  
9 that requires a 100 percent market saturation rate to  
10 show effective competition?

11 A. No, there is nothing in the statute.

12 Q. Thank you. Similarly, are you familiar with  
13 the legislative policy declarations portion of this  
14 chapter? And I understand, again, you're not an  
15 attorney.

16 A. It's been a while, but, generally, yes.

17 Q. Okay. The portion I referred to earlier today  
18 states that the legislature has declared one of the  
19 policies to allow flexible and reduced regulation for  
20 telecom corporation as competition develops. So,  
21 similarly here, would you agree there's not a  
22 requirement to reduce regulation when competition fully  
23 develops?

24 A. Yeah, but that quote that you just read me  
25 said something about pricing. Is that --

1 Q. No, ma'am. Not this particular section.

2 A. Can you read that again, then? Thank you.

3 Sorry.

4 Q. That's okay. The legislature has declared one  
5 of the policies of the state to allow flexible and  
6 reduced regulation for telecom corporations, quote, "as  
7 competition develops."

8 A. And so the question was --

9 Q. And then my question is, is the -- the thought  
10 process behind this is not when competition "is" fully  
11 developed, it is "as" competition develops; correct?

12 A. Correct.

13 Q. Okay. And your testimony also references  
14 CenturyLink's market share. In looking at the  
15 marketplace, CenturyLink has submitted evidence that  
16 only 1.9 percent of Utah residents rely on landline as  
17 their only voice service.

18 Do you have any reason to dispute that data  
19 point?

20 A. I don't have any data that can confirm it or  
21 contract it -- contrast it.

22 Q. Do you dispute that data point?

23 A. No.

24 Q. Thank you. Similarly, CenturyLink submitted  
25 evidence that of all voice connections in Utah,

1 CenturyLink's share of those connections is only  
2 3.2 percent of the whole market, while mobile is nearly  
3 80 percent, and VoIP is another 15 percent of the voice  
4 market. Again, do you have any reason to dispute that  
5 data point?

6 A. No.

7 Q. Okay. So that is kind of the big picture,  
8 voice market in Utah. And in your surrebuttal around  
9 line 111, you stated a concern that CenturyLink had not  
10 met the burden of proof that competition exists for all  
11 captive customers.

12 So if we zoom in and get a little more  
13 granular, on January 18th, CenturyLink also submitted  
14 supplemental data sourced from the FCC that shows the  
15 total number of voice locations in all CenturyLink's  
16 wire centers, as well as contrasting data that shows the  
17 number of locations being served by competitor within  
18 CenturyLink's wire center.

19 Have you reviewed any of those documents?

20 A. I have, but, like Mr. Smith mentioned, we  
21 received those on the 18th of January. The OCS does not  
22 have the resources that a lot of agencies do, and so I  
23 was otherwise engaged in other dockets and hearings at  
24 that time. So --

25 Q. Okay. So -- and I appreciate that. So let's

1 just go off whatever recollection you have of those.

2 If you include satellite providers, such as  
3 Hughesnet, which Mr. Lubeck testified about earlier, do  
4 you have any data to contradict CenturyLink's evidence  
5 of a marketplace where 100 percent of location are  
6 served by a competitor?

7 A. Well, I have the declaration of a customer  
8 that said that they couldn't access certain things. So  
9 I guess maybe that is contradictory to what CenturyLink  
10 is putting forward. I don't have anything specific  
11 like, you know, the Hughesnet information that he gave  
12 today, no.

13 Q. Okay. Thank you. And did that customer reach  
14 out to any satellite providers?

15 A. She didn't. She did mention that she reached  
16 out to Satellite TV. Presumably they would be similar  
17 in their ability to serve and was told they would not be  
18 able to serve her because of her location.

19 Q. Okay. Alternatively, if we exclude satellite  
20 from the analysis, do you have any data to contradict  
21 CenturyLink's evidence that, statewide, only one-third  
22 of a single percent of customers in CenturyLink's wire  
23 centers do not have an alternate provider?

24 A. I do not.

25 Q. Would you agree that's a very small portion of

1 the population?

2 A. I would agree that that's a small percent,  
3 yes.

4 Q. And would you agree that we've already  
5 established there's no requirement for 100 percent  
6 market saturation within the effective competition  
7 statute?

8 A. I also would say that, you know, in 2024,  
9 there should be no circumstance where someone does not  
10 have access to adequate telecommunication service.

11 Q. Thank you. And my question was would you  
12 agree that we've established there's not a 100 percent  
13 market saturation requirement within the effective  
14 competition statute?

15 A. Yeah.

16 MS. WAGNER: I think that's all I have. Thank  
17 you.

18 PRESIDING OFFICER: Thank you very much.

19 Mr. Moore, any redirect?

20 MR. MOORE: Just briefly.

21 PRESIDING OFFICER: Please.

22 REDIRECT EXAMINATION

23 BY MR. MOORE:

24 Q. In the effective competition statute that was  
25 mentioned, is there any -- do you know -- is there any



1 requirement that there's some lesser degree than 100  
2 percent which constitutes effective competition, or is  
3 there anything in the statute regarding the amount of  
4 market participation to establish effective competition?

5 A. No. I don't think it addresses any kind of a  
6 threshold for effective competition. And Ms. Wagner was  
7 asking me about the portion of my testimony where I was  
8 acknowledging that CenturyLink had indicated that  
9 50 percent was a threshold, and I -- I questioned that.

10 MR. MOORE: That's all I have.

11 PRESIDING OFFICER: Okay. Thank you very  
12 much.

13 Commissioner Harvey, any questions?

14 COMMISSIONER HARVEY: Yes.

15 EXAMINATION

16 BY COMMISSIONER HARVEY:

17 Q. Still good morning.

18 A. Yes. Barely.

19 Q. Barely. Yes. All right. In the statute that  
20 you were just being asked about, the phrase "effective  
21 competition" is used. As I had mentioned in an earlier  
22 line of questioning, that is a term of art in economics.

23 What is the OCS's position on what constitutes  
24 effective competition?

25 A. Well, I don't know that we've sat down and

1 discussed, you know, a magic number. Our big concern is  
2 just that there are, albeit maybe a small percentage,  
3 but there are customers out there that do not have the  
4 options, and it's very concerning that the Company wants  
5 to be relieved of that obligation to serve those  
6 customers.

7 Q. Okay. With respect to those individuals or  
8 pockets of customers -- I think that's the terminology  
9 you used in your summary?

10 A. Right.

11 Q. How -- how would the OCS recommend the  
12 Commission go about -- and this will be a two-part  
13 question -- evaluating the record in this proceeding to  
14 get at whether there are pockets where there isn't  
15 effective competition? I'll start with that.

16 A. How --

17 Q. So --

18 A. I'm not sure exactly what you're saying.

19 Q. Okay. Let me try to rephrase it in a better  
20 way.

21 The Commission is being asked, in terms of the  
22 agency action request, to grant relief from COLR  
23 obligations on the basis that there's effective  
24 competition, and that effective competition includes all  
25 these other terms we've been talking about in terms of

1 comparable and equivalent and et cetera, et cetera.

2 I'm just wondering if the OCS has an opinion  
3 about how to look at the record that's before us and  
4 determine whether or not there are these pockets of  
5 areas where there -- that shouldn't be granted.

6 A. Well, I think that you're probably going to  
7 have to rely on the Company to provide that information  
8 for us, and I believe that Mr. Lubeck identified the --  
9 some locations in his surrebuttal testimony that  
10 indicated that those were captive locations that are  
11 currently served by CenturyLink. So that would be one  
12 way.

