

Public Service Commission of West Virginia

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November 3, 2021

Connie Graley, Executive Secretary
Public Service Commission
PO Box 812
Charleston, West Virginia 25323

RE: CASE NO. 21-0515-CTV-SC-GI
CEBRIDGE ACQUISITION, LLC, DBA SUDDENLINK
COMMUNICATIONS, CEQUEL III COMMUNICATIONS I LLC, DBA
SUDDENLINK COMMUNICATIONS AND CEQUEL III
COMMUNICATIONS II LLC, DBA SUDDENLINK
COMMUNICATIONS

Dear Ms. Graley:

Enclosed for filing in the above-referenced proceeding is the **STAFF INITIAL BRIEF**. A copy has been served upon all parties of record by U.S. mail and by electronic communication.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Bouvette", written over a horizontal line.

Linda S. Bouvette, Staff Attorney
West Virginia State Bar I.D. No. 5926

And

Brooke A. Hirst, Staff Attorney
West Virginia State Bar I.D. No. 13892

LSB/dt

Enclosures

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**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

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CEQUEL III COMMUNICATIONS I LLC, DBA SUDDENLINK
COMMUNICATIONS AND CEQUEL III COMMUNICATIONS II LLC, DBA
SUDDENLINK COMMUNICATIONS**

STAFF INITIAL BRIEF

November 3, 2021

Prepared by:

Linda S. Bouvette, Staff Attorney

and

Brooke A. Hirst, Staff Attorney

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STAFF INITIAL BRIEF

Comes the Staff of the Public Service Commission, by counsel, and for its Initial Brief, states as follows:

INTRODUCTION

The old saying that “actions speak louder than words” was affirmed by Suddenlink at the evidentiary hearing held in this case. By leaving before the conclusion of the hearing, Suddenlink’s executive management team showed the Commission, the Cities, the Kanawha County Commission, the Consumer Advocate Division and Staff that it had no interest in what they had to say about Suddenlink’s performance in West Virginia. By failing to produce knowledgeable witnesses for the hearing—witnesses identified by Suddenlink in its discovery responses as subject-matter experts—Suddenlink showed the Commission, the Cities, the Kanawha County Commission, the Consumer Advocate Division and Staff that it did not care to mount a serious defense to the Commission’s show cause/general investigation.

Staff does care about the results of this case and about the poor quality of service that Suddenlink is providing to West Virginia subscribers. Therefore, Staff urges the Commission to take strong action against Suddenlink to enforce the provisions of W.Va. Code Chapter 24D and its Cable TV Rules by imposing the recommendations made by Staff in its Final Joint Memorandum attached hereto as Exhibit A and incorporated herein by reference and as contained in this Initial Brief, including the recommended monetary penalties. Such actions should effectively communicate to Suddenlink that its current inability or unwillingness to provide adequate, safe and reliable cable television service to West Virginia subscribers is simply unacceptable.

PROCEDURAL HISTORY

On July 1, 2021, the Commission initiated this Show Cause-General Investigation into the quality of Suddenlink's cable television service. The Commission stated that it had received over 1900 complaints since 2019 regarding billing issues, delays in restoring service, inability to place orders for service, and the inability to contact personnel regarding the status of requests, etc. After meeting with Suddenlink in May of 2021, the Commission requested a corrective plan from Suddenlink to address the issues raised in the complaints.

Instead of submitting a corrective plan, Suddenlink responded that it has (1) invested in West Virginia to offer advanced products over upgraded networks and to address service concerns; (2) improved service to its customers and implemented practices to comply with applicable standards; and (3) resolved customer complaints.

In its procedural order initiating the show cause/general investigation, the Commission required Suddenlink to provide detailed information regarding its operations, including plans to improve cable television service in West Virginia. The Commission also established public hearing dates in Charleston, Beckley, and Princeton, West Virginia.

An evidentiary hearing was held on October 6-7, 2021.

The complete procedural history of this case may be reviewed on the Commission's web docket.

COMMISSION JURISDICTION AND AUTHORITY OVER CABLE TELEVISION SERVICE

The West Virginia Legislature granted the Commission limited jurisdiction and authority over the provision of cable television services in Chapter 24D of the West Virginia Code. The legislative findings setting forth the public interest in regulating cable television services state that the Commission has authority:

- To establish uniform standards within the State of West Virginia for the issuance, renewal and transfer of cable television franchises;
- To establish uniform standards for the provision of cable service;
- To establish uniform provisions for the investigation and resolution of complaints concerning cable service; and
- To establish just, reasonable and nondiscriminatory rates and charges for the provision of cable service to the extent that the service is not subject to effective competition.

W.Va. Code §24D-1-1. In furtherance of its duties under Chapter 24D, the Commission promulgated its Rules and Regulations for the Government of Cable Television, 150 CSR

§26, et seq. (Cable TV Rules), establishing franchise agreement requirements, adopting the Federal Communications Commission (FCC) technical standards and setting customer service standards. The provisions of Chapter 24D give the Commission jurisdiction and authority to require Suddenlink to provide safe, reliable and quality cable television service at just and reasonable rates. Chapter 24D also grants authority to the Commission to impose penalties for each and every violation of Chapter 24D and the Cable TV Rules.

REVIEW OF EVIDENCE AND CORRESPONDING STAFF RECOMMENDATIONS

The following is a discussion of the issues raised during the discovery phase and in the evidentiary hearing in this case. Staff also includes its recommendations pertinent to each issue.

Franchise Agreements

In its Response to the Commission's July 1, 2021 orders, Suddenlink submitted copies of 115 franchise agreements for West Virginia. (Trans., Day 2, p. 52, lines 20-22.)¹ Staff reviewed each franchise agreement and determined that none of them complied with the requirements set forth in the Cable TV Rules. As noted by Staff witness Margaret Robinson (Robinson), Suddenlink used a different format than Form 2 included in the Cable TV Rules and excluded all of the customer service standards.

Suddenlink did not follow the guideline-contract guidelines found in the Cable Television Rules or use Form 2...There were items missing. Most noticeably about subscriber protections. And these included procedures for restoring interrupted service and improving substandard service, credit or

¹ Day 1 transcript is identified as "Trans., Day 1"; Day 2 transcript is identified as "Trans., Day 2".

refund for interrupted service, office operating requirements, including office hours, notice to subscribers regarding quality of service and billing, and recording of subscriber complaints.

Trans., Day 2, page 94, lines 5-7; 12-18. See Staff Exhibit 5, Utilities Division Final Memorandum from Margaret Robinson.

Failure to follow the provisions of Chapter 24D and/or the Commission's Cable TV Rules is a violation for which penalties may be imposed.

The commission may fine or obtain civil penalties against a cable operator for each violation of subsection (d) of this section in an amount not less than \$100 nor more than \$1,000 for each violation. Any penalty assessed under this section is in addition to any other costs, expenses or payments for which the cable operator is responsible under other provisions of this section.

W.Va. Code §24D-1-22(e). Staff recommends that the Commission impose a penalty of \$1,000 for each franchise agreement that violates the Cable TV Rules.

Of the 115 franchise agreements, at least 28 of them are expired with several more to expire by the end of 2021. Suddenlink's witness James Campbell (Campbell) claimed that negotiations between the parties were adversely affected by the COVID pandemic Trans., Day 2, p. 54, lines 20-22. However, Suddenlink witness Campbell acknowledged that the process for renewing franchise agreements is 120 days from the time the application is filed.

Q. Yeah. And would you agree with me that the process for the renewal of Franchise Agreements is basically 120-day process from the time of a formal application?

A. That's what the federal law says, correct.

Q. That's West Virginia Law, too, isn't it?

A. And West Virginia, yes.

Trans., Day 2, p. 55, lines 4-10. The Cable TV Rules provide:

Upon the filing of a proposal for renewal of a franchise, either pursuant to subsection 3.2 of this rule or at anytime within the final three (3) years of the franchise the franchising authority shall provide prompt public notice of such filing and within four (4) months of the completion of any proceeding under subsection 3.1 of this rule, or if no such proceedings were held, then within four months of the filing of the proposal, shall either renew the franchise or issue a preliminary determination that the franchise should not be renewed.

Cable TV Rules, Section 3.6.

However, upon describing the process used by Suddenlink to renew franchise agreements, Suddenlink witness Campbell stated that Suddenlink provides a template agreement to start the negotiations rather than paying the \$250 filing fee and filing an application as required by the Cable TV Rules. Trans., Day 2, p. 55, lines 11-25. See Cable TV Rules 3.3 (“Every proposal for a renewal of a franchise shall be on the form established by the Commission to provide the information necessary to determine whether a renewal should be granted.”) Suddenlink does not file an application to renew a franchise agreement.

