



**DEPARTMENT OF JUSTICE  
GENERAL COUNSEL DIVISION**

March 26, 2014

Shannon Davis  
Qwest Communications Company LLC  
dba CenturyLink QCC  
100 NW Kearney Avenue  
Bend, OR 97701

CT Corporation System  
388 State Street, Suite 420  
Salem, OR 97301

Re: Violation of Oregon Utility Notification Center Rules  
DOJ File No.: 860501-GB0231-14 / Docket No.: NC 338

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

On February 28, 2014, you, as 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 your company is charged with and requires an Answer to 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  
(Temporarily located at)  
3930 Fairview Industrial Drive SE  
PO Box 1088  
Salem OR 97308-1088**

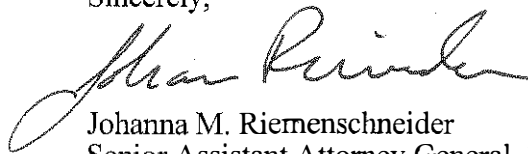
**You do not need to make payment until the Commission has approved the Stipulation.** The Commission should issue an order adopting the Stipulation within 30 days of its receipt. Please retain the extra copy of the Stipulation for your files.

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.

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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  
Senior Assistant Attorney General  
Business Activities Section

JMR:kt2/5065752  
Enclosures

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

3 NC 338

4 PUBLIC UTILITY COMMISSION OF OREGON,

5 Complainant,

COMPLAINT

6 v.

7 QWEST COMMUNICATIONS COMPANY, LLC  
8 (a Delaware LLC), dba CENTURYLINK QCC

9 Defendant.

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 temporarily at:

14 3930 Fairview Industrial Drive SE, P.O. Box 1088, Salem, Oregon, 97308-1088.

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.

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

- (1) \* \* \* [W]ithin two business days (48 hours) after the excavator notifies the Oregon Utility Notification Center of a proposed excavation, the operator or its designated agent shall:
  - (a) Mark with reasonable accuracy all of its locatable underground facilities 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;
  - (b) Provide marks to the excavator of the unlocatable underground facilities in the 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
  - (c) Notify the excavator that the operator does not have any underground facilities in the area of the proposed excavation. Acceptable notifications must include 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.

6.

On or about July 16, 2013 through July 18, 2013, Defendant violated OAR 952-001-0070, in that Defendant failed to mark with reasonable accuracy all facilities located in the area, on Mill Ridge Road between Miller and Engleman, in Portland, Oregon as requested in OUNC locate ticket number 13145814.

7.

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

8.


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.

1 If no verified answer or other written appearance raising a question of fact or law is filed  
2 with the Commission at its office in Salem, Oregon, within the 20-day period, the  
3 allegations of the Complaint are deemed admitted, and a penalty will be imposed in the  
4 amount of \$1,000 for each violation alleged, for a total of \$1,000.

5 DATED this 26<sup>th</sup> day of March 2014.

6 Respectfully submitted,

7 ELLEN F. ROSENBLUM  
8 Attorney General

9   
10 Johanna M. Riemenschneider, #990083  
11 Senior Assistant Attorney General  
12 Of Attorneys for the Public Utility Commission  
13 of Oregon  
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1 4.

2 The parties further agree that the Commission may enter an order assessing a civil  
3 monetary penalty against Defendant in the amount of \$1,000 under the following terms and  
4 conditions:

- 5 A. Defendant must sign and return this Stipulation within 20 days of the date it was  
6 served upon (mailed to) Defendant.
- 7 B. \$1,000 becomes due and payable on or before the 30<sup>th</sup> day following the  
8 Commission's entry of its order in this case.
- 9 C. Payment must be by money order or company check made out to the Public  
10 Utility Commission of Oregon, and the memo line of the money order must state  
11 the "NC" docket number in the caption of this Stipulation.
- 12 D. If Defendant fails to comply with all of the rules adopted by the Oregon Utility  
13 Notification Center (OUNC) under ORS 757.552 for a one-year period following the  
14 date of the Commission's entry of an order, the Commission may seek up to \$5,000  
15 per violation for any new violations.
- 16 E. In the event that Complainant contends that Defendant has not complied with all of  
17 the terms of this Stipulation and all OUNC rules for that one-year period,  
18 Complainant may reopen this proceeding. In such case, Defendant is entitled to a  
19 hearing and to be notified of the basis upon which Complainant contends that  
20 compliance has not occurred.
- 21 F. Complainant's failure to enforce any provision of this Stipulation, or decision to  
22 waive any violation or nonperformance of this Stipulation in one instance, will not  
23 constitute a waiver by the Complainant of that provision, any other provision, or any  
24 other violation or nonperformance in another instance.

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

DATED this 26 day of March 2014.

  
\_\_\_\_\_  
Johanna M. Riemenschneider, #990083  
Senior Assistant Attorney General  
Of Attorneys for the Public Utility Commission  
of Oregon

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2014.

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

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