

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1908, UM 2206

IN THE MATTER OF
LUMEN TECHNOLOGIES

INTERESTED PARTY COMMENTS
OREGON PEOPLE'S UTILITY DISTRICTS
OF ORDER NO. 22-340

In the Administrative Law Judge's memorandum of September 29, 2022, Dockets UM 1908 and UM 2206 were consolidated. As a result, both the Oregon Public Utility Commission Staff's investigation into CTL/Lumen's (CTL) price plan and CTL's request for a hearing on Order No, 22-340 are being addressed in the same docket, which is designated as having a contested case status.¹

UM 2206 includes PUC Safety Staff Comments dated 8/30/2022 outlining OAR 860-024 and OAR 860-028 requirements.² As such, Oregon's People's Utility Districts (PUD) would like to share its experiences related to CTL where CTL is an Occupant attached to PUD owned poles and as a Pole Owner where the PUD is the Occupant. As pole owners and pole occupants, the PUDs and CTL must adhere to Commission Pole Attachment Rules provided in OAR 860-028 and Commission Safety Rules provided in OAR 860-024.

Northern Wasco County PUD Experience

Northern Wasco County PUD provides electric service to nearly 25,000 people and businesses in Wasco County utilizing 6,500 poles owned by the PUD and 230 poles owned by CTL.

¹ Docket NO. 1908, Department of Justice Document Management Proposal, October 12, 2022

² UM 2206 Oregon Public Utility Commission Safety Staff Comments, August 30, 2022,

https://oregonpuc.granicus.com/MetaViewer.php?view_id=2&clip_id=1007&meta_id=33839

In accordance with OAR 860-028-0230 – Pole Attachment Rental Reductions, The PUD has denied CTL the rental rate reduction for the 2021 and 2022 billing periods due to CTL's non-compliance with the PUD's Wireline Pole Attachment Agreement regarding pole transfer completions.

In October 2021, the PUD issued CTL a Notice of Violation of Duties – Failure to Complete Pole Transfers related to (52) outstanding pole transfers with an average aging of (373) days. The Notice provided CTL to either submit a Plan of Correction within (60) days or to have the (52) pole transfers completed within (180) days. CTL did not submit a Plan of Correction.

In April 2022, the PUD sanctioned CTL for not completing (43) of the (52) pole transfers. In the Sanction Notice, the PUD provided CTL an additional (60) days to complete the (43) remaining pole transfers.

In July 2022, the PUD issued a second sanction to CTL for not completing (41) of the (43) remaining pole transfers. In the second Sanction Notice, the PUD provided CTL an additional (60) days to complete the remaining transfers.

In August 2022, the PUD issued another Notice of Violation – Failure to Complete Pole Transfers for an additional (14) pole transfers not related to the poles in the October 2021 Notice of Violation. To correlate the pole transfer completion timeframes associated with the second sanction and the August Notice of Violation, the PUD provided CTL a completion date of October 8, 2022, to have all (55) pole outstanding transfers completed.

On October 14, 2022, the PUD issued a third Sanction Notice – Failure to Complete Pole Transfers for not completing (46) of the (55) pole transfers noted in the July 2022 second Sanction Notice and in the August 2022 Notice of Violation.

CTL did not dispute the PUD denying the rental rate reduction, nor did they dispute the Notices of Violations or the sanctions. CTL has paid the PUD's first two sanction invoices.

The PUD is attached to approximately (230) CTL owned poles of which (76) have PUD Primary electric facilities attached. Upon analysis of CTL provided pole information, the PUD determined that the average age of the (76) poles was approximately (50) years. In addition to the PUD's aging analysis, CTL also provided the PUD pole inspection data from their pole Test and Treat program for (64) of the (76) poles. This data indicated that there was pole shell rot and mechanical damage at or above (10) feet for (31) of the (64) poles.

CTL could not provide any pole replacement capital improvement plans for improving pole plant infrastructure in Wasco County. In press releases associated with CTL's sell-off of ILEC operations to Brightspeed; CTL's CEO at the time shared that its post divestiture strategic focus would be to invest in upgrading broadband service to its fiber-based offerings in retained urban and suburban markets.³

Tillamook PUD Experience

Tillamook PUD (TPUD) provides electric service in Tillamook County and parts of Clatsop and Yamhill counties serving 22,000 customers in a 1,125 square mile area utilizing 21,028 poles owned by the PUD and 479 poles owned by CTL.

Regarding UM 1908/UM 2206 TPUD would like to share experiences related to CTL's pattern of behavior in our service territory.