Q. Do you file an application every time...

A. We do not.

Q. ---on the 120 days?

A. We do not. We file an application where requested by the local franchising authority, but we do not file an application under the statutory process every time.

Trans., Day 2, p. 58, lines 5-11.

Failure to follow the provisions of Chapter 24D and/or the Commission's Cable TV Rules is a violation for which penalties may be imposed. Suddenlink is not following the process for renewal of franchise agreements as set out in Section 3.3 of the Cable TV Rules for the 28 expired franchise agreements. Staff recommends that a fine of \$1,000 be imposed for each of these violations since Suddenlink clearly knew the proper process set forth in the Cable TV Rules and chose to ignore it. Staff further recommends that Suddenlink be required to comply with the Cable TV Rules regarding the renewal of franchise agreements, including the payment of a \$250 filing fee and an application on Form 1 for all renewals in the future to provide the franchise authority sufficient information to determine whether a renewal should be granted.

As part of its investigation, Staff determined that franchise agreements were not being timely filed with the Commission nor were they being reviewed for compliance with the requirements of the Cable TV Rules. Staff proposed a process wherein the filing of a franchise agreement would be treated as a formal case, with proper Staff review and final recommendation to the Commission to accept or reject the agreement. Trans., Day 2, p. 97, lines 4-10. See Staff Exhibit 5, Utilities Division Final Memorandum filed by Margaret Robinson. Staff requests that the Commission adopt this recommendation to ensure that franchise agreements are thoroughly reviewed in the future to ensure that West Virginia subscribers receive the customer protections required by statute.

Late Fees

While Suddenlink acknowledged that it may only charge a \$2 late fee for West Virginia subscribers, Staff witness Robinson noted in her final memorandum (Staff

Exhibit 5) that in its 2020 annual reports Suddenlink showed a late fee of \$10 except for Kanawha County for which it showed a late fee of \$30. In its 2021 annual report, Suddenlink showed the correct late fee of \$2 except for Kanawha County for which it reported a late fee of \$25. Cable Television Rule 17.1 permits a late fee of \$2.00 on the unpaid balance for cable services after the scheduled due date.

Cable operators electing to charge late fees may charge a fixed fee of not more than two dollars (\$2.00) on the unpaid balance after the scheduled due date.

Id. See Trans., Day 2, p. 97, lines 14-24.

Staff is concerned that Suddenlink actually charged the incorrect amount to its West Virginia subscribers and recommends that the Commission require Suddenlink to conduct an independent audit to review the billings for the time period 2020-2021 to date to verify if any customer has been overbilled for late fees. If so, Suddenlink should be required to reimburse the customer for the difference between the incorrect charge and the \$2 late fee. Trans., Day 2, p. 98, lines 6-8. Suddenlink should be required to report the results of its audit to the Commission as a closed entry filing. The audit, report and credits should be completed by January 31, 2022. Further, Suddenlink should be required to pay a penalty of \$100 for each such violation of the Cable TV Rule 17.1.

Collection and Remittance of E-911 Fees

Suddenlink collects E-911 fees from its VOIP customers and remits them to the appropriate county commission for use in providing E-911 service in the county. Suddenlink produced no witness that could respond to questioning regarding its collection and remittance of E-911 fees, even though in discovery it identified Laura

LeNeve as the executive responsible for the E-911 program. While Ms. LeNeve participated in one informal discussion with Staff she did not appear at the hearing to give testimony. Suddenlink witness Campbell stated that Suddenlink had no one available at the hearing to answer questions on its E-911 process.

Q. The person Suddenlink identified as the E911 expert is not present today, is she?

A. She is not.

Q. Okay. So are you capable of answering questions about E911?

A. I am not capable of answering specific questions. I do know that one of the Staff recommendations is that Suddenlink agreed to an audit of its collection and remittance of E911 fees for a period time, and we can agree to do that. So we felt that their testimony, you know, down here was not necessary. And I could testify that we will agree to an audit and work with Staff to accomplish that goal.

Trans., Day 2, p.75, lines 10-22.

Staff witness C. Todd Midkiff (Midkiff) noted in his Final Memorandum (Staff Exhibit 6, Utilities Division Final Memorandum from C. Todd Midkiff) that the Commission has two cases involving the incorrect collection and remittance of E-911 fees. The first case involved the Wayne County Commission which alleged that Suddenlink used the wrong fee amount to collect and remit fees. Case No. 20-0752-T-C, Wayne County Commission v. Suddenlink Communications. Suddenlink was ordered to conduct an audit of its collection and remittance of E-911 fees for Wayne County Commission and ultimately ended up paying Wayne County Commission the sum of \$108,682.00 in unpaid E-911 fees. Recommended Decision entered June 23, 2021, final July 13, 2021.

The second case, Rebecca Budd on behalf of Myers Transfer v Suddenlink, Case No. 21-0536-T-C, the Complainant alleged that Suddenlink was overcharging E-911 fees on its business lines. The case is pending.

During the informal conversation Staff had with Ms. LeNeve and other Suddenlink executives, Ms. LeNeve disclosed that Suddenlink relied on third party sources for the amount of the E-911 fee to charge phone subscribers for each county rather than using the information self-reported by the county. Staff anticipated cross-examining Ms. LeNeve more on the reliability of the data received from these third party sources since the Wayne County Commission case raised concerns that Suddenlink's current system may have some issues.

Suddenlink's witness in the Wayne County Commission case, Joyce Lin, provided the following testimony on cross-examination on how Suddenlink is notified when a county commission approves a change to its E-911 fees.

And so the normal process is that we in Altice, in Suddenlink, we pay subscription. We pay fees to a third party, sales tax engine called Vertex. And so Vertex has two ways --- has two ways to support us. One is the sales tax engine and another way is the database. So I use the database to manage our homegrown billing system. And that homegrown --- so I rely on Vertex to give me any changes. And that is our source through the third party, to make sure we cover the majority of rate changes in Suddenlink states. And then other than Vertex, I mainly rely on official notification. Because if any official notification came in before Vertex, that will be my primary source to make any changes with the proper effective date. And that is the main process I manage our homegrown billing system.

Trans., p. 59-60, lines 12-25; lines 1-2, Wayne County Commission. This process is similar to that disclosed by Ms. LaNeve in the informal discussions between Staff and

Suddenlink. Input from individual county commissions or E-911 centers is not routinely used to update Suddenlink's billing system to collect the appropriate E-911 fees.

Suddenlink agreed to conduct an audit of its E-911 fees for a period of time. Staff recommends that the Commission order Suddenlink to complete an independent audit of its 2018 through 2021 E-911 fees to ensure that the proper amount of E-911 fees were collected and remitted to the individual county commissions. The audit should be completed by June 30, 2022, with the results of same reported to the Commission as a closed entry filing. Any undercharges should be remitted to the appropriate county commission at the same time.

Business Offices

Suddenlink operates seven (7) business offices to serve its West Virginia subscribers located in 114 service areas in 31 different counties. Staff Exhibit 3 shows the location of each business center (shown below): Charleston, Scott Depot, Princeton, Beckley, Parkersburg, Point Pleasant and Logan. (See Staff Exhibit 7, Utilities Division Final Memorandum from Terri Blake; Suddenlink Response to Commission Request (vii)).



Chapter 24D requires a business center to be located in or near a service area. Suddenlink has 115 franchise agreements – each of which represent a service area. Yet it only has 7 business centers for the entire state of West Virginia.

Each cable operator shall operate a business office in or near its area of operation as approved by the franchise authority or the commission that shall be open during normal business hours, and each cable operator shall operate sufficient telephone lines, including a toll-free number or any other free calling option, as approved by the commission, staffed by a company customer service representative during normal business hours.

W.Va. Code §24D-1-17. The language of the statute is mandatory; the only interpretation is whether the location of a proposed or existing call center is “in or near its area of operation” covered by a particular franchise agreement. The Commission did find a cable operator to be in violation of the Cable TV Rules for failing to operate a business center “in or near its area of operation” and fined the Company accordingly for the violation. Blair v. PC One Cable, LLC, Case No. 07-1452-CTV-C, Recommended Decision entered December 7, 2007, final on December 27, 2007. The Commission later reopened the case and dismissed the fines as uncollectible since PC One Cable, LLC had dissolved. The Commission’s order also “disallow[ed] PC One or any of its affiliates that control, are controlled by or are under common control with PC One from providing future cable service or making future filings with this Commission”. Order entered March 8, 2010.