13 Q. So the OCS's position or testimony would be  
14 that that analysis has effectively been done by the fact  
15 that there's this identified number already? This 2,866  
16 captive customers --

17 A. Yeah. And I don't even -- I don't know, and  
18 the OCS does not know if that is a definitive --

19 Q. Okay.

20 A. -- number. That's the only number that's been  
21 put into the record.

22 Q. I guess what I'm trying to understand is --  
23 not trying -- not trying to say whether that's the  
24 actual or there's more --

25 A. Right.

1 Q. -- but is that sufficient in the OCS's term to  
2 say no?

3 A. To say no?

4 Q. To the agency action request.

5 A. Yeah. I think that -- maybe I'm unreasonable,  
6 but I believe that one person without access to the  
7 options, the competitive options, is enough.

8 Q. Okay. The petition itself asked for a -- and  
9 I'm paraphrasing, a removal of the obligation in whole  
10 or in part.

11 A. Right.

12 Q. Does the OCS have any opinion on the "in part"  
13 aspect of that? Is there an analysis they would  
14 recommend or evaluate what parts might be acceptable?

15 A. Yeah. I think maybe that would get back to  
16 the captive locations or in the case of our customer  
17 that we submitted the declaration, you know, those  
18 individuals that don't have the choice. Then if there  
19 was some sort of combination where they could be  
20 relieved of it in other places where there is effective  
21 competition and then still have that obligation in those  
22 locations. How we determine that, I'm not completely  
23 sure of.

24 Q. Okay. Does the OCS consider satellite  
25 services to be a comparable service to telecommunication

1 service?

2 A. I do not.

3 Q. Does the OCS consider standalone broadband a  
4 comparable service to telecommunication service?

5 A. I do not.

6 COMMISSIONER HARVEY: All right. That's all  
7 the questions I have. Thank you.

8 PRESIDING OFFICER: Thank you, Commissioner  
9 Harvey.

10 Commissioner Clark?

11 EXAMINATION

12 BY COMMISSIONER CLARK:

13 Q. I just have a question or two.

14 A. Okay.

15 Q. We're to consider in evaluating the petition  
16 for exemption from COLR obligations whether the service  
17 is subject to effective competition and that the  
18 exemption is in the public interest. I'd like you to  
19 address the public interest aspect of our  
20 considerations. What -- what does that constitute in  
21 the -- in the opinion of your agency?

22 A. Well, I get back to my comment earlier where I  
23 don't think in this day and age there should be anybody  
24 without -- that doesn't intentionally want to, you know,  
25 go off the grid or whatever -- that should be without

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1     adequate telecommunications.

2             And so, at least at this point, you know,  
3     CenturyLink hasn't provided enough information to help  
4     us feel secure that the public interest will be served  
5     because of that.  Because we've -- in my testimony,  
6     we've identified just one customer, but, albeit, you  
7     know, she resides in a competitive wire center, and yet  
8     she can't seem to access the competition that's out  
9     there.

10            COMMISSIONER CLARK:  That's the only question  
11     I have for you.  Thank you.

12            THE WITNESS:  Thank you.

13            PRESIDING OFFICER:  Thank you very much,  
14     Ms. Anderson.  You may step down.

15            COMMISSIONER CLARK:  So we're wondering how  
16     long lunch should be, and we -- one of the thoughts in  
17     my mind is that we wouldn't want to create the risk that  
18     you'd all have to come back tomorrow, but that's  
19     somewhat dependent on -- on counsel for CenturyLink.

20            Ms. Wagner, I don't know what you're  
21     intending, and I don't want you to have to reveal a lot  
22     now, but are we safe in breaking until 1:30 --

23            MS. WAGNER:  Yes.

24            COMMISSIONER CLARK:  -- and still being likely  
25     to finish today?

1 MS. WAGNER: Yes.

2 COMMISSIONER CLARK: Okay.

3 PRESIDING OFFICER: Ms. Slawson, do you concur  
4 with that since it's your witness?

5 MS. SLAWSON: My witness will have plenty to  
6 say but --

7 COMMISSIONER CLARK: I hope we're not counting  
8 on three and a half, four hours.

9 MS. SLAWSON: Right. 1:30 should be fine.

10 PRESIDING OFFICER: Remember, we have people  
11 showing up at 5:30 tonight.

12 MS. SLAWSON: Take you to the last minute.

13 PRESIDING OFFICER: Okay. Well, why don't  
14 we -- why don't we take a break? Recess until 1:30.  
15 Okay. Thank you.

16 (Recess taken from 11:54 to 1:31.)

17 PRESIDING OFFICER: So we're back on after  
18 lunch. I hope you all enjoyed a nice lunch. We're here  
19 on Docket 23-049-01, and before we broke for lunch, we  
20 were at URTA's witness.

21 So, Ms. Slawson, if you'd like to call your  
22 first witness, please.

23 MS. SLAWSON: Thank you. I'll call Douglas  
24 Meredith to the stand and ask that he be sworn.

25 PRESIDING OFFICER: Good afternoon,

1 Mr. Meredith. Do you swear to tell the truth?

2 MR. MEREDITH: Yes.

3 PRESIDING OFFICER: Thank you.

4 MR. MEREDITH: Thank you.

5 DOUGLAS DUNCAN MEREDITH

6 was sworn and testified as follows:

7 DIRECT EXAMINATION

8 BY MS. SLAWSON:

9 Q. Good afternoon. Could you please state your  
10 full name for the record.

11 A. My full name is Douglas Duncan Meredith.

12 Q. And would you please state your employer and  
13 your position with the Company.

14 A. My employer is John Staurulakis Incorporated,  
15 and my position is economic advisory.

16 Q. And what is the business address of your  
17 company?

18 A. 6404 Ivy Lane in Greenbelt, Maryland.

19 Q. And on whose behalf are you testifying here  
20 today?

21 A. URTA.

22 Q. Did you have an opportunity to review  
23 CenturyLink's petition and -- in this docket?

24 A. Yes.

25 Q. And did you also review the testimony that was

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1 prefiled by all the other parties in the docket?

2 A. Yes.

3 Q. Did you prepare testimony that was prefiled in  
4 this docket?

5 A. Yes.

6 Q. And would you please identify the testimony  
7 that you prepared and prefiled.

8 A. Yes. There's three. The direct testimony  
9 filed on October 19th, 2023. Then there's rebuttal  
10 testimony on behalf of URTA filed November 16th, 2023,  
11 and then there's surrebuttal testimony, again on behalf  
12 of URTA, filed on January 24th, 2024.

13 Q. And are you aware of any inaccuracies in your  
14 prefiled testimony that need to be corrected here today?

15 A. No material changes.

16 Q. Okay. And so if I were to ask you the same  
17 questions that were asked in your prefiled testimony,  
18 would your answers be the same?

19 A. Yes.

20 Q. Did your testimony have any exhibits?

21 A. No.

22 Q. I believe there was an exhibit to your direct  
23 testimony, DDM 1 and DDM 2; is that correct?

24 A. Oh, yes. I'm sorry. Let me get to that.

25 Yes. DDM 1 is a list of the URTA members, and Exhibit

1 DDM 02 is a identification of a Starlink offering access  
2 on October 10th, 2023.

3 MS. SLAWSON: Okay. I would move for the  
4 admission of the prefiled direct, rebuttal, and  
5 surrebuttal testimony of Douglas Meredith, including  
6 exhibits DDM 01 and DDM 02.

7 THE COURT: Thank you. Any objections to the  
8 motion?

9 MR. GRECU: No objection.

10 MR. MOORE: No objection.

11 MS. WAGNER: No objection.

12 PRESIDING OFFICER: Thank you very much. Your  
13 motion is granted.

14 (URTA's prefiled testimony with attached  
15 exhibits admitted into evidence.)

