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Douglas R. Holbrook

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July 30, 2010

Public Utility Commission for Oregon
Attn: Filing Center
PO Box 2148
Salem, OR 97308-2148

Re Docket No. UM 1484 *CenturyTel/Qwest*
Petition to Intervene

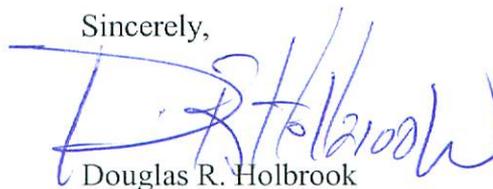
Dear Sir/Madam:

I enclose an original and one copy of the City of Lincoln City's Petition to Intervene in the docket referenced above.

Given the status of the docket, I would ask for an expedited ruling on the Petition. I would also like permission to attend the upcoming settlement conference, which I understand is August 3, 2010.

Thank you for your attention and professional courtesies.

Sincerely,



Douglas R. Holbrook

Enclosure

cc: David Hawker, City Manager
UM 1484 Service list (see attached)

[100730 ltr to PUC conveying petition-1.wpd]

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4 **BEFORE THE PUBLIC UTILITY COMMISSION**
5 **OF OREGON**

6 UM 1484

7 In the Matter of)
8 CENTURYLINK, INC.) PETITION TO INTERVENE
9 Application for merger between CenturyTel,) BY CITY OF LINCOLN CITY
10 Inc. and Qwest Communications International,)
11 Inc.)

12 Pursuant to ORS 756.525(2) and OAR 860-012-0001, the City of Lincoln City
13 respectfully petitions the commission for leave to intervene as a party in the above-captioned
14 proceeding. In support of its petition, city states as follows:

15 I.

16 City is a municipal corporation and public safety agency. Its address is as set forth in
17 section II, below. The governing body of the City, the City Council, all city government
18 offices and buildings, and a majority of the city population of approximately 7,400 are served
19 by CenturyTel. CenturyTel inherited by merger with Embarq a substantial territory in
20 western Oregon including north Lincoln County, Tillamook County and Yamhill County.
21 For all practical purposes, Lincoln and Tillamook Counties are on the same wireline
22 architecture with the same security/safety deficits as described herein.

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II.

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III.

The City of Lincoln City has a substantial interest in the proposed merger. The resulting company will control or continue to control all of the service as defined in ORS 756.010(8) within Lincoln City and indeed much of the northern Oregon coast, including the counties of Lincoln, Tillamook and other inland western counties. In the public interest, Lincoln City seeks intervention to provide the commission information and history on the failure of CenturyTel (including the failure of its predecessor, Embarq) to provide wireline redundancy within north Lincoln County and Tillamook Counties. This condition has resulted in excessive failures of all telephone services, including 911 PSAP¹ service, which this merger may further harm.

Lincoln City and other communities within the area, including Tillamook County, rely upon an automatic dialing system for warning its citizens of emergencies. These emergencies include forest fire, flooding, distant tsunami, chemical accidents, terrorist or other events implicating homeland security. The City's police station contains its 911 PSAP and is located within Lincoln City. Further, the affected citizens and visitors rely upon the ability to make 911 calls to the city's PSAP 24 hours per day, seven days per week for medical emergencies and to report crimes and structure/forest fires that readily affect lives

¹ "Public Safety Answering Point."

1 and property. Citizens in the urban growth boundary around Lincoln City are similarly
2 situated with respect to calls either to Lincoln City’s PSAP, or to the Lincoln County PSAP
3 in Newport. The City can establish that despite repeated requests, nothing substantial has
4 been done on the ground to provide redundant pathways for telephone including 911 calls,
5 even though promises of action have been made for the past two-plus years.

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7 IV.

8 City seeks a condition of the merger to include a requirement that infrastructure
9 investments be made to provide redundant wireline service for affected customers in Lincoln
10 and Tillamook Counties, including Lincoln City. These issues are financially related to the
11 application. In *Verizon Communications Inc. and Frontier Communications Corporation*
12 *UM 1431* the PUC ordered as a condition significant infrastructure investments as a direct
13 result of an intervenor’s concerns based upon analogous public interest concerns under the
14 “no harm” standard. In *Verizon*, because of the age of some of the infrastructure, and
15 concerns for its reliability and costs of replacement, the PUC ordered that the companies
16 allocate a total of \$25 million dollars for infrastructure upgrades. The cost to CenturyTel in
17 this case would be a fraction of that to Verizon/Frontier. Also in *Verizon*, the commission
18 required the applicant to file a strategic plan with data on the useful life and replacement
19 schedules for switches in a portion of the service area with the intention of maintaining then
20 current service standards - in addition to the upgrades.

21 In this case, the City’s interest is in protecting its citizens and visitors, and by
22 extension, those of Lincoln County and Tillamook County for their citizens telephone service
23 and especially emergency services and communications related to homeland security. Indeed,
24 City is required by law to maintain a PSAP², but its functionality requires rock-solid phone
25 service. Embarq promised Lincoln City it would fix the system before it merged with

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2 ORS 401.720 (4)

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CenturyTel. It didn't. CenturyTel has similarly promised Lincoln City it would provide the necessary fiber route diversity to the coast district but has not kept these promises and has failed to apprise the city of any future schedule for its as-yet unfulfilled promises.