Suddenlink witness Gregory Thomas (Thomas) testified that Suddenlink intended to add three (3) additional business centers to its West Virginia operations in 2022, but refused to disclose the locations of the three proposed centers. Trans., Day 1, p. 215-216,

lines 22-25; 1-4. In fact, Suddenlink witness Thomas was unaware that he had to get prior approval of the location of a business center from a franchise authority or the Commission. Trans., Day 1, p. 260, line 3. Suddenlink operates in West Virginia as if it has no regulatory or contractual obligations. Staff contends that operating 7 business offices for 31 counties and 115 service areas is unreasonable and in violation of W.Va. Code §24D-1-17. Staff further contends that adding three additional business offices is far short of what is needed to provide adequate service to its West Virginia subscribers. Staff recommends that the Commission order Suddenlink to install additional business offices in locations wherever customers are now traveling more than 45 miles to reach an existing business office.

Suddenlink witness Thomas also assured the Commission that each business center is staffed to provide full customer service including but not limited to, accepting payments for bills, returning and issuing equipment, setting up service appointments for repair and installation, etc.

It is my understanding that this policy has been in place for quite some time. We've revalidated that recently. I personally went to the store in Charleston yesterday. And I've asked these questions to make sure that--sometimes corporate policy, executive policy, and execution can be different. To my knowledge, this has been in place for quite some time. It's currently in place. We validated it with the retail leadership team.

I personally validated it with the assistant manager yesterday that credits, service visits, and general customer service can be done at the store locations that we operate. And if there are any examples where that's not the case, we would look into that.

Trans., Day 1, p. 214, lines 8-20. However, the Commission has received a number of comments in this case where customers have tried to conduct such business at a business center and were rebuffed, saying they had to call the customer care center.

Q. So are you aware there were complaints, I believe in the record in this case and also the County Commission has had complaints that that was not the case in the past?

A. I am aware of that. And you know, to state on the record, we were surprised to hear that, which we validated several times over the last few weeks to make sure that there were not gaps. And that was, in fact, the policy and the procedures that are in place. To the best of our knowledge, that shouldn't have been an issue for our customers.

Trans., Day 1, p. 214-215, lines 21-25; 1-6.

Once again, Suddenlink has policies and procedures, that if properly implemented would provide safe, reliable and adequate customer service. However, at the present time Suddenlink's employees and contractors are not following those policies and procedures as evidenced by the complaints filed with the Commission and the comments filed in this case.

Escalation Policy - Supervisors

Staff member Terri Blake (Blake) noted in her Final Memorandum filed in the case (Staff Exhibit 7, Utilities Division Final Memorandum from Terri Blake) that customers are frustrated by their inability to speak to a supervisor when a call center representative is unable to resolve their service or billing issue.

This problem was recognized in Case No. 20-0766-CTV-C, Mark Gorman and Janet Price v. Cebridge Acquisition dba Suddenlink Communications, Recommended Decision entered June 10, 2020, final on June 30, 2020. The Recommended Decision ordered Suddenlink to develop an escalation process to handle Complainants' future service issues. Suddenlink was

ordered to provide details of the escalation process in a monthly report. As stated in the Discussion of that order, this process for potential future service issues, was not only for the Complainants of this case, but also for other Suddenlink customers, who require an escalation process within Suddenlink for outages and supervisor requests.

Id. at 2.

On September 29, 2021, Suddenlink filed its current escalation policy for both outages and supervisors, stating that “the Company is constantly evaluating opportunities for process improvements.” The escalation policy stated:

During a live call, the Customer Care agent is instructed to immediately address the customer’s problem. If the issue cannot be solved by the agent, and the customer requests a Supervisor, the Customer Care agent creates a ticket to ensure the request for escalation is tracked, followed-up, reported and analyzed for trends.

Once the customer requests escalation, the Customer Care agent contacts a Supervisor. The Supervisor reviews the request for escalation with the agent and attempts to guide the agent to resolve the issue if possible, in an effort to streamline the call.

If the issue is deemed to require Supervisor intervention beyond the scope of the agent’s ability, then the following processes apply.

The Care agent transfers the live call to the Supervisor if the Supervisor is available.

If the Supervisor is not available for an immediate live call escalation (e.g., due to a spike in call volume or unavailability of a Supervisor), the Customer Care agent offers a call back from a Supervisor and requests the best call back number from the customer.

The escalation is tracked through an automated process that is monitored by Supervisors to address the calls as they become available. The Company’s goal is to resolve service issues < 24 hours and address all open tickets.

Suddenlink filing on September 29, 2021, in Case No. 20-0766-CTV-C.

Suddenlink witness Thomas acknowledged upon cross-examination by CAD that

having to continue to speak to a customer care agent after requesting a supervisor would be frustrating. Trans., Day 1, p. 247-248, lines 24-25; 1-4. Therefore, he stated that he was going to change the escalation policy.

I'm changing that policy. So we identified that last week or the week before as an arbitrary selection approval process. We're in the process of rewriting the policy. If a customer cannot have their problem solved through the care rep, it is the care reps, you know, responsibility to solve the customer issues. Today, there's the validation step from a supervisor where they can approve it or not. It's a little too open-ended for me. It leaves it to interpretation to the local level. So we are going to remove that. If the customer is adamant about speaking to a supervisor after going through the troubleshooting or call flow steps from a care rep, they will get to a supervisor.

Trans., Day 1, p. 256, lines 5-17.

However, Suddenlink witness Thomas stated that it would take time to "amend the current policy, deploy it, communicate it." Trans., Day 1, p. 257, lines 7-8.

Staff recommends that the Commission require Suddenlink to file its amended escalation policy for supervisors in the Gorman case and this case thirty (30) days following entry of a final order in this case. Staff further recommends that the Commission require Suddenlink to provide monthly data as follows:

- The total number of escalation to supervisor tickets opened;
- The number of escalation tickets that went directly from the agent to a live transfer;
- The number of tickets that required a subsequent call back;
- The number of subsequent callbacks made within 24 hours; and
- The number of subsequent callbacks made within 48 hours.

- The number of subsequent callbacks made after 48 hours.
- The total number of hours it took to call the customer back².

System-Wide Analysis

Suddenlink witness Prashash Pillai testified upon questioning by the Chairman, that Suddenlink is performing a system-wide analysis to identify problem areas within its West Virginia cable system. Trans., Day 1, p. 190. Suddenlink witness Pillai stated that a time schedule on addressing network issues is in place but that Suddenlink had not yet “completed assessing every single cable replacement.” Trans., Day 1, p. 190, lines 19-20. Staff recommends that Suddenlink be required to submit for Commission review a comprehensive and complete time schedule on addressing network issues within thirty (30) days of the Commission entering a final order in this case to ensure that timely efforts are made to make the necessary repairs, upgrades, improvements, etc. to improve the quality of service provided to Suddenlink’s West Virginia subscribers.

Contractors

Staff has two issues with Suddenlink’s use of contractors. First, Staff determined that most of Suddenlink’s contractors were not registered as foreign corporations in the state of West Virginia. See Staff Exhibit 6, Final Memorandum of C. Todd Midkiff. Further, only one contractor was shown to have workers compensation insurance for its employees. When confronted with this information, Suddenlink witness Prakash Pillai stated:

² A callback should not occur past the 24-48 hour timeframe.

So what we found to our review based on the discussion with Staff, there was some contract out there. They have their Workers' Comp insurance and so on, but not correctly reflecting when the transition from ATS to Suddenlink, they did not update the name. The insurance coverage is there, but they didn't update the name. I think all of that was corrected after we found out and we were going to continue to validate that. I wasn't aware there was a specific requirement that we need for the state to, you know, to register as a foreign entity. I was not aware of that. So we brought it up with our contract management team and our listing, to make sure that's incorporated going forward. So that's an oversight. But they did have insurance coverage. It was not properly registered.

Trans., Day 1, p. 161-162, lines 22-25; 1-11.

Staff remains concerned that the contractors are not properly registered with the Secretary of State and that they are not properly insured since any insurance policy would be in the name of the contractor not Suddenlink. Staff recommends that the Commission require Suddenlink to provide documentation on an on-going basis that all contractors are duly registered with the state as foreign entities and that they have workers compensation insurance and unemployment compensation coverage in place.

The second issue is that Staff contends that Suddenlink should use employees rather than contractors as service technicians since they interact directly with the West Virginia subscribers and receive better training for installation of services and/or repairs. Suddenlink does not monitor the performance of its contractors, only its employees. Suddenlink does not train contractors, but only requires completion of virtual training classes and be trained in accordance to industry standards. Staff recommends Suddenlink hire additional Suddenlink in-house technicians and train accordingly in order to meet the service requirements of customers and maintain plant health.

Service Quality

Cable operators are to provide “safe, adequate and reliable cable service”. W.Va. Code §24D-1-14(a). Staff assumed that means 24/7/365 cable service. Suddenlink witness Pillai represented that ‘three-nines’ (99.9%) availability is achievable but 24/7/365 is not.

Q. How do you define adequate service quality? Is it 24/7, 365 days a year that a someone can watch their TV, cable TV?

A. I don’t---that should be the goal, but infrastructure on cable TV can only support up to I believe it’s three-ninths availability. So you can’t really provide your service 24 hours, 365 if you have three-ninths availability. That’s not unique to Suddenlink.

