

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: November 17, 2020**

REGULAR X CONSENT _____ EFFECTIVE DATE _____

DATE: November 10, 2020

TO: Public Utility Commission

FROM: Malia Brock

THROUGH: Bryan Conway, Michael Dougherty, and Bruce Hellebuyck **SIGNED**

SUBJECT: CENTURYLINK COMMUNICATIONS LLC:
(Docket No. UM 2128)
Request to set date certain of December 1, 2020, for anyone who requests service in wildfire impacted service area.

STAFF RECOMMENDATION:

Staff recommends that the Commission summarily investigate the provision of service in wildfire-impacted service areas by CenturyLink Communications LLC (CenturyLink, Utility, or Company) and order the utility to provide service using its own facilities by December 1, 2020.

DISCUSSION:

Issue

Whether the Commission should summarily investigate the provision of service in wildfire-impacted service areas by CenturyLink and whether the Commission should order CenturyLink to provide service using its own facilities.

Applicable Law

A telecommunications utility is obligated to afford its customers safe and adequate services. Under ORS 759.506(1), a telecommunications utility with allocated territory is obligated to “[p]rovide adequate and safe service to the customers of this state.” OAR 860-023-0005 provides: “Each energy utility, large telecommunications utility, and intrastate toll service provider must have and maintain its entire plant and system in such condition that it will furnish safe, adequate, and reasonably continuous service.”

Under ORS 756.040(1), the Commission's general powers and duties include the obligation to obtain for the customer of telecommunications utility "adequate service at fair and reasonable rates." To this end, "[t]he commission is vested with power and jurisdiction to supervise and regulate every public utility and telecommunications utility in this state, and to do all things necessary and convenient in the exercise of such power and jurisdiction." ORS 756.040(2).

Under ORS 757.035(2), the Commission may require the operator, a person engaged in the operation of telephone lines, plant, system, equipment, or apparatus to take action that is necessary for the protection and safeguarding of the health and safety of its customers and the public.

Per ORS 756.515(1), the Commission may, on motion, and without notice, summarily investigate any matter when the Commission "believes that any rate may be unreasonable or unjustly discriminatory, or that any service is unsafe or inadequate, or is not afforded, or that an investigation of any matter relating to any public utility or telecommunications utility or other person should be made." Upon investigation, without notice or hearing, the Commission may make any findings and orders it deems justified or necessary, as provided in ORS 756.515(4). A party aggrieved by such an order may request as hearing as to whether the order may continue in effect within 15 days, under ORS 756.515(5). If such a hearing is requested, the order is suspended pending the outcome of the hearing, unless the Commission finds the order is necessary for the public health or safety, as relevant here, under ORS 756.515(6).

Analysis

Background

Following a number of severe wildfires in the State during September 2020, Staff and the Commission have obtained information concerning the damage to telecommunications equipment and facilities, and the status of service in CenturyLink's service territory affected by wildfire. The Oregon Public Utility Commission's Consumer Services Section has received approximately 20 complaints relating to continued out of service conditions and the Company's lack of a coordinated proactive approach to wildfire out of service customers to provide out of service credits, porting of non-working telephone numbers, and call forwarding on the out of service telephone lines.

Following its review, Staff requests that the Commission summarily investigate the provision of service in wildfire-impacted service areas by CenturyLink, and conclude that investigation by adopting the findings of fact and conclusions of law set forth below in an order directing CenturyLink to provide service using its own facilities by December 1, 2020.

Staff notes that the Company has avenues to seek recovery of the costs associated with restoring service under its Price Plan.

Archie Creek Fire – Findings of Fact

The Archie Creek Wildfire began on September 8, 2020, and burned over 131,000 acres in Douglas County. This North Umpqua area includes CenturyLink's allocated territory that is served in conjunction with the Glide, Oregon central office switch. Glide is located 17 miles northeast of Roseburg.

Staff sent wildfire-related Information Requests (IRs) on October 14, 2020, and the Commission held a Special Public Meeting on October 28, 2020. However, in that Special Public Meeting, other than advising the Commission that a Central Office had been destroyed and that its site was now cleared of debris, CenturyLink did not clarify what efforts, if any, had been made toward recovering service to wildfire affected areas. Neither the amount of work necessary to complete restoration and timelines of restoration efforts nor the number of customers that were still out of service were provided to the Commission during the Special Public Meeting.

