

HOLBROOK & SEIFERT LLC
Attorneys at Law

P.O. Box 2087 Newport OR 97365

Phone (541) 265-2080 Fax (541) 265-2131

Douglas R. Holbrook

Ronald H. Seifert

August 6, 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 an Amened Petition to Intervene in the docket referenced above, on behalf of the City of Lincoln City, Lincoln County, and Tillamook County.

Given the status of the docket, I would ask for an expedited ruling on the Amended Petition.

Thank you for your attention and professional courtesies.

Sincerely,



Douglas R. Holbrook

Enclosure

cc: David Hawker, City Manager

Wayne Belmont

William Sargent

UM 1484 Service list (see attached)

[100806 ltr to PUC re Amended Petition.wpd]

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1484

In the Matter of)
CENTURYLINK, INC.) AMENDED PETITION TO
Application for merger between CenturyTel,) INTERVENE BY CITY OF
Inc. and Qwest Communications International,) LINCOLN CITY, LINCOLN
Inc.) COUNTY AND TILLAMOOK
COUNTY

Pursuant to ORS 756.525(2) and OAR 860-012-0001, the City of Lincoln City, Lincoln County and Tillamook County ("Joint Petitioners") respectfully petition the commission for leave to intervene as a parties in the above-captioned proceeding. In support of their joint petition, the Joint Petitioners state as follows:

I.

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

Lincoln County is a political subdivision of the State of Oregon, and a public safety agency, and contains Lincoln City and county subscribers to the same phone system/services provided to Lincoln City. Its address is set forth Section II.

Tillamook County is a political subdivision of the State of Oregon and public safety agency and contains subscribers to the same former Embarq phone system serving north Lincoln County, including Lincoln City. Its address is stated in Section II.

II.

All correspondence in this matter should be directed to:

Douglas R. Holbrook
Holbrook & Seifert LLC
PO Box 2087
Newport OR 97365
(541) 265-2080
Fax (541) 265-2131
doug@lawbyhs.com

David Hawker
City Manager
City of Lincoln City
801 SW Highway 101
Lincoln City, Oregon 97367
(541) 996-2152
Davidh@lincolncity.org

Wayne Belmont
Lincoln County Counsel
225 W Olive Street
Newport OR 97365
(541) 265-4108
Fax (541) 265-4176
wbelmont@co.lincoln.or.us

William Sargent
Tillamook County
1134 Main Avenue
Tillamook OR 97141
(503) 842-4921
Fax (503) 842-8862
wsargent@oregoncoast.com

III.

Lincoln City and Lincoln and Tillamook Counties have 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, said governments seek to intervene 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

1 condition has resulted in excessive failures of all telephone services, including 911 PSAP¹
2 service, which this merger may further harm.

3
4 Lincoln City and other communities within the area, including Lincoln and
5 Tillamook Counties, rely upon an automatic dialing system for warning its citizens of
6 emergencies. These emergencies include forest fire, flooding, distant tsunami, chemical
7 accidents, terrorist or other events implicating homeland security. The City's police station
8 contains its 911 PSAP and is located within Lincoln City. Lincoln County's PSAP is located
9 in Newport and is available as a backup PSAP for Lincoln City only if the phone lines are
10 working. Tillamook County's PSAP is located in the City of Tillamook, all of which
11 experience failures when Lincoln City does. Further, the affected citizens and visitors rely
12 upon the ability to make 911 calls to the city's PSAP 24 hours per day, seven days per week
13 for medical emergencies and to report crimes and structure/forest fires that readily affect lives
14 and property. Citizens in the northern portion of Lincoln County including Lincoln City and
15 Tillamook County are similarly situated with respect to calls either to their respective PSAPs.
16 The Joint Petitioners can establish that despite repeated requests, nothing substantial has been
17 done on the ground to provide redundant pathways for telephone including 911 calls, even
18 though promises of action have been made for the past two-plus years.

19 IV.

20 The Joint Petitioners seek a condition of the merger to include a requirement that
21 infrastructure investments be made to provide redundant wireline service for affected
22 customers in Lincoln and Tillamook Counties, including Lincoln City. These issues are
23 financially related to the application. In *Verizon Communications Inc. and Frontier*
24 *Communications Corporation UM 1431* the PUC ordered as a condition significant
25
26

¹ "Public Safety Answering Point."

1 infrastructure investments as a direct result of an intervenor's concerns based upon analogous
2 public interest concerns under the "no harm" standard. In *Verizon*, because of the age of
3 some of the infrastructure, and concerns for its reliability and costs of replacement, the PUC
4 ordered that the companies allocate a total of \$25 million dollars for infrastructure upgrades.
5 The cost to CenturyTel in this case would be a fraction of that to Verizon/Frontier. Also in
6 *Verizon*, the commission required the applicant to file a strategic plan with data on the useful
7 life and replacement schedules for switches in a portion of the service area with the intention
8 of maintaining then current service standards - in addition to the upgrades.
9

10 In this case, the Joint Petitioners' interest is in protecting its citizens and visitors, for
11 their telephone service and especially emergency services and communications related to
12 homeland security. Indeed, the Joint Petitioners are required by law to maintain a PSAP², but
13 its functionality requires rock-solid phone service. Embarq promised Lincoln City it would
14 fix the system before it merged with CenturyTel. It didn't. CenturyTel has similarly
15 promised Lincoln City it would provide the necessary fiber route diversity for the coast
16 district but has not kept these promises and has failed to apprise the city of any future
17 schedule for its as-yet unfulfilled promises.

18 City can prove, if necessary, that the experienced former Embarq technicians and
19 managers who were knowledgeable about the switches and related equipment controlling
20 north Lincoln County and Tillamook County were systematically fired or retired by
21 CenturyTel making the performance of its promises ever more speculative and unlikely. In
22 the name of post-merger cost savings, CenturyTel has enlarged its management districts with
23 fewer managers overall, and fewer local, knowledgeable technicians, the City believes. If the
24 pattern following the Embarq/CenturyTel merger continues with the CenturyTel/Qwest
25

26 ² ORS 401.720 (4)

1 merger, fewer and fewer managers and technicians will be responsible for more and more
2 territory. Further, the newly merged companies in this application will predictably devote
3 long and focused attention to internal merger-related details for years, preventing or at the
4 very least substantially delaying a necessary homeland security project about which the
5 companies have so far shown little initiative for the coast district. This creates harm to all
6 Oregon citizens within the system formerly owned by Embarq, but particularly those living in
7 or visiting Lincoln and Tillamook Counties. Mitigating the harm requires a merger condition
8 requiring the company to provide adequate and dependable phone/911 service via redundant
9 fiber within a set time. CenturyTel owns or controls two fiber lines within a short distance of
10 each other, which, if properly connected should substantially provide a redundant route.

11
12 Recent history has provided at least two instances of partial or complete loss of
13 telephone and 911 service in Lincoln City, north Lincoln County and a similar number of
14 instances in Tillamook County because the systems are part of the same route to the Sheridan
15 main switch. The duration of loss of service has been from hours to days and affected tens of
16 thousands of subscribers and visitors. The lack of action by Embarq, and now CenturyTel,
17 tells the story not only of long-term neglect, but an apparent lack of intention to provide the
18 required redundancy, at least without commission action.

19 If the commission disallows the petition to intervene, the public interest is not served,
20 and the public harm increases with the growing and aging population and ever-increasing risk
21 to these communities for earthquakes and tsunamis, flooding and even fires for Lincoln and
22 Tillamook Counties, including Lincoln City. If your house is on fire, and you can't call 911
23 that day, what do you do? If a terrorist has planted a bomb at the local theater and you can't
24 call 911 that day, what do you do? Embarq provided no answers. CenturyTel has only
25 provided apparently empty promises. This commission is the only body with the power and
26 authority to require the company charged with delivering phone/911 service to provide

1 critical security infrastructure within the wireline system. The PUC has the authority and
2 duty under ORS 746.040 to require adequate service and there is no reason not to require
3 such service as a merger condition.

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

10 During the Embarq/CenturyTel merger, those merger parties objected to the City's
11 Petition to Intervene on the basis that the City had other means to address the redundancy
12 issues, and that the merger parties were already in discussions with the City. The City has no
13 other effective venue in which to seek redress or to require these necessary security upgrades
14 to the telephone systems left by Embarq.³ Only the PUC and FCC have regulatory control
15 over Oregon telecommunications, and neither have clear rules (or governing legislation) that
16 would allow any of the Joint Petitioners to present their concerns before any other body with
17 jurisdiction. The merger will cause harm in preventing the new merged companies from
18 paying attention to a small service area they seemingly want to ignore.

19 If granted intervenor status, the Joint Petitioners can provide useful information on
20 these issues.

21 OAR 860-012-0001(2) sets other standards for a party's intervention. The Joint
22 Petitioners meet those standards because their intervention will not unreasonably broaden the
23

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

1 record, broaden the issues, nor unreasonably delay the proceeding. The additional record
2 necessary for the commission's understanding is very little - indeed, CenturyTel cannot deny
3 there is no redundancy in the system, and when the single fiber path breaks to or from the
4 central station in Sheridan, little 911 service remains in the Embarq legacy systems. The
5 Joint Petitioners' intervention does not unreasonably broaden the issues, since the
6 commission is charged with protecting the public interest, but also seeing that the merger
7 does "no harm." The issue is simple: the years of neglect and relative decline of this phone
8 system⁴ will continue after and because of the merger, doing increased harm without a
9 commission-imposed condition. The Joint Petitioners do not seek to delay the proceedings at
10 all and will commit to timely participate in the current proceedings schedule.

11 Because they will not unreasonably affect this proceeding, but has a substantial
12 security/safety interest which this merger will harm, Lincoln City and the Counties of Lincoln
13 and Tillamook should be allowed as a parties to present issues outlined in this petition. This
14 petition is not made under the administrative time line, but no prejudice to the applicants is
15 present where the schedule is preserved and record is so clear, and CenturyTel is, in fact, in
16 full possession of all facts concerning the inadequacies of the former Embarq wireline
17 system. It should not be forgotten that the Joint Petitioners have no other obvious venue to
18 address its legitimate safety and security issues.

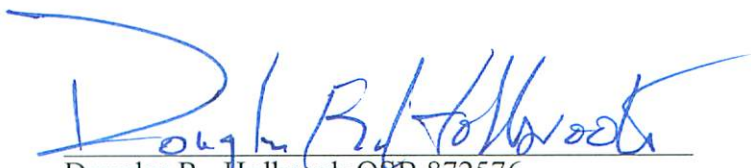
19 Finally, it should not disqualify Joint Petitioners from intervening just because they
20 are asking for a condition requiring the applicant to spend money benefitting former Embarq
21 customers served out of Sheridan. This request is not only analogous to what the commission
22 ordered in the Frontier/Verizon matter, but the applicant's predictable argument necessarily
23
24

25
26 ⁴ City understands Sprint relocated central switching capability out of Lincoln City
beginning in the 1990's.


1 raises the question of how many Oregonians' safety and security have to be harmed by
2 seemingly endless corporate delays before the commission acts?
3

4 The petition should be granted and the City of Lincoln City, Lincoln County and
5 Tillamook County be made a parties.

6 Dated this 5th day of August, 2010.

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9 Douglas R. Holbrook OSB 872576
10 Holbrook & Seifert LLC
11 Special Counsel to Petitioner Lincoln City
12 PO Box 2087
13 Newport, Oregon 97365
14 (541) 265-2080
15 Fax (541) 265-2131
16 doug@lawbyhs.com

17
18 

19 Wayne Belmont
20 Lincoln County Counsel
21 225 W Olive Street
22 Newport OR 97365
23 wbelmont@co.lincoln.or.us
24 (541) 265-4108
25 Fax (541) 265-4176

26
27 

28 William Sargent, OSB 891678
29 Tillamook County
30 1134 Main Avenue
31 Tillamook OR 97141
32 wsargent@oregoncoast.com
33 (503) 842-4921
34 Fax (503) 842-8862

**CERTIFICATE OF SERVICE
UM 1484**

I certify that on this day I served the foregoing **AMENDED 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.

Michel Singer Nelson
360Networks(USA) Inc
370 Interlocken Blvd Ste 600
Broomfield CO 80021-8015

Rhonda Kent
Centurylink
805 Broadway 8th Floor
Vancouver WA 98660
ronda.kent@centurylink.com

Penny Stanley
360Networks(USA) Inc
370 Interlocken Blvd Ste 600
Broomfield CO 80021-8015
penny.stanley@360.net

William E Hendricks
Centurylink, Inc.
805 Broadway St
Vancouver WA 98660-3277
tre.hendricks@centurylink.com

Arthur A Butler
Atter Wynne LLP
601 Union Street, Ste 1501
Seattle WA 98101-3981
aab@aterwynne.com

Michael R Moore
Charter Fiberlink OR - CCVII LLC
12405 Powercourt Dr
St Louis MO 63131
michael.moore@chartercom.com

Joel Paisner
Atter Wynne LLP
601 Union Street, Ste 1501
Seattle WA 98101-2327
jrp@aterwynne.com

Gordon Feighner
Citizens' Utility Board of Oregon
610 SW Broadway, Suite 400
Portland OR 97208
gordon@oregoncub.org

Richard Stevens
Central Telephone Inc
PO Box 25
Goldendale WA 98620
rstevens@gorge.net

Robert Jenks
Citizens' Utility Board of Oregon
610 SW Broadway, Suite 400
Portland OR 97208
bob@oregoncub.org

John Felz
Century Farm Court
5454 W 110th St KSOPKJ0502
Overland Park KS 66211
john.felz@centurylink.com

1 G. Catriona McCracken
2 Citizens' Utility Board of Oregon
3 610 SW Broadway, Suite 400
4 Portland OR 97208
catriona@oregoncub.org

5 Raymond Myers
6 Citizens' Utility Board of Oregon
7 610 SW Broadway, Suite 400
8 Portland OR 97208
ray@oregoncub.org

9 Kevin Elliott Parks
10 Citizens' Utility Board of Oregon
11 610 SW Broadway, Suite 400
12 Portland OR 97208
kevin@oregoncub.org

13 Marsha Spellman
14 Converge Communications
15 10425 SW Hawthorne LN
16 Portland OR 97225
marsha@convergecomm.com

17 Frank G Patrick
18 Corporate Lawyers PC
19 PO Box 231119
20 Portland OR 97281
fgplawpc@hotmail.com

21 Katherine K. Mudge
22 Covad Communications Co
23 7000 N Mopac Expwy 2nd Fl
24 Austin TX 78731
kmudge@covad.com

25 K C Halm
26 Davis Wright Tremaine LLP
1919 Pennsylvania Ave NW 2nd Fl
Washington DC 20006-3458
kcchalm@dwt.com

Gregory J. Kopta
Davis Wright Tremaine LLP
1201 Third Ave Ste 2200
Seattle WA 98101-1688
gregkopta@dwt.com

Mark P Trincherro
Davis Wright Tremaine LLP
1300 SW Fifth Ave Stee 2300
Portland OR 97201-5682
marktrincherro@dwt.com

Jason W Jones
Department of Justice
Regulated Utility & Business Section
1162 Court Street NE
Salem OR 97301-4096
jason.w.jones@state.or.us

Edwin B Parker
Economic Development Alliance
PO Box 402
Gleneden Beach OR 9788
edparker@teleport.com

Judith Endejan
Graham & Dunn PC
2801 Alaskan Way, Suite 300
Seattle WA 98121
jendejan@grahamdunn.com

Gregory Merz
Gray Plant Mooty
500 IDS Center
80 S Eighth St
Minneapolis MN 55402
gregory.merz@gpmlaw.com

Karen L. Clauson
Integra Telecom Inc
6160 Golden Hills Dr
Golden Valley MN 55416-1020
klcauson@integratelecom.com

Greg L. Rogers
Level 3 Communications LLC
1025 Eldorado Blvd
Broomfield CO 80021
greg.rogers@level3.com

Adam Lowney
McDowell Rackner & Gibson PC
419 SW 11th Ave Ste 400
Portland OR 97205
adam@mcd-law.com

Wendy McIndoo
McDowell Rackner & Gibson PC
419 SW 11th Ave Ste 400
Portland OR 97205
wendy@mcd-law.com

Lisa F Rackner
McDowell Rackner & Gibson PC
419 SW 11th Ave Ste 400
Portland OR 97205
lisa@mcd-law.com

PriorityOne Telecommunications Inc
Kelly Mutch
PO Box 758
La Grande OR 97850-6462
managers@p1tel.com

Bryan Conway
Public Utility Commission of Oregon
PO Box 2148
Salem OR 97308-2148
bryan.conway@state.or.us

Michael Dougherty
Public Utility Commission of Oregon
PO Box 2148
Salem OR 97308-2148
michael.dougherty@state.or.us

Patrick L Phipps
QSI Consulting Inc
3504 Sundance Dr
Springfield IL 62711

Alex M Duarte
QWEST Corporation
310 SW Park Ave 11th Fl
Portland OR 97205-3715
alex.duarte@qwest.com

Mark Reynolds
QWEST Corporation
1600 7th Ave Rm 3206
Seattle WA 98191
mark.reynolds3@qwest.com

Diane Browning
Sprint Communications Co LP
3450 Sprint PKWY
Overland Park KS 66251
diane.c.browning@sprint.com

Kenneth Schifman
Sprint Communications Co LP
3450 Sprint PKWY
Overland Park KS 66251
kenneth.schifman@sprint.com

Kristin L Jacobson
Sprint Nextel
201 Mission St Ste 1500
San Francisco CA 94105
kristin.l.jacobson@sprint.com

Dave Conn
T-Mobile USA Inc
12920 E 38th St
Bellevue WA 98006
dave.conn@t-mobile.com

Lyndall Nipps
TW Telecom of Oregon LLC
9665 Granite Ridge Dr Ste 500
San Diego CA 92123
lyndall.nipps@twtelecom.com

Barbara Young
United Telephone Company of the Northwest
902 Wasco St ORHRA0305
Hood River OR 97031
barbara.c.young@centurylink.com

Adam Haas
WSTC
10425 SW Hawthorne LN
Portland OR 97225
adamhaas@convergecomm.com

1 Rex M Knowles
2 XO Communications Services Inc
3 7050 Union Park Ave Ste 400
4 Midvale UT 84047
5 rexknowles@xo.com

6 DATED this 6th day of August, 2010.



Douglas R. Holbrook, OSB #872576
Holbrook & Seifert LLC
PO Box 2087
Newport, OR 97365
T 541-265-2080 F 541-265-2131
doug@lawbyhs.com

10 Copy to:

Joan S. Kelsey OSB #943566
P.O. Box 520
Tillamook, OR 97141
T (503) 842-2349 F (503) 842-4619
joan@abovethefoglaw.com