Q. But that’s what customers are paying for; correct?

A. I’m not aware of that.

Q. So a customer doesn’t have the right to turn his tv on at three o’clock in the morning and be able to watch it?

Attorney Hanna: Objection, Your Honor.
Chair: Overruled.

A. They have the right---service need to be available, but I’m giving you an answer that, yeah, you may say, why is it only three-ninths. That’s how cable infrastructure is built. It’s not a secret. Everybody knows that.

Trans., Day 1, p.164-165, lines 3-25; 1.

Service quality is an overwhelming concern of Staff, CAD and the Commission. Suddenlink witness Pillai’s testimony that 24/7/365 is not the goal that Suddenlink is shooting for is disappointing to say the least. Mr. Pillai stated that the three-nines standard is the gold standard for cable infrastructure, which is 8.76 hours downtime per year.

Number of Nines (%) ³	Downtime (Outage duration)
99.9999	32 seconds or less
99.999	5 minutes 15 seconds or less
99.99	52 minutes 36 seconds or less
99.9	8 hours 46 minutes or less
99	3 days 15 hours 40 minutes or less
9	332 days

Based on data submitted by Suddenlink in response to Staff’s Data Request 1.71, Suddenlink isn’t even close to achieving the three-nines availability. In fact, Suddenlink is operating somewhere between the 9% availability (332 days of downtime per year) and 99% availability (3 days, 15 hours and 40 minutes downtime per year.) Based on the 2020 data provided in Bates No. SUDDENLINKWVPSC002400 for its Response to Staff Data Request 1.71 (labeled Filtered outages), Suddenlink’s performance was 67%, far below three-nines standard for cable systems (99.9%)⁴. Based on data for 2019, Suddenlink’s performance was 71%⁵. Using data provided for 2021 (through August, 31, 2021), Suddenlink’s performance was 77.6% availability⁶.

³ <http://www.copperethernet.com/5-nines.php>

⁴ This calculation only includes outages over 24 hours in duration; there were a number of outages less than 24 hours in duration that were not included. If all the outages for 2020 affecting cable tv service were included, Suddenlink’s performance would be much less than 67%.

⁵ This calculation only includes outages over 24 hours in duration; there were a number of outages less than 24 hours in duration that were not included. If all the outages for 2019 affecting cable tv service were included, Suddenlink’s performance would be much less than 71%.

⁶ This calculation only includes outages over 24 hours in duration; there were a number of outages less than 24 hours in duration that were not included. If all the outages for 2019 affecting cable tv service were included, Suddenlink’s performance would be much less than 77.6%.

Based on outage data and Suddenlink’s own testimony, Suddenlink is providing very poor quality of service to West Virginia subscribers and has done so for at least the past three years. Staff recommends that the Commission promulgate rules pursuant to W.Va. Code §24D-1-16(b).

The commission may promulgate rules establishing a viewing time reliability standard for cable operators and requiring such companies to file with the commission information on service interruptions not caused by subscribers.

Establishing a standard and requiring compliance reporting will allow the Commission to more closely monitor Suddenlink’s performance in reducing the number of outages over time.

A second measure of service quality is the number of complaints received by the Company and by the Commission. The number of complaints, both formal and informal, filed with the Commission against Suddenlink has increased over the past three years, since the closing of the Parkersburg Call Center (2017). See Staff Exhibit 6, Final Memorandum from C. Todd Midkiff.

Year	Total Complaints Filed with PSC against Suddenlink
2015	130
2016	118
2017	193 – Closing of WV call center
2018	316 – Shifting to overseas call center
2019	585
2020	1005
2021	665 (thru 8/26/21)

When confronted with this data, Suddenlink witness Thomas denied any connection between the closing of the Parkersburg call center and the number of complaints received by the Commission, claiming that “we have an improved satisfaction level with regard to care versus 2020 and versus 2019 specific to the month of September based on the reporting that I just looked at this morning.” Trans., Day 1, p. 269, lines 12-15. That statement does not address the steady increase in complaints beginning with the closing of the call center in 2017.

When compared to complaints filed against Comcast, Suddenlink looks even worse. Comcast has approximately 15% fewer customers in West Virginia than Suddenlink. The number of complaints filed with the Commission against Comcast are far lower than for Suddenlink. Trans., Day 2, p. 104-105, lines 24-25; 1-3.

Year	Total Complaints Filed With PSC Against Comcast
2015	51
2016	39
2017	32
2018	21
2019	28
2020	29
2021	42

Comcast operated under the same or similar weather conditions in West Virginia as Suddenlink and during the COVID-19 pandemic but continued to provide quality cable television service to its customers during that time period (2019-2021) as evidenced by the lack of complaints filed with the Commission⁷. Likewise, West Virginia's larger utilities operated under the same or similar weather conditions as Suddenlink and continued to provide service during the COVID-19 pandemic, without a dramatic increase in customer complaints filed with the Commission. Trans., Day 2, p. 105-106, lines 22-25; 13. See Staff Exhibit 6, p. 3.

Suddenlink is clearly providing poor customer service to its West Virginia subscribers that cannot be attributed to the weather or to the COVID-19 pandemic. Rather than making excuses, Suddenlink should take immediate steps to improve its customer service performance.

Customers are also frustrated with Suddenlink's billing practices that have them paying a different amount each month for unknown reasons. Customer care representatives are unable to reassure customers that the bills they receive each month are accurate for the services being provided. Commenter Bev Parsons stated it best.

And also the lack of consistent pricing tool that we can look at and see what we want. It baffles me that if I decrease my services, it's going to cost me \$20 more a month. You know, that's something that is very unusual to me. And you know, when you speak with them, you finally get someone on the phone and it's like being in a high-pressure sales situation. You know, who feel like you have to make a decision right then. And it may be something totally unexpected. I mean, you would---pay, you know significantly higher prices for less service. So I think that's a thing they need to work on.

⁷ Several of the Comcast complaints were actually from customers that wanted Comcast to expand to their area and provide service.

And the price increases that we have, you might have a \$30, \$40 increase in their bill. Most of us in this room today I'd say are on a fixed income and that's pretty hard. We can't plan for that every year. And also it's unclear charges on the bill. I would like---you know, I feel that anything that we might attain here could be taken away and passed, you know, the costs passed back to us because of the surcharges and mysterious fees that appear on the bill.

Bev Parsons Comment, Public Comment Hearing, Charleston, WV 10:30 a.m., Trans., page 20-21.

Another concern is the mysterious fees and charges that appear on a customer's bill with no explanation. Suddenlink should provide explanations of each charge or fee on the customer bill in clear language so that customers will understand what the charges cover. Staff recommends that Suddenlink adopt a clear billing practice that removes the element of surprise each month and so that customers understand the cost of each service being provided.

A similar issue is the fact that certain West Virginia subscribers do not have access to the lowest basic tier of service at \$34.99 per month but instead must pay for the next higher service tier. This requires customers with the lowest cable package to pay \$106.64 (now \$110.00 with the new Standard Video pricing that went into effect September 13, 2021) before any taxes and fees. That price does not include any equipment; it just covers the coaxial cable coming to customers' television(s). Staff recommends that the Commission require Suddenlink to provide all customers with the option of Basic Local only programming in order to provide a reasonably priced cable service to low-income families.

Finally, the Commission received a number of comments and complaints where customers paid their bill on time but Suddenlink did not process the payment and instead assessed a late fee and terminated service. Staff witness Blake described this issue in her final memorandum (Staff Exhibit 7.) The Commission also received a formal complaint in which the Complainant alleged that Suddenlink or its bank was not timely removing mail from the lock box so that payments could be timely processed. Case No. 21-0629-CTV-C, Norman Rose v. Cebridge Acquisition dba Suddenlink Communications pending before the Commission Administrative Law Judge Division. To avoid any such problems in the future, Suddenlink should be required to process its mail in a timely manner to ensure payments are promptly credited to accounts. Further, the payment should be considered received on the date it is placed in Suddenlink's mail box for purposes of assessing late fees.

Outages and Credits for Outages

Cable operators in West Virginia are required to:

restore interrupted service not later than twenty-four hours after being notified by a subscriber that service has been interrupted, unless (1) service cannot be restored until another company repairs facilities owned by such company and leased to, or required for the operation of, the cable service, (2) the interruption was caused by an act of nature, or (3) the cable operator is unable to restore service within twenty-four hours due to extenuating circumstances.

W.Va. Code §24D-1-15(b). Suddenlink customers report a variety of issues regarding Suddenlink's call centers. One issue is the difficulty in reporting outages. Oftentimes, customer service representatives refuse to record complaints of an outage or customers cannot reach a representative regarding an outage and are instead told by the interactive

voice response (IVR) system that there is an outage in their area. This creates a problem for customers attempting to create a record, so that they can receive outage credit in the near future.