16 MS. SLAWSON: Thank you. Before we get into  
17 the summary that you may have prepared, I just had a  
18 request of the Commission. The surrebuttal testimony of  
19 all parties was filed on the same date. So would it be  
20 appropriate for me to ask Mr. Meredith a few questions  
21 about the surrebuttal testimony that was filed by  
22 Mr. Lubeck? We haven't had an opportunity to address  
23 that before this because they were all filed on the same  
24 day, and she's -- Ms. Wagner has asked all of the  
25 witnesses about the data that was included in that

1 surrebuttal testimony.

2 PRESIDING OFFICER: Ms. Wagner, what -- how do  
3 you respond to that request?

4 MS. WAGNER: I suppose my response would be  
5 that if anybody opens it in cross-examination, it would  
6 be something we could talk about, but if it's not part  
7 of his testimony, then I would not include it.

8 PRESIDING OFFICER: So you would oppose it if  
9 it's not discussed in testimony?

10 MS. WAGNER: Correct.

11 PRESIDING OFFICER: Okay. Division?

12 MR. GRECU: I don't think we have any  
13 objection. It's asking about information that was filed  
14 in the surrebuttal testimonies of any of the parties.

15 PRESIDING OFFICER: Okay. And Mr. Moore?

16 MR. MOORE: We have no objection to  
17 Ms. Slawson's approach.

18 PRESIDING OFFICER: Okay. Thank you.

19 COMMISSIONER CLARK: I have a question for  
20 Mr. Moore. How is the offering of the testimony that  
21 Ms. Slawson's talking about different than a summary  
22 that includes new information? Do you -- can you  
23 distinguish that for me?

24 MR. MOORE: I think the distinguishing in my  
25 mind -- and I -- this came up quick, and I haven't

1 really thought it over -- is that according to the  
2 testimony that this -- this -- the information in the  
3 surrebuttal testimony offered by Qwest has been  
4 discussed with -- with all of the other witnesses, and,  
5 therefore, it should be fair game to -- to bring in --  
6 because the testimony has been discussed already --  
7 excuse me. I'm stammering.

8 So to continue with the discussion is  
9 different than to stock a summary with something that is  
10 brand new and no one has the chance -- no one has opened  
11 the door for it like I did previously. I think that  
12 using that testimony to cross-examination our witnesses  
13 sort of opens it up to a discussion of that testimony.  
14 That's -- that's my initial impression, but like I said,  
15 I haven't thought that close about it.

16 COMMISSIONER CLARK: Any other counsel want to  
17 comment on that?

18 MS. SLAWSON: I have another comment.

19 COMMISSIONER CLARK: Yeah, sure.

20 MS. SLAWSON: I think the difference is that  
21 one was, in the first instance, Mr. Lubeck was  
22 summarizing his testimony, but he was summarizing  
23 something that wasn't in the testimony. In this  
24 instance, we're just asking for the opportunity to ask  
25 Mr. Meredith questions regarding the surrebuttal

1 testimony that was filed on the same day that we filed  
2 our surrebuttal testimony and questions about data that  
3 Ms. Wagner has already asked the other witnesses. And  
4 so we've got something to say about that data, but I --  
5 we can't put it in our summary because we -- it wasn't  
6 in the original testimony.

7 MS. WAGNER: And I would suggest that there  
8 was an opportunity to cross my witness about this  
9 previously.

10 MS. SLAWSON: And I did cross the witness  
11 about this, but that's not the same as having your own  
12 witness offer an opinion on it.

13 (The Commission confers.)

14 PRESIDING OFFICER: Thanks for indulging our  
15 caucus there.

16 Okay. I -- we have decided that we're going  
17 to allow Ms. Slawson to ask the questions that you'd  
18 like to ask on the notion that the information is out  
19 there, and so it will help the -- the proceedings to  
20 proceed.

21 Please, go ahead.

22 MS. SLAWSON: Thank you. Would you prefer  
23 that I go ahead with the summary and then ask the  
24 questions?

25 PRESIDING OFFICER: Yes. That would be --

1 that would be the preference.

2 MS. SLAWSON: All right.

3 Q. (BY MS. SLAWSON) Mr. Meredith, did you  
4 prepare a summary of your testimony today?

5 A. Yes.

6 Q. All right. Would you please present that for  
7 us at this time?

8 A. Yes, yes.

9 Q. Thank you.

10 A. Good afternoon, the Commissioners and Judge.

11 (Reporter clarification.)

12 A. Today's case is a case of first impression for  
13 the Commission. No one has -- no carrier has asked for  
14 carrier of last resort elimination in the state, and so  
15 it's with some gravity that the Commission needs to  
16 weigh the -- the issues that are presented to it, and I  
17 look forward to the opportunity to -- and I've given  
18 that -- this information, and then I'll give you a brief  
19 summary of my -- of our position at URTA.

20 First of all, is data. The data related to --  
21 not in the surrebuttal, but the data even prior to that,  
22 I -- I have indicated in my testimony and numerous times  
23 that it's not sufficient for -- for a comprehensive  
24 evaluation.

25 The issue between Mr. Lubeck and myself is

1 related to really the level of granularity of the data,  
2 and -- and I have -- I indicate and he clearly shows or  
3 indicates that he understands where my -- what my  
4 position is, is that the household level is really the  
5 level for -- that needs to be evaluated. And in that  
6 particular sense, we do not have that information. That  
7 leads to an issue.

8 I agreed in my rebuttal testimony with the  
9 Office that there are -- there's the potential of having  
10 a sizable number of cap -- of customers who do not have  
11 an alternative provider to provide service. So  
12 that's -- that's number one, is the data. The data is  
13 very much incomplete.

14 The second major issue in this data space is  
15 having to deal with what is the service we're talking  
16 about? If you look at available competition, that is to  
17 say, services that are available, alternative technology  
18 communications provided by competing carriers, or even  
19 if you look at market share, we really need to  
20 understand what is the service, and I do appreciate the  
21 reference to POTS and PANS. That's a very old, old  
22 reference.

23 And what we have in the data is CenturyLink  
24 is -- or Qwest -- is trying to say that you -- that  
25 their broadband data is sufficient to evaluate the issue

1 of carrier of last resort. That's essentially saying,  
2 since you have to have a broadband connection before you  
3 can add on the voice service, it's essentially saying  
4 you have to buy the PANS before you can have the POT.  
5 You have to have both POTS and PANS.

6 And the service that I focus on in my  
7 testimony is that really the voice service, standalone  
8 voice service, and that is the comparable service that I  
9 recommend you use in order to do your evaluation as to  
10 whether there is competitive alternatives for standalone  
11 voice service that is reasonable that's equivalent or  
12 reasonably available and comparable in prices, terms,  
13 qualities and conditions.

14 So that's really -- there's a number of other  
15 issues related to data and -- and that I discuss in the  
16 testimony, but that's at a lower level.

17 The second section is really the policy. What  
18 is the policy? And this really focuses on what the  
19 public interest is. What is the public interest in  
20 granting the relief sought?

21 And I recommend that you have -- you take  
22 guidance to what other -- a fellow commission does, the  
23 Federal Communications Commission does, when a carrier  
24 wants to relinquish its federal obligation or federal  
25 COLR. Technically, it's the federal eligible



1 telecommunications carrier designation, and I describe  
2 in my testimony at length that that should -- that can  
3 give you guidance. I think it's very, very useful  
4 guidance in making your decision.

5 And that guidance is buttressed by the fact  
6 that even CenturyLink argues that the RDOF concept or  
7 the RDOF procedures, you know, say, hey, that you can  
8 relax your RDOF procedures. But I say in my surrebuttal  
9 testimony that -- that there's a very specific procedure  
10 that the FCC used for RDOF.

