BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1908, UM 2206

In the Matters of LUMEN TECHNOLOGIES, Proposed Commission Action Pursuant to ORS 756.515 to Suspend and Investigate Price Plan (UM 1908), and QWEST CORPORATION, Investigation Regarding the Provision of Service in Jacksonville, Oregon and Surrounding Areas (UM 2206) Hearing Relating to Order Nos. 22-340 and 22-422.	**LUMEN'S MOTION TO AMEND ORDER NO. 24-041 TO EXTEND SUSPENSION PERIOD** **Expedited Consideration Requested**

MOTION

Lumen Technologies, Inc., on behalf of itself and several of its operating companies,[1] respectfully moves the Commission pursuant to ORS 756.568 to amend Order No. 24-041 to extend the period of suspension of Order Nos. 22-340 and 22-422 (the "Jacksonville Orders") effective as of January 1, 2025, until the earlier of completion of construction of the RDOF build or June 30, 2025. There are reasonable grounds for the Commission to extend that suspension period based on circumstances outside CenturyLink's control that have delayed completion of the construction. CenturyLink requests that the Commission expedite consideration of this Motion because the suspension period would otherwise end on December 31, 2024. To assist in such expedited consideration, CenturyLink requests that the Commission shorten the time for any responses to seven calendar days and for any reply to three calendar days.

[1] Lumen Technologies, Inc. is the parent of operating companies Qwest Corporation, United Telephone Company of the Northwest, CenturyTel of Oregon, and CenturyTel of Eastern Oregon. "CenturyLink," as used in this Request, includes all of these operating companies.

Perkins Coie LLP
1120 N.W. Couch Street, Tenth Floor
Portland, OR 97209-4128
Phone: 503.727.2000
Fax: 503.727.2222

CenturyLink has attempted to confer with the other parties to this proceeding, Commission Staff, CUB, and Priscilla Weaver. Staff stated it does not oppose the motion, but also intends to file responsive comments. CUB's representatives are out of office, and we are unclear whether Ms. Weaver intends to take a position.

BACKGROUND

In Order No. 24-041 (the "Order"), the Commission adopted a Stipulation (with modifications) and approved a price plan for CenturyLink. Attachment C to the Stipulation sets forth the stipulating parties' Agreement on Suspension of Commission Orders in Conjunction with Jacksonville RDOF Build (the "Agreement"). Among other things, the Agreement provides:

> Once CenturyLink commences the RDOF build, as possibly adjusted as discussed above, Orders 22-340 and 22-422 will be suspended until the earlier of the RDOF build being completed or December 31, 2024. Upon completion of the RDOF build, as possibly adjusted as discussed above, Orders 22-340 and 22-422 will terminate, and the investigation Regarding the Provision of Service in Jacksonville, Oregon and Surrounding Areas will be closed. For clarity, among other things, the penalty provisions contained in Order 22-340 (page 1), will no longer be in effect during the suspension period described above.
>
> CenturyLink shall formally notify the Commission at the beginning of RDOF construction and shall provide monthly status reports during the construction period. CenturyLink shall be responsible for notifying the Commission of the completion of RDOF construction work. If the RDOF build is not completed by December 31, 2024, the Commission at its discretion may extend the suspension period if CenturyLink has reasonably demonstrated that circumstances beyond its control have delayed completion of the RDOF build. **The Commission will not unreasonably deny such extension. Such circumstances may include, but are not limited to, inclement weather, natural disaster, materials or labor shortages, supply chain disruptions, permitting delays, or other reasonable impediments.** (Emphasis added.)

CenturyLink notified Commission Staff via teleconference on November 12, 2024, that it had commenced RDOF construction in October 2024. At that time, CenturyLink was uncertain if the construction would be completed by December 31, 2024, and was dispatching regulatory personnel to perform an on-site review. Despite CenturyLink's best efforts, the RDOF construction has not been completed by December 31, 2024. The delay was caused by circumstances beyond CenturyLink's

Perkins Coie LLP
1120 N.W. Couch Street, Tenth Floor
Portland, OR 97209-4128
Phone: 503.727.2000
Fax: 503.727.2222

control as described below. Accordingly, CenturyLink requests that the Commission extend the suspension period through the earlier of completion of construction of the RDOF build or June 30, 2025.