W.Va. Code §24D-1-16 requires cable operators to provide a credit to customers for outages over twenty-four (24) hours, upon request. Suddenlink does provide out of service credits to customers. However, Suddenlink makes the process for getting a credit arduous for the customer, which goes against the purpose of Chapter 24D. Suddenlink customers who report outages are oftentimes turned away by the customer service representative and told that an outage has already been reported in their service area. The customer then must place a second call when the outage is resolved to receive credit.

Suddenlink claims that it tracks outages and customer calls. If that is the case, Suddenlink should be able to track a customer who called regarding an outage, look up the duration and service area of the outage, and apply the appropriate credit to the customer based upon one phone call. Suddenlink purposefully makes out of service credits difficult to obtain and clearly does not use the data it collects regarding outages and customer calls to improve the customer experience.

To remedy the issue of customers having to place multiple calls to receive a credit for an outage, Staff recommended that a parent-child ticket format be adopted to address outages. The parent-child ticket format is a way to link a master ticket within the Network Operations Center for a plant issue to customer calls complaining about a customer-side issue related to the plant issue. This ticketing method can be used to record outage data if the system allows the customers to do so. Currently, Suddenlink's

ticketing method will not allow a customer to report an outage during the outage incident. The automated call menu will not allow the customer to open a ticket if there is known outage in that customer's service area. Trans., Day 2, p. 107, lines 17-18. This requires the customer to wait until the outage is over to then call and request credit for the period of non-service. W.Va. Code §24D-1-16 states that the cable operator must provide credit upon the customer's request and one request, regardless whether that request is placed during or after the outage, suffices to fulfill the above-mentioned provision of Chapter 24D.

Suddenlink also has a responsibility to report outages over twenty-four hours to the Commission as mandated by W.Va. Code §24D-1-15. Suddenlink witness Campbell admitted that Suddenlink did not have a formal process in place to notify Staff at the Commission, but represented to the Commission that a process has been implemented. Trans., Day 2, p. 47 lines 6-22. The effectiveness of this process remains to be seen and Staff will monitor those communications to make sure Suddenlink is meeting its statutory burden.

Staff recommends that Suddenlink provide to the Commission year over year outages for years 2019, 2020, and 2021, (year-over-year trend) as suggested by Suddenlink witness Pragash Pillai. Trans., Day 1, p. 123, lines 3-5. Staff maintains its recommendation that Suddenlink implement a trackable process to notify its customers of outages both less than and more than twenty-four (24) hours in duration. Staff further recommends that Suddenlink implement the formal process it has devised to notify the Public Service Commission Staff of outages lasting over twenty-four (24) hours.

Call Centers

Suddenlink operates through an affiliate a number of international call centers that serve West Virginia customers. The Commission has received a number of complaints regarding the operation of the call centers, namely, difficulty in communicating with a call center representative, lengthy wait time to speak with a call center representative, inability to speak with a supervisor and the inability to resolve service issues promptly.

W.Va. Code §24D-1-5(4)(v) requires the Commission to

[p]rescribe standards for the construction and operation of cable systems which standards shall be designed to promote... (v) the prompt handling of inquiries, complaints and requests for repairs...

Staff contends that Suddenlink's call center operations fail to promptly handle "inquiries, complaints and requests for repairs."

Suddenlink claimed in its Response to the Commission's Order, section (xii) that "4,767 external agents were available to service Suddenlink customers in West Virginia." p. 32, Response to the Commission's Order. However, in Staff Post-Hearing Exhibit Request No. 3, Suddenlink provided scheduled headcounts for each day which provide far less than the 4,767 agents claimed by Suddenlink to be available to assist West Virginia subscribers in its Response to the Commission's Order, even at the busiest part of the day.

Any company interested in providing quality customer service does not leave a customer waiting for an extended period of time to speak with a customer care representative. Yet, the Commission has received a number of complaints on this very

issue. In fact, Staff witness Greear testified that he himself experienced a long wait time to speak with a customer care representative.

I'll begin by saying that the call center was, number one, not necessarily difficult to get ahold of as far as answering the phone, because it's automated. But going through a litany of various codes as to the reason for your call. And at the point that you finally determine the appropriate area that you're seeking for assistance, when you pretty much can look at your watch and put your phone down. And in my case, I generally use my cell phone, because I can put it on speaker, listen to the music and wait for someone to answer the phone. That has lasted as much as an hour and a half to two hours for someone to answer the phone.

Trans., Day 2, p. 25, lines 5-16. That should be unacceptable to Suddenlink – yet it continues to happen day in and day out, simply because there are insufficient customer care representatives available on a daily basis to handle customer calls. There can be no other reason for such a delay in answering a customer's call. Staff recommends that the Commission require Suddenlink to adequately staff its call centers to avoid wait times to speak to a customer care representative of more than ten (10) minutes.

A second issue is the difficulty in communicating with the customer care representative once he or she answers the phone. The background noise that the customer hears on the phone and the accents of both parties on the line makes it difficult to both hear and understand what the customer care representative is saying. Staff witness Greear mentioned the communication issue as “frustrating”. Trans., Day 2, p. 26, line 6. However, Suddenlink witness Thomas claims that background noise happens rarely.

Q. Have you heard the background noise?

A. Not personally. I've heard of complaints of that. Likelihood of that being attributed to a call center, there's a lot of noise in the call center, internal, external, BPO. You know, they're sitting next to each other. You could hear it. It's not ideal. But there should not be background chatter, background noise. That's not, you know, that's noticeable to the customer. So I'm aware of some instances. We've looked into it. We've escalated it when it's come to my attention. But I think every experience I've had with calling my own care operation, I've never dealt with it personally.

Trans., Day 1, p. 263, lines 8-19. Whether Suddenlink witness Thomas has heard the background noise or not, his West Virginia subscribers find it to be a stumbling block in communicating their problems to the care center representatives. Suddenlink should be required to take steps to reduce the background noise at the call centers.

A third issue is the inability to speak with a supervisor. This issue was considered in the Gorman case and discussed more fully hereinabove.

A fourth issue is that Staff contends that the training provided the call center representatives is insufficient to allow them to address the myriad of complaints they receive from customers on a daily basis. Three weeks of training and then nesting for an additional period of time ill-equips a representative to answer questions regarding cable television or any other topic.

A fifth issue is that customers who elect a callback rather than holding on line for hours at a time are not actually being called back and must re-call the Suddenlink care center to receive help. Staff witness Terri Blake described a process which allows a customer to "save his place in line" by providing a callback number. See Staff Exhibit 7 Utilities Division Final Memorandum from Terri Blake, p. 3. When it is his turn to speak

with a customer care representative, the customer care representative is to call him back.

Ms. Blake explained the issue under direct examination.

Q. Okay. And you mention callbacks. What are your concerns with Suddenlink's current callback policy?

A. Mr. Thomas---on a previous discussion that we had, this was discussed and he acknowledged that there is a problem. There is a current automated aspect of their call distributor that if you're in a queue for a long time and it says that if you would not like to not lose your place in the queue, you can leave your name and number and we'll call you back when it's your turn. But that callback function does not work.

So the customer leaves a name and number and then is never called back. So when they finally realized they're not going to get a callback, they call back in and then they're put at the end of the line. So my recommendation is, if that feature does not work, it should not be part of their IVR, so that a customer is not given misinformation and thought that they're going to be called back.

Trans., Day 2, p. 127-128, lines 25; 1-15. Mr. Thomas also mentioned the issues associated with the customer queue callback system.

But when there's commonalities, like I said, the first thing that came through through (sic) a common theme through social media, through emails to me directly, through our escalation team was the failure of customers receiving a call back. We've addressed it. We've deployed a process that we could monitor and track...

Trans., Day 1, p. 286, lines 16-25. Staff recommends that Suddenlink be required to provide to the Commission on a monthly basis the metrics measured to ensure the customer queue callback system is working properly.

A sixth issue is the failure of Suddenlink to maintain the statutorily required complaint log. Suddenlink's unchanging escalation policy and the issues numerous customers have faced show that Suddenlink does not have an effective process for

recording, linking, and analyzing customer complaints. When Staff asked Suddenlink witness Thomas for information on its statutorily required complaint log, Suddenlink referred to its ticketing system called DSTX ticketing (DSTX). Suddenlink's attorney stated that the definition of the word complaint is "subject to interpretation." Trans., Day 1, p. 280, lines 2-3. Further, Suddenlink witness Thomas asked for a definition of "what a complaint is based on our (Suddenlink's) coding." Trans., Day 1, p. 280, lines 13-14. Obviously, Suddenlink does not understand what a complaint is both in the context of Staff's questions and in the context of Chapter 24D. Because of this lack of understanding, Staff was unable to view the statutorily mandated complaint log because Suddenlink does not maintain such a log. Rather, Suddenlink maintains what it calls a DSTX ticketing system.