11 And let me just -- for those that are not  
12 keeping track of the box score for RDOF, let me just  
13 explain. RDOF is a -- was an offering for -- for  
14 carriers or providers to provide broadband service to  
15 areas that the price-cap carriers have chosen not to  
16 serve.

17 CAF Phase-2 service was a service that the  
18 price-cap carriers, like Qwest, had exclusive domain  
19 over, and they were able to get support to provide  
20 services that the FCC was requiring. Those carriers  
21 said, well, there's some -- some areas in our -- in our  
22 study areas that we don't want to touch. You know,  
23 they're too costly or whatever. They're not in my -- my  
24 financial interest to do it, et cetera, whatever the  
25 reason. And those are the areas that were eligible for

1 RDOF.

2           And so the FCC, as I described in my  
3 surrebuttal, said we're very concerned. We still  
4 want -- even though this is a broadband deployment, we  
5 still require the RDOF recipient, the award winner, to  
6 provide voice service to the RDOF areas that they one  
7 the day they get the -- the day they get the reward. So  
8 day one. If it's January -- or if it's February 8th of  
9 a given year, on February 7th, the RDOF -- the  
10 obligation to provide voice service -- it ceases for one  
11 carrier and begins with -- with the new carrier, because  
12 the FCC wanted a seamless transition to make sure voice  
13 service was ubiquitous.

14           That is in the public interest, and I describe  
15 in my testimony several reasons why it is in the public  
16 interest to have voice service available -- essentially  
17 the opportunity to have voice service guaranteed --  
18 subject to line extension tariffs, et cetera, however  
19 it's defined -- guaranteed that a customer would be able  
20 to get voice service. Not by adding -- adding it to  
21 PANS, but just to buy the regular plain -- you know,  
22 plain old telephone service or the voice -- voice  
23 telephone service that they would like.

24           When you have to buy a pan and a pot, it's  
25 going to cost more than just buying the pot. And in

1 that case, not comparable in terms of price, terms, or  
2 conditions. And in that sense, we -- it's very  
3 important from the policy standpoint, in my mind, is for  
4 you to evaluate exactly -- precisely what the service is  
5 that we're talking about in this -- in this particular  
6 case, and that is voice service, and more specifically,  
7 standalone voice service, not bundled with other  
8 products that you have to buy in order to get voice  
9 service.

10 Now, the Commission, in addition to receiving  
11 guidance from the FCC on this and being informed by --  
12 they're not -- you're not bound by what the FCC is  
13 saying, by no means, but you have -- you have addressed  
14 COLR obligations in a recent case in the recent past.  
15 The COLR obligations, and I mentioned this in my  
16 surrebuttal testimony, you identified -- or the  
17 Commission allowed for two COLRs to be in one -- in one  
18 area, defined area.

19 And the decision of the Commission was to say  
20 we will let one of those COLRs relinquish their duties,  
21 but the other COLR has to retain that. So your -- the  
22 obligation to have COLR or the public interest to have  
23 COLR to offer standalone service, standalone voice  
24 service in San Juan County is a -- is an example of why  
25 COLR is important for the public interest so that -- so

1 that customers, businesses and residents, can receive  
2 public telecommunication services by at least one  
3 carrier.

4 And in that regard, the rest of the material  
5 is in the testimony, and I'm sure you've read it and  
6 done so, and we'll leave it at that. I don't need to  
7 extend.

8 Q. Does that conclude your --

9 A. Yes.

10 Q. Does that conclude your summary?

11 A. Yes.

12 MS. SLAWSON: Mr. Meredith is available -- oh,  
13 I'm sorry. I'm going to go ahead and ask my very  
14 limited questions here.

15 Q. (BY MS. SLAWSON) In Mr. Lubeck's surrebuttal  
16 testimony on page 3, line 9 -- do you have that in front  
17 of you?

18 A. I do.

19 Q. He indicates that it's nearly -- it's a nearly  
20 impossible task to have household data. Do you see  
21 that?

22 A. Yes.

23 Q. What is your response to that?

24 A. Yes. CenturyLink is arguing that it's  
25 impossible to have the data available at the household

1 level, but you have to -- I would like the Commission to  
2 realize that that's precisely the information that is  
3 being provided on the broadband data collection  
4 information that they are using. They have broadband --  
5 they have data at the -- at the household level.

6 The issue here is, oh, that CenturyLink does  
7 not have voice data at the household level. Well, the  
8 FCC requires all carriers to file Form 477 data, and  
9 then they migrated that to the broadband data collection  
10 process. That process has two components. One is the  
11 broadband data that is at the household level, and then  
12 this -- the first component is household subscription  
13 data for voice service at the census tract level.  
14 Census tract is a slightly larger geography and then  
15 census blocks.

16 And so I don't see how CenturyLink can claim  
17 that they cannot get household voice subscription data  
18 since they have to file information at the census tract  
19 level. The only way to get that information at the  
20 tract level is to roll it up from the household level.

21 So I believe -- I believe that it is a  
22 possible task to actually provide the information that  
23 would be most relevant to you in identifying what the  
24 voice subscription counts are for -- by household rather  
25 than by -- rather than using the surrogate, which is the

1 broadband data collection information and saying, oh,  
2 that covers -- that covers voice, because you can always  
3 add on a voice over the top service to a broadband  
4 connection. That's essentially saying you can have a  
5 pot if you buy a pan, and that's not the service that  
6 we're talking about.

7 Q. Thank you. Looking now at page 5, line --  
8 beginning on line 16 of Mr. Lubeck's surrebuttal  
9 testimony, in this section he identifies supplemental  
10 data that he's included from data responses.

11 Have you had a chance to review his  
12 supplemental data?

13 A. Yes. The supplemental -- yes, I have.

14 Q. And what is -- what are your concerns with the  
15 supplemental data?

16 A. Well, the supplemental data is to supplement  
17 or to replace prior data that was used in prior  
18 testimony, and this is -- this is, again, broadband data  
19 collection information. So it's all broadband-based  
20 information. It's all information related to the  
21 presentation of information as of June 30, 2023, only  
22 for broadband, not for any voice service, standalone  
23 voice service, certainly not.

24 MS. SLAWSON: Thank you. Those are all the  
25 questions I have. Mr. Meredith is available for

1 cross-examination.

2 PRESIDING OFFICER: Thank you very much.

3 For the Division, any cross-examination?

4 MR. GRECU: No questions.

5 PRESIDING OFFICER: Thank you. Mr. Moore, for  
6 the office, any cross-examination?

7 MR. MOORE: If the Commission will allow this,  
8 I got confused this morning about the concept of the  
9 interconnected voice -- VoIP. And I was wondering if I  
10 could ask him a question about that, just basically what  
11 is interconnection VoIP as opposed to regular VoIP?

12 MS. WAGNER: That's fine with me. No  
13 objection.

14 PRESIDING OFFICER: Yeah. I think that's  
15 fine. Please. We can all learn. Thank you.

16 CROSS-EXAMINATION

17 BY MR. MOORE:

18 Q. Could you please explain, to the best of your  
19 knowledge, what interconnected VoIP is?

20 A. Yes, I can. Thank you very much. Yeah,  
21 there's lots of different -- different varieties, lots  
22 of animals in the zoo, if we would describe it that way.  
23 So let me try to give you the taxonomy.

24 First of all, a voice over internet protocol  
25 is a -- is a newer technology that allows the use of IP

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1 technology instead of circuit switch technology.  
2 straightforward. No problem there. Voice over internet  
3 protocol is saying I'm going to be providing voice  
4 service over that protocol rather than through a  
5 traditional time division multiplex, TDM, system.

6 (Reporter clarification.)

