



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

August 27, 2012

Shannon Davis
Qwest Corporation dba CenturyLink QC
100 NW Kearney Avenue
Bend, OR 97701

CT Corporation System, Registered Agent
Qwest Corporation, dba CenturyLink QC
388 State Street – Ste 420
Salem OR 97301

Re: Violation of Oregon Utility Notification Center Rules
DOJ File No.: 860-500-GB0528-12 / Docket No.: NC 326

**PLEASE READ ALL DOCUMENTS CAREFULLY –
DIRECT ALL CORRESPONDENCE TO THE PUBLIC UTILITY COMMISSION OF OREGON**

On June 26, 2012, a representative from your company met with the Oregon Utility Notification Center (OUNC) Enforcement Committee to discuss an alleged rule violation. At that meeting, an agreement was reached regarding penalties for the violation.

Enclosed are two sets of documents that contain a Complaint and a Stipulation. The Complaint serves as a formal notice to you of the violation you were charged with and requires that you Answer the allegation. Because you already reached an agreement with the OUNC Committee, you do not need to submit an Answer. Instead, you need only sign and return the enclosed Stipulation in order to answer the Complaint. If you had not reached an agreement with the OUNC Committee, filing an Answer would be your opportunity to admit or deny the allegation and, if denied, to ask for a formal hearing.

The Stipulation sets forth the terms and conditions of the agreement you reached with the OUNC Committee. To finalize the settlement, **you must sign the original Stipulation and mail it within 20 days of the date of this letter to:**

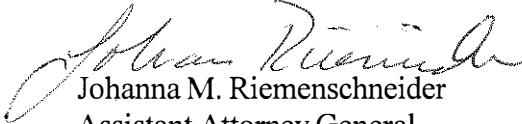
**Public Utility Commission of Oregon
Administrative Hearings Division
550 Capitol St NE – Suite 215
PO Box 2148
Salem OR 97308-2148**

You do not need to make payment until the Commission has approved the stipulation. The Commission should issue an order adopting the Stipulation within 30 days of its receipt. Please retain the extra copy of the Stipulation for your files.

If for some reason you no longer agree to the terms of the Stipulation, you **MUST FILE AN ANSWER TO THE COMPLAINT**, admitting or denying the allegation.

If there is a discrepancy between the formal Stipulation and the agreement reached at the meeting that causes you concern, please contact Michael Thompson at (503) 378-6760.

Sincerely,



Johanna M. Riemenschneider
Assistant Attorney General
Business Activities Section

JMR:nal/#3539877
Enclosures

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 NC 326

4 PUBLIC UTILITY COMMISSION OF
5 OREGON,

6 Complainant,

7 v.

8 QWEST CORPORATION, (a Colorado
corporation), dba CENTURYLINK QC,

9 Defendant.

COMPLAINT

10 1.

11 This proceeding is initiated by the Public Utility Commission of Oregon (hereinafter
12 “Commission”) to determine whether civil monetary penalties should be assessed as provided in
13 ORS 757.993. The Commission maintains its offices at:

14 550 Capitol St NE – Suite 215, PO Box 2148, Salem, OR 97308-2148.

15 2.

16 At all times herein relevant, Defendant was doing business in this state.

17 3.

18 Under ORS 757.993, the Commission has discretion to seek penalties for violations of
19 rules adopted by the Oregon Utility Notification Center (OUNC).

20 4.

21 Under ORS 757.552, OUNC has adopted rules that prescribe requirements for
22 notification to OUNC of excavation activity and marking of underground facilities for the
23 purpose of preventing damage to such facilities. “Excavation” and other relevant definitions are
24 contained in OAR 952-001-0010.

25 ///

26 ///

1 5.