W.Va. Code §24D-1-19(a) states:

[e]very cable operator shall keep a record or log of all complaints received regarding quality of service, rates, programming, equipment malfunctions, billing procedure, employee relations with customers and similar matters as may be prescribed by the commission.

Although W.Va. Code §24D-1-19 (c) requires that "every cable operator shall make the logs or records, or both, of such complaints available to any authorized agent of the commission and the franchising authority, upon request during normal business hours for on-site review", Suddenlink was unable to provide such a log at any point in this case. In its post-hearing exhibit, Suddenlink stated that its ticketing system creates a ticket "regardless of whether or not the call involves a complaint." Suddenlink's Responses to Requests for Post-Hearing Exhibits, p 18, filed October 14, 2021. However, Suddenlink

does have the ability to distinguish what a complaint is as evidenced by its ability to provide AFEC tickets. Suddenlink stated that the AFEC ticketing system is “used to track complaints investigated and handled by the Company’s Customer Escalated Complaint Review team.” *Id.* So, Suddenlink does have the ability to log complaints that merit escalation and even has a Company Customer *Complaint* Team.

Rather than the complaint log, Suddenlink provided the number of West Virginia DSTX tickets for part of 2019, 2020, and 2021 through September, 2021. It also provided the number of AFEC tickets, which represents the DSTX tickets that were escalated to the Company’s Customer Escalated Complaint Review (CCECR) team. Since 2020 was the only complete year, Staff notes that only 0.78% of West Virginia complaints were escalated to the Company Customer Complaint Team.

One of the issues customers repeatedly mention is the inability to make contact with a call center supervisor. The number of escalated tickets being less than one percent of all DSTX tickets shows that not only are customers unable to speak with call center supervisors, but it is incredibly unlikely that a customer’s complaint will ever reach the CCECR team. In addition, the Commission has received comments and complaints that the customer care representative will mark the ticket as resolved even though the customer was dissatisfied with the result. Coupled with the fact that call center representatives are given very limited authority to resolve issues, it makes sense that instead of escalation to the CCEC Review Team, complaints are being dismissed by the call center representatives.

Coupled with the predominately negative experience customers have with Suddenlink call centers, it is clear that resolving customer complaints is an area in which Suddenlink is sorely lacking.

Staff recommends that the Commission order Suddenlink to comply with W.Va. Code §24D-1-19 and maintain the appropriate complaint log for both the Commission and each of its franchising authorities. Staff also recommends that Suddenlink provide an escalation policy that addresses the process by which a customer complaint is turned into an AFEC ticket and provide the criteria it uses to decide which complaints are worthy of AFEC escalation.

Overall, the performance of the call centers is less than adequate and fails to meet the requirements set out in W.Va. Code §24D-1-5(4)(v). To monitor Suddenlink's progress in improving the call center, Staff recommends that the Commission require the following monthly reports from Suddenlink:

- the number of customer tickets (DSTX) opened;
- the number of AFEC tickets opened;
- the number of customer callback tickets opened;
- the number of Supervisor customer callbacks made within 24 hours;
- the number of Supervisor customer callbacks made within 48 hours;
- the average monthly time for a customer care representative to answer a call; and
- the highest monthly time for a customer care representative to answer a call.

Staff also recommends that the Commission require Suddenlink to provide its service level metrics on a monthly basis with respect to its responses to social media complaints.

Staff finally recommends that the Commission require Suddenlink to open a call center in West Virginia to address service issue of Suddenlink's West Virginia subscribers.

Capital Budget

When asked by Chairman Lane to provide a post-hearing exhibit containing Suddenlink's capital budget for the next five years, Suddenlink's witness Pillai responded by stating that "budget visibility only goes out to 12 months. Any proceeding year would have been what we call part of our long-term plan... Budget, that's readily available." Trans., Day 1 p 195, lines 3-4; 24-25. The chairman specifically requested the 2021 budget and the long-term plan referred to by witness Pillai to be provided as a post-hearing exhibit. Id.

However, Suddenlink did not provide the long-term plan. Suddenlink did report a projected total for the year 2021 in capital expenditures for West Virginia customers. Compared to 2016-2020, Suddenlink's projected 2021 capital expenditures are significantly higher, which is a trend in the right direction. Suddenlink has not provided Staff with information regarding capital expenditures in the coming years, so it is uncertain if the trend in capital outlays will continue to benefit West Virginia customers.

The State of West Virginia is one of Suddenlink's largest service areas in the United States. Suddenlink claims that its increased spending has resulted in less service visits, however, the Commission has seen a dramatic increase in complaints.

Suddenlink's Responses to Requests for Post-Hearing Exhibits, p 5 (filed October 14, 2021). The Commission continues to receive comments on this proceeding, informal complainants, and formal complainants. Since Suddenlink sees a correlation between more money spent and better service, Suddenlink should continue to increase its spending in its West Virginia service area.

Suddenlink witness Pillai discussed Suddenlink's investment priorities and stated that investments are based upon customer trends. Trans., Day 1, p. 129, lines 10-11. He also alluded to the decreasing number of cable customers in the market due to the advent of video streaming. During this discussion, Pillai also noted that part of the investments Suddenlink is making in West Virginia infrastructure is node splitting, which he stated benefits both cable and internet customers. Pillai also pointed out that cable replacement is "massive work." Trans. Day 1, p. 131-132, lines 25; 1. Although the work is "massive", Suddenlink has a responsibility to its cable customers to ensure that they are receiving safe, adequate, and reliable service, as mandated by W.Va. Code § 24D-1-14.

Staff recommends that Suddenlink analyze its capital budget and increase expenditures that benefit West Virginia cable customers.

Maintenance

W.Va. Code §24D-1-14 requires that cable operators provide "safe adequate and reliable service in accordance with applicable laws, rules, franchise requirements, and its filed schedule of terms and conditions of service."

There are a variety of laws and regulations in place to ensure that cable operators in West Virginia are able to provide safe, adequate, and reliable service. The Cable TV

Rules expressly adopts the technical standards promulgated by the Federal Communications Commission (FCC). (Cable TV Rule 20.1.) The FCC technical standards mainly focus on signal quality and the ability for a customer to get cable service to their television. Cable operators must have properly maintained cable infrastructure to meet the FCC guidelines for quality cable service. The service quality Suddenlink is striving for—the three-nines standard—can only be achieved if the cable infrastructure is properly maintained. Using data provided for 2021 (through August, 31, 2021), Suddenlink’s performance was, at most, 77.6% availability. Lack of routine maintenance is a contributing factor to this poor performance. Suddenlink must prioritize maintenance if it is to achieve the three-nines standard of availability.

In addition to FCC technical standards, the National Electrical Safety Code (NESC) addresses safety standards that cable operators must take into consideration when operating a cable system. Cable operators are responsible for vegetation management around poles and lines. The NESC states that “vegetation management should be performed around supply and communications lines as experience has shown to be necessary.” A lack of vegetation management leads to “...cable failures, pole failures, reduced clearances occurred that result in personal injury or damage to utility or public facilities due to tree forces on communication cables. As a result, the 2017 Code modified the rule to apply it again to both supply and communication lines.” This issue was highlighted in a recent complaint against Suddenlink filed with the Commission. Case No. 21-0648-CTV-C, Mindy Dempsey and Dorothy Hatfield v. Cebridge Acquisition, LLC dba Suddenlink Communications, currently pending before the

Commission. In that proceeding, Suddenlink had not performed vegetation management on its lines for so long that the weight of the vegetation pulled down a pole onto the Complainant's mobile home. This situation is exactly what the NESC addresses when it states that a lack of vegetation management can lead to damage or injury. Proactive vegetation management is a critical part of maintenance for any cable operator running a safe, adequate, and reliable service.

In addition to the requirements of Chapter 24D and the Cable TV Rules, each individual franchise agreement that Suddenlink has entered into contains maintenance requirements. These requirements are negotiated between the franchising authority and the cable operator. For example, the City of Ravenswood requires Suddenlink to meet or exceed all technical performance standards of the FCC, the National Electrical Safety Code, the National Electric Code, and any other applicable federal laws and regulations. Ravenswood Franchise Agreement, p. 6 (Executed January 18, 2018.) Ravenswood also requires that Suddenlink have stand-by power at the headend(s). *Id.* at 7. Further, the City of Ravenswood requires that:

all structures and all lines, equipment and connections in, over, under, and upon streets sidewalks, alleys, and public and private ways and places of the City, wherever situated or located, shall at all times be kept and maintained in a safe and suitable condition and in good order and repair in accordance with customary industry standards and practices.