City can prove, if necessary, that the experienced former Embarq technicians and managers who were knowledgeable about the switches and related equipment controlling north Lincoln County and Tillamook County were systematically fired or retired by CenturyTel making the performance of its promises ever more speculative and unlikely. In the name of post-merger cost savings, CenturyTel has enlarged its management districts with fewer managers overall, and fewer local, knowledgeable technicians, the City believes. If the pattern following the Embarq/CenturyTel merger continues with the CenturyTel/Qwest merger, fewer and fewer managers and technicians will be responsible for more and more territory. Further, the newly merged companies in this application will predictably devote long and focused attention to internal merger-related details for years, preventing or at the very least substantially delaying a necessary homeland security project about which the companies have so far shown little initiative for the coast district. This creates harm to all Oregon citizens within the system formerly owned by Embarq, but particularly those living in or visiting Lincoln and Tillamook Counties. Mitigating the harm requires a merger condition requiring the company to provide adequate and dependable phone/911 service via redundant fiber within a set time. CenturyTel owns or controls two fiber lines within a short distance of each other, which, if properly connected should provide a redundant route.

Recent history has provided at least two instances of partial or complete loss of telephone and 911 service in Lincoln City and a similar number of instances in Tillamook County because the systems are part of the same route to the Sheridan main switch. The duration of loss of service has been from hours to days and affected tens of thousands of subscribers and visitors. The lack of action by Embarq, and now CenturyTel, tells the story

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not only of long-term neglect, but an apparent lack of intention to provide the required redundancy, at least without commission action.

If the commission disallows the petition to intervene, the public interest is not served, and the public harm increases with the growing and aging population and ever-increasing risk to these communities for earthquakes and tsunamis, flooding and even fires for Lincoln and Tillamook Counties, including Lincoln City. If your house is on fire, and you can't call 911 that day, what do you do? If a terrorist has planted a bomb at the local theater and you can't call 911 that day, what do you do? Embarq provided no answers. CenturyTel has only provided apparently empty promises. This commission is the only body with the power and authority to require the company charged with delivering phone/911 service to provide critical security infrastructure within the wireline system. The PUC has the authority and duty under ORS 746.040 to require adequate service and there is no reason not to require such service as a merger condition.

City does not doubt the merged entities will have the financial resources to provide basic service at the usual intermittent level while they attend to the politics and restructuring that mergers always create within large corporations. City does not currently know if the merged entities will have the money or have budgeted the financial resources to create this redundant system, but regardless, City believes the merged entities do not have the will on their own to do the work.

During the Embarq/CenturyTel merger, those merger parties objected to the City's Petition to Intervene on the basis that the city had other means to address the redundancy issues, and that the merger parties were already in discussions with the city. The City has no other effective venue in which to seek redress or to require these necessary security upgrades

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to the telephone systems left by Embarq.³ Only the PUC and FCC have regulatory control over Oregon telecommunications, and neither have clear rules (or governing legislation) that would allow the City to present its concerns before any other body with jurisdiction. The merger will cause harm in preventing the new merged companies from paying attention to a small service area they seemingly want to ignore.

If granted intervenor status, the City can provide useful information on these issues.

OAR 860-012-0001(2) sets other standards for a party's intervention. City meets those standards because the city's intervention will not unreasonably broaden the record, broaden the issues, nor unreasonably delay the proceeding. The additional record necessary for the commission's understanding is very little - indeed, CenturyTel cannot deny there is no redundancy in the system, and when the single fiber path breaks to or from the central station in Sheridan, little 911 service remains in the Embarq legacy systems. The City's intervention does not unreasonably broaden the issues, since the commission is charged with protecting the public interest, but also seeing that the merger does "no harm." The issue is simple: the years of neglect and relative decline of this phone system⁴ will continue after and because of the merger, doing increased harm without a commission-imposed condition. The City does not seek to delay the proceedings at all and will commit to timely participate in the current proceedings schedule.

Because City will not unreasonably affect this proceeding, but has a substantial security/safety interest which this merger will harm, City should be allowed as a party to

³ CenturyTel and Qwest will predictably argue that the city has other venues, and claim they "are working" on the problem. There is no other venue, and no evidence of substantial work on the problem in the past two years the city has tried to prod them into action.

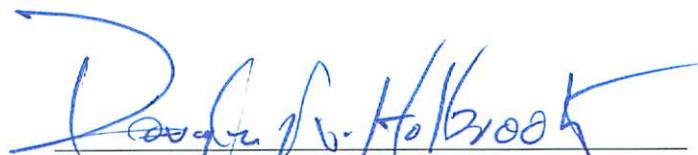
⁴ City understands Sprint relocated central switching capability out of Lincoln City beginning in the 1990's.

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present issues outlined in this petition. This petition is not made under the administrative time line, but no prejudice to the applicants is present where the schedule is preserved and record is so clear, and CenturyTel is, in fact, in full possession of all facts concerning the inadequacies of the former Embarq wireline system. It should not be forgotten that the City has no other obvious venue to address its legitimate safety and security issues.

Finally, it should not disqualify City from intervening just because it is asking for a condition requiring the applicant to spend money benefitting former Embarq customers served out of Sheridan. City's request is not only analogous to what the commission ordered in the Frontier/Verizon matter, but the applicant's predictable argument necessarily raises the question of how many Oregonians' safety and security have to be harmed by seemingly endless corporate delays before the commission acts?

The petition should be granted and the City of Lincoln City be made a full party.
Dated this 30th day of July, 2010.



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**CERTIFICATE OF SERVICE
UM 1484**

I certify that on this day I served the foregoing **PETITION TO INTERVENE** in docket UM 1484 on each party listed in the UM 1484 PUC Service List by email and, where paper service is not waived, by U.S. mail, postage prepaid.

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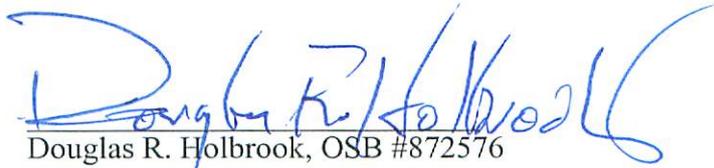
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DATED this 30th day of July, 2010.



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