7 A. The -- so, you know, when we talk about VoIP,  
8 VoIP is -- can be used by Xbox gamers from when they  
9 chat or when they're talking to one another when they're  
10 playing Xbox. That does nothing -- those communications  
11 do not touch the public switched telephone network.  
12 They stay in the data stream, and they're -- they're  
13 conducted on the data -- data connection that those two  
14 players have.

15 Interconnected VoIP has two distinctions.  
16 Interconnected VoIP means that it's interconnected to  
17 the public switched telephone network. And in that  
18 sense, it's a -- it's a service that allows a customer  
19 to use a VoIP service, a VoIP technology, a VoIP service  
20 that they purchase, and actually use the public switched  
21 telephone network to call someone on a traditional line.

22 We call this in the industry calling the old  
23 lady with -- no offense to old ladies -- old ladies in  
24 tennis shoes, that they have -- that they have the old  
25 line. It's like grandma -- calling your grandmother.



1 It's actually using a new technology, and then it gets  
2 translated and moved over so that you can talk to your  
3 grandmother when she's using the older system and you're  
4 using the newer system.

5 In Utah, it's also -- there's also a very  
6 clear distinction. So that's interconnected VoIP, and  
7 you could use that, and that's the -- that's the VoIP  
8 that's been talked about -- is over the top. I add a  
9 service to my broadband connection, and away I go.

10 In Utah, there's a slight -- there's a second  
11 categorization of interconnected VoIP where a carrier  
12 uses interconnected VoIP as a designated service. So  
13 they're using the IP technology, but it doesn't touch  
14 the broadband network. It does not touch the internet.  
15 It's just using IP within their network and delivering  
16 and actually using a system so that they can send and  
17 receive -- the customers can send and receive calls  
18 using IP.

19 It's a very efficient technology, and so  
20 you'll see this in the future more often, but that  
21 particular technology is also called interconnected  
22 VoIP, but it's got this concept of it's carrier-grade  
23 because it's actually a carrier that is using it without  
24 touching the internet. Okay?

25 So you have interconnected VoIP, two different

1 flavors. One is touching it, using exclusively  
2 internet. You can consider that as an over-the-top  
3 concept, and then you have an interconnected VoIP  
4 service that is carrier-grade, shall I say, where it  
5 is -- it does not use the internet for its communication  
6 path.

7 Does that help?

8 Q. That helps. Thank you very much.

9 MR. MOORE: I have no further questions.

10 PRESIDING OFFICER: Okay. Thank you.

11 Okay. Ms. Wagner, cross-examination?

12 CROSS-EXAMINATION

13 BY MS. WAGNER:

14 Q. Mr. Meredith, in compiling your testimony, did  
15 you review any other satellite providers besides  
16 Starlink?

17 A. I did not. Well, not in preparing my  
18 testimony. I have subsequent to that, but I did not for  
19 compiling this. I know of Starlink. I knew it was  
20 available in my areas, and that's why I produced Exhibit  
21 DDM 02 for my particular address.

22 Q. And do you believe that there are less  
23 expensive options than Starlink in terms of satellite  
24 service?

25 A. Yes. I've looked at the Hughes -- when the

1 Hughes system came up today, I looked at that. And,  
2 yes, there is a \$74 plan for voice -- for broadband,  
3 again, a pan, and then you have a \$10 add-on for the  
4 voice, and that -- there is a 12-month promotion, as  
5 I -- if I read the details correctly, a 12-month  
6 promotion where it goes a little bit further down, but  
7 here we're talking an \$80 plan versus a \$25 plan. In my  
8 book, that's not reasonably comparable service. That's  
9 not on price.

10 Q. Do you get any additional services through  
11 satellite that you would not get with voice alone?

12 A. The standalone service that we're talking  
13 about -- the voice service would be the same -- same  
14 service. You'd be able to send and receive calls on the  
15 PSTN. You are getting -- yes, you are getting broadband  
16 service. You have to buy the broadband service before  
17 you can -- before you can use the voice. So you're  
18 buying a pan, and then you have to buy the pot. So  
19 you're buying two services to make that -- to make that  
20 work.

21 Q. Okay. You also mention broadband -- I'm  
22 sorry. The data that we supplemented is broadband data  
23 that you said was available at a household level?

24 A. Yes. The broadband data collection -- the  
25 broadband data collection information is at the

1 household level.

2 Q. And I take it from your testimony that you --  
3 you don't agree VoIP is an adequate alternative, but if  
4 you suspend that opinion for a moment, regardless of  
5 what's adequate or not, would you agree that broadband,  
6 coupled with VoIP, gives us at least a way to measure  
7 voice at a household level?

8 A. It's a -- it's a -- probably a third degree of  
9 accuracy, yes. I mean, it's as -- it's a way to measure  
10 it. It's not the preferred, and I don't believe it  
11 should be used to make a judgment on -- on a matter this  
12 great.

13 Q. Okay. Do you agree that federal ETC  
14 obligations require CenturyLink to offer basic  
15 residential services as well as Lifeline services?

16 A. The ETC designation requires CenturyLink to  
17 offer all services that are available -- or that are  
18 provided by -- what's the term in the statute -- it's  
19 all services that are supported by federal universal  
20 service. That would include basic local exchange  
21 service. It would include Lifeline service. It would  
22 also include, in some instances, broadband service,  
23 because the broadband service is a supported service in  
24 the federal ETC regime.

25 Q. Okay. And do you agree that, even without

1 state COLR obligations, CenturyLink is still subject to  
2 those federal ETC obligations?

3 A. Yes. I understand that they still will have  
4 federal ETC obligations as well as the price-cap  
5 flexibility obligation at the state level.

6 Q. To provide those basic residential services  
7 and Lifeline services?

8 A. Not -- the state price flexibility does not  
9 refer to Lifeline.

10 Q. Correct. I was referencing the federal ETC.

11 A. The federal ETC, yes.

12 Q. Okay. And are you aware that this commission  
13 approves CenturyLink's ETC status every year?

14 A. Yes, I am. They -- every -- the state  
15 commission has jurisdiction up there, and they -- they  
16 do -- they do their review.

17 Q. You recommend at line 76 of your direct  
18 testimony that the Commission grant CenturyLink's  
19 petition in some areas but require another carrier of  
20 last resort to replace CenturyLink in those areas?

21 A. Yes. Yes, I did.

22 Q. So even if this Commission appointed a new  
23 COLR, it would be doing so in an area that CenturyLink  
24 is still federally required to offer basic residential  
25 service and Lifeline services; correct?

1           A.    Yes, in the interim.  My -- my -- I would  
2 believe that CenturyLink, in that particular situation,  
3 would probably ask for ETC relief in that particular  
4 area as well, but that's -- that's -- that's a  
5 hypothetical.

6           Q.    Do you have any facts to support that belief?

7           A.    I know that USTelecom filed a petition in  
8 front of the FCC, and CenturyLink is a member of  
9 USTelecom, asking for forbearance of ETC designations.  
10 So I know that they're active in that space at the  
11 federal level.

12          Q.    Okay.  Is that the extent of the basis of your  
13 belief?

14          A.    Yes.

15          Q.    Okay.  Are you aware that in other states  
16 where COLR relief is being granted no other state  
17 required a new COLR to be granted?

18          A.    I do not know of the other states that you're  
19 referring to.  I do know -- all I know is the material  
20 that we have in Utah.  I have not studied the other  
21 states in depth on COLR relief.

22          Q.    Okay.  But you do not have any data to dispute  
23 that point?

24          A.    That they were given ETC -- or COLR relief?

25          Q.    That no additional COLR was appointed after --

1 A. I have no information on that.

2 Q. Okay. What percentage of competition do you  
3 believe is required to show effective competition?

4 A. Effective competition is, in my view, a -- a  
5 judgment on whether there's price discipline in the  
6 market. So effective competition only can exist if  
7 there's enough competition so that -- so that prices are  
8 governed by competitive pressures and not by the  
9 unilateral direction or instruction of one carrier.

