



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-GB0529-12 / Docket No.: NC 327

**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:**

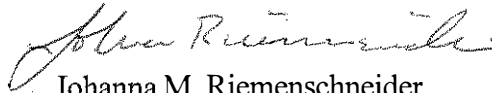
**Public Utility Commission of Oregon  
Administrative Hearings Division  
550 Capitol St NE – Suite 215  
PO Box 2148  
Salem OR 97308-2148**

**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 327

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  
6 operator or its designated agent shall:  
7 (a) Mark with reasonable accuracy all of its locatable underground facilities  
8 within the area of proposed excavation. All marks shall indicate the name, initials  
9 or logo of the operator of the underground facilities, and the width of the facility  
10 if it is greater than two (2) inches;  
11 (b) Provide marks to the excavator of the unlocatable underground facilities in the  
12 area of proposed excavation, using the best information available including as-  
13 constructed drawings or other facility records that are maintained by the facility  
14 operator; or  
15 (c) Notify the excavator that the operator does not have any underground facilities  
16 in the area of the proposed excavation. Acceptable notifications must include  
17 locate request call back information and if done using an AVR (Automatic Voice  
18 Response) must have a repeat option and call back number to hear the information  
19 again.

14 6.  
15 On or about April 26, 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  
17 within the area of proposed excavation near Highway 26, Milepoint 49.8 – 49.9, east of  
18 Prineville, Oregon.

19 7.  
20 ORS 757.993 provides, in relevant part, that:  
21 “\* \* \* every person who violates or who procures, aids or abets in the violation of  
22 any rule of the Oregon Utility Notification Center shall incur a penalty of not  
23 more than \$1,000 for the first violation and not more than \$5,000 for each  
24 subsequent violation.”

24 8.  
25 Defendant has violated OUNC rules in the past resulting in Order No. 11-382  
26 entered on September 28, 2011, Order No. 11-091 entered on March 22, 2011, Order

1 No. 10-419 entered on October 25, 2010, and Order No. 09-404 entered on October 7,  
2 2009.

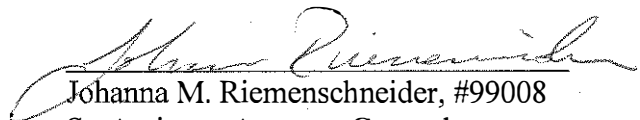
3 9.

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

10  
11 DATED this 27 day of August 2012.

12 Respectfully submitted,

13 ELLEN F. ROSENBLUM  
14 Attorney General

15  
16 

17 Johanna M. Riemenschneider, #99008  
18 Sr. Assistant Attorney General  
19 Of Attorneys for the Public Utility Commission  
20 of Oregon  
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1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 NC 327

4 PUBLIC UTILITY COMMISSION OF  
OREGON,

5 Complainant,

6 v.

7 QWEST CORPORATION, (a Colorado  
8 corporation), dba CENTURLINK QC,

9 Defendant.

STIPULATION FOR ENTRY OF ORDER

10 The Public Utility Commission of Oregon, appearing by and through Johanna M.  
11 Riemenschneider, Assistant Attorney General, and Qwest Corporation, dba CenturyLink QC, the  
12 Defendant herein, hereby stipulate as follows:

13 1.

14 A Complaint in this case is pending before the Commission charging the Defendant with  
15 one violation of law, OAR 952-001-0070.

16 2.

17 Both parties to this proceeding are willing to forego further processing of that Complaint  
18 and further are willing to resolve this matter on the basis of this Stipulation.

19 3.

20 The Defendant admits that the violation was committed as alleged in the Complaint and  
21 is willing for the Commission to enter an order finding that the violation was committed as  
22 alleged in the Complaint.

23 4.

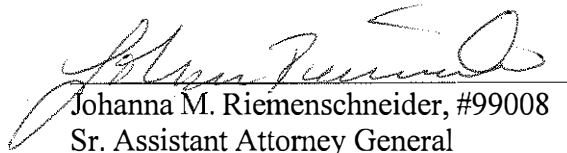
24 The parties further agree that the Commission may enter an order assessing civil  
25 monetary penalties against Defendant in the amount of \$5,000 under the following terms and  
26 conditions:

- 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 30<sup>th</sup> 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  
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18   
19 Johanna M. Riemenschneider, #99008  
20 Sr. Assistant Attorney General  
21 Of Attorneys for the Public Utility Commission  
22 of Oregon

23 DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

24 \_\_\_\_\_  
25 Defendant / Representative (signature)

26 \_\_\_\_\_  
(Print Name)