- As of October 24, 2022, per the National Joint Utilities Notification System (NJUNS), CTL has 285 outstanding Pole Transfer (PT) tickets where they are 'next to go', the oldest tickets date back to 2015. The average days aged of said tickets is 558. These tickets are all past due violating OAR 860-028-0120.
- On August 4, 2021, a Notice of Violations, for 116 NESC violations was mailed 'certified' to CTL. A plan of correction was due October 4, 2021. No plan was submitted. On November 30, 2021, a Notice of Non-Compliance was sent to CTL requesting all NESC violations be corrected by January 31, 2022 per OAR 860-028-0120 (5). TPUD received no correspondence from CTL and the NESC violations were not corrected. On January 31, 2022, TPUD sanctioned CTL for failing to correct the outstanding NESC violations.
- On September 30, 2021, a Notice of Violations, for 141 NESC violations was mailed 'certified' to CTL. A plan of correction was due November 30, 2021. No plan was submitted. On December 1, 2021, a Notice of Non-Compliance was sent to CTL requesting all NESC violations be corrected by March 29, 2022 per OAR 860-028-0120 (5). TPUD received no correspondence from CTL and the NESC violations were not corrected. On March 29, 2022, TPUD sanctioned CTL for failing to correct the outstanding NESC violations.
- On May 10, 2022, a Notice of Violations, for 501 NESC violations was mailed 'certified' to CTL. A plan of correction was due July 11, 2022. No plan was submitted. On July 12, 2022, a Notice of

³ Telecompetitor, August 3, 2021, \$7.5 Billion Deal, Lumen/Centurylink will divest ILEC Assets Across 20 States

Non-Compliance was sent to CTL requesting all NESC violations be corrected by November 7, 2022, per OAR 860-028-0120 (5).

- On March 29, 2022, per TPUD's Pole Attachment Agreement with CTL under Article XV, Breach and Remedies, TPUD suspended processing of any new CTL pole attachment requests to attach to TPUD poles.
- In 2021 and 2022 TPUD invoiced CTL at the non-compliant rate for pole contacts.
- CTL did not dispute the non-compliant rate, Notices of Violations or sanctions. CTL has paid the two sanction invoices and pole contact invoices.

Central Lincoln PUD Experience

Central Lincoln PUD (CLPUD) provides electric service in Lincoln, Lane, Douglas, & Coos Counties serving approximately 38,000 commercial and industrial customers in a 700 square mile area along Oregon's central coastline utilizing 22,000 poles. CTL is attached to approximately 3,400 of CLPUD's poles while CLPUD is attached to approximately 880 CTL owned poles.

As a pole occupant, CTL has repeatedly failed to comply with OAR 860-028-0120 - Duties of Pole Occupants, National Electric Safety Codes 214 and 234B, and contractual agreements utilizing CLPUD owned poles. CTL has neglected to complete 61 pole transfers and related responsibilities; average age of these outstanding pole transfers is 554 days. In addition, CTL has 39 outstanding NESC violations with an average age of 570 days. Our requests for updates have gone unanswered. On July 3, 2018, a plan of correction was submitted to CLPUD to complete permitting for the outstanding non-permitted attachments no later than September 30, 2018. The plan of correction was extended to November 30, 2018. Due to CTL's failure to comply with the agreed upon plan of correction, CLPUD Sanctioned CTL for 56 unauthorized attachments, pursuant to OAR 860-028-0140 – Sanctions for having no permit, on February 28, 2019.

Columbia River PUD Experience

Columbia River PUD (CRPUD) provides electric service in Columbia County and part of northern Multnomah County serving about 19,000 customers in a 240 square mile area utilizing over 11,400 poles owned by the PUD and over 660 poles owned by other utilities, with over half of those owned by CTL.

As a pole occupant, CTL has repeatedly failed to comply with OAR 860-028-0120, Duties of Pole Occupants, National Electric Safety Codes 214 and 234B, and contractual agreements on CRPUD owned

poles. CTL has neglected to complete pole transfers and related responsibilities, with requests for updates and communications left unanswered. On February 3, 2021, CRPUD began sanctioning CTL for unauthorized attachments, pursuant to OAR 860-028-0140. As of October 20, 2022, CRPUD has sanctioned CTL for 42 unauthorized attachments, each of which continues to receive sanctions every 60 days as a result of CTL failing to obtain permits for the attachments. In addition to the 42 sanctioned attachments, CRPUD has identified 11 additional unauthorized attachments that have not yet been sanctioned. CRPUD is currently investigating modifications performed within CTL's 12" allotment on CRPUD poles, against OAR 860-028-0100, Application Process for New or Modified Attachments. Unpermitted attachments and modifications endanger CRPUD's electric system and the public by putting unknown load on utility poles carrying up to 115kV power lines. Overloaded poles are at risk of breaking, especially during the additional strain of wind and ice storms that we experience here in the Pacific Northwest.

As a pole owner, CTL has failed to perform the Duties of Structure Owners, outlined in OAR 860-028-0115. CRPUD is attached to 341 poles owned by CTL. During CRPUD's routine facilities inspections in March of 2022, it was discovered that a CTL pole containing 12.47kV power lines had been rejected and red tagged by inspectors in 2012. CTL has not responded to notices of this 10 year safety hazard; a blatant disregard for public safety and Commission Safety Rules. On multiple occasions CRPUD has identified hazardous CTL poles that pose a safety risk to the public. With no action or response from CTL and in the interest of public safety, CRPUD has replaced 49 of these poles.