10 So I can't give you a percentage, a threshold,  
11 50 -- you know, X percent. I can't give you that. It  
12 has to be judged by -- at the level of granularity that  
13 I'm recommending is the household is you have -- you  
14 would have effective competition if every household in  
15 the state had the ability to have a competitor providing  
16 voice -- standalone voice service.

17 Q. In your surrebuttal line 352, you said,  
18 "CenturyLink has not shown that all Utah citizens have  
19 alternates comparable to voice service at comparable  
20 prices," and you underline the word "all"?

21 A. Correct.

22 Q. So, from that, do I take it that you believe  
23 it's 100 percent is required to show effective  
24 competition?

25 A. My recommendation is that when you're looking

1 at this COLR obligation that you make -- to ensure the  
2 public interest is satisfied, that you have a  
3 replacement COLR to satisfy any -- any particular area.  
4 I can see that you would -- that you could read that  
5 "all" is 100 percent, and there has to be effective  
6 competition at every location in order for there to be  
7 effective competition at that location. So I guess I  
8 would agree with you. It is 100 percent.

9 Q. Okay. And you've also taken the position at  
10 line 91 of your rebuttal testimony that "captive  
11 customers include both current and future customers that  
12 don't currently exist." So if we're counting potential  
13 customers, isn't there always the possibility that a  
14 future customer will pop up years from now in a rural  
15 area without landline service?

16 A. There is a possibility that a development can  
17 appear, and that's -- the COLR obligation would ensure,  
18 subject to line extension tariffs, that the customer  
19 could receive service from at least that carrier.

20 Q. Is it possible for any carrier to show  
21 100 percent competition when your definition of captive  
22 customer requires a calculation of market share with  
23 some level of speculation about future customers that  
24 may one day exist? How do you show 100 percent  
25 competition?



1           A.    Yeah.  In looking at the -- the requirements  
2   for effective competition, market share is subpart C.  
3   It says, "the market share of the telecommunications  
4   corporation."  Above subpart C is B, which says, "The  
5   ability of alternative telecommunication providers to  
6   offer competing telecommunication services that are  
7   functionally equivalent or substitutable and reasonably  
8   available at competitive prices, terms, qualities, and  
9   conditions."

10                 My judgment is that you would -- you should  
11   weigh B far heavier than C.

12           Q.    Right.  And my question was if captive  
13   customers are always going to exist because there's  
14   always the possibility of a future customer existing,  
15   how does anyone ever get to 100 percent effective  
16   competition?

17           A.    Subject to line -- subject to line extension  
18   tariffs and subject to other carriers, like cable  
19   companies providing service, they have -- there are --  
20   there are areas where every customer is -- is -- has  
21   multiple options.

22           Q.    Is it that 100 percent competition is  
23   required, or is it that captive customers may not  
24   include speculative future individuals?

25           A.    Again, I do not -- I do not put as much weight

1 as you do on the market -- on the market share. I  
2 prefer, frankly, to look at the -- the subpart B, which  
3 shows that there is alternative telecommunication  
4 providers offering competing services that are  
5 functionally equivalent or substitutable at reasonable  
6 prices.

7 MS. WAGNER: Okay. Thank you. That's all I  
8 have.

9 PRESIDING OFFICER: Thank you very much.

10 Ms. Slawson, any -- any redirect?

11 MS. SLAWSON: One -- a couple of questions.  
12 Just one little line of questioning here.

13 REDIRECT EXAMINATION

14 BY MS. SLAWSON:

15 Q. With regard to the 100 percent discussion that  
16 you were having with Ms. Wagner, having a replacement --  
17 when we're talking about effective -- Section 54-8b-3  
18 discusses how to be exempted from any provision under  
19 Title 54; correct? Not just COLR?

20 A. That's how I understand it.

21 Q. Okay.

22 A. In a plain reading.

23 Q. And if you're looking at ensuring 100 percent  
24 competition before you eliminate COLR for one carrier,  
25 would appointing a second COLR effective -- effectively

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1 allow for that 100 percent competition?

2 A. Yes -- well, yes, it would. That's the --  
3 that's the -- that's the crux of the testimony -- is  
4 that in order to -- in order to grant relief, taking the  
5 informed information from the FCC and your prior  
6 decisions, I believe the Commission should require a  
7 second COLR be imposed -- be designated in that area,  
8 and that would make a 100 percent coverage.

9 Q. Subject to line extensions?

10 A. Subject to line extensions, yes.

11 Q. And has the -- is this what happened in -- is  
12 this what the Commission did in the two COLR case, the  
13 Frontier versus eFiber situation?

14 A. Yes. Yes. They did -- they did this, and I  
15 referred to that in my surrebuttal. Let me just get to  
16 the -- on line 60 of my surrebuttal testimony. The  
17 Commission did indeed recognize the importance of COLR  
18 in all designated areas, and in that proceeding they --  
19 they provided -- they made sure that there was a COLR in  
20 the area when -- if a -- if a prior COLR wanted --  
21 wanted relief from that.

22 Q. And there has subsequently been a rule making  
23 process that identifies what to do if there's two COLRs  
24 in an area and one COLR wants to be relieved from its  
25 carrier of last resort obligations; is that correct?

1           A.     That is correct.  And I should note that the  
2     service we're talking about in that particular decision  
3     is standalone voice.  It's only voice.  It's not a pot  
4     and pan combination that is required.

5           MS. SLAWSON:  I don't have any other  
6     questions.

7           PRESIDING OFFICER:  Thank you very much.  
8     Commissioner --

9           Oh, do you have any recross?

10          MS. WAGNER:  I do not.  Thank you.

11          PRESIDING OFFICER:  Thank you.

12          Commissioner Clark, do you have any questions?

13          COMMISSIONER CLARK:  I have a couple.

14                                 EXAMINATION

15     BY COMMISSIONER CLARK:

16           Q.     I've just been thinking about this.  
17     Hypothetically, years down the road, when -- and forgive  
18     the extremity of this, especially I ask CenturyLink's  
19     forgiveness.  But when CenturyLink has 100 customers  
20     instead of 102,000 or 150,000 and they happen to be all  
21     of the kind that seek voice only service and that's why  
22     they're with CenturyLink, how does CenturyLink recover  
23     its cost to support the vast network that serves one of  
24     them in St. George and one of them in Logan and one of  
25     them in Moab and one in Vernal?

1 I mean, it seems to me you're asking us to --  
2 to allow that kind of scenario ultimately to develop, or  
3 you give us the alternative -- alternative of appointing  
4 a second COLR, and I've been thinking, well,  
5 Mr. Meredith, would you accept that appointment as the  
6 second COLR?

7 A. There -- there are carriers -- there are  
8 providers in the state that would accept the additional  
9 COLR. An example that you have in front of you is  
10 eFiber taking that COLR responsibility in San Juan  
11 County. They -- COLR, in Utah --

12 Q. But pardon me.

13 A. Yes.

14 Q. Go ahead and finish your --

15 A. COLR in Utah gives you access to Utah  
16 Universal Service Support.

17 Q. Right. So what you're saying, then, is that  
18 the second COLR would build out redundant network to  
19 serve those 100 customers using the USF -- UUSF funds.  
20 Would you estimate that to be in the tens of millions or  
21 hundreds of millions of dollars?

22 A. No. The hundred customers throughout the  
23 state -- is that what you're talking about?

24 Q. Yeah.

25 A. In that state -- in that case, that

1 hypothetical, you would have a -- you -- you have access  
2 to those supports. You have pockets of -- of areas that  
3 need that -- that need that funding -- or need that  
4 service, and there's no other carrier that provides that  
5 service in those areas. So these are essentially truly  
6 captive locations. You need to weigh that against the  
7 direction that the legislature gave you, that all  
8 citizens, residents and businesses, have universal  
9 service.