Two major factors beyond CenturyLink's control are delaying the construction. First, two necessary design modifications were discovered during the final on-site project review in October 2024 with the contractor CenturyLink retained to complete the project. Those modifications included changes to aerial fiber cable types along certain locations on the fiber feeder route, and the placement of 60 new poles not anticipated in the initial design. The new poles are necessary as solid rock was encountered in sections of the fiber feeder route that engineering plans initially assumed could be plowed through. These new requirements created additional work and material requirements. CenturyLink's contractor did not have sufficient labor available to complete the construction by December 31, 2024, and additional time was required to obtain the 60 new poles and to work through the different aerial fiber cable requirements with the contractor.

Second, the construction project requires a permit from the United States Army Corps of Engineers ("USACE") to install metallic ground level conduit along the eastern edge of the Applegate Reservoir dam. CenturyLink's network implementation team applied for that permit in October 2024 and it was initially expected that USACE could issue the permit within 60 days. However, due to the complexity of the permit, USACE will not issue that permit until 2025.

DISCUSSION

The Commission expressly retained the option to extend the suspension period beyond December 31, 2024 if CenturyLink "has reasonably demonstrated that circumstances beyond its control have delayed completion of the RDOF build." The parties to the Stipulation, and the Commission in approving it, also agreed that the Commission "will not unreasonably deny such extension."

The Stipulation includes a non-exhaustive list of circumstances that are deemed to be beyond CenturyLink's control, and three of those circumstances are present: material and labor shortages, permit delays, and other reasonable impediments. The need to place 60 new poles was based on the

Perkins Coie LLP
1120 N.W. Couch Street, Tenth Floor
Portland, OR 97209-4128
Phone: 503.727.2000
Fax: 503.727.2222

unanticipated discovery of a physical impediment, solid rock in sections of the fiber feeder route. This discovery led to construction delays due to the need to acquire the new poles and the unavailability of labor to complete the construction considering the increased scope of the project. Additionally, delay by USACE in issuing the required permit has further delayed completion of construction until after December 31, 2024.

CenturyLink has established reasonable grounds for the Commission to extend the suspension period based on delays that were beyond CenturyLink's control. Moreover, if the extension is granted, the maximum length of the period of suspension will not be materially different from what was originally contemplated when the December 31, 2024 date was selected to use in the Stipulation. When the Stipulation was being negotiated in 2023, CenturyLink anticipated commencing construction of the RDOF build in June 2024. Thus, the stipulating parties and the Commission agreed that a suspension period up to seven months was reasonable.

CenturyLink was required to delay construction of the RDOF build until October 2024 because engineering survey and design work took longer than initially anticipated. Obtaining necessary internal approvals after completion of the engineering work added further time until the actual construction of fiber placement began in October 2024, and that is when the suspension period actually commenced. Extending the suspension of the Jacksonville Orders through the earlier of completion of the RDOF build or June 30, 2025, would set the maximum period for suspension at approximately eight months, which is comparable to what the parties and the Commission originally contemplated.

CONCLUSION

CenturyLink has demonstrated reasonable grounds to extend the suspension period based on delays caused by circumstances beyond its control. The Commission should exercise its discretion to grant this motion.

Perkins Coie LLP
1120 N.W. Couch Street, Tenth Floor
Portland, OR 97209-4128
Phone: 503.727.2000
Fax: 503.727.2222

DATED: December 31, 2024

PERKINS COIE LLP

By: s/ Lawrence H. Reichman
Lawrence H. Reichman, OSB No. 860836
LReichman@perkinscoie.com
1120 N.W. Couch Street, Tenth Floor
Portland, OR 97209-4128
Telephone: 503.727.2000
Facsimile: 503.727.2222

Attorneys for Lumen Technologies, Inc.

Perkins Coie LLP
1120 N.W. Couch Street, Tenth Floor
Portland, OR 97209-4128
Phone: 503.727.2000
Fax: 503.727.2222