While CRPUD and other utilities may not be consumers of CTL, we are still customers that pay for a service; space on CTL's facilities to service the customers within our communities. Of additional concern, CTL has been awarded several areas within Columbia County, and throughout the state of Oregon, to utilize RDOF (Rural Digital Opportunity Fund) grant funds. CTL has historically chosen to disregard their responsibilities as both pole owners and occupants; with this award, CTL is expected to increase their infrastructure, thus posing additional burden on all involved.

Emerald PUD Experience

Emerald PUD (EPUD) provides electric service in rural Lane County serving 22,000 customers in a 685 square mile area utilizing 25,300 poles owned by the PUD, as well as poles solely owned and maintained by CTL.

In accordance with OAR 860-028-0230 – Pole Attachment Rental Reductions, EPUD has denied CTL the rental rate reduction for the 2021 and 2022 billing periods due to CTL's non-compliance with the

PUD's Wireline Pole Attachment Agreement regarding pole transfer completions, unauthorized attachments and timeframes associated with violation corrections.

EPUD currently has 116 related transfer tickets open in NJUNS where CTL shows as next to go, which includes a total of 194 poles pending CTL transfers. Average days open is approximately 701 days, and date back to 2012. Multiple efforts in communication via email, phone and NJUNS have been made for CTL to transfer, however, there has been minimal movement on completing transfers so that EPUD can remove double wood facilities which are a safety hazard to the general public and those authorized to conduct work on EPUD facilities.

EPUD currently has 38 related violation tickets open in NJUNS where CTL shows as next to go, which include a total of 46 poles where CTL has violations ranging from minor to imminent hazard severity levels. Average days open is approximately 1,508 days and date back to 2014. Multiple efforts have been made to communicate hazards with CTL local staff, as well as via NJUNS, however, there has been minimal movement on correcting violation conditions. Imminent hazard situations have been corrected by EPUD, and/or EPUD has detached EPUD facilities from poles where CTL has/had violation attachments, due to lack of response by CTL in correcting the violations. CTL's hazards on EPUD poles have the potential of causing widespread devastating effects to CTL's own system, EPUD's electric system, other pole occupant's systems, homes, communities and the general public.

CTL has applied for new attachments to approximately 2,000 EPUD distribution poles as part of the Connect America Fund (CAF) grant funds, with an estimated total distance of 94 line-miles. EPUD responded to and approved CTL's requests with make ready requirements and conditions of approval. Multiple NESC violation conditions were created during CTL's placement of new attachments, and existing violations were not cleared per language written into the approval agreement. CTL also made unauthorized attachments to EPUD poles on multiple routes as part of this initiative, with no notification and/or approval by EPUD. EPUD is currently processing all new violations created during attachment to formulate sanctions to be sent to CTL.

In addition, CTL has been awarded Rural Distribution of Fiber (RDOF) grant funding and plans to deliver Fiber to the Home via their residential Quantum Fiber service in the near future within EPUD's service territory. This raises great concern for EPUD as history has shown CTL to lack responsibility in their duties as a pole owner and pole occupant. The sheer magnitude of pole attachment requests and lack of response to pole transfers and violations created by occupant have put a large burden on

consumer owned utilities like EPUD, and EPUD expects it to be no different with CTL's upcoming expansion.

Clatskanie PUD Comments

Clatskanie PUD (CPUD) provides electric service in Columbia and Clatsop counties serving 4,800 customers in a 275 square mile area along the lower Columbia River utilizing 6,300 poles owned by the PUD and 24 poles owned by CTL.

CPUD will contribute the following statistics as it relates to CTL as a pole occupant:

- Per NJUNS reporting dated 10/27/2022, CTL has been 'next to go' for more than 30 days on 15 separate pole transfer (PT) tickets. On average, CTL has been 'next to go' on these tickets for 356 days.
- On 2/15/2021, a notice of violation containing 182 NESC violations was sent to CTL. No plan of correction was established for these corrections. Of the original 182, 18 violations remain outstanding and in violation of OAR 860-028-0120.

CPUD is in full support of the efforts that fellow Oregon PUDs are making to display CenturyLink's proven pattern of poor performance.

The PUDs realize that these experiences do not directly relate to the service issues that CTL customers are having in Jacksonville, Applegate, and surrounding areas. However, the intent of the PUDs sharing its CTL experience with the PUC, is to provide information that could be interpreted as a CTL pattern of behavior resulting in frequent violations of its OAR mandated duties in maintaining and operating their communication networks in other parts of Oregon.

Respectfully Submitted,

Danelle Romain, on behalf of the Oregon People's Utility District Association (OPUDA)

Dated: October 27, 2022