10 I'm not -- I don't know what the exact amount  
11 of money it would take in order to provide those  
12 services, but it seems to me that the legislature, in  
13 its second directive on this -- on this section of the  
14 law, says that's -- that's the purpose. You want to  
15 have -- make sure that universal service is available to  
16 all residents. And they've given an opportunity for the  
17 carriers who are COLRs to receive just, reasonable, and  
18 prudent -- you know, all those conditions come in --  
19 just reasonable and prudent support in order to fulfill  
20 that obligation.

21 Q. Thanks. I just wanted to discuss that with  
22 someone before the day was over.

23 A. It's an extreme case. It's an extreme case,  
24 and this is why you're sitting there and why you need to  
25 weigh --

1 Q. Sure.

2 A. -- the public interest versus -- versus, you  
3 know, public interests. The private interest of  
4 CenturyLink -- you know, their claim is that they're  
5 going to receive regulatory ease because then they don't  
6 have to do -- they don't have to have regulatory  
7 reporting twice; right? State and federal.

8 They still have to have that because they've  
9 got price flexibility. As a condition of their price  
10 flexibility as being a price gap, they were instructed  
11 by the legislature that they have to provide voice  
12 service everywhere in the state. So the only thing  
13 they're doing in this case is cutting their -- their  
14 funding opportunity off from using UUSF, because if  
15 they're not a COLR, they're not going to have Utah  
16 Universal Service or the opportunity to get Utah  
17 Universal Service.

18 Q. I guess I have a follow-up question.

19 A. Mm-hmm.

20 Q. It's kind of related but do -- can we have  
21 realistic hope that the BEAD investments would somehow  
22 significantly impact this public interests question over  
23 the next six years, that if we were to look at the  
24 question again in 2030, that these issues might look  
25 vastly different for us from a public perspective?

1           A.    BEAD, yes.  See and it's -- it's an  
2 interesting thought experiment to say what will be due  
3 in the next six years?  BEAD requirements are for  
4 voice -- are for broadband -- certain broadband speeds,  
5 nothing to do with voice, and so we fall into this POTS  
6 and PANS thing as well.  You have to have a bundled  
7 service, not going to be comparable to basic voice  
8 service, et cetera.

9           I think in six years you will have a different  
10 infrastructure.  There will be other providers.  I don't  
11 know who's going to win the BEAD moneys, the BEAD  
12 sub-grantees, and actually, you know, commit to doing,  
13 you know, providing service.

14           Those pockets that you were talking about  
15 scattered around the state -- and they're around the  
16 Wasatch front too.  I mean there are pockets throughout  
17 the Wasatch front.  BEAD may get to some of those in --  
18 in actually providing a service -- a broadband service  
19 to those.  It says nothing about voice service.

20           The ability to call 9-1-1 is a really  
21 important ability, and, you know, the access to  
22 emergency services cannot be ignored when we're talking  
23 about that's one of the fundamental principals or  
24 purposes of having voice service -- is to be able to  
25 call 9-1-1 when you need it.



1 Q. Do you think, looking at the cost question,  
2 you know, the way that voice and broadband bundle  
3 together as one kind of -- it's not always the same  
4 relationship, but it's sort of similar relationships,  
5 product by product or offering by offering.

6 A. Yeah.

7 Q. Do you think that might look -- does that have  
8 a potential to look significantly different in 2030?

9 A. It's dynamic. And, yes, it can look  
10 different, but I would -- I would expect that the  
11 broadband service offerings in 2030 and the demands that  
12 consumers want for broadband would be -- is going to be  
13 fundamentally different, much higher actually. The FCC  
14 is even considering raising its requirements for  
15 broadband speeds. You know, right now it's -- let's  
16 call it 100 by 20, you know, going from 25, 300 divided  
17 by 20. They're saying -- they're asking the question  
18 should it be gig service, you know, in the future? And  
19 so I think in 2030 you might have a scenario like that.

20 Now, if I could circle back, Commissioner,  
21 on -- on the hundred locations.

22 Q. Sure.

23 A. You have the ability, as the Commission, to  
24 require the existing COLR to serve those hundred  
25 locations. Okay? You know, if those are unserved

1 locations. I think the hypothetical was they were --  
2 they were not being served. The COLR has an obligation  
3 to serve those locations, and CenturyLink, independent  
4 of its COLR responsibilities, in receipt of price  
5 flexibility has an obligation to serve those locations  
6 so that they're served with voice service. I mean,  
7 that's what the legislature put in.

8 So it's you have the ability when they're a  
9 COLR to actually make sure that that happens. If you  
10 lose them and say you don't have a COLR responsibility,  
11 then whatever -- whatever authority you had as a state  
12 commission, now you're looking at them as a CLEC rather  
13 than an ILEC with COLR. And to the extent that makes a  
14 difference, I think that should be in your -- factor in  
15 your consideration.

16 COMMISSIONER CLARK: Thanks very much,  
17 Mr. Meredith.

18 PRESIDING OFFICER: Commissioner Harvey,  
19 questions from you?

20 COMMISSIONER HARVEY: Well, I've got a  
21 follow-up on Dave's just a bit.

22 EXAMINATION

23 BY COMMISSIONER HARVEY:

24 Q. Qwest right now -- the statute that we went  
25 over earlier today -- is only -- potentially qualifies

1 for one-time distributions?

2 A. Correct.

3 Q. Correct?

4 A. One-time distributions as it's currently  
5 structured. One-time distributions as a  
6 non-rate-of-return regulated carrier for deployment and  
7 maintenance.

8 Q. So your answer to Commissioner Clark seemed to  
9 me to be predicated that the replacement wouldn't be in  
10 that situation?

11 A. Which replacement? The --

12 Q. A replacement COLR.

13 A. Oh, the replacement COLR. A replacement COLR,  
14 in the San Juan example, is a rate-of-return regulated  
15 carrier.

16 Q. But they were replacing a rate-of-return  
17 regulated carrier?

18 A. They were replacing a rate-of-return regulated  
19 carrier. I don't know what the designation of the  
20 carrier would be. If they would come before you, they  
21 could be a price cap or a rate-of-return carrier to be  
22 a -- to be the replacement carrier, the COLR.

23 Q. Well, in following up in the spirit of  
24 Commissioner's Clark's question, he asked, you know,  
25 would you -- if you were a carrier, would you be willing

1 to take that assignment, and you said yes, but your  
2 answer was obviously predicated that you would not be in  
3 that same category, that you would be -- because the way  
4 you talked about using the UUSF --

5 A. Yeah.

6 Q. -- it was obviously not as a  
7 non-rate-of-return carrier.

8 A. With the -- well, with the -- with the  
9 discussion today, I'm intrigued on this concept of  
10 having a one-time distribution that covers deployment  
11 and maintenance.

12 Q. Management.

13 A. Management. I'm sorry. Yeah. Management.  
14 Management of networks, which I would think a fair  
15 reading would include maintenance of the -- of the  
16 service.

17 But that -- that's just providing a --  
18 essentially a net present value question. Say, okay,  
19 the assets are going to live for 20 years. What's the  
20 net present value of the management of that network for  
21 20 years, and you have a one-time distribution for that,  
22 and you're done; right? I mean that's --

23 Q. If you can come up with that much money.

24 A. Fiber networks -- fiber networks are greatly  
25 reduced in their operation maintenance, management

1 than -- than traditional networks. The experience --  
2 the industry experience is that it's gone to 18 percent,  
3 and so 18 cents on the dollar for maintaining a fiber to  
4 the home network versus a traditional copper network.  
5 So -- so it's -- it's an open question, Commissioners,  
6 to how much money that requires.