2 OUNC adopted OAR 952-001-0070 which was in effect at all times herein relevant. The
3 rule provides in relevant part:

4 (1) * * * [W]ithin two business days (48 hours) after the excavator
5 notifies the Oregon Utility Notification Center of a proposed excavation, the
operator or its designated agent shall:

6 (a) Mark with reasonable accuracy all of its locatable underground facilities
7 within the area of proposed excavation. All marks shall indicate the name, initials
or logo of the operator of the underground facilities, and the width of the facility
if it is greater than two (2) inches;

8 (b) Provide marks to the excavator of the unlocatable underground facilities in the
9 area of proposed excavation, using the best information available including as-
constructed drawings or other facility records that are maintained by the facility
operator; or

10 (c) Notify the excavator that the operator does not have any underground facilities
11 in the area of the proposed excavation. Acceptable notifications must include
12 locate request call back information and if done using an AVR (Automatic Voice
Response) must have a repeat option and call back number to hear the information
again.

13
14 6.

15 On or about March 29, 2012, Defendant violated OAR 952-001-0070, in that Defendant
16 failed to locate and mark with reasonable accuracy all of its locatable underground facilities with
17 the area of proposed excavation near the intersection of US 26 and Dover Lane, Madras, Oregon.

18 7.

19 ORS 757.993 provides, in relevant part, that:

20 “* * * every person who violates or who procures, aids or abets in the violation of
21 any rule of the Oregon Utility Notification Center shall incur a penalty of not
22 more than \$1,000 for the first violation and not more than \$5,000 for each
subsequent violation.”

23 8.

24 Defendant has violated OUNC rules in the past resulting in Order No. 11-382
25 entered on September 28, 2011, Order No. 11-091 entered on March 22, 2011, Order No.
26 10-419 entered on October 25, 2010, and Order No. 09-404 entered on October 7, 2009.

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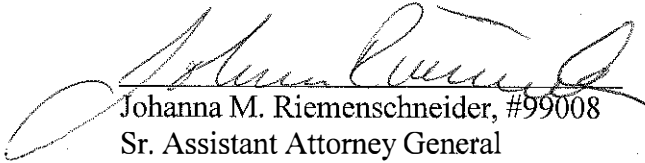
9.

WHEREFORE, the Commission directs Defendant to file a verified answer to this Complaint within twenty (20) days from the date this Complaint is mailed to Defendant. If no verified answer or other written appearance raising a question of fact or law is filed with the Commission at its office in Salem Oregon, within the 20-day period, the allegations of the Complaint are deemed admitted, and a penalty will be imposed in the amount of \$5,000 for each violation alleged, for a total of \$5,000.

DATED this 27 day of August 2012.

Respectfully submitted,

ELLEN F. ROSENBLUM
Attorney General

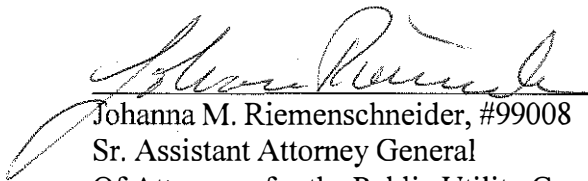

Johanna M. Riemenschneider, #99008
Sr. Assistant Attorney General
Of Attorneys for the Public Utility Commission
of Oregon

- 1 A. Defendant must sign and return this Stipulation within 20 days of the date it was
2 served upon (mailed to) defendant.
- 3 B. \$5,000 becomes due and payable on or before the 30th day following the
4 Commission's entry of its order in this case.
- 5 C. Payment must be by money order or company check made out to the Public Utility
6 Commission of Oregon, and the memo line of the money order must state the "NC"
7 docket number in the caption of this Stipulation.
- 8 D. Complainant's failure to enforce any provision of this Stipulation, or decision to
9 waive any violation or nonperformance of this Stipulation in one instance, will not
10 constitute a waiver by the Complainant of that provision, any other provision, or any
11 other violation or nonperformance in another instance.

12 5.

13 This Stipulation is conditioned upon final approval of its terms by the Commission. If
14 the Stipulation is not accepted in its entirety, it is deemed withdrawn.

15 DATED this 27 day of August 2012.

16
17 
18 Johanna M. Riemenschneider, #99008
19 Sr. Assistant Attorney General
20 Of Attorneys for the Public Utility Commission
of Oregon

21 DATED this _____ day of _____ 2012.

22
23 _____
24 Defendant / Representative (signature)

25
26 _____
(Print Name)