Id. at 9. This type of maintenance requirement is located in most franchise agreements in which Suddenlink enters. Suddenlink is directly responsible to its franchise authorities to maintain its outside plant, lines and equipment. Franchise authorities have the ability to negotiate maintenance terms and enforce those terms.

Suddenlink's Response to the Commission Post-Hearing Exhibit 1A, which summarizes the amount that Suddenlink spent on routine maintenance for the years 2017-2020, shows that Suddenlink cut its maintenance budget significantly in 2018-2020 as compared to 2016 and 2017. Likewise, the number of complaints filed with the Commission began increasing in 2018 as the budget for maintenance decreased.

Suddenlink acknowledged that it had outside plant issues when it took over from Altice Technical Services in December, 2020. As noted by Suddenlink witness Pillai:

Yes. When I took over the organization from Altice Technical Service Division [December 2020], what I observed, we lacked I would say engineering operation practice in outside plant and field service. So immediately we focused on addressing issues related to the plant.

Trans., Day 1, p. 28, lines 6-9. Suddenlink witness Pillai emphasized the importance of maintaining the outside plant to forestall any problems experienced by residential customers, stating “[t]he reason being is that the plant issue, as I mentioned earlier, has a larger impact to the service versus individual home issues.”

Trans., Day 1, p. 28, lines 10-13. He also stated that Suddenlink performs “node in distress maintenance, where we get the ticket from the NOC and target where we need to deploy OSB technician to remediate network issue.” Trans, Day 1, p. 133. He also described this process as “proactive” since the customer likely had not noticed the issue at that point. *Id.* Suddenlink's approach to maintenance cannot be characterized as proactive because Mr. Pillai's testimony clearly states that there must be an issue before Suddenlink will send out a technician. Routine maintenance is different from the reactive process that Suddenlink has described throughout this proceeding.

Staff witness Robert Legg stated his belief that Suddenlink currently has some maintenance issues that are contributing to the high volume of complaints regarding service quality.

Q. In 2007---I mean, as you can see by the volumes upfront, I think it starts in 2015 or 2017, the complaints have increased over a period of time. Why aren't they ---if its connectivity issues and we know that it's connectivity issues, then isn't there a simple way to fix that by checking it each time you go?

A. It should be. Assuming your plant is in good condition, then those are issues that should be resolved by a technician at the house. It really shouldn't be very complicated.

Q. So may we infer from your statement that the Suddenlink network or plant is not in good condition because they have service calls being made on a daily basis,---

A. I think---

Q. ---yet we still have a number of complaints being filed?

A. I think it's safe to say that they had some maintenance issues.

Trans., Day 1, p. 325, lines 4-21.

Mr. Legg also submitted comments in this case on October 29, 2021, that provided additional insight into Altice's management style that resulted in inadequate maintenance of its cable tv infrastructure, resulting in Suddenlink playing 'catch up' from three years of inadequate maintenance on its system. It will take some time to restore the system to its pre-2018 condition – leaving Suddenlink customers with less than optimal cable tv service quality. Yet Suddenlink continued to invest less in 2021 in maintenance than it did in 2016 and 2017. Suddenlink will not ever improve its service until it spends the money necessary to repair and maintain its outside plant. Staff recommends that

Suddenlink be ordered to perform maintenance, including vegetation management, in accordance with FCC standards, NESC standards, and its franchise agreements at a level at least equal to its 2016-2017 expenditures. Staff further recommends that Suddenlink be required to provide monthly updates on maintenance activities including a running total of the amount spent on maintenance each month and information on any cable upgrades made to the infrastructure.

Staffing

Most of the parties expressed concern regarding the level of staffing maintained by Suddenlink. Counsel for the Cities expressed great concern that only one (1) service technician is stationed in Charleston.

Q. And what I'm curious about, you've got---for Charleston in that category, you only have one field worker who's a full-time employee and the rest are contractors. Is that not correct?

A. At this moment of time.

Q. Well, what was that moment of time?

A. The day we pulled the report. I can tell you we have hiring plan that we can execute upon that will address situation. So it's---you know, if I have no employee right now---for example, I'm just going to use Charleston. I have to first post the job, do the hiring and all that. It's not something we can do overnight.

So we tend to rely on our contractor partner to fill the gap until we know what's a steady workforce for the market by taking off the peak and valley. So that's how we manage to fill work force, to keep in-house guys to do the constant work and then keep the contractor to pick up the peak---the peak season...

Trans., Day 1, p.58-59, lines 10-25; 1-3.

Staff witness Legg also expressed concern about the level of staffing maintained by Suddenlink.

A. I think on the technical side since that's really my area of expertise, what they described is what they really need to do. I think if they actually implement it, I think it'll work. My concern is simply the staffing issues that they have created over the last few years.

Q. And what is the staffing issue? I mean, they say they have 75 FTEs and 83 contractors to take care of I guess customers and outside plant. So what's the issue?

A. That feels awful light, so---

Q. You don't believe that's enough?

A. I don't think it's enough. They had a number of employees when they went to Altice Technical Services, they migrated employees over to Altice Technical Services, and then they started offloading the very same employees that they just moved. Now, I know that first-hand because I was consulting for a contractor and I was on a call when they called the contractors to tell them they were going to have to take on additional employees.

Q. So let me understand this. They went to ATS, the employees went to ATS.

A. Right.

Q. And then ATS terminated some of those employees?

A. Right.

Q. And then the contractor hired them?

A. They organized the call with contractors advising them there was going to be a change and depending on the market, because this was every contractor they had in the United States all on one call, they told them there would be a number of employees in each market, and they didn't share those numbers on the call, and asked them to be prepared to interview and take those people immediately upon separation so that those employees weren't out of a job. And told the contractors that they would be willing to

sell some surplus Suddenlink (sic) treks [trucks] to them to help make the transition.

Trans., Day 1, p. 329-331; lines 23-25; 1-25; 1-8. See Robert Legg, Jr., Comments filed on October 29, 2021.

Staff is concerned that Suddenlink does not have adequate staffing, especially in light of the number of comments and complaints that subscribers are waiting days and weeks to get an appointment for service. In fact, the Commission received a comment in this case on October 11, 2021, from an 84 year old gentleman and his 81 year old wife, Mr. and Mrs. William Perry Stutler, trying to establish phone, computer and cable television service in their new home. Mr. Stutler called the call center on September 28, 2021 to order service for his new home. An appointment was set up for October 4, 2021, six days later. The service technician did not arrive on time and had still not arrived by 11 a.m. Mrs. Stutler called to check on the status and was told the service technician was on his way. At 5:30 p.m., the service technician had still not arrived. Mrs. Stutler called a second time and was advised that the service technician had come to the house but they were not home. Mr. Stutler surmised that either the service technician or the call center was lying or the service technician had gone to the wrong home since he had stayed at the house all day long. The earliest Mr. Stutler could get another appointment was on Saturday October 9, 2021, five days later. Mr. Stutler concluded his letter by saying that he was left without phone, internet and cable from September 28, 2021, to October 9, 2021, and that he has a history of strokes and extreme dizziness. His Suddenlink phone was necessary for communication purposes if he was home alone.

If Suddenlink had adequate staffing, Mr. Stutler would have received service on September 29, 2021 – not October 4, 2021, and certainly not October 9, 2021. Further, if Suddenlink employees were actually following the policies described by the executive management, Mr. and Mrs. Stutler would be satisfied customers of Suddenlink not customers who were so angry and upset they sat down and wrote a comment for filing in this case. Staff recommends that Suddenlink be required to schedule appointments within 24 hours of the customer call to the call center. Suddenlink should be required to report to the Commission any appointments that are scheduled out longer than 24 hours from the date the customer called the call center, unless the customer requested a later appointment. This information should be included as part of the recommended metrics along with metrics on the actual service calls made by the service technicians:

- on-time arrival rate;
- completion rate;
- repeat visit rate at 7 days and 30 days; and
- customer evaluation of the technician.

Staff acknowledges that the Commission may not micromanage Suddenlink's operations.

The commission is not a board of managers; nor is it empowered to conduct or control utilities or their affairs or to substitute its judgment for that of the directors of the utility; its power merely extends to correcting abuses of the property rights of a utility, and not to controlling their use, and to determining the reasonable effects of acts already performed. The authority of a public utility commission can be exercised only when the public necessity and convenience require it.

United Fuel Gas Company v. Public Service Commission of West Virginia, 154 W.Va. 221, 242; 174 S.E.2d. 304, 316 (1969). But the Commission may take such action deemed necessary to ensure that West Virginia subscribers have safe, reliable and adequate cable tv service. (W.Va. Code §24D-1-4(a)) under W.Va. Code §24D-1-23:

The commission has the power and jurisdiction to supervise every cable operator within this state so far as may be necessary to carry out the purposes of this chapter and to do all things which are necessary or convenient in the exercise of this power and jurisdiction.