7 Q. All right. Going back to your summary, you  
8 talked about data and the granularity at a premise  
9 level. You said household, but I'm assuming you would  
10 include business as well in that?

11 A. Yes, I do.

12 Q. So the data that would be needed, if it's at  
13 that level -- I understand that your opinion is Qwest  
14 probably has that somewhere -- where would either Qwest  
15 or other intervenors get it for the other carriers?

16 A. All -- all the carriers in the -- let's call  
17 it the 477 BDS system, because it's merging over to a  
18 strict BDS. All carriers provide that information to  
19 the FCC. So that information is available. The  
20 question is how do you get your hands on it? I would  
21 have to think about that, whether you can require it  
22 from the carriers for their CPCNs or if you go to the  
23 FCC and see if that's available from a commission to  
24 commission level.

25 Q. Okay. You talked in your summary about the

1 service that we should be focusing on is standalone  
2 voice.

3 A. Yes.

4 Q. What I referred to, I think, as POTS, but is  
5 that equivalent in your mind or not?

6 A. It's very much equivalent. POTS is plain old  
7 telephone service, yes. I can -- I could see that as --  
8 as voice service, but the new term now in the industry  
9 is voice telephony as opposed to POTS.

10 Q. All right. And so when you talked about in  
11 your answer to Mr. Moore the different versions of  
12 interconnected VoIP, is carrier VoIP -- does it have the  
13 same back up redundancy that I would have thought of  
14 with POTS?

15 A. Yes, it does. There's a -- there's a battery  
16 backups that are at the house to actually power the  
17 fiber system to the -- for that. The FCC requires  
18 carriers to offer that, and I'm not exactly sure how  
19 it's being deployed now, if that's -- if that's a  
20 mandatory or that's a standard operating procedure that  
21 that is there to effectuate essentially to make sure  
22 that 9-1-1 or emergency access to emergency services is  
23 not interrupted.

24 Q. Okay.

25 A. Yeah.

1 Q. Because if we're talking about noncarrier  
2 VoIP --

3 A. Noncarrier VoIP, yep.

4 Q. -- you typically sign as part of your contract  
5 that you're giving up guaranteed --

6 A. Right. The 9-1-1 service for -- when you're  
7 not using the internet for interconnected VoIP, this  
8 carrier-grade VoIP, is as robust as POTS. Okay.

9 Q. And so there are generators at the carriers'  
10 facilities --

11 (Cross-talk. Reporter interrupts.)

12 Q. So there are batteries at the carriers -- I  
13 mean there's generators at the carriers' facilities, and  
14 there's batteries in the premise?

15 A. Yes. Yes.

16 Q. So talking about effective competition, heard  
17 that a lot today, my understanding is you do have a bit  
18 of economic background?

19 A. Yes.

20 Q. Is that correct?

21 A. Yes.

22 Q. Do you think there's any value to looking at  
23 the way antitrust regulators look at competitive markets  
24 in this question, or is that a different -- a different  
25 process?

1 A. With their index --

2 Q. The Herfindahl index.

3 (Reporter clarification.)

4 A. That can inform you. That process can inform  
5 you. I mean, it's -- it's real -- it's well used in the  
6 Department of Justice, and the -- but you get an index,  
7 and then you have to measure, okay, when does -- when  
8 does it pass a certain threshold? You still -- you  
9 still have that question. Regardless of, you know, how  
10 you're actually assembling the data, you still have a  
11 question as to what is the threshold? But, yes, the  
12 DOJ's use is extensive and -- so there's, as you know,  
13 there's a lot of literature on the -- on the index.

14 Q. And then lastly there's been discussion by  
15 various witnesses today about pockets or individuals,  
16 future customers, this idea of, you know, how do you  
17 know if you can serve them. At a core level, though,  
18 any carrier in the state that has a -- that's a  
19 regulated carrier has a service territory; correct?

20 A. Yes.

21 Q. For the regulated ones?

22 A. Yes, the regulated carriers have a designated  
23 service geography or an area.

24 Q. And if a carrier -- well, before I get to that  
25 question. Sorry. Not all areas of the state of Utah



1 are covered by a carrier; correct?

2 A. That's my understanding. There are -- there  
3 are some pockets that are not covered. The geography is  
4 not covered, but I also understand that there's no one  
5 living there.

6 Q. Right. So if a carrier had areas within their  
7 currently certificated territory that they were worried  
8 about for future, that nobody's there now, but they're  
9 worried about the future, they can ask to have those  
10 removed from their service territory; correct?

11 A. The areas that do not have individuals. I  
12 believe that is a process. I mean, that can be the  
13 process. I don't know the process at the state level.  
14 I know when you modify your study area boundary at the  
15 federal level, it is a -- quite a arduous process.

16 Q. Okay.

17 A. But it can -- can be done. Can be done.

18 Q. That's all my questions. Thanks.

19 A. Okay.

20 PRESIDING OFFICER: I'll -- we'll confer for a  
21 second before we adjourn, but is there anything else  
22 that anybody has right now?

23 MS. WAGNER: I do not.

24 PRESIDING OFFICER: Okay. Okay. Thank you.

25 (The Commission confers.)

1           PRESIDING OFFICER: Okay. So the only -- the  
2 only thing I have is does anybody have any awareness of  
3 the public showing up tonight?

4           MS. WAGNER: No.

5           PRESIDING OFFICER: Anybody heard anything?

6           MS. ANDERSON: I've heard -- I have spoken to  
7 two individuals. One is unfortunately out of town, and  
8 the other one is planning on coming.

9           PRESIDING OFFICER: Okay. Good.

10          MS. ANDERSON: I don't know if there's more  
11 beyond that.

12          PRESIDING OFFICER: Well, if you hear from  
13 them, remind them as I'm going to remind you, 5:30  
14 tonight.

15          MS. ANDERSON: I will -- I will remind them.

16          PRESIDING OFFICER: Right here at  
17 5:30 tonight, and we have nothing else. So thank you  
18 very much for your time and your preparation and for  
19 your presentation today, and we'll see you soon. Thank  
20 you. We're adjourned.

21                           (This hearing was concluded at  
22                           2:30 p.m. MT.)

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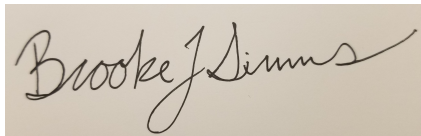
REPORTER'S CERTIFICATE

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I, BROOKE SIMMS, an Idaho Certified Shorthand Reporter, Utah State Certified Court Reporter, and Registered Professional Reporter, hereby certify:

THAT the foregoing proceedings were taken before me at the time and place set forth in the caption hereof; that the proceedings were taken down by me in shorthand and thereafter my notes were transcribed through computer-aided transcription; and the foregoing transcript constitutes a full, true, and accurate record of such oral proceedings had, and of the whole thereof.

I have subscribed my name on this 23rd day of February, 2024.



Brooke Simms, RPR, CCR, CSR  
Idaho CSR No. 1174  
Utah CCR No. 12335391-780

[& - 23rd]

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[approving - awkward]

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[b - broadband]

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[broadband - carrier]

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[carrier - certain]

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[colr - competition]

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[determine - doing]

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[obligation - officer]

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[person - pots]

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Utah Rules of Civil Procedure  
Part V. Depositions and Discovery

Rule 30

(E) Submission to Witness; Changes; Signing.

Within 28 days after being notified by the officer that the transcript or recording is available, a witness may sign a statement of changes to the form or substance of the transcript or recording and the reasons for the changes. The officer shall append any changes timely made by the witness.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES  
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.  
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,  
2019. PLEASE REFER TO THE APPLICABLE STATE RULES  
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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