



DEPARTMENT OF JUSTICE  
GENERAL COUNSEL DIVISION

October 7, 2016

Kenneth H Morgan III  
Operations Manager  
CenturyLink Communications, LLC  
10 2nd St SE  
Auburn WA 98002

CenturyLink Communications, LLC  
CT Corporation System – Registered Agent  
388 State Street Suite 420  
Salem, OR 97301

CenturyLink Communications, LLC  
100 CenturyLink Drive  
Monroe, LA 71203

Re: Violation of Oregon Utility Notification Center Rules  
DOJ File No. 860501-GB0551-16/ Docket No. NC 356

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

On August 17, 2016, 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  
201 High St. SE, Ste. 100  
PO Box 1088  
Salem OR 97308-1088**

CenturyLink Communications, LLC

October 7, 2016

Page 2

**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 Kevin Hennessy at (503) 378-6115.

Sincerely,



Johanna M. Riemenschneider  
Senior Assistant Attorney General  
Business Activities Section

Enclosures  
JMR:mvg/#7660254

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

3 NC 356

4 PUBLIC UTILITY COMMISSION OF  
5 OREGON,

6 Complainant,

7 v.

8 CENTURYLINK COMMUNICATIONS, LLC,

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:

14 201 High Street SE Ste. 100, 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”, “operator” and other relevant  
24 definitions are contained in ORS 757.542 and OAR 952-001-0010.

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) Except as provided in section (3) of this rule, within 2 business days  
5 (48 hours) after the excavator notifies the Oregon Utility Notification Center of a  
6 proposed excavation, the operator or its designated agent must:

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

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

15 (c) Notify the excavator that the operator does not have any underground  
16 facilities in the area of the proposed excavation. Acceptable notifications must  
17 include locate request call back information and if done with AVR (Automated  
18 Voice Response) must have a repeat option and a call back number to hear the  
19 information again.

20 \* \* \* \* \*

21 6.

22 On or about May 26, 2016 through June 8, 2016, Defendant violated OAR 952-001-0070  
23 in that Defendant failed to mark with reasonable accuracy all of its locatable underground  
24 facilities or provide marks of its locatable underground facilities, in the area of a proposed  
25 excavation near 8735 N Harbor Gate Street, near the intersection with N Ramsey Boulevard.  
26

7.

ORS 757.993 provides that:

(1) Except as provided in subsection (2) of this section and in addition to all other  
penalties provided by law, 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.

(2) In addition to all other penalties provided by law, every person who  
intentionally violates or who intentionally procures, aids or abets in the violation  
of any rule of the Oregon Utility Notification Center shall incur a penalty of not

1 more than \$5,000 for the first violation and not more than \$10,000 for each  
2 subsequent violation.

3 (3) Each violation of any rule of the Oregon Utility Notification Center shall be a  
4 separate offense. In the case of a continuing violation, each day that the violation  
5 continues shall constitute a separate violation.

6 \* \* \*

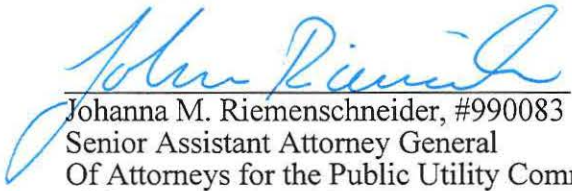
7 8.

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

14 DATED this 7<sup>th</sup> day of October 2016.

15 Respectfully submitted,

16 ELLEN F. ROSENBLUM  
17 Attorney General

18   
19 Johanna M. Riemenschneider, #990083  
20 Senior Assistant Attorney General  
21 Of Attorneys for the Public Utility Commission  
22 of Oregon  
23  
24  
25  
26



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

- A. Defendant must sign and return this Stipulation within 20 days of the date it was served upon (mailed to) Defendant.
- B. \$1,000 becomes due and payable on or before the 30<sup>th</sup> day following the Commission’s entry of its order in this case.
- C. Payment must be by money order made out to the Public Utility Commission of Oregon, and the memo line of the money order must state the “NC” docket number in the caption of this Stipulation.
- D. Payment of the balance of the civil penalties (\$4,000) will be suspended and will be waived and no further penalties will be imposed for the violation alleged in the Complaint unless Defendant fails to comply with all of the terms of this Stipulation and all of the rules adopted by the Oregon Utility Notification Center (OUNC) under ORS 757.552 for a one-year period following the date of the Commission’s entry of an order.
- E. In the event that Complainant contends that Defendant has not complied with all of the terms of this Stipulation and all OUNC rules for that one-year period, Complainant may reopen this proceeding and petition for imposition of all or a portion of the suspended penalties. In such case, Defendant is entitled to a hearing and to be notified of the basis upon which Complainant contends that compliance has not occurred.

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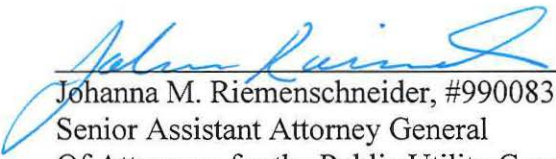
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F. Complainant's failure to enforce any provision of this Stipulation, or decision to waive any violation or nonperformance of this Stipulation in one instance, will not constitute a waiver by the Complainant of that provision, any other provision, or any other violation or nonperformance in another instance.

5.

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 7<sup>th</sup> day of October 2016.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2016.

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

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