

1 BEFORE THE PUBLIC UTILITY COMMISSION

2 OF OREGON

3 UM 1908

4 In the Matter of  
5 LUMEN TECHNOLOGIES,  
6 Proposed Commission Action Pursuant to  
7 ORS 756.515 to Suspend and Investigate  
Price Plan.

**REQUEST FOR HEARING PURSUANT  
TO ORS 756.515(5)**

8 Pursuant to ORS 756.515(5), Lumen Technologies, Inc., on behalf of itself and several of its  
9 operating companies,<sup>1</sup> respectfully requests a hearing to determine whether the Commission’s Order No.  
10 22-340 (the “Order”), entered September 23, 2022, should continue in effect. Among other things, the Order  
11 (1) modifies Lumen’s Price Plan to extend the original term by up to nine months; (2) opens an investigation  
12 to determine whether other modifications to the Price Plan are required; (3) requires Lumen to deploy a toll-  
13 free, 24/7 dedicated customer support line no later than Wednesday, September 28, 2022, to support  
14 customers in Jacksonville, Applegate, and surrounding areas in southern Oregon; (4) allows callers to that  
15 line to report service issues for multiple addresses other than their own; (5) requires Lumen to address all  
16 tickets and make repairs “to the satisfaction of customers” within 48 hours of creation of the ticket; and  
17 (6) announces the Commission’s intention “to level penalties for violations of this order for each instance in  
18 amounts not to exceed \$50,000” per day such that, for example, “each day a ticket is not resolved in the 48-  
19 hour period will be a violation, for each customer and each day.”

20 Under ORS 756.515(6), the Order is automatically suspended by the filing of this request for  
21 hearing unless and until the Commission finds that the Order is necessary for the public health and  
22 safety or to prevent the dissipation of assets. The record in this docket contains insufficient evidence to  
23 support the findings in the Order or the finding required by ORS 756.515(6).  
24

25 <sup>1</sup> Lumen Technologies, Inc. is the parent of operating companies Qwest Corporation, United Telephone Company of  
26 the Northwest, CenturyTel of Oregon, and CenturyTel of Eastern Oregon. “Lumen,” as used in this Request,  
includes all of these operating companies.

1 In addition, there are significant issues as to whether the Order is lawful, including but not  
2 limited to:

- 3 1. The service quality standard announced in the Order (requiring Lumen to make repairs to  
4 the satisfaction of customers within 48 hours from a report) is invalid because (a) it is a  
5 rule that was adopted without compliance with applicable rulemaking procedures; (b) it  
6 exceeds the Commission's statutory authority as ORS 759.450 requires service quality  
7 standards to be "nondiscriminatory" and "apply to all telecommunications carriers;" (c) it  
8 exceeds the Commission's statutory authority and violates constitutional provisions  
9 because it requires repairs to be made "to the satisfaction of customers" which  
10 impermissibly delegates Commission authority to customers with no objective standard  
11 to be applied; (d) it permits callers to report service issues for multiple addresses and  
12 create multiple repair tickets, which creates unmanageable problems with respect to  
13 tracking requests, the accuracy, authenticity, and reliability of information reported, and  
14 confidentiality of customer information; and (e) it is inconsistent with Lumen's lawful  
15 and Commission-approved tariffs, including specific remedies for failure to provide  
16 service.
- 17 2. The penalty and other remedial provisions of the Order are unlawful, exceed the  
18 Commission's statutory authority, are inconsistent with a Commission rule, officially  
19 stated agency position, or prior agency practice, and violate constitutional provisions  
20 because (a) the Commission did not permit Lumen to submit a corrective action plan  
21 before penalties are assessed as required by ORS 759.450(5) and OAR 860-023-  
22 0055(14)(a); (b) the Commission did not provide Lumen with notice and an opportunity  
23 for hearing before ordering additional remedies as required by OAR 860-023-  
24 0055(14)(b); (c) the Commission has no legal authority to impose penalties in these  
25 circumstances under ORS 756.160(4), 756.180, and 759.450; and (d) the Commission  
26

1 does not have legal authority to consider each day a separate violation under ORS  
2 759.990.

- 3 3. The Order is unlawful, exceeds the Commission's statutory authority under ORS 759.255  
4 (authorizing the Commission to establish price plans), Commission Order No. 18-359  
5 (approving Lumen's current Price Plan), and the Price Plan, and violates constitutional  
6 provisions because (a) the Commission did not provide Lumen with adequate notice and  
7 the opportunity for a hearing before ordering adjustments to the Price Plan; (b) the basis  
8 for the Order and the remedies ordered are not permitted considerations or requirements  
9 under Order No. 18-359, the Price Plan, or ORS 759.255(2) (requiring a finding that a  
10 proposed price plan is in the public interest); (c) the Commission's service quality rules  
11 provide the measure of service quality for purposes of Order No. 18-359; (d) the  
12 development of a corrective action plan is the remedy identified in Order No. 18-359 and  
13 the Price Plan for any failure to comply with service standards; and (e) the Order is  
14 overbroad because there is no basis to apply it to all Lumen operating companies rather  
15 than just the specific telecommunications utility that serves the Jacksonville-area  
16 customers.

17 For these reasons, the Order should remain suspended until the Commission issues a final order  
18 following a hearing at which Lumen has the opportunity to present evidence, cross-examine witnesses,  
19 and assert its legal arguments.

20 While Lumen asserts that this matter has not been conducted consistently with Oregon law, it  
21 fully intends to address customer outages in the Little Applegate area promptly and thoroughly. In  
22 furtherance of that goal, Lumen has assigned additional resources to the area to bolster its repair  
23 capabilities and has established a dedicated line for customers, which it will activate on September 28,  
24 2022.

1 DATED: September 27, 2022.

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