While the Commission cannot require Suddenlink to hire additional service technicians to maintain and repair the outside plant, it can require Suddenlink to conduct an independent audit of its system and implement any recommendations resulting from the audit to improve the quality of service it delivers to its West Virginia subscribers.

Staff recommends that the Commission monitor Suddenlink's performance for a six month period using the metrics recommended by Staff. If Suddenlink's performance metrics have not improved or if quality of service complaints received by the Commission remain at the same or higher level, then the Commission should require the independent audit. Staff would even recommend that its witness, Robert Legg, conduct the audit since he is familiar with the Suddenlink infrastructure and has the necessary technical expertise.

Enforcement.

Restoring outages in a timely manner is critical in providing reasonable, adequate and safe cable tv service. W.Va. Code §24D-1-15(b) sets the following standard:

Each cable operator shall restore interrupted service not later than twenty-four hours after being notified by a subscriber that service has been

interrupted, unless: (1) Service cannot be restored until another company repairs facilities owned by such company and leased to, or required for the operation of, the cable service; (2) the interruption was caused by an act of nature; or (3) the cable operator is unable to restore service within twenty-four hours due to extenuating circumstances. In the event of such extenuating circumstances, the company shall restore service as soon as feasible and then submit a written notice to the commission indicating that service has been restored and explaining the nature of the extenuating circumstances.

Subject to the stated exceptions, Staff recommends that if Suddenlink fails to restore service within 24 hours after notification, it shall pay a \$1,000 penalty; for each continuing 24 hour period in which service is not restored, Suddenlink shall pay an additional \$1,000 penalty, prorated by the hour, until service is restored.

Timely reporting by Suddenlink is important in adequately monitoring Suddenlink's performance. Staff recommends that Suddenlink be fined \$1,000 per day for each late or incomplete submission of any report, notice or metric required by the Commission's order in this case, by statute or the Cable TV Rules. The Commission should provide Suddenlink a grace period of five calendar days after the filing date for the relevant report, notice or metric.

For each complaint received by the Commission in which it is established by Commission order or Recommended Decision that Suddenlink failed to provide adequate, safe and reliable cable tv service, Staff recommends that Suddenlink should pay a penalty of \$100 per day for each day that service was inadequate, unsafe or unreliable, starting from the date that Suddenlink was first notified of the issue by the customer and continuing until the customer's cable tv service is adequate, safe and reliable.

Staff recommends that Suddenlink be required to pay the applicable penalty amount within thirty (30) calendar days of receiving notice from Commission Staff that a penalty was imposed for failing to meet the standards set forth in this section. If payment is more than five (5) calendar days late, the Commission should impose a late payment fee of ten percent (10%).

CONCLUSION

Suddenlink has a number of policies in place that address most of the issues raised by Staff and the other parties concerning Suddenlink's quality of service. However, Suddenlink employees are either unable or unwilling to implement these policies - as acknowledged by Suddenlink witness Thomas.

Suddenlink's problems are the result of a poorly maintained infrastructure and poorly trained employees and contractors, all resulting from cost-cutting measures made by Altice when it acquired Suddenlink. As Karen Macon noted in her final memorandum (Staff Exhibit 8, Utilities Division Final Memorandum from Karen Macon, Director), none of the cost-cutting measures were customer service-focused.

Staff believes the company should be devastated to hear customers of forty plus years of service are thinking about doing something different for their cable service as they are just so frustrated with Suddenlink. Those types of sentiments were reflected at a number of the hearings held in the State in conjunction with this case and in the written comments filed in the case.

Staff Exhibit 8, p. 2.

Staff saw little empathy expressed by the Suddenlink executives who testified at the evidentiary hearing for the suffering endured by its customers from the poor customer

service and poor quality of service provided by Suddenlink. And for that, Suddenlink should be required to pay the \$1,000,000 in penalties recommended by Staff.

Suddenlink has an opportunity to improve customer service by implementing the Staff recommendations contained herein and continuing its maintenance and upgrades to its infrastructure. The Commission should order Suddenlink to comply with each and every recommendation contained herein. Further, the Commission should adopt the Staff recommendation on enforcement to ensure that Suddenlink has a financial interest in complying with the Commission's order entered in this case and improving its customer service and quality of service for its West Virginia subscribers.

Respectfully submitted this the 3rd day of November 2021.

STAFF OF THE PUBLIC SERVICE
COMMISSION OF WEST VIRGINIA

By Counsel,



Linda S. Bouvette, Staff Attorney
West Virginia State Bar I.D. No. 5926

And

Brooke A. Hirst, Staff Attorney
West Virginia State Bar I.D. No. 13892

EXHIBIT A TO STAFF INITIAL BRIEF
STAFF RECOMMENDATIONS FROM FINAL JOINT STAFF MEMORANDUM

1. Staff recommends that a trackable process be implemented for Suddenlink to submit notices for cable service outages lasting over 24 hours.
2. Staff recommends that Suddenlink be required to schedule appointments within 3 days of the customer call to the Call Center. Suddenlink should be required to report to the Commission any appointments that are scheduled out longer than 3 days from the date the customer called the Call Center.
3. Staff recommends that the escalation policy submitted by Suddenlink in Case No. 20-0766-CTV-C, be effective for all West Virginia subscribers once accepted and approved by the Commission.
4. Staff recommends that if a “call-back” policy is adopted, that Suddenlink ensure that it is working properly. Staff further recommends that call centers be adequately staffed with representatives that can answer and respond to customer calls without having the customers sit in queue for the extended periods of time reported by a number of complainants.
5. Staff recommends that Suddenlink be required to modify its system as necessary to provide all subscribers the option of basic tier 1 (local channels and public television) to serve low-income families.
6. Staff recommends that Suddenlink be required to process its mail in a timely manner to ensure payments are promptly credited to accounts.
7. Staff recommends that Suddenlink be required to authorize its business office employees to make service technician appointments, resolve customer issues, make refunds or give credits, accept payment for bills, etc. rather than just dealing with equipment returns.
8. Staff recommends that Suddenlink be required to file updates to cable upgrades as well as routine maintenance reports.
9. Staff recommends that Suddenlink be required to use its employees rather than contractors to complete service and installation work.
10. Staff recommends that Suddenlink be required to explain to the Commission why

rates for West Virginia customers appear to randomly change with little to no explanation.

11. Staff recommends that Suddenlink be required to provide sufficient information and documentation that the surcharges, fees and costs on customers' bills are merely pass-throughs.

12. Staff recommends that the Commission require Suddenlink to develop a plan with a firm timeline that addresses the issues raised by Staff in its memoranda and as may be presented at the evidentiary hearing scheduled for October 6, 2021.

13. Staff recommends that Suddenlink be required to open a call center in West Virginia.

14. Staff recommends that Suddenlink be required to conduct an audit of each West Virginia county and its E911 collections and remittances for the time period 2018-2020 and file the results with the Commission. Any under-remittance of E911 fees should be immediately paid over to the appropriate county commission.

15. Staff recommends that Suddenlink be required to use the "Parent-Child" ticket format to ensure that all subscribers affected by an outage receives a refund or credit without the necessity of calling in twice to request it.

16. Staff recommends that Suddenlink ensure that its contractors are duly licensed and registered with the state of West Virginia and meet the required workers compensation and unemployment compensation requirements.

17. Staff recommends Suddenlink reduce the number of contractor-service technicians by replacing them with actual employee-service technicians.

18. Staff recommends that Suddenlink be required to follow the Cable Television Rules regarding franchise agreements, including the application process for granting or renewing a cable franchise. Staff further recommends that the Commission adopt a formal process to docket, review and approve franchise agreements and their renewals.

19. Staff recommends that Suddenlink follow the Cable Television Rules and charge no more than \$2 as a late fee.

20. Staff recommends that the Commission impose on Suddenlink the maximum penalties allowed by law for failure to provide adequate quality of service to its West Virginia subscribers and for its slow recognition of customer service problems in the state.

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

**CASE NO. 21-0515-CTV-SC-GI
CEBRIDGE ACQUISITION, LLC, DBA SUDDENLINK COMMUNICATIONS,
CEQUEL III COMMUNICATIONS I LLC, DBA SUDDENLINK
COMMUNICATIONS AND CEQUEL III COMMUNICATIONS II LLC, DBA
SUDDENLINK COMMUNICATIONS**

CERTIFICATE OF SERVICE

I, LINDA S. BOUVETTE, Staff Counsel for the Public Service Commission of West Virginia, hereby certify that I have served a copy of the foregoing **STAFF INITIAL BRIEF** upon all parties of record by United States First Class Mail and email correspondence on November 3, 2021.

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