On November 2, 2020, the Utility replied to Staff's first set of IRs. CenturyLink customers (See Attachment 1, Utility Confidential response to IR No. 1, for approximate numbers) are living in the remote area of North Umpqua and remain without basic telephone service or access to 9-1-1 from their homes after the Archie Creek Wildfire ravaged the North Umpqua area. While Staff has not received much information from CenturyLink regarding the out of service conditions or timelines to affect repairs in the North Umpqua area, it is apparent that these customers have been out of service for over two months. This lack of basic telephone service and no access to 9-1-1 creates a health and safety risk for people living in the area, especially with winter approaching coupled with tree and fire damage to this area.

Staff has no information whether cellular or competitive providers exist that serve this remote area other than the Utility.

Additional Findings of Fact

CenturyLink has had approximately two months' time to restore basic telephone service to its customers in those portions of its allocated service territory affected by wildfire. This should have been sufficient time to restore service. A date of December 1, 2020, provides the Company with sufficient time to provide basic telephone service. If the Company were to find it impracticable to serve a particular customer using its own facilities, alternative means are available to the Company to provide a customer with telephone service, e.g. satellite service.

New customers may request service in areas affected by wildfire. Such requests may be addressed in the same manner as restoring service to existing customers.

Conclusions of Law

CenturyLink is obligated to afford safe and adequate services to customers in its service territory under ORS 759.506(1). CenturyLink must maintain its entire plant and system to provide safe, adequate, and reasonably continuous service to its customers under OAR 860-023-0005. CenturyLink is currently not meeting its obligations to provide basic telephone service.

Under ORS 756.040(1), (2), the Commission has authority to direct CenturyLink to take action to provide adequate service for its customers. The Commission further has authority under ORS 757.035(2) to require CenturyLink to take action that is necessary for the protection of health and safety of its customers.

Under ORS 756.515(1), the Commission may summarily investigate CenturyLink's provision of service to its customers following the wildfire events, upon a belief that the service is unsafe or inadequate, or is not afforded or that any other matter should be investigated, and an investigation is warranted in this matter. The Commission may issue an order to CenturyLink with any findings and orders that are justified or necessary under ORS 756.515(4).

CenturyLink may be ordered to restore basic telephone service to all customers in service areas affected by these wildfires who request service by December 1, 2020. For those customers CenturyLink finds it impracticable to serve using its own facilities, CenturyLink may be ordered to provide alternative service via other technology at no additional cost by December 1, 2020, and provide service to these customers using its own facilities by January 1, 2021. For customers requesting service after December 1, 2020, CenturyLink may be ordered to provide service within seven calendar days using its own facilities. For new customers receiving service after December 1, 2020 and before January 1, 2021, CenturyLink may be ordered to provide alternative service at no additional cost if CenturyLink finds it impracticable to serve a customer using its own facilities.

An order that the Commission issues as set forth above is necessary for the public health or safety, and the order shall remain in effect pending any request for hearing, under ORS 756.515(6).

Conclusion

Staff recommends the Commission adopt Staff's findings of fact, the proposed conclusions of law, and issue an order directing the restoration of service to customers

affected by recent wildfires. Such action will protect customers from further risk to their health and safety.

PROPOSED COMMISSION MOTION:

Issue the following order, and adopt Staff's findings of fact, conclusions of law, and recommendation set forth in this Memorandum:

CenturyLink will restore basic telephone service to all customers who request service in areas impacted by the Archie Creek wildfire by December 1, 2020. For those customers CenturyLink finds it impracticable to serve using its own facilities, it will provide alternative service via other technology at no additional cost by December 1, 2020 and provide service to these customers using its own facilities by January 1, 2021. For customers requesting service after December 1, 2020, CenturyLink will provide service within seven calendar days using its own facilities. For new customers receiving service after December 1, 2020 and before January 1, 2021, CenturyLink may provide alternative